

Trade Regulations

CHAPTER 325

MANUFACTURES AND SALES

Sec.	Definitions	Sec.	Definitions
325.01	Definitions	325.27	Material must be renovated
325.02	Application	325.28	Devices must be approved
325.03	Discrimination unlawful	325.29	Subject to inspection
325.04	Selling below cost forbidden	325.30	Sales forbidden; exceptions
325.05	Bankrupt sales not to be considered in fixing costs	325.31	Shoddy material to be labeled
325.06	Closing out sales	325.32	Bedding to be labeled
325.07	Remedies cumulative	325.33	Feathers to be renovated
325.08	Certain contracts not to be in violation of law	325.34	Manufacture and sale of cotton duck or canvas; stamps, brands, and marks
325.09	Violations	325.35	Certain sales unlawful; misstatements forbidden
325.10	Minimum prices, by whom fixed	325.36	Concealing or misstating size unlawful
325.11	Limitations	325.37	Unlawful to deface mark
325.12	Unfair competition	325.38	Sale of fireworks forbidden; exceptions
325.13	Exceptions	325.39	Licenses granted
325.141	Unlawful trade practices	325.40	Application; fee
325.142	Definitions	325.41	Imitation Indian-made goods to be branded
325.143	Certain unlawful trade practices	325.42	Brand
325.144	Retailers not to misrepresent nature of business	325.43	Goods not to be sold without brand
325.145	Quality misrepresented	325.44	Prison-made goods are subject to laws of state
325.146	Employer not to dispose of other than own products	325.45	Prison-made goods must be marked
325.147	Violation of sections 325.141 to 325.148; restraining order	325.46	"Prison Made" to be placed on prison-made goods
325.148	Application of sections 325.141 to 325.148	325.47	Sale of unmarked goods forbidden
325.149	Delivery tickets to accompany each fuel delivery	325.48	Violations; penalties
325.15	Motor vehicles, manufacturer forbidden to finance sales	325.49	Injunctive relief
325.16	Certain threats, statements, or promises to be prima facie evidence	325.50	Contracts or agreements in violation void
325.17	When presumption may be prima facie evidence	325.51	Damages recoverable
325.18	Unlawful for manufacturer to give subsidies	325.52	Certain sales as prima facie evidence; when injunctive relief forbidden
325.19	Unlawful to receive subsidies	325.53	Definitions
325.20	Persons receiving subsidies forbidden to engage in finance of sales	325.54	Gambling device; possession of
325.21	Proceedings instituted	325.55	Issuing authority to revoke
325.22	Foreign corporations may be prohibited from doing business in the state	325.56	Peace officers to observe and inspect premises
325.23	Provisions cumulative	325.57	Proceedings before issuing authority; order to show cause
325.25	Use of second-hand material forbidden in certain cases	325.58	Revocation of license
325.26	Sale of bedding	325.59	Duties of county attorney
		325.60	Witnesses
		325.61	Property owners liability
		325.62	Appeal to district court; stay; continuance under bond; hearing upon one year limitation on premises

325.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases defined in subdivisions 2 to 7, for the purposes of sections 325.02 to 325.07, shall be given the meanings subjoined to them; the words, terms, and phrases defined in subdivisions 8 to 12, for the purposes of sections 325.08 to 325.14, shall be given the meanings subjoined to them; the words, terms, and phrases defined in subdivisions 13 and 14, for the purposes of sections 325.15 to 325.24, shall be given the meanings subjoined to them; the words, terms, and phrases defined in subdivisions 15 to 19, for the purposes of sections 325.25 to 325.33, shall be given the meanings subjoined to them; and the words, terms, and phrases defined in subdivisions 20 to 22, for the purposes of sections 325.34 to 325.37, shall be given the meanings subjoined to them.

Subd. 2. **Retailer.** The term "retailer" means any person, partnership, firm, corporation, or association, foreign or domestic, selling any commodity, article, goods, wares, or merchandise to the consumer and not for the purpose of re-sale in any form.

Subd. 3. **Wholesaler.** The term "wholesaler" means any person, firm, or corporation, partnership, association, business trust, or any unincorporated organiza-

MINNESOTA STATUTES 1953

2717

MANUFACTURES AND SALES 325.01

tion, selling or supplying any commodity, article, goods, wares, or merchandise to retailers, industrial buyers, restaurants, institutions, or the selling on the part of one wholesaler to another wholesaler.

Subd. 4. Manufacturers or producers. Creameries, canneries, and other processors of agricultural products are defined to be manufacturers or producers and are not included within the meaning of the term "wholesaler."

Subd. 5. Cost. The term "cost," as applied to the wholesale or retail vendor, means:

(1) The actual current delivered invoice or replacement cost, whichever is lower, not including customary cash discounts, plus the cost of doing business at that location by the vendor;

(2) Where a manufacturer publishes a list price and discounts, in determining such "cost" the manufacturer's published list price and discounts then currently in effect plus the cost of doing business by the vendor shall be prima facie evidence of "cost."

Subd. 6. Customary cash discounts. The term "customary cash discounts" means any allowance, not exceeding two per cent, whether a part of a larger discount or not, made to the wholesale or retail vendor, where the wholesale or retail vendor pays for merchandise within a limited or specified time.

Subd. 7. Cost of doing business or overhead expense. The "cost of doing business" or "overhead expense" is defined as all current costs of doing business incurred in the conduct of such business and must include, without limitation, the following items of expense: Labor, including salaries and bonuses of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising, and other fixed and incidental expenses.

The "cost of doing business" including, without limitation, these items of expenses incurred in the conduct of such business during the calendar year or the 12 months immediately preceding any alleged violation of sections 325.02 to 325.07; or, in the event any retailer or wholesaler shall have been engaged in business within the state for a shorter period of time, then such cost for such period of time immediately preceding any alleged violation thereof shall be prima facie evidence of "cost."

Subd. 8. Commodity. "Commodity" means any subject of commerce.

Subd. 9. Producer. "Producer" means any grower, baker, maker, manufacturer, bottler, packer, converter, processor, or publisher.

Subd. 10. Wholesaler. "Wholesaler" means any person selling a commodity other than a producer or retailer.

Subd. 11. Retailer. "Retailer" means any person selling a commodity to consumers for use.

Subd. 12. Person. "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a business trust, or an unincorporated organization.

Subd. 13. Person. "Person" means any individual, firm, corporation, partnership, association, trustee, receiver, or assignee for the benefit of creditors.

Subd. 14. Sell, sold, buy, and purchase. "Sell," "sold," "buy," and "purchase" include exchange, barter, gift, and offer of contract to sell or buy.

Subd. 15. Bedding. "Bedding" means any mattress, upholstered spring, comforter, pad, cushion, or pillow designed and made for use in sleeping or reclining purposes.

Subd. 16. Person. "Person" includes individuals, corporations, partnerships, joint stock companies, or other business associations who are manufacturers or dealers in bedding.

Subd. 17. New. "New" means any material or article that has not previously been used in the manufacture of bedding articles, or for any other purpose.

Subd. 18. Second-hand. The term "second-hand" means any material or article that has been previously used in the manufacture of bedding or for any other purpose.

Subd. 19. Shoddy. "Shoddy" means any material that has been spun into yarn, knit or woven into fabric and subsequently cut up, broken up, or ground up.

Subd. 20. Cotton duck or canvas. "Cotton duck" or "canvas" includes all cotton duck or canvas, whether single filling, double filling, army roll, or wide duck.

MINNESOTA STATUTES 1953

325.02 MANUFACTURES AND SALES

2718

Subd. 21. **Yard.** The equivalent of 36 inches in length by 29 inches in width, or seven and one-fourth square feet, of cotton duck or canvas shall constitute a yard.

Subd. 22. **Ounce.** An "ounce" shall be one-sixteenth of a pound avoirdupois.

[1913 c. 167 ss. 1, 2; 1929 c. 358 s. 1; 1937 c. 116 ss. 2, 3; 1937 c. 117 s. 1; 1937 c. 412 s. 13; 1937 c. 456 s. 1; 1939 c. 403 s. 2; 1941 c. 326 s. 2] (3966, 3967, 3976-1, 3976-42, 3976-51, 3976-83)

325.02 APPLICATION. Section 325.03 shall apply only to the manufacture, production, or distribution of any commodity, article, goods, wares, or merchandise in general use or consumption. Sections 325.04 to 325.06 shall apply only to the selling, offering, or advertising for sale, giving away or offering or advertising the intent to give away of any commodity, article, goods, wares, or merchandise, in wholesale or retail trade.

[1937 c. 116 pt. 1 s. 1; 1937 c. 116 pt. 2 s. 1] (3976-37, 3976-40)

325.03 DISCRIMINATION UNLAWFUL. Any person, partnership, firm, or corporation, foreign or domestic, doing business in the state and engaged in the production, manufacture, or distribution of any printed or mimeograph matter, commodity, article, goods, wares, or merchandise in general use or consumption, that intentionally, for the purpose of destroying the competition of any regularly established dealer in such commodity, article, goods, wares, or merchandise or to prevent the competition of any person, firm, or corporation who or which, in good faith, intends and attempts to become such dealer, shall discriminate between different sections, communities, or cities of this state by selling or furnishing such commodity, article, goods, wares, or merchandise at a lower price or rate in one section, community, or city, or any portion thereof, than such person, firm, or corporation, foreign or domestic, charges for such commodity, article, goods, wares, or merchandise in another section, community, or city, or any portion thereof, after making allowance for difference, if any, in the grade, quality, or quantity after equalizing the distance from the point of production, manufacture, or distribution and freight rates therefrom, shall be guilty of unfair discrimination; provided, that sections 325.01 to 325.07 shall not prevent any person, firm, or corporation from, in good faith, meeting local competition within any one section, community, village, or city. The inhibition hereof against locality discrimination shall embrace any scheme of special rebates, collateral contracts, or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and intent of sections 325.01 to 325.07.

[1937 c. 116 pt. 1 s. 2] (3976-38)

325.04 SELLING BELOW COST FORBIDDEN. Any retailer or wholesaler, engaged in business within this state, who sells, offers for sale or advertises for sale, any commodity, article, goods, wares, or merchandise at less than the cost thereof to such vendor, or gives, offers to give or advertises the intent to give away any commodity, article, goods, wares, or merchandise for the purpose or with the effect of injuring competitors and destroying competition, shall be guilty of unfair discrimination; and, upon conviction, subject to the penalty therefor provided in section 325.48, subdivision 1.

Any retailer or wholesaler who sells goods in any part of this state at prices lower than those exacted by the person elsewhere in the state for like qualities and grades and where the effect of such lower prices may be substantially to lessen competition or tend to create a monopoly in any line of business, or to injure, destroy, or prevent competition with the person selling at such lower prices, shall be guilty of unfair competition and subject to the penalties of section 325.48, subdivision 1; provided, that nothing shall prevent differentials in prices in different localities which make only due allowances for differences in "cost of doing business" or "overhead expense" and in costs of delivery for such goods to different localities; nor differences in prices made in good faith to meet legal competition of any other person in such locality.

The inhibition against sales below cost or locality discrimination shall embrace any scheme of special rebates, collateral contracts, or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and intent of sections 325.01 to 325.07.

[1937 c. 116 pt. 2 s. 2; 1939 c. 403 s. 1; 1941 c. 326 s. 1] (3976-41)

325.05 BANKRUPT SALES NOT TO BE CONSIDERED IN FIXING COSTS.

In establishing the cost of a given article, goods, wares, or merchandise to the vendor, the invoice cost of the article, goods, wares, or merchandise purchased at a forced, bankrupt, close-out, or other sale outside of the ordinary channels of trade may not be used as a basis for justifying a price lower than one based upon the replacement cost as of date of the sale of the article, goods, wares, or merchandise replaced through the ordinary channels of trade, unless the article, goods, wares, or merchandise is kept separate from goods purchased in the ordinary channels of trade and unless the article, goods, wares, or merchandise is advertised and sold as merchandise purchased at a forced, bankrupt, or close-out sale, or by means other than through the ordinary channels of trade, and the advertising shall state the conditions under which the goods were so purchased and the quantity of such merchandise to be sold or offered for sale.

[1937 c. 116 pt. 2 s. 4] (3976-43)

325.06 CLOSING OUT SALES. The provisions of section 325.01, subdivisions 2 to 6, and sections 325.04 and 325.05 shall not apply to any sale made:

(1) In closing out in good faith the owner's stock, or any part thereof, for the purpose of discontinuing his trade in any such stock or commodity, and in case of the sale of seasonal goods or merchandise where style is the paramount feature or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation, provided notice is given to the public thereof;

(2) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof;

(3) By an officer acting under the orders of any court;

(4) In an endeavor made in good faith to meet the legal prices of a competitor selling the same commodity, articles, goods, wares, or merchandise in the same locality or trade area.

[1937 c. 116 pt. 2 s. 6; 1939 c. 403 s. 3; 1941 c. 326 s. 3] (3976-45)

325.07 REMEDIES CUMULATIVE. The remedies herein provided shall be cumulative to all other remedies provided by law.

[1937 c. 116 pt. 3 s. 3; 1939 c. 403 s. 6] (3976-48)

325.08 CERTAIN CONTRACTS NOT TO BE IN VIOLATION OF LAW. No contract relating to the sale or re-sale of a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity, and which commodity is in free and open competition with commodities of the same general class produced or distributed by others, shall be deemed in violation of any law of the state by reason of any of the following provisions which may be contained in such contract:

(1) That the buyer will not resell such commodity at less than the minimum price stipulated by the seller;

(2) That the buyer will require of any dealer to whom he may resell such commodity an agreement that he will not, in turn, resell at less than the minimum price stipulated by the seller;

(3) That the seller will not sell such commodity:

(a) To any wholesaler, unless such wholesaler will agree not to resell the same to any retailer unless the retailer will, in turn, agree not to resell the same except to consumers for use and at not less than the stipulated minimum price, and such wholesaler will likewise agree not to resell the same to any other wholesaler unless such other wholesaler will make the same agreement with any wholesaler or retailer to whom he may resell; or

(b) To any retailer, unless the retailer will agree not to resell the same except to consumers for use and at not less than the stipulated minimum price.

[1937 c. 117 s. 2] (3976-52)

325.09 VIOLATIONS. For the purpose of preventing evasion of the resale price restrictions imposed in respect of any commodity by any contract entered into pursuant to the provisions of sections 325.08 to 325.14, except to the extent authorized by the contract:

(1) The offering or giving of any article of value in connection with the sale of such commodity;

(2) The offering or the making of any concession of any kind, whether by the giving of coupons or otherwise, in connection with any such sale; or

(3) The sale or offering for sale of such commodity in combination with any other commodity—

MINNESOTA STATUTES 1953

Shall be deemed a violation of such resale price restriction, for which the remedies prescribed by section 325.12 shall be available.

[1937 c. 117 s. 3] (3976-53)

325.10 MINIMUM PRICES, BY WHOM FIXED. No minimum resale price shall be established for any commodity, under any contract entered into pursuant to the provisions of sections 325.08 to 325.14, by any person other than the owner of the trade-mark, brand, or name used in connection with such commodity or a distributor specifically authorized to establish said price by the owner of the trade-mark, brand, or name.

[1937 c. 117 s. 4] (3976-54)

325.11 LIMITATIONS. No contract containing any of the provisions enumerated in section 325.08 shall be deemed to preclude the re-sale of any commodity covered thereby without reference to such contract in the following cases:

(1) In closing out the owner's stock for the bona fide purpose of discontinuing dealing in any such commodity and plain notice of the fact is given to the public; provided the owner of such stock shall give to the producer or distributor of such commodity prompt and reasonable notice, in writing, of his intention to close out such stock, and an opportunity to purchase such stock at the original invoice price;

(2) When the goods are altered, second-hand, damaged, defaced, or deteriorated, and plain notice of the fact is given to the public in the advertisement and sale thereof, such notice to be conspicuously displayed in all advertisements and to be affixed to the commodity;

(3) By any officer acting under an order of court.

[1937 c. 117 s. 5] (3976-55)

325.12 UNFAIR COMPETITION. Wilfully and knowingly advertising, offering for sale, or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of sections 325.08 to 325.14, whether the person so advertising, offering for sale, or selling is or is not a party to such contract, is unfair competition and is actionable at the suit of any person damaged thereby.

[1937 c. 117 s. 6] (3976-56)

325.13 EXCEPTIONS. Sections 325.08 to 325.14 shall not apply to any contract or agreement between or among producers or distributors, or, except as provided in section 325.08, clause (3), between or among wholesalers or between or among retailers as to sale or resale prices.

[1937 c. 117 s. 7] (3976-57)

325.14 [Not necessary]

325.141 UNLAWFUL TRADE PRACTICES. The Legislature of the State of Minnesota hereby finds: that the trade practices defined and prohibited by Laws 1943, Chapter 144, are detrimental to labor, destructive to employment, and injurious to the best interests of workingmen; that they mislead the consumer into believing that he is buying merchandise at prices substantially below regular retail prices, when in fact he is not; that they mislead the consumer as to the quality, ingredients and origin of merchandise purchased by him; that they deprive the consumer of various customer services offered by regularly established and bona fide retail outlets without compensating advantage to the consumer; and that they constitute unfair and fraudulent competition and unsound and uneconomic methods of distribution. The Legislature, acting in the exercise of the police power of the state, declares that the public policy of the state requires, and that the general welfare of the state will be benefited by, the suppression of the trade practices hereinafter defined.

[1943 c. 144 s. 1]

325.142 DEFINITIONS. When used in sections 325.141 to 325.148:

(a) The term "person" includes any individual, firm, partnership, corporation or other organization, whether organized for profit or not.

(b) The term "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employe.

(c) "Sale" or "sell" includes any sale, offer, or advertisement thereof or contract for the same.

(d) "Sale of merchandise at retail" includes any sale except (1) A sale for the purpose of re-sale or (2) a sale of a substantial quantity of merchandise for business use only.

[1943 c. 144 s. 2]

325.143 CERTAIN UNLAWFUL TRADE PRACTICES. It shall be an unlawful trade practice for any seller or transferor of any goods, wares, or merchandise to advertise, claim or imply that any sale or transfer of goods, wares, or merchandise is a sale or transfer at wholesale, unless such sale or transfer is made to a transferee for re-sale or is a sale of a substantial quantity of merchandise for business use only.

[1943 c. 144 s. 3]

325.144 RETAILERS NOT TO MISREPRESENT NATURE OF BUSINESS.

(1) No person engaged in the sale of merchandise at retail shall, in connection with such business, misrepresent the true nature of such business, either by use of the words manufacturer, wholesaler, broker, or any derivative thereof or synonym therefor, or otherwise.

(2) No person shall, in connection with the sale of merchandise at retail misrepresent, directly or indirectly, that the price at which such merchandise is sold is an approximately wholesale price, or is less than the usual, retail price, either by the use of any such expression, or of any expression having a similar meaning, or otherwise misrepresent the true nature of such sale.

(3) No person shall, in connection with the sale of merchandise at retail, or in, or in connection with the use of, samples, catalogs, or other forms of advertising listing merchandise for sale at retail, display price tags or price quotations in any form showing prices which are fictitiously in excess of the actual prices at which such merchandise is regularly and customarily sold at retail by such person or by the person issuing such samples, catalogs, or other forms of advertising.

[1943 c. 144 s. 4]

325.145 QUALITY, MISREPRESENTED. No person shall, in connection with the sale of merchandise, knowingly misrepresent, directly or indirectly, the true quality, ingredients or origin of such merchandise.

[1943 c. 144 s. 5]

325.146 EMPLOYER NOT TO DISPOSE OF OTHER THAN OWN PRODUCTS.

No employer shall, directly or indirectly, by itself or through a subsidiary agency owned or controlled in whole or in part by such employer, sell, cause to be sold, or have in his possession or under his control for sale to his employes or to any other person, any merchandise not handled by such employer in the regular course of his business, nor shall any employer permit his name, his credit, or his premises to be used in connection with the sale or offer for sale of any such merchandise. This section shall not apply to purchases by an employer for the purpose of re-sale to his employes of such specialized equipment and paraphernalia as may be required for employes' safety and health, candy, chewing gum, tobacco, or meals consumed on the premises of such employer. The provisions of sections 325.141 to 325.148 shall not apply to any cooperative associations, duly established under the laws of the state of Minnesota, with respect to any merchandising transactions, which such cooperatives are authorized by their charters to conduct with their members.

[1943 c. 144 s. 6]

325.147 VIOLATION OF SECTIONS 325.141 TO 325.148; RESTRAINING ORDER. Any person violating the provisions of sections 325.141 to 325.148 shall be deemed guilty of a misdemeanor. Each act prohibited by sections 325.141 to 325.148 shall constitute a separate violation and offense thereunder.

In addition to the penalties provided in sections 325.141 to 325.148 the courts of this state are hereby vested with jurisdiction to prevent and restrain violation of sections 325.141 to 325.148. Any person damaged or who is threatened with loss, damage, or injury by reason of a violation of sections 325.141 to 325.148 shall be entitled to sue for and have injunctive relief in any court of competent jurisdiction against any damage or threatened loss or injury by reason of a violation of sections 325.141 to 325.148 and for the amount of the actual damages to him, if any. In order to obtain such injunctive relief, it shall not be necessary to allege or prove that an adequate remedy at law does not exist.

[1943 c. 144 ss. 7, 8]

325.148 APPLICATION OF SECTIONS 325.141 TO 325.148. Nothing in sections 325.141 to 325.148 shall be deemed to prohibit the sale by an employer to his employees of his own products or property at any price.

[1943 c. 144 s. 9]

325.149 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.

[1943 c. 328]

325.15 MOTOR VEHICLES, MANUFACTURER FORBIDDEN TO FINANCE

SALES. It shall be unlawful for any person who is engaged, directly or indirectly, in the manufacture or wholesale distribution of motor vehicles to sell, or enter into a contract to sell motor vehicles to any person who is engaged, or intends to engage, in the business of selling such motor vehicles at retail in this state, on the condition, or with the agreement or understanding, expressed or implied, that such person so engaged in selling motor vehicles at retail shall in any manner finance the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons, or shall sell and assign the conditional sales contracts, chattel mortgages, or leases arising from the sale of motor vehicles, or any one or number thereof, only to a designated person or class of persons, when the effect of the condition, agreement, or understanding so entered into may be to lessen or eliminate competition, or create or tend to create a monopoly in the person or class of persons who is designated, by virtue of such condition, agreement, or understanding, to finance the purchase or sale of motor vehicles or to purchase such conditional sales contracts, chattel mortgages, or leases, and any such condition, agreement, or understanding is hereby declared to be void and against the public policy of this state.

[1937 c. 412 s. 1] (3976-71)

325.16 CERTAIN THREATS, STATEMENTS, OR PROMISES TO BE PRIMA FACIE EVIDENCE.

Any threat, statement, or promise, expressed or implied, made to any person engaged in the business of selling motor vehicles at retail in this state by any person engaged, directly or indirectly, in the manufacture or distribution of motor vehicles, that such person will discontinue or cease to sell, or refuse to enter into a contract to sell, or will terminate a contract to sell motor vehicles, to such person who is so engaged in the business of selling motor vehicles at retail, unless such person finances the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons, or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his retail sales of motor vehicles or any one or number thereof only to a designated person or class of persons, shall be prima facie evidence of the fact that such person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in section 325.15.

[1937 c. 412 s. 2] (3976-72)

325.17 WHEN PRESUMPTION MAY BE PRIMA FACIE EVIDENCE.

Any threat, statement, or promise, expressed or implied, made to any person engaged in the business of selling motor vehicles at retail in this state by any person, or any agent of any such person, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles in this state, or any person, or any agent of any such person, who is engaged in the business of financing the purchase or sale of motor vehicles, or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles in this state and is affiliated with or controlled by any person engaged, directly or indirectly, in the manufacture or distribution of motor vehicles, that such person so engaged in such manufacture or distribution shall terminate

his contract with or cease to sell motor vehicles to such person engaged in the sale of motor vehicles at retail in this state unless such person finances the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his retail sale of motor vehicles, or any one or any number thereof, only to such person so engaged in financing the purchase or sale of motor vehicles or in buying conditional sales contracts, chattel mortgages, or leases on motor vehicles, shall be presumed to be made at the direction of and with the authority of such person so engaged in such manufacture or distribution of motor vehicles, and shall be prima facie evidence of the fact that such person so engaged in the manufacture or distribution of motor vehicles has sold, or intends to sell, the same on the condition or with the agreement or understanding prohibited in section 325.15.

[1937 c. 412 s. 3] (3976-73)

325.18 UNLAWFUL FOR MANUFACTURER TO GIVE SUBSIDIES. It shall be unlawful for any person who is engaged, directly or indirectly, in the manufacture or wholesale distribution of motor vehicles to pay or give or to contract to pay or give any thing of value or subsidy to any person, other than an automobile dealer or automobile distributor, who is engaged in the business of financing the purchase or sale of motor vehicles, or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail within the state, or to discriminate in favor of or against any person, other than an automobile dealer or automobile distributor, engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail within the state, if the effect of such payment or contract to pay or give any thing of value or subsidy or discrimination may be to lessen or eliminate competition or to create or tend to create a monopoly in the person or class of persons who receives such thing of value or subsidy, or who is benefited by such discrimination.

[1937 c. 412 s. 4] (3976-74)

325.19 UNLAWFUL TO RECEIVE SUBSIDIES. It shall be unlawful for any person, other than an automobile dealer or automobile distributor, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail within this state, to accept or receive or contract or agree to accept or receive directly or indirectly any thing of value or subsidy or the benefit resulting from any discrimination, as set forth in section 325.18, from any person engaged, directly or indirectly, in the manufacture or wholesale distribution of motor vehicles if the effect of the acceptance or receipt of any such thing of value or subsidy or benefit may be to lessen or eliminate competition or to create or tend to create a monopoly in the person or class of persons who receives such thing of value or subsidy, or who is thus benefited by such discrimination.

[1937 c. 412 s. 5] (3976-75)

325.20 PERSONS RECEIVING SUBSIDIES FORBIDDEN TO ENGAGE IN FINANCE OF SALES. It shall be unlawful for any person, other than an automobile dealer or automobile distributor, who hereafter so accepts or receives, directly or indirectly, any thing of value or subsidy or the benefit resulting from any discrimination, as set forth in section 325.19, or hereafter so contracts, directly or indirectly, to receive any such thing of value or subsidy or benefit, to thereafter finance, or attempt to finance, the purchase or sale of any motor vehicle, or buy or attempt to buy any conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail in this state.

[1937 c. 412 s. 6] (3976-76)

325.21 PROCEEDINGS INSTITUTED. For a violation of any of the provisions of sections 325.15 to 325.24 by any corporation or association mentioned therein, it shall be the duty of the attorney general, or the county attorney of the proper county, to institute proper suits or quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter rights, franchises, or privileges and powers exercised by such corporation or association, and for the dissolution of the same under the general statutes of the state.

[1937 c. 412 s. 7] (3976-77)

325.22 FOREIGN CORPORATIONS MAY BE PROHIBITED FROM DOING BUSINESS IN THE STATE. Every foreign corporation, as well as every foreign association, exercising any of the powers, franchises, or functions of a corporation in this state, violating any of the provisions of sections 325.15 to 325.24, is hereby denied the right to do and prohibited from doing any business in this state. It shall be the duty of the attorney general to enforce this provision by bringing proper proceedings by injunction or otherwise. The secretary of state shall be authorized to revoke the license of any such corporation or association heretofore authorized by him to do business in this state.

[1937 c. 412 s. 8] (3976-78)

325.23 PROVISIONS CUMULATIVE. The provisions of sections 325.15 to 325.24 shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

[1937 c. 412 s. 11] (3976-81)

325.24 [Not necessary]

325.25 USE OF SECOND-HAND MATERIAL FORBIDDEN IN CERTAIN CASES. No person shall use, in the making or remaking of any article of bedding, any material that has been used in any private or public hospital, or any material of any kind that has been used by or about any person having an infectious or contagious disease, or has formed a part of any article of bedding which has so been used. This section shall not prevent the renovating of bedding used in any private or public hospital.

[1929 c. 358 s. 2] (3976-2)

325.26 SALE OF BEDDING. No person shall sell, offer for sale, consign for sale, or have in his possession with intent to sell, or consign for sale any bedding used in a private or public hospital or any article of bedding that has been used by or about any person having an infectious or contagious disease.

[1929 c. 358 s. 3] (3976-3)

325.27 MATERIAL MUST BE RENOVATED. No person shall remake or renovate any article of bedding unless all the material to be used in such remade or renovated bedding shall first be thoroughly sterilized and disinfected by the methods set out herein, or by any other approved sterilization method:

(1) Dry heat of a temperature of not less than 160 degrees centigrade temperature for not less than one hour. (A thermometer for registering the temperature visible from the outside of the room shall be provided where dry heat is used);

(2) Live steam, with subsequent drying of the material over steam coils with a pressure of not less than 20 pounds of steam for 20 minutes. (A gauge for registering steam pressure visible from the outside of the room shall be provided where steam under pressure is used and valved outlets shall be provided near the bottom and also the top of the room in cases where streaming steam is used);

(3) Formaldehyde and sulphur concurrently in a moist atmosphere for a period of not less than ten hours. Formaldehyde gas shall be generated from the use of one pint of formaldehyde solution, 37 per cent to each 1,000 cubic feet of air space, or through the use of any of the high class commercial fumigators which generate an equivalent quantity of gas. Sulphur shall be from the burning of three pounds of sulphur for each 1,000 cubic feet of air space. The moist atmosphere shall be produced by thorough sprinkling of the floor of the room with warm water just prior to the process of disinfection.

The room shall be provided with a separate air inlet and also an exhaust connection, and shall be equipped with tight dampers or closure gates which can be operated from the outside of the room. Rooms for disinfection of bedding materials shall be made gas or steam tight. Shelving for loose bedding materials shall be of lattice or other open construction.

Solid shelves of a type to prevent passage of gas through the materials shall not be permitted.

[1929 c. 358 s. 4] (3976-4)

325.28 DEVICES MUST BE APPROVED. All devices and equipment, before being used as a process for sterilization and disinfection, shall be approved by the industrial commission, upon written application of the person desiring to use the same and, when so approved, a numbered permit for such use shall be issued to the applicant by the industrial commission. Such permit shall expire one year from the date thereof. Such system of sterilization and disinfection shall be kept in good

condition and repair. Every person to whom a permit has been issued shall keep such permit conspicuously posted under glass near such sterilization or disinfection chamber. Refusal to display such permit in accordance with sections 325.25 to 325.33 shall be sufficient reason to revoke the same. Nothing in sections 325.25 to 325.33 shall prevent any person engaged in the making or remaking, renovating, or sale of any article herein described which requires sterilizing and disinfecting under the provisions thereof from having such sterilizing and disinfecting performed by any person to whom a permit for such purposes has been issued, providing the number of the permit, with date of sterilization, shall be printed on the tag or label attached to the article, and a copy of such kept by the person doing such sterilization for reference.

[1929 c. 358 s. 5] (3976-5)

325.29 SUBJECT TO INSPECTION. Any place where bedding is made, remade, or renovated, or where materials for bedding are prepared, or any establishment where these articles are offered for sale, or are in possession of any person with intent to sell, deliver, lease, or to consign them to an establishment where sterilizing and disinfecting are performed, shall be subject to inspection by a duly appointed inspector for the industrial commission to ascertain whether the materials used or sold or the finished article enumerated conform to the requirements of sections 325.25 to 325.33. He shall have authority to open such bedding to examine the material used in the filling.

[1929 c. 358 s. 6] (3976-6)

325.30 SALES FORBIDDEN; EXCEPTIONS. No person shall sell, lease, offer to sell or lease, or deliver or consign for sale or lease, or have in his possession with intent to sell, lease, deliver, or consign for sale or lease, any bedding made, remade, or renovated in violation of sections 325.25 to 325.33 or any second-hand bedding unless since last used it has been thoroughly sterilized and disinfected by an approved method of sterilization.

[1929 c. 358 s. 7] (3976-7)

325.31 SHODDY MATERIAL TO BE LABELED. No person, by himself or his agents, servants, or employees, shall make or sell, or offer to sell, deliver, or consign for sale, or have in his possession with intent to sell, deliver, or consign for sale any bedding made of material that has theretofore been used as a container for or in contact with any animal or vegetable matter or any material defined as shoddy, unless the bedding shall be labeled as such, or any material that has theretofore been used unless the same shall have been cleaned and sterilized.

[1929 c. 358 s. 8] (3976-8)

325.32 BEDDING TO BE LABELED. No person shall make or remake, or sell, offer for sale, consign for sale, or have in his possession with intent to sell, offer for sale, or consign for sale any article of bedding unless the same is labeled as follows:

Upon each of such articles of bedding there shall be securely sewed upon the outside thereof a muslin or linen label not less than three by four and one-half inches in size, upon which shall be in plain print, in the English language, a description of the material used as filling of such article of bedding; and, if such material, or any portion thereof, shall not have been previously used, the words "manufactured of new material" shall appear upon the label, together with the name and address of the maker or vendor thereof. If any of the material used in the making or remaking of such article of bedding shall have been previously used, the words "manufactured of second-hand material" or "remade of second-hand material," as the case may be, shall appear upon the label, together with the name and address of the maker or vendor thereof, and also a description of the material used in the filling of such article of bedding. On any article of bedding, not remade, but which has been previously used, the words "second-hand materials used in filling not known" shall appear upon the label, together with the name and address of the vendor thereof.

The statement required under this section shall be in form as follows:

"OFFICIAL STATEMENT

Materials used in filling
Made by
Vendor
Address

MINNESOTA STATUTES 1953

This article is made in compliance with an act of the State of Minnesota approved the day of, 1929."

The statement of compliance required in the foregoing official statement shall not be construed to imply that it is prohibited to state also that the article of bedding is made in compliance with any act or acts of other states.

The words "manufactured of new material," or "manufactured of second-hand material," or any article of bedding not remade, "second-hand materials used in filling not known," together with the description of the material used as filling of an article of bedding, shall be in letters not less than one-eighth of an inch in height. The statement of filling shall conform to rules regulating the manufacture and sale of bedding as approved by the industrial commission. No term or description likely to mislead shall be used on any label required by this regulation in the description of the material used in the filling of any article of bedding. The label shall be attached to each mattress, pad, or upholstered spring by sewing all four edges of the label.

Any person who shall remove, deface, alter, or who shall cause to be removed, defaced, or altered, any label or tag upon any article of bedding so labeled or tagged under the provisions of sections 325.25 to 325.33 shall be guilty of a violation thereof.

[1929 c. 358 s. 9] (3976-9)

325.33 FEATHERS TO BE RENOVATED. Feathers used in making, remaking, or renovating new or second-hand bedding shall be thoroughly cured, sterilized, or disinfected.

[1929 c. 358 s. 10] (3976-10)

325.34 MANUFACTURE AND SALE OF COTTON DUCK OR CANVAS; STAMPS, BRANDS, AND MARKS. Any person, company, or corporation who shall manufacture for sale, or who may offer or expose for sale, any cotton duck or canvas or any article, other than clothing and wearing apparel, composed or made, in whole or in part, of cotton duck or canvas, shall distinctly and durably stamp, brand, or mark thereon the true and correct weight of such cotton duck or canvas, by ounces per yard, together with a description by name of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture.

[1913 c. 167 s. 3] (3968)

325.35 CERTAIN SALES UNLAWFUL; MISSTATEMENTS FORBIDDEN. It shall be unlawful for any person or corporation, either individually or in any representative capacity, to carry for sale, sell, or endeavor to sell any cotton duck or canvas or any articles other than clothing and wearing apparel, composed or made, in whole or in part, of any cotton duck or canvas without having marked thereon the true and correct weight of the canvas or cotton duck, by ounces per yard, together with a description by name of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture, or to misstate, misrepresent, or conceal the true weight of the canvas or cotton duck, by ounces per yard, or to misstate, misrepresent, or conceal the existence of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture.

[1913 c. 167 s. 4] (3969)

325.36 CONCEALING OR MISSTATING SIZE UNLAWFUL. It shall be unlawful for any person or corporation, either individually or in representative capacity, selling, carrying for sale, or endeavoring to sell any awnings, paulins, wagon covers, tent, grain and hay covers, stable or tent tops, to misstate or misrepresent or conceal the true and correct size and dimensions thereof.

[1913 c. 167 s. 5] (3970)

325.37 UNLAWFUL TO DEFACE MARK. It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel, or remove any mark provided for by sections 325.34 to 325.37, or cause or permit the same to be done with intent to mislead, deceive, or to violate any of the provisions of sections 325.34 to 325.37.

[1913 c. 167 s. 6] (3971)

325.38 SALE OF FIREWORKS FORBIDDEN; EXCEPTIONS. No person, shall sell, offer for sale, or have in possession for the purpose of sale, any fireworks within the limits of any town, any part of which is within 15 miles of the corporate limits of any city of the first class, without first having obtained a license to sell fireworks from the town board of such town.

[1929 c. 300 s. 1] (3976-14)

325.39 LICENSES GRANTED. The town board of any town described in section 325.38 is authorized to license any person in such town and to impose a license fee therefor of not less than \$10 nor more than \$25 which shall be uniform in any such town during any calendar year.

[1929 c. 300 s. 2] (3976-15)

325.40 APPLICATION; FEE. Any person desiring such license shall make application therefor to the town clerk, which application shall be in writing and shall contain a description of the premises where applicant proposes to sell such fireworks. Such application shall be accompanied by the license fee, which shall be returned in case the board fails to grant such license. The license permit shall be in writing, signed by the chairman of the board and attested by the clerk, and shall be limited to the premises named in the application and publicly displayed on the premises, and shall be for a period of one year from the date thereof. A town clerk shall submit any such application to the town board within ten days after he receives it.

[1929 c. 300 s. 3] (3976-16)

325.41 IMITATION INDIAN-MADE GOODS TO BE BRANDED. All goods, wares, and merchandise known as moccasins, bead work, birchbark baskets, deer-skin work, grass rugs, sweet grass baskets, and other goods which are manufactured or produced in imitation of genuine Minnesota Indian hand-made goods, wares, or merchandise shall be branded, labeled, or marked, as hereinafter provided, before being exposed for sale and shall not be exposed or sold without such brand, label, or mark thereon.

[1937 c. 196 s. 1] (3976-61)

325.42 BRAND. The brand, label, or mark required by section 325.41 shall be the words "imitation Indian-made" and shall be placed or attached outside of and on a conspicuous part of the finished article so as to be plainly visible to the purchasing public, and shall be the size and style known as great primer Roman capitals. Such brand or mark, if the article will permit, shall be placed upon it, but when such branding or marking is impossible a label shall be used and attached thereto.

[1937 c. 196 s. 2] (3976-62)

325.43 GOODS NOT TO BE SOLD WITHOUT BRAND. No person shall sell, offer for sale, or have in possession for the purpose of sale, imitation goods, wares, or merchandise described in section 325.41 without the brand, label, or mark required by sections 325.41 and 325.42 being placed thereon or attached thereto, or remove, conceal, or deface such brand, label, or mark.

[1937 c. 196 s. 3] (3976-63)

325.44 PRISON-MADE GOODS ARE SUBJECT TO LAWS OF STATE. All goods, wares, and merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institutions, transported into the state and remaining therein for use, consumption, sale, or storage, shall, upon arrival and delivery in the state, be subject to the operation and effect of the laws of the state, to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in the state, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

[1935 c. 267 s. 1] (3976-21)

325.45 PRISON-MADE GOODS MUST BE MARKED. All goods, wares, and merchandise manufactured, produced, or mined, wholly or in part, by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institutions in this or any other state, shall be branded, labeled, or marked, as herein provided, before being exposed for sale, and shall not be so exposed or sold without such brand, label, or mark thereon.

[1935 c. 268 s. 1] (3976-31)

325.46 "PRISON MADE" TO BE PLACED ON PRISON-MADE GOODS. The brand, label, or mark required by section 325.45 shall contain, at the head or top thereof, the words "prison made," followed by the name of the penal or reformatory institution in which it was manufactured, produced, or mined, in plain English lettering of the style known as great primer Roman capitals. Such brand or mark, if the article will permit, shall be placed upon it and when such branding or marking is impossible, a label shall be used and attached. Such brand, mark, or label shall

be placed or attached outside of and on a conspicuous part of the finished article so as to be plainly visible to the purchasing public and also be placed outside of its box, crate, or covering.

[1935 c. 268 s. 2; 1939 c. 57] (3976-32)

325.47 SALE OF UNMARKED GOODS FORBIDDEN. No person shall sell, offer for sale, or have in possession for the purpose of sale, goods, wares, or merchandise described in section 325.45 without the brand, label, or mark required by section 325.45 being placed thereon or attached thereto, or remove, conceal, or deface such brand, label, or mark.

[1935 c. 268 s. 3] (3976-33)

325.48 VIOLATIONS; PENALTIES. Subdivision 1. **Gross misdemeanors.** (1) Any person who shall violate any of the provisions of sections 325.15 to 325.24, or any person who is a party to any agreement or understanding, or to any contract prescribing any condition prohibited by sections 325.15 to 325.24, any employee, agent, or officer of any such person who shall participate, in any manner, in making, executing, enforcing, performing, or in urging, aiding, or abetting in the performance of any such contract, condition, agreement, or understanding and any person who shall pay or give or contract to pay or give any thing or service of value prohibited by sections 325.15 to 325.24, and any person who shall receive or accept or contract to receive or accept any thing or service of value prohibited by sections 325.15 to 325.24 shall be deemed guilty of a gross misdemeanor; and, upon conviction thereof, punished by a fine not exceeding \$500; or be imprisoned in a county jail for not exceeding six months, or by both such fine and imprisonment. Each day's violation of any such provision shall constitute a separate offense.

The words "person," "employee," "agent," or "officer," as used in this section, shall not be construed to mean or apply to any person who is engaged, or intends to engage, in the business of selling motor vehicles at retail in this state, nor to the employee, agent, or officer of any person who is engaged, or intends to engage, in the business of selling motor vehicles at retail in this state.

(2) Any person violating any of the provisions of sections 325.25 to 325.33 shall be guilty of a gross misdemeanor; and, upon conviction thereof, punished by a fine of not more than \$100 nor less than \$25 or by imprisonment for not more than 90 nor less than 30 days or by both such fine and imprisonment, for each offense.

Subd. 2. Misdemeanors. (1) Any person, firm, or corporation, whether as principal, agent, officer, or director, for himself, or itself, or for another person, firm, or corporation, wilfully violating the provisions of sections 325.03, 325.04, 325.05, and 325.52 shall be guilty of a misdemeanor.

Any person who, either as director, officer, or agent of any firm or corporation or as agent of any person violating the provisions of sections 325.03, 325.04, 325.05, and 325.52, knowingly assists or aids directly or indirectly in such violation shall be responsible therefor equally with the person, firm, or corporation for whom or which he acts.

(2) Any person, company, or corporation violating any of the provisions of sections 325.34 to 325.37 shall be deemed guilty of a misdemeanor; and, upon conviction thereof, for the first offense, punished by a fine of not less than \$25 nor more than \$50 and for each subsequent offense by a fine of not less than \$50 nor more than \$100.

(3) Any person, firm, copartnership, or corporation violating any of the provisions of sections 325.38 to 325.40 shall be guilty of a misdemeanor.

(4) Any person who violates the provisions of sections 325.41 to 325.43 or any of the provisions of sections 325.45 to 325.47 shall be guilty of a misdemeanor.

[1913 c. 167 s. 7; 1929 c. 300 s. 4; 1929 c. 358 s. 11; 1935 c. 268 s. 4; 1937 c. 116 part 3 s. 1; 1937 c. 196 s. 4; 1937 c. 412 s. 9; 1939 c. 403 s. 4; 1941 c. 326 s. 4] (3972, 3976-11, 3976-17, 3976-34, 3976-46, 3976-64, 3976-79)

325.49 INJUNCTIVE RELIEF. In addition to the penalties provided in section 325.48, subdivision 2, clause (1), the courts of this state are hereby vested with jurisdiction to prevent and restrain violations of sections 325.02 to 325.07. Any person, partnership, corporation, or association damaged, or who is threatened with loss or injury, by reason of a violation of these sections shall be entitled to sue for and have injunctive relief in any court of competent jurisdiction against any damage or threatened loss or injury by reason of a violation thereof and for the

MINNESOTA STATUTES 1953

2729

MANUFACTURES AND SALES 325.53

amount of the actual damages to him, if any. In order to obtain such injunctive relief it shall not be necessary to allege or prove that an adequate remedy at law does not exist.

No person shall be excused from attending and testifying or from producing books, papers, contracts, agreements, and documents in any case or proceedings instituted or brought under the provisions of sections 325.02 to 325.07, 325.48, 325.49, and 325.52, or in obedience to a subpoena, in any such case or proceedings, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, in any such case or proceedings, or in obedience to a subpoena, in any such case or proceedings.

[1937 c. 116 pt. 3 s. 2; 1939 c. 403 s. 5; 1941 c. 326 s. 5] (3976-47)

325.50 CONTRACTS OR AGREEMENTS IN VIOLATION VOID. Any contract or agreement in violation of the provisions of sections 325.15 to 325.24 shall be absolutely void and shall not be enforceable either in law or equity.

[1937 c. 412 s. 10] (3976-80)

325.51 DAMAGES RECOVERABLE. In addition to the criminal and civil penalties provided in sections 325.15 to 325.24, any person who shall be injured in his business or property by any other person, corporation, association, or partnership, by reason of anything forbidden or declared to be unlawful by sections 325.15 to 325.24, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or where any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and recover two-fold the damages by him sustained and the costs of the suit. Whenever it shall appear to the court before which any proceedings under sections 325.15 to 325.24 may be pending, that the ends of justice require that other parties be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending or not.

[1937 c. 412 s. 12] (3976-82)

325.52 CERTAIN SALES AS PRIMA FACIE EVIDENCE; WHEN INJUNCTIVE RELIEF FORBIDDEN. Any sale made by the retail vendor at less than eight per cent above the manufacturer's published list price, less his published discounts, where the manufacturer publishes a list price; or, in the absence of such a list price, at less than eight per cent above the actual current delivered invoice or replacement cost, for the purpose or with the effect of injuring competitors or destroying competition, shall be prima facie evidence of the violation of sections 325.02 to 325.07.

No prosecution shall be had nor any action at law for damages or injunctive relief shall lie where the vendor sells at a price not less than 15 per cent above the manufacturer's published list price, less his published discounts, where the manufacturer publishes a list price; or, in the absence of such a list price, at not less than 15 per cent above the current delivered invoice or replacement cost.

Any sale made by a wholesale vendor at less than two per cent above the manufacturer's published list price, less his published discounts, where the manufacturer publishes a list price; or, in the absence of such a list price, at less than two per cent above the actual current delivered invoice or replacement cost, for the purpose or with the effect of injuring competitors or destroying competition, shall be prima facie evidence of the violation of sections 325.02 to 325.07.

[1937 c. 116 pt. 2 s. 3; 1937 c. 456 s. 1; 1939 c. 403 s. 2; 1941 c. 326 s. 2] (3976-42)

325.53 DEFINITIONS. Subdivision 1. For the purposes of sections 325.53 to 325.62, unless a different meaning is indicated by the context, the words, terms, and phrases defined in this section shall have the meanings given them.

Subd. 2. "Gambling devices" means slot machines, roulette wheels, punchboards, number jars and pin ball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash.

Subd. 3. "Person" means an individual, a copartnership, an association, a corporation, or any other entity or organization.

Subd. 4. "Municipality" means any county, city, village, borough or town.

Subd. 5. "License" includes permits of every kind, nature and description issued pursuant to any statute or ordinance for the carrying on of any business, trade, vocation, commercial enterprise or undertaking.

Subd. 6. "Licensee" means any person to whom a license of any kind is issued, but does not include a common carrier transporting, or a public warehouseman storing, any gambling device for hire, or a manufacturer or distributor of such devices keeping the same only for the purpose of sale or distribution to others or repairing of same.

Subd. 7. "Licensed business" means any business, trade, vocation, commercial enterprise, or undertaking for which a license is issued.

Subd. 8. "Licensed premises" means the place or building, or the room in a building, designated in the license as the place where the licensed business is to be carried on, and all land adjacent thereto and used in connection with and in the operation of a licensed business, and all adjacent or contiguous rooms or buildings operated or used in connection with the buildings where the licensed business is carried on. If no place is described in any license, then "licensed premises" means the building or place where the licensed business is carried on under such license.

Subd. 9. "Issuing authority" and "authority issuing the license" mean and include the officer, board, bureau, department, commission, or agency of the state, or of any of its municipalities, by whom any license is issued and include the councils and governing bodies of all municipalities.

[1947 c 586 s 1]

325.54 GAMBLING DEVICE; POSSESSION OF. Subdivision 1. **Intentional possession; wilful keeping.** The intentional possession or wilful keeping of a gambling device upon any licensed premises is cause for the revocation of any license under which the licensed business is carried on upon the premises where the gambling device is found.

Subd. 2. **Revocation of licenses.** All licenses under which any licensed business is permitted to be carried on upon the licensed premises shall be revoked if the intentional possession or wilful keeping of any such gambling devices upon the licensed premises is established, notwithstanding that it may not be made to appear that such devices have actually been used or operated for the purpose of gambling.

[1947 c 586 s 2]

325.55 ISSUING AUTHORITY TO REVOKE. The proceedings for revocation shall be had before the issuing authority, which shall have power to revoke the license or licenses involved, as hereinafter provided.

[1947 c 586 s 3]

325.56 PEACE OFFICERS TO OBSERVE AND INSPECT PREMISES. Every sheriff, deputy sheriff, constable, marshal, policeman, police officer, and peace officer shall observe and inspect the premises where occupations are carried on under license and ascertain whether gambling devices are present thereon and immediately report the finding thereof to the authority or authorities issuing the license or licenses applicable to the premises in question.

[1947 c 586 s 4]

325.57 PROCEEDINGS BEFORE ISSUING AUTHORITY; ORDER TO SHOW CAUSE. Upon the receipt of such information from any of the peace officers referred to in section 325.56, if any issuing authority is of the opinion that cause exists for the revocation of any such license, then that authority shall issue an order to show cause directed to the licensee of the premises, stating the ground upon which the proceeding is based and requiring him to appear and show cause at a time and place, within the county in which the licensed premises are located, not less than ten days after the date of the order, why his license should not be revoked. That order to show cause shall be served upon the licensee in the manner prescribed by law for the service of summons in a civil action, or by registered mail, not less than eight days before the date fixed for the hearing thereof. A copy of the order shall forthwith be mailed to the owner of the premises, as shown by the records in the office of the register of deeds, at his last known post-office address. A copy of the order shall at the same time be mailed to any other issuing authority, of which the authority issuing the order to show cause has knowledge, by which other license to that licensee may have been issued, and any such other authority may participate in the revocation proceedings after notifying the licensee and the officer or authority holding the hearing of its intention

so to do on or before the date of hearing, and after the hearing take such action as it could have taken had it instituted the revocation proceedings in the first instance.

[1947 c 586 s 5]

325.58 REVOCATION OF LICENSE. Subdivision 1. **Revocation; stay; appeal.** If, upon the hearing of the order to show cause, it appears that the licensee intentionally possessed or wilfully kept upon his licensed premises any gambling device, then the license or licenses under which the licensed business is operated on the licensed premises, shall be revoked. The order of revocation shall not be enforced during the period allowed by section 325.62 for taking an appeal.

Subd. 2. **Limitation as to issuance of new license on premises.** No new license or licenses for the same business upon the same premises shall be issued for the period of one year thereafter, except as hereinafter provided.

[1947 c 586 s 6]

325.59 DUTIES OF COUNTY ATTORNEY. The county attorney of the county in which the hearing is held shall attend the hearing, interrogate the witnesses, and advise the issuing authority. He shall also appear for the issuing authority on any appeal taken pursuant to the provisions of section 325.62.

[1947 c 586 s 7]

325.60 WITNESSES. The issuing authority may issue subpoenas and compel the attendance of witnesses at any hearing. Witnesses duly subpoenaed and attending any such hearing shall be paid fees and mileage by the issuing authority equal to the fees and mileage paid witnesses in the district court.

[1947 c 586 s 8]

325.61 PROPERTY OWNERS LIABILITY. When a license is revoked under the provisions of sections 325.53 to 325.62, the owner of the premises upon which any licensed business has been operated shall not be penalized by reason thereof unless it is established that he had knowledge of the existence of the gambling devices resulting in license revocation.

[1947 c 586 s 9]

325.62 APPEAL TO DISTRICT COURT; STAY; CONTINUANCE UNDER BOND; HEARING UPON ONE YEAR LIMITATION ON PREMISES. Any licensee, or any owner of licensed premises, aggrieved by an order of an issuing authority revoking any license may appeal from that order to the district court of the county in which the licensee resides by serving a notice of his appeal upon the issuing authority or the clerk thereof. The notice of appeal shall state that the person appealing takes an appeal to that district court from the order revoking the license or licenses, describing them and identifying the order appealed from. This notice shall be served within 15 days from the date of service of the order appealed from, and the same, with proof of service thereof, shall be filed with the clerk of the district court of the proper county. The appeal shall stand for trial at the next term of the district court following the filing of the notice of appeal, without the service of any notice of trial, and shall be tried in the district court de novo. The trial shall be by jury if the appellant shall so demand. The licensee may continue to operate the licensed business or businesses until the final disposition of such appeal. If the district court upon the appeal shall determine that any license involved in the appeal should be revoked, it may, nevertheless, in its discretion permit the continuance of the licensed business under a bond in the amount and in the form and containing the conditions prescribed by the court. The district court on the appeal, or in a separate proceeding, may permit the issuance of a new license to a different licensee before the expiration of the period of one year specified in section 325.58, subdivision 2, upon such terms and conditions imposed by the court as will insure that no gambling device shall thereafter be maintained upon the licensed premises.

[1947 c 586 s 10]