

By: Marchant

H.B. No. 3415

Substitute the following for H.B. No. 3415:

By: Elkins

C.S.H.B. No. 3415

A BILL TO BE ENTITLED

AN ACT

1
2 relating to filing requirements and to the classification of goods
3 and services for registration of a trademark or service mark.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The heading of Section 16.09, Business &
6 Commerce Code, is amended to read as follows:

7 Sec. 16.09. CLASSIFICATION [~~CLASSES~~] OF GOODS AND SERVICES.

8 SECTION 2. Sections 16.09(a) and (b), Business & Commerce
9 Code, are amended to read as follows:

10 (a) The secretary of state shall adopt rules to establish a
11 classification of goods and services for the convenient
12 administration of this chapter. The classification of goods and
13 services established under this subsection may not limit or expand
14 an applicant's or registrant's rights. In adopting rules under this
15 subsection, the secretary of state shall ensure, to the extent
16 practicable, that the classification of goods and services conforms
17 to the classification of goods and services adopted by the United
18 States Patent and Trademark Office.

19 (b) An applicant may include in a single application for
20 registration of a mark all goods or services in connection with
21 which the mark is actually being used and which are in a single
22 class. An applicant may not include in a single application for
23 registration goods or services which are not in a single class.

24 [~~(b) The classes of goods are:~~

- 1 ~~[(1) Class 1: Chemicals,~~
- 2 ~~[(2) Class 2: Paints,~~
- 3 ~~[(3) Class 3: Cosmetics and cleaning preparations,~~
- 4 ~~[(4) Class 4: Lubricants and fuels,~~
- 5 ~~[(5) Class 5: Pharmaceuticals,~~
- 6 ~~[(6) Class 6: Metal goods,~~
- 7 ~~[(7) Class 7: Machinery,~~
- 8 ~~[(8) Class 8: Hand tools,~~
- 9 ~~[(9) Class 9: Electrical and scientific apparatus,~~
- 10 ~~[(10) Class 10: Medical apparatus,~~
- 11 ~~[(11) Class 11: Environmental control apparatus,~~
- 12 ~~[(12) Class 12: Vehicles,~~
- 13 ~~[(13) Class 13: Firearms,~~
- 14 ~~[(14) Class 14: Jewelry,~~
- 15 ~~[(15) Class 15: Musical instruments,~~
- 16 ~~[(16) Class 16: Paper goods and printed matter,~~
- 17 ~~[(17) Class 17: Rubber goods,~~
- 18 ~~[(18) Class 18: Leather goods,~~
- 19 ~~[(19) Class 19: Nonmetallic building materials,~~
- 20 ~~[(20) Class 20: Furniture and articles not otherwise~~
- 21 ~~classified,~~
- 22 ~~[(21) Class 21: Housewares and glass,~~
- 23 ~~[(22) Class 22: Cordage and fibers,~~
- 24 ~~[(23) Class 23: Yarns and threads,~~
- 25 ~~[(24) Class 24: Fabrics,~~
- 26 ~~[(25) Class 25: Clothing,~~
- 27 ~~[(26) Class 26: Fancy goods,~~

- 1 ~~[(27) Class 27: Floor coverings;~~
- 2 ~~[(28) Class 28: Toys and sporting goods;~~
- 3 ~~[(29) Class 29: Meats and processed foods;~~
- 4 ~~[(30) Class 30: Staple foods;~~
- 5 ~~[(31) Class 31: Natural agricultural products;~~
- 6 ~~[(32) Class 32: Light beverages;~~
- 7 ~~[(33) Class 33: Wines and spirits; and~~
- 8 ~~[(34) Class 34: Smokers' articles.]~~

9 SECTION 3. Subchapter B, Chapter 16, Business & Commerce
10 Code, is amended by adding Section 16.191 to read as follows:

11 Sec. 16.191. CHANGE OF ADDRESS. The secretary of state may
12 amend its records to reflect a change of address on an effective
13 registration on receipt of a statement signed by the registrant or
14 the registrant's agent that contains:

- 15 (1) the name of the registrant;
- 16 (2) a description of the registered mark;
- 17 (3) the registration number issued by the secretary of
18 state; and
- 19 (4) the registrant's new address.

20 SECTION 4. Section 16.20, Business & Commerce Code, is
21 amended to read as follows:

22 Sec. 16.20. TRANSFER OF MARK; CHANGE OF REGISTRANT'S NAME.

23 ~~[(a)]~~ If ownership of a registered mark is transferred or a
24 registrant's name is changed during the unexpired term of a
25 registration, a new certificate of registration may be issued, at
26 the discretion of the secretary of state, for the remainder of the
27 unexpired term of the mark's registration in the name of the

1 transferee or in the new name of the registrant on the filing of an
2 instrument under Section 16.19 [~~at the request of the registrant or~~
3 ~~transferee~~].

4 [~~(b) A request for a new certificate must be signed by the~~
5 ~~registrant or transferee and accompanied by a fee in the amount set~~
6 ~~by Section 405.031(a), Government Code, for an official~~
7 ~~certificate.~~]

8 SECTION 5. Subchapter B, Chapter 16, Business & Commerce
9 Code, is amended by adding Section 16.22 to read as follows:

10 Sec. 16.22. ELECTRONIC FILING AND REPRODUCTION. (a) The
11 following instruments may be filed in an electronic format that is
12 approved by the secretary of state:

13 (1) an application for renewal of a registration of a
14 mark under Section 16.14;

15 (2) an assignment of a mark and its registration under
16 Section 16.17; and

17 (3) a transfer of ownership of a registered mark or
18 change of a registrant's name under Section 16.19.

19 (b) A person who files an instrument by electronic format in
20 accordance with Subsection (a) is considered to have complied with:

21 (1) the format part of the filing requirements of the
22 section under which the instrument is required to be filed; and

23 (2) any requirement that the instrument be submitted
24 as an originally signed instrument.

25 (c) An electronic acknowledgment or certificate required to
26 be issued by the secretary of state for an instrument filed under
27 Subsection (a) is considered issued by the secretary of state on the

1 initial transmission by the secretary of state of the
2 acknowledgment or certificate required to be filed.

3 (d) A certificate issued by the secretary of state for an
4 instrument filed under this subchapter is not required to be issued
5 on paper or reduced to printed form.

6 (e) If permitted by rules adopted by the secretary of state,
7 an original instrument required or authorized to be filed with the
8 secretary of state under this subchapter may be a photographic,
9 photostatic, facsimile, or similar reproduction of a signed
10 instrument.

11 (f) A civil or criminal penalty applicable to the filing of
12 a document under this chapter applies in the same form and manner to
13 an instrument filed under this section.

14 SECTION 6. Sections 16.09(c) and (d), Business & Commerce
15 Code, are repealed.

16 SECTION 7. This Act takes effect September 1, 2003.