

TRADE REGULATION--VIOLATION--ISSUE OF PRICE SUPPRESSION OF
GOODS.¹ N.C.G.S. § 75-5(b)(1).

NOTE WELL: Use this instruction only with claims for relief arising before October 1, 1996. Session Laws 1995 (Regular Session 1996), c. 550, s. 2 repealed N.C.G.S. § 75-5 effective October 1, 1996.

The (state number) issue reads:

"Did the defendant² conspire with another to put down or keep down the price of any goods produced in this State by the labor of others, which goods the defendant intended, planned or desired to buy?"

On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, two things:

First, that the defendant conspired with another to put down or keep down the price of (name goods) produced in this State by the labor of others.

¹G.S. § 75-5(b)(1) is designed to prevent purchasers of good (e.g., tobacco companies) from agreeing among themselves to use their combined purchasing power to lower the price they must pay for goods produced in this state (e.g., tobacco) or to keep the price of those goods from rising. Such conduct is impermissible because it would have an unfair adverse impact on the earnings and profits of producers of goods (e.g., tobacco farmers) in this state by preventing free and competitive trade in the goods.

In a treble damages action this instruction should be given in conjunction with N.C.P.I.--Civil 813.70 ("Issue of Proximate Cause") and N.C.P.I.--Civil 813.80 ("Issue of Damages").

²Under the statute defendant must be a "person." "Person" includes any person, partnership, association, or corporation. G.S. § 75-5(a)(1).

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N.C.G.S. § 75-5(b)(1). (Continued.)

(Here instruct the jury on the definition of conspiracy.

See N.C.P.I.--Civil 813.22.)

Second, that the defendant planned, intended or desired to buy the *(name goods)*.

Finally, as to this issue on which the plaintiff has the burden of proof, if you find by the greater weight of the evidence that the defendant conspired with another to put down or keep down the price of any goods produced in this State by the labor of others, which goods the defendant planned, intended or desired to buy, then it would be your duty to answer this issue "Yes" in favor of the plaintiff.

If, on the other hand, you fail to so find, then it would be your duty to answer this issue "No" in favor of the defendant.