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# 1941 Supplement

To

# Mason's Minnesota Statutes

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(Supplementing Mason's 1940 Supplement)

Containing the text of the acts of the 1941 Session of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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contracts in Minnesota. *James Heddon's Sons v. C.*, (DC-Minn), 29FSupp579.

In suit to enjoin defendant from selling plaintiff's goods at prices less than those provided for in fair trade retail sales contracts, failure of complaint to show that the merchandise which was sold by the defendant was acquired by it after notice of the Fair Trade Agreements does not result in a defective pleading, but such matter may properly be set forth in answer. *Id.*

While wrong doing of other retailers is no defense of wrong doing on part of defendant, if discrimination is practiced in acquiescence of plaintiff in violations of its contracts by other retailers, a situation would be created depriving plaintiff's cause of equity. *Id.*

Retail sales agreement which provided that retailer would not sell plaintiff's products at a price less than minimum retail sales prices did not comply with statute permitting contracts which provide that buyers should not resell "except at prices stipulated by vendor", and was illegal under Louisiana statute. *Mennen Co. v. K.*, (DC-La), 37FSupp161.

Contract providing for minimum prices executed pursuant to Maryland fair trade act was not invalid because it contained exemption of books, sold for circulating or public service purposes, charitable or religious purposes, etc. *Schill v. R.*, 17Atl(2d)(MdApp)175.

Contract providing for minimum prices executed pursuant to Maryland fair trade act was not invalid because it contained provision that price was subject to change in discretion of publisher. *Id.*

Contract creating minimum price for copyrighted books is not an unreasonable monopoly. *Id.*

Maryland fair trade act authorizing contract establishing minimum retail prices is constitutional. *Id.*

Michigan fair trade act regulating resale prices of trade-marked articles complies with constitutional requirements. *Weco Products Co. v. S.*, 295NW(Mich)611.

When a producer operating under Fair Trade Act combines two trade-marked articles into a combination package for resale at a price less than aggregate price of articles if sold separately and independent of combination, he has abandoned his price structure as to those items which have been combined. *Bathasweet Corp. v. W.*, 15Atl(2d)(NJ)337.

Statute permitting owner of trade-mark to fix a schedule of prices and refuse to sell to retailers refusing to maintain minimum prices is valid. *Miles Laboratories v. O.*, 295NW(SD)292.

#### 3976-53. What are violations.

Any one who willfully and knowingly advertises offers for sale or sells commodity at less than price stipulated in contract pursuant to Maryland fair trade act whether a person is or is not party to contract is engaged in unfair competition and is subject to suit on part of any person damaged. *Schill v. R.*, 17Atl(2d)(MdApp)175.

#### 3976-54. Who may fix minimum prices.

Maryland fair trade act establishing minimum retail prices on commodities applies to copyrighted books. *Schill v. R.*, 17Atl(2d)(MdApp)175.

New York fair trade law limits right to fix prices to one whose trade-mark or brand or name is used in connection with the commodity. *Automotive Electric Service Corp. v. T.*, 24NYS(2d)733, 175Misc865.

#### 3976-56. Unfair competition.

In suit to enjoin defendant from violating detailed prices stipulated in fair trade contracts, allegation that plaintiff's property rights in its trade name and trade-mark have been violated, and will be damaged within the state to an amount in excess of \$3,000, exclusive of interest and costs, was sufficient to bring suit within jurisdiction of federal court, placing burden on defendant to show want of jurisdiction. *James Heddon's Sons v. C.*, (DC-Minn), 28FSupp643.

Owner of trade-mark suing to restrain sale of trade-marked articles for less than minimum prices set out in contracts with other dealers was not entitled to equitable relief where it refused offer of resale of goods on ground that they had been purchased from others, thus refusing to do equity. *Weco Products Co. v. S.*, 295NW(Mich)611.

In a suit by a producer under Fair Trade Act, only minimum price provisions of contract made with retailers

are binding on those retailers who have not signed such contract. *Bathasweet Corp. v. W.*, 15Atl(2d)(NJ)337.

Under Fair Trade Act a signer of a price-fixing contract may be restrained from cutting prices at suit of one not signing such a contract, if he has clean hands. *Weissstein v. F.*, 22NYS(2d)510.

Under New York statute when price fixing contract has been entered into by person, firm or corporation whose trade-mark or brand or name is borne upon commodity, persons other than such person, firm or corporation may enjoin sales at prices less than those so fixed. *Automotive Electric Service Corp. v. T.*, 24NYS(2d)733, 175Misc865.

Right of retailer to sue. 24MinnLawRev139.

### AUTOMOBILE DEALERS ANTI-COERCION ACT

#### 3976-71. Manufacturers not to control financing of motor vehicles.

Anti-Coercion Laws have been adopted in Arkansas, California, Colorado, Florida, Idaho, Indiana, Iowa, Kansas, Louisiana, Minnesota, Montana, New Mexico, Ohio, Oregon, Tennessee, Utah and Wisconsin. (1940).

### MANUFACTURE AND SALE OF TOKENS, SLUGS, CHECKS, ETC.

**3976-86. Manufacture and sale of tokens, slugs, checks, etc., prohibited.**—The manufacture, sale, offering for sale, advertising for sale, or distribution of tokens, checks, or slugs, similar in size and shape to lawful coin of the United States of America, with knowledge or reason to believe that such tokens, checks or slugs may be used in substitution for any such lawful coin in any vending machine, parking meter, service meter, coin-box telephone or other coin receptacle designed to receive or be operated only by lawful coin of the United States of America in connection with the sale, use or enjoyment of property, privilege or service, is hereby prohibited. (Act Apr. 9, 1941, c. 132, §1.)

**3976-87. Five per cent smaller or five per cent larger token or checks salable.**—No person shall manufacture, sell, or offer for sale or distribute any checks, tokens or slugs unless they shall be either five per cent larger or five per cent smaller in diameter than any lawful coin of the United States. (Act Apr. 9, 1941, c. 132, §2.)

**3976-88. Knowledge and reason to believe—Proof.**—In a trial of a defendant for violation of the provisions of this act, knowledge or reason to believe, within the meaning of this act, shall be deemed to exist upon the presentation of proof to the court that any county attorney, sheriff, or chief of police in the state, or a deputy or delegate of such officer, has given written notice to the defendant that tokens, checks or slugs of the kind manufactured, sold, offered for sale, advertised for sale or distributed by him are being used in substitution for lawful coin in the operation of any such coin receptacle or machine, provided that such notice shall have been given prior to the time of the manufacture, sale, offering for sale, advertising for sale or distribution of such tokens, checks or slugs for which the defendant is being tried. (Act Apr. 9, 1941, c. 132, §3.)

**3976-89. Offense.**—Any person, firm or corporation violating the provisions of this act shall be guilty of a misdemeanor. (Act Apr. 9, 1941, c. 132, §4.)

## CHAPTER 21AA

### Regulation of Motion Pictures

#### PREAMBLE:

WHEREAS, the motion picture industry is made up of three branches, namely, production, distribution and exhibition; and

WHEREAS, the production and distribution branches are dominated and controlled by eight major companies with great economic power and exhibition is accomplished through two classes of theatre owners, namely, those wholly owned or affiliated with the producer-distributors and the independent exhibitors; and

WHEREAS, the major producer-distributors, license, lease and distribute substantially all of the feature motion pictures exhibited in the state of Minnesota and the other states of the Union; and the needs of the independent exhibitor requires that he license or lease feature motion pictures from substantially all the major producer-distributors; and

WHEREAS, by reason of arbitrary terms and conditions imposed by the producer-distributors, the independent exhibitor has been:

(a) compelled as a condition precedent to licensing feature motion pictures, to also license short subjects, newsreels, trailers, serials, re-issues, foreign and western pictures far in excess of his needs or requirements;

(b) unable to cancel feature motion pictures injurious and damaging to his business, and therefore compelled to play pictures offensive, on moral, religious or racial grounds, and undesirable and harmful to the public; and

WHEREAS, the long-established trade practice of licensing feature motion pictures for a full season (one year) is essential to the best interests of the producer-distributors, exhibitors, and the public; but the above conditions imposed by the producer-distributors have subjected the independent exhibitors to unfair disadvantages, preventing him from responding to the community and local public influence and preferences with respect to selection of desirable feature motion picture films and are inimicable to public welfare and against public policy; now, therefore,

**3976-101. Definitions.**—For the purpose of this act, unless the context otherwise provides:

(a) the term "person" includes an individual, partnership, association, joint stock company, trust or corporation;

(b) the term "distributor" includes any person who engages or contracts to engage in the distribution of motion picture films and is a resident of or legally authorized to do business in this state;

(c) the term "exhibitor" includes any person who engages or contracts to engage in the exhibition of motion picture films and is a resident of or legally authorized to do business in this state;

(d) the term "license" includes the offering, intending or making of a license agreement, contract, or any type of agreement whereby a film, the distribution of which is controlled by one of the parties is to be supplied to and exhibited in a theatre owned, controlled or operated by the other party;

(e) the term "feature motion picture film" means all motion pictures, whether copyrighted or uncopyrighted, including positive and negative prints and copies or reproductions of such prints, which films contain photoplays or other subjects and are produced for public exhibition. The term shall not include films commonly known as short subjects, newsreels, trailers, serials, re-issues, foreign and western pictures, and road shows;

(f) the term "exhibition season" shall mean a period of twelve months as may be selected by the producer-distributor, provided, however, that there shall be no lapse of time between the termination of one season and the beginning of the next. (Act Apr. 26, 1941, c. 460, §1.)

**3976-102. Feature picture films—Licenses to exhibit—Required provisions.**—No distributor shall hereafter license feature motion picture films to an exhibitor to be exhibited, shown or performed in this state unless the license provides:

(a) that all the feature motion picture films, which such distributor will license during the exhibition season, or the unexpired portion thereof, shall be included. The term "all the feature motion picture films" shall apply to each producer for whom the distributor is acting;

(b) that the exhibitor shall have the right to cancel a minimum of 20 per cent of the total number of feature motion pictures included in such license where the exhibitor deems the same injurious and damaging to his business or offensive on moral, religious or racial grounds. Such cancellation shall be made proportionately among the several price brackets, if there be such price brackets in the license agreement. Any number of cancellation to which an exhibitor is entitled may be made the lowest price bracket at the exhibitor's option.

The right to cancellation shall not be effective, unless the exhibitor exercises such right by giving notice thereof, to the distributor by registered mail, within 15 days after being notified of the availability of a feature motion picture. In determining the number of feature motion pictures that may be cancelled, fractions of one-half or more shall be counted as one and fractions of less than one-half shall not be counted. (Act Apr. 26, 1941, c. 460, §2.)

**3976-103. Same—Conditions of licenses.**—No distributor shall license feature motion picture films to an exhibitor to be exhibited, shown or performed in this state, upon the condition that the exhibitor must also license short subjects, newsreels, trailers, serials, re-issue, foreign and western motion picture films. (Act Apr. 26, 1941, c. 460, §3.)

**3976-104. Same—Public policy.**—Any provision of any license hereafter made and entered into which is contrary to any provisions of this act, is hereby declared to be against public policy and void. (Act Apr. 26, 1941, c. 460, §4.)

**3976-105. Violation of act.**—Every person violating any provisions of this act, or assisting in such violation, shall, upon conviction thereof, be punished by a fine not exceeding \$1,000, or, in default, of the payment of such fine, by imprisonment in the county jail for not more than one year. In the case of a corporation, the violation of this act shall be deemed to be also that of the individual directors, officers or agents of such corporation who have assisted in such violation, or who have authorized, ordered or done the acts or omissions constituting, in whole or in part, such violation, and upon conviction thereof, any such directors, officers or agents shall be punished by fine or imprisonment, as in this section provided. (Act Apr. 26, 1941, c. 460, §5.)

**3976-106. Separability clause.**—If any provision of this act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the act and the applicability of such provision to other persons and circumstances shall not be affected thereby. (Act Apr. 26, 1941, c. 460, §6.)

**3976-107. Application of act.**—The provisions of this act shall not apply to the licensing of motion picture films to any school, college, university, church, or any educational, fraternal, or religious organizations in this state. (Act Apr. 26, 1941, c. 460, §7.)

## CHAPTER 21B

### Regulation of Sale of Stocks, Bonds and Other Securities, Etc.

**3996-1. Definitions.**—When used in this act, the following words shall have the following respective meanings, unless the context otherwise requires:

(1) "Person" shall mean and include a natural person, firm, co-partnership, association, syndicate, joint stock company, unincorporated company or organization or association, trust, trustee of a trust, a corporation organized under the laws of any state or of the United States or of any territory or pos-

session thereof or of the District of Columbia or of any foreign government. The term "trust" as here-in used shall not include a trust created or appointed under or by virtue of a last will and testament, or by a court of law or equity, or a public charitable trust.

(2) "Sale," "sell" or "sold" shall mean and include any disposition for value, an offer to sell, a solicitation of a subscription or sale, or an attempt to sell in any manner whatsoever, an option of sale, a subscrip-