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Trade Names

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TRADE NAMES

Chapter 143 prohibits¹ any seller, other than instrumentalities of the federal government, from using military or related federal names² which might lead the public to believe that the seller is the United States Government or that the place of business is owned, operated or managed by the United States Government or any of its agencies. The statute also

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37. Id. §2(e).
 38. Id. §3.
 39. Id. §4.
 40. Ind. Acts 1947, c. 311, §1.
 41. Ind. Acts 1939, c. 111, §1, Ind. Stat. Ann. (Burns, Supp. 1945) §6-2403.
 42. Compare similar exemption provisions in the Gross Income Tax Act, Ind. Acts 1947, c. 126.
 43. Ind. Acts 1947, c. 182, §1, amending Ind. Acts 1931, c. 75, §4, Ind. Stat. Ann. (Burns, 1933) § 6-2404.
 1. Ind. Acts 1947, c. 143, §3 declares that violations shall be misdemeanors punishable by a fine up to five hundred dollars or sixty days imprisonment or both. §4 provides that the attorney general, prosecuting attorney, or a citizen of any county in which business is being conducted in violation of the act may bring suit to enjoin the violation. The remedy by injunction however, does not relieve the violator from prosecution for the misdemeanor.
 2. The following names are expressly prohibited: "Army," "Navy," "Marine Corps," "Marines," "Coast Guard," "Government," "Post Exchange," "P-X," and "G-I." Ind. Acts 1947, c. 143, §1.

prohibits the sale or offering for sale of merchandise which is represented, contrary to fact, as having been made for, acquired from, or disposed of by the United States Government.³ Similar acts have recently been adopted by other states.⁴

The prohibitions apply to corporations as well as individuals, firms, partnerships and associations. Foreign corporations having prohibited names which apply for certificates of admission can be excluded from doing business in Indiana.⁵ Although it has been successfully argued that such laws insofar as they affect the corporate charter of existing domestic corporations are impairments of the obligation of contract,⁶ the guaranty against impairment of contracts is not absolute and is subject to certain exercises of the police power.⁷ Thus, similar statutes have been upheld as valid.⁸ It is apparent that if the act is valid as applied to existing domestic corporations, it is equally valid as to foreign corporations doing business in Indiana, since foreign corporations already admitted to do business in Indiana may be

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3. Ind. Acts 1947, c. 143, §2.
 4. Ill. Rev. Stat. (1945) c. 96, §§8, 9; Mich. Acts 1945, No. 108; Ohio Laws 1945-1946, p. 72; Pa. Stat. Ann. (Purdon, Supp. 1946) tit. 69, §571 et seq. The Pennsylvania statute exempts from its operation any business which for five years prior to the effective date of the act, has used such names as part of its trading name. The Indiana law and those of the states above mentioned, contain no such exemption.
 5. Ind. Stat. Ann. (Burns, 1933) §25-303. "No foreign corporation shall be admitted to do business in this state having a name which at the date of such admission could not be taken by a domestic corporation . . ." A foreign corporation may properly be refused a certificate of authority to transact business within the state if it possesses a prohibited name. *People ex rel. Bankers Co. of New York v. Stratton*, 335 Ill. 455, 167 N.E. 31, 63 A.L.R. 1046, 1049 (1929).
 6. *Lorntsen v. Union Fisherman's Co-op Packing Co.*, 71 Ore. 540, 143 Pac. 621 (1914) (although the constitution permitted amendment or alteration of laws regulating corporations so long as vested rights were not impaired, held, the statute as applied to existing corporations was void as an impairment of obligation of contract). See discussion in note (1929) 63 A.L.R. 1049.
 7. *Finerty, Auditor v. State ex rel. School City of Gary*, 213 Ind. 470, 12 N.E. (2d) 941 (1937); *Schmitt v. F. W. Cook Brewing Co.*, 187 Ind. 623, 120 N.E. 19 (1918); *Pittsburgh R.R. v. Chappell*, 183 Ind. 141, 106 N.E. 403 (1914); *Twomley, "The Indiana Bill of Rights"* (1944) 20 Ind. L.J. 211, 258.
 8. *McKee v. American Trust Co.*, 166 Ark. 480, 266 S.W. 293 (1924); *Union Trust Co. v. Moore*, 104 Wash. 50, 175 Pac. 565 (1918).

subjected to the same restrictions subsequently imposed upon domestic corporations.⁹

UNEMPLOYMENT COMPENSATION

Chapter 208 amends the previous statute in a few minor particulars. The benefit period is redefined to speed up benefit payments. The previous act¹ defined the benefit period as the fifty two consecutive week period beginning with the first day of an individual's waiting period. The new act defines benefit period as the fifty two consecutive week period beginning with the week during which an individual files a valid claim.² The waiting period is not eliminated.

An applicant for unemployment compensation is not ineligible because he has applied for old age benefits under the Social Security Act.³

In regard to employers, experience rating changes are made for the purpose of retarding growth of the surplus in the fund for the payment of benefits.⁴ Also employer payroll tax rates are scaled down from the prior rate of 2.7% to .135 of 1%, to a new rate of 2.7% to .1 of 1%.⁵ Additional pay and back pay awards are to be added to the taxable "wages" paid by an employer.⁶ Provision is made for the

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9. ". . . a foreign corporation admitted to do business in this state shall have the same, but no greater, rights and privileges and be subject to the same liabilities, restrictions, duties and penalties, now in force or hereafter imposed upon domestic corporations . . ." Ind. Stat. Ann. (Burns, 1933) §25-302.
 1. Ind. Acts 1936, c. 4, as amended, Ind. Stat. Ann. (Burns, Supp. 1945) §52-1501 et seq.
 2. Ind. Acts 1947, c. 208, §221.
 3. Id. § 1506 of the new act continues the provision for ineligibility for benefit rights when an individual is seeking or receiving unemployment benefits under a law of another state or the United States. But the ineligibility does not encompass old age benefits, while the previous law did so provide.
 4. Id. §1101. The Fund surplus is in excess of \$177,000,000. Indiana Chamber of Commerce News, March 21, 1947, P. 11, col. 2.
 5. Id. §1102. It is estimated that the new tax rate will save employers over \$8,000,000. Indiana Chamber of Commerce News, March 21, 1947, P. 4, col. 1.
 6. Id. §402. The term wages includes any payments made by an employer to an employee or former employee, under orders of the National Labor Relations Board "or other agency," as additional pay, back pay or for loss of employment; also the term includes any such payments made in accordance with an agreement entered into by an employer, a union, and the National Labor Relations Board.