

HOUSE BILL NO. HB0295

Unfair purchasing.

Sponsored by: Representative(s) Nicholas, Anderson, R.,
Morgan, Prosser and Walsh and Senator(s)
Cathcart

A BILL

for

1 AN ACT relating to business practices; prohibiting business
2 practices as specified; providing a remedy; providing a
3 statute of limitations; providing tolling in certain
4 circumstances; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 40-4-101 by creating a new subsection
9 (b) and by amending and renumbering (b) as (c) and
10 renumbering (c) as (d) and 40-4-114(a) and by creating a
11 new subsection (e) are amended to read:

12

13 **40-4-101. Unfair discrimination; penalty; exceptions.**

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15 (b) Any person, firm or corporation, foreign or
16 domestic, doing business in the state of Wyoming and

1 engaged in the purchase of any commodity in general use,
2 shall not make, enter into, form or become a party to any
3 plan, agreement, consolidation or combination of any kind
4 whatsoever to prevent or destroy competition, to control or
5 influence production or prices thereof or gain unjust and
6 unreasonable profits.

7
8 ~~(b)~~(c) Any person, firm or corporation violating
9 subsection (a) or (b) of this section is guilty of unfair
10 discrimination.

11
12 ~~(e)~~(d) This chapter shall not:

13
14 (i) Apply to any case where by reason of
15 different railroad rates or other natural things in favor
16 of any manufacturer or dealer of goods of this or another
17 state, the manufacturer or dealer sells at a different
18 price than he does to another in order to meet the
19 competitive dealer;

20
21 (ii) Apply to any case where any manufacturer of
22 or dealer in goods manufactured or produced in this state
23 sells products in one (1) place cheaper than in another to

1 meet upon the same or more favorable basis any competition
2 from foreign states or this state;

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4 (iii) Prevent the sale of goods at proper
5 commercial discounts customary in the sale of such
6 particular goods;

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8 (iv) Prohibit cooperative agreements for
9 antitrust exceptions approved and operating pursuant to
10 W.S. 35-24-101 through 35-24-116.

11

12 **40-4-114. Enjoining violations of W.S. 40-4-106**
13 **through 40-4-116; recovery of damages; liability of**
14 **directors, officers and agents; requiring testimony and**
15 **production of books and records.**

16

17 (a) Any person, firm, private corporation or trade
18 association, injured directly or indirectly, may maintain
19 an action to enjoin a continuance of any act or acts in
20 violation of this act and, if injured thereby, for the
21 recovery of three (3) times the actual damages ~~of and~~
22 sustained, together with costs and disbursements, including
23 reasonable attorneys' fees from the defendants named in the
24 action. In any subsequent action, the court may take any

1 steps necessary to avoid duplicative recovery against a
2 defendant.

3
4 (e) A civil action for damages or recovery of
5 payments under W.S. 40-4-101(b) is barred unless commenced
6 within six (6) years after the cause of action accrued.
7 When, in a civil class action, a class or subclass is
8 decertified or a class or subclass certification is denied,
9 the statute of limitations provided in this subsection is
10 tolled as to those persons alleged to be members of the
11 class or subclass for the period from the filing of the
12 complaint first alleging the class or subclass until the
13 decertification or denial.

14
15 **Section 2.** This act is effective July 1, 2003.

16
17 (END)