

1.1 ..... moves to amend H.F. No. 4143 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2020, section 325D.50, is amended by adding a subdivision  
1.4 to read:

1.5 Subd. 4a. **Monopoly power.** "Monopoly power" means a seller's power to control prices,  
1.6 control market supply, or exclude or suppress competition. A seller has monopoly power  
1.7 if the seller can profitably raise prices substantially above the competitive level, profitably  
1.8 reduce output substantially below the competitive level, or profitably reduce quality below  
1.9 a competitive level, for a significant period of time. A seller also has monopoly power if  
1.10 the seller can exclude or suppress competition from other sellers.

1.11 Sec. 2. Minnesota Statutes 2020, section 325D.50, is amended by adding a subdivision to  
1.12 read:

1.13 Subd. 4b. **Monopsony power.** "Monopsony power" means a buyer's power to control  
1.14 prices, including wages, to control market demand, or exclude or suppress competition for  
1.15 input. A buyer has monopsony power if the buyer can profitably suppress input prices  
1.16 substantially below the competitive level, profitably reduce input substantially below the  
1.17 competitive level, or profitably degrade working conditions, for a significant period of time.  
1.18 A buyer also has monopsony power if the buyer can exclude or suppress competitors for  
1.19 input competition from other buyers.

1.20 Sec. 3. Minnesota Statutes 2020, section 325D.51, is amended to read:

1.21 **325D.51 UNREASONABLE RESTRAINT OF TRADE OR COMMERCE.**

1.22 (a) A contract, combination, or conspiracy between two or more persons in unreasonable  
1.23 restraint of trade or commerce is unlawful.

2.1 (b) An attempt to enter into a contract, combination, or conspiracy between two or more  
2.2 persons in unreasonable restraint of trade or commerce is unlawful.

2.3 Sec. 4. Minnesota Statutes 2020, section 325D.52, is amended to read:

2.4 **325D.52 ESTABLISHMENT, MAINTENANCE, OR USE OF MONOPOLY OR**  
2.5 **MONOPSONY POWER.**

2.6 The establishment, maintenance, or use of, or any attempt to establish, maintain, or use  
2.7 monopoly or monopsony power over any part of trade or commerce by any person or persons  
2.8 for the purpose of affecting competition or controlling, fixing, or maintaining prices is  
2.9 unlawful. Evidence of nonpretextual competitive benefits from establishment, maintenance,  
2.10 or use of monopoly power or monopsony power may be a defense only where such benefits  
2.11 significantly outweigh the competitive harm.

2.12 Sec. 5. Minnesota Statutes 2020, section 325D.53, subdivision 1, is amended to read:

2.13 Subdivision 1. **Price fixing, production control, allocation of markets, collusive**  
2.14 **bidding, and concerted refusals to deal.** Without limiting section 325D.51, the following  
2.15 shall be deemed to restrain trade or commerce unreasonably and are unlawful:

2.16 (1) A contract, combination, or conspiracy between two or more persons ~~in competition~~:

2.17 (a) for the purpose or with the effect of affecting, fixing, controlling or maintaining the  
2.18 market price, rate, or fee of any commodity or service;

2.19 (b) affecting, fixing, controlling, maintaining, limiting, or discontinuing the production,  
2.20 manufacture, mining, sale or supply of any commodity, or the sale or supply of any service,  
2.21 for the purpose or with the effect of affecting, fixing, controlling, or maintaining the market  
2.22 price, rate, or fee of the commodity or service; or

2.23 (c) allocating or dividing customers or markets, functional or geographical, for any  
2.24 commodity or service.

2.25 (2) A contract, combination, or conspiracy between two or more persons whereby, in  
2.26 the letting of any public contract, (a) the price quotation of any bid is fixed or controlled,  
2.27 (b) one or more persons refrains from the submission of a bid, or (c) competition is in any  
2.28 other manner restrained.

2.29 (3) A contract, combination, or conspiracy between two or more persons refusing to  
2.30 deal with another person, except a refusal to deal by associations, trading boards, or  
2.31 exchanges when predicated upon a failure to comply with rules of membership.

3.1 Sec. 6. Minnesota Statutes 2020, section 325D.54, is amended to read:

3.2 **325D.54 SCOPE OF ACT.**

3.3 Sections 325D.49 to 325D.66 apply to:

3.4 (a) any contract, combination, or conspiracy when any part thereof was created, formed,  
3.5 or entered into in this state; and

3.6 (b) any contract, combination, or conspiracy, wherever created, formed, or entered into;  
3.7 any establishment, maintenance, or use of monopoly or monopsony power; and any attempt  
3.8 to establish, maintain, or use monopoly or monopsony power; whenever any of the foregoing  
3.9 affects the trade or commerce of this state.

3.10 Sec. 7. Minnesota Statutes 2020, section 325D.56, subdivision 1, is amended to read:

3.11 Subdivision 1. **Civil penalties.** Any person who is found to have violated sections  
3.12 325D.49 to 325D.66, shall be subject to a civil penalty of not more than ~~\$50,000~~ \$250,000  
3.13 per violation for an individual and not more than \$25,000,000 per violation for any other  
3.14 person. Any person who fails to comply with a final judgment or decree rendered by a court  
3.15 of this state issued for a violation of sections 325D.49 to 325D.66, shall be subject to a civil  
3.16 penalty of not more than ~~\$100,000~~ \$500,000 per violation for an individual and not more  
3.17 than \$50,000,000 per violation for any other person.

3.18 Sec. 8. Minnesota Statutes 2020, section 325D.56, subdivision 2, is amended to read:

3.19 Subd. 2. **Criminal penalty.** Any person who is found to have willfully committed any  
3.20 of the acts enumerated in section 325D.53 shall be guilty of a felony and subject to a fine  
3.21 ~~of not more than \$50,000~~ in the amount specified under subdivision 1, per violation, or  
3.22 imprisonment in the state penitentiary for not more than seven years, or both."

3.23 Amend the title accordingly