

AN ACT

ENTITLED, An Act to revise certain provisions concerning trademark registration.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 37-6-12 be amended to read as follows:

37-6-12. The following general classes of goods and services are established for the convenience of the administration of §§ 37-6-4 to 37-6-27, inclusive, but not to limit or extend the applicant's or registrant's rights. A single application for registration of a mark may include any goods or services upon which the mark is actually being used which are comprised in a single class, but a single application may not include goods or services which fall within different classes of goods or services. The classes of goods are as follows:

- (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; colouring 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 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); locksmith's 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, signaling, checking (supervision), lifesaving, and teaching apparatus and instruments; coin or counterfeit 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, newspaper 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, used 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 traveling 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; roadmaking 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 metals, or coated therewith); combs and sponges; brushes (other than paint brushes); brushmaking materials; instruments and material for cleaning purposes, steel wool; unworked or semi-worked glass (excluding glass used in building); glassware, porcelain and earthenware, not

- included in other classes;
- (22) Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks; padding and stuffing materials (hair, kapok, 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, ribands, 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 existing floors; wall hangings (nontextile);
 - (28) Games and playthings; gymnastic and sporting articles (except clothing); ornaments and decorations for Christmas trees;
 - (29) Meats, 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 confectionary, 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; food-stuffs 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; and

(34) Tobacco, raw or manufactured; smokers' articles; matches;

The classes of services are as follows:

(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) Computer, scientific, and legal;

(43) Hotels and restaurants;

(44) Medical, beauty, and agricultural; and

(45) Personal.

Section 2. That § 37-6-5 be amended to read as follows:

37-6-5. Subject to the limitations set forth in §§ 37-6-6 to 37-6-11, inclusive, any person who adopts and uses a mark in this state may file in the Office of the Secretary of State, on a form to be furnished by the secretary of state, an application for registration of that mark setting forth the following information:

(1) The name and business address of the person applying for the registration; and, if a corporation, the state of incorporation;

(2) The goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with the goods or services and the class in which the goods fall;

(3) The date when the mark was first used anywhere and the date when it was first used in

this state by the applicant or the applicant's predecessor in business; and

- (4) A statement that the applicant is the owner of the mark and that no other person has the right to use the mark in this state either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

The application shall be signed under oath by the applicant or by a member of the firm or an officer of the corporation or association applying. The application shall be accompanied by a specimen or facsimile of the mark in duplicate no larger than eight and one-half inches by eleven inches. The application for registration shall be accompanied by a filing fee of one hundred dollars, payable to the secretary of state.

An Act to revise certain provisions concerning trademark registration.

I certify that the attached Act
originated in the

SENATE as Bill No. 15

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 15

File No. _____

Chapter No. _____

Received at this Executive Office
this ____ day of _____ ,

20__ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State