

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1422
(Representatives B. Thoreson, Dosch, Koppelman, Warner)
(Senators Andrist, O'Connell)

AN ACT to amend and reenact sections 45-11-01 and 47-25-01 of the North Dakota Century Code, relating to fictitious and trade names.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 45-11-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

45-11-01. Partnership - Use of fictitious partnership name.

1. As used in this section, "fictitious name" means a name assumed to identify a partnership and which does not include in its name:
 - a. The true name of each organizational partner;
 - b. The first name and surname of each partner; or
 - c. The surname of each partner, repeating a surname if more than one partner has the same surname.
2. Any partnership transacting business in this state under a fictitious name or under a designation that does not show the names of the persons interested as partners must file a fictitious name certificate with the secretary of state, together with a filing fee of twenty-five dollars. When a partnership has more than two members, an additional three dollars must be paid for each additional member not to exceed two hundred fifty dollars. A limited partnership or a foreign limited partnership transacting business under a name filed under chapter 45-10.1 and as provided in section 45-11-03 or a partnership transacting business under a name filed under section 45-13-05 is not required to file a fictitious name certificate under this section.
3. The fictitious name:
 - 1- a. May not contain the word "corporation", "company", "incorporated", "limited liability company", or "limited", or an abbreviation of any of those words. This subsection does not preclude the word "limited" from being used in conjunction with the word "partnership".
 - 2- b. May not be the same as or deceptively similar to any corporate name, limited liability company name, trade name, partnership name on file with the secretary of state, limited partnership name, foreign limited partnership name, or fictitious name certificate on file with the secretary of state, unless there is filed with the fictitious name certificate a written consent of the holder of the similar name to use the proposed name and a filing fee of ten dollars.

SECTION 2. AMENDMENT. Section 47-25-01 of the North Dakota Century Code is amended and reenacted as follows:

47-25-01. Trade name defined - Registration. ~~Every name under which any person or organization shall hereafter do or transact any business in this state, other than the true name of such person or organization, is hereby declared to be a "trade name".~~

1. a. As used in this section, a "trade name" is a name assumed to identify the business or activities of an individual or organization and which does not include in the name:
 - (1) The true name of the organization using the name;
 - (2) The first name and surname of each individual using the business name; or
 - (3) The surname of each individual, repeating a surname if more than one owner has the same surname.
- b. A name assumed under paragraph 3 or a name of an organization or association not otherwise registered with the secretary of state is a trade name if a license or permit to conduct business or operations is required by this state.
2. A person or organization that has registered a trade name ~~hereunder~~ under this section may institute a civil suit prohibiting any other person from using ~~such~~ the name.
3. ~~The provisions of this~~ This chapter ~~shall~~ does not prohibit any person engaged in business under a trade name ~~prior to~~ before July 1, 1959, from continuing business under ~~such~~ that name.
4. Notwithstanding any other provision of law, an individual or organization may register as a trade name under section 47-25-04 any name listed in paragraph 1, 2, or 3 of subdivision a of subsection 1.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1422.

House Vote: Yeas 93 Nays 0 Absent 5

Senate Vote: Yeas 48 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State