

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 378*
Manufacturing & Labor Committee Substitute Adopted 5/2/89

Short Title: Retail Competition Preserved.

(Public)

Sponsors:

Referred to:

March 9, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO PRESERVE AND PROMOTE COMPETITION IN THE RETAIL
3 SALES OF HOUSEHOLD FURNITURE.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 75-5(b) reads as rewritten:
6 "(b) In addition to the other acts declared unlawful by this Chapter, it is unlawful
7 for any person directly or indirectly to do, or to have any contract express or knowingly
8 implied to do, any of the following acts:
9 (1) To agree or conspire with any other person to put down or keep down
10 the price of any goods produced in this State by the labor of others
11 which goods the person intends, plans or desires to buy.
12 (2) To sell any goods in this State upon condition that the purchaser
13 thereof shall not deal in the goods of a competitor or rival in the
14 business of the person making such sales.
15 (3) To willfully destroy or injure, or undertake to destroy or injure, the
16 business of any competitor or business rival in this State with the
17 purpose of attempting to fix the price of any goods when the
18 competition is removed.
19 (4) While engaged in buying or selling any goods within the State,
20 through himself or together with or through any allied, subsidiary or
21 dependent person, to injure or destroy or undertake to injure or destroy
22 the business of any rival or competitor, by unreasonably raising the
23 price of any goods bought or by unreasonably lowering the price of

1 any goods sold with the purpose of increasing the profit on the
2 business when such rival or competitor is driven out of business, or his
3 business is injured.

4 (5) While engaged in dealing in goods within this State, at a place where
5 there is competition, to sell such goods at a price lower than is charged
6 by such person for the same thing at another place, when there is not
7 good and sufficient reason on account of transportation or the expense
8 of doing business for charging less at the one place than at the other, or
9 to give away such goods, with a view to injuring the business of
10 another.

11 (6) While engaged in buying or selling any goods in this State, to have any
12 agreement or understanding, express or implied, with any other person
13 not to buy or sell such goods within certain territorial limits within the
14 State, with the intention of preventing competition in selling or to fix
15 the price or prevent competition in buying such goods within these
16 limits.

17 (7) ~~Except as may be otherwise provided by Article 10 of Chapter 66, entitled~~
18 ~~"Fair Trade," while~~ While engaged in buying or selling any goods in this
19 State to make, enter into, execute or carry out any contract, obligation
20 or agreement of any kind by which the parties thereto or any two or
21 more of them bind themselves not to sell or dispose of any goods or
22 any article of trade, use or consumption, below a common standard
23 figure, or fixed value, or establish or settle the price of such goods
24 between them, or between themselves and others, at a fixed or
25 graduated figure, so as directly or indirectly to preclude a free and
26 unrestricted competition among themselves, or any purchasers or
27 consumers in the sale of such goods.

28 (8) While engaged in selling any goods in this State, to set, fix or limit the
29 price at which such goods may be resold by any other person, or to
30 continue selling such goods to any person upon condition that, on the
31 resale of such goods, such person charge a price at, above, or below a
32 particular level."

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

35 **"§ 75-5.1. Particular acts prohibited; household furniture.**

36 (a) It is unlawful and constitutes a violation of G.S. 75-5 and G.S. 75-1.1 for any
37 person engaged in the distribution or selling of household furniture to retailers in this
38 State to do directly or indirectly, or to have any contract, express or knowingly implied,
39 to sell to or deal with a retailer located in this State upon the condition, prohibition or
40 restriction that the retailer not:

41 (1) Sell to particular retail consumers or any particular class of retail
42 consumers,

43 (2) Sell to consumers who have not visited the retailer's place of business,

1 (3) Advertise in, solicit, or sell to consumers from, particular geographic
2 areas,

3 (4) Communicate with, or effectuate sales to, consumers by means of a
4 particular communications medium, or

5 (5) Advertise the availability of a particular communications medium.

6 (b) Except as prohibited by subsection (a) above, a person engaged in the
7 distribution or selling of household furniture to retailers in this State is not prohibited
8 from establishing and enforcing reasonable retailing standards, including reasonable
9 showroom display requirements or reasonable advertisement format restrictions, or from
10 changing wholesale prices to retailers."

11 Sec. 3. This act is effective upon ratification, but shall not apply to pending
12 litigation.