325D.37 TRANSACTIONS PERMITTED TO MEET LAWFUL COMPETITION.

Subdivision 1. **Authorization.** Any wholesaler may advertise, offer to sell or sell cigarettes at a price made in good faith to meet the price of a competitor who is selling the same article at the cost to the competing wholesaler as defined by sections 325D.30 to 325D.42. Any retailer may offer to sell or sell cigarettes at a price made in good faith to meet the price of a competitor who is selling at the cost to the said competing retailer as defined in sections 325D.30 to 325D.42. The price of cigarettes offered for sale, or sold under the exceptions specified in section 325D.36 shall not be considered the price of a competitor and shall not be used as a basis for establishing prices below cost, nor shall the price established at a bankrupt or forced sale be considered the price of a competitor within the purview of this section.

Subd. 2. **Competitor's cost.** In the absence of proof of the actual cost to a competing wholesaler or to a competing retailer, as the case may be, such cost shall be the lowest cost to wholesalers or the lowest cost to retailers, as the case may be, within the same trading area as determined by a cost survey made pursuant to section 325D.38, subdivision 2.

Subd. 3. **Notification to commissioner.** Before selling cigarettes at a price set in good faith to meet competition, a wholesaler shall notify the commissioner in writing that it intends to meet a competitor's legal price. A wholesaler filing the notice shall be allowed to meet the competitor's price unless within seven days of receipt of the notice, the commissioner informs the wholesaler that the competitor's price is an illegal price.

History: *1967 c 600 s 8; 1989 c 277 art 1 s 28; 1993 c 375 art 17 s 14*