

CHAPTER 333

TRADE NAMES AND REGISTRATION OF INSIGNIA

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333.01 COMMERCIAL BUSINESS TRADE NAMES; CERTIFICATE. No person or persons shall hereafter carry on or conduct or transact a commercial business in this state under any designation, name, or style, which does not set forth the full individual name of every person interested in such business unless such person or persons shall file in the office of the clerk of the district court of the county or counties in which the person or persons conduct or transact, or intend to conduct or transact, such business, a certificate setting forth the name under which the business is conducted or transacted, or is to be conducted or transacted, and the true or real full name or names of the person or persons conducting or transacting the same, with the post-office address or addresses of such person or persons. The certificate shall be executed and duly acknowledged by one of the persons conducting, or intending to conduct, the business.

[1911 c. 271 s. 1] (7346)

333.02 CERTIFICATE, WHERE FILED. Persons conducting or transacting any business under any designation, name, or style referred to in section 333.01 shall, before commencing such business, file such certificate in the manner prescribed in section 333.01.

[1911 c. 271 s. 2] (7347)

333.03 CHANGE IN OWNERSHIP REQUIRES NEW CERTIFICATE. On each change in ownership of any business described in section 333.01, a new certificate must be filed with the clerk of court, either by one of the retiring or incoming owners of the business, setting forth the full individual name or names, together with the post-office address or addresses of the new owners thereof. Until the filing of the new certificate, the person or persons whose names appear as owners upon the certificate heretofore filed shall continue liable to all persons who extend credit to the business, except only in the case of creditors who have actual notice or knowledge of such change of ownership.

[1911 c. 271 s. 3] (7348)

333.04 CLERKS OF COURT, DUTIES, FEES. The several clerks of the district courts of this state shall keep an alphabetical list of all persons filing certificates provided for in section 333.01, and for the indexing and filing of such certificates they shall receive a fee of 25 cents. A copy of such certificate, duly certified to by the clerk of the district court in whose office the same is filed, shall be presumptive evidence in all courts of law in this state of the facts therein contained.

[1911 c. 271 s. 4] (7349)

333.05 EXCEPTIONS. Sections 333.01 to 333.06 shall not apply to corporations, domestic or foreign, nor to copartnerships in which one of the individual names of all of the members thereof appear in the copartnership name of designation.

[1911 c. 271 s. 5] (7350)

333.06 PLEADING FAILURE TO FILE CERTIFICATE; COSTS. If any person or persons conducting a business contrary to the terms of sections 333.01 to 333.06 shall, prior to the filing of the certificate therein prescribed, commence a civil action in any court of this state on account of any contract made by, or transaction had on behalf of the business, the defendant may plead such failure in abatement of

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the action; and all proceedings had in the action shall thereupon be stayed until the certificate provided for by sections 333.01 to 333.06 is duly filed, and the defendant, in case he prevails in the action, shall also be entitled to tax \$5.00 costs, in addition to such other statutory costs as are now allowed by law, and, in case he does not prevail in the action, shall be entitled to deduct \$5.00 from the judgment otherwise recoverable therein.

[1911 c. 271 s. 7] (7352)

333.07 LODGE AND SOCIETY EMBLEMS MAY BE REGISTERED. Any association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or association, historical, military, or veterans' organization, labor union, foundation, federation, or any other society, organization, or association, degree, branch, subordinate lodge, or auxiliary thereof, whether incorporated or unincorporated, the principles and activities of which are not repugnant to the constitution and laws of the United States or this state, may register, in the office of the secretary of state, a facsimile, duplicate, or description of its name, badge, motto, button, decoration, charm, emblem, rosette, or other insignia, and may, by reregistration, alter or cancel the same.

[1933 c. 295 s. 1] (7352-1)

333.08 APPLICATION FOR REGISTRATION. Application for such registration, alteration, or cancelation, shall be made by the chief officer or officers of the association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or association, historical, military, or veterans' organization, labor union, foundation, federation, or any other society, organization, or association, degree, branch, subordinate lodge, or auxiliary thereof, upon blanks to be provided by the secretary of state; and such registration shall be for the use, benefit, and on behalf of all associations, degrees, branches, subordinate lodges, and auxiliaries of such association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or association, historical, military, or veterans' organization, labor union, foundation, federation, or any other society, organization, or association, degree, branch, subordinate lodge, or auxiliary thereof, and the individual members and those thereafter to become members thereof, throughout this state.

[1933 c. 295 s. 2] (7352-2)

333.09 SECRETARY OF STATE TO KEEP RECORD AND INDEX. The secretary of state shall keep a properly indexed record of the registration provided for by sections 333.07 to 333.12, which record shall also show any altered or canceled registration.

[1933 c. 295 s. 3] (7352-3)

333.10 NOT TO REGISTER DUPLICATES. No registration shall be granted or alteration permitted to any association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or association, historical, military, or veterans' organization, labor union, foundation, federation, or any other society, organization, or association, degree, branch, subordinate lodge, or auxiliary thereof, having a name, badge, motto, button, decoration, charm, emblem, rosette, or other insignia, similar to, imitating, or so nearly resembling as to be calculated to deceive, any other name, badge, button, decoration, charm, emblem, rosette, or other insignia, already registered pursuant to the provisions of sections 333.07 to 333.12.

[1933 c. 295 s. 4] (7352-4)

333.11 SECRETARY OF STATE TO ISSUE CERTIFICATES. Upon granting registration the secretary of state shall issue his certificate to the petitioners, setting forth the fact of such registration.

[1933 c. 295 s. 5] (7352-5)

333.12 FEES. The fees of the secretary of state for registration, alteration, cancelation, searches made by him, and certificates issued by him, pursuant to sections 333.07 to 333.11, shall be the same as provided by law for similar services. The fees so collected shall be paid by the secretary of state into the state treasury.

[1933 c. 295 s. 7] (7352-7)

333.13 VIOLATIONS; PENALTIES. Any person or persons carrying on or conducting or transacting a business, as provided by sections 333.01 to 333.06, who shall fail to comply with the provisions of sections 333.01 to 333.06, shall be guilty of a misdemeanor.

Any person who shall wilfully wear, exhibit, display, print, or use, for any purpose, the badge, motto, button, decoration, charm, emblem, rosette, or other insignia of any association or organization mentioned in section 333.07, duly registered, unless entitled to use and wear the same under the constitution and by-laws, rules, and regulations of such association or organization, shall be guilty of a misdemeanor; and upon conviction shall be punished by a fine of not exceeding \$100 and in default of payment committed to jail for a period of not to exceed 60 days.

[1911 c. 271 s. 6; 1933 c. 295 s. 6] (7351, 7352-6)

333.14 USE OF NAME AND MARK "AQUATENNIAL" LIMITED. Any person, firm, copartnership, association, society, or corporation, except as authorized by Minneapolis aquatennial association, who shall, with intent to acquire or obtain for personal or business purposes a benefit or advantage, assume, adopt or use in any manner the name and mark "aquatennial" of the Minneapolis aquatennial association or any other name or mark so nearly resembling the name and mark "aquatennial" as to be calculated to deceive the public with respect to the corporation, or who, except as authorized by the corporation, shall, with intent to acquire or obtain for personal or business purposes a benefit or advantage, assume, adopt or use in any manner any other name, mark, emblem, insignia or badge, designation, or distinguishing descriptive word or phrase used by the Minneapolis aquatennial association in carrying out its purpose or any name, mark, emblem, insignia or badge, designation, or distinguishing descriptive word or phrase confusingly similar thereto, calculated to deceive the public with respect to the corporation, or who, except as authorized by the corporation, shall, with intent to acquire or obtain for personal or business purposes a benefit or advantage, assume, adopt or use the corporate name of the corporation, or a name so nearly resembling it as to be calculated to deceive the public with respect to the corporation, shall be guilty of a misdemeanor.

[1941 c. 202 s. 1]

333.15 THREATENED USE MAY BE RESTRAINED. When there shall be an actual or threatened violation of section 333.14, an application may be made to a court or justice having jurisdiction to issue an injunction, upon notice to the defendant of not less than five days, for an injunction to enjoin and restrain the actual or threatened violation; and if it shall appear to the satisfaction of the court or justice that the defendant is in fact so using or threatening to use the name and mark "AQUATENNIAL" or any other name or mark confusingly similar thereto, or any other name, mark, emblem, insignia, or badge, designation, or distinguishing descriptive word or phrase used by the corporation in carrying out its purposes or confusingly similar to any such other name, mark, emblem, insignia or badge, designation, or distinguishing descriptive word or phrase used by the corporation in carrying out its purposes, or the corporate name of the corporation or a confusingly similar name, an injunction may be issued by the court or justice enjoining and restraining such actual or threatened violation without requiring proof that any person has in fact been misled or deceived thereby.

[1941 c. 202 s. 2]

333.16 NOT TO AFFECT VESTED RIGHTS. The provisions of sections 333.14 and 333.15 shall not be deemed or construed to divest, interfere, affect, or conflict with any established or vested right or prohibit the use thereof.

[1941 c. 202 s. 3]

333.17 USE OF CERTAIN TERMS FORBIDDEN. No person, firm, corporation or association, selling or offering for sale, any commodity, shall use, or cause, or permit to be used as the name or designation, or as a part of the name or designation, of any business, any of the following words, terms or expressions, viz.: "Army," "Navy," "Marine," "Coastguard," "Post Exchange," "Government," "G. I.," "P.X.," or any other word, term, or expression denoting the United States Government, or relating to an agency or activity of the United States Government, provided however, that any person, firm, corporation or association, engaged in the manufacture or sale of marine equipment, or engaged in the business of marine insurance, may use the word "Marine" as a part of its business name.

Any person, firm, corporation, or association, violating the provisions of this section is guilty of a misdemeanor.

[1945 c. 212]