S T A T E O F N E W Y O R K

3161

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing the crimes of possession of a counterfeit trademark in the first, second and third degrees

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

Section 1. The penal law is amended by adding three new sections 165.75, 165.76 and 165.77 to read as follows:

S 165.75 POSSESSION OF A COUNTERFEIT TRADEMARK IN THE THIRD DEGREE.

A PERSON IS GUILTY OF POSSESSION OF A COUNTERFEIT TRADEMARK IN THE THIRD DEGREE WHEN, WITH THE INTENT TO DECEIVE OR DEFRAUD SOME OTHER PERSON OR WITH THE INTENT TO EVADE A LAWFUL RESTRICTION ON THE SALE, RESALE, OFFERING FOR SALE, OR DISTRIBUTION OF GOODS, HE OR SHE POSSESSES A COUNTERFEIT TRADEMARK KNOWING IT TO BE COUNTERFEIT FOR THE PURPOSE OF AFFIXING IT TO ANY GOODS.

POSSESSION OF A COUNTERFEIT TRADEMARK IN THE THIRD DEGREE IS A CLASS A MISDEMEANOR.

S 165.76 POSSESSION OF A COUNTERFEIT TRADEMARK IN THE SECOND DEGREE.

A PERSON IS GUILTY OF POSSESSION OF A COUNTERFEIT TRADEMARK IN THE SECOND DEGREE WHEN, WITH THE INTENT TO DECEIVE OR DEFRAUD SOME OTHER PERSON OR WITH THE INTENT TO EVADE A LAWFUL RESTRICTION ON THE SALE, RESALE, OFFERING FOR SALE, OR DISTRIBUTION OF GOODS, HE OR SHE POSSESSES MORE THAN ONE HUNDRED COUNTERFEIT TRADEMARKS KNOWING THEM TO BE COUNTERFEIT FOR THE PURPOSE OF AFFIXING THEM TO ANY GOODS.

POSSESSION OF A COUNTERFEIT TRADEMARK IN THE SECOND DEGREE IS A CLASS E FELONY.

S 165.77 POSSESSION OF A COUNTERFEIT TRADEMARK IN THE FIRST DEGREE.

A PERSON IS GUILTY OF POSSESSION OF A COUNTERFEIT TRADEMARK IN THE FIRST DEGREE WHEN, WITH THE INTENT TO DECEIVE OR DEFRAUD SOME OTHER PERSON OR WITH THE INTENT TO EVADE A LAWFUL RESTRICTION ON THE SALE,

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

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RESALE, OFFERING FOR SALE, OR DISTRIBUTION OF GOODS, HE OR SHE POSSESSES MORE THAN ONE THOUSAND COUNTERFEIT TRADEMARKS KNOWING THEM TO BE COUNTERFEIT FOR THE PURPOSE OF AFFIXING THEM TO ANY GOODS.

POSSESSION OF A COUNTERFEIT TRADEMARK IN THE FIRST DEGREE IS A CLASS C FELONY.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.