

Introduced: 1/28/77
Referred: Commerce

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 141

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act transferring the trademark function to the
7 Department of Commerce and Economic Development; and
8 providing for an effective date."

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

10 * Section 1. AS 45.50.020 is amended to read:

11 Sec. 45.50.020. APPLICATION FOR REGISTRATION. A person who
12 adopts and uses a trademark in the state may file with the depart-
13 ment [IN THE OFFICE OF THE LIEUTENANT GOVERNOR], on a form furnished
14 by the department [LIEUTENANT GOVERNOR], an application for registra-
15 tion of the trademark setting out the following information:

- 16 (1) the name and business address of the person applying
17 for registration; and, if a corporation, the state of incorporation,
18 (2) the goods in connection with which the mark is used,
19 the manner in which the mark is used in connection with the goods and
20 the class of the goods,
21 (3) the date when the trademark was first used anywhere and
22 the date when it was first used in this state by the applicant or his
23 predecessor in business, and
24 (4) a statement that the applicant is the owner of the
25 trademark and that no other person has the right to use the trademark
26 in this state either in the identical form or in a near resemblance to
27 it as might be calculated to deceive or to be mistaken for it.

28 * Sec. 2. AS 45.50.040 is amended to read:

29 Sec. 45.50.040. FILING FEE. The application for registration

1 shall be accompanied by a filing fee of \$10 payable to the Department
2 of Commerce and Economic Development [LIEUTENANT GOVERNOR].

3 * Sec. 3. AS 45.50.050 is amended to read:

4 Sec. 45.50.050. FORM AND CONTENTS OF CERTIFICATE OF REGISTRATION.
5 Upon compliance by the applicant with the requirements of secs. 10 -
6 200 of this chapter, the commissioner [LIEUTENANT GOVERNOR] shall
7 issue and deliver a certificate of registration to the applicant. The
8 certificate of registration shall be issued under the signature of the
9 commissioner [LIEUTENANT GOVERNOR] and the seal of the state. The
10 certificate shall show

11 (1) the name and business address and, if a corporation,
12 the state of incorporation, of the person claiming ownership of the
13 trademark,

14 (2) the date claimed for the first use of the trademark
15 anywhere and the date claimed for the first use of the trademark in
16 this state,

17 (3) the class of goods and a description of the goods on
18 which the trademark is used,

19 (4) a reproduction of the trademark,

20 (5) the registration date, and

21 (6) the term of the registration.

22 * Sec. 4. AS 45.50.060 is amended to read:

23 Sec. 45.50.060. CERTIFICATE OF REGISTRATION AS EVIDENCE. A
24 certificate of registration issued by the department [LIEUTENANT
25 GOVERNOR] under the provisions of secs. 10 - 200 of this chapter or a
26 copy of it certified by the commissioner [LIEUTENANT GOVERNOR] is
27 admissible in evidence as competent and sufficient proof of the
28 registration of the trademark in an action or judicial proceeding in
29 the state.

1 * Sec. 5. AS 45.50.070 is amended to read:

2 Sec. 45.50.070. DURATION AND RENEWAL. Registration of a trade-
3 mark is effective for a term of 10 years from the date of registra-
4 tion. Upon application filed within six months before the expiration
5 of the term, on a form furnished by the department [LIEUTENANT GOVERNOR],
6 the registration may be renewed for an additional term of 10 years.

7 * Sec. 6. AS 45.50.100 is amended to read:

8 Sec. 45.50.100. NOTIFICATION OF EXPIRATION OF REGISTRATION
9 PERIOD. The commissioner [LIEUTENANT GOVERNOR] shall notify each
10 registrant of the necessity of renewal within the year preceding the
11 expiration of the 10 years from the date of registration. Notifica-
12 tion shall be by writing to the last known address of the registrant.

13 * Sec. 7. AS 45.50.110 is amended to read:

14 Sec. 45.50.110. REGISTRATIONS EXISTING ON JULY 1, 1961. A
15 registration in force on July 1, 1961, expires five years from the
16 date of the registration and may be renewed by filing an application
17 with the department [LIEUTENANT GOVERNOR] on a form furnished by
18 the department [HIM] and paying the renewal fee specified in sec. 80
19 of this chapter within six months before the expiration of the registra-
20 tion.

21 * Sec. 8. AS 45.50.120 is amended to read:

22 Sec. 45.50.120. ASSIGNMENT. (a) A trademark and its registra-
23 tion are assignable with the good will of the business in which the
24 trademark is used, or with that part of the good will of the business
25 connected with the use of and symbolized by the trademark.

26 (b) An assignment shall be in writing and may be recorded with
27 the department [LIEUTENANT GOVERNOR] upon the payment of a fee of \$2,
28 payable to the department [LIEUTENANT GOVERNOR]. The commissioner
29 [HE] shall record the assignment, and shall issue in the name of the

1 assignee a new certificate for the remainder of the term of the regis-
2 tration.

3 (c) An assignment of registration is void as against a subse-
4 quent purchaser for valuable consideration without notice, unless it
5 is recorded with the department [LIEUTENANT GOVERNOR] within three
6 months after the date of the assignment or before the subsequent
7 purchase.

8 * Sec. 9. AS 45.50.130 is amended to read:

9 Sec. 45.50.130. COMMISSIONER [LIEUTENANT GOVERNOR] TO KEEP
10 RECORD OF REGISTRATION. The commissioner [LIEUTENANT GOVERNOR] shall
11 keep for public examination a record of all trademarks registered or
12 renewed under secs. 10 - 200 of this chapter.

13 * Sec. 10. AS 45.50.140 is amended to read:

14 Sec. 45.50.140. CANCELLATION. The commissioner [LIEUTENANT
15 GOVERNOR] shall cancel from the register

16 (1) each registration under a previous law which is more
17 than five years old and not renewed in accordance with secs. 10 - 200
18 of this chapter;

19 (2) a registration requested by the registrant or the
20 assignee of records to be cancelled;

21 (3) each registration under secs. 10 - 200 of this chapter
22 which is not renewed;

23 (4) a registration found by a court to be

24 (A) abandoned,

25 (B) not owned by the registrant,

26 (C) granted improperly,

27 (D) obtained fraudulently, or

28 (E) so similar, as to be likely to cause confusion or
29 mistake or to deceive, to a trademark registered by another

1 person in the United States Patent Office, before the date of
2 filing of the application for registration by the registrant
3 under secs. 10 - 200 of this chapter, and not abandoned; however,
4 if the registrant proves that he is the owner of a concurrent
5 registration of his trademark in the United States Patent Office
6 covering an area including this state, the registration shall not
7 be cancelled;

8 (5) when a court orders cancellation of a registration on
9 any ground.

10 * Sec. 11. AS 45.50.160 is amended to read:

11 Sec. 45.50.160. FRAUDULENT REGISTRATION. A person who procures
12 the filing or registration of a trademark with the department [IN THE
13 OFFICE OF THE LIEUTENANT GOVERNOR], by knowingly making a false or
14 fraudulent representation or declaration, verbally or in writing, or
15 by any other fraudulent means, is liable to pay all damages sustained
16 in consequence of the filing or registration, which may be recovered
17 by the party injured.

18 * Sec. 12. AS 45.50.200 is amended by adding new paragraphs to read:

19 (6) "commissioner" means the commissioner of the Department
20 of Commerce and Economic Development;

21 (7) "department" means the Department of Commerce and
22 Economic Development.

23 * Sec. 13. This Act takes effect July 1, 1977.
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