

No. 159, S.]

[Published May 2, 1941.]

CHAPTER 74.

AN ACT to amend 52.03 (3) of the statutes, relating to discharge of inmates.

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

SECTION 1. Subsection (3) of section 52.03 of the statutes is amended to read:

(52.03) (3) The superintendent of each institution, with the approval of the * * * *state department of public welfare*, shall have power to discharge inmates, but no epileptic inmate shall at any time thereafter be sent or returned to any county home. *In county asylums said discharge may be made by the superintendent with written consent of the visiting physician thereof.*

SECTION 2. This act shall take effect upon passage and publication.

Approved April 30, 1941.

No. 164, S.]

[Published May 2, 1941.]

CHAPTER 75.

AN ACT to amend 100.30 (2) (a) (b) and (c), (3), (4) and (6) (d) and (g) of the statutes, relating to the unfair sales act, and providing a penalty.

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

SECTION 1. Paragraphs (a), (b) and (c) of subsection (2), subsections (3) and (4) and paragraphs (d) and (g) of subsection (6) of section 100.30 of the statutes are amended to read:

(100.30) (2) (a) "Cost to retailer" means the invoice cost of the merchandise to the retailer *within 30 days prior to the date of sale*, or replacement cost of the merchandise to the retailer, whichever is lower; less all trade discounts except customary discounts for cash; to which shall be added freight charges not otherwise included in the invoice cost or the replacement cost of the merchandise as herein set forth, and cartage

to the retail outlet if done or paid for by the retailer, which cartage cost, in the absence of proof of a lesser cost, shall be deemed to be three-fourths of one per cent of the cost to the retailer as herein defined after adding thereto freight charges but before adding thereto cartage and markup and a markup to cover a proportionate part of the cost of doing business, which markup, in the absence of proof of a lesser cost, shall be 6 per cent of the cost to the retailer as herein set forth after adding thereto freight charges and cartage but before adding thereto a markup.

(b) "Cost to the wholesaler" means the invoice cost of the merchandise to the wholesaler *within 30 days prior to the date of sale*, or the replacement cost of the merchandise to the wholesaler, whichever is lower; less all trade discounts except customary discounts for cash; to which shall be added, freight charges, not otherwise included in the invoice cost or the replacement cost of the merchandise as herein set forth, and cartage to the retail outlet if done or paid for by the wholesaler, which cartage cost, in the absence of proof of a lesser cost, shall be deemed to be three-fourths of one per cent of the cost to the wholesaler as herein set forth after adding thereto freight charges but before adding thereto cartage and markup, and a markup to cover a proportionate part of the cost of doing business, which markup, in the absence of proof of a lesser cost, shall be 2 per cent of the cost to the wholesaler as herein set forth after adding thereto freight charges and cartage but before adding thereto a markup.

(c) "Replacement cost" means the cost per unit at which the merchandise sold or offered for sale could have been bought by the seller at any time within 30 days prior to the date of sale or the date upon which it is offered for sale by the seller if bought in the same quantity or quantities as the seller's last purchase of the said merchandise.

(3) Any advertising, offer to sell, or sale of any merchandise either by retailers or wholesalers, at less than cost as defined in this section, with the intent, or effect of inducing the purchase of other merchandise or of unfairly diverting trade from a competitor * * *, impairs and prevents fair competition, injures public welfare, and * * * is unfair competition and contrary to public policy and the policy of this section * * *.

(4) Any retailer who, *with the intent of inducing the purchase of other merchandise or of unfairly diverting trade from a competitor or otherwise injuring a competitor*, shall advertise, offer to sell, or sell at retail any item of merchandise at less than cost to the retailer as defined in this section; or any wholesaler who, *with the intent of inducing the purchase of other merchandise or of unfairly diverting trade from a competitor or otherwise injuring a competitor*, shall advertise, offer to sell, or sell at wholesale any item of merchandise at less than cost to the wholesaler as defined in this section, shall be guilty of a misdemeanor punishable upon * * * conviction by a fine of not less than \$10, nor more than * * * \$500. * * * *Evidence of any advertisement, offer to sell, or sale of any item of merchandise by any retailer or wholesaler at less than cost as defined in this section shall be prima facie evidence of intent to induce the purchase of other merchandise, or to unfairly divert trade from a competitor, or to otherwise injure a competitor.*

(6) (d) Merchandise is sold upon the final liquidation of any business *and is advertised, marked, and sold as such*;

(g) The price of merchandise is made in good faith to meet competition;

SECTION 2. This act shall take effect upon passage and publication.

Approved April 30, 1941.

No. 242, S.]

[Published May 2, 1941.

CHAPTER 76.

AN ACT to amend 85.45 (5) of the statutes, relating to exemption of consumers from restrictions on transportation of inflammable liquids.

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

SECTION 1. Subsection (5) of section 85.45 of the statutes is amended to read:

(85.45) (5) It shall be unlawful to transport in any motor vehicle, trailer, or semitrailer upon the public highways any gasoline, naphtha, benzine, fuel oil, crude oil, kerosene, or other inflammable liquids, which are herein defined as any liquid which gives off inflammable vapors as determined by flash point Tagliabue's open cup tester, as used for tests of burning oils