

HOUSE FILE 2384  
BY COMMITTEE ON SMALL BUSINESS  
AND COMMERCE

FEB 27 1986

Place On Calendar

(Formerly House Study Bill 651)

Passed House, Date 3-16-86 (p. 633) Passed Senate, Date 4-2-86 (p. 982)

Vote: Ayes 97 Nays 0 Vote: Ayes 46 Nays 0

Approved April 16, 1986 (p. 1533)

**A BILL FOR**

1 An Act relating to the registration of a mark which has become  
2 distinctive of the applicant's goods or services.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2384

1 Section 1. Section 548.2, subsection 1, paragraph e, Code  
2 1985, is amended by striking the paragraph and inserting in  
3 lieu thereof the following:

4 e. Consists of a mark which is one of the following:  
5 (1) When applied to the goods or services of the  
6 applicant, is merely descriptive or deceptively misdescriptive  
7 of them.

8 (2) When applied to the goods or services of the  
9 applicant, is primarily geographically descriptive or  
10 geographically misdescriptive of them.

11 (3) Is primarily merely a surname.

12 This paragraph "e" does not prevent the registration of a  
13 mark used in this state by the applicant which has become  
14 distinctive of the applicant's goods or services. The  
15 secretary of state may accept as evidence that the mark has  
16 become distinctive, as applied to the applicant's goods or  
17 services, proof of continuous use thereof as a mark by the  
18 applicant in this state or elsewhere for the five years next  
19 preceding the date of the filing of the application for  
20 registration, or,

21 Sec. 2. Section 548.2, subsection 1, paragraph f, Code  
22 1985, is amended by striking the subsection.

23 EXPLANATION

24 Under present statutory language, a mark that is primarily  
25 a surname may be registered if it has become distinctive of  
26 the applicant's goods or services as evidenced by five years  
27 of continuous use. This bill provides that marks that are  
28 primarily descriptive or geographically descriptive may also  
29 be registered if they have become distinctive of the  
30 applicant's goods or services as evidenced by five years of  
31 continuous use.

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HSB 651

Study Bill 651

SMALL BUSINESS AND COMMERCE

Small Business and Commerce: Skow, Chair: Baxter and Rensink.

*Year  
of 2384*

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PREFILED SECRETARY OF  
STATE BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the registration of a mark which has become  
2 distinctive of the applicant's goods or services.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 548.2, subsection 1, paragraph e, Code  
2 1985, is amended by striking the paragraph and inserting in  
3 lieu thereof the following:

4 e. Consists of a mark which is one of the following:

5 (1) When applied to the goods or services of the  
6 applicant, is merely descriptive or deceptively misdescriptive  
7 of them.

8 (2) When applied to the goods or services of the  
9 applicant, is primarily geographically descriptive or  
10 geographically misdescriptive of them.

11 (3) Is primarily merely a surname.

12 This paragraph does not prevent the registration of a mark  
13 used in this state by the applicant which has become  
14 distinctive of the applicant's goods or services. The  
15 secretary of state may accept as evidence that the mark has  
16 become distinctive, as applied to the applicant's goods or  
17 services, proof of continuous use thereof as a mark by the  
18 applicant in this state or elsewhere for the five years next  
19 preceding the date of the filing of the application for  
20 registration, or,

21 Sec. 2. Section 548.2, subsection 1, paragraph f, Code  
22 1985, is amended by striking the subsection.

23 EXPLANATION

24 Under present statutory language, a mark that is primarily  
25 a surname may be registered if it has become distinctive of  
26 the applicant's goods or services as evidenced by five years  
27 of continuous use. This bill provides that marks that are  
28 primarily descriptive or geographically descriptive may also  
29 be registered if they have become distinctive of the  
30 applicant's goods or services as evidenced by five years of  
31 continuous use.

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Sec. 2. Section 548.2, subsection 1, paragraph f, Code 1985, is amended by striking the subsection.

HOUSE FILE 2384

AN ACT  
RELATING TO THE REGISTRATION OF A MARK WHICH HAS BECOME DISTINCTIVE OF THE APPLICANT'S GOODS OR SERVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 548.2, subsection 1, paragraph e, Code 1985, is amended by striking the paragraph and inserting in lieu thereof the following:

e. Consists of a mark which is one of the following:

(1) When applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them.

(2) When applied to the goods or services of the applicant, is primarily geographically descriptive or geographically misdescriptive of them.

(3) Is primarily merely a surname.

This paragraph "e" does not prevent the registration of a mark used in this state by the applicant which has become distinctive of the applicant's goods or services. The secretary of state may accept as evidence that the mark has become distinctive, as applied to the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this state or elsewhere for the five years next preceding the date of the filing of the application for registration, or,

\_\_\_\_\_  
DONALD D. AVENSON  
Speaker of the House

\_\_\_\_\_  
ROBERT T. ANDERSON  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2384, Seventy-first General Assembly.

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JOSEPH O'HERRN  
Chief Clerk of the House

Approved *April 16*, 1986

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TERRY E. BRANSTAD  
Governor

H.F. 2384