

**BELOW COST SALES**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill eliminates provisions of Title 13, Chapter 5, Unfair Practices Act, concerning the sale of products below cost.

**Highlighted Provisions:**

This bill:

- ▶ eliminates provisions of Title 13, Chapter 5, Unfair Practices Act, concerning the sale of products below cost; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**13-5-9**, as last amended by Laws of Utah 2007, Chapter 306

REPEALS:

**13-5-7**, as last amended by Laws of Utah 1992, Chapter 30

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **13-5-9** is amended to read:

**13-5-9. Limitation on quantity of article or product sold or offered for sale to any one customer.**

30           ~~[(1) For the purpose of preventing evasion of this chapter in all sales involving more~~  
31 ~~than one item or commodity the vendor's or distributor's selling price shall not be below the cost~~  
32 ~~of all articles, products, and commodities included in such transactions. Each article, product, or~~  
33 ~~commodity individually advertised or offered for sale, shall be individually subject to the~~  
34 ~~requirements of Section 13-5-7, when sold with other articles, products, or commodities.]~~

35           ~~[(2) Under this section, proof of limitation of the quantity of any article or product sold~~  
36 ~~or offered for sale to any one customer of a quantity less than the entire supply thereof owned~~  
37 ~~or possessed by the seller or which he is otherwise authorized to sell at the place of such sale or~~  
38 ~~offering for sale, together with proof that the price at which the article or product is so sold or~~  
39 ~~offered for sale is in fact below its cost, raises a presumption of the purpose or the intent of the~~  
40 ~~sale being to injure competitors or destroy competition, and is unlawful. This section applies~~  
41 ~~only to sales by persons conducting a retail business, the principal part of which involves the~~  
42 ~~resale to consumers of commodities purchased or acquired for that purpose, as distinguished~~  
43 ~~from persons principally engaged in the sale to consumers of commodities of their own~~  
44 ~~production or manufacture.]~~

45           ~~[(3) There shall be no circumvention of]~~ A person may not circumvent the provisions of  
46 this chapter relating to the quantity of articles or products any one customer may purchase by  
47 requiring presentation of coupons, certificates, special purchase authorizations, or any other  
48 procedures designed in any way to limit quantity of purchases as provided herein.

49           Section 2. **Repealer.**

50           This bill repeals:

51           Section **13-5-7, Sales at less than cost.**