

# HOUSE . . . . . No. 2797

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## The Commonwealth of Massachusetts

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PRESENTED BY:

*David M. Nangle*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to modernize trade name registration.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David M. Nangle</i>	<i>17th Middlesex</i>	<i>1/13/2015</i>

# HOUSE . . . . . No. 2797

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By Mr. Nangle of Lowell, a petition (accompanied by bill, House, No. 2797) of David M. Nangle relative to the registration of trade names. State Administration and Regulatory Oversight.

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## The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court  
(2015-2016)  
\_\_\_\_\_

An Act to modernize trade name registration.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 110 of the General Laws is hereby amended by striking out section  
2   5 and inserting in place thereof the following section:--

3           Section 5.

4           (a) No individual, sole proprietorship or general partnership may carry on, conduct or  
5   transact any business in the commonwealth under any assumed name, or under any designation,  
6   name or style, corporate or otherwise, other than the real name or names of the individual or  
7   individuals owning, conducting or transacting such business, unless that person or persons shall  
8   file in the office of the clerk of every city or town where an office of any such person or persons  
9   may be situated, a certificate setting forth the name under which such business is, or is to be,  
10   conducted or transacted, and the true or real full name or names of the person or persons owning,  
11   conducting or transacting the same, with the home and post-office address or addresses of such  
12   person or persons and pay the fee as provided by clause (20) of section thirty-four of chapter two

13 hundred and sixty-two. Such certificate shall be executed under oath by the person or persons so  
14 owning, conducting or intending to conduct such business and shall be signed by each such  
15 person in the presence of the city or town clerk or a person designated by him or in the presence  
16 of a person authorized to take oaths. The city or town clerk may request the person filing such  
17 certificate to produce evidence of his identity and, if such person does not, upon such request,  
18 produce evidence thereof satisfactory to such clerk, the clerk shall enter a notation of that fact on  
19 the face of the certificate. A person who has filed such a certificate shall, upon his discontinuing,  
20 retiring or withdrawing from such business or partnership, or in the case of a change of residence  
21 of such person or of the location where the business is conducted, file in the office of said clerk a  
22 statement under oath that he has discontinued, retired or withdrawn from such business or  
23 partnership or of such change of his residence or change of the location of such business, and pay  
24 the fee required by clause (21) of section thirty-four of chapter two hundred and sixty-two. In the  
25 case of death of such a person, such statement may be filed by the executor or administrator of  
26 his estate. Until so discontinued a certificate issued in accordance with this subsection (a) shall  
27 be in force and effect for four years from the date of issue and shall be renewed each four years  
28 thereafter so long as such business shall be conducted and shall lapse and be void unless so  
29 renewed.

30 (b) No business entity organized as a corporation, limited partnership, limited liability  
31 partnership, limited liability company, business trust or voluntary association required to register  
32 with the secretary of state in order to conduct business within the Commonwealth may conduct  
33 or transact any business in this Commonwealth under any assumed name, or under any  
34 designation, name or style, corporate or otherwise, other than the name established by the  
35 original certificate establishing the business entity or by an amendment thereto, unless the

business entity files in the office of the state secretary an application for registration of trade name. The application shall set forth:

(1) The name under which the business entity is organized and registered;

(2) The name under which the business of such business entity is, or is to be, conducted or transacted upon approval of the application, which name must be distinguishable from the name of any other corporation, limited partnership, limited liability partnership, limited liability company, business trust or voluntary association, and from any name reserved or registered for any of those business entities;

(3) The address of the principal office within the Commonwealth or, if no office is maintained within the Commonwealth, the address of the principal office in the Commonwealth in which the business entity is established; and

(4) The name, title and signature of a person having authority to make the application.

The secretary of state shall grant a certificate of registration of trade name to any applicant who has met the requirements of this subsection (b). A new certificate of registration of trade name shall be filed if the business entity desires to conduct or transact any business in the Commonwealth under any other assumed name not on file in the office of the state secretary.

One original executed of the application for trade name registration shall be delivered to the office of the state secretary. Delivery may be made by electronic transmission if permitted by the secretary of state. If the filing officer finds that the application for trade name registration conforms to law, he or she shall, when all fees have been paid as prescribed by law, file it and shall deliver to the entity or its representative a receipt for the record and fee. A certificate issued

in accordance with this subsection (b) shall be in force and effect until discontinued in accordance with this subsection (b).

Upon discontinuing the use of a trade name registered under this subsection (b), the certificate of registration of trade name with respect to such trade name shall be withdrawn by filing a certificate of withdrawal with the office of the state secretary setting forth the name to be discontinued, the real name, the address of the party transacting business and the date upon which the original certificate of registration of trade name was filed.

(c) The secretary of state and each town or city clerk shall keep a suitable index of all certificates filed pursuant to this section five that are currently in force and effect, which index shall set forth the pertinent facts, including a reference to any statement of discontinuance, retirement or withdrawal from, or change of location of, such business, or change of residence of such person. Copies of such certificates shall be available at the address at which such business is conducted and shall be furnished on request during regular business hours, to any person who has purchased goods or services from such business.

(d) Any individual, sole proprietorship, general partnership, corporation, limited partnership, limited liability partnership, limited liability company, business trust or voluntary association or other person owning, carrying on, conducting or transacting business as aforesaid who willfully fails to comply with the provisions of subsections (a) or (b) of this section five shall be punished by a fine of not more than three hundred dollars for each month during which such violation continues.