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**By: Senators Stone and Pica**

Introduced and read first time: January 31, 1996

Assigned to: Judicial Proceedings

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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

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, USES, DISPLAYS, ADVERTISES,  
6 DISTRIBUTES, OFFERS FOR SALE, SELLS, OR POSSESSES WITH THE INTENT TO SELL  
7 OR DISTRIBUTE ITEMS OR SERVICES BEARING OR IDENTIFIED BY A COUNTERFEIT  
8 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.