

2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2282

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2282

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 27, 2009

Recorder Job Number: 7856

Committee Clerk Signature

*Eva Liebelt*

Minutes:

Chairman Klein: Call Senate IBL to order, we will hear SB2282.

Clara Jenkins, (on behalf of Alvin A. Jaeger, Secretary of State). Written Testimony Attached.

Chairman Klein: We have three individual issues. The third one, the person representing the estate can change the name. Offering that opportunity for twenty five bucks you can change the scope of what you do or what you're entitled to do?

Clara Jenkins: That's correct.

Chairman Klein: Do you get a lot of calls to see if someone is legitimate?

Clara Jenkins: Yes, they may have a contractor's license but they are looking to see if they have a record of being able to do the job they are contracted for. If they look up that individual on our web site and it comes up that they are licensed in a different area, would you want that person working on your house? So if they change the nature of their business they don't want to cancel their trade name and then file with a different nature of business.

Chairman Klein: It's all about disclosure?

Clara Jenkins: A public record so we know who is operating the business.

Senator Andrist: Right now you don't know who owns several companies in North Dakota?

Clara Jenkins: correct.

Chairman Klein: We will close the hearing on Senate Bill 2282.

Move by Senator Andrist for a do pass. Seconded by Senator Wanzek.

Roll Call Vote: Yes:7 NO:0 Absent:0

Floor Assignment: Senator Horne

++

Date: 1/27/09  
Roll Call Vote #: 1

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2282**

Senate

Committee

**Industry, Business and Labor**

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  **Pass**  **Do Not Pass**  **Amended**

Motion Made By Senator Andrist Seconded By Senator Horne

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Horne

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

**REPORT OF STANDING COMMITTEE**

**SB 2282: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2282 was placed on the Eleventh order on the calendar.**

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2282

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2282

**House Industry, Business and Labor Committee**

Check here for Conference Committee

**Hearing Date:** March 10, 2009

**Recorder Job Number:** 10617

Committee Clerk Signature *Ellen DeTang*

**Chairman Keiser:** Opened the hearing on SB 2282 relating to use of trade names by franchisees and to amendments & cancellation of trade name registrations.

**Al Jeager~North Dakota Secretary of State.** See testimony attachment.

**Representative Amerman:** The ones that are already registered, so now they will have to file a name disclosure.

**Jeager:** What we have on record already are probably isn't going to be impacted so much. The franchisor is going to have to go through securities department and that's where we have a little bit of a concern. When somebody buys a franchise and then wants to come in and use the name of the franchisee, they technically cannot use that. In the process, we are not disrupting a whole lot, but going forward would be (?). It helps the franchisee quite a bit in the terms of the registration.

**Chairman Keiser:** Anyone here to testify in opposition of SB 2282, neutral? Closes the hearing, what are the wishes of the committee?

**Representative Clark:** Moves a Do Pass.

**Vice Chairman Kasper:** Second.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution No. 2282

Hearing Date: March 10, 2009

**Voting roll call was taken on SB 2282 for a Do Pass with 11 ayes, 0 nays, 2 absent and Representative Boe is the carrier.**



Date: Mar 10 - 2009

Roll Call Vote # 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO.** 2282

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  As Amended

Motion Made By Clark Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	1		Representative Amerman	1	
Vice Chairman Kasper	1		Representative Boe	1	
Representative Clark	1		Representative Gruchalla	1	
Representative N Johnson	1		Representative Schneider		
Representative Nottestad	1		Representative Thorpe	1	
Representative Ruby	1				
Representative Sukut	1				
Representative Vigessaa					

Total (Yes) 11 No 0

Absent B 2

Floor Assignment Boe

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

**REPORT OF STANDING COMMITTEE (410)**  
March 10, 2009 4:30 p.m.

**Module No: HR-43-4520**  
**Carrier: Boe**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2282: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2282 was placed on the Fourteenth order on the calendar.**

2009 TESTIMONY

SB 2282

ALVIN A. JAEGER  
SECRETARY OF STATE

HOME PAGE [www.nd.gov/sos](http://www.nd.gov/sos)



PHONE (701) 328-2900

FAX (701) 328-2992

E-MAIL [sos@nd.gov](mailto:sos@nd.gov)

SECRETARY OF STATE  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

January 27, 2009

TO: Senator Klein, Chairman, and Members of the Industry, Business and Labor Committee

FR: Al Jaeger, Secretary of State

RE: SB 2282 – Trade Names

SB 2282 was introduced at the request of the Secretary of State.

Last year, the Securities Commission advised the Secretary of State that franchise names were being improperly registered with the Secretary of State's office as trade names. Since franchise names are owned by the franchisor and not by the franchisee, the franchisee could not legally register the franchise trade name.

With the assistance of the Secretary of State's assigned Assistant Attorney General, this bill was drafted to address the issue.

Section 1 enables a business operating with a franchise name to file a name disclosure document, which creates a public record of the business entity (franchisee) operating under that franchisor's trade name. For example, this public record will reveal the name of the entity operating under that franchise trade name in the event they need to be contacted by law enforcement for a service of process.

Section 2 enables a trade name registrant to amend the nature of business disclosed on a trade name registration. It is not uncommon for registrants of trade names to change the nature of their business during the five year duration of the filing. Therefore, they have often requested the ability to change the nature of business on the trade name registration to more accurately describe their current business activity.

Section 3 of the bill defines who can cancel a trade name registration upon the death of the registrant who is the owner of record on file with the Secretary of State.

ALVIN A. JAEGER  
SECRETARY OF STATE  
HOME PAGE [www.nd.gov/sos](http://www.nd.gov/sos)



PHONE (701) 328-2900  
FAX (701) 328-2992  
E-MAIL [sos@nd.gov](mailto:sos@nd.gov)

**SECRETARY OF STATE**  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

March 10, 2009

TO: Rep. Keiser, Chairman,  
and Members of the House Industry, Business and Labor Committee

FR: Al Jaeger, Secretary of State

RE: SB 2282 – Trade Names

SB 2282 was introduced at the request of the Secretary of State.

Last year, the Securities Commissioner notified the Secretary of State that franchise names were being improperly registered with the Secretary of State's office as trade names. Since franchise names are owned by the franchisor and not by the franchisee, the franchisee could not legally register the franchise trade name.

With the assistance of the Secretary of State's assigned Assistant Attorney General, this bill was drafted to address the issue.

Section 1, pages 1 and 2: This creates a new section to Chapter 47-25 to enable a business operating with a franchise name to file a name disclosure document, which creates a public record of the business entity (franchisee) operating under that franchisor's trade name. For example, this public record will reveal the name of the entity operating under that franchise trade name in the event they need to be contacted by law enforcement for a service of process or by a person or entity needing to know if the entity was in good standing.

Section 2, page 2, lines 27 thru 30: This change will enable a trade name registrant to amend the nature of business disclosed on a trade name registration. It is not uncommon for registrants of trade names to change the nature of their business during the five year duration of the filing. Therefore, they have often requested the ability to change the nature of business on the trade name registration to more accurately describe their current business activity.

Section 3, page 2, lines 6 and 7 of the bill defines who can cancel a trade name registration upon the death of the registrant who is the owner of record on file with the Secretary of State.