

2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

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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 added by chapter 490 of  
2     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.

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

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

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

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

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

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

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

21 S 165.74 TRADEMARK COUNTERFEITING IN THE FIRST DEGREE.

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

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

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