

# DEALERS

## CHAPTER 125

H. B. No. 252—(Peterson of Renville, by request)

### REFUNDS, IMPLEMENT AND AUTOMOBILE DEALERS

An Act providing for the payment to a retail implement dealer or an automobile or truck dealer of certain sums for all stock of farming implements and repairs for farm implements and automobiles or trucks or parts therefor upon the cancellation or discontinuation of any contract between such retail implement dealer and the manufacturer, wholesaler, or distributor of farm implements, machinery and repair parts for farm implements and farm machinery, or automobiles or trucks or repair parts for automobiles or trucks.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Whenever any person, firm, or corporation engaged in business of selling and retailing farm implements and repair parts for farm implements or automobiles or trucks or repair parts for automobiles or trucks, may hereafter have a contract with any wholesaler, manufacturer, or distributor of farm implements and machinery or repair parts for farm implements and machinery, or automobiles or trucks or repair parts for automobiles or trucks, and such wholesalers, manufacturer, or distributor desires to cancel or discontinue the contract with such retailer, such wholesaler, manufacturer, or distributor shall, as a condition precedent to such cancellation or discontinuation, pay to such retailer unless dealer should desire to keep such merchandise, a sum equal to seventy-five per cent (75%) of the net price of all farm implements and machinery and repair parts for farm implements and machinery in stock and for all automobiles or trucks or repair parts for automobiles or trucks and held by such retailer on date of cancellation or discontinuation of such contract.

§ 2. The price of such farm implements, machinery, and repair parts and automobiles, trucks or repair parts, shall be determined by taking the net prices as shown upon the manufacturer's, wholesaler's, or distributor's price lists or catalogues in effect at the time such contract is sought to be cancelled or discontinued, and deducting from such net prices as so shown, twenty-five per cent (25%) thereof.

§ 3. In the event any manufacturer, wholesaler, or distributor of farm machinery, farm implements and repair parts for farm machinery and farm implements or automobiles, trucks or repair parts therefor, fails or refuses to pay such sum as hereinbefore specified at the time of the cancellation or discontinuation of such contract,

or refuses to supply farm machinery, farm implements and repair parts for farm machinery and farm implements or automobiles or trucks or repair parts therefor to any retailer of such products who may hereafter have a retail sales contract with such manufacturer, wholesaler, or distributor, such manufacturer, wholesaler or distributor shall be liable in a civil action to be brought by such retailer for seventy-five per cent (75%) of the net price of such farm implements, farm machinery or repair parts or automobiles or trucks or repair parts therefor as may be on hand on the date of the cancellation or discontinuation of such contract; provided, however, that upon the payment of said sum equal to seventy-five per cent (75%) of the net price of such farm implements, farm machinery, and repair parts or automobiles or trucks or repair parts therefor, the title to such farm implements, farm machinery and repair parts or automobiles or trucks or parts therefor shall pass to the manufacturer, wholesaler, or distributor paying such seventy-five per cent (75%) of the net values thereof, and such manufacturer, wholesaler or distributor shall be entitled to the possession of such farm implements, farm machinery, and repair parts for farm implements and farm machinery, or automobiles or trucks or repair parts therefor.

Approved March 10, 1937.

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## CHAPTER 126

(H. B. No. 209—(Knutson of LaMoure, by Request))

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### THE FAIR TRADE ACT

An Act to protect trade mark owners, distributors and the public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguished trade mark, brand or name.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. No contract relating to the sale or resale of a commodity which bears, or the label or content of which bears, the trade mark, brand, or name of the producer or owner of such commodity and which is in fair and open competition with commodities of the same general class produced by others shall be deemed in violation of any law of the State of North Dakota by reason of any of the following provisions which may be contained in such contract:

(1) That the buyer will not resell such commodity except at the price stipulated by the vendor.

(2) That the vendee or producer require in delivery to whom he may resell such commodity to agree that he will not, in turn, resell except at the price stipulated by such vendor or by such vendee.

Such provisions in any contract shall be deemed to contain or

imply conditions that such commodity may be resold without references to such agreement in the following cases :

- (1) In closing out the owner's stock for the purpose of discontinuing delivery of any such commodity.
- (2) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof.
- (3) By any officer acting under the orders of any Court.
- (4) When sold for taxes or other liens.

§ 2. Willfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provision of this Act, 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.

§ 3. This Act shall not apply to any contract or agreement between producers or between wholesalers or between retailers as to sale or resale prices.

§ 4. The following terms, as used in this Act, are hereby defined as follows :

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

"Commodity" means any subject of commerce.

§ 5. If any provision of this Act is declared unconstitutional it is the intent of the Legislature that the remaining portions thereof shall not be affected but that such remaining portions remain in full force and effect.

§ 6. This Act may be known and cited as the "Fair Trade Act."

Approved March 15, 1937.