

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 696

INTRODUCER: Senator Martin

SUBJECT: Registration of Trademarks

DATE: January 12, 2025 REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Dike	McKay	CM	Pre-meeting
2.		ATD	
3.		RC	

## **I. Summary:**

SB 696 aligns Florida's trademark registration system with federal law and international standards. This bill creates an online registration system and allows for verification of applications to be made via a written declaration or other statutorily accepted methods rather than a Notary Public. The bill also mandates the Department of State (Department) must adopt the U.S. Patent and Trademark Office's (USPTO) system of classification of goods and services yearly to avoid repeatedly amending state statutes.

The bill takes effect on July 1, 2026.

## **II. Present Situation:**

### **Trademarks**

A registered trademark can be any word, phrase, symbol, or design which distinguishes the source of goods and services and provides legal protection for a brand.<sup>1</sup> A trademark ("TM") protects a good while a service mark ("SM") protects a service.<sup>2</sup> While an owner can register their mark with federal and state governments, it is not required by law—an owner of an unregistered mark may still use it to brand their goods or services and still enforce trademark rights under certain laws.<sup>3</sup> However, trademark registration allows a person to prove ownership more easily in legal proceedings and provides additional protections under state and federal law.<sup>4</sup>

<sup>1</sup> USPTO, *What is a trademark?*, available at <https://www.uspto.gov/trademarks/basics/what-trademark> (last visited Jan. 12, 2026).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> USPTO., *Why register your trademark?*, available at <https://www.uspto.gov/trademarks/basics/why-register-your-trademark> (last visited Jan. 12, 2026).

## Federal Law and Nice Classification

The USPTO regulates interstate use of trademarks pursuant to the Lanham Act, which was adopted in 1946.<sup>5</sup> In 1972, U.S. became a signatory to the Nice Agreement, a multilateral treaty administered by the World Intellectual Property Organization.<sup>6</sup> As such, all applications filed under the Lanham Act after September 1, 1973, are subject to the Nice Classification. Under the treaty, the Nice System classifications are reviewed and updated to reflect changes in technology and commercial practices. The USPTO updates these classifications via federal rulemaking to follow the Nice Classification.<sup>7</sup>

The Nice Classification is reviewed and revised by its Committee of Experts, which is made up of representatives of each party to the Nice Agreement. “In 2013, the Committee of Experts began annual revisions to the Nice Classification. The annual revisions enter into force on January 1 each year [and] are referred to as versions and identified by an edition number and the year of the effective date (e.g., “Nice Classification, 10th ed., ver. 2013” or “NCL 10-2013”).”<sup>8</sup> The changes consist of the addition and deletion of new or obsolete goods and services from the Nice Classification’s class headings, alphabetical list of named goods and services, and explanatory notes, as well as any other required amendments.

Pursuant to the Nice Agreement and prior to registration under federal law, a trademark application must specify the class of the goods and services to which the trademark applies.<sup>9</sup> For example, Class 1 includes chemical products for use in industry, science, and agriculture, while Class 7 includes mainly machines, machine tools, motors, and engines.<sup>10</sup>

## Florida Trademark Registration

In Florida, ch. 495, F.S., governs the intrastate use of trademarks in Florida, the registration of which is overseen by the Department’s Division of Corporations (Division). Registering a trademark in the state gives an owner greater rights over its use. There are currently 18,307 active trademark or service mark registrations in Florida.<sup>11</sup>

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<sup>5</sup> 15 U.S.C. § 1051.

<sup>6</sup> See World Intellectual Property Organization, *WIPO-Administered Treaties*, available at [https://www.wipo.int/wipolex/en/treaties>ShowResults?search\\_what=C&treaty\\_id=12](https://www.wipo.int/wipolex/en/treaties>ShowResults?search_what=C&treaty_id=12) (last visited Jan. 12, 2026).

<sup>7</sup> See, e.g., International Trademark Classification Changes, 90 Fed. Reg. 47,592 (Oct. 2, 2025) (codified at 37 C.F.R. 6.1).

<sup>8</sup> *Id.*, see also World Intellectual Property Organization, *About the Nice Classification*, available at <https://www.wipo.int/en/web/classification-nice/preface> (last visited Jan. 12, 2026).

<sup>9</sup> USPTO, *Nice Agreement current edition version - general remarks, class headings and explanatory notes*, available at <https://www.uspto.gov/trademarks/trademark-updates-and-announcements/nice-agreement-current-edition-version-general-remarks> (last visited Jan. 12, 2026).

<sup>10</sup> *Id.*

<sup>11</sup> Div. of Corp., *Yearly Statistics*, available at <https://dos.fl.gov/sunbiz/about-us/yearly-statistics/> (last visited Jan. 12, 2026).

To register for a trademark,<sup>12</sup> an applicant<sup>13</sup> must mail a paper application to the Division, which must include:

- The name, address, and if applicable, place of incorporation.
- An explanation of how the trademark will be used in connection with goods and services.
- The class(es) under which the goods or services fall—such classes are detailed in s. 495.111, F.S.
- The date the trademark was first used, along with other details of the history of the trademark's use.
- A statement that the applicant is the owner of the trademark, the trademark is in use, and that no other entity or person has registered the trademark or has the right to use the trademark in Florida.<sup>14</sup>

The Division may require the applicant to provide additional information or amend the application as needed.<sup>15</sup> Furthermore, the applicant must sign the application form before a Notary Public to comply with the statutory requirement that the application be “signed and verified.”<sup>16</sup>

### **Recent Changes and Recommendations**

In 2019, Florida statutes were updated to conform the state's classifications for trademark goods and services to the 11<sup>th</sup> edition of the Nice Classification;<sup>17</sup> however, international standards are updated often, making Florida statutes out of date already.<sup>18</sup> The Florida Bar Business Law Section has proposed amendments to Florida statutes to align the state trademark registration system with national and international standards without needing to enact technical amendments to the statute each year ministerial updates are made on the national level.<sup>19</sup> Additionally, the online application modernizes the registration system and ensures timely applications.<sup>20</sup>

### **III. Effect of Proposed Changes:**

#### **Classification**

**Section 1** amends s. 495.111, F.S., removing the previous classifications in this statute and requiring the Department to adopt the USPTO's classification system on July 1 each year. The

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<sup>12</sup> “Trademark” means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if the source is unknown. S. 495.011, F.S.

<sup>13</sup> “Applicant” means the person filing an application for registration of a mark under this chapter and the legal representatives, successors, or assigns of such person. S. 495.011, F.S.

<sup>14</sup> Section 495.031, F.S.

<sup>15</sup> Section 495.035, F.S.

<sup>16</sup> *Id.*

<sup>17</sup> See s. 495.111, F.S.; *see also* Fla. SB 198 (2019).

<sup>18</sup> Florida Bar Business Law Section, *Trademark Modernization Amendments Act of 2026 White Paper*, available at <https://flabizlaw.org/wp-content/uploads/2025/06/2026-Trademark-Draft-Bill-White-Paper-for-Circulation-1.pdf> (last visited Jan. 12, 2026).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

Department must publish this classification system as part of the trademark registration application as set out in ss. 495.031 and 495.0315, F.S.

### **Application for Registration**

**Section 2** creates s. 495.0315, F.S., directing the Department to create and maintain a website for applicants to submit online trademark registration applications and renewals. The website must protect applicants' information to ensure data integrity and the website must be available by July 1, 2027. The website must also allow the applicant to provide an electronic version of the required specimen of use, provide an electronic version of a drawing of the mark, pay the required fee, and complete the required verification.

**Section 3** amends s. 495.031, F.S., mandating that verification for applications be made in accordance with s. 92.525, F.S. (allowing verification by oath/affirmation or written declaration). Additionally, the bill requires that every online application be accompanied by an electronic copy of the specimen which complies with the requirements of the Department, showing the mark as actually used.

### **Effective Date**

**Section 4** sets out an effective date of July 1, 2026.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

Under s. 3, art. II of the Florida Constitution, the non-delegation doctrine prohibits the Legislature from delegating its primary policymaking functions to the other branches of state government or the federal government.<sup>21</sup> Pursuant to this doctrine, the Legislature

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<sup>21</sup> *Bush v. Schiavo*, 885 So. 2d 321, 332 (Fla. 2004).

may not adopt or incorporate any federal law that has not yet been enacted.<sup>22</sup> In *Welch*, the Florida Supreme Court struck down a statute criminalizing certain acts by reference to future drug abuse laws.<sup>23</sup> The Court held that when a statute incorporates by reference future federal laws, Florida courts should apply federal law that was in effect at the time a state law was enacted—not federal laws, rules, or standards that come into existence afterwards.<sup>24</sup> This bill directs the department to look to future federal law.

However, in *Eastern Air Lines*, the Florida Supreme Court limited the holding of *Welch* to cases which incorporate federal statutes and rules which substantively change the law.<sup>25</sup> In that case, the statute at issue mandated that adjustments to the fuel tax should be based on the Consumer Price Index, updated monthly by the U.S. Department of Labor.<sup>26</sup> The Court upheld the statute as constitutional because the calculations were ministerial and the Legislature provided clear guidelines.<sup>27</sup> Here, as the classification of trademarks does not affect the rights and remedies of a trademark owner under law,<sup>28</sup> USPTO's revisions to the federal trademark classification system could be found to be ministerial and thus potentially constitutional.

## **V. Fiscal Impact Statement:**

### **A. Tax/Fee Issues:**

None.

### **B. Private Sector Impact:**

Indeterminate. Businesses in Florida will have minimal costs to comply with the requirements of this bill.<sup>29</sup>

### **C. Government Sector Impact:**

Indeterminate. There are minimal costs to update the Division's online registration system and comply with the requirement of this bill.<sup>30</sup>

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<sup>22</sup> *Abbott Labs. v. Mylan Pharm., Inc.*, 15 So. 3d 642, 654 (Fla. 1st DCA 2009); *State v. Welch*, 279 So. 2d 11 (Fla. 1973); *Fla. Indus. Comm'n v. State ex rel. Orange State Oil Co.*, 21 So. 2d 599 (Fla. 1945); *State v. Rodriguez*, 365 So. 2d 157 (Fla. 1978); *State v. Camil*, 279 So.2d 832 (Fla. 1973); *Hughes v. State*, 943 So. 2d 176 (Fla. DCA 3d 2006).

<sup>23</sup> *Welch*, 279 So. 2d at 12-13.

<sup>24</sup> *Id.*

<sup>25</sup> *E. Air Lines, Inc. v. Dep't of Revenue*, 455 So. 2d 311, 316 (Fla. 1984).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> 15 U.S.C. s. 1112 (“The Director may establish a classification of goods and services, for convenience of Patent and Trademark Office administration, but not to limit or extend the applicant's or registrant's rights.”).

<sup>29</sup> Florida Bar Business Law Section, *Trademark Modernization Amendments Act of 2026 White Paper*, available at <https://flabizlaw.org/wp-content/uploads/2025/06/2026-Trademark-Draft-Bill-White-Paper-for-Circulation-1.pdf> (last visited Jan. 12, 2026).

<sup>30</sup> *Id.*

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 495.111, 495.031. This bill creates section 495.0315 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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