

TITLE 44
LABOR

CHAPTER 6
UNION LABELS

44-601. UNLAWFUL TO COUNTERFEIT UNION LABEL. Whenever any person, or any association or union of workingmen, has heretofore adopted or used, or shall hereafter adopt or use, any label, term, design, device or form of advertisement, other than a trademark or a service mark, for the purpose of designating, making known, or distinguishing any goods, wares, merchandise, or other products of labor, as having been made, manufactured, produced, prepared, packed or put on sale, by such person, or association, or union of workingmen, or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, term, design, device or form of advertisement, or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such label, term, design, device or form of advertisement.

[(44-601) 1897, p. 123, sec. 1; reen. 1899, p. 316, sec. 1; reen. R.C. & C.L., sec. 1449; C.S., sec. 2314; I.C.A., sec. 43-501; am. 1965, ch. 306, sec. 1, p. 818.]

44-602. PENALTY FOR COUNTERFEITING UNION LABEL. Whoever counterfeits or imitates any such label, term, design, device or form of advertisement, or sells, offers for sale, or in any way utters, or circulates any counterfeit or imitation of any such label, term, design, device or form of advertisement, other than a trademark or a service mark; or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed; or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be guilty of a misdemeanor and be punished by a fine of not more than \$100, or by imprisonment for not more than three (3) months.

[(44-602) 1897, p. 123, sec. 2; reen. 1899, p. 316, sec. 2; reen. R.C. & C.L., sec. 1450; C.S., sec. 2315; I.C.A., sec. 43-502; am. 1965, ch. 306, sec. 2, p. 818.]

44-603. RECORD OF LABEL. (1) Every such person, association or union, that has heretofore adopted or used, or shall hereafter adopt or use, a label, term, design, device or form of advertisement, other than a trademark or a service mark, as provided in section [44-601](#), Idaho Code, may file the same for record in the office of the secretary of state, by leaving two (2) copies, counterparts or facsimiles thereof with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, term, design, device or form of advertisement shall be filed; the class of merchandise and a de-

scription of the goods to which it has been or is intended to be appropriated, stating that the party so filing or on whose behalf such label, term, design, device, or form of advertisement shall be filed, has the right to use of the same; that no other person, firm, association, union or corporation has a right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the facsimile or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of twenty dollars (\$20.00). Said secretary shall deliver to such person, association, or union, so filing or causing to be filed any such label, term, design, device or form of advertisement, so many duly attested certificates of the recording of the same as such person, association, or union may apply for, for each of which certificates said secretary shall receive a fee of twenty dollars (\$20.00). Any such certificate of record shall, in all suits and prosecutions under this chapter, be sufficient proof of the adoption of such label, term, design, device or form of advertisement. Said secretary of state shall not record for any person, union, or association, any label, term, design, device or form of advertisement that would probably be mistaken for any label, term, design, device or form of advertisement theretofore filed by or on behalf of any other person, union or association.

(2) Registration of a label, term, design, device, or form of advertisement hereunder shall be effective for a term of ten (10) years from the date of registration and, upon application filed within six (6) months prior to the expiration of such term, on a form to be furnished by the secretary of state, the registered label, term, design, device or form of advertisement may be renewed for a like term. A renewal fee of twenty dollars (\$20.00), payable to the secretary of state, shall accompany the application for renewal of the registration. A label, term, design, device or form of advertisement registration may be renewed for successive periods of ten (10) years in like manner. The secretary of state shall notify registrants of labels, terms, designs, devices or forms of advertisements hereunder of the necessity of renewal within the year next preceding the expiration of the ten (10) years from the date of registration by writing to the last known address of the registrants.

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

All applications for renewals under this act, whether of registrations made under this act or of registrations effected under any prior act, shall include a statement that the mark is still in use in this state. The secretary of state shall within six (6) months after the effective date of this act notify all registrants of a label, term, design, device or form of advertisement, under previous acts of the date of expiration of such registration unless renewed in accordance with the provisions of this act, by writing to the last known address of the registrants.

[(44-603) 1897, p. 123, sec. 3; reen. 1899, p. 316, sec. 3; reen. R.C., sec. 1451; compiled and reen. C.L., sec. 1451; C.S., sec. 2316; I.C.A., sec. 43-503; am. 1965, ch. 306, sec. 3, p. 818; am. 1984, ch. 56, sec. 6, p. 99.]

44-604. PENALTY FOR FRAUDULENT RECORD. Any person who shall, for himself or on behalf of any other person, association or union, procure the filing of any label, term, design or form of advertisement, other than a trademark or a service mark, in the office of the secretary of state under the provisions of this chapter, by making any false or fraudulent representations or declarations, verbally or in writing or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by, or on behalf of, the party injured thereby, in any court having jurisdiction, and shall be guilty of a misdemeanor, and be punished by a fine not exceeding \$100, or by imprisonment not exceeding three (3) months.

[(44-604) 1897, p. 123, sec. 4; reen. 1899, p. 316, sec. 4; reen. R.C. & C.L., sec. 1452; C.S., sec. 2317; I.C.A., sec. 43-504; am. 1965, ch. 306, sec. 4, p. 818.]

44-605. INJUNCTION AND DAMAGES FOR INFRINGEMENT. Every such person, association or union adopting or using a label, term, design, device or form of advertisement, other than a trademark or a service mark, as aforesaid, may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, and all courts of competent jurisdiction shall grant injunctions to restrain such manufacture, and may award the complainant in any such suit damages resulting from such manufacture, use, sale or display, as may be by the said court deemed just and reasonable, and shall require the defendants to pay to such persons, association or union, all profits derived from such wrongful manufacture, use, display or sale; and such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court or to the complainant to be destroyed.

[(44-605) 1897, p. 123, sec. 5; reen. 1899, p. 316, sec. 5; reen. R.C. & C.L., sec. 1453; C.S., sec. 2318; I.C.A., sec. 43-505; am. 1965, ch. 306, sec. 5, p. 818.]

44-606. PENALTY FOR UNAUTHORIZED USE OF LABEL. Every person who shall use or display the genuine label, term, design, device or form of advertisement, other than a trademark or a service mark, of any such person, association or union, in any manner, not being authorized so to do by such person, union or association, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment for not more than three months or by fine of not more than \$100.00. In all cases where such association or union is not incorporated, suits under this chapter may be commenced and prosecuted by an officer or members of such association or union on behalf of, and for the use of, such association or union.

[(44-606) 1897, p. 123, sec. 6; reen. 1899, p. 316, sec. 6; R.C. & C.L., sec. 1454; C.S., sec. 2319; I.C.A., sec. 43-506; am. 1965, ch. 306, sec. 6, p. 818.]

44-607. PENALTY FOR UNAUTHORIZED USE OF NAME. Any person or persons who shall in any way use the name or seal of any such person, association or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized so to use the same, shall be guilty of a misdemeanor, and shall be punishable by imprisonment for not more than three months, or by a fine of not more than \$100.00.

[(44-607) 1897, p. 123, sec. 7; reen. 1899, p. 316, sec. 7; reen. R.C. & C.L., sec. 1455; C.S., sec. 2320; I.C.A., sec. 43-507.]