

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0262

SENATE BILL NO. 15

Introduced by: The Committee on Judiciary at the request of the Office of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning trademark
2 registration.

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

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

5 37-6-12. The following general classes of goods and services are established for the
6 convenience of the administration of §§ 37-6-4 to 37-6-27, inclusive, but not to limit or extend
7 the applicant's or registrant's rights. A single application for registration of a mark may include
8 any goods or services upon which the mark is actually being used which are comprised in a
9 single class, but a single application may not include goods or services which fall within
10 different classes of goods or services. The classes of goods are as follows:

11 (1) Chemical products used in industry, science, photography, agriculture, horticulture,
12 forestry; artificial and synthetic resins; plastics in the form of powders, liquids or
13 pastes, for industrial use; manures (natural and artificial); fire extinguishing
14 compositions; tempering substances and chemical preparations for soldering;
15 chemical substances for preserving foodstuffs; tanning substances; adhesive



- 1 substances used in industry;
- 2 (2) Paints, varnishes, lacquers; preservatives against rust and against deterioration of
3 wood; colouring matters, dyestuffs; mordants; natural resins; metals in foil and
4 powder form for painters and decorators;
- 5 (3) Bleaching preparations and other substances for laundry use; cleaning, polishing,
6 scouring, and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair
7 lotions; dentifrices;
- 8 (4) Industrial oils and greases (other than oils and fats and essential oils); lubricants; dust
9 laying and absorbing compositions; fuels (including motor spirit) and illuminants;
10 candles, tapers, night lights, and wicks;
- 11 (5) Pharmaceutical, veterinary, and sanitary substances; infants' and invalids' foods;
12 plasters, material for bandaging; material for stopping teeth, dental wax,
13 disinfectants; preparations for killing weeds and destroying vermin;
- 14 (6) Unwrought and partly wrought common metals and their alloys; anchors, anvils,
15 bells, rolled and cast building materials; rails and other metallic materials for railway
16 tracks; chains (except driving chains for vehicles); cables and wires (nonelectric);
17 locksmith's work; metallic pipes and tubes; safes and cash boxes; steel balls;
18 horseshoes; nails and screws; other goods in nonprecious metal not included in other
19 classes; ores;
- 20 (7) Machines and machine tools; motors (except for land vehicles); machine couplings
21 and belting (except for land vehicles); large size agricultural implements; incubators;
- 22 (8) Hand tools and instruments; cutlery, forks, and spoons; side arms;
- 23 (9) Scientific, nautical, surveying, and electrical apparatus and instruments (including
24 wireless), photographic, cinematographic, optical, weighing, measuring, signaling,

- 1 checking (supervision), lifesaving, and teaching apparatus and instruments; coin or
2 counterfeit apparatus; talking machines; cash registers; calculating machines; fire
3 extinguishing apparatus;
- 4 (10) Surgical, medical, dental, and veterinary instruments and apparatus (including
5 artificial limbs, eyes, and teeth);
- 6 (11) Installations for lighting, heating, steam generating, cooking, refrigerating, drying,
7 ventilating, water supply, and sanitary purposes;
- 8 (12) Vehicles; apparatus for locomotion by land, air, or water;
- 9 (13) Firearms; ammunition and projectiles; explosive substances; fireworks;
- 10 (14) Precious metals and their alloys and goods in precious metals or coated therewith
11 (except cutlery, forks, and spoons); jewelry, precious stones, horological, and other
12 chronometric instruments;
- 13 (15) Musical instruments (other than talking machines and wireless apparatus);
- 14 (16) Paper and paper articles, cardboard and cardboard articles; printed matter, newspaper
15 and periodicals, books; bookbinding material; photographs; stationery, adhesive
16 materials (stationery); artists' materials; paint brushes; typewriters and office
17 requisites (other than furniture); instructional and teaching material (other than
18 apparatus); playing cards; printers' type and cliches (stereotype);
- 19 (17) Gutta percha, India rubber, balata, and substitutes, articles made from these
20 substances and not included in other classes; plastics in the form of sheets, blocks,
21 and rods, used in manufacture; materials for packing, stopping or insulating;
22 asbestos, mica, and their products; hose pipes (nonmetallic);
- 23 (18) Leather and imitations of leather, and articles made from these materials and not
24 included in other classes; skins, hides; trunks and traveling bags; umbrellas, parasols,

- 1 and walking sticks; whips, harness, and saddlery;
- 2 (19) Building materials, natural and artificial stone, cement, lime, mortar, plaster, and
3 gravel; pipes of earthenware or cement; roadmaking materials; asphalt, pitch, and
4 bitumen; portable buildings; stone monuments; chimney pots;
- 5 (20) Furniture, mirrors, picture frames; articles (not included in other classes) of wood,
6 cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber,
7 mother-of-pearl, meerschaum, celluloid, substitutes for all these materials, or of
8 plastics;
- 9 (21) Small domestic utensils and containers (not of precious metals, or coated therewith);
10 combs and sponges; brushes (other than paint brushes); brushmaking materials;
11 instruments and material for cleaning purposes, steel wool; unworked or
12 semi-worked glass (excluding glass used in building); glassware, porcelain and
13 earthenware, not included in other classes;
- 14 (22) Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks; padding and stuffing
15 materials (hair, kapok, feathers, seaweed, etc.); raw fibrous textile materials;
- 16 (23) Yarns, threads;
- 17 (24) Tissues (piece goods); bed and table covers; textile articles not included in other
18 classes;
- 19 (25) Clothing, including boots, shoes, and slippers;
- 20 (26) Lace and embroidery, ribands, and braid; buttons, press buttons, hooks and eyes, pins
21 and needles; artificial flowers;
- 22 (27) Carpets, rugs, mats, and matting; linoleums and other materials for covering existing
23 floors; wall hangings (nontextile);
- 24 (28) Games and playthings; gymnastic and sporting articles (except clothing); ornaments

1 and decorations for Christmas trees;

2 (29) Meats, fish, poultry, and game; meat extracts; preserved, dried, and cooked fruits and
3 vegetables; jellies, jams; eggs, milk, and other dairy products; edible oils and fats;
4 preserves, pickles;

5 (30) Coffee, tea, cocoa, sugar, rice, tapioca, sago, coffee substitutes; flour and
6 preparations made from cereals; bread, biscuits, cakes, pastry and confectionary, ices;
7 honey, treacle; yeast, baking powder; salt, mustard, pepper, vinegar, sauces, spices;
8 ice;

9 (31) Agricultural, horticultural, and forestry products and grains not included in other
10 classes; living animals; fresh fruits and vegetables; seeds; live plants and flowers;
11 food-stuffs for animals, malt;

12 (32) Beer, ale, and porter; mineral and aerated waters and other nonalcoholic drinks;
13 syrups and other preparations for making beverages;

14 (33) Wines, spirits, and liqueurs; and

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

16 The classes of services are as follows:

17 (35) Advertising and business;

18 (36) Insurance and financial;

19 (37) Construction and repair;

20 (38) Communication;

21 (39) Transportation and storage;

22 (40) Material treatment;

23 (41) Education and entertainment;

24 (42) ~~Miscellaneous~~ Computer, scientific, and legal;

1 (43) Hotels and restaurants;

2 (44) Medical, beauty, and agricultural; and

3 (45) Personal.

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

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

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

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

14 (3) The date when the mark was first used anywhere and the date when it was first used
15 in this state by the applicant or the applicant's predecessor in business; and

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

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