

2993.

FEE—UNDER SECTION 6240-4, GENERAL CODE, SECRETARY OF STATE MAY RECEIVE FEE OF ONE DOLLAR ONLY FOR EACH STATEMENT FILED REGARDLESS OF NUMBER OF NAMES, BRANDS OR OTHER MARKS OF OWNERSHIP DESCRIBED THEREIN.

*SYLLABUS:*

*When a written statement containing a description of one or more names, brands, designs, trade marks, devices or other marks of ownership is filed with the Secretary of State as required by Section 6240-1, et seq., General Code, the Secretary of State shall receive a fee of one dollar for each statement so filed regardless of the number of names, brands, designs, trade marks, devices or other marks of ownership described in such statement.*

COLUMBUS, OHIO, August 4, 1934

HON. GEORGE S. MYERS, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—This acknowledges receipt of your recent request for my opinion which reads:

“Your attention is directed to section 6240-1, -2, -3 and -4, General Code of Ohio, authorizing the registration of names, marks, brands, etc., of ownership, and particularly to section 6240-4 providing for the payment of fees for such registration.

The practice of this department for many years has been to collect a fee of one dollar for each mark, name or brand registered rather than a fee of one dollar for the statement which may contain a description of more than one mark, name or brand.

This practice has recently been questioned, the contention being that the fee collected by the Secretary of State should be one dollar for the statement even though such statement may describe for registration more than one mark, name or brand.

Your opinion is respectfully requested as to whether the practice of the department in collecting a fee of one dollar for each mark, name or brand is in compliance with section 6240-4, or whether the fee should be one dollar for each statement filed regardless of the number of marks, names and brands described in the statement.”

Sections 6240-1 and 6240-4 of the General Code read as follows:

Sec. 6240-1. “That any and all persons or corporations who may be the owners of cans, tubs, firkins, boxes, bottles, casks, barrels, kegs, cartons, tanks, fountains, vessels or containers, with his, her, its or their names, brands, designs, trade-marks, devices, or other marks of ownership stamped, impressed, labeled, blown in or otherwise marked thereon, may file with the secretary of state, and also with the clerk of the court of common pleas of the county in which such person or persons or corporation may have his, her, its or their principal place of business, a written statement or description verified by affidavit of such owner or his, her or its agent, of the names, brands, designs, trade marks, devices or other marks of ownership so used by him, her, it or them, and of the said

article or articles upon which the same are used; or if such principal place of business be without this state, then such written statement or description so verified may be filed with the clerk of the court of common pleas, of any county in this state."

Sec. 6240-4. "The secretary of state and the clerk of the court of common pleas shall each receive a fee of one dollar (\$1.00), for each statement and certificate of publication filed, and also a fee of one dollar (\$1.00), for each certified copy of such statement and certificate of publication."

It is a familiar rule that the intention of the legislature embodied in a statute is to be obtained primarily from the language used in such statute. Where the language is plain and unambiguous, then no more can be necessary than to expound the words used in their natural and ordinary sense, and the statute must be given effect according to its plain and obvious meaning.

In construing Section 6240-4, General Code, with reference to the fees to be received by the Secretary of State, the language of Section 6240-1 must be considered in connection therewith. A reading of Section 6240-1 will disclose that the word "statement" as used therein appears in the singular form while the words "names, brands, designs, trade marks, devices or other marks" are used in the plural form, and it therefore seems to me to be clear and apparent that said section contemplates that there might be incorporated in one statement required to be filed, a description of more than one name, brand, design, trade mark or device.

The code sections involved herein have been upon the statute books for some time and the interpretation placed upon Section 6240-4 has been to the effect that the Secretary of State shall receive a fee of one dollar for each name, brand, design, etc., which practice has been followed by his department for many years. It has been held in this state that:

"Administrative interpretation of a given law, while not conclusive, is, if long continued, to be reckoned with most seriously and is not to be disregarded and set aside unless judicial construction makes it imperative so to do." *Industrial Commission vs. Brown*. 92 O. S. 309. 311.

I am fully aware that this is a well recognized principle of statutory construction; however, in view of the fact that the language of the statute is manifestly clear and free from all ambiguity, it seems to me that it is inapplicable in the present instance.

Therefore, in view of the language employed in Section 6240-1 and the fact that Section 6240-4 provides for a fee of one dollar for each statement filed, I am of the opinion that the Secretary of State may collect a fee of one dollar only for each statement filed as required by Section 6240-1, regardless of the number of names, brands, designs, trade marks, devices or other marks of ownership described in such statement.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*