

BILL ANALYSIS

Senate Research Center

S.B. 1532
By: Brimer
Business & Commerce
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As Filed

DIGEST AND PURPOSE

Currently, Texas law lists specific classes of goods and services relating to the filing of an application for registration of a trademark or service mark with the secretary of state. The United States Patent and Trademark Office (USPTO) periodically restructures classifications; consequently, specific enumeration of goods and services in the state code is obsolete. As proposed, S.B. 1532 requires the secretary of state to adopt rules to establish a classification of goods and services that conforms to the USPTO's classification, to the extent practicable. This bill also authorizes electronic filing and facsimile receipt of instruments required to be filed with the secretary of state.

RULEMAKING AUTHORITY

Rulemaking is expressly granted to the secretary of state in SECTION 1 (Section 16.09, Business & Commerce Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 16.09, Business & Commerce Code, by deleting Subsections (c) and (d) and amending Subsections (a) and (b), as follows:

Sec. 16.09. New heading: CLASSIFICATION OF GOODS AND SERVICES. (a) Requires the secretary of state to adopt rules establishing a classification of goods and services to administer this chapter. Provides that the classifications established do not limit or expand an applicant's or registrant's rights. Provides that, to the extent practicable, the classification of goods and services should conform to the classification adopted by the United States Patent and Trademark Office. Deletes text referring to application processes for trademarks and registration of goods or services.

(b) Authorizes an applicant to include in one application for registration of a mark, all goods or services connected to the mark that are in a single class. Prohibits an applicant from including goods or services that are not in a single class in a single application for registration. Deletes text referring to certain classes of goods.

(c) Deletes text referring to certain classes of services.

(d) Deletes this subsection.

SECTION 2. Amends Section 16.20, Business & Commerce Code, as follows:

Sec. 16.20. New heading: TRANSFER OF MARK; CHANGE OF REGISTRANT NAME; CHANGE OF ADDRESS. (a) Requires an instrument under Section 16.19 (Transfer of Mark; Change of Registrant's Name), Business & Commerce Code, to be filed for issuance of a new certificate that includes a change in ownership or a change in the registrant's name, for the remainder of the unexpired term. Deletes text referring to the request of the registrant or transferee.

(b) Authorizes the secretary of state to amend the trademark records of an

effective registration to reflect a change of registrant address, upon receipt of a statement signed by the registrant or the agent thereof. Requires the statement to set forth the name of the registrant of record, a description of the registered mark, the registration number issued by the secretary of state, and the registrant's new address. Deletes text referring to a request for a new certificate.

SECTION 3. Amends Subchapter B, Chapter 16, Business & Commerce Code, by adding Section 16.22, as follows:

Sec. 16.22. ELECTRONIC FILINGS AND REPRODUCTIONS. (a) Authorizes an application for certain registrations to be submitted in an electronic format approved by the secretary of state. Provides that an instrument filed in accordance with this subsection is deemed to have complied with certain requirements.

(b) Requires all electronic acknowledgments and certificates required to be issued by the secretary of state, for instruments filed under Subsection (a), to be considered issued or provided by the secretary of state on the initial transmission by the secretary of state of the acknowledgment of certificate required to be filed.

(c) Exempts any certificate issued by the secretary of state concerning any instrument filed under this subchapter from a requirement to be on paper or reduced to printed form.

(d) Authorizes an original instrument required or authorized to be filed with the secretary of state under this subchapter to be a photographic, photostatic, facsimile, or similar reproduction of a signed instrument, if permitted by the rules adopted by the secretary of state.

(e) Provides that all civil and criminal penalties applicable to filing documents under this chapter apply to all documents filed pursuant to this section.

SECTION 4. Effective date: September 1, 2003.