

such purpose may erect piers, drive piles, sink cribs and build embankments and approaches in said bay and on the banks thereof, necessary for the proper or convenient construction and maintenance of such bridge; provided, that a suitable draw shall be built and maintained in the channel span of said bridge for the passage of boats; and that said bridge shall be so constructed as not to materially interfere with the free navigation of the waters of said Sturgeon Bay; and provided, further, that said bridge shall be constructed according to plans approved by the secretary of war of the United States, or such engineer as he shall designate.

Draw to be maintained.

Navigation.

Plans.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 8, 1893.

No. 64, S.]

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CHAPTER 14.

AN ACT to protect persons, corporations or associations of workmen in the use and enjoyment of their labels, trade-marks and forms of advertising, and punish offenders for violation of the same.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Trade mark may be adopted.

Right to use.

SECTION 1. Any person, firm, corporation or association of individuals, whether incorporated or not, located or having business in this state, may adopt a trade-mark or label and affix the same to any goods made, produced or manufactured by the said person, firm, corporation or association, or to the box, case, cask or package containing such goods, wares or merchandise, or may use the same in any advertisement, and shall have the right to the exclusive use and enjoyment of the same, upon complying with the provisions of this chapter; except as against any person, firm, corporation or association which

has previously adopted and used such trade-mark or label.

SECTION 2. Such person, firm, corporation or association, shall, in order to be entitled to the benefit of the provisions of this act, cause to be filed in the office of the secretary of state, a statement specifying the names of the parties applying for the same, and in case of an unincorporated association, the name of the same and the class of merchandise and the particular description of the goods or product comprised in such class to which the trade-mark or label is to be applicable and containing a description of the trade-mark itself, with fac-similes thereof, which statement shall be duly verified by the oath of such person, or some member of such firm, or some officer of such corporation, or association, who shall pay to the secretary of state one dollar for recording the same. The secretary of state shall give a certificate of such filing and recording, and of the date thereof. Such oath shall be to the effect that the person, firm, corporation or association claiming the same has adopted the said label or trade-mark or form of advertisement, and that the affiant verily believes that it is new and original, not in use by any other parties, and that it is filed for the purpose of using it in good faith and to secure protection in such use. Such certificate used by the secretary of state, shall, in all suits and prosecutions under this act, be sufficient evidence of the filing and record of such trade-mark and shall contain appended thereto a fac-simile of the trade-mark or label so filed or recorded. In using such label or trade-mark, the date of filing the same in the office of secretary of state shall be given, and in connection with the same, this: "Trade-mark filed in office of secretary of state of Wisconsin" (here give date). No label or trade-mark shall be filed by the secretary of state which is not and cannot be a lawful trade-mark or label, or which is merely the name of the person, firm or corporation or association unaccompanied by a mark sufficient to distinguish it from the same name when used by other persons, or which is identical with the label or trade-mark appropriated to the same class of merchandise and previously used or already filed and recorded, or which so nearly resembles such last mentioned

Statement to be filed with the secretary of state.

Secretary of state to give certificate.
Oath.

Certificate to be evidence.

Unlawful trade-mark not to be filed.

mark or label as to be likely to deceive the public.

Counterfeit or imitation unlawful.

SECTION 3. When duly adopted, filed and recorded, as provided by this act, it shall be unlawful for any person or persons to counterfeit or so imitate such label or trade-mark so that it shall be likely to deceive the public, or to use the same upon or as a label or trade-mark for or a form of advertisement of any goods, wares or merchandise, or the boxes, casks, cases or packages in which such goods, wares or merchandise are enclosed. Every person wilfully or knowingly violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not less than one month, nor more than six months, or by fine of not more than five hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

Penalty.

Infringement; actions for.

SECTION 4. When such label, trade-mark or form of advertisement has been adopted, filed and recorded as herein provided, the person, firm, corporation or association adopting the same may proceed by action for damages or suit to enjoin the manufacture, use, or display, of said form of advertisement, or of any counterfeits of the same or imitations thereof calculated to deceive the public, and in such actions, if legal in nature, the jury may assess such damages as have resulted from such violation up to the time of commencing the action; and in any suit to enjoin such infringement all damages may be recovered which are proved upon the trial; but the rights of action given by this act shall not affect or diminish any right of action or claim, either past or future, under the laws of this state. When an action or suit is prosecuted for an unincorporated association, the president or other presiding officer of such association may sue, in his own name, in behalf of the association, for their benefit without joining others with him.

Unincorporated associations; how may sue.

SECTION 5. This act shall take effect and be in force from and after its passage and publication.

Approved March 8, 1893.