

SENATE BILL 23

P1

01r0003

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Secretary of State)**

Requested: August 26, 2019

Introduced and read first time: January 8, 2020

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 24, 2020

CHAPTER _____

1 AN ACT concerning

2 **Business Regulation – Trademarks, Service Marks, and Trade Names –**
3 **Registration**

4 FOR the purpose of altering certain classes of goods and services for which a person may
5 register a mark; prohibiting a person from registering a certain name or surname as
6 a mark; requiring an applicant for registration of a mark or renewal of a mark to
7 submit certain specimens or reproductions of the mark; prohibiting the specimens or
8 reproductions from including certain business papers; requiring the Secretary of
9 State to include a full description of the mark on a certain certificate of registration;
10 requiring the Secretary of State to include certain instructions in a certain mailing;
11 authorizing a certain instrument of assignment of a registration of a mark to be
12 submitted by an officer of the assignor; altering certain definitions; and generally
13 relating to the registration of trademarks, service marks, and trade names.

14 BY repealing and reenacting, with amendments,
15 Article – Business Regulation
16 Section 1–401(b) and (c), 1–404(c)(1), 1–405, 1–406, 1–409(b), 1–410(b) and (c), and
17 1–411(c)
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2019 Supplement)

20 BY adding to
21 Article – Business Regulation
22 Section 1–410(e)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Annotated Code of Maryland
(2015 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Business Regulation

1–401.

(b) “Applicant” includes:

(1) THE OWNER OF A MARK, INCLUDING AN INDIVIDUAL, AN ORGANIZATION, OR A COMPANY, WHO SUBMITS AN APPLICATION FOR REGISTRATION OF THE MARK UNDER THIS SUBTITLE; AND

(2) an assignee, A legal representative, or A successor of a person who submits an application for registration of a mark under this subtitle.

(c) “Mark” means a **LOGO, SLOGAN OR TAG LINE, PROGRAM NAME, BRAND NAME THAT IS DIFFERENT FROM THE BUSINESS NAME**, name, symbol, word, or combination of 2 or more of these that a person:

(1) places on goods that the person sells or distributes, a container of the goods, a display associated with the goods, or a label or tag affixed to the goods to identify those goods that the person makes or sells and to distinguish them from goods that another person makes or sells; or

(2) displays or otherwise uses to advertise or sell services that the person performs to identify those services that the person performs and to distinguish them from services that another person performs.

1–404.

(c) (1) Unless the mark has become distinctive of the person’s goods or services, a person may not register a mark that:

(i) only describes or deceptively misdescribes goods or services;

(ii) primarily describes or deceptively misdescribes the geographic origin of goods or services; or

(iii) is primarily [merely a] **AN INDIVIDUAL’S NAME OR** surname.

1–405.

(a) For convenience of administration of this subtitle, the general classes of goods under this subtitle are:

- (1) raw or partly prepared materials.
- (2) [receptacles] **ANIMAL PRODUCTS.**
- (3) baggage, animal equipments, portfolios, and pocketbooks.
- (4) [abrasives and polishing materials] **MUSIC AND AUDIO.**
- (5) [adhesives] **CANDLES AND ESSENTIAL OILS.**
- (6) chemicals and chemical compositions.
- (7) [cordage] **COMPUTERS AND PERIPHERALS.**
- (8) smokers' articles, not including tobacco products.
- (9) explosives, firearms, equipments, and projectiles.
- (10) fertilizers.
- (11) [inks and inking materials] **APPLICATIONS AND SOFTWARE.**
- (12) construction materials.
- (13) hardware and plumbing and steam-fitting supplies.
- (14) [metals and metal castings and forgings] **FLOWERS AND PLANTS.**
- (15) oils and greases.
- (16) [paints and painters' materials] **CANNABIS.**
- (17) [tobacco products] **NOVELTIES AND SOUVENIRS.**
- (18) medicines and pharmaceutical preparations.
- (19) vehicles.
- (20) [linoleum and oiled cloth] **SMALL AND LARGE APPLIANCES.**
- (21) electrical apparatus, machines, and supplies.
- (22) games, toys, and sporting goods.

- 1 (23) cutlery, machinery, and tools, and parts thereof.
- 2 (24) [laundry appliances and machines] **BOATS AND MARINE ITEMS.**
- 3 (25) [locks and safes] **EDUCATIONAL MATERIALS.**
- 4 (26) measuring and scientific appliances.
- 5 (27) horological instruments.
- 6 (28) jewelry and precious metalware.
- 7 (29) [brooms, brushes, and dusters] **EYEWEAR.**
- 8 (30) crockery, earthenware, and porcelain.
- 9 (31) [filters and refrigerators] **HOME GOODS.**
- 10 (32) furniture and upholstery.
- 11 (33) glassware.
- 12 (34) heating, lighting, and ventilating apparatus.
- 13 (35) belting, hose, machinery packing, and nonmetallic tires.
- 14 (36) musical instruments and supplies.
- 15 (37) paper and stationery.
- 16 (38) prints and publications.
- 17 (39) clothing.
- 18 (40) fancy goods, furnishings and notions.
- 19 (41) [canes, parasols, and umbrellas] **OFFICE GOODS.**
- 20 (42) knitted, netted and textile fabrics, and substitutes therefor.
- 21 (43) [thread and yarn] **SECURITY DEVICES.**
- 22 (44) dental, medical, and surgical appliances.
- 23 (45) soft drinks and carbonated waters.

1 (46) [foods] **FOOD** and ingredients of [foods] **FOOD**.

2 (47) wines.

3 (48) malt beverages and liquors.

4 (49) distilled alcoholic liquors.

5 (50) merchandise not otherwise classified.

6 (51) cosmetics and [toilet preparations] **TOILETRIES**.

7 (52) detergents and soaps.

8 (b) For convenience of administration of this subtitle, the general classes of
9 services under this subtitle are:

10 (53) miscellaneous.

11 (54) advertising and business.

12 (55) insurance and financial.

13 (56) construction and repair.

14 (57) communications.

15 (58) transportation and storage.

16 (59) material treatment.

17 (60) education and entertainment.

18 **(61) EMPLOYMENT AND EMPLOYEE BENEFITS.**

19 **(62) GARDENING AND FARMING.**

20 **(63) SHIPPING AND PACKAGING.**

21 **(64) GOVERNMENT SERVICES.**

22 **(65) HOSPITALITY AND LODGING.**

23 **(66) COMMUNITY SERVICE AND VOLUNTEERING.**

(67) RELIGIOUS SERVICES AND CHARITY.

(68) SENIOR SERVICES.

(69) RESEARCH AND DEVELOPMENT.

(70) ANIMAL AND PEST.

(71) SOCIAL CLUBS.

(72) SECURITY AND POLICE.

(73) ARTISTRY AND DESIGN.

(74) REAL ESTATE AND SETTLEMENT.

(75) MENTAL HEALTH AND WELLNESS.

(76) MEDICAL, VISION, AND DENTAL HEALTH.

(77) RESTAURANT AND FOOD PREPARATION.

(78) FITNESS AND BEAUTY.

(79) JANITORIAL AND LANDSCAPE.

(80) LEGAL AND CONSULTING.

(81) SPORTS AND RECREATION.

(82) CHILD SERVICES.

(83) FUNERAL.

(84) RECYCLING AND DISPOSAL.

(85) CANNABIS SERVICES.

(c) The classification of goods and services in this section does not limit or extend the rights of an applicant or registrant.

1–406.

(a) An applicant for registration of a mark shall:

(1) submit to the Secretary of State:

(i) an application on the form that the Secretary of State provides;

and

(ii) 3 **DIFFERENT** specimens or reproductions of the mark **AS USED**;

and

(2) pay to the Secretary of State a fee of \$50.

(B) A SPECIMEN OR REPRODUCTION SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT INCLUDE A BUSINESS PAPER, INCLUDING LETTERHEAD, A BUSINESS CARD, OR AN ENVELOPE.

[(b)] (C) An application shall be signed, under oath, **AND THE ORIGINAL SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION:**

(1) for an individual, by the individual;

(2) for a partnership, by a partner; or

(3) for a corporation or association, by an officer of the corporation or association.

[(c)] (D) In addition to any other information required on an application form, the form shall require:

(1) the name of the applicant;

(2) the business address of the applicant;

(3) for an applicant that is a corporation, **LIMITED LIABILITY COMPANY, OR PARTNERSHIP**, the state of **[incorporation] FORMATION**;

(4) A DESCRIPTION OF THE FULL MARK INCLUDING WORDS, IF APPLICABLE;

[(4)] (5) A DESCRIPTION OF the goods or services with which the applicant uses the mark;

[(5) the way the applicant uses the mark with the goods or services;]

(6) A LISTING OF THE WAYS THE MARK IS BEING USED, INCLUDING ON UNIFORMS, ADVERTISING, BANNERS, THE INTERNET, SIGNS, VEHICLES, AND PACKAGING;

1 **[(6)] (7)** the class under § 1–405 of this subtitle to which the goods or
2 services belong;

3 **[(7)] (8)** the date when the applicant or the applicant’s predecessor in
4 business:

5 (i) first used the mark anywhere; and

6 (ii) first used the mark in the State; and

7 **[(8)] (9)** a statement that:

8 (i) the applicant owns the mark;

9 (ii) another person does not have the right to use the mark in the
10 State; and

11 (iii) the mark is not deceptively similar to a mark that another person
12 has a right to use in the State.

13 **[(d)] (E)** A single application for registration of a mark:

14 (1) may cover use of the mark with any number of goods or services in a
15 single class; but

16 (2) may not cover use of the mark with goods or services in different classes.

17 1–409.

18 (b) The Secretary of State shall include on each certificate of registration:

19 (1) the signature of the Secretary of State, under the seal of the Secretary
20 of State;

21 (2) the name of the registrant;

22 (3) the business of the registrant;

23 (4) the address of the registrant;

24 (5) for a registrant that is a corporation, the state of incorporation;

25 (6) the date that the registrant claims to have first used the mark
26 anywhere;

27 (7) the date that the registrant claims to have first used the mark in the
28 State;

(8) a description of the goods or services with which the registrant uses the mark;

(9) the class under § 1–405 of this subtitle to which the goods or services belong;

(10) a [reproduction] **FULL DESCRIPTION** of the mark;

(11) the date of registration; and

(12) the term of registration.

1–410.

(b) Within 1 year before registration of a mark expires, the Secretary of State shall mail to the registrant, at the last known address of the registrant~~§~~:

(1) a renewal application form; and

~~(2)~~ a notice that states:

~~[(i)] ~~(1)~~~~ the date on which the current registration expires;

~~[(ii)] ~~(2)~~~~ the date by which the Secretary of State must receive the renewal application for the renewal to be issued and mailed before the registration expires; [and]

~~[(iii)] ~~(3)~~~~ the amount of the renewal fee; **AND**

~~(4)~~ **(IV) INSTRUCTIONS ON HOW TO ACCESS THE RENEWAL APPLICATION FORM ONLINE.**

(c) Before the registration of a mark expires, the registrant periodically may renew it for an additional 10–year term if, within 6 months before the expiration of the term of the registration:

(1) the registrant submits to the Secretary of State:

(I) a renewal application on the form that the Secretary of State provides; **AND**

(II) 3 DIFFERENT SPECIMENS OR REPRODUCTIONS OF THE MARK BEING USED;

(2) the registrant states in the renewal application that the mark is still in use in the State;

(3) the mark otherwise is entitled to be registered; and

(4) the registrant pays to the Secretary of State a renewal fee of \$50.

(E) A SPECIMEN OR REPRODUCTION SUBMITTED UNDER SUBSECTION (C) OF THIS SECTION MAY NOT INCLUDE A BUSINESS PAPER, INCLUDING LETTERHEAD, A BUSINESS CARD, OR AN ENVELOPE.

1-411.

(c) A person may record the assignment of registration of a mark by:

(1) submitting the instrument of assignment **BY AN OFFICER OF THE ASSIGNOR** to the Secretary of State; and

(2) paying to the Secretary of State a fee of \$10.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.