

# HOUSE BILL No. 4855

June 30, 2011, Introduced by Reps. Horn, Liss, McBroom, Walsh, Cavanagh, Glardon, Moss, Knollenberg, Kowall, Callton, Heise, MacMaster, Rendon, Cotter, MacGregor, Crawford, Tyler, Price, Olson, Outman, Goike, Bledsoe, Agema, Lyons, Meadows, Daley, Kurtz and Jacobsen and referred to the Committee on Judiciary.

A bill to amend 1969 PA 242, entitled

"An act to provide for the registration of trademarks and service marks; to prescribe the powers and duties of certain state officers and agencies; to prescribe remedies; and to repeal certain acts and parts of acts,"

by amending section 2 (MCL 429.32), as amended by 1984 PA 203.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2. ~~A~~**THE ADMINISTRATOR SHALL NOT REGISTER A** mark by which  
2 the goods or services of an applicant for registration may be  
3 distinguished from the goods or services of others ~~shall not be~~  
4 ~~registered~~ if the mark **MEETS ANY OF THE FOLLOWING:**

5           (a) Consists of or comprises immoral, deceptive, or scandalous  
6 matter **OR MATTER THAT IS ILLEGAL UNDER STATE OR FEDERAL LAW.**

7           (b) Consists of or comprises matter ~~which~~**THAT** may disparage  
8 or falsely suggest a connection with persons, living or dead,  
9 institutions, beliefs, or national symbols, or bring them into

1 contempt or disrepute.

2 (c) Consists of or comprises ~~the~~**A** flag, coat of arms, or  
3 other insignia, **OR A SIMULATION OF A FLAG, COAT OF ARMS, OR OTHER**  
4 **INSIGNIA**, of the United States, or of a state or municipality, or  
5 of a foreign nation. ~~, or a simulation thereof.~~

6 (d) Consists of or comprises the name, signature, or portrait  
7 of a living individual, except with the individual's written  
8 consent.

9 (e) Consists of a mark ~~which~~**THAT**, when applied to the goods  
10 or services of the applicant, is merely descriptive or deceptively  
11 misdescriptive of the goods or services, or when applied to the  
12 goods or services of the applicant, is primarily geographically  
13 descriptive or deceptively misdescriptive of them, or is primarily  
14 merely a surname. This subsection ~~shall~~**DOES** not prevent the  
15 registration of a mark used in this state by the applicant ~~which~~  
16 **THAT** has become distinctive of the applicant's goods or services.  
17 The administrator may accept as evidence that the mark has become  
18 distinctive, as applied to the applicant's goods or services, proof  
19 of continuous use ~~thereof~~**OF THE MARK** as a mark by the applicant in  
20 this state or elsewhere for 5 years immediately preceding the date  
21 of the filing of the application for registration.

22 (f) Consists of or comprises a mark ~~which~~**THAT** so resembles a  
23 mark registered in this state, or a mark or trade name previously  
24 used in this state by another person and not abandoned, as to be  
25 likely, when applied to the goods or services of the applicant, to  
26 cause confusion ~~,~~**OR** mistake ~~,~~ or to deceive.