

## 319A.21 PROFESSIONAL CORPORATIONS ACT

board, and for filing each successive report the fee shall be \$25 which shall be for the use of the board.

[1973 c 40 s 21]

## 319A.22 Retroactive effect

A professional corporation heretofore organized pursuant to authority granted by any provision of law applicable to an individual profession is hereby recognized, validated and continued and the provisions of sections 319A.01 to 319A.22 apply retroactively to any such professional corporation so that any such professional corporation is deemed to have been organized pursuant to the authority granted by sections 319A.01 to 319A.22. Any such corporation that fails to comply with the provisions of sections 319A.01 to 319A.22 within one year of March 23, 1973 shall forfeit its corporate charter in the manner prescribed by law.

[1973 c 40 s 22]

## TRADE REGULATIONS

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#### POWDERED ASBESTOS [NEW]

#### 325.244 Ban; penalty

Subdivision 1. No person, corporation, partnership, joint venture, firm or association shall use, sell, deliver or receive, or contract to use, sell, deliver or receive powdered asbestos, whether in its powdered form or mixed with

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any other substance, and to be applied with a pressure sprayer, or in its molded form if asbestos dust will emanate from it due to handling, mixing or cutting, for purposes of constructing, remodeling or improving any building structure in this state.

Subd. 2. Any violation of the provisions of subdivision 1 shall constitute a misdemeanor.

[1973 c 742 s 1]

HAZARDOUS TOYS [NEW]

**325.381 Importation, manufacture, sale or distribution of hazardous articles**

No person, firm, corporation, association or agent or employee thereof shall import, manufacture, sell, hold for sale or distribute a toy or other article intended for use by a child which presents an electrical, mechanical or thermal hazard or presents a hazard due to toxic, or flammable properties or properties able to produce asphyxiation or suffocation.

[1973 c 467 s 1]

**325.382 Definitions**

(a) "Child" means any person less than 14 years of age;

(b) A toy presents an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by electrical shock or electrocution;

(c) A toy presents a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness:

(1) from fracture, fragmentation or disassembly of the article;

(2) from propulsion of the article or any part or accessory thereof;

(3) from points or other protrusions, surfaces, edges, openings or closures;

(4) from moving parts;

(5) from lack or insufficiency of controls to reduce or stop motion;

(6) as a result of self-adhering characteristics of the article;

(7) because the article or any part or accessory thereof may be aspirated or ingested;

(8) because of instability;

(9) from stuffing material which is not free of dangerous or harmful substances; or

(10) because of any other aspect of the article's design or manufacture.

(d) A toy presents a thermal hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances or surfaces.

(e) "Toxic" means able to produce personal injury or illness to a person through ingestion, inhalation or absorption through any body surface and can apply to any substance other than a radioactive substance.

(f) "Flammable" means having a flash point up to 80 degrees Fahrenheit as determined by the Tagliabue Open Cup Tester. The flammability of solids and of the contents of self-pressurized containers shall be determined by methods generally recognized as applicable to the materials or containers and established by regulations issued by the director.

(g) A toy presents a hazard of asphyxiation or suffocation if, in normal use or when subject to reasonable foreseeable damage or abuse, its design, manufacture or storage presents a risk of personal injury or illness from interference with normal breathing.

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(h) "Director" means the director of the consumer services section of the department of commerce.

(i) "Inspector" means an inspector of the consumer services section of the department of commerce.

[1973 c 467 s 2]

**325.383 Banning of hazardous articles; regulations**

The director shall ban from sale or distribution any toy or other article intended for use by children that presents any of the hazards set out in section 325.381.

The director shall adopt the regulations necessary to carry out the intent of sections 325.381 to 325.391. Regulations shall insofar as practicable conform to the regulations relating to this subject found as Part 191 in the Code of Federal Regulations, Title 21.

[1973 c 467 s 3]

**325.384 Testing of articles to determine and insure compliance**

The director or an authorized and qualified employee or inspector, may undertake or provide for testing of toys and other articles as he deems necessary to determine their safety and fitness for commerce in this state in compliance with the provisions of sections 325.381 to 325.391. The director may contract or otherwise arrange with any testing facility, public or private, for testing and reporting the results. The director may, by regulation, require that any toy or other article within the provisions of sections 325.381 to 325.391 be adequately tested by the consumer services section, a reputable testing facility, or the manufacturer or distributor of the article, and that the certified results of the test be filed with the director before the sale, distribution or other movement in commerce within this state of the toys or articles. The director may by regulation provide for penalties for the failure to provide test results.

[1973 c 467 s 4]

**325.385 Repurchase of banned articles**

Subdivision 1. In the case of any article sold by its manufacturer, distributor, or dealer which has been banned, whether or not it was banned at the time of its sale, the article shall, in accordance with regulations of the director, be repurchased as follows:

(a) The manufacturer of the article shall repurchase it from the person to whom he sold it, and shall refund that person the purchase price paid for the article. If the manufacturer requires the return of the article in connection with the repurchase of it, the manufacturer shall also reimburse the person for any reasonable and necessary expenses incurred in returning it to the manufacturer.

(b) The distributor of any banned article shall repurchase it from the person to whom he sold it, and shall refund that person the purchase price paid for the article. If the distributor requires the return of the article in connection with his repurchase of it in accordance with this clause, the distributor shall reimburse that person for any reasonable and necessary expenses incurred in returning it to the distributor.

(c) In the case of any banned article sold at retail by a dealer, if the person who purchased it from the dealer returns it to him, the dealer shall refund the purchase price paid for it and reimburse him for any reasonable and necessary transportation charges incurred in its return.

[1973 c 467 s 5]

**325.386 Banned hazardous toys; prohibitions**

No person shall sell, expose for sale, deliver, give away, have in his possession, or introduce or deliver for introduction into commerce any hazardous toy or article intended to be used by a child or banned hazardous toy or article intended to be used by a child.

[1973 c 467 s 6]

**325.387 Seizures**

The director shall apply to the district court to seize toys presenting hazards when no other practical method to control the hazard exists. The attorney general shall represent the director in the district court.

[1973 c 467 s 7]

**325.388 Director's right of access to premises, records**

For the purpose of administering the provisions of sections 325.381 to 325.391, the director and inspectors shall have access and entry at reasonable times to any premises in which toys or other articles within the provisions of sections 325.381 to 325.391 are held and shall have access to all records pertinent to the enforcement of sections 325.381 to 325.391.

[1973 c 467 s 8]

**325.389 Penalties**

Any person who violates any of the provisions of sections 325.381 to 325.391 shall be guilty of a misdemeanor.

[1973 c 467 s 9]

**325.391 Citation**

Sections 325.381 to 325.389 may be cited as the "Safe Toys Act".

[1973 c 467 s 10]

## IMITATION INDIAN-MADE GOODS

**325.41 Imitation Indian-made goods to be branded**

All goods, wares, and merchandise known as moccasins, bead work, birch-bark baskets, deerskin work, grass rugs, sweet grass baskets, and other goods which are manufactured or produced in imitation of genuine American Indian-made goods, wares, or merchandise shall be branded, labeled, or marked, as hereinafter provided, before being exposed for sale and shall not be exposed or sold without such brand, label, or mark thereon. For purposes of this section, Indian-made goods are those made exclusively by persons who are of at least one-quarter Indian blood or who are listed on the rolls of the United States Bureau of Indian Affairs as Indians.

[1973 c 151 s 1]

**325.42 Brand**

The brand, label, or mark required by section 325.41 shall be the words "not Indian-made" and shall be placed or attached outside of and on a conspicuous part of the finished article so as to be plainly visible to the purchasing public, and shall be the size and style known as great primer Roman capitals. Such brand or mark, if the article will permit, shall be placed upon it, but when such branding or marking is impossible a label shall be used and attached thereto.

[1973 c 151 s 2]

**325.431 Remedies**

Any person injured by a violation of sections 325.41 to 325.43 may bring a civil action and recover damages, together with costs and disbursements, including reasonable attorney's fees, and receive other equitable relief as determined by the court.

[1973 c 151 s 4]

325.48 REGULATION OF MANUFACTURES AND SALES

PENALTIES; INJUNCTIVE RELIEF

325.48 Violations; penalties

[For text of subd. 1, see M.S.1971]

**Subd. 2. Misdemeanors.** (1) Any person, firm, or corporation, whether as principal, agent, officer, or director, for himself, or itself, or for another person, firm, or corporation, wilfully violating the provisions of sections 325.03, 325.04, 325.05, and 325.075 shall be guilty of a misdemeanor.

Any person who, either as director, officer, or agent of any firm or corporation or as agent of any person violating the provisions of sections 325.03, 325.04, 325.05, and 325.075, knowingly assists or aids directly or indirectly in such violation shall be responsible therefor equally with the person, firm, or corporation for whom or which he acts.

(2) Any person, company, or corporation violating any of the provisions of sections 325.34 to 325.37 shall be deemed guilty of a misdemeanor; and, upon conviction thereof, for the first offense, punished by a fine of not less than \$25 nor more than \$50 and for each subsequent offense by a fine of not less than \$50 nor more than \$100.

(3) Any person who violates the provisions of sections 325.45 to 325.47 shall be guilty of a misdemeanor.

[1973 c 151 s 3]

THE MINNESOTA UNFAIR CIGARETTE SALES ACT

325.66 Definitions

[For text of subds. 1 to 3, see M.S.1971]

**Subd. 4. "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 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, and any person defined as a "distributor" under section 297.01, subdivision 7. The term "wholesaler" shall also include a "subjobber" as defined by section 297.01, subdivision 14.

[1973 c 607 s 1]

[For text of subds. 5 to 12, see M.S.1971]

325.67 Sales at less than cost; penalty

**Subdivision 1.** It shall be unlawful for any wholesaler, subjobber or retailer to offer to sell, or sell, at wholesale or retail, cigarettes at less than cost to such wholesaler, subjobber or retailer, as the case may be, as defined in sections 325.64 to 325.76 for the purpose or with the effect of injuring a competitor or destroying competition, or for a retailer to induce or to attempt to induce a wholesaler or subjobber to violate the provisions of the Minnesota unfair cigarette sales act. Any wholesaler, subjobber or retailer who violates the provisions of this section shall be guilty of a misdemeanor.

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

[1973 c 607 s 2]

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**325.74 Remedies; sales of government agencies**

Subdivision 1. The chairman of the commerce commission, any corporation, partnership, trade association, or any person or persons 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 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.

[1973 c 607 s 3]

[For text of subd. 2, see M.S.1971]

**325.75 Commerce commission chairman; powers and duties**

Subdivision 1. The chairman of the commerce commission may adopt rules and regulations for the enforcement of sections 325.64 to 325.76 and he is empowered to and may from time to time undertake and make or cause to be made such cost surveys for the state or such trading area or areas as he shall deem necessary and it shall be permissible to use such cost survey as provided in section 325.71, subdivision 2 and section 325.72, subdivision 2.

[1973 c 607 s 4]

Subd. 2. (1) For purposes of investigating alleged violations of the unfair cigarette sales act, the chairman of the commerce commission or an employee or agent thereof shall have the power to conduct investigations, hold hearings, and to examine, or cause to be examined, any books, papers, records, or memoranda relevant to conducting such an investigation, examination, or hearing, whether such books, papers, records, or memoranda are the property of or in possession of the wholesaler or retailer or any other person or corporation. He shall further have power to issue a subpoena to require the attendance at a hearing or investigation of any wholesaler, subjobber, retailer, or other person having knowledge or information in the premises to compel production of books, papers, records, or memoranda by the person so required to attend; to take testimony on matters material to such investigation and to administer oaths or affirmations.

(2) No person shall be excused from testifying or from producing, pursuant to a subpoena, any books, papers, records, or memoranda in any investigation or upon any hearing, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty, but no person shall be prosecuted or subjected to any criminal penalty for or on account of any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the chairman of the commerce commission or an employee or agent thereof; provided that such immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, pursuant to a subpoena. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

(3) Every hearing conducted under sections 325.64 to 325.76 shall be preceded by ten days' notice in writing of the subject of the hearing, including, in the case of suspension or revocation of a license, a statement of the nature of the charges against the licensee. The notice shall be sent by registered mail to the last known address of the licensee or other person involved in the hearing, and service shall be complete upon mailing. After every hearing, the chairman of the commerce commission shall make his findings and his order in writing. The findings and order shall be filed in the office of the chair-

**325.75 REGULATION OF MANUFACTURES AND SALES**

man, and a copy sent by mail or otherwise to the person to whom the notice was directed.

(4) Said chairman may, upon notice and after hearing, suspend or revoke any permit issued under the cigarette tax provisions and the rules and regulations of the commissioner of taxation promulgated thereunder, for failure of the permit holder to comply with any provisions of this unfair cigarette sales act or any rule or regulation adopted thereunder. The suspension or revocation of a permit shall be for a period of not less than 15 days from the date of suspension or revocation for the first violation of this act; not less than 45 days from the date of suspension or revocation for the second violation of this act; all subsequent violations shall be punishable by suspension or revocation of a permit for a period of not less than 45 days and not more than one year; and no permit shall be issued for the location designated in the suspended or revoked permit, during the period of suspension or revocation. Notice of the suspension or revocation shall be given by the chairman of the commerce commission to the commissioner of taxation. The commissioner of taxation may refuse to grant a cigarette wholesaler or subjobber license to any person who violates the provisions of sections 325.67 to 325.75, or any other act applicable to the sale of cigarettes, or any rule or regulation promulgated or adopted by the commissioner of taxation or the chairman of the commerce commission for the enforcement or regulation of the sale of cigarettes.

[1973 c 607 s 5]

Subd. 3. Any person aggrieved by the decision order or finding of the chairman of the commerce commission relative to suspending or revoking any such permit may appeal therefrom to the district court in the same manner and subject to the same procedure as is provided by law.

[1973 c 607 s 6]

[For text of subd. 4, see M.S.1971]

**MOTOR FUEL, DISPLAY OF SALE PRICE**

**325.77 Motor fuel; display of octane rating and sale price**

Subdivision 1. The legislature finds that the wording, arrangement, and accumulation of signs advertising the quality and the price per gallon of motor fuel and located at or near places of business for the retail sale of motor fuel, in a confusing, exaggerated, deceptive, misleading, or otherwise fraudulent manner, is detrimental to the public interest.

[1973 c 687 s 1]

[For text of subd. 2, see M.S.1971]

Subd. 3. It shall be unlawful for any person to offer to sell at retail and dispense or to sell at retail and dispense motor fuel into fuel supply tanks of motor vehicles unless there is continuously and publicly posted and displayed on each pump or other dispensing device the minimum octane rating and the retail price per gallon including all federal and state tax of the motor fuel dispensed therefrom:

(1) On the computer mechanism of the dispensing device, which shall state the minimum octane rating and the price per gallon including all federal and state tax and the total price of the quantity delivered, or

(2) On a separate sign not less than seven inches in height and eight inches in width and not larger than 12 inches in height and width attached to the dispensing device, which shall state clearly and legibly in figures the minimum octane rating and in figures and fractions of uniform size and prominence the total price per gallon including the per gallon amount of all tax to be collected in connection with the sale.

[1973 c 687 s 2]

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Subd. 4. Any signs or devices stating or relating to the minimum octane rating or to the retail price of motor fuel or designed and calculated to cause the public to believe that they state or relate to the minimum octane rating or the retail price of motor fuel posted or displayed on or about premises where motor fuel is sold at retail or on property adjacent thereto and within view of any public highway, road, or street shall clearly and legibly state in figures the minimum octane rating and in figures and fractions of uniform size and prominence the total price per gallon, including the per gallon amount of all tax to be collected in connection with the sale. Nothing contained in this section shall be deemed to prohibit any separate signs or decals posted or displayed on or about premises where motor fuel is sold at retail relating to premiums, trading stamps or other promotional devices, or the per gallon amount of tax imposed upon the sale of motor fuel, provided any sign pertaining to price of merchandise other than motor fuel clearly and legibly states in letters of the same size as the figures and fractions stating such price the name or designation of such merchandise.

[1973 c 687 s 3]

Subd. 4a. For the purposes of this section, octane rating shall be determined in the manner described in the American Society for Testing and Materials (ASTM) "Standard Specification for Gasoline", D439-71 or such other manner as prescribed by the director of consumer services by regulations, adopted pursuant to the administrative procedures act. Such regulations shall only be promulgated to place Laws 1973, Chapter 687 in accordance with regulations promulgated by a federal agency.

[1973 c 687 s 4]

[For text of subds. 5 to 8, see M.S.1971]

## 325.771 Definitions

Subdivision 1. As used in sections 325.771 to 325.776, unless the context otherwise requires, the terms defined in this section have the meanings ascribed to them.

Subd. 2. "Article" means a product as distinguished from its trademark, label, or distinctive dress in packaging.

Subd. 3. "Certification mark" means a mark used in connection with the goods or services of a person other than the certifier to indicate geographic origin, material, mode of manufacture, quality, accuracy, or other characteristics of the goods or services or to indicate that the work or labor on the goods or services was performed by members of a union or other organization.

Subd. 4. "Collective mark" means a mark used by members of a cooperative, association, or other collective group or organization to identify goods or services and distinguish them from those of others, or to indicate membership in the collective group or organization.

Subd. 5. "Mark" means a word, name, symbol, device, or any combination of the foregoing in any form or arrangement.

Subd. 6. "Service mark" means a mark used by a person to identify services and to distinguish them from the services of others.

Subd. 7. "Trademark" means a mark used by a person to identify goods and to distinguish them from the goods of others.

Subd. 8. "Trade name" means a word, name, symbol, device, or any combination of the foregoing in any form or arrangement used by a person to identify his business, vocation, or occupation and distinguish it from the business, vocation, or occupation of others.

[1973 c 216 s 1]

**325.772 REGULATION OF MANUFACTURES AND SALES**

**325.772 Deceptive trade practices**

Subdivision 1. A person engages in a deceptive trade practice when, in the course of his business, vocation, or occupation, he:

- (1) passes off goods or services as those of another;
- (2) causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
- (3) causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;
- (4) uses deceptive representations or designations of geographic origin in connection with goods or services;
- (5) represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;
- (6) represents that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand;
- (7) represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;
- (8) disparages the goods, services, or business of another by false or misleading representation of fact;
- (9) advertises goods or services with intent not to sell them as advertised;
- (10) advertises goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;
- (11) makes false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions; or
- (12) engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.

Subd. 2. In order to prevail in an action under sections 325.771 to 325.776, a complainant need not prove competition between the parties or actual confusion or misunderstanding.

Subd. 3. This section does not affect unfair, deceptive, or misleading trade practices otherwise actionable at common law or under other statutes of this state.

[1973 c 216 s 2]

**325.773 Remedies**

Subdivision 1. A person likely to be damaged by a deceptive trade practice of another may be granted an injunction against it under the principles of equity and on terms that the court considers reasonable. Proof of monetary damage, loss of profits, or intent to deceive is not required. Relief granted for the copying of an article shall be limited to the prevention of confusion or misunderstanding as to source.

Subd. 2. Costs shall be allowed to the prevailing party unless the court otherwise directs. The court may award attorneys' fees to the prevailing party if (1) the party complaining of a deceptive trade practice has brought an action which he knew to be groundless, or (2) the party charged with a deceptive trade practice has willfully engaged in the trade practice knowing it to be deceptive.

Subd. 3. The relief provided in this section is in addition to remedies otherwise available against the same conduct under the common law or other statutes of this state.

[1973 c 216 s 3]

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**325.774 Application**

Subdivision 1. Sections 325.771 to 325.776 do not apply to:

(1) conduct in compliance with the orders or rules of, or a statute administered by, a federal, state, or local governmental agency;

(2) publishers, broadcasters, printers, or other persons engaged in the dissemination of information or reproduction of printed or pictorial matters who publish, broadcast, or reproduce material; or

(3) actions or appeals pending on July 1, 1973.

Subd. 2. Section 325.772, subdivision 1, clauses (2) and (3) do not apply to the use of a service mark, trademark, certification mark, collective mark, trade name, or other trade identification that was used and not abandoned before July 1, 1973, if the use was, in good faith and is otherwise lawful except for sections 325.771 to 325.776.

[1973 c 216 s 4]

**325.775 Uniformity of application and construction**

Sections 325.771 to 325.776 shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of sections 325.771 to 325.776 among those states which enact it.

[1973 c 216 s 5]

**325.776 Citation**

Sections 325.771 to 325.776 may be cited as the uniform deceptive trade practices act.

[1973 c 216 s 6]

PREVENTION OF CONSUMER FRAUD

**325.79 Unlawful practices**

**Subdivision 1. Fraud, misrepresentation, mail contests.** The act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoined as provided herein.

[1973 c 454 s 1]

FUEL INFORMATION REPORT [NEW]

**325.811 Commerce; fuel information report; definitions**

**Subdivision 1. Words, terms and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this section and section 325.812 shall have the meanings given them.

**Subd. 2. Supplier.** "Supplier" means any person engaged in the business of importing, storing, or generating energy sources in Minnesota. This definition shall not apply to distributors, jobbers, or dealers of petroleum products.

**Subd. 3. Energy.** "Energy supplies", or "energy sources" means gasoline, fuel oil, natural gas, propane, coal, special fuels, and electricity.

[1973 c 697 s 1]

**325.812 Information**

Subdivision 1. The governor may require or, with the assistance of the attorney general, subpoena from any supplier or energy source any information pertaining to the supply and distribution of energy sources to be used within the state. The information shall be furnished within the times specified by the governor.

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Subd. 2. For the six-month periods beginning on April 1 and October 1 of each year, each such energy supplier shall file a statement which indicates any anticipated change in quantity of energy sources which he will supply for that six-month period. The statement shall be filed at least six months prior to the beginning of any reporting period. If at any time subsequent to filing the statement, the supplier receives any additional information affecting the accuracy of the statement, he shall amend the statement within 15 days of receiving the information. Included in the statement shall be an explanation of the causes for the changes in distribution patterns.

[1973 c 697 s 2]

**325.821 Tampering with odometers; definitions**

Subdivision 1. For the purposes of sections 325.821 to 325.824, the terms defined in this section have the meanings given them.

Subd. 2. "Owner" means a person, other than a secured party, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

Subd. 3. "Motor vehicle" means any self-propelled vehicle not operated exclusively upon railroad tracks, except snowmobiles and other devices designed and used primarily for the transportation of persons over natural terrain, snow, or ice propelled by wheels, skis, tracks, runners, or whatever other means.

Subd. 4. "Person" means an individual, firm, partnership, incorporated and unincorporated association, or any other legal or commercial entity.

[1973 c 264 s 1]

**325.822 Prohibited acts**

Subdivision 1. No person shall knowingly, tamper with, adjust, alter, change, set back, disconnect or, with intent to defraud, fail to connect the odometer of any motor vehicle, or cause any of the foregoing to occur to an odometer of a motor vehicle, so as to reflect a lower mileage than has actually been driven by the motor vehicle.

Subd. 2. No person shall with intent to defraud, operate a motor vehicle on any street or highway knowing that the odometer of the motor vehicle is disconnected or nonfunctional.

Subd. 3. No person shall advertise for sale, sell, use or install on any part of a motor vehicle or on any odometer in a motor vehicle any device which causes the odometer to register any mileage other than the true mileage.

Subd. 4. No person shall sell or offer for sale any motor vehicle with knowledge that the mileage registered on the odometer has been altered so as to reflect a lower mileage than has actually been driven by the motor vehicle without disclosing such fact to prospective purchasers.

Subd. 5. No person shall conspire with any other person to violate this section or section 325.823.

Subd. 6. Nothing in this section shall prevent the service, repair, or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair, or replacement. Where the odometer is incapable of registering the same mileage as before such service, repair, or replacement, the odometer shall be adjusted to read zero and a written notice shall be attached to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. No person shall remove or alter such a notice so affixed.

[1973 c 264 s 2]

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**325.823 Transfer of motor vehicle; mileage disclosure**

No person shall transfer a motor vehicle without disclosing in writing to the transferee the true mileage registered on the odometer reading or that the actual mileage is unknown if the odometer reading is known by the transferor to be different from the true mileage. The registrar of motor vehicles shall adopt, pursuant to the administrative procedure act, rules not inconsistent with this act or Title IV of the Federal Motor Vehicle Information and Cost Savings Act or any rules promulgated thereunder prescribing the manner in which such written disclosure shall be made. No transferor shall violate any rules adopted under this section or knowingly give a false statement to a transferee in making any disclosure required by such rules.

[1973 c 264 s 3]

**325.824 Penalties; remedies**

Subdivision 1. Any person who is found to have violated sections 325.821 to 325.824 shall be guilty of a gross misdemeanor.

Subd. 2. In addition to the penalties provided in subdivision 1, any person who is found to have violated sections 325.821 to 325.824 shall be subject to the penalties provided in section 325.907.

Subd. 3. Any person injured by a violation of sections 325.821 to 325.824 shall recover the actual damages sustained together with costs and disbursements, including a reasonable attorney's fee, provided that the court in its discretion may increase the award of damages to an amount not to exceed three times the actual damages sustained or \$1,500, whichever is greater.

[1973 c 264 s 4]

## RECORDED MATERIALS

**325.841 Unlawful transfer of sounds; sales**

Unless exempt under section 325.843, it is unlawful for any person, firm, partnership, corporation, or association knowingly to (a) for commercial purposes transfer or cause to be transferred any sounds recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded onto any other phonograph record, disc, wire, tape, film, or article; or (b) sell, distribute, circulate, offer for sale, distribution or circulation, possess for the purpose of sale, distribution or circulation, or cause to be sold, distributed or circulated, offered for sale, distribution or circulation, or possessed for sale, distribution or circulation, any article, or device on which sounds have been transferred, without the consent of the person who owns the master phonograph record, master disc, master tape, or other device or article from which the sounds are derived.

[1973 c 579 s 1]

**325.842 Identity of transferor**

It is unlawful for any person, firm, partnership, corporation or association to sell, distribute, circulate, offer for sale, distribution or circulation, or possess for the purpose of sale, distribution or circulation, any phonograph record, disc, wire, tape, film or other article on which sounds have been transferred unless such phonograph record, disc, wire, tape, film or other article bears the actual name and address of the transferor of the sounds in a prominent place on its outside face or package.

[1973 c 579 s 2]

**325.843 Exemptions**

Sections 325.841 to 325.844 do not apply to any person who transfers or causes to be transferred any such sounds (a) intended for or in connection with radio or television broadcast transmission or related uses, (b) for archival purposes, (c) for library purposes, (d) for educational purposes, or (e) sole-

**325.843 REGULATION OF MANUFACTURES AND SALES**

ly for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.

[1973 c 579 s 3]

**325.844 Violations; punishment**

Violation of sections 325.841 to 325.844 is a felony and is punishable upon conviction by a fine of not more than \$25,000 for the first offense, and not more than \$100,000 for a subsequent offense; or by imprisonment for not more than three years for a subsequent offense, or both fine and imprisonment.

[1973 c 579 s 4]

**ATTORNEY GENERAL ENFORCEMENT**

**325.907 Additional duties of the attorney general**

**Subdivision 1. Investigate offenses against the provisions of certain designated sections; assist in enforcement.** The attorney general 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 (sections 325.02 to 325.075), the fair trade act (sections 325.08 to 325.14), the unlawful trade practices act (sections 325.141 to 325.148), the automobile dealer's anti-coercion act (sections 325.15 to 325.24), section 325.905 and other laws against false or fraudulent advertising, the antidiscrimination acts contained in section 325.82, the act against monopolization of food products (section 325.83), and the prevention of consumer fraud act (sections 325.78 to 325.80) and assist in the enforcement of those laws as in this section provided.

[1973 c 35 s 50; 1973 c 155 s 1]

**Subd. 2. Attorney general to assist in discovery and punishment of illegal practices.** When the attorney general, from information in his possession, has reasonable ground to believe that any person has within one year violated, or is about to violate, any of the laws of this state referred to in subdivision 1, he shall have power to investigate those violations, or suspected violations, and to take such steps as are necessary to cause the arrest and prosecution of all persons violating any of the statutes specifically mentioned in subdivision 1 or any other laws respecting unfair, discriminatory, or other unlawful practices in business, commerce, or trade.

[1973 c 155 s 2]

**Subd. 3. Injunctive relief.** In addition to the penalties provided by law for violation of the laws referred to in subdivision 1, specifically and generally, whether or not injunctive relief is otherwise provided by law, the courts of this state are vested with jurisdiction to prevent and restrain violations of those laws and to require the payment of civil penalties. Whenever it shall appear to the satisfaction of the attorney general that any of those laws has been or is being violated, or is about to be violated, he shall be entitled, on behalf of the state; (a) to sue for and have injunctive relief in any court of competent jurisdiction against any such violation or threatened violation without abridging the penalties provided by law; and (b) to sue for and recover for the state, from any person who is found to have violated any of the laws referred to in subdivision 1, a civil penalty, in an amount to be determined by the court, not in excess of \$25,000. All sums recovered under this subdivision shall be deposited in the general fund of the state treasury.

[1973 c 155 s 3]

**Subd. 3a. Damages.** In addition to the remedies otherwise provided by law, any person injured by a violation of any of the laws specified in subdivision 1 may bring a civil action and recover damages, together with costs and disbursements, including reasonable attorney's fees, and receive other equitable relief as determined by the court.

[1973 c 155 s 4]

REGULATION OF MANUFACTURES AND SALES 325.933

**Subd. 3b. Orders and judgments prima facie evidence.** Any permanent injunction, judgment or order of the court made pursuant to subdivision 3 shall be prima facie evidence in an action brought under subdivision 3a that the defendant used or employed an act or practice in violation of the laws referred to in subdivision 1, provided that this subdivision shall not apply to consent judgments or decrees where the court makes no finding of illegality.

[1973 c 155 s 5]

[For text of subd. 4, see M.S.1971]

HOME SOLICITATION SALES [NEW]

**325.933 Definitions**

Subdivision 1. As used in sections 325.933 to 325.938, the terms defined in this section have the meanings given them.

Subd. 2. "Home solicitation sale" means a sale of goods or services, by a seller who regularly engages in transactions of the same kind, purchased primarily for personal, family or household purposes, and not for agricultural purposes, with a purchase price of more than \$25, in which the seller or a person acting for him personally solicits the sale, and when the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller, except as otherwise provided in this subdivision. It does not include:

(a) a sale made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis; or

(b) a sale in which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer and the buyer furnishes the seller with a separate dated and signed statement not furnished by the seller describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale. This exclusion shall only apply where (i) the seller in good faith makes a substantial beginning of performance of the contract before the buyer gives notice of cancellation, and, (ii) in the case of goods, the goods cannot be returned to the seller in substantially as good condition as when received by the buyer; or

(c) a sale in which the buyer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's property. If in the course of such a visit, the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion; or

(d) a sale in which the buyer has initiated the contact either by oral, telephone, or written request (other than on a form provided by the seller), and requested the seller to visit his home for the purpose of negotiating the purchase of the specific good or service requested. This exclusion shall only apply where the buyer furnishes the seller with a separate dated and signed statement in the buyer's handwriting expressly acknowledging and waiving his right to cancel the sale; or

(e) a sale of insurance, securities, or real property; or a sale by public auction.

Subd. 3. "Sale" includes a lease or rental.

Subd. 4. "Seller" includes a lessor or anyone offering goods for rent, or an assignee of the seller.

Subd. 5. "Buyer" includes a lessee or anyone who gives a consideration for the privilege of using goods or services.

## 325.933 REGULATION OF MANUFACTURES AND SALES

Subd. 6. "Business day" means any day other than a Saturday, Sunday, or holiday as defined in section 645.44.

[1973 c 443 s 1]

### 325.934 Buyer's right to cancel

Subdivision 1. In addition to any other rights the buyer may have, the buyer has the right to cancel a home solicitation sale until midnight of the third business day after the day on which the home solicitation sale occurs. Cancellation is evidenced by the buyer giving written notice of cancellation to the seller at the address stated in the agreement or offer to purchase. Notice of cancellation, if given by mail, is effective upon deposit in a mailbox, properly addressed to the seller and postage prepaid. Notice of cancellation need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the buyer not to be bound by the home solicitation sale.

[1973 c 443 s 2]

### 325.935 Writing required; notice of right to cancel; notice of cancellation

Subdivision 1. In a home solicitation sale, at the time the sale occurs, the seller shall:

(a) inform the buyer orally of his right to cancel;

(b) furnish the buyer with a fully completed receipt or copy of a contract pertaining to the sale which shows the date of the transaction, contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of ten points, a statement in substantially the following form:

"You, the buyer, may cancel this purchase at any time prior to midnight of the third business day after the date of this purchase. See attached notice of cancellation form for an explanation of this right."; and

(c) furnish each buyer a fully completed form in duplicate, captioned, "NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and easily detachable, and which shall contain in bold face type of a minimum size of ten points the following information and statements:

#### "NOTICE OF CANCELLATION"

[enter type of goods or services purchased]

.....

(goods or services)

[enter date of transaction]

.....

(date)

If you do not want the goods or services described above, you may cancel your purchase by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to [Name of seller], at [Address of Seller's Place of Business] not later than midnight of [Date]. If you cancel, any payments made by you under the contract or sale, any property traded in, and any instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the written instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

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If the seller does not pick up the goods within 20 days of the date of your notice of cancellation, you may retain or dispose of them without any further obligation.

I HEREBY CANCEL THIS TRANSACTION.

.....

(Date)

....."

(Buyer's signature)

Subd. 2. In lieu of the notice of cancellation required by subdivision 1, the seller may provide a notice which conforms to applicable federal law or regulation so long as it provides the information required by subdivision 1. Until the seller has complied with this section the buyer may cancel the home solicitation sale by notifying the seller in any manner and by any means of his intention to cancel.

[1973 c 443 s 3]

**325.936 Return of payments or goods**

Subdivision 1. Within ten days after a home solicitation sale has been cancelled or an offer to purchase revoked, the seller must tender to the buyer any payments made by the buyer and any note or other evidence of indebtedness. If the down payment includes goods traded in, the goods must also be tendered by the seller in as good condition as when received by the seller. If the seller fails to tender said goods, the buyer may, if he so elects, recover from the seller an amount equal to the trade-in allowance stated in the agreement.

Subd. 2. Until the seller has complied with the obligations imposed by this section, the buyer may retain possession of the goods delivered to him by the seller.

Subd. 3. Except as provided in subdivision 2, within a reasonable time after a home solicitation sale has been cancelled or an offer to purchase has been revoked, the buyer upon demand must tender to the seller any goods delivered by the seller pursuant to the sale. The buyer is not obligated to tender at any place other than his residence.

Subd. 4. If the seller fails to demand possession of goods within 20 days after cancellation or revocation, the goods become the property of the buyer without obligation to pay for them.

Subd. 5. The buyer has the duty to take reasonable care of the goods in his possession before cancellation or revocation and during the time provided in subdivision 4 for the seller to demand possession, during which time the goods are otherwise at the seller's risk.

Subd. 6. If the seller has performed any services pursuant to a home solicitation sale prior to its cancellation, the seller is entitled to no compensation.

[1973 c 443 s 4]

**325.937 Penalties for violation**

Any person who is found to have violated sections 325.933 to 325.936 shall be subject to the penalties provided in section 325.907.

[1973 c 443 s 5]

**325.938 Damages**

Any person injured by a violation of sections 325.933 to 325.936 may recover damages, together with costs and disbursements, including reasonable attorneys fees, and receive other equitable relief as determined by the court.

[1973 c 443 s 6]

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CREDIT CARD PURCHASES [NEW]

325.939 Disputed accounts

**Subdivision 1. Billing information.** Every credit card issuer shall include on each billing statement the name, address, and telephone number of the department designated by it to receive requests by the customer account holder to correct mistakes or make adjustments to the billing statement.

**Subd. 2. Required response.** Every credit card issuer, within 30 days of receipt from a customer account holder, in writing at the address specified in subdivision 1, of a questioned or disputed charge, shall conduct an individual inquiry into the facts and send to the customer account holder an explanatory response in clear and definite terms.

**Subd. 3. Violation.** A violation of this section shall be treated as a violation of section 325.79.

[1973 c 460 s 1]

DISCLAIMER OF WARRANTIES

325.951 Definitions

**Subdivision 1.** As used in sections 325.951 to 325.954, the terms defined in this section have the meanings given them.

**Subd. 2. "Consumer sale"** means a sale of new goods, or as regards an express warranty, any goods, purchased primarily for personal, family, or household purposes, and not for agricultural or business purposes.

**Subd. 3. "Goods"** are as defined in section 325.94.

**Subd. 4. "New goods"** mean those goods which are purchased for the first time other than for purposes of resale.

**Subd. 5. "Express warranty"** means a written statement arising out of a consumer sale pursuant to which the manufacturer, distributor, or retailer undertakes (1) to preserve or maintain the utility or performance of the goods or provide compensation or replacement if there is a failure in utility or performance; or (2) declares that in the event of any sample or model, that the whole of the goods conforms to the sample or model. It is not necessary to the creation of an express warranty that formal words such as "warranty" or "guarantee" be used or that a specific intention to make a warranty be present, but an affirmation merely of the value of the goods or a statement purporting to be merely an opinion or commendation of the goods does not create a warranty.

[1973 c 692 s 1]

325.952 Implied warranties

**Subdivision 1.** Unless disclaimed in the manner prescribed in subdivision 2, every consumer sale in this state shall be accompanied by an implied warranty that the goods are merchantable, and, in a consumer sale where the seller has reason to know that the goods are required for a particular purpose and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, an implied warranty of fitness. A seller may, however, limit damages or remedies for breach of implied warranties as provided in chapter 336.

**Subd. 2. Disclaimer.** No consumer sale on an "as is" or "with all faults" basis shall be effective to disclaim the implied warranty of merchantability, or, where applicable, the implied warranty of fitness, unless a conspicuous writing clearly informs the buyer, prior to the sale, in simple and concise language each of the following:

- (1) The goods are being sold on an "as is" or "with all faults" basis; and
- (2) The entire risk as to the quality and performance of the goods is with the buyer.

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In event of a consumer sale by means of a mail order catalog, the catalog may contain the required writing in lieu of the requirement of notification prior to the sale.

[1973 c 692 s 2]

325.953 Express warranties

**Subdivision 1. Disclaimers.** No express warranty arising out of a consumer sale of new goods shall disclaim implied warranties of merchantability, or, where applicable, of fitness.

**Subd. 2. Honoring of express warranties.** The maker of an express warranty arising out of a consumer sale in this state shall honor the terms of the express warranty. In a consumer sale, the manufacturer shall honor an express warranty made by the manufacturer; the distributor shall honor an express warranty made by the distributor; and the retail seller shall honor an express warranty made by the retail seller.

**Subd. 3. Liability of manufacturer to retailer.** Every manufacturer who makes an express warranty pursuant to a consumer sale, who authorizes a retail seller within this state to perform services or repairs under the terms of the express warranty shall be liable to the retail seller in an amount equal to that which is charged by the retail seller for like service or repairs rendered to retail consumers who are not entitled to warranty protection.

[1973 c 692 s 3]

325.954 Remedies

A violation of sections 325.951 to 325.954 shall be treated as a violation of section 325.79. The remedies provided by sections 325.951 to 325.954 are cumulative and shall not be construed as restricting any remedy that is otherwise available.

[1973 c 692 s 4]

CHAPTER 326. EMPLOYMENTS LICENSED BY STATE

ARCHITECTS, ENGINEERS, SUR- VEYORS	Sec. 326.18	Board, duties, officers, exami- nations, report.	
Sec. 326.02	Registration of architects, en- gineers, and surveyors.	326.19	Certification; qualification of accountant.
326.04	State board of registration for architects, engineers and sur- veyors.	326.22	Fees.
326.05	Qualifications of board members.	MINNESOTA ELECTRICAL ACT	
326.07	Board, meetings of, officers, quorum.	326.241	State board of electricity.
326.08	Fees, disposal of; pay of board members; bonds.	STEAMFITTERS	
	ACCOUNTANTS	326.52	Deposit of fees.
326.17	State board of accountancy.	WATCHMAKERS	
		326.541	Board of examiners in watch- making.

ARCHITECTS, ENGINEERS, SURVEYORS

326.02 Registration of architects, engineers, and surveyors

[For text of subds. 1 to 4, see M.S.1971]

**Subd. 5. Limitation.** The provisions of sections 326.02 to 326.16 shall not apply to the preparation of plans and specifications for the erection, enlargement, or alteration of any building or other structure by any person, for his exclusive occupancy or use, unless such occupancy or use involves the public health or safety or the health or safety of the employees of said person, or of the buildings listed in section 326.03, subdivision 2, nor to any detailed or shop plans required to be furnished by a contractor to a registered engineer or architect, nor to any standardized manufactured product, nor to any construction superintendent supervising the execution of work designed by an architect or engineer registered in accordance with section 326.03, nor to the