

8 with respect to that part which has not been performed on the date of
9 cancellation.

Approved April 26, 1976

CHAPTER 1224

TRADE AND COMMERCE

H. F. 584

AN ACT relating to competition between business, commercial, or professional entities, prohibiting unreasonable restraints of economic activities, providing for enforcement, and providing criminal and civil penalties.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. NEW SECTION. **Short title.** This Act shall be known and may be
2 cited as the "Iowa Competition Law".

1 SEC. 2. NEW SECTION. **Construction.** This Act shall be construed to
2 compliment and be harmonized with the applied laws of the United States which
3 have the same or similar purpose as this Act. This construction shall not be made
4 in such a way as to constitute a delegation of state authority to the federal
5 government, but shall be made to achieve uniform application of the state and
6 federal laws prohibiting restraints of economic activity and monopolistic
7 practices.

1 SEC. 3. NEW SECTION. **Definitions.** As used in this Act, unless the context
2 otherwise requires:

3 1. "Commodity" means tangible or intangible property, real, personal, or
4 mixed.

5 2. "Enterprise" means a business, commercial or professional entity, including
6 a corporation, partnership, limited partnership, professional corporation,
7 proprietorship, incorporated or unincorporated association, or other form of
8 organization.

9 3. "Government agency" means the state, its political subdivisions, and any
10 public agency supported in whole or in part by taxation.

11 4. "Person" means a natural person, estate, trust, enterprise or government
12 agency.

13 5. "Price" includes the terms and conditions of sale, rental, rate, fee, or any
14 other form of payment for a commodity or service.

15 6. "Relevant market" means the geographical area of actual or potential
16 competition in a line of commerce, all or any part of which is within this state.

17 7. "Service" means any activity which is performed in whole or part for
18 financial gain.

19 8. "Trade or commerce" means any economic activity involving or relating to
20 any commodity, service, or business activity.

1 SEC. 4. NEW SECTION. **Restraint prohibited.** A contract, combination, or
2 conspiracy between two or more persons shall not restrain or monopolize trade or
3 commerce in a relevant market.

1 SEC. 5. NEW SECTION. **Monopoly prohibited.** A person shall not attempt to
2 establish or establish, maintain, or use a monopoly of trade or commerce in a
3 relevant market for the purpose of excluding competition or of controlling, fixing,
4 or maintaining prices.

1 SEC. 6. NEW SECTION. **Exemptions.** This Act shall not be construed to
2 prohibit:

3 1. The activities of any labor organization, individual members of such an
4 organization, or group of such organizations, of any employer or group of
5 employers, or of any groups of employees, if these activities are directed solely to
6 legitimate labor objectives which are permitted under the laws of either this state
7 or the United States.

8 2. The activities of any agricultural or horticultural organization, whether
9 incorporated or unincorporated, or of the individual members of such
10 organizations, if these activities carry out the legitimate objectives of such
11 organizations, to the extent permitted under the laws of either this state or the
12 United States.

13 3. The activities of persons engaged in the production of agricultural products
14 when these persons act together in associations, corporate or otherwise, with or
15 without capital stock, in collectively processing, preparing for market, handling,
16 and marketing the products of these persons, to the extent permitted under the
17 laws of either this state or the United States. These associations may have
18 marketing and purchasing agencies in common and their members may make the
19 necessary contracts and agreements to effect such purposes. However, such
20 associations must be operated for the mutual benefit of the members of these
21 associations acting as producers to qualify under this subsection.

22 4. The activities or arrangements expressly approved or regulated by any
23 regulatory body or officer acting under authority of this state or of the United
24 States.

1 SEC. 7. NEW SECTION. **Attorney general to enforce.** The attorney general,
2 with such assistance as may be required from time to time of the county attorneys
3 in their respective counties, shall institute all criminal and civil actions and
4 proceedings brought under this Act in the name of the state.

1 SEC. 8. NEW SECTION. **Venue.** A suit or proceeding brought under this Act
2 may be brought in the county where the cause of action arose, where any
3 defendant resides or transacts business, or where an act in furtherance of the
4 conduct prohibited by this Act occurred.

1 SEC. 9. NEW SECTION. **Investigation.**

2 1. If the attorney general has reasonable cause to believe that a person has
3 engaged in or is engaging in conduct prohibited by this Act, the attorney general
4 shall make such investigation as is deemed necessary and may, prior to the
5 commencement of a suit against this person under this Act:

6 a. Issue written demand on this person, its officers, directors, partners,
7 fiduciaries, or employees to compel their attendance before the attorney general
8 and examine them under oath;

9 b. Issue written demand to produce, examine, and copy a document or tangible
10 item in the possession of this person or its officers, directors, partners, or
11 fiduciaries;

12 c. Upon an order of a district court, pursuant to a showing that such is
13 reasonably necessary to an investigation being conducted under this section:

14 (1) Compel the attendance of any other person before the attorney general and
15 examine this person under oath;

16 (2) Require the production, examination, and copying of a document or other
17 tangible item in the possession of such person; and,

18 d. Upon an order of a district court, impound a document or other tangible
19 item produced pursuant to this section and retain possession of it until the
20 completion of all proceedings arising out of the investigation.

21 2. A written demand or court order issued pursuant to this section shall contain
22 the following information, as applicable:

- 23 a. A reference to this Act and a general description of the subject matter being
24 investigated;
- 25 b. The date, time and place at which any person is to appear or to produce
26 documents or other tangible items;
- 27 c. Where the production of documents or other tangible items is required, a
28 description of such documents or items by class with sufficient clarity so that they
29 may be reasonably identified.
- 30 3. Any procedure, testimony taken, or material produced under this section
31 shall be sealed by the court and be kept confidential by the attorney general, until
32 an action is filed against a person under this Act for the violation under
33 investigation, unless confidentiality is waived by the person being investigated
34 and the person who has testified, answered interrogatories, or produced material,
35 or unless disclosure is authorized by the court for the purposes of interstate
36 cooperation in enforcing this Act and similar state and federal laws.
- 37 4. This Act shall not be construed to limit or abridge statutory or constitutional
38 limitations on self-incrimination.
- 39 5. Evidence obtained from a natural person pursuant to the provisions of this
40 section shall not be introduced in a subsequent criminal prosecution of this
41 person. However, evidence obtained from a natural person pursuant to a grand
42 jury proceeding may be so introduced.

1 **SEC. 10. NEW SECTION. Investigation enforcement.** If a person objects or
2 otherwise fails to obey a written demand or court order issued under section nine
3 (9) of this Act, the attorney general may file in the district court of the county in
4 which the person resides or maintains a principal place of business within this
5 state an application for an order to enforce the demand or order. Notice of
6 hearing and a copy of the application shall be served upon the person, who may
7 appear in opposition to the application. If the court finds that the demand or
8 order is proper, that there is reasonable cause to believe there has been a violation
9 of this Act, and that the information sought or document or object demanded is
10 relevant to the violation, it shall order the person to comply with the demand or
11 order, subject to such modification as the court may prescribe. Upon motion by
12 the person and for good cause shown, the court may make any further order in
13 the proceedings which justice requires to protect the person from unreasonable
14 annoyance, embarrassment, oppression, burden, or expense.

1 **SEC. 11. NEW SECTION. Protective orders.** Before the attorney general files
2 an application under section ten (10) of this Act and upon application of any
3 person who was served a written demand or court order under section nine (9) of
4 this Act, upon notice and hearing, and for good cause shown, the district court
5 may make any order which justice requires to protect the person from annoyance,
6 embarrassment, oppression, or undue burden of expense, including the following:

7 1. That the examination of this person shall not be taken or that documents or
8 other tangible items shall not be produced for inspection and copying;

9 2. That the examination or production of documents or other tangible items
10 shall be had only on specified terms and conditions, including a change in the
11 time or place;

12 3. That certain matters shall not be inquired into or that the scope of the
13 examination or production shall be limited to certain matters;

14 4. That the examination or production and inspection shall be conducted with
15 only those persons present as designated by the court;

16 5. That the transcript of the examination shall be sealed and be opened only by
17 order of the court;

18 6. That a trade secret or other confidential research, development, or
19 commercial information shall not be disclosed or shall be disclosed only in a
20 designated way.

1 SEC. 12. NEW SECTION. **Remedies.** The state or a person who is injured or
2 threatened with injury by conduct prohibited under this Act may bring suit to:

3 1. Prevent or restrain conduct prohibited under this Act and remove the
4 conduct's effect by injunction, divestiture, divorcement, dissolution of domestic
5 enterprises right to do business in this state, compelling the forfeiture or restraint
6 of the issuance of a certificate of incorporation, permit to transact business,
7 license, or franchise, or granting other equitable relief. The state may bring suit
8 under this section without posting bond.

9 2. Recover actual damages resulting from conduct prohibited under this Act.

10 3. Recover, at the court's discretion, exemplary damages which do not exceed
11 twice the actual damages awarded under subsection two (2) of this section if:

12 a. The trier of fact determines that the prohibited conduct is willful or flagrant;
13 and,

14 b. The person bringing suit is not the state.

15 4. Recover the necessary costs of bringing suit, including a reasonable attorney
16 fee. However, the state may not recover any attorney fee.

1 SEC. 13. NEW SECTION. **Civil penalty.** In addition to suit under section
2 twelve (12) of this Act, the state may bring suit to assess a civil penalty against an
3 enterprise whose conduct is prohibited under this Act. The suit may be tried to
4 the jury and the civil penalty provided for in this section shall be imposed by the
5 court. The civil penalty assessed shall not exceed ten percent of the total value of
6 the specific commodities by their brand, make, and size or of services either of
7 which were the subject of the prohibited conduct sold in the relevant market in
8 this state by the enterprise in each year in which this conduct occurred, but this
9 penalty shall not exceed one hundred fifty thousand (150,000) dollars. In
10 computing this penalty, only the four most recent years in which the prohibited
11 conduct occurred, as of commencement of suit under this section, shall be used in
12 the computation.

1 SEC. 14. NEW SECTION. **Criminal penalties.** A person or a natural person
2 having substantial control over an enterprise who knowingly and willfully engages
3 in conduct prohibited by this Act shall be, upon conviction, fined not to exceed
4 twenty-five thousand (25,000) dollars, imprisoned in the county jail for not more
5 than six months, or both so fined and imprisoned.

1 SEC. 15. NEW SECTION. **Election of remedies.** The bringing of suit to assess
2 a civil penalty against a person by filing a petition shall be an election of
3 remedies to not bring a criminal prosecution against this person. The bringing of
4 a criminal prosecution against a person by filing an information or returning an
5 indictment shall be an election of remedies to not bring suit to assess a civil
6 penalty against this person.

1 SEC. 16. NEW SECTION. **Limitations.**

2 1. Suit by the state to assess a civil penalty or to obtain a criminal conviction
3 under this Act must be commenced within four years after the cause of action
4 accrues or, if there is fraudulent concealment of this cause of action, within four
5 years after the cause of action becomes known, whichever period is later.

6 2. Suit under section twelve (12) of this Act must be commenced within four
7 years after the cause of action accrues or, if there is a fraudulent concealment of
8 this cause of action, within four years after the cause of action becomes known,
9 whichever period is later. However, if this cause is based, in whole or part, on the
10 same set of facts as alleged in a suit brought under section thirteen (13) of this
11 Act, this period shall be suspended until one year after the suit brought under
12 section thirteen (13) of this Act is concluded.

1 SEC. 17. NEW SECTION. **Prima facie evidence.** A final decree or judgment,
2 other than a consent decree or consent judgment entered before trial, in a suit
3 brought by the state is prima facie evidence against the defendant in a suit

4 brought by any person other than the state under section twelve (12) of this Act
5 as to all matters respecting which this decree or judgment would be an estoppel
6 between the state and the defendant. This section shall not affect the application
7 of collateral estoppel or issue preclusion.

1 SEC. 18. Chapter five hundred fifty-three (553), Code 1975, is repealed.

1 SEC. 19. NEW SECTION. **Effective date.** This Act shall take effect on
2 January 1, 1977.

Approved June 28, 1976

CHAPTER 1225

PUBLIC IMPROVEMENTS BONDS

H. F. 1327

AN ACT relating to public improvements bond and conditions.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section five hundred seventy-three point two (573.2), Code 1975, is
2 amended to read as follows:

3 **573.2 Public improvements—bond and conditions.** Contracts for the
4 construction of a public improvement shall, when the contract price equals or
5 exceeds ~~one~~ five thousand dollars, be accompanied by a bond, with surety,
6 conditioned for the faithful performance of the contract, and for the fulfillment of
7 such other requirements as may be provided by law. Such bond may also be
8 required when the contract price does not equal said amount.

Approved March 23, 1976

CHAPTER 1226

BONDED AGRICULTURAL WAREHOUSES

H. F. 807

AN ACT relating to bonded agricultural warehouses.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section five hundred forty-three point one (543.1), subsection eight
2 (8), Code 1975, is amended to read as follows:

3 8. "Warehouseman" means any person engaged in the business of operating *or*
4 *controlling* a warehouse for the storing, shipping, handling or processing of
5 agricultural products.

1 SEC. 2. Section five hundred forty-three point one (543.1), Code 1975, is
2 amended by adding the following new subsections:

3 NEW SUBSECTION. "Storage" means any grain or other agricultural products
4 that have been received and have come under care, custody or control of a