

MAINE STATE LEGISLATURE

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EIGHTH REVISION

THE
REVISED STATUTES

OF THE
STATE OF MAINE

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partnership the property is not sufficient to pay the partnership debts, the special partners shall be severally answerable for all sums by them in any way received, withdrawn, or divided, with interest thereon from the time of withdrawal, notwithstanding the provision in the following section.

Sec. 16. Prosecution of suits relating to partnership business. R. S. c. 44, § 16. Suits respecting the business of such partnership shall be commenced and prosecuted by and against the general partners only, except in those cases in which provision is hereinbefore made, that special partners shall be deemed general partners, and special partnerships, general partnerships; in which cases all the partners deemed general partners may join or be joined in such suits.

Sec. 17. Voluntary dissolution, and notice thereof. R. S. c. 44, § 17. No voluntary dissolution of such partnerships shall take place before the time specified in the certificate before named, unless a notice thereof is recorded in each registry in which the original certificate or certificate of renewal or continuance is recorded, and published in such paper as is directed in section 13.

Sec. 18. In cases not otherwise provided for herein, limited partners to be same as general. R. S. c. 44, § 18. In all cases not otherwise provided for herein, the members of limited partnerships are subject to the liabilities and entitled to the immunities incident to general partnerships, and the supreme judicial court and the superior court may hear and determine, in equity, all questions between copartners in any partnership formed by virtue of this chapter, and between said copartners and any creditors of the firm.

CHAPTER 168.

TRADE-MARKS AND TRADE NAMES.

Sec. 1. Manufacturer of leather, boots, and shoes may stamp his name thereon; effect; penalty for counterfeiting stamp. R. S. c. 49, § 11. 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.

Sec. 2. Use of another's trade-mark prohibited. R. S. c. 49, § 12. 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.

Sec. 3. Damages for violation. R. S. c. 49, § 13. 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.

Sec. 4. Business names, unauthorized use of, prohibited. R. S. c. 49, § 14. 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.

Sec. 5. Injunctions. R. S. c. 49, § 15. 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.

Sec. 6. Proprietor of trade-mark may file certificate with secretary of state; its contents. R. S. c. 49, § 16. 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 of 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.

Sec. 7. False oath; if secretary of state believes certificate untrue, he may decline to record it; mandamus to compel recording. R. S. c. 49, § 17. Whoever wilfully 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.

Sec. 8. Exclusive right to use trade-mark; rights assignable. R. S. c. 49, § 18. 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.

Sec. 9. Certificates and assignments recorded; copies evidence. R. S. c. 49, § 19. 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.

See c. 18, § 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 thereon, prohibited; penalty. R. S. c. 49, § 20. Whoever knowingly and wilfully 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.

Sec. 11. Damages for counterfeiting recorded trade-marks. R. S. c. 49, § 21. 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.

Sec. 12. Penalty for fraudulent use of such trade-marks. R. S. c. 49, § 22. 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.

Sec. 13. Rights to existing trade-marks not abridged. R. S. c. 49, § 23. 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.