

## CHAPTER 607—H.F.No.735

*An act relating to commerce; administration of the unfair cigarette sales act; providing penalties; amending Minnesota Statutes 1971, Sections 325.66, Subdivision 4; 325.67; 325.74, Subdivision 1; and 325.75, Subdivisions 1, 2, and 3.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1971, Section 325.66, Subdivision 4, is amended to read:

Subd. 4. **CIGARETTES; UNFAIR SALES ACT; ADMINISTRATION.** "Wholesaler" means and includes any person who acquires cigarettes for the purpose of sale to retailers or to other persons for resale, and who maintains an established place of business when any part of the business is the sale of cigarettes at wholesale to persons licensed to sell cigarettes by the state or any municipality, and where at all times a stock of cigarettes is available to retailers for resale, or any cigarette manufacturer or manufacturer's representative who sells to retailers or to other persons for resale, and any person defined as a "distributor" under section 297.01, subdivision 7. The term "wholesaler" shall also include a "subjobber" as defined by Minnesota Statutes, Section 297.01, Subdivision 14.

Sec. 2. Minnesota Statutes 1971, Section 325.67, is amended to read:

**325.67 SALES AT LESS THAN COST; PENALTY.** Subdivision 1. It shall be unlawful for any wholesaler, subjobber or retailer to offer to sell, or sell, at wholesale or retail, cigarettes at less than cost to such wholesaler, subjobber or retailer, as the case may be, as defined in sections 325.64 to 325.76 for the purpose or with the effect of injuring a competitor or destroying competition, or for a retailer to induce or to attempt to induce a wholesaler or subjobber to violate the provisions of the Minnesota unfair cigarette sales act. Any wholesaler, subjobber or retailer who violates the provisions of this section shall be guilty of a misdemeanor.

Subd. 2. Evidence of advertisement, offering to sell or sale of cigarettes by any wholesaler, subjobber or retailer at less than cost to him as defined by sections 325.64 to 325.76 shall be prima facie evidence of a violation of sections 325.64 to 325.76 in civil cases.

Sec. 3. Minnesota Statutes 1971, Section 325.74, Subdivision 1, is amended to read:

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**325.74 REMEDIES; SALES OF GOVERNMENT AGENCIES.** Subdivision 1. The commissioner of taxation chairman of the commerce commission, any corporation, partnership, trade association, or any person or persons who would suffer injury from any threatened violation of sections 325.64 to 325.76 may maintain an action to enjoin such actual or threatened violation and proof of actual damages need not be alleged or proved in cases of threatened violation. If a violation or threatened violation of the Minnesota unfair cigarette sales act shall be established, the court shall enjoin such violator or threatened violator, and, in addition thereto, the court shall assess in favor of the plaintiff and against defendant the injuries of the suit including reasonable attorneys fees. Where alleged and proved, the plaintiff, in addition to such injunctive relief and cost of suit including reasonable attorneys fees, shall be entitled to recover from defendant the actual damages sustained by him.

Sec. 4. Minnesota Statutes 1971, Section 325.75, Subdivision 1, is amended to read:

**325.75 COMMERCE COMMISSION CHAIRMAN; POWERS AND DUTIES.** Subdivision 1. The commissioner of taxation chairman of the commerce commission may adopt rules and regulations for the enforcement of sections 325.64 to 325.76 and he is empowered to and may from time to time undertake and make or cause to be made such cost surveys for the state or such trading area or areas as he shall deem necessary and it shall be permissible to use such cost survey as provided in section 325.71, subdivision 2 and section 325.72, subdivision 2.

Sec. 5. Minnesota Statutes 1971, Section 325.75, Subdivision 2, is amended to read:

Subd. 2. (1) For purposes of investigating alleged violations of the unfair cigarette sales act, the commissioner of the department of taxation chairman of the commerce commission or an employee or agent thereof shall have the power to conduct investigations, hold hearings, and to examine, or cause to be examined, any books, papers, records, or memoranda relevant to conducting such an investigation, examination, or hearing, whether such books, papers, records, or memoranda are the property of or in possession of the wholesaler or retailer or any other person or corporation. He shall further have power to issue a subpoena to require the attendance at a hearing or investigation of any wholesaler, subjobber, retailer, or other person having knowledge or information in the premises to compel production of books, papers, records, or memoranda by the person so required to attend; to take testimony on matters material to such investigation and to administer oaths or affirmations.

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(2) No person shall be excused from testifying or from producing, pursuant to a subpoena, any books, papers, records, or memoranda in any investigation or upon any hearing, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty, but no person shall be prosecuted or subjected to any criminal penalty for or on account of any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the ~~commissioner~~ chairman of the commerce commission or an employee or agent thereof; provided that such immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, pursuant to a subpoena. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

(3) Every hearing conducted under sections 325.64 to 325.76 shall be preceded by ten days' notice in writing of the subject of the hearing, including, in the case of suspension or revocation of a license, a statement of the nature of the charges against the licensee. The notice shall be sent by registered mail to the last known address of the licensee or other person involved in the hearing, and service shall be complete upon mailing. After every hearing, the ~~commissioner~~ chairman of the commerce commission shall make his findings and his order in writing. The findings and order shall be filed in the office of the ~~commissioner~~ chairman, and a copy sent by mail or otherwise to the person to whom the notice was directed.

(4) Said ~~commissioner~~ chairman may, upon notice and after hearing, suspend or revoke any permit issued under the cigarette tax provisions and the rules and regulations of the commissioner of taxation promulgated thereunder, for failure of the permit holder to comply with any provisions of this unfair cigarette sales act or any rule or regulation adopted thereunder. The suspension or revocation of a permit shall be for a period of not less than 15 days from the date of suspension or revocation for the first violation of this act; not less than 45 days from the date of suspension or revocation for the second violation of this act; all subsequent violations shall be punishable by suspension or revocation of a permit for a period of not less than 45 days and not more than one year; and no permit shall be issued for the location designated in the suspended or revoked permit, during the period of suspension or revocation. Notice of the suspension or revocation shall be given by the chairman of the commerce commission to the commissioner of taxation. The commissioner of taxation may refuse to grant a cigarette wholesaler or subjobber license to any person who violates the provisions of sections 325.67 to 325.75, or any other act applicable to the sale of cigarettes, or any rule or regulation

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promulgated or adopted by the commissioner of taxation or the chairman of the commerce commission for the enforcement or regulation of the sale of cigarettes.

Sec. 6. Minnesota Statutes 1971, Section 325.75, Subdivision 3, is amended to read:

Subd. 3. Any person aggrieved by the decision order or finding of the ~~commissioner of taxation~~ chairman of the commerce commission relative to suspending or revoking any such permit may appeal therefrom to the district court in the same manner and subject to the same procedure as is provided by law.

Approved May 23, 1973.

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### CHAPTER 608—H.F.No.1038

*An act relating to state parks; authorizing additional lands to be included within the boundaries of Rice Lake state park.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **STATE PARKS; ADDITIONS TO RICE LAKE STATE PARK.** Subdivision 1. **ACQUISITION OF LANDS.** The lands described in this section are added to the boundaries of Rice Lake state park. The commissioner of administration for the commissioner of natural resources is authorized to acquire by gift or purchase the lands as described. No land described in this section may be acquired by eminent domain, notwithstanding any provision of Minnesota Statutes, Section 85.012, as now enacted or hereafter amended, nor any other law, to the contrary. Any land which now is or hereafter becomes tax-forfeited land and is located within the described park boundaries is hereby withdrawn from sale and is transferred from the custody, control, and supervision of the county board of the county to the commissioner of natural resources, free from any trust in favor of the interested taxing districts. The commissioner shall execute a certificate of acceptance of the lands on behalf of the state for such purposes and transmit the same to the county auditor of the county for record as provided by law in the case of tax-forfeited land transferred to the commissioner by resolution of the county board for conservation purposes. Any lands within the herein described boundaries which may be owned by the United States and managed by any of its agents may be acquired by land exchange, direct transfer, or

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