

**FINAL BILL REPORT**

**2SSB 6276**

**C 60 L 94**

**SYNOPSIS AS ENACTED**

**Brief Description:** Regulating trademarks.

**SPONSORS:** Senate Committee on Ways & Means (originally sponsored by Senators Haugen, Winsley, Nelson and M. Rasmussen; by request of Secretary of State)

**SENATE COMMITTEE ON LAW & JUSTICE**

**SENATE COMMITTEE ON WAYS & MEANS**

**HOUSE COMMITTEE ON COMMERCE & LABOR**

**BACKGROUND:**

A "trademark" means any word, name, symbol or device or any combination thereof which is used by a person to identify goods that he or she makes or sells, and to distinguish them from goods that are made or sold by others.

A person who has adopted and is using a trademark in this state may file an application for registration of the trademark with the Secretary of State. The filing fee for the registration is \$50 payable to the Secretary of State. Registration of a trademark is effective for ten years, and may be renewed for successive terms of ten years. The renewal fee is \$50 payable to the Secretary of State. The assignment of a trademark must be accompanied by a \$50 fee. The fees for registration, renewal, and assignment of trademarks go to the state general fund.

In 1993, the Legislature amended the statute pertaining to the general collection of fees to allow the Secretary of State to establish by rule and collect the fees for filing and recording trademarks. However, the fee provision in another chapter was not similarly revised, so an inconsistency exists between two statutes.

There currently exists a problem with respect to foreign businesses who bring legal actions against Washington businesses because the Washington business is using the same trademark or trade name as the foreign business.

**SUMMARY:**

The Secretary of State must establish by rule fees for the registration, renewal, and assignment of trademarks. Registration of a trademark is effective for six years, and may be renewed for successive terms of six years.

The exclusive right to the use of a trademark may be reserved by 1) a person intending to register a trademark, or 2) a domestic or foreign corporation intending to change its trademark. In order to reserve a trademark, a person must file an application with the Secretary of State. The Secretary of State sets the fees by rule. If the trademark is available for use, the Secretary of State must reserve the trademark for the exclusive use of the applicant for 180 days. The reservation is limited to one filing.

The Secretary of State may establish reasonable fees for certain special services, such as in-person service or expedited service, rendered with respect to trademarks.

Foreign businesses are prevented from receiving damages or equitable relief in any legal proceeding on account of the use of a trademark by a Washington business which is also used by the foreign business outside of the United States.

This prohibition does not apply if: (1) the foreign business used a trademark or trade name within the United States prior to the time the Washington business began to use it; or (2) the trademark or trade name was registered by the United States Patent and Trademark Office or reserved by the Secretary of State to the foreign business at the time the Washington business began to use it.

**VOTES ON FINAL PASSAGE:**

Senate	46	0
House	96	0

**EFFECTIVE:** June 9, 1994