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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 7. GENERAL BUSINESS REGULATIONS [16000 - 18107] (*Division 7 added by Stats. 1941, Ch. 61.*)

PART 2. PRESERVATION AND REGULATION OF COMPETITION [16600 - 17365] (*Part 2 added by Stats. 1941, Ch. 526.*)

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CHAPTER 2. Combinations in Restraint of Trade [16700 - 16770] (*Chapter 2 added by Stats. 1941, Ch. 526.*)

ARTICLE 2. Prohibited Restraints on Competition [16720 - 16728] (*Article 2 added by Stats. 1941, Ch. 526.*)

16720. A trust is a combination of capital, skill or acts by two or more persons for any of the following purposes:

- (a) To create or carry out restrictions in trade or commerce.
- (b) To limit or reduce the production, or increase the price of merchandise or of any commodity.
- (c) To prevent competition in manufacturing, making, transportation, sale or purchase of merchandise, produce or any commodity.
- (d) To fix at any standard or figure, whereby its price to the public or consumer shall be in any manner controlled or established, any article or commodity of merchandise, produce or commerce intended for sale, barter, use or consumption in this State.
- (e) To make or enter into or execute or carry out any contracts, obligations or agreements of any kind or description, by which they do all or any or any combination of any of the following:
 - (1) Bind themselves not to sell, dispose of or transport any article or any commodity or any article of trade, use, merchandise, commerce or consumption below a common standard figure, or fixed value.
 - (2) Agree in any manner to keep the price of such article, commodity or transportation at a fixed or graduated figure.
 - (3) Establish or settle the price of any article, commodity or transportation between them or themselves and others, so as directly or indirectly to preclude a free and unrestricted competition among themselves, or any purchasers or consumers in the sale or transportation of any such article or commodity.
 - (4) Agree to pool, combine or directly or indirectly unite any interests that they may have connected with the sale or transportation of any such article or commodity, that its price might in any manner be affected.

(*Added by Stats. 1941, Ch. 526.*)

16721. Recognizing that the California Constitution prohibits a person from being disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed, color, or national or ethnic origin, and guarantees the free exercise and enjoyment of religion without discrimination or preference; and recognizing that these and other basic, fundamental constitutional principles are directly affected and denigrated by certain ongoing practices in the business and commercial world, it is necessary that provisions protecting and enhancing a person's right to enter or pursue business and to freely exercise and enjoy religion, consistent with law, be established.

- (a) No person within the jurisdiction of this state shall be excluded from a business transaction on the basis of a policy expressed in any document or writing and imposed by a third party where that policy requires discrimination against that person on the basis of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code or on the basis that the person conducts or has conducted business in a particular location.
- (b) No person within the jurisdiction of this state shall require another person to be excluded, or be required to exclude another person, from a business transaction on the basis of a policy expressed in any document or writing that requires discrimination against that other person on the basis of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code or on the basis that the person conducts or has conducted business in a particular location.
- (c) Any violation of any provision of this section is a conspiracy against trade.

(d) Nothing in this section shall be construed to prohibit any person, on this basis of his or her individual ideology or preferences, from doing business or refusing to do business with any other person consistent with law.

(Amended by Stats. 2007, Ch. 568, Sec. 3. Effective January 1, 2008.)

16721.5. (a) It is an unlawful trust and an unlawful restraint of trade for a person to do the following:

(1) Grant or accept a letter of credit, or other document that evidences the transfer of funds or credit, or enter into a contract for the exchange of goods or services, if the letter of credit, contract, or other document contains a provision that requires a person to discriminate against, or to certify that he, she, or it has not dealt with, another person on the basis of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, or on the basis of a person's lawful business associations.

(2) To refuse to grant or accept a letter of credit, or other document that evidences the transfer of funds or credit, or to refuse to enter into a contract for the exchange of goods or services, on the ground that the letter, contract, or document does not contain a discriminatory provision or certification.

(b) This section shall not apply to a letter of credit, contract, or other document that contains a provision pertaining to a labor dispute or an unfair labor practice if the other provisions of that letter of credit, contract, or other document otherwise do not violate this section.

(c) For purposes of this section, the prohibition against discrimination on the basis of a person's business associations does not include the requiring of association with particular employment or a particular group as a prerequisite to obtaining group rates or discounts on insurance, recreational activities, or other similar benefits.

(d) For purposes of this section, "person" shall include, but not be limited to, individuals, firms, partnerships, associations, corporations, and governmental agencies.

(Amended by Stats. 2008, Ch. 179, Sec. 22. Effective January 1, 2009.)

16721.6. It is the intent of the Legislature that Sections 16721 and 16721.5 be interpreted and applied so as not to conflict with federal law with respect to transactions in the interstate or foreign commerce of the United States to the extent, if any, not preempted by the Export Administration Act of 1969 as amended (50 U.S.C.App. Sec. 2401 and following) and any regulations promulgated thereunder.

(Added by Stats. 1977, Ch. 859.)

16722. Any contract or agreement in violation of this chapter is absolutely void and is not enforceable at law or in equity.

(Added by Stats. 1941, Ch. 526.)

16725. It is not unlawful to enter into agreements or form associations or combinations, the purpose and effect of which is to promote, encourage or increase competition in any trade or industry, or which are in furtherance of trade.

(Added by Stats. 1941, Ch. 526.)

16726. Except as provided in this chapter, every trust is unlawful, against public policy and void.

(Added by Stats. 1941, Ch. 526.)

16727. It shall be unlawful for any person to lease or make a sale or contract for the sale of goods, merchandise, machinery, supplies, commodities for use within the State, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce in any section of the State.

(Added by Stats. 1961, Ch. 738.)

16728. (a) Notwithstanding any other provision of law, motor carriers of property, as defined in Section 34601 of the Vehicle Code, may voluntarily elect to participate in uniform cargo liability rules, uniform bills of lading or receipts for property being transported, uniform cargo credit rules, joint line rates or routes, classifications, mileage guides, and pooling. Motor carriers of property that so elect shall comply with all requirements of Section 14501(c) of Title 49 of the United States Code and with federal regulations promulgated pursuant to that section. The Legislature intends by this section to provide to motor carriers of property the antitrust immunity authorized by state action pursuant to Section 14501(c) of Title 49 of the United States Code.

(b) The election authorized by this section shall be exercised in either of the following ways:

(1) Participation in an agreement pursuant to Section 13703 of Title 49 of the United States Code.

(2) Filing with the Department of Motor Vehicles a notice of adoption of any or all of the uniform cargo liability rules, uniform bills of lading or receipts for property being transported, uniform cargo credit rules, joint rates or routes, classifications, mileage guides, and pooling contained in an identified publication authorized by Section 13703 of Title 49 of the United States Code, along with a written certification issued by the organization establishing those uniform rules or provisions in accordance with Section 13703(g)(1)(B) of Title 49 of the United States Code, affirming participation of the motor carrier of property in the collective publication. The certification shall be made available for public inspection.

(c) The elections made by a motor carrier of property pursuant to this section may be canceled by the motor carrier.

(Amended by Stats. 1998, Ch. 829, Sec. 3. Effective January 1, 1999.)