

UNDERSTANDING FLORIDA'S NEW
REGISTRATION AND
PROTECTION OF TRADEMARKS ACT

- A. HOUSE BILL 7101
- B. SENATE STAFF ANALYSIS (SB 2186)
- C. HB 7101 BILL HISTORY
- D. SB 2186 BILL HISTORY

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Commerce and Consumer Services Committee

BILL: SB 2186

INTRODUCER: Senator Campbell

SUBJECT: Trademarks

DATE: March 27, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gordon	Cooper	CM	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	TA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill makes several changes to Florida's trademark law, which was originally drafted in accordance with the International Trademark Association's 1964 Model State Trademark Bill (MSTB), as amended over time. The changes in this bill will generally conform Florida's law to current federal law regarding trademarks, known as the Lanham Act,¹ and the revised MSTB, where appropriate. The bill makes the following changes:

- Provides a popular name;
- Revises the definition section to make it consistent with federal law;
- Revises which marks may be registered to be generally consistent with federal law;
- Repeals the provision related to the reservation of marks;
- Codifies the application review process used by the Department of State (department);
- Provides a right to an administrative hearing for affected parties;
- Reduces the renewal period of a registered mark from 10 to 5 years;
- Permits a person to file a change of name with the department and specifies recording requirements for such a change;
- Clarifies that security interests in a mark may be created and perfected under the Uniform Commercial Code;
- Conforms the Florida classification system for goods and services to the International Trademark Classification System;

¹ The Lanham Act, Title 15 of the United States Code (USC), "defines the scope of a trademark, the process by which a federal registration can be obtained from the Patent and Trademark Office for a trademark, and penalties for trademark infringement." <http://legal.web.aol.com/resources/legislation/tradeact.html>. 22 March 2006.

- Authorizes an award of attorney's fees to a prevailing party according to the circumstances of a case where ownership of a mark is disputed;
- Revises provisions allowing the owner of a famous mark to prevent the dilution of the mark by enjoining the use of the mark by another person or seeking additional remedies in the case of willful use of the mark by another person;
- Combines all fees applicable to trademark registrations and related activities into one section of law; and
- Repeals obsolete sections of ch. 495, F.S.

This bill creates the following sections of the Florida Statutes: 495.001, 495.035, 495.145, and 495.191.

This bill substantially amends the following sections of the Florida Statutes: 495.011, 495.021, 495.031, 495.041, 495.061, 495.071, 495.081, 495.091, 495.101, 495.111, 495.131, 495.141, 495.151, 495.161, 495.171, and 495.181.

This bill repeals the following sections of the Florida Statutes: 495.027, 506.06, 506.07, 506.08, 506.09, 506.11, 506.12, and 506.13.

II. Present Situation:

Florida's trademark statute is based on the International Trademark Association's (INTA) 1964 Model State Trademark Bill (MSTB). The Florida law was last amended substantively in 1990 when the Florida Legislature added a name reservation provision to the law.

During the 2005 Legislative Session, Senator Campbell introduced SB 678 (HB 845 by Representative Galvano) which incorporates the MSTB in most respects. At that time, a subcommittee of the Florida Bar Business Law Section, Intellectual Property Law Committee provided the sponsor with a Technical Input Memorandum, highlighting issues that the committee felt warranted attention before adopting the bills as law. The present proposal is based on the MSTB and the comments contained in the technical memorandum.

III. Effect of Proposed Changes:

Section 1 creates s. 495.001, F.S. This section designates "Registration and Protection of Trademarks Act" as the popular name for ch. 495, F.S.

Section 2 amends s. 495.011, F.S., the definitions section of the current statute. Several new terms are added and others are substantially revised to conform to the definitions contained in the Federal Trademark Act (the Lanham Act). Moreover, while the MSTB does not contain definitions of collective and certification marks, SB 2186 retains the definitions for such marks. The bill adds the following new terms to the definitions section of the statute:

- **Abandoned:** This term applies to a mark when either its use has been discontinued with the intent not to resume such use or when the conduct of the owner causes the mark to lose its significance as a mark. The intent not to resume use may be inferred from the

circumstances. The bill also provides that nonuse for 3 consecutive years constitutes prima facie evidence of abandonment.

- **Applicant:** This term refers to the person who files an application for registration of a mark as well as that person's legal representatives, successors, or assigns.
- **Department:** This term refers to the Florida Department of State or its designee charged with the administration of ch. 495, F.S.
- **Dilution:** This term is defined as the lessening of the capacity of a mark to identify and distinguish goods or services, regardless of the presence or absence of:
 - Competition between the owner of the mark and other parties; and
 - Likelihood of confusion, mistake or deception.
- **Mark:** This term includes any trademark, service mark, certification mark, or collective mark entitled to registration under ch. 495, F.S., whether or not registered.
- **Service Mark:** This term is defined as any word, name, symbol or device, or any combination thereof, used by a person to identify and distinguish the services of such person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown.
- **Trademark:** This term is defined as any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if the source is unknown.

Several of the definitions in the current statute are revised in the following manner:

- **Certification mark:** This term is currently generally defined as a trademark or service mark used on or in connection with certain products or services by a person other than the owner of that mark. The revised definition replaces the terms trademark and service mark with "any word, name, symbol or device or any combination thereof."
- **Person:** This term is currently defined as any individual, firm, partnership, corporation, association, union or other organization. The revised definition emphasizes that "person" as used in the chapter means applicant or other party that receives a benefit from ch. 495, F.S., or is liable under that chapter. The term is also used to describe a natural person (a human being)² or a juristic person, which means, as defined by the Lanham Act and the revised definition, a "firm, corporation, union, association, or other organization capable of suing or being sued in a court of law."³
- **Registrant:** The definition of this term is slightly revised to replace the phrase "registrant embraces the person" with "registrant means the person."
- **Related company:** This term is currently defined as a "person who legitimately controls or is controlled by the registrant or owner of the mark."
- **Trade name:** The term is currently defined as "any word, name, symbol, character, design, drawing or device or any combination," used to identify a business. The revised definition shortens the meaning to include only a name used to identify a business.
- **Use:** This term is currently defined as "bona fide use" in the ordinary course of trade, but not for the purpose of reserving a right to a trademark or service mark. The revised

² Black's Law Dictionary, 6th Edition, definition of "person," p. 791.

³ 15 USC § 1127, under the definition of "person."

definition retains most of the current statute's language describing "use," but separates "use" related to goods from "use" related to services, placing each in a separate paragraph.

Section 3 revises the provision governing whether a mark is registrable, s. 495.021, F.S. The bill prohibits registration of marks that consist of or comprise a name, signature or portrait identifying a particular living individual, except by his or her written consent, including that of a deceased President of the United States during the lifetime of his widow or her widower, if any, except by the written consent of the widow or widower.

This section also creates a subparagraph under paragraph (e) which includes a list of several types of marks that are excluded from registration and that do not fit into paragraphs (a) through (d) of subsection 495.021(1), F.S. Currently subparagraph 495.021(1)(e)2., F.S., combines marks that are primarily geographically descriptive or deceptively misdescriptive into one subparagraph. The bill removes the term "deceptively" and places marks that are "primarily geographically misdescriptive of the goods" into a separate subparagraph. This separation of the terms and revision of one of them clarifies the marks to which the paragraph refers.

A subparagraph 5., which states, "Comprises any matter that, as a whole, is functional," is added to paragraph (e) to conform the provision to the federal trademark functionality doctrine. Section 2(e)(5) of the Trademark Act,⁴ prohibits the registration of "matter that, as a whole, is functional."⁵ The U.S. Supreme Court has stated, "[A] product feature is functional and cannot serve as a trademark if it is essential to the use or purpose of the article or if it affects the cost or quality of the article."⁶ The doctrine of functionality "prevents trademark law, which seeks to promote competition by protecting a firm's reputation, from instead inhibiting legitimate competition by allowing a producer to control a useful product feature."⁷ Under this bill, a mark that is functional may not be registered.

This section of the bill also permits the department to use proof of the continuous use of a mark for 5 years before a claim of distinctiveness is made as prima facie evidence of distinctiveness.

Section 4 repeals s. 495.027, F.S., related to the reservation of a mark for future use. The provision was intended to provide protection similar to the federal intent-to-use law, but did not offer the same substantive rights as the federal law. Under federal law, a person who had indicated an intent to use a mark was granted constructive use of that mark, giving the individual priority in pending registration and use of the mark. Florida law does not grant the same constructive use. According to some practitioners, this difference in law created more confusion than benefit; therefore, removal of the Florida provision would provide clarity regarding which law should be applied.

⁴ 15 U.S.C. §1052(e)(5).

⁵ *Id.* See also, White Paper on Functionality provided by The Florida Bar Business Law Section, Intellectual Property Law Committee, Subcommittee on Proposed Amendments to Florida Trademark Statute on file with the Committee on Commerce and Consumer Services.

⁶ *Qualitex Co. v. Jacobson Products Co., Inc.*, 514 U.S. 159, 165 (1995) (quoting *Inwood Laboratories, Inc. v. Ives Laboratories, Inc.*, 456 U.S. 844, 850, n.10 (1982)).

⁷ *Qualitex*, 514 at 164-165.

Section 5 amends s. 495.031, F.S., related to applications for registration. The bill rewrites the provisions of the statute to allow for the designation of a person on whom notice or process of proceedings affecting a mark may be served. This change is consistent with Section 1(e) of the Lanham Act.

This section of the bill also clarifies that an application for registration of a mark must be filed with the department in a manner and form complying with the requirements of the department. In addition, the bill specifies that an applicant who is a business entity must identify the place of incorporation or organization.

This section requires that an applicant state that it is the owner of the mark, that the mark is in use, and that, to the best of the applicant's knowledge, no other person except a related company has registered the mark in Florida or has a right to use an identical mark or one that could cause confusion, mistake or deception.

This section also authorizes the department to demand a drawing of a collective mark, and requires an applicant to provide 3 specimens of the mark as actually used.

Section 6 creates s. 495.035, F.S., which governs the filing of applications. This section permits the department to review an application for conformity with the trademarks chapter once it has been submitted. The bill requires applicant to provide additional pertinent information as required by the department. The bill also authorizes the department to make amendments to the application based on additional information submitted; to require the applicant to disclaim an unregistrable part of a mark that is otherwise registrable; and to require that a new application be filed.

This section also establishes a review process in the event an application is rejected. The bill gives an applicant 3 months to reply or amend an application that has been rejected. This process may be repeated until the department makes final its refusal to register the mark or the applicant fails to reply or amend within the specified period. The bill also authorizes the department to extend the time for an applicant to respond where there is litigation pending involving the mark.

This section directs the department to judge applications which relate to the same or similar marks based on order of receipt. If a prior-received application is granted registration, the other application(s) must be rejected. The applicant whose application was rejected may bring an action for prior or superior rights to the mark under s. 495.101(3), F.S.

Section 7 amends s. 495.041, F.S., related to use of a mark by companies other than, but related to, the owner. The amendment conforms Florida law to Section 5 of the Lanham Act,⁸ which essentially provides that first use of a mark by the registrant or applicant for registration controls the nature and quality of the goods or services and, therefore, such use inures to the benefit of the registrant or applicant.

⁸ 15 U.S.C. § 1055.

Section 8 makes technical revisions to s. 495.061, F.S. This section also deletes the provision applicable to the name reservation section which is repealed by section 4 of this bill.

Section 9 amends s. 495.071, F.S., to shorten the renewal period of a registration from 10 years to 5 years. According to the Department of State, this change will reduce the number of “deadwood registrations,”⁹ or registrations for marks that are no longer in use. This revision will ultimately result in more up-to-date records in the trademark and service mark database, thereby facilitating the reliability of consumer searches.

This section also permits registrations in effect on July 1, 2006, to remain in effect for the unexpired term. Any renewal of such a registration must be applied for and the fee paid within 6 months of the expiration of the registration. Moreover, a renewal application must include a verified statement that the mark is still in use in Florida and must include a specimen showing actual use.

The bill further clarifies that the application for registration be in a manner and form that complies with the requirement of the department.

Section 10 amends s. 495.081, F.S., to permit the recordation of a photo copy of an assignment of a mark as the true and correct copy of the original assignment.

This section also provides for the recordation of a name change of the registrant or applicant. In the case of a pending application, the department is directed to issue a certificate in the registrant or applicant’s new name. Where a mark has already been registered, the department shall issue a certificate in the registrant’s new name for the remainder of the term of the registration.

The section further provides that failure to register a name change does not affect the individual or entity’s substantive rights as to the mark or its registration.

This section also clarifies that security interests in a mark may be created and perfected under the Uniform Commercial Code. Currently, a business entity or individual may pledge ownership in a trademark as collateral for some privilege, such as a loan. This change codifies current practice.

Section 11 amends s. 495.091, F.S., to require the department to keep for public inspection records related to assignments and name changes as provided under s. 495.181, F.S.

Section 12 amends s. 495.101, F.S., to delete an obsolete provision and make technical revisions to the provision addressing registration cancellations. The words “and Trademark” are added to the term “United States Patent Office” to update the name of that federal agency. The phrase, “she or he” is changed to “registrant.” The bill also removes the definition of “abandoned” from this section of law since this bill places that term in the definitions section, which is revised by section 1 of this bill.

This section directs the department to cancel a mark that has become the generic name for goods or services, or a portion thereof, for which the mark has been registered.

⁹ See, Florida Bar White Paper, *supra*, note 5.

This bill also clarifies that a registrant may use a certification mark in advertising or promoting recognition of its own certification program or of goods or services meeting the certification standards of the registrant even if the mark is cancelled.

Section 13 amends s. 495.111, F.S., to adopt the updated International Trademark Classification System which was revised in 2002. The bill also adopts the United States Patent and Trademark Office's system for classifying certification and collective membership marks.

Section 14 amends s. 495.131, F.S., to conform its provisions to the infringement provisions of the Lanham Act. The bill also clarifies that the basis for infringement is use of a mark or an imitation or copy of a mark, without the consent of the registrant, in a manner that is likely to cause confusion, to cause mistake or to deceive.

Section 15 amends s. 495.141, F.S., to add a prevailing party attorney's fee provision. This provision gives courts the discretion to award attorney's fees to the prevailing party "according to the circumstances of the case." Florida case law provides that "a court may only award attorney's fees when such fees are 'expressly provided for by rule, statute or contract.'"¹⁰ This revision provides a statutory basis for the award of attorney's fees in trademark disputes.

Section 16 amends s. 495.145, F.S., to create a new provision to specify the venue for cancellation actions. This revision clarifies that the department need not be made a party to such an action and that an action does not have to be filed in Tallahassee, but may be brought in any court. Moreover, under this provision, review of department decisions regarding cancellation would be governed by the Administrative Procedure Act.

Section 17 amends s. 495.151, F.S., to specify factors a court may consider in determining whether a mark is distinctive and famous for the purpose of judging the likelihood of dilution of the mark. The revised section retains the likelihood of dilution standard, rather than adopting the federal actual dilution standard. A "likelihood of dilution" standard is preferred by members of the trademark bar since it better protects the interests of owners of a mark and is difficult to prove.

The bill also provides that the owner of a registered mark who proves that another willfully used the mark would be entitled to injunctive relief and monetary damages, while a plaintiff who does not own a registration would be limited to injunctive relief.

This section also specifies that certain uses of a mark and forms of media are not actionable under the dilution provision, including:

- Fair use of a famous mark by another person in comparative commercial advertising or promotion to identify competing goods or services of the owner of the famous mark;
- Noncommercial use of the mark;
- All forms of news reporting and news commentary.

¹⁰ *Dept. of Children and Family Services v. J.B.*, 898 So.2d 980, 981 (Fla. 5th DCA 2005) quoting *Hubbel v. Aetna Cas. Sur. Co.*, 758 So. 2d 94, 97 (Fla. 2000).

Section 18 amends s. 495.161, F.S., to delete the words “or diminish” preceding the rights that are protected by ch. 495, F.S.

Section 19 amends section 495.171, F.S., to provide for the repeal of conflicting acts. This section states that ch. 495, F.S., shall be in force and effect on January 1, 2007, instead of on October 1, 1967 as the statute currently provides, and shall not affect any suit, proceeding, or appeal pending as of that date.

This section also provides that “sections 506.06-506.13”¹¹ are repealed as of July 1, 2006. However, the repeal will stand ineffective in relation to any pending legal proceedings until those proceedings reach a final determination.

Section 20 creates s. 495.181, F.S., to provide that the purpose of the chapter is to create a system of state trademark registration and protection substantially consistent with the federal system of trademark registration and protection. The bill further provides that the federal law should be used as persuasive authority in interpreting and construing this chapter.

Section 21 creates s. 495.191, F.S., and lists all of the fees related to filing documents regarding the registration of a mark with the department. Currently, fees for the reservation of a mark, the application, a registration renewal and assignments, which are \$87.50, \$87.50, and \$50.00, respectively, are in separate statutory provisions in ch. 495, F.S.¹² This revision places those fees, except a fee for the reservation of a mark,¹³ in one statute and adds references for fees authorized in other statutory provisions, including: a certificate of name change for \$50.00 as authorized by s. 865.09(4), F.S., and s. 895.09(12), F.S.;¹⁴ a voluntary cancellation for \$87.50;¹⁵ a certificate of registration under seal for \$8.75 as authorized by s. 15.09(1)(b), F.S.,¹⁶ and a certified copy of an application file for \$52.50 as authorized by s. 607.0122(21), F.S.(corporations), 617.0122(20), F.S. (corporations not for profit), and s. 620.1109(1), F.S.(partnerships).^{17 18}

This section also changes the price of filing an assignment and for cancellation from \$50.00 to \$87.50.

Section 22 repeals ss. 506.06, 506.07, 506.08, 506.09, 506.11, 506.12 and 506.13, F.S., the remaining provisions of Florida’s original trademark law, Florida’s Stamped or Marked Containers and Baskets Law, which is no longer in use.

¹¹ Although the bill uses this reference, it should be noted that s. 506.10, F.S., does not exist.

¹² These fees can be found in ss. 495.027(3), 495.031(6), 495.071 (1) and 495.081, F.S., respectively.

¹³ The “reservation of a mark” provision, s. 495.027, F.S., is repealed by this bill.

¹⁴ Section 865.09(4), F.S., requires a business that changes the owner of record to file a cancellation and re-registration with the department. Section 865.09(12), F.S., sets a fee for cancellation and re-registration at \$50.00.

¹⁵ Section 865.09(12), F.S., sets a fee for cancellation of \$50.00. Department representatives indicate the \$87.50 figure stated in the bill for both cancellation and assignments is a typographical error to be fixed by an amendment.

¹⁶ Section 15.09(1)(b), F.S., authorizes the Department to charge \$8.75 for providing any certificate with a seal.

¹⁷ Sections 607.0122(2), 617.0122(20), and 620.1109(1), F.S., state the \$52.50 fee for providing a certified copy of a document filed with the department.

¹⁸ Although not listed in the trademarks statute, these fees constitute current practice by the department in handling corporations and trademarks filings generally.

Section 23 provides the act will take effect July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

While the bill specifically lists the fees in a new section of statute, the fees themselves are not new. Department representatives indicate that the \$87.50 fee for cancellations and assignments, which usually cost \$50.00, is a typographical error to be fixed by an amendment to this bill.

B. Private Sector Impact:

The Department of State, Division of Corporations, reports that the bill will require approximately 500 persons or entities to pay the \$50.00 fee each year for renewal of a registered mark. As a consequence, the number of renewal applications will likely double because of the shortened registration period. However, the Division also indicates that most marks have a life span of approximately 3 years, which should result in a smaller than estimated fiscal impact.

C. Government Sector Impact:

The Division also reports that records maintenance will be improved by the 5-year renewal period. This change, from 10 to 5 years, will result in more up-to-date records in the trademark and service mark database and, consequently, more reliable searches of the database.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 HB 7107, Engrossed 1

2006 Legislature

1 A bill to be entitled
 2 An act relating to trademarks; creating s. 495.001, F.S.;
 3 providing a short title; amending s. 495.011, F.S.;
 4 providing definitions; amending s. 495.021, F.S.;
 5 precluding registration of certain marks; repealing s.
 6 495.027, F.S., relating to reservation of a mark; amending
 7 s. 495.031, F.S.; providing requirements for information
 8 to be contained in an application for registration of a
 9 mark; authorizing the Department of State to require
 10 certain information in an application; requiring that the
 11 application be signed and verified by any of certain
 12 persons; requiring that the application be accompanied by
 13 three specimens or facsimiles showing the mark; requiring
 14 that the application be accompanied by a fee; creating s.
 15 495.035, F.S.; providing filing guidelines for
 16 applications; providing for disclaimers of unregistrable
 17 components; providing for amendment and judicial review;
 18 providing for priority of registrations; amending s.
 19 495.041, F.S.; providing that first use shall inure to the
 20 benefit of the registrant or applicant under certain
 21 circumstances; amending s. 495.061, F.S.; providing for
 22 the issuance of a certificate of registration by the
 23 department; removing a provision relating to reservation
 24 of a mark; amending s. 495.071, F.S.; providing guidelines
 25 for the renewal of marks; revising duration of
 26 effectiveness of a registration; amending s. 495.081,
 27 F.S.; providing for the assignability of marks;

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28 | authorizing a photocopy of an assignment to be acceptable
 29 | for recording; providing for change of name certificates
 30 | for registrants; authorizing recordation of certain
 31 | instruments; providing acknowledgment of recording as
 32 | prima facie evidence of the execution of an assignment or
 33 | other instrument; specifying requirements for creation and
 34 | perfection of security interests in marks; amending s.
 35 | 495.091, F.S.; requiring the department to record all
 36 | marks registered with the state; amending s. 495.101,
 37 | F.S.; requiring the department to cancel certain marks;
 38 | amending s. 495.111, F.S., which establishes a
 39 | classification of goods and services; providing that a
 40 | single application for registration of a mark may include
 41 | any or all goods upon which, or services with which, the
 42 | mark is actually being used comprised in one or more of
 43 | the classes listed; amending s. 495.131, F.S.; revising
 44 | infringement provisions to include an element of lack of
 45 | consent by the registrant; conforming language; amending
 46 | s. 495.141, F.S.; providing additional remedies for the
 47 | unauthorized use of a mark; creating s. 495.145, F.S.;
 48 | providing a forum for actions regarding registration;
 49 | providing for service of process on nonresident
 50 | registrants; amending s. 495.151, F.S.; providing for an
 51 | injunction in cases of dilution of a famous mark;
 52 | providing factors to be considered in determining that a
 53 | mark is famous; providing damages in certain circumstances
 54 | of dilution; amending s. 495.161, F.S.; deleting language

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55 relating to the diminishing of certain common law rights;
 56 amending s. 495.171, F.S.; providing effective date of
 57 changes to ch. 495, F.S., as amended by the act; providing
 58 for repeal of conflicting acts; providing application to
 59 pending actions; amending s. 495.181, F.S.; providing
 60 construction and legislative intent; creating s. 495.191,
 61 F.S.; providing certain fees; repealing s. 506.06, F.S.,
 62 relating to unlawful to counterfeit trademark, to conform;
 63 repealing s. 506.07, F.S., relating to filing of trademark
 64 or other form of advertisement for record with Department
 65 of State, to conform; repealing s. 506.08, F.S., relating
 66 to fee for filing, to conform; repealing s. 506.09, F.S.,
 67 relating to civil remedies, to conform; repealing s.
 68 506.11, F.S., relating to unlawful use of trademark, to
 69 conform; repealing s. 506.12, F.S., relating to procuring
 70 the filing of trademark or other form of advertisement by
 71 fraudulent representations, to conform; repealing s.
 72 506.13, F.S., relating to using the name or seal of
 73 another, to conform; providing an effective date.

74
 75 Be It Enacted by the Legislature of the State of Florida:

76 Section 1. ^{NAME} Section 495.001, Florida Statutes, is created
 77 to read:

78 495.001 Short title.--This chapter may be cited as the
 79 "Registration and Protection of Trademarks Act."
 80

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Definitions

81 Section 2. Section 495.011, Florida Statutes, is amended
 82 to read:

83 (Substantial rewording of section. See
 84 s. 495.011, F.S., for present text.)

85 495.011 Definitions.--As used in this chapter:

86 (1) "Abandoned" applies to a mark when either of the
 87 following occurs:

88 (a) When its use has been discontinued with intent not to
 89 resume such use. Intent not to resume use may be inferred from
 90 circumstances. Nonuse for 3 consecutive years shall constitute
 91 prima facie evidence of abandonment.

92 (b) When any course of conduct of the owner, including
 93 acts of omission or commission, causes the mark to lose its
 94 significance as a mark.

95 (2) "Applicant" means the person filing an application for
 96 registration of a mark under this chapter and the legal
 97 representatives, successors, or assigns of such person.

98 (3) "Certification mark" means any word, name, symbol, or
 99 device, or any combination thereof, used by a person other than
 100 the owner of the mark to certify regional or other origin,
 101 material, mode of manufacture, quality, accuracy, or other
 102 characteristics of such person's goods or services or that the
 103 work or labor on the goods or services was performed by members
 104 of a union or other organization.

105 (4) "Collective mark" means a trademark or service mark
 106 used by the members of a cooperative, an association, or other
 107 collective group or organization, and includes marks used to

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108 indicate membership in a union, an association, or other
 109 organization.

110 (5) "Department" means the Florida Department of State or
 111 its designee charged with the administration of this chapter.

112 (6) "Dilution" means the lessening of the capacity of a
 113 mark to identify and distinguish goods or services, regardless
 114 of the presence or absence of:

115 (a) Competition between the owner of the mark and other
 116 parties.

117 (b) Likelihood of confusion, mistake, or deception.

118 (7) "Mark" includes any trademark, service mark,
 119 certification mark, or collective mark entitled to registration
 120 under this chapter, whether or not registered.

121 (8) "Person," and any other word or term used to designate
 122 the applicant or other party entitled to a benefit or privilege
 123 or rendered liable under the provisions of this chapter, means a
 124 juristic person as well as a natural person. "Juristic person"
 125 includes a firm, partnership, corporation, union, association,
 126 or other organization capable of suing and being sued in a court
 127 of law.

128 (9) "Registrant" means the person to whom the registration
 129 of a mark under this chapter is issued and the legal
 130 representatives, successors, or assigns of such person.

131 (10) "Related company" means any person whose use of a
 132 mark is controlled by the owner of the mark with respect to the
 133 nature and quality of the goods or services on or in connection
 134 with which the mark is used.

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135 (11) "Service mark" means any word, name, symbol, or
 136 device, or any combination thereof, used by a person to identify
 137 and distinguish the services of such person, including a unique
 138 service, from the services of others, and to indicate the source
 139 of the services, even if that source is unknown. Titles,
 140 character names, and other distinctive features of radio or
 141 television programs may be registered as service marks
 142 notwithstanding that the person or the programs may advertise
 143 the goods of the sponsor.

144 (12) "Trade name" means any name used by a person to
 145 identify a business or vocation of such person.

146 (13) "Trademark" means any word, name, symbol, or device,
 147 or any combination thereof, used by a person to identify and
 148 distinguish the goods of such person, including a unique
 149 product, from those manufactured or sold by others, and to
 150 indicate the source of the goods, even if the source is unknown.

151 (14) "Use" means the bona fide use of a mark in the
 152 ordinary course of trade and not used merely for the purpose of
 153 reserving a right in a mark. For purposes of this chapter, a
 154 mark is deemed to be in use:

155 (a) On goods when:

156 1. The mark is placed in any manner on the goods, their
 157 containers or the displays associated therewith, or on the tags
 158 or labels affixed thereto, or, if the nature of the goods makes
 159 such placement impracticable, on documents associated with the
 160 goods or their sale; and

161 2. The goods are sold or transported in this state.

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162 (b) On services when the mark is used or displayed in the
 163 sale or advertising of services and the services are rendered in
 164 this state.

165 Section 3. Subsection (1) of section 495.021, Florida
 166 Statutes, is amended to read:

167 495.021 Registrability.--

clean up language

168 (1) A mark by which the goods or services of any applicant
 169 for registration may be distinguished from the goods or services
 170 of others shall not be registered if it:

171 (a) Consists of or ~~comprises or includes~~ immoral,
 172 deceptive, or scandalous matter; ~~or~~

173 (b) Consists of or ~~comprises or includes~~ matter which may
 174 disparage or falsely suggest a connection with persons, living
 175 or dead, institutions, beliefs, or national symbols, or bring
 176 them into contempt, or disrepute; ~~or~~

177 (c) Consists of or ~~comprises or includes~~ the flag or
 178 coat of arms or other insignia of the United States, or of any
 179 state or municipality, or of any foreign nation, or any
 180 simulation thereof; ~~or~~

181 (d) Consists of or ~~comprises a or includes~~ the name,
 182 signature, or portrait identifying a particular of any living
 183 individual, except by with her or his written consent, or the
 184 name, signature, or portrait of a deceased President of the
 185 United States during the lifetime of his widow or her widower,
 186 if any, except by the written consent of the widow or widower;

187 ~~or~~

188 (e) Consists of a mark which:

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189 1. When used on or in connection with ~~applied to~~ the goods
 190 or services of the applicant, is merely descriptive or
 191 deceptively misdescriptive of them;~~;~~

192 2. When used on or in connection with ~~applied to~~ the goods
 193 or services of the applicant, is primarily geographically
 194 descriptive ~~or deceptively misdescriptive~~ of them; ~~or their~~
 195 ~~source or origin, or~~

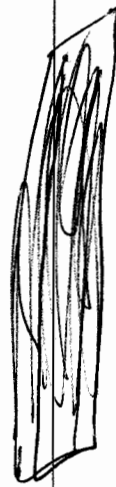
196 3. When used on or in connection with the goods or
 197 services of the applicant, is primarily geographically
 198 deceptively misdescriptive of them;

199 ~~4.3-~~ Is primarily merely a surname; or

200 5. Comprises any matter that, as a whole, is functional.

201
 202 Except as expressly excluded in subparagraphs 3. and 5.,
 203 ~~provided, however, that~~ nothing in this paragraph shall prevent
 204 the registration of a mark used ~~in this state~~ by the applicant
 205 which has become distinctive of the applicant's goods or
 206 services ~~in this state or elsewhere~~. The department ~~of State~~ may
 207 accept as prima facie evidence that the mark has become
 208 distinctive, as used on or in connection with ~~applied to~~ the
 209 applicant's goods or services, proof of substantially exclusive
 210 and continuous use thereof as a mark by the applicant in this
 211 state or elsewhere for the 5 years before ~~next preceding~~ the
 212 date on which the claim of distinctiveness is made; or

213 (f) Consists of or comprises a mark which so resembles a
 214 mark registered in this state or a mark or trade name previously
 215 used in this state by another and not abandoned, as to be



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216 likely, when applied to the goods or services of the applicant,
 217 to cause confusion or mistake or to deceive. Registration shall
 218 not be denied solely on the basis of reservation or registration
 219 by another of a corporate name or fictitious name that is the
 220 same or similar to the mark for which registration is sought.

221 Section 4 Section 495.027, Florida Statutes, is repealed.

222 Section 5. Section 495.031, Florida Statutes, is amended
 223 to read:

224 495.031 Application for registration.--

225 (1) Subject to the limitations set forth in this chapter,
 226 any person who ~~adopts and~~ uses a trademark or service mark in
 227 this state may file with the department ~~of State,~~ in a manner
 228 and on a form complying with the requirements of ~~to be furnished~~
 229 ~~by~~ the department, an application for registration of that
 230 ~~trademark or service~~ mark setting forth, but not limited to, the
 231 following information:

232 (a) The name and business address of the person applying
 233 for such registration, and, if a business entity, the place
 234 ~~corporation, the state~~ of incorporation or organization;

235 (b) The goods or services on or in connection with which
 236 the mark is used and the mode or manner in which the mark is
 237 used in connection with such goods or services and the class or
 238 classes in which such goods or services fall;

239 (c) The date ~~when~~ the mark was first used anywhere and the
 240 date ~~when~~ it was first used in this state by the applicant, the
 241 applicant's ~~or her or his~~ predecessor in interest, ~~business~~ or a

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242 related company of the applicant ~~or the applicant's predecessor;~~
 243 and

244 (d) A statement that the applicant is the owner of the
 245 mark, that the mark is in use, and that, to the best of the
 246 applicant's knowledge, no other person except a related company
 247 has registered such mark in this state, or has the right to use
 248 such mark in this state, either in the identical form thereof or
 249 in such near resemblance thereto as to be likely, when applied
 250 to the goods or services of such other person, to cause
 251 confusion, to cause mistake, or to deceive ~~or confuse or to be~~
 252 ~~mistaken therefor.~~

253 (2) Every applicant for registration of a certification
 254 mark in this state shall file with the department ~~of State, in a~~
 255 manner and on a form complying with the requirements of ~~to be~~
 256 ~~furnished by~~ the department, an application setting forth, but
 257 not limited to, the following information:

258 (a) The information required by paragraph (1) (a);

259 (b) The date when the certification mark was first used
 260 anywhere and the date when it was first used in this state under
 261 the authority of the applicant;

262 (c) The manner in which and the conditions under which the
 263 certification mark is used in this state; and

264 (d) A statement that the applicant is exercising control
 265 over the use of the mark, that the applicant is not herself or
 266 himself engaged in the production or marketing of the goods or
 267 services to which the mark is applied, and that no person except
 268 the applicant or persons authorized by the applicant, or related

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269 companies thereof, has the right to use such mark in this state,
 270 either in the identical form thereof or in such near resemblance
 271 thereto as to be likely, when applied to the goods or services
 272 of such other person, to cause confusion, to cause mistake, or
 273 to deceive or confuse or to be mistaken therefor.

274 (3) Every applicant for registration of a collective mark
 275 in this state shall file with the department ~~of State~~, in a
 276 manner and on a form complying with the requirements of to be
 277 ~~furnished by~~ the department, an application setting forth, but
 278 not limited to, the following information:

279 (a) The information required by paragraphs (1)(a) and (b);

280 (b) The date when the collective mark was first used
 281 anywhere and the date when it was first used in this state by
 282 any member of the applicant or a related company of such member;

283 (c) The class of persons entitled to use the mark,
 284 indicating their relationship to the applicant, and the nature
 285 of the applicant's control over the use of the mark; and

286 (d) A statement that no person except the applicant or
 287 members of the applicant, or related companies thereof, has the
 288 right to use such mark in this state, either in the identical
 289 form thereof or in such near resemblance thereto as to be
 290 likely, when applied to the goods or services of such other
 291 person, to cause confusion, to cause mistake, or to deceive or
 292 ~~confuse or to be mistaken therefor.~~

293 (4) The department may also require that a drawing of the
 294 mark, complying with the requirements of the department,
 295 accompany the application.

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296 (5)-(4) Every application under this section shall be
 297 signed and verified by the applicant or by a member of the firm
 298 or an officer or other authorized representative of the business
 299 entity of the corporation, association, union or other
 300 organization applying.

301 (6)-(5) Every application under this section shall be
 302 accompanied by three specimens or facsimiles showing the mark as
 303 actually used ~~a specimen or facsimile of such mark in~~
 304 ~~triplicate.~~

305 (7)-(6) Every application under this section shall be
 306 accompanied by a filing fee ~~of \$87.50~~, payable to the department
 307 in accordance with s. 495.191 of State, for each class of goods
 308 ~~or services as specified in s. 495.111, in connection with which~~
 309 ~~the mark is used.~~

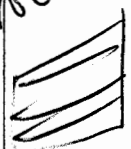
310 Section 6. Section 495.035, Florida Statutes, is created
 311 to read:

312 495.035 Filing of applications.--

313 (1) Upon the receipt of an application for registration
 314 and payment of the application fee, the department may cause the
 315 application to be examined for conformity with this chapter.

316 (2) The applicant shall provide any additional pertinent
 317 information requested by the department, including a description
 318 of a design mark, and may make, or authorize the department to
 319 make, such amendments to the application as may be reasonably
 320 requested by the department or deemed by applicant to be
 321 advisable to respond to any rejection or objection.

! Procedure



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322 (3) The department may require the applicant to disclaim
 323 an unregistrable component of a mark otherwise registrable, and
 324 an applicant may voluntarily disclaim a component of a mark
 325 sought to be registered. No disclaimer shall prejudice or affect
 326 the applicant's or registrant's rights then existing or
 327 thereafter arising in the disclaimed matter, or the applicant's
 328 or registrant's rights of registration on another application,
 329 if the disclaimed matter is or has become distinctive of the
 330 applicant's or registrant's goods or services.

331 (4) Amendments may be made by the department upon the
 332 application submitted by the applicant upon the applicant's
 333 agreement, or a new application may be required to be submitted.
 334 Amendments to an otherwise properly filed application shall not
 335 affect the application filing date for purposes of determining
 336 the applicant's or registrant's filing priority rights.

337 (5) If the applicant is found not to be entitled to
 338 registration, the department shall advise the applicant of the
 339 rejection and of the reasons for rejection. The applicant shall
 340 have 3 months in which to reply or amend the application, in
 341 which event the application shall be reexamined. This procedure
 342 may be repeated until:

343 (a) The department makes final its refusal to register the
 344 mark; or

345 (b) The applicant fails to reply or amend the application
 346 within the specified period, whereupon the application shall be
 347 abandoned.

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349 For good cause shown, such as the pendency of litigation
 350 involving the mark, the department may extend the period of time
 351 in which to respond to the rejection or suspend examination of
 352 the application.

353 (6) If the department makes final its refusal to register
 354 the mark, the applicant may seek review of such decision in
 355 accordance with ss. 120.569 and 120.57.

356 (7) In the event of multiple applications concurrently
 357 being processed by the department which seek registration of the
 358 same or confusingly similar marks for the same or related goods
 359 or services, the department shall grant priority to the
 360 applications in order of receipt. If a prior-received
 361 application is granted a registration, the other application or
 362 applications shall then be rejected. The applicant of a rejected
 363 application may bring an action for cancellation of the
 364 registration upon grounds of prior or superior rights to the
 365 mark, in accordance with the provisions of s. 495.101(3).

366 Section 7. Section 495.041, Florida Statutes, is amended
 367 to read:

368 495.041 Use by related companies.--Where a mark registered
 369 or unregistered is or may be used legitimately by related
 370 companies, such use shall inure to the benefit of the owner of
 371 the mark, and such use shall not affect the validity of such
 372 mark or of its registration, provided such mark is not used in
 373 such manner as to deceive the public. If first use of a mark by
 374 a person is controlled by the registrant or applicant for
 375 registration of a mark with respect to the nature and quality of

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376 the goods or services, such first use shall inure to the benefit
377 of that registrant or applicant, as the case may be.

378 Section 8. Section 495.061, Florida Statutes, is amended
379 to read:

380 495.061 Certificate of registration.--

381 (1) Upon compliance by the applicant with the requirements
382 of this chapter, the department ~~of State~~ shall cause a
383 certificate of registration to be issued and delivered to the
384 applicant. The certificate of registration shall be issued under
385 the signature of the Secretary of State and the seal of the
386 state, and it shall show the name and business address and, if a
387 business entity corporation, the place state of incorporation or
388 organization, of the person claiming ownership of the mark in
389 this state, the date claimed for the first use of the mark
390 anywhere and the date claimed for the first use of the mark in
391 this state, the class or classes of goods or services and a
392 description of the goods or services on or in connection with ~~on~~
393 which the mark is used, a reproduction of the mark, the
394 registration date and the term of the registration.

395 (2) Any certificate of registration issued by the
396 department ~~of State~~ under the provisions hereof or a copy
397 thereof duly certified by the department ~~of State~~ shall be
398 admissible in evidence as competent and sufficient proof of the
399 registration of such mark in any action or judicial proceedings
400 in any court of this state, and shall be prima facie evidence of
401 the validity of the registration, registrant's ownership of the
402 mark, and of registrant's exclusive right to use the mark in

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403 this state on or in connection with the goods or services
 404 specified in the certificate, subject to any conditions and
 405 limitations stated therein.

406 ~~(3) Contingent on the registration of a mark under this~~
 407 ~~chapter, the reservation of such mark based on intent to use, as~~
 408 ~~provided in this chapter, shall be prima facie evidence of~~
 409 ~~priority of ownership of such mark within this state on or in~~
 410 ~~connection with the goods or services specified in the~~
 411 ~~reservation against any other person, except for a person whose~~
 412 ~~mark has not been abandoned and who, prior to such reservation,~~
 413 ~~has used the mark within this state on or in connection with~~
 414 ~~such goods or services.~~

415 Section 9. Section 495.071, Florida Statutes, is amended
 416 to read:

417 495.071 Duration and renewal.--

418 (1) Registration of a mark hereunder shall be effective
 419 for a term of 5 ~~10~~ years from the date of registration and, upon
 420 application filed within 6 months prior to the expiration of
 421 such term, in a manner and form complying with the requirements
 422 of on a form to be furnished by the department of State, the
 423 registration may be renewed for a like term beginning at the end
 424 of the expiring term. Every application under this section shall
 425 be accompanied by a filing fee ~~A renewal fee of \$87.50 for each~~
 426 ~~class of goods or services with respect to which such renewal is~~
 427 ~~sought, payable to the department~~ in accordance with s. 495.191
 428 ~~of State, shall accompany the application for renewal of the~~
 429 registration.

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430 (2) A ~~mark~~ registration may be renewed for successive
 431 periods of 5 ~~10~~ years in like manner.

432 (3) Any registration in effect on January 1, 2007, shall
 433 continue in effect for the unexpired term thereof and may be
 434 renewed by filing an application for renewal with the department
 435 in a manner and form complying with the requirements of the
 436 department and paying the renewal fee therefor within 6 months
 437 prior to the expiration of the registration. ~~The Department of~~
 438 ~~State shall notify registrants of marks hereunder of the~~
 439 ~~necessity of renewal within the year next preceding the~~
 440 ~~expiration of the 10 years from the date of registration by~~
 441 ~~writing to the last known address of the registrants. The~~
 442 ~~department shall prescribe the forms on which to make the~~
 443 ~~required notification and the renewal called for in subsection~~
 444 ~~(1) and may substitute the uniform business report, pursuant to~~
 445 ~~s. 606.06, as a means of satisfying the requirement of this~~
 446 ~~part.~~

447 (4) All applications for renewal ~~renewals~~ under this
 448 chapter, whether of registrations made under this act or of
 449 registrations made under any prior acts, shall include a
 450 verified statement that the mark is still in use in this state,
 451 and shall include a specimen showing actual use of the mark on
 452 or in connection with the goods or services subject to the
 453 renewal application, or shall state that its nonuse is due to
 454 special circumstances which excuse such nonuse and is not due to
 455 any intention to abandon the mark.

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456 Section 10. Section 495.081, Florida Statutes, is amended
 457 to read:

458 495.081 Assignments; changes of name; security interests
 459 Assignment. --

460 (1) A registered mark or a mark for which an application
 461 for registration has been filed ~~Any mark and its registration~~
 462 ~~hereunder~~ shall be assignable with the goodwill ~~good will~~ of the
 463 business in which the mark is used or with that part of the
 464 goodwill ~~good will~~ of the business connected with the use of and
 465 symbolized by the mark. Assignments ~~Assignment~~ shall be by an
 466 instrument ~~instruments~~ in writing duly executed and may be
 467 recorded with the department ~~of State~~ upon the payment of the
 468 applicable a fee. A photocopy of an assignment shall be accepted
 469 for recording if it is certified by any of the parties thereto,
 470 or their successors, to be a true and correct copy of the
 471 original. Upon recording of the assignment, of \$50, payable to
 472 ~~the department of State which, upon recording of the assignment,~~
 473 shall issue in the name of the assignee a new certificate for
 474 the remainder of the term of the registration or of the last
 475 renewal thereof.

476 (2) An assignment of any registration under this chapter
 477 shall be void as against any subsequent purchaser for valuable
 478 consideration without notice, unless such assignment is recorded
 479 with the department of State within 3 months after the date of
 480 the assignment or prior to the subsequent purchase thereof or at
 481 ~~any time after the expiration of such 3-month period, unless an~~
 482 ~~assignment given in connection with any subsequent purchase is~~

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483 ~~recorded with the Department of State prior to or within 10 days~~
 484 ~~after such assignment is recorded.~~

485 (3) A registrant or applicant for registration effecting a
 486 change of the name may record a certificate of change of name of
 487 the registrant or applicant with the department upon the payment
 488 of the recording fee payable to the department in accordance
 489 with s. 495.191. In the case of a pending application for a mark
 490 that becomes approved for registration, the department shall
 491 issue a certificate of registration in the registrant's new
 492 name. In the case of a registered mark, the department shall
 493 issue a new certificate of registration in the registrant's new
 494 name for the remainder of the term of the registration or last
 495 renewal thereof. A person's failure to record a name change in
 496 accordance with this subsection shall not affect the person's
 497 substantive rights in the mark or its registration.

498 (4) Acknowledgment shall be prima facie evidence of the
 499 execution of an assignment or other instrument and, when
 500 recorded by the department, the record shall be prima facie
 501 evidence of execution.

502 (5) Security interests in marks shall be created and
 503 perfected in accordance with chapter 679.

504 Section 11. Section 495.091, Florida Statutes, is amended
 505 to read:

506 495.091 Records.--The department ~~of State~~ shall keep for
 507 public examination a record of all marks registered or renewed
 508 under this chapter, including all documents recorded under s.
 509 495.081.

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510 Section 12. Section 495.101, Florida Statutes, is amended
511 to read:

512 495.101 Cancellation.--The department ~~of State~~ shall
513 cancel from the register:

514 ~~(1) After 1 year from the effective date of this chapter,~~
515 ~~all registrations under prior laws which are more than 10 years~~
516 ~~old and not renewed in accordance with this chapter.~~

517 (1)(2) Any registration for concerning which the
518 department ~~of State~~ has received shall receive a voluntary
519 request for cancellation by the registrant, which request shall
520 be in a manner and form complying with the requirements of the
521 department thereof from the registrant.

522 (2)(3) All registrations granted under this chapter and
523 not renewed in accordance with the provisions hereof.

524 (3)(4) Any registration for concerning which a court of
525 competent jurisdiction finds shall find that:

526 (a) The registered mark has been abandoned. A mark shall
527 be deemed to be "abandoned" when either of the following occurs:

528 1. ~~When its use has been discontinued with intent not to~~
529 ~~resume such use. Intent not to resume may be inferred from~~
530 ~~circumstances. Nonuse for 2 consecutive years shall be prima~~
531 ~~facie evidence of abandonment.~~

532 2. ~~When any course of conduct of the owner, including acts~~
533 ~~of omission as well as commission, causes the mark to become the~~
534 ~~generic name for the goods or services on or in connection with~~
535 ~~which it is used, or otherwise to lose its significance as a~~

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536 ~~mark. Purchaser motivation shall not be a test for determining~~
 537 ~~abandonment under this paragraph.~~

538 (b) The registrant ~~of a trademark or service mark~~ is not
 539 the owner of the mark.

540 (c) The registration was granted improperly.

541 (d) The registration was obtained fraudulently.

542 (e) The mark is or has become the generic name for the
 543 goods or services, or a portion thereof, for which the mark has
 544 been registered.

545 (f) ~~(e)~~ The registered mark is so similar, as to be likely
 546 to cause confusion or mistake or to deceive, to a mark
 547 registered by another person in the United States Patent and
 548 Trademark Office, prior to the date of the filing of the
 549 application for registration by the registrant hereunder, and
 550 not abandoned; ~~provided,~~ however, ~~that~~ should the registrant
 551 prove that the registrant ~~she or he~~ is the owner of a concurrent
 552 registration of a her or his mark in the United States Patent
 553 and Trademark Office covering an area including this state, the
 554 registration hereunder shall not be canceled.

555 (g) ~~(f)~~ In the case of a certification mark, that the
 556 registrant does not control or is not able to exercise control
 557 over the use of such mark; or engages in the production or
 558 marketing of any goods or services to which the certification
 559 mark is applied; or the registrant permits the use of the
 560 certification mark for purposes other than to certify; or the
 561 registrant discriminately refuses ~~refused~~ to certify or ~~to~~
 562 continue to certify the goods or services of any person who

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563 maintains the standards or conditions which such mark certifies.
 564 Nothing in this paragraph shall be deemed to prohibit the
 565 registrant from using its certification mark in advertising or
 566 promoting recognition of the certification program or of the
 567 goods or services meeting the certification standards of the
 568 registrant.

569 ~~(4)~~(5) When a court of competent jurisdiction shall order
 570 cancellation of a registration on any ground.

571 Section 13. Section 495.111, Florida Statutes, is amended
 572 to read:

573 (Substantial rewording of section. See s. 495.111, F.S.,
 574 for present text.)

575 495.111 Classification.--

576 (1) The following general classes of goods and services,
 577 conforming to the classification adopted by the United States
 578 Patent and Trademark Office, are established for convenience of
 579 administration of this chapter:

580 (a) Goods:

581 1. Class 1 Chemicals used in industry, science, and
 582 photography; agriculture, horticulture, and forestry;
 583 unprocessed artificial resins and, unprocessed plastics;
 584 manures; fire extinguishing compositions; tempering and
 585 soldering preparations; chemical substances for preserving
 586 foodstuffs; tanning substances; and adhesives used in industry.

587 2. Class 2 Paints, varnishes, lacquers; preservatives
 588 against rust and against deterioration of wood; colorants;

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589 mordants; raw natural resins; and metals in foil and powder form
 590 for painters, decorators, printers, and artists.

591 3. Class 3 Bleaching preparations and other substances
 592 for laundry use; cleaning, polishing, scouring, and abrasive
 593 preparations; soaps; perfumery, essential oils, cosmetics, and
 594 hair lotions; and dentifrices.

595 4. Class 4 Industrial oils and greases; lubricants; dust
 596 absorbing, wetting, and binding compositions; fuels (including
 597 motor spirit) and illuminants; and candles and wicks for
 598 lighting.

599 5. Class 5 Pharmaceuticals and veterinary preparations;
 600 sanitary preparations for medical purposes; dietetic substances
 601 adapted for medical use and food for babies; plasters and
 602 materials for dressings; material for stopping teeth and dental
 603 wax; disinfectants; preparations for destroying vermin; and
 604 fungicides and herbicides.

605 6. Class 6 Common metals and their alloys; metal building
 606 materials; transportable buildings of metal; materials of metal
 607 for railway tracks; nonelectric cables and wires of common
 608 metal; ironmongery and small items of metal hardware; pipes and
 609 tubes of metal; safes; goods of common metal not included in
 610 other classes; and ores.

611 7. Class 7 Machines and machine tools; motors and engines
 612 (except for land vehicles); machine coupling and transmission
 613 components (except for land vehicles); agricultural implements
 614 other than hand-operated; incubators for eggs.

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- 615 8. Class 8 Hand tools and hand-operated implements;
 616 cutlery; side arms; and razors.
- 617 9. Class 9 Scientific, nautical, surveying, photographic,
 618 cinematographic, optical, weighing, measuring, signaling,
 619 checking (supervision), and life-saving and teaching apparatus
 620 and instruments; apparatus and instruments for conducting,
 621 switching, transforming, accumulating, regulating, or
 622 controlling electricity; apparatus for recording, transmission,
 623 or reproduction of sound or images; magnetic data carriers and
 624 recording discs; automatic vending machines and mechanisms for
 625 coin-operated apparatus; cash registers, calculating machines,
 626 and data processing equipment and computers; and fire-
 627 extinguishing apparatus.
- 628 10. Class 10 Surgical, medical, dental, and veterinary
 629 apparatus and instruments, artificial limbs, eyes, and teeth;
 630 orthopedic articles; and suture materials.
- 631 11. Class 11 Apparatus for lighting, heating, steam
 632 generating, cooking, refrigerating, drying, ventilating, water
 633 supply, and sanitary purposes.
- 634 12. Class 12 Vehicles; apparatus for locomotion by land,
 635 air, or water.
- 636 13. Class 13 Firearms; ammunition and projectiles;
 637 explosives; and fireworks.
- 638 14. Class 14 Precious metals and their alloys and goods
 639 in precious metals or coated therewith (not included in other
 640 classes); jewelry and precious stones; and horological and
 641 chronometric instruments.

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642 15. Class 15 Musical instruments.

643 16. Class 16 Paper, cardboard, and goods made from these
 644 materials (not included in other classes); printed matter;
 645 bookbinding material; photographs; stationery; adhesives for
 646 stationery or household purposes; artists' materials; paint
 647 brushes; typewriters and office requisites (except furniture);
 648 instructional and teaching material (except apparatus); plastic
 649 materials for packaging (not included in other classes);
 650 printers' type; and printing blocks.

651 17. Class 17 Rubber, gutta-percha, gum, asbestos, mica,
 652 and goods made from these materials and not included in other
 653 classes; plastics in extruded form for use in manufacture;
 654 packing, stopping, and insulating materials; and flexible pipes
 655 not of metal.

656 18. Class 18 Leather and imitations of leather and goods
 657 made of these materials and not included in other classes;
 658 animal skins and hides; trunks and traveling bags; umbrellas,
 659 parasols, and walking sticks; and whips, harness, and saddlery.

660 19. Class 19 Building materials (nonmetallic);
 661 nonmetallic rigid pipes for building; asphalt, pitch, and
 662 bitumen; nonmetallic transportable buildings; monuments, not of
 663 metal.

664 20. Class 20 Furniture, mirrors, and picture frames;
 665 goods (not included in other classes) of wood, cork, reed, cane,
 666 wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-
 667 pearl, and meerschaum and substitutes for all these materials,
 668 or of plastics.

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669 21. Class 21 Household or kitchen utensils and containers
 670 (not of precious metal or coated therewith); combs and sponges;
 671 brushes (except paint brushes); brush-making materials; articles
 672 for cleaning purposes; steel wool; unworked or semiworked glass
 673 (except glass used in building); and glassware, porcelain, and
 674 earthenware not included in other classes.

675 22. Class 22 Ropes, string, nets, tents, awnings,
 676 tarpsaulins, sails, sacks, and bags (not included in other
 677 classes); padding and stuffing materials (except of rubber or
 678 plastics); and raw fibrous textile materials.

679 23. Class 23 Yarns and threads for textile use.

680 24. Class 24 Textiles and textile goods not included in
 681 other classes and bed and table covers.

682 25. Class 25 Clothing, footwear, and headgear.

683 26. Class 26 Lace and embroidery, ribbons, and braid;
 684 buttons, hooks and eyes, pins, and needles; and artificial
 685 flowers.

686 27. Class 27 Carpets, rugs, mats and matting, linoleum,
 687 and other materials for covering existing floors; and wall
 688 hangings (nontextile).

689 28. Class 28 Games and playthings; gymnastic and sporting
 690 articles not included in other classes; and decorations for
 691 Christmas trees.

692 29. Class 29 Meat, fish, poultry, and game; meat
 693 extracts; preserved, dried, and cooked fruits and vegetables;
 694 jellies, jams, and compotes; eggs, milk, and milk products; and
 695 edible oils and fats.

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696 30. Class 30 Coffee, tea, cocoa, sugar, rice, tapioca,
 697 sago, and artificial coffee; flour and preparations made from
 698 cereals, bread, pastry and confectionery, and ices; honey and
 699 treacle; yeast, baking powder; salt, and mustard; vinegar and
 700 sauces (condiments); spices; and ice.

701 31. Class 31 Agricultural, horticultural, and forestry
 702 products and grains not included in other classes; live animals;
 703 fresh fruits and vegetables; seeds, natural plants, and flowers;
 704 foodstuffs for animals and malt.

705 32. Class 32 Beers; mineral and aerated waters and other
 706 nonalcoholic drinks; fruit drinks and fruit juices; and syrups
 707 and other preparations for making beverages.

708 33. Class 33 Alcoholic beverages except beers.

709 34. Class 34 Tobacco; smokers' articles; and matches.

710 (b) Services:

711 1. Class 35 Advertising; business management; business
 712 administration; and office functions.

713 2. Class 36 Insurance; financial affairs; monetary
 714 affairs; and real estate affairs.

715 3. Class 37 Building construction; repair; and
 716 installation services.

717 4. Class 38 Telecommunications.

718 5. Class 39 Transport; packaging and storage of goods;
 719 and travel arrangements.

720 6. Class 40 Treatment of materials.

721 7. Class 41 Education; providing of training;
 722 entertainment; and sporting and cultural activities.

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723 8. Class 42 Scientific and technological services and
 724 research and design relating thereto; industrial analysis and
 725 research services; design and development of computer hardware
 726 and software; and legal services.

727 9. Class 43 Services for providing food and drink; and
 728 temporary accommodation.

729 10. Class 44 Medical services; veterinary services;
 730 hygienic and beauty care for human beings or animals; and
 731 agriculture, horticulture, and forestry services.

732 11. Class 45 Personal and social services rendered by
 733 others to meet the needs of individuals; and security services
 734 for the protection of property and individuals.

735 (c) Certification and collective membership marks:

736 1. Class 200 Collective membership marks.

737 2. Class A Certification marks for goods.

738 3. Class B Certification marks for services.

739 (d) The goods and services recited in collective trademark
 740 and collective service mark applications are assigned to the
 741 same classes that are appropriate for those goods and services
 742 in general.

743 (2) The establishment of the classes of goods and services
 744 set forth in subsection (1) is not for the purpose of limiting
 745 or extending the rights of the applicant or registrant. A single
 746 application for registration of a mark may include any or all
 747 goods upon which, or services with which, the mark is actually
 748 being used comprised in one or more of the classes listed, but
 749 in the event that a single application includes goods or

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750 services in connection with which the mark is being used which
 751 fall within different classes of goods or services, a fee
 752 equaling the sum of the fees for registration in each class
 753 shall be payable.

754 Section 14. Section 495.131, Florida Statutes, is amended
 755 to read:

756 495.131 Infringement.--Subject to the provisions of s.
 757 495.161, any person who shall, without the consent of the
 758 registrant:

759 (1) ~~Use, without the consent of the registrant,~~ any
 760 reproduction, counterfeit, copy, or colorable imitation of a
 761 mark registered under this chapter ~~on any goods or~~ in connection
 762 with the sale, offering for sale, distribution, or advertising
 763 of any goods or services on or in connection with which such use
 764 is likely to cause confusion, ~~or to cause~~ mistake, or to deceive
 765 ~~as to the source or origin of such goods or services; or~~

766 (2) Reproduce, counterfeit, copy, or colorably imitate a
 767 ~~any such~~ mark registered under this chapter and apply such
 768 reproduction, counterfeit, copy, or colorable imitation to
 769 labels, signs, prints, packages, wrappers, receptacles, or
 770 advertisements intended to be used upon or in connection
 771 ~~conjunction~~ with the sale, ~~offering for sale,~~ distribution, or
 772 advertising ~~in this state~~ of goods or services on or in
 773 connection with which such use is likely to cause confusion, to
 774 cause mistake, or to deceive;

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776 shall be liable in a civil action by the owner of such
 777 registered mark for any or all of the remedies provided in s.
 778 495.141, except that under subsection (2) hereof the registrant
 779 shall not be entitled to recover profits or damages unless the
 780 acts have been committed with knowledge that such mark is
 781 intended to be used to cause confusion or mistake or to deceive.

782 Section 15. Section 495.141, Florida Statutes, is amended
 783 to read:

784 495.141 Remedies.--

AKH

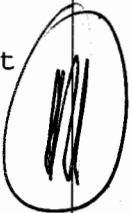
785 (1) Any owner of a mark registered under this chapter may
 786 proceed by suit to enjoin the manufacture, use, display, or sale
 787 of any counterfeits or imitations thereof and any court of
 788 competent jurisdiction may grant injunctions to restrain such
 789 manufacture, use, display or sale as may be by the said court
 790 deemed just and reasonable, and may require the defendants to
 791 pay to such owner all profits derived from and/or all damages
 792 suffered by reason of such wrongful manufacture, use, display,
 793 or sale and to pay the costs of the action; and such court may
 794 also order that any such counterfeits or imitations in the
 795 possession or under the control of any defendant in such case be
 796 delivered to an officer of the court, or to the complainant, to
 797 be destroyed. In assessing profits the plaintiff shall be
 798 required to prove defendant's sales only; defendant must prove
 799 all elements of cost or deduction claimed. In assessing damages
 800 the court may enter judgment, according to the circumstances of
 801 the case, for any sum above the amount found as actual damages,
 802 not exceeding three 3 times such amount. If the court shall find

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803 that the amount of the recovery based on profits is either
 804 inadequate or excessive the court may in its discretion enter
 805 judgment for such sum as the court shall find to be just,
 806 according to the circumstances of the case. Such sum in either
 807 of the above circumstances shall constitute compensation and not
 808 a penalty. The court may also award reasonable attorney's fees
 809 to the prevailing party according to the circumstances of the
 810 case.



811 (2) The enumeration of any right or remedy herein shall
 812 not affect a registrant's right to prosecute under any penal law
 813 of this state.

814 Section 16. Section 495.145, Florida Statutes, is created
 815 to read:

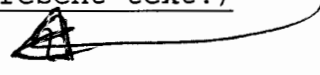
816 495.145 Forum for actions regarding registration.--An
 817 action seeking cancellation of a registration of a mark
 818 registered under this chapter may be brought in any court of
 819 competent jurisdiction in this state. Service of process on a
 820 nonresident registrant may be made in accordance with s. 48.181
 821 The department shall not be made a party to cancellation
 822 proceedings.

forum

823 Section 17. Section 495.151, Florida Statutes, is amended
 824 to read:

825 (Substantial rewording of section. See
 826 s. 495.151, F.S., for present text.)

827 495.151 Dilution.--



828 (1) The owner of a mark that is famous in this state shall
 829 be entitled, subject to the principles of equity and upon such

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830 terms as the court deems reasonable, to an injunction and to
 831 obtain such other relief against another person's commercial use
 832 of a mark or trade name if such use begins after the mark has
 833 become famous and is likely to cause dilution of the distinctive
 834 quality of the famous mark, as provided in this section. In
 835 determining whether a mark is distinctive and famous, a court
 836 may consider factors, including, but not limited to:

837 (a) The degree of inherent or acquired distinctiveness of
 838 the mark in this state.

839 (b) The duration and extent of use of the mark in
 840 connection with the goods and services with which the mark is
 841 used.

842 (c) The duration and extent of advertising and publicity
 843 of the mark in this state.

844 (d) The geographical extent of the trading area in which
 845 the mark is used.

846 (e) The channels of trade for the goods or services with
 847 which the mark is used.

848 (f) The degree of recognition of the mark in the trading
 849 areas and channels of trade in this state used by the mark's
 850 owner and the person against whom the injunction is sought.

851 (g) The nature and extent of use of the same or similar
 852 mark by third parties.

853 (h) Whether the mark is the subject of a state
 854 registration in this state or a federal registration under the
 855 Federal Trademark Act of March 3, 1881, or the Federal Trademark

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856 Act of February 20, 1905, or a principal register registration
 857 under the Federal Trademark Act of July 5, 1946.

858 (2) In an action brought under this section, the owner of
 859 a famous mark shall be entitled only to injunctive relief in
 860 this state unless the person against whom the injunctive relief
 861 is sought willfully intended to trade on the owner's reputation
 862 or to cause dilution of the famous mark. If such willful intent
 863 is proven, and the mark is registered in this state, the owner
 864 shall also be entitled to all remedies set forth in this
 865 chapter, subject to the discretion of the court and the
 866 principles of equity.

867 (3) The following shall not be actionable under this
 868 section:

869 (a) Fair use of a famous mark by another person in
 870 comparative commercial advertising or promotion to identify the
 871 competing goods or services of the owner of the famous mark.

872 (b) Noncommercial use of the mark.

873 (c) All forms of news reporting and news commentary.

874 Section 18. Section 495.161, Florida Statutes, is amended
 875 to read: *Nothing*

876 495.161 Common-law rights.--Nothing herein shall adversely
 877 affect ~~or diminish~~ the rights or the enforcement of rights in
 878 marks acquired in good faith at any time at common law.

879 Section 19. Section 495.171, Florida Statutes, is amended
 880 to read: *repeal*

881 495.171 Effective date; repeal of conflicting ~~prior~~
 882 acts.--

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883 (1) This chapter, as amended by this act, shall be in
 884 force and take effect ~~January October~~ 1, 2007 1967, after its
 885 enactment, but shall not affect any suit, proceeding, or appeal
 886 then pending.

887 (2) Sections 506.06-506.13 Former ss. 495.01-495.14 are
 888 repealed on January 1, 2007 the effective date of this act,
 889 provided that as to any suit, proceeding or appeal, and for that
 890 purpose only, pending at the time this chapter, as amended by
 891 this act, takes effect such repeal shall be deemed not to be
 892 effective until final determination of said pending suit,
 893 proceeding or appeal.

894 Section 20. Section 495.181, Florida Statutes, is amended
 895 to read:

896 (Substantial rewording of section. See
 897 s. 495.181, F.S., for present text.)

898 495.181 Construction of chapter.--The intent of this
 899 chapter is to provide a system of state trademark registration
 900 and protection substantially consistent with the federal system
 901 of trademark registration and protection under the Trademark Act
 902 of 1946, as amended. To that end, the construction given the
 903 federal act should be examined as persuasive authority for
 904 interpreting and construing this chapter.

905 Section 21. Section 495.191, Florida Statutes, is created
 906 to read:


907 495.191 Fees.--Filing and other applicable fees payable to
 908 the department under this chapter shall be as follows:

909 (1) Application filing fee: \$87.50 per class.

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- 910 (2) Renewal application fee: \$87.50 per class.
911 (3) Assignment filing fee: \$50 per class.
912 (4) Certificate of name change filing fee: \$50.
913 (5) Voluntary cancellation filing fee: \$50.
914 (6) Certificate of registration under seal: \$8.75.
915 (7) Certified copy of application file: \$52.50.
916 ~~Section 22.~~ Sections 506.06, 506.07, 506.08, 506.09,
917 506.11, 506.12, and 506.13, Florida Statutes, are repealed. 
918 Section 23. This act shall take effect January 1, 2007.

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HB 7107 - Trademarks

GENERAL BILL by Economic Development, Trade & Banking Committee and Bilirakis (CO-SPONSORS)
 Ambler; Bendross-Mindingall; Galvano; Gelber; Goodlette; Seiler

Trademarks: Designates ch. 495, F.S., as the "Registration and Protection of Trademarks Act"; provides definitions precludes registration of certain marks; repeals provisions relating to reservation of a mark; provides requirements for information to be contained in an application for registration of a mark; authorizes the Department of State to require certain information in an application; requires that the application be signed and verified by any of certain persons; requires that the application be accompanied by three specimens or facsimiles showing the mark; requires that the application be accompanied by a fee; provides filing guidelines for applications; provides for disclaimers of unregistrable components; provides for amendment and judicial review; provides for priority of registrations; provides that first use shall inure to the benefit of the registrant or applicant under certain circumstances; provides for the issuance of a certificate of registration by the department; provides guidelines for the renewal of marks; revises duration of effectiveness of a registration; provides for the assignability of marks; authorizes a photocopy of an assignment to be acceptable for recording; provides for change of name certificates for registrants; authorizes recordation of certain instruments; provides acknowledgment of recording as prima facie evidence of the execution of an assignment or other instrument; specifies requirements for creation and perfection of security interests in marks; requires the department to record all marks registered with the state; requires the department to cancel certain marks; establishes a classification of goods and services; provides that a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used comprised in one or more of the classes listed; revises infringement provisions to include an element of lack of consent by the registrant; provides additional remedies for the unauthorized use of a mark; provides a forum for actions regarding registration; provides for service of process on nonresident registrants; provides for an injunction in cases of dilution of a famous mark; provides factors to be considered in determining that a mark is famous; provides damages in certain circumstances of dilution; deletes language relating to the diminishing of certain common law rights; provides effective date of changes to ch. 495, F.S., as amended by the act; provides for repeal of conflicting acts; provides application to pending actions; provides construction and legislative intent; provides certain fees.

Effective Date: January 1, 2007.

Last Event: 06/12/06 Approved by Governor; Chapter No. 2006-191 on Tuesday, June 13, 2006 9:14 AM

Main Amendment Filing Deadline: After Wednesday, April 26, 2006 2:00 PM

Adhering Amendment Filing Deadline: After Wednesday, April 26, 2006 5:00 PM

Recommending committee actions by:

Economic Development, Trade & Banking Committee

On agenda for: 03/09/06 2:00 PM [Notice](#)
 Favorable (*final action*) [See Votes](#)

Referred Committees and Committee Actions:

- **Transportation & Economic Development Appropriations Committee**

On agenda for: 04/11/06 10:00 AM [Notice](#)
 Favorable With Committee Substitute (*final action*) [See Votes](#)

- **Commerce Council**

On agenda for: 04/20/06 12:30 PM [Notice](#)
 Favorable (*final action*) [See Votes](#)

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Bill #	Subject	Relationship
CS/CS/CS/SB 2186	Trademarks	Identical

Bill Text:

- [Enrolled](#)
- [Engrossed 1](#)
- [Committee Substitute 1](#)
- [Original Filed Version](#)
- [PCB Text](#)

Staff Analysis:

Chamber	Committee
House	Commerce Council 4/21/2006 10:04:14 AM
House	Commerce Council 4/20/2006 1:24:58 PM
House	Transportation & Economic Development Appropriations Committee 4/14/2006 9:51:49 AM
House	Transportation & Economic Development Appropriations Committee 4/10/2006 7:40:18 PM
House	Economic Development, Trade & Banking Committee 3/13/2006 3:41:23 PM
House	Economic Development, Trade & Banking Committee 3/7/2006 11:19:15 AM

Vote History:

Chamber	Date	Yeas	Nays	Actions	Barcode
House	04/27/2006 03:12 PM	120	0	Passage	Vote [Seq# 951]
Senate	04/28/2006 12:17 PM	40	0		Vote [Seq# 24]

Bill History:



Filed

Monday, March 13, 2006
3:52 PM

Economic Development,
Trade & Banking
Committee

506.07
506.08
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506.11
506.12
506.13

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CS/CS/CS/SB 2186 - Trademarks

GENERAL BILL by Transportation and Economic Development Appropriations and Judiciary and Commerce and Consumer Services and Campbell

Trademarks: cites act as "Registration & Protection of Trademarks Act"; precludes registration of certain marks; repeals provision re reservation of mark; provides requirements for information to be contained in application for registration of mark; provides for assignability of marks; provides for injunction in cases of dilution of famous mark; provides for repeal of conflicting acts, etc. Amends Ch. 495; repeals various FS.

Effective Date: 01/01/2007

Last Event: 04/28/06 S Laid on Table, Link/Iden/Sim/Compare passed, refer to HB 7107 (Ch. 2006-191) on Friday, April 28, 2006 12:17 PM

Related Bills:

Bill #	Subject	Relationship
HB 7107	Trademarks	Identical

Bill Text:

[Committee Substitute 3](#)

[Committee Substitute 2](#) Laid on the Table

A [035356](#) Date Filed: 04/24/06, Page#: 8, Line#: 9

A [365416](#) Date Filed: 04/24/06, Page#: 10, Line#: 19

[Committee Substitute 1](#) Laid on the Table

A [314620](#) Date Filed: 04/18/06, Page#: 8, Line#: 3

A [222224](#) Date Filed: 04/18/06, Page#: 8, Line#: 9

A [124920](#) Date Filed: 04/18/06, Page#: 10, Line#: 19

A [733866](#) Date Filed: 04/18/06, Page#: 11, Line#: 8

A [942382](#) Date Filed: 04/18/06, Page#: 13, Line#: 14

[Original Filed Version](#)

D [493300](#) Date Filed: 03/27/06, Page#: 0, Line#: 0

Staff Analysis:

Chamber	Committee
Senate	Transportation and Economic Development Appropriations 4/21/2006 4:16:55 PM
Senate	Judiciary 4/18/2006 3:52:39 PM
Senate	Commerce and Consumer Services 3/27/2006 10:43:55 AM

Vote History:

(no votes recorded)

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Bill History:

Event	Time	Member	Committee
04/28/06 S Laid on Table, Link/Iden/Sim/Compare passed, refer to HB 7107 (Ch. 2006-191)	Friday, April 28, 2006 12:17 PM		
04/28/06 S Substituted HB 7107 -SJ 00671	Friday, April 28, 2006 12:16 PM		
04/27/06 S Read second time -SJ 00641	Thursday, April 27, 2006 6:25 PM		
04/27/06 S Placed on Special Order Calendar -SJ 00646	Tuesday, April 25, 2006 8:31 PM		
04/25/06 S Placed on Calendar, on second reading -SJ 00581	Tuesday, April 25, 2006 8:31 PM		
04/24/06 S CS read first time on 04/26/06 -SJ 00595	Monday, April 24, 2006 8:31 PM		
04/24/06 S CS/CS/CS by- Transportation and Economic Development Appropriations; YEAS 6 NAYS 0 -SJ 00581	Monday, April 24, 2006 3:54 PM		
04/21/06 S On Committee agenda-- Transportation and Economic Development Appropriations, 04/24/06, 1:30 pm (or 15 min. after completion of Ways & Means), 309-C	Wednesday, April 19, 2006 5:17 PM		
04/19/06 S CS/CS by Judiciary; YEAS 8 NAYS 0 -SJ 00534	Wednesday, April 19, 2006 5:17 PM		
04/19/06 S CS read first time on 04/21/06 -SJ 00537	Wednesday, April 19, 2006 10:35 AM		
04/21/06 S Now in Transportation and Economic Development Appropriations -SJ 00534	Wednesday, April 19, 2006 12:00 AM		
04/13/06 S On Committee agenda-- Judiciary, 04/19/06, 1:30 pm, 401-S	Thursday, April 13, 2006 4:12 PM		
03/30/06 S Now in Judiciary -SJ 00355	Thursday, March 30, 2006 12:57 PM		
03/28/06 S CS read first time on 03/30/06 -SJ 00361	Tuesday, March 28, 2006 9:03 PM		
03/28/06 S CS by Commerce and Consumer Services; YEAS 7 NAYS 0 -SJ 00355	Tuesday, March 28, 2006 5:00 PM		
03/23/06 S On Committee agenda-- Commerce and Consumer Services, 03/28/06, 2:00 pm, 401-S	Friday, March 24, 2006 8:30 AM		
03/07/06 S Introduced, referred to Commerce and Consumer Services; Judiciary; Transportation and Economic Development Appropriations -SJ 00173	Monday, March 06, 2006 6:58 PM		
03/03/06 S Referred to Commerce and Consumer Services; Judiciary; Transportation and Economic Development Appropriations	Friday, March 03, 2006 5:53 PM		
02/17/06 S Filed	Friday, February 17, 2006 11:23 AM		

Statutes Referenced by this Bill

- 0495.001
- 0495.011
- 0495.021
- 0495.027
- 0495.031
- 0495.035
- 0495.041
- 0495.061
- 0495.071
- 0495.081
- 0495.091
- 0495.101
- 0495.111
- 0495.131
- 0495.141
- 0495.145
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AGENDA

INTELLECTUAL PROPERTY LAW COMMITTEE BUSINESS LAW SECTION THE FLORIDA BAR

Miami, Florida
June 22, 2006

Chair: Jeanne L. Seewald (239) 254-7508 jseewald@fowlerwhite.com
Vice Chair: Mark E. Stein (305) 448-7089 mestein@lfiplaw.com

1. Call to Order/Introductions.
2. Approval of Minutes of IP Committee Meeting on January 19, 2006.
3. Old Business:
 - A. Report from Subcommittee on Status of IP Certification – Jim Gale/Steph Nagin;
 - B. Report on Status of Revision of the Florida Trademark Statute – Michael Chesal and John Malloy;
 - C. Update on Lunch-and-Go Program – Mike Higer/Robert Thornburg;
 - D. Update on Status of IP Newsletter – Sid Kilgore/Mike Higer;
 - E. Update on BLS Blog – Joel Rothman.
4. New Business:
 - A. Discussion regarding future CLE seminars;
 - B. Request by the Southern District Local Rules Committee for comment on a proposed local patent rule patterned on the one adopted by other jurisdictions.
5. Announcements.
6. Next Meeting – August 11, 2006, Key Biscayne, Florida.
7. CLE Presentation on Recent Developments in IP Law (1/2 hour):

Understanding Florida's New Registration and Protection of Trademarks Act - Michael Chesal and John Malloy.

8. CLE Presentation (1 hour):

Hooters of America's v. Winghouse of Florida, 347 F. Supp. 2d 1256 (M.D. Fla. 2004) - Don Conwell, Conwell Sukia & Kirkpatrick, Tampa.

9. Adjournment.

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