

Subd. 4. Nothing in this act will be construed to authorize or permit the commissioner or any person representing the commissioner to set, fix, or establish the producers', manufacturers', distributors', wholesalers' or retailers' price or prices on any of the "selected dairy products" mentioned in this act.

Sec. 10. Minnesota Statutes 1953, Section 362.14, Subdivision 1, is amended to read:

362.14 Additional duties of Department of Business Development. Subdivision 1. The department shall investigate violations of the law of this state respecting unfair, discriminatory and other unlawful practices in business, commerce, or trade, and specifically, but not exclusively, the act against unfair discrimination and competition (Minnesota Statutes 1945, Sections 325.02 to 325.07), the fair trade act (Minnesota Statutes 1945, Sections 325.08 to 325.13), the unlawful trade practices act (Minnesota Statutes 1945, Sections 325.141 to 325.148), *the dairy industry unfair trade practices act*, the automobile dealer's anticoercion act (Minnesota Statutes 1945, Sections 325.15 to 325.23), Minnesota Statutes 1945, Section 620.52 and other laws against false or fraudulent advertising, the antidiscrimination acts contained in Minnesota Statutes 1945, Section 623.08 to 623.15, the anti-trust act (Minnesota Statutes 1945, Section 623.01), and the act against monopolization of food products (Minnesota Statutes 1945, Section 623.19), and assist in the enforcement of those laws as in this section provided.

Sec. 11. Severability. Subdivision 1. If any section, subsection, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Approved April 27, 1957.

CHAPTER 822—H. F. No. 1254

An act relating to unfair sales and unfair competitive trade practices, providing for injunctive relief, damages and other remedies for violation thereof, and establishing penal-

ties therefor; amending Minnesota Statutes 1953, Sections 325.03, 325.04, 325.06, and 325.52, as amended.

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

Section 1. Minnesota Statutes 1953, Section 325.03, is amended to read:

325.03 Discrimination unlawful. Any person, partnership, firm, or corporation, foreign or domestic, doing business in the state and engaged in the production, manufacture, or distribution of any printed or mimeograph matter, commodity, article, goods, wares, or merchandise in general use or consumption, *who for the purpose or with the effect of injuring a competitor or destroying competition*, shall discriminate between different sections, communities, or cities of this state by selling or furnishing such commodity, article, goods, wares, or merchandise at a lower price or rate in one section, community, or city, or any portion thereof, than such person, firm, or corporation, foreign or domestic, charges for such commodity, article, goods, wares, or merchandise in another section, community, or city, or any portion thereof, after making allowance for difference, if any, in the grade, quality, or quantity after equalizing the distance from the point of production, manufacture, or distribution and freight rates therefrom, shall be guilty of unfair discrimination; provided, that sections 325.01 to 325.07 shall not prevent any person, firm, or corporation from, in good faith, meeting local competition within any one section, community, village, or city. The inhibition hereof against locality discrimination shall embrace any scheme of special rebates, collateral contracts, or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and intent of sections 325.01 to 325.07.

Sec. 2. Minnesota Statutes 1953, Section 325.04, is amended to read:

325.04 Selling below cost forbidden. Any retailer, wholesaler, *sub-jobber or vending machines operator* engaged in business within this state, who sells, offers for sale or advertises for sale, any commodity, article, goods, wares, or merchandise at less than the cost thereof to such vendor, or gives, offers to give or advertises the intent to give away any commodity, article, goods, wares, or merchandise for the purpose or with the effect of *injuring a competitor or destroying competition*, shall be guilty of unfair discrimination; and, upon conviction, subject to the penalty therefor provided in section 325.48, subdivision 2.

Any retailer, wholesaler, *sub-jobber or vending machines*

operator who sells goods in any part of this state at prices lower than those exacted by the person elsewhere in the state for like qualities and grades and where the effect of such lower prices may be substantially to lessen competition or tend to create a monopoly in any line of business, or to injure, destroy, or prevent competition with the person selling at such lower prices, shall be guilty of unfair competition and subject to the penalties of section 325.48, subdivision 2; provided, that nothing shall prevent differentials in prices in different localities which make only due allowances for differences in "cost of doing business" or "overhead expense" and in costs of delivery for such goods to different localities; nor differences in prices in an endeavor made in good faith to meet the legal prices of a competitor selling the same commodity, articles, goods, wares or merchandise in the same locality or trade area.

The inhibition against sales below cost or locality discrimination shall embrace any scheme of special rebates, collateral contracts, or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and intent of sections 325.01 to 325.07.

Sec. 3. Minnesota Statutes 1953, Section 325.06, is amended to read:

325.06 Closing out sales. The provisions of section 325.01, subdivisions 2 to 6, and sections 325.04 and 325.05 shall not apply to any sale made:

(1) In closing out in good faith the owner's stock, or any part thereof, for the purpose of discontinuing his trade in any such stock or commodity, and in case of the sale of seasonal goods or merchandise where style is the paramount feature or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation, provided notice is given to the public thereof;

(2) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof;

(3) By an officer acting under the orders of any court;

(4) In an endeavor made in good faith to meet the legal prices of a competitor selling the same commodity, articles, goods, wares, or merchandise in the same locality or trade area.

The price of a retail competitor which is less than eight percent above the manufacturer's published list price less his published trade discounts where the manufacturer publishes a list price, or in the absence of such a list price less than eight percent above the actual current delivered invoice or replace-

ment cost without deducting customary cash discounts plus the amount of any excise or sales tax shall be prima facie evidence that it is not a legal price, within the meaning of this section.

The price of a wholesale or sub-jobbing competitor to a retailer, which is less than two percent above the manufacturer's published list price less his published trade discounts where the manufacturer publishes a list price, or in the absence of such a list price less than two percent above the actual current delivered invoice or replacement cost without deducting customary cash discounts plus the amount of any excise or sales tax shall be prima facie evidence that it is not a legal price, within the meaning of this section.

Any retailer, wholesaler, sub-jobber or vending machines operator may request the commissioner of the department of business development to ascertain and disclose to him, the current manufacturer's published list price less published trade discounts on any commodity, article, goods, wares, or merchandise, and it shall then be the duty of the commissioner of the department of business development, within 48 hours of such request, to ascertain and disclose to the person making such request, the current manufacturer's published list price less published trade discounts.

Failure to make such request by any person before reducing his price on any commodity, article, goods, wares, or merchandise below his cost shall be prima facie evidence of not acting in good faith within the meaning of this paragraph.

Sec. 4. Minnesota Statutes 1953, Section 325.52, as amended by Laws 1955, Chapter 339, Section 5, is amended to read:

325.52 Sales prima facie evidence of violation; denial of legal or equitable relief. Any sale made by the retail vendor at less than eight percent above the manufacturer's published list price, less his published trade discounts, where the manufacturer publishes a list price; or, in the absence of such list price, at less than eight percent above the actual current delivered invoice or replacement cost, without deducting customary cash discounts, plus, in either case, the amount of any excise or sales tax imposed on such merchandise subsequent to the purchase thereof and prior to the resale thereof, for the purpose or with the effect of injuring a competitor or destroying competition, shall be prima facie evidence of the violation of sections 325.02 to 325.07.

No prosecution shall be had nor any action at law for damages or injunctive relief shall lie where the vendor sells

at a price not less than 15 percent above the manufacturer's published list price, less his published trade discounts, where the manufacturer publishes a list price; or, in the absence of such a list price, at not less than 15 percent above the current delivered invoice or replacement cost, without deducting customary cash discounts, plus, in either case, the amount of any excise or sales tax imposed on such merchandise subsequent to the purchase thereof and prior to the resale thereof.

Any sale made by a wholesale vendor, or a sub-jobber to a retailer at less than two percent above the manufacturer's published list price, less his published trade discounts, where the manufacturer publishes a list price; or, in the absence of such a list price, at less than two percent above the actual current delivered invoice or replacement cost, without deducting customary cash discounts, plus, in either case, the amount of any excise or sales tax imposed on such merchandise subsequent to the purchase thereof and prior to the resale thereof, for the purpose or with the effect of injuring a competitor or destroying competition, shall be prima facie evidence of the violation of sections 325.02 to 325.07.

Any sale made by a wholesaler to another wholesaler, sub-jobber or vending machines operator at less than the manufacturer's published list price less his published trade discounts, where the manufacturer publishes a list price; or, in the absence of such a list price, at less than the actual current delivered invoice or replacement cost, without deducting customary cash discounts, plus, in either case, the amount of any excise or sales tax imposed on such merchandise subsequent to the purchase thereof and prior to the resale thereof, for the purpose or with the effect of injuring a competitor or destroying competition, shall be prima facie evidence of the violation of sections 325.02 to 325.07.

Approved April 27, 1957.

CHAPTER 823—H. F. No. 888

[Coded]

An act establishing a rule of evidence in criminal proceedings for the enforcement of the provisions of Minnesota Statutes 1953, Sections 340.03, 340.73, 340.82, 340.83, 340.941, relating to the sale or furnishing of non-intoxicating malt liquor or intoxicating liquor.

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