

MAINE STATE LEGISLATURE

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PART 4

TRADEMARKS AND NAMES

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CHAPTER 301

GENERAL PROVISIONS

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§ 1501. Use of another's trademark; penalty

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.

Whoever violates this section is liable to any party aggrieved thereby for all damages actually incurred, to be recovered in a civil action.

R.S.1954, c. 182, §§ 2, 3; 1961, c. 317, § 625.

§ 1502. Unauthorized use of business names

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.1954, c. 182, § 4.

§ 1503. Filing certificate with Secretary of State

Any person entitled to the exclusive use of any trademark, or who intends to adopt and use any trademark 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 trademark 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 trademark 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.1954, c. 182, § 6.

§ 1504. 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 of State, 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. 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.1954, c. 182, § 7.

§ 1505. Exclusive use; 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 trademark 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. 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.1954, c. 182, § 8.

§ 1506. Recording of certificates and assignments; copies as evidence

The Secretary of State shall retain all such certificates on file and cause the same and all assignments of trademark 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 trademark therein described for the periods limited in section 1505.

R.S.1954, c. 182, § 9.

§ 1507. Counterfeits and sale of counterfeits; penalty

Whoever knowingly and willfully counterfeits or causes to be counterfeited any private stamps, labels or trademarks 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 trademarks 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.1954, c. 182, § 10.

§ 1508. Counterfeiting recorded trademarks

Whoever reproduces, copies, counterfeits or imitates any such recorded trademark, 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 trademark is so appropriated, shall pay to the owner of such trademark 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.1954, c. 182, § 11.

§ 1509. Fraudulent use of trademarks

Whoever fraudulently and with intent to deceive affixes any trademark recorded under section 1506, 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 trademark is appropriated, or who fraudulently and with intent to deceive places in any receptacle or package to which is lawfully affixed a recorded trademark, goods other than those which said trademark is designed and appropriated to protect; or who fraudulently and with intent to deceive deals in or keeps for sale any goods with a trademark fraudulently affixed, or any goods contained in any package or receptacle having a lawful trademark, but not being such goods as said trademark 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.1954, c. 182, § 12.

§ 1510. Security interest in trademarks

Nothing contained in this chapter shall control the manner of obtaining a security interest in a trademark or the necessity for filing or recording to protect or perfect any such security interest, whether it is obtained by an assignment or otherwise.

1963, c. 362, § 33-A.

§ 1511. Existing rights not abridged

This chapter does not abridge rights to any trademarks existing prior to March 14th, 1883, whether the same have been recorded or not.

R.S.1954, c. 182, § 13.

§ 1512. Injunctions

The Superior Court may restrain by injunction any use of trademarks or names in violation of sections 1501, 1502 and 1751.

R.S.1954, c. 182, § 5; 1963, c. 414, § 152.