

Trade Regulations

CHAPTER 324

CONSIGNMENT OF WORKS OF ART AND
SALE OF FINE PRINTS

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324.01 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 324.01 to 324.05, the following terms have the meanings given them.

Subd. 2. **Artist.** "Artist" means the creator of a work of art or, if he or she is deceased, that person's heirs or personal representatives.

Subd. 3. **Art.** "Art" means a painting, sculpture, drawing, work of graphic art, photograph, weaving, or work of craft art.

Subd. 4. **Art dealer.** "Art dealer" means a person engaged in the business of selling works of art, other than a person exclusively engaged in the business of selling goods at public auction.

Subd. 5. **Person.** "Person" means an individual, partnership, corporation, association, or other group, however organized.

Subd. 6. **Consignment.** "Consignment" means the delivery of possession of an art work by an artist to an art dealer by which no title to, estate in, or right to possession of, art, superior to that of the artist vests in the art dealer, notwithstanding the art dealer's power or authority to transfer and convey to a third person all of the right, title, and interest of the artist in and to that work of art.

History: 1983 c 165 s 1

324.02 DELIVERY TO AND ACCEPTANCE BY ART DEALER.

Notwithstanding any custom, practice, or usage of the trade to the contrary, if an artist delivers or causes to be delivered a work of art of the artist's own creation to an art dealer in this state for the purpose of exhibition or sale, or both, on a commission, fee, or other basis of compensation, the delivery to and acceptance of the work of art by the art dealer constitutes a consignment, unless the delivery to the art dealer is pursuant to an outright sale for which the artist receives or has received full compensation for the work of fine art upon delivery.

History: 1983 c 165 s 2

324.03 RESULTS OF CONSIGNMENT; ARTIST-ART DEALER RELATIONSHIPS.

A consignment of a work of fine art results in all of the following:

(1) the art dealer, after delivery of the work of art, is an agent of the artist for the purpose of sale or exhibition of the consigned work of art within the state of Minnesota;

(2) the work of art is property held in trust by the consignee for the benefit of the consignor and is not subject to claim by a creditor of the consignee;

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(3) the consignee is responsible for the loss of, or damage to, the work of art; and

(4) the proceeds from the sale of the work of art must be held in trust by the consignee for the benefit of the consignor. The proceeds must first be applied to pay any balance due to the consignor, unless the consignor expressly agrees otherwise in writing.

History: 1983 c 165 s 3

324.04 TRUST PROPERTY.

A work of art received as a consignment remains trust property until the consignor has been paid in full, notwithstanding the subsequent purchase of it by the consignee directly or indirectly for the consignee's own account. If the work is thereafter resold to a bona fide purchaser before the consignor has been paid in full, the proceeds of the resale received by the consignee constitute funds held in trust for the benefit of the consignor to the extent necessary to pay any balance still due to the consignor. The trusteeship continues until the fiduciary obligation of the consignee with respect to this transaction is discharged in full.

History: 1983 c 165 s 4

324.05 APPLICATION.

Sections 324.01 to 324.05 do not apply to a written contract executed prior to August 1, 1983, unless either the parties agree by mutual consent that sections 324.01 to 324.05 apply, or the contract is extended or renewed after August 1, 1983.

The provisions of sections 324.01 to 324.05 prevail over any conflicting or inconsistent provisions of chapter 336 affecting the subject matter of these sections.

History: 1983 c 165 s 5

324.06 DEFINITIONS.

As used in sections 324.06 to 324.10:

(1) "artist" means the person who conceived or created the master image for, or which served as model for, the print;

(2) "catalog" means an advertising medium published by a single individual or firm which solicits consumers to order fine prints through the mail or by telephone. Magazines, circulars, and newspapers are not considered catalogs;

(3) "edition" means the number of fine prints made from the plate or negative during a single run;

(4) "fine print" or "print" means the product created by an artist by a process commonly used in graphic or photographic arts, including, but not limited to, engraving, etching, woodcutting, lithography, serigraphy, or photography;

(5) "impression" means the printed image on suitable material, whether paper or any other substance, made off the plate or negative by printing, stamping, casting, developing, or any other process commonly used in the graphic or photographic arts;

(6) "plate" includes any plate, stone, block, or other material created by the artist, used for the purpose of creating the print from which the impression or impressions were taken;

(7) "negative" includes any negative, photographic plate, slide, or other material created by the artist and used for the purpose of creating the print from which the impression or impressions were taken;

(8) "reproduction" means a copy of an original or a copy of a print made by a commercial mechanical process; and

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(9) "signed fine print" means a fine print autographed by the artist, irrespective of whether it was signed or unsigned in the plate or negative.

History: 1984 c 450 s 1

324.07 EXCEPTIONS.

Sections 324.06 to 324.10 do not apply to:

(1) prints which are printed prior to the effective date of sections 324.06 to 324.10; or

(2) prints which are not offered for sale by means of a catalog and which are not alleged to be numbered or limited editions and signed by the artist; or clearly and conspicuously described as reproductions; and

(3) prints which are sold or offered at a price less than \$250.

History: 1984 c 450 s 2

324.08 ACTS PROHIBITED; DISCLOSURE STATEMENTS.

Subdivision 1. **Advertising disclosures.** No catalog offering fine prints for sale in this state shall be knowingly published or distributed, or both, unless it clearly and conspicuously discloses the relevant informational detail as required by section 324.09 concerning each edition of the prints so offered or states that the relevant information is available on request.

Subd. 2. **Advertising disclaimer.** If the person offering fine prints by means of a catalog disclaims knowledge as to any relevant detail referred to in section 324.09, that person shall so state the information is unknown or not available. Describing the edition as an edition of "reproductions" eliminates the need to furnish further informational details unless the edition was allegedly published in a numbered, or limited edition, and signed by the artist, in which case all of the informational details are required to be furnished.

Subd. 3. **Sales disclosures.** No fine print may be knowingly sold in this state by any person unless a written invoice or receipt for the purchase price or a certificate furnished to the purchaser clearly and conspicuously discloses all of the relevant informational details required under section 324.09; or the seller states or clearly and conspicuously posts that the relevant information is available on request.

Subd. 4. **Sales disclaimer.** If the seller disclaims knowledge as to any relevant detail referred to in section 324.09, he or she shall so state the information is unknown or not available. Describing the print as a "reproduction" eliminates the need to furnish information details unless it was allegedly published in a numbered, or limited edition, and signed by the artist, in which case all of the informational details are required to be furnished.

History: 1984 c 450 s 3

324.09 INFORMATIONAL DETAIL.

The following informational detail is required under section 324.08:

- (1) the name of the artist and the year when the fine print was printed;
- (2) the authorized maximum number of artist's, publisher's, printer's, or other proofs, if any, outside of the regular edition and the total size of the edition;
- (3) whether the plate or negative has been destroyed, altered, or defaced, after the latest edition;

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(4) if there were any prior fine prints of the same impression, utilizing a different process, paper, media, or color, the total number of the fine prints and designation of the fine prints;

(5) if there were any prior or later editions from the same plate or negative.

History: 1984 c 450 s 4

324.10 LIABILITY.

(a) Any person who sells a fine print and who fails to disclose the information required by section 324.09 is liable to the purchaser thereof in an amount equal to the purchase price of the fine print, including any sales tax paid.

(b) In addition to the liability imposed by paragraph (a), a person who sells a fine print and who wilfully provides false information required by section 324.09 is liable to the purchaser in the amount of \$1,000 or in an amount equal to three times the purchase price of the fine print, whichever is greater.

(c) No action can be maintained to enforce any liability under this section unless the person who is injured by the failure to disclose returns the fine print in original condition to the person violating the provisions of paragraph (a) or (b) and the action is brought within one year after discovery of the violation upon which it is based and in no event more than three years after the fine print was sold.

History: 1984 c 450 s 5