

Introduced: 3/6/73  
Referred: Commerce and  
Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 303

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to trademarks."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 45.50.010(5) is amended to read:

9 (5) consists of a mark which,

10 (A) is merely descriptive or deceptively misdescriptive  
11 of the applicant's goods or services, or

12 (B) is primarily geographically descriptive or decep-  
13 tively misdescriptive of the applicant's goods or services, or

14 (C) is primarily merely a surname; however, this does  
15 not prevent the registration of a mark used in the state by the  
16 applicant which has become distinctive of the applicant's goods or  
17 services; as evidence that the mark has become distinctive, the  
18 lieutenant governor may accept proof of continuous use of the mark  
19 as a mark by the applicant in this state or elsewhere for the five  
20 years preceding the date of the filing of the application for  
21 registration; or

22 \* Sec. 2. AS 45.50.010(6) is amended to read:

23 (6) consists of a trademark which so resembles a trademark  
24 registered in the state or a trademark or trade name previously  
25 used in this state by another and not abandoned, as to be likely,  
26 when applied to the goods or services of the applicant, to cause  
27 confusion or mistake or to deceive.

28 \* Sec. 3. AS 45.50.020(2) is amended to read:

29 (2) the goods or services in connection with which the mark

1 is used, the manner in which the mark is used in connection with the  
2 goods or services and the class of the goods or services,

3 \* Sec. 4. AS 45.50.040 is amended to read:

4 Sec. 45.50.040. FILING FEE. The application for registration  
5 shall be accompanied by a filing fee of \$25 [\$10] payable to the  
6 lieutenant governor.

7 \* Sec. 5. AS 45.50.050 is amended to read:

8 Sec. 45.50.050. FORM AND CONTENTS OF CERTIFICATE OF REGISTRATION.  
9 Upon compliance by the applicant with the requirements of secs. 10 -  
10 200 of this chapter, the lieutenant governor shall issue and deliver a  
11 certificate of registration to the applicant. The certificate of regis-  
12 tration shall be issued under the signature of the lieutenant governor  
13 and the seal of the state. The certificate shall show (1) the name and  
14 business address and, if a corporation, the state of incorporation, of  
15 the person claiming ownership of the trademark, (2) the date claimed for  
16 the first use of the trademark anywhere and the date claimed for the  
17 first use of the trademark in this state, (3) the class of goods or  
18 services and a description of the goods or services with [ON] which the  
19 trademark is used, (4) a reproduction of the trademark, (5) the regis-  
20 tration date and (6) the term of the registration.

21 \* Sec. 6. AS 45.50.080 is amended to read:

22 Sec. 45.50.080. FEE FOR RENEWAL OF REGISTRATION. A renewal fee of  
23 \$25 [\$10] shall accompany the application for renewal of the registration.

24 \* Sec. 7. AS 45.50.120(b) is amended to read:

25 (b) An assignment shall be in writing and may be recorded with the  
26 lieutenant governor upon the payment of a fee of \$5 [\$2], payable to the  
lieutenant governor. He shall record the assignment, and shall issue in  
the name of the assignee a new certificate for the remainder of the term  
29 of the registration.

1 \* Sec 8. AS 45.50.150 is amended to read:

2           Sec. 45.50.150. CLASSIFICATION. The following general classes of  
3 goods and services are established for convenience of administration of  
4 secs. 10 - 200 of this chapter. However, they do not limit or extend the  
5 applicant's or registrant's rights, and a single application for regis-  
6 tration of a trademark may include any or all goods upon which or ser-  
7 vices with which the trademark is actually being used comprised in a  
8 single class, but in no event may a single application include goods upon  
9 which or services with which the trademark is being used which fall with-  
10 in different classes of goods or services. The classes are as follows:

- 11           (1) raw or partly prepared materials;
- 12           (2) receptacles;
- 13           (3) baggage, animal equipment, portfolios, and pocketbooks;
- 14           (4) abrasives and polishing materials;
- 15           (5) adhesives;
- 16           (6) chemicals and chemical compositions;
- 17           (7) cordage;
- 18           (8) smokers' articles, not including tobacco products;
- 19           (9) explosives, firearms, equipment, and projectiles;
- 20           (10) fertilizers;
- 21           (11) inks and inking materials;
- 22           (12) construction materials;
- 23           (13) hardware and plumbing and steamfitting supplies;
- 24           (14) metals and metal castings and forgings;
- 25           (15) oils and greases;
- 26           (16) paints and painters' materials;
- 27           (17) tobacco products;
- 28           (18) medicines and pharmaceutical preparations;
- 29           (19) vehicles;

- 1 (20) linoleum and oiled cloth;
- 2 (21) electrical apparatus, machines and supplies;
- 3 (22) games, toys, and sporting goods;
- 4 (23) cutlery, machinery, and tools, and parts thereof;
- 5 (24) laundry appliances and machines;
- 6 (25) locks and safes;
- 7 (26) measuring and scientific appliances;
- 8 (27) horological instruments;
- 9 (28) jewelry and precious-metal ware;
- 10 (29) brooms, brushes, and dusters;
- 11 (30) crockery, earthenware, and porcelain;
- 12 (31) filters and refrigerators;
- 13 (32) furniture and upholstery;
- 14 (33) glassware;
- 15 (34) heating, lighting, and ventilating apparatus;
- 16 (35) belting, hose, machinery packing, and nonmetallic tires;
- 17 (36) musical instruments and supplies;
- 18 (37) paper and stationery;
- 19 (38) prints and publications;
- 20 (39) clothing;
- 21 (40) fancy goods, furnishings, and notions;
- 22 (41) canes, parasols, and umbrellas;
- 23 (42) knitted, netted and textile fabrics, and substitutes
- 24 for them;
- 25 (43) thread and yarn;
- 26 (44) dental, medical, and surgical appliances;
- 27 (45) soft drinks and carbonated waters;
- 28 (46) foods and ingredients of foods;
- 29 (47) wines;

- 1 (48) malt beverages and liquors;
- 2 (49) distilled alcoholic liquors;
- 3 (50) merchandise not otherwise classified;
- 4 (51) cosmetics and toilet preparations;
- 5 (52) detergents and soaps;
- 6 (53) advertising and business;
- 7 (54) insurance and financial;
- 8 (55) construction and repair;
- 9 (56) communication;
- 10 (57) transportation and storage;
- 11 (58) material treatment;
- 12 (59) education and entertainment;
- 13 (60) miscellaneous.

14 \* Sec. 9. AS 45.50.170 is amended to read:

15 Sec. 45.50.170. INFRINGEMENT. Subject to sec. 190 of this  
16 chapter, a person is liable in a civil action by the owner of the  
17 registered trademark for the remedies provided in sec. 180 of this  
18 chapter, if the person

19 (1) uses, without the consent of the registrant, a  
20 reproduction, counterfeit, copy, or colorable imitation of a trade-  
21 mark registered under secs. 10 - 200 of this chapter in connection  
22 with the sale, offering for sale, or advertising of goods or services  
23 on or in connection with which the use is likely to cause confusion  
24 or mistake or to deceive as to the source of origin of the goods  
25 or services; or

26 (2) reproduces, counterfeits, copies or colorably imitates  
27 the trademark and applies the reproduction, counterfeit, copy or  
28 colorable imitation to labels, signs, prints, packages, wrappers,  
29 receptacles, or advertisements intended to be used upon or in con-

1 junction with the sale or distribution in this state of the goods  
2 or services; except that under (2) of this section the registrant  
3 may not recover profits or damages unless the acts are committed  
4 with knowledge that the trademark is intended to be used to cause  
5 confusion or mistake or to deceive.

6 \* Sec. 10. AS 45.50.200(4) is amended to read:

7 (4) "trademark" means a word, name, symbol, or device or  
8 combination of any of these adopted and used by a person to identify  
9 goods or services made or sold by him and to distinguish them from  
10 goods or services made or sold by others;

11 \* Sec. 11. AS 45.50.200(5) is amended to read:

12 (5) a trademark is "used" in this state when it is placed  
13 in any "used" manner on goods or their containers or on the tags or  
14 labels affixed to goods, when the goods are sold or distributed in  
15 the state; or when it is displayed in relation to offering or provid-  
16 ing services;