

LEGISLATURE OF NEBRASKA  
 ONE HUNDRED SECOND LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 462**  
 Final Reading

Introduced by Pirsch, 4.

Read first time January 14, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to trade names; to amend sections 21-1931,  
 2 21-19,151, 21-2028, 21-20,173, 67-234, 67-455, 87-208,  
 3 87-209, 87-210, 87-211, 87-212, 87-213, 87-215, 87-216,  
 4 87-217, and 87-218, Reissue Revised Statutes of Nebraska,  
 5 and sections 84-511 and 87-214, Revised Statutes  
 6 Cumulative Supplement, 2010; to include statutory damages  
 7 as a remedy; to eliminate a penalty for failure to  
 8 register; to harmonize provisions; to repeal the original  
 9 sections; and to outright repeal section 87-220, Reissue  
 10 Revised Statutes of Nebraska.  
 11 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 21-1931, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   21-1931 (a) A corporate name may not contain language  
4 stating or implying that the corporation is organized for a purpose  
5 other than that permitted by section 21-1927 and its articles of  
6 incorporation.

7                   (b) Except as authorized by subsections (c) and (d) of  
8 this section, a corporate name shall not be the same as or  
9 deceptively similar to, upon the records of the Secretary of State,  
10 any of the names referenced in subdivisions (b)(1) through (5) of  
11 this section:

12                   (1) The corporate name of a nonprofit or business  
13 corporation incorporated or authorized to do business in this state;

14                   (2) A corporate name reserved or registered under section  
15 21-1932, 21-1933, 21-2029, or 21-2030;

16                   (3) The fictitious name of a foreign business or  
17 nonprofit corporation authorized to transact business in this state  
18 because its real name is unavailable;

19                   (4) A trade name registered in this state pursuant to  
20 sections 87-208 to ~~87-220~~; 87-219.01; and

21                   (5) Any other business entity name registered or filed  
22 with the Secretary of State pursuant to Nebraska law.

23                   (c) A corporation may apply to the Secretary of State for  
24 authorization to use a name that is deceptively similar to, upon the  
25 Secretary of State's records, one or more of the names described in

1 subsection (b) of this section. The Secretary of State shall  
2 authorize use of the name applied for if:

3 (1) The other corporation or business entity consents to  
4 the use in writing; or

5 (2) The applicant delivers to the Secretary of State a  
6 certified copy of a final judgment of a court of competent  
7 jurisdiction establishing the applicant's right to use the name  
8 applied for in this state.

9 (d) A corporation may use the name (including the  
10 fictitious name) of another domestic or foreign business or nonprofit  
11 corporation or business entity that is used in this state if the  
12 other corporation or business entity is incorporated or authorized to  
13 do business in this state and the proposed user corporation:

14 (1) Has merged with the other corporation or business  
15 entity;

16 (2) Has been formed by reorganization of the other  
17 corporation or business entity; or

18 (3) Has acquired all or substantially all of the assets,  
19 including the name, of the other corporation or business entity.

20 (e) The Nebraska Nonprofit Corporation Act does not  
21 control the use of fictitious names.

22 Sec. 2. Section 21-19,151, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 21-19,151 (a) If the corporate name of a foreign  
25 corporation does not satisfy the requirements of section 21-1931, the

1 foreign corporation, to obtain or maintain a certificate of authority  
2 to transact business in this state, may use a fictitious name to  
3 transact business in this state if its real name is unavailable and  
4 it delivers to the Secretary of State for filing a copy of the  
5 resolution of its board of directors, certified by its secretary,  
6 adopting the fictitious name.

7 (b) Except as authorized by subsections (c) and (d) of  
8 this section, the corporate name (including a fictitious name) of a  
9 foreign corporation shall not be the same as or deceptively similar  
10 to, upon the records of the Secretary of State, any of the names  
11 referenced in subdivisions (b)(1) through (5) of this section:

12 (1) The corporate name of a nonprofit or business  
13 corporation incorporated or authorized to transact business in this  
14 state;

15 (2) A corporate name reserved or registered under section  
16 21-1932, 21-1933, 21-2029, or 21-2030;

17 (3) The fictitious name of another foreign business or  
18 nonprofit corporation authorized to transact business in this state;

19 (4) A trade name registered in this state pursuant to  
20 sections 87-208 to ~~87-220~~; 87-219.01; and

21 (5) Any other business entity name registered or filed  
22 with the Secretary of State pursuant to Nebraska law.

23 (c) A foreign corporation may apply to the Secretary of  
24 State for authorization to use in this state the name of another  
25 corporation or business entity (incorporated or authorized to

1 transact business in this state) that is deceptively similar to, upon  
2 the records of the Secretary of State, the name applied for. The  
3 Secretary of State shall authorize use of the name applied for if:

4 (1) The other corporation or business entity consents in  
5 writing to the use; or

6 (2) The applying corporation delivers to the Secretary of  
7 State a certified copy of a final judgment of a court of competent  
8 jurisdiction establishing its right to use the name applied for in  
9 this state.

10 (d) A foreign corporation may use in this state the name  
11 (including the fictitious name) of another domestic or foreign  
12 business or nonprofit corporation or business entity that is used in  
13 this state if the other corporation or business entity is  
14 incorporated or authorized to transact business in this state and the  
15 foreign corporation:

16 (1) Has merged with the other corporation or business  
17 entity;

18 (2) Has been formed by a reorganization of the other  
19 corporation or business entity; or

20 (3) Has acquired all or substantially all of the assets,  
21 including the name, of the other corporation or business entity.

22 (e) If a foreign corporation authorized to transact  
23 business in this state changes its corporate name to one that does  
24 not satisfy the requirements of section 21-1931, it shall not  
25 transact business in this state under the changed name until it

1 adopts a name satisfying the requirements of section 21-1931 and  
2 obtains an amended certificate of authority under section 21-19,149.

3           Sec. 3. Section 21-2028, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5                   21-2028 (1) A corporate name:

6                   (a) Shall contain the word corporation, incorporated,  
7 company, or limited, or the abbreviation corp., inc., co., or ltd.,  
8 or words or abbreviations of like import in another language, except  
9 that a corporation organized to conduct a banking business under the  
10 Nebraska Banking Act may use a name which includes the word bank  
11 without using any such words or abbreviations; and

12                   (b) Shall not contain language stating or implying that  
13 the corporation is organized for a purpose other than that permitted  
14 by section 21-2024 and its articles of incorporation.

15                   (2) Except as authorized by subsections (3) and (4) of  
16 this section, a corporate name shall not be the same as or  
17 deceptively similar to, upon the records of the Secretary of State,  
18 any of the names referenced in subdivisions (2)(a) through (f) of  
19 this section:

20                   (a) The corporate name of a corporation incorporated or  
21 authorized to transact business in this state;

22                   (b) A corporate name reserved or registered under section  
23 21-2029 or 21-2030;

24                   (c) The fictitious name adopted by a foreign corporation  
25 authorized to transact business in this state because its real name

1 is unavailable;

2 (d) The corporate name of a not-for-profit corporation  
3 incorporated or authorized to transact business in this state;

4 (e) A trade name registered in this state pursuant to  
5 sections 87-208 to ~~87-220~~; 87-219.01; and

6 (f) Any other business entity name registered or filed  
7 with the Secretary of State pursuant to Nebraska law.

8 (3) A corporation may apply to the Secretary of State for  
9 authorization to use a name that is deceptively similar to, upon his  
10 or her records, one or more of the names described in subsection (2)  
11 of this section. The Secretary of State shall authorize use of the  
12 name applied for if:

13 (a) The other corporation or business entity consents to  
14 the use in writing; or

15 (b) The applicant delivers to the Secretary of State a  
16 certified copy of the final judgment of a court of competent  
17 jurisdiction establishing the applicant's right to use the name  
18 applied for in this state.

19 (4) A corporation may use the name, including the  
20 fictitious name, of another domestic or foreign corporation or  
21 business entity that is used in this state if the other corporation  
22 or business entity is incorporated or authorized to transact business  
23 in this state and the proposed user corporation has:

24 (a) Merged with the other corporation or business entity;

25 (b) Been formed by reorganization of the other

1 corporation or business entity; or

2 (c) Acquired all or substantially all of the assets,  
3 including the name, of the other corporation or business entity.

4 (5) The Business Corporation Act shall not be construed  
5 to control the use of fictitious names.

6 Sec. 4. Section 21-20,173, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 21-20,173 (1) If the corporate name of a foreign  
9 corporation does not satisfy the requirements of section 21-2028, the  
10 foreign corporation, in order to obtain or maintain a certificate of  
11 authority to transact business in this state, may:

12 (a) Add the word corporation, incorporated, company, or  
13 limited, or the abbreviation corp., inc., co., or ltd., to its  
14 corporate name for use in this state; or

15 (b) Use a fictitious name to transact business in this  
16 state if its real name is unavailable and it delivers to the  
17 Secretary of State for filing a copy of the resolution of its board  
18 of directors, certified by its secretary, adopting the fictitious  
19 name.

20 (2) Except as authorized by subsections (3) and (4) of  
21 this section, the corporate name, including a fictitious name, of a  
22 foreign corporation shall not be the same as or deceptively similar  
23 to, upon the records of the Secretary of State, any of the names  
24 referenced in subdivisions (2)(a) through (f) of this section:

25 (a) The corporate name of a corporation incorporated or

1 authorized to transact business in this state;

2 (b) A corporate name reserved or registered under section  
3 21-2029 or 21-2030;

4 (c) The fictitious name of another foreign corporation  
5 authorized to transact business in this state;

6 (d) The corporate name of a not-for-profit corporation  
7 incorporated or authorized to transact business in this state;

8 (e) A trade name registered in this state pursuant to  
9 sections 87-208 to ~~87-220~~; 87-219.01; and

10 (f) Any other business entity name registered or filed  
11 with the Secretary of State pursuant to Nebraska law.

12 (3) A foreign corporation may apply to the Secretary of  
13 State for authorization to use in this state the name of another  
14 corporation or business entity, incorporated or authorized to  
15 transact business in this state, that is the same as or deceptively  
16 similar to, upon his or her records, the name applied for. The  
17 Secretary of State shall authorize use of the name applied for if:

18 (a) The other corporation or business entity consents to  
19 the use in writing; or

20 (b) The applicant delivers to the Secretary of State a  
21 certified copy of a final judgment of a court of competent  
22 jurisdiction establishing the applicant's right to use the name  
23 applied for in this state.

24 (4) A foreign corporation may use in this state the name,  
25 including the fictitious name, of another domestic or foreign

1 corporation or business entity that is used in this state if the  
2 other corporation or business entity is incorporated or authorized to  
3 transact business in this state and the foreign corporation:

4 (a) Has merged with the other corporation or business  
5 entity;

6 (b) Has been formed by reorganization of the other  
7 corporation or business entity; or

8 (c) Has acquired all or substantially all of the assets,  
9 including the name, of the other corporation or business entity.

10 (5) If a foreign corporation authorized to transact  
11 business in this state changes its corporate name to one that does  
12 not satisfy the requirements of section 21-2028, it may not transact  
13 business in this state under the changed name until it adopts a name  
14 satisfying the requirements of section 21-2028 and obtains an amended  
15 certificate of authority under section 21-20,171.

16 Sec. 5. Section 67-234, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 67-234 The name of each limited partnership as set forth  
19 in its certificate of limited partnership:

20 (1) Shall contain the words limited partnership or  
21 limited or the abbreviations L.P. or Ltd.;

22 (2) May not contain the name of a limited partner unless  
23 (i) it is also the name of a general partner, the corporate name of a  
24 corporate general partner, or the company name of a limited liability  
25 company general partner, (ii) the business of the limited partnership

1 had been carried on under that name before the admission of that  
2 limited partner, or (iii) the use of the name of a limited partner in  
3 the name of the limited partnership is merely coincidental and not  
4 intended to mislead the public to believe that such limited partner  
5 is a general partner;

6 (3) Shall not be the same as or deceptively similar to,  
7 upon the records in the office of the Secretary of State, a trade  
8 name registered in this state pursuant to sections 87-208 to ~~87-220~~;  
9 87-219.01;

10 (4) Shall not be the same as or deceptively similar to,  
11 upon the records in the office of the Secretary of State, any other  
12 business entity name registered or on file with the Secretary of  
13 State pursuant to Nebraska law, except that a limited partnership may  
14 register under any name which is deceptively similar to, upon the  
15 records in the office of the Secretary of State, a business entity  
16 name registered or on file with the Secretary of State pursuant to  
17 Nebraska law with the consent of the other business entity or with  
18 the transfer of such name by the other business entity, which written  
19 consent or transfer shall be filed with the Secretary of State; and

20 (5) May contain the following words or abbreviations of  
21 like import: Company; association; club; foundation; fund; institute;  
22 society; union; syndicate; or trust.

23 Sec. 6. Section 67-455, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 67-455 (1) The name of a limited liability partnership

1 shall:

2 (a) End with "registered limited liability partnership",  
3 "limited liability partnership", "R.L.L.P.", "RLLP", "L.L.P.", or  
4 "LLP";

5 (b) Not be the same as or deceptively similar to, upon  
6 the records in the office of the Secretary of State, a trade name  
7 registered in this state pursuant to sections 87-208 to ~~87-220;~~  
8 87-219.01; and

9 (c) Not be the same as or deceptively similar to, upon  
10 the records in the office of the Secretary of State, any other  
11 business entity name registered or on file with the Secretary of  
12 State pursuant to Nebraska law.

13 (2) A limited liability partnership may register under  
14 any name which is deceptively similar to, upon the records in the  
15 office of the Secretary of State, any other business entity name  
16 registered or on file with the Secretary of State pursuant to  
17 Nebraska law with the written consent of the other business entity or  
18 with the transfer of the name by the other business entity. Written  
19 consent to the use of the name or written consent to the transfer of  
20 the name shall be filed with the Secretary of State.

21 Sec. 7. Section 84-511, Revised Statutes Cumulative  
22 Supplement, 2010, is amended to read:

23 84-511 The Secretary of State may provide for the  
24 electronic transmission and filing of documents delivered for filing  
25 under (1) the Business Corporation Act, the Limited Liability Company

1 Act, the Nebraska Limited Cooperative Association Act, the Nebraska  
2 Nonprofit Corporation Act, the Nebraska Professional Corporation Act,  
3 the Nebraska Uniform Limited Partnership Act, the Nonstock  
4 Cooperative Marketing Act, the Uniform Partnership Act of 1998, and  
5 the Trademark Registration Act and (2) any filing provisions of  
6 sections 21-1301 to 21-1306, 21-1333 to 21-1339, and 87-208 to  
7 ~~87-220.~~87-219.01. The Secretary of State shall adopt and promulgate  
8 rules and regulations to implement this section.

9           Sec. 8. Section 87-208, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           87-208 As used in sections 87-208 to ~~87-220,~~87-219.01,  
12 unless the context otherwise requires:

13           (1) Applicant means a person filing an application for  
14 registration of a trade name under such sections or his or her legal  
15 representatives, successors, or assigns;

16           (2) Person means an individual, corporation, government  
17 or governmental subdivision or agency, business trust, estate, trust,  
18 partnership, limited liability company, unincorporated association,  
19 or two or more of the foregoing having a joint or common interest or  
20 any other legal or commercial entity;

21           (3) Registrant means a person to whom registration of a  
22 trade name under such sections is issued or his or her legal  
23 representatives, successors, or assigns; and

24           (4) Trade name means every name under which any person  
25 does or transacts any business in this state other than the true name

1 of such person.

2           Sec. 9. Section 87-209, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           87-209 A trade name shall not be registered if it:

5           (1) Consists of or comprises immoral, deceptive, or  
6 scandalous matter;

7           (2) Consists of or comprises matter which may disparage,  
8 bring into contempt or disrepute, or falsely suggest a connection  
9 with, persons living or dead, institutions, beliefs, or national  
10 symbols;

11           (3) Consists of, comprises, or simulates the flag or coat  
12 of arms or other insignia of the United States, any state or  
13 municipality, or any foreign nation;

14           (4) Consists of or comprises the name, signature, or  
15 portrait of any living individual without his or her consent;

16           (5)(a) Is merely descriptive or misdescriptive, or is  
17 primarily geographically descriptive or geographically misdescriptive  
18 as applied to the business of the applicant, or (b) is primarily  
19 merely a surname, but nothing in this subdivision shall prevent the  
20 registration of a trade name which has become distinctive of the  
21 applicant's business in this state. The Secretary of State may accept  
22 as evidence that a trade name has become distinctive proof of  
23 continuous use by the applicant as a trade name in this state or  
24 elsewhere for five years preceding the date of the filing of the  
25 application for registration;

1           (6) Consists of or comprises a trade name which so  
2 resembles a trade name registered under sections 87-208 to ~~87-220,~~  
3 87-219.01, registered in this state, or the name of a business entity  
4 on file or registered with the Secretary of State pursuant to  
5 Nebraska law as to be likely to cause confusion, mistake, or  
6 deception of purchasers, except that a name, although similar, may be  
7 used if the business entity affected consents in writing and such  
8 writing is filed with the Secretary of State. The word incorporated,  
9 inc., or corporation shall not be a part of the trade name being  
10 registered unless the firm is duly incorporated in the State of  
11 Nebraska or some other state; or

12           (7) Consists of the word geologist or any modification or  
13 derivative of such word, and the applicant does not meet the  
14 requirements of subsection (6) of section 81-3528.

15           Sec. 10. Section 87-210, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           87-210 (1) Subject to the limitations set forth in  
18 sections 87-208 to ~~87-220,~~ 87-219.01, any person who adopts a trade  
19 name for use in this state may file in the office of the Secretary of  
20 State on a form furnished by the Secretary of State an application,  
21 in duplicate, for registration of the trade name setting forth, but  
22 not limited to, the following information:

23           (a) The name and street address of the applicant for  
24 registration; and, if a corporation, the state of incorporation;

25           (b) The trade name sought to be registered;

1                   (c) The general nature of the business in fact conducted  
2 by the applicant;

3                   (d) The length of time during which the trade name has  
4 been used in this state;

5                   (e) The signature of the applicant; and

6                   (f) A filing fee of one hundred dollars.

7                   (2) Upon compliance by the applicant with the  
8 requirements of sections 87-208 to ~~87-220, 87-219.01,~~ the Secretary  
9 of State shall return the duplicate copy stamped with the date of  
10 filing to the applicant or the representative submitting the  
11 applications for filing.

12                   Sec. 11. Section 87-211, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14                   87-211 Registration of a trade name under sections 87-208  
15 to ~~87-220-87-219.01~~ shall be effective for a term of ten years from  
16 the date of registration and, upon application filed in duplicate  
17 within six months prior to the expiration of such term on a form to  
18 be furnished by the Secretary of State, the registration may be  
19 renewed for a like term. A renewal fee of one hundred dollars payable  
20 to the Secretary of State shall accompany the application for renewal  
21 of the registration.

22                   A trade name registration may be renewed for successive  
23 periods of ten years in like manner.

24                   The Secretary of State shall notify registrants of trade  
25 names under sections 87-208 to ~~87-220-87-219.01~~ of the necessity of

1 renewal within the year next preceding the expiration of the ten  
2 years from the date of registration or of last renewal by writing to  
3 the last-known street address of the registrants.

4 Any registration in force on August 27, 1971, shall  
5 expire ten years from the date of the registration or of the last  
6 renewal thereof, whichever is later, and may be renewed by filing an  
7 application with the Secretary of State on a form furnished by him or  
8 her and paying the renewal fee as provided in this section within six  
9 months prior to the expiration of the registration.

10 All applications for renewals under sections 87-208 to  
11 ~~87-220-87-219.01~~ whether of registrations made under sections 87-208  
12 to ~~87-220-87-219.01~~ or of registrations effected under any prior act  
13 shall include a statement that the trade name is still in use in this  
14 state.

15 Sec. 12. Section 87-212, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 87-212 Any trade name registered under sections 87-208 to  
18 ~~87-220-87-219.01~~ shall be assignable with the goodwill of the  
19 business in which the trade name is used. Assignment shall be by an  
20 instrument in writing duly executed, in duplicate, and may be  
21 recorded with the Secretary of State upon the payment of a fee of  
22 five dollars. The street address, city, and state of the assignee  
23 must be included in the assignment. Upon recording of the assignment,  
24 the Secretary of State shall return the duplicate copy stamped with  
25 the date of filing to the applicant or the representative submitting

1 the applications for filing. An assignment of any registration under  
2 sections 87-208 to ~~87-220~~87-219.01 shall be void as against any  
3 subsequent purchaser for value without notice unless the assignment  
4 is recorded with the Secretary of State prior to the subsequent  
5 purchase.

6 Sec. 13. Section 87-213, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 87-213 The Secretary of State shall keep for public  
9 examination a record of all trade names registered or renewed under  
10 sections 87-208 to ~~87-220~~. 87-219.01.

11 Sec. 14. Section 87-214, Revised Statutes Cumulative  
12 Supplement, 2010, is amended to read:

13 87-214 The Secretary of State shall cancel from the  
14 register:

15 (1) Any registration concerning which the Secretary of  
16 State shall receive a voluntary request for cancellation from the  
17 registrant or the assignee of record;

18 (2) Any registration granted under sections 87-208 to  
19 ~~87-220~~87-219.01 and not renewed in accordance with such sections;

20 (3) Any registration concerning which a court of  
21 competent jurisdiction shall find:

22 (a) That the registered trade name has been abandoned;

23 (b) That the registrant is not the owner of the trade  
24 name;

25 (c) That the registration was granted improperly; or

1 (d) That the registration was obtained fraudulently;

2 (4) Any registration that a court of competent  
3 jurisdiction shall order canceled on any ground; and

4 (5) Any registration where the registrant has failed to  
5 publish such trade name within forty-five days from the filing in the  
6 office of the Secretary of State and filing proof of publication with  
7 the Secretary of State and county clerk within the forty-five days.

8 Sec. 15. Section 87-215, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 87-215 Any person who, for himself or herself or on  
11 behalf of any other person, procures the registration of any trade  
12 name in the office of the Secretary of State under the provisions of  
13 sections 87-208 to ~~87-220~~, 87-219.01, by knowingly making any false  
14 or fraudulent representation or declaration, verbally or in writing,  
15 or by any other fraudulent means, shall be liable to pay all damages  
16 sustained in consequence of this filing or registration, to be  
17 recovered by any party injured in any court of competent  
18 jurisdiction.

19 Sec. 16. Section 87-216, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 87-216 Subject to ~~the provisions of~~ section 87-218, any  
22 person shall be liable to a civil action by the registrant of the  
23 trade name for any or all of the remedies provided in section 87-217  
24 if that person shall:

25 (1) Use in connection with his or her business, without

1 the consent of the registrant, any reproduction, counterfeit, copy,  
2 or colorable imitation of a trade name registered under sections  
3 87-208 to ~~87-220~~87-219.01 in a manner likely to cause confusion,  
4 mistake, or deception of purchasers; or

5 (2) Reproduce, counterfeit, copy, or colorably imitate  
6 any registered trade name and apply the reproduction, counterfeit,  
7 copy, or colorable imitation to labels, signs, prints, packages,  
8 wrappers, receptacles, or advertisements intended to be in  
9 conjunction with another business in this state; except that the  
10 registrant shall not be entitled to recover profits or damages unless  
11 the acts were committed with knowledge that the imitation was  
12 intended to be used to cause confusion, mistake, or deception of  
13 purchasers.

14 Sec. 17. Section 87-217, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 87-217 Any registrant of a trade name may proceed by suit  
17 to enjoin the use, display, or sale of any counterfeits or imitations  
18 thereof, and a court of competent jurisdiction may restrain ~~this~~such  
19 use, display, or sale on terms which the court deems just and  
20 reasonable and may require the defendants to pay to the registrant  
21 ~~either~~(1) all profits attributable to the wrongful use, display, or  
22 ~~sale, or~~(2) all damages caused by the wrongful use, display, or  
23 sale, or (3) both such profits and damages, and reasonable attorney's  
24 fees. In lieu of the remedies available in subdivisions (1), (2), and  
25 (3) of this section, the court may require the defendants to pay

1 statutory damages of one thousand dollars and reasonable attorney's  
2 fees. The court may order that any counterfeits or imitations in the  
3 possession or under the control of any defendant be delivered to an  
4 officer of the court, or to the complainant, to be destroyed.

5           Sec. 18. Section 87-218, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           87-218 Sections 87-208 to ~~87-220~~87-219.01 shall not  
8 adversely affect rights in trade names, or the enforcement of rights  
9 in trade names, acquired at any time in good faith at common law.

10           Sec. 19. Original sections 21-1931, 21-19,151, 21-2028,  
11 21-20,173, 67-234, 67-455, 87-208, 87-209, 87-210, 87-211, 87-212,  
12 87-213, 87-215, 87-216, 87-217, and 87-218, Reissue Revised Statutes  
13 of Nebraska, and sections 84-511 and 87-214, Revised Statutes  
14 Cumulative Supplement, 2010, are repealed.

15           Sec. 20. The following section is outright repealed:  
16 Section 87-220, Reissue Revised Statutes of Nebraska.