

3794

2015-2016 Regular Sessions

I N S E N A T E

February 17, 2015

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to trademark remedies

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

1 Section 1. Subdivision 1 of section 360-m of the general business law,  
2 as amended by chapter 507 of the laws of 2014, is amended to read as  
3 follows:

4 1. Any owner of a mark registered under this article may proceed by  
5 suit to enjoin the manufacture, use, display or sale of any counterfeits  
6 or imitations thereof and any court of competent jurisdiction may grant  
7 injunctions to restrain such manufacture, use, display or sale as may be  
8 by the said court deemed just and reasonable, and may require the  
9 defendants to pay to such owner all profits derived from and/or all  
10 damages suffered by reason of such wrongful manufacture, use, display or  
11 sale; and such court may also order that any such counterfeits or  
12 imitations in the possession or under the control of any defendant in  
13 such case be delivered to an officer of the court, or to the complain-  
14 ant, to be destroyed or donated. The court, in its discretion, may enter  
15 judgment for an amount [not to exceed] three times such profits and  
16 damages and/or reasonable attorneys' fees of the prevailing party [in  
17 such cases where the court finds the other party committed such wrongful  
18 acts with knowledge or in bad faith or otherwise as according to the  
19 circumstances of this case]. The enumeration of any right or remedy  
20 herein shall not affect a registrant's right to prosecute under the  
21 penal law.

22 S 2. This act shall take effect immediately.

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

LBD08850-01-5