

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

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IN FIVE VOLUMES

VOLUME 4



THE MICHIE COMPANY
CHARLOTTESVILLE VIRGINIA

Chapter 182.

Trade-Marks and Trade Names.

Cross Reference.—See c. 30, §§ 57-63, re labels of workmen's unions.

Sec. 1. Manufacturer of leather, boots and shoes may stamp his name thereon; counterfeiting stamp.—Every manufacturer of leather and of boots and shoes, of any description, has the exclusive right of stamping them with the initials of his Christian name and the whole of his surname; and such stamping is a warranty that the article is merchantable and well made of good materials; and if any person fraudulently stamps any such articles with the name or stamp of any other person, he shall be punished by a fine of not more than \$20 or by imprisonment for not more than 6 months. (R. S. c. 168, § 1.)

Sec. 2. Use of another's trade-mark.—When a person uses any peculiar name, letters, marks, device or figures, cut, stamped, cast or engraved upon, or in any way attached to or connected with any article manufactured or sold by him to designate it as an article of a peculiar kind, character or quality, or as manufactured by him, no other person shall use, without his consent, the same or any similar names, letters, marks, devices or figures for the purpose of falsely representing any articles to have been manufactured by him, or to be of the same kind, character or quality as that manufactured or sold by the party rightfully using the same. (R. S. c. 168, § 2.)

Sec. 3. Damages.—Whoever violates the provisions of the preceding section is liable to any party aggrieved thereby for all damages actually incurred, to be recovered in an action on the case. (R. S. c. 168, § 3.)

Sec. 4. Business names, unauthorized use.—No one shall assume or continue to use in his business, either alone or in connection with his own or any other name or designation, the name of any person formerly connected with him in partnership, without the written consent of such person or his legal representative. (R. S. c. 168, § 4.)

Sec. 5. Injunctions.—The supreme judicial court or the superior court may restrain, by injunction, any use of trade-marks or names in violation of the foregoing provisions. (R. S. c. 168, § 5.)

Sec. 6. Proprietor of trade-mark may file certificate with secretary of state.—Any person entitled to the exclusive use of any trade-mark, or who intends to adopt and use any trade-mark not previously adopted or used by another, may file for record in the office of the secretary of state a certificate setting forth his name, residence and place of business; the class of merchandise and the particular description of goods comprised in such class to which such trade-mark has been or is to be appropriated; a description thereof and of the mode in which it is to be applied and used; the date when it was first used or adopted; that he has a right to the use of it; and that no other person, firm or corporation has the right to such use, either in the identical form or having such near resemblance thereto as is calculated to deceive. A facsimile to such trade-mark shall be incorporated in or annexed to said certificate, and a duplicate shall be filed therewith, to be pasted or bound into the record book, if practicable. Such certificate shall be signed and sworn to by such person or his agent. (R. S. c. 168, § 6.)

Sec. 7. False oath; mandamus to compel recording.—Whoever willfully swears or affirms falsely to any such certificate is guilty of perjury and shall pay treble damages to every party injured thereby. If the secretary of state has reason to apprehend, on the filing of such certificate, that

any statement therein contained is untrue, he may decline to record the same, unless the party filing it obtains a writ of mandamus to compel him. Such writ may be granted by any proper court, but without costs to the secretary, on proof that all the statements in such certificate are true, but no final hearing on the application therefor shall be had until such notice thereof, as said court orders, has been advertised in one or more newspapers published in the county where the party filing said certificate resides; and any persons who desire may appear and intervene as parties defendant, and oppose the granting of such writ, and shall be liable to judgment for any costs occasioned by such intervention. (R. S. c. 168, § 7.)

Sec. 8. Exclusive right to use trade-mark; rights assignable.—Every party entitled to make and file such certificate and affidavit, upon recording the same in said office, becomes entitled to the exclusive use of the trade-mark therein described so long as he or his assigns continue to be engaged in the manufacture or sale of the merchandise or description of goods to which it is appropriated; and such right is assignable in writing; but all assignments thereof are good only against the assignor and his personal representatives until lodged for record in said office. (R. S. c. 168, § 8.)

Sec. 9. Certificates and assignments recorded; copies evidence.—The secretary of state shall retain all such certificates on file and cause the same and all assignments of trade-mark rights to be recorded at length in his office. Copies of the record of any such certificate, attested by him under the seal of the state, are prima facie evidence of the right of the party filing such certificate to the exclusive use of the trade-mark therein described for the periods limited in the preceding section. (R. S. c. 168, § 9.)

See c. 21, § 6, re fees of secretary of state for filing, recording, etc., of trade-marks and trade names.

Sec. 10. Counterfeiting trade-marks, and sale of goods with such counterfeits.—Whoever knowingly and willfully counterfeits or causes to be counterfeited any private stamps, labels or trade-marks used by a mechanic or manufacturer about the sale of his goods, with intent to defraud the purchaser or manufacturer, or sells such goods with such counterfeit stamps, labels or trade-marks thereon, knowing them to be counterfeit, without disclosing the fact to the purchaser, shall be punished by a fine of not more than \$200 or by imprisonment for not more than 11 months. (R. S. c. 168, § 10.)

Sec. 11. Counterfeiting recorded trade-marks.—Whoever reproduces, copies, counterfeits or imitates any such recorded trade-mark, knowing the same to have been recorded, and affixes such reproduction, copy, counterfeit or imitation to goods resembling, or designed to resemble, those to which such trade-mark is so appropriated, shall pay to the owner of such trade-mark double damages, besides such sum, not exceeding \$500, as the court before which the action is brought orders to be added to the damages found by the verdict or judgment. (R. S. c. 168, § 11.)

Sec. 12. Fraudulent use of such trade-marks.—Whoever fraudulently and with intent to deceive affixes any trade-mark recorded under the provisions of section 9, or any such imitation thereof as is calculated to deceive, to any goods, receptacle or package similar in descriptive properties to those to which such trade-mark is appropriated, or who fraudulently and with intent to deceive places in any receptacle or package to which is lawfully affixed a recorded trade-mark, goods other than those which said trade-mark is designed and appropriated to protect; or who fraudulently and with intent to deceive deals in or keeps for sale any goods with a trade-mark fraudulently affixed, as above described or any goods contained in any package or receptacle having a lawful trade-mark, but

not being such goods as said trade-mark was designed and appropriated to protect, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 30 days. (R. S. c. 168, § 12.)

Sec. 13. Rights to existing trade-marks not abridged. — The provisions of this chapter do not abridge rights to any trade-marks existing prior to March 14th, 1883, whether the same have been recorded or not. (R. S. c. 168, § 13.)