

sary expenses to be paid from state appropriations made for the purposes of this act.

Sec. 7. [480.19] **Chapter applies to supreme, district, inferior courts.** This act shall apply to the following courts: The supreme court, the district courts, and, when and to the extent so ordered by the supreme court, to the probate, municipal, and justice courts.

Sec. 8. [480.20] **Application to substitution of probate judges.** The provisions of this act shall in no way be construed to impair the authority and manner of substitution of probate judges provided in section 525.051, Minnesota Statutes 1961.

Approved May 17, 1963.

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#### CHAPTER 759—H. F. No. 1262

*An act to prevent competition and unfair trade practices in the sale of cigarettes; to prohibit the sale of cigarettes below cost; to confer powers and duties on the Minnesota state commissioner of business development and on persons, as herein defined, engaged in the sale of cigarettes at wholesale and retail; and providing remedies and imposing penalties for violations thereof; amending Minnesota Statutes 1961, Sections 325.66, Subdivisions 4, 10, and 11, and adding a subdivision to the section; 325.67, Subdivision 2; and 325.74.*

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

Section 1. Minnesota Statutes 1961, Section 325.66, Subdivision 4, is amended to read:

Subd. 4. **Unfair cigarette sales.** *“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 including but not limited to their residences or motor vehicles where substantially all of the business is the sale of cigarettes and related merchandise at wholesale to persons licensed under sections 325.64 to 325.76, and where at all times a substantial stock of cigarettes and related merchandise is available to retailers for resale; or any cigarette manufacturer or manufacturer’s representative who sells to retailers or to other persons for resale.*

*“Wholesaler” means and includes any person who acquires*

**Changes or additions indicated by italics, deletions by strikeout.**

*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.*

Sec. 2. Minnesota Statutes 1961, Section 325.66, Subdivision 10, is amended to read:

Subd. 10. (1) "Cost to wholesaler" means the basic cost of the cigarettes plus the cost of doing business by the wholesaler, as defined in sections 325.64 to 325.76.

(2) The cost of doing business by the wholesaler is *presumed to be* four percentum of the basic cost of said cigarettes, *in the absence of proof of a lesser or higher cost*, plus cartage to the retail outlet, if furnished or paid for by the wholesaler, *except that the cost of doing business by the wholesaler is two percent of the basic cost of said cigarettes, plus cartage to the retail outlets, if furnished, or paid for by the wholesaler, when such cigarettes are sold to a wholesaler, in the absence of proof of a lesser or a higher cost.* Such cartage costs is *presumed to be* one half of one percent of the basic cost of the cigarettes in the absence of proof of a lesser or higher cost.

Sec. 3. Minnesota Statutes 1961, Section 325.66, Subdivision 11, is amended to read:

Subd. 11. (1) "Cost to the retailer" means the basic cost of the cigarettes involved to the retailer plus the cost of doing business by the retailer as defined in sections 325.64 to 325.76.

(2) The cost of doing business by the said retailer is *presumed to be* eight percentum of the basic cost of cigarettes *in the absence of proof of a lesser or a higher cost.*

(3) If any retailer in connection with his purchase of any cigarettes shall receive the discounts ordinarily allowed upon purchases by a retailer and in whole or in part discounts ordinarily allowed upon purchases by a wholesaler, the cost of doing business by the retailer with respect to the said cigarettes shall be, *in the absence of a lesser or a higher cost of doing business*, the sum of the cost of doing business by the retailer and, to the extent that he shall have received the full discounts allowed to a wholesaler, the cost of doing business by a wholesaler as defined in subdivision 10 (2).

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Sec. 4. Minnesota Statutes 1961, Section 325.66, is amended by adding a subdivision to read:

*Subd. 12. "Subjobber" means any person who buys stamped cigarettes and sells them to persons other than ultimate consumers, and any licensed distributor who delivers to and sells or distributes stamped cigarettes from a place of business other than that for which he has obtained his distributor's license; who does not use a distributor's license for any plan or scheme to circumvent the Minnesota Unfair Cigarette Sales Act or any other law relating to the sale of cigarettes, who does not use such subjobber's license for the principal purpose of selling cigarettes to retail cigarette licensees in which such subjobber has an ownership interest, and who sells at least 75 percent of his total cigarette volume to retail outlets in which the subjobber has no more than a ten percent ownership interest, directly or indirectly, and who sells to at least 25 retail customers.*

Sec. 5. Minnesota Statutes 1961, Section 325.67, Subdivision 2, is amended to read:

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

Sec. 6. Minnesota Statutes 1961, Section 325.74, is amended to read:

**325.74 Remedies; sales of government agencies.** *Subdivision 1. The state department of business development, or any person or persons injured by any violation, or 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 violence 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.*

*Subd. 2. All state, municipal and other governmental agencies shall be governed by the Minnesota Unfair Cigarette Sales Act,*

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*and no such agency of government shall accept any bid offer which is below the "cost to wholesaler" as defined by Minnesota Statutes, Section 325.66, Subdivision 10 (1), nor shall sell such cigarettes at a cost less than provided for in Minnesota Statutes, Section 325.66, Subdivision 11.*

Approved May 17, 1963.

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CHAPTER 760—H. F. No. 1301

[Coded]

*An act relating to the appointment of resigned judges of the supreme court as commissioners of the supreme court.*

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

Section 1. [480.21] **Supreme court; resigned judges, appointment as commissioners.** Subdivision 1. The supreme court may appoint any resigned judge of the supreme court, who is not engaged in the practice of law, as a commissioner of that court to aid and assist in the performance of such of its duties as may be assigned to him with his consent.

Subd. 2. Such a resigned judge who has been appointed and serves as a commissioner shall be paid the sum of \$35 and actual expenses for each day spent in the performance of his duties as such commissioner, said payment to be made in the same manner as payment of salaries for supreme court judges on certification by the chief judge.

Approved May 17, 1963.

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CHAPTER 761—H. F. No. 1433

[Not Coded]

*An act authorizing the commissioner of conservation to acquire certain land in Itasca county from Severt S. Christenson, and appropriating money therefor.*

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

Section 1. **Acquisition of land by state; public access.** The commissioner of conservation is authorized to acquire from Severt

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