

DRAFT LEGISLATION - NOT REVIEWED BY LEGAL COUNSEL

This draft was developed through legal research and analysis of Title 36 law, with assistance from AI tools for legislative format and structure. The author is not an attorney. This is intended as a discussion draft and starting point. Any legislator considering introduction should have this reviewed and refined by legislative counsel and attorneys specializing in congressional charter law.

Version 4.0 - February 2026

A BILL

To amend chapter 309 of title 36, United States Code, to eliminate exclusive monopoly rights over common descriptive words and phrases while preserving trademark protections for the Boy Scouts of America.

IN THE HOUSE OF REPRESENTATIVES

[Date]

Mr./Ms. _____ introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend chapter 309 of title 36, United States Code, to eliminate exclusive monopoly rights over common descriptive words and phrases while preserving trademark protections for the Boy Scouts of America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Youth Organization Competition Act of 2026".

SECTION 2. FINDINGS.

Congress finds the following:

- (a) The Boy Scouts of America was granted a congressional charter on June 15, 1916, under chapter 309 of title 36, United States Code.
- (b) Section 30905 of title 36, United States Code, grants the Boy Scouts of America "exclusive right to use emblems, badges, descriptive or designating marks, and words or phrases the corporation adopts."
- (c) This exclusive right has been interpreted and enforced by the Boy Scouts of America as a monopoly over common descriptive terms related to youth outdoor education and character development, including but not limited to variations of the words "scout," "scouting," "boy scout," and related terminology.

(d) Since 1916, the Boy Scouts of America has used this monopoly grant to prevent other youth organizations from emerging to provide similar character development and outdoor education programs.

(e) The Boy Scouts of America possesses adequate protection for its specific organizational identity through existing federal trademark law under the Lanham Act (15 U.S.C. § 1051 et seq.), which protects against consumer confusion and unfair competition.

(f) The exclusive monopoly grant in section 30905 extends beyond trademark protection and creates an anti-competitive barrier that prevents other organizations from using common descriptive terminology to describe their youth programs.

(g) Multiple youth organizations have been threatened with legal action or prevented from operating under names using common descriptive terms that the Boy Scouts of America claims as exclusive property under its congressional charter.

(h) The monopoly grant is no longer necessary or appropriate given:

- (1) The availability of adequate trademark protection under federal law;
- (2) Changes in the Boy Scouts of America's mission and membership policies since 1916;
- (3) The public interest in promoting competition and choice in youth programming; and
- (4) The fundamental principle that common descriptive words should not be subject to monopoly ownership.

(i) Trademark protection under federal law provides sufficient protection against consumer confusion while allowing appropriate competition in the marketplace of youth organizations.

SECTION 3. AMENDMENTS TO TITLE 36, UNITED STATES CODE.

(a) **REPEAL OF MONOPOLY PROVISION** – Section 30905 of title 36, United States Code, is amended to read as follows:

> **§ 30905. Protection of trademarks and service marks**

> (a) **TRADEMARK PROTECTION** – The corporation may register and protect its trademarks, service marks, emblems, badges, and other designating marks under the provisions of the Act of July 5, 1946 (commonly known as the Lanham Act; 15 U.S.C. § 1051 et seq.), and any successor provisions, to the same extent and with the same rights and remedies as any other person or entity.

> (b) **NO EXCLUSIVE RIGHT TO COMMON DESCRIPTIVE WORDS** – Notwithstanding subsection (a), the corporation shall not have any exclusive right, by virtue of this charter, to the use of common descriptive or generic words or phrases, including but not limited to "scout," "scouts," "scouting," "boy scout," "girl scout,"

"second class," "first class," or any variation or combination thereof, except as may be protected under applicable trademark law based on acquired distinctiveness, secondary meaning, or other grounds recognized under the Lanham Act.

> (c) **PRESERVATION OF VESTED RIGHTS** – This section does not affect any vested rights existing as of the date of enactment of the Youth Organization Competition Act of 2026, including but not limited to:

(1) any trademark or service mark rights acquired through registration under the Lanham Act or any other applicable law; or

(2) any common law trademark or service mark rights acquired through actual use in commerce, whether or not such marks were designated with TM, SM, ®, or similar notice.

> (d) **NO PRIVATE RIGHT OF ACTION BASED ON CHARTER** – No private right of action shall exist based solely on this charter for enforcement of any claimed exclusive rights. All enforcement actions shall be governed exclusively by applicable trademark law and remedies available thereunder.

(b) **CONFORMING AMENDMENT** – The table of sections at the beginning of chapter 309 of title 36, United States Code, is amended by striking the item relating to section 30905 and inserting the following:

"30905. Protection of trademarks and service marks."

SECTION 4. EFFECT ON EXISTING RIGHTS AND OBLIGATIONS.

(a) **NO EFFECT ON VALID TRADEMARKS** – Nothing in this Act shall affect:

(1) any valid trademark or service mark registration held by the Boy Scouts of America under the Lanham Act or any other applicable law; or

(2) any common law trademark or service mark rights acquired by the Boy Scouts of America through actual use in commerce, whether or not such marks were designated with TM, SM, ®, or similar notice.

(b) **NO EFFECT ON CORPORATE ORGANIZATION** – Nothing in this Act shall affect the federal incorporation of the Boy Scouts of America or any other provision of chapter 309 of title 36, United States Code, except as specifically amended by section 3 of this Act.

(c) **PENDING ACTIONS** – Any action pending on the date of enactment of this Act that is based solely on the monopoly rights previously granted under section 30905 of title 36, United States Code, shall be dismissed without prejudice to refiling under applicable trademark law.

(d) **CONSENT DECREES AND SETTLEMENTS** – Any consent decree, settlement agreement, or similar arrangement entered into based on the exclusive rights previously granted under section 30905 of title 36, United States Code, shall remain in effect according to its terms, but may be modified or dissolved upon petition by any affected party on the grounds that the legal basis for such agreement has been eliminated by this Act.

SECTION 5. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act and the application of the provision to other persons or circumstances shall not be affected.

SECTION 6. EFFECTIVE DATE.

This Act shall take effect 90 days after the date of enactment.

SECTION 7. REPORT TO CONGRESS.

Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report examining:

- (a) The effect of this Act on competition in youth programming and outdoor education;
- (b) The number and nature of new youth organizations formed following enactment of this Act;
- (c) Any litigation or disputes arising from the changes made by this Act;
- (d) The adequacy of trademark protection under the Lanham Act for the Boy Scouts of America and similar organizations; and
- (e) Recommendations, if any, for further legislative action.

LEGISLATIVE HISTORY AND JUSTIFICATION

PURPOSE AND SUMMARY

The Youth Organization Competition Act of 2026 eliminates the anti-competitive monopoly grant provided to the Boy Scouts of America in section 30905 of title 36, United States Code, while preserving adequate trademark protection under federal law.

BACKGROUND

In 1916, Congress granted the Boy Scouts of America a federal charter that included, in what is now section 30905, "the exclusive right to use emblems, badges, descriptive or designating marks, and words or phrases the corporation adopts." This provision has been interpreted and enforced as granting monopoly control over common descriptive words related to scouting and youth outdoor education.

The terminology BSA claims as exclusive was created by Robert Baden-Powell in the United Kingdom in 1907, nine years before BSA's charter. Baden-Powell's Scouting movement used terms like "scout," "scouting," "patrol," and rank designations that became international terminology. The Boy Scouts of America, founded in 1910, adopted this existing terminology. BSA's charter grants monopoly control over language that neither BSA nor the United States created, and which is used freely by youth organizations in 176+ countries worldwide.

This monopoly grant goes far beyond the protection available under trademark law. While trademark law protects against consumer confusion by preventing others from using marks that are likely to be confused with established marks, the BSA's charter has been used to claim exclusive ownership of common descriptive terminology regardless of likelihood of confusion.

HISTORICAL ENFORCEMENT

Since receiving its charter, the Boy Scouts of America has used section 30905 to prevent potential competitors from emerging:

- In 1917, the BSA sued the United States Boy Scouts (formerly American Boy Scouts), resulting in that organization's dissolution.
- In 1989, the BSA threatened the Wilderness Scouts of Blairsville, Georgia.
- Multiple other organizations have been prevented from using variations of common scouting terminology in their names or descriptions.

CHANGED CIRCUMSTANCES

Several circumstances have changed since 1916 that make this monopoly grant inappropriate:

1. **Development of Modern Trademark Law:** The Lanham Act (1946) and subsequent trademark jurisprudence provide comprehensive protection against consumer confusion and unfair competition. The BSA does not need a congressional monopoly when federal trademark law provides adequate protection.
2. **Changes in BSA Mission and Membership:** The BSA has substantially changed its mission, membership policies, and programs since 1916, demonstrating that the organization has evolved while maintaining its identity under trademark law. The rebranding to "Scouting America" (2024) shows BSA's ability to adapt its public presentation while trademark protections preserve its organizational identity.
3. **Public Interest in Competition:** There is significant public demand for alternative youth organizations with different values, approaches, or philosophies. The monopoly grant prevents these organizations from accurately describing their programs.

4. **Fundamental Principle Against Word Monopolies:** American law generally disfavors granting monopoly ownership over common descriptive words. Such monopolies restrict speech and prevent accurate description of services.

TRADEMARK PROTECTION IS ADEQUATE

The Boy Scouts of America will retain full protection under federal trademark law after this Act:

- **Protection of BSA name and logos:** The specific name "Boy Scouts of America," its logos, emblems, and distinctive badges remain protected as trademarks.
- **Protection against consumer confusion:** Other organizations still cannot use BSA's trademarks in a way that would cause consumer confusion about affiliation or sponsorship.
- **Protection of acquired distinctiveness:** If BSA can demonstrate that certain terms have acquired secondary meaning specifically identifying BSA (such as "Order of the Arrow" or "Eagle Scout"), those marks may be protectable under trademark law.
- **Protection of common law trademark rights:** BSA retains all trademark rights acquired through actual use in commerce, whether or not such marks were formally designated with TM, SM, ®, or similar notice. This includes protection for emblems, badges, and other designating marks used consistently throughout BSA's history.
- **Adequate remedies:** Trademark law provides injunctive relief, damages, and other remedies against infringement.

WHAT THIS ACT DOES NOT DO

This Act does NOT:

- Remove BSA's federal charter or corporate status
- Affect any of BSA's other charter provisions
- Allow other organizations to use BSA's specific name, logos, or registered trademarks
- Permit creation of consumer confusion about organizational affiliation
- Retroactively invalidate BSA's valid trademark registrations
- Strip protection from BSA's historically-used emblems and marks, whether registered or not
- Affect BSA's ability to protect its marks under trademark law

WHAT THIS ACT DOES

This Act:

- Eliminates the monopoly over common descriptive words like "scout," "scouting," and "boy scout"
- Allows other youth organizations to use these common terms to describe their programs
- Requires BSA to rely on trademark law (like every other organization) rather than a congressional monopoly
- Promotes competition and choice in youth programming
- Preserves adequate protection for BSA's organizational identity, including both registered marks and common law rights acquired through use

PROTECTION OF COMMON LAW TRADEMARK RIGHTS

Section 3(a)(c)(2) and Section 4(a)(2) explicitly preserve BSA's common law trademark rights acquired through actual use in commerce. This provision recognizes that:

- Trademark rights can be established through use alone, without registration
- The use of TM, SM, or ® symbols is not required to establish trademark rights
- BSA has used various emblems, badges, and marks throughout its 110+ year history
- These marks deserve protection under trademark law regardless of whether they were formally designated with trademark symbols

This protection ensures that BSA loses nothing except the anti-competitive monopoly over common descriptive words. All legitimate trademark rights—whether registered or acquired through use—remain fully protected.

CONSTITUTIONAL CONSIDERATIONS

Interstate Commerce: Congress has clear authority under the Commerce Clause to regulate organizations operating in interstate commerce. The BSA operates nationally across all states.

Intellectual Property Clause: Congress has authority to grant exclusive rights to authors and inventors. However, this authority has been understood to require limits on monopoly grants, particularly for descriptive language.

First Amendment: The monopoly grant potentially raises First Amendment concerns by restricting the ability of other organizations to accurately describe their programs using common descriptive language.

COMPARISON TO GIRL SCOUTS

The Girl Scouts of the USA received a similar congressional charter in 1950 (now codified at 36 U.S.C. §§ 80301-80308). Section 80305 grants similar exclusive rights to "emblems, badges, descriptive or designating marks, and words or phrases."

Congress may wish to consider similar amendments to the Girl Scouts' charter to ensure consistency and promote competition. However, this Act addresses only the Boy Scouts charter to avoid complexity and ensure focused consideration of each organization.

RELATIONSHIP TO EXISTING LAW

Lanham Act (15 U.S.C. § 1051 et seq.): This Act makes BSA subject to the same trademark law as every other organization, rather than granting special monopoly rights through its congressional charter.

Antitrust Law: This Act removes an exemption from normal competitive principles. Organizations granted congressional charters have generally been understood to have some exemption from antitrust scrutiny. This Act clarifies that BSA's charter does not grant monopoly power over common descriptive terminology.

State Law: This Act does not preempt state trademark or unfair competition law, which may provide additional protections.

ANTICIPATED EFFECTS

Increased Competition: Other youth organizations will be able to accurately describe their programs using common scouting terminology.

Consumer Choice: Families will have more options for youth programming with different values, philosophies, or approaches.

Innovation: Competition typically drives innovation and improved services.

No Harm to BSA: BSA will retain trademark protection (both registered and common law) and continue operating as before, but will not be able to use monopoly power to suppress competitors.

OPPOSITION ARGUMENTS AND RESPONSES

Argument 1: "This will cause consumer confusion."

Response: Trademark law specifically addresses consumer confusion. Organizations cannot use marks in a way that confuses consumers about affiliation or sponsorship. What this Act does is allow organizations to use common descriptive words where there is NO consumer confusion.

Argument 2: "BSA's charter rights are vested property rights that cannot be eliminated."

Response: Congressional charters are grants of privilege, not vested property rights. Congress has plenary authority to amend or repeal charter provisions. Moreover, subsection (c) of the amended section 30905 explicitly preserves any vested rights that may exist, including both registered and common law trademark rights.

Argument 3: "This undermines BSA's brand value built up over 110+ years."

Response: BSA's brand value resides in its specific name, logos, reputation, and programs – all of which remain protected under trademark law, including common law rights acquired through decades of use. What BSA loses is the ability to prevent competitors from using common descriptive language. Brand value based on monopoly suppression of competition is not a legitimate interest worthy of congressional protection.

Argument 4: "BSA didn't always use TM symbols, so this strips protection from historical marks."

Response: The Act explicitly preserves common law trademark rights in two separate sections (3(a)(c)(2) and 4(a)(2)). These provisions protect all marks acquired through actual use in commerce, whether or not they were designated with TM, SM, or ® symbols. BSA loses no legitimate trademark protection.

Argument 5: "The charter was a bargain – Congress granted rights in exchange for BSA's public service."

Response: BSA continues its public service and retains its federal charter and all attendant privileges except the anti-competitive monopoly grant. The "bargain" was for federal incorporation and recognition, not for perpetual monopoly over common words. Even viewed as a bargain, changed circumstances make the original terms no longer appropriate. The BSA of 1916 and the BSA of 2026 are fundamentally different organizations operating in a radically different legal and social landscape. What might have been reasonable in 1916—when trademark law was underdeveloped and BSA needed protection to establish itself—is no longer justified when comprehensive federal trademark law provides adequate protection.

Argument 6: "Congress should not interfere with a 110-year-old charter."

Response: Congress has authority to amend charters when circumstances change or when the original grant proves problematic. The longevity of a provision does not make it immune from legislative correction. Congress amended BSA's charter in 1964 (Pub. L. 88-504) and restated it entirely in 1998 (Pub. L. 105-225).

LEGISLATIVE PRECEDENTS

Congress has previously modified congressional charters when circumstances warranted:

- BSA's own charter was amended in 1964 and completely restated in 1998
- Other Title 36 organizations have had their charters amended multiple times
- Congress regularly revises federal corporate charters to reflect changed circumstances

FISCAL IMPACT

This Act has no direct fiscal impact on the federal budget. It does not create any new federal programs, mandates, or expenditures.

The Comptroller General report required by section 7 will require minimal resources as it involves analysis of publicly available information about youth organizations and litigation.

COMMITTEE CONSIDERATIONS

The Committee should consider:

1. Whether similar amendments should be made to other Title 36 charters that contain monopoly grants
2. Whether a transition period longer than 90 days is appropriate
3. Whether additional protections or clarifications are needed
4. Whether to hold hearings on the effect of charter monopoly grants generally

SECTION-BY-SECTION ANALYSIS

Section 1 – Short Title: Provides that the Act may be cited as the "Youth Organization Competition Act of 2026."

Section 2 – Findings: Establishes the factual and legal basis for the amendments, including the history of the BSA charter, the monopoly grant, enforcement actions, and changed circumstances since 1916.

Section 3 – Amendments:

- Subsection (a) replaces section 30905 with new language that:
- Affirms BSA's right to register and protect trademarks under the Lanham Act
- Explicitly denies exclusive rights to common descriptive words
- Preserves existing vested rights, including both registered and common law trademark rights
- Eliminates private right of action based solely on the charter
- Subsection (b) makes conforming change to table of sections

Section 4 – Effect on Existing Rights: Clarifies that valid trademark registrations AND common law trademark rights remain unaffected, pending litigation is dismissed without prejudice to refile under trademark law, and consent decrees remain in effect but may be modified.

Section 5 – Severability: Standard severability provision to ensure that if any part is held invalid, the remainder remains effective.

Section 6 – Effective Date: 90-day delay allows BSA and affected parties to understand the changes and adjust practices.

Section 7 – Report to Congress: Requires GAO to study the effects of the Act after 2 years and report findings and recommendations.

CONCLUSION

The Youth Organization Competition Act of 2026 eliminates an outdated and anti-competitive monopoly grant while preserving adequate protection for the Boy Scouts of America's organizational identity through modern trademark law. This Act promotes competition, consumer choice, and innovation in youth programming while respecting the BSA's legitimate trademark interests—both registered and acquired through use.

The monopoly grant made sense in 1916 when trademark law was underdeveloped and the BSA needed protection to establish itself. More than a century later, with comprehensive federal trademark law and a well-established BSA brand, the monopoly grant is no longer necessary or appropriate. BSA will retain full trademark protection (including common law rights for all marks used throughout its history) while other organizations gain the freedom to use common descriptive language to accurately describe their youth programs.

This Act represents a measured, appropriate modernization of BSA's congressional charter that balances respect for the organization's history and legitimate interests with the public interest in competition and free use of common descriptive language.

Note: This draft bill is not legal advice and has not been reviewed by licensed attorneys. It is intended as a starting point for legislative consideration and should be reviewed by counsel before introduction.