

Representative Mark A. Wheatley proposes the following substitute bill:

**DEPARTMENT OF COMMERCE -
DEMOGRAPHIC DATA TRACKING**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark A. Wheatley

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill requires a certificate of assumed and true name form created by the Division of Corporations and Commercial Code to allow a person to provide information about the gender and race of the entity's owner.

Highlighted Provisions:

This bill:

- ▶ requires the division to include on a form created by the division a way to indicate the gender and race of one or more owners of the entity for which the form is filed;
- and
- ▶ provides that information concerning gender or race is not required to be provided.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

42-2-5, as last amended by Chapter 267, Laws of Utah 1999



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **42-2-5** is amended to read:

42-2-5. Certificate of assumed and of true name -- Contents -- Execution -- Filing -- Notice.

(1) Every person who carries on, conducts, or transacts business in this state under an assumed name, whether that business is carried on, conducted, or transacted as an individual, association, partnership, corporation, or otherwise, shall file with the Division of Corporations and Commercial Code a certificate setting forth:

(a) the name under which the business is, or is to be carried on, conducted, or transacted, and the full true name, or names, of the person owning, and the person carrying on, conducting, or transacting the business; and

(b) the location of the principal place of business, and the street address of the person.

(2) The certificate shall be executed by the person owning, and the person carrying on, conducting, or transacting the business, and shall be filed not later than 30 days after the time of commencing to carry on, conduct, or transact the business.

(3) "Filed" means the Division of Corporations and Commercial Code has received and approved, as to form, a document submitted under the provisions of this chapter, and has marked on the face of the document a stamp or seal indicating the time of day and date of approval, the name of the division, the division director's signature and division seal, or facsimiles of the signature or seal.

(4) Every certificate filed with the Division of Corporations and Commercial Code under this chapter shall include the following notice in a conspicuous place on the face thereof:

NOTICE - THE FILING OF THIS APPLICATION AND ITS APPROVAL BY THE DIVISION OF CORPORATIONS AND COMMERCIAL CODE DOES NOT AUTHORIZE THE USE IN THE STATE OF UTAH OF AN ASSUMED NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW (SEE UTAH CODE ANN. SECTIONS 42-2-5 ET SEQ.).

(5) (a) A certificate filed under this section shall include a portion that allows the person filing the form to voluntarily disclose the gender and race of one or more owners of the entity for which the filing is made.

57 (b) Race shall be indicated under Subsection (5)(a) by selecting from the categories of
58 race listed in 15 U.S.C. Sec. 631(f).

59 (c) A person is not required to provide information under Subsection (5)(a) concerning
60 the gender or race of one or more owners of the entity for which the filing is made.

61 (d) (i) The Division of Corporations and Commercial Code shall compile information
62 concerning the gender or race included on certificates filed with the Division of Corporations
63 and Commercial Code.

64 (ii) Information compiled by the Division of Corporations and Commercial Code under
65 Subsection (5)(d)(i) may be compiled in a manner determined by the Division of Corporations
66 and Commercial Code by rules made pursuant to Title 63, Chapter 46a, Utah Administrative
67 Rulemaking Act.

State Impact

Implementation of this bill will cost \$50,000 from the Commerce Service Fund. The ongoing costs are associated with data storage. There is an 18% increase in filings to be stored each year. Spending from the Commerce Service Fund could affect revenue available to the General Fund.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
Commerce Service Fund	\$50,000	\$30,000	\$0	\$0
TOTAL	\$50,000	\$30,000	\$0	\$0

Individual and Business Impact

No fiscal impact.
