

the attorney general is authorized to act for the commissioner by these sections. The compensation and all expenses and disbursements of such assistant and special assistant attorneys general shall be paid from the moneys appropriated to and for the use of the commissioner.

(2) (a) No officer or employee engaged in the administration of these sections shall use his official authority to influence for the purpose of interfering with an election or affecting the results thereof. No person engaged in the administration of these sections who holds a position in the state classified service pursuant to provisions contained in the state civil service act, while retaining the right to vote as he pleases and to express privately his opinion on all political subjects, shall take an active part in political management or campaigns;

(b) No officer or employee engaged in the administration of these sections shall solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose for any person;

(c) No officer or employee engaged in the administration of these sections shall, for political purposes, furnish or disclose, or aid or assist in furnishing or disclosing, any list or names of persons obtained in the administration of these sections, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager, and it shall be unlawful for any person to receive any such list or names for political purposes.

Sec. 3. Minnesota Statutes 1976, Sections 8.023; 8.024; 8.026; and 84.025, Subdivision 6, are repealed.

Sec. 4. This act takes effect on July 1, 1977.

Approved May 19, 1977.

CHAPTER 173—S.F.No.125

[Coded in Part]

An act relating to commerce; prohibiting discriminatory trade practices; providing a penalty; amending Minnesota Statutes 1976, Section 325.8018, Subdivision 2; and Chapter 325, by adding a section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Chapter 325, is amended by adding a section to read:

[325.8015] COMMERCE; RESTRAINT OF TRADE; DISCRIMINATORY ACTS. [Subd. 2.] Without limiting section 325.8013, the following, when performed by a person within the jurisdiction of this state, and directly affecting business in this state

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(excluding any business employing, controlling, controlled by or under common control with such person), shall be deemed to restrain trade or commerce unreasonably and are unlawful:

(1) Requiring any United States person to be excluded from a business transaction on the basis of that person's sex, race, color, religion, ancestry or national origin or on the basis that the person conducts or has conducted business with persons of a particular race, sex, color, religion, ancestry or national origin, or on the basis that the person has done business in a particular country.

(2) Giving, as part of any business transaction, any statement, certification or other document to the effect that the giver of the statement, certification or other document has complied with a policy imposed by any person, nation, or international organization requiring exclusion from any business transaction, or discrimination against, any United States person on the basis of his race, sex, color, religion, ancestry or national origin or on the basis that the person conducts or has conducted business with persons of a particular race, sex, color, religion, ancestry or national origin, or on the basis that the person has done business in a particular country.

(3) Granting, accepting or processing any letter of credit or other document which evidences the transfer of funds or credit, or entering into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provision which requires any person to discriminate against or to certify that he has not dealt with any other United States person on the basis of race, sex, color, religion, ancestry or national origin, or on the basis that the person conducts or has conducted business with persons of a particular race, sex, color, religion, ancestry or national origin, or on the basis that the person has done business in a particular country.

(4) As part of any business transaction, complying, or agreeing to comply, or certifying or giving other assurance that he complies or agrees to comply, with a policy imposed by another party requiring discrimination against, or refusal to deal with, any United States person, group of United States persons, or list of United States persons, on the basis of race, sex, color, religion, ancestry or national origin or on the basis that the person, group of persons or list of persons conducts or has conducted business with persons of a particular race, sex, color, religion, ancestry or national origin, or on the basis that the person has done business in a particular country.

Provided, however, that the provisions of this section shall not apply to (a) any letter of credit, contract, or other document which contains any provisions pertaining to a labor dispute or an unfair labor practice if the other provisions of such letter of credit, contract, or other document do not violate the provisions of this section; (b) the requiring of association with a particular employer or a particular group as a requisite to obtaining group rates or discount on insurance, recreational activities, or other similar benefits; (c) any act which is an unfair discriminatory practice under section 363.01, subdivision 9 and for which a remedy is provided under chapter 363; (d) persons exempted or acts excepted from the provisions of chapter 363 pursuant to section 363.02; (e) any agreement, letter of credit, contract or other document which contains any specification as to the country of origin of goods or services sold in a business transaction, or as to the vessels to carry the

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goods, or the route by which the goods may be shipped, if the other provisions of such agreement, letter of credit, contract, or other document do not violate the provisions of this section; (f) compliance by a person resident in a foreign country, or agreement by such person to comply, with the export laws of that country with respect to activities exclusively therein; provided further, however, that the mere ownership of an entity located outside the United States by a person within the jurisdiction of this state shall not make such entity a person within the jurisdiction of this state.

The exemption contained in section 325.8017, subdivision 2 shall not apply to actions made unlawful under this subdivision. Provided, however, that the provisions of this subdivision shall not apply to any action made lawful by legislation of the United States of America or executive order of the President of the United States of America which affirmatively preempts the provisions of this section.

[Subd. 3.] Any agreement containing a written or verbal term providing that one or more parties to the agreement will violate the previous subdivision 1 is null and void, and no party to such an agreement may recover in an action for goods or money due by reason of such an agreement or by reason of money paid or goods shipped pursuant to such an agreement.

Sec. 2. Minnesota Statutes 1976, Section 325.8018, Subdivision 2, is amended to read:

Subd. 2. Any person who is found to have willfully committed any of the acts enumerated in section 325.8015 or section 1 of this act 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 five years, or both.

Sec. 3. This act is effective the day following its final enactment. Contracts or agreements which are in existence on the effective date of this act, or acts required by such contracts or agreements, shall not be deemed in violation of this act, unless they have not been brought into compliance with this act by December 31, 1978.

Approved May 19, 1977.

CHAPTER 174—S.F.No.760

An act relating to natural resources; establishing a season for taking deer and bear with muzzle loading firearms; amending Minnesota Statutes 1976, Section 100.27, Subdivisions 2 and 9.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 100.27, Subdivision 2, is amended to read:

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CHAPTER 325D

RESTRAINT OF TRADE

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UNFAIR DISCRIMINATION AND COMPETITION**325D.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 this section, for the purposes of sections 325D.02 to 325D.07, 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 resale in any form.

Subd. 3. **Wholesaler.** The term "wholesaler" means any person, firm, or corporation, partnership, association, business trust, or any unincorporated organization, 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, without deducting customary cash discounts, plus any excise or sales taxes imposed on such commodity, goods, wares or merchandise subsequent to the purchase thereof and prior to the resale thereof, 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 then currently in effect, less the published trade discount but without deducting the customary cash discount, plus any excise or sales taxes imposed on such commodity, goods, wares or merchandise subsequent to the purchase thereof and prior to the resale thereof, plus the cost of doing business by the vendor shall be prima facie evidence of "cost";

(3) for purposes of gasoline offered for sale by way of posted price or indicating meter by a retailer, at a retail location where gasoline is dispensed into passenger automobiles and trucks by the consumer, "cost" means the average terminal price on the day, at the terminal from which the most recent supply of gasoline delivered to the retail location was acquired, plus all applicable state and federal excise taxes and fees, plus the lesser of six percent or eight cents.

Subd. 6. **Customary cash discounts.** The term "customary cash discounts" means any allowance, not exceeding two percent, 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 325D.02 to 325D.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. **Trade discount.** The term "trade discount" means all discounts made to the wholesale or retail vendee other than the customary cash discount.

Subd. 9. **Subjobber.** The term "subjobber" means any person, partnership, firm, corporation or association other than a wholesaler or retailer, who or which buys any commodity, article, goods, wares, or merchandise from a wholesaler and sells such merchandise directly to retailers, thereby performing the selling and delivering functions of a wholesaler.

Subd. 10. **Vending machines operator.** The term "vending machines operator" means any person, partnership, firm, corporation or association who or which owns, services and supplies ten or more merchandise vending machines placed in various locations for dispensing such merchandise to consumers.

Subd. 11. **Terminal.** "Terminal" means a storage facility to which gasoline is shipped by pipeline, barge, or rail, and from which gasoline is subsequently transferred into motor vehicles for delivery to other locations. For purposes of this chapter, an oil refinery is also a terminal.

Subd. 12. **Average terminal price.** "Average terminal price" means the arithmetic mean of all prices for an individual grade of gasoline at a terminal as published by a nationally recognized petroleum price reporting service.

History: (3976-42) 1937 c 116 pt 2 s 3; 1937 c 456 s 1; 1939 c 403 s 2; 1941 c 326 s 2; 1955 c 339 s 1-4; 1980 c 509 s 124; 1996 c 305 art 1 s 70; 2001 c 129 s 1-3

325D.02 APPLICATION.

Section 325D.03 shall apply only to the manufacture, production, or distribution of any commodity, article, goods, wares, or merchandise in general use or consumption. Sections 325D.04 to 325D.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.

History: (3976-37, 3976-40) 1937 c 116 pt 1 s 1; 1937 c 116 pt 2 s 1

325D.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, who for the purpose or with the effect of injuring a competitor or destroying competition, 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 325D.01 to 325D.07 shall not prevent any person, firm, or corporation from, in good faith, meeting local competition within any one section, community, 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 325D.01 to 325D.07.

History: (3976-38) 1937 c 116 pt 1 s 2; 1957 c 822 s 1; 1973 c 123 art 5 s 7

325D.04 SELLING BELOW COST FORBIDDEN.

Any retailer, wholesaler, subjobber or vending machines operator 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 a competitor or destroying competition, shall be guilty of unfair discrimination; and, upon conviction, subject to the penalty therefor provided in section 325D.071.

Any retailer, wholesaler, subjobber or vending machines operator 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 325D.071; 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 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.

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 325D.01 to 325D.07.

History: (3976-41) 1937 c 116 pt 2 s 2; 1939 c 403 s 1; 1941 c 326 s 1; 1957 c 822 s 2; 1987 c 384 art 2 s 1

325D.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, closeout, 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 closeout 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.

History: (3976-43) 1937 c 116 pt 2 s 4

325D.06 INAPPLICABLE SALES.

The provisions of sections 325D.01, subdivisions 2 to 6; 325D.04; and 325D.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 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.

History: (3976-45) 1937 c 116 pt 2 s 6; 1939 c 403 s 3; 1941 c 326 s 3; 1957 c 822 s 3; 1967 c 302 s 2; 1986 c 444; 1995 c 73 s 1

325D.07 REMEDIES CUMULATIVE.

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

History: (3976-48) 1937 c 116 pt 3 s 3; 1939 c 403 s 6

325D.071 VIOLATIONS; PENALTIES.

Any person, firm, or corporation, whether as principal, agent, officer, or director, for itself, or for another person, firm, or corporation, willfully violating the provisions of sections 325D.03, 325D.04, and 325D.05 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 325D.03, 325D.04, and 325D.05, knowingly assists or aids directly or indirectly in such violation shall be equally responsible therefor.

History: 1929 c 300 s 4; 1937 c 116 pt 3 s 1; 1937 c 196 s 4; 1937 c 412 s 9; 1939 c 403 s 4; 1941 c 326 s 4; 1961 c 561 s 10; 1973 c 151 s 3; 1984 c 628 art 3 s 11; 1986 c 444; 1996 c 305 art 1 s 71

325D.072 INJUNCTIVE RELIEF.

In addition to the penalties provided in section 325D.071, the courts of this state are hereby vested with jurisdiction to prevent and restrain violations of sections 325D.02 to 325D.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 amount of the actual damages, 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 325D.02 to 325D.072, 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 the person may tend to criminate or subject the person 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 the person

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.

History: *1937 c 116 pt 3 s 2; 1939 c 403 s 5; 1941 c 326 s 5; 1986 c 444; 1996 c 305 art 1 s 72*

325D.08 [Repealed, 1995 c 73 s 2]

UNLAWFUL TRADE PRACTICES

325D.09 UNLAWFUL TRADE PRACTICES.

The legislature of the state of Minnesota hereby finds: that the trade practices defined and prohibited by sections 325D.09 to 325D.16 are detrimental to labor, destructive to employment, and injurious to the best interests of workers; that they mislead consumers into believing that they are buying merchandise at prices substantially below regular retail prices, when in fact they are not; that they mislead consumers as to the quality, ingredients and origin of merchandise purchased; that they deprive consumers of various customer services offered by regularly established and bona fide retail outlets without compensating advantage to consumers; 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.

History: *1943 c 144 s 1; 1986 c 444*

325D.10 DEFINITIONS.

When used in sections 325D.09 to 325D.16:

(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 employee.

(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 resale or (2) a sale of a substantial quantity of merchandise for business use only.

History: *1943 c 144 s 2*

325D.11 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 resale or is a sale of a substantial quantity of merchandise for business use only.

History: *1943 c 144 s 3*

325D.47 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

Sections 325D.43 to 325D.48 shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of sections 325D.43 to 325D.48 among those states which enact it.

History: *1973 c 216 s 5*

325D.48 CITATION.

Sections 325D.43 to 325D.48 may be cited as the Uniform Deceptive Trade Practices Act.

History: *1973 c 216 s 6*

**COMBINATIONS IN
RESTRAINT OF TRADE****325D.49 CITATION.**

Sections 325D.49 to 325D.66 may be cited as the "Minnesota Antitrust Law of 1971."

History: *1971 c 865 s 1*

325D.50 DEFINITIONS.

Subdivision 1. **Scope.** Unless a different meaning is clearly indicated by the context, for the purposes of sections 325D.49 to 325D.66, the terms defined in this section have the meanings ascribed to them.

Subd. 2. **Commodity.** "Commodity" means any goods, merchandise, wares, produce, chose in action, land, article of commerce, or any other tangible or intangible property, real, personal, or mixed, for use, consumption, enjoyment, or resale.

Subd. 3. **Service.** "Service" means any kind of activity performed in whole or in part for financial gain.

Subd. 4. **Contract, combination, or conspiracy.** "Contract, combination, or conspiracy" means any agreement, arrangement, collusion, or understanding. "Contract" includes a purchase, a contract to purchase, a sale, a contract to sell, a lease, a contract to lease, a license, or a contract to license. "Combination" includes a trust, common selling or purchasing agent, pool, or holding company.

Subd. 5. **Person.** "Person" means any individual, corporation, firm, partnership, incorporated and unincorporated association, or any other legal or commercial entity.

Subd. 6. **Trade or commerce.** "Trade or commerce" means any economic activity of any type whatsoever involving any commodity or service whatsoever.

History: *1971 c 865 s 2*

325D.51 UNREASONABLE RESTRAINT OF TRADE OR COMMERCE.

A contract, combination, or conspiracy between two or more persons in unreasonable restraint of trade or commerce is unlawful.

History: *1971 c 865 s 3*

325D.52 ESTABLISHMENT, MAINTENANCE, OR USE OF MONOPOLY POWER.

The establishment, maintenance, or use of, or any attempt to establish, maintain, or use monopoly power over any part of trade or commerce by any person or persons for the purpose of affecting competition or controlling, fixing, or maintaining prices is unlawful.

History: 1971 c 865 s 4

325D.53 PROHIBITED CONTRACTS, COMBINATIONS, AND CONSPIRACIES.

Subdivision 1. **Price fixing, production control, allocation of markets, collusive bidding, and concerted refusals to deal.** Without limiting section 325D.51, the following shall be deemed to restrain trade or commerce unreasonably and are unlawful:

(1) A contract, combination, or conspiracy between two or more persons in competition:

(a) for the purpose or with the effect of affecting, fixing, controlling or maintaining the market price, rate, or fee of any commodity or service;

(b) affecting, fixing, controlling, maintaining, limiting, or discontinuing the production, manufacture, mining, sale or supply of any commodity, or the sale or supply of any service, for the purpose or with the effect of affecting, fixing, controlling, or maintaining the market price, rate, or fee of the commodity or service; or

(c) allocating or dividing customers or markets, functional or geographical, for any commodity or service.

(2) A contract, combination, or conspiracy between two or more persons whereby, in the letting of any public contract, (a) the price quotation of any bid is fixed or controlled, (b) one or more persons refrains from the submission of a bid, or (c) competition is in any other manner restrained.

(3) A contract, combination, or conspiracy between two or more persons refusing to deal with another person, except a refusal to deal by associations, trading boards, or exchanges when predicated upon a failure to comply with rules of membership.

Subd. 2. Discriminatory acts. Without limiting section 325D.51, the following, when performed by a person within the jurisdiction of this state, and directly affecting business in this state (excluding any business employing, controlling, controlled by or under common control with such person), shall be deemed to restrain trade or commerce unreasonably and are unlawful:

(1) Requiring any United States person to be excluded from a business transaction on the basis of that person's sex, race, color, religion, ancestry or national origin or on the basis that the person conducts or has conducted business with persons of a particular race, sex, color, religion, ancestry or national origin, or on the basis that the person has done business in a particular country.

(2) Giving, as part of any business transaction, any statement, certification or other document to the effect that the giver of the statement, certification or other document has complied with a policy imposed by any person, nation, or international organization requiring exclusion from any business transaction, or discrimination against, any United States person on the basis of race, sex, color, religion, ancestry or national origin or on the basis that the person conducts or has conducted business with persons of a particular race, sex, color, religion, ancestry or national origin, or on the basis that the person has done business in a particular country.

(3) Granting, accepting or processing any letter of credit or other document which evidences the transfer of funds or credit, or entering into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provision which requires any person to discriminate against or to certify that the person has not dealt with any other United States person on the basis of race, sex, color, religion, ancestry or national origin, or on the basis that the person conducts or has conducted business with persons of a particular race, sex, color, religion, ancestry or national origin, or on the basis that the person has done business in a particular country.

(4) As part of any business transaction, complying, or agreeing to comply, or certifying or giving other assurance of compliance or agreement to comply, with a policy imposed by another party requiring discrimination against, or refusal to deal with, any United States person, group of United States persons, or list of United States persons, on the basis of race, sex, color, religion, ancestry or national origin or on the basis that the person, group of persons or list of persons conducts or has conducted business with persons of a particular race, sex, color, religion, ancestry or national origin, or on the basis that the person has done business in a particular country.

Provided, however, that the provisions of subdivisions 2 and 3 shall not apply to (a) any letter of credit, contract, or other document which contains any provisions pertaining to a labor dispute or an unfair labor practice if the other provisions of such letter of credit, contract, or other document do not violate the provisions of subdivisions 2 and 3; (b) the requiring of association with a particular employer or a particular group as a requisite to obtaining group rates or discount on insurance, recreational activities, or other similar benefits; (c) any act which is an unfair discriminatory practice under section 363A.03, subdivision 48, and for which a remedy is provided under chapter 363A; (d) persons exempted or acts excepted from the provisions of chapter 363A pursuant to sections 363A.20 to 363A.26; and 363A.38; (e) any agreement, letter of credit, contract or other document which contains any specification as to the country of origin of goods or services sold in a business transaction, or as to the vessels to carry the goods, or the route by which the goods may be shipped, if the other provisions of such agreement, letter of credit, contract, or other document do not violate the provisions of subdivisions 2 and 3; (f) compliance by a person resident in a foreign country, or agreement by such person to comply, with the export laws of that country with respect to activities exclusively therein; provided further, however, that the mere ownership of an entity located outside the United States by a person within the jurisdiction of this state shall not make such entity a person within the jurisdiction of this state.

The exemption contained in section 325D.55, subdivision 2 shall not apply to actions made unlawful under this subdivision. Provided, however, that the provisions of this subdivision shall not apply to any action made lawful by legislation of the United States of America or executive order of the President of the United States of America which affirmatively preempts the provisions of subdivisions 2 and 3.

Subd. 3. Discriminatory agreements. Any agreement containing a written or verbal term providing that one or more parties to the agreement will violate the previous subdivision 2 is null and void, and no party to such an agreement may recover in an action for goods or money due by reason of such an agreement or by reason of money paid or goods shipped pursuant to such an agreement.

History: 1971 c 865 s 5; 1977 c 173 s 1; 1986 c 444; 1990 c 567 s 10

325D.54 SCOPE OF ACT.

Sections 325D.49 to 325D.66 apply to:

(a) any contract, combination, or conspiracy when any part thereof was created, formed, or entered into in this state; and

(b) any contract, combination, or conspiracy, wherever created, formed, or entered into; any establishment, maintenance, or use of monopoly power; and any attempt to establish, maintain, or use monopoly power; whenever any of the foregoing affects the trade or commerce of this state.

History: 1971 c 865 s 6

325D.55 EXEMPTIONS.

Subdivision 1. **Labor, electrical, agricultural, or horticultural organizations.** Nothing contained in sections 325D.49 to 325D.66, shall be construed to forbid the existence or operation of labor, electrical, agricultural, or horticultural organizations, including organizations that operate aquatic farms, as defined in section 17.47, subdivision 3, that are instituted for the purpose of mutual help, and not conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the provisions of sections 325D.49 to 325D.66, when lawfully carrying out the legitimate objects hereof.

Subd. 2. **Government permitted or regulated actions or arrangements.** (a) Nothing contained in sections 325D.49 to 325D.66, shall apply to actions or arrangements otherwise permitted, or regulated by any regulatory body or officer acting under statutory authority of this state or the United States.

(b) Paragraph (a) includes programs established and operated by nonprofit organizations under the supervision of the supreme court that provide legal services to low-income persons at reduced fees based on a fee structure approved by the supreme court. The nonprofit organization shall submit a proposed fee structure, including hourly rates, to the supreme court at least once each calendar year. The supreme court may approve the proposed fee structure or establish another fee structure.

Subd. 3. **Collective bargaining agreements.** Nothing in sections 325D.49 to 325D.66, shall apply to agreements among employers or agreements among labor unions made for the purpose of furthering the position of any of the agreeing employers or agreeing unions in the course of the collective bargaining process.

History: 1971 c 865 s 7; 1994 c 568 s 1; 2008 c 368 art 1 s 16

325D.56 PENALTIES FOR VIOLATION.

Subdivision 1. **Civil penalties.** Any person who is found to have violated sections 325D.49 to 325D.66, shall be subject to a civil penalty of not more than \$50,000. Any person who fails to comply with a final judgment or decree rendered by a court of this state issued for a violation of sections 325D.49 to 325D.66, shall be subject to a civil penalty of not more than \$100,000.

Subd. 2. **Criminal penalty.** 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: 1971 c 865 s 8; 1977 c 173 s 2; 1989 c 290 art 6 s 4

325D.57 DAMAGES.

Any person, any governmental body, or the state of Minnesota or any of its subdivisions or agencies, injured directly or indirectly by a violation of sections 325D.49 to 325D.66, shall recover three times the actual damages sustained, together with costs and disbursements, including reasonable attorneys' fees. In

any subsequent action arising from the same conduct, the court may take any steps necessary to avoid duplicative recovery against a defendant.

History: *1971 c 865 s 9; 1984 c 458 s 1*

325D.58 INJUNCTIVE RELIEF.

In addition to other remedies provided by sections 325D.49 to 325D.66, the courts of this state shall have jurisdiction to grant such temporary, interlocutory, or permanent injunctive relief as is necessary to prevent and restrain violations of sections 325D.49 to 325D.66. Applications for such relief shall be made in accordance with the rules of the court to which application for relief is made and according to the manner prescribed by law.

History: *1971 c 865 s 10*

325D.59 AUTHORITY OF THE ATTORNEY GENERAL.

The attorney general may investigate any alleged violation of sections 325D.49 to 325D.66 and, having reasonable cause to believe that a violation is imminent, is occurring or has occurred, the attorney general may institute on behalf of the state of Minnesota, any of its departments and agencies, or any of its political subdivisions a court action seeking appropriate relief. The investigatory authority of the attorney general under sections 325D.49 to 325D.66 shall include, but not be limited to, the authority provided for in section 8.31.

History: *1971 c 865 s 11; 1974 c 524 s 1; 1986 c 444*

325D.60 FORFEITURE OF CHARTER RIGHTS AND PRIVILEGE TO DO BUSINESS.

Subdivision 1. **Attorney general's powers.** Upon the failure of any person to comply with the terms of a final judgment or decree rendered by a court of this state issued for a violation of the provisions of sections 325D.49 to 325D.66, or to comply with a consent settlement approved by a court of this state concerning an alleged violation of sections 325D.49 to 325D.66, the attorney general may apply to the court:

(a) for the forfeiture of any charter rights, franchise privileges or powers of such corporation held by such person under the laws of this state;

(b) for dissolution, if the person is a corporation or limited partnership organized under the laws of this state; or

(c) for the suspension of the privilege to conduct business within this state.

The court, after giving due consideration to the public interest and to relevant competitive and economic circumstances, may grant so much of the requested relief as is deemed appropriate. A dissolution shall be conducted in accordance with the procedures specified by law for either voluntary or judicial dissolution of the particular type of corporation, association, firm or partnership.

Subd. 2. **Application to assignee, transferee, or successor.** If any corporation, association, partnership, or limited partnership shall be dissolved or have its privilege to transact business in this state suspended or revoked as provided in subdivision 1, no assignee, transferee, or successor-in-interest of such corporation, association, partnership, or limited partnership, shall be permitted to incorporate or to transact business in this state without first applying to the court for and receiving an order permitting incorporation or transaction

of business. No order shall be granted unless the applicant proves to the satisfaction of the court that it will conduct its affairs in accordance with the provisions of sections 325D.49 to 325D.66.

History: 1971 c 865 s 12

325D.61 ACTS OF OFFICERS, DIRECTORS, REPRESENTATIVES, OR AGENTS ACTING WITHIN SCOPE OF AUTHORITY.

Subdivision 1. **Imputed liability of business entity.** A corporation, association, firm, partnership, or limited partnership is liable for the acts of its officers, directors, representatives, or agents acting within the scope of their authority, whether they are acting on their own behalf and for their own benefit, or acting for the corporation, association, firm, partnership, or limited partnership in their representative capacity. Proof of the acts of any such officer, director, representative, or agent shall be received as prima facie proof of the acts of the corporation, association, firm, partnership, or limited partnership itself.

Subd. 2. **Business entity violations as violations of individuals.** When a corporation, association, firm, partnership, or limited partnership violates sections 325D.49 to 325D.66, such violation shall be deemed to be that of the individual directors, members, officers, managers, employees, or agents of the corporation, association, firm, partnership, or limited partnership who knowingly authorized, ordered, aided, abetted, or advised in the commission of any of the acts constituting in whole or in part the violation, whether the individuals acted on their own behalf and for their own benefit, or for the corporation, association, firm, partnership, or limited partnership and in their representative capacity.

The individuals, in their capacity as individuals, are subject to the provisions of sections 325D.49 to 325D.66, and may be joined, if subject to personal jurisdiction, as additional parties defendant in the proceedings against the corporation, association, firm, partnership, or limited partnership.

History: 1971 c 865 s 13

325D.62 JUDGMENT IN FAVOR OF STATE AS PRIMA FACIE EVIDENCE.

A final judgment or decree rendered in any civil or criminal proceeding under sections 325D.49 to 325D.66 brought by or on behalf of the state of Minnesota, any of its departments or agencies, or any of its political subdivisions, to the effect that a defendant has violated sections 325D.49 to 325D.66, shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said sections as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, that this section shall not apply to consent judgments or decrees entered before any testimony has been taken.

History: 1971 c 865 s 14

325D.63 NOTIFICATION OF CIVIL ACTION.

Upon commencement of any civil action by a person, other than the attorney general, for violation of sections 325D.49 to 325D.66, the court administrator shall mail a copy of the complaint to the attorney general.

History: 1971 c 865 s 15; 1Sp1986 c 3 art 1 s 82

325D.64 STATUTE OF LIMITATIONS.

Subdivision 1. **Interpretation and effect.** An action under sections 325D.49 to 325D.66, shall be forever barred unless commenced within four years of the date upon which the cause of action arose. No cause of

action barred under existing law on June 8, 1971 shall be revived by sections 325D.49 to 325D.66. For the purpose of this section, a cause of action for a continuing violation is deemed to arise at any time during the period of the violation.

Subd. 2. **Government actions; suspension.** If any proceeding is commenced under sections 325D.49 to 325D.66, by the attorney general on behalf of the state of Minnesota, its departments or agencies, or its political subdivisions, the running of the statute of limitations in respect of every right of action arising under sections 325D.49 to 325D.66, and based in whole or in part on any matter complained of in the aforementioned proceeding shall be suspended during the pendency thereof and for one year thereafter. If the running of the statute of limitations is suspended, the action shall be forever barred unless commenced within the greater of either the period of suspension or four years after the date upon which the cause of action arose.

History: 1971 c 865 s 16

325D.65 VENUE.

Actions or proceedings brought by the state or any private party for violations of the provisions of sections 325D.49 to 325D.66, may be brought in the district court in and for the county where the offense or any part thereof is committed, or where any of the defendants reside or is found, or where any agent of any defendant resides or is found, or where any defendant, corporation, association, firm, partnership, or limited partnership does business.

History: 1971 c 865 s 17

325D.66 ACTION NOT BARRED AS AFFECTING OR INVOLVING INTERSTATE OR FOREIGN COMMERCE.

No action under sections 325D.49 to 325D.66 shall be barred on the ground that the activity or conduct complained of in any way affects or involves interstate or foreign commerce.

History: 1971 c 865 s 18

PETROLEUM DISCRIMINATION BETWEEN LOCALITIES PROHIBITED

325D.67 PETROLEUM.

Subdivision 1. **Discrimination between localities.** Any person, firm, company, association, or corporation, foreign or domestic, doing business in this state and engaged in the production, manufacture, or distribution of petroleum or any of its products that shall intentionally, or otherwise, for the purpose of destroying the business of a competitor or creating a monopoly in any locality, discriminate between different sections, communities, or cities of this state, by selling such commodity at a lower rate in one section, community, or city than is charged for such commodity by such party in another section, community, or city after making due allowance for the difference, if any, in the test or quality and in the actual cost of transportation from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful.

Subd. 2. **Penalty.** Any person, firm, company, association, or corporation violating any of the provisions of subdivision 1, and any officer, agent, or receiver of any firm, company, association, or corporation, or any member of the same, or any individual found guilty of violation thereof, shall be guilty of a gross