

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1422

2001 HOUSE JUDICIARY

HB 1422

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1422

House Judiciary Committee

Conference Committee

Hearing Date 01-29-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		01 to 1187
Committee Clerk Signature <i>Jean DeKrey</i>			

Minutes: Chairman DeKrey called the hearing to order on HB 1422. Relating to the definition of a fictitious name.

Rep Blair Thoreson: District 44 in North Fargo. (see attached testimony)

Rep Kim Koppelman: District 13, West Fargo. (see attached testimony and some amendments)

Rep Delmore: Are you going to go through what the amendments do?

Rep Koppelman: When we asked for the drafting, the Legislative Council thought that we were just dealing on partnership names, so that is what the original bill deals with. In my discussion with the Secretary of State, we talked about trade names.

Chairman DeKrey: If there are no further questions, Mr Jaeger do you wish to testify.

Al Jaeger: Secretary of State (see attached testimony)

Rep Delmore: How many registration challenges do you deal with, the way that the law is written now.

Al Jaeger: I would say that it is something that we deal with every day. We probably deal with 20 to 40 names in one week.

Rep Delmore: There isn't a fiscal note on this, would there be a loss of revenue?

Al Jaeger: No, this isn't a revenue type issue, it is a procedural issue.

Vice Chr Kretschmar: The amendments that you purpose, they wouldn't make anything mandatory?

Al Jaeger: Not any more than the current already does.

Chairman DeKrey: If there are no further questions, thank you for appearing in front of the committee. Anyone else wishing to testify on HB 1422?

Carol Two Eagles: People of All Nations Artwork Coop, I am the CEO of this coop registered with the Secretary Of States Office. I have a question regarding the registration. She gives the name in her native language and then translates it into People of All Nations Artwork Coop, if you put that name on the Internet, search engines never pick it up. So we came up with Native American Indian Store and that they do very single time. I went in registered that with Pride of Dakota, and then in October, I started getting e-mail from the Secretary of State's Office saying that we owed money for our trade name. I said there is no trade name. The name was referenced to all the above, and then she said what is the Native American Indian Store? I said that is a search engine, and we have going round bout this ever since. We even contacted an attorney about this problem. I wish you would make a clarification and cover cooperatives and other business with the Internet becoming more important. We don't know at this point if we are covered or not.

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Chairman DeKrey: Are there any questions, if not thank you for appearing in front of this committee. Anyone else wishing to testify on HB 1422? If not we will close the hearing on HB 1422.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1422 b

House Judiciary Committee

Conference Committee

Hearing Date 2-13-01

Tape Number	Side A	Side B	Meter #
1		xx	2709--3578
Committee Clerk Signature <i>Jean DeKrey</i>			

Minutes: Chair DeKrey : Let's look at HB1422.

Cory Fong, Sec. State : I will get right to the point. These amendments have to get in the bill in order for it to work for our office. Rep. Koppelman and L.C. worked on these amendments.

Rep. Delmore : How often is this really a problem?

Cory : That is a better question for someone in our business division.

Rep. Koppelman, Dist 13 : I can explain the amendment. It's mainly so small businesses don't have to pay the cost to Sec. State for registering. They still have the option. The Sec. State helped put these amendments together.

Rep. Eckre : What if you have two names wanted for the same type of business?

Rep. Koppelman : The rule of Sec. State is whoever was first at the plate is the one who gets the name. Who ever registered first. Some problems will always exist. Remember Cambell's soup problem in ND a few years back.

Rep. Eckre : Will ND get into litigation and cost us money?

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House Judiciary Committee
Bill/Resolution Number HB1422 b
Hearing Date 2-13-01

Rep. Koppelman : This actually relaxes the way the law is enforced. In 1997 we passed a law that if you used a name other than your true name in your business, you have to register with the state. The question here is what is your true name. That's how this bill started. This says first name and last or last name is O.K.

Rep. Grande : I move amendments.

Rep. Kingsbury : I second.

VOICE VOTE: ALL YES. PASSED.

Rep. Klemin : I move a DO PASS AS AMENDED.

Rep. Grande : I second.

VOTE: 12 YES and 0 NO with 3 absent. PASSED. Rep. Grande will carry the bill.

VR
2/13/01
108 2

HOUSE AMENDMENTS TO HB 1422 HOUSE JUDICIARY 02-14-01

Page 1, line 1, replace "section" with "sections" and after "45-11-01" insert "and 47-25-01"

Page 1, line 2, remove "the definition of a" and replace "name" with "and trade names"

Page 1, line 7, remove "counterfeit, alias, feigned, or"

Page 1, line 8, remove "pretended" and replace "taken by a person, differing in some essential particular from the" with "assumed to identify"

Page 1, remove line 9

Page 1, line 10, remove "name or an individual's surname within", after "partnership" insert "and which does not include in its", and replace "if the true name or" with "":

- a. The true name of each organizational partner;
- b. The first name and surname of each partner; or
- c. The surname of each partner, repeating a surname if more than one partner has the same surname.

Page 1, remove lines 11 and 12

HOUSE AMENDMENTS TO HB 1422 HOUSE JUDICIARY 02-14-01
Page 2, after line 10, insert:

"SECTION 2. AMENDMENT. Section 47-25-01 of the North Dakota Century Code is amended and reenacted as follows:

47-25-01. Trade name defined - Registration. ~~Every name under which any person or organization shall hereafter do or transact any business in this state, other than the true name of such person or organization, is hereby declared to be a "trade name"~~

1. a. As used in this section, a "trade name" is a name assumed to identify the business or activities of an individual or organization and which does not include in the name:
 - (1) The true name of the organization using the name;
 - (2) The first name and surname of each individual using the business name; or
 - (3) The surname of each individual, repeating a surname if more than one owner has the same surname.
- b. A name assumed under paragraph 3 or a name of an organization or association not otherwise registered with the secretary of state is a trade name if a license or permit to conduct business or operations is required by this state.

2. A person or organization that has registered a trade name ~~hereunder~~ under this section may institute a civil suit prohibiting any other person from using ~~such~~ the name.
3. ~~The provisions of this~~ This chapter shall does not prohibit any person engaged in business under a trade name ~~prior to~~ before July 1, 1959, from continuing business under ~~such~~ that name.
4. Notwithstanding any other provision of law, an individual or organization may register as a trade name under section 47-25-04 any name listed in paragraph 1, 2, or 3 of subdivision a of subsection 1."

Renumber accordingly

Date: 02-13-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB-1422

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amend

Motion Made By Rep Klemm Seconded By Rep Grande

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR --Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemm	✓				
Rep John Mahoney					
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham					

Total (Yes) 12 No 0

Absent 3

Floor Assignment Rep Grande

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1422: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1422 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections" and after "45-11-01" insert "and 47-25-01"

Page 1, line 2, remove "the definition of a" and replace "name" with "and trade names"

Page 1, line 7, remove "counterfeit, alias, feigned, or"

Page 1, line 8, remove "pretended" and replace "taken by a person, differing in some essential particular from the" with "assumed to identify"

Page 1, remove line 9

Page 1, line 10, remove "name or an individual's surname not include in its", and replace "if the true name or" with ":

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1. a. As used in this section, a "trade name" is a name assumed to identify the business or activities of an individual or organization and which does not include in the name:
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 - (2) The first name and surname of each individual using the business name; or
 - (3) The surname of each individual, repeating a surname if more than one owner has the same surname.
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3. ~~The provisions of this~~ This chapter shall ~~does~~ not prohibit any person engaged in business under a trade name ~~prior to~~ before July 1, 1959, from continuing business under ~~such~~ that name.
4. Notwithstanding any other provision of law, an individual or organization may register as a trade name under section 47-25-04 any name listed in paragraph 1, 2, or 3 of subdivision a of subsection 1."

Renumber accordingly

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1422

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1422

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date March 13, 2001.

Tape Number	Side A	Side B	Meter #
1	x		0 to 12.8
2	x		7.8 to 8.5
Committee Clerk Signature <i>Andrew P. Perry</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1422 relating to fictitious names.

Representative Blair Thoreson, District 44, cosponsor. Intent of the bill: to clarify discrepancy on the law. Written testimony attached.

Representative Kim Koppelman, District 13, cosponsor. With this bill small businesses would be able to operate, using the owners' last name or the owners' first and last name in the business name without having to register the name with the state. Written testimony attached.

Al Jaeger, Secretary of State, in favor. Written testimony attached. In this bill we are talking about single proprietorships. The law requires that if you operate under a name other than your own you be registered with the Secretary of State. Business owners should be aware that name identity is a tremendous asset that should be protected. Owners should be encouraged to register the names it only costs twenty five dollars for five years.

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Senate Industry, Business and Labor Committee
Bill/Resolution Number HB 1422
Hearing Date March 13, 2001.

No opposing testimony. Hearing closed.

Tape 2-A-7.8 to 8.5

Senator Klein: Motion: Do pass. **Senator Tollefson:** Second.

Roll call vote: 6 yes; 0 no; 1 absent not voting (Senator Espegard). Motion carried.

Floor assignment: **Senator Every**