

therefor equally with the person, firm or corporation for whom or which he acts.

In the prosecution of any person as officer, director, or agent, it shall be sufficient to allege and prove the unlawful intent of the person, firm or corporation for whom or which he acts.

**Sec. 2. Who may maintain action.**—Any aggrieved person, partnership, firm or corporation or trade association, may maintain an action to enjoin a continuance of any act or acts in violation of Section 2 of Part One or Sections 2-5 of Part Two of this act, and, if injured thereby, may recover damages. If in such action the court shall find that the defendant is violating or has violated any of such provisions it shall enjoin the defendant from a continuance thereof. It shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in such action shall be entitled to recover from the defendant the amount of the actual damages to him, if any. In any injunction proceedings brought against any person as officer, director or agent of any person, firm or corporation, it shall be sufficient to allege and prove the unlawful intent of the person, firm or corporation for whom or which he acts.

**Sec. 3. Remedies cumulative.**—Nothing in this act shall be construed as repealing any act other than Chapter 413 of the Laws of 1921, but the remedies herein provided shall be cumulative to all other remedies provided by law.

**Sec. 4. Provisions severable.**—The provisions of this act are hereby declared to be severable. If one provision hereof shall be found by the decision of a court of competent jurisdiction to be invalid such decision shall not affect the validity of the other provisions of this act.

Approved March 30, 1937.

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## CHAPTER 117—S. F. No. 65

*An act to protect trade-mark owners, producers, distributors and the general public against injurious and uneconomic practices in the distribution of competitive commodities bearing a distinguishing trade-mark, brand or name, through the use of voluntary contracts establishing minimum resale prices and providing for refusal to sell unless such minimum resale prices are observed.*

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

**Section 1. Definitions.**—The following terms, as used in this Act, are hereby defined as follows:

- (A) 'Commodity' means any subject of commerce.
- (B) 'Producer' means any grower, baker, maker, manufacturer, bottler, packer, converter, processor or publisher.
- (C) 'Wholesaler' means any person selling a commodity other than a producer or retailer.
- (D) 'Retailer' means any person selling a commodity to consumers for use.
- (E) 'Person' means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust or any unincorporated organization.

**Sec. 2. Certain contracts not to be in violation of law.**—No contract relating to the sale or resale of a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which commodity is in free and open competition with commodities of the same general class produced or distributed by others shall be deemed in violation of any law of the State of Minnesota by reason of any of the following provisions which may be contained in such contract:

- (A) That the buyer will not resell such commodity at less than the minimum price stipulated by the seller.
- (B) That the buyer will require of any dealer to whom he may resell such commodity an agreement that he will not, in turn, resell at less than the minimum price stipulated by the seller.
- (C) That the seller will not sell such commodity:

(1) to any wholesaler, unless such wholesaler will agree not to resell the same to any retailer unless the retailer will in turn agree not to resell the same except to consumers for use and at not less than the stipulated minimum price, and such wholesaler will likewise agree not to resell the same to any other wholesaler unless such other wholesaler will make the same agreement with any wholesaler or retailer to whom he may resell; or

(2) to any retailer, unless the retailer will agree not to resell the same except to consumers for use and at not less than the stipulated minimum price.

**Sec. 3. What are violations.**—For the purpose of preventing evasion of the resale price restrictions imposed in respect of any commodity by any contract entered into pursuant to the provisions of this Act (except to the extent authorized by the said contract):

(a) The offering or giving of any article of value in connection with the sale of such commodity;

(b) The offering or the making of any concession of any kind whatsoever (whether by the giving of coupons or otherwise) in connection with any such sale; or

(c) The sale or offering for sale of such commodity in combination with any other commodity, shall be deemed a violation of such resale price restriction, for which the remedies prescribed by Section 6 of this Act shall be available.

**Sec. 4. Who may fix minimum prices.**—No minimum resale price shall be established for any commodity, under any contract entered into pursuant to the provisions of this Act, by any person other than the owner of the trade-mark, brand or name used in connection with such commodity or a distributor specifically authorized to establish said price by the owner of such trade-mark, brand or name.

**Sec. 5. Application of Act.**—No contract containing any of the provisions enumerated in Section 2 of this Act shall be deemed to preclude the resale of any commodity covered thereby without reference to such contract in the following cases:

(A) In closing out the owner's stock for the bona fide purpose of discontinuing dealing in any such commodity and plain notice of the fact is given to the public; provided the owner of such stock shall give to the producer or distributor of such commodity prompt and reasonable notice in writing of his intention to close out said stock, and an opportunity to purchase such stock at the original invoice price;

(B) When the goods are altered, second-hand, damaged, defaced or deteriorated and plain notice of the fact is given to the public in the advertisement and sale thereof, such notice to be conspicuously displayed in all advertisements and to be affixed to the commodity;

(C) By any officer acting under an order of court.

**Sec. 6. Unfair competition.**—Wilfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of this Act, whether the person so advertising, offering for sale or selling is or is not a party to such contract, is unfair competition and is actionable at the suit of any person damaged thereby.

**Sec. 7. Application of Act.**—This Act shall not apply to any contract or agreement between or among producers or distributors or, except as provided in Section 2, Subdivision (C) of this Act between or among wholesalers or between or among retailers as to sale or resale prices.

Sec. 8. **Provisions severable.**—If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby:

Sec. 9. **Inconsistent Acts repealed.**—All Acts or parts of Acts inconsistent herewith are hereby repealed to the extent of such inconsistency.

Sec. 10. **To be known as "Fair Trade Act."**—This Act may be known and cited as the 'Fair Trade Act'.

Sec. 11. This Act shall take effect and be in force from and after its passage.

Approved March 30, 1937.

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#### CHAPTER 118—H. F. No. 873

*An act relating to draining of meandered public lakes and the leasing and removal of state owned iron ore from the bed thereof.*

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

Section 1. **Draining of lakes and leasing of ore lands in beds thereof.**—That whenever a meandered or public lake does not exceed eighty acres in area, within the original meander line, and is surrounded in part by state land upon which a State Mineral Lease has been issued, and is in force and effect, then such lake, with the approval of the Executive Council, may be drained and the iron ore removed from the bed thereof by the lessee, or its assigns, under such State Mineral Lease, for the purpose of mining iron ore owned by the State underneath the bed of such lake adjoining the lands covered by such State Mineral Lease under the terms and conditions of such State Mineral Lease.

Provided, however, that the royalty payments by the lessee to the State for the ore that shall be removed from such lake bed shall be fixed by the Executive Council and shall be not less than the minimum royalties, provided for in Section 6409 of Mason's Minnesota Statutes for 1927, and the provisions of Sections 6431 and 6432 of Mason's Minnesota Statutes, 1927, shall be applicable; and provided, further, that in case the addition of the lake bed to the area subject to such State Mineral Lease shall increase the area covered by such lease to an area exceeding eighty acres, then the annual ground rental for such enlarged area shall be increased by \$1,000.00, and