

MAINE STATE LEGISLATURE

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CHAPTER 169.

FAIR TRADE ACT.

Sec. 1. Certain contracts not invalid. 1937, c. 204, § 1. 1939, c. 83.

I. No contract, relating to the sale or resale of a commodity which bears, or the label or content of which bears, or the vending equipment from which said commodity is sold to consumers 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 by reason of any of the following provisions which may be contained in such contract:

A. That the buyer will not resell such commodity at less than the minimum price stipulated by the vendor.

B. That the producer or vendee of a commodity require, upon the sale of such commodity to another, that such purchaser agree that he will not, in turn, resell such commodity at less than the minimum price stipulated by such producer or vendee.

II. Such provisions in any contract shall be deemed to contain or imply conditions that such commodity may be resold without reference to such agreement in the following cases:

A. In closing out the owner's stock for the purpose of discontinuing delivery of any such commodity; provided, however, that such stock is first offered to the manufacturer of such stock at the original invoice price, at least 10 days before such stock shall be offered for sale to the public.

B. When the goods are damaged or deteriorated in quality, and notice is given to the public thereof.

C. When any officer is acting under the orders of any court.

Sec. 2. Unfair competition defined. 1937, c. 204, § 2. Wilfully and knowingly advertising, offering for sale, selling, or disposing of any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of section 1, whether the person so advertising, offering for sale, selling, or disposing of is or is not a party to such contract, is unfair competition and is actionable at the suit of any person injured thereby.

Sec. 3. Limitation. 1937, c. 204, § 3. The provisions of this chapter shall not apply to any contract or agreement between producers or between wholesalers or between retailers as to sale or resale prices.

Sec. 4. Injunction and recovery of damages provided for. 1937, c. 204, § 4. Any person, firm, corporation, or incorporated trade association may maintain an action in the supreme judicial or superior court to enjoin a continuance of any act or acts in violation of the provisions of section 2 and, if injured thereby, for the recovery of damages. If in such action the court shall find that the defendant is violating or has violated any of the provisions of section 2, it shall enjoin the defendant from a continuance thereof. It shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff shall be entitled to recover from the defendant three times the amount of the actual damages, if any, sustained.

Sec. 5. Title. 1937, c. 204, § 5. This chapter may be known and cited as the "Fair Trade Act."