

ered by rule 65 of the Federal Rules of Civil Procedure, set out in the Appendix to Title 28, Judiciary and Judicial Procedure. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

The 3d par. of subsec. (a) is also classified to section 53 of Title 29, Labor.

#### AMENDMENTS

1976—Pub. L. 94-435 designated existing provisions as subsec. (a) and added subsec. (b).

#### CLAYTON ACT REFERRED TO IN OTHER SECTIONS

The Clayton Act [see References in Text note above] is referred to in sections 35, 44, 57b-1, 1012, 1013, 3301, 3503 of this title; title 7 section 225; title 10 section 7430; title 12 sections 1828, 1849, 3208; title 16 section 2602; title 30 sections 184, 1413; title 33 section 1331; title 40 section 488; title 42 sections 2135, 5417, 5909, 6202, 8235f, 9102; title 43 section 1770; title 45 section 791; title 46 App. section 1702; title 49 section 10706; title 50 App. sections 1941a, 2158.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 34, 37a, 1291, 1311, 4002, 4021, 4301, 6211, 6701 of this title; title 12 sections 1831u, 1841; title 16 section 824k; title 17 section 109; title 19 sections 2033, 2561; title 28 section 1407; title 42 sections 7651b, 12007, 13271; title 46 App. section 885; title 47 section 303c; title 49 sections 13703, 13907, 14104, 40102, 41308, 41716.

### § 13. Discrimination in price, services, or facilities

#### (a) Price; selection of customers

It shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided*, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: *Provided, however*, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: *And provided*

*further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: *And provided further*, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

#### (b) Burden of rebutting prima-facie case of discrimination

Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however*, That nothing herein contained shall prevent a seller rebutting the prima-facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

#### (c) Payment or acceptance of commission, brokerage, or other compensation

It shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

#### (d) Payment for services or facilities for processing or sale

It shall be unlawful for any person engaged in commerce to pay or contact for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

#### (e) Furnishing services or facilities for processing, handling, etc.

It shall be unlawful for any person to discriminate in favor of one purchaser against another

purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

**(f) Knowingly inducing or receiving discriminatory price**

It shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this section.

(Oct. 15, 1914, ch. 323, § 2, 38 Stat. 730; June 19, 1936, ch. 592, § 1, 49 Stat. 1526.)

AMENDMENTS

1936—Act June 19, 1936, amended section generally.

SHORT TITLE

Act June 19, 1936, which amended this section and added sections 13a, 13b, and 21a of this title, is popularly known as the Robinson-Patman Antidiscrimination Act and also as the Robinson-Patman Price Discrimination Act.

ROBINSON-PATMAN ANTIDISCRIMINATION ACT REFERRED TO IN OTHER SECTIONS

The Robinson-Patman Antidiscrimination Act [15 U.S.C. 13 to 13b, 21a] is referred to in sections 13b, 13c, 21a, 1013, 3301 of this title; title 10 section 7430; title 16 section 2602; title 30 sections 184, 1413; title 42 sections 5909, 6202; title 43 section 1331; title 45 section 791; title 46 App. section 1702; title 49 section 10706; title 50 App. section 2158.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21, 21a, 26 of this title; title 28 section 1407; title 30 section 184.

**§ 13a. Discrimination in rebates, discounts, or advertising service charges; underselling in particular localities; penalties**

It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance, or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition, or eliminating a competitor in such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

Any person violating any of the provisions of this section shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both.

(June 19, 1936, ch. 592, § 3, 49 Stat. 1528.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 7430; title 28 section 1407; title 30 section 184; title 42 sections 6202, 8235f; title 49 section 10706.

**§ 13b. Cooperative association; return of net earnings or surplus**

Nothing in this Act shall prevent a cooperative association from returning to its members, producers, or consumers the whole, or any part of, the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association.

(June 19, 1936, ch. 592, § 4, 49 Stat. 1528.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Antidiscrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of this title and amended section 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 13 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 7430; title 28 section 1407; title 42 sections 6202, 8235f; title 49 section 10706.

**§ 13c. Exemption of non-profit institutions from price discrimination provisions**

Nothing in the Act approved June 19, 1936, known as the Robinson-Patman Antidiscrimination Act, shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.

(May 26, 1938, ch. 283, 52 Stat. 446.)

REFERENCES IN TEXT

The Act approved June 19, 1936, known as the Robinson-Patman Antidiscrimination Act, referred to in text, is act June 19, 1936, ch. 592, 49 Stat. 1526, which enacted sections 13a, 13b, and 21a of this title and amended section 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 13 of this title and Tables.

**§ 14. Sale, etc., on agreement not to use goods of competitor**

It shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies, or other commodities, whether patented or unpatented, for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or 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, wares, merchandise, machinery, supplies, or other commodities 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 commerce.

(Oct. 15, 1914, ch. 323, § 3, 38 Stat. 731.)