

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 520*

Short Title: Retail Competition Preserved.

(Public)

Sponsors: Representatives Hall; Anderson, Barnes, Blue, Bowen, Bowie, Brown, Brubaker, Church, Colton, Cooper, J. Crawford, N. Crawford, Creech, Culp, DeVane, Dickson, Duncan, B. Ethridge, Flaherty, Fletcher, Gardner, Gibson, Gist, Grady, Greenwood, Grimmer, Hackney, Hasty, Holt, S. Hunt, Hurley, Jones, Kerr, Ligon, Lilley, Lineberry, Locks, McLaughlin, Mills, Nye, Payne, Perdue, Pope, Privette, Ramsey, Redwine, Rhodes, Sizemore, Warren, Wicker, Wisser, and Wood.

Referred to: Judiciary.

March 9, 1989

A BILL TO BE ENTITLED

AN ACT TO PRESERVE AND PROMOTE COMPETITION IN THE RETAIL SALES OF HOUSEHOLD FURNITURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75-5(b) reads as rewritten:

"(b) In addition to the other acts declared unlawful by this Chapter, it is unlawful for any person directly or indirectly to do, or to have any contract express or knowingly implied to do, any of the following acts:

(1) To agree or conspire with any other person to put down or keep down the price of any goods produced in this State by the labor of others which goods the person intends, plans or desires to buy.

(2) To sell any goods in this State upon condition that the purchaser thereof shall not deal in the goods of a competitor or rival in the business of the person making such sales.

(3) To willfully destroy or injure, or undertake to destroy or injure, the business of any competitor or business rival in this State with the purpose of attempting to fix the price of any goods when the competition is removed.

- 1 (4) While engaged in buying or selling any goods within the State,
2 through himself or together with or through any allied, subsidiary or
3 dependent person, to injure or destroy or undertake to injure or destroy
4 the business of any rival or competitor, by unreasonably raising the
5 price of any goods bought or by unreasonably lowering the price of
6 any goods sold with the purpose of increasing the profit on the
7 business when such rival or competitor is driven out of business, or his
8 business is injured.
- 9 (5) While engaged in dealing in goods within this State, at a place where
10 there is competition, to sell such goods at a price lower than is charged
11 by such person for the same thing at another place, when there is not
12 good and sufficient reason on account of transportation or the expense
13 of doing business for charging less at the one place than at the other, or
14 to give away such goods, with a view to injuring the business of
15 another.
- 16 (6) While engaged in buying or selling any goods in this State, to have any
17 agreement or understanding, express or implied, with any other person
18 not to buy or sell such goods within certain territorial limits within the
19 State, with the intention of preventing competition in selling or to fix
20 the price or prevent competition in buying such goods within these
21 limits.
- 22 (7) ~~Except as may be otherwise provided by Article 10 of Chapter 66, entitled~~
23 ~~"Fair Trade," while~~ While engaged in buying or selling any goods in this
24 State to make, enter into, execute or carry out any contract, obligation
25 or agreement of any kind by which the parties thereto or any two or
26 more of them bind themselves not to sell or dispose of any goods or
27 any article of trade, use or consumption, below a common standard
28 figure, or fixed value, or establish or settle the price of such goods
29 between them, or between themselves and others, at a fixed or
30 graduated figure, so as directly or indirectly to preclude a free and
31 unrestricted competition among themselves, or any purchasers or
32 consumers in the sale of such goods.
- 33 (8) While engaged in selling any goods in this State, to set, fix or limit the
34 price at which such goods may be resold by any other person, or to
35 continue selling such goods to any person upon condition that, on the
36 resale of such goods, such person charge a price at, above, or below a
37 particular level."

38 Sec. 2. Article 1 of Chapter 75 of the General Statutes is amended by adding
39 a new section to read:

40 **"§ 75-5.1. Particular acts prohibited; household furniture.**

41 (a) It is unlawful and constitutes a violation of G.S. 75-5 and G.S. 75-1.1 for any
42 person engaged in the distribution or selling of household furniture to retailers in this
43 State to do directly or indirectly, or to have any contract, express or knowingly implied,
44 to do any of the following acts:

- 1 (1) To sell to or deal with a retailer located in this State upon the
2 condition, prohibition or restriction that the retailer not:
3 a. Sell to particular consumers or any particular class of
4 consumers.
5 b. Sell to consumers who have not visited the retailer's place of
6 business.
7 c. Advertise in, solicit, or sell to consumers from, particular
8 geographic areas.
9 d. Communicate with, or effectuate sales to, consumers by means
10 of a particular communications medium, or
11 e. Advertise the availability of a particular communications
12 medium.
13 (2) As a means of accomplishing any of the conditions, prohibitions, or
14 restrictions made unlawful by this section,
15 a. To terminate a retailer located in North Carolina,
16 b. To refuse to sell a particular group or line to the retailer,
17 c. To refuse to continue selling to the retailer,
18 d. To delay delivery to, or withhold service from, the retailer, or
19 e. To threaten to terminate, refuse to sell, delay delivery or
20 withhold service.
21 (b) Except as prohibited by subsection (a) above, a person engaged in the
22 distribution or selling of household furniture to retailers in this State is not prohibited
23 from establishing and enforcing reasonable retailing standards, including reasonable
24 showroom display requirements or reasonable advertisement format restrictions, or from
25 changing wholesale prices to retailers, provided that such standards, requirements and
26 wholesale price changes are imposed and enforced uniformly and consistently upon all
27 retailers with whom the person deals."
28 Sec. 3. This act is effective upon ratification.