

erected closer than 500 feet from trunk highways forming a part of the interstate system as provided in Minnesota Statutes, Section 173.16, Subclause 2, or closer than 300 feet from other trunk highways as provided in Minnesota Statutes, Section 173.46, Subclause 2.

Subd. 3. All money received from the purchase of signs from any county shall be deposited in the state treasury and credited to a special account to be known as the local sign account. All money in such account is appropriated to the department of highways for use in carrying out the provisions of this act.

Sec. 4. This act takes effect upon the date of enactment.

Approved June 3, 1971.

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## CHAPTER 676—S.F.No.2121

[Coded in Part]

*An act relating to agriculture; dairy product unfair trade practices and price stabilization; providing penalties; amending Minnesota Statutes 1969, Sections 32A.02; 32A.03, Subdivision 9, and by adding subdivisions; 32A.04; 32A.05, Subdivision 4; 32A.06, Subdivisions 1, 3, and 5; and 32A.09, Subdivisions 1 and 2.*

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

Section 1. Minnesota Statutes 1969, Section 32A.02, is amended to read:

**32A.02 DAIRY INDUSTRY UNFAIR TRADE PRACTICES; PUBLIC POLICY.** It is hereby declared to be the policy of the legislature, recognizing that "selected dairy products," as herein defined, are important sources of revenue to a large number of citizens of this state engaged in producing, processing, manufacturing or selling such products and are important items of food essential to the health and welfare of the people of this state and that certain trade practices have developed within this state in the sale and distribution of such products which result in unfair competition and upset the orderly marketing of such products, causing financial loss to the producers in this state of the milk or cream used in "selected dairy products," to protect the health and welfare of our people and to preserve the traditional markets and outlets for our producers of such milk or cream and to restore the orderly marketing in this state

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of "selected dairy products" and to eliminate certain trade and marketing practices which are done with the intent of or have the effect of destroying, lessening or restraining competition or injuring one or more competitors or injuring one or more persons dealing in "selected dairy products" or impairing or preventing fair competition in the sale of "selected dairy products", to prevent disturbances in the dairy products industry which threaten to destroy or seriously impair the supply of dairy products; and to develop and maintain satisfactory marketing conditions and bring a reasonable amount of stability and prosperity in the production and marketing of "selected dairy products", and to assure the producer a reasonable return for his product, and to eliminate discriminatory practices against independent merchants and other retailers in the sale of "selected dairy products". All of the provisions of sections 32A.01 to 32A.09 shall be liberally construed to achieve these ends and administered and enforced with a view to carrying out the above declaration of policy.

Sec. 2. Minnesota Statutes 1969, Section 32A.03, is amended by adding a subdivision to read:

Subd. 4a. "Wholesale price" means the price charged by a manufacturer, wholesaler, or distributor to a customer for purposes of resale or further processing or manufacture.

Sec. 3. Minnesota Statutes 1969, Section 32A.03, Subdivision 9, is amended to read:

Subd. 9. "Producer" means any person who operates a dairy herd or herds producing milk or cream commercially and whose milk or cream is sold to, or received or handled by, a distributor or manufacturer. "Producer" includes for purposes of sections 32A.01 to 32A.09 shall not include any incorporated or unincorporated association of producers.

Sec. 4. Minnesota Statutes 1969, Section 32A.03, is amended by adding a subdivision to read:

Subd. 9b. "Handling" means the activities of any manufacturer, wholesaler or distributor in bottling, processing, packaging or manufacturing selected dairy products, or in purchasing processed or manufactured selected dairy products which are resold to another manufacturer, wholesaler, distributor or retailer.

Sec. 5. Minnesota Statutes 1969, Section 32A.04, is amended to read:

**32A.04 UNFAIR PRACTICES.** Subdivision 1. No manufacturer, distributor or wholesaler, either directly or indirectly, or through a subsidiary or affiliate corporation, or by an officer, director, stockholder, employee, partner, agent or representative thereof, shall, for the purpose or with the effect of restraining, lessening or destroying

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competition or injuring one or more competitors or injuring one or more persons dealing in "selected dairy products" or to impair or prevent fair competition in the sale of selected dairy products to retailers in this state, engage in or threaten to engage in any of the trade practices or methods of doing business described in this section. Proof that any person has engaged in any of the trade practices or methods of doing business described in this section shall be prima facie evidence of an intent to violate or that it has the effect of violating the provisions of this section.

a. Own, control or have any greater financial interest than five percent ( in any retail business selling or offering for sale any selected dairy product in this state unless the business name, address, nature and extent of ownership or control of such retail business by such manufacturer, distributor, or wholesaler shall be prominently displayed at all times at the main public entrance to the premises where such business is being conducted in type not less than 24-point Gothic capitals.

b. Purchase any real or personal property from a retailer and lease back or resell such property to the retailer under a deferred payment contract except as follows:

1. A written lease signed by both parties thereto specifying (a) the rental which shall be consistent with the value of like property in the locality where the retailer is located at the time the lease is executed, and (b) containing other terms and conditions consistent with leases of like property in that locality made at or about the same time by persons not having the relationship existing between the retailer, as the purchaser, and the lessor, as the seller, of a selected dairy product.

2. A written contract for the sale of such property signed by both parties thereto specifying (a) the purchase price which shall be consistent with the fair market value of like property in the locality where the retailer is located at the time the contract is executed, (b) the down payment on such purchase price, (c) the periodic payments on the unpaid balance thereof, and (d) containing other terms and conditions consistent with contracts of sale of like property in that locality made at or about the same time by persons not having the relationship existing between the retailer, as the purchaser, and the vendor, as the seller, of a selected dairy product.

No contract or agreement for the lease-back or resale to a retailer of any property purchased from such retailer by the wholesaler, manufacturer or distributor shall contain any requirement that the retailer shall purchase any selected dairy product from the other party to the contract for sale or the lease, or from any manufacturer, wholesaler or distributor.

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c. Give, lend, or advance any money, credit or other thing of value to a retailer or to any person for the benefit or relief of a retailer, or furnish, give, lend, lease, or sell to a retailer any furniture, fixtures, fittings, or equipment, as an incentive or inducement to such retailer to purchase, handle, store, display, sell or trade in, any one or more selected dairy products of any manufacturer, wholesaler, or distributor. Nothing herein shall prevent any sale of furniture, trade fixtures, or equipment to a retailer in accordance with section 32A.07, subdivision 1-a or the placing of refrigeration facilities on the premises of a retailer in accordance with section 32A.08, subdivision 2.

d. Provide, pay for, guarantee, or in any other manner, directly or indirectly, assume, satisfy or discharge the cost or obligation of a retailer for painting, decorating, improving, repairing or rebuilding any existing billboard, outdoor sign, display area, wall, fence, building or structure, or any other type of outdoor display advertising having a fixed location, or build, construct, erect, or purchase any new billboard, outdoor sign, or other outdoor advertising having a fixed location, or any structure or facility for use as an outdoor display for the direct benefit of a retailer except that if no reference is made to any retailer, a manufacturer, wholesaler, or distributor may engage in all forms of outdoor advertising to advertise one or more selected dairy products which he manufactures, processes or distributes.

e. Have any interest in or pay for any license for a retailer or advance, furnish, lend or give money for the payment of any license fee for a retailer or any expense incident to the obtaining of any such license, except that a manufacturer, wholesaler, or distributor may purchase in his own name any license required by law for the sale of his selected dairy products in this state or any municipality therein.

f. Become bound in any manner for the repayment of any loan of money or the fulfillment of any financial obligation of any retailer.

g. Extend or give any additional credit to a retailer at a time when there has been due from such retailer for more than 15 days from the end of the month of the day in which delivery was made, any indebtedness arising out of the delivery to him of selected dairy products.

h. Furnish and maintain inside signs of a permanent nature unless such signs are used only for advertising or promoting one or more selected dairy products manufactured, distributed or sold by the person furnishing such sign, or items of food made principally from a selected dairy product so advertised or the brand name of the selected dairy product so advertised, or any combination thereof. The furnishing of "point of sale" advertising material made of paper or other like materials to a retailer free of charge for the sole purpose of promoting the sale of a selected dairy product of the person

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furnishing the same shall not constitute a violation of sections 32A.01 to 32A.09.

i. Furnish, give, lend, finance, pay for, contribute to or by any other means, scheme or device, participate in cooperative advertising using newspapers, radio, television or any other advertising media if any retailer selling, handling or offering for sale any selected dairy product of such manufacturer, wholesaler or distributor is named or otherwise identified or referred to in such advertising, except that a manufacturer, wholesaler or distributor may purchase and pay for such lineage or space actually used in advertising one or more of his or its selected dairy products in a newspaper advertisement, handbill or other form of printed advertising put out by a retailer or for the time actually so used in any radio or television program sponsored by a retailer.

j. Pay, loan or give money, credit, compensation, or anything of value to a retailer for the privilege of placing a sign, advertisement or other sales promotion material in or upon the premises of the retailer, or for storing, advertising, or displaying any selected dairy product in connection with its sale or promotion (except that a manufacturer, wholesaler or distributor may furnish paint and maintain an insulated truck body used exclusively in the sale and delivery of his or its selected dairy products by the person making retail sales thereof).

k. No wholesaler, manufacturer, or distributor shall credit to the account of or pay any retailer for any selected dairy product which the retailer claims to have become stale, spoiled or otherwise unsaleable unless the particular product for which such credit or payment is sought is in fact spoiled or otherwise unsaleable.

l. In connection with any sale to a distributor or retailer in this state of a selected dairy product, make or offer to make any gift of money, merchandise, trading stamps, coupons, service, supplies, or anything of value, or to grant or offer to grant any rebate, discount, or advertising allowance other than as expressly permitted by sections 32A.01 to 32A.09.

m. Charge a combined price for any selected dairy product together with another commodity or a service which is less or is represented to be less than the aggregate of the price of the particular selected dairy product and the price or value of such other commodity or service when sold or offered for sale separately, or from otherwise applying or attempting to apply any method or device in the sale or distribution of a selected dairy product intending to defeat the policy of sections 32A.01 to 32A.09 or to defeat or evade any provision of sections 32A.01 to 32A.09 or any order, ruling or regulation issued by the commissioner thereunder.

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n. Engage in the business of a wholesaler, manufacturer, or distributor selling or offering for sale selected dairy products at wholesale to retailers while at the same time being engaged in the business of hauling, handling, or delivering selected dairy products to a retailer for a fee, for himself or another wholesaler, manufacturer, or distributor, where said business results in a sale of a "selected dairy product" at wholesale to a retailer at a price lower than said retailer could legally obtain from the wholesaler, manufacturer or retailer first involved.

~~n o.~~ The provisions of section 325.04, shall apply to and include a manufacturer of any selected dairy product. No manufacturer, wholesaler, distributor or retailer of a selected dairy product engaged in business within this state shall sell, offer for sale or advertise for sale any selected dairy product below "cost" as that term is defined in section 325.01 or give, offer to give, or advertise the intent to give away any selected dairy product for the purpose or with the effect of violating sections 32A.04, 32A.06, 32A.07, 325.03, 325.04, and 325.06. The prima facie rule of evidence provisions of this section and 325.06 shall apply to any such violation. And it is the legislative intent that the provisions for relief set forth in section 32A.09 shall apply to any legal action under this paragraph.

Subd. 2. It shall be unlawful and an unfair trade practice in violation of the dairy industry unfair trade practices act for any person doing business in this state in the course of such business knowingly to induce an act or knowingly to receive a discrimination or benefit from an act prohibited by the dairy industry unfair trade practices act.

Sec. 6. Minnesota Statutes 1969, Section 32A.05, Subdivision 4, is amended to read:

Subd. 4. For the purpose of administering and enforcing the provisions of sections 32A.01 to 32A.09, each manufacturer subject to sections 32A.01 to 32A.09 shall pay to the commissioner a fee of ~~4.6 mills (\$0.0046)~~ one cent per cwt. on all milk processed or used in the manufacture of a selected dairy product sold in this state or manufactured in this state for sale therein except frozen foods on which the fee shall be ~~one and 15/100 mills (\$0.00115)~~ three-quarters of a cent on each gallon of frozen foods sold in this state or manufactured in this state for sale therein. Such fees shall be the maximum fees. The commissioner may fix such fees at a lesser amount and may adjust such fees from time to time whenever he finds that the cost of administering and enforcing the provisions of sections 32A.01 to 32A.09 can be defrayed with such below maximum fees. The fees thus computed shall be paid by the manufacturer to the commissioner on or before the 15th day of the month following the month in which such frozen foods were sold in this state or a selected dairy product manufactured in this state from such milk was sold therein. Provided

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however, that when the amount of the fees so computed does not exceed \$10 in the first month of a calendar quarter the payment shall be made by the month following the last month of such quarter. If such fees are not paid to the commissioner on or before the end of the month following the month for which such fees are due or on or before the end of the month following the last month of a calendar quarter where such fees do not exceed \$10, a penalty amounting to 10 percent of the fees then due shall be imposed by the commissioner for each month for which such fees are delinquent. The amounts so received by the commissioner shall be deposited with the state treasurer and shall constitute a separate account to be known as the "Dairy Industry Unfair Trade Practices Account" which is hereby created, set aside and appropriated as a revolving fund to be used to defray the cost of administering and enforcing sections 32A.01 to 32A.09.

Sec. 7. Minnesota Statutes 1969, Section 32A.06, Subdivision 1, is amended to read:

**32A.06 SCHEDULE OF PRICES.** Subdivision 1. Each manufacturer, wholesaler and distributor shall file with the commissioner a dated schedule of current wholesale prices showing all rebates, discounts, refunds and price differentials for the selected dairy products offered for sale at wholesale by the person filing such price schedule, to retailers or to any other person for sale at wholesale to a retailer. Price schedules filed by all manufacturers of selected dairy products shall be applicable to all sales of selected dairy products manufactured or processed by said manufacturer. Sales at wholesale to retailers by a wholesaler or distributor who purchases selected dairy products from a manufacturer shall be made at prices not less than those listed in that manufacturer's filed price schedule. Any discount given a retailer for the volume of a selected dairy product delivered in a given period of time at a specific location must reflect only the savings in delivery costs to the seller, provided always that where a retailer or distributor is supplied with selected dairy products by more than one manufacturer, wholesaler or distributor, then the total volume of the selected dairy products supplied to such retailer by all such suppliers shall determine the only discount he shall receive from any person and the same discount shall be allowed to all other retailers in the same area purchasing the same quantity of the particular selected dairy product from the same seller in the same period of time. Upon demand of the commissioner all such discounts shall be justified by the seller granting the same. ~~A manufacturer, wholesaler or distributor selling a selected dairy product of any class at wholesale to another manufacturer, wholesaler or distributor shall not be required to file a schedule of prices on any selected dairy product so sold, but if the first purchaser in any such transaction buys the selected dairy product for the purpose or with the intent of reselling the same to a retailer, then the first purchaser shall file his~~

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~~schedule of prices for each class of selected dairy products he sells or intends to sell to a retailer.~~ If a person acts as agent for one or more retailers in purchasing a selected dairy product, all such sales shall have the status of a sale at wholesale to a retailer and in each such sale the manufacturer, wholesaler or distributor making such sale shall file his with the commissioner the applicable schedule of prices on each class of selected dairy products sold or to be sold to such agent. A manufacturer, wholesaler or distributor selling a selected dairy product to a retailer shall furnish to the retailer, at the time of negotiating any sale, the ~~seller's~~ applicable current price list for the selected dairy products sold and shall supply the retail customer with all such subsequent applicable price lists. A manufacturer, wholesaler or distributor, negotiating a sale to a retailer upon making a bona fide offer to sell at other than ~~his~~ the current applicable filed price or legal deviation shall forthwith communicate this information in writing to the commissioner. This information shall be confidential and shall not be disclosed to any person but shall only be used by the commissioner or his duly authorized agents for their information in permitting lawful deviations to any competitive condition created by the offer at other than the filed price of the maker.

Sec. 8. Minnesota Statutes 1969, Section 32A.06, Subdivision 3, is amended to read:

Subd. 3. A filing fee of ~~one dollar~~ \$2 shall be paid the commissioner for ~~one or more~~ each price ~~schedules~~ schedule filed ~~simultaneously~~ by the same manufacturer, wholesaler or distributor.

Sec. 9. Minnesota Statutes 1969, Section 32A.06, Subdivision 5, is amended to read:

Subd. 5. ~~Deviated Sales of a selected dairy product may be made at other than the manufacturer's, wholesaler's, or distributor's current filed price to the United States or the state of Minnesota or any agency, department, division or institution of either said state or the United States, or to any public institution supported in whole or in part by public funds a political subdivision of the state or a municipality therein, without any such sale or failure to report the same as specified above sales being a violation of sections 32A.01 to 32A.09.~~

Sec. 10. Minnesota Statutes 1969, Section 32A.09, Subdivision 1, is amended to read:

**32A.09 REDRESS FOR INJURIES.** Subdivision 1. Any person who shall be injured in his business or property by reason of anything forbidden by sections 32A.01 to 32A.09, ~~or the commissioner in his own name or on behalf of any such person,~~ shall be entitled to sue therefor in any court of competent jurisdiction and shall be entitled to recover three fold the damage by him sustained and the costs of

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suit, including reasonable attorneys fees. Any person injured or who is threatened with injury or loss by reason of anything forbidden by sections 32A.01 to 32A.09, ~~or the commissioner in his own name or on behalf of any such person,~~ shall be entitled to sue for and have injunctive relief in any court of competent jurisdiction against all persons involved in any violation or threatened violation of sections 32A.01 to 32A.09, and acts amendatory thereof, to prevent and restrain violations or threatened violations thereof without alleging or proving actual damages or that an adequate remedy at law does not exist, so that injunctive relief can be obtained promptly without awaiting injury or actual damage. Such injunctive relief shall not abridge or be in lieu of any other civil remedy provided in sections 32A.01 to 32A.09.

Sec. 11. Minnesota Statutes 1969, Section 32A.09, Subdivision 2, is amended to read:

Subd. 2. ~~Either the commissioner or~~ Any person entitled to bring suit under sections 32A.01 to 32A.09 may sue both in tort and for injunctive relief and may recover for all loss, damage or injury arising from the continued violation to the time of trial or hearing of such suit.

Approved June 3, 1971.

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## CHAPTER 677—S.F.No.2180

[Not Coded]

*An act authorizing the city of Minneapolis and the city of Robbinsdale to create development districts within the corporate boundaries of the cities; to acquire, construct, reconstruct, improve, alter, extend, operate, maintain and promote development programs to be carried out in each of the districts created; to authorize the cities to issue bonds to carry out such development programs; to authorize the city and the county auditor to use the tax increment created in the development districts to pay off the principal and interest on such bonds; to authorize the cities to operate pedestrian systems and special lighting and similar systems; to authorize the cities to assess the cost of operations against the development districts; to authorize the cities to lease space in structures and to lease or sell air rights over structures and to lease or sell property for private development.*

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

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