

14A:2-2.2

LEGISLATIVE HISTORY CHECKLIST

NJSA: 14A:2-2.2 (Corporations--"Blind" or "Handicapped" in name)

LAWS OF: 1977

CHAPTER 8

BILL NO: S142

Sponsor(s): Fay & Menza

Date Introduced: Pre-filed

Committee: Assembly: Judiciary, Law, Public Safety & Defense

Senate: Law, Public Safety, & Defense

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: December 20, 1976

Senate: May 13, 1976

Date of Approval: February 3, 1977

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

Mentioned in sponsors' statement:

974.90 N.J. Commission of Investigation.  
162 Final report and recommendations on the investigation of profit-  
1974b oriented companies operating in a pseudo-charitable manner. Trenton, 1974.

(Recommendations for legislation on p. 89-93, enclosed)

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**SENATE, No. 142**

**STATE OF NEW JERSEY**

PRE-FILED FOR INTRODUCTION IN THE 1976 SESSION

By Senators FAY and MENZA

AN ACT concerning corporate names and supplementing chapter 2 of Title 14A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. No corporation organized under the laws of the State of New  
2 Jersey nor any foreign corporation authorized to do business in  
3 New Jersey shall use the words "blind," or "handicapped," or  
4 term **\*[or]** \*, \* terms\*, *imprint, stamp, label or symbol*\* suggest-  
5 ing such impairments, as part of its name unless the approval of  
6 the Attorney General, or his designee, is attached to the certificate  
7 of incorporation or application for amendment thereof. Such  
8 approval shall indicate that the words "blind" or "handicapped,"  
9 or term **\*[or]** \*, \* terms\*, *imprint, stamp, label or symbol*\*  
10 suggesting such impairments, as used in the corporate name will not  
11 tend to mislead or confuse the public into believing that the corpora-  
12 tion is organized for charitable or nonprofit purposes for the blind  
13 or handicapped. Any corporation presently organized under the  
14 laws of this State or any foreign corporation presently authorized  
15 to do business in this State that employs the words "blind," or  
16 "handicapped," or term **\*[or]** \*, \* terms\*, *imprint, stamp, label or*  
17 *symbol*\* suggesting such impairment, in its corporate name shall  
18 seek the approval of the Attorney General, or his designee, within  
19 90 days after the effective date of this act if it wishes to continue  
20 the use of such words **\*[or]** \*, \* terms\*, *imprint, stamp, label or*  
21 *symbol*\* in its corporate name.

1 2. This act shall take effect immediately.

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

# SENATE, No. 142

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10 or confuse the public into believing that the corporation is orga-  
11 nized for charitable or nonprofit purposes for the blind or handi-  
12 capped. Any corporation presently organized under the laws of  
13 this State or any foreign corporation presently authorized to do  
14 business in this State that employs the words "blind," or "handi-  
15 capped," or term or terms suggesting such impairment, in its  
16 corporate name shall seek the approval of the Attorney General,  
17 or his designee, within 90 days after the effective date of this act  
18 if it wishes to continue the use of such words or terms in its  
19 corporate name.

1 2. This act shall take effect immediately.

### STATEMENT

This bill is one of three bills based upon the recommendations of the State Commission of Investigation with the aim of protecting the public against misuse of the terms "blind" or "handicapped" in corporate names, assisting handicapped persons and organizations by providing a means of authenticating goods or articles made by them, and strengthening the existing law regulating the sale and distribution of goods and articles made by blind persons.

SENATE LAW, PUBLIC SAFETY AND  
DEFENSE COMMITTEE

STATEMENT TO  
**SENATE, No. 142**

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**STATE OF NEW JERSEY**

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DATED: APRIL 26, 1976

This bill prohibits corporations organized under the New Jersey law or foreign corporations authorized to do business in the State from using the words "blind" or "handicapped" or other terms suggesting such impairments in their corporate names without prior approval from the Attorney General. Presently organized corporations employing such terms in their corporate name would be required to seek approval of the Attorney General within 90 days of the effective date of the act in order to continue use of the name. The bill is intended to protect the integrity of charitable or nonprofit corporations organized for the blind or handicapped and is one of three bills based on State Commission of Investigation recommendations.

FINAL REPORT AND RECOMMENDATIONS  
on  
THE INVESTIGATION OF PROFIT-ORIENTED  
COMPANIES OPERATING IN A  
PSEUDO-CHARITABLE MANNER.

A REPORT BY  
THE NEW JERSEY STATE  
COMMISSION OF INVESTIGATION.

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hearings. Senator Menza, an attorney at law and a former State Assemblyman, testified as to the intent and prospective impact of his bill:

*Q. Would you tell us what this bill is intended to do?*

A. The intent of the bill is basically to keep these pseudo-charities, or those organizations that purport to be charities, honest.

I personally had some experiences. We buy light bulbs in my house on the telephone and have been paying for them approximately four or five years, now. We bought light bulbs from Torch, Eterna and some other ones. I asked my wife today what the approach is, and the approach is, we're selling for the handicapped and the proceeds go to the handicapped.

\* \* \* \* \*

*Q. Do you contemplate that this bill might restrict legitimate businesses or legitimate organizations, or that charitable organizations would suffer as a result of this bill or of these hearings, as a matter of fact?*

A. No, I doubt it very much. I think that charitable organizations will benefit a great deal. I think they will avoid the competition of the pseudo-charitable organizations, hopefully.

You see, what happens at the present time is that many of us get so many phone calls on the pseudo-or phony, if you call it, charitable organizations that we get a real one, and if it's not a neighbor selling for cancer, we just ignore it, so, therefore, I think they will benefit a great deal.

The intent of the bill is, as I say, to not only protect the consumers being exploited, but to help the charities in the fashion I just mentioned, and, in addition to that, to avoid exploitation of the handicapped because they are, in fact, exploited whether they're working at these organizations or not.

## THE COMMISSION'S FINAL RECOMMENDATIONS

### PREAMBLE

The Commission herewith presents its final recommendations based on its investigation of profit-oriented commercial companies which induce the sale of exorbitantly high priced products by appealing in the name of the handicapped. The recommendations were fashioned after due research and deliberation and are focused on the goal of halting the various shades of deceptions involved in the telephonic sales presentations and other practices of these businesses incorporated for profit and claiming, either falsely or only truthfully in part, to employ authentically handicapped workers.

The investigation and resultant public hearings established beyond doubt that the telephonic sales presentations stressing handicaps and handicapped workers create in the prospective customer's mind an illusion of charity. Nor can there be any doubt that this illusion stimulates the benevolent instinct and, thereby, prompts purchases of light bulbs and other ordinary household products marked up as much as 1,100 per cent above cost to the company. The handicapped workers, whether they be real or imagined, are used by the owners as nothing more than minimally compensated ploys to further the making of money by those owners.

If the deceptions involved are not fraudulent, they border on being so. Because they are in any event blatantly unfair and unjust to the consuming public and because they detract from the pool of money available to further the good works of legitimate charities, the Commission respectfully submits that the carrying out of the recommendations presented below will circumscribe deception and force public disclosures and, thereby, afford a greater measure of deserved protection for the consuming public.

## A. CONTROL OVER THE USE AND REGISTRATION OF MISLEADING CORPORATE NAMES AND TRADEMARKS:

### 1) Testimony

The use of the word "handicapped" in the corporate name of domestic and foreign corporations in New Jersey has been subject to abuse. Such a term, which generally connotes to the general public a charitable, non-profit organization employing mentally or physically deficient persons, is being used by profit-making businesses to deceive the public as to the actual nature of their dealings.

The Commission heard testimony from Millicent Fenwick, former Director of the Consumer Affairs Division, recommending an addition to N.J.S.A. 14A:2-2. Mrs. Fenwick suggested that 14A:2-2 include a specific provision prohibiting the use of names that suggest a philanthropic purpose when a profit-making enterprise is involved.

It also has been demonstrated that profit-making corporations employ insignias and symbols in their commercial practice which infer that the organizations behind these symbols are benevolent in nature.

### 2) Background

Other states have restricted the use of the word "handicapped" in a corporate name. The New York General Corporation Law § 9, L. 1963, c. 861 § 1, eff. April 26, 1963 states:

"No corporation shall be hereafter organized under the laws of this state nor shall any foreign corporation be authorized to do business in this state with the word . . ., nor with the word "blind" or "handicapped" as part of its name unless the approval of the state board of social welfare is attached to the certificate of incorporation, or application for authority or amendment thereof, contains the word "blind" or "handicapped". Such approval shall be granted by the state board of social welfare, if in its opinion the word "blind" or "handicapped" as used in the corporate name proposed will not tend to mislead or confuse the public into believing that the corporation is organized for charitable or non-profit purposes related to the blind or the handicapped".

At the present time, N.J.S.A. 14A:2-2 does not place any restriction upon the use of the word "handicapped" in the corporate name of a domestic or foreign corporation authorized to transact business in New Jersey.

### 3) S.C.I. Recommendations

a) N.J.S.A. 14A:2-2 should be supplemented with the following provision:

No corporation should be hereafter organized under the laws of the State of New Jersey nor shall any foreign corporation be authorized to do business in New Jersey if the words "blind" or "handicapped" are part of its name unless the approval of the Commission for the Blind and Visually Impaired or the New Jersey Rehabilitation Commission, or both, as the case may be, is attached to the certificate of incorporation, or application for authority for amendment thereof, and such approval contains the words "blind" or "handicapped" as used in the corporate name proposed will not tend to mislead or confuse the public into believing that the corporation is organized for charitable or non-profit purposes relating to the blind or handicapped. Any corporation presently organized under the laws of this State or any foreign corporation presently authorized to do business in this State that presently employs the words "blind" or "handicapped" in its corporate name shall seek approval of the Commission for the Blind and Visually Impaired or the New Jersey Rehabilitation Commission, or both, as the case may be, within ninety (90) days after the effective date of this act, if it wishes to continue the use of its present name containing the words "blind" or "handicapped".

b) The use of any label, trade mark, term, design, or other insignia should be restricted in the following manner:

No person doing business in the State of New Jersey shall use any label, trade mark, term, design, or other insignia which would lead any person to reasonably believe that the person employing the aforementioned is conducting any activity organized for charitable or non-profit purposes unless approval for that label, trade mark, term, design, or other insignia is obtained from the New Jersey Rehabilitation Commission or the Commis-

sion for the Blind and Visually Impaired, or both, as the case may be. Such approval shall be granted if in the opinion of the appropriate aforementioned commission (s) such label, trade mark, term, design, or other insignia will not tend to mislead or confuse the public into believing that the person employing the aforementioned is organized for charitable or non-profit purposes. Any person presently employing the use of any type of label, trade mark, term, design, or other insignia shall seek the approval of the Commission for the Blind and Visually Impaired or the New Jersey Rehabilitation Commission, or both, as the case may be, if such person desires to continue such use.

- e) Two final recommendations are necessary if the previous proposals are to be implemented as suggested. First, the "Vocational Rehabilitation Act of 1955" (N.J.S.A. 34:16-20 et seq.) should be supplemented as follows:

The New Jersey Rehabilitation Commission is hereby empowered to approve the use of the word "handicapped" in the name of any corporation organized to do business under the laws of this State or any foreign corporation authorized to do business in this State that wishes to employ the word "handicapped" in its corporate name or that is, upon the effective date of this Act, employing the word "handicapped" in its corporate name.

The New Jersey Rehabilitation Commission shall also be empowered to approve the existing or future use of any trademark suggesting that the person employing such trademark, term, design or other insignia is organized for charitable or non-profit purposes.

Secondly, it would be necessary to enact a similar supplement to "An Act to promote and regulate the sale and distribution of goods and articles made by blind persons" (N.J.S.A. 30:6-16 et seq.) as follows:

The Commission for the Blind and Visually Impaired is hereby empowered to approve the use of the word "blind" in the name of any corporation organized to do business under the laws of this State or any foreign corporation authorized to do business in this State that wishes to employ the word "blind" in its corporate name

or that is, upon the effective date of this Act, employing the word "blind" in its corporate name.

The Commission for the Blind and Visually Impaired shall also be empowered to approve the existing or future use of any trademark, term, design (etc. *supra*) suggesting that the person employing such trademark is organized for charitable or non-profit purposes.

#### 4) Commentary

These recommendations are designed to curb the abuses spurred by profit-making corporations who use misleading names or trademarks in their business practices. At the present time, any advertising employed by these organizations that would act as a misrepresentation or a deception is an unlawful practice under N.J.S.A. 56:8-2.

### B. PUBLIC DISCLOSURE OF FINANCIAL STATUS

#### 1) Testimony

It has been brought to the Commission's attention that numerous Chapter 14 profit-making companies purport in their telephone solicitations to employ and aid the handicapped. Our inquiry firmly established the fact that the primary, overriding motive of these organizations is to make money for the personal gain of the owners and chief operators, with no philanthropic benefit whatsoever going to handicapped individuals. The overwhelming majority of these allegedly handicapped workers get no more than minimum wage. For that stipend, they must trade upon their mental or physical incapacity and produce enough profitable sales or be dismissed under the profit-or-perish policies of these organizations. There is no rehabilitation program whatsoever. It is business as usual in a sordid and unscrupulous industry.

The testimony of several witnesses at the Commission's public hearings emphasized that the more these types of organizations proliferate and prosper, the more they drain off funds that otherwise would be available for worthy charitable endeavors and the more they create a body of consumers who are suspicious of all telephonic appeals, even those by legitimate charities. Bona fide charities suffer because once the public feels that it has been misled, there is a general reluctance to contribute to any further charitable solicitation.