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

110

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

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:

Section 1. Section 165.71 of the penal law, as added by chapter 490 of the laws of 1992, is amended to read as follows:

S 165.71 Trademark counterfeiting in the [third] FOURTH degree.

A person is guilty of trademark counterfeiting in the [third] FOURTH 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 manufactures, distributes, sells, or offers for sale goods which bear a counterfeit trademark, or possesses a trademark knowing it to be counterfeit for the purpose of affixing it to any goods.

Trademark counterfeiting in the [third] FOURTH degree is a class A misdemeanor.

S 2. Section 165.72 of the penal law, as amended by chapter 535 of the laws of 1995, is amended to read as follows:

S 165.72 Trademark counterfeiting in the [second] THIRD degree.

A person is guilty of trademark counterfeiting in the [second] 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 manufactures, distributes, sells, or offers for sale goods which bear a counterfeit trademark, or possesses a trademark knowing it to be counterfeit for the purpose of affixing it to any goods, and the retail value of all such goods bearing OR INTENDED TO BEAR counterfeit trademarks exceeds one thousand dollars OR THE TOTAL NUMBERS OF ALL SUCH GOODS BEARING COUNTERFEIT TRADEMARKS EXCEEDS TWO HUNDRED.

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

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Trademark counterfeiting in the [second] THIRD degree is a class E felony.

S 3. Section 165.73 of the penal law, as amended by chapter 535 of the laws of 1995, is amended to read as follows:

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

A person is guilty of trademark counterfeiting in the [first] 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 manufactures, distributes, sells, or offers for sale goods which bear a counterfeit trademark, or possesses a trademark knowing it to be counterfeit for the purpose of affixing it to any goods, and the retail value of all such goods bearing OR INTENDED TO BEAR counterfeit trademarks exceeds [one hundred thousand dollars] TWENTY-FIVE THOUSAND DOLLARS OR THE TOTAL NUMBERS OF ALL SUCH GOODS BEARING COUNTERFEIT TRADEMARKS EXCEEDS TWO THOUSAND.

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

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

S 165.74 TRADEMARK COUNTERFEITING IN THE FIRST DEGREE.

A PERSON IS GUILTY OF TRADEMARK COUNTERFEITING 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, RESALE, OFFERING FOR SALE, OR DISTRIBUTION OF GOODS, HE OR SHE MANUFACTURES, DISTRIBUTES, SELLS, OR OFFERS FOR SALE GOODS WHICH BEAR A COUNTERFEIT TRADEMARK, OR POSSESSES A TRADEMARK KNOWING IT TO BE COUNTERFEIT FOR THE PURPOSE OF AFFIXING IT TO ANY GOODS, AND THE RETAIL VALUE OF ALL SUCH GOODS BEARING OR INTENDED TO BEAR COUNTERFEIT TRADEMARKS EXCEEDS ONE HUNDRED THOUSAND DOLLARS OR THE TOTAL NUMBERS OF ALL SUCH GOODS BEARING COUNTERFEIT TRADEMARKS EXCEEDS TEN THOUSAND.

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

S 5. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.