

CHAPTER 32A

DAIRY INDUSTRY UNFAIR TRADE PRACTICES

32A.09 Redress for injuries.

32A.09 REDRESS FOR INJURIES.*[For text of subds 1 to 4, see M.S.1982]*

Subd. 5. **Hearing; order; appeal.** (a) Whenever the commissioner has reason to believe that any person is violating any of the provisions of sections 32A.01 to 32A.09, or any promulgated rule, and it appears to the commissioner that action is warranted, he shall serve upon the person a complaint stating his charges. The complaint shall contain a notice of hearing upon a day and at a place fixed at least 20 days after the service of the complaint. The person complained of has the right to appear at the place and time fixed and show cause why an order should not be entered by the commissioner requiring the person to cease and desist from the violation of the law charged in the complaint. Any person may apply, and upon good cause shown, be allowed by the commissioner to intervene and appear in the proceeding by counsel or in person. The testimony in the proceeding shall be reduced to writing and filed in the office of the commissioner. If, upon hearing, the commissioner is of the opinion that there has been a violation of any of the provisions of sections 32A.01 to 32A.09, or any promulgated rule, he shall make a report in writing in which he shall state his findings as to the facts. He shall issue and cause to be served upon the person an order requiring the person to cease and desist from the violation. The commissioner may at any time after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him under this section, whenever he believes conditions justify it.

(b) Any person required by an order of the commissioner to cease and desist from any act or practice may obtain a review of the order in district court by filing in the court, within 20 days from the date of service of the order a written petition praying that the order of the commissioner be set aside. A copy of the petition shall be served upon the commissioner. The commissioner shall then certify and file in the court a transcript of the entire record and order of the commissioner. Upon the filing of the petition and transcript, the court has jurisdiction of the proceeding and of the question determined. The court may (1) make and enter upon the pleadings, evidence and proceedings set forth in the transcript a decree, affirming, modifying, or setting aside the order of the commissioner or enforcing it to the extent that the order is affirmed, and (2) issue writs ancillary to its jurisdiction or necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the commissioner as to the facts, if supported by the evidence in the proceeding before the commissioner, are conclusive. To the extent that the order of the commissioner is affirmed, the court shall issue its own order commanding obedience to the terms of the order of the commissioner. If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the proceeding before the commissioner, the court may order that the additional evidence be taken before the commissioner. The evidence shall be adduced upon the hearing in the manner and upon the terms and conditions as the court deems proper. The commissioner may modify his findings as to the facts, or

make new findings, by reason of the additional evidence taken. He shall file the modified or new findings which, if supported by the evidence, shall be conclusive and his recommendation, if any, for the modification or setting aside of his original order with the return of the additional evidence. The judgment and decree of the court shall be final, except that it is subject to review by the court of appeals.

(c) Violations of any cease and desist order of the commissioner shall be punished by the district court under the laws of contempt. Each day of failure to obey a cease and desist order of the commissioner may be deemed a separate violation and each violation of a particular act enjoined by the court may be deemed a separate violation.

[For text of subd 6, see M.S.1982]

History: 1983 c 247 s 18