

CHAPTER 51-02-02 DISRUPTIVE TRADE PRACTICES

Section

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51-02-02-01. Discounts, rebates, or allowances.

The giving of discounts, rebates, or allowances in connection with the sale of milk products unless such discounts, rebates, or allowances are authorized by the board in accordance with North Dakota Century Code section 4.1-26-13 is prohibited. Nothing contained in this chapter shall be construed to prohibit the issuing of trading stamps by retailers in numbers customary in normal trade, but no trading stamp bonuses shall be given for milk products.

History: Amended effective July 1, 2000.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-02. Free equipment or services.

The furnishing by a dealer of free equipment or services to a retailer is prohibited. This section shall not be interpreted as authorizing the board to prohibit the stocking by a dealer of the dairy case or frozen dairy products cabinet of a retailer nor the stamping on each milk product or frozen dairy product by the dealer of the retail price at which the retailer desires to sell any such product.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-03. Advertising or display allowances.

The giving of advertising or display allowances is prohibited.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-04. Free milk products or frozen dairy products.

The giving of a free milk product, a free frozen dairy product, services, or articles of any kind, to a customer is prohibited, except as follows:

1. The distribution of promotional materials furnished by trade associations which promote the milk industry without brand discrimination.

2. Gifts of a milk product or a frozen dairy product to consumers solely for milk industry promotion without brand discrimination, processor involvement and where the retailer receives the full retail price.
3. The giving of samples of milk products or frozen dairy products at supermarkets, trade fairs, or like function if the sample is not more than one and one-half ounces [44.36 milliliters], liquid.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-05. Loans, financial assistance, and extension of credit.

The making or renewal of loans, or the giving of financial assistance in any other form, between dealers or by a dealer to a retailer is prohibited. The extension of credit between dealers or by a dealer to a retailer for longer than a period of sixty days after delivery of the product is prohibited.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-06. Signs.

The furnishing of signs by a dealer to a retailer is prohibited.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-07. Combination sales.

Selling, offering to sell, or advertising any milk product or frozen dairy product in combination with any other product or service is prohibited.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-08. Special prices.

Selling, offering to sell, or advertising any product or service at a price which is available only to purchasers of a milk product or a frozen dairy product is prohibited.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-09. Gifts.

The giving of gifts by dealers to retailers is prohibited.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-10. Equipment.

The leasing, renting, lending, servicing, or repairing of equipment by a dealer to a retailer is prohibited, except that the furnishing of portable merchandisers by a dealer will be permitted for demonstration of dairy products by a dealer. The sale of equipment by a dealer to a retailer shall not be at a price less than the seller's invoice cost plus ten percent or depreciated value in the case of used equipment. All such sales must be fully documented by cash receipts, security agreements, or ledger accounts, and all terms of such sales shall be in accord with normal business practices.

History: Amended effective November 1, 1986.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-11. Deposits on returnable containers.

The requiring of deposits where milk products are purchased in returnable containers and the giving of allowances or credits in connection with the return of such containers is prohibited, except deposits may be required on milk cases provided said deposits do not exceed the reasonable replacement value thereof.

History: Amended effective December 1, 1983.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-12. Secret rebates - Central billing.

Payments by dealers to a franchiser, wholesale grocer, or any other person closely connected with a retailer for central billing, customer solicitation, or other services where the purpose or effect of such payment is to induce the recipient of any such payment to influence or attempt to influence the decision of one or more retailers relative to the brands of milk products or frozen dairy products to be purchased and resold by such retailer or relative to the amount of space to be allocated to any brand of milk products or frozen dairy products is prohibited. If a central billing service is solicited and established by a wholesale grocery warehouse to guarantee collection of dealer accounts, all dealers supplying member or corporate stores must be accorded the same service without discrimination and the central billing service fee must not exceed two percent of invoice cost.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-13. Pirating salesmen.

Determined repealed by the office of the Legislative Council pursuant to North Dakota Century Code section 28-32-06 because the authority for the adoption of the rules was repealed by S.L. 2015, ch. 72, section 3.

51-02-02-14. Shake mix and soft serve mix sales at retail.

All transactions by retailers selling shake mix and soft serve mix in its various forms to consumers shall be exempt from sections 51-02-02-01, 51-02-02-04, 51-02-02-07, and 51-02-02-08.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31

51-02-02-15. Interpretation.

If any portion of this chapter is held invalid or unconstitutional, such holding shall not affect the validity of the chapter as a whole or of any part thereof which can be given effect without the part so held to be unconstitutional or invalid.

General Authority: NDCC 4.1-26-30, 4.1-26-31

Law Implemented: NDCC 4.1-26-31