

**Hall of the House of Representatives**  
83rd General Assembly - Regular Session, 2001  
**Amendment Form**

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**Subtitle of House Bill No. 2467**

"AN ACT TO CREATE THE CRIMINAL OFFENSE OF COUNTERFEITING A  
TRADEMARK, SERVICE MARK, TRADE NAME, LABEL, TERM, DEVICE, DESIGN OR  
WORD."

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**Amendment No. 1 to House Bill No. 2467.**

Amend House Bill No. 2467 as originally introduced:

Delete everything after the Enacting Clause and substitute

"SECTION 1. Definitions. For purposes of this act, the term:

(1) "Counterfeit mark" means:

(A) Any unauthorized reproduction or copy of a collegiate mark;

or

(B) A collegiate mark affixed to any item knowingly sold, offered for sale, manufactured, or distributed, or identifying services offered or rendered, without the authority of the owner of the collegiate mark.

(2) "Collegiate mark" means any trademark, service mark, or trade name, adopted or used by an institution of higher education to identify the institution's goods or services.

(3) "Person" means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(4)(A) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark.

(B) In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

SECTION 2. Violation.

(a) Any person who knowingly manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses, with intent to sell or distribute any item, or services, bearing or identified by a counterfeit mark, shall be guilty of counterfeiting.

(b) A person having possession, custody or control of more than twenty-five (25) items bearing a counterfeit mark shall be presumed to possess said items with intent to sell or distribute.

SECTION 3. Penalties.

(a) Counterfeiting shall be a Class C misdemeanor, except as provided in subsections (b) and (c) of this section.

(b) Counterfeiting shall be a Class B misdemeanor if:

(1) The defendant has previously been convicted under this act;  
or

(2) The violation involves more than one hundred (100), but fewer than one thousand (1,000) items bearing a counterfeit mark or the total retail value of all items bearing, or services identified by, a counterfeit mark is more than one thousand dollars (\$1,000), but less than ten thousand dollars (\$10,000).

(c) Counterfeiting shall be a Class A misdemeanor if:

(1) The defendant has been previously convicted of two (2) or more offenses under this act;

(2) The violation involves the manufacture or production of items bearing counterfeit marks; or

(3) The violation involves one thousand (1,000) or more items bearing a counterfeit mark or the total retail value of all items bearing, or services identified by, a counterfeit mark is more than ten thousand dollars (\$10,000).

(d) For purposes of this section, the quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses.

SECTION 4. Seizure.

(a) Any items bearing a counterfeit mark shall be subject to seizure as contraband by any law enforcement officer and disposed of in accordance with Arkansas Code 5-5-101.

(b) Seized items bearing a counterfeit mark must be destroyed unless the collegiate mark owner consents to another disposition.

SECTION 5. Defenses.

It is an affirmative defense to a prosecution under this act that the defendant in good faith reasonably believed that he possessed the right to use the collegiate mark as part of a trade name evidenced by use of the collegiate mark prior to the effective date of this act.

SECTION 6. Other provisions.

(a) Any state or federal certificate of registration of any collegiate mark shall be prima facie evidence of the facts stated in the certificate of registration.

(b) The remedies provided for in this act shall be in addition to all the other civil and criminal remedies provided by law."

The Amendment was read \_\_\_\_\_  
By: Representative C. Johnson  
PBB/RTK - 031920011414  
RTK246

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Chief Clerk