

FINAL BILL REPORT

SB 5122

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Synopsis as Enacted

Brief Description: Revising provisions of the state trademark law.

Sponsors: Senators Johnson, Kline and Esser.

Senate Committee on Judiciary
House Committee on Judiciary

Background: A trademark is any word, name, symbol, or device adopted or used by a person to identify the goods made or sold by that person and to distinguish them from goods made or sold by others. Registration of a trademark provides the registered user with exclusive use of that trademark and protects against infringements upon the user's rights. A trademark may be registered with: 1) the U.S. Trademark and Patent Office, for the broadest protection; 2) the Washington Secretary of State's Office, for a trademark used exclusively within the state or region; or 3) both the federal office and the state office.

RCW 19.77 sets out Washington's trademark registration law. Washington's law is modeled after the Model State Trademark Bill (MSTB). Versions of the MSTB form the foundation of state trademark law in 46 states. Over the years, Washington's law has been amended several times in light of MSTB revisions. In 2001 the Washington State Trademark Review Committee was assembled to review recent MSTB revisions. After comparing the revised MSTB to both federal and state trademark law, the committee determined that some sections of RCW 19.77 were outdated and unclear. The committee proposes adopting uniform provisions from the MSTB and conforming Washington law more closely to federal law.

Summary: RCW 19.77 is amended to adopt uniform provisions from the revised Model State Trademark Bill and more closely parallel federal trademark laws.

Key amendments include the following:

- 1) The definition of trademark abandonment is modified. Non-use of a trademark for three consecutive years, rather than two, constitutes prima facie evidence of trademark abandonment;
- 2) The term for which a trademark is registered to a user is reduced from six years to five years;
- 3) The current classification of goods and services is deleted. The Secretary of State is authorized to establish and regulate new classifications. The statute directs the secretary to conform, as much as possible, Washington's classifications to the classifications used by the United States Patent and Trademark Office; and

4) Court ordered remedies available to litigants in trademark registration cases are clarified. A court may order attorneys' fees and, where the court finds a showing of bad faith, treble damages.

Votes on Final Passage:

Senate	46	0
House	95	0

Effective: July 27, 2003