

USE OF BUSINESS NAMES

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Nielson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to the name under which a person conducts business.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes registration of a name a material fact in an action regarding the use of a business name;
- ▶ provides for evidence of registration by certified copy; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

42-2-9, as last amended by Laws of Utah 2002, Chapter 318

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **42-2-9** is amended to read:



28 **42-2-9. Corporate names, limited liability company names, and trademark,**
29 **service mark, and trade name rights not affected -- Registration material fact in court**
30 **actions.**

31 (1) This chapter does not affect or apply to ~~[any]~~ a corporation organized under the
32 laws of any state if it does business under its true corporate name.

33 (2) (a) This chapter does not affect the statutory or common law trademark, service
34 mark, or trade name rights granted by state or federal statute.

35 (b) An act listed in Subsection (2)(c) of itself does not authorize the use in this state of
36 an assumed name in violation of the rights of another as established under:

37 (i) this chapter;

38 (ii) Title 70, Chapter 3a, Registration and Protection of Trademarks and Service Marks
39 Act;

40 (iii) the state law relating to names of corporations, partnerships, and other legal
41 business entities;

42 (iv) the federal Trademark Act of 1946, 15 U.S.C. ~~[Section]~~ Sec. 1051 et seq.; or

43 (v) the common law, including rights in a trade name.

44 (c) Subsection (2)(b) applies to:

45 (i) a filing under this chapter;

46 (ii) an approval by the Division of Corporations and Commercial Code pursuant to this
47 chapter; or

48 (iii) the use of an assumed name.

49 (3) This chapter does not affect or apply to ~~[any]~~ a limited liability company doing
50 business in this state under its true name.

51 (4) (a) As used in this Subsection (4), "filer" means a person who:

52 (i) registers a name with the Division of Corporations and Commercial Code; and

53 (ii) files an action in a court of competent jurisdiction alleging that another person is
54 violating a law described in Subsection (2)(b)(i), (ii), (iii), or (v), by use of a name.

55 (b) Notwithstanding the other provisions of this section, if a filer files an action
56 described in Subsection (4)(a), the court shall consider the filer's registration of the name as a
57 material fact in favor of the filer if the filer registers the name before the person against whom
58 the filer files the action files the name.

59 (c) A certified copy of the registration of a name with the Division of Corporations and
60 Commercial Code is evidence of when a name is registered with the Division of Corporations
61 and Commercial Code.

Legislative Review Note
as of 1-13-14 2:14 PM

Office of Legislative Research and General Counsel