

No. 379, A.]

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CHAPTER 597

AN ACT to create 100.201 and 100.202 of the statutes, relating to unfair trade practices in the dairy industry and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

100.201 and 100.202 of the statutes are created to read:

100.201 UNFAIR TRADE PRACTICES IN THE DAIRY INDUSTRY. (1) DEFINITIONS. When used in this section unless context otherwise requires:

(a) "Selected dairy products" includes milk, cream, ice cream, frozen desserts, ice milk and sherbet.

(b) "Sell at retail," "sales at retail," and "retail sales" mean and include any transfer for a valuable consideration made in ordinary course of trade or the usual conduct of the seller's business, of title to tangible personal property to the purchaser for consumption or use other than resale or further processing or manufacturing. The above terms shall include any transfer of such property where title is retained by the seller as security for the payment of the purchase price.

(c) "Sell at wholesale," "sales at wholesale," and "wholesale sales" mean and include any transfer for a valuable consideration made in ordinary course of trade or the usual conduct of the seller's business, of title to tangible personal property to the purchaser for purposes of resale or further processing or manufacturing. The above terms shall include any transfer of such property where title is retained by the seller as security for the payment of the purchase price.

(d) "Retailer" means every person engaged in the business of making sales of selected dairy products at retail within this state; provided that in the case of a person engaged in the business of making both sales at retail and sales at wholesale such term shall apply only to the retail portion of such business.

(e) "Wholesaler" means every person engaged in the business of making sales of selected dairy products at wholesale within this state; provided that, in the case of a person engaged in the business of making both sales at retail and sales at wholesale such term shall apply only to the retail portion of such business.

(2) Each of the practices described in this subsection is declared to be an unfair trade practice. It is unlawful for any person to be engaged in such practices. No wholesaler shall:

(a) Give or extend discounts or rebates on selected dairy products sold to retailers, except for standard printed public discounts which fairly represent cost savings which may be passed on to the consumer.

(b) Furnish, give, lend, sell, or rent any advertising material of any form or matter except matter advertising the wholesaler's own products, providing that not more than one-third of the space or cost in advertising matter to be used to identify the retailer.

(c) Make payments of money, credit, gifts, or loans to retailers as rental for the storage or display of selected dairy products on the premises where they are offered for sale by the retailer.

(d) Make or underwrite loans to help retailers buy dairy refrigeration, storage, display and selling equipment, when the loan is for more than

90 per cent of the purchase price, is not secured by a chattel mortgage, bears more than 5 per cent interest rate and payable in more than 48 months.

(e) Furnish, sell, give, lend or rent any equipment to a retailer except:

1. The wholesaler may sell dairy refrigeration equipment to the retailer but the selling price shall be the cost to the wholesaler less 10 per cent per year depreciation plus transportation and installation costs plus at least 6 per cent but in no event shall it be less than \$50 per unit.

2. The wholesaler may provide without restriction coin-vending machines from which the product vended is consumed on the premises.

3. The wholesaler may provide storage cabinets without restriction but such storage cabinets must be used exclusively for the storage of selected dairy products distributed or manufactured by the installer of the cabinet and not so that the products can be readily dispensed therefrom to the consumer.

(f) Maintain or make repairs of any equipment owned by a retailer except those used exclusively for selected dairy products. On such repairs the wholesaler shall charge comparative, competitive commercial fees and charges for the service and parts.

(g) Extend or give credit to any retailer in excess of 30 days payable 15 days thereafter.

(h) Give any other gift of money, merchandise, services or materials of any value to any retailer to assist him in the conduct of his business.

(3) Nothing in this section shall be interpreted to prohibit the operation of a retail outlet by a wholesaler for retail sales or to prohibit the use by him in such retail outlet any equipment or advertising or miscellaneous matter owned by him provided that such retail outlet is under direct control and management of the wholesaler.

(4) Nothing in this section shall be interpreted to prohibit the giving away of merchandise to be consumed on the premises.

(5) For the purpose of this section any subsidiary or affiliate corporation, co-operative, officer, director or partner of a corporation, co-operative, or partnership which is a wholesaler of selected dairy products is deemed to be a wholesaler of selected dairy products.

(6) (a) Violators of this section shall be subject to the penalties prescribed in s. 100.26 (3).

(b) Participation by a retailer in any of the prohibited trade practices shall be fined \$100.

(c) Violators of this section shall be subject to a suit for damages by the injured person, corporation, partnership or business as prescribed under s. 100.21.

100.202 CONTRACTS IN VIOLATION VOID. All contracts and agreements made in violation of s. 100.201 are void.

Approved August 23, 1955.