

7541

I N S E N A T E

May 15, 2014

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to trademark counterfeiting

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 165.71 of the penal law, as amended by chapter 490
2 of the laws of 1992, is amended to read as follows:
3 S 165.71 Trademark counterfeiting in the [third] FOURTH degree.
4 A person is guilty of trademark counterfeiting in the [third] FOURTH
5 degree when, with the intent to deceive or defraud some other person or
6 with the intent to evade a lawful restriction on the sale, resale,
7 offering for sale, or distribution of goods, he or she manufactures,
8 distributes, sells, or offers for sale goods which bear a counterfeit
9 trademark, or possesses a trademark knowing it to be counterfeit for the
10 purpose of affixing it to any goods.
11 Trademark counterfeiting in the [third] FOURTH degree is a class A
12 misdemeanor.
13 S 2. Section 165.72 of the penal law, as amended by chapter 535 of the
14 laws of 1995, is amended to read as follows:
15 S 165.72 Trademark counterfeiting in the [second] THIRD degree.
16 A person is guilty of trademark counterfeiting in the [second] THIRD
17 degree when, with the intent to deceive or defraud some other person or
18 with the intent to evade a lawful restriction on the sale, resale,
19 offering for sale, or distribution of goods, he or she manufactures,
20 distributes, sells, or offers for sale goods which bear a counterfeit
21 trademark, or possesses a trademark knowing it to be counterfeit for the
22 purpose of affixing it to any goods, and the retail value of all such
23 goods bearing OR INTENDED TO BEAR counterfeit trademarks exceeds one
24 thousand dollars OR THE TOTAL NUMBERS OF ALL SUCH GOODS BEARING COUNTER-
25 FEIT TRADEMARKS EXCEEDS TWO HUNDRED.
26 Trademark counterfeiting in the [second] THIRD degree is a class E
27 felony.
28 S 3. Section 165.73 of the penal law, as amended by chapter 535 of the
29 laws of 1995, is amended to read as follows:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 S 165.73 Trademark counterfeiting in the [first] SECOND degree.

2 A person is guilty of trademark counterfeiting in the [first] SECOND
3 degree when, with the intent to deceive or defraud some other person, or
4 with the intent to evade a lawful restriction on the sale, resale,
5 offering for sale, or distribution of goods, he or she manufactures,
6 distributes, sells, or offers for sale goods which bear a counterfeit
7 trademark, or possesses a trademark knowing it to be counterfeit for the
8 purpose of affixing it to any goods, and the retail value of all such
9 goods bearing OR INTENDED TO BEAR counterfeit trademarks exceeds [one
10 hundred thousand dollars] TWENTY-FIVE THOUSAND DOLLARS OR THE TOTAL
11 NUMBERS OF ALL SUCH GOODS BEARING COUNTERFEIT TRADEMARKS EXCEEDS TWO
12 THOUSAND.

13 Trademark counterfeiting in the [first] SECOND degree is a class [C] D
14 felony.

15 S 4. Section 165.74 of the penal law is renumbered section 165.75 and
16 a new section 165.74 is added to read as follows:

17 S 165.74 TRADEMARK COUNTERFEITING IN THE FIRST DEGREE.

18 A PERSON IS GUILTY OF TRADEMARK COUNTERFEITING IN THE FIRST DEGREE
19 WHEN, WITH THE INTENT TO DECEIVE OR DEFRAUD SOME OTHER PERSON, OR WITH
20 THE INTENT TO EVADE A LAWFUL RESTRICTION ON THE SALE, RESALE, OFFERING
21 FOR SALE, OR DISTRIBUTION OF GOODS, HE OR SHE MANUFACTURES, DISTRIBUTES,
22 SELLS, OR OFFERS FOR SALE GOODS WHICH BEAR A COUNTERFEIT TRADEMARK, OR
23 POSSESSES A TRADEMARK KNOWING IT TO BE COUNTERFEIT FOR THE PURPOSE OF
24 AFFIXING IT TO ANY GOODS, AND THE RETAIL VALUE OF ALL SUCH GOODS BEARING
25 OR INTENDED TO BEAR COUNTERFEIT TRADEMARKS EXCEEDS ONE HUNDRED THOUSAND
26 DOLLARS OR THE TOTAL NUMBERS OF ALL SUCH GOODS BEARING COUNTERFEIT
27 TRADEMARKS EXCEEDS TEN THOUSAND.

28 TRADEMARK COUNTERFEITING IN THE FIRST DEGREE IS A CLASS C FELONY.

29 S 5. This act shall take effect on the first of November next succeed-
30 ing the date on which it shall have become a law.