

3161

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 23, 2009

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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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. The penal law is amended by adding three new sections  
2     165.75, 165.76 and 165.77 to read as follows:  
3     S 165.75 POSSESSION OF A COUNTERFEIT TRADEMARK IN THE THIRD DEGREE.  
4     A PERSON IS GUILTY OF POSSESSION OF A COUNTERFEIT TRADEMARK IN THE  
5     THIRD DEGREE WHEN, WITH THE INTENT TO DECEIVE OR DEFRAUD SOME OTHER  
6     PERSON OR WITH THE INTENT TO EVADE A LAWFUL RESTRICTION ON THE SALE,  
7     RESALE, OFFERING FOR SALE, OR DISTRIBUTION OF GOODS, HE OR SHE POSSESSES  
8     A COUNTERFEIT TRADEMARK KNOWING IT TO BE COUNTERFEIT FOR THE PURPOSE OF  
9     AFFIXING IT TO ANY GOODS.  
10    POSSESSION OF A COUNTERFEIT TRADEMARK IN THE THIRD DEGREE IS A CLASS A  
11    MISDEMEANOR.  
12    S 165.76 POSSESSION OF A COUNTERFEIT TRADEMARK IN THE SECOND DEGREE.  
13    A PERSON IS GUILTY OF POSSESSION OF A COUNTERFEIT TRADEMARK IN THE  
14    SECOND DEGREE WHEN, WITH THE INTENT TO DECEIVE OR DEFRAUD SOME OTHER  
15    PERSON OR WITH THE INTENT TO EVADE A LAWFUL RESTRICTION ON THE SALE,  
16    RESALE, OFFERING FOR SALE, OR DISTRIBUTION OF GOODS, HE OR SHE POSSESSES  
17    MORE THAN ONE HUNDRED COUNTERFEIT TRADEMARKS KNOWING THEM TO BE COUNTER-  
18    FEIT FOR THE PURPOSE OF AFFIXING THEM TO ANY GOODS.  
19    POSSESSION OF A COUNTERFEIT TRADEMARK IN THE SECOND DEGREE IS A CLASS  
20    E FELONY.  
21    S 165.77 POSSESSION OF A COUNTERFEIT TRADEMARK IN THE FIRST DEGREE.  
22    A PERSON IS GUILTY OF POSSESSION OF A COUNTERFEIT TRADEMARK IN THE  
23    FIRST DEGREE WHEN, WITH THE INTENT TO DECEIVE OR DEFRAUD SOME OTHER  
24    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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1 RESALE, OFFERING FOR SALE, OR DISTRIBUTION OF GOODS, HE OR SHE POSSESSES  
2 MORE THAN ONE THOUSAND COUNTERFEIT TRADEMARKS KNOWING THEM TO BE COUN-  
3 TERFEIT FOR THE PURPOSE OF AFFIXING THEM TO ANY GOODS.

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

6 S 2. This act shall take effect on the first of November next succeed-  
7 ing the date on which it shall have become a law.