

Each member of the board shall receive an annual compensation as may be fixed by the Executive Board and each member of the board and the executive secretary of the board shall also be entitled to all necessary traveling and other expenses incurred by him in the discharge of his official duties. Each member of the board shall be required to devote full-time to the duties imposed by this act and shall perform no duties inconsistent with their duties and responsibilities as board members.

The Board of Claims may, in its discretion appoint three hearing panels consisting of two individuals each, one of whom shall be a registered engineer and the other of whom shall be learned in the law and shall be the chairman. These individuals shall receive actual traveling expenses and per diem compensation at the rate of one hundred fifty dollars (\$150) per day for the time actually devoted to the business of the board, but no panel member shall be paid more than ten thousand dollars (\$10,000) per diem compensation in any calendar year. The hearing panels shall be denominated the Eastern, Middle and Western District Hearing Panel, respectively, and shall have jurisdiction in areas of the Commonwealth coterminous with the three judicial districts of the United States District Courts in the Commonwealth established by section 118 of the Judicial Code and Judiciary, act of June 25, 1948, as amended June 2, 1970 (Public Law 91-272), 28 U.S.C. section 118.

The power of the Board of Claims to establish hearing panels pursuant to this section shall cease on December 31, **[1982] 1984** and the functions and duties of the hearing panels shall likewise cease, unless the General Assembly shall, **pursuant to any sunset law enacted by it,** approve an extension of the board's power to appoint hearing panels.

Section 2. This act shall take effect immediately.

APPROVED—The 15th day of December, A. D. 1982.

DICK THORNBURGH

No. 1982-295

AN ACT

HB 950

Amending Title 54 (Names) of the Pennsylvania Consolidated Statutes, adding revised, codified and compiled provisions relating to names and marks and making conforming and related amendments to Titles 15 (Corporations and Unincorporated Associations) and 18 (Crimes and Offenses) and separately enacting certain related provisions of law.

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- § 1701. Identification of owner and editor.
- § 1702. Changes in information to be published.
- § 1703. Penalty.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Chapters 1, 3, 5 and 7 of Title 54, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, are repealed.

Section 2. Title 54 is amended by adding chapters to read:

TITLE 54
NAMES

Chapter

- 1. General Provisions
- 3. Fictitious Names
- 5. Corporate and Association Names
- 7. Judicial Change of Name
- 11. Trademarks
- 13. Insignia
- 15. Reusable Marked Articles and Receptacles
- 17. Newspapers

CHAPTER 1
GENERAL PROVISIONS

Sec.

- 101. Definitions.
- 102. Functions and powers of Department of State.

§ 101. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Corporation not-for-profit.” A corporation not-for-profit as defined in Title 15 (relating to corporations and unincorporated associations).

“Department.” The Department of State of the Commonwealth.

“Officially publish.” The meaning specified in 15 Pa.C.S. § 102 (relating to definitions) except that the county of publication shall be as specified in this title.

“Verified statement.” A document filed under this title containing statements of fact and a statement by the signatory that it is made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

§ 102. Functions and powers of Department of State.

Subchapter B of Chapter 1 of Title 15 (relating to functions and powers of Department of State) shall be applicable to filings in and the functions of the Department of State under this title.

CHAPTER 3
FICTITIOUS NAMES

Sec.

- 301. Short title of chapter.
- 302. Definitions.
- 303. Scope of chapter.
- 304. Effect of registration under prior statutes.
- 311. Registration.
- 312. Amendment.
- 313. Cancellation or withdrawal.
- 321. Decennial filings required.
- 331. Contracts entered into by entity using unregistered fictitious name.
- 332. Effect of registration.

§ 301. Short title of chapter.

This chapter shall be known and may be cited as the "Fictitious Names Act."

§ 302. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Business." Any commercial or professional activity.

"Entity." Any individual, corporation, association, partnership, joint-stock company, business trust, syndicate, joint adventuresship or other combination or group of persons.

"Fictitious name." Any assumed or fictitious name, style or designation other than the proper name of the entity using such name. The term includes the name of any association, general partnership, business trust, syndicate, joint adventuresship or similar combination or group of persons.

§ 303. Scope of chapter.

(a) Voluntary registration.—Any one or more entities may elect to register a fictitious name under this chapter for the purpose of establishing a public record of their relationship to any business or other activity carried on under or through such fictitious name.

(b) Mandatory registration.—

(1) Except as provided in paragraph (2), any entity which either alone or in combination with any other entity conducts any business in this Commonwealth under or through any fictitious name shall register the fictitious name under this chapter and shall amend such registration whenever necessary to maintain the accuracy of the information disclosed thereby.

(2) Paragraph (1) shall not apply to any:

- (i) Nonprofit or professional activities.
- (ii) Activities which are expressly or impliedly prohibited by law from being carried on under a fictitious name.
- (iii) Limited partnership which is registered in the department pursuant to Chapter 5 of Title 59 (relating to limited partnerships). The preceding sentence shall not apply to any entity which includes the limited partnership as a participant unless the entity is itself such a limited partnership.
- (iv) An unincorporated association.

(c) Other restrictions unaffected.—The registration of a fictitious name under this chapter shall not be a defense to any action or proceeding brought to enforce any law which expressly or impliedly prohibits any activity from being carried on under a fictitious name.

§ 304. Effect of registration under prior statutes.

Fictitious names registered under the former provisions of the following statutes shall be deemed to be registered under this chapter:

Act of June 28, 1917 (P.L.645, No.227), relating to individual fictitious names.

Act of May 24, 1945 (P.L.967, No.380), referred to as the Fictitious Name Act.

Act of July 11, 1957 (P.L.783, No.374), known as the "Fictitious Corporate Name Act."

§ 311. Registration.

(a) General rule.—A fictitious name may be registered under this chapter by filing in the department an application for registration of fictitious name, which shall be executed as provided in subsection (d), and shall set forth:

- (1) The fictitious name.
- (2) A brief statement concerning the character or nature of the business or other activity to be carried on under or through the fictitious name.
- (3) The address of the principal place of business.
- (4) The name and address, including street and number, if any, of each individual interested in such business or other activity.
- (5) With respect to each entity, other than an individual, interested in such business or other activity:
 - (i) The name of the entity and a statement of its form of organization.
 - (ii) The name of the jurisdiction under the laws of which it is organized.
 - (iii) The address, including street and number, if any, of its principal office under the laws of its domiciliary jurisdiction.
 - (iv) The address, including street and number, if any, of its registered office, if any, in this Commonwealth.
- (6) A statement that the applicant is familiar with the provisions of section 332 (relating to effect of registration) and understands that

filing under the Fictitious Names Act does not create any exclusive or other right in the fictitious name.

(7) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Use of corporate designators.—A fictitious name registered under this chapter:

(1) May not contain a corporate designator such as “corporation,” “incorporated” or “limited” or any derivation or abbreviation thereof. The use of the word “company” or any derivation or abbreviation thereof by a proprietorship or a corporation is permissible.

(2) Need not contain a corporate designator, notwithstanding the fact that some or all of the persons interested therein are corporations. This paragraph shall not be construed to limit or affect any personal liability otherwise existing of shareholders of a corporation to persons who deal with the corporation without knowledge of its status as such.

(c) Agent for effecting amendments.—The application may designate one or more parties who shall be authorized to execute amendments to, withdrawals from or cancellation of the registration under this chapter in behalf of all then existing parties to the registration.

(d) Execution.—

(1) Where the application for registration relates to an entity which includes one or more participants which are partnerships or other entities composed of two or more parties, it shall not be necessary for each ultimate party to be named in and to execute the application, but only the constituent participants shall be named in the application and a partner or other authorized representative of a participant may execute the application on behalf of the participant.

(2) Where the application for registration relates to a trust or similar entity, it shall not be necessary for each beneficial owner or similar ultimate party to be named in and to execute the application, but only the trustees of the trust or the governing body of the similar entity shall be named in and shall execute the application.

(3) Otherwise, the application for registration shall be executed by each individual party thereto and, in the case of any other entity, by two duly authorized officers thereof under the seal, if any, of the entity.

(4) The application of any party may be executed by the attorney-in-fact of the party accompanied by written evidence of the authority of the attorney-in-fact.

(e) Duplicate use of names.—The fictitious name shall not be the same as or deceptively similar to:

(1) The name of any domestic corporation, or any foreign corporation authorized to do business in this Commonwealth, or the name of any nonprofit unincorporated association registered at any time under Chapter 5 (relating to corporate and association names) unless such name is available or is made available for use under the provisions or procedures of 15 Pa.C.S. § 7313(b)(1)(i) or (ii) (relating to duplicate use of names).

(2) The name of any limited partnership organized under Chapter 5 of Title 59 (relating to limited partnerships).

(3) The name of any administrative department, board or commission or other agency of this Commonwealth.

(4) A name the exclusive right to which is at the time reserved by any other person whatsoever in the manner provided by statute.

(f) Required approvals.—The fictitious name shall not contain:

(1) The words “college,” “university” or “seminary” when used in such a way as to imply that the entity is an educational institution conforming to the standards and qualifications prescribed by the State Board of Education unless there is submitted a certificate from the Department of Education certifying that the entity is entitled to use such designation.

(2) The words “engineer” or “engineering” or “surveyor” or “surveying” or any other word implying that any form of the practice of engineering or surveying, as defined in the act of May 23, 1945 (P.L.913, No.367), known as the “Professional Engineers Registration Law,” is provided unless at least one of the parties to the registration has been properly registered with the State Registration Board for Professional Engineers and there is submitted to the department a certificate from the board to that effect.

(3) The words “bank,” “banking,” “banker” or “trust” or any other word implying that the entity is a bank, bank and trust company, savings bank, private bank or trust company, as defined in the act of November 30, 1965 (P.L.847, No.356), known as the “Banking Code of 1965,” unless approved by the Department of Banking.

(4) The word “cooperative” or any abbreviation thereof unless it has complied with one of the Acts of Assembly relative to cooperative corporations or associations.

(5) Any word or phrase not permitted by law to be filed under this chapter without governmental consent unless there is submitted to the department written evidence of such consent.

(g) Advertisement.—An entity which includes an individual party shall officially publish in the county in which the principal office or place of business of the entity is or, in the case of a proposed entity, is to be located notice of its intention to file or the filing of an application for registration of a fictitious name under this chapter. The notice may appear prior to or after the day upon which the application is filed in the department and be kept with the permanent records of the business and shall set forth briefly:

(1) The fictitious name.

(2) The address, including street and number, if any, of the principal office or place of business of the business to be carried on under or through the fictitious name.

(3) The names and respective addresses, including street and number, if any, of all persons who are parties to the registration.

(4) A statement that an application for registration of a fictitious name is to be or was filed under the Fictitious Names Act.

(5) A date on or before which the application will be filed in the Department of State or the date when the application was filed.

§ 312. Amendment.

(a) General rule.—A fictitious name registration under this chapter may be amended by filing in the department an application for amendment of fictitious name registration, which shall be executed as provided in subsection (b), and shall set forth:

(1) The fictitious name as theretofore registered.

(2) An identification of the last preceding filing in the department with respect to the fictitious name.

(3) The amendment, which may change the fictitious name, add or withdraw or reflect a change in name of a party to the registration, or otherwise revise the filing, and which shall revise any information set forth in preceding filings which has become inaccurate, and which shall restate in full all such information as so revised.

(4) A statement that the amendment, without reference to any preceding filing, sets forth all information with respect to the fictitious name which would be required in an original filing under the Fictitious Names Act.

(5) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Execution.—The application for amendment may be executed:

(1) in the same manner as an original application for registration of a fictitious name, including any party who is thereby withdrawing; or

(2) by the agent or agents designated pursuant to section 311(c) (relating to agent for effecting amendments) or subsection (a)(3) and by any additional party to such registration.

(c) Required approvals.—Section 311(f) (relating to required approvals) shall be applicable to any amendment which effects a change in the fictitious name as theretofore registered.

§ 313. Cancellation or withdrawal.

(a) General rule.—A fictitious name registration under this chapter may be cancelled, or a party to such a registration may withdraw therefrom, by filing in the department an application for cancellation of fictitious name registration or an application for withdrawal from fictitious name registration, as the case may be, which shall be executed as provided in subsection (b), and shall set forth:

(1) The fictitious name as theretofore registered.

(2) An identification of the last preceding filing in the department with respect to the fictitious name.

(3) A statement that the fictitious name registration is cancelled, or that one or more, but less than all, parties to the registration have withdrawn from the business or other activity carried on, under or through the fictitious name.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Execution.—An application under this section may be executed in the same manner as an application for amendment of fictitious name registration except that an application for withdrawal from fictitious name registration may be executed solely by the withdrawing party.

§ 321. Decennial filings required.

(a) General rule.—Every registrant of a fictitious name registered under this chapter shall decennially, during the year 1990 and each year thereafter divisible by ten, file in the department a report, which shall be executed in the same manner as an application for amendment of fictitious name registration, and shall set forth:

(1) The fictitious name as theretofore registered.

(2) An identification of the last preceding filing in the department with respect to the fictitious name.

(3) A statement that the business or activity set forth of record continues to be carried on, under or through the fictitious name or that the parties desire that the registration of the fictitious name be continued in effect.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Requirement satisfied by other filings.—Subsection (a) shall not apply to a registrant which during the preceding ten years has made any filing with the department under this chapter.

(c) Effect of failure to make decennial filings.—On January 1 of the year following the year during which a report is required to be filed under subsection (a), every fictitious name with respect to which no such report has been filed during the immediately preceding year shall be deemed to be no longer registered under this chapter. Such registration may thereafter be restored only by the filing under this chapter of an original application for registration of fictitious name.

§ 331. Contracts entered into by entity using unregistered fictitious name.

(a) General rule.—No entity which has failed to register a fictitious name as required by this chapter shall be permitted to maintain any action in any tribunal of this Commonwealth until such entity shall have complied with the provisions of this chapter. Nor shall any action be maintained in any tribunal of this Commonwealth by any successor or assignee of such entity on any right, claim or demand arising out of a transaction with respect to which such entity used such fictitious name until such entity, or an entity which has acquired all or substantially all of its assets, shall have complied with the provisions of this chapter. The failure of any entity to register a fictitious name as required by this chapter shall not impair the validity of any contract or act of such entity and shall not prevent such entity from defending any action in any tribunal of this Commonwealth.

(b) Civil penalty.—Before any entity may institute any action in any tribunal of this Commonwealth on any cause of action arising out of any transaction in respect to which such entity used a fictitious name prior to the date of the registration of such fictitious name, or after the date its registration under this chapter was cancelled or otherwise terminated as to such entity, the entity shall pay to the department for the use of the Commonwealth a civil penalty of \$500.

(c) Substantial compliance.—The penalties of subsections (a) and (b) shall not be applicable if there has been substantial compliance in good faith with the requirements of this chapter or the corresponding provisions of prior law.

§ 332. Effect of registration.

(a) General rule.—Registration under this chapter imparts no legal right to the registering entity other than that the conducting of business by it under a fictitious name shall not result in the penalties provided by section 331 (relating to contracts entered into by entity using unregistered fictitious name).

(b) Corporate qualification unaffected.—The registration required under this chapter is in addition to all other acts required of a corporation prerequisite to its doing business in this Commonwealth and no provision of this chapter shall be construed as relieving a corporation of any duty under any other statute.

CHAPTER 5 CORPORATE AND ASSOCIATION NAMES

Sec.

- 501. Register established.
- 502. Certain additions to register.
- 503. Decennial filings required.
- 504. Effect of failure to make decennial filings.
- 505. Late filings.
- 506. Voluntary termination of registration by nonprofit associations.

§ 501. Register established.

(a) General rule.—A register is established by this chapter which shall consist of such of the following names as are not deleted therefrom by operation of section 504 (relating to effect of failure to make decennial filings) or 506 (relating to voluntary termination of registration by nonprofit associations):

- (1) A name registered prior to February 13, 1973 under the act of May 16, 1923 (P.L.246, No.160), relating to registration of certain names.
- (2) A name registered under section 502 (relating to certain additions to register).
- (3) In the case of a corporation not-for-profit, a name rendered unavailable for corporate use by other corporations by reason of any filing in the department by such corporation not-for-profit.

(b) Subsequent availability of certain names.—Whenever, by reason of change in name, withdrawal or dissolution of a corporation not-for-profit, or for any other cause, its name is no longer rendered unavailable by the express provisions of Title 15 (relating to corporations and unincorporated associations), such name shall no longer be deemed to be registered under subsection (a)(3) on the register established by this chapter.

§ 502. Certain additions to register.

(a) Corporations.—A domestic corporation not-for-profit incorporated prior to May 16, 1923 may register its name with the department under this chapter by effecting the filing specified in 15 Pa.C.S. § 7321 (relating to filing of certificate of summary of record by corporations incorporated prior to 1973).

(b) Unincorporated associations.—A nonprofit unincorporated association may register with the department the name under which it is doing business or operating by filing an application for registration, which shall be executed by two duly authorized officers of the association, and shall set forth:

- (1) The name to be registered.
- (2) The address, including street and number, if any, of the association.
- (3) The length of time, if any, during which the name has been used by the applicant.
- (4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(c) Limitation on names which may be registered.—Notwithstanding subsections (a) and (b), no new name shall be registered or deemed to be registered under this section which is the same as or deceptively similar to any other name then registered or deemed to be registered under this chapter, without the consent of the senior registrant.

§ 503. Decennial filings required.

(a) General rule.—Every corporation not-for-profit or nonprofit association whose name is registered under this chapter shall decennially, during the year 1990 and each year thereafter divisible by ten, file in the department a report, which shall be executed by two duly authorized officers under the seal, if any, of the corporation or association, and shall set forth:

- (1) The name of the corporation or association.
- (2) The address, including street and number, if any, of its registered or other office.
- (3) A statement that the corporation or association continues to exist.
- (4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Requirement satisfied by other filings.—Subsection (a) shall not apply to a corporation which during the preceding ten years has made any filing in the department a permanent record of which is retained by the department.

§ 504. Effect of failure to make decennial filings.

On January 1 of the year following the year during which a report is required to be filed under section 503 (relating to decennial filings required), the name of every corporation and association which has failed to comply with such section shall no longer be deemed to be registered under this chapter.

§ 505. Late filings.

A corporation or association which has failed to file the report required by section 503 (relating to decennial filings required) may do so at any later time, which filing shall reinstate the name of the corporation or association on the register established by this chapter unless its name has been appropriated during the period of the delinquency by any other person in the manner provided in this chapter or as otherwise provided by law.

§ 506. Voluntary termination of registration by nonprofit associations.

Any nonprofit association which has its name registered under this chapter may terminate such registration by filing in the department a statement of termination of registration of name, which shall be executed by two duly authorized officers under the seal, if any, of the association, and shall set forth:

- (1) The name of the association.
- (2) The address, including street and number, if any, of the association.
- (3) The date on which and the statute under which the name of the association was registered.
- (4) A statement that the registration of the name of the association under this chapter is terminated.
- (5) Such other information necessary to the administration of this chapter as the department may specify by regulation.

CHAPTER 7 JUDICIAL CHANGE OF NAME

Sec.

701. Court approval required for change of name.
702. Change by order of court.
703. Effect on children.
704. Divorced person may resume prior name.
705. Penalty for violation of chapter.

§ 701. Court approval required for change of name.

(a) General rule.—It shall be unlawful for any person to assume a name different from the name by which such person is and has been known, unless such change in name is made pursuant to proceedings in court as provided by this chapter.

(b) Informal change of name.—Notwithstanding subsection (a), a person may at any time adopt and use any name if such name is used consistently, nonfraudulently and exclusively.

§ 702. Change by order of court.

The court of common pleas of any county may by order change the name of any person resident in the county.

§ 703. Effect on children.

(a) General rule.—Whenever an order is made under this chapter changing the surname of anyone who is at the time thereof the parent of a minor child or adopted minor child, then under the care of such parent, the new surname of such parent shall, unless otherwise ordered by the court, thereafter be borne likewise by such minor child.

(b) Further change on attaining majority.—Any minor child whose surname has been changed pursuant to subsection (a) upon attaining majority shall also be entitled to the benefits of section 702 (relating to change by order of court).

§ 704. Divorced person may resume prior name.

(a) General rule.—Any person who is divorced from the bonds of matrimony may resume any prior surname used by him or her by filing a written notice to such effect in the office of the clerk of the court in which the decree of divorce was entered, showing the caption and docket number of the proceeding in divorce.

(b) Foreign decrees.—Where a divorced person has been the subject of a decree of divorce granted in a foreign jurisdiction, a certified copy of such foreign divorce decree may be filed with the clerk of the court of common pleas of the county where the person resides and, thereafter, the notice specified in subsection (a) may be filed with reference to such decree.

§ 705. Penalty for violation of chapter.

Any person violating the provisions of this chapter for purpose of avoiding payment of taxes or other debts commits a summary offense.

CHAPTER 11 TRADEMARKS

Sec.

1101. Short title of chapter.
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1103. Classification.
1111. Registrability.
1112. Application for registration.
1113. Registration of mark.
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1121. Damages for fraudulent registration.
1122. Disclaimer of unregistrable matter.
1123. Infringement.
1124. Injury to business or reputation; dilution.
1125. Remedies.
1126. Common law rights.

§ 1101. Short title of chapter.

This chapter shall be known and may be cited as the "Pennsylvania Trademark Act."

§ 1102. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Adopted and used." A trademark shall be deemed to be "adopted and used" in this Commonwealth when it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto, and such goods are sold or otherwise distributed in this Commonwealth. A service mark shall be deemed to be "adopted and used" in this Commonwealth when it is used or displayed in the sale or advertising of services and the services are rendered in this Commonwealth.

"Applicant." Any person filing an application for registration of a mark under this chapter, or the legal representatives, successors or assigns of such person.

"Mark." Includes any trademark or service mark entitled to registration under this chapter whether registered or not.

"Registrant." Any person who registers a mark under this chapter, or the legal representatives, successors or assigns of such person.

"Service mark." A mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others and includes, without limitation, the marks, names, symbols, titles, designations, slogans, character names and distinctive features of radio or other advertising used in commerce.

"Trademark." Any word, name, symbol or device, or any combination thereof, adopted and used by a person to identify goods produced, manufactured or sold by the person, and to distinguish them from goods produced, manufactured or sold by others.

"Trade name." A word, name, symbol, device or any combination thereof used by a person to identify the business, vocation or occupation of the person and distinguish it from the business, vocation or occupation of others.

§ 1103. Classification.

The following general classes of goods and services are established for the purpose of administering this chapter. The department may, by regulation, amend the classification established by this section if such amendment does not limit or extend the rights of any applicant or registrant. An application for registration of a mark shall be limited to a single general class of goods or services. Nothing in this chapter shall be construed as limiting the registration of a mark to one general class. The classes are as follows:

GOODS

(1) Chemical products used in industry, science, photography, agriculture, horticulture, forestry; artificial and synthetic resins; plastics in the form of powders, liquids or pastes, for industrial use; manures (natural and artificial); fire extinguishing compositions; tempering substances and chemical preparations for soldering; chemical substances for preserving foodstuffs; tanning substances; adhesive substances used in industry.

(2) Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; coloring matters, dyestuffs; mordants; natural resins; metals in foil and powder form for painters and decorators.

(3) Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

(4) Industrial oils and greases (other than edible oils and fats and essential oils); lubricants; dust laying and absorbing compositions; fuels (including motor spirit) and illuminants; candles, tapers, night-lights and wicks.

(5) Pharmaceutical, veterinary and sanitary substances; infants' and invalids' foods; plasters, material for bandaging; material for stopping teeth, dental wax; disinfectants; preparations for killing weeds and destroying vermin.

(6) Unwrought and partly wrought common metals and their alloys; anchors, anvils, bells, rolled and cast building materials; rails and other metallic materials for railway tracks; chains (except driving chains for vehicles); cables and wires (nonelectric); locksmiths' work; metallic pipes and tubes; safes and cash boxes; steel balls; horseshoes; nails and screws; other goods in nonprecious metal not included in other classes; ores.

(7) Machines and machine tools; motors (except for land vehicles); machine couplings and belting (except for land vehicles); large size agricultural implements; incubators.

(8) Hand tools and instruments; cutlery, forks and spoons; side arms.

(9) Scientific, nautical, surveying and electrical apparatus and instruments (including wireless), photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; coin or counter-fed apparatus; talking machines; cash registers; calculating machines; fire extinguishing apparatus.

(10) Surgical, medical, dental and veterinary instruments and apparatus (including artificial limbs, eyes and teeth).

(11) Installations for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

- (12) Vehicles; apparatus for locomotion by land, air or water.
- (13) Firearms; ammunition and projectiles; explosive substances; fireworks.
- (14) Precious metals and their alloys and goods in precious metals or coated therewith (except cutlery, forks and spoons); jewelry, precious stones, horological and other chronometric instruments.
- (15) Musical instruments (other than talking machines and wireless apparatus).
- (16) Paper and paper articles, cardboard and cardboard articles; printed matter, newspapers and periodicals, books; bookbinding material; photographs; stationery, adhesive materials (stationery); artists' materials; paint brushes; typewriters and office requisites (other than furniture); instructional and teaching material (other than apparatus); playing cards; printers' type and cliches (stereotype).
- (17) Gutta-percha, India rubber, balata and substitutes, articles made from these substances and not included in other classes; plastics in the form of sheets, blocks and rods, being for use in manufacture; materials for packing, stopping or insulating; asbestos, mica and their products; hose pipes (nonmetallic).
- (18) Leather and imitations of leather and articles made from these materials and not included in other classes; skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.
- (19) Building materials, natural and artificial stone, cement, lime, mortar, plaster and gravel; pipes of earthenware or cement; road-making materials; asphalt, pitch and bitumen; portable buildings; stone monuments; chimney pots.
- (20) Furniture, mirrors, picture frames; articles (not included in other classes) of wood, cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, celluloid, substitutes for all these materials, or of plastics.
- (21) Small domestic utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (other than paint brushes); brush-making materials; instruments and material for cleaning purposes; steel wool; glassware, porcelain and earthenware, not included in other classes.
- (22) Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks; padding and stuffing materials (hair, capoc, feathers, seaweed, etc.); raw fibrous textile materials.
- (23) Yarns, threads.
- (24) Tissues (piece goods); bed and table covers; textile articles not included in other classes.
- (25) Clothing, including boots, shoes and slippers.
- (26) Lace and embroidery, ribbons and braid; buttons, press buttons, hooks and eyes, pins and needles; artificial flowers.
- (27) Carpets, rugs, mats and matting; linoleums and other materials for covering floors; wall hangings (nontextile).

- (28) Games and playthings; gymnastic and sporting articles (except clothing); ornaments and decorations for Christmas trees.
- (29) Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams; eggs, milk and other dairy products; edible oils and fats; preserves, pickles.
- (30) Coffee, tea, cocoa, sugar, rice, tapioca, sago, coffee substitutes; flour and preparations made from cereals; bread, biscuits, cakes, pastry and confectionery, ices, honey, treacle; yeast, baking powder; salt, mustard; pepper, vinegar, sauces, spices; ice.
- (31) Agricultural, horticultural and forestry products and grains not included in other classes; living animals; fresh fruits and vegetables; seeds; live plants and flowers; foodstuffs for animals, malt.
- (32) Beer, ale and porter; mineral and aerated waters and other nonalcoholic drinks; syrups and other preparations for making beverages.
- (33) Wines, spirits and liqueurs.
- (34) Tobacco, raw or manufactured; smokers' articles; matches.

SERVICES

- (35) Advertising and business.
- (36) Insurance and financial.
- (37) Construction and repair.
- (38) Communication.
- (39) Transportation and storage.
- (40) Material treatment.
- (41) Education and entertainment.
- (42) Miscellaneous.
- § 1111. Registrability.
- A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered which:
- (1) Consists of or comprises immoral, deceptive or scandalous matter.
 - (2) Consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs or national symbols, or bring them into contempt or disrepute.
 - (3) Consists of or comprises the flag or coat of arms or other insignia of the United States, the Commonwealth of Pennsylvania, or of any other state or municipality, or of any foreign nation, or any simulation thereof.
 - (4) Consists of or comprises the name, signature or portrait of any living individual, except with his or her written consent.
 - (5) Consists of a mark which:
 - (i) when applied to the goods or services of the applicant is merely descriptive or deceptively misdescriptive of them;
 - (ii) when applied to the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them; or

(iii) is primarily merely a surname.

Nothing in this paragraph shall prevent the registration of a mark used in this Commonwealth by the applicant which has become distinctive of the goods or services of the applicant. The department may accept as evidence that the mark has become distinctive as applied to the goods or services of the applicant, proof of continuous use thereof as a mark by the applicant in this Commonwealth, or elsewhere, for the five years next preceding the date of the filing of the application for registration.

(6) Consists of or comprises a mark which so resembles a mark registered in this Commonwealth or a mark or trade name previously used in this Commonwealth by another and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive, unless it shall be proved to the satisfaction of the department that the person last applying for the registry of such mark is entitled thereto and is the owner thereof by right of prior adoption and use, in which case the date of the adoption shall determine the ownership, and shall be proved by verified statements of persons conversant with such dates. In case the department becomes satisfied after a hearing held as provided by section 1116(5) (relating to cancellation) that the person last applying for registry is entitled by priority of adoption and use in this Commonwealth to register such mark, it shall revoke the first registry thereof and, upon application and the payment of the fee, register the same in the name of such applicant.

§ 1112. Application for registration.

(a) General rule.—Subject to the limitations set forth in this chapter, any person who has adopted and used a mark in this Commonwealth may file in the department an application for registration of that mark, setting forth the following information:

- (1) The name of the person applying for such registration, the residence, location or place of business of the applicant, and, if a corporation, the jurisdiction of incorporation.
- (2) The goods or services in connection with which the mark is used, the mode or manner in which the mark is used in connection with such goods or services and the class in which such goods or services fall.
- (3) The date when the mark was first used anywhere and the date when it was first used in this Commonwealth by the applicant or the predecessor in business of the applicant.
- (4) A statement that the applicant is the owner of the mark and that no other person has the right to use such mark in this Commonwealth, either in the identical form thereof or in any such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.
- (5) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Facsimile.—The application shall be accompanied by a facsimile of such mark.

§ 1113. Registration of mark.

Upon compliance by the applicant with the requirements of this chapter, the department shall register the mark.

§ 1114. Duration and renewal.

Registration of a mark under this chapter shall be effective for a term of ten years from the date of registration and, upon application for renewal filed within six months prior to the expiration of such term, the registration may be renewed for a like term. A mark registration may be renewed for successive periods of ten years in like manner. All applications for renewals shall include a statement that the mark is still in use in this Commonwealth.

§ 1115. Assignment.

(a) General rule.—Any mark and its registration under this chapter shall be assignable with the goodwill of the business in which the mark is used or with that part of the goodwill of the business connected with the use of and symbolized by the mark. Assignment shall be by instrument in writing, duly executed, and may be recorded with the department. A registrant may record an assignment to itself to reflect of record a change in the name of the registrant.

(b) Unrecorded assignments.—An assignment of any registration under this chapter shall be void as against any subsequent purchaser for valuable consideration and without notice, unless it is recorded with the department not later than the earlier of:

- (1) three months after the date of the assignment; or
- (2) such subsequent purchase.

§ 1116. Cancellation.

The department shall cancel from the register under this chapter:

- (1) All registrations under this chapter which are more than ten years old and not renewed in accordance with this chapter.
- (2) Any registration concerning which the department shall receive an application for cancellation thereof from the registrant or the assignee of record.
- (3) Any registration concerning which a court of competent jurisdiction shall find:
 - (i) That the registered mark has been abandoned.
 - (ii) That the registrant is not the owner of the mark.
 - (iii) That the registration was granted improperly.
 - (iv) That the registration was obtained fraudulently.
 - (v) That the registered mark is so similar, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in the United States Patent and Trademark Office, prior to the date of the filing of the application for registration by the registrant under this chapter or former provisions of law and not abandoned, except that if the registrant proves that the registrant is the owner of a concurrent registration of the mark in the United States

Patent and Trademark Office, covering an area including this Commonwealth, the registration under this chapter shall not be cancelled.

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

(5) Any registration in the following circumstances:

(i) Where an applicant, by verified statement or other good and sufficient evidence, shall prove to the satisfaction of the department that the applicant is entitled by virtue of prior adoption and use to any mark theretofore registered in the department.

(ii) In the case of a corporation having filed articles of dissolution or a decree of dissolution, any person may, at any time at least three years thereafter, present a petition to the department setting forth such fact.

(iii) In the case of a person not having filed articles of dissolution or a decree of dissolution, but having discontinued or gone out of the business to which such registration is pertinent.

(iv) When a registered mark has been abandoned or discontinued for a period of at least five years subsequent to registration and such abandonment and nonuse still persists.

In all circumstances enumerated in this paragraph, any person may present a petition for cancellation to the department. The petition shall set forth the pertinent facts relative thereto, and shall contain proof of service of notice of the petition on the person in whose name the registration is recorded, and asking that such registration be cancelled. The department shall fix a time to hear the parties concerned in the matter, and shall send, by certified mail, a notice of hearing to the person in whose name such registration is recorded. If, after hearing, the department is satisfied of the truth of the facts alleged in the petition in accordance with the provisions of this paragraph, it shall cancel the registration.

§ 1121. Damages for fraudulent registration.

Any person who shall, for himself or on behalf of any other person, procure the filing or registration of any mark in the department under this chapter by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction.

§ 1122. Disclaimer of unregistrable matter.

The department shall require unregistrable matter to be disclaimed, but such disclaimer shall not prejudice or affect the common law rights of the applicant then existing or thereafter arising in such disclaimed matter.

§ 1123. Infringement.

(a) General rule.—Subject to the provisions of section 1126 (relating to common law rights), any person who shall:

(1) use, without the consent of the registrant, any reproduction, counterfeit, copy or colorable imitation of a mark registered under this chapter in connection with the sale, offering for sale or advertising of any goods or services in a manner likely to cause confusion or mistake or to deceive as to the source of origin of such goods or services; or

(2) reproduce, counterfeit, copy or colorably imitate any such mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in connection with the sale or other distribution in this Commonwealth of such goods or services;

shall be liable to a civil action by the owner of such registered mark for any or all of the remedies provided in section 1125 (relating to remedies), except that under paragraph (2) the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such mark is intended to be used to cause confusion or mistake or to deceive.

(b) Exception.—The provisions of subsection (a) shall not apply to any advertising agency, publisher of newspapers, magazines or other advertising media accepting authorization for the reproduction or copy of any such mark innocently and in good faith in the usual course of business.

§ 1124. Injury to business or reputation; dilution.

Likelihood of injury to business reputation or of dilution of the distinctive quality of a mark registered under this chapter, or a mark valid at common law, or a trade name valid at common law, shall be a ground for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services.

§ 1125. Remedies.

(a) General rule.—Any owner of a mark registered under this chapter may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, and any court of competent jurisdiction may grant injunctions to restrain such manufacture, use, display or sale as may be by the court deemed just and reasonable, and may, except as provided in section 1123 (relating to infringement), require the defendants to pay to such owner all profits derived from and all damages suffered by reason of such wrongful manufacture, use, display or sale, and such court may also order that any such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court or to the complainant to be destroyed.

(b) Exception.—No owner of such a mark shall have such right of injunction against an advertising agency, publisher of newspapers, magazines or other advertising media accepting authorization for the reproduction or copy of any such mark innocently and in good faith in the usual course of business.

(c) Criminal prosecutions unaffected.—The enumeration of any right or remedy in this chapter shall not affect the right of a registrant to prosecute under Title 18 (relating to crimes and offenses).

§ 1126. Common law rights.

Nothing in this chapter shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.

CHAPTER 13 INSIGNIA

Sec.

- 1301. Definitions.
- 1302. Effect of registration under prior statutes.
- 1311. Registration of insignia.
- 1312. Amendment.
- 1313. Cancellation.
- 1314. Decennial filings required.
- 1321. Specifying conditions under which union label may be used.
- 1322. Rescission of right to use union label of allied crafts.
- 1331. Injunctive relief.

§ 1301. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Insignia.” The name, badge, motto, button, decoration, charm, emblem, rosette, label or other insignia of an organization.

“Label.” A label, symbol, mark or private stamp, including a label adopted by labor unions for the purpose of designating the product of their particular labor or workmanship.

“Organization.” Any association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or association, historical, military or veterans’ organization, labor union, foundation, federation, or any other society, organization or association, or any degree, branch, subordinate lodge or auxiliary thereof, whether incorporated or unincorporated, the principles and activities of which are not repugnant to the Constitution and laws of the United States or of this Commonwealth.

§ 1302. Effect of registration under prior statutes.

Insignia registered under the former provisions of the following statutes shall be deemed to be registered under this chapter:

Act of May 21, 1895 (P.L.95, No.68), relating to union labels.

Act of May 5, 1927 (P.L.778, No.406), relating to insignia of certain organizations.

§ 1311. Registration of insignia.

(a) General rule.—The insignia of an organization may be registered under this chapter by the organization by filing in the department an application for registration of insignia, which shall set forth:

(1) The name of the organization and its address, including street and number, if any.

(2) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Facsimile.—The application shall be accompanied by a facsimile of the insignia.

(c) Restrictions.—The department shall not file any application for registration under this chapter of any insignia which is similar to, imitating or so nearly resembling as to be calculated to deceive, the insignia theretofore registered under this chapter of any other organization.

§ 1312. Amendment.

(a) General rule.—The registration under this chapter of the insignia of an organization may be amended by the organization by filing in the department an application for amendment of insignia registration, which shall set forth:

(1) The name of the organization and its address, including street and number, if any.

(2) An identification of the last preceding filing in the department with respect to the insignia.

(3) The amendment, which shall revise any information set forth in preceding filings which has become inaccurate and shall restate in full all such information as so revised.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Restrictions.—The department shall not file any application for amendment of insignia registration in circumstances where an original registration of such insignia could not be filed under this chapter.

§ 1313. Cancellation.

The registration under this chapter of the insignia of an organization may be cancelled by the organization by filing in the department a statement of cancellation of insignia registration, which shall set forth:

(1) The name of the organization and its address, including street and number, if any.

(2) An identification of the last preceding filing in the department with respect to the insignia.

(3) A statement that the registration of the insignia is cancelled.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

§ 1314. Decennial filings required.

(a) General rule.—Every registrant of any insignia registered under this chapter shall decennially, during the year 1990 and each year thereafter divisible by ten, file in the department a report, which shall set forth:

(1) The name of the organization and its address, including street and number, if any.

(2) An identification of the last preceding filing in the department with respect to the insignia.

(3) A statement that the insignia shall continue to be registered in the department.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Requirement satisfied by other filings.—Subsection (a) shall not apply to a registrant which during the preceding ten years has made any filing with the department under this chapter.

(c) Effect of failure to make decennial filings.—On January 1 of the year following the year during which a report is required to be filed under subsection (a), every insignia theretofore registered under this chapter with respect to which no such report has been filed during the immediately preceding year shall cease to be registered under this chapter. Such registration may thereafter be restored only by the filing under this chapter of an original application for registration of the insignia.

§ 1321. Specifying conditions under which union label may be used.

Every labor union which has registered a union label under this chapter shall have, possess and enjoy full, complete and unquestioned power and authority to name, make, dictate and specify the conditions and limitations under which such label may be used by any person employing the members of the union, or manufacturing any article upon which any such label may be affixed, or using in any manner in the business of such person the labor symbolized by such label.

§ 1322. Rescission of right to use union label of allied crafts.

Where two or more labor unions have adopted an allied crafts union label, and granted the use of it to any person, and conflict has arisen between such grantee and any one or more of the organizations having an interest in the allied crafts union label, any one or more of the labor unions interested in the union label may rescind the right of the grantee to use the union label, and the continued use of it, after notice in writing that the right thereof has been rescinded by any of the labor unions interested, shall render the grantee liable to the penalties of this chapter.

§ 1331. Injunctive relief.

Any organization having registered its insignia under this chapter shall have the right to proceed before any court of competent jurisdiction for an injunction to restrain the unauthorized manufacture, use or sale of such insignia, including the right to require the surrender of possession and redelivery of any such insignia.

CHAPTER 15

REUSABLE MARKED ARTICLES AND RECEPTACLES

Sec.

- 1501. Definitions.
- 1502. Effect of registration under prior statutes.
- 1511. Registration of articles or supplies.
- 1512. Amendment.
- 1513. Assignment.
- 1514. Cancellation of registration.
- 1515. Decennial filings required.

- 1521. Paying or accepting of deposit not deemed a sale.
- 1522. Using or removal of identity of receptacle.
- 1523. Laundering articles labeled with mark of owner.
- 1524. Unauthorized use as presumptive evidence.
- 1525. Return of supplies.
- 1531. Penalty.

§ 1501. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Articles or supplies.” Any item which is designed and intended for reuse in the normal course of trade by the person filing under this chapter and includes towels, coats, aprons, uniforms, toilet devices and accessories therefor supplied for hire or compensation, and vessels, receptacles and utensils used as packages or containers in the sale and distribution of any natural or processed product, compound, mixture or substance, or any combination thereof, and parts and accessories for such vessels, receptacles and utensils.

“Mark.” Any word, name, symbol, picture, design or device, or any combination thereof, produced upon and used by a person to indicate ownership of articles and supplies.

“Produced upon.” Branded, stamped, stenciled, engraved, etched, blown, embossed, impressed, embroidered, sewn or otherwise permanently placed upon any articles or supplies.

“Used in this Commonwealth.” A mark is “used in this Commonwealth” when such name, mark or device is placed upon articles or supplies which are loaned, rented, sold or otherwise circulated within this Commonwealth.

§ 1502. Effect of registration under prior statutes.

Marks registered under the former provisions of the following statutes shall be deemed to be registered under this chapter:

Act of April 20, 1853 (P.L.643, No.360), relating to marks on beverage bottles.

Act of May 8, 1889 (P.L.132, No.146), relating to marks on beverage bottles.

Act of June 15, 1911 (P.L.975, No.787), relating to marks on containers.

Act of January 26, 1966 (1965 P.L.1598, No.564), relating to marks on articles or supplies.

§ 1511. Registration of articles or supplies.

(a) General rule.—A person who uses in this Commonwealth a mark to indicate the ownership of articles or supplies may register such mark under this chapter by filing in the department an application for registration of mark used with articles or supplies, which shall set forth:

(1) The name and address, including street and number, if any, of the applicant and, if a corporation, its jurisdiction of incorporation.

(2) The nature of the business of the applicant.

(3) The type of articles or supplies in connection with which the mark is used.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Facsimile.—The application shall be accompanied by a facsimile of the mark.

(c) Registration evidence of ownership.—The registration of a mark under this chapter shall be prima facie evidence that the person in whose name the mark is registered is the owner of all articles and supplies upon which such mark is produced.

§ 1512. Amendment.

The registration under this chapter of a mark may be amended by the registrant by filing in the department of an application for amendment of mark used with articles or supplies, which shall set forth:

(1) The name and address, including street and number, if any, of the registrant.

(2) An identification of the last preceding filing in the department with respect to the mark.

(3) The amendment, which shall revise any information set forth in the preceding filing which has become inaccurate and shall restate in full all such information as so revised.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

§ 1513. Assignment.

Any mark and its registration under this chapter shall be assignable with the sale of the articles or supplies on which the mark is produced and used. Assignments shall be by instruments in writing, duly executed, and may be recorded with the department.

§ 1514. Cancellation of registration.

The department shall cancel from the register under this chapter:

(1) Any registration concerning which the department shall receive an application for cancellation thereof from the registrant or from the assignee of record.

(2) Any registration in respect of which a court of competent jurisdiction shall order cancellation.

§ 1515. Decennial filings required.

(a) General rule.—Every registrant of a mark registered under this chapter shall decennially, during the year 1990 and each year thereafter divisible by ten, file in the department a report, which shall set forth:

(1) The name and address, including street and number, if any, of the registrant.

(2) An identification of the last preceding filing in the department with respect to the mark.

(3) A statement that the mark continues to be used in connection with the articles or supplies specified in the registration.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Requirement satisfied by other filings.—Subsection (a) shall not apply to a registrant which during the preceding ten years has made any filing with the department under this chapter.

(c) Effect of failure to make decennial filings.—On January 1 of the year following the year during which a report is required to be filed under subsection (a), every mark theretofore registered under this chapter with respect to which no such report has been filed during the immediately preceding year shall cease to be registered under this chapter. Such registration may thereafter be restored only by the filing under this chapter of an original application for registration of the mark.

§ 1521. Paying or accepting of deposit not deemed a sale.

The requiring, taking, paying or accepting of any deposit for any purpose upon any articles or supplies shall not be deemed to constitute a sale of such property, either optional or otherwise, for purposes of this chapter.

§ 1522. Using or removal of identity of receptacle.

No person shall use, give, buy, take, destroy, sell or otherwise dispose of, or traffic in, articles or supplies, fill or refill any vessel, receptacle or utensil upon which a mark registered under this chapter is produced, or refuse to return such articles or supplies on demand of the owner, or to deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark or device, unless consent of the owner is obtained or unless the articles or supplies shall have been purchased from the owner.

§ 1523. Laundering articles labeled with mark of owner.

No person shall, without the written consent of the owner thereof, launder, wash, clean, renovate or cause to be laundered, washed, cleaned or renovated, any towels, coats, aprons, uniforms, toilet devices or other supplies used for the purpose of cleanliness and sanitation, upon which a mark registered under this chapter is produced, and the possession of which is claimed by lease or rental from the owner thereof.

§ 1524. Unauthorized use as presumptive evidence.

The use or possession by any person, other than the registrant, of any articles or supplies without the written consent provided in this chapter, or the possession of articles or supplies so marked by any junk dealer or dealer of second-hand articles, shall create a presumption of unlawful use of or traffic in such articles or supplies, which presumption may be overcome by evidence to the contrary.

§ 1525. Return of supplies.

It shall be the duty of every person who finds, or receives in the regular course of business or in any other manner, any articles or supplies, to make a diligent effort to determine the owner thereof and advise the owner by letter of the location where such articles or supplies may be found and offer to return them to the owner.

§ 1531. Penalty.

A person who violates any of the provisions of this chapter commits a summary offense.

CHAPTER 17
NEWSPAPERS

Sec.

1701. Identification of owner and editor.

1702. Changes in information to be published.

1703. Penalty.

§ 1701. Identification of owner and editor.

Every newspaper published in this Commonwealth, whether published monthly, weekly, biweekly, semiweekly or daily, or whether such publication is at regular or irregular intervals, shall publish on the editorial page, in a conspicuous position, at the top of the reading matter the name of the owner or proprietor of such newspaper, together with the name of the managing editor thereof. If a newspaper is owned or published by a corporation, then the name of the corporation shall be published, together with the name of the president and managing editor thereof, and if a newspaper is owned or published by a partnership or limited partnership, then the names of the partners and the managing editor shall be published in like manner.

§ 1702. Changes in information to be published.

In the event any change is made in the proprietorship, ownership or managing editor of any newspaper, or in the office of president of any corporation owning and publishing a newspaper or in the names of the members of the copartnership owning or publishing a newspaper, the change shall be duly set forth in the next issue of the newspaper following such change.

§ 1703. Penalty.

A person who violates any of the provisions of this chapter commits a summary offense.

Section 3. Subsection (b) of section 131 of Title 15 is amended to read:

§ 131. Functions of Department of State.

* * *

(b) **[Corporate names] Names and marks.**—The department shall supervise and administer the provisions of this title and **[other applicable statutory provisions] Title 54 (relating to names)** relating to the use of **[corporate] names and marks.**

* * *

Section 4. Chapter 67 of Title 18 is amended by adding sections to read:

§ 6709. Use of union labels.

A person commits a misdemeanor of the third degree if, without the authority of the labor union or unions interested, such person:

(1) *uses any union label registered under Chapter 13 of Title 54 (relating to insignia);*

(2) *uses any such union label on goods which are not the product of the members of the union or unions owning such label; or*

(3) *sells or offers for sale any goods knowing that such goods bear a union label whose use on such goods is not authorized by the union or unions owning such label.*

§ 6710. Unauthorized use of registered insignia.

A person commits a summary offense if, without authority, such person knowingly wears, exhibits, displays or uses, for any purpose, any insignia registered under Chapter 13 of Title 54 (relating to insignia).

Section 5. (a) Whenever a decennial filing is required by Title 54 of the Pennsylvania Consolidated Statutes (relating to names) to be made in the Department of State, the department shall, not earlier than the November 1 prior to the commencement of the decennial year wherever practicable, give notice by mail to the registrant or other party of the decennial filing requirement, which notice shall be accompanied by appropriate application blanks or forms.

(b) Whenever any provision of Title 54 of the Pennsylvania Consolidated Statutes requires that any person set forth an address in any document, such provision shall be construed to require the submission of an actual street address or rural route box number, and the Department of State shall refuse to receive or file any document which sets forth a post office box address.

(c) Whenever the Department of State has taken any action under Title 54 of the Pennsylvania Consolidated Statutes, the Secretary of the Commonwealth may, upon payment of the cost thereof and the fee or additional fee therefor fixed by regulation of the Department of State, issue to any person entitled thereto an engrossed certificate evidencing such action executed by the Secretary of the Commonwealth under the seal of the Commonwealth.

Section 6. (a) Any person desiring to change his or her name shall file a petition in the court of common pleas of the county in which he or she shall reside, setting forth such desire and intention and the reason therefor, together with the residence of petitioner, and his or her residence or residences for and during five years prior thereto. Where the petitioner is a married person, the other spouse may join as a party petitioner, in which event, upon compliance with the provisions of this section, said spouse shall also be entitled to the benefits hereof. The court shall, thereupon, enter an order directing that notice be given of the filing of said petition and of the day set for the hearing thereon, which hearing shall be not less than one month or more than three months after the filing of said petition, and said notice shall be:

(1) Published in two newspapers of general circulation in said county or county contiguous thereto, one of which publications may be in the official paper for the publication of legal notices in said county.

(2) Given to any nonpetitioning parent of a child whose name may be affected by the proceedings.

(b) At the hearing of said petition, any person having lawful objection to the change of name may appear and be heard. If the court be satisfied after said hearing that there is no lawful objection to the granting of the prayer of said petition, a decree may be entered by said court changing the name as prayed for, if at said hearing the petitioner or petitioners shall present to the court proof of publication of said notice as required by the order, together with official searches of the proper offices of the county wherein petitioner or petitioners reside and of any other county wherein petitioner or petitioners may have resided within five years of the filing of his or her petition for change of name, or a certificate in lieu thereof given by a corporation authorized by law to make such searches, showing that there are no judgments or decrees of record or any other matter of like character against said petitioner or petitioners.

(c) The provisions of this section are hereby declared to be procedural.

Section 7. An application for renewal under 54 Pa.C.S. § 1114 (relating to duration and renewal) of a trademark or service mark which was not originally granted under this act shall set forth the appropriate classification under the provisions of 54 Pa.C.S. § 1103 (relating to classification), rather than the classification specified pursuant to the prior law. A trademark or service mark registered under any act repealed by this act shall be deemed registered under 54 Pa.C.S. Ch. 11 (relating to trademarks) until cancelled as provided in 54 Pa.C.S. § 1116 (relating to cancellation).

Section 8. The following acts and parts of acts are hereby repealed absolutely:

Sections 1 and 2, act of April 20, 1853 (P.L.643, No.360), entitled "A supplement to the sixth section of an act entitled 'An Act authorizing the Commissioners of the incorporated districts of the Northern Liberties and Kensington to open a street, to be called Delaware avenue; relative to the duties of Assessors, Venders of Mineral Waters,' passed the 24th day of January, 1849; and the supplement to an act entitled 'An Act relative to the Venders of Mineral Waters; and an act relative to the Washington Coal company; to Sheriffs' sales of real estate; to the substitution of Executors and Trustees when plaintiffs; to partition of Common Pleas; and for other purposes,' passed the 9th day of April, 1849; relative to the Pennsylvania Building and Loan Association; and to the Venango Railroad company."

Act of April 4, 1865 (P.L.58, No.42), entitled "An act in relation to the sale, use and disposition of butts, hogsheads, barrels, casks or kegs, used by the manufacturers of malt liquors."

Act of May 5, 1876 (P.L.109, No.79), entitled "An act to correct errors in transcribing of the act of assembly, entitled 'An Act to punish the sale and traffic in mineral water bottles and other bottles, and for the

protection of bottlers and venders of mineral water and other beverages in this commonwealth,' approved the ninth day of April, eighteen hundred and seventy, and declaratory of what shall be evidence of registration and publication in regard to said bottles."

Act of May 8, 1889 (P.L.132, No.146), entitled "An act providing that after publication of description of names or marks impressed upon bottles, intended for the sale of beverages or other article of merchandise, the same may be registered in the office of the Secretary of the Commonwealth and declaring what shall be conclusive evidence of such publication and registration."

Act of May 21, 1895 (P.L.95, No.68), entitled "An act to provide for the adoption of trade mark, labels, symbols or private stamps by any incorporated or unincorporated association or union of workmen, and to regulate the same."

Act of June 15, 1911 (P.L.975, No.787), entitled "An act providing for the registration of bottles, boxes, siphons, siphon-heads, tins, kegs, cans, soda-fountains, cylinders of carbonic acid gas, or other containers; and forbidding the refilling of, or dealing or trafficking in, such registered bottles, boxes, siphons, siphon-heads, tins, cans, kegs, soda-fountains, cylinders of carbonic acid gas, or other containers, by persons other than the owners thereof, without the written consent of the owner, and imposing a penalty therefor; providing for the issuing of process in the nature of search warrant; providing what shall be prima facie proof thereof; and providing that the delivery of said bottles, boxes, siphons, siphon-heads, tins, cans, kegs, soda-fountains, cylinders of carbonic acid gas, or other containers, shall not constitute a sale thereof."

Act of July 9, 1919 (P.L.822, No.340), entitled "An act prohibiting the changing of names by individuals except by court proceedings, and providing penalties."

Act of April 18, 1923 (P.L.75, No.51), entitled "An act authorizing the courts of common pleas to change the name of persons; prescribing the procedure, and the effect of the decree thereon."

Act of May 5, 1927 (P.L.778, No.406), entitled "An act to provide for the registration and protection of the names, badges, mottoes, buttons, decorations, charms, emblems, rosettes, and other insignia of associations, lodges, orders, fraternal societies, beneficial societies, or fraternal and beneficial societies or associations, historical, military, or veterans' organizations, labor union, foundation, federation, or any other society, organization, or association, degree, branch, subordinate lodge, or auxiliary thereof; to prohibit the wearing, exhibition, display, or use of the same, by any person not entitled to wear, exhibit, display, or use the same; and fixing a penalty for the violation of this act."

Act of June 12, 1939 (P.L.336, No.193), entitled "An act requiring newspapers published in this Commonwealth to print on the editorial page, the names of the owners, proprietors, or publishers, and the managing editors of the same; and providing a penalty."

Act of May 24, 1945 (P.L.967, No.380), entitled "An act making it unlawful for any individual or individuals to carry on any business under an assumed or fictitious name, style or designation, unless upon advertisement and the filing of an application to that effect in the office of the Secretary of the Commonwealth and of the prothonotary; requiring non-resident applicants to have a resident agent; prescribing the effect of failure to file such application; providing that certificates of the Secretary of the Commonwealth shall be admitted in evidence; requiring county commissioners, at the expense of the county, to provide books or other means of reproduction for the entry of such applications; requiring the cancellation of such application or the withdrawal from the business; providing methods therefor; fixing the fees of the Secretary of the Commonwealth and prothonotary; and providing penalties."

Act of September 26, 1951 (P.L.1518, No.381), entitled, as reenacted and amended, "An act to provide for the registration and protection of trade-marks and service-marks and to secure the rights, property and interests therein; providing for the assignment, cancellation and revocation thereof; and imposing penalties for violations; conferring powers and imposing duties upon the Secretary of the Commonwealth in the administration thereof; and to repeal all acts inconsistent therewith."

Act of July 11, 1957 (P.L.783, No.374), known as the "Fictitious Corporate Name Act."

Act of January 26, 1966 (1965 P.L.1598, No.564), entitled "An act relating to the business of supplying towels, coats, aprons, uniforms, toilet devices or other kindred articles or supplies for hire or compensation; providing for the filing of names, trademarks or devices impressed thereon and the effect of such filing; regulating the possession, use and disposal of articles or supplies so marked; and providing penalties; and conferring powers and imposing duties on the Secretary of the Commonwealth in the administration thereof."

Section 9. This act shall take effect in 90 days.

APPROVED—The 16th day of December, A. D. 1982.

DICK THORNBURGH

No. 1982-296

AN ACT

HB 1886

Amending the act of May 8, 1923 (P.L.161, No.120), entitled "An act providing for and regulating the public printing and binding, the editing for publication and the distribution of all documents, reports, bulletins, and other publications for the use of the Commonwealth, the several departments, boards, commissions, and other agencies engaged in the legislative, judicial, and administrative work of the State Government; the sale of waste paper; the appointment of a director and other employees; and repealing inconsistent and conflicting legislation," excluding State colleges and universities from the powers and duties imposed on the Director of Publications.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2, act of May 8, 1923 (P.L.161, No.120), entitled "An act providing for and regulating the public printing and binding, the editing for publication and the distribution of all documents, reports, bulletins, and other publications for the use of the Commonwealth, the several departments, boards, commissions, and other agencies engaged in the legislative, judicial, and administrative work of the State Government; the sale of waste paper; the appointment of a director and other employees; and repealing inconsistent and conflicting legislation," is amended by adding a clause to read:

Section 2. The director shall have the power, and his duty shall be—
* * *

(d) The provisions of this section shall not apply to the State colleges and universities.

Section 2. This act shall take effect immediately.

APPROVED—The 16th day of December, A. D. 1982.

DICK THORNBURGH