

24:6D-1 AND 2

LEGISLATIVE HISTORY CHECKLIST

NJSA 24:6D-1 & 2

Laws of 1967 Chapter 311

Bill No. A 751

Sponsor(s) Policastro

Date Introduced March 20, 1967

Committee: Assembly Rev. & Amend. of Laws

Senate " " "

Amended during passage Yes

Amendments during passage denoted by asterisks

Date of passage: Assembly May 1

Senate Nov. 27

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Following statements are attached if available:

Sponsor statement No

Committee Statement: Assembly No

Senate No

Fiscal Note No

Veto message No

Message on signing No

Following were printed:

Reports No

Hearings No

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ASSEMBLY, No. 751

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1967

By Assemblymen POLICASTRO and McDERMOTT

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning the counterfeiting of drugs, cosmetics and devices, and supplementing Title 24 of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

3 1. Definitions. For the purpose of this act:

4 A. A "trademark" shall be deemed to mean a mark used to indi-
5 cate the maker, owner or seller of a drug, cosmetic or device and
6 includes, among other things, any name of a person, or corporation,
7 or any letter, word, device, emblem, figure, seal, stamp, diagram,
8 brand, wrapper, ticket, stopper, label or other mark, lawfully
9 adopted by him, and usually affixed to a drug, cosmetic or device
10 to denote that the same was imported, manufactured, produced,
11 sold, compounded, bottled, packed, or otherwise prepared by him.

12 B. A trademark shall be "affixed" to a drug, cosmetic or device
13 when it is placed in any manner in or upon:

14 1. the drug, cosmetic or device itself; or,

15 2. a box, bale, barrel, bottle, case, cask, platter, or other vessel
16 or package, or a cover, wrapper, stopper, brand, label, or other
17 thing in, by or with which the drug, cosmetic or device is packed,
18 enclosed or otherwise prepared for sale or disposition.

19 C. A "drug" shall be deemed to include (1) articles recognized
20 in the official United States Pharmacopœia, official Homeopathic
21 Pharmacopœia of the United States, or official National Formulary,
22 or any supplement to any of them; and (2) articles intended for
23 use in the diagnosis, cure, mitigation, treatment or prevention of
24 disease in man or other animals; and (3) articles (other than food)
25 intended to affect the structure or any function of the body of man
26 or other animals; and (4) articles intended for use as a component
27 of any article specified in clause (1), (2), or (3); but does not in-
28 clude devices or their components, parts, or accessories.

29 D. "Cosmetic" means (1) articles intended to be rubbed, poured,

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

1 sprinkled, or sprayed on, introduced into, or otherwise applied to
2 the human body or any part thereof for cleansing, beautifying, pro-
3 moting attractiveness, or altering the appearance, and (2) articles
4 intended for use as a component of any such articles; except that
5 such term shall not include soap.

6 E. "Device" means instruments, apparatus, and contrivances,
7 including their components, parts, and accessories, intended (1) for
8 use in the diagnosis, cure, mitigation, treatment, or prevention of
9 disease in man or other animals; or (2) to affect the structure or
10 any function of the body of man or other animals.

11 F. A "counterfeit trademark" is one which is designed to re-
12 semble a genuine trademark so as to be likely to induce the belief
13 that it is genuine, whether by the use of words or letters, similar
14 in appearance or in sound, or by any sign, device or other means
15 whatsoever.

16 2. Offenses. A person who:

17 A. Counterfeits a trademark; or,

18 B. Affixes to any drug, cosmetic or device a counterfeit trade-
19 mark knowing the same to be counterfeit, or the genuine trademark
20 of another, without the latter's consent; or,

21 C. Knowingly sells, offers for sale, or possesses a drug, cosmetic
22 or device to which is affixed a counterfeit trademark, or the genuine
23 trademark of another, without the latter's consent; or,

24 D. Has in his possession or conceals a counterfeit trademark,
25 knowing it to be counterfeit, or a die, punch, plate, brand or other
26 thing for the purpose of counterfeiting a trademark; or, for the
27 purpose of making the genuine trademark of another without the
28 latter's consent; or,

29 E. Makes or sells or offers to sell or dispose of, or has in his
30 possession with intent to sell or dispose of, a drug, cosmetic or
31 device with such a trademark or label as to appear to indicate the
32 place of manufacture or production, or persons manufacturing,
33 packing, bottling, boxing or producing the article, but not indicating
34 it truly; or,

35 F. Knowingly sells, offers or exposes for sale, or delivers any
36 drug, cosmetic or device which is represented in any manner, by
37 word or deed, to be the manufacture, packing, bottling, boxing or
38 product of any person, firm or corporation, other than himself, with-
39 out the consent of such other person, firm or corporation, unless
40 such drug, cosmetic or device is contained in the original package,
41 box or bottle and under the labels, marks or names placed thereon
42 by the manufacturer or other person who is entitled to use such
43 marks, names, brands or trademarks; or,

1 G. Shall sell or shall expose for sale any drug, cosmetic or device
2 in bulk, to which no label or trademark shall be attached, and shall
3 by representation, name or mark written or printed thereon, rep-
4 resent that such drug, cosmetic or device is the production or man-
5 ufacture of a person who is not the manufacturer; or,

6 II. Shall knowingly sell, offer or expose for sale any drug, cos-
7 metic or device, and shall orally or by representation, name or
8 mark written or printed thereon or attached thereto used in con-
9 nection therewith, or by advertisement, or otherwise, in any man-
10 ner, whatsoever make any false representation as to the person by
11 whom such drug, cosmetic or device or the material thereof was
12 made, or was in whole or in part produced, manufactured, finished,
13 processed, treated, marketed, packed, bottled, or boxed or falsely
14 represents that such drug, cosmetic or device or the material or
15 any part thereof has or may properly have any trademark attached
16 to it or used in connection with it, or is or may properly be indi-
17 cated or identified by any trademark.

18 Is guilty of a high misdemeanor if the offense is committed with
19 regard to a drug and is guilty of a misdemeanor if the offense is
20 committed with respect to a cosmetic or device.

21 3. Enforcement. *A.* It is hereby made the duty of the State De-
22 partment of Health, its officers, agents, inspectors and representa-
23 tives, and of all peace officers within the State, and of all county
24 prosecutors, to enforce all provisions of this chapter, and to co-
25 operate with all agencies charged with the enforcement of the laws
26 of the United States, of this State, and of all other States, relating
27 to counterfeiting of trademarks used in connection with drugs, cos-
28 metics or devices.

29 ****[B.** *Any officer or employee of the department designated by*
30 *the commissioner to conduct investigations under this act relating*
31 *to the counterfeiting of drugs, cosmetics or devices may, when so*
32 *authorized by the commissioner, carry firearms or any other*
33 *weapon required in the performance of his official duties while*
34 *engaged in the actual performance of his official duties in the en-*
35 *forcement of the provisions of this chapter.]***

36 ****[C.]**** ***B.** The commissioner and any officer or employee*
37 *of the department designated by the commissioner to conduct*
38 *investigations or engage in other enforcement activities relating to*
39 *the counterfeiting of drugs, cosmetics or devices shall have the*
40 *power to execute and serve search warrants and shall have the*
41 *power of arrest in cases of violation of this chapter, and may, in*
42 *the discharge of their duties, call in the aid of a constable, sheriff,*
43 *or other peace officer when deemed necessary.**

- 1 *4. *There is hereby appropriated to the Department of Health*
- 2 *the sum of \$30,000.00 for the enforcement of this act.**
- 3 ***[4.]** *5.* This act shall take effect immediately.