

Senate, April 2, 1998. The Committee on Government Administration and Elections reported through SEN. LEBEAU, 3rd DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT AMENDING THE CONNECTICUT TRADEMARK STATUTE TO PROVIDE PROTECTION FOR OLYMPIC COMMITTEE TRADEMARKS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 35-11a of the general statutes is
2 repealed and the following is substituted in lieu
3 thereof:

4 As used in this chapter:

5 (1) The term "trademark" means any word,
6 name, symbol or device or any combination thereof
7 used by a person to identify and distinguish the
8 goods of such person, including a unique product,
9 from those goods made or sold by others, and to
10 indicate the source of the goods, even if that
11 source is unknown. THE TERM "TRADEMARK" ALSO
12 INCLUDES, BUT IS NOT LIMITED TO, ANY SYMBOL,
13 EMBLEM, SIGN, INSIGNIA OR NAME OF THE UNITED
14 STATES OLYMPIC COMMITTEE OR THE INTERNATIONAL
15 OLYMPIC COMMITTEE, OR ANY COMBINATION OF SUCH
16 SYMBOLS, EMBLEMS, SIGNS, INSIGNIAS OR NAMES.

17 (2) The term "service mark" means any word,
18 name, symbol or device or any combination thereof
19 used by a person to identify the services of one
20 person, including a unique service, to distinguish
21 them from the services of others, and to indicate

22 the source of the services, even if that source is
23 unknown. Titles, character names used by a person,
24 and other distinctive features of radio or
25 television programs may be registered as service
26 marks notwithstanding that they, or the programs,
27 may advertise the goods of the sponsor.

28 (3) The term "mark" includes any trademark or
29 service mark entitled to registration under this
30 chapter whether registered or not.

31 (4) The term "trade name" includes words and
32 names lawfully adopted and used by any person
33 engaged in any business, trade, occupation or
34 vocation to identify such business, trade,
35 occupation or vocation whether or not registered,
36 filed or recorded under any law of the state of
37 Connecticut, or of any other state, or of the
38 United States.

39 (5) The term "person" means any individual,
40 firm, partnership, corporation, limited liability
41 company, association, union, governmental body or
42 agency or other organization capable of suing or
43 being sued in a court of law.

44 (6) The term "applicant" embraces the person
45 filing an application for registration of a mark
46 under this chapter, and the legal representatives,
47 successors or assigns of such person.

48 (7) The term "registrant" embraces the person
49 to whom the registration of a mark under this
50 chapter is issued, and the legal representatives,
51 successors or assigns of such person.

52 (8) The term "use" means the bona fide use of
53 a mark in the ordinary course of trade, and not
54 made merely to reserve a right in a mark. For the
55 purposes of this chapter, a mark shall be deemed
56 to be in use (A) on goods when it is placed in any
57 manner on the goods or their containers, or the
58 displays associated therewith, or on the tags or
59 labels affixed thereto, or if the nature of the
60 goods makes such placement impracticable, then on
61 documents associated with the goods or their sale,
62 and such goods are sold or otherwise distributed
63 in this state, and (B) on services when it is used
64 or displayed in the sale or advertising of
65 services and the services are rendered in this
66 state.

67 (9) A mark shall be deemed to be "abandoned"
68 (A) when its use has been discontinued with intent
69 not to resume such use. Intent not to resume may

70 be inferred from circumstances. Nonuse for two
71 consecutive years shall be prima facie evidence of
72 abandonment; (B) when any course of conduct of the
73 registrant, including acts of omission as well as
74 commission, causes the mark to lose its
75 significance as an indication of origin.

76 (10) The term "related company" means any
77 person whose use of a mark is controlled by the
78 owner of the mark with respect to the nature and
79 quality of the goods or services on or in
80 connection with which the mark is used.

81 (11) The term "dilution" means the lessening
82 of the capacity of the registrant's mark to
83 identify and distinguish goods or services,
84 through use of the mark by another person,
85 regardless of the presence or absence of (A)
86 competition between the users of the mark, or (B)
87 likelihood of confusion, mistake or deception
88 arising from that use.

89 GAE COMMITTEE VOTE: YEA 17 NAY 0 JFS

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER sSB 517

STATE IMPACT None, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Secretary of The State

EXPLANATION OF ESTIMATES:

Since these trademarks or service marks can not be registered, a revenue loss could result. The extent of the revenue loss, if any, is expected to be minimal, therefore, would have little or no impact upon the total revenue that the agency collects annually. In FY 98-99 \$18 million (gross) is expected to be collected and deposited in the General Fund as revenue. Approximately \$73,381 of the total gross revenue is expected to result from the registration of trade/service marks.

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OLR BILL ANALYSIS

sSB 517

AN ACT AMENDING THE CONNECTICUT TRADEMARK STATUTE TO PROVIDE PROTECTION FOR OLYMPIC COMMITTEE TRADEMARKS

SUMMARY: This bill adds to the definition of "trademark" any symbol, emblem, sign, insignia, or name of the United States Olympic Committee (USOC) or the International Olympic Committee (IOC). This makes the Olympic symbols subject to registration provisions that allow a registrant's goods and services to be distinguished from others.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION

Trademarks and Service Marks

Anyone who adopts and uses a trademark or service mark in Connecticut is entitled to file an application, along with a \$50 fee, for registration in the Office of the Secretary of the State. A mark can be registered unless it is the same or similar to a mark registered in this state by someone else or registered in the U.S. Patent and Trademark Office. After reviewing the application, the secretary can approve or refuse the registration. If he approves, he issues a certificate of registration. A trademark registration is effective for five years and can be renewed for another \$50 fee. The business that uses the trademark can assign its use to another. A trademark registration can expire or be cancelled by the registrant or assignee or by a court.

Illegal use of the mark is subject to a civil action by the registrant and a court can grant an injunction against wrongful manufacture, use, display, or sale of a mark and order payment of any profits, damages, and attorney's fees.

BACKGROUND

Federal Protections

The Amateur Sports Act grants the United States Olympic Committee the right to prohibit certain commercial and promotional uses of the word "Olympic" and various Olympic symbols (36 USC Sec. 380). It makes violators subject to a civil suit that the USOC can file and to remedies provided in the Trademark Act of 1946.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute
Yea 17 Nay 0