

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1477

2007 HOUSE POLITICAL SUBDIVISIONS

HB 1477

2007 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1477

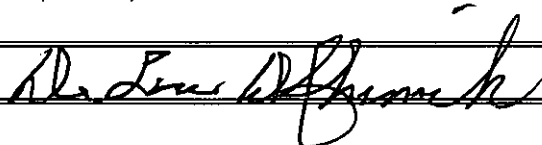
House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3104, 3108, 3109

Committee Clerk Signature



Minutes:

Chairman Herbel opened the hearing on HB 1477.

Rep. Kroeber: (See testimony #1)(Also handed out a copy of Terry Remboldt testimony #2)

Opposition: None

Closed the hearing.

Chairman Herbel reopened the hearing on HB 1477.

Do Pass Motion Made By Rep. Kari Conrad Seconded by Rep. Chris Griffin

Discussion:

Rep. Dwight Wrangham What are examples of other business that have trade marks?

Rep. Lee Kaldor The realtors have a trade mark. Rep. Donald Dietrich knows more about that.

Rep. Kari Conrad When we go to a barber we don't make an appointment, and when we go to a beauty shop we do and they are using this logo.

Rep. Lee Kaldor They are actually seeking with this to put in place a symbol across the nation.

Vote: 11 Yes 0 No 3 Absent Carrier: Rep. Lee Kaldor

Hearing closed.

Rep. Kim Koppelman made a motion to re-consider HB 1477 since he was gone for the hearing. **Seconded By Rep. William Kretschmar** Voice Vote carried. Job #3108

Job #3109

Rep. Kim Koppelman Looking at the handouts I see in 2003 ND Secretary of States Office gave the ND Barber's Assoc. a trademark. How many trade marks have the Secretary of State Issued in ND and also how many names are protected in ND. Most businesses are required to register their names in the state and that gives you some protection on trademarks. I am in a business where we design trademarks and we deal with this thing all the time. I am a big believer in protecting trademarks so if I design a logo for a client I want to protect it. I would not think twice about bringing a bill in to have this trademark protected. The trademark is already protected. I think this sets a bad precedence so I think if we do it for one we will be doing it for everyone.

Rep. Chris Griffin Can you state what section it is in the law.

Rep. Kim Koppelman I did not look it up myself. Legislative counsel told me it was a professional statue.

Rep. Lawrence Klemin We do have another chapter that deals with false advertising that is enforceable by the attorney general. Since this deals with false advertising this would probably fall under that provision.

Rep. Kari Conrad: In the licensing legislation you must have a certificate and show that at a business place so it is not a trade mark and it must be shown to the public. Discussed difference between a barber and a beautician. They are looking for that barber pole.

Rep. Dwight Wrangham I have gotten my hair cut at beauty shops and barber shops. I have walked into either one.

Rep. Kim Koppelman: We have false advertising statues on the books there are laws on the books to pursue that. Trademarks are different than logo's. It is the wrong approach to say we are going to take someone's trademark protection and elevate it to a criminal violation and force it to our states attorney and courts.

Rep. Lee Kaldor If I would put an advertisement in the newspaper or yellow pages that I was a counselor and put the scales of justice image in my ad I am assuming that would be a deceptive practice? It is clear that would be a violation of law because I would be using an image that would mislead the public to thinking I was qualified for practicing law. I think this is what the barbers are talking about. This image is representative of their profession the same way as the scales of justice.

Rep.Dwight Wrangham Discussed having a barber pole outside of an antique shop. He would be violating this ordinance then? This is an antique pole and this is an antique pole. General discussion on barber poles when on for awhile.

Do Not Pass Motion made By Rep. Kim Koppelman Seconded By Rep.Dwight Wrangham

Discussion:

Rep. Lawrence Klemin We are talking about the differences between barber shops and beauticians so I don't see the problem with the bill myself even though there may be other remedies.

Chairman Herbel Is there a need for it?

Rep. Kari Conrad These folks must think there is a need for it because this bill has been here before.

Rep. Lee Kaldor She makes reference to franchise hair salons and I do not know that much about them, but I am pretty certain there must be one that is doing this and they did not come here to oppose this legislation.

Vote: 3 Yes 9 No 2 Absent Failed

Do Pass Motion Made By Rep. Kari Conrad Seconded By Rep. Pat Hatlestad

Vote: 10 yes 2 No 2 Absent Carrier: Rep. Lee Kaldor

Hearing closed.

Date: 2-8-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1477

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Conrad Seconded By Rep Griffin

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	✓		Rep. Kari Conrad	✓	
Rep. Dwight Wrangham-V. Chair	✓		Rep. Chris Griffin	✓	
Rep. Donald Dietrich	✓		Rep. Lee Kaldor	✓	
Rep. Patrick Hatlestad	✓		Rep. Louis Pinkerton	✓	
Rep. Nancy Johnson	✓		Rep. Steve Zaiser	✓	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Kaldor

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote #: **2**

BILL/RESOLUTION NO. *HB 1477*

House	Political Subdivisions	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Re-consider

Motion Made By Rep. K. Koppelman Seconded By Rep. Kretschmer

[illegible]

Total (Yes) 1 No 0

Absent _____

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

10:15 PM

Date: 2-8-07
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1477

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep. Koppelman Seconded By Rep. Wrangham

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman		✓	Rep. Kari Conrad		✓
Rep. Dwight Wrangham-V. Chair	✓		Rep. Chris Griffin		✓
Rep. Donald Dietrich		✓	Rep. Lee Kaldor		✓
Rep. Patrick Hatlestad		✓	Rep. Louis Pinkerton		✓
Rep. Nancy Johnson		✓	Rep. Steve Zaiser		
Rep. Lawrence Klemin		✓			
Rep. Kim Koppelman	✓	✓			
Rep. William Kretschmar	✓	✓			
Rep. Vonnie Pietsch					

Total (Yes) 3 No 9

Absent 2

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Failed

Date: 2-8-07
Roll Call Vote #: 4

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1477

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Conrad Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	✓		Rep. Kari Conrad	✓	
Rep. Dwight Wrangham-V. Chair		✓	Rep. Chris Griffin	✓	
Rep. Donald Dietrich	✓		Rep. Lee Kaldor	✓	
Rep. Patrick Hatlestad	✓		Rep. Louis Pinkerton	✓	
Rep. Nancy Johnson	✓		Rep. Steve Zaiser		
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman		✓			
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch					

Total (Yes) 10 No 2

Absent 2

Floor Assignment Rep. Kaldor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1477: Political Subdivisions Committee (Rep. Herbel, Chairman) recommends DO PASS (10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1477 was placed on the Eleventh order on the calendar.

2007 SENATE HUMAN SERVICES

HB 1477

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1477

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 20, 2007

Recorder Job Number: 5335

Committee Clerk Signature

Mary K Monson

Minutes:

Senator Judy Lee opened the hearing on HB 1477 relating to prohibited acts regarding the practice of barbering. All committee members were present.

Rep. Kroeber introduced HB 1477 and asked the committees support for the barbers of North Dakota. The barbers have a certificate of trademark registration with the Secretary of State for the red, white, and blue barber pole. This type of sign was first used by a barber in ND on April 28, 1927. This bill will require when a barber pole is displayed that a business located near the barber pole is a barber shop with a person authorized to practice barbering. Barbers have been registered in the State of North Dakota as early as 1901.

Senator Warner asked if this was copyrighted why aren't they protected in current law.

Rep. Kraeber said that the copyright itself is protected but the placing of the pole is not.

Senator Lee asked if there was any objection in the House to the bill or any negative testimony.

Rep. Kraeber said that there was none.

Senator Erbele asked if he knew the wording on that certificate of trademark.

Rep. Kraeber said he had a copy and the committee would receive a copy of the certificate of trademark.

Senator Dever had two questions for Senator Kraeber: He asked if there had been abuse in this area. Second, is there a penalty?

Rep. Kraeber said that he didn't think there was a penalty but he wanted the author of the bill to explain it.

Rep. L. Hanson spoke in support of HB 1477 and he introduced Dean Remboldt, a barber from Jamestown, to speak.

Dean Remboldt a barber from Jamestown spoke in favor of HB 1477. His written testimony is attached. #1 He stated that when you see this barber pole you know that a professional barber works here.

Senator Erbele asked about the certificate of Trademark from the Secretary of State and wanted to know why it was dated from 1927 to 2013.

Mr. Remboldt said that the pole was registered as a trademark in 2003 and there is renewal on it.

Senator Heckaman asked if this was an effort of barbers across the nation or just in North Dakota? She also asked where she would see this misused in our state.

Mr. Remboldt said that there has been no abuse in ND but some franchises that are not barbers but are beauticians are trying to use the barber poles as an enticement to get customers in. This effort started out of their National convention. The state of Nevada has already passed this law and nation wide the barbers are trying to protect their pole.

Senator Erbele asked if barbers were only single service dealing with the cutting of hair.

Mr. Remboldt said that there licenses allows them to perm, color and do many things but their training stresses more on the hair cut.

Senator Dever asked if there was a penalty in code.

Mr. Remboldt said the enforcement will come through their enforcement body which is the barber board. Section 43.04 of the Century code is the barber section of the code and penalties are probably in that.

Senator Heckaman asked if a beauty operator has a completely different license than a barber? Can a beauty operator have a barber license too?

Mr. Remboldt said yes they can have both license.

Senator Erbele said that in the penalty section, the fraudulent misrepresentation is guilty of a class B misdemeanor.

Senator Pomeroy asked where Mr. Remboldt's training was?

Mr. Remboldt said he was trained in Barber College at Fargo. The college is still training barbers today from in state and the tri-state area because there is no Barber College in Montana, Wyoming or South Dakota. He also said that they have some reciprocity among states. To be a barber you need 1550 hours of training and then you take an apprentice test and after one year of apprentice you have to pass a Master Test given by the board of examiners.

Terry Remboldt had written testimony supporting HB 1477. He said as professionals they have worked hard to establish the barber pole as their symbol and they don't want to see it's meaning eroded. That is why they have obtained a Trademark to legally establish the barber pole symbol itself and need to further establish its legal usage. His entire written testimony is enclosed.

Senator Erbele said it did not prevent someone from owning a barber pole as part of a collection but it prevents using the barber pole to pretend that you are a barber.

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Senate Human Services Committee

Bill/Resolution No. HB 1477

Hearing Date: March 20, 2007

Senator Pomeroy moved a Do Pass on HB 1477.

Senator Erbele seconded the motion.

The clerk called the roll 6-0-0. Motion passed.

Senator Pomeroy will carry the bill.

Date: 3-20-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1477

Senate HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Pomeroy Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair 2	✓		Senator Jim Pomeroy 1	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Pomeroy

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 20, 2007 10:16 a.m.

Module No: SR-52-5722
Carrier: Pomeroy
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1477: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1477 was placed on the
Fourteenth order on the calendar.

2007 TESTIMONY

HB 1477

#1

HB# 1477

Chairman Herbel and members of the Political Subdivisions Committee. I'm Rep. Joe Kroeber from District 12 which covers 5/6 of Jamestown. I bring HB# 1477 before you today for the barbers of North Dakota. They have a certificate of trademark registration with the Secretary of State for the Red, White, & Blue Barber Pole. This type of sign was first used by a Barber in North Dakota on 04-28-1927. This bill will require that when a barber pole is displayed that a business located near the barber pole is a barbershop with a person authorized to practice barbering. I was informed by legislative council that barbers were registered in the state of North Dakota on 1917 making it one of the oldest registered professions in North Dakota.

Chairman Herbel with your permission I would like to pass out & read a letter from a local Barber in Jamestown by the name of Terry Remboldt to support this bill. It also includes a copy of the Certificate of Trademark or Service Mark Registration from the Secretary of State. Terry was unable to attend today and asked if I would read this letter for her. She and her husband Dean are both authorized to practice barbering in the state of North Dakota.

Board
3 members - by Gov.
appointed for 3 years terms.
5 - years of experience

Certificate
of Registration

17 years of
good moral character &
Temperate
habits

Graduated from a
State School of Barbering
approved by board
passed an examination

hair cutting
shaving
arranging
coloring & bleaching
permits & tinting
hygiene
Bacteriology
Histology of hair, skin,
eyes, & mouth
The structure of skin, glands & nails

Testimony HB 1477
House Political Subdivision Committee
Terry Remboldt
January 31, 2007

*Same
given to
Senate*

Mr. Chairman and members of the House Political Subdivision Committee, my name is Terry Remboldt and I am a barber from Jamestown ND.

As you may know, the barber pole is one of the most widely recognizable symbols in our society. Those of us who are practicing our noble profession are proud of what we do for a living and for that reason we need to establish when and where our professional symbol can be legally used.

Barber Boards and Associations across the nation are working to help enact similar laws in other states.

The reason for our concern for our professional symbol is that there are (non-barber) franchised hair salons deceptively using barber poles to entice customers to their door.

As a profession, we've worked hard to establish the barber pole as our symbol and we don't want to see it's meaning eroded. That is why we obtained a Trademark to legally establish the barber pole symbol itself and need to further establish it's legal usage.

Thank you for this opportunity to provide information on HB 1477. I urge you to vote for a "do pass" on this bill.

Terry Remboldt
ND. Barbers Association vice pres.
702 10th Ave SE
Jamestown ND. 58401

Attached: Certificate of Trademark

State of North Dakota

SECRETARY OF STATE



CERTIFICATE OF TRADEMARK or SERVICE MARK REGISTRATION

The undersigned, as Secretary of State of North Dakota, hereby certifies that an Application for Registration of a Trademark or Service Mark, duly signed pursuant to the provisions of the North Dakota's Trademarks statutes, has been received in this office and is found to conform to law.

Accordingly the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this certificate of registration to:

NORTH DAKOTA BARBERS' ASSOCIATION
712 N BROADWAY
MINOT ND 58703-2316

For registration of:
BARBER POLE IN RED, WHITE & BLUE STRIPES

To be used with the following goods or services:

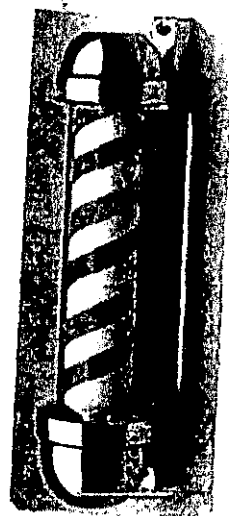
MISCELLANEOUS SERVICES

First used anywhere: 04/28/1927, in North Dakota: 04/28/1927

The registration shall remain in force until: 06/03/2013

A facsimile of the trademark is attached hereto.

Dated: June 03, 2003



A handwritten signature in cursive script, reading "Alvin A. Jaeger".

Alvin A. Jaeger
Secretary of State

Testimony HB 1477
Senate Human Services Committee
Dean Remboldt
(March 20th, 2007)

Madam Chair and members of the Senate Human Services Committee, my name is Dean Remboldt and I am a barber in Jamestown ND.

The professional barbers of North Dakota are before our State Legislature to ask for a law for exclusive use of our recognized symbol (the barber pole) by our barber profession, and there by banning barber poles from deceptive uses for customer enticement by non-barbers.

Use of barber poles (red & white stripes) for easy recognition of services before most people could read dates back to 1305 AD. Europe. Around the time of our National Centennial in 1876, barbers in the United States as a patriotic gesture added the blue stripe and by 1905 the barber pole as we know it today was established nationwide.

The barbering profession is one of the first professions to require training, testing and licensing in the State of North Dakota and North Dakota was one of the first states with barber laws. The 1901 Legislature set forth our first barbering laws and regulations in the North Dakota Century Code and the Governor appointed our first 3 member State Barber Board.

The Governor appointed (every 4 years or as vacancies occur) North Dakota State Barber Board is duly charged with licensing, shop inspections, compliance of continuing education, and enforcement of the state barber laws and regulations. Funding is provided from license fees, no state appropriations are used.

The North Dakota Barbers Association was chartered in 1927 and their peers elect the members. The Barbers Association helps the host city (Mandan, ND. April 21-22 2007) plan our yearly conventions, continuing education and facilitating recommended changes and reviews of our state barber laws. Other duties include; holding state barber meetings at our conventions, funneling barbers charitable contributions to Camp Grassick near Dawson ND, keeping records and numerous other duties in regards to the barbering profession.

Some national non-barber franchises have been trying to capitalize upon the universally established recognition that the barber pole implies. We feel that the barber pole should retain its true meaning: that a licensed professional barber works here.

At our State Barbers Association meeting in April 2006, the barbers voted unanimously to seek passage of the laws that HB1477 contain. The North Dakota State Barbers Association, in consultation with other state Barber Associations, are asking for HB1477 to be included to the barber laws in chapter NDCC 43-04.

Thank you for this opportunity to provide information on HB 1477. I urge you to vote for a "do pass" on this bill.

Dean Remboldt
702 10th Ave SE
Jamestown ND. 58401