

CHAPTER 325F

CONSUMER PROTECTION; PRODUCTS AND SALES

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POWDERED ASBESTOS

325F.01 BAN; PENALTY.

Subdivision 1. No person, corporation, partnership, joint venture, firm or association shall use, sell, deliver or receive, or contract to use, sell, deliver or receive powdered asbestos, whether in its powdered form or mixed with any other substance, and to be applied with a pressure sprayer, or in its molded form if asbestos dust will emanate from it due to handling, mixing or cutting, for purposes of constructing, remodeling or improving any building structure in this state.

Subd. 2. Any violation of the provisions of subdivision 1 shall constitute a misdemeanor.

History: 1973 c 742 s 1

MATCHES

325F.02 MANUFACTURE, STORAGE, OR SALE OF MATCHES.

Subdivision 1. **Safety matches.** No person, association, or corporation shall manufacture, store, offer for sale, sell, or otherwise dispose of, or distribute, white phosphorus, single-dipped, strike-anywhere matches of the type popularly known as "parlor matches", or any type of double-dipped matches, unless the bulb or first dip of such match is composed of a so-called safety or inert composition, non-ignitable on an abrasive surface. No person, association, or corporation shall manufacture, store, sell, offer for sale, or otherwise dispose of, or distribute, matches which will ignite in a laboratory oven at a temperature of less than 200 degrees Fahrenheit when subjected in such laboratory oven to a gradually increasing heat and maintained at the before stated continuous temperature for a period of not less than eight hours, or blazer or so-called wind matches, whether of the so-called safety or strike-anywhere type.

Subd. 2. **Brands and trade-marks.** No person, association, or corporation shall offer for sale, sell or otherwise dispose of, or distribute, any matches, unless the package or container in which such matches are packed bears, plainly marked on the outside thereof, the name of the manufacturer and the brand or trade-mark under which such matches are sold, disposed of, or distributed.

Subd. 3. **How kept in retail stores.** Not more than one case of each brand of matches of any type or manufacture shall be opened at any one time in any retail store where matches are sold or otherwise disposed of; nor shall loose boxes, or paper-wrapped packages, of matches be kept on shelves or stored in retail stores at a height exceeding five feet from the floor.

Subd. 4. **Storage in warehouses.** All matches stored in warehouses, excepting manufacturer's warehouse at place of manufacture, which contain automatic sprinkler equipment, must be kept only in properly secured cases, and not piled to a height exceeding ten feet from the floor; nor be stored within a horizontal distance of ten feet from any boiler, furnace, stove, or other like heating apparatus, nor within a horizontal distance of 25 feet from any explosive material kept or stored on the same floor.

Subd. 5. **Boxes, how made.** All matches shall be packed in boxes or suitable packages, containing not more than 700 matches in any one box or package; provided, that when more than 300 matches are packed in any one box or package, the matches shall be arranged in two nearly equal portions, the heads of the matches in the two portions shall be placed in opposite directions; and all boxes containing

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350 or more matches shall have placed over the matches a center holding or protecting strip, made of chip-board, not less than one and one-quarter inches wide, which shall be flanged down to hold the matches in position when the box is nested into the shuck or withdrawn from it.

Subd. 6. **Containers or cases; number of boxes or packages; how marked.** All match boxes or packages shall be packed in strong shipping containers or cases; maximum number of match boxes or packages contained in any one shipping container or case shall not exceed the following number:

Number of boxes	Numerical number of matches per box
1/2 gross.....	700
1 gross.....	500
2 gross.....	400
3 gross.....	300
5 gross.....	200
12 gross.....	100
20 gross.....	Over 50 and under 100
25 gross.....	Under 50

No shipping container or case constructed of fibre-board, corrugated fibre-board, or wood, nailed or wire-bound, containing matches, shall have a weight, including its contents, exceeding 75 pounds; and no lock-cornered wood case containing matches shall have a weight, including its contents, exceeding 85 pounds; nor shall any other article or commodity be packed with matches in any container or case; and all shipping containers or cases containing strike-anywhere matches shall have plainly marked on the outside thereof the words "strike-anywhere matches", and all shipping containers or cases containing "strike on box" matches shall have plainly marked on the outside thereof the words "strike on box matches".

Subd. 7. **Violations; penalties.** Any person, association, or corporation violating any of the provisions of this section shall be fined, for the first offense, not less than \$5 nor more than \$25 and for each subsequent violation, not less than \$25.

History: 1913 c 99 s 1-4 (6019-6022)

FLAME RESISTANT TENTS AND SLEEPING BAGS

325F.03 FLAME RESISTANT PUBLIC ASSEMBLY TENTS.

No person, firm or corporation shall establish, maintain or operate any circus, side show, carnival, tent show, theater, skating rink, dance hall, or a similar exhibition, production, engagement or offering or other place of assemblage in or under which ten or more persons may gather for any lawful purpose in any tent, awning or other fabric enclosure unless such tent, awning or other fabric enclosure, and all auxiliary tents, curtains, drops, awnings and all decorative materials, are made from a nonflammable material or are treated and maintained in a flame resistant condition. This section shall not apply to tents used to conduct committal services on the grounds of a cemetery, nor to tents, awnings or other fabric enclosures erected and used within a sound stage, or other similar structural enclosure which is equipped with an overhead automatic sprinkler system.

History: 1975 c 341 s 1

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325F.04 FLAME RESISTANT TENTS AND SLEEPING BAGS.

No person, firm or corporation may sell or offer for sale or manufacture for sale in this state any tent unless all fabrics or pliable materials in the tent are durably flame resistant. No person, firm or corporation may sell or offer for sale or manufacture for sale in this state any sleeping bag unless it meets the standards of the commissioner of public safety for flame resistancy. Tents and sleeping bags shall be conspicuously labeled as being durably flame resistant.

History: 1975 c 341 s 2

325F.05 REGULATIONS.

The commissioner of public safety shall act so as to have effective rules and regulations concerning standards for nonflammable, flame resistant and durably resistant materials and for labeling requirements by January 1, 1976. In order to comply with sections 325F.03 and 325F.04 all materials and labels must comply with the rules and regulations adopted by the commissioner. The commissioner has general rule making power to otherwise implement sections 325F.03 to 325F.07.

History: 1975 c 341 s 3

325F.06 CIVIL PENALTIES.

Any firm or corporation who violates sections 325F.03 to 325F.05 shall be strictly liable for any damage which occurs to any person as a result of such violation. In addition, any seller shall refund the full purchase price of any item sold in violation of section 325F.04 upon return of the item by the buyer.

History: 1975 c 341 s 4

325F.07 CRIMINAL PENALTY.

Any person, firm or corporation which violates sections 325F.03 to 325F.05 is guilty of a misdemeanor.

History: 1975 c 341 s 5

HAZARDOUS TOYS

325F.08 IMPORTATION, MANUFACTURE, SALE OR DISTRIBUTION OF HAZARDOUS ARTICLES.

No person, firm, corporation, association or agent or employee thereof shall import, manufacture, sell, hold for sale or distribute a toy or other article intended for use by a child which presents an electrical, mechanical or thermal hazard or presents a hazard due to toxic, or flammable properties or properties able to produce asphyxiation or suffocation.

History: 1973 c 467 s 1

325F.09 DEFINITIONS.

(a) "Child" means any person less than 14 years of age;

(b) A toy presents an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by electrical shock or electrocution;

(c) A toy presents a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness:

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- (1) from fracture, fragmentation, or disassembly of the article;
 - (2) from propulsion of the article or any part or accessory thereof;
 - (3) from points or other protrusions, surfaces, edges, openings, or closures;
 - (4) from moving parts;
 - (5) from lack or insufficiency of controls to reduce or stop motion;
 - (6) as a result of self-adhering characteristics of the article;
 - (7) because the article or any part or accessory thereof may be aspirated or ingested;
 - (8) because of instability;
 - (9) from stuffing material which is not free of dangerous or harmful substances;
- or

(10) because of any other aspect of the article's design or manufacture.

(d) A toy presents a thermal hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances, or surfaces.

(e) "Toxic" means able to produce personal injury or illness to a person through ingestion, inhalation, or absorption through any body surface and can apply to any substance other than a radioactive substance.

(f) "Flammable" means having a flash point up to 80 degrees Fahrenheit as determined by the Tagliabue Open Cup Tester. The flammability of solids and of the contents of self-pressurized containers shall be determined by methods generally recognized as applicable to the materials or containers and established by rules issued by the commissioner.

(g) A toy presents a hazard of asphyxiation or suffocation if, in normal use or when subject to reasonably foreseeable damage or abuse, its design, manufacture or storage presents a risk of personal injury or illness from interference with normal breathing.

(h) "Commissioner" means commissioner of commerce.

(i) "Inspector" means an inspector of the department of commerce.

History: 1973 c 467 s 2; 1983 c 289 s 109; 1984 c 655 art 1 s 57

325F.10 BANNING OF HAZARDOUS ARTICLES; REGULATIONS.

The director shall ban from sale or distribution any toy or other article intended for use by children that presents any of the hazards set out in section 325F.08.

The director shall adopt the regulations necessary to carry out the intent of sections 325F.08 to 325F.18. Regulations shall insofar as practicable conform to the regulations relating to this subject found as Part 191 in the Code of Federal Regulations, Title 21.

History: 1973 c 467 s 3

325F.11 TESTING OF ARTICLES TO DETERMINE AND INSURE COMPLIANCE.

The commissioner or an authorized and qualified employee or inspector, may undertake or provide for testing of toys and other articles as he deems necessary to determine their safety and fitness for commerce in this state in compliance with sections 325F.08 to 325F.18. The commissioner may contract or otherwise arrange with any testing facility, public or private, for testing and reporting the results. The commissioner may, by rule, require that any toy or other article within the

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provisions of sections 325F.08 to 325F.18 be adequately tested by a reputable testing facility, or the manufacturer or distributor of the article, and that the certified results of the test be filed with the commissioner before the sale, distribution, or other movement in commerce within this state of the toys or articles. The commissioner may by rule provide for penalties for the failure to provide test results.

History: 1973 c 467 s 4; 1983 c 289 s 110

325F.12 REPURCHASE OF BANNED ARTICLES.

In the case of any article sold by its manufacturer, distributor, or dealer which has been banned, whether or not it was banned at the time of its sale, the article shall, in accordance with regulations of the director, be repurchased as follows:

(a) The manufacturer of the article shall repurchase it from the person to whom he sold it, and shall refund that person the purchase price paid for the article. If the manufacturer requires the return of the article in connection with the repurchase of it, the manufacturer shall also reimburse the person for any reasonable and necessary expenses incurred in returning it to the manufacturer.

(b) The distributor of any banned article shall repurchase it from the person to whom he sold it, and shall refund that person the purchase price paid for the article. If the distributor requires the return of the article in connection with his repurchase of it in accordance with this clause, the distributor shall reimburse that person for any reasonable and necessary expenses incurred in returning it to the distributor.

(c) In the case of any banned article sold at retail by a dealer, if the person who purchased it from the dealer returns it to him, the dealer shall refund the purchase price paid for it and reimburse him for any reasonable and necessary transportation charges incurred in its return.

History: 1973 c 467 s 5

325F.13 BANNED HAZARDOUS TOYS; PROHIBITIONS.

No person shall sell, expose for sale, deliver, give away, have in his possession, or introduce or deliver for introduction into commerce any hazardous toy or article intended to be used by a child or banned hazardous toy or article intended to be used by a child.

History: 1973 c 467 s 6

325F.14 SEIZURES.

The director shall apply to the district court to seize toys presenting hazards when no other practical method to control the hazard exists. The attorney general shall represent the director in the district court.

History: 1973 c 467 s 7

325F.15 DIRECTOR'S RIGHT OF ACCESS TO PREMISES, RECORDS.

For the purpose of administering the provisions of sections 325F.08 to 325F.18, the director and inspectors shall have access and entry at reasonable times to any premises in which toys or other articles within the provisions of sections 325F.08 to 325F.18 are held and shall have access to all records pertinent to the enforcement of sections 325F.08 to 325F.18.

History: 1973 c 467 s 8

325F.16 PENALTIES.

Any person who violates any of the provisions of sections 325F.08 to 325F.18 shall be guilty of a misdemeanor.

History: 1973 c 467 s 9

325F.17 CITATION.

Sections 325F.08 to 325F.16 may be cited as the "Safe Toys Act".

History: 1973 c 467 s 10

**FORMALDEHYDE GASES
IN BUILDING MATERIALS****325F.18 DUTY OF MANUFACTURER.**

Subdivision 1. No manufacturer shall sell any building materials and no builder shall sell or lease a housing unit containing urea formaldehyde unless the manufacturer or builder has made the following written disclosure to any purchaser of the materials or housing unit or lessee of the housing unit: "WARNING. THIS PRODUCT (HOUSING UNIT) CONTAINS THE CHEMICAL FORMALDEHYDE. FOR SOME PEOPLE FORMALDEHYDE MAY CAUSE HEALTH PROBLEMS, SUCH AS IRRITATION OF THE EYES, NOSE AND THROAT, SNEEZING, COUGHING, HEADACHES, SHORTNESS OF BREATH, OR CHEST OR STOMACH PAINS. CHILDREN UNDER THE AGE OF TWO, ELDERLY PEOPLE, PEOPLE WITH BREATHING PROBLEMS OR PEOPLE WITH ALLERGIES MAY HAVE MORE SERIOUS DIFFICULTIES. IF YOU HAVE QUESTIONS ABOUT PROBLEMS YOU MAY HAVE WITH FORMALDEHYDE, CONSULT A DOCTOR."

Subd. 1a. For the purposes of this section "building materials" means any urea formaldehyde-containing material used in the construction or insulation of a housing unit, but does not include:

- (1) draperies, carpeting, furniture and furnishings not normally permanently affixed to a housing unit; and
- (2) noncellular insulation.

Subd. 2. The disclosure required by subdivision 1 shall be made clearly and conspicuously on the label or written warranty of the materials in a manner designed to attract the attention of a prospective buyer or user. If the product or housing unit has neither a label nor a written warranty the disclosure shall be made in a separate writing included with the product or housing unit.

Subd. 3. No person shall sell for use in a dwelling place building materials subject to the written disclosure requirement of subdivision 1 unless the seller has provided to the purchaser a copy of the written disclosure provided by the manufacturer. No person shall for gain install or use in a dwelling place building materials subject to the written disclosure requirement of subdivision 1 unless the installer or user has provided to the person on whose behalf the materials are installed or used a copy of the written disclosure provided by the manufacturer.

Subd. 4. The manufacturer of a product or builder of a housing unit that contains materials made with urea formaldehyde shall pay the reasonable cost of repair or relocation if the consumer can document that the housing unit contains a significant ambient air level of formaldehyde and in addition has documented medical records of illness related to formaldehyde and a statement from a physician that the consumer must vacate the premises. The party who has received the claim has the right to test the ambient air level of the housing unit at reasonable times.

If within 30 days after the presentation of the items set forth above the manufacturer or builder and the consumer do not agree on a remedy the consumer may bring suit to recover the reasonable cost of repair or relocation plus reasonable attorneys' fees. Notwithstanding the remedy under this subdivision, the consumer may bring an action for personal injury, if any, if the action is commenced within one year from the presentation of the items required by this subdivision.

Subd. 5. If the commissioner of health determines pursuant to section 144.495 that there does not exist a significant health problem, the provisions of this section are not effective.

Subd. 6. Any person who is found in violation of subdivisions 1 to 3 shall be deemed in violation of section 325F.69, subdivision 1, and the provisions of section 8.31 shall apply.

History: 1980 c 594 s 2; 1981 c 245 s 1

BUILDING INSULATION

325F.19 HOME INSULATION; CONSUMER PROTECTION; DEFINITIONS.

Subdivision 1. For the purposes of sections 325F.19 to 325F.24, the following terms shall have the meanings here given them.

Subd. 2. "Advertisement" means any written or verbal statement, illustration or depiction which appears in the mass media, in brochures, leaflets, or circulars, outdoor advertising, retail displays, or on vehicles, which is designed to cause the sale of or interest in the purchase of insulation.

Subd. 3. "Commissioner" means the commissioner of energy and economic development.

Subd. 4. "Industry members" means producers and suppliers of materials from which insulation is made who promote the sale or distribution of insulation; manufacturers of insulation; jobbers, wholesalers and retailers of insulation; contractors and applicators who sell and install residential insulation; and those engaged in the marketing of insulation who are, or who purport to act as, agents of manufacturers or suppliers of insulation.

Subd. 5. "Insulation" means any material or assembly of materials used primarily to provide resistance to heat flow in building structures, including but not limited to mineral fibrous, mineral cellular, organic fibrous, organic cellular or reflective materials, whether in loose fill, flexible, semi-rigid or rigid form.

Subd. 6. "Laboratory qualified to test thermal insulation" means an approved laboratory classified by the commissioner in consultation with industry members as passing an appropriate examination of ability to perform tests and continuing inspection or follow-up service according to specifications for manufacture and installation, also referred to as "testing laboratory".

Subd. 7. "Presenting a clear and present danger" means known to cause physical damage to structure or health hazards to occupants through continuing direct contact or release of hazardous substances as defined in section 24.33.

Subd. 8. "R value" means the measure of resistance to heat flow through a material or the reciprocal of the heat flow through a material expressed in British thermal units per hour per square foot per degree Fahrenheit at 75 degrees Fahrenheit mean temperature.

Subd. 9. "Specifications for manufacture and installation" means those specifications in section 325F.20.

History: 1978 c 786 s 4; 1981 c 356 s 201,202; 1983 c 289 s 115 subd 1

325F.20 SPECIFICATIONS FOR THE MANUFACTURE, LABELING, AND INSTALLATION OF INSULATION.

Subdivision 1. The commissioner shall adopt rules pursuant to chapter 14 regarding quality, information, and product safety specifications for the manufacture, labeling, installation, and thermographing of insulation. The specifications and any amendments to them shall conform as far as is practical to federal standards or other standards generally accepted and in use throughout the United States. The standards, with modifications as may be deemed necessary, may be adopted by reference. The specifications adopted and any amendments shall be based on the application of scientific principles, approved tests, and professional judgment. For purposes of this subdivision, the commissioner may adopt emergency rules, which may remain in effect for 360 days.

Subd. 2. In addition to the specifications promulgated pursuant to subdivision 1, no insulation presenting a clear and present danger by the nature of its composition at the time of installation shall be used or offered for sale in Minnesota.

Subd. 3. The manufacturer's written instructions describing the proper methods of application of the insulation and required or recommended safety measures shall be provided to each intermediate and ultimate consumer of all insulation sold for use in Minnesota within ten days of when the insulation is sold.

History: 1978 c 786 s 5; 1981 c 356 s 203; 1982 c 424 s 130; 1984 c 640 s 32; 1984 c 654 art 2 s 122

325F.21 TESTING OF INSULATION.

Subdivision 1. Upon the adoption of specifications under section 325F.20, subdivision 1, all insulation used or offered for sale in Minnesota shall be tested in accordance with testing procedures required under those specifications by a laboratory qualified to test thermal insulation.

Subd. 2. The commissioner shall purchase from time to time unopened insulation packages which shall be sent to an approved testing laboratory to test for compliance with the specifications established under section 325F.20, subdivision 1.

History: 1978 c 786 s 6; 1981 c 356 s 204

325F.22 UNFAIR AND DECEPTIVE ADVERTISING PRACTICES.

Subdivision 1. It shall be considered an unfair and deceptive practice to violate any of the provisions of this section.

Subd. 2. No advertisement for insulation to be used or offered for sale in Minnesota shall state that a percentage of fuel costs or a certain dollar amount of fuel costs will be saved unless the statement is accompanied by the following or substantially similar disclaimer in letters the same size as the claim of savings: "Stated savings are estimates only. Actual savings may vary depending on type of home, weather conditions, occupant lifestyle, energy prices and other factors".

Subd. 3. No advertisement for insulation to be used or offered for sale in Minnesota shall contain any claim which is false or misleading, or for which there exists no reasonable substantiation at the time the claim is made. Prohibited claims include, but are not limited to, the following: does not burn, noncombustible, self-extinguishing, nonpoisonous, non-irritating, vermin-proof, rodent-proof, resists mildewing, will not shrink, will not crack, permanent, no deterioration, complete coverage, fills all voids, never needs replacing, will not settle. This prohibition shall not apply if the claim is substantiated by tests identified in the specifications established under section 325F.20, subdivision 1, or by appropriate testing procedures of the American Society for Testing and Materials where no test required

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under section 325F.20, subdivision 1, applies. Such tests shall be made by a laboratory qualified to test thermal insulation. When tests are not designed to duplicate actual conditions, substantiated claims must so state.

Subd. 4. No representation about the thermal resistance value of insulation shall be made unless the R value is given and has been determined by the tests required in the specification established under section 325F.20, subdivision 1, or by appropriate testing procedures of the American Society for Testing and Materials where no test required under section 325F.20, subdivision 1, applies. Such tests shall be made by an approved laboratory qualified to test thermal insulation.

History: 1978 c 786 s 7

325F.23 MARKING, LABELING, AND CONSUMER INFORMATION.

Subdivision 1. The outside of all containers and wrappings of insulation used or offered for sale in Minnesota shall have the following information printed legibly thereon in bold type not less than one-eighth inch high:

(a) Type (pneumatic or blown, pouring, batt, roll, blanket, board, cellular, or reflective);

(b) R value (to the nearest tenth) per inch at the recommended installation density;

(c) Required thickness in inches to obtain four or more commonly used R values and the corresponding coverage areas in square feet of the insulation in the container or wrapping;

(d) Expiration date and expected shelf life of all resins, catalysts, and foaming agents for all foam insulations, whether in powder, diluted or partially diluted state, on canister, drum, container, or package. For purposes of this section, "foam insulation" means products having an organic base or composed of vinyl or plastic material or both, which are manufactured or installed using a process involving a foaming agent, a resin, a catalyst and an air compressor, including but not limited to urea-formaldehyde, other urea-based foams, urethane foam, polyurethane foam, polystyrene foam, and isocyanurate foam.

(e) Name and address of the manufacturer of the insulation;

(f) A notation of those current specifications of the United States General Services Administration, the United States Department of Energy, the United States Department of Housing and Urban Development, the United States Consumer Product Safety Commission, the Federal Trade Commission and the commissioner with which the insulation complies;

(g) The net weight of the contents of the bag, package, or container.

Subd. 2. Where insulation is used or offered for sale without the manufacturer's container, the information required in subdivision 1 shall be provided in a separate printed statement to the intermediate and ultimate consumers.

History: 1978 c 786 s 8; 1981 c 356 s 205

325F.24 ENFORCEMENT; PENALTIES.

Subdivision 1. Violation of section 325F.20, subdivision 2, or section 325F.21, subdivision 2 or 3, shall constitute a misdemeanor, provided that the sole liability for such violation on insulation sold under the manufacturer's brand or trademark shall be the manufacturer's, and that an industry member who is not a manufacturer shall be liable under this subdivision only if he has actual knowledge or knowledge fairly implied on the basis of the objective circumstances that the insulation presents a clear and present danger or has not been subject to the required testing procedures.

Subd. 2. Violation of section 325F.20, subdivision 3, section 325F.22, or section 325F.23 shall constitute a misdemeanor.

Subd. 3. The provisions of section 325F.22 may be enforced by the attorney general pursuant to section 8.31. The attorney general may recover costs and disbursements, including costs of investigation and reasonable attorney's fees. In addition to the remedies otherwise provided by law, any person injured by a violation of sections 325F.20, 325F.22, or 325F.23 may bring a civil action and recover damages together with costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court. The court may as appropriate enter a consent judgment or decree without the finding of illegality.

Subd. 3a. Rules promulgated by the commissioner pursuant to sections 325F.20, subdivision 1, and 325F.21, subdivision 1 may be enforced by the commissioner pursuant to section 116J.30.

Subd. 4. Remedies taken under this section shall not exclude other civil or criminal actions under Minnesota Statutes.

History: 1978 c 786 s 9; Ex1979 c 2 s 38; 1981 c 356 s 206,248

BEDDING

325F.25 DEFINITIONS.

Subdivision 1. **Words, terms and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the words, terms and phrases defined in this section, for the purposes of sections 325F.25 to 325F.33, shall be given the meanings subjoined to them.

Subd. 2. **Bedding.** "Bedding" means any mattress, upholstered spring, comforter, pad, cushion, or pillow designed and made for use in sleeping or reclining purposes.

Subd. 3. **Person.** "Person" includes individuals, corporations, partnerships, joint stock companies, or other business associations who are manufacturers or dealers in bedding.

Subd. 4. **New.** "New" means any material or article that has not previously been used in the manufacture of bedding articles, or for any other purpose.

Subd. 5. **Second-hand.** The term "second-hand" means any material or article that has been previously used in the manufacture of bedding or for any other purpose.

Subd. 6. **Shoddy.** "Shoddy" means any material that has been spun into yarn, knit or woven into fabric and subsequently cut up, broken up, or ground up.

History: 1929 c 358 s 1; 1980 c 509 s 124 (3976-1)

325F.26 USE OF SECOND-HAND MATERIAL FORBIDDEN IN CERTAIN CASES.

No person shall use, in the making or remaking of any article of bedding, any material that has been used in any private or public hospital, or any material of any kind that has been used by or about any person having an infectious or contagious disease, or has formed a part of any article of bedding which has so been used. This section shall not prevent the renovating of bedding used in any private or public hospital.

History: 1929 c 358 s 2 (3976-2)

325F.27 SALE OF BEDDING.

No person shall sell, offer for sale, consign for sale, or have in his possession with intent to sell, or consign for sale any bedding used in a private or public hospital or any article of bedding that has been used by or about any person having an infectious or contagious disease.

History: 1929 c 358 s 3 (3976-3)

325F.28 MATERIAL MUST BE RENOVATED.

No person shall remake or renovate any article of bedding unless all the material to be used in such remade or renovated bedding shall first be thoroughly sterilized and disinfected by the methods set out herein, or by any other approved sterilization method:

(1) Dry heat of a temperature of not less than 160 degrees centigrade temperature for not less than one hour. (A thermometer for registering the temperature visible from the outside of the room shall be provided where dry heat is used);

(2) Live steam, with subsequent drying of the material over steam coils with a pressure of not less than 20 pounds of steam for 20 minutes. (A gauge for registering steam pressure visible from the outside of the room shall be provided where steam under pressure is used and valved outlets shall be provided near the bottom and also the top of the room in cases where streaming steam is used);

(3) Formaldehyde and sulphur concurrently in a moist atmosphere for a period of not less than ten hours. Formaldehyde gas shall be generated from the use of one pint of formaldehyde solution, 37 percent to each 1,000 cubic feet of air space, or through the use of any of the high class commercial fumigators which generate an equivalent quantity of gas. Sulphur shall be from the burning of three pounds of sulphur for each 1,000 cubic feet of air space. The moist atmosphere shall be produced by thorough sprinkling of the floor of the room with warm water just prior to the process of disinfection.

The room shall be provided with a separate air inlet and also an exhaust connection, and shall be equipped with tight dampers or closure gates which can be operated from the outside of the room. Rooms for disinfection of bedding materials shall be made gas or steam tight. Shelving for loose bedding materials shall be of lattice or other open construction.

Solid shelves of a type to prevent passage of gas through the materials shall not be permitted.

History: 1929 c 358 s 4 (3976-4)

325F.29 SALES FORBIDDEN; EXCEPTIONS; PENALTIES.

No person shall sell, lease, offer to sell or lease, or deliver or consign for sale or lease, or have in his possession with intent to sell, lease, deliver, or consign for sale or lease, any bedding made, remade, or renovated in violation of sections 325F.25 to 325F.32 or any second-hand bedding unless since last used it has been thoroughly sterilized and disinfected as provided under section 325F.28. A violation of sections 325F.25 to 325F.32 is a misdemeanor. The penalty provisions of section 8.31 shall apply when any person is found to have violated sections 325F.25 to 325F.32.

History: 1929 c 358 s 7; 1975 c 350 s 1 (3976-7)

325F.30 SHODDY MATERIAL TO BE LABELED.

No person, by himself or his agents, servants, or employees, shall make or sell, or offer to sell, deliver, or consign for sale, or have in his possession with intent to

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sell, deliver, or consign for sale any bedding made of material that has theretofore been used as a container for or in contact with any animal or vegetable matter or any material defined as shoddy, unless the bedding shall be labeled as such, or any material that has theretofore been used unless the same shall have been cleaned and sterilized.

History: 1929 c 358 s 8 (3976-8)

325F.31 BEDDING TO BE LABELED.

No person shall make or remake, or sell, offer for sale, consign for sale, or have in his possession with intent to sell, offer for sale, or consign for sale any article of bedding unless the same is labeled as follows:

On each article of bedding a label of durable material not less than three by four and one-half inches in size shall be displayed, upon which shall be in plain print, in the English language, a description of the material used as filling of such article of bedding; and, if such material, or any portion thereof, shall not have been previously used, the words "manufactured of new material" shall appear upon the label, together with the name and address of the maker or vendor thereof. If any of the material used in the making or remaking of such article of bedding shall have been previously used, the words "manufactured of second-hand material" or "remade of second-hand material", as the case may be, shall appear upon the label, together with the name and address of the maker or vendor thereof, and also a description of the material used in the filling of such article of bedding. On any article of bedding, not remade, but which has been previously used, the words "second-hand materials used in filling not known" shall appear upon the label, together with the name and address of the vendor thereof.

The statement required under this section shall be in form as follows:

"OFFICIAL STATEMENT

Materials used in filling

Made by.....

Vendor

Address

This article is made in compliance with Minnesota Statutes, Sections 325F.25 to 325F.33."

The statement of compliance required in the foregoing official statement shall not be construed to imply that it is prohibited to state also that the article of bedding is made in compliance with any act or acts of other states.

The words "manufactured of new material", or "manufactured of second-hand material", or any article of bedding not remade, "second-hand materials used in filling not known", together with the description of the material used as filling of an article of bedding, shall be in letters not less than one-eighth of an inch in height. No term or description likely to mislead shall be used on any label to describe material used in the filling of any article of bedding. The label shall be attached to each mattress, pad, or upholstered spring by sewing all four edges of the label.

History: 1929 c 358 s 9; Ex1967 c 1 s 6; 1969 c 421 s 1; 1975 c 350 s 2 (3976-9)

325F.32 FEATHERS TO BE RENOVATED.

Feathers used in making, remaking, or renovating new or second-hand bedding shall be thoroughly cured, sterilized, or disinfected.

History: 1929 c 358 s 10 (3976-10)

325F.33 [Repealed, 1Sp1981 c 4 art 1 s 158]

325F.34 TESTIMONY; PRODUCTION OF BOOKS AND DOCUMENTS.

No person shall be excused from attending and testifying or from producing books, papers, contracts, agreements, and documents in any case or proceedings instituted or brought under the provisions of sections 325F.25 to 325F.32, or in obedience to a subpoena, in any such case or proceedings, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, in any such case or proceedings, or in obedience to a subpoena, in any such case or proceedings.

History: 1939 c 403 s 5; 1941 c 326 s 5; 1Sp1981 c 4 art 1 s 159 (3976-47)

CANVAS**325F.35 DEFINITIONS.**

Subdivision 1. **Words, terms and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the words, terms and phrases defined in this section, for the purposes of sections 325F.35 to 325F.39, shall be given the meanings subjoined to them.

Subd. 2. **Cotton duck or canvas.** "Cotton duck" or "canvas" includes all cotton duck or canvas, whether single filling, double filling, army roll, or wide duck.

Subd. 3. **Yard.** The equivalent of 36 inches in length by 29 inches in width, or seven and one-fourth square feet, of cotton duck or canvass shall constitute a yard.

Subd. 4. **Ounce.** An "ounce" shall be 1/16 of a pound avoirdupois.

History: 1913 c 169 s 1,2; 1980 c 509 s 24 (3966, 3967)

325F.36 MANUFACTURE AND SALE OF COTTON DUCK OR CANVAS; STAMPS, BRANDS, AND MARKS.

Any person, company, or corporation who shall manufacture for sale, or who may offer or expose for sale, any cotton duck or canvas or any article, other than clothing and wearing apparel, composed or made, in whole or in part, of cotton duck or canvas, shall distinctly and durably stamp, brand, or mark thereon the true and correct weight of such cotton duck or canvas, by ounces per yard, together with a description by name of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture.

History: 1913 c 167 s 3 (3968)

325F.37 CERTAIN SALES UNLAWFUL; MISSTATEMENTS FORBIDDEN.

It shall be unlawful for any person or corporation, either individually or in any representative capacity, to carry for sale, sell, or endeavor to sell any cotton duck or canvas or any articles other than clothing and wearing apparel, composed or made, in whole or in part, of any cotton duck or canvas without having marked thereon the true and correct weight of the canvas or cotton duck, by ounces per yard, together with a description by name of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture, or to misstate, misrepresent, or conceal the true weight of the canvas or cotton duck, by ounces per yard, or to misstate, misrepresent, or conceal the existence of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture.

History: 1913 c 167 s 4 (3969)

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325F.38 CONCEALING OR MISSTATING SIZE UNLAWFUL.

It shall be unlawful for any person or corporation, either individually or in representative capacity, selling, carrying for sale, or endeavoring to sell any awnings, paulins, wagon covers, tent, grain and hay covers, stable or tent tops, to misstate or misrepresent or conceal the true and correct size and dimensions thereof.

History: 1913 c 167 s 5 (3970)

325F.39 UNLAWFUL TO DEFACE MARK.

It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel, or remove any mark provided for by sections 325F.35 to 325F.39, or cause or permit the same to be done with intent to mislead, deceive, or to violate any of the provisions of sections 325F.35 to 325F.39.

History: 1913 c 167 s 6 (3971)

325F.40 VIOLATIONS; PENALTIES.

Any person, company, or corporation violating any of the provisions of sections 325F.35 to 325F.39 shall be deemed guilty of a misdemeanor; and, upon conviction thereof, for the first offense, punished by a fine of not less than \$25 nor more than \$50 and for each subsequent offense by a fine of not less than \$50 nor more than \$100.

History: 1913 c 167 s 7; 1961 c 561 s 10; 1973 c 151 s 3 (3972)

325F.41 TESTIMONY; PRODUCTION OF BOOKS AND DOCUMENTS.

No person shall be excused from attending and testifying or from producing books, papers, contracts, agreements, and documents in any case or proceedings instituted or brought under the provisions of section 325F.40, or in obedience to a subpoena, in any such case or proceedings, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, in any such case or proceedings, or in obedience to a subpoena, in any such case or proceedings.

History: 1939 c 403 s 5; 1941 c 326 s 5 (3976-47)

WEARING APPAREL

325F.42 FRAUD IN THE SALE OF WEARING APPAREL.

Subdivision 1. **Fur constituent part.** Articles of wearing apparel of which fur is a constituent part shall not be sold or offered for sale at retail in the state under any false or deceptive name.

Subd. 2. **False and deceptive name.** For the purposes of this section, "false or deceptive name" means a name which implies that the fur which is a constituent part of the article is of substantially greater value than the fur which is actually used.

Subd. 3. **Identifying tag attached to garment.** The fur which is a constituent part of any article of wearing apparel sold or offered for sale at retail shall be identified by its true name, and its trade name, if any, upon a tag or ticket prominently attached or displayed on the garment and shall be identified further by its true name, and its tradename, if any contained on a sales slip or invoice delivered to the purchaser at the time of sale.

Subd. 4. **Violations and penalty.** Any person who violates any of the provisions of this section shall be guilty of a gross misdemeanor.

History: 1949 c 203 s 1-4

IMITATION INDIAN-MADE GOODS

325F.43 IMITATION INDIAN-MADE GOODS TO BE BRANDED.

All goods, wares, and merchandise known as moccasins, bead work, birchbark baskets, deerskin work, grass rugs, sweet grass baskets, and other goods which are manufactured or produced in imitation of genuine American Indian-made goods, wares, or merchandise shall be branded, labeled, or marked, as hereinafter provided, before being exposed for sale and shall not be exposed or sold without such brand, label, or mark thereon. For purposes of this section, Indian-made goods are those made exclusively by persons who are of at least one-quarter Indian blood or who are listed on the rolls of the United States Bureau of Indian Affairs as Indians.

History: 1937 c 196 s 1; 1973 c 151 s 1 (3976-61)

325F.44 BRAND.

The brand, label, or mark required by section 325F.43 shall be the words "not Indian-made" and shall be placed or attached outside of and on a conspicuous part of the finished article so as to be plainly visible to the purchasing public, and shall be the size and style known as great primer Roman capitals. Such brand or mark, if the article will permit, shall be placed upon it, but when such branding or marking is impossible a label shall be used and attached thereto.

History: 1937 c 196 s 2; 1973 c 151 s 2 (3976-62)

325F.45 GOODS NOT TO BE SOLD WITHOUT BRAND.

No person shall sell, offer for sale, or have in possession for the purpose of sale, imitation goods, wares, or merchandise described in section 325F.43 without the brand, label, or mark required by sections 325F.43 and 325F.44 being placed thereon or attached thereto, or remove, conceal, or deface such brand, label, or mark.

History: 1937 c 196 s 3 (3976-63)

325F.46 REMEDIES.

Subdivision 1. **Civil remedy.** Any person injured by a violation of sections 325F.43 to 325F.45 may bring a civil action and recover damages, together with costs and disbursements, including reasonable attorney's fees, and receive other equitable relief as determined by the court.

Subd. 2. **Criminal penalty.** Any person who knowingly violates the provisions of sections 325F.43 to 325F.45 shall be guilty of a misdemeanor.

Subd. 3. **Provisions.** The provisions of this section shall not be construed as restricting or precluding other remedies at law.

History: 1973 c 151 s 4; 1981 c 267 s 1

SALES OF BLIND-MADE ARTICLES OR PRODUCTS

325F.47 MISREPRESENTATION OF BLIND-MADE ARTICLES OR PRODUCTS FORBIDDEN.

Subdivision 1. No person shall sell or offer for sale on either wholesale or retail levels within the state of Minnesota, any article or product which is said or

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represented to have been "blind-made" or with a connotation or an association with blindness unless such article or product shall have been made, processed, or repaired within the limits of the following specifications:

(a) Blind labor shall mean such work which has been expended by individuals whose central visual acuity does not exceed 20/200 in the better eye, with correcting lenses, or whose visual acuity is greater than 20/200 but with a limitation in the field of vision, such that the widest diameter of the visual field subtends an angle no greater than 20 degrees as determined by an eye specialist.

(b) A "blind-made" article or product shall mean that at least 75 percent of the hours of direct labor expended in the preparation, processing, packaging, or improvement of an article or product, excluding the supervision, inspection, administration, or shipping, shall have been performed by a person or persons whose visual acuity falls within the definition of blindness described above.

Subd. 2. Any article or product which is sold or offered for sale in this state as a blind-made product shall include in its labeling the name of its manufacturer.

Subd. 3. Any person, firm, or agency that willfully violates any provision of this section shall be guilty of a misdemeanor.

History: 1957 c 544 s 1-3

PRISON-MADE GOODS

325F.48 PRISON-MADE GOODS ARE SUBJECT TO LAWS OF STATE.

All goods, wares, and merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institutions, transported into the state and remaining therein for use, consumption, sale, or storage, shall, upon arrival and delivery in the state, be subject to the operation and effect of the laws of the state, to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in the state, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

History: 1935 c 267 s 1 (3976-21)

325F.49 [Repealed, 1Sp1981 c 4 art 1 s 191]

325F.50 [Repealed, 1Sp1981 c 4 art 1 s 191]

AIRPORT FOREIGN

CURRENCY EXCHANGES

325F.51 POSTED INFORMATION; VIOLATIONS.

Subdivision 1. No foreign currency exchange shall be operated at an airport in this state unless a conspicuously posted and easily legible sign on the premises discloses

(1) the corporate or business name of the operator of the facility; and
(2) the facility's current rates for buying and selling all foreign currencies traded.

Subd. 2. A violation of this section is subject to the remedies provided in section 8.31.

History: 1978 c 590 s 1

325F.52 MS1980 [Renumbered, 325F.73]

GROCERIES; PRICE LABELS;
STORES USING ELECTRONIC OR
MAGNETIC SCANNERS

325F.53 RETAIL MERCHANDISE; PRICE MARKING.

Subdivision 1. In any store primarily engaged in the sale of grocery products at retail using an electronic or magnetic scanner to read the price of grocery products presented for checkout, every canned, bottled, boxed or bagged item of merchandise sold or offered for sale at retail shall have the selling price in arabic numerals clearly affixed to each item by a stamp, tag, label or other conspicuous marking device when electronically or magnetically scanned for checkout unless the price of the item is conspicuously displayed where the item is shelved and the store provides a means by which the customer may mark individual items. If a grocery product is canned, bottled, boxed or bagged, but sold in quantities of more than one in the containers in which the product came from the manufacturer or distributor, the price may be marked on the outer containers rather than on each individual item.

Subd. 2. Subdivision 1 does not apply to:

- (a) Food items intended to be consumed on or about the retail premises;
- (b) Grocery products sold by a store primarily engaged in the sale of grocery products at retail which are under three cubic inches in size, weigh less than three ounces, and are priced under 30 cents;
- (c) Grocery products sold by a store primarily engaged in the sale of grocery products offered for a period of seven days or less on sale in good faith at a price below the price such merchandise is usually sold for in the store, provided that the sale price is clearly indicated to the consumer by conspicuous sign or otherwise, located at or near the point of sale of such merchandise;
- (d) Cigarettes, cigars, tobacco and tobacco products with a retail price of \$1 or less;
- (e) Items actually sold through vending machines; and
- (f) Any type of grocery product sold by a store primarily engaged in the sale of grocery products which is not marked in accordance with the uniform products code or any similar marking system designed to be scanned by electronic or magnetic checkout equipment.

Subd. 3. In addition to the exemptions allowed in subdivision 2, a retailer may choose to not individually price mark not more than 25 classes of items or individual items which classes or items shall be set forth on a list posted in a conspicuous place in the retail store, and may choose to not individually price mark not more than 25 additional classes of items or individual items which are advertised or featured at a reduced price.

History: 1978 c 737 s 1

325F.54 PENALTIES.

(a) Knowingly and willfully failing to have a clearly readable price indicated on more than six individual items of the same commodity shall constitute a petty misdemeanor and each commodity not priced in compliance with sections 325F.53 to 325F.55 shall constitute a separate violation. Each day that a violation continues shall also constitute a separate violation;

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(b) Notwithstanding any other provision of law, any person may bring an action to enjoin a violation of sections 325F.53 to 325F.55.

History: 1978 c 737 s 2

325F.55 LOCAL ORDINANCE PRE-EMPTED.

No subordinate unit of government may adopt or enforce any rule or ordinance requiring individually marked prices on retail merchandise other than that contained in sections 325F.53 to 325F.55.

History: 1978 c 737 s 3

REPAIRS; SERVICES

325F.56 DEFINITIONS.

Subdivision 1. For the purposes of sections 325F.56 to 325F.66, the following terms have the meanings given them.

Subd. 2. "Repairs" means work performed for a total price of more than \$100 and less than \$2,000, including the price of parts and materials, to restore a malfunctioning, defective, or worn motor vehicle, appliance, or dwelling place used primarily for personal, family, or household purposes and not primarily for business or agricultural purposes. "Repairs" do not include service calls or estimates.

Subd. 3. "Motor vehicle" means a vehicle which is self-propelled.

Subd. 4. "Appliance" means any electrical, mechanical, or thermal device or machine.

Subd. 5. "Dwelling place" means a room, apartment, or structure in which one or more persons live or any fixture thereof.

Subd. 6. "Shop" means an individual, corporation, partnership, or any other form of business organization which derives income, in whole or part, by engaging in the business of repairs.

Subd. 7. "Customer" means a customer of a shop and the agents of a customer.

Subd. 8. "Written estimate" means a writing which includes:

- (a) The name and address of the shop;
- (b) A description of the problem to be repaired as described by the customer and any specific repair requested by the customer.
- (c) The charges for parts or materials listed with reasonable particularity and indicating whether the parts are used, rebuilt, or reconditioned if this information is known by the shop;
- (d) Labor charges;
- (e) Tax;
- (f) Any delivery charge;
- (g) Any other charges; and
- (h) The total estimated price.

History: 1978 c 710 s 1

325F.57 SERVICE CALLS.

A shop may impose a towing, minimum, or other service charge for making a call at a place other than the shop. The service charge may be imposed in addition to any charges for making an estimate or performing repairs, and it may be imposed even though no estimate is made or repairs performed. Upon the request of the

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customer, the shop shall inform the customer before making a service call that a service charge will be imposed and the basis on which the charge will be calculated.

History: 1978 c 710 s 2

325F.58 ESTIMATES.

Subdivision 1. Upon the request of a customer for a written estimate and prior to the commencement of repairs, a shop shall provide the customer with a written estimate. The shop shall include in the estimate all the parts and materials and labor which in the standard practice of the trade or industry would normally be included in the repairs for which the estimate was requested.

Subd. 2. A shop may impose an additional charge for making a written estimate, and the charge may include charges for disassembly, diagnosis, and reassembly necessary to make the estimate. However, a shop shall not impose a charge for making an estimate unless the shop informs the customer that there will be a charge and the basis on which the charge will be calculated before making the estimate and receives authorization to make the estimate.

Subd. 3. At the time a shop provides a customer with a written estimate, the shop shall inform the customer that any charge for a service call or for making an estimate shall be in addition to the estimated price for the repairs.

Subd. 4. At the option of the customer and upon his authorization a shop which provides a written estimate shall:

(a) If the customer elects and the shop undertakes the repairs, perform the repairs described in the estimate; or

(b) Return the unrepaired motor vehicle, appliance, or dwelling place as close as possible to its former condition and release the motor vehicle or appliance to the customer upon payment of any charges for making the estimate or a service call.

Subd. 5. A shop is not required to provide a written estimate for repairs or service calls it does not agree to perform.

Subd. 6. If a shop provides a written estimate of the price of repairs, it shall not charge more than 110 percent of the total price stated in its estimate for the repairs; except if a shop after commencing repairs determines that additional work is necessary to accomplish repairs that are the subject of a written estimate and if the shop did not unreasonably fail to disclose the possible need for the additional work when the estimate was made, the shop may charge more than 110 percent of the estimate for the repairs if the shop immediately provides the customer a revised written estimate pursuant to this section and receives authorization to continue with the repairs. If continuation of the repairs is not authorized, the shop shall return the motor vehicle, appliance, or dwelling place as close as possible to its former condition or place it in a mutually agreed upon condition and shall release the item to the customer upon payment of charges for repairs actually performed and not in excess of 110 percent of the original estimate. Nothing in this subdivision shall be construed to authorize repair charges in excess of reasonable charges for parts and materials and labor.

Subd. 7. The requirement of a written estimate in sections 325F.56 to 325F.66 is fulfilled if a shop orally communicates the contents of a required writing to the customer prior to commencing repairs and provides the writing to the customer upon completion of the repairs. If the contents are orally communicated, the shop shall make a notation on the writing of the date, time, and telephone number called, if any, and the name of the person who receives the information and orally authorizes the making of the estimated repairs.

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Subd. 8. If a shop after commencing repairs determines that additional repairs not previously authorized are necessary, the shop may perform the additional repairs if it complies with this section. A customer shall have a right to request a written estimate before any additional repairs are commenced on the motor vehicle, appliance, or dwelling place regardless of whether the customer requested a written estimate of the price of the original repairs.

History: 1978 c 710 s 3

325F.59 REPAIRS.

No shop shall charge for unauthorized repairs. No shop shall perform repairs it knows or has reason to know are unnecessary to the restoration of a motor vehicle, appliance, or dwelling place unless the customer authorizes the repairs after the shop informs the customer that they are unnecessary.

History: 1978 c 710 s 4

325F.60 INVOICE.

Subdivision 1. **Definition; requirements.** Notwithstanding the provisions of section 325F.56, subdivision 2, for the purpose of this section "repair" means work of any value performed under a manufacturer's warranty, a service contract, or an insurance policy; or any repair work performed for a total value of more than \$50, including the price of parts and materials, to restore a malfunctioning, defective, or worn motor vehicle, appliance, or dwelling place used primarily for personal, family, or household purposes and not primarily for business or agricultural purposes. "Repairs" do not include service calls or estimates. Upon completion of repairs, a shop shall provide the customer with a copy of a dated invoice for the repairs performed. If the customer receives a repaired motor vehicle or appliance without face to face contact with the shop, the shop shall mail the invoice to the customer within two business days after the shop has knowledge of removal of the item. The invoice shall contain the following information:

- (a) The date of repair;
- (b) The name and address of the shop;
- (c) A description of all repairs performed;
- (d) An itemization of the charges for parts, materials, labor, tax, delivery, and any other charges assessed against the customer;
- (e) A notation specifying which parts, if any, are used, rebuilt, or reconditioned if that information is known by the shop;
- (f) A statement of any charge for a service call or for making an estimate;
- (g) A statement of the odometer reading at the time a motor vehicle is presented for repairs; and
- (h) A statement of the symptoms, as described by the customer, for which the repairs were sought.

Subd. 2. **Estimate as invoice.** A written estimate may be used as an invoice if the required invoice information is written on the face of the estimate.

History: 1978 c 710 s 5; 1981 c 134 s 1

325F.61 RETURN OF PROPERTY.

A shop shall return to a customer, upon reasonable demand, the customer's repaired motor vehicle or appliance if the customer pays the shop's bill except the proportion of the bill which represents:

- (a) Repairs, service calls, or estimates which were performed but not authorized;

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(b) Charges for service calls or for making estimates which exceed the charges disclosed to the customer prior to the service call or estimate; or

(c) Charges for repairs which exceed 110 percent of charges authorized for repairs by the customer pursuant to section 325F.58, subdivision 6, plus 110 percent of the sum of the total prices in written estimates given in connection with repairs. Nothing in this section shall be construed to authorize repair charges in excess of reasonable charges for parts and materials and labor.

History: 1978 c 710 s 6

325F.62 REQUIRED SHOP PRACTICES.

Subdivision 1. If a customer makes a request before repairs are commenced, the shop shall return replaced parts to the customer, except parts which the shop is required to return to the manufacturer, distributor, or other person under a warranty or exchange arrangement, is required to retain pursuant to law, or is necessary for pending litigation. The customer shall be given an opportunity to examine warranty or exchange parts for a period of five business days after completion of repairs.

Subd. 2. When repairs are performed, a shop shall retain for at least one year the name and address of the customer, any written estimates and the repair invoice. The records shall be available for reasonable inspection and copying by law enforcement officials upon reasonable prior notice and during regular business hours. Upon payment to a shop of any reasonable costs of reproduction, a customer shall have the right to a copy of documents retained by the shop reflecting any repair transaction to which the customer was a party.

Subd. 3. Each shop shall conspicuously display a sign that states the following: "Upon a customer's request, this shop is required to provide a written estimate for repairs costing \$100 to \$2,000 if the shop agrees to perform the repairs. The shop's final price cannot exceed its written estimate by more than ten percent without the prior authorization of the customer".

History: 1978 c 710 s 7

325F.63 REMEDIES; PENALTIES.

Subdivision 1. A violation of section 325F.61 shall entitle the customer to the return of the repaired motor vehicle or appliance without payment of the unauthorized or excess charges, or to consequential damages, reasonable attorney's fees as determined by the court, and punitive damages not to exceed three times the total charges. Acceptance by the shop of the amount offered by the customer shall not be an admission that the amount offered is the true and correct amount owing and payable.

Subd. 2. If a shop refuses return of a customer's replaced parts in violation of section 325F.62, subdivision 1 despite a timely request, the shop shall be liable for the reasonable value of the parts.

Subd. 3. Any violation of sections 325F.56 to 325F.66 shall be deemed a violation of section 325F.69, subdivision 1, and the provisions of section 8.31, shall apply.

Subd. 4. The remedies of this section are to be construed as cumulative in addition to those provided by the common law and other statutes of this state.

History: 1978 c 710 s 8

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325F.64 EXEMPTIONS.

Subdivision 1. **Insurance or service contracts.** Sections 325F.57 to 325F.59 and 325F.61 to 325F.66 shall not apply if an insurer or service contract company pays up to 90 percent of the charge for repairs or pays a charge for repairs above a deductible amount specified in an insurance agreement or service contract.

Subd. 2. **Free repairs.** Sections 325F.57 to 325F.59 and 325F.61 to 325F.66 shall not apply when repairs are performed free of charge to the customer under warranty.

History: 1978 c 710 s 9; 1981 c 134 s 2

325F.65 PREEMPTION BY STATE.

The provisions of sections 325F.56 to 325F.66 shall be construed to supersede local ordinances regulating repairs, service calls, and estimates except for more restrictive regulation.

History: 1978 c 710 s 10

325F.66 TITLE.

Sections 325F.56 to 325F.65 may be cited as the Truth in Repairs Act.

History: 1978 c 710 s 11

PURCHASE OF NEW MOTOR VEHICLES

325F.665 NEW MOTOR VEHICLE WARRANTIES; MANUFACTURER'S DUTY TO REPAIR, REFUND, OR REPLACE.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(a) "consumer" means the purchaser, other than for purposes of resale, of a new motor vehicle used for personal, family, or household purposes at least 40 percent of the time, a person to whom the new motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the motor vehicle, and any other person entitled by the terms of the warranty to enforce the obligations of the warranty;

(b) "manufacturer" means a person engaged in the business of manufacturing, assembling or distributing motor vehicles, who will, under normal business conditions during the year, manufacture, assemble or distribute to dealers at least ten new motor vehicles;

(c) "manufacturer's express warranty" and "warranty" mean the written warranty of the manufacturer of a new motor vehicle of its condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under that warranty; and

(d) "motor vehicle" means (1) a passenger automobile as defined in section 168.011, subdivision 7, including pickup trucks and vans, and (2) the self-propelled motor vehicle chassis or van portion of recreational equipment as defined in section 168.011, subdivision 25, which is sold to a consumer in this state.

Subd. 2. **Manufacturer's duty to repair.** If a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or its authorized dealer during the term of the express warranties or during the period of one year following the date of original delivery of the new motor vehicle to a consumer, whichever is the earlier date, the manufacturer, its agent, or its authorized dealer shall make the repairs necessary to

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conform the vehicle to the express warranties, notwithstanding the fact that the repairs are made after the expiration of the warranty term or the one-year period.

Subd. 3. Manufacturer's duty to refund or replace. (a) If the manufacturer, its agents, or its authorized dealers are unable to conform the new motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use or market value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall, at the consumer's option, either replace the new motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price, including the cost of any options or other modifications arranged, installed, or made by the manufacturer, its agent, or its authorized dealer within 30 days after the date of original delivery, and all other charges including, but not limited to, sales tax, license fees and registration fees, less a reasonable allowance for the consumer's use of the vehicle not exceeding ten cents per mile driven or ten percent of the purchase price of the vehicle, whichever is less. Refunds must be made to the consumer, and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles. A reasonable allowance for use is that amount directly attributable to use by the consumer and any previous consumer prior to his or her first report of the nonconformity to the manufacturer, agent, or dealer and during any subsequent period when the vehicle is not out of service by reason of repair. It is an affirmative defense to any claim under this section (1) that an alleged nonconformity does not substantially impair the use or market value, or (2) that a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by anyone other than the manufacturer, its agent or its authorized dealer.

(b) It is presumed that a reasonable number of attempts have been undertaken to conform a new motor vehicle to the applicable express warranties, if (1) the same nonconformity has been subject to repair four or more times by the manufacturer, its agents, or its authorized dealers within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but the nonconformity continues to exist, or (2) the vehicle is out of service by reason of repair for a cumulative total of 30 or more business days during the term or during the period, whichever is the earlier date.

(c) If the nonconformity results in a complete failure of the braking or steering system of the new motor vehicle and is likely to cause death or serious bodily injury if the vehicle is driven, it is presumed that a reasonable number of attempts have been undertaken to conform the vehicle to the applicable express warranties if the conformity has been subject to repair at least once by the manufacturer, its agents, or its authorized dealers within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, and the nonconformity continues to exist.

(d) The term of an express warranty, the one-year period and the 30-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, or fire, flood, or other natural disaster.

(e) The presumption contained in paragraph (b) applies against a manufacturer only if the manufacturer, its agent, or its authorized dealer has received prior written notification from or on behalf of the consumer at least once and an opportunity to cure the defect alleged. If the notification is received by the manufacturer's agent or authorized dealer, the agent or dealer must forward it to the manufacturer by certified mail, return receipt requested.

(f) At the time of purchase the manufacturer, either directly or through its agent or its authorized dealer, must provide the consumer a written statement on a

separate piece of paper, in ten point all capital type, in substantially the following form: "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER STATE LAW TO REPLACEMENT OF IT OR A REFUND OF ITS PURCHASE PRICE. HOWEVER, TO BE ENTITLED TO REFUND OR REPLACEMENT, YOU MUST FIRST NOTIFY THE MANUFACTURER, ITS AGENT, OR ITS AUTHORIZED DEALER OF THE PROBLEM IN WRITING AND GIVE THEM AN OPPORTUNITY TO REPAIR THE VEHICLE."

Subd. 4. **Resale of returned motor vehicle.** (a) If a motor vehicle has been returned under the provisions of subdivision 3 or a similar statute of another state, it may not be resold in this state unless:

(1) the manufacturer provides the same express warranty it provided to the original purchaser, except that the term of the warranty need only last for 12,000 miles or 12 months after the date of resale, whichever is earlier; and

(2) the manufacturer provides the consumer with a written statement on a separate piece of paper, in ten point all capital type, in substantially the following form: "IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER BECAUSE IT DID NOT CONFORM TO THE MANUFACTURER'S EXPRESS WARRANTY AND THE NONCONFORMITY WAS NOT CURED WITHIN A REASONABLE TIME AS PROVIDED BY MINNESOTA LAW."

The provisions of this section apply to the resold motor vehicle for full term of the warranty required under this subdivision.

(b) Notwithstanding the provisions of paragraph (a), if a new motor vehicle has been returned under the provisions of subdivision 3 or a similar statute of another state because of a nonconformity resulting in a complete failure of the braking or steering system of the motor vehicle likely to cause death or serious bodily injury if the vehicle was driven, the motor vehicle may not be resold in this state.

Subd. 5. **Alternative dispute settlement procedure.** If a manufacturer has established, or participates in, an informal dispute settlement procedure which substantially complies with the provisions of the Code of Federal Regulations, title 16, part 703 (1982), the provisions of subdivision 3 concerning refunds or replacement do not apply to a consumer who has not first used this procedure.

The findings and decisions in an informal dispute resolution proceeding are admissible as nonbinding evidence in any legal action and are not subject to further foundation requirements.

Subd. 6. **Civil remedy.** Any consumer injured by a violation of this section may bring a civil action to enforce this section and recover costs and disbursements, including reasonable attorney's fees.

Subd. 7. **Limitation on actions.** An action brought under this section must be commenced within six months of the expiration of the express warranty term, or within one year of the date of original delivery of the new motor vehicle to a consumer, whichever is the later date.

Subd. 8. **Remedy nonexclusive.** Nothing in this section limits the rights or remedies which are otherwise available to a consumer under any other law.

History: 1983 c 108 s 1

FALSE STATEMENT IN ADVERTISEMENT

325F.67 FALSE STATEMENT IN ADVERTISEMENT.

Any person, firm, corporation, or association who, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such

person, firm, corporation, or association, directly or indirectly, to the public, for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, label, price tag, circular, pamphlet, program, or letter, or over any radio or television station, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, for use, consumption, purchase, or sale, which advertisement contains any material assertion, representation, or statement of fact which is untrue, deceptive, or misleading, shall, whether or not pecuniary or other specific damage to any person occurs as a direct result thereof, be guilty of a misdemeanor, and any such act is declared to be a public nuisance and may be enjoined as such.

The duty of a strict observance and enforcement of this law and prosecution for any violation thereof is hereby expressly imposed upon the attorney general, and it shall be the duty of the county attorney of any county wherein a violation of this section shall have occurred, upon complaint being made to him, to prosecute any person violating any of the provisions of this section.

History: 1913 c 51 s 1; 1915 c 309 s 1,2; 1953 c 438 s 1; 1967 c 302 s 2 (10390, 10391)

PREVENTION OF CONSUMER FRAUD ACT

325F.68 DEFINITIONS.

Subdivision 1. The following words and terms where used in sections 325F.68 to 325F.70 shall have the meanings ascribed to them in this section.

Subd. 2. "Merchandise" means any objects, wares, goods, commodities, intangibles, real estate, or services.

Subd. 3. "Person" means any natural person or his legal representative, partnership, corporation (domestic and foreign), company, trust, business entity, or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee, or cestui que trust thereof.

Subd. 4. "Sale" means any sale, offer for sale, or attempt to sell any merchandise for any consideration.

History: 1963 c 842 s 1

325F.69 UNLAWFUL PRACTICES.

Subdivision 1. **Fraud, misrepresentation, deceptive practices.** The act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoined as provided herein.

Subd. 2. **Referral and chain referral selling prohibited.** (1) With respect to any sale or lease the seller or lessor may not give or offer a rebate or discount or otherwise pay or offer to pay value to the buyer or lessee as an inducement for a sale or lease in consideration of his giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale or lease to another person, if the earning of the rebate, discount or other value is contingent

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upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease.

(2) (a) With respect to any sale or lease, it shall be illegal for any seller or lessor to operate or attempt to operate any plans or operations for the disposal or distribution of property or franchise or both whereby a participant gives or agrees to give a valuable consideration for the chance to receive something of value for inducing one or more additional persons to give a valuable consideration in order to participate in the plan or operation, or for the chance to receive something of value when a person induced by the participant induces a new participant to give such valuable consideration including such plans known as chain referrals, pyramid sales, or multi-level sales distributorships.

(b) The phrase "something of value" as used in paragraph (a) above, does not mean or include payment based upon sales made to persons who are not purchasing in order to participate in the prohibited plan or operation.

(3) If a buyer or lessee is induced by a violation of this subdivision to enter into a sale or lease, the agreement is unenforceable and the buyer or lessee at his option, may rescind the agreement with the seller or lessor and, upon tendering the property received, or what remains of it, obtain full or in the case of remains, a proportional restitution of all sums paid, or retain the goods delivered and the benefit of any services performed without any further obligation to pay for them.

(4) With respect to a sale or lease in violation of this section an assignee of the rights of the seller or lessor is subject to all claims and defenses of the buyer or lessee against the seller or lessor arising out of the sale or lease notwithstanding an agreement to the contrary, but the assignee's liability under this section may not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. Rights of the buyer or lessee under this section can only be asserted as a matter of defense to or set-off against a claim by the assignee.

(5) In a sale or lease in violation of this section, the seller or lessor may not take a negotiable instrument other than a check as evidence of the obligation of the buyer or lessee. A holder is not in good faith if he takes a negotiable instrument with notice that it is issued in violation of this section.

(6) Any person who violates any provision of this subdivision shall be guilty of a gross misdemeanor.

Subd. 3. **Advertising media excluded.** Sections 325F.68 to 325F.70 shall apply to actions of the owner, publisher, agent or employee of newspapers, magazines, other printed matter or radio or television stations or other advertising media used for the publication or dissemination of an advertisement, only if the owner, publisher, agent, or employee has either knowledge of the false, misleading or deceptive character of the advertisement or a financial interest in the sale or distribution of the advertised merchandise.

Subd. 4. **Solicitation of money for merchandise not ordered or services not performed.** The act, use, or employment by any person of any solicitation for payment of money by another by any statement or invoice, or any writing that could reasonably be interpreted as a statement or invoice, for merchandise not yet ordered or for services not yet performed and not yet ordered, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoined as provided herein.

History: 1963 c 842 s 2; 1969 c 739 s 1; 1969 c 1100 s 1; 1971 c 391 s 1; 1973 c 454 s 1; 1975 c 364 s 3

325F.70 REMEDIES.

Subdivision 1. **Injunction.** The attorney general or any county attorney may institute a civil action in the name of the state in the district court for an injunction

prohibiting any violation of sections 325F.68 to 325F.70. The court, upon proper proof that defendant has engaged in a practice made enjoined by section 325F.69, may enjoin the future commission of such practice. It shall be no defense to such an action that the state may have adequate remedies at law.

Subd. 2. Service of process. Service of process shall be as in any other civil suit, except that where a defendant in such action is a natural person or firm residing outside the state, or is a foreign corporation, service of process may also be made by personal service outside the state, or in the manner provided by section 303.13, subdivision 1(3), or in such manner as the court may direct. Process is valid if it satisfies the requirements of due process of law, whether or not defendant is doing business in Minnesota regularly or habitually.

History: 1963 c 842 s 3; 1967 c 302 s 2

NOTE: As to section of consumer services in the department of commerce, see sections 45.15 and 45.16.

PRECIOUS METALS

325F.73 FRAUDULENT SALE OF GOLD AND SILVER; PENALTY.

Subdivision 1. False stamping of articles of gold or silver. Any person, firm, corporation, or association, who or which make for sale any article of merchandise made, in whole or in part, of gold or any alloy of gold, having stamped, branded, engraved or printed thereon, or upon any card, tag, or label attached thereto, or upon any box, package, or wrapper, in which such article is encased or enclosed any mark, indicating or designed or intended to indicate, that the gold or alloy of gold of such article is of a greater degree of fineness than the actual fineness or quality of such gold or alloy, unless the actual fineness of such gold or alloy, in the case of flatware and watch cases be not less by more than three-1,000ths parts, and, in the case of all other articles, be not less by more than one-half karat than the fineness indicated by the marks stamped, branded, engraved, or imprinted upon any part of such article or upon any cards, tags, or labels attached thereto, or upon any box, package, or wrapper in which such article is encased or enclosed according to the standards and subject to the qualifications hereinafter set forth, is guilty of a misdemeanor; provided, that in any test for the ascertainment of the fineness of the gold or its alloy in any such article, according to the foregoing standards, the part of the gold or its alloy taken for the test analysis or assay shall be such part or portion as does not contain or have attached thereto any solder or alloy of inferior fineness used for brazing or uniting the parts of the article; provided, further, and in addition to the foregoing tests and standards, that the actual fineness of the entire quantity of gold and of its alloys contained in any article mentioned in this section, except watch cases and flatware, including all solder or alloy of inferior metal used for brazing or uniting the parts of the article (all such gold, alloy, and solders being assayed as one piece) shall not be less by more than one karat than the fineness indicated by the mark stamped, branded, engraved, or imprinted upon such article, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed.

Subd. 2. Standards; improper stamping; penalties. Any person, firm, corporation, or association, who or which makes for sale any article of merchandise made, in whole or in part, of silver or any alloy of silver, and having marked, stamped, branded, engraved, or printed thereon, or upon any card, tag, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed, the words "sterling silver" or "sterling", or any colorable imitation thereof, unless 925-1,000ths of the component parts of the metal appearing or purporting to be silver, of which such article is manufactured are pure silver, subject to the qualifications hereinafter set forth, is guilty of a misdemeanor; provided, that

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in case of all such articles there shall be allowed divergence of fineness of four-1,000ths parts from this standard.

Any person, firm, corporation, or association, who or which makes for sale any article of merchandise made, in whole or in part, of silver, or of any alloy of silver, and having marked, stamped, branded, engraved, or imprinted thereon or upon any card, tag, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed, the words "coin" or "coin silver", or any colorable imitation thereof, unless 900-1,000ths of the component parts of the metal appearing or purporting to be silver, of which such article is manufactured are pure silver, subject to the qualifications hereinafter set forth, is guilty of a misdemeanor; provided, that in the case of all such articles there shall be allowed a divergence in fineness of four-1,000ths parts from this standard.

Any person, firm, corporation, or association, who or which makes for sale any article of merchandise made, in whole or in part, of silver, or of any alloy of silver, and having stamped, branded, engraved, or imprinted thereon or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper, in which the article is encased or enclosed, any mark or word, other than the word "sterling" or the word "coin", indicating or designed or intended to indicate that the silver or alloy of silver, in the article, is of greater degree of fineness or quality of such silver or alloy, unless the actual fineness of silver or alloy of silver of which the article is composed be not less than four-1,000ths parts than the actual fineness indicated by the mark or word, other than the word "sterling" or "coin", stamped, branded, engraved, or imprinted upon any part of the article, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed, subject to the qualifications hereinafter set forth, is guilty of a misdemeanor.

In any test for the ascertainment of the fineness of any such article mentioned in this section, according to the foregoing standards, the part of the article taken for the test, analysis, or assay, shall be such part or portion as does not contain or have attached thereto any solder or alloy of inferior metal used for brazing or uniting the parts of such article. In addition to the foregoing test and standards that the actual fineness of the entire quantity of metal purporting to be silver contained in any article mentioned in this section, including all solder or alloy of inferior fineness used for brazing or uniting the parts of any such article (all such silver alloy or solder being assayed as one piece) shall not be less by more than ten ten-1,000ths parts than the fineness indicated according to the foregoing standards by the mark stamped, branded, engraved, or imprinted upon the article, or upon any card, tag, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed.

Subd. 3. Gold plate; false stamping; penalty. Any person, firm, corporation, or association, who or which makes for sale any article of merchandise made, in whole or in part, of inferior metal having deposited or plated thereon or brazed or otherwise affixed thereto a plate, plating, covering, or sheet of gold or of any alloy of gold, and which article is known in the market as "rolled gold plate", "gold plate", "gold filled", or "gold electro plate", or by any similar designation, and having stamped, branded, engraved, or printed thereon, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed, any word or mark usually employed to indicate the fineness of gold, unless the word be accompanied by other words plainly indicating that the article, or some part thereof, is made of rolled gold plate, or gold plate, or gold electro plate, or is gold filled, as the case may be, is guilty of a misdemeanor.

Subd. 4. Silver plate; false stamping; penalty. Any person, firm, corporation, or association, who or which makes for sale any article of merchandise made,

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in whole or in part, of inferior metal having deposited or plated thereon or brazed or otherwise affixed thereto, a plate, plating, covering, or sheet of silver, or of any alloy of silver, and which article is known in the market as "silver plate" or "silver electro plate", or by any similar designation, and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed, the word "sterling", or the word "coin", either alone or in conjunction with any other words or marks, is guilty of a misdemeanor.

Subd. 5. Violations; punishment. Every person, firm, corporation, or association guilty of a violation of subdivisions 1 to 4, and every officer, manager, director, or managing agent of any such person, firm, corporation, or association directly participating in such violation or consenting thereto, shall be punished by a fine of not more than \$700, or by imprisonment for not more than three months, or by both, at the discretion of the court; provided, that if the person charged with violation of subdivisions 1 to 4 shall prove that the article concerning which the charge is made was manufactured prior to the first day of July, 1907, then the charge shall be dismissed.

Subd. 6. Selling falsely stamped articles; penalty. Every person, firm, corporation, or association who, with intent to deceive, shall sell any article, falsely branded or marked, contrary to the provisions of subdivisions 1 to 5, knowing the same to be so falsely marked or branded, shall be guilty of a misdemeanor.

History: 1907 c 467 s 1-6; 1984 c 628 art 3 s 11 (10352-10357)

325F.731 DEFINITIONS.

Subdivision 1. Terms. For the purposes of Laws 1981, Chapter 333, Sections 1 to 17, the following terms have the meanings given them.

Subd. 2. Precious metal dealer. "Precious metal dealer" means any natural person, partnership, or corporation, either as principal or agent, engaging in the business of buying secondhand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects.

Subd. 3. Precious metals. "Precious metals" means silver, gold, and platinum.

Subd. 4. Item containing precious metal. "Item containing precious metal" means an item made in whole or in part of metal and containing more than one percent by weight of silver, gold or platinum.

History: 1981 c 333 s 1

325F.732 LICENSE.

Subdivision 1. Requirement. Except as provided for in subdivision 2, it is unlawful for a precious metal dealer to engage in or transact any business as such without having a valid license as provided in section 325F.733.

Subd. 2. Scope. The requirements of Laws 1981, Chapter 333, Sections 1 to 17 do not apply to the following:

(1) Transactions at occasional "garage" or "yard" sales, or estate sales or farm auctions held at the decedent's residence, except that precious metal dealers must comply with the requirements of sections 325F.734 to 325F.742 for these transactions.

(2) Transactions regulated by chapter 80A.

(3) Transactions regulated by the Federal Commodity Futures Commission Act.

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(4) Transactions involving the purchase of precious metal grindings, filings, slag, sweeps, scraps, or dust from an industrial manufacturer, dental lab, dentist, or agent thereof.

(5) Transactions involving the purchase of photographic film, such as lithographic and x-ray film, or silver residue or flake recovered in lithographic and x-ray film processing.

(6) Transactions involving coins, bullion, or ingots.

(7) Transactions in which the second hand item containing precious metal is exchanged for a new item containing precious metal and the value of the new item exceeds the value of the secondhand item, except that a natural person, partnership or corporation who is a precious metal dealer by engaging in a transaction which is not exempted by this section must comply with the requirements of sections 325F.734 to 325F.742.

(8) Transactions between precious metal dealers if both dealers are licensed under section 325F.733 or if the seller's business is located outside of the state and the item is shipped from outside the state to a dealer licensed under section 325F.733.

(9) Transactions in which the buyer of the secondhand item containing precious metal is engaged primarily in the business of buying and selling antiques, and the items are resold in an unaltered condition except for repair, and the items are resold at retail, and the buyer paid less than \$2,500 for secondhand items containing precious metals purchased within any period of 12 consecutive months.

History: 1981 c 333 s 2

325F.733 LICENSE; APPLICATION; TERMS AND CONDITIONS.

Subdivision 1. Application. Any precious metal dealer desiring to engage in or transact business as such in any county of this state shall file an application for a license for that purpose with the auditor of the county in which he desires to do business. The applicant shall state his name, date of birth, resident address, and locations of the proposed principal place of business and branch offices within the county, and other locations within the county where the applicant intends to hold secondhand precious metals. If the person in charge of the business or a branch office is someone other than the applicant, his name, date of birth, and resident address shall be stated with the location or branches indicated. If the applicant is a corporation or partnership the name, date of birth and resident address of each officer and general partner shall be stated. Each application shall be kept by the auditor for a period of no less than three years and shall be available for inspection only by employees of the county auditor, the county attorney, the attorney general, or by a peace officer.

Subd. 2. Fee. Each applicant shall pay to the treasurer of the county a license fee in an amount determined by the board of county commissioners of the county to be necessary to cover the expenses of administering this licensing function.

Subd. 3. Business locations. A precious metal dealer license shall authorize the precious metal dealer to transact business only at the location or locations designated in the license.

Subd. 4. Term. A precious metal dealer license shall be valid for a period of one year from the date of its issuance.

Subd. 5. Branch offices. Each branch office shall be operated under the same name as the principal office.

Subd. 6. **Posting of license.** Every precious metal dealer shall prominently post his license in a conspicuous location at his principal place of business and a copy of his license in a conspicuous location at each branch office.

Subd. 7. **Posting of prices; weighing.** Every precious metal dealer shall prominently post in a conspicuous place and in letters exceeding one inch in height the minimum prices per ounce or pennyweight that are currently being paid by the dealer for precious metals and a warning notice that unless otherwise informed, the prices offered are based on the meltdown value of the precious metal, rather than the value of the item in its existing form. Precious metal items shall be weighed in plain sight of the prospective seller on scales approved by the division of weights and measures of the department of public service in accordance with section 239.08.

Subd. 8. **Public record of licenses.** The county auditor shall keep a record of the licenses in a book provided for that purpose. The book shall contain the same information as required on the application for the license; provided, that the applicant's resident address and date of birth shall not be recorded. The book shall be open for public inspection.

History: 1981 c 333 s 3

325F.734 IDENTIFICATION OF SELLERS.

Every precious metal dealer shall require a seller of secondhand items containing precious metals to present to him at the time of the transaction an identification card of the seller containing a picture of the seller and his address.

History: 1981 c 333 s 4

325F.735 RECORDS REQUIRED.

Every precious metal dealer shall keep a book at his business location in which shall be clearly written in ink, in the English language, at the time of each transaction, or as close thereto as possible, the following information:

(1) An accurate description of every secondhand item containing precious metals bought, including the type of item, number of items, brand name of item, if any, engraving or other identifying features of the item, if any, and a description of any gems attached;

(2) The amount of money paid;

(3) The date of the transaction; and

(4) From the identification card containing a picture of the seller, the type of card presented and the serial number of the card, if any, and the name and address of the person selling the item. The book, as well as the item in the possession of the dealer, shall at all reasonable times be open to inspection by any police officer of the city wherein the business is located or the sheriff or any deputy sheriff of the county wherein the business is located.

History: 1981 c 333 s 5

325F.736 REQUIRED HOLDING PERIOD.

Every precious metal dealer shall keep in his possession at his business location or other location within the licensing county from the time of the transaction or as close thereto as possible, for a period of no less than 14 days, every secondhand item containing precious metal purchased by the dealer unless the item is purchased or consigned from another dealer licensed under section 325F.733. The item shall not

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be altered at the time of sale and shall remain unaltered during the required holding period.

History: 1981 c 333 s 6

325F.737 ADDITIONAL HOLDING PERIOD.

The sheriff or his designee may by written notification require a precious metal dealer licensed in his county not to sell or alter a secondhand item containing precious metal if he has probable cause that the item is stolen. The item shall not be sold, altered, or removed from the licensed premises until authorized to be released in writing by the sheriff or his designee.

The chief of police or his designee may also exercise this same authority for licensed businesses, within his jurisdiction.

History: 1981 c 333 s 7

325F.738 TRADING.

It is unlawful to trade or barter in a manner intended to avoid identification and recording of transactions under sections 325F.734 and 325F.735 and payment under section 325F.741.

History: 1981 c 333 s 8

325F.739 CERTAIN PURCHASES PROHIBITED.

It is unlawful for a precious metal dealer to purchase a secondhand item containing precious metals from a person under 18 years of age unless the person is accompanied by his parent or guardian who is identified and whose identity is recorded in accordance with sections 325F.734 and 325F.735.

History: 1981 c 333 s 9

325F.741 PAYMENT BY CHECK.

Payment by a precious metal dealer for the purchase of a secondhand item containing precious metal shall be made only by a check, draft, or other negotiable or non-negotiable instrument or order of withdrawal which is drawn against funds held by a financial institution.

History: 1981 c 333 s 10

325F.742 GOVERNMENTAL SUBDIVISIONS MAY REGULATE.

The provisions of Laws 1981, Chapter 333, Sections 1 to 17 shall not be construed as prohibiting, or in any way limiting, or interfering with the right of any governmental subdivision of the state to regulate or license precious metal dealers within its jurisdiction in a manner more restrictive than Laws 1981, Chapter 333, Sections 1 to 17; provided, that transactions described in section 325F.732, subdivision 2, shall not be regulated in a manner inconsistent with Laws 1981, Chapter 333, Sections 1 to 17.

History: 1981 c 333 s 11

325F.743 CRIMINAL PENALTY.

Any person who violates any provision of Laws 1981, chapter 333, sections 1 to 17 is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$40,000, or both.

History: 1981 c 333 s 12; 1984 c 628 art 3 s 11

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325F.744 CIVIL PENALTY.

The attorney general or any county attorney may institute a civil action in the name of the state in the district court to revoke, deny or suspend for a period of time the license on the ground that the licensee has violated a provision of Laws 1981, Chapter 333, Sections 1 to 17. For this purpose, the attorney general or county attorney shall be invested with the additional powers contained in section 8.31. It is no defense to the action that the state has adequate remedies at law.

History: *1981 c 333 s 13*