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ACTION Introduced by Mr. McClellan.

By Mr McCLELLAN (by request)

S 2595 A bill to amend the act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of international conventions, and for other purposes," approved July 5, 1946, as amended Referred to the Committee on the Judiciary

Mr McCLELLAN Mr President, as chairman of the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, I introduce, by request of the Department of Commerce, a bill to amend the act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of international conventions, and for other purposes," approved July 5, 1946, as amended

The Trademark Act, as amended, requires that the prospective registrant of a trademark make actual use of the mark in commerce prior to applying for registration of the mark It is contended that the inability of a business firm to apply for registration of a mark prior to actual use represents a considerable hardship and occasionally results in the loss of substantial sums of money devoted to sales and merchandising campaigns The proposed legislation would permit potential users of marks to apply for registration on the basis of their intent to use a mark rather than its actual use The date of application would be considered as equivalent to actual use under present law insofar as establishing rights relative to other actual or potential users of the mark No actual registration, however, may occur until the mark has been used in commerce, nor can there be an assignment of the application prior to the use except in special circumstances

Bills on this subject have been introduced in most recent Congresses The bill which I am introducing today is identical to S 3110 of the 91st Congress, with the exception of the fee schedule specified in section 7