

UNFAIR SALES TO EMPLOYEES PROHIBITED
Act of Aug. 11, 1941, P.L. 898, No. 343
AN ACT

Cl. 43

Prohibiting employers from directly or indirectly offering for sale, selling, procuring for sale, having in possession or under control for sale to employes or others any merchandise, not produced by employers, not handled in the regular course of employer's business or not connected or related to his or its business; providing exceptions thereto; declaring such prohibited sales to be unfair competition, and repealing prior inconsistent legislation.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Reason and Purpose.--(a) The legislature hereby finds that the existence in the Commonwealth of Pennsylvania of the practice whereby employers sell or procure for sale to employes or other persons any merchandise, not of the employer's own production, not handled in the regular course of the employer's business, or not connected with or related to his or its trade or business, is detrimental to the convenience and general well-being of the public engaged in retail business in that such practice (1) interferes with and diverts the proper and normal flow of trade and commerce from persons engaged in retail business and (2) constitutes an unfair method of competition by such employers against others engaged in commerce as retail merchants.

(b) It is hereby declared to be the policy of this act through the exercise by the legislature of its police powers to correct and to eliminate the conditions referred to above, declaring certain sales to constitute unfair competition and prohibiting same.

Section 2. No person, partnership, corporation or association engaged in any business or trade in this Commonwealth shall by any method or procedure, directly or indirectly, by itself or through a subsidiary agency, sell or procure for sale or have in its possession or under its control for sale to its employes or to any other person any article, material, product or merchandise of whatever nature, not of his or its own production, not handled in his or its regular course of trade or business, or not connected with or related to his or its trade or business: Provided, That this section shall not apply to the sale or distribution of (1) meals, candy, beverages, cigarettes, cigars, tobacco, (2) tools and material used or worn by employes in such trade or business or appliances and products which are used and worn by employes and are or may be beneficial to the safety, health and working conditions of such employes, (3) equipment or machinery which has previously been used by such person, partnership, corporation or association in the conduct of his or its business, or (4) goods of use in the furtherance of his or its trade or business or

connected therewith or related thereto: And provided further, That the provisions of this act shall not apply to co-operative associations organized under the laws of this Commonwealth: And provided further, That nothing herein contained shall be construed to prohibit or prevent any person, firm or corporation engaged in any industry other than a retail business or trade from owning and operating, either directly by itself, or through any agency or subsidiary, a bona fide store or stores for the sale of goods at retail to his or its employees and others under the provisions of this section.

The doing of any of the acts as prohibited above shall constitute unfair competition to any retail store operator or owner dealing in the same kind, type, nature or class of merchandise as that so sold as aforesaid within the same city or county in which such above prohibited sale occurs.

Section 3. Remedy.--Wilfully and knowingly selling or procuring for sale or having in possession or under control for sale, directly or indirectly, by any person, partnership or corporation or subsidiary agency to his or its employees any article, material, product or merchandise of whatever nature, not of his or its own production, not handled in his or its regular course of trade or business, or not connected with or related to his or its trade or business, is unfair competition and is actionable at the suit of any person damaged thereby. Such action shall be in equity by injunction only, and no damages shall be assessed.

Section 4. Constitutionality.--If any clause, sentence, paragraph or part of this act, or the application thereof to any person or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act and the application of such provision to other persons or circumstances, but such decision shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent that this act would have been adopted had such invalid provisions not been included herein.

Section 5. Repealing Clauses.--All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Section 6. Effective Date.--This act shall become effective immediately upon final enactment.