

Representative Rebecca P. Edwards proposes the following substitute bill:

AUTHORIZED USE OF A BUSINESS NAME

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Daniel R. Liljenquist

LONG TITLE

General Description:

This bill modifies provisions related to business names.

Highlighted Provisions:

This bill:

- ▶ repeals a requirement that a certificate filed with the Division of Corporations and Commercial Code contain certain language;
- ▶ repeals a provision related to a statutory or common law trademark, service mark, or trade name rights granted by state or federal statute; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

42-2-5, as last amended by Laws of Utah 2010, Chapter 43

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

1st Sub. H.B. 470



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

27 **42-2-5. Certificate of assumed and of true name -- Contents -- Execution -- Filing**
28 **-- Notice.**

29 (1) For purposes of this section, "filed" means the Division of Corporations and
30 Commercial Code has:

31 (a) received and approved, as to form, a document submitted under this chapter; and

32 (b) marked on the face of the document a stamp or seal indicating:

33 (i) the time of day and date of approval;

34 (ii) the name of the division; and

35 (iii) the division director's signature and division seal, or facsimiles of the signature or
36 seal.

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

41 (a) the name under which the business is, or is to be carried on, conducted, or
42 transacted;

43 (b) the full true name, or names, of the person owning, and the person carrying on,
44 conducting, or transacting the business; and

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

46 (3) A certificate filed under this section shall be:

47 (a) executed by the person owning, and the person carrying on, conducting, or
48 transacting the business;

49 (b) filed not later than 30 days after the time of commencing to carry on, conduct, or
50 transact the business; and

51 (c) submitted in a machine printed format.

52 (4) (a) A certificate filed with the Division of Corporations and Commercial Code
53 under this chapter shall include the following ~~[notice]~~ statement in a conspicuous place on the
54 face ~~[thereof]~~ of the certificate:

55 ~~[NOTICE=]~~ THE FILING OF THIS APPLICATION AND ITS APPROVAL BY THE
56 DIVISION OF CORPORATIONS AND COMMERCIAL CODE DOES NOT AUTHORIZE

57 THE USE IN THE STATE OF UTAH OF AN ASSUMED NAME IN VIOLATION OF THE
58 RIGHTS OF ANOTHER UNDER [~~FEDERAL, STATE, OR~~] COMMON LAW [~~(SEE UTAH~~
59 ~~CODE ANN. SECTIONS 42-2-5 ET SEQ.)~~] OR UNDER FEDERAL OR STATE STATUTE,
60 SEE E.G., TRADEMARK ACT OF 1946, 15 U.S.C. SEC. 1051 ET SEQ., UTAH CODE
61 ANN, TITLE 70, CHAPTER 3a, REGISTRATION AND PROTECTION OF TRADEMARKS
62 AND SERVICE MARKS ACT.

63 (b) A certificate filed under this section shall provide a means by which the person
64 filing the certificate acknowledges reading the statement described in Subsection (4)(a).

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

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

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

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

75 (ii) Information compiled by the Division of Corporations and Commercial Code under
76 Subsection (5)(d)(i) may be compiled in a manner determined by the Division of Corporations
77 and Commercial Code by rules made pursuant to Title 63G, Chapter 3, Utah Administrative
78 Rulemaking Act.

FISCAL NOTE

H.B. 470 1st Sub. (Buff)

SHORT TITLE: **Authorized Use of a Business Name**

SPONSOR: **Edwards, R.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.