

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 378*

Short Title: Retail Competition Preserved.

(Public)

Sponsors: Senators Block; Ballance, Barker, Chalk, Cochrane, Daniel, Guy, Harris, Hunt of Durham, Hunt of Moore, Johnson of Wake, Martin of Guilford, Marvin, Odom, Parnell, Raynor, Richardson, Royall, Sands, Shaw, Smith, Soles, Speed, Swain, Taft, Tally, Walker, and Winner.

Referred to: Manufacturing and Labor.

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.
- (4) While engaged in buying or selling any goods within the State, through himself or together with or through any allied, subsidiary or dependent person, to injure or destroy or undertake to injure or destroy

1 the business of any rival or competitor, by unreasonably raising the
2 price of any goods bought or by unreasonably lowering the price of
3 any goods sold with the purpose of increasing the profit on the
4 business when such rival or competitor is driven out of business, or his
5 business is injured.

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

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

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

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

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

37 **"§ 75-5.1. Particular acts prohibited; household furniture.**

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

42 (1) To sell to or deal with a retailer located in this State upon the
43 condition, prohibition or restriction that the retailer not:

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