

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature Second Regular Session - 2012

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 425

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO IDAHO COMMEMORATIVE SILVER MEDALLIONS; AMENDING SECTION 67-1223, IDAHO CODE, TO PROVIDE THAT THE STATE TREASURER, AS AN AGENT OF THE STATE OF IDAHO, IS AUTHORIZED TO OBTAIN, MAINTAIN AND PROTECT A FEDERAL TRADEMARK ON THE DESIGN OF EACH SERIES OF MEDALLIONS ISSUED AND TO REMOVE LANGUAGE STATING THAT IT IS THE DUTY OF THE STATE TREASURER TO PROTECT EACH AND EVERY TRADEMARK.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-1223, Idaho Code, be, and the same is hereby amended to read as follows:

67-1223. IDAHO COMMEMORATIVE SILVER MEDALLIONS ISSUED BY THE STATE TREASURER. (1) The state treasurer is hereby authorized to issue a series of commemorative silver medallions for sale to the public. Each series shall commemorate Idaho history, people or resources and may bear the great seal of the state of Idaho. Medallions shall contain one (1) ounce of fine silver, shall be alloyed to at least ninety percent (90%) fineness, and shall not constitute legal tender. No sales or use tax shall be imposed on the sale or purchase of medallions from the state treasurer or any agent designated by the state treasurer. Only mints which have contracted with the state treasurer may produce Idaho commemorative silver medallions. Any other production of such medallions is a misdemeanor.

(2) The state treasurer shall make such arrangements as the state treasurer considers appropriate for the production, promotion, distribution and sale of medallions, and shall ensure that all moneys received from the sale of medallions are paid into the state treasury and credited to the state veterans cemetery maintenance fund created in section 65-107, Idaho Code. Provided however, the state treasurer is hereby authorized to retain such amounts from the sale of medallions as necessary to repay costs incurred by the state treasurer in the promotion, shipping and handling of medallions. Provided further, if the initial cost to mint a series of medallions is provided by moneys from another state fund, then such other fund shall first be reimbursed for such costs before the remaining revenues are credited to the state veterans cemetery maintenance fund. The revenues shall be used for the purposes designated in section 65-107, Idaho Code.

(3) The state treasurer, in collaboration with a committee of legislators comprised of representatives appointed by the speaker of the house of representatives and senators appointed by the president pro tempore of the senate, shall determine the number of medallions to be issued in a series, shall determine the number of series to be issued, and shall approve the design of medallions for each series.

(4) The state treasurer, as agent of the state of Idaho, is hereby ~~directed~~ authorized to obtain, maintain and protect a federal trademark on

1 the design of each series of medallions issued, and is further authorized,
2 after consultation with the attorney general, to register for a state trade-
3 mark under chapter 5, title 48, Idaho Code. The design of each series of
4 Idaho commemorative silver medallions is the property of the state of Idaho,
5 and the state of Idaho and the taxpayers shall be deemed to have a trademark
6 on each design. ~~It is the duty of the state treasurer to protect each and~~
7 ~~every trademark.~~

8 (a) If a person reproduces a trademark medallion design and distributes
9 any product using any such design for the purpose of direct or indirect
10 commercial advantage, the person shall owe to the state treasurer, as
11 the agent of the state of Idaho, a royalty fee in addition to the rev-
12 enues derived from the sale of products using a medallion design. Any
13 person who reproduces a trademark design and distributes any product
14 with a medallion design in violation of the provisions of this subsec-
15 tion (4), shall be deemed to be an infringer of the state of Idaho's
16 trademark. The state treasurer, through the office of the attorney
17 general, is entitled to institute an action for any infringement of that
18 particular right committed while the state treasurer or his designated
19 agent has custody of the trademark.

20 (b) A court having jurisdiction of a civil action arising under this
21 subsection (4) may grant such relief as it deems appropriate. At any
22 time while an action under this subsection (4) is pending, the court may
23 order the impounding, on such terms as it deems reasonable, of all prod-
24 ucts in inventory of the infringer which are in violation of law.

25 (c) An infringer on the state of Idaho's trademark pursuant to this
26 subsection (4) is liable for any profits the infringer has incurred re-
27 producing a trademark design and distributing products using the design
28 for commercial purposes or is liable for statutory damages as provided
29 in paragraph (d) of this subsection (4).

30 (d) The state treasurer, as agent of the trademark owner, may elect,
31 at any time before final judgment is rendered, to recover, instead of
32 actual damages and profits, an award of statutory damages for all in-
33 fringements involved in the action, with respect to a trademark medal-
34 lion design for which any one (1) infringer is liable individually, or
35 for which any two (2) or more infringers are liable jointly and sever-
36 ally, in a sum of not less than two hundred fifty dollars (\$250) or more
37 than ten thousand dollars (\$10,000), as the court considers just.

38 (e) In any civil action under this subsection (4), the court may allow
39 the recovery of full costs by or against any party and may also award
40 reasonable attorney's fees to the prevailing party as part of the costs.

41 (5) Medallions in the first series issued shall commemorate "Support of
42 Idaho's Heroes" to honor the courage and sacrifice of all Idaho servicemen
43 and veterans of the United States armed forces and Idaho military branches of
44 the armed services.