

CHAPTER 325E

REGULATION OF TRADE PRACTICES

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325E.045 Subdivision 1. [Repealed, 1991 c 337 s 90]

Subd. 2. [Repealed, 1991 c 337 s 90]

Subd. 3. [Repealed, 1990 c 597 s 73; 1990 c 604 art 10 s 32; 1991 c 337 s 90]

Subd. 4. [Repealed, 1990 c 597 s 73; 1990 c 604 art 10 s 32; 1991 c 337 s 90]

325E.068 DEFINITIONS.*[For text of subd 1, see M.S.1992]*

Subd. 2. **Heavy and utility equipment.** "Heavy and utility equipment," "heavy equipment," or "equipment" means equipment and parts for equipment including but not limited to:

(1) excavators, crawler tractors, wheel loaders, compactors, pavers, backhoes, hydraulic hammers, cranes, fork lifts, compressors, generators, attachments and repair parts for them, and other equipment, including attachments and repair parts, used in all types of construction of buildings, highways, airports, dams, or other earthen structures or in moving, stock piling, or distribution of materials used in such construction; or

(2) trucks and truck parts.

[For text of subds 3 to 5, see M.S.1992]

Subd. 6. **Truck.** "Truck" means a motor vehicle designed and used for carrying things other than passengers, a truck tractor as defined in section 168.011, subdivision 12, and a semitrailer as defined in section 168.011, subdivision 14. "Truck" does not include a pickup truck or van with a manufacturer's nominal rated carrying capacity of three-fourths ton or less.

Subd. 7. **Truck parts.** "Truck parts" means all integral and body parts of a truck, the removal, alteration, or substitution of which would substantially alter its appearance, model, type, or mode of operation.

History: 1993 c 199 s 1-3

325E.0681 TERMINATIONS OR CANCELLATIONS.*[For text of subds 1 to 8, see M.S.1992]*

Subd. 9. **Provisions of contract supplemented.** This section is supplemental to an agreement between the dealer and the manufacturer covering the return of heavy and utility equipment. The dealer may elect to pursue either the dealer's contract remedy or the remedy provided in this section. An election by the dealer to pursue the contract remedy does not bar the dealer's right to the remedy provided in this section as to the heavy and utility equipment not affected by the contract remedy. Notwithstanding anything contained in this section, the rights of a manufacturer to charge back to the dealer's account amounts previously paid or credited as a discount incident to the dealer's purchase of goods is not affected.

[For text of subds 10 to 12, see M.S.1992]

History: 1993 c 13 art 2 s 10

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325E.1151 LEAD ACID BATTERY PURCHASE AND RETURN.

Subdivision 1. **Purchasers must return battery or pay \$5.** (a) A person who purchases a lead acid battery at retail, except a lead acid battery that is designed to provide power for a boat motor that is purchased at the same time as the battery, must:

- (1) return a lead acid battery to the retailer; or
- (2) pay the retailer a \$5 surcharge.

(b) A person who has paid a \$5 surcharge under paragraph (a) must receive a \$5 refund from the retailer if the person returns a lead acid battery with a receipt for the purchase of a new battery from that retailer within 30 days after purchasing a new lead acid battery.

(c) A retailer may keep the unrefunded surcharges for lead acid batteries not returned within 30 days.

[For text of subds 2 to 4, see M.S.1992]

History: 1993 c 249 s 32

325E.12 PENALTY.

Violation of sections 325E.10 to 325E.1151 is a petty misdemeanor. Sections 325E.10 to 325E.1151 may be enforced under section 115.071.

History: 1993 c 249 s 33

325E.125 GENERAL AND SPECIAL PURPOSE BATTERY REQUIREMENTS.

Subdivision 1. **Labeling.** (a) The manufacturer of a button cell battery that is to be sold in this state shall ensure that each battery contains no intentionally introduced mercury or is labeled to clearly identify for the final consumer of the battery the type of electrode used in the battery.

(b) The manufacturer of a rechargeable battery that is to be sold in this state shall ensure that each rechargeable battery is labeled to clearly identify for the final consumer of the battery the type of electrode and the name of the manufacturer. The manufacturer of a rechargeable battery shall also provide clear instructions for properly recharging the battery.

[For text of subds 2 to 5, see M.S.1992]

History: 1993 c 249 s 34

NOTE: The amendment to subdivision 1 by Laws 1993, chapter 249, section 34, is effective January 1, 1997. See Laws 1993, chapter 249, section 62.

325E.1251 PENALTY ENFORCEMENT.

Subdivision 1. **Penalty.** Violation of section 325E.125 is a misdemeanor. A manufacturer who violates section 325E.125 is also subject to a minimum fine of \$100 per violation.

Subd. 2. **Recovery of costs.** Section 325E.125 may be enforced under section 115.071. In an enforcement action under this section in which the state prevails, the state may recover reasonable administrative expenses, court costs, and attorney fees incurred to take the enforcement action, in an amount to be determined by the court.

History: 1993 c 249 s 35

325E.169 DEFINITIONS.

Subdivision 1. **Scope.** For the purpose of sections 325E.169 to 325E.201, the terms defined in this section have the meanings given them.

Subd. 2. **Person.** "Person" means an individual, firm, partnership, limited liability company, corporation, or association.

Subd. 3. **Owner.** "Owner" means the person who owns the sounds or images fixed in a master recording upon which sounds or images are recorded and from which the transferred recorded sounds or images are directly or indirectly derived.

Subd. 4. **Recording.** "Recording" means the tangible medium on which sounds or images are recorded or otherwise stored and includes a phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds or images may be recorded or stored.

History: 1993 c 221 s 1

325E.17 UNLAWFUL TRANSFERS OR SALES OF RECORDINGS.

Unless exempt under section 325E.19, it is unlawful for any person knowingly:

(1) to transfer or cause to be transferred any sounds or images from one recording to another recording; or

(2) to 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 recording without the consent of the owner of the master recording.

History: 1993 c 221 s 2

325E.18 IDENTITY OF TRANSFEROR.

It is unlawful for any person for commercial purposes to sell, distribute, circulate, offer for sale, distribution or circulation, or possess for the purpose of sale, distribution or circulation, any recording unless the recording bears the actual name and address of the transferor of the sounds or images in a prominent place on its outside face, label, or package.

History: 1993 c 221 s 3

325E.19 EXEMPTIONS.

Sections 325E.169 to 325E.201 do not apply to any person who transfers or causes to be transferred any recordings (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: 1993 c 221 s 4

325E.20 [Repealed, 1993 c 221 s 7]

325E.201 VIOLATIONS; PUNISHMENT.

A violation of section 325E.17 or 325E.18 is a felony and is punishable upon conviction by:

(1) a fine of not more than \$100,000, or imprisonment for not more than two years, or both, if the violation is a first offense involving more than 100 but not more than 1,000 sound recordings or more than seven but not more than 65 audio-visual recordings;

(2) a fine of not more than \$250,000, or imprisonment for not more than five years, or both, if the violation is a second or subsequent offense, or involves more than 1,000 sound recordings or more than 65 audio-visual recordings; or

(3) a fine of not more than \$25,000, or imprisonment for not more than a year and a day, or both, for any other violation.

History: 1993 c 221 s 5

325E.395 FACSIMILE TRANSMISSION OF UNSOLICITED ADVERTISING MATERIALS.

Subdivision 1. **Telephone number and address required; notice.** (a) A person conducting business in this state may not make or cause to be made a facsimile transmis-

sion of documents consisting of unsolicited advertising material for the lease, sale, rental, gift offer, or other disposition of property or services unless the person establishes a toll-free telephone number that a recipient of the unsolicited documents may call to notify the sender not to transmit to the recipient unsolicited documents.

(b) Unsolicited facsimile transmissions subject to this section must include a statement, in at least 9-point type, informing the recipient of the toll-free telephone number the recipient may call, and an address the recipient may write to, to notify the sender not to transmit to the recipient unsolicited documents to the facsimile number specified by the recipient.

(c) Upon receiving a request not to transmit unsolicited documents, no person or entity conducting business in this state may make or cause to be made any unsolicited facsimile transmissions of documents to the person making the request.

Subd. 2. **Exception.** This section does not apply to the transmission of documents by a telecommunications service provider to the extent that the telecommunications service provider merely provides transmission facilities.

Subd. 3. **Remedies and penalties.** A person who is found to have violated this section is subject to the penalties and remedies, including a private right of action, as provided in section 8.31.

History: 1993 c 197 s 1