

## IC 24-4-5

### Chapter 5. Cloth Product Trademarks

#### IC 24-4-5-1

##### Trademarks; registration; fees

Sec. 1. (a) A person, a firm, a limited liability company, a corporation, or an association who supplies by rental or lease a circulating product that is the property of the supplier may adopt and use a name or other mark or device woven, impressed, or produced on the circulating product to indicate ownership and registration as described by this chapter.

(b) The owner of a delivery container may adopt and use an identifying mark or device for affixing or stamping on a delivery container to indicate ownership and registration as described in this chapter.

(c) A supplier of a circulating product and an owner of a delivery container may file in the office of the secretary of state and also in the office of the county recorder of the county in which the principal place of business of the supplier or owner is located or if the principal place of business is located outside Indiana then in the office of the county recorder of any county of the state in which it does business, a description of the names, marks, or devices used to indicate ownership, and cause such description to be printed once a week for three (3) successive weeks in a newspaper published in the county in which such description is filed. The registrant shall pay the secretary of state three dollars (\$3) for each registration and the county recorder, the amount provided by law for recordation.

*(Formerly: Acts 1971, P.L.365, SEC.1.) As amended by P.L.114-1992, SEC.1; P.L.8-1993, SEC.351.*

#### IC 24-4-5-1.1

##### "Circulating product"

Sec. 1.1. As used in this chapter, "circulating product" includes:

- (1) clean laundered towels;
- (2) industrial wiping towels;
- (3) sheets, pillowcases, napkins, tablecloths, and linen;
- (4) coats, aprons, shirts, and diapers;
- (5) garments serviced by linen and towel supply companies;
- (6) garments serviced by industrial garment and towel supply companies;
- (7) articles of dust control;
- (8) toilet devices;
- (9) towel dispensing cabinets; and
- (10) bags, carts, baskets, or other receptacles used as packages or containers;

loaned or circulated as part of a regular service for the periodic exchange of clean articles for soiled articles.

*As added by P.L.114-1992, SEC.2.*

### **IC 24-4-5-1.2**

#### **"Delivery container"**

Sec. 1.2. As used in this chapter, "delivery container" means a permanent container used by:

- (1) a bakery, dairy, distributor, retailer, or food service establishment; or
- (2) an agent of a bakery, dairy, distributor, retailer, or food service establishment;

to transport, store, or carry bakery or dairy products.

*As added by P.L.114-1992, SEC.3.*

### **IC 24-4-5-1.3**

#### **"Registrant"**

Sec. 1.3. As used in this chapter, "registrant" means a supplier of a circulating product or the owner of a delivery container who has filed under section 1 of this chapter a description of a name, mark, or device used to indicate the ownership of the circulating product or delivery container.

*As added by P.L.114-1992, SEC.4.*

### **IC 24-4-5-2**

#### **Trademarks; unlawful sale or purchase; concealment or removal**

Sec. 2. (a) This section does not apply to a registrant or person who has purchased from a registrant a circulating product or delivery container bearing a mark or device registered under this chapter.

(b) It is unlawful for any person, firm, limited liability company, corporation, or association, except the owner or registrant of a brand registered as provided in this chapter, to:

- (1) sell, buy, rent, launder or clean, give, take, or otherwise traffic in;
- (2) erase, obliterate or otherwise cover up, conceal, or remove a name, mark, or device registered under this chapter; or
- (3) fill or refill;

without the written consent of the registrant, any circulating product or delivery container that is marked with or by any name, mark, or device, a description of which is filed and published as provided in section 1 of this chapter.

*(Formerly: Acts 1971, P.L.365, SEC.1.) As amended by P.L.114-1992, SEC.5; P.L.8-1993, SEC.352.*

### **IC 24-4-5-3**

#### **Trademarks; purchase; reregistration**

Sec. 3. Any:

- (1) person, firm, limited liability company, corporation, or association; or
- (2) agent of a person, a firm, a limited liability company, a corporation, or an association;

who acquires by purchase or other lawful means a circulating

product or delivery container marked under section 1 of this chapter and who has the written consent under section 2 of this chapter is not required to refile and republish the description, but, as to the supplies described in the written consent, acquires as a part of the purchase all rights and benefits the vendor has under this chapter.

*(Formerly: Acts 1971, P.L.365, SEC.1.) As amended by P.L.114-1992, SEC.6; P.L.8-1993, SEC.353.*

#### **IC 24-4-5-4**

##### **Trademarks; possession of goods; notice to owner**

Sec. 4. (a) Any person, firm, limited liability company, corporation, or association who finds or receives in any manner a circulating product or delivery container marked with a brand registered under this chapter shall make a reasonable effort to find the owner of the circulating product or delivery container and restore the property to the owner.

(b) Any person, firm, limited liability company, corporation, or association who finds or receives a circulating product or delivery container may notify the owner by regular United States mail, which is sufficient to comply with the requirement to restore the property to the owner, and the owner has the burden of picking up the property at the location set forth in the letter.

*(Formerly: Acts 1971, P.L.365, SEC.1.) As amended by P.L.152-1986, SEC.56; P.L.114-1992, SEC.7; P.L.8-1993, SEC.354.*

#### **IC 24-4-5-5**

##### **Trademarks; deposits for safekeeping not constituting sale**

Sec. 5. Acceptance of money by a registrant as a deposit to secure safekeeping and return of a circulating product or delivery container does not constitute a sale of the property, either optional or otherwise, in any proceeding under this chapter.

*(Formerly: Acts 1971, P.L.365, SEC.1.) As amended by P.L.114-1992, SEC.8.*

#### **IC 24-4-5-6**

##### **Trademarks; use of circulating product or delivery container without consent; prima facie evidence**

Sec. 6. (a) This section does not apply to a person who possesses a circulating product or delivery container in good faith in the ordinary course of business.

(b) Evidence of possession of a circulating product or delivery container marked under section 1 of this chapter by a person other than the registrant whose name, mark, or device is on the circulating product or delivery container without the written consent of the registrant of the name, mark, or device constitutes prima facie evidence of unlawful use of or traffic in the circulating product or delivery container.

*(Formerly: Acts 1971, P.L.365, SEC.1.) As amended by*

*P.L.114-1992, SEC.9.*

**IC 24-4-5-7**

**Violations; infraction; civil actions**

Sec. 7. A person who violates this chapter commits a Class B infraction.

If a person suffers a pecuniary loss as a result of a violation of IC 24-4-5, the person may bring a civil action against the person who caused the loss for the following:

- (1) Actual damages.
- (2) The costs of the action.
- (3) A reasonable attorney's fee.

*(Formerly: Acts 1971, P.L.365, SEC.1.) As amended by Acts 1978, P.L.2, SEC.2413; P.L.114-1992, SEC.10.*

**IC 24-4-5-8**

**Common law rights protected**

Sec. 8. Nothing in this chapter affects the rights or enforcement of rights acquired under IC 24-2-1 or the rights or the enforcement of rights in trademarks acquired in good faith at any time at common law.

*(Formerly: Acts 1971, P.L.365, SEC.1.) As amended by P.L.114-1992, SEC.11.*