

CHAPTER 325E

REGULATION OF TRADE PRACTICES

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FUEL DELIVERY TICKETS

325E.01 DELIVERY TICKETS TO ACCOMPANY EACH FUEL DELIVERY.

No person, firm, or corporation shall deliver any domestic heating fuel without such delivery being accompanied by a delivery ticket, on which shall be distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, the net quantity or quantities of fuel contained in the cart, wagon, vehicle or compartment thereof, bag, sack or container used in such deliveries when sold by weight; or the number of gallons or cubic feet that is being delivered when sold by measure, with the name of the purchaser thereof and the name of the dealer from whom purchased. The delivery ticket shall also clearly state the name, type, kind and grade of fuel being delivered. When the buyer carries away the purchase, a delivery ticket showing the actual amount delivered to the purchaser must be given to the purchaser at the time the sale is made.

Sales of wood for fuel direct from producer to consumer shall be exempt from the provisions of this section. This section shall not apply to deliveries in quantities of ten gallons or less.

Whoever violates any provision of this section is guilty of a misdemeanor.

History: 1943 c 328

UTILITIES; CUSTOMER DEPOSITS

325E.02 REGULATIONS.

Any customer deposit required before commencement of service by a privately or publicly owned water, gas, telephone, cable television, electric light, heat, or power company shall be subject to the following:

(a) Upon termination of service with all bills paid, the deposit shall be returned to the customer within 45 days, less any deductions made in accordance with paragraph (c).

(b) Interest shall be paid on deposits in excess of \$20 at the rate of six percent per year. The company may, at its option, pay the interest at intervals it chooses but at least annually, by direct payment, or as a credit on bills.

(c) At the time the deposit is made the company shall furnish the customer with a written receipt specifying the conditions, if any, the deposit will be diminished upon return.

(d) Advance payments or pre-payments shall not be construed as being a deposit.

History: 1974 c 424 s 1

METAL BEVERAGE CONTAINERS

325E.03 SALE OF BEVERAGE CONTAINERS HAVING DETACHABLE PARTS; PENALTY.

Subdivision 1. No person shall sell or offer for sale in this state a carbonated soft drink, beer, other malt beverage, or tea in liquid form and intended for human consumption contained in an individual sealed metal container designed and constructed so that a part of the container is detached in the process of opening the container.

Subd. 2. A violation of subdivision 1 is a misdemeanor and each day of violation is a separate offense.

History: 1975 c 308 s 1,2; 1977 c 226 s 1

SAMPLES; DISTRIBUTION IN PLASTIC BAGS

325E.04 FREE SAMPLES; DISTRIBUTION; PENALTY.

Subdivision 1. It shall be unlawful to cause to be delivered indiscriminately door to door to residences, other than through the United States mail, any advertising, sample of merchandise, or promotional material which is contained in a plastic film outer bag any dimension of which exceeds seven inches and which contains less than one hole, one-half inch in diameter, for each 25 square inch area, or any samples of drugs, medicines, razor blades, or aerosol cans regardless of how packaged. This subdivision shall not apply to plastic bags with an average thickness of more than .0015 of an inch.

Subd. 2. Any person who is found to have violated this section shall be guilty of a misdemeanor.

History: 1971 c 832 s 1,2; 1974 c 85 s 1

AGRICULTURAL IMPLEMENT DEALERSHIPS

325E.05 AGRICULTURAL IMPLEMENT DEALERSHIPS; RETURN OF STOCK.

If a franchised agricultural machinery or implement dealership is discontinued for economic reasons, the firm, company, or person issuing the franchise to the dealer shall purchase all listed parts in the dealer's stock purchased originally from firm, company, or person issuing franchise at a price agreeable to the franchised dealer and such firm, company, or person.

History: 1959 c 398 s 1

325E.06 REPURCHASE OF FARM MACHINERY, IMPLEMENTS, ATTACHMENTS AND PARTS UPON TERMINATION OF CONTRACT.

Subdivision 1. **Obligation to repurchase.** Whenever any person, firm, or corporation engaged in the business of selling and retailing farm implements and repair parts for farm implements enters into a written contract, sales agreement or security agreement whereby the retailer agrees with any wholesaler, manufacturer, or distributor of farm implements, machinery, attachments or repair parts

to maintain a stock of parts or complete or whole machines, or attachments, and thereafter the written contract, sales agreement or security agreement is terminated, cancelled or discontinued, then the wholesaler, manufacturer, or distributor shall pay to the retailer or credit to the retailer's account, if the retailer has outstanding any sums owing the wholesaler, manufacturer, or distributor, unless the retailer should desire and has a contractual right to keep such merchandise, a sum equal to 100 percent of the net cost of all current unused complete farm implements, machinery and attachments in new condition which have been purchased by the retailer from the wholesaler, manufacturer or distributor within the 24 months immediately preceding notification by either party of intent to cancel or discontinue the contract, including transportation charges which have been paid by the retailer, or invoiced to retailer's account by the wholesaler, manufacturer or distributor and 80 percent of the current net prices on repair parts, including superseded parts listed in current price lists or catalogs in use by the wholesaler, manufacturer or distributor on the date of cancellation or discontinuance of the contract, which parts had previously been purchased by the retailer from the wholesaler, manufacturer, or distributor and are held by the retailer on the date of the cancellation or discontinuance of the contract or thereafter received by the retailer from the wholesaler, manufacturer or distributor. The wholesaler, manufacturer, or distributor shall also pay the retailer or credit to his account a sum equal to five percent of the current net price of all parts returned for the handling, packing, and loading of the parts back to the wholesaler, manufacturer, or distributor unless the wholesaler, manufacturer or distributor elects to perform inventorying, packing and loading of the parts itself. Upon the payment or allowance of credit to the retailer's account of the sum required by this subdivision, the title to the farm implements, farm machinery, attachments or repair parts shall pass to the manufacturer, wholesaler or distributor making the payment or allowing the credit and the manufacturer, wholesaler or distributor shall be entitled to the possession of the farm implements, machinery, attachments or repair parts. However, this section shall not in any way affect any security interest which the wholesaler, manufacturer or distributor may have in the inventory of the retailer.

Subd. 2. Provisions of contract supplemented. The provisions of this section shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor covering the return of farm implements, machinery, attachments and repair parts. The retailer can elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to the remedy provided herein as to those farm implements, machinery, attachments and repair parts not affected by the contract remedy. Notwithstanding anything contained herein, the rights of a manufacturer, wholesaler or distributor to charge back to the retailer's account amounts previously paid or credited as a discount incident to the retailer's purchase of goods shall not be affected. Further, any repurchase hereunder shall not be subject to the provisions of the bulk sales law.

Subd. 3. Death of dealer; repurchase from heirs. In the event of the death of the retail dealer or majority stockholder in a corporation operating a retail dealership in the business of selling and retailing farm implements, machinery, attachments or repair parts therefor, the manufacturer, wholesaler or distributor shall, unless the heir or heirs of the deceased agree to continue to operate the dealership, repurchase the merchandise from the heir or heirs upon the same terms and conditions as are otherwise provided in this section. In the event the heir or heirs do not agree to continue to operate the retail dealership, it shall be deemed a cancellation or discontinuance of the contract by the retailer under the provisions of subdivision 1.

Subd. 4. **Failure to pay sums specified on cancellation of contracts; liability.** In the event that any manufacturer, wholesaler, or distributor of farm implements, machinery, attachments and repair parts, upon the cancellation of a contract by either a retailer or such manufacturer, wholesaler or distributor, fails or refuses to make payment to the dealer or his heir or heirs as required by this section, the manufacturer, wholesaler or distributor shall be liable in a civil action to be brought by the retailer or his heir or heirs for (a) 100 percent of the net cost of the farm implements, machinery and attachments, (b) transportation charges which have been paid by the retailer, (c) 80 percent of the current net price of repair parts, and (d) five percent for handling, packing and loading, if applicable.

Subd. 5. **Exceptions.** This section shall not require the repurchase from a retailer of a repair part where the retailer previously has failed to return the repair part to the wholesaler, manufacturer or distributor after being offered a reasonable opportunity to return the repair part at a price not less than 80 percent of the net price of the repair part as listed in the then current price list or catalog. This section shall not require the repurchase from a retailer of repair parts which have a limited storage life or are otherwise subject to deterioration, such as rubber items, gaskets and batteries; repair parts in broken or damaged packages; single repair parts priced as a set of two or more items; and repair parts which because of their condition are not resalable as new parts without new packaging or reconditioning.

Subd. 6. **Definition.** For the purposes of this section "farm implements" mean every vehicle designed or adapted and used exclusively for agricultural operations and only incidentally operated or used upon the highways.

History: 1974 c 158 s 1 subds 1-6

CIGARETTE VENDING MACHINES

325E.07 CIGARETTE VENDING MACHINES, NOTICE RELATING TO SALES.

Subdivision 1. In a conspicuous place on each cigarette vending machine in use within the state, there shall be posted, and kept in easily legible form and repair, by the owner, lessee, or person having control thereof, a warning to persons under 18 years of age which shall be printed in bold type letters each of which shall be at least one-half inch high and which shall read as follows:

"Any Person Under 18 Years of Age Is Forbidden By Law To Purchase Cigarettes From This Machine".

Subd. 2. Any owner, any lessee, and any person having control of any cigarette vending machine which does not bear the warning required by this section shall be guilty of a misdemeanor.

History: 1963 c 545 s 1

GASOLINE STATIONS; HANDICAPPED SERVICE

325E.08 SERVICE FOR HANDICAPPED AT GASOLINE STATIONS.

All gasoline service stations which offer both full service and self-service gasoline dispensing operations shall provide an attendant to dispense gasoline at the self-service price into vehicles bearing handicapped plates or a handicapped parking certificate issued pursuant to section 168.021.

History: 1979 c 160 s 1

**MOTOR FUEL; SALE PRICE
AND OCTANE DISPLAY**

325E.09 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.

Subd. 2. For the purposes of this section:

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, or public or private corporation;

"Motor fuel" means liquefied petroleum gas or any other volatile and inflammable liquid or substance produced, blended or compounded for, or suitable and practicable for, operating internal combustion engines furnishing power to operate a motor vehicle.

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.

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.

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.

Subd. 5. It shall be the duty of the county attorney to receive complaints of violations of this section and to prosecute the complaints if on the basis of the facts so reported and of any additional investigation he may initiate, he shall be satisfied that a violation of this section has been committed.

Subd. 6. Any person who violates any provision of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not to exceed \$50 or imprisoned for a term of 15 days.

Subd. 7. The invalidity of any provision or application of this section shall not affect the remaining provisions or other applications of this section, but the same shall continue in full force and effect.

Subd. 8. Except as provided in Laws 1963, Chapter 748, Section 8 nothing in this section shall be construed as repealing any other law or part thereof, but the remedies herein provided shall be cumulative to all other remedies provided by law.

History: 1963 c 748 s 1-7,9; 1973 c 687 s 1-4

MOTOR OIL COLLECTION; RECYCLING

325E.10 DEFINITIONS.

Subdivision 1. For the purposes of sections 325E.11 and this section, the terms defined in this section have the meanings given them.

Subd. 2. "Motor oil" means petroleum based oil used as a lubricant in a motor vehicle as defined in section 168.011, subdivision 4.

Subd. 3. "Used motor oil" means motor oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

Subd. 4. "Person" means any individual, corporation, partnership, cooperative, association, firm, sole proprietorship, or other entity.

History: 1977 c 68 s 1

325E.11 COLLECTION FACILITIES; NOTICE.

Any person selling at retail or offering motor oil for retail sale in this state shall:

(a) Post a notice indicating the nearest location, or a location within ten miles of the point of sale, where used motor oil may be returned for recycling or reuse; or

(b) Provide a collection tank at the point of sale for the deposit and collection of used motor oil.

The notice of recycling location shall be posted on or adjacent to the motor oil display itself and shall be at least 8-1/2 inches by 11 inches in size. If a collection tank is available on the premises a sign of similar size shall be placed on or adjacent to the motor oil display informing the public that a collection tank is available, unless prohibited by local ordinance.

History: 1977 c 68 s 2

325E.12 PENALTY.

Any person violating sections 325E.10 to 325E.12 shall be guilty of a petty misdemeanor.

History: 1977 c 68 s 3

ODOMETERS**325E.13 TAMPERING WITH ODOMETERS; DEFINITIONS.**

Subdivision 1. For the purposes of sections 325E.13 to 325E.16, 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.

History: 1973 c 264 s 1

325E.14 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 325E.15.

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.

History: 1973 c 264 s 2

325E.15 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 sections 325E.13 to 325E.16 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.

History: 1973 c 264 s 3

325E.16 PENALTIES; REMEDIES.

Subdivision 1. Any person who is found to have violated sections 325E.13 to 325E.16 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 325E.13 to 325E.16 shall be subject to the penalties provided in section 8.31.

Subd. 3. Any person injured by a violation of sections 325E.13 to 325E.16 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.

History: 1973 c 264 s 4

RECORDED MATERIAL; UNLAWFUL SALE OF SOUNDS

325E.17 UNLAWFUL TRANSFER OF SOUNDS; SALES.

Unless exempt under section 325E.19, 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.

History: 1973 c 579 s 1

325E.18 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.

History: 1973 c 579 s 2

325E.19 EXEMPTIONS.

Sections 325E.17 to 325E.20 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) solely for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.

History: 1973 c 579 s 3

325E.20 VIOLATIONS; PUNISHMENT.

Violation of sections 325E.17 to 325E.20 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.

History: 1973 c 579 s 4

**WIRE AND CABLE;
PURCHASE AND SALE**

325E.21 DEALERS IN WIRE AND CABLE; RECORDS AND REPORTS.

Subdivision 1. Every person, firm or corporation, including an agent, employee or representative thereof, engaging in the business of buying and selling wire and cable commonly and customarily used by communication and electric utilities shall keep a record, in the English language, legibly written in ink or typewriting, at the time of each purchase or acquisition, an accurate account or description, including the weight if customarily purchased by weight, of such wire and cable commonly and customarily used by communication and electric utilities purchased or acquired, the date, time and place of the receipt of the same, the name and address of the person selling or delivering the same and the number of the driver's license of such person. Such record, as well as such wire and cable commonly and customarily used by communication and electric utilities purchased or received, shall at all reasonable times be open to the inspection of any sheriff or deputy sheriff of the county, or of any policeman or constable in any incorporated city or statutory city, in which such business may be carried on. Such person shall not be required to furnish or keep such record of any property purchased from merchants, manufacturers or wholesale dealers, having an established place of business, or of any goods purchased at open sale from any bankrupt stock, but a bill of sale or other evidence of open or legitimate purchase of such property shall be obtained and kept by such person which must be shown upon demand to the sheriff or deputy sheriff of the county, or to any policeman or constable in any incorporated city or statutory city, in which such business may be carried on. The provisions of this subdivision and of subdivision 2 shall not apply to or include any person, firm or corporation engaged exclusively in the business of buying or selling motor vehicles, new or used, paper or wood products, rags or furniture, secondhand machinery.

Subd. 2. It shall be the duty of every such person, firm or corporation defined in subdivision 1 hereof, to make out and to deliver or mail to the office of the sheriff of the county in which business is conducted, not later than the second business day of each week, a legible and correct copy of the record required in subdivision 1 of the entries during the preceding week. In the event such person, firm or corporation has not made any purchases or acquisitions required to be recorded under subdivision 1 hereof during the preceding week no report need be submitted to the sheriff under this subdivision.

Subd. 3. Records required to be maintained by subdivision 1 hereof shall be retained by the person making them for a period of three years.

History: 1907 c 228 s 1; 1957 c 960 s 1; 1973 c 123 art 5 s 7 (10225)

325E.22 PENALTY.

Any person violating the provisions of section 325E.21 shall be guilty of a gross misdemeanor.

History: 1907 c 228 s 2 (10226)

**OUTDOOR ADVERTISING;
DISCRIMINATION****325E.23 DEFINITIONS.**

Subdivision 1. For the purposes of sections 325E.23 to 325E.25 the terms defined in this section have the meanings given them.

Subd. 2. "Advertising device" means any billboard, sign, notice, poster, display emblem or similar item located out of doors which is intended to be viewed by the public from a highway or street and includes any structure used for the display of any such outdoor advertising device.

Subd. 3. "Business of outdoor advertising" means the business conducted for direct profit through rentals, or other compensation received from the erection or maintenance of advertising devices.

Subd. 4. "Person" means an individual, partnership, firm, association, or corporation.

History: 1965 c 531 s 1

325E.24 FURNISHING OF SPACE; EXCEPTIONS.

Subdivision 1. It is unlawful for any person engaged in the business of outdoor advertising to directly or indirectly discriminate on the basis of race, color, creed or political affiliation in the furnishing of advertising or advertising service or space for advertisements on advertising devices. This shall not be construed as making mandatory the assignment of space immediately adjacent to previously leased space for the promotion of conflicting services or ideas.

Subd. 2. The person engaged in the business of outdoor advertising does not have to accept a request for advertising space from any person not willing to pay the prescribed rates or charges and the advertising of any material prohibited by law.

History: 1965 c 531 s 2

325E.25 VIOLATIONS.

Any person violating the provisions of sections 325E.23 to 325E.25 is guilty of a misdemeanor.

History: 1965 c 531 s 3