

PUBLIC CHAPTER NO. 847

SENATE BILL NO. 2933

By Johnson, Ketron, Crowe

Substituted for: House Bill No. 2842

By Sargent

AN ACT to amend Tennessee Code Annotated, Title 6, Chapter 54, Part 1, relative to intellectual property of municipalities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 6, Chapter 54, Part 1, is amended by adding the following language as a new section:

§ 6-54-1_.

(a) Any municipality has the exclusive right to use:

(1) The full corporate name of the municipality as stated in the municipality's charter or as otherwise officially adopted by the municipality; and

(2) Any seal, insignia, flag, coat of arms, emblem, sign, logo or other visual image that has been formally adopted by the municipality.

(b) A municipality may file a civil action against a party who, without the consent of the municipality, uses:

(1) Any visual image described in subsection (a)(2) for the purpose of trade or commerce, to induce the sale of any goods or services, or to promote any public exhibition, performance, competition or similar activity; or

(2) The name of the municipality as described in subsection (a)(1), any visual image described in subsection (a)(2), or any words, combination of words or visual representation tending to cause confusion or mistake, to deceive, or to falsely suggest a connection with or endorsement by the municipality. Notwithstanding the foregoing, a variation of the name of the municipality may be used by any organization composed of employees of the municipality.

(c)(1) In the event that the actions of any person give rise to a cause of action pursuant to subsection (b), the municipality may seek to enjoin the manufacture, use, display or sale of a protected

name or image, and any court of competent jurisdiction may grant an injunction to restrain such manufacture, use, display or sale as such court may deem just and reasonable. Upon finding that a defendant has violated a municipality's exclusive rights of use pursuant to this section, the court may order that the defendant pay to such municipality all profits derived from the unauthorized manufacture, use, display or sale and all damages suffered by reason of such acts. If the court finds that the defendant's acts constitute a willful or knowing violation, or that the defendant otherwise acted in bad faith, the court, in its discretion, may enter judgment in favor of the municipality in an amount not to exceed three (3) times the amount of the defendant's profits and the municipality's damages, plus reasonable attorneys' fees.

(2) The enumeration of any right or remedy in this section shall not affect a municipality's right to prosecute an offender under any other law of this state.

(d) Any municipal mayor or mayor's designee may authorize, in writing, contributors, suppliers of goods and services, or other third parties to use the name of the municipality as described in subsection (a)(1) or a visual image as described in subsection (a)(2); provided that such authorization shall not be granted or denied in an arbitrary or capricious manner.

(e) Notwithstanding the provisions of this section to the contrary, any business entity or civic organization that was using the corporate or officially adopted name of any municipality in such entity's or organization's own name immediately prior to July 1, 2010, shall be permitted to continue such use whether or not the municipality that claims an exclusive right to use such name consents to the use of such name by the entity or organization so long as the entity or organization maintains its legal existence and the use of such name by the entity or organization is continuous.

(f) Nothing contained in this section shall be construed to prohibit any elected municipal official from using the name or visual image of the municipality in the performance of such official's duties.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: April 15, 2010



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 30th day of April 2010



PHIL BREDESEN, GOVERNOR