

APRIL 9, 1991

CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. *261*

INTRODUCED BY *Richard Bradley, Baughman, Williams*
Beckwith BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE *JMS*

ON MARKETING OF MOTOR FUELS

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A BUSINESS FROM DISCRIMINATING IN THE PRICE CHARGED TO DIFFERENT PURCHASERS OF COMMODITIES OF LIKE GRADE AND QUALITY; PROVIDING A METHOD OF ENFORCEMENT; PROVIDING FOR PENALTIES AND REMEDIES FOR PRICE DISCRIMINATION; AMENDING SECTIONS 30-14-219, 30-14-222, 30-14-223, AND 30-14-224, MCA; AND PROVIDING AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because it grants additional rulemaking authority to the department of commerce.

Under new sections of the bill, the department may adopt rules interpreting [sections 1 and 2]. The rules must be consistent with the regulations, rules, and decisions of the federal trade commission and the federal courts relating to the provisions of the federal Robinson-Patman Anti-Discrimination Act regarding price discrimination as codified in 15 U.S.C. 13(b) and (c).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Discrimination in price. (1)

It is unlawful for a business to discriminate, directly or indirectly, in the price charged to different purchasers of commodities of like grade and quality if the effect of the discrimination upon other businesses or customers is to substantially lessen competition, to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any business that grants or knowingly receives the benefit of the discrimination.

(2) This section does not prohibit:

(a) price differentials that make due allowance for the costs of manufacture, sale, or delivery resulting from the differing methods or quantities in which the commodities are sold or delivered to the purchasers;

(b) businesses engaged in selling commodities from selecting their own customers in bona fide transactions and not in restraint of trade; or

(c) price changes from time to time made in response to changing conditions affecting the market for, or the marketability of, the commodities, including but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasoned goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

**INTRODUCED BILL
HB 261**

1 (3) It is unlawful for a business to discriminate in
 2 favor of one purchaser against another purchaser of a
 3 processed or unprocessed commodity bought for resale by
 4 contracting to furnish, by furnishing, or by contributing to
 5 the furnishing of any service or facility connected with the
 6 processing, handling, sale, or offering for sale of the
 7 commodity purchased upon terms not accorded to all
 8 purchasers on proportionally equal terms.

9 (4) It is unlawful for a business to knowingly induce
 10 or receive a discrimination in price that is prohibited by
 11 this section.

12 NEW SECTION. Section 2. Return of net earnings or
 13 surplus of cooperative association -- exemption of nonprofit
 14 institution from price discrimination provision. (1)
 15 [Section 1] may not be construed to prevent a cooperative
 16 association from returning to its members, producers, or
 17 consumers, in proportion to their purchases or sales from,
 18 to, or through the association, all or any part of the net
 19 earnings or surplus resulting from its trading operations.

20 (2) [Section 1] does not apply to the purchase of
 21 supplies for its own use by a school, college, university,
 22 public library, church, hospital, or charitable institution
 23 not operated for profit.

24 NEW SECTION. Section 3. Federal interpretation --
 25 rules determining unfair competition and deception. (1) It

1 is the intent of the legislature that in construing
 2 [sections 1 and 2], due consideration and weight be given to
 3 the interpretations of the federal trade commission and the
 4 federal courts relating to the provisions of the federal
 5 Robinson-Patman Anti-Discrimination Act regarding
 6 discrimination in price that are codified in 15 U.S.C. 13(b)
 7 and (c).

8 (2) The department may make rules interpreting the
 9 provisions of [sections 1 and 2]. The rules may not be
 10 inconsistent with the rules, regulations, and decisions of
 11 the federal trade commission and the federal courts relating
 12 to the provisions of the federal Robinson-Patman
 13 Anti-Discrimination Act regarding discrimination in price
 14 that are codified in 15 U.S.C. 13(b) and (c).

15 NEW SECTION. Section 4. Burden of rebutting prima
 16 facie case of discrimination. (1) In a proceeding for a
 17 violation of [section 1], if proof is made that there has
 18 been discrimination in price, the burden of rebutting the
 19 prima facie case by showing justification is upon the person
 20 charged with a violation of [section 1].

21 (2) A seller may rebut the prima facie case by showing
 22 that a lower price to a purchaser was made in good faith to
 23 meet an equally low price of a competitor.

24 **Section 5.** Section 30-14-219, MCA, is amended to read:
 25 "30-14-219. Recovery on illegal contracts forbidden. A

1 contract, express or implied, made by a person in violation
 2 of any of the provisions of 30-14-205 through 30-14-218 or
 3 [section 1] is an illegal contract and no recovery thereon
 4 may be had on the contract."

5 **Section 6.** Section 30-14-222, MCA, is amended to read:

6 "30-14-222. Injunctions -- damages -- attorney fees --
 7 costs -- production of evidence. (1) Any person, if injured
 8 thereby, or the attorney general may maintain an action to
 9 enjoin a continuance of an act in violation of 30-14-205
 10 through 30-14-218 or [section 1] and for the recovery of
 11 damages. If in such the action the court finds that the
 12 defendant is violating or has violated any of the provisions
 13 of 30-14-205 through 30-14-218 or [section 1], it shall
 14 enjoin the defendant from a continuance thereof of the act.
 15 It is not necessary to allege or prove actual damages to the
 16 plaintiff.

17 (2) In addition to such injunctive relief, the
 18 plaintiff is entitled to recover from the defendant three
 19 times the amount of actual damages sustained plus attorney
 20 fees and costs of suit.

21 (3) A defendant in an action brought under this section
 22 may be required to testify under the Montana Rules of Civil
 23 Procedure. In addition, the books and records of any-such
 24 the defendant may be brought into court and introduced into
 25 evidence by reference. ~~No--information~~ Information so

1 obtained may not be used against the defendant as a basis
 2 for a misdemeanor prosecution under 30-14-205 through
 3 30-14-218, and 30-14-224, or [section 1]."

4 **Section 7.** Section 30-14-223, MCA, is amended to read:

5 "30-14-223. Department to institute suit. Upon the
 6 third violation of any of the provisions of 30-14-205
 7 through 30-14-218 or [section 1] by any business, the
 8 department shall institute proper suits or quo warranto
 9 proceedings in a court of competent jurisdiction for the
 10 forfeiture of its charter, rights, franchises or privileges,
 11 and powers exercised by such the business and to permanently
 12 enjoin it from transacting business in this state. If in
 13 such the action the court finds that the business is
 14 violating or has violated any of the provisions of 30-14-205
 15 through 30-14-218 or [section 1], it shall enjoin the
 16 business from doing business in this state permanently or
 17 for such a time as the court orders or shall annul the
 18 charter or revoke the franchise of such the business."

19 **Section 8.** Section 30-14-224, MCA, is amended to read:

20 "30-14-224. Penalties. (1) Except as otherwise provided
 21 in this section, a person, whether as principal, agent,
 22 officer, or director, who violates any of the provisions of
 23 30-14-206 through 30-14-218 or [section 1] is guilty of a
 24 misdemeanor for each single violation and upon conviction
 25 thereof shall be fined not less than \$100 or more than

1 \$1,000 or imprisoned for a term not to exceed 6 months, or
2 both.

3 (2) A violation of 30-14-205 is punishable by
4 imprisonment in the county jail for a period of not less
5 than 24 hours or more than 1 year or by a fine not exceeding
6 \$25,000, or both.

7 (3) When there is a violation of 30-14-216, in addition
8 to the penalty specified in subsection (1), the court before
9 which a conviction is had shall, within 10 days after
10 judgment of conviction is given, forward a certified copy of
11 the judgment to the department of agriculture and that
12 department shall revoke any license issued to the person so
13 convicted. ~~In such case no~~ A new license may not be granted
14 to the person whose license is revoked or to anyone either
15 directly or indirectly engaged with him in such the business
16 for a period of 1 year."

17 NEW SECTION. Section 9. Codification instruction.
18 [Sections 1 through 4] are intended to be codified as an
19 integral part of Title 30, chapter 14, part 2, and the
20 provisions of Title 30, chapter 14, part 2, apply to
21 [sections 1 through 4].

22 NEW SECTION. Section 10. Saving clause. [This act]
23 does not affect rights and duties that matured, penalties
24 that were incurred, or proceedings that were begun before
25 [the effective date of this act].

1 NEW SECTION. Section 11. Severability. If a part of
2 [this act] is invalid, all valid parts that are severable
3 from the invalid part remain in effect. If a part of [this
4 act] is invalid in one or more of its applications, the part
5 remains in effect in all valid applications that are
6 severable from the invalid applications.

7 NEW SECTION. Section 12. Applicability. The provisions
8 of [this act] apply to any contract for the sale or purchase
9 of a commodity entered into on or after [the effective date
10 of this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0261, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act prohibiting a business from discriminating in the price charged to different purchasers of commodities of like grade and quality; providing a method of enforcement; providing for penalties and remedies for price discrimination; amending sections 30-14-219, 30-14-222, 30-14-223, and 30-14-224, MCA; and providing an applicability date.

ASSUMPTIONS:

Department of Justice:


1. The Attorney General may maintain an action to enjoin a continuance of an act in violation of the proposed legislation.
2. Adjudicating price discrimination complaints will require an additional attorney, an investigator, one clerical position and associated costs.

Department of Commerce:

3. Department of Commerce will be given additional rulemaking authority and enforcement responsibilities.
4. Approximately fifteen business per year will report violations pertaining to discrimination in prices charged to purchasers of commodities to the Department of Commerce.
5. The investigation and prosecution of complaints pertaining to price discrimination will require two attorneys with expertise in prosecuting cases, one investigator, one paralegal/secretary and associated expenses.
6. The Department of Commerce does not currently have office space available for the proposed program.

FISCAL IMPACT:

see next page

 1-26-91

ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

TOM KILPATRICK, PRIMARY SPONSOR DATE

Fiscal Note for HB0261, as introduced.

HB261

FISCAL IMPACT:

Department of Justice

	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	0.00	3.00	3.00	0.00	3.00	3.00
Personal Services	0	99,000	99,000	0	99,000	99,000
Operating Costs	0	22,500	22,500	0	22,500	22,500
Equipment	0	7,500	7,500	0	0	0
Total	0	129,000	129,000	0	121,500	121,500
<u>Funding:</u>						
General Fund	0	129,000	129,000	0	121,500	121,500

Dept. of Commerce:

	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	0.00	4.00	4.00	0.00	4.00	4.00
Personal Services	0	123,017	123,017	0	123,017	123,017
Operating Costs	0	71,607	71,607	0	71,607	71,607
Equipment	0	11,000	11,000	0	0	0
Total	0	205,624	205,624	0	194,624	194,624
<u>Funding:</u>						
General Fund	0	205,624	205,624	0	194,624	194,624

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Section 30-14-224, MCA, provides for criminal penalties in violation of the proposed act which may involve county attorneys in the prosecution of price discrimination cases.

HB261

1 HOUSE BILL NO. 261
 2 INTRODUCED BY KILPATRICK, BRADLEY, BENGTON, WALLIN,
 3 BIANCHI, DAVIS
 4 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
 5 ON MARKETING OF MOTOR FUELS
 6

7 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A BUSINESS
 8 FROM DISCRIMINATING IN THE PRICE CHARGED TO DIFFERENT
 9 PURCHASERS OF COMMODITIES OF LIKE GRADE AND QUALITY;
 10 PROVIDING A METHOD OF ENFORCEMENT; PROVIDING FOR PENALTIES
 11 AND REMEDIES FOR PRICE DISCRIMINATION; AMENDING SECTIONS
 12 30-14-219, 30-14-222, 30-14-223, AND 30-14-224, AND
 13 PROVIDING AN APPLICABILITY DATE."
 14

15 STATEMENT OF INTENT

16 ~~A statement of intent is required for this bill because~~
 17 ~~it grants additional rulemaking authority to the department~~
 18 ~~of commerce.~~

19 ~~Under new sections of the bill, the department may adopt~~
 20 ~~rules interpreting sections 1 and 2. The rules must be~~
 21 ~~consistent with the regulations, rules, and decisions of the~~
 22 ~~federal trade commission and the federal courts relating to~~
 23 ~~the provisions of the federal Robinson-Patman~~
 24 ~~Anti-Discrimination Act regarding price discrimination as~~
 25 ~~codified in 15 U.S.C. 13(b) and (c).~~

1
 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

3 NEW SECTION. Section 1. Discrimination in price. (1)

4 It is unlawful for a business to discriminate, directly or
 5 indirectly, in the price charged to different purchasers of
 6 commodities of like grade and quality if the effect of the
 7 discrimination upon other businesses or customers is to
 8 substantially lessen competition, to create a monopoly in
 9 any line of commerce, or to injure, destroy, or prevent
 10 competition with any business that grants or knowingly
 11 receives the benefit of the discrimination.

12 (2) This section does not prohibit:

13 (a) price differentials that make due allowance for the
 14 costs of manufacture, sale, or delivery resulting from the
 15 differing methods or quantities in which the commodities are
 16 sold or delivered to the purchasers;

17 (b) businesses engaged in selling commodities from
 18 selecting their own customers in bona fide transactions and
 19 not in restraint of trade; or

20 (c) price changes from time to time made in response to
 21 changing conditions affecting the market for, or the
 22 marketability of, the commodities, including but not limited
 23 to actual or imminent deterioration of perishable goods,
 24 obsolescence of seasoned goods, distress sales under court
 25 process, or sales in good faith in discontinuance of

SECOND READING



1 business in the goods concerned.

2 (3) It is unlawful for a business to discriminate in
3 favor of one purchaser against another purchaser of a
4 processed or unprocessed commodity bought for resale by
5 contracting to furnish, by furnishing, or by contributing to
6 the furnishing of any service or facility connected with the
7 processing, handling, sale, or offering for sale of the
8 commodity purchased upon terms not accorded to all
9 purchasers on proportionally equal terms.

10 (4) It is unlawful for a business to knowingly induce
11 or receive a discrimination in price that is prohibited by
12 this section.

13 NEW SECTION. Section 2. Return of net earnings or
14 surplus of cooperative association -- exemption of nonprofit
15 institution from price discrimination provision. (1)
16 [Section 1] may not be construed to prevent a cooperative
17 association from returning to its members, producers, or
18 consumers, in proportion to their purchases or sales from,
19 to, or through the association, all or any part of the net
20 earnings or surplus resulting from its trading operations.

21 (2) [Section 1] does not apply to the purchase of
22 supplies for its own use by a school, college, university,
23 public library, church, hospital, or charitable institution
24 not operated for profit.

25 NEW SECTION. Section 3. Federal interpretation --

1 ~~rules-determining-unfair-competition-and-deception. (1) It~~
2 ~~is the intent of the legislature that in construing~~
3 ~~[sections 1 and 2], due consideration and weight be given to~~
4 ~~the interpretations of the federal trade commission and the~~
5 ~~federal courts relating to the provisions of the federal~~
6 ~~Robinson-Patman Anti-Discrimination Act regarding~~
7 ~~discrimination in price that are codified in 15 U.S.C. 13(b)~~
8 ~~and (c).~~

9 ~~(2)--The--department--may--make--rules--interpreting--the~~
10 ~~provisions-of-(sections-1-and--2);--The--rules--may--not--be~~
11 ~~inconsistent--with--the-rules,regulations,--and--decisions-of~~
12 ~~the-federal-trade-commission--and--the-federal-courts-relating~~
13 ~~to---the---provisions---of---the---federal---Robinson-Patman~~
14 ~~Anti-Discrimination-Act-regarding--discrimination--in--price~~
15 ~~that-are-codified-in-15-U.S.C.-13(b)-and-(c);~~

16 NEW SECTION. Section 4. Burden of rebutting prima
17 facie case of discrimination. (1) In a proceeding for a
18 violation of [section 1], if proof is made that there has
19 been discrimination in price, the burden of rebutting the
20 prima facie case by showing justification is upon the person
21 charged with a violation of [section 1].

22 (2) A seller may rebut the prima facie case by showing
23 that a lower price to a purchaser was made in good faith to
24 meet an equally low price of a competitor.

25 ~~Section-5--Section-30-14-2197-MCA7-is-amended-to-read:~~

1 "30-14-219--Recovery--on--illegal--contracts--forbidden--A
2 contract, express or implied, made by a person in violation
3 of any of the provisions of 30-14-205 through 30-14-218 or
4 {section-1} is an illegal contract and no recovery thereon
5 may be had on the contract."

6 Section 6--Section 30-14-222, MCA, is amended to read:

7 "30-14-222--Injunctions----damages----attorney-fees---
8 costs---production-of-evidence--(1) Any person, if injured
9 thereby, or the attorney general may maintain an action to
10 enjoin a continuance of an act in violation of 30-14-205
11 through 30-14-218 or {section-1} and for the recovery of
12 damages. If in such the action the court finds that the
13 defendant is violating or has violated any of the provisions
14 of 30-14-205 through 30-14-218 or {section-1}, it shall
15 enjoin the defendant from a continuance thereof of the act.
16 It is not necessary to allege or prove actual damages to the
17 plaintiff.

18 (2) In addition to such injunctive relief, the
19 plaintiff is entitled to recover from the defendant three
20 times the amount of actual damages sustained plus attorney
21 fees and costs of suit.

22 (3) A defendant in an action brought under this section
23 may be required to testify under the Montana Rules of Civil
24 Procedure. In addition, the books and records of any such
25 the defendant may be brought into court and introduced into

1 evidence by reference. No information Information so
2 obtained may not be used against the defendant as a basis
3 for a misdemeanor prosecution under 30-14-205 through
4 30-14-218 and 30-14-224 or {section-1}."

5 Section 7--Section 30-14-223, MCA, is amended to read:

6 "30-14-223--Department--to--institute--suit--Upon--the
7 third violation of any of the provisions of 30-14-205
8 through 30-14-218 or {section-1} by any business, the
9 department shall institute proper suits or quo-warranto
10 proceedings in a court of competent jurisdiction for the
11 forfeiture of its charter, rights, franchises or privileges,
12 and powers exercised by such the business and to
13 permanently enjoin it from transacting business in this
14 state. If in such the action the court finds that the
15 business is violating or has violated any of the provisions
16 of 30-14-205 through 30-14-218 or {section-1}, it shall
17 enjoin the business from doing business in this state
18 permanently or for such a time as the court orders or shall
19 annul the charter or revoke the franchise of such the
20 business."

21 Section 8--Section 30-14-224, MCA, is amended to read:

22 "30-14-224--Penalties--(1) Except as otherwise provided
23 in this section, a person, whether as principal, agent,
24 officer or director, who violates any of the provisions of
25 30-14-206 through 30-14-218 or {section-1} is guilty of a

1 misdemeanor--for--each--single--violation--and--upon--conviction
2 thereof--shall--be--fined--not--less--than--\$100--or--more--than
3 \$1,000--or--imprisoned--for--a--term--not--to--exceed--6--months,--or
4 both.

5 (2)--A--violation--of--30-14-205--is--punishable--by
6 imprisonment--in--the--county--jail--for--a--period--of--not--less
7 than--24--hours--or--more--than--1--year--or--by--a--fine--not--exceeding
8 \$25,000,--or--both.

9 (3)--When--there--is--a--violation--of--30-14-216,--in--addition
10 to--the--penalty--specified--in--subsection--(1),--the--court--before
11 which--a--conviction--is--had--shall,--within--10--days--after
12 judgment--of--conviction--is--given,--forward--a--certified--copy--of
13 the--judgment--to--the--department--of--agriculture--and--that
14 department--shall--revoke--any--license--issued--to--the--person--so
15 convicted,--in--such--case--no--A--new--license--may--not--be--granted
16 to--the--person--whose--license--is--revoked--or--to--anyone--either
17 directly--or--indirectly--engaged--with--him--in--such--the--business
18 for--a--period--of--1--year."

19 NEW SECTION. **SECTION 5.** RECOVERY ON ILLEGAL CONTRACTS
20 FORBIDDEN. A CONTRACT, EXPRESS OR IMPLIED, MADE BY A PERSON
21 IN VIOLATION OF THE PROVISIONS OF [SECTION 1] IS AN ILLEGAL
22 CONTRACT, AND NO RECOVERY MAY BE HAD ON THE CONTRACT.

23 NEW SECTION. **SECTION 6.** INJUNCTIONS -- DAMAGES --
24 PRODUCTION OF EVIDENCE. (1) A PERSON WHO IS INJURED BY A
25 VIOLATION OF [SECTION 1] MAY MAINTAIN AN ACTION TO ENJOIN A

1 CONTINUANCE OF AN ACT IN VIOLATION OF [SECTION 1] AND TO
2 RECOVER DAMAGES. A COURT, UPON FINDING THAT THE DEFENDANT IS
3 VIOLATING OR HAS VIOLATED THE PROVISIONS OF [SECTION 1],
4 SHALL ENJOIN THE DEFENDANT FROM CONTINUING THE VIOLATION. IT
5 IS NOT NECESSARY TO ALLEGE OR PROVE ACTUAL DAMAGES TO THE
6 PLAINTIFF.

7 (2) IN ADDITION TO INJUNCTIVE RELIEF, THE PLAINTIFF MAY
8 RECOVER FROM THE DEFENDANT THREE TIMES THE AMOUNT OF ACTUAL
9 DAMAGES SUSTAINED PLUS ATTORNEY FEES AND COSTS OF SUIT.

10 (3) A DEFENDANT IN AN ACTION BROUGHT UNDER THIS SECTION
11 MAY BE REQUIRED TO TESTIFY UNDER THE MONTANA RULES OF CIVIL
12 PROCEDURE. IN ADDITION, THE BOOKS AND RECORDS OF A DEFENDANT
13 MAY BE BROUGHT INTO COURT AND INTRODUCED INTO EVIDENCE BY
14 REFERENCE. INFORMATION SO OBTAINED MAY NOT BE USED AGAINST
15 THE DEFENDANT AS A BASIS FOR A MISDEMEANOR PROSECUTION FOR A
16 VIOLATION OF [SECTION 1].

17 NEW SECTION. **SECTION 7.** PENALTIES. A PERSON, WHETHER
18 ACTING AS A PRINCIPAL, AGENT, OFFICER, OR DIRECTOR, WHO
19 VIOLATES A PROVISION OF [SECTION 1] IS GUILTY OF A
20 MISDEMEANOR FOR EACH VIOLATION AND UPON CONVICTION SHALL BE
21 FINED NOT LESS THAN \$100 OR MORE THAN \$1,000 OR IMPRISONED
22 FOR A TERM NOT TO EXCEED 6 MONTHS, OR BOTH.

23 NEW SECTION. **Section 8.** Codification instruction.
24 [Sections 1 through 47] are intended to be codified as an
25 integral part of Title 30, chapter 14, part--2, and the

1 provisions of Title 30, chapter 14, ~~part--2~~, apply to
2 [sections 1 through 47].

3 NEW SECTION. **Section 9. Saving clause.** [This act] does
4 not affect rights and duties that matured, penalties that
5 were incurred, or proceedings that were begun before [the
6 effective date of this act].

7 NEW SECTION. **Section 10. Severability.** If a part of
8 [this act] is invalid, all valid parts that are severable
9 from the invalid part remain in effect. If a part of [this
10 act] is invalid in one or more of its applications, the part
11 remains in effect in all valid applications that are
12 severable from the invalid applications.

13 NEW SECTION. **Section 11. Applicability.** The provisions
14 of [this act] apply to any contract for the sale or purchase
15 of a commodity entered into on or after [the effective date
16 of this act].

-End-

HOUSE BILL NO. 261

INTRODUCED BY KILPATRICK, BRADLEY, BENGTSON, WALLIN,

BIANCHI, DAVIS

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE

ON MARKETING OF MOTOR FUELS

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A BUSINESS FROM DISCRIMINATING IN THE PRICE CHARGED TO DIFFERENT PURCHASERS OF COMMODITIES OF LIKE GRADE AND QUALITY; PROVIDING A METHOD OF ENFORCEMENT; PROVIDING FOR PENALTIES AND REMEDIES FOR PRICE DISCRIMINATION; AMENDING SECTIONS 30-14-219, 30-14-222, 30-14-223, AND 30-14-224, MCA; AND PROVIDING AN APPLICABILITY DATE."

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It is unlawful for a business to discriminate, directly or indirectly, in the price charged to different purchasers of commodities of like grade and quality if the effect of the discrimination upon other businesses or customers is to substantially lessen competition, to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any business that grants or knowingly receives the benefit of the discrimination.

(2) This section does not prohibit:

(a) price differentials that make due allowance for the costs of manufacture, sale, or delivery resulting from the differing methods or quantities in which the commodities are sold or delivered to the purchasers;

(b) businesses engaged in selling commodities from selecting their own customers in bona fide transactions and not in restraint of trade; or

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THIRD READING

HB 261



1 business in the goods concerned.

2 (3) It is unlawful for a business to discriminate in
3 favor of one purchaser against another purchaser of a
4 processed or unprocessed commodity bought for resale by
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9 purchasers on proportionally equal terms.

10 (4) It is unlawful for a business to knowingly induce
11 or receive a discrimination in price that is prohibited by
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13 NEW SECTION. Section 2. Return of net earnings or
14 surplus of cooperative association -- exemption of nonprofit
15 institution from price discrimination provision. (1)
16 [Section 1] may not be construed to prevent a cooperative
17 association from returning to its members, producers, or
18 consumers, in proportion to their purchases or sales from,
19 to, or through the association, all or any part of the net
20 earnings or surplus resulting from its trading operations.

21 (2) [Section 1] does not apply to the purchase of
22 supplies for its own use by a school, college, university,
23 public library, church, hospital, or charitable institution
24 not operated for profit.

25 NEW SECTION. Section 3. Federal interpretation --

1 ~~rules-determining-unfair-competition-and-deception. (1) It~~
2 ~~is the intent of the legislature that in construing~~
3 ~~[sections 1 and 2], due consideration and weight be given to~~
4 ~~the interpretations of the federal trade commission and the~~
5 ~~federal courts relating to the provisions of the federal~~
6 ~~Robinson-Patman Anti-Discrimination Act regarding~~
7 ~~discrimination in price that are codified in 15 U.S.C. 13(b)~~
8 ~~and (c).~~

9 ~~(2) The department may make rules interpreting the~~
10 ~~provisions of [sections 1 and 2]. The rules may not be~~
11 ~~inconsistent with the rules, regulations, and decisions of~~
12 ~~the federal trade commission and the federal courts relating~~
13 ~~to the provisions of the federal Robinson-Patman~~
14 ~~Anti-Discrimination Act regarding discrimination in price~~
15 ~~that are codified in 15 U.S.C. 13(b) and (c).~~

16 NEW SECTION. Section 4. Burden of rebutting prima
17 facie case of discrimination. (1) In a proceeding for a
18 violation of [section 1], if proof is made that there has
19 been discrimination in price, the burden of rebutting the
20 prima facie case by showing justification is upon the person
21 charged with a violation of [section 1].

22 (2) A seller may rebut the prima facie case by showing
23 that a lower price to a purchaser was made in good faith to
24 meet an equally low price of a competitor.

25 ~~Section 5. Section 38-14-219, MCA, is amended to read:~~

1 ~~"30-14-219. Recovery on illegal contracts forbidden. A~~
 2 ~~contract, express or implied, made by a person in violation~~
 3 ~~of any of the provisions of 30-14-205 through 30-14-218 or~~
 4 ~~{section 1} is an illegal contract and no recovery thereon~~
 5 ~~may be had on the contract."~~

6 Section 6. Section 30-14-222, MCA, is amended to read:

7 ~~"30-14-222. Injunctions-----damages-----attorney fees-----~~
 8 ~~costs-----production of evidence. (1) Any person, if injured~~
 9 ~~thereby, or the attorney general may maintain an action to~~
 10 ~~enjoin a continuance of an act in violation of 30-14-205~~
 11 ~~through 30-14-218 or {section 1} and for the recovery of~~
 12 ~~damages. If in such the action the court finds that the~~
 13 ~~defendant is violating or has violated any of the provisions~~
 14 ~~of 30-14-205 through 30-14-218 or {section 1}, it shall~~
 15 ~~enjoin the defendant from a continuance thereof of the act.~~
 16 ~~It is not necessary to allege or prove actual damages to the~~
 17 ~~plaintiff.~~

18 ~~(2) In addition to such injunctive relief, the~~
 19 ~~plaintiff is entitled to recover from the defendant three~~
 20 ~~times the amount of actual damages sustained plus attorney~~
 21 ~~fees and costs of suit.~~

22 ~~(3) A defendant in an action brought under this section~~
 23 ~~may be required to testify under the Montana Rules of Civil~~
 24 ~~Procedure. In addition, the books and records of any such~~
 25 ~~the defendant may be brought into court and introduced into~~

1 ~~evidence by reference. No information information so~~
 2 ~~obtained may not be used against the defendant as a basis~~
 3 ~~for a misdemeanor prosecution under 30-14-205 through~~
 4 ~~30-14-218 and 30-14-224 or {section 1}."~~

5 Section 7. Section 30-14-223, MCA, is amended to read:

6 ~~"30-14-223. Department to institute suit. Upon the~~
 7 ~~third violation of any of the provisions of 30-14-205~~
 8 ~~through 30-14-218 or {section 1} by any business, the~~
 9 ~~department shall institute proper suits or quo warranto~~
 10 ~~proceedings in a court of competent jurisdiction for the~~
 11 ~~forfeiture of its charter, rights, franchises or privileges,~~
 12 ~~and powers exercised by such the business and to~~
 13 ~~permanently enjoin it from transacting business in this~~
 14 ~~state. If in such the action the court finds that the~~
 15 ~~business is violating or has violated any of the provisions~~
 16 ~~of 30-14-205 through 30-14-218 or {section 1}, it shall~~
 17 ~~enjoin the business from doing business in this state~~
 18 ~~permanently or for such a time as the court orders or shall~~
 19 ~~annul the charter or revoke the franchise of such the~~
 20 ~~business."~~

21 Section 8. Section 30-14-224, MCA, is amended to read:

22 ~~"30-14-224. Penalties. (1) Except as otherwise provided~~
 23 ~~in this section, a person, whether as principal, agent,~~
 24 ~~officer, or director, who violates any of the provisions of~~
 25 ~~30-14-206 through 30-14-218 or {section 1} is guilty of a~~

1 ~~misdemeanor--for--each--single--violation--and--upon--conviction~~
2 ~~thereof--shall--be--fined--not--less--than--\$100--or--more--than~~
3 ~~\$1,000--or--imprisoned--for--a--term--not--to--exceed--6--months,--or~~
4 ~~both.~~

5 {2}--A--violation--of--30-14-205--is--punishable--by
6 imprisonment--in--the--county--jail--for--a--period--of--not--less
7 than--24--hours--or--more--than--1--year--or--by--a--fine--not--exceeding
8 \$25,000,--or--both.

9 {3}--When--there--is--a--violation--of--30-14-216,--in--addition
10 to--the--penalty--specified--in--subsection--(1),--the--court--before
11 which--a--conviction--is--had--shall,--within--10--days--after
12 judgment--of--conviction--is--given,--forward--a--certified--copy--of
13 the--judgment--to--the--department--of--agriculture--and--that
14 department--shall--revoke--any--license--issued--to--the--person--so
15 convicted.--in--such--case--no--A--new--license--may--not--be--granted
16 to--the--person--whose--license--is--revoked--or--to--anyone--either
17 directly--or--indirectly--engaged--with--him--in--such--the--business
18 for--a--period--of--1--year."

19 NEW SECTION. SECTION 5. RECOVERY ON ILLEGAL CONTRACTS
20 FORBIDDEN. A CONTRACT, EXPRESS OR IMPLIED, MADE BY A PERSON
21 IN VIOLATION OF THE PROVISIONS OF [SECTION 1] IS AN ILLEGAL
22 CONTRACT, AND NO RECOVERY MAY BE HAD ON THE CONTRACT.

23 NEW SECTION. SECTION 6. INJUNCTIONS -- DAMAGES --
24 PRODUCTION OF EVIDENCE. (1) A PERSON WHO IS INJURED BY A
25 VIOLATION OF [SECTION 1] MAY MAINTAIN AN ACTION TO ENJOIN A

1 CONTINUANCE OF AN ACT IN VIOLATION OF [SECTION 1] AND TO
2 RECOVER DAMAGES. A COURT, UPON FINDING THAT THE DEFENDANT IS
3 VIOLATING OR HAS VIOLATED THE PROVISIONS OF [SECTION 1],
4 SHALL ENJOIN THE DEFENDANT FROM CONTINUING THE VIOLATION. IT
5 IS NOT NECESSARY TO ALLEGE OR PROVE ACTUAL DAMAGES TO THE
6 PLAINTIFF.

7 (2) IN ADDITION TO INJUNCTIVE RELIEF, THE PLAINTIFF MAY
8 RECOVER FROM THE DEFENDANT THREE TIMES THE AMOUNT OF ACTUAL
9 DAMAGES SUSTAINED PLUS ATTORNEY FEES AND COSTS OF SUIT.

10 (3) A DEFENDANT IN AN ACTION BROUGHT UNDER THIS SECTION
11 MAY BE REQUIRED TO TESTIFY UNDER THE MONTANA RULES OF CIVIL
12 PROCEDURE. IN ADDITION, THE BOOKS AND RECORDS OF A DEFENDANT
13 MAY BE BROUGHT INTO COURT AND INTRODUCED INTO EVIDENCE BY
14 REFERENCE. INFORMATION SO OBTAINED MAY NOT BE USED AGAINST
15 THE DEFENDANT AS A BASIS FOR A MISDEMEANOR PROSECUTION FOR A
16 VIOLATION OF [SECTION 1].

17 NEW SECTION. SECTION 7. PENALTIES. A PERSON, WHETHER
18 ACTING AS A PRINCIPAL, AGENT, OFFICER, OR DIRECTOR, WHO
19 VIOLATES A PROVISION OF [SECTION 1] IS GUILTY OF A
20 MISDEMEANOR FOR EACH VIOLATION AND UPON CONVICTION SHALL BE
21 FINED NOT LESS THAN \$100 OR MORE THAN \$1,000 OR IMPRISONED
22 FOR A TERM NOT TO EXCEED 6 MONTHS, OR BOTH.

23 NEW SECTION. Section 8. Codification instruction.
24 [Sections 1 through 47] are intended to be codified as an
25 integral part of Title 30, chapter 14, part--2, and the

1 provisions of Title 30, chapter 14, ~~part--27~~ apply to
2 [sections 1 through 47].

3 NEW SECTION. Section 9. Saving clause. [This act] does
4 not affect rights and duties that matured, penalties that
5 were incurred, or proceedings that were begun before [the
6 effective date of this act].

7 NEW SECTION. Section 10. Severability. If a part of
8 [this act] is invalid, all valid parts that are severable
9 from the invalid part remain in effect. If a part of [this
10 act] is invalid in one or more of its applications, the part
11 remains in effect in all valid applications that are
12 severable from the invalid applications.

13 NEW SECTION. Section 11. Applicability. The provisions
14 of [this act] apply to any contract for the sale or purchase
15 of a commodity entered into on or after [the effective date
16 of this act].

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 261 (third reading copy -- blue), respectfully report that House Bill No. 261 be amended and as so amended be concurred in:

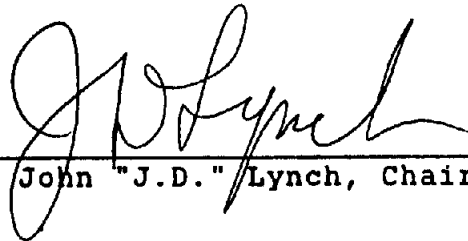
1. Title, lines 10 and 11.
Strike: "FOR" on line 10 through "AND" on line 11

2. Page 3.
Following: line 12
Insert: "(5) This section does not apply to industry members regulated by Title 16, chapters 1 through 6."

3. Page 8, lines 17 through 22.
Strike: section 7 in its entirety
Renumber: subsequent sections

4. Page 8, line 24.
Page 9, line 2.
Strike: "7"
Insert: "6"

Signed:


John "J.D." Lynch, Chairman

JML 3-26-91
Amd. Coord.

Sec. of Senate

SENATE
HB 261

1 HOUSE BILL NO. 261

2 INTRODUCED BY KILPATRICK, BRADLEY, BENGTSON, WALLIN,

3 BIANCHI, DAVIS

4 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE

5 ON MARKETING OF MOTOR FUELS

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A BUSINESS
8 FROM DISCRIMINATING IN THE PRICE CHARGED TO DIFFERENT
9 PURCHASERS OF COMMODITIES OF LIKE GRADE AND QUALITY;
10 PROVIDING A METHOD OF ENFORCEMENT; PROVIDING FOR--PENALTIES
11 AND REMEDIES FOR PRICE DISCRIMINATION; AMENDING SECTIONS
12 30-14-2197-30-14-2227-30-14-2237--AND--30-14-2247--MCA; AND
13 PROVIDING AN APPLICABILITY DATE."
14

15 STATEMENT-OF-INTENT

16 A--statement-of-intent-is-required-for-this-bill-because
17 it-grants-additional-rulemaking-authority-to-the--department
18 of-commerce;

19 Under-new-sections-of-the-bill,-the-department-may-adopt
20 rules--interpreting--(sections--1--and--2);-The-rules-must-be
21 consistent-with-the-regulations,-rules,-and-decisions-of-the
22 federal-trade-commission-and-the-federal-courts-relating--to
23 the---provisions---of---the---federal---Robinson-Patman
24 Anti-Discrimination--Act--regarding--price-discrimination-as
25 codified-in-15-U.S.C.-13(b)-and-(c);

1

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

3 NEW SECTION. Section 1. Discrimination in price. (1)

4 It is unlawful for a business to discriminate, directly or
5 indirectly, in the price charged to different purchasers of
6 commodities of like grade and quality if the effect of the
7 discrimination upon other businesses or customers is to
8 substantially lessen competition, to create a monopoly in
9 any line of commerce, or to injure, destroy, or prevent
10 competition with any business that grants or knowingly
11 receives the benefit of the discrimination.

12 (2) This section does not prohibit:

13 (a) price differentials that make due allowance for the
14 costs of manufacture, sale, or delivery resulting from the
15 differing methods or quantities in which the commodities are
16 sold or delivered to the purchasers;

17 (b) businesses engaged in selling commodities from
18 selecting their own customers in bona fide transactions and
19 not in restraint of trade; or

20 (c) price changes from time to time made in response to
21 changing conditions affecting the market for, or the
22 marketability of, the commodities, including but not limited
23 to actual or imminent deterioration of perishable goods,
24 obsolescence of seasoned goods, distress sales under court
25 process, or sales in good faith in discontinuance of

1 business in the goods concerned.

2 (3) It is unlawful for a business to discriminate in
3 favor of one purchaser against another purchaser of a
4 processed or unprocessed commodity bought for resale by
5 contracting to furnish, by furnishing, or by contributing to
6 the furnishing of any service or facility connected with the
7 processing, handling, sale, or offering for sale of the
8 commodity purchased upon terms not accorded to all
9 purchasers on proportionally equal terms.

10 (4) It is unlawful for a business to knowingly induce
11 or receive a discrimination in price that is prohibited by
12 this section.

13 (5) THIS SECTION DOES NOT APPLY TO INDUSTRY MEMBERS
14 REGULATED BY TITLE 16, CHAPTERS 1 THROUGH 6.

15 NEW SECTION. Section 2. Return of net earnings or
16 surplus of cooperative association -- exemption of nonprofit
17 institution from price discrimination provision. (1)
18 [Section 1] may not be construed to prevent a cooperative
19 association from returning to its members, producers, or
20 consumers, in proportion to their purchases or sales from,
21 to, or through the association, all or any part of the net
22 earnings or surplus resulting from its trading operations.

23 (2) [Section 1] does not apply to the purchase of
24 supplies for its own use by a school, college, university,
25 public library, church, hospital, or charitable institution

1 not operated for profit.

2 NEW SECTION. Section 3. Federal interpretation --
3 rules--determining--unfair-competition-and-deception. (1) It
4 is the intent of the legislature that in construing
5 [sections 1 and 2], due consideration and weight be given to
6 the interpretations of the federal trade commission and the
7 federal courts relating to the provisions of the federal
8 Robinson-Patman Anti-Discrimination Act regarding
9 discrimination in price that are codified in 15 U.S.C. 13(b)
10 and (c).

11 ~~(2)--The department--may--make--rules--interpreting--the~~
12 ~~provisions--of--(sections--1--and--2);--The rules may not be~~
13 ~~inconsistent with the rules, regulations, and decisions--of~~
14 ~~the federal trade commission and the federal courts relating~~
15 ~~to--the--provisions--of--the--federal--Robinson-Patman~~
16 ~~Anti-Discrimination--Act--regarding--discrimination in price~~
17 ~~that are codified in 15 U.S.C. 13(b) and (c);~~

18 NEW SECTION. Section 4. Burden of rebutting prima
19 facie case of discrimination. (1) In a proceeding for a
20 violation of [section 1], if proof is made that there has
21 been discrimination in price, the burden of rebutting the
22 prima facie case by showing justification is upon the person
23 charged with a violation of [section 1].

24 (2) A seller may rebut the prima facie case by showing
25 that a lower price to a purchaser was made in good faith to

1 meet an equally low price of a competitor.

2 Section 5, Section 30-14-219, MCA, is amended to read:

3 "30-14-219. Recovery on illegal contracts forbidden. A
4 contract, express or implied, made by a person in violation
5 of any of the provisions of 30-14-205 through 30-14-218 or
6 {section 1} is an illegal contract and no recovery thereon
7 may be had on the contract."

8 Section 6, Section 30-14-222, MCA, is amended to read:

9 "30-14-222. Injunctions, damages, attorney fees, and
10 costs. (1) Any person, if injured
11 thereby, or the attorney general may maintain an action to
12 enjoin a continuance of an act in violation of 30-14-205
13 through 30-14-218 or {section 1} and for the recovery of
14 damages. If in such the action the court finds that the
15 defendant is violating or has violated any of the provisions
16 of 30-14-205 through 30-14-218 or {section 1}, it shall
17 enjoin the defendant from a continuance thereof of the act.
18 It is not necessary to allege or prove actual damages to the
19 plaintiff.

20 (2) In addition to such injunctive relief, the
21 plaintiff is entitled to recover from the defendant three
22 times the amount of actual damages sustained plus attorney
23 fees and costs of suit.

24 (3) A defendant in an action brought under this section
25 may be required to testify under the Montana Rules of Civil

1 Procedure. In addition, the books and records of any such
2 the defendant may be brought into court and introduced into
3 evidence by reference. No information, information so
4 obtained may not be used against the defendant as a basis
5 for a misdemeanor prosecution under 30-14-205 through
6 30-14-218, and 30-14-224, or {section 1}."

7 Section 7, Section 30-14-223, MCA, is amended to read:

8 "30-14-223. Department to institute suit. Upon the
9 third violation of any of the provisions of 30-14-205
10 through 30-14-218 or {section 1} by any business, the
11 department shall institute proper suits or quo warranto
12 proceedings in a court of competent jurisdiction for the
13 forfeiture of its charter, rights, franchises or privileges,
14 and powers exercised by such the business and to
15 permanently enjoin it from transacting business in this
16 state. If in such the action the court finds that the
17 business is violating or has violated any of the provisions
18 of 30-14-205 through 30-14-218 or {section 1}, it shall
19 enjoin the business from doing business in this state
20 permanently or for such a time as the court orders or shall
21 annul the charter or revoke the franchise of such the
22 business."

23 Section 8, Section 30-14-224, MCA, is amended to read:

24 "30-14-224. Penalties. (1) Except as otherwise provided
25 in this section, a person, whether as principal, agent,

1 officer, or director, who violates any of the provisions of
2 30-14-206 through 30-14-218 or [section 1] is guilty of a
3 misdemeanor for each single violation and upon conviction
4 thereof shall be fined not less than \$100 or more than
5 \$1,000 or imprisoned for a term not to exceed 6 months, or
6 both.

7 (2) A violation of 30-14-205 is punishable by
8 imprisonment in the county jail for a period of not less
9 than 24 hours or more than 1 year or by a fine not exceeding
10 \$25,000 or both.

11 (3) When there is a violation of 30-14-216, in addition
12 to the penalty specified in subsection (1), the court before
13 which a conviction is had shall, within 10 days after
14 judgment of conviction is given, forward a certified copy of
15 the judgment to the department of agriculture and that
16 department shall revoke any license issued to the person so
17 convicted. In such case no new license may not be granted
18 to the person whose license is revoked or to anyone either
19 directly or indirectly engaged with him in such the business
20 for a period of 1 year."

21 NEW SECTION. SECTION 5. RECOVERY ON ILLEGAL CONTRACTS
22 FORBIDDEN. A CONTRACT, EXPRESS OR IMPLIED, MADE BY A PERSON
23 IN VIOLATION OF THE PROVISIONS OF [SECTION 1] IS AN ILLEGAL
24 CONTRACT, AND NO RECOVERY MAY BE HAD ON THE CONTRACT.

25 NEW SECTION. SECTION 6. INJUNCTIONS -- DAMAGES --

1 PRODUCTION OF EVIDENCE. (1) A PERSON WHO IS INJURED BY A
2 VIOLATION OF [SECTION 1] MAY MAINTAIN AN ACTION TO ENJOIN A
3 CONTINUANCE OF AN ACT IN VIOLATION OF [SECTION 1] AND TO
4 RECOVER DAMAGES. A COURT, UPON FINDING THAT THE DEFENDANT IS
5 VIOLATING OR HAS VIOLATED THE PROVISIONS OF [SECTION 1],
6 SHALL ENJOIN THE DEFENDANT FROM CONTINUING THE VIOLATION. IT
7 IS NOT NECESSARY TO ALLEGE OR PROVE ACTUAL DAMAGES TO THE
8 PLAINTIFF.

9 (2) IN ADDITION TO INJUNCTIVE RELIEF, THE PLAINTIFF MAY
10 RECOVER FROM THE DEFENDANT THREE TIMES THE AMOUNT OF ACTUAL
11 DAMAGES SUSTAINED PLUS ATTORNEY FEES AND COSTS OF SUIT.

12 (3) A DEFENDANT IN AN ACTION BROUGHT UNDER THIS SECTION
13 MAY BE REQUIRED TO TESTIFY UNDER THE MONTANA RULES OF CIVIL
14 PROCEDURE. IN ADDITION, THE BOOKS AND RECORDS OF A DEFENDANT
15 MAY BE BROUGHT INTO COURT AND INTRODUCED INTO EVIDENCE BY
16 REFERENCE. INFORMATION SO OBTAINED MAY NOT BE USED AGAINST
17 THE DEFENDANT AS A BASIS FOR A MISDEMEANOR PROSECUTION FOR A
18 VIOLATION OF [SECTION 1].

19 NEW SECTION. SECTION 7. PENALTIES. A PERSON, WHETHER
20 ACTING AS A PRINCIPAL, AGENT, OFFICER, OR DIRECTOR, WHO
21 VIOLATES A PROVISION OF [SECTION 1] IS GUILTY OF A
22 MISDEMEANOR FOR EACH VIOLATION AND UPON CONVICTION SHALL BE
23 FINED NOT LESS THAN \$100 OR MORE THAN \$1,000 OR IMPRISONED
24 FOR A TERM NOT TO EXCEED 6 MONTHS, OR BOTH.

25 NEW SECTION. Section 7. Codification instruction.

1 [Sections 1 through 4 7 6] are intended to be codified as an
2 integral part of Title 30, chapter 14, part--27, and the
3 provisions of Title 30, chapter 14, part--27, apply to
4 [sections 1 through 4 7 6].

5 NEW SECTION. Section 8. Saving clause. [This act] does
6 not affect rights and duties that matured, penalties that
7 were incurred, or proceedings that were begun before [the
8 effective date of this act].

9 NEW SECTION. Section 9. Severability. If a part of
10 [this act] is invalid, all valid parts that are severable
11 from the invalid part remain in effect. If a part of [this
12 act] is invalid in one or more of its applications, the part
13 remains in effect in all valid applications that are
14 severable from the invalid applications.

15 NEW SECTION. Section 10. Applicability. The provisions
16 of [this act] apply to any contract for the sale or purchase
17 of a commodity entered into on or after [the effective date
18 of this act].

-End-