# MAINE STATE LEGISLATURE

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1                                          L.D.  2063

6          COMMITTEE AMENDMENT "*A*" to H.P. 2163, L.D. 2063, Bill,
7      "AN ACT to Provide the Authority to the  Commissioner of
8      Marine Resources  to Register a Trademark."


9          Amend  the  Bill  by  striking  out everything after the
10     enacting clause and  before the emergency clause and   insert-
11     ing in its place the following:

12         'Sec.  1.   10  MRSA §1521, sub-§§1-A and 1-B are enacted
13     to read:

14         1-A.  Certification  mark.  "Certification  mark"  means  a
15     mark used  upon or  in connection with the    products   or   ser-
16     vices  of  one  or  more persons other than the owner of the
17     mark to  certify  regional  or  other  origin,  material,  mode   of
18     manufacture,    quality,    accuracy  or  other  characteristics  of
19     such goods or  services,  or that the work  or   labor   on   the
20     goods  or  services  was   performed by members of a union or
21     other organization.

22         1-B.  Collective  mark.  "Collective  mark"    means    a
23     trademark   or   service  mark  used  by  the  members  of  a
24     cooperative,  an  association  or  other  collective   group   or
25     organization,  and  includes  marks used to indicate membership
26     in a union, an association or other organization.

27         Sec.  2.   10  MRSA §1521, sub-§3, as enacted by PL 1979,
28     c.  572,  §2,  is  repealed and the   following   enacted   in   its
29     place:

30         3.   Mark.   "Mark"  includes any  trademark,  service mark,
31     certification   mark  or  collective  mark  entitled  to  be  regis-
32     tered under this chapter, whether registered or not.

33         Sec.  3.   10  MRSA  §1522,  sub-§1,  first  sentence,  as
34     enacted   by  PL  1979,  c.  572,  §2, is repealed and the follow-
35     ing enacted in its place:

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2    A mark shall not be registered if it:

3        Sec. 4.  10 MRSA §1522, sub-§1, ¶E, first sentence,  as
4    enacted   by PL 1979, c. 572, §2, is repealed and the follow-
5    ing enacted in its place:

6        Consists of a mark which, when applied to the goods  or
7        services   of   the   applicant,   is  merely  descriptive  or
8        deceptively  misdescriptive  of  them  or,  when  applied   to
9        the   goods   or   services  of  the  applicant,  is  primarily
10       geographically   descriptive   or   deceptively  misdescriptive
11       of  them,  except  as  indications  of  regional   origin   may
12       be   registrable   under   subsection   3,   or  is  primarily
13       merely  a  surname,  provided  that  nothing  in   this   para-
14       graph   may   prevent   the  registration  of  a  mark  used  in
15       this  State  by  the  applicant  which  has   become   distinc-
16       tive of the applicant's goods or services;

17       Sec. 5.   10 MRSA §1522, sub-§3 is enacted to read:

18       3.  Collective marks and    certification marks.    Collec-
19   tive  marks  and  certification  marks,  including  indications  of
20   regional  origin  used  in  commerce,  shall   be   registrable   in
21   the  same  manner and with the same effect as trademarks and
22   service  marks  by  persons  and  by   governmental   entities,   as
23   defined  in  Title 14, section 8102, subsections 2, 3 and 4.

24       Sec. 6.   10 MRSA §1527, sub-§1, ¶D, sub-¶¶(4) and   (5),
25   as enacted by PL 1979, c. 572, §2, are amended to read:

26           (4)  That  the   registration   was   obtained  fraud-
27           ulently; ~~or~~

28           (5)  That the registered mark is so similar,  as  to
29           be  likely  to  cause   confusion   or   mistake   or   to
30           deceive,  to  a  mark  registered  by  another  person  in
31           the   United   States   Patent   and   Trademark  Office
32           prior  to  the  date  of  the  filing  of  the  application
33           for  registration  by  the  registrant  and   not   aban-
34           doned;  provided~~,~~ that~~,~~  should  the  registrant  prove
35           that   he  is  the  owner  of  a  concurrent  registration
36           of  his  mark  in  the  United  States  Patent  and  Trade-
37           mark  Office  covering  an  area  including  this  State,
38           the  registration  shall  not  be  cancelled; ~~and~~ or

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2        Sec. 7.    10 MRSA §1527, sub-§1, ¶D, sub-¶(6) is enacted
3    to read:

4            (6)  That,  in  the  case  of  a  certification  mark,
5            the  registrant  does  not  control,  or  is  not  able
6            legitimately  to  exercise  control  over,  the  use  of
7            the  mark;  engages  in  the  production  or  marketing
8            of  any  goods  or  services  to  which  the  certifica-
9            tion  mark  is  applied;  permits  the  use  of  the  cer-
10           tification  mark  for  purposes  other  than  to  cer-
11           tify;  or  discriminately  refuses  to  certify  or  to
12           continue  to  certify  the  goods  or  services  of  any
13           person  who  maintains  the  standards  or  conditions
14           which  the  mark  certifies;  and

15       Sec. 8.    12 MRSA §6022, sub-§14 is enacted to read:

16       14.  Brands,  labels  and  marks.    The  commissioner  may
17   develop,  design  and,  register  brands,  labels  or  marks,  as
18   that  term  is  used  in  Title  10,  section  1521,  subsection  3,
19   for  identifying  marine  resource  products  packed  in  accor-
20   dance  with  official  grades  and  standards  established  by  the
21   department  and  shall  furnish  information  to  packers  and
22   shippers  as  to  where  these  labels  and  marks  may  be  obtained.
23   A  written  application  to  the  commissioner  requesting  permis-
24   sion  to  use  these  brands,  labels  or  marks  and  a  written  ac-
25   ceptance  thereto  from  the  commissioner  shall  be  a  condition
26   precedent  to  the  use  of  these  brands,  labels  or  marks.    The
27   right  to  use  these  brands,  labels  or  marks  may  be  suspended
28   or  revoked  by  the  commissioner  according  to  the  procedures
29   set  forth  in  section  6101,  subsections  6  to  8,  whenever  it
30   appears  on  investigation  that  they  have  been  used  to  iden-
31   tify  marine  resource  products  not  conforming  to  the  grades
32   or  standards  indicated.

33       Sec. 9.   Validation  clause.  Collective  marks  and  cer-
34   tification  marks  registered  by  the  Secretary  of  State  as
35   trademarks  or  service  marks  prior  to  the  effective  date  of
36   this  Act  shall  be  deemed  v,alidly  registered,  subject  to  all
37   requirements  of  Title  10,  chapter  301-A,  as  amended  by  this
38   Act.'

1    COMMITTEE AMENDMENT "$A$" to H.P. 2163, L.D. 2063

2                          STATEMENT OF FACT

3       This amendment makes  technical  changes  in  statutory
4    references  to  trade  and  service  marks  and  conforms these
5    provisions to federal requirements.

6                                                    5387032482


Reported by the Committee on Marine Resources.
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the House.

3/30/82                          (Filing No. H-712)