

CHAPTER 371—S.F.No.1301

An act relating to the Minnesota unfair cigarette sales act; amending the definitions of basic cost of cigarettes; providing a penalty for attempting to induce violations of the unfair cigarette sales act; revising the powers and duties of the commissioner of taxation; amending Minnesota Statutes 1969, Sections 325.66, Subdivisions 9 and 12; 325.67, Subdivision 1; and 325.75, Subdivision 2.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1969, Section 325.66, Subdivision 9, is amended to read:

Subd. 9. **UNFAIR CIGARETTE SALES ACT; REVISION.** "Basic cost of cigarettes" means whichever of the two following amounts is lower, namely (1) ~~the true gross~~ invoice cost of cigarettes to the wholesaler or retailer, as the case may be, or (2) the lowest replacement cost of cigarettes to the wholesaler or retailer in the quantity last purchased, ~~less in either case, all trade discounts, promotional discounts and any other discounts for cash or merchandise,~~ plus the full face value of any stamps which may be required by any cigarette tax act of this state, unless included by the manufacturer in his list price.

Sec. 2. Minnesota Statutes 1969, Section 325.66, Subdivision 12, is amended to read:

Subd. 12. "Subjobber" means any person who buys stamped cigarettes and sells them to persons other than ultimate consumers, and any licensed distributor who delivers to and sells or distributes stamped cigarettes from a place of business other than that for which he has obtained his distributor's license; who does not use a distributor's license for any plan or scheme to circumvent the Minnesota Unfair Cigarette Sales Act or any other law relating to the sale of cigarettes, who does not use such subjobber's license for the principal purpose of selling cigarettes to retail cigarette licensees in which such subjobber has an ownership interest, and who sells at least 75 percent of his total cigarette volume to retail outlets in which the subjobber has no more than a ten percent ownership interest, directly or indirectly, and who sells to at least 25 retail customers. Notwithstanding the foregoing, "subjobber" shall also mean any person who is a vending machine operator. A vending machine operator is any person whose principal business is operating, or owning and leasing to operators, machines for the vending of merchandise or service.

Sec. 3. Minnesota Statutes 1969, Section 325.67, Subdivision 1, is amended to read:

Changes or additions indicated by underline, deletions by ~~strikeout~~.

325.67 SALES AT LESS THAN COST; PENALTY. Subdivision 1. It shall be unlawful for any wholesaler or retailer to offer to sell, or sell, at wholesale or retail, cigarettes at less than cost to such wholesaler or retailer, as the case may be, as defined in sections 325.64 to 325.76 for the purpose or with the effect of injuring a competitor or destroying competition, or for a retailer to induce or to attempt to induce a wholesaler to violate the provisions of ~~Laws 1969, Chapter 759~~ the Minnesota unfair cigarette sales act. Any wholesaler or retailer who violates the provisions of this section shall be guilty of a misdemeanor.

Sec. 4. Minnesota Statutes 1969, Section 325.75, Subdivision 2, is amended to read:

Subd. 2. (1) For purposes of investigating alleged violations of the unfair cigarette sales act, the commissioner of the department of taxation or an employee or agent thereof shall have the power to conduct investigations, hold hearings, and to examine, or cause to be examined, any books, papers, records, or memoranda relevant to conducting such an investigation, examination, or hearing, whether such books, papers, records, or memoranda are the property of or in possession of the wholesaler or retailer or any other person or corporation. He shall further have power to issue a subpoena to require the attendance at a hearing or investigation of any wholesaler, subjobber, retailer, or other person having knowledge or information in the premises to compel production of books, papers, records, or memoranda by the person so required to attend; to take testimony on matters material to such investigation and to administer oaths or affirmations.

(2) No person shall be excused from testifying or from producing, pursuant to a subpoena, any books, papers, records, or memoranda in any investigation or upon any hearing, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty, but no person shall be prosecuted or subjected to any criminal penalty for or on account of any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the commissioner or an employee or agent thereof; provided that such immunity shall extend only to a natural person who, in obedience to a subpoena, given testimony under oath or produces evidence, documentary or otherwise, pursuant to a subpoena. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

(3) Every hearing conducted under sections 325.64 to 325.76 shall be preceded by ten days' notice in writing of the subject of the hearing, including, in the case of suspension or revocation of a license, a statement of the nature of the charges against the licensee. The notice shall be sent by registered mail to the last known address of

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the licensee or other person involved in the hearing, and service shall be complete upon mailing. After every hearing, the commissioner shall make his findings and his order in writing. The findings and order shall be filed in the office of the commissioner, and a copy sent by mail or otherwise to the person to whom the notice was directed.

(4) Said commissioner may, upon notice and after hearing, suspend or revoke any permit issued under the cigarette tax provisions and the rules and regulations of the commissioner of taxation promulgated thereunder, for failure of the permit holder to comply with any provisions of this unfair cigarette sales act or any rule or regulation adopted thereunder. The suspension or revocation of a permit shall be for a period of not less than 15 days from the date of suspension or revocation for the first violation of this act; not less than 45 days from the date of suspension or revocation for the second violation of this act; all subsequent violations shall be punishable by suspension or revocation of a permit for a period of not less than 45 days and not more than one year; and no permit shall be issued for the location designated in the suspended or revoked permit, during the period of suspension or revocation. The commissioner may refuse to grant a cigarette wholesaler or subjobber license to any person who violates the provisions of sections 325.67 to 325.75, or any other act applicable to the sale of cigarettes, or any rule or regulation promulgated or adopted by the commissioner for the enforcement or regulation of the sale of cigarettes.

Approved May 17, 1971.

CHAPTER 372—S.F.No.1343

[Not Coded]

An act relating to tax levies for the road and bridge fund in the county of Itasca.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. ITASCA COUNTY; ROAD AND BRIDGE TAX LEVY. Notwithstanding the provisions of Minnesota Statutes, Section 163.05, the county board of Itasca county may levy taxes for the county road and bridge fund in an amount which does not exceed 35 mills on the dollar of the taxable valuation of the county.

Sec. 2. Before any increase in the levy authorized by section 1 is made, the governing body of the governmental subdivision named in

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