

# 2C:21-32

## LEGISLATIVE HISTORY CHECK

Compiled by the NJ State Law Library

**LAWS OF:** 1999 **CHAPTER:** 313

**NJSA:** 2C:21-32 (New Jersey Trademark Counterfeiting Act – Olympic Committee)

**BILL NO:** A1717

**SPONSOR(S):** Bagger and Murphy

**DATE INTRODUCED:** February 23, 1998

**COMMITTEE:** **ASSEMBLY:** Commerce, Tourism, Gaming, and Military and Veterans Affairs

**SENATE:** Commerce

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** July 30, 1998

**SENATE:** November 15, 1999

**DATE OF APPROVAL:** January 4, 2000

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL:** First Reprint enacted  
(Amendments during passage denoted by superscript numbers)

**SPONSORS STATEMENT:** (Begins on page 3 of original bill) Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or [refdesk@njstatelib.org](mailto:refdesk@njstatelib.org)

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

P.L. 1999, CHAPTER 313, *approved January 4, 2000*  
Assembly, No. 1717 (*First Reprint*)

1 AN ACT concerning criminal offenses involving counterfeit marks and  
2 amending P.L.1997, c.57.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 1 of P.L.1997, c.57 (C.2C:21-32) is amended to read as  
8 follows:

9 1. a. This act shall be known and may be cited as the "New Jersey  
10 Trademark Counterfeiting Act."

11 b. As used in this act:

12 (1) "Counterfeit mark" means a spurious mark that is identical with  
13 or substantially indistinguishable from a genuine mark that is registered  
14 on the principal register in the United States Patent and Trademark  
15 Office or registered in the New Jersey Secretary of State's office or a  
16 spurious mark that is identical with or substantially indistinguishable  
17 from the <sup>1</sup>[symbol, emblem, sign, insignia] words, names, symbols,  
18 emblems, signs, insignias<sup>1</sup> or any combination thereof, of the United  
19 States Olympic Committee or the International Olympic Committee;  
20 and that is used or is intended to be used on, or in conjunction with,  
21 goods or services for which the genuine mark is registered and in use.

22 (2) "Retail value" means the counterfeiter's regular selling price for  
23 the item or service bearing or identified by the counterfeit mark. In  
24 the case of items bearing a counterfeit mark which are components of  
25 a finished product, the retail value shall be the counterfeiter's regular  
26 selling price of the finished product on or in which the component  
27 would be utilized.

28 c. A person commits the offense of counterfeiting who, with the  
29 intent to deceive or defraud some other person, knowingly  
30 manufactures, uses, displays, advertises, distributes, offers for sale,  
31 sells, or possesses with intent to sell or distribute within, or in  
32 conjunction with commercial activities within New Jersey, any item,  
33 or services, bearing, or identified by, a counterfeit mark.

34 A person who has in his possession or under his control more than  
35 25 items bearing a counterfeit mark shall be presumed to have violated  
36 this section.

37 d. (1) An offense set forth in this act shall be punishable as a crime  
38 of the fourth degree if:

39 the offense involves fewer than 100 items bearing a counterfeit  
40 mark;

41 the offense involves a total retail value of less than \$1,000.00 for  
42 all items bearing, or services identified by, a counterfeit mark; or

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly ACT committee amendments adopted May 18, 1998.

1 the offense involves a first conviction under this act.

2 (2) An offense set forth in this act shall be punishable as a crime of  
3 the third degree if:

4 the offense involves 100 or more but fewer than 1,000 items  
5 bearing a counterfeit mark;

6 the offense involves a total retail value of \$1,000.00 or more but  
7 less than \$15,000.00 of all items bearing, or services identified by, a  
8 counterfeit mark; or

9 the offense involves a second conviction under this act.

10 (3) An offense set forth in this act shall be punishable as a crime of  
11 the second degree if:

12 the offense involves 1,000 or more items bearing a counterfeit  
13 mark~~;~~ ;

14 the offense involves a total retail value of \$15,000.00 or more of all  
15 items bearing, or services identified by a counterfeit mark; or

16 the offense involves a third or subsequent conviction under this act.

17 In addition, any person convicted under this act, notwithstanding  
18 the provisions of N.J.S.2C:43-3, shall be fined by the court an amount  
19 up to threefold the retail value of the items or services involved,  
20 providing that the fine imposed shall not exceed the following  
21 amounts~~;~~: for a crime of the fourth degree, \$100,000.00; for a crime  
22 of the third degree, \$250,000.00; and for a crime of the second degree,  
23 \$500,000.00.

24 e. All items bearing a counterfeit mark, and all personal property,  
25 including but not limited to, any items, objects, tools, machines,  
26 equipment, instrumentalities or vehicles of any kind, employed or used  
27 in connection with a violation of this act, shall be subject to forfeiture  
28 in accordance with the procedures set forth in chapter 64 of Title 2C  
29 of the New Jersey Statutes.

30 f. For purposes of this act:

31 (1) the quantity or retail value of items or services shall include the  
32 aggregate quantity or retail value of all items bearing, or services  
33 identified by, every counterfeit mark the defendant manufactures, uses,  
34 displays, advertises, distributes, offers for sale, sells or possesses;

35 (2) any State or federal certificate of registration of any intellectual  
36 property shall be prima facie evidence of the facts stated therein.

37 g. Conviction for an offense under this act does not preclude the  
38 defendant's liability for the civil remedy available pursuant to section  
39 2 of P.L.1987, c.454 (C.56:3-13.16).

40 (cf: P.L.1997, c.57, s.1)

41

42 2. This act shall take effect immediately.

43

44

45

46 Revises "New Jersey Trademark Counterfeiting Act" to protect United  
47 States Olympic Committee's trademark rights.

# ASSEMBLY, No. 1717

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED FEBRUARY 23, 1998

**Sponsored by:**

**Assemblyman RICHARD H. BAGGER**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Assemblywoman CAROL J. MURPHY**

**District 26 (Essex, Morris and Passaic)**

**SYNOPSIS**

Revises "New Jersey Trademark Counterfeiting Act" to protect United States Olympic Committee's trademark rights.

**CURRENT VERSION OF TEXT**

As introduced.



A1717 BAGGER, MURPHY

2

1 AN ACT concerning criminal offenses involving counterfeit marks and  
2 amending P.L.1997, c.57.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 1 of P.L.1997, c.57 (C.2C:21-32) is amended to read as  
8 follows:

9 1. a. This act shall be known and may be cited as the "New Jersey  
10 Trademark Counterfeiting Act."

11 b. As used in this act:

12 (1) "Counterfeit mark" means a spurious mark that is identical with  
13 or substantially indistinguishable from a genuine mark that is registered  
14 on the principal register in the United States Patent and Trademark  
15 Office or registered in the New Jersey Secretary of State's office or a  
16 spurious mark that is identical with or substantially indistinguishable  
17 from the symbol, emblem, sign, insignia or any combination thereof,  
18 of the United States Olympic Committee or the International Olympic  
19 Committee; and that is used or is intended to be used on, or in  
20 conjunction with, goods or services for which the genuine mark is  
21 registered and in use.

22 (2) "Retail value" means the counterfeiter's regular selling price for  
23 the item or service bearing or identified by the counterfeit mark. In  
24 the case of items bearing a counterfeit mark which are components of  
25 a finished product, the retail value shall be the counterfeiter's regular  
26 selling price of the finished product on or in which the component  
27 would be utilized.

28 c. A person commits the offense of counterfeiting who, with the  
29 intent to deceive or defraud some other person, knowingly  
30 manufactures, uses, displays, advertises, distributes, offers for sale,  
31 sells, or possesses with intent to sell or distribute within, or in  
32 conjunction with commercial activities within New Jersey, any item,  
33 or services, bearing, or identified by, a counterfeit mark.

34 A person who has in his possession or under his control more than  
35 25 items bearing a counterfeit mark shall be presumed to have violated  
36 this section.

37 d. (1) An offense set forth in this act shall be punishable as a crime  
38 of the fourth degree if:

39 the offense involves fewer than 100 items bearing a counterfeit  
40 mark;

41 the offense involves a total retail value of less than \$1,000.00 for  
42 all items bearing, or services identified by, a counterfeit mark; or

43 the offense involves a first conviction under this act.

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 (2) An offense set forth in this act shall be punishable as a crime of  
2 the third degree if:

3 the offense involves 100 or more but fewer than 1,000 items  
4 bearing a counterfeit mark;

5 the offense involves a total retail value of \$1,000.00 or more but  
6 less than \$15,000.00 of all items bearing, or services identified by, a  
7 counterfeit mark; or

8 the offense involves a second conviction under this act.

9 (3) An offense set forth in this act shall be punishable as a crime of  
10 the second degree if:

11 the offense involves 1,000 or more items bearing a counterfeit  
12 mark[;] ;

13 the offense involves a total retail value of \$15,000.00 or more of all  
14 items bearing, or services identified by a counterfeit mark; or

15 the offense involves a third or subsequent conviction under this act.

16 In addition, any person convicted under this act, notwithstanding  
17 the provisions of N.J.S.2C:43-3, shall be fined by the court an amount  
18 up to threefold the retail value of the items or services involved,  
19 providing that the fine imposed shall not exceed the following  
20 amounts[;]; for a crime of the fourth degree, \$100,000.00; for a crime  
21 of the third degree, \$250,000.00; and for a crime of the second degree,  
22 \$500,000.00.

23 e. All items bearing a counterfeit mark, and all personal property,  
24 including but not limited to, any items, objects, tools, machines,  
25 equipment, instrumentalities or vehicles of any kind, employed or used  
26 in connection with a violation of this act, shall be subject to forfeiture  
27 in accordance with the procedures set forth in chapter 64 of Title 2C  
28 of the New Jersey Statutes.

29 f. For purposes of this act:

30 (1) the quantity or retail value of items or services shall include the  
31 aggregate quantity or retail value of all items bearing, or services  
32 identified by, every counterfeit mark the defendant manufactures, uses,  
33 displays, advertises, distributes, offers for sale, sells or possesses;

34 (2) any State or federal certificate of registration of any intellectual  
35 property shall be prima facie evidence of the facts stated therein.

36 g. Conviction for an offense under this act does not preclude the  
37 defendant's liability for the civil remedy available pursuant to section  
38 2 of P.L.1987, c.454 (C.56:3-13.16).

39 (cf: P.L.1997, c.57, s.1)

40

41 2.. This act shall take effect immediately.

42

43

44

#### STATEMENT

45

46 This bill revises the "New Jersey Trademark Counterfeiting Act" to

**A1717 BAGGER, MURPHY**

4

1 protect the trademark rights of the United States Olympic Committee  
2 (USOC). The revisions in this bill prohibit the use of USOC  
3 proprietary emblems, symbols, signs, and insignias by non-sponsors  
4 and non-licensees.

5 Strong trademark protection for USOC trademarks is essential.  
6 The USOC receives no federal monies and it finances many of its  
7 activities in the United States through sponsorship and licensing  
8 programs relating to its trademarks. A substantial part of the revenue  
9 which the USOC uses for the training of Olympic athletes comes from  
10 the licensing of its trademarks.

ASSEMBLY COMMERCE, TOURISM, GAMING AND  
MILITARY AND VETERANS' AFFAIRS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1717**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 14, 1998

The Assembly Commerce, Tourism, Gaming and Military and Veterans' Affairs Committee reports favorably Assembly Bill No. 1717 with committee amendments.

As amended, this bill revises the "New Jersey Trademark Counterfeiting Act" to protect the trademark rights of the United States Olympic Committee (USOC). The revisions in this bill prohibit the use of USOC proprietary words, names, emblems, symbols, signs, and insignias by non-sponsors and non-licensees.

Strong trademark protection for USOC trademarks is essential. The USOC receives no federal monies and it finances many of its activities in the United States through sponsorship and licensing programs relating to its trademarks. A substantial part of the revenue which the USOC uses for the training of Olympic athletes comes from the licensing of its trademarks.

The committee adopted amendments to expand the term "counterfeit mark" to also apply to words and names of the USOC or the International Olympic Committee.



SENATE COMMERCE COMMITTEE

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 1717**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 30, 1998

The Senate Commerce Committee reports favorably Assembly Bill No. 1717 (1R).

This bill revises the "New Jersey Trademark Counterfeiting Act" to protect the trademark rights of the United States Olympic Committee (USOC) and the International Olympic Committee (IOC). The bill prohibits the use of USOC and IOC proprietary words, names, symbols, emblems, signs, insignias and any combination thereof by non-sponsors and non-licensees.

A violation of this prohibition is a criminal offense under the penalty provisions of current law.