

HOUSE No. 21

Bill accompanying the petition of Thomas L. Hisgen for legislation to prohibit discrimination in commercial dealings in commodities in common and necessary use. Joint Judiciary. January 8.

Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Nine.

AN ACT

Prohibiting Discrimination in Commercial Dealing in
Commodities in Common and Necessary Use.

*Be it enacted by the Senate and House of Representatives
in General Court assembled, and by the authority of the
same, as follows:*

1 SECTION 1. Any person, firm, company or cor-
2 poration, foreign or domestic, doing business in the
3 commonwealth of Massachusetts and engaged in
4 the production, manufacture or distribution of any
5 commodity in general use, that shall intentionally,
6 for the purpose of destroying the business of a
7 competitor in any locality, discriminate between dif-
8 ferent sections, communities, towns or cities of this
9 commonwealth or between purchasers by selling

10 such commodity at a lower rate for such purpose in
11 one section, community, town or city, than is charged
12 for said commodity by said party in another sec-
13 tion, community, town or city in the commonwealth,
14 after making due allowance for the difference, if
15 any, in the grade or quality and in the cost of
16 transportation shall be deemed guilty of unfair
17 discrimination, which is hereby prohibited and de-
18 clared unlawful.

1 SECTION 2. It shall be unlawful for any person,
2 firm, association or corporation to combine with any
3 other person, firm, or corporation for the purpose
4 of destroying the trade or business of any person,
5 firm or corporation, engaged in selling goods or
6 commodities within this commonwealth and any
7 such combination shall constitute unfair discrimina-
8 tion which is hereby prohibited and declared un-
9 lawful.

1 SECTION 3. Any person or corporation found
2 guilty of violating any of the provisions of either of
3 the two preceding sections shall be fined not less
4 than five hundred dollars nor more than five thou-
5 sand dollars and be imprisoned in the house of cor-
6 rection for not less than one month or more than
7 one year, or suffer both penalties.

1 SECTION 4. Whoever, for the purpose of evading
2 any of the provisions of this act shall appoint
3 agents, secure or hold the control of corporate stock
4 as a part of such purpose, or by agreement with
5 other corporations or persons cause any of the
6 commodities mentioned in section one to be sold as
7 a part of such evasion or attempt to evade, shall be
8 punished by imprisonment in the state prison by

9 confinement at hard labor for not less than six
10 months or not more than five years if an individual,
11 and if a corporation, the directors, stockholders, or
12 agents authorizing such evasion or discrimination
13 shall each be held guilty therefor and shall be pun-
14 ished by the punishment provided in this section
15 for individuals.

1 SECTION 5. All contracts or agreements made in
2 violation of any of the provisions of the preceding
3 sections shall be void.

1 SECTION 6. It shall be the duty of the district at-
2 torneys, in their districts, and the attorney-general,
3 to enforce the provisions of the preceding sections
4 of this act by appropriate actions in courts of com-
5 petent jurisdiction, but nothing herein shall limit
6 the rights of any court to issue warrants and make
7 commitments to await the action of the grand jury
8 as for crimes under the common law, but such courts
9 are given such power.

1 SECTION 7. If complaint shall be made to the
2 secretary of the commonwealth that any corporation
3 authorized to do business in this commonwealth is
4 guilty of unfair discrimination within the terms of
5 this act, it shall be the duty of the secretary of state
6 to refer the matter to the attorney-general, who
7 shall, if the facts justify it in his judgment, institute
8 proceedings in the courts against such corporation.

1 SECTION 8. If any corporation, foreign or domes-
2 tic, authorized to do business in this commonwealth
3 is found guilty of unfair discrimination, such finding

4 shall cause a forfeiture of all the privileges and
5 rights conferred by the laws of this commonwealth
6 upon corporations, and shall bar its right to do
7 business in this commonwealth.

1 SECTION 9. If any corporation having been found
2 guilty of a violation of any of the provisions of this
3 act, shall continue or attempt to do business in this
4 commonwealth, it shall be the duty of the attorney-
5 general by a proper action in the name of the com-
6 monwealth of Massachusetts, to oust such corpora-
7 tion from all business of every kind and character
8 in this commonwealth.

1 SECTION 10. Nothing in this act shall be construed
2 as repealing any other act, or part of act, but the
3 remedies herein provided shall be cumulative to all
4 other remedies provided by law.