



## Illinois Compiled Statutes

Property

Registered Container Trade Mark Act

765 ILCS 1050/

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### (765 ILCS 1050/)

(765 ILCS 1050/1)

Sec. 1. Short title. This Act shall be known and may be cited as the "**Registered Container Trade Mark Act**".

(Source: P.A. 80-1449.)

(765 ILCS 1050/2)

Sec. 2. Definitions. As used in this Act, unless the context otherwise requires, the terms specified in Sections 2.01 through 2.03, have the meanings ascribed to them in those Sections.

(Source: P.A. 80-1449.)

(765 ILCS 1050/2.01)

Sec. 2.01. "Container" means any can, tub, case, crate, box, bottle, flask, barrel, keg, carton, tank, fountain or vessel, and which is intended for return in the ordinary course of business from the retailer to the distributor, wholesaler, or manufacturer of the product contained therein.

(Source: P.A. 80-1449.)

(765 ILCS 1050/2.02)

Sec. 2.02. "Person" means any individual, association, partnership, corporation, firm, trust or beneficiary thereof.

(Source: P.A. 80-1449.)

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(765 ILCS 1050/2.03)

Sec. 2.03. "Trade mark" means any word, name, symbol, picture, design or device registered with the Office of the Secretary of State in accordance with the Trademark Registration and Protection Act which is filed as provided in Section 3 of this Act and adopted and used by a person to identify containers made, sold, produced or distributed by him or with his authorization and which distinguishes them from containers made, sold, produced or distributed by others.

(Source: P.A. 90-231, eff. 1-1-98.)

(765 ILCS 1050/3)

Sec. 3. Filing of statements or description with the Secretary of State. Any person who is the owner of any container upon which a trade mark has been placed or affixed, stamped, impressed, labeled, blown-in or otherwise marked thereon, may file with the Secretary of State a written statement or description of the trade mark used on any container. This statement or description shall be verified by the affidavit of the owner of the container or by the owner's agent. The Secretary of State shall deliver to any person making application copies of all such written statements or descriptions of trade marks filed with him, duly certified to by him in the usual manner. Such certified copy shall be admissible as evidence in all proceedings under Sections 6 and 7 of this Act, shall be prima facie evidence that the provisions of this Section have been complied with, and of the title of the owner to the property upon which the trade marks may appear. The Secretary of State shall receive a \$25 fee for each statement or description filed and a fee of \$2 for each certified copy of such statement or description to be paid for by the person applying for the same.

(Source: P.A. 84-1308.)

(765 ILCS 1050/4)

Sec. 4. Sale or use of a container by other than the owner prohibited. It is unlawful for any person without the written consent of the owner or owners of a container upon which a trade mark has been placed to willfully: (a) keep for sale, use or otherwise possess any container of which a description is filed as provided in Section 3; (b) fill any container so marked or distinguished as stated above, with any similar substance, commodity, or product that was originally contained therein for the sale of such substance, commodity or product; (c) receive, take, store, buy, sell, or dispose of any container; (d) deface, erase, obliterate, cover up or otherwise remove or conceal any trade mark on any container for the purpose of destroying or removing the evidence of registered ownership from such container.

(Source: P.A. 80-1449.)

(765 ILCS 1050/5)

Sec. 5. Use of a container other than by owner. The using, buying, selling or possession without the consent of the owner of any container for the sale therein of any substance, commodity or product other than that originally contained therein, or the buying, selling or possession without the consent of the owner of any container so marked or stamped, a description of which has been filed as provided in Section 3, shall be accepted in the circuit court of this State as prima facie evidence that such using, buying, selling or possession is unlawful within the meaning of this Act.

(Source: P.A. 80-1449.)

(765 ILCS 1050/6)

Sec. 6. Right of the Owner to an Injunction. Every person who has complied with the provisions of Sections 3 and 4 of this Act may proceed in the circuit court of this State to enjoin or restrain any other person from filling any container so marked or distinguished with any substance, commodity or product for the sale of such substance, commodity or product; or from buying, selling, using or disposing of such container, or from defacing, erasing, obliterating, covering up or otherwise removing a trade mark for the purpose of destroying or removing the evidence of ownership from such container. In addition to the issuance of an injunction an owner of a registered trade mark may recover the damages he may have sustained by reason of the unlawful acts committed with respect to a trade mark and the court shall assess the same or cause the same to be assessed under its direction.

(Source: P.A. 80-1449.)

(765 ILCS 1050/7)

Sec. 7. Penalty for unlawful use. Any person who violates Sections 4 or 5 of this Act shall, upon conviction, be guilty of a petty offense.

(Source: P.A. 80-1449.)

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