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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 6. BUSINESS RIGHTS [14000 - 14704] (Division 6 added by Stats. 1941, Ch. 56.)

CHAPTER 3. Trade Names and Designations [14401 - 14495] (Chapter 3 added by Stats. 1941, Ch. 59.)

ARTICLE 2. Container Brands [14425 - 14438] (Article 2 added by Stats. 1941, Ch. 59.)

[14425.](#) As used in this article:

- (a) "Containers," "equipment" and "supplies" means containers, equipment or supplies bearing a brand.
- (b) "Brand" means any mark, name or device filed as a brand under this article.
- (c) "Registrant" means a person who files a brand under this article.

(Amended by Stats. 1982, Ch. 194, Sec. 1.)

[14426.](#) Any corporation or association whose members might register a brand under this article, may itself register a brand under this article.

As used in this article, "member of a registrant" means a member who would be entitled to register the same brand under this article.

(Added by Stats. 1941, Ch. 59.)

[14427.](#) Any person, who is engaged in the manufacture, packing, canning, bottling, or selling of any substance in containers with his or her name, or other mark or device impressed or produced thereon, or whose equipment or supplies, owned by and used in his or her business, bears a name or other mark or device impressed or produced thereon, may file in the office of the Secretary of State after payment of the fee set forth in subdivision (d) of Section 12193 of the Government Code, a description of the name, mark, or device so used, as a brand.

(Amended by Stats. 1999, Ch. 1000, Sec. 5. Effective January 1, 2000.)

[14429.](#) There shall be included as a part of each brand the words, "Registered in California," or the abbreviation, "Reg. Cal."

(Added by Stats. 1941, Ch. 59.)

[14430.](#) It is unlawful for any person except a person named in subdivision (a) to do any of the acts named in subdivision (b).

(a) Persons excepted:

- (1) The owner of the brand which has been filed in accordance with this article.
- (2) The registrant.
- (3) Members of any corporation or association which is the registrant.
- (4) A person who has the written consent of the registrant describing the containers, equipment or supplies to which it applies.
- (5) A person who has purchased the container, equipment or supplies from the owner of the brand appearing thereon.

(b) Prohibited acts:

- (1) Possessing, using, or filling with any substance any container.
- (2) Obliterating or concealing the brand on any container, supplies or equipment.

(3) Selling, buying, giving, taking or otherwise trafficking in any container, equipment, or supplies.

(Amended by Stats. 1982, Ch. 194, Sec. 4.)

14431. The use by any person other than the registrant, or owner of the brand and other than the members of the registrant of any container, supplies or equipment, without the written consent provided for in this article, or the possession by any junk dealer, or dealer in secondhand articles, of any containers, supplies or equipment, is presumptive evidence of unlawful use of or traffic in such containers, supplies, or equipment.

(Added by Stats. 1941, Ch. 59.)

14432. Any person acquiring containers, supplies or equipment, by purchase or other lawful means, and having the written consent provided for in this article is not required again to file the description, but acquires as a part of his or her purchase all benefit that the vendor has.

(Amended by Stats. 1982, Ch. 194, Sec. 5.)

14433. The acceptance by the owner, or any person lawfully entitled to their use, of any money as a deposit to secure the safekeeping and return of containers, equipment or supplies does not constitute a sale of the containers, supplies or equipment, either optional or otherwise, in any proceeding under this article.

(Added by Stats. 1941, Ch. 59.)

14434. It is the duty of every person who finds or receives in the regular course of business or in any other manner, any containers, supplies or equipment to make diligent effort to find the owner and return the containers, supplies or equipment to him.

(Added by Stats. 1941, Ch. 59.)

14435. (a) Whenever any registrant or any member of the registrant takes an oath before any magistrate that he has reason to believe, and does believe, that any of the containers, supplies or equipment mentioned in this article, are being unlawfully sold, filled or used, or are secreted in any place, the magistrate shall issue a search warrant to discover and obtain them;

(b) The magistrate may cause to be brought before him, the person in whose possession the containers, equipment or supplies are found, and if he finds that the person has been guilty of a violation of this article, he shall impose the punishment prescribed in this article, and also award the possession of the containers, equipment or supplies taken upon the search warrant to the owner, or to the corporation or association of which the owner is a member.

(Added by Stats. 1941, Ch. 59.)

14436. The violation of any of the provisions of this article is a misdemeanor, punishable:

(a) For the first offense by imprisonment for not less than 10 days nor more than six months or by a fine of fifty dollars (\$50) for each and every container, or article of supply or equipment so filled, sold, used, disposed of, held, bought or trafficked in, or by both such fine and imprisonment.

(b) For each subsequent offense by imprisonment for not less than 20 days nor more than one year, or by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) for each and every container, or article of supply or equipment so filled, sold, used, disposed of, held, bought or trafficked in, or by both such fine and imprisonment.

(Amended by Stats. 1982, Ch. 194, Sec. 6.)

14437. Every brand registered and published under Chapter 431 of the Statutes of 1921, as amended, prior to the effective date of Chapter 1162 of the Statutes of 1931, and all containers, equipment and supplies bearing such a brand shall be entitled to all the protection and benefits of this chapter, and it is not necessary for any such brand to be changed or reregistered on account of the provisions of Chapter 1162 of the Statutes of 1931 and the provisions of this article which constitute a restatement and continuation thereof.

(Amended by Stats. 1982, Ch. 194, Sec. 7.)

14438. Any registrant whose containers, equipment or supplies are involved in any violation of the provisions of this article may sue the person or persons who violated said provisions and, upon proof of such violation, shall recover threefold the replacement cost new of the containers, equipment or supplies so involved and costs of suit including a reasonable attorney's fee. No action shall be brought under this section or Section 14436 against a person who obtained possession of the containers, equipment or supplies pursuant to a contract with the registrant for the delivery of agricultural commodities, unless such person has failed to return to the registrant such containers, equipment and supplies to the point of delivery within 10 days after receipt of a demand for such return sent by registered mail to such person by the registrant.

