
By: Delegates Montague, T. Murphy, and Harkins

Introduced and read first time: February 1, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Trademark Counterfeiting**

3 FOR the purpose of creating the criminal offense of trademark counterfeiting;
4 establishing certain penalties; defining certain terms; and generally relating to the
5 criminal offense of trademark counterfeiting.

6 BY adding to
7 Article 27 - Crimes and Punishments
8 Section 48A
9 Annotated Code of Maryland
10 (1992 Replacement Volume and 1995 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article 27 - Crimes and Punishments**

14 48A.

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (2) "COUNTERFEIT MARK" MEANS:

18 (I) AN UNAUTHORIZED REPRODUCTION OR COPY OF
19 INTELLECTUAL PROPERTY; OR

20 (II) INTELLECTUAL PROPERTY AFFIXED TO ITEMS KNOWINGLY
21 SOLD, OFFERED FOR SALE, MANUFACTURED, OR DISTRIBUTED, OR IDENTIFYING
22 SERVICES OFFERED OR RENDERED, WITHOUT THE AUTHORITY OF THE OWNER OF
23 THE INTELLECTUAL PROPERTY.

24 (3) "INTELLECTUAL PROPERTY" MEANS A TRADEMARK, SERVICE
25 MARK, TRADE NAME, LABEL, TERM, DEVICE, DESIGN, OR WORD ADOPTED OR USED
26 BY A PERSON TO IDENTIFY THE PERSON'S GOODS OR SERVICES.

27 (4) "RETAIL VALUE" MEANS:

28 (I) THE TRADEMARK COUNTERFEITER'S SELLING PRICE FOR THE
29 ITEMS OR SERVICES BEARING OR IDENTIFIED BY THE COUNTERFEIT MARK; OR

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1 (II) THE TRADEMARK COUNTERFEITER'S SELLING PRICE OF THE
2 FINISHED PRODUCT, IF ITEMS BEARING A COUNTERFEIT MARK ARE COMPONENTS
3 OF A FINISHED PRODUCT.

4 (B) A PERSON COMMITS THE OFFENSE OF TRADEMARK COUNTERFEITING
5 WHEN THE PERSON WILLFULLY MANUFACTURES, PRODUCES, USES, DISPLAYS,
6 ADVERTISES, DISTRIBUTES, OFFERS FOR SALE, SELLS, OR POSSESSES WITH THE
7 INTENT TO SELL OR DISTRIBUTE ITEMS OR SERVICES BEARING OR IDENTIFIED BY A
8 COUNTERFEIT MARK.

9 (C) A PERSON CONVICTED OF TRADEMARK COUNTERFEITING WHERE THE
10 AGGREGATE RETAIL VALUE OF THE ITEMS OR SERVICES IS \$ 1,000 OR GREATER IS
11 GUILTY OF A FELONY AND SHALL:

12 (1) RESTORE ALL OF THE ITEMS TO THE OWNER OF THE INTELLECTUAL
13 PROPERTY; AND

14 (2) BE FINED NOT MORE THAN \$10,000 OR IMPRISONED FOR NOT MORE
15 THAN 15 YEARS OR BOTH.

16 (D) (1) A PERSON CONVICTED OF TRADEMARK COUNTERFEITING WHERE
17 THE AGGREGATE RETAIL VALUE OF THE ITEMS OR SERVICES IS LESS THAN \$1,000 IS
18 GUILTY OF A MISDEMEANOR AND SHALL:

19 (I) RESTORE ALL OF THE ITEMS TO THE OWNER OF THE
20 INTELLECTUAL PROPERTY; AND

21 (II) BE FINED NOT MORE THAN \$1,000 OR IMPRISONED FOR NOT
22 MORE THAN 18 MONTHS OR BOTH.

23 (2) ALL ACTIONS OR PROSECUTIONS FOR TRADEMARK
24 COUNTERFEITING WHERE THE AGGREGATE RETAIL VALUE OF THE ITEMS OR
25 SERVICES IS LESS THAN \$1,000 SHALL BE COMMENCED WITHIN 2 YEARS AFTER THE
26 COMMISSION OF THE OFFENSE.

27 (E) A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF
28 SUBSECTION (D) OF THIS SECTION IS SUBJECT TO A FINE OF NOT MORE THAN \$5,000.

29 (F) AN ITEM BEARING A COUNTERFEIT MARK IS SUBJECT TO SEIZURE BY A
30 LAW ENFORCEMENT OFFICER FOR PRESERVATION OF THE ITEM FOR RESTORATION
31 TO THE OWNER OF THE INTELLECTUAL PROPERTY.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 1996.