

# MINNESOTA STATUTES 1975 SUPPLEMENT

## 32.59 DAIRY PRODUCTS

sue to applicant a certificate of registration.

[1975 c 412 s 24]

### CHAPTER 32A. DAIRY INDUSTRY UNFAIR TRADE PRACTICES

Sec.		Sec.	
32A.03	Definitions.	32A.07	Unfair practices by wholesalers, manufacturers or distributors.
32A.05	Department of agriculture, powers.	32A.09	Redress for injuries.
32A.06	Repealed.		

#### 32A.03 Definitions.

[For text of subd 1, see M.S.1974]

Subd. 2. "Selected dairy products" means "milk" for human consumption in fluid form, "fluid milk products" as defined in section 32.391, "frozen foods" as defined in section 32.55, subdivision 2, cottage cheese, and "mix" and "ice cream mix" as defined in section 32.55, subdivision 4, including ice milk mix.

[1975 c 220 s 1]

[For text of subds 3 to 14, see M.S.1974]

#### 32A.05 Department of agriculture, powers.

[For text of subds 1 and 3, see M.S.1974]

Subd. 4. For the purpose of administering and enforcing the provisions of sections 32A.01 to 32A.09, each first manufacturer subject to sections 32A.01 to 32A.09 shall pay to the commissioner a fee of 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 three-quarters of a cent on each gallon of frozen foods sold in this state or manufactured in this state for sale therein. For ice milk mix the fee shall be one and one-twentieth of a cent on each gallon of mix. For ice cream mix the fee shall be one and seventeen-fortieths of a cent on each gallon of mix. 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, however, that when the amount of the fees so computed does not exceed \$60 annually, these fees shall be paid within 30 days following the end of the calendar year. When fees are under \$240 annually, payment shall be made quarterly within 30 days following the end of the quarter. All fees over \$240 annually shall be paid monthly within 30 days following the end of the month when due. 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.

[1975 c 220 s 2]

#### 32A.06 [Repealed, 1975 c 220 s 5]

# MINNESOTA STATUTES 1975 SUPPLEMENT

## DAIRY INDUSTRY UNFAIR TRADE PRACTICES 32A.09

### 32A.07 Unfair practices by wholesalers, manufacturers or distributors.

To carry out the purpose of sections 32A.01 to 32A.09 and to restore fair, open and free competition for the trade and custom of the retailers of this state purchasing a selected dairy product for resale in this state, no manufacturer, wholesaler or distributor of selected dairy products doing business in this state shall sell or offer to sell to a retailer in this state purchasing any selected dairy product from such manufacturer, wholesaler or distributor any such furniture, trade fixtures or equipment except as follows:

a. No manufacturer, wholesaler or distributor shall sell any kind of furniture, trade fixtures or equipment at less than the cost thereof to such seller. Any sale made by such seller at less than 15 percent above such seller's actual current invoice or replacement cost, less depreciation in the case of used furniture, trade fixtures or equipment computed at the annual rate of 15 percent of the seller's cost, shall be prima facie evidence that such sale was made below such seller's cost. If the full purchase price of any item so sold the retailer is not paid the seller by the retailer within 40 days from the delivery of the item or items comprising such sale, the retailer shall pay within said 40 days not less than 10 percent of the purchase price of the items comprising such sale computed as above specified and shall give the seller a conditional sales contract or a promissory note secured by a chattel mortgage specifically describing each item comprising such sale and the seller, within ten days of the execution thereof, shall file such conditional sales contract or chattel mortgage as required by law for a valid enforceable secured debt. Such conditional sales contract or chattel mortgage shall specify (1) the cash payment made by the retailer to the seller or the value of the trade-in accepted by the seller to apply on the purchase price but such trade-in credit shall not exceed the depreciated value of the item or items representing such trade-in credit as carried on the business records of the purchaser, but if no such records are available then at an annual depreciation rate of 15 percent of the purchaser's cost, and (2) the amount of the unpaid purchase price shall be paid by the retailer in 60 equal monthly installments with the last such installment of principal and interest maturing not later than 60 months from the execution of the conditional sales contract or chattel mortgage given to the seller by the retailer. The rate of interest on such purchases shall be no less than the low rate on "commercial paper sold through dealers: 30 to 270 days" as published on the day the conditional sales contract or chattel mortgage is signed provided that the rates of interest charged for various sales agreements on any given day shall be the same for all retailers. However, in no case shall the rate exceed the rate permitted in Minnesota Statutes 1974, Section 334.01, when applicable.

b. The mechanical, electrical or other servicing of all items of furniture, trade fixtures or equipment sold a retailer by a manufacturer, wholesaler or distributor shall become and remain the sole responsibility of the retailer purchasing the same unless at the time of such sale, the seller and the retailer agree in writing that the seller is to provide such servicing, but such contract shall require the seller to charge the retailer for the servicing of any item the same price as is charged by third persons rendering such service in the area or community where the retailer is located. If any charge for such servicing (including the full cost of all repair and replacement parts) is not paid by the retailer to the seller within 40 days from the performance of the work, such failure shall be a violation of subparagraph (g) of section 32A.04.

[1975 c 220 s 3]

### 32A.09 Redress for injuries.

[For text of subs 1 to 5, see M.S.1974]

Subd. 6. The commissioner may impose a penalty upon any person, whether or not licensed by the department in any of its areas of jurisdiction which in any way involve the handling, processing, distributing, and selling of selected dairy products, if the person is found to be in violation of the provisions of this dairy industry unfair trade practices act.

# MINNESOTA STATUTES 1975 SUPPLEMENT

## 32A.09 DAIRY INDUSTRY UNFAIR TRADE PRACTICES

Whenever the commissioner has reason to believe that the person has violated the act and it appears that a proceeding should be held to determine whether a penalty should be imposed the commissioner shall serve notice on such person in writing by certified mail of the charges and grounds on which a penalty is sought to be imposed and of the time and place, not less than ten days after the mailing of a notice, at which a hearing shall be held to determine whether to impose a penalty. Any person upon whom a penalty is sought to be imposed shall have full right to counsel and to produce witnesses in his behalf at the hearing. After full investigation and hearing the commissioner may upon proof of a first violation impose a penalty of not less than \$50 nor more than \$100 for each act in violation. However, in no event shall the penalty exceed \$1,000. Upon proof of a second violation the commissioner may impose a penalty of not less than \$100 or more than \$500 for each act in violation. However, the maximum penalty imposed shall not exceed \$5,000. Upon proof of a third violation the penalty provisions applicable upon proof of a second violation shall apply.

The commissioner shall by certified mail or by personal service notify the person upon whom a penalty has been imposed, setting forth the reasons for the decision. The imposition of penalty shall become effective 30 days after the mailing or service in person of the notification unless that person complies with the provisions of section 15.0424, providing for a procedure for judicial review of the determination in the district court. In addition to the provisions contained therein, the person may petition to the district court that the review procedure shall be by trial de novo.

Imposition of any penalties under this section shall be construed as civil and not criminal in nature.

Any amounts received by the commissioner as a result of the imposition of penalties under this provision shall be deposited with the state treasurer and shall be placed in the "dairy industry unfair trade practices account."

[1975 c 220 s 4]

## CHAPTER 33. BUTTER SUBSTITUTES

Sec.  
33.095 Repealed.  
33.096 Repealed.

Sec.  
33.111 Identification of oleomargarine served in  
public places.  
33.17 Repealed.

**33.095** [Repealed, 1975 c 222 s 2]

**33.096** [Repealed, 1975 c 222 s 2]

**33.111 Identification of oleomargarine served in public places.**

No person shall serve oleomargarine at a public eating place, whether or not any charge is made therefor, unless each separate serving is covered by a sanitary paper or parchment covering or patty divider upon which is printed, in ten point bold-face capital, plain Gothic letters, the word "margarine".

[1975 c 222 s 1]

**33.17** [Repealed, 1975 c 204 s 106]

## CHAPTER 34. NON-ALCOHOLIC BEVERAGES

Sec.  
34.05 Registration by nonresident manufacturers  
and distributors; exception.

**34.05 Registration by nonresident manufacturers and distributors; exception.**

Subdivision 1. Except as provided in subdivision 2, any person who dis-