

CHAPTER 325D

RESTRAINT OF TRADE

325D.32 Definitions.
325D.37 Transactions permitted to meet lawful competition.

325D.415 Cigarette distributor fees.
325D.56 Penalties for violation.

325D.32 DEFINITIONS.

[For text of subds 1 to 9, see M.S.1988]

Subd. 10. (a) "Cost to wholesaler" means the basic cost of the cigarettes, prior to deducting manufacturer's timely payment and stamping discounts and any other discounts or rebates, plus the cost of doing business by the wholesaler, as defined in sections 325D.30 to 325D.42.

(b) The cost of doing business by the wholesaler is presumed to be four percent of the basic cost of the cigarettes, plus cartage to the retail outlet, if furnished or paid for by the wholesaler, in the absence of proof of a lesser or higher cost. Such cartage cost is presumed to be one-half of one percent of the basic cost of the cigarettes in the absence of proof of a lesser or higher cost.

(c) A wholesaler electing to sell cigarettes at a price other than that presumed by law must submit to the commissioner documentation substantiating the actual cost of the cigarettes before selling at actual cost. For purposes of this paragraph "actual cost" means basic cost as defined in subdivision 9 plus the wholesaler's cost of doing business. The commissioner shall review the documents submitted and, if necessary, request additional documentation to verify the accuracy of the cost computations. If, within 15 days of submission of the documentation, the commissioner has not notified the wholesaler of any deficiencies in the cost computations, the wholesaler may begin selling at actual cost. The cost computations are effective for a period of not more than 12 months beginning 15 days after submission of the documentation. Fifteen days before expiration of the 12-month period, the wholesaler must submit new cost documentation for review by the commissioner to continue selling at less than the price presumed by law. New cost documentation must also be submitted to the commissioner on the last day of a month in which the basic cost of cigarettes increases.

[For text of subd 11, see M.S.1988]

History: 1989 c 277 art 1 s 27

325D.37 TRANSACTIONS PERMITTED TO MEET LAWFUL COMPETITION.

[For text of subds 1 and 2, see M.S.1988]

Subd. 3. Before selling cigarettes at a price set in good faith to meet competition, a wholesaler shall contact the commissioner to verify that a competitor has met the requirements of section 325D.32, subdivision 10, or that a competitor has contacted the commissioner under this subdivision in response to a wholesaler who has met the requirements of section 325D.32, subdivision 10.

History: 1989 c 277 art 1 s 28

325D.415 CIGARETTE DISTRIBUTOR FEES.

A cigarette distributor as defined in section 297.01, subdivision 7, shall pay to the commissioner an annual fee as follows:

(1) a fee of \$2,500 is due from those distributors whose annual cigarette tax collections exceed \$2,000,000; and

(2) a fee of \$1,200 is due from those distributors whose annual cigarette tax collections are \$2,000,000 or less.

The annual fee must be paid by December 31 of each year. If the fee is not paid when due, the commissioner shall revoke or refuse to issue or renew the license under chapter 297. The annual fee must be deposited into the general fund.

History: 1989 c 277 art 1 s 29

325D.56 PENALTIES FOR VIOLATION.

[For text of subd 1, see M.S.1988]

Subd. 2. Any person who is found to have willfully committed any of the acts enumerated in section 325D.53 shall be guilty of a felony and subject to a fine of not more than \$50,000 or imprisonment in the state penitentiary for not more than seven years, or both.

History: 1989 c 290 art 6 s 4