

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1113

Introduced by

Industry, Business and Labor Committee

(At the request of the Secretary of State)

1 A BILL for an Act to amend and reenact sections 47-25-01, 47-25-02, and 47-25-03 of the North
2 Dakota Century Code, relating to the definition and registration of a trade name.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 47-25-01 of the 1995 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **47-25-01. "Trade name" defined - Registration.** Every name under which ~~any a~~
7 person or organization ~~shall hereafter do~~ does or ~~transact any~~ transacts business in this state,
8 other than the true and complete name of ~~such the~~ the person or organization, is ~~hereby declared~~
9 ~~to be~~ a "trade name"; provided, however, that every name under which an unincorporated
10 association conducts activities, does, or transacts any business in this state is a "trade name".
11 A person or organization that has registered a trade name hereunder may institute a civil suit
12 prohibiting any other person from using ~~such that~~ that name. The provisions of this chapter ~~shall do~~
13 not prohibit any person engaged in business under a trade name prior to July 1, 1959, from
14 continuing business under ~~such that~~ that name.

15 **SECTION 2. AMENDMENT.** Section 47-25-02 of the 1995 Supplement to the North
16 Dakota Century Code is amended and reenacted as follows:

17 **47-25-02. Trade name - Registration - Statement - Contents.** A person,
18 unincorporated association, or organization may not engage in business in this state under a
19 trade name until the trade name is registered with the secretary of state. This section does not
20 apply to partnerships that have filed a fictitious name certificate as provided under chapter
21 45-11. The trade name registration must be a statement executed by ~~the owner~~ a person
22 owning the business, an officer or manager of an unincorporated association, or an officer or
23 manager of an organization upon forms prescribed by the secretary of state, setting forth: (1)
24 the trade name to be registered, (2) the name and address of the ~~owner of the business~~

1 person, unincorporated association, or organization using the trade name, and if an
2 unincorporated association, a corporation, limited liability company, or other organization, the
3 state or country of incorporation or organization, (3) address of the principal place of business,
4 and (4) the nature of the business in detail.

5 **SECTION 3. AMENDMENT.** Section 47-25-03 of the 1995 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **47-25-03. Trade name - Nature.** No trade name registered may be the same as or
8 deceptively similar to any other trade name, domestic or foreign corporation name, domestic or
9 foreign limited liability company, or a name of any limited partnership authorized to do business
10 in this state, or a name the right to which is in any manner reserved or registered in the office of
11 the secretary of state, unless there is filed with the trade name registration a written consent of
12 the holder of the similar name to use the proposed name, or if a franchise, a written consent
13 from the franchiser.