

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

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# ENROLLED

HOUSE BILL No. 4858

(By Delegates Tellis, Manuel, Collins,  
Jenkins, Lime, Smirl and Green)

— • —

Passed March 9, 1996

In Effect July 1, 1996 ~~Passage~~

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LEGISLATURE

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# H. B. 4858

(BY DELEGATES TILLIS, MANUEL, COLLINS, JENKINS,  
KIME, SMIRL AND GREER)

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[Passed March 9, 1996; in effect July 1, 1996.]

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AN ACT to repeal articles three and four, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact article two of said chapter, all relating generally to trademark and service mark registration in this state; definitions; marks which may not be registered; procedures for applying for registration of a mark; requirements for registration; certificate of registration; duration and renewal of registration; current registrations; assignments and changes of name; recordation of related instruments; public records; cancellation of registration; classification of goods and services; liability for fraudulent registration and infringement; injunctive remedies; liability for injuries and dilution; venue for actions; service of process; effect upon common law rights; applicable fees; duties of secretary of state; and legislative intent.

*Be it enacted by the Legislature of West Virginia:*

That articles three and four, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that article two of said chapter be amended and reenacted, all to read as follows:

### ARTICLE 2. TRADEMARKS IN GENERAL.

#### §47-2-1. Definitions.

1 As used in this article:

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2 (1) The term "trademark" means any word, name,  
3 symbol, or device or any combination thereof used by a  
4 person to identify and distinguish the goods of such per-  
5 son, including a unique product, from those manufactured  
6 and sold by others, and to indicate the source of the  
7 goods, even if that source is unknown.

8 (2) The term "service mark" means any word, name,  
9 symbol, or device or any combination thereof used by a  
10 person, to identify and distinguish the services of one  
11 person, including a unique service, from the services of  
12 others, and to indicate the source of the services, even if  
13 that source is unknown. Titles, character names used by a  
14 person, and other distinctive features of radio or television  
15 programs may be registered as service marks notwith-  
16 standing that they, or the programs, may advertise the  
17 goods of the sponsor.

18 (3) The term "mark" includes any trademark or ser-  
19 vice mark, entitled to registration under this article whether  
20 registered or not.

21 (4) The term "trade name" means any name used by a  
22 person to identify a business or vocation of such person.

23 (5) The term "person" and any other word or term  
24 used to designate the applicant or other party entitled to a  
25 benefit or privilege or rendered liable under the provisions  
26 of this article includes a juristic person as well as a natural  
27 person. The term "juristic person" includes a firm, part-  
28 nership, corporation, union, association, or other organiza-  
29 tion capable of suing and being sued in a court of law.

30 (6) The term "applicant" embraces the person filing  
31 an application for registration of a mark under this article,  
32 and the legal representatives, successors, or assigns of such  
33 person.

34 (7) The term "registrant" as used herein embraces the  
35 person to whom the registration of a mark under this arti-  
36 cle is issued, and the legal representatives, successors, or  
37 assigns of such person.

38 (8) The term "use" means the bona fide use of a mark  
39 in the ordinary course of trade, and not made merely to  
40 reserve a right in a mark. For the purposes of this article,

41 a mark shall be deemed to be in use (A) on goods when it  
42 is placed in any manner on the goods or other containers  
43 or the displays associated therewith or on the tags or labels  
44 affixed thereto, or if the nature of the goods makes such  
45 placement impracticable, then on documents associated  
46 with the goods or their sale, and the goods are sold or  
47 transported in commerce in this state, and (B) on services  
48 when it is used or displayed in the sale or advertising of  
49 services and the services are rendered in this state.

50 (9) A mark shall be deemed to be "abandoned" when  
51 either of the following occurs:

52 (A) When its use has been discontinued with intent  
53 not to resume such use. Intent not to resume may be  
54 inferred from circumstances. Nonuse for two consecutive  
55 years shall constitute prima facie evidence of abandon-  
56 ment.

57 (B) When any course of conduct of the owner, includ-  
58 ing acts of omission as well as commission, causes the  
59 mark to lose its significance as a mark.

60 (10) The term "secretary" means the secretary of the  
61 state or the designee of the secretary charged with the  
62 administration of this article.

63 (11) The term "dilution" means the lessening of the  
64 capacity of registrant's mark to identify and distinguish  
65 goods or services, regardless of the presence or absence of  
66 (A) competition between the parties, or (B) likelihood of  
67 confusion, mistake, or deception.

#### **§47-2-2. Registrability.**

1 A mark by which the goods or services of any appli-  
2 cant for registration may be distinguished from the goods  
3 or services of others shall not be registered if it:

4 (1) Consists of or comprises immoral, deceptive or  
5 scandalous matter;

6 (2) Consists of or comprises matter which may dispar-  
7 age or falsely suggest a connection with persons, living or  
8 dead, institutions, beliefs, or national symbols, or bring  
9 them into contempt, or disrepute;

10 (3) Consists of or comprises the flag or coat of arms  
11 or other insignia of the United States, or of any state or  
12 municipality, or of any foreign nation, or any simulation  
13 thereof;

14 (4) Consists of or comprises the name, signature or  
15 portrait identifying a particular living individual, except  
16 by the individual's written consent;

17 (5) Consists of a mark which, (A) when used on or in  
18 connection with the goods or services of the applicant, is  
19 merely descriptive or deceptively misdescriptive of them,  
20 or (B) when used on or in connection with the goods or  
21 services of the applicant is primarily geographically de-  
22 scriptive or deceptively misdescriptive of them, or (C) is  
23 primarily merely a surname: *Provided*, That nothing in  
24 this subdivision shall prevent the registration of a mark  
25 used by the applicant which has become distinctive of the  
26 applicant's goods or services. The secretary may accept as  
27 evidence that the mark has become distinctive, as used on  
28 or in connection with the applicant's goods or services,  
29 proof of continuous use thereof as a mark by the appli-  
30 cant in this state for the five years before the date on  
31 which the claim of distinctiveness is made; or

32 (6) Consists of or comprises a mark which so resem-  
33 bles a mark registered in this state or a mark or trade name  
34 previously used by another and not abandoned, as to be  
35 likely, when used on or in connection with the goods or  
36 services of the applicant, to cause confusion or mistake or  
37 to deceive.

#### §47-2-3. Application for registration.

1 (a) Subject to the limitations set forth in this article,  
2 any person who uses a mark may file in the office of the  
3 secretary, in a manner complying with the requirements of  
4 the secretary, an application for registration of that mark  
5 setting forth, but not limited to, the following information:

6 (1) The name and business address of the person  
7 applying for such registration; and, if a corporation, the  
8 state of incorporation, or if a partnership, the state in  
9 which the partnership is organized and the names of the  
10 general partners, as specified by the secretary;

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

15 (3) The date when the mark was first used anywhere  
16 and the date when it was first used in this state by the ap-  
17 plicant or a predecessor in interest; and

18 (4) A statement that the applicant is the owner of the  
19 mark, that the mark is in use, and that, to the knowledge of  
20 the person verifying the application, no other person has  
21 registered, either federally or in this state, or has the right  
22 to use such mark either in the identical form thereof or in  
23 such near resemblance thereto as to be likely, when ap-  
24 plied to the goods or services of such other person, to  
25 cause confusion, or to cause mistake, or to deceive.

26 (b) The secretary may also require a statement as to  
27 whether an application to register the mark, or portions or  
28 a composite thereof, has been filed by the applicant or a  
29 predecessor in interest in the United States Patent and  
30 Trademark Office; and, if so, the applicant shall provide  
31 full particulars with respect thereto including the filing  
32 date and serial number of each application, the status  
33 thereof and, if any application was finally refused registra-  
34 tion or has otherwise not resulted in a registration, the  
35 reasons therefor.

36 (c) The secretary may also require that a drawing of  
37 the mark, complying with such requirements as the secre-  
38 tary may specify, accompany the application.

39 (d) The application shall be signed and verified be-  
40 fore a notary public by the applicant or by a member of  
41 the firm or an officer of the corporation or association  
42 applying.

43 (e) The application shall be accompanied by three  
44 specimens showing the mark as actually used.

45 (f) The application shall be accompanied by the ap-  
46 plication fee payable to the secretary of state.

#### **§47-2-4. Filing of applications.**

1 (a) Upon the filing of an application for registration

2 and payment of the application fee, the secretary may  
3 cause the application to be examined for conformity with  
4 this article.

5 (b) The applicant shall provide any additional perti-  
6 nent information requested by the secretary including a  
7 description of a design mark and may make, or authorize  
8 the secretary to make, such amendments to the application  
9 as may be reasonably requested by the secretary or  
10 deemed by applicant to be advisable to respond to any  
11 rejection or objection.

12 (c) The secretary may require the applicant to disclaim  
13 an unregistrable component of a mark otherwise register-  
14 able, and an applicant may voluntarily disclaim a compo-  
15 nent of a mark sought to be registered. No disclaimer  
16 shall prejudice or affect the applicant's or registrant's  
17 rights then existing or thereafter arising in the disclaimed  
18 matter, or the applicant's or registrant's rights of registra-  
19 tion on another application if the disclaimed matter be or  
20 shall have become distinctive of the applicant's or regis-  
21 trant's goods or services.

22 (d) Amendments may be made by the secretary upon  
23 the application submitted by the applicant upon appli-  
24 cant's agreement, or, the secretary may require that an  
25 amended application be filed.

26 (e) If the applicant is found not to be entitled to regis-  
27 tration, the secretary shall advise the applicant thereof and  
28 of the reasons therefor. The applicant shall have a reason-  
29 able period of time specified by the secretary in which to  
30 reply or to amend the application, in which event the ap-  
31 plication shall then be reexamined. This procedure may  
32 be repeated until (1) the secretary finally refuses registra-  
33 tion of the mark, or (2) the applicant fails to reply or  
34 amend within the specified period, whereupon the applica-  
35 tion shall be deemed to have been abandoned.

36 (f) If the secretary finally refuses registration of the  
37 mark, the applicant may seek a writ of mandamus to com-  
38 pel such registration. Such writ may be granted, but with-  
39 out costs to the secretary, on proof that all the statements  
40 in the application are true and that the mark is otherwise  
41 entitled to registration.

42 (g) In the instance of applications concurrently being  
43 processed by the secretary seeking registration of the same  
44 or confusingly similar marks for the same or related  
45 goods or services, the secretary shall grant priority to the  
46 applications in order of filing. If a prior-filed application  
47 is granted a registration, the other application or applica-  
48 tions shall then be rejected. Any rejected applicant may  
49 bring an action for cancellation of the registration upon  
50 grounds of prior or superior rights to the mark, in accor-  
51 dance with the provisions of section nine of this article.

**§47-2-5. Certificate of registration.**

1 (a) Upon compliance by the applicant with the re-  
2 quirements of this article, the secretary shall cause a certifi-  
3 cate of registration to be issued and delivered to the appli-  
4 cant. The certificate of registration shall be issued under  
5 the signature of the secretary and the seal of the state, and  
6 it shall show the name and business address and, if a cor-  
7 poration, the state of incorporation, or if a partnership, the  
8 state in which the partnership is organized and the names  
9 of the general partners, as specified by the secretary, of the  
10 person claiming ownership of the mark, the date claimed  
11 for the first use of the mark anywhere and the date  
12 claimed for the first use of the mark in this state, the class  
13 of goods or services and a description of the goods or  
14 services on or in connection with which the mark is used, a  
15 reproduction of the mark, the registration date and the  
16 term of the registration.

17 (b) Any certificate of registration issued by the secre-  
18 tary under the provisions hereof or a copy thereof duly  
19 certified by the secretary shall be admissible in evidence as  
20 competent and sufficient proof of the registration of such  
21 mark in any actions or judicial proceedings in any court  
22 of this state.

**§47-2-6. Duration and renewal.**

1 (a) A registration of mark hereunder shall be effective  
2 for a term of ten years from the date of registration and,  
3 upon application filed within six months prior to the expi-  
4 ration of such term, in a manner complying with the re-  
5 quirements of the secretary, the registration may be re-  
6 newed for a like term from the end of the expiring term.



7 A renewal fee, payable to the secretary, shall accompany  
8 the application for renewal of the registration.

9 (b) A registration may be renewed for successive  
10 periods of ten years in like manner.

11 (c) Any registration in force on the date on which this  
12 article becomes effective shall continue in full force and  
13 effect for the unexpired term thereof or for a term of five  
14 years from the effective date of this section, whichever  
15 shall first expire, and may be renewed by filing an appli-  
16 cation for renewal with the secretary complying with the  
17 requirements of the secretary and paying the aforemen-  
18 tioned renewal fee therefor within six months prior to the  
19 expiration of the registration.

20 (d) All applications for renewal under this article,  
21 whether of registrations made under this article or of reg-  
22 istrations effected under any prior article, shall include a  
23 verified statement that the mark has been and is still in use  
24 and include a specimen showing actual use of the mark on  
25 or in connection with the goods or services.

**§47-2-7. Assignments, changes of name and other instruments.**

1 (a) Any mark and its registration hereunder shall be  
2 assignable with the good will of the business in which the  
3 mark is used, or with that part of the good will of the busi-  
4 ness connected with the use of and symbolized by the  
5 mark. Assignment shall be by instruments in writing duly  
6 executed and may be recorded with the secretary upon the  
7 payment of the recording fee payable to the secretary  
8 who, upon recording of the assignment, shall issue in the  
9 name of the assignee a new certificate for the remainder of  
10 the term of the registration or of the last renewal thereof.  
11 An assignment of any registration under this article shall  
12 be void as against any subsequent purchaser for valuable  
13 consideration without notice, unless it is recorded with the  
14 secretary within three months after the date thereof or  
15 prior to such subsequent purchase.

16 (b) Any registrant or applicant effecting a change of  
17 the name of the person to whom the mark was issued or  
18 for whom an application was filed may record a certificate  
19 of change of name of the registrant or applicant with the

20 secretary upon the payment of the recording fee. The  
21 secretary may issue in the name of the assignee a certifi-  
22 cate of registration of an assigned application. The secre-  
23 tary may issue in the name of the assignee, a new certifi-  
24 cate or registration for the remainder of the term of the  
25 registration or last renewal thereof.

26 (c) Other instruments which relate to a mark regis-  
27 tered or application pending pursuant to this article, such  
28 as, by way of example, licenses, security interests or mort-  
29 gages, may be recorded in the discretion of the secretary,  
30 provided that such instrument is in writing and duly exe-  
31 cuted.

32 (d) Acknowledgement shall be prima facie evidence  
33 of the execution of an assignment or other instrument and,  
34 when recorded by the secretary, the record shall be prima  
35 facie evidence of execution.

36 (e) A photocopy of any instrument referred to in  
37 subsections (a), (b) or (c) of this section shall be accepted  
38 for recording if it is certified by any of the parties thereto,  
39 or their successors, to be a true and correct copy of the  
40 original.

#### **§47-2-8. Records.**

1 The secretary shall keep for public examination a  
2 record of all marks registered or renewed under this arti-  
3 cle, as well as a record of all documents recorded pursuant  
4 to section seven of this article.

#### **§47-2-9. Cancellation.**

1 The secretary shall cancel from the register, in whole  
2 or in part:

3 (1) Any registration concerning which the secretary  
4 shall receive a voluntary request for cancellation thereof  
5 from the registrant or the assignee of record;

6 (2) All registrations granted under this article and not  
7 renewed in accordance with the provisions hereof;

8 (3) Any registration concerning which a court of  
9 competent jurisdiction shall find:

10 (A) That the registered mark has been abandoned;

- 11 (B) That the registrant is not the owner of the mark;  
12 (C) That the registration was granted improperly;  
13 (D) That the registration was obtained fraudulently;  
14 (E) That the mark is or has become the generic name  
15 for the goods or services, or a portion thereof, for which it  
16 has been registered;  
17 (F) That the registered mark is so similar, as to be  
18 likely to cause confusion or mistake or to deceive, to a  
19 mark registered by another person in the United States  
20 Patent and Trademark Office prior to the date of the filing  
21 of the application for registration by the registrant hereun-  
22 der, and not abandoned: *Provided*, That, should the regis-  
23 trant prove that the registrant is the owner of a concurrent  
24 registration of a mark in the United States Patent and  
25 Trademark Office covering an area including this state, the  
26 registration hereunder shall not be cancelled for such area  
27 of the state; or  
28 (4) When a court of competent jurisdiction orders  
29 cancellation of a registration on any ground.

**§47-2-10. Classification.**

1 The secretary shall, by legislative rule promulgated in  
2 accordance with the provisions of chapter twenty-nine-a of  
3 this code, establish a classification of goods and services  
4 for convenience of administration of this article, but not to  
5 limit or extend the applicant's or registrant's rights, and a  
6 single application for registration of a mark may include  
7 any or all goods upon which, or services with which, the  
8 mark is actually being used indicating the appropriate  
9 class or classes of goods or services. When a single appli-  
10 cation includes goods or services which fall within multi-  
11 ple classes, the secretary may require payment of a fee for  
12 each class. To the extent practical, the classification of  
13 goods and services should conform to the classification  
14 adopted by the United States Patent and Trademark Of-  
15 fice. Until approved by the Legislature, the secretary may  
16 effect the purposes of this section by emergency rule.

**§47-2-11. Fraudulent registration.**

1 Any person who shall for himself or herself, or on

2 behalf of any other person, procure the filing or registra-  
3 tion of any mark in the office of the secretary under the  
4 provisions hereof, by knowingly making any false or  
5 fraudulent representation or declaration, orally or in writ-  
6 ing, or by any other fraudulent means, shall be liable to  
7 pay all damages sustained in consequence of such filing  
8 or registration, to be recovered by or on behalf of the  
9 party injured thereby in any court of competent jurisdic-  
10 tion.

**§47-2-12. Infringement.**

1 Subject to the provisions of section sixteen of this  
2 article, any person who shall:

3 (1) Use, without the consent of the registrant, any  
4 reproduction, counterfeit, copy, or colorable imitation of a  
5 mark registered under this article in connection with the  
6 sale, distribution, offering for sale, or advertising of any  
7 goods or services on or in connection with which such use  
8 is likely to cause confusion or mistake or to deceive as to  
9 the source of origin of such goods or services; or

10 (2) Reproduce, counterfeit, copy or colorably imitate  
11 any such mark and apply such reproduction, counterfeit,  
12 copy or colorable imitation to labels, signs, prints, packag-  
13 es, wrappers, receptacles, or advertisements intended to be  
14 used upon or in connection with the sale or other distribu-  
15 tion in this state of such goods or services; then, such per-  
16 son shall be liable in a civil action by the registrant for any  
17 and all of the remedies provided in section fourteen of this  
18 article, except that under subdivision (b) of this section,  
19 the registrant shall not be entitled to recover profits or  
20 damages unless the acts have been committed with the  
21 intent to cause confusion or mistake or to deceive.

**§47-2-13. Injury to business reputation; dilution.**

1 (a) The owner of a mark which is famous in this state  
2 shall be entitled, subject to the principles of equity, to an  
3 injunction against another's use of a mark, commencing  
4 after the owner's mark becomes famous, which causes  
5 dilution of the distinctive quality of the owner's mark, and  
6 to obtain such other relief as is provided in this section. In  
7 determining whether a mark is famous, a court may con-  
8 sider factors such as, but not limited to:

9 (1) The degree of inherent or acquired distinctiveness  
10 of the mark in this state;

11 (2) The duration and extent of use of the mark in  
12 connection with the goods and services;

13 (3) The duration and extent of advertising and public-  
14 ity of the mark in this state;

15 (4) The geographical extent of the trading area in  
16 which the mark is used;

17 (5) The channels of trade for the goods or services  
18 with which the owner's mark is used;

19 (6) The degree of recognition of the owner's mark in  
20 its and in the other's trading areas and channels of trade in  
21 this state; and

22 (7) The nature and extent of use of the same or similar  
23 mark by third parties.

24 (b) The owner shall be entitled only to injunctive  
25 relief in this state in an action brought under this section,  
26 unless the subsequent user wilfully intended to trade on  
27 the owner's reputation or to cause dilution of the owner's  
28 mark. If such wilful intent is proven, the owner shall also  
29 be entitled to the remedies set forth in this chapter, subject  
30 to the discretion of the court and the principles of equity.

#### **§47-2-14. Remedies.**

1 (a) Any owner of a mark registered under this article  
2 may proceed by suit to enjoin the manufacture, use, dis-  
3 play or sale of any counterfeits or imitations thereof and  
4 any court of competent jurisdiction may grant injunctions  
5 to restrain such manufacture, use, display or sale as may  
6 be by the said court deemed just and reasonable, and may  
7 require the defendants to pay to such owner all profits  
8 derived from and/or all damages suffered by reason of  
9 such wrongful manufacture, use, display or sale; and such  
10 court may also order that any such counterfeits or imita-  
11 tions in the possession or under the control of any defen-  
12 dant in such case be delivered to an officer of the court, or  
13 to the complainant, to be destroyed. The court, in its dis-  
14 cretion, may enter judgment for an amount not to exceed  
15 three times such profits and damages and/or reasonable

16 attorneys' fees of the registrant in such cases where the  
17 court finds the other party committed such wrongful acts  
18 with knowledge or in bad faith or otherwise as according  
19 to the circumstances of the case.

20 (b) The enumeration of any right or remedy herein  
21 shall not affect a registrant's right to prosecute under any  
22 penal law of this state.

**§47-2-15. Forum for actions regarding registration; service  
on out of state registrants.**

1 (a) Actions to require cancellation of a mark regis-  
2 tered pursuant to this article or in mandamus to compel  
3 registration of a mark pursuant to this article shall be  
4 brought in the circuit court of Kanawha County. In an  
5 action in mandamus, the proceeding shall be based solely  
6 upon the record before the secretary. In an action for  
7 cancellation, the secretary shall not be made a party to the  
8 proceeding but shall be notified of the filing of the com-  
9 plaint by the clerk of the court in which it is filed and shall  
10 be given the right to intervene in the action.

11 (b) In any action brought against a non-resident regis-  
12 trant, service may be effected by service upon the regis-  
13 trant in accordance with the provisions of this code and  
14 the rules of civil procedure which prescribe the manner in  
15 which service upon non-residents may be obtained.

**§47-2-16. Common law rights.**

1 Nothing herein shall adversely affect the rights or the  
2 enforcement of rights in marks acquired in good faith at  
3 any time at common law.

**§47-2-17. Fees.**

1 (a) The secretary shall charge the following fees for  
2 services provided pursuant to the provisions of this article:

3 (1) For and application fee and for a renewal fee,  
4 fifty dollars; and

5 (2) For recording any instrument specified in section  
6 seven of this article, twenty-five dollars.

7 (b) All fees shall be deposited in a special account in  
8 the state treasury. Expenditures from said account shall

9 be for the purposes set forth in this article and are not  
10 authorized from collections but are to be made only in  
11 accordance with appropriation by the Legislature and in  
12 accordance with the provisions of article three, chapter  
13 twelve of this code and upon the fulfillment of the provi-  
14 sions set forth in article two, chapter five-a of this code:  
15 *Provided*, That for the fiscal year ending the thirtieth day  
16 of June, one thousand nine hundred ninety-seven, expen-  
17 ditures are authorized from collections rather than pursu-  
18 ant to an appropriation by the Legislature. Amounts col-  
19 lected which are found from time to time to exceed the  
20 funds needed for purposes set forth in this article may be  
21 transferred to other accounts or funds and redesignated  
22 for other purposes by appropriation of the Legislature.

**§47-2-18. Severability.**

1 If any provision hereof, or the application of such  
2 provision to any person or circumstance is held invalid,  
3 the remainder of this article shall not be affected thereby.

**§47-2-19. Time of taking effect - repeal of prior articles; intent of article.**

1 (a) This article is effective the first day of July, one  
2 thousand nine hundred ninety-six, but shall not affect any  
3 suit, proceeding or appeal then pending.

4 (b) The intent of this article is to provide a system of  
5 state trademark registration and protection substantially  
6 consistent with the federal system of trademark registra-  
7 tion and protection under the "Trademark Act Of 1946,"  
8 as the same has been amended on the effective date of this  
9 article. To that end, the construction given the federal act  
10 should be examined as persuasive authority for interpret-  
11 ing and construing this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Rory Schoonover*  
Chairman Senate Committee

*Randy Seaman*  
Chairman House Committee

Originating in the House.

Takes effect July 1, 1996.

*Barrett Atkins*  
Clerk of the Senate

*Brian M. Day*  
Clerk of the House of Delegates

*Carl Roy Tomblin*  
President of the Senate

*Paul C. Calkins*  
Speaker of the House of Delegates

The within *is approved* this the *1st*  
day of *April*, 1996.

*Garston Capenhor*  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/28/96

Time 10:16 AM