

HB 222 – AS INTRODUCED

2013 SESSION

13-0214
03/09

HOUSE BILL **222**

AN ACT relative to business names registered with the secretary of state.

SPONSORS: Rep. D. McGuire, Merr 21

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill allows a business to use a name that is similar to the name of an existing business or other entity.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to business names registered with the secretary of state.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Voluntary Corporations. Amend RSA 292:3, II-III to read as follows:

2 II. Except as authorized by paragraphs III and IV, a corporation name, based upon the
3 records of the secretary of state, shall ~~[be distinguishable from, and]~~ not **be** the same as~~[-or likely to~~
4 ~~be confused with or mistaken for]~~:

5 (a) The name of an entity incorporated, authorized, formed, or registered to do business
6 in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A,
7 RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

8 (b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, RSA 304-C.

9 (c) The fictitious name of another foreign corporation authorized to transact business in
10 this state.

11 (d) The name of an agency or instrumentality of the United States or this state or a
12 subdivision thereof.

13 (e) The name of any political party recognized under RSA 652:11, unless written consent
14 is obtained from the authorized representative of the political organization.

15 (f) The name “farmers’ market” unless the entity meets the definition of “farmers’
16 market” established in RSA 21:34-a, V.

17 ***II-a. The secretary of state shall notify the applicant if the name applied for is***
18 ***likely to be confused with or mistaken for one or more of the names described in paragraph***
19 ***II, as determined from review of the records of the secretary of state.***

20 III. A corporation may apply to the secretary of state for authorization to use a name that ~~[is~~
21 ~~not distinguishable from, or]~~ is the same as~~[-or likely to be confused with or mistaken for]~~ one or
22 more of the names described in paragraph II, as determined from review of the records of the
23 secretary of state. The secretary of state shall authorize use of the name applied for if:

24 (a) The holder or holders of the name as described in paragraph II gives written consent
25 to use the name that ~~[is not distinguishable from or likely to be confused with or mistaken for the~~
26 ~~name of the applying corporation; or if the name]~~ is the same~~[-one or more words are added to the~~
27 ~~name to make the new name distinguishable from the other name]~~; or

28 (b) The other entity consents to the use in writing and submits an undertaking in a form
29 satisfactory to the secretary of state to change its name to a name that is ~~[distinguishable from, and]~~
30 not the same as~~[-or likely to be confused with or mistaken for]~~ the name of the applying corporation;

31 or

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1 (c) The applicant delivers to the secretary of state a certified copy of the final judgment
2 of a court of competent jurisdiction establishing the applicant's right to use the name applied for in
3 this state.

4 2 Business Corporations. Amend RSA 293-A:4.01(b)-(c) to read as follows:

5 (b) Except as authorized by subsections (c) and (d) of this section, a corporate name,
6 based upon the records of the secretary of state, shall ~~[be distinguishable from, and]~~ not **be** the same
7 as~~[-, or likely to be confused with or mistaken for]:~~

8 (1) The name of an entity incorporated, authorized, formed, or registered to do
9 business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A,
10 RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

11 (2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or
12 RSA 304-C.

13 (3) The fictitious name of another foreign corporation authorized to transact business
14 in this state.

15 (4) The name of an agency or instrumentality of the United States or this state or a
16 subdivision thereof.

17 (5) The name of any political party recognized under RSA 652:11, unless written
18 consent is obtained from the authorized representative of the political organization.

19 (6) The name “farmers’ market” unless the entity meets the definition of “farmers’
20 market” established in RSA 21:34-a, V.

21 ***(bb) The secretary of state shall notify the applicant if the name applied for is***
22 ***likely to be confused with or mistaken for one or more of the names described in subsection***
23 ***(b), as determined from review of the records of the secretary of state.***

24 (c) A corporation may apply to the secretary of state for authorization to use a name that
25 ~~[is not distinguishable from, or]~~ is the same as~~[-, or likely to be confused with or mistaken for]~~ one or
26 more of the names described in subsection (b) of this section, as determined from review of the
27 records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

28 (1) The holder or holders of the name as described in subsection (b) gives written
29 consent to use the name that is ~~[not distinguishable from or likely to be confused with or mistaken~~
30 ~~for the name of the applying corporation; or if the name is]~~ the same~~[-, one or more words are added~~
31 ~~to the name to make the new name distinguishable from the other name];~~ or

32 (2) The other entity consents to the use in writing and submits an undertaking in
33 form satisfactory to the secretary of state to change its name to a name that is ~~[distinguishable from,~~
34 ~~and]~~ not the same as~~[-, or likely to be confused with or mistaken for]~~ the name of the applying
35 corporation; or

36 (3) The applicant delivers to the secretary of state a certified copy of the final
37 judgment of a court of competent jurisdiction establishing the applicant's right to use the name

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1 applied for in this state.

2 3 Investment Trusts. Amend RSA 293-B:17, I(b)-(c) to read as follows:

3 (b) Except as authorized by subparagraphs (c) and (d), a New Hampshire investment
4 trust name, based upon the records of the secretary of state, shall ~~[be distinguishable from, and]~~ not
5 **be** the same as ~~[-or likely to be confused with or mistaken for]:~~

6 (1) The name of an entity incorporated, authorized, formed, or registered to do
7 business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A,
8 RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

9 (2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or
10 RSA 304-C.

11 (3) The fictitious name of another foreign corporation authorized to transact business
12 in this state.

13 (4) The name of an agency or instrumentality of the United States or this state or a
14 subdivision thereof.

15 (5) The name of any political party recognized under RSA 652:11, unless written
16 consent is obtained from the authorized representative of the political organization.

17 ***(bb) The secretary of state shall notify the applicant if the name applied for is likely to***
18 ***be confused with or mistaken for one or more of the names described in subparagraph (b),***
19 ***as determined from review of the records of the secretary of state.***

20 (c) A New Hampshire investment trust may apply to the secretary of state for
21 authorization to use a name that ~~[is not distinguishable from, or]~~ is the same as ~~[-or likely to be~~
22 ~~confused with or mistaken for]~~ one or more of the names described in subparagraph (b), as
23 determined from review of the records of the secretary of state. The secretary of state shall authorize
24 use of the name applied for if:

25 (1) The holder or holders of the name as described in subparagraph (b) gives written
26 consent to use the name that ~~[is not distinguishable from or likely to be confused with or mistaken~~
27 ~~for the name of the applying corporation; or if the name]~~ is the same ~~[-one or more words are added~~
28 ~~to the name to make the new name distinguishable from the other name];~~ or

29 (2) The other entity consents to the use in writing and submits an undertaking in a
30 form satisfactory to the secretary of state to change its name to a name that is ~~[distinguishable from,~~
31 ~~and]~~ not the same as ~~[-or likely to be confused with or mistaken for]~~ the name of the applying
32 corporation; or

33 (3) The applicant delivers to the secretary of state a certified copy of the final
34 judgment of a court of competent jurisdiction establishing the applicant's right to use the name
35 applied for in this state.

36 4 Professional Corporations. Amend RSA 294-A:7, III(a)-(b) to read as follows:

37 III.(a) Except as authorized by subparagraph (b), a professional corporation name, based

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1 upon the records of the secretary of state, shall ~~[be distinguishable from, and]~~ not **be** the same as~~[- or~~
2 ~~likely to be confused with or mistaken for]~~:

3 (1) The name of an entity incorporated, authorized, formed, or registered to do
4 business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A,
5 RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

6 (2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or
7 RSA 304-C.

8 (3) The fictitious name of another foreign corporation authorized to transact business
9 in this state.

10 (4) The name of an agency or instrumentality of the United States or this state or a
11 subdivision thereof.

12 (5) The name of any political party recognized under RSA 652:11, unless written
13 consent is obtained from the authorized representative of the political organization.

14 (6) The name “farmers’ market” unless the entity meets the definition of “farmers’
15 market” established in RSA 21:34-a, V.

16 ***(aa) The secretary of state shall notify the applicant if the name applied for is***
17 ***likely to be confused with or mistaken for one or more of the names described in***
18 ***subparagraph (a), as determined from review of the records of the secretary of state.***

19 (b) Subparagraph (a) shall not apply if:

20 (1) The similarity results from the use in the professional corporate name of personal
21 names of its stockholders or former shareholders or of natural persons who were associated with a
22 predecessor entity; or

23 (2) The applicant files with the secretary of state an application for authorization to
24 use a name that ~~[is not distinguishable from, or]~~ is the same as~~[- or likely to be confused with or~~
25 ~~mistaken for]~~ one or more of the names described in subparagraph (a), as determined from review of
26 the records of the secretary of state. The secretary of state shall authorize use of the name applied
27 for if:

28 (A) The holder or holders of the name as described in subparagraph (a) gives
29 written consent to use the name that ~~[is not distinguishable from or likely to be confused with or~~
30 ~~mistaken for the name of the applying corporation; or if the name]~~ is the same~~[- one or more words~~
31 ~~are added to the name to make the new name distinguishable from the other name]~~; or

32 (B) The other entity consents to the use in writing and submits an undertaking
33 in a form satisfactory to the secretary of state to change its name to a name that is ~~[distinguishable~~
34 ~~from, and]~~ not the same as~~[- or likely to be confused with or mistaken for]~~ the name of the applying
35 corporation; or

36 (C) The applicant delivers to the secretary of state a certified copy of the final
37 judgment of a court of competent jurisdiction establishing the applicant's right to use the name

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1 applied for in this state.

2 5 Cooperative Associations. Amend RSA 301:43-a, II-III to read as follows:

3 II. Except as authorized by paragraphs III and IV, a cooperative name, based upon the
4 records of the secretary of state, shall ~~[be distinguishable from, and]~~ not **be** the same as~~[-or likely to~~
5 ~~be confused with or mistaken for]~~:

6 (a) The name of an entity incorporated, authorized, formed, or registered to do business
7 in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A,
8 RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

9 (b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-
10 C.

11 (c) The fictitious name of another foreign corporation authorized to transact business in
12 this state.

13 (d) The name of an agency or instrumentality of the United States or this state or a
14 subdivision thereof.

15 (e) The name of any political party recognized under RSA 652:11, unless written consent
16 is obtained from the authorized representative of the political organization.

17 (f) The name “farmers’ market” unless the entity meets the definition of “farmers’
18 market” established in RSA 21:34-a, V.

19 ***II-a. The secretary of state shall notify the applicant if the name applied for is***
20 ***likely to be confused with or mistaken for one or more of the names described in paragraph***
21 ***II, as determined from review of the records of the secretary of state.***

22 III. A cooperative may apply to the secretary of state for authorization to use a name that ~~[is~~
23 ~~not distinguishable from, or]~~ is the same as~~[-or likely to be confused with or mistaken for]~~ one or
24 more of the names described in paragraph II, as determined from review of the records of the
25 secretary of state. The secretary of state shall authorize use of the name applied for if:

26 (a) The holder or holders of the name as described in paragraph II gives written consent
27 to use the name that ~~[is not distinguishable from or likely to be confused with or mistaken for the~~
28 ~~name of the applying cooperative; or if the name]~~ is the same~~[-one or more words are added to the~~
29 ~~name to make the new name distinguishable from the other name];~~ or

30 (b) The other entity consents to the use in writing and submits an undertaking in a form
31 satisfactory to the secretary of state to change its name to a name that is ~~[distinguishable from, and]~~
32 not the same as~~[-or likely to be confused with or mistaken for]~~ the name of the applying cooperative;
33 or

34 (c) The applicant delivers to the secretary of state a certified copy of the final judgment
35 of a court of competent jurisdiction establishing the applicant's right to use the name applied for in
36 this state.

37 6 Limited Liability Partnerships. Amend RSA 304-A:45, II-III to read as follows:

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1 II. Except as authorized by paragraphs III and IV, a registered limited liability partnership
2 name, based upon the records of the secretary of state, shall ~~[be distinguishable from, and]~~ not **be** the
3 same as~~[-or likely to be confused with or mistaken for]~~:

4 (a) The name of an entity incorporated, authorized, formed, or registered to do business
5 in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A,
6 RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

7 (b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-
8 C.

9 (c) The fictitious name of another foreign corporation authorized to transact business in
10 this state.

11 (d) The name of an agency or instrumentality of the United States or this state or a
12 subdivision thereof.

13 (e) The name of any political party recognized under RSA 652:11, unless written consent
14 is obtained from the authorized representative of the political organization.

15 (f) The name “farmers’ market” unless the entity meets the definition of “farmers’
16 market” established in RSA 21:34-a, V.

17 ***II-a. The secretary of state shall notify the applicant if the name applied for is***
18 ***likely to be confused with or mistaken for one or more of the names described in paragraph***
19 ***II, as determined from review of the records of the secretary of state.***

20 III. A registered limited liability partnership may apply to the secretary of state for
21 authorization to use a name that ~~[is not distinguishable from, or]~~ is the same as~~[-or likely to be~~
22 ~~confused with or mistaken for]~~ one or more of the names described in paragraph II, as determined
23 from review of the records of the secretary of state. The secretary of state shall authorize use of the
24 name applied for if:

25 (a) The holder or holders of the name as described in paragraph II gives written consent
26 to use the name that ~~[is not distinguishable from or likely to be confused with or mistaken for the~~
27 ~~name of the applying registered limited liability partnership; or if the name]~~ is the same~~[-one or~~
28 ~~more words are added to the name to make the new name distinguishable from the other name];~~ or

29 (b) The other entity consents to the use in writing and submits an undertaking in a form
30 satisfactory to the secretary of state to change its name to a name that is ~~[distinguishable from, and]~~
31 not the same as~~[-or likely to be confused with or mistaken for]~~ the name of the applying registered
32 limited liability partnership; or

33 (c) The applicant delivers to the secretary of state a certified copy of the final judgment
34 of a court of competent jurisdiction establishing the applicant's right to use the name applied for in
35 this state.

36 7 Limited Partnerships. Amend RSA 304-B:2, III-IV to read as follows:

37 III. Except as authorized by paragraphs IV and V, a limited partnership name, based upon

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1 the records of the secretary of state, shall ~~[be distinguishable from, and]~~ not **be** the same as~~[- or~~
2 ~~likely to be confused with or mistaken for]~~:

3 (a) The name of an entity incorporated, authorized, formed, or registered to do business
4 in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A,
5 RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

6 (b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-
7 C.

8 (c) The fictitious name of another foreign corporation authorized to transact business in
9 this state.

10 (d) The name of an agency or instrumentality of the United States or this state or a
11 subdivision thereof.

12 (e) The name of any political party recognized under RSA 652:11, unless written consent
13 is obtained from the authorized representative of the political organization.

14 (f) The name “farmers’ market” unless the entity meets the definition of “farmers’
15 market” established in RSA 21:34-a, V.

16 ***III-a. The secretary of state shall notify the applicant if the name applied for is***
17 ***likely to be confused with or mistaken for one or more of the names described in paragraph***
18 ***III, as determined from review of the records of the secretary of state.***

19 IV. A limited partnership may apply to the secretary of state for authorization to use a name
20 that ~~[is not distinguishable from, or]~~ is the same as~~[- or likely to be confused with or mistaken for]~~
21 one or more of the names described in paragraph III, as determined from review of the records of the
22 secretary of state. The secretary of state shall authorize use of the name applied for if:

23 (a) The holder or holders of the name as described in paragraph III gives written consent
24 to use the name that ~~[is not distinguishable from, or likely to be confused with or mistaken for the~~
25 ~~name of the applying limited partnership; or if the name]~~ is the same~~[- one or more words are added~~
26 ~~to the name to make the new name distinguishable from the other name]~~; or

27 (b) The other entity consents to the use in writing and submits an undertaking in a form
28 satisfactory to the secretary of state to change its name to a name that is ~~[distinguishable from, and]~~
29 not the same as~~[- or likely to be confused with or mistaken for]~~ the name of the applying limited
30 partnership; or

31 (c) The applicant delivers to the secretary of state a certified copy of the final judgment
32 of a court of competent jurisdiction establishing the applicant's right to use the name applied for in
33 this state.

34 8 Limited Liability Companies. Amend RSA 304-C:32, III-V to read as follows:

35 III. Except as authorized by paragraph IV, V, or VI, a limited liability company name, based
36 upon the records of the secretary of state, shall ~~[be distinguishable from, and]~~ not **be** the same as~~[- or~~
37 ~~not likely to be confused with or mistaken for]~~:

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1 (a) The name of an entity incorporated, authorized, formed, or registered to do business
2 in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A,
3 RSA 304-B, this act, RSA 305-A, or RSA 349;

4 (b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or this act;

5 (c) The fictitious name of another foreign entity authorized to transact business in this
6 state;

7 (d) The name of an agency or instrumentality of the United States or this state or a
8 subdivision of this state;

9 (e) The name of any political party recognized under RSA 652:11, unless written consent
10 is obtained from the authorized representative of the political organization; or

11 (f) The name “farmers’ market” unless the entity meets the definition of “farmers’
12 market” established in RSA 21:34-a, V.

13 ***III-a. The secretary of state shall notify the applicant if the name applied for is***
14 ***likely to be confused with or mistaken for one or more of the names described in paragraph***
15 ***III, as determined from review of the records of the secretary of state.***

16 IV. A limited liability company may apply to the secretary of state for authorization to use a
17 name that [~~is not distinguishable from, or~~] is the same as [~~, or is likely to be confused with or~~
18 ~~mistaken for~~] one or more of the names described in paragraph III as determined from review of the
19 records of the secretary of state.

20 V. The secretary of state shall authorize use of the name applied for if:

21 (a) The holder or holders of the name as described in paragraph III gives written consent
22 to use the name that [~~is not distinguishable from, or likely to be confused with or mistaken for the~~
23 ~~name of the applying limited liability company; or if the name~~] is the same [~~, one or more words are~~
24 ~~added to the name to make the new name distinguishable from the other name~~]; or

25 (b) The other entity consents to the use in writing and submits an undertaking in a form
26 satisfactory to the secretary of state to change its name to a name that is [~~distinguishable from, and~~]
27 not the same as [~~, or likely to be confused with or mistaken for~~] the name of the applying limited
28 liability company; or

29 (c) The applicant delivers to the secretary of state a certified copy of the final judgment
30 of a court of competent jurisdiction establishing the applicant's right to use the name applied for in
31 this state.

32 9 Foreign Limited Liability Companies. Amend RSA 304-C:177, I(e)-(f) to read as follows:

33 (e) Except as authorized by subparagraphs I(f) and (g), a foreign limited liability
34 company name or a fictitious name used by a foreign limited liability company, based upon the
35 records of the secretary of state, shall [~~be distinguishable from, and~~] not **be** the same as [~~, or likely to~~
36 ~~be confused with or mistaken for~~]:

37 (1) The name of an entity incorporated, authorized, formed, or registered to do

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1 business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A,
2 RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349;

3 (2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or
4 RSA 304-C;

5 (3) The fictitious name of another foreign corporation authorized to transact business
6 in this state;

7 (4) The name of an agency or instrumentality of the United States or this state or a
8 subdivision of the United States or of this state;

9 (5) The name of any political party recognized under RSA 652:11, unless written
10 consent is obtained from the authorized representative of the political party;

11 (6) The name “farmers’ market” unless the entity meets the definition of “farmers’
12 market” established in RSA 21:34-a.

13 *(ee) The secretary of state shall notify the applicant if the name applied for is*
14 *likely to be confused with or mistaken for one or more of the names described in*
15 *subparagraph I(e), as determined from review of the records of the secretary of state.*

16 (f) A foreign limited liability company may apply to the secretary of state for
17 authorization to use a name that [~~is not distinguishable from, or~~] is the same as [~~, or likely to be~~
18 ~~confused with or mistaken for~~] one or more of the names described in subparagraph I(e), as
19 determined from review of the records of the secretary of state. The secretary of state shall authorize
20 use of the name applied for if:

21 (1) The entity with the name as described in subparagraph I(e) gives written consent
22 to the applicant to use the name that is [~~likely to be confused with or mistaken for its name~~] **the**
23 **same**; or

24 (2) The entity with the name as described in subparagraph I(e) gives written consent
25 to the applicant to use the name that [~~is not distinguishable from or~~] is the same as its name and
26 submits an undertaking in form satisfactory to the secretary of state to change its name to a name
27 that is [~~distinguishable from, and~~] not the same as, the name of the applicant; or

28 (3) The applicant delivers to the secretary of state a certified copy of the final
29 judgment of a court of competent jurisdiction establishing the applicant's right to use the name
30 applied for in this state.

31 10 Foreign Partnerships. Amend RSA 305-A:2-e, I-II to read as follows:

32 I. Except as authorized by paragraphs II and III, a foreign partnership name, based upon
33 the records of the secretary of state, shall [~~be distinguishable from, and~~] not **be** the same as [~~, or~~
34 ~~likely to be confused with or mistaken for~~]:

35 (a) The name of an entity incorporated, authorized, formed, or registered to do business
36 in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A,
37 RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

1 (b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-
2 C.

3 (c) The fictitious name of another foreign corporation authorized to transact business in
4 this state.

5 (d) The name of an agency or instrumentality of the United States or this state or a
6 subdivision thereof.

7 (e) The name of any political party recognized under RSA 652:11, unless written consent
8 is obtained from the authorized representative of the political organization.

9 (f) The name “farmers’ market” unless the entity meets the definition of “farmers’
10 market” established in RSA 21:34-a, V.

11 ***I-a. The secretary of state shall notify the applicant if the name applied for is likely***
12 ***to be confused with or mistaken for one or more of the names described in paragraph I, as***
13 ***determined from review of the records of the secretary of state.***

14 II. A foreign partnership may apply to the secretary of state for authorization to use a name
15 that [~~is not distinguishable from, or~~] is the same as [~~, or likely to be confused with or mistaken for~~]
16 one or more of the names described in paragraph I, as determined from review of the records of the
17 secretary of state. The secretary of state shall authorize use of the name applied for if:

18 (a) The holder or holders of the name as described in paragraph I gives written consent
19 to use the name that [~~is not distinguishable from or likely to be confused with or mistaken for the~~
20 ~~name of the applying foreign partnership; or if the name~~] is the same [~~, one or more words are added~~
21 ~~to the name to make the new name distinguishable from the other name~~]; or

22 (b) The other entity consents to the use in writing and submits an undertaking in a form
23 satisfactory to the secretary of state to change its name to a name that is [~~distinguishable from, and~~]
24 not the same as [~~, or likely to be confused with or mistaken for~~] the name of the applying foreign
25 partnership; or

26 (c) The applicant delivers to the secretary of state a certified copy of the final judgment
27 of a court of competent jurisdiction establishing the applicant's right to use the name applied for in
28 this state.

29 11 Trade Names. Amend RSA 349:1, IV(a)-(b) to read as follows:

30 IV.(a) Except as authorized by subparagraphs (b) and (c), a trade name, based upon the
31 records of the secretary of state, shall [~~be distinguishable from, and~~] not **be** the same as [~~, or likely to~~
32 ~~be confused with or mistaken for~~]:

33 (1) The name of an entity incorporated, authorized, formed, or registered to do
34 business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A,
35 RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

36 (2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or
37 RSA 304-C.

1 (3) The fictitious name of another foreign corporation authorized to transact business
2 in this state.

3 (4) The name of an agency or instrumentality of the United States or this state or a
4 subdivision thereof.

5 (5) The name of any political party recognized under RSA 652:11, unless written
6 consent is obtained from the authorized representative of the political organization.

7 ***(aa) The secretary of state shall notify the applicant if the name applied for is***
8 ***likely to be confused with or mistaken for one or more of the names described in***
9 ***subparagraph (a), as determined from review of the records of the secretary of state.***

10 (b) An applicant may apply to the secretary of state for authorization to use a name that
11 ~~[is not distinguishable from, or]~~ is the same as~~[-or likely to be confused with or mistaken for]~~ one or
12 more of the names described in subparagraph (a), as determined from review of the records of the
13 secretary of state. The secretary of state shall authorize use of the name applied for if:

14 (1) The holder or holders of the name as described in subparagraph (a) gives written
15 consent to use the name that ~~[is not distinguishable from or likely to be confused with or mistaken~~
16 ~~for the name of the applying trade name; or if the name]~~ is the same~~[-one or more words are added~~
17 ~~to the name to make the new name distinguishable from the other name];~~ or

18 (2) The other entity consents to the use in writing and submits an undertaking in a
19 form satisfactory to the secretary of state to change its name to a name that is ~~[distinguishable from,~~
20 ~~and]~~ not the same as~~[-or likely to be confused with or mistaken for]~~ the name of the applying trade
21 name; or

22 (3) The applicant delivers to the secretary of state a certified copy of the final
23 judgment of a court of competent jurisdiction establishing the applicant's right to use the name
24 applied for in this state.

25 12 Effective Date. This act shall take effect 60 days after its passage.