

R.S. 56:3-13.1

LEGISLATIVE FACT SHEET

ON

N.J.R.S. 56:3-13.1 (*"Service marks" - Register*)
(1966 Amendment)

LAWS OF 1966

CHAPTER 263

SENATE 91

~~ASSEMBLY~~

INTRODUCED *Jan. 18, 1966*

BY *Stamler, Bigley*

STATEMENT

YES

NO

AMENDED DURING PASSAGE

YES

NO

HEARING

VETO

MAR 15 1967
185 W. State St.
TRENTON, N. J.

NEW
JERSEY

LEGISLATIVE INDEX

1966

Published by Legislative Index of N. J. Inc.

29 Broad St., Elizabeth, N. J. 07201

EL 4-3030

Vol. LIII

Wednesday, March 8, 1967

No. 23

CONTENTS

Index of Bills by Subjects	1325-1332	Assembly Bills	1374-1420
Index of Bills by Legislators	1333-1349	Laws of 1966	1421-1423
Senate Bills	1350-1374	Committee Membership	1424

INDEX OF BILLS BY SUBJECTS

Agriculture—			
Buyers—Fees deduct	S 134, A 263		
"Cash buyers"—License	S 261		
Co-op Act—Technical changes	S 296		
Dairy Ind. Div.—Creates	A 440		
Egg container—Info req.	A 690		
Egg products—Regulates	A 782		
Grass sod—Regulate	S 263		
Labor—Overtime pay	A 910		
Kosher foods—Misrepresent	S 449		
"Marketing Order Act"	A 310		
Meat, Sunday sales—Prohibits	A 808		
Meat, fresh—Packaging	S 347		
Milk container—Date marked	S 367		
OMI director—Salary \$16,000	S 375		
Soil Conserv. Dist.—Divide, join	S 262		
Sweet potato ind.—Prom., tax	A 819		
Weights & measures—Revises	S 274		
Workers—UCC, TDB coverage	A 731		
Air Pollution			
Control comm.—Members	A 140		
"Emergency Control Act"	A 930		
Motors veh.—Control	S 25, S 26, A 137		
MV—Testing devices	S 500		
Ordinance—Municipal	A 929		
Ventilator, MV crank case—Req.	A 116		
Alcoholic Beverage—			
Beer tax—Increases	A 679		
Bowling alleys liquor lic.—Sales	A 628		
Control board—Munic. size	A 838		
Discrim. proh.—Whole. sell	S 357, A 676		
Dist. sell—Retail direct proh.	A 667		
Drink, age, N.Y.—Comm.	SJR 16, A 408		
Drunkometer require—Munic.	A 918		
Hours, sell—Regulate, munic.	A 795		
Lic.—Hotels, motels, 100 rooms	S 246		
Liquor dist.—Sell whole.	A 544, A 691		
Liquor license—Club	A 624		
Liquor lic.—Munic. retire	S 286		
Liquor license—Vet org.	A 937		
OMI director, salary—\$16,000	S 375		
Purchase—Ident. age	A 767		
Tax, sales—Collection violation	A 799		
Transit, retail—Lic. fee	A 658		
Whole. owner—Win. proh.	S 356, A 675		
Whole, sell—Discrim. proh.	S 357, A 676		
Win owner—Whole liq proh.	S 356, A 675		
Animals—			
Deer, hunting, illeg.—Fine incr.	A 774		
Dogs, cats, experiment—Regulate	A 743		
Dog license—Fee increase	A 585		
Field trials—Permits	A 777		
Hunting—Foreign visitors	A 273		
Hunters—Land owners liab.	S 44		
Sheep, swine dealers—License	A 262		
Slaughter—Humane	A 126		
Woodcock hunting—Lic. stamped	A 772		
Appropriations—			
Annual 1966-67—\$869,526,433	A 550		
Art Council—\$75,000	A 741		
Cape May piers—\$1,500,000	A 367		
Commuter service—\$10,000,000	S 345		
Co., Mun. gov't. comm.—\$5,000	S 64		
Crime reporting, uniform—\$62,500	A 245		
Crime victims—\$250,000	S 284, A 22		
Economic policy council—\$75,000	S 384		
Fiscal note law—Repeals	A 106		
Garbage disposal—\$50,000	A 183		
Greystone Hospital—\$200,000	A 168		
Grievance procedure—\$25,000	A 60		
Grievance procedure—\$30,000	A 145		
Hazard. substance label—\$30,000	A 758		
Hwy. design study—\$25,000	A 901		
Hwy. Dept.—\$15,000,000	S 343		
"Housing Finance Auth. Act" —\$50,000	A 756		
Hunters Lic. Fund—\$200,000	S 276		
Income tax—\$3,000,000	A 10		
Inst. const.—\$10,000,000	S 344		
Interest facil study comm.—\$10,000	S 65		
Ital. Amer War Vet Conv.—\$10,000	S 505		
JWV convention—\$20,000	A 833		
Land, Bergen Co.—\$1,500,000	S 401		
Leg. members staff—\$88,500	S 452		
Medical College site—\$1,500,000	S 494		
Metro Transit Auth.—\$150,000	A 117		
MV air pollut. test dev.—\$500,000	S 500		
N. G. Tech.—\$400,000	A 463		
Obscenity study comm.—\$10,000	S 32		
OMI director, \$17,000	S 375		
Palisades Pk. comm.—\$258,000	A 294		
Police trng., Rutgers—\$25,000	S 180		
Psychologists lic.—\$25,000	S 325, A 683		
Pub emp griev. proc.—\$25,000	A 717		
Roads, Co. mun.—Leg. policy	SJR 23		
Sales tax—\$2,500,000	A 700		
School bldg.—\$11,400,000	S 71		
Sch. priv., pub. aid, stdy—\$10,000	A 535		
School, State aid—\$2,000,000	S 72		
Shore protection—\$40,000	A 416		
So. Jersey Port Comm.—\$190,000	A 426		
State aid sch. study—\$10,000	A 702		
St. uni. Bleeten. comm.—\$100,000	S 172		
Superior Ct. judges, 78—\$1,000,000	A 611, A 638		
Supplemental, 1965-66—\$744,950	A 551		
Supplemental—\$181,342.17	A 893		
Tax assessors cert.—\$25,000	S 250, A 444		
Transpor. Dept.—\$200,000	S 413, A 794		
Unsat. Claim Fd. Study—\$5,000	A 899		
Voting machines—\$500,000	S 61, A 430		
Wage & Hour Act—\$70,000	A 188		
War orphans—Education	A 107, A 260		
Woodrow Wilson Univ.—\$500,000	S 235		
Architect—			
Industrial safety bd.—Member	S 324		
Student, employee—Res. desig.	A 603		
Armed Forces—			
Wounded rights—Def Sec comm.	AR 11		
Attorneys—			
Magistrates—3 years	A 174		
Mun. prosecute—Mun. court	A 506		
"Referee formal hearings"—Date	A 900		
Township—Tenure	A 192		
Authorities—			
Airports—Creates	S 497, A 935		
Complaints—Leg. comm.	SCR 4		
Del. R.—Emerg. veh. toll free	S 221		
Del. River—Gov. veto power	S 150		
Del. River—Member residence	S 249		
Del. River—Mun. tax loss	S 109, A 219		
Del. R. Port—Rapid Transit dist.	S 104		
Del. Val. Urb. Area—Comp.	S 351, A 620		
Interstate—Taxes, munic. study	SCR 11		
Metro Railroad—Creates	S 137		
Metro Transit—Creates	A 117		
NYPA—Annual report	S 211		
NYPA books—Public records	S 227		
NYPA—Condemnation pub. hear.	S 214		
NYPA—Co., Munic. tax loss	S 56, A 292		
NYPA Com'rs—Residence	S 159		
NYPA toll—Emerg. vehicle free	S 97		
NYPA—Name change	S 100		
NYPA plans—Approval	S 215		
NYPA—Property taxes	S 212		
NYPA—Rapid transit	S 60		
NYPA records—Audited	S 228		
NYPA—Suit, time limit	S 216		
NYPA trade center—Leg. app.	S 213		
Palisades Pk.—Ld. percent. tax	A 908		
Pkwy adm.—Hwy comm'r	S 99		
Pkwy.—Munic. tax loss	S 7		
Pkwy sections—Toll free	A 712		
Pkwy, toll proh.—St. hwy. route	A 16		
Parkway tolls—Study	AR 10		
So. Jersey Del. River—Consol.	SCR 18		
So. Jersey Port—\$190,000	A 426		
So. Jersey River Auth.—Bond iss.	S 504		
So Jersey River Bay Port—Cr.	S 503		
Taxes—Study	SCR 30		
Tpke. adm.—Hwy. comm'r	S 98		
Tpke. addition—No. Jersey	S 124		
Tpke bonds—40 years maturity	S 16		
Tpke.—Fin. invest.	SCR 21, ACR 26		
Tpke.—Munic. tax loss	S 58, A 295		
Tpke, Pkwy consol.—Study	SCR 3		
Tpke. surplus—Education fund	A 32		
Waterfront comm.—Abol.	A 357, A 422		
Aviation—			
Airport auth.—Creates	S 497, A 935		
Airports, mech. dev.—Scare birds	A 775		
Airport tampering—Misdemeanor	A 583		
Fuel—Sales tax exempt	S 388		
Heliports—License	S 396		
Liquor, retail—Lic. fee	A 658		
Mfg. dealer—Reg. req.	A 576		
Plaintiff—Service fee	A 328		
Pleasure—License fee increase	A 725		
Registration act viol.—Fines	A 575		
Registration viol.—Penalties	A 578		
Regis. viol.—Summons, personnel	A 577		
Terminal, major—Opposes	SJR 28		
Bakeries—			
Female employ.—Nights	A 665		
Banking—			
Act—Typo error corrects	A 214		
Bonds, schools—Maturity date	A 579		
Branches—Location limits	A 396		
Branches, small munic.—Broadens	S 315		
Capital notes—Issue	A 247		
Credit union payment—Heirs	A 410		
Deposit limit—Savings banks	A 619		
Discrimina.—Proh.	A 39, A 770, A 835		
Emp. proh.—Crime conviction	S 291		
Finance charges—Disclose	S 419, A 520		
Foreign—Subsidiaries proh.	S 432		
Holding companies—Permits	S 193		
Holding co. stock—Dir. share	S 192		
Install. contract—Referral agree.	S 125		
Interest—Auto financing	S 319		
Interest charge, corp.—14%	A 599		
Interest charges—Disclosure	A 520		
Loan, bus., small—\$1,000	S 196, A 841		
Loan commission—Prohibits	A 150		
Loan education—Interest 6%	A 703		
Loan inst. sub.—Misdemeanor	A 557		
Loans, investment—Broadens	A 678		
Loans—Officers	A 274		
Loan, short term mun.—Maturity	S 304		
Loan, student—Minor	S 148		
Merging, small munic.—Broadens	S 315		
Mort. corp. cancel—Comptroller	A 193		

Copy 2



NOTATIONS

- S 67 Hiering**
Jan. 18—Provides that the State shall support county colleges by providing not less than $\frac{1}{2}$ the cost of capital projects and to provide for $\frac{1}{3}$ of the annual operational costs for each full-time student.
Jan. 18—Education Com.
- S 68 Hiering**
Jan. 18—Revises the statutes concerning the practice of pharmacy and the regulation and control of the sale and distribution of drugs, medicines and poisons.
Jan. 31—Withdrawn from the files.
- S 69 Hiering**
Jan. 18—Increases jury commissioner's salaries.
Jan. 18—Rev. & Amend. of Laws Com.
- S 70 Hiering**
Jan. 18—Designates as the State song "New Jersey" composed by Franklin and Elsie Fischer of Toms River.
Jan. 18—Education Com.
- S 71 Hiering**
Jan. 18—Increases the maximum amount of the capital foundation program for each school district from \$30 to \$45 per pupil in resident enrollment; appropriates \$11,400,000 to such purposes for the fiscal year ending June 30, 1967 if this act becomes law before March 31, 1966.
Jan. 18—Education Com.
- S 72 Hiering**
Jan. 18—Increases the State aid to schools from \$200 to \$350 per pupil in resident enrollment; appropriates \$82,000.00 for the fiscal year ending June 30, 1967 if enacted into law on or before March 31, 1966.
Jan. 18—Education Com.
- S 73 Hiering**
Jan. 18—Prohibits as a disorderly person offense the discharging of certain matter or material into the inland tidal waters of the State or operating a vessel that contains toilet facilities not equipped with an operating chlorinator or other sewerage disposal system meeting the requirements of the State Department of Health; provides that the owner of the vessel shall be responsible for violations on his vessel; exempts vessels engaged in interstate or foreign commerce.
Jan. 18—Inst. Pub. Health & Welf. Com.
- S 74 Hiering**
Jan. 18—Defines riparian lands and establishes ownership between the State and record owners of other than riparian lands which may be or may have been flowed by mean high tide.
Jan. 18—Business Affairs Com.
- S 75 Hiering**
Jan. 18—Permits a person hospitalized after the cut-off date for requesting an absentee ballot to vote in a primary or general election; effective January 1, 1967.
Jan. 18—Rev. & Amend. of Laws Com.
- S 76 Hiering**
Jan. 18—Exempts business inventories from taxation under C. 51, P.L. 1960; provides that the fair value of machinery and equipment, tools, died and jigs used in business shall be presumed to be $\frac{1}{2}$ the original cost to the taxpayer; effective July 1, 1967.
Jan. 18—Business Affairs Com.
- S 77 Hiering**
Jan. 18—Increases the corporation business franchise tax from $1\frac{1}{4}\%$ to 5% of net income, but not less than an amount computed under existing sections.
Jan. 18—Business Affairs Com.
- S 78 Stamler**
Jan. 18—Reduces the maximum number of licensed harness racing tracks from 4 to 1.
Jan. 18—Judiciary Com.
- S 79 Stamler**
Jan. 18—Permits the County Freeholders to appoint Public Defenders or in the alternative to compensate counsel assigned by the County and Superior Courts to represent indigent defendants in criminal cases.
Jan. 18—Law & Public Safety Com.
- S 80 Stamler**
Jan. 18—Prohibits specified activities by legislators, State officers, employees and appointees, and prescribes standards of conduct with respect to conflicts of interests between the public duties and personal interests of such persons; prescribes penalties; creates a 5 member bipartisan Commission on Ethical Standards in Government, within the Department of Law and Public Safety to administer the act.
Jan. 18—Judiciary Com.

NOTATIONS

- S 81 Stamler**
Jan. 18—Prohibits the expenditure or allocation of public funds and the provisions of public facilities for the support of, or in aid of, activities or programs from the benefits of which anyone is excluded for reasons of race, creed, color or national origin.
Jan. 18—Business Affairs Com.
- S 82 Stamler**
Jan. 18—Exempts municipalities having less than 25,000 inhabitants from paying prevailing wages on public works.
Jan. 24—Labor & Industrial Rel. Com.
- S 83 Stamler, Hillery**
Jan. 18—Prohibits any race track permit holder to engage in any business, away from the race track, in addition to the business of holding or conducting horse race meetings; except that a permit holder may conduct a business activity at the track which is incidental to the conduct of the race meeting; inoperative for 3 months of the enactment.
Jan. 18—Judiciary Com.
- S 84 Stamler, Hillery**
Jan. 18—Transfers the Division of The New Jersey Racing Commission from the Department of the Treasury to the Department of Law and Public Safety; effective July 1, 1966.
Jan. 18—Judiciary Com.
- S 85 Stamler**
Jan. 18—Requires the State Racing Commission to forward the minutes of its meetings at which a race meeting permit, other than an annual renewal, is granted; permits the governor to veto such actions.
Jan. 18—Judiciary Com.
- S 86 Stamler, Scholz**
Jan. 18—Provides for a tax revision convention, subject to a public referendum on November 1, 1966, to convene at New Brunswick on May 10, 1966.
Jan. 18—Business Affairs Com.
- S 87 Stamler, Bigley**
Jan. 18—Provides that any former public employee who has been retired on pension by reason of any injury or disability shall, notwithstanding such retirement, be entitled to compensation for such injury or disability.
Jan. 18—Labor & Industrial Rel. Com.
Feb. 14—Reported, 2nd reading.
June 22—Recommitted.
Nov. 28—Reported, 2nd reading.
- S 88 Stamler, Hunt**
Jan. 18—Designates as guilty of a misdemeanor any person who knowingly and willfully obstructs, resists, flees from or opposes a police officer making an arrest, leaving the scene after being told he is under arrest, or gives false information to, or otherwise obstructs a police officer in the performance of his duty.
Jan. 18—Law & Public Safety Com.
May 23—Reported with com. amend.
May 23—2nd reading.
May 25—Passed in Senate, amended.
May 31—Received in Assembly.
May 31—Rev. & Amend. of Laws Com.
- S 89 Stamler**
Jan. 18—Broadens the meaning of "public accommodation," within the Law Against Discrimination (P.L. 1945, C. 169) to mean any establishment, facility or business which makes accommodations, advantages, facilities or privileges available to the general public.
Jan. 18—Education Com.
- S 90 Stamler**
Jan. 18—Extends the application of the law designating any violation of the school election laws, Title 18, as a misdemeanor to include any violation of an amendment or supplement to said Title.
Jan. 18—Rev. & Amend. of Laws Com.
- S 91 Stamler, Bigley**
Jan. 18—Provides for the registration and protection of "service marks," a mark used in the sale or advertising of service to identify the services of one person and distinguished them from the services of others; effective January 1, 1967.
May 31—Passed in Senate.
June 15—Passed in Assembly.
Sep. 6—Approved, Chapter 263.
- S 92 Stamler**
Jan. 18—Designates any person who knowingly loans, or agrees to loan, money at an interest rate higher than that permitted by law, as a disorderly person, punishable by a mandatory \$1000 fine.
Jan. 18—Business Affairs Com.
Feb. 14—Reported with com. amend.
Feb. 14—2nd reading.
Apr. 25—Passed in Senate, amended
May 2—Received in Assembly.
May 2—Rev. & Amend. of Laws Com.

STATE OF NEW JERSEY

INTRODUCED JANUARY 18, 1966

By Senator STAMLER

Referred to Committee on Business Affairs

AN ACT to provide for the registration and protection of trademarks, and repealing sections 56:3-1 to 56:3-13 of the Revised Statutes.

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

1 1. Definitions.

2 (A) The term "trademark" as used herein means any word, name,
3 symbol, or device or any combination thereof adopted and used by a person
4 to identify goods made or sold by him and to distinguish them from goods
5 made or sold by others.

6 (B) The term "service mark" as used herein means a mark used in the
7 sale or advertising of services to identify the services of one person and
8 distinguish them from the services of others.

9 (C) The term "mark" as used herein includes any trademark or serv-
10 ice mark entitled to registration under this act whether registered or not.

11 (D) The term "person" as used herein means any individual, firm,
12 partnership, corporation, association, union or other organization.

13 (E) The term "applicant" as used herein embraces the person filing an
14 application for registration of a trademark under this act, his legal repre-
15 sentatives, successors or assigns.

16 (F) The term "registrant" as used herein embraces the person to
17 whom the registration of a trademark under this act is issued, his legal
18 representatives, successors or assigns.

19 (G) For the purposes of this act, a trademark shall be deemed to be
20 "used" in this State (a) on goods when it is placed in any manner on the
21 goods or their containers or the displays associated therewith or on the tags
22 or labels affixed thereto and such goods are sold or otherwise distributed in
23 the State, and (b) on services when it is used or displayed in the sale or ad-
24 vertising of services and the services are rendered in this State.

1 2. Registrability.

2 A mark by which the goods or services of any applicant for registration
3 may be distinguished from the goods or services of others shall not be regis-
4 tered if it

5 (a) consists of or comprises immoral, deceptive or scandalous matter;
6 or

7 (b) consists of or comprises matter which may disparage or falsely sug-
8 gest a connection with persons, living or dead, institutions, beliefs, or national
9 symbols, or bring them into contempt, or disrepute; or

10 (c) consists of or comprises the flag or coat of arms or other insignia of
11 the United States, or of any State or municipality, or of any foreign nation,
12 or any simulation thereof; or

13 (d) consists of or comprises the name, signature or portrait of any
14 living individual, except with his written consent; or

15 (e) consists of a mark which, (1) when applied to the goods or services
16 of the applicant, is merely descriptive or deceptively misdescriptive of them,
17 or (2) when applied to the goods or services of the applicant is primarily geo-
18 graphically descriptive or deceptively misdescriptive of them, or (3) is pri-
19 marily merely a surname provided, however, that nothing in this section (e)
20 shall prevent the registration of a mark used in this State by the applicant
21 which has become distinctive of the applicant's goods or services. The Sec-
22 retary of State may accept as evidence that the mark has become distinctive,
23 as applied to the applicant's goods or services, proof of continuous use thereof
24 as a mark by the applicant in this State or elsewhere for the 5 years next
25 preceding the date of the filing of the application for registration; or

26 (f) consists of or comprises a mark which so resembles a mark registered
 27 in this State or a mark or trade name previously used in this State by another
 28 and not abandoned, as to be likely, when applied to the goods or services of
 29 the applicant, to cause confusion or mistake or to deceive.

1 3. Application for Registration.

2 Subject to the limitations set forth in this act, any person who adopts
 3 and uses a mark in this State may file in the office of the Secretary of State,
 4 on a form to be furnished by the Secretary of State, an application for reg-
 5 istration of that mark setting forth, but not limited to, the following
 6 information:

7 (a) the name and business address of the person applying for such reg-
 8 istration; and, if a corporation, the State of incorporation,

9 (b) the goods or services in connection with which the mark is used and
 10 the mode or manner in which the mark is used in connection with such goods
 11 or services and the class in which such goods or services fall,

12 (c) the date when the mark was first used anywhere and the date when
 13 it was first used in this State by the applicant or his predecessor in business,
 14 and

15 (d) a statement that the applicant is the owner of the mark and that no
 16 other person has the right to use such mark in this State either in the iden-
 17 tical form thereof or in such near resemblance thereto as might be calculated
 18 to deceive or to be mistaken therefor.

19 The application shall be signed and verified by the applicant or by a
 20 member of the firm or an officer of the corporation or association applying.

21 The application shall be accompanied by a specimen or facsimile of such
 22 mark in triplicate.

23 The application for registration shall be accompanied by a filing fee of
 24 \$5.00 payable to the Secretary of State.

1 4. Certificate of Registration.

2 Upon compliance by the applicant with the requirements of this act, the
 3 Secretary of State shall cause a certificate of registration to be issued and

4 delivered to the applicant. The certificate of registration shall be issued
5 under the signature of the Secretary of State and the Seal of the State, and
6 it shall show the name and business address and, if a corporation, the State
7 of incorporation, of the person claiming ownership of the mark, the date
8 claimed for the first use of the mark anywhere and the date claimed for the
9 first use of the mark in this State, the class of goods or services and a de-
10 scription of the goods or services on which the mark is used, a reproduction
11 of the mark, the registration date and the term of the registration.

12 Any certificate of registration issued by the Secretary of State under
13 the provisions hereof or a copy thereof duly certified by the Secretary of
14 State shall be admissible in evidence as competent and sufficient proof of
15 the registration of such mark in any action or judicial proceedings in any
16 court of this State.

1 5. Duration and Renewal.

2 Registration of a mark hereunder shall be effective for a term of 10
3 years from the date of registration and, upon application filed within 6
4 months prior to the expiration of such term, on a form to be furnished by the
5 Secretary of State, which includes a statement that the mark is still in use
6 in this State, the registration may be renewed for a like term. A renewal fee
7 of \$5.00, payable to the Secretary of State, shall accompany the application
8 for renewal of the registration.

9 A mark registration may be renewed for successive periods of 10 years
10 in like manner.

11 The Secretary of State shall notify registrants of marks hereunder of
12 the necessity of renewal within the year next preceding the expiration of
13 the 10 years from the date of registration, by writing to the last known
14 address of the registrants.

15 Any registration in force on the date on which this act shall become
16 effective shall expire 10 years from the date of the registration or of the last
17 renewal thereof or 1 year after the effective date of this act, whichever is
18 later, and may be renewed by filing an application with the Secretary of

19 State on a form furnished by him and paying the aforementioned renewal
20 fee therefor within 6 months prior to the expiration of the registration.

21 The Secretary of State shall within 6 months after the effective date of
22 this act notify all registrants of marks under previous acts of the date of
23 expiration of such registrations unless renewed in accordance with the pro-
24 visions of this act, by writing to the last known address of the registrants.

1 6. Assignment.

2 Any mark and its registration hereunder shall be assignable with the
3 good will of the business in which the mark is used, or with that part of the
4 good will of the business connected with the use of and symbolized by the
5 mark. Assignment shall be by instruments in writing duly executed and may
6 be recorded with the Secretary of State upon the payment of a fee of \$5.00
7 payable to the Secretary of State who, upon recording of the assignment,
8 shall issue in the name of the assignee a new certificate for the remainder
9 of the term of the registration or of the last renewal thereof. An assign-
10 ment of any registration under this act shall be void as against any sub-
11 sequent purchaser for valuable consideration without notice, unless it is
12 recorded with the Secretary of State within 3 months after the date thereof
13 or prior to such subsequent purchase.

1 7. Records.

2 The Secretary of State shall keep for public examination a record of all
3 marks registered or renewed under this act.

1 8. Cancellation.

2 The Secretary of State shall cancel from the register:

3 (a) after 1 year from the effective date of this act, all registrations
4 under prior acts which are more than 10 years old and not renewed in accord-
5 ance with this act;

6 (b) any registration concerning which the Secretary of State shall re-
7 ceive a voluntary request for cancellation thereof from the registrant or the
8 assignee of record;

9 (c) all registrations granted under this act and not renewed in accord-
10 ance with the provisions hereof;

- 11 (d) any registration concerning which the Superior Court shall find
12 (1) that the registered mark has been abandoned,
13 (2) that the registrant is not the owner of the mark,
14 (3) that the registration was granted improperly,
15 (4) that the registration was obtained fraudulently,
16 (5) that the registered mark is so similar, as to be likely to cause
17 confusion or mistake or to deceive, to a mark registered by another per-
18 son in the United States Patent Office, prior to the date of the filing of
19 the application for registration by the registrant hereunder, and not
20 abandoned; provided, however, that should the registrant prove that he
21 is the owner of a concurrent registration of his mark in the United States
22 Patent Office covering an area including this State, the registration
23 hereunder shall not be canceled.
- 24 (e) when the Superior Court shall order cancellation of a registration
25 on any ground.

1 9 Classification.

2 The following general classes of goods and services are established for
3 convenience of administration of this act, but not to limit or extend the ap-
4 plicant's or registrant's rights, and a single application for registration of a
5 mark may include any or all goods upon which, or services with which,
6 the mark is actually being used comprised in a single class, but in no
7 event shall a single application include goods or services upon which the
8-9 mark is being used which fall within different classes of goods or services.

10 The said classes are as follows:

11 (a) Goods:

- 12 (1) Raw or partly prepared materials
13 (2) Receptacles
14 (3) Baggage, animal equipments, portfolios, and pocketbooks
15 (4) Abrasives and polishing materials
16 (5) Adhesives
17 (6) Chemicals and chemical compositions

- 18 (7) Cordage
- 19 (8) Smokers' articles, not including tobacco products
- 20 (9) Explosives, firearms, equipments, and projectiles
- 21 (10) Fertilizers
- 22 (11) Inks and inking materials
- 23 (12) Construction materials
- 24 (13) Hardware and plumbing and steam-fitting supplies
- 25 (14) Metals and metal castings and forgings
- 26 (15) Oils and greases
- 27 (16) Paints and painters' materials
- 28 (17) Tobacco products
- 29 (18) Medicines and pharmaceutical preparations
- 30 (19) Vehicles
- 31 (20) Linoleum and oiled cloth
- 32 (21) Electrical apparatus, machines, and supplies
- 33 (22) Games, toys, and sporting goods
- 34 (23) Cutlery, machinery, and tools, and parts thereof
- 35 (24) Laundry appliances and machines
- 36 (25) Locks and safes
- 37 (26) Measuring and scientific appliances
- 38 (27) Horological instruments
- 39 (28) Jewelry and precious-metal ware
- 40 (29) Brooms, brushes, and dusters
- 41 (30) Crockery, earthenware, and porcelain
- 42 (31) Filters and refrigerators
- 43 (32) Furniture and upholstery
- 44 (33) Glassware
- 45 (34) Heating, lighting, and ventilating apparatus
- 46 (35) Belting, hose, machinery packing, and nonmetallic tires
- 47 (36) Musical instruments and supplies
- 48 (37) Paper and stationery

- 49 (38) Prints and publications
- 49A (39) Clothing
- 50 (40) Fancy goods, furnishings, and notions
- 51 (41) Canes, parasols, and umbrellas
- 52 (42) Knitted, netted and textile fabrics, and substitutes therefor
- 53 (43) Thread and yarn
- 54 (44) Dental, medical, and surgical appliances
- 55 (45) Soft drinks and carbonated waters
- 56 (46) Foods and ingredients of foods
- 57 (47) Wines
- 58 (48) Malt beverages and liquors
- 59 (49) Distilled alcoholic liquors
- 60 (50) Merchandise not otherwise classified
- 61 (51) Cosmetics and toilet preparations
- 62 (52) Detergents and soaps
- 63 (b) Services :
- 64 (100) Miscellaneous
- 65 (101) Advertising and business
- 66 (102) Insurance and financial
- 67 (103) Construction and repair
- 68 (104) Communications
- 69 (105) Transportation and storage
- 70 (106) Material treatment
- 71 (107) Education and entertainment

1 10. Fraudulent Registration

2 Any person who shall for himself, or on behalf of any other person,
 3 procure the filing or registration of any mark in the office of the Secretary of
 4 State under the provisions hereof, by knowingly making any false or
 5 fraudulent representation or declaration, verbally or in writing, or by any
 6 other fraudulent means, shall be liable to pay all damages sustained in con-
 7 sequence of such filing or registration, to be recovered by or on behalf of the
 8 party injured thereby in an action instituted in the Superior Court.

1 11. Infringement.

2 Subject to the provisions of section 13 hereof, any person who shall

3 (a) use, without the consent of the registrant, any reproduction, counter-
4 feit, copy, or colorable imitation of a mark registered under this act in con-
5 nection with the sale, offering for sale, or advertising of any goods or serv-
6 ices on or in connection with which such use is likely to cause confusion or
7 mistake or to deceive as to the source of origin of such goods or services; or

8 (b) reproduce, counterfeit, copy or colorably imitate any such mark and
9 apply such reproduction, counterfeit, copy or colorable imitation to labels,
10 signs, prints, packages, wrappers, receptacles, or advertisements intended to
11 be used upon or in conjunction with the sale or other distribution in this State
12 of such goods or services; shall be liable to a civil action by the owner of
13 such registered mark for any or all of the remedies provided in section 12
14 hereof, except that under subsection (b) hereof the registrant shall not be
15 entitled to recover profits or damages unless the acts have been committed
16 with knowledge that such mark is intended to be used to cause confusion or
17 mistake or to deceive.

1 12. Remedies.

2 Any owner of a mark registered under this act may proceed by suit to
3 enjoin the manufacture, use, display or sale of any counterfeits or imitations
4 thereof in an action instituted in the Superior Court and the court may
5 restrain such manufacture, use, display or sale as may be by the said court
6 deemed just and reasonable, and may require the defendants to pay to such
7 owner all profits derived from or all damages suffered by reason of such
8 wrongful manufacture, use, display or sale; and such court may also order
9 that any such counterfeits or imitations in the possession or under the control
10 of any defendant in such case, be delivered to an officer of the court, or to the
11 complainant, to be destroyed.

12 The enumeration of any right or remedy herein shall not affect a regis-
13 trant's right to prosecute under any penal law of this State.

1 13. Common Law Rights.

2 Nothing herein shall adversely affect the rights or the enforcement of
3 rights in marks acquired in good faith at any time at common law.

1 14. Severability.

2 If any provision hereof, or the application of such provision to any per-
3 son or circumstance is held invalid, the remainder of this act shall not be
4 affected thereby.

1 15. Sections 56:3-1 to 56:3-13 of the Revised Statutes are repealed, ex-
2 cept that as to any suit, proceeding or appeal, and for that purpose only,
3 pending at the time this act takes effect such repeal shall be deemed not to
4 be effective until final determination of said pending suit, proceeding or
5 appeal.

1 16. This act shall take effect January 1, 1967.

STATEMENT

The Model State Trademark Bill was prepared in 1949 by The United States Trademark Association as an assistance to a special committee on trademarks of the National Association of Secretaries of State. The Model Bill was approved by NASS in 1950 and later by the Council of State Governments.

The events and conditions which prompted the drafting of the Model Bill include a lack of uniformity between State statutes, proposals to enact compulsory registration statutes, and a lack of means to remove from the register registrations which were no longer in use.

The Model Bill provides for permissive registration for a term of years based on use; provision for renewal, cancellation, assignment, and for protection of rights in marks acquired in good faith at anytime at common law.

To date it has been used as the basis for trademark registration statutes in 29 States.

In its original form, the Model Bill did not provide for the registration of

service marks nor did it require a statement that the mark is still in use in order to obtain renewal. The fact that 19 States having statutes based on the Model Bill have added their own service mark provisions, demonstrates the need for such provisions in the Model Bill. Also, since it was the purpose to remove unused marks from the register and to grant registration based only on use, there is a need in the Model Bill to require a statement that a mark is in use as a condition for renewal of a registration.

FISCAL NOTE TO
SENATE No. 91

STATE OF NEW JERSEY

DATED: JUNE 15, 1966

Senate Bill No. 91 is an act to provide for the registration and protection of trademarks. If enacted, it would bring uniformity to the laws of the several States regarding trademarks.

It is estimated to produce net revenues as follows: Current year, \$900 00; \$54,400.00 in the next fiscal year, and \$1,850.00 in the following year.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.