

## Chapter 429

### BRANDS, LABELS, AND TRADEMARKS

#### CONTAINERS

##### Act 164 of 1905

429.1-429.5 Repealed. 1955, Act 258, Eff. Oct. 14, 1955.

#### TRADEMARKS

##### Act 258 of 1955

429.11-429.24 Repealed. 1969, Act 242, Eff. Jan. 1, 1970.

### TRADEMARKS AND SERVICE MARKS

##### Act 242 of 1969

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.

**History:** 1969, Act 242, Eff. Jan. 1, 1970 ;-- Am. 1984, Act 203, Eff. Oct. 1, 1984

*The People of the State of Michigan enact:*

#### 429.31 Definitions.

##### Sec. 1.

As used in this act:

(a) "Trademark" means any word, name, symbol, or device, or any combination thereof, other than a trade name in its entirety, adopted and used by a person to identify goods made or sold by him or her and to distinguish them from similar goods made or sold by others.

(b) "Person" means any individual, firm, partnership, corporation, association, union, or other organization.

(c) "Applicant" means the person filing an application for registration of a trademark or service mark under this act, his or her legal representatives, successors, or assigns.

(d) "Registrant" means the person to whom the registration of a trademark or service mark under this act is issued, his or her legal representatives, successors, or assigns.

(e) "Service mark" means any word, name, symbol, or device, or any combination thereof, other than a trade name in its entirety, adopted and used by a person in the sale or advertising of services to identify his or her services and distinguish them from the similar services of others.

(f) "Mark" includes any trademark or service mark.

(g) "Trade name" means a word or group of words used by any person to identify a sole proprietorship, firm, partnership, corporation, association, union, or other organization.

(h) A mark is "used" in this state on goods when it is placed in any manner on the goods or their containers or on the tags or labels affixed thereto and such goods are sold or otherwise distributed in this state, and on services when it is used or displayed in this state in the sale or advertising of services and the services are rendered in this state.

- (i) A mark is "abandoned" when its use has been discontinued with intent not to resume. Intent not to resume may be inferred from circumstances. Nonuse for 2 consecutive years shall be prima facie abandonment.
- (j) "Administrator" means the director of commerce or his or her designated representative.

**History:** 1969, Act 242, Eff. Jan. 1, 1970 ;-- Am. 1984, Act 203, Eff. Oct. 1, 1984

#### **429.32 Registration of certain marks prohibited.**

##### **Sec. 2.**

A mark by which the goods or services of an applicant for registration may be distinguished from the goods or services of others shall not be registered if the mark:

- (a) Consists of or comprises immoral, deceptive, or scandalous matter.
- (b) Consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute.
- (c) Consists of or comprises the flag, coat of arms, or other insignia of the United States, or of a state or municipality, or of a foreign nation, or a simulation thereof.
- (d) Consists of or comprises the name, signature, or portrait of a living individual, except with the individual's written consent.
- (e) Consists of a mark which, when applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of the goods or services, or when applied to the goods or services of the applicant, is primarily geographically descriptive or deceptively misdescriptive of them, or is primarily merely a surname. This subsection shall not prevent the registration of a mark used in this state by the applicant which has become distinctive of the applicant's goods or services. The administrator may accept as evidence that the mark has become distinctive, as applied to the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this state or elsewhere for 5 years immediately preceding the date of the filing of the application for registration.
- (f) Consists of or comprises a mark which so resembles a mark registered in this state, or a mark or trade name previously used in this state by another person and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion, mistake, or to deceive.

**History:** 1969, Act 242, Eff. Jan. 1, 1970 ;-- Am. 1980, Act 63, Imd. Eff. Apr. 2, 1980 ;-- Am. 1984, Act 203, Eff. Oct. 1, 1984

#### **429.33 Application for registration of mark; form; contents; signature, verification, and oath; specimens; fee; service of process.**

##### **Sec. 3.**

(1) Subject to the limitations set forth in this act, a person who adopts and uses a mark in this state may file with the administrator, on a form to be furnished by the administrator, an application for registration of that mark which contains all of the following information:

- (a) The name, business name, if any, and business address of the person applying for registration, and, if a corporation, the state of incorporation.
  - (b) The goods or services in connection with which the mark is used, the mode or manner in which the mark is used in connection with the goods or services, and the class in which the goods or services fall.
  - (c) The date when and the place where the mark was first used anywhere, and the date when the mark was first used in this state by the applicant or the applicant's predecessor in title.
  - (d) A statement that the applicant is the owner of the mark and that no other person has the right to use the mark in this state either in the identical form or in a form which so nearly resembles the mark as to be likely to deceive or to be mistaken for the mark.
  - (e) Other information relating to the registration of a mark as requested by the administrator.
- (2) The application shall be signed, verified, and sworn to by the applicant, if an individual; by a member of the firm; by an officer of the corporation, association, or union; or by a member of the partnership applying.
- (3) The application shall be accompanied by 2 specimens or facsimiles of the mark as used at the time of applying

for registration of the mark.

(4) The application for registration shall be accompanied by a filing fee of \$50.00, payable to the state of Michigan.

(5) The application shall include an appointment of the administrator as the applicant's agent for service of process only in actions relating to the registration of a mark for which an application has been submitted or a registered mark. Service of process may be issued under this subsection if the applicant is or becomes a nonresident individual, partnership, or association; if the applicant is or becomes a foreign corporation without a certificate to do business in this state; or if the applicant cannot be found in this state. Service of process shall be made by mailing a summons and a copy of the complaint to the administrator who shall keep a record of each process received. This service shall be sufficient upon the nonresident applicant provided notice of the service and a copy of the complaint are served upon the applicant by certified mail sent by the plaintiff.

**History:** 1969, Act 242, Eff. Jan. 1, 1970 ;-- Am. 1980, Act 63, Imd. Eff. Apr. 2, 1980 ;-- Am. 1984, Act 203, Eff. Oct. 1, 1984

#### **429.34 Certificate of registration; issuance; contents; refusal to register mark; notice; certificate as evidence.**

##### **Sec. 4.**

(1) Upon compliance by the applicant with the requirements of this act, the administrator shall issue a certificate of registration to the registrant. The certificate of registration shall be issued under the signature of the administrator and shall set forth the name and business address and, if a corporation, the state of incorporation, of the registrant, the description or a reproduction of the mark and the general class of goods or services to which appropriated, a description of the goods or services on which the mark is used, the date claimed for first use of the mark anywhere and the date claimed for the first use of the mark in this state, the registration date and term of the registration.

(2) If the administrator refuses to register a mark the applicant shall be notified and the reason for the refusal stated in writing.

(3) Any certificate of registration issued by the administrator, or a copy thereof duly certified by the administrator, shall be admissible in evidence as competent and sufficient proof of the registration of such mark in any action or judicial proceedings in any court of this state and shall be evidence of registrant's right to use the mark throughout this state in connection with the goods or services specified in the certificate, subject to any conditions and limitations stated therein, but shall not preclude an opposing party from proving any legal or equitable defense or defect which might have been asserted if such mark had not been registered.

**History:** 1969, Act 242, Eff. Jan. 1, 1970 ;-- Am. 1984, Act 203, Eff. Oct. 1, 1984

#### **429.35 Registration; term; application for renewal; form; fee; notice to registrant; expiration and renewal of existing registration; statement.**

##### **Sec. 5.**

(1) Registration of a mark shall be effective for a term of 10 years from the date of registration, and may be renewed for successive terms of 10 years upon application filed within 6 months prior to the expiration of each term, on a form to be furnished by the administrator. A renewal fee of \$25.00, payable to the state, shall accompany the application for renewal of the registration.

(2) The administrator shall notify registrants of marks of the necessity of renewal within the year next preceding the expiration of the 10 years from the date of registration by writing to the last known address of the registrants.

(3) Any registration in force on the date on which this act becomes effective shall expire 10 years from the date of the registration or of the last renewal thereof or 1 year after the effective date of this act, whichever is later, and may be renewed by filing an application with the administrator, on a form furnished by the administrator, and paying the renewal fee therefor within 6 months prior to the expiration of the registration.

(4) An application for renewal shall include a statement by the applicant setting forth the goods or services on or in connection with which the mark is still in use in this state, or if not still in use sufficient facts must be recited to

show that nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

**History:** 1969, Act 242, Eff. Jan. 1, 1970 ;-- Am. 1984, Act 203, Eff. Oct. 1, 1984

**429.36 Mark and registration assignable; recordation of assignment; fee; issuance of certificate to assignee; subsequent purchaser.**

Sec. 6.

Any mark and its registration shall be assignable with the goodwill of the business in which the mark is used, or with that part of the goodwill of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and may be recorded with the administrator upon the payment of a fee of \$15.00, payable to the state, who, upon recording of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under this act is void as against any subsequent purchaser for valuable consideration without notice, unless it is recorded with the administrator within 3 months after the date thereof or prior to the subsequent purchase.

**History:** 1969, Act 242, Eff. Jan. 1, 1970 ;-- Am. 1984, Act 203, Eff. Oct. 1, 1984

**429.37 Record; public examination.**

Sec. 7.

The administrator shall keep for public examination a record of all marks registered or renewed under this act.

**History:** 1969, Act 242, Eff. Jan. 1, 1970 ;-- Am. 1984, Act 203, Eff. Oct. 1, 1984

**429.38 Cancellation from register.**

Sec. 8.

The administrator shall cancel from the register:

- (a) All registrations under this and prior acts which are more than 10 years old and not renewed in accordance with this act.
- (b) Any registration concerning which the administrator receives a voluntary request for cancellation thereof from the registrant or the assignee of record.
- (c) Any registration concerning which a court of competent jurisdiction of record finds:
  - (i) That the registered mark has been abandoned.
  - (ii) That the registrant is not the owner of the mark.
  - (iii) That the registration was granted improperly.
  - (iv) That the registration was obtained fraudulently.
- (d) Any registration ordered canceled on any ground by a court of competent jurisdiction of record.

**History:** 1969, Act 242, Eff. Jan. 1, 1970 ;-- Am. 1984, Act 203, Eff. Oct. 1, 1984

**429.39 Repealed. 1984, Act 203, Eff. Oct. 1, 1984.**

**Compiler's Notes:** The repealed section pertained to petition for cancellation.

**429.40 Classes of goods and services; amendment; limitation.**

Sec. 10.

(1) The following general classes of goods and services are established for the purpose of administering this act. The administrator may amend, by rule or regulation, the classification established in this section, but not in any way to limit or extend the applicant's or registrant's rights. An application for registration of a mark shall be limited to a single general class of goods or services. Nothing in this act shall be construed as limiting the registration of a mark to 1 general class.

(2) The classes are as follows:

(a) Goods:

- (1) Raw or partly prepared materials.
- (2) Receptacles.
- (3) Baggage, animal equipments, portfolios and pocketbooks.
- (4) Abrasives and polishing materials.
- (5) Adhesives.
- (6) Chemicals and chemical compositions.
- (7) Cordage.
- (8) Smokers' articles, not including tobacco products.
- (9) Explosives, firearms, equipment and projectiles.
- (10) Fertilizers.
- (11) Inks and inking materials.
- (12) Construction materials.
- (13) Hardware and plumbing and steam-fitting supplies.
- (14) Metals and metal castings and forgings.
- (15) Oils and greases.
- (16) Paints and painters' materials.
- (17) Tobacco products.
- (18) Medicines and pharmaceutical preparations.
- (19) Vehicles.
- (20) Linoleum and oiled cloth.
- (21) Electrical apparatus, machines and supplies.
- (22) Games, toys and sporting goods.
- (23) Cutlery, machinery and tools, and parts thereof.
- (24) Laundry appliances and machines.
- (25) Locks and safes.
- (26) Measuring and scientific appliances.
- (27) Horological instruments.
- (28) Jewelry and precious-metal ware.
- (29) Brooms, brushes and dusters.
- (30) Crockery, earthenware and porcelain.
- (31) Filters and refrigerators.
- (32) Furniture and upholstery.
- (33) Glassware.
- (34) Heating, lighting and ventilation apparatus.
- (35) Belting, hose, machinery packing, and nonmetallic tires.
- (36) Musical instruments and supplies.
- (37) Paper and stationery.
- (38) Prints and publications.
- (39) Clothing.
- (40) Fancy goods, furnishings and notions.
- (41) Canes, parasols and umbrellas.

- (42) Knitted, netted and textile fabrics, and substitutes therefor.
- (43) Thread and yarn.
- (44) Dental, medical and surgical appliances.
- (45) Soft drinks and carbonated waters.
- (46) Foods and ingredients of foods.
- (47) Wines.
- (48) Malt beverages and liquors.
- (49) Distilled alcoholic liquors.
- (50) Merchandise not otherwise classified.
- (51) Cosmetics and toilet preparations.
- (52) Detergents and soaps.
- (b) Services:
- (100) Miscellaneous.
- (101) Advertising and business.
- (102) Insurance and financial.
- (103) Construction and repair.
- (104) Communication.
- (105) Transportation and storage.
- (106) Material treatment.
- (107) Education and entertainment.

**History:** 1969, Act 242, Eff. Jan. 1, 1970 ;-- Am. 1984, Act 203, Eff. Oct. 1, 1984

#### **429.41 Fraudulent procurement of filing or registration; liability.**

Sec. 11.

Any person who on their behalf, or on behalf of any other person, procures the filing or registration of any mark in the office of the administrator, by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of the filing or registration, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction of record.

**History:** 1969, Act 242, Eff. Jan. 1, 1970 ;-- Am. 1984, Act 203, Eff. Oct. 1, 1984

#### **429.42 Improper use, reproduction or imitation; damages.**

Sec. 12.

Subject to the provisions of section 14, any person who shall:

(a) Use, without the consent of the registrant, any reproduction, counterfeit, copy or colorable imitation of a mark registered under this act in connection with the sale, offering for sale, or advertising of any goods or services on or in connection with which such use is likely to cause confusion or mistake or to deceive as to the source of origin of such goods or services; or

(b) Reproduce, counterfeit, copy or colorably imitate any such registered mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used upon or in connection with the sale or other distribution in this state of such goods or services; is liable to a civil action by the owner of the registered mark for any or all of the remedies provided in section 13, except that under subdivision (b) of this section the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that the mark is intended to be used to cause confusion or mistake or to deceive.

**History:** 1969, Act 242, Eff. Jan. 1, 1970

#### **429.43 Injunctions; damages; prosecution; exceptions.**

Sec. 13.

(1) Any owner of a mark registered under this act may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof and any court of competent jurisdiction of record may grant injunctions to restrain such manufacture, use, display or sale as by the court may be deemed just and reasonable, and may require the defendants to pay to the owner all profits derived from or all damages suffered by reason of such wrongful manufacture, use, display, or sale, or both; and the court may also order that any counterfeits or imitations in the possession or under the control of any defendant in the case be delivered to an officer of the court, or to the complainant, to be destroyed.

(2) The enumeration of any right of remedy herein shall not affect a registrant's right to prosecute under any penal law of this state.

(3) Notwithstanding any other provision of this act, the remedies given to the owner of the right infringed shall be limited as follows: (a) where an infringer is engaged solely in the business of printing the mark for others and establishes that he was an innocent infringer, the owner of the right infringed shall be entitled as against the infringer only to an injunction against future printing; (b) where the infringement complained of is contained in or is part of paid advertising matter in a newspaper, magazine, or other similar periodical the remedies of the owner of the right infringed as against the publisher or distributor of the newspaper, magazine, or other similar periodical shall be confined to an injunction against the presentation of such advertising matter in future issues of the newspapers, magazines, or other similar periodicals. These limitations shall apply only to innocent infringers; (c) injunction relief shall not be available to the owner of the right infringed in respect of an issue of a newspaper, magazine, or other similar periodical containing infringing matter when restraining the dissemination of such infringing matter in any particular issue of such periodical would delay the delivery of the issue after the regular time therefor, and the delay would be due to the method by which publication and distribution of the periodical is customarily conducted in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such infringing matter.

**History:** 1969, Act 242, Eff. Jan. 1, 1970

#### **429.44 Common law rights.**

Sec. 14.

Nothing contained in this act shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.

**History:** 1969, Act 242, Eff. Jan. 1, 1970

#### **429.45 Repeal.**

Sec. 15.

Act No. 258 of the Public Acts of 1955, being sections 429.11 to 429.24 of the Compiled Laws of 1948, is repealed.

**History:** 1969, Act 242, Eff. Jan. 1, 1970

**429.46 Effective date.**

Sec. 16.

This act shall take effect January 1, 1970.

**History:** 1969, Act 242, Eff. Jan. 1, 1970

**COUNTERFEIT OR IMITATION LABELS, TRADEMARKS, OR ADVERTISING**

**Act 41 of 1891**

429.51-429.56 Repealed. 1955, Act 258, Eff. Oct. 14, 1955.

**MICHIGAN WHEAT**

**Act 141 of 1875**

AN ACT to regulate the sale of wheat, and to prevent the sale or offering for sale of wheat not grown in Michigan as Michigan wheat, and to prevent the mixing of foreign wheat with the Michigan product.

**History:** 1875, Act 141, Eff. Aug. 3, 1875

*The People of the State of Michigan enact:*

**429.103 Fraudulent wheat sale; civil liability.**

Sec. 3.

Any person or persons who shall sell to another any wheat as Michigan wheat or the product of this state, knowing the same to be in whole or in part the product of any other state or country, shall be liable to the person or persons to whom the same is so sold in an action on this statute for double the amount of damages which he shall have sustained by reason of any breach in the contract of sale.

**History:** 1875, Act 141, Eff. Aug. 3, 1875 ;-- How. 2242 ;-- CL 1897, 5464 ;-- CL 1915, 7148 ;-- CL 1929, 8940 ;-- CL 1948, 429.103

**429.104 Inapplicability of act.**

Sec. 4.

The provisions of the foregoing section of this act shall not apply in cases where wheat is brought to market in this state by teams from adjoining localities in other states.

**History:** 1875, Act 141, Eff. Aug. 3, 1875 ;-- How. 2243 ;-- CL 1897, 5465 ;-- CL 1915, 7149 ;-- CL 1929, 8941 ;-- CL 1948, 429.104



## LIQUEFIED PETROLEUM OR CARBONIC GAS CONTAINERS

### Act 241 of 1959

AN ACT relating to the marking of stationary containers used for liquefied petroleum or carbonic gas; to prohibit the defacing, erasing, or other removal of those marks; to prohibit the filling, refilling, trafficking in, or use of those containers without authority; to provide for the powers and duties of certain state officers; to prohibit violations and prescribe penalties; and to provide remedies.

**History:** 1959, Act 241, Eff. Mar. 19, 1960 ;-- Am. 2006, Act 504, Imd. Eff. Dec. 29, 2006

*The People of the State of Michigan enact:*

#### **429.111 Liquefied petroleum or carbonic gas containers; definitions.**

##### Sec. 1.

As used in this act:

- (a) "Liquefied petroleum gas" means any material which is composed predominantly of any of the following hydrocarbons or mixtures of the same: Propane, propylene, butanes (normal butane and isobutane), and butylenes.
- (b) "Carbonic gas" means carbon dioxide.

**History:** 1959, Act 241, Eff. Mar. 19, 1960

#### **429.112 Liquefied petroleum or carbonic gas container; transfer; written authorization required; marking on surface container; compliance with rules.**

##### Sec. 2.

(1) Except as provided in subsection (4), a person shall not transfer liquefied petroleum or carbonic gas, or any other gas or compound, out of or into a stationary liquefied petroleum or carbonic gas container without the written authorization of the owner of the container.

(2) A person shall not sell, offer for sale, give, take, loan, deliver, or otherwise dispose of or traffic in a stationary liquefied petroleum or carbonic gas container or containers unless the surface of the container is marked in plainly legible characters with the name, initials, mark, or other device of the owner.

(3) A person, other than the owner of a stationary liquefied petroleum or carbonic gas container or a person authorized in writing by the owner, shall not deface, erase, obliterate, cover up, or otherwise remove or conceal any name, mark, initial, or device marked on the surface of the container.

(4) An individual transferring liquefied petroleum or carbonic gas, or any other gas or compound, out of or into a stationary liquefied petroleum or carbonic gas container shall comply with any rules promulgated by the department of environmental quality under section 3c(2) of the fire prevention code, 1941 PA 207, MCL 29.3c.

**History:** 1959, Act 241, Eff. Mar. 19, 1960 ;-- Am. 2006, Act 504, Imd. Eff. Dec. 29, 2006

#### **429.113 Violation of act; penalty; civil action; damages; relief; allegation and proof of compliance.**

##### Sec. 3.

(1) A person that violates this act is guilty of a misdemeanor. Each container possessed in violation of this act is a separate offense.

(2) A person may bring a civil action against a person that violates section 2(1) for damages or equitable relief. In an action for damages, the person may recover actual damages or \$2,000.00, whichever is greater, for each violation of section 2(1) and costs and reasonable attorney fees.

(3) A person who brings an action in a court in this state to collect payment for transferring liquefied petroleum or carbonic gas into or out of a stationary liquefied petroleum or carbonic gas container must allege and prove that the person complied with section 2(1) in the transfer of the gas to prevail in that action.

**History:** 1959, Act 241, Eff. Mar. 19, 1960 ;-- Am. 2006, Act 505, Imd. Eff. Dec. 29, 2006

## **ARMY OR NAVY SURPLUS MERCHANDISE**

### **Act 75 of 1964**

AN ACT to require all army or navy surplus merchandise sold to the public to be marked; and to provide a penalty for violation.

**History:** 1964, Act 75, Eff. Aug. 28, 1964

*The People of the State of Michigan enact:*

#### **429.131 Army or navy surplus merchandise; marking.**

Sec. 1.

Any wholesaler or retailer distributing or selling any article of merchandise advertised or sold as army or navy surplus merchandise shall have such article of merchandise plainly marked or stamped as such.

**History:** 1964, Act 75, Eff. Aug. 28, 1964

#### **429.132 Army or navy surplus merchandise; illegal sale.**

Sec. 2.

It shall be illegal for any wholesaler or retailer to distribute or sell any article of merchandise as army or navy surplus unless the article of merchandise is in fact army or navy surplus and so marked or stamped as provided in section 1.

**History:** 1964, Act 75, Eff. Aug. 28, 1964

#### **429.133 Violation of act; penalty.**

Sec. 3.

Any wholesaler or retailer violating any provision of this act shall be guilty of a misdemeanor.

**History:** 1964, Act 75, Eff. Aug. 28, 1964

## **LAUNDERED ARTICLES FOR HIRE**

### **Act 19 of 1923**

AN ACT to provide for the regulation of the business of furnishing laundered articles for hire.

**History:** 1923, Act 19, Eff. Aug. 30, 1923

*The People of the State of Michigan enact:*

#### **429.201 Laundered articles for hire; mark or device; filing, publication, fee.**

##### **Sec. 1.**

Any person, firm or corporation engaged in the business of supplying towels, coats, aprons, toilet devices, or other kindred articles or supplies, for hire or compensation, used for the purpose of providing cleanliness and sanitation which are, shall, or may have a name, or trade mark or device branded, stamped, marked, sewed or otherwise impressed thereon, may file in the office of the clerk of the county in which the principal place of business is situated, a description of such name, mark or device, and cause such description to be printed once in each week for 3 weeks successively in a newspaper published in such county. If the principal place of business of any such person, firm or corporation is in another state, the filing of such description shall be made in the office of the county clerk in any county of this state in which business is done, and printed for 3 weeks successively in any newspaper published in such county. When any such person, firm or corporation shall have complied with the provisions of this section, he shall thereupon be deemed the proprietor of such name, mark or device, and of every such towel, apron, coat, toilet cabinet or toilet device, so used, upon which the mark may be branded, stamped, marked, sewed, or otherwise impressed or produced thereon, upon the filing with the county clerk, such name, mark or device, and there shall be paid to the county clerk \$3.00 for each such name, mark or device so filed.

**History:** 1923, Act 19, Eff. Aug. 30, 1923 ;-- CL 1929, 8821 ;-- CL 1948, 429.201 ;-- Am. 1963, Act 114, Eff. Sept. 6, 1963

#### **429.202 Sale of business; filing of certificate; publication.**

##### **Sec. 2.**

When any person, firm or corporation having complied with the provisions of the preceding section of this act, assigns by sale or otherwise, the business of supplying towels, coats, aprons, toilet cabinets, towel devices, or any other kindred articles of supplies used for the purpose of cleanliness and sanitation, such assignee shall, upon such assignment, file in the office of the clerk of the county in which his or its principal place of business is situated, a certificate of said assignment, and cause such certificate to be printed once each week for 3 weeks successively in a newspaper published in such county. If the principal place of business of such assignee is in another state, the filing of such certificate of assignment shall be made in the office of the county clerk in any county of this state in which business is done and printed once each week for 3 weeks successively in a newspaper published in such county.

**History:** 1923, Act 19, Eff. Aug. 30, 1923 ;-- CL 1929, 8822 ;-- CL 1948, 429.202

**429.203 Unlawful use of articles or destruction of mark or device; use by hotel or restaurant; possession of junk dealer as evidence of violation.**

Sec. 3.

No person, firm or corporation other than provided in section 1 hereof, shall use any towels, coats, aprons, toilet cabinets, towel devices, or any other articles or supplies used for the purpose of cleanliness and sanitation, by supplying, furnishing, selling, transferring or renting the same for hire or compensation, or otherwise, or shall deface, erase, obliterate, cover up, or otherwise remove or conceal said mark or device thereon, or shall give, take or otherwise dispose of such towels, coats, aprons, toilet cabinets or other toilet devices, so branded and marked, as herein provided for without the written consent of the owner or owners, whose mark or device shall be or have been upon such article or articles as provided in section 1 hereof: Provided, however, That the use of such article or articles at the place where the same are placed or delivered by the owner or owners under an agreement, lease, or license from such owner, shall not be unlawful: And provided further, That nothing herein contained shall make it unlawful for any bona fide hotel, restaurant, cafe, or other public hostelry, to permit and allow the use of such towels, coats, aprons or other toilet device to any guest, boarder, or any regularly hired employe thereof, during the period of any lease, renting or hiring agreement of said supplies with the owner thereof. The possession by any junk dealer or dealers in rags or second-hand articles, or person, firm or corporation other than by the owner, lessee or sub-lessee thereof as herein provided, of any such marked or distinguished article or articles without such written consent shall be presumptive evidence of traffic in such goods and a violation of this section.

**History:** 1923, Act 19, Eff. Aug. 30, 1923 ;-- CL 1929, 8823 ;-- CL 1948, 429.203

**429.204 Unlawful laundering of articles.**

Sec. 4.

No person, firm or corporation, other than the owner or owners shall launder, wash, clean, renovate or cause to have laundered, washed, cleaned, or renovated, any towels, coats, aprons, toilet devices or other supplies used for the purpose of cleanliness and sanitation, which is so marked, named or distinguished, as aforesaid, the possession of which is claimed by lease, or rental from the owner thereof as herein provided, except by the written consent of the owner or owners thereof.

**History:** 1923, Act 19, Eff. Aug. 30, 1923 ;-- CL 1929, 8824 ;-- CL 1948, 429.204

**429.205 Effect of deposit of security by user of articles.**

Sec. 5.

Whenever the owner or owners of towels, coats, aprons, toilet cabinets, towel devices, or any other articles or supplies used for the purpose of cleanliness and sanitation, shall require taking, or accepting of any sum of money as a deposit for security for the safe-keeping and return of such article or articles, it shall not constitute a sale of such property either optional or otherwise.

**History:** 1923, Act 19, Eff. Aug. 30, 1923 ;-- CL 1929, 8825 ;-- CL 1948, 429.205

**429.206 Violation of act; penalty.**

Sec. 6.

Any person, firm or corporation violating any of the provisions of this act shall be punished by a fine of not more than 50 dollars, or by imprisonment in the county jail not more than 90 days, or by both such fine and imprisonment, in the discretion of the court.

**History:** 1923, Act 19, Eff. Aug. 30, 1923 ;-- CL 1929, 8826 ;-- CL 1948, 429.206

## MATTRESSES AND COMFORTS

### Act 54 of 1917

429.301-429.311 Repealed. 2000, Act 199, Imd. Eff. June 22, 2000.

## APPLIANCES

### Act 317 of 1975

AN ACT to provide for the labeling of appliances; to prohibit certain conduct; to prescribe the powers and duties of the public service commission; to provide for testing of appliances; and to provide for remedies and penalties.

**History:** 1975, Act 317, Eff. Mar. 31, 1976 ;-- Am. 1978, Act 562, Eff. June 1, 1979

**Compiler's Notes:** For transfer of powers and duties of the public service commission relating to appliances from the public service commission to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

### 429.351 Definitions.

#### Sec. 1.

As used in this act:

(a) "Appliance" means an item of equipment which provides heating, cooling, cleaning, washing, drying, entertainment, or other services by converting energy in the form of fossil fuels or electricity into thermal energy or work and is generally used in or around a permanent or temporary household or residence, or in a commercial establishment.

(b) "Decorative gas lamp" means a device installed for the purpose of illumination by burning natural, mixed, or liquid propane gas and utilizing either a mantle or an open flame. It does not include a portable gas camp lantern or lamp, or a device installed for the purpose of illumination where electricity is not readily available.

(c) "Energy efficiency" means the energy use of a product relative to its output of services, as determined through test procedures contained or identified in a rule promulgated under this act.

(d) "Energy use" means the energy resources used by a product under conditions of use approximating actual operating conditions insofar as practical, as determined through test procedures contained or identified in a rule promulgated under this act.

(e) "Consumer" means the first person who purchases a new appliance for purposes other than resale.

(f) "Class of appliances" means a group of appliances whose functions or features are similar, and whose range of energy use or energy efficiency may be of interest to consumers.

(g) "Label" means an article of printed matter attached to an appliance or printed material appearing in a catalog from which a product may be purchased by order.

(h) "Commission" means the Michigan public service commission.

(i) "Person" means an individual, corporation, partnership, association, consortium, or an entity organized for a common business purpose.

**History:** 1975, Act 317, Eff. Mar. 31, 1976 ;-- Am. 1978, Act 562, Eff. June 1, 1979

**Compiler's Notes:** For transfer of powers and duties of the public service commission relating to appliances from the public service commission to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

#### **429.352 Prohibited conduct.**

##### **Sec. 2.**

A person shall not:

- (a) Offer for sale or sell to a consumer an appliance required to be labeled under this act unless there is provided with the product a label meeting the requirements of this act.
- (b) Offer for sale or sell to a consumer an appliance required to be labeled under this act if the appliance bears a label or other written materials containing false or misleading information as to the energy use or energy efficiency of the appliance.
- (c) Misrepresent or falsely advertise, either orally or in writing, the energy use or energy efficiency of an appliance, whether or not the appliance has been required to be labeled under this act.
- (d) Remove or alter a label required under this act.

**History:** 1975, Act 317, Eff. Mar. 31, 1976 ;-- Am. 1978, Act 562, Eff. June 1, 1979 ;-- Am. 1979, Act 22, Imd. Eff. May 30, 1979 ;-- Am. 1980, Act 219, Eff. July 20, 1980

#### **429.353 Specifications and contents of label.**

##### **Sec. 3.**

A label of energy use and efficiency shall be prominent, readable, and visible to the consumer at time of purchase, and shall include information as specified by federal guidelines.

**History:** 1975, Act 317, Eff. Mar. 31, 1976

#### **429.354 Labeling class of appliances as to energy use and efficiency; adoption and promulgation of rule; affirmative finding as to rule.**

##### **Sec. 4.**

A class of appliances shall be required to be labeled as to energy use and efficiency upon adoption of a rule by the commission requiring that labeling. Such a rule may only be adopted upon the establishment of a voluntary federal program of energy labeling for a class of appliances, and shall be promulgated by the commission pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. Upon promulgation of a rule, the commission shall also make an affirmative finding that the rule will:

- (a) Provide consumers with information which will result in significant saving to the consumer and will promote energy conservation to a significant degree.
- (b) Be able to be carried out by manufacturers without adding a significant cost burden to the manufacturer or the consumer.
- (c) Be reflective of test procedures contained or identified in a specification promulgated by the agency of the federal government administering the voluntary program.

**History:** 1975, Act 317, Eff. Mar. 31, 1976

**429.355 Periodic information as to electricity and gas rates.**

Sec. 5.

To implement this act, the commission shall require utilities under its regulation to periodically inform their customers of the rates per kilowatt hour of electricity or per hundred cubic feet of gas.

**History:** 1975, Act 317, Eff. Mar. 31, 1976

**429.356 Establishment and purpose of testing and computation procedures; hearing; correction of labels; suspension of appliance sales; forwarding evidence of mislabeling.**

Sec. 6.

The commission shall establish in accordance with the federal guidelines testing and computation procedures for the purpose of verifying the accuracy of information provided on labels. The commission, following a hearing, may order the correction of inaccurate or misleading labels and may order the suspension of sale of an appliance pending completion of corrective measures. The commission shall forward evidence of possible mislabeling to the appropriate federal authority administering energy labeling programs and to the attorney general.

**History:** 1975, Act 317, Eff. Mar. 31, 1976

**429.357 Violation as misdemeanor.**

Sec. 7.

A person who violates this act is guilty of a misdemeanor.

**History:** 1975, Act 317, Eff. Mar. 31, 1976