

§ 9.03 State Statutes and Common Law Relating to Counterfeiting

ALABAMA ¹		
Statute	Code Provision	Statutory Description
Trademark Registration	ALA. CODE §§ 8-12-6 to 19 (1993 Repl. Vol.)	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Alabama. Remedies include injunctive relief and recovery of the infringer's profits and/or the owner's damages and costs. Ala. Code §§ 8-12-16 to 18 (1993 Repl. Vol.). A state registration is not required for the public prosecutor to bring criminal charges for the theft of trademarks. ALA. CODE §§ 13A-8-10.4 (1994 Repl. Vol.); ALA. CODE § 8-12-19 (1993 Repl. Vol.).
Dilution	ALA. CODE § 8-12-17 (1993 Repl. Vol.).	The statute provides for injunctive relief only.
Unfair Business Practices Act	Not applicable	Alabama does not have an unfair business practices act, which would apply to trademark matters.
Unfair Competition	Not applicable	Alabama does not have a separate civil statute prohibiting unfair competition.
Common Law	Not applicable	Alabama state courts have recognized a common law cause of action for unfair competition, which includes palming off and imitation of unregistered trademarks. Remedies: Injunctive relief, damages, profits and, in exceptional cases, punitive damages.
ALASKA		
Statute	Code Provision	Statutory Description
Trademark Registration	AS §§ 45.50.010-45.50.205	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Alaska. Remedies include injunctive relief and, where the acts are committed with the intent to cause confusion, mistake, or to deceive, the registrant may recover profits or damages. The court may also order that the counterfeits or imitations be delivered up for destruction and may enter judgment for punitive damages in an amount not to exceed three times the profits and damages. AS §§ 45.50.180
Dilution	AS § 45.50.180(d)	The statute provides for injunctive relief against another's dilution of a famous mark and, for willful dilution, the same remedies as for trademark infringement or counterfeiting.
Unfair Competition	AS § 45.50.471	Remedies: Injunctive relief, civil penalties to be paid to the State, and reasonable attorneys' fees and costs.

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ARIZONA		
Statute	Code Provision	Statutory Description
Trademark Registration	A.R.S. § 44-1441 et seq.	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Arizona. Remedies include injunctive relief, recovery of infringer's profits and/or damages (A.R.S. § 44-1451), and destruction of infringer's goods.
Dilution	A.R.S. § 44-1448.01	The statute provides for injunctive relief against another's dilution of a famous mark and, for willful dilution, the same remedy as for trademark counterfeiting or infringement.
Unfair Business Practices Act	A.R.S. § 44-1522	The act prohibits unlawful business practices and prohibits any deception, deceptive act or practice, fraud, false pretense, misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby. Damages are limited to actual damages. ² If the violations are willful, then punitive damages may be assessed. ³ If one has willfully committed an unlawful business practice then the attorney general upon petition to the court may recover from the person on behalf of the state a civil penalty of not more than ten thousand dollars per violation.
Unfair Competition	Not applicable	Arizona does not have a separate statute prohibiting unfair competition.
Common Law	Not applicable	Arizona state courts have recognized common law rights in trademarks and actions for unfair competition. ⁴ The question is whether there was confusion to the public. ⁵ Damages may include injunctive relief.

² Perry v. Hansen, 585 P.2d 574 (Ariz. App. 1978).

³ Sellinger v. Freeway Mobile Home Sales, Inc., 521 P.2d 1119 (Ariz. 1974).

⁴ Kaibab Shop v. Desert Son, Inc., 662 P.2d 452 (Ariz. App. 1982).

⁵ Taylor v. Quebedeaux, 617 P.2d 23 (Ariz. 1980).

ARKANSAS		
Statute	Code Provision	Statutory Description
Trademark Registration	ARK. CODE ANN. §§ 4-71-201 to 218	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Arkansas. Remedies: Injunctive relief, recovery of infringer's profits and/or damage and destruction of counterfeits or imitations in the possession or control of the defendant. Treble damages and/or attorneys' fees are also recoverable if the court finds knowledge or bad faith. Arkansas does not provide for any criminal sanctions for engaging in trademark counterfeiting outside of controlled substances.
Dilution	Ark. Code Ann. § 4-71-213	The statute provides for injunctive relief and, if willful intent is shown, recovery of profits and/or damages and attorneys' fees.
Unfair Competition	Not applicable	Arkansas does not have a separate state statute prohibiting unfair competition related to trademarks. The courts have defined "unfair competition" to mean "a course of dealing which leads, or is likely to lead, consumers into believing that the goods or services of one supplier are those of another." ⁶
Consumer Fraud	Not applicable	Arkansas has not enacted any consumer fraud statutes.
Common Law	Not applicable	Arkansas recognizes common law actions for both trademark and trade name infringement.

⁶ Southwestern Bell Telephone Co. v. Nationwide Independent Directory Service, Inc., 371 F. Supp. 900, 907 (W.D. Ark. 1974).

CALIFORNIA		
Statute	Code Provision	Statutory Description
Trademark Registration	Cal. Bus. & Prof. Code §§ 14200 <i>et seq.</i>	A state trademark registration is not required for a party to sue for trademark counterfeiting or infringement in California. Remedies include injunctive relief to prevent future harm, as well as up to three times the registrant's losses, and three times the infringer's profits. In addition, the court may order that all counterfeits be destroyed. CAL. BUS. & PROF. CODE § 14250. A state registration is not required for the public prosecutor to bring criminal charges for theft of trademarks. CAL. PENAL CODE § 350.
Dilution	Cal. Bus. & Prof. Code §§ 14245 <i>et seq.</i>	The statute provides for injunctive relief to prevent dilution of a mark that is famous and distinctive. If the dilution is willful, the owner shall be entitled to remedies set forth in § 14250.
Unfair Competition	Cal. Bus. & Prof. Code §§ 17200 <i>et seq.</i>	California recognizes a common law right of unfair competition which provides for injunctive relief and restitution. ⁷
Unfair Business Practices Act	Cal. Bus. & Prof. Code § 17000 <i>et seq.</i>	The Act protects consumers and competitors. Remedies: Injunctive relief as well as any other orders necessary to restore the party harmed by the unfair business ethics. In addition, any plaintiff shall be entitled to recovery of three times the amount of actual damages, if any. CAL. PROF. CODE § 17082.
Common Law	Not applicable	California courts recognize a common law right of unfair competition which provides for injunctive relief and restitution. ⁸

⁷ See: *Mallard Creek Industry, Inc. v. Morgan*, 56 Cal. App.4th 426 (1997); *Lebas Fashion Imports, USA, Inc. v. ITT Hartford Insurance Group, Inc.*, 50 Cal. App.4th 548 (1996).

⁸ See *id.*

COLORADO		
Statute	Code Provision	Statutory Description
Trademark Registration	COL. REV. STAT. §§ 7-70-101 et seq. ⁹	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Colorado. Remedies: Injunctive relief, recovery of infringer's profits or damages. COL. REV. STAT. § 7-70-112. Attorneys' fees may also be awarded.
Dilution	Not applicable	Colorado does not have a separate statute for dilution.
Unfair Business Practices Act	COL. REV. STAT. §§ 6-1-105 et seq. COL. REV. STAT. §§ 6-1-113 et seq.	The statute, also referred to as the Consumer Protection Act, prohibits the passing off of goods and services of another. Relief under the deceptive trade practice is available to any person in a civil action. Damages include monetary relief and attorneys' fees and costs. ¹⁰ In addition, treble damages may be awarded in cases of bad faith.
Unfair Competition	Not applicable	Colorado does not have a specific statute for unfair competition related to trademarks.
Common Law	Not applicable	State courts have recognized common law actions for unfair competition. Remedies: Injunctive relief, damages or profits. ¹¹
CONNECTICUT		
Statute	Code Provision	Statutory Description
Trademark Registration	CONN. GEN. STAT. §§ 35-11a et seq.	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Connecticut. Remedies: Injunctive relief, recovery of infringer's profits and/or damages, and destruction or delivery to complainant of counterfeits or imitations in the possession or control of the defendant. A state registration is not required for the public prosecutor to bring criminal charges for theft of trademarks. CONN. GEN. STAT. § 53-347a.
Dilution	CONN. GEN. STAT. §§ 35-11i(e) et seq.	The statute provides for injunctive relief, and for willful violations, recovery of infringer's profits and/or damages, and destruction of counterfeits or imitations in the possession of the defendant.
Unfair Competition	Not applicable	Connecticut does not have a separate state statute prohibiting unfair competition.

⁹ Readers should be aware that various sections of this Act relating to trademark registration and remedies have been repealed, effective May 2007.

¹⁰ *Dodds v. Frontier Chevrolet Sales and Services, Inc.*, 676 P.2d 1237 (Col. App. 1983).

¹¹ *Lexton-Ancira Real Estate Fund, 1972 v. Heller*, 826 P.2d 819 (Col. 1992); *Dunlap v. Colorado Springs Cablevision, Inc.*, 829 P.2d 1286 (Col. 1992).

Unfair Business Practices Act	Conn. Gen. Stat. Ann. §§ 42-110a <i>et seq.</i>	Connecticut's Act protects consumers and competitors. Remedies: Injunctive relief, recovery of infringer's profits and/or damages, and destruction of counterfeits or imitations in the possession or control of the defendant.
Common Law	Not applicable	Connecticut recognizes a common law right of unfair competition, including infringement of trademarks, trade names, and trade dress. Remedies: Injunctive relief and damages.
DELAWARE		
Statute	Code Provision	Statutory Description
Trademark Registration	6 DEL. CODE ANN. §§ 3301a <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Delaware. Remedies: Injunctive relief and an award of lost profits and/or damages. The court may also order that all counterfeits or imitations be delivered up for destruction. See DEL. CODE ANN. tit. 6, §§ 3312 & 3314.
Dilution	6 Del. Code Ann. § 3313	The statute provides for injunctive relief to prevent the dilution of a mark registered under this chapter or dilution of a mark or trade name valid at common law.
Unfair Competition	6 DEL. CODE ANN. § 2532 & § 2533	Delaware has a separate statute prohibiting unfair competition. Remedies: Injunctive relief and, in exceptional cases, the court may award reasonable attorneys' fees to the prevailing party. Costs or attorneys' fees may be assessed against a defendant only if he or she willfully engaged in a deceptive trade practice. The relief provided is in addition to remedies otherwise available under the common law or other Delaware statutes.
Common Law	Not applicable	Connecticut has recognized a common law right of unfair competition. If damages are awarded to the aggrieved party, under common law or other Delaware statutes, such damages awarded shall be treble the amount of actual damages proved. See 6 DEL. CODE ANN. § 2533.

DISTRICT OF COLUMBIA		
Statute	Code Provision	Statutory Description
Trademark Registration	Not applicable	The District of Columbia does not have a separate Trademark Registration statute. Marks are registered federally under the Lanham Act.
Dilution	Not applicable	The District of Columbia does not have a separate statute for dilution.
Unfair Business Practices Act	Not applicable	The District of Columbia does not have an unfair business practices act, which would apply to trademark matters. However, D.C. CODE §§ 28-3901 et seq., the District of Columbia's Unfair Business Practices Act, does prohibit passing off goods or services as those of another.
Unfair Competition	Not applicable	The District of Columbia does not have a separate statute prohibiting unfair competition.
Common Law	Not applicable	Local courts have held that a common law cause of action exists. ¹² The elements of such common law action follow the Lanham Act. Remedies: Injunctive relief and damages.

¹² Blacks in Government v. National Ass'n. of Blacks Within Government, 601 F. Supp. 225 (D.D.C. 1983).

FLORIDA		
Statute	Code Provision	Statutory Description
Trademark Registration	FLA. STAT. ANN. §§ 495.001 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Florida. Remedies: Injunctive relief and an award of lost profits and/or damages. The court may also order that all counterfeits or imitations be delivered up for destruction. See FLA. STAT. ANN. §§ 495.021 & 495.141.
Dilution	Fla. Stat. Ann. § 495.151	The statute provides for injunctive relief only, unless willful intent to trade on the owner's reputation or to cause dilution of the famous mark is proven. Once proven, lost profits and/or damages may be awarded.
Deceptive and Unfair Trade Practices	FLA. STAT. ANN. §§ 501.204 <i>et seq.</i>	Aggrieved parties may seek declaratory judgment, an injunction, actual damages, attorneys' fees and costs. However, damages, fees or costs are not recoverable against a retailer who has, in good faith, engaged in the dissemination of claims of a manufacturer or wholesaler without knowledge that it violated this part.
Unfair Competition	Not applicable	Florida does not have a separate state civil statute prohibiting unfair competition.
Common Law	Fla. Stat. Ann. § 495.161	State courts have recognized a common law cause of action for unfair competition, which includes palming off and imitation of unregistered trademarks. Remedies: Injunctive relief, damages, and profits. ¹³

¹³ Luckie v. McCall Manufacturing Co., 153 So.2d 311 (Fla. App. 1963). See also, Great South Bank v. First South Bank, 625 So.2d 463 (Fla. 1993).

GEORGIA		
Statute	Code Provision	Statutory Description
Trademark Registration	GA. CODE ANN. §§ 10-1-440 <i>et seq.</i> Revision: GA. CODE ANN. § 10-1-444	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Georgia. The owner of a registered mark is entitled to liquidated damages in the amount of \$10,000.00, if the act was committed with knowledge that the mark had been registered and without previously obtaining the consent of the owner, and for any or all of the following remedies: an injunction, profits, damages, or both profits and damages, and destruction of counterfeit goods, except that actual damages shall not be recoverable when liquidated damages are sought, and registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such trademark or service mark is intended to be used to cause confusion, mistake, or to deceive. GA. CODE ANN. § 10-1-450. ¹⁴ Removed: "Any certificate of registration issued by the Secretary of State under the provisions of this Code section or a copy thereof duly certified by the Secretary of State shall be admissible in evidence as competent and sufficient proof of the registration of such trademark or service mark in any action or judicial proceedings in any court of this state."
Dilution	GA. CODE ANN. § 10-1-451(b).	Remedy: Injunctive relief only.
Unfair Competition	Ga. Code Ann. § 23-2-55	An action under this section may be based upon passing off, unauthorized use of the name or mark of another, or other traditional forms of unfair competition. Remedy: Equitable relief.

¹⁴ It should be noted that under Ga. Code Ann. Section 10-1-454 there is potential criminal liability for any trademark, service mark, or copyrighted or registered design that is registered for those types of goods or services with the Secretary of State pursuant to this part or registered on the Principal Register of the United States Patent and Trademark Office or registered under the laws of any other state or protected by the federal Amateur Sports Act of 1978, 36 U.S.C. § 380.

HAWAII		
Statute	Code Provision	Statutory Description
Trademark Registration	HAW. REV. STAT. §§ 482-2 <i>et seq.</i>	A trademark registration is required for a party to sue for trademark counterfeiting or infringement in Hawaii. Remedies: Injunctive relief, all profits, and destruction of all counterfeits or imitations in the possession or control of defendant. The court, in its discretion, may enter judgment for an amount not to exceed three times the lost profits and damages incurred by the owner, and award reasonable attorneys' fees to the owner when the court finds that the defendants committed the wrongful acts knowingly or in bad faith.
Dilution	Haw. Rev. Stat. § 482-32	The Act provides for injunctive relief only, unless willful intent is proven, in which case the court may award profits and damages, as well as treble damages if the acts were committed in bad faith.
Unfair Business Practices Act	HAW. REV. STAT. §§ 480-2 <i>et seq.</i>	The act prohibits unfair methods of competition in commerce or trade. Actions must be brought by the state attorney general or consumer protection office. Private actions are available. ¹⁵
Uniform Deceptive Trade Practices Act	HAW. REV. STAT. §§ 481A-1 <i>et seq.</i>	Remedies include injunctive relief, monetary damages, loss of profits, and attorneys' fees. HAW. REV. STAT. § 481-4. ¹⁶
Unfair Competition	Not applicable	Hawaii does not have a separate statute for unfair competition and imitation of unregistered marks.
Common Law	Not applicable	Courts have recognized common law action for unfair competition, trademark infringement and palming off. ¹⁷ Remedies: Damages. ¹⁸

¹⁵ Hawaii Medical Ass'n. v. Hawaii Medical Service Ass'n., Inc., 148 P.3d 1179 (Haw. 2006).

¹⁶ Carrington v. Sears, Roebuck & Co., 683 P.2d 1220 (Haw. App. 1984).

¹⁷ Famolare, Inc. v. Melville Corp., 472 F. Supp. 738 (D. Haw. 1979), aff'd 652 F.2d 62 (9th Cir. 1981).

¹⁸ Cieri v. Leticia Query Realty, Inc., 905 P.2d 29 (Haw. 1995).

IDAHO		
Statute	Code Provision	Statutory Description
Trademark Registration	IDAHO CODE §§ 48-502 <i>et seq.</i> Revision: IDAHO CODE § 48-510	A trademark registration is required for a party to sue for trademark counterfeiting or infringement in Idaho. IDAHO CODE § 48-512. Remedies: Injunctive relief, seizure and destruction of infringing articles, profits, or damages if the infringement was committed with intent to cause confusion or mistake. The court, in its discretion, may enter judgment for an amount not to exceed three times such profits and damages and may award reasonable attorney's fees and costs of suit to the prevailing party in cases where the court finds the other party committed the wrongful acts with knowledge or in bad faith or otherwise, as the circumstances of the case may warrant. IDAHO CODE §§ 48-511 to 514. Removed: "Applications for renewal shall be filed using the classification of goods and services in effect when the trademark was approved by the secretary of state; provided that a registrant may request a renewed registration to be issued under the international classification of goods and services. When such a request is made, the secretary of state shall issue the renewed certificate as requested by the registrant if such renewal would not extend the registrant's rights." Revision: "A renewed registration shall be issued by the secretary of state under the international classification."
Dilution	Idaho Code § 48-513	Remedies: Injunctive relief and, if willful intent is proven, additional remedies at the discretion of the court.
Consumer Protection Act	IDAHO CODE §§ 48-601 <i>et seq.</i>	The Act prohibits passing off goods or services, creating a likelihood of confusion regarding the source of origin of goods or services, and falsely disparaging the goods or services of another. IDAHO CODE § 48-603. Actions may be brought by the Idaho Attorney General or any private person who suffered a loss as a result of a purchase or lease transaction. Pursuant to an action instituted by the Attorney General, the court may order restitution. Remedies for actions brought by individuals include attorneys' fees and the greater of \$1,000 or the consumer's actual damages. Punitive damages are also recoverable. IDAHO CODE § 48-608.

Unfair Competition	Not applicable	Idaho does not have a separate statute prohibiting unfair competition.
Common Law	Not applicable	Idaho has recognized a common law action for unfair competition in the trademark context. Remedies: Injunctive relief and, if infringement or unfair competition was intentional, damages.

ILLINOIS		
Statute	Code Provision	Statutory Description
Trademark Registration	765 Ill. Comp. Stat. §§ 1036/1 <i>et seq.</i>	State trademark registration is required for a party to sue for trademark counterfeiting or infringement in Illinois. Remedies: Injunctive relief and recovery of infringer's profits or the owner's damages. The counterfeit items may also be destroyed by order of court. Treble damages and attorneys' fees are available if the infringer's actions are done with knowledge or in bad faith. 765 ILL. COMP. STAT. § 1036/70.
Dilution	765 Ill. Comp. Stat. § 1036/65	The Act provides for injunctive relief only if infringer's conduct was willful in which case treble damages, infringer's profits, and attorney's fees may be recovered. The mark must be "famous" in order to be protected from dilution. The Act is extremely similar to the Federal Dilution Act.
Consumer Fraud and Deceptive Business Practices Act	815 Ill. Comp. Stat. § 505/1 <i>et seq.</i>	The Act protects consumers and business persons from fraud and unfair methods of competition in commerce or trade. Prosecution may be brought by the Attorney General or a State's Attorney for injunctive relief, restitution, and a penalty not to exceed \$50,000 per violation.
Uniform Deceptive Trade Practices Act	815 Ill. Comp. Stat. § 510/1 <i>et seq.</i>	The Act protects against any action which tends to create a likelihood of confusion in the public. ¹⁹ Damages include injunctive relief, but not monetary damages. Costs or attorneys' fees or both may be assessed against a defendant only if the court finds that he has willfully engaged in a deceptive trade practice.
Unfair Competition	Not applicable	Illinois does not have a general unfair competition statute.
Common Law	Not applicable	Illinois courts have recognized common law actions for unfair competition. Remedies: Injunctive relief, monetary relief, and/or defendant's profits.

¹⁹ National Football League Properties, Inc. v. Consumer Entertainment, Inc., 327 N.E.2d 242 (Ill. App.), cert. denied 423 U.S. 1018 (1975).

INDIANA		
Statute	Code Provision	Statutory Description
Trademark Registration	Ind. Code §§ 24-2-1-1 <i>et seq.</i>	State trademark registration is required for a party to sue for trademark counterfeiting or infringement in Indiana. Remedies: Injunctive relief and awarding of all profits derived from infringement as well as damages suffered except that profits may only be awarded upon a showing that the acts were committed with knowledge. State registration is not required for the public prosecutor to bring criminal charges for theft of trademarks. IND. CODE § 35-43-5-7.
Dilution	Ind. Code § 24-2-1-13	This section applies only to fanciful marks, except in cases where the other person's use tarnishes the reputation of the famous mark. The owner of a famous mark in Indiana is entitled to an injunction, and may also be awarded profits and attorneys' fees, subject to the court's discretion.
Unfair Competition	Not applicable	Indiana does not have a general unfair competition statute.
Common Law	Not applicable	Indiana courts have recognized common law actions for unfair competition in the trademark context. Remedies: Injunctive relief and damages.

IOWA		
Statute	Code Provision	Statutory Description
Trademark Registration	Iowa Code §§ 548.101 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Iowa. IOWA CODE § 548.112. Remedies: Injunctive relief, seizure and destruction of infringing goods, profits and/or damages and in exceptional cases, treble damages and attorneys' fees. IOWA CODE §§ 548.101, 114.
Dilution	Iowa Code § 548.113	The statute provides for injunctive relief and, if willful intent is proven, damages as provided by IOWA CODE §§ 548.101 <i>et seq.</i>
Unfair Business Practices Act	Not applicable	Iowa does not have an unfair business practices act related to trademarks.
Unfair Competition	Not applicable	Iowa does not have a statute prohibiting unfair competition.
Common Law	Not applicable	Iowa state courts recognize a common law action of unfair competition, which encompasses imitation of unregistered trade names, trademarks, and palming off. Remedies: Injunctive relief, damages, and exemplary damages if plaintiff has suffered more than nominal damages.

KANSAS		
Statute	Code Provision	Statutory Description
Trademark Registration	Kan. Stat. Ann. §81-213	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Kansas. Remedies: Injunctive relief and up to treble damages and attorneys' fees if bad faith or knowledge is demonstrated. The court may require the defendants to pay the trademark owner all profits derived from and all damages suffered by reason of the wrongful acts, but only if the acts have been committed with the intent to cause confusion or mistake or to deceive. The court may also order all counterfeits or imitations be delivered up for destruction. See KAN. STAT. ANN. § 81-215.
Dilution	Kan. Stat. Ann. § 81-215	The statute provides injunctive relief to prevent the dilution of marks that are famous in the state. Courts will consider a state or federal registration persuasive but not necessary for a dilution claim. If willful intent is proven, the owner shall also be entitled to the remedies set forth in KAN. STAT. ANN. § 81-215.
Unfair Competition	Not applicable	Kansas does not have a separate state statute prohibiting unfair competition.
Common Law	Not applicable	Kansas recognizes a common law action of unfair competition that provides for injunctive relief.

KENTUCKY		
Statute	Code Provision	Statutory Description
Trademark Registration	Ky. Rev. Stat. Ann. §§ 365.561 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Kentucky. Remedies: Injunctive relief, recovery of infringer's profits or damages if the acts have been committed with the intent to cause confusion or mistake or to deceive, and destruction of infringer's goods. Attorneys' fees and/or treble damages may be awarded if the infringing act was committed in bad faith.
Dilution	Not applicable	Kentucky does not have a separate statute on dilution.
Unfair Business Practices Act	Not applicable	Kentucky does not have an unfair business practices act that would apply to trademark matters.
Unfair Competition	Not applicable	Kentucky does not have a separate state statute prohibiting unfair competition.
Common Law	Not applicable	Kentucky state courts have recognized common law actions for unfair competition. Damages include injunctive relief and monetary damages. ²⁰

LOUISIANA		
Statute	Code Provision	Statutory Description
Trademark Registration	La. Stat. Ann. §§ 51:211 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Louisiana. Remedies: Injunctive relief, seizure and destruction of infringing goods, and profits and/or damages if the infringement was committed with intent to cause confusion or mistake or to deceive. LA. STAT. ANN. § 51:222(2). A state registration is not required for the public prosecutor to bring criminal charges for trademark counterfeiting. LA. STAT. ANN. § 14:229.
Dilution	La. Stat. Ann. § 51:223.1	Statute provides for injunctive relief regardless of whether mark is registered "notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services."

²⁰ Covington Inn Corp. v. White Horse Tavern, Inc., 445 S.W.2d 135 (Ky. 1969); Churchill Downs Distilling Co. v. Churchill Downs, Inc., 90 S.W.2d 1041 (Ky. 1936).

Unfair Trade Practices & Consumer Protection Law	La. Stat. Ann. §§ 51:1401 et seq.	The Act does not condemn specific practices, but courts have interpreted it to prohibit a wide variety of consumer fraud practices, including false designation of origin under the Lanham Act. Remedies: Damages, restitution, reasonable attorneys' fees and costs. Treble damages may be awarded if the court finds that the unfair practice was conducted knowingly. Only the state can obtain injunctive relief. An award of damages for mental anguish and humiliation is also recoverable. ²¹
Unfair Competition	Not applicable	Louisiana has not enacted a separate state statute prohibiting unfair competition.
Common Law	Not applicable	Louisiana state courts recognize a common law action of unfair competition, which encompasses imitation of trade names, trademarks, and palming off. Remedies: Injunctive relief and damages.

MAINE		
Statute	Code Provision	Statutory Description
Trademark Registration	10 ME. Rev. Stat. Ann. §§ 1521 et seq.	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Maine. Remedies: Injunctive relief and the recovery of the defendant's profits and the trademark owner's damages. The court may also order that any counterfeits or imitations be delivered up for destruction. The mark owner may also "elect, at any time before final judgment is rendered, to recover instead of actual damages or profits an award of statutory damages with respect to any one mark . . . in an amount not to exceed \$2,000." 10 ME. REV. STAT. ANN. § 1531(2). The court shall also "award the prevailing party costs and, in exceptional cases only, may award the prevailing party reasonable attorneys' fees." 10 ME. REV. STAT. ANN. § 1531(3). A state registration is not required for the public prosecutor to bring criminal charges for theft of trademarks. 32 ME. REV. STAT. ANN. §§ 4699, 4700.

²¹ Vercher v. Ford Motor Co., 527 So.2d 995 (La. App. 1998).

Dilution	10 ME. Rev. Stat. Ann. § 1530	The statute provides for “injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services.”
Unfair Competition	Not applicable	Maine does not have a separate state statute prohibiting unfair competition.
Maine Unfair Trade Practices Act	5 ME. Rev. Stat. Ann. §§ 206 <i>et seq.</i>	An aggrieved party may bring an action for actual damages, restitution, and other equitable relief, including an injunction. A court may also award attorneys’ fees and costs. 5 ME. REV. STAT. ANN. § 213.

MARYLAND		
Statute	Code Provision	Statutory Description
Trademark Registration	Md. Bus. Reg. Code Ann. §§ 1-401 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Maryland. Remedies: Injunctive relief (§ 1-414(c)), profits and damages if the infringer intended that the mark be used to confuse or deceive. § 1-414(b)(2). Destruction of infringing goods may also be ordered. § 1-414(d)(3). Moreover, all rights available under common law exist, so it may be argued that non-registered trademark holders may proceed with an infringement action. § 1-402.
Dilution	Not applicable	Maryland does not have a separate dilution statute.
Unfair Business Practices Act	Not applicable	Maryland does not have an unfair business practices act, which would apply to trademark matters.
Unfair Competition	Not applicable	Maryland does not have a separate general statute for unfair competition, although its Unfair Business Practices Act (MD. COM. L. CODE ANN. §§ 13-301 <i>et seq.</i>) prohibits unfair competition.
Common Law	Not applicable	Maryland recognizes a common law action for unfair competition. Remedies include injunctive relief. ²²

²² Mascaro v. Snelling & Snelling of Baltimore, Inc., 243 A.2d 1 (Md. 1968).

MASSACHUSETTS		
Statute	Code Provision	Statutory Description
Trademark Registration	Mass. Gen. L., Ch. 110H.	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Massachusetts. Remedies: Injunctive relief, seizure and destruction of infringing goods; profits and/or damages if the infringement was committed with intent to cause confusion or mistake. In its discretion, a court may enter judgment for an amount not to exceed three times the profits and damages and reasonable attorneys' fees of the prevailing party in cases where a party committed wrongful acts with knowledge or in bad faith. §§ 12, 14. There is no separate statute regarding criminal prohibitions on counterfeiting of trademarks.
Dilution	Mass. Gen. L., Ch. 110H, § 13	Statute provides for injunctive relief, "notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services."
Unfair Competition	Not applicable	Massachusetts has not enacted a separate statute prohibiting unfair competition.
Common Law	Not applicable	Massachusetts state courts recognize common law unfair competition.

MICHIGAN		
Statute	Code Provision	Statutory Description
Trademark Registration	Mich. Comp. L. §§ 429.31 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Michigan. Remedies: Injunctive relief and, if the acts have been committed with knowledge that the mark is intended to be used to cause confusion or mistake or to deceive, lost profits or damages may also be recovered. The court may also order that any counterfeits or imitations be delivered up and destroyed. See MICH. COMP. L. §§ 429.42 and 429.43. A state registration is not required for the public prosecutor to bring criminal charges for theft of trademarks. MICH. COMP. L. § 750.263.
Dilution	Not applicable	There is no statutory or common law cause of action for trademark dilution in Michigan. ²³
Unfair Competition	Not applicable	Michigan does not have a separate state statute prohibiting unfair competition.
Consumer Protection At	Mich. Comp. L. §§ 445.901 <i>et seq.</i>	Michigan's Act protects consumers and competitors. Remedies: Damages, as well as injunctive relief, regardless of whether the plaintiff has an adequate remedy at law.
Common Law	Not applicable	Michigan recognizes a common law right of unfair competition which has been analyzed under the Lanham Act. ²⁴ Remedies: Injunctive relief and damages.

²³ Aero-Motive Co. v. U.S. Aeromotive, Inc., 922 F. Supp. 29 (W.D. Mich. 1996).

²⁴ Sports Authority, Inc. v. Abercrombie & Fitch, Inc., 965 F. Supp. 925 (E.D. Mich. 1997). Accord, Two Men and a Truck International, Inc. v. Two Men and a Truck Kalamazoo, Inc., 949 F. Supp. 500 (W.D. Mich. 1996).

MINNESOTA		
Statute	Code Provision	Statutory Description
Trademark Registration	Minn. Stat. §§ 333.18 <i>et seq.</i> Revision: Minn. Stat. § 333.22	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Minnesota. Remedies: Injunctive relief, recovery of infringer's profits and/or owner's damages if the acts have been committed with knowledge that the mark is intended to be used to cause confusion or mistake or to deceive. The court may also order that the counterfeits or imitations in the possession or under the control of a defendant be delivered to an officer of the court, or to the complainant, to be destroyed. The court, in its discretion, may enter judgment for an amount not to exceed three times the profits and damages and reasonable attorneys' fees of the prevailing party if the party committed the acts with knowledge or in bad faith. Subd. 2. Renewal notice. The secretary of state shall notify each registrant of a mark hereunder of the necessity of renewal thereof by writing to the last known address of the registrant approximately six months prior to the registration's expiration date.* *Added text in bold.
Dilution	Minn. Stat. § 333.285	The statute provides for injunctive relief only and the mark in question must be well known or "famous." However, if willful intent is proven, then the owner is entitled to other remedies like monetary damages and/or costs.
Unfair Business Practices Act & Consumer Fraud	Minn. Stat. §§ 325D, 325F	(The statute is not unified, but rather a compilation of several sections). The provisions are designed to protect consumers and business persons from fraud and deceit in commerce and trade. Damages: Injunctive relief and actual damages, if any. MINN. STAT. § 325 D.09 to § 325 D.16
Uniform Deceptive Trade Practices Act	Minn. Stat. §§ 325D.44 <i>et seq.</i>	Remedies: Injunctions, cost and attorneys' fees.
Unfair Competition	Not applicable	Minnesota does not have a separate statute prohibiting unfair competition related to trademark.
Common Law	Not applicable	Minnesota recognizes a common law action for unfair competition. Remedies: Injunctive relief, punitive damages, lost profits and/or attorneys' fees. ²⁵

²⁵ Minneapple Co. v. Normandin, 338 N.W.2d 18 (Minn. 1983); North Star State Bank of Roseville v. North Star State Bank Minnesota, 361 N.W.2d 889 (Minn. App. 1985).

MISSISSIPPI		
Statute	Code Provision	Statutory Description
Trademark Registration	Miss. Code Ann. §§ 75-25-1 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Mississippi. Remedies: Injunctive relief, seizure and destruction of infringing articles, profits and damages, except that a registrant cannot recover profits and damages unless the acts have been committed with the intent to cause confusion or mistake or to deceive. Treble damages and/or attorneys' fees may be awarded at the discretion of the court or where the conduct involved was made with knowledge or in bad faith. MISS. CODE ANN. § 75-25-23, 27. A state registration is not required for the public prosecutor to bring criminal charges for trademark counterfeiting. MISS. CODE ANN. §§ 97-21-53.
Dilution	Miss. Code Ann. § 75-25-25	The owner of a mark that is famous or distinct may seek injunctive relief, and if the conduct was willful, the court has discretion to award additional remedies.
Unfair Trade Practices Act	Miss. Code Ann. §§ 75-24-1 <i>et seq.</i>	The Act pertains to trademark infringement including false designation of origin and passing off goods or services of another. The State Attorney General may bring an action and obtain injunctive relief, revocation or suspension of a business license, and civil penalties up to \$10,000 payable to the State. Private parties may also bring actions after participating in an informal dispute resolution settlement program approved by the Attorney General. Private parties may obtain damages.
Unfair Competition	Not applicable	Mississippi does not have a separate, general statute prohibiting unfair competition.
Common Law	Not applicable	Mississippi state courts have recognized a common law action for unfair competition that encompasses imitation of trademarks and trade names. Remedies include all those available under general tort law.

MISSOURI		
Statute	Code Provision	Statutory Description
Trademark Registration	Mo. Rev. Stat. §§ 417.005 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Missouri. Remedies: Injunctive relief, and, only if the defendant intended to cause confusion or mistake or to deceive, profits and damages. A state registration is not required for the public prosecutor to bring criminal charges for theft of trademarks. MO. REV. STAT. § 570.103.
Dilution	Mo. Rev. Stat. § 417.061	Likelihood of injury to business reputation or of dilution of the distinctive quality of a registered mark or common law mark constitutes grounds for injunctive relief “notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services.”
Unfair Competition	Not applicable	Missouri does not have a separate, general state statute prohibiting unfair competition.
Unfair Business Practices Act	Mo. Rev. Stat. §§ 407.010 <i>et seq.</i>	Missouri protects consumers and competitors. Remedies: Injunctive relief and restitution payable to the State. In addition, the court may impose a penalty of not more than \$1,000 per violation.
Common Law	Not applicable	Missouri recognizes a common law right of unfair competition regardless of whether the mark is registered with the Patent Office. ²⁶ Remedies: Injunctive relief as well as the possibility of punitive damages.

²⁶ Dynamic Sales v. Dynamic Fastener Service, Inc., 803 S.W.2d 129 (Mo. App. 1990).

MONTANA		
Statute	Code Provision	Statutory Description
Trademark Registration	<p>Mont. Code Ann. §§ 30-13-301 <i>et seq.</i></p> <p>Revision: Mont. Code Ann. § 30-13-313</p>	<p>A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Montana. Remedies: Injunction, destruction of seized goods, profits or damages, except that registrant is not entitled to recover any profits or damages unless the acts have been committed with knowledge that the mark is intended to be used to cause confusion or mistake or to deceive. MONT. CODE ANN. § 30-13-333(2). The court has discretion to award up to treble damages and reasonable attorney fees in cases where there was knowledge or bad faith. § 30-13-335. The statute specifically states that common law trademark rights are preserved. Therefore, an owner of a non-registered trademark may bring an action for common law infringement. MONT. CODE ANN. § 30-13-336.</p> <p>“(5) All applications for renewal under this part must include a verified statement that the mark has been and is still in use, a specimen showing actual use of the mark on or in connection with the goods or services, and the following information:</p> <p>(a) The original identification number assigned by the secretary of state;</p> <p>(b) The name subscribed for the mark;</p> <p>(c) The name and business mailing address of the person claiming ownership of the mark;</p> <p>(d) if a corporation, the state of incorporation or, if a partnership, the state in which the partnership is organized and the names of the general partners, as specified by the secretary of state; and</p> <p>(e) the class of goods or services and a description of the goods or services on or in connection with which the mark is used.”*</p> <p>*Added text in bold.</p>
Dilution	Mont. Code Ann. § 30-13-334	Remedies: Injunctive relief, and if the conduct was willful, the court has discretion to award additional remedies.
Montana Unfair Trade Practices and Consumer Protection Act	Mont. Code Ann. §§ 30-14-101 <i>et seq.</i>	This Act notes that “unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful.” In the event that a person willfully utilizes an unlawful method, a court may impose a fine of not more than \$10,000 for each violation. The department of justice may bring an action for injunctive relief.

Unfair Competition	Mont. Code Ann. §§ 30-14-201 <i>et seq.</i>	This Act protects the public from unfair and discriminatory practices, which would destroy unfair competition.
Common Law	Not applicable	Montana recognizes a common law action for unfair competition. Remedies: Injunctive relief.

NEBRASKA		
Statute	Code Provision	Statutory Description
Trademark Registration	<p>Neb. Rev. Stat. §§ 87-126 <i>et seq.</i></p> <p>Revision:</p> <p>Neb. Rev. Stat. § 87-130</p> <p>Neb. Rev. Stat. § 87-132</p> <p>Neb. Rev. Stat. § 87-134</p>	<p>The 2000 Nebraska statute is “substantially consistent with the federal system of trademark registration and protection.” NEB. REV. STAT. § 87-127. State trademark registration is required for a party to sue for trademark counterfeiting or infringement in Nebraska. Remedies: Injunctive relief, seizure and destruction of infringing articles, and, if wrongful acts were committed with knowledge or in bad faith, profits, damages, and reasonable attorneys’ fees. NEB. REV. STAT. § 87-141.</p> <p>Substituted “or other type of business entity except a partnership, the state of incorporation or organization” for “, the state of incorporation” in subd. (1).</p> <p>Substituted “or other type of business entity except a partnership, the state of incorporation or organization” for “, the state of incorporation”.</p> <p>Rewrote subsec. (2) and added subsec. (6)</p> <p>Section 2:</p> <p>(2)(a) Any registrant or applicant effecting a change of the name of the person to whom the mark was issued or for whom an application was filed or a change of address or state of incorporation or organization may record a certificate of such change with the secretary upon the payment of the recording fee. A registrant or an applicant may be required to submit documented proof of its name change at the discretion of the secretary.*</p> <p>*Added text in bold.</p> <p>(b) The secretary may issue in the same of the assignee a certificate of registration of an assigned application. The secretary may issue in the name of the assignee a new certificate of registration for the remainder of the term of the registration or last renewal of the registration.</p>

		Section 6: (6) In a registration that resulted from an application that was filed before the effective date of a change to the Trademark Registration Act or any rules or regulations adopted and promulgated pursuant to the act, the registrant may be allowed to file an amendment to the registration in order to comply with the current requirements of the act and the rules and regulations. The registrant shall pay a recording fee for such amendment.
Dilution	Neb. Rev. Stat. § 87-140	The statute provides for injunctive relief for a famous mark unless willful dilution is proven, in which case the owner is entitled to all other remedies under the Trademark Registration Act.
Consumer Protection Act	Neb. Rev. Stat. §§ 59-1601 <i>et seq.</i>	The Act is drafted broadly and prohibits unfair methods of competition, as well as restraint of trade and monopolies. The State Attorney General may bring an action for injunctive relief and obtain civil fines up to \$25,000. The Act also provides for a private right of action of which the remedies include injunctive relief, damages, costs, and attorneys' fees. The court may also increase the damages award up to \$1,000 at its discretion.
Uniform Deceptive Trade Practices Act	Neb. Rev. Stat. §§ 87-301 <i>et seq.</i>	According to the Act, passing off goods or services as those of another or causing the likelihood of confusion as to source of goods or services constitutes deceptive trade practices. Remedies: Injunctive relief. Proof of monetary damages, loss of profits, or intent to deceive is not required. Unless the court otherwise directs, costs shall be allowed to the prevailing party. The Attorney General may also bring an action for injunctive relief. A civil penalty of no more than \$2,000 may be assessed for each violation.
Unfair Competition	Not applicable	Nebraska does not have a separate, general statute prohibiting unfair competition.
Common Law	Not applicable	Nebraska state courts recognize a common law action for unfair competition, which encompasses imitation of trademarks. Remedies include injunctive relief and monetary damages. ²⁷

²⁷ ADT Security Services, Inc. v. A/C Security Systems, Inc., 736 N.W.3d 737 (Neb. App. 2007).

NEVADA		
Statute	Code Provision	Statutory Description
Trademark Registration	Nev. Rev. Stat. §§ 600.240 <i>et seq.</i> Revision: Neb. Rev. Stat. § 87-130 Neb. Rev. Stat. § 87-132 Neb. Rev. Stat. § 87-134	State trademark registration is required for a party to sue for trademark counterfeiting or infringement in Nevada. Remedies: Injunctive relief and an award of the defendant's profits and all damages suffered by the trademark owner, except registrant is not entitled to profits or damages unless the act was committed with knowledge that the counterfeit was intended to be used to cause confusion, mistake or deception. The court may order that the "defendant pay to the owner treble damages on all profits derived from the willful and wrongful acts of defendant and treble damages on all damages suffered by reason of these acts." The court may also order that any counterfeits or imitations be delivered up for destruction. NEV. REV. ST. §§ 600.420, 600.430. A state registration is not required for criminal prosecution for counterfeiting under § 205.205, or for displaying goods with a false trademark under § 205.210, as long as the exclusive right to use the trademark is guaranteed under the laws of the United States.
Dilution	Nev. Rev. Stat. § 600.435	Statute provides for injunction relief and the mark must be famous. If willful intent is proven, then additional remedies under § 600.430 are available.
Unfair Competition	Not applicable	Nevada does not have a separate state statute prohibiting unfair competition.
Deceptive Trade Practices Act	Nev. Rev. Stat. §§ 598.0903 <i>et seq.</i>	Nevada's Act protects consumers and competitors. The Attorney General may bring an action for equitable relief. If a court finds that a person has willfully engaged in a deceptive trade practice, the state may exact a penalty of no more than \$5,000 for each violation.
Common Law	Not applicable	Nevada recognizes a common law action for unfair competition, which provides the same remedies under the Lanham Act. ²⁸

²⁸ Wells Fargo & Co. v. Wells Fargo Express Co., 358 F. Supp. 1065 (D. Nev. 1973), vacated on other grounds 556 F.2d 406 (9th Cir. 1977).

NEW HAMPSHIRE		
Statute	Code Provision	Statutory Description
Trademark Registration	N.H. Rev. Stat. Ann. §§ 350-A:1 <i>et seq.</i>	State trademark registration is required for a party to sue for trademark counterfeiting or infringement in New Hampshire. Remedies: Injunctive relief and recovery of infringer's profits and/or the owner's damages and costs, that the registrant shall not be entitled to recover profits or damages against a party who reproduces the mark, unless the acts have been committed with knowledge that such mark is intended to be used to cause confusion or mistake or to deceive. N.H. REV. STAT. ANN. §§ 350-A:11, 13. Destruction or disposition of infringed goods may also be ordered.
Dilution	N.H. Rev. Stat. Ann. § 350-A:12	"Likelihood of injury to business reputation or of dilution of the distinctive quality of a mark registered under this chapter, or a mark valid at common law, or a trade name valid at common law, shall be a ground for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services."
Unfair Business Practices Act	N.H. Rev. Stat. Ann. §§ 358-A:1 <i>et seq.</i>	The Act prohibits unfair or deceptive practices in trade and commerce. A private action under this section may be based upon passing off, causing confusion and/or false representations. The statute provides remedies for actual damages, equitable relief, injunctive relief, and, if a violation was willful, treble damages. Minimum statutory damages are \$1,000. Costs and attorneys' fees shall also be awarded. § 358-A:10.
Common Law	Not applicable	New Hampshire has a common law claim for unfair competition.

NEW JERSEY		
Statute	Code Provision	Statutory Description
Trademark Registration	N.J. Stat. Ann. §§ 56:3-13.1a <i>et seq.</i>	Registration in the state or with the U.S. Patent & Trademark Office is required for a party to sue for trademark counterfeiting or infringement in New Jersey. Remedies: Injunctive relief, seizure and destruction of infringing articles, and, provided that intent to cause confusion or mistake or to deceive is shown, profits and/or damages. Treble damages, attorney's fees and costs may be awarded if bad faith or egregiousness is proven. § 56:3-13.16.
Consumer Fraud Act	N.J. Stat. Ann. §§ 56:8-1 <i>et seq.</i>	This Act is drafted broadly and prohibits deceptive practices. The State Attorney General may bring an action for injunctive relief and restitution and a penalty of not more than \$10,000 may be imposed for the first offense and not more than \$20,000 for the second and each subsequent offense. The Act also provides for a private right of action. Remedies: Injunctive relief, damages, (however, the owner or designee shall not be entitled to recover profits or damages unless the conduct has been committed with the intent to cause confusion or mistake or to deceive), costs and attorney's fees, and treble damages.
Unfair Competition	N.J. Stat. Ann. §§ 56:4-1 <i>et seq.</i>	New Jersey's unfair competition statute prohibits the appropriation by a merchant, firm, or corporation deals. Remedies: Injunctive relief, damages, and discretionary treble damages.
Common Law	Not applicable	New Jersey state courts recognize common law actions for unfair competition, which encompasses imitation of trademarks and passing off. Remedies: Injunctive relief, damages, profits, attorneys' fees, and treble damages.

NEW MEXICO		
Statute	Code Provision	Statutory Description
Trademark Registration	N.M. Stat. Ann. §§ 57-3B-1 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in New Mexico. Remedies: Injunctive relief and an award of all profits derived from, or all damages suffered by reason of, the counterfeit or imitation of the registered mark. See § 57-3B-14 and § 57-3B-16. However, the registrant of the mark may only recover profits or damages if the “acts have been committed with the intent to cause confusion or mistake or to deceive.” § 57-3B-14(B). The court may also order that any counterfeits or imitations be delivered up for destruction. Additionally, the court, “in its discretion, may enter judgment for an amount not to exceed three times the profits and damages and for reasonable attorney fees of the prevailing party . . . where . . . the other party committed the wrongful acts with knowledge or in bad faith or as otherwise the circumstances of the case may warrant.” § 57-3B-16.
Dilution	N.M. Stat. Ann. § 57-3B-15	The statute provides for only injunctive relief unless willful intent is proven, in which case the mark owner shall also be entitled to the remedies set forth in the Trademark Act. N.M. STAT. ANN. §§ 57-3-1 <i>et seq.</i>
Unfair Competition	Not applicable	New Mexico does not have a separate state statute prohibiting unfair competition.
Common Law	Not applicable	New Mexico recognizes a common law right of unfair competition which includes injunctive relief.

NEW YORK		
Statute	Code Provision	Statutory Description
Trademark Registration	N.Y. Gen. Bus. L. §§ 360-a <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in New York. Remedies include injunctive relief, seizure and destruction of infringing articles, and profits and/or damages. Treble damages, attorneys' fees, and costs may be awarded if knowledge or bad faith is proven. State registration is not required for a public prosecutor to bring criminal charges for trademark counterfeiting. PENAL L. §§ 165.71-165.73.
Dilution	N.Y. Gen. Bus. L. § 360-1	The statute only allows for injunctive relief.
Consumer Protection from Deceptive Acts and Practices Act	N.Y. Gen. Bus. L. § 349	The Act is broadly drafted and prohibits deceptive acts or practices in the conduct of any trade or business. The State Attorney General may bring an action for injunctive relief and restitution. The Act also provides for a private right of action. Remedies: Injunctive relief and actual damages or \$50, whichever is greater. The court has discretion to treble the damages up to \$1,000 and award attorney's fees if the defendant acted willfully or knowingly in violating the statute.
Unfair Competition	Not applicable	New York has no unfair competition statute concerning trademarks.
Common Law	Not applicable	New York state courts recognize common law actions of unfair competition for trademark, trade dress, and trade name infringement. ²⁹ Remedies include injunctive relief, damages, and profits.

²⁹ ITC Ltd. v. Punchgini, Inc., 9 N.Y.3d 467 (N.Y. App. 2007).

NORTH CAROLINA		
Statute	Code Provision	Statutory Description
Trademark Registration	N.C. Gen. Stat. §§ 80-1 <i>et seq.</i>	Under North Carolina's Trademark Registration Acts registration is required for a party to sue for trademark counterfeiting or infringement in North Carolina. The statute for infringement, § 80-11, does not provide for specific remedies, except that a registrant shall not be entitled to recover profits or damages or any penalty unless the acts have been committed with knowledge that such mark is intended to be used to cause confusion or mistake or to deceive. However, the statute does refer to the remedies available under the unfair business practices act, § 75-11.
Dilution	Not applicable	North Carolina does not have a separate statute for dilution.
Unfair Business Practices Act	N.C. Gen. Stat. § 75-1.1	"Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are declared unlawful." Remedies: Injunctive relief, actual damages, and, in the court's discretion, treble damages and attorney's fees.
Common Law	Not applicable	Unfair competition exists as a common law cause of action in North Carolina. ³⁰

³⁰ Polo Fashions, Inc. v. Gordon Group, 627 F. Supp. 878 (M.D.N.C. 1985).

NORTH DAKOTA		
Statute	Code Provision	Statutory Description
Trademark Registration	N.D. Cent. Code. §§ 47-22-01 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in North Dakota. Remedies: Injunctive relief and an award of defendant's profits and the mark owner's damages, except that the registrant shall not be entitled to recover profits or damages under § 47-22-11(2), "unless the acts have been committed with knowledge that such trademark is intended to be used to cause confusion or mistake or to deceive." A state registration is not required for the public prosecutor to bring criminal charges for theft of trademarks. § 51-07-04.
Dilution	Not applicable	North Dakota does not have a separate statute for dilution.
Unfair Business Practices Act	N.D. Cent. Code §§ 51-10-01 <i>et seq.</i>	North Dakota's Act primarily regulates restraints of trade and monopolies.
Unfair Competition	Not applicable	North Dakota does not have a separate statute prohibiting unfair competition.
Common Law	Not applicable	North Dakota recognizes a common law right of unfair competition which provides remedies including injunctive relief. ³¹

³¹ *Burris Carpet Plus, Inc. v. Burris*, 785 N.W.2d 164 (N.D. 2010).

OHIO		
Statute	Code Provision	Statutory Description
Trademark Registration	Ohio Rev. Code Ann. § 1329.54 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Ohio. § 1329.66. Remedies: Seizure and destruction of infringing articles, profits, and/or damages. If the infringement complained of is part of a paid advertisement in a periodical and constitutes innocent infringement, then the owner of the right infringed may only seek injunctive relief.
Dilution	Not applicable	Ohio does not have a separate statute for dilution. However, common law dilution exists. ³²
Unfair Business Practices Act	Not applicable	Ohio does not have an unfair business practices act, which would be applicable to trademarks.
Uniform Deceptive Trade Practices Act	Ohio Rev. Code Ann. §§ 4165.01 <i>et seq.</i>	The Act prohibits businesses and individuals from any deceptive trade practices. Remedies: Injunctive relief, attorneys' fees and actual damages. ³³
Unfair Competition	Not applicable	Ohio does not have a separate statute prohibiting unfair competition.
Common Law	Not applicable	Ohio recognizes the common law right of unfair competition. Remedies: Injunctive relief, attorneys' fees, and compensable damages. ³⁴

³² Ameritech, Inc. v. American Information Technologies Corp., 811 F.2d 960 (6th Cir. 1987).

³³ Yocono's Restaurant, Inc. v. Yocono, 651 N.E.2d 1347 (Ohio App. 1994).

³⁴ Cesare v. Work, 520 N.E.2d 586 (Ohio App. 1987).

OKLAHOMA		
Statute	Code Provision	Statutory Description
Trademark Registration	78 Okla. Stat. Ann. §§ 21 <i>et seq.</i>	Injunctive relief, seizure and destruction of infringing articles, and profits and/or damages. § 32. Under § 31(b), the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such trademark is intended to be used to cause confusion or mistake or to deceive.
Dilution	Not applicable	Oklahoma does not have a dilution statute.
Consumer Protection Act	15 Okla. Stat. Ann. §§ 751 <i>et seq.</i>	This Act enumerates a broad range of prohibited activities. The State Attorney General or district attorney can bring an action for damages and penalties. The Act also provides for a private right of action with remedies including damages, costs, and attorneys' fees.
Deceptive Trade Practices Act	78 Okla. Stat. Ann. §§ 51 <i>et seq.</i>	The statute protects individuals and businesses, and provides for injunctive relief as well as actual damages.
Unfair Competition	Not applicable	Oklahoma does not have a statute for unfair competition.
Common Law	Not applicable	State courts recognize common law actions for trademark, trade dress, and trade name infringement. Remedies: Injunctive relief, damages, and profits.

OREGON		
Statute	Code Provision	Statutory Description
Trademark Registration	Ore. Rev. Stat. Ann. §§ 647.005 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Oregon. Remedies: Injunctive relief, profits and damages, seizure and destruction of counterfeits or imitations in the defendant's possession. ORE. REV. STAT. ANN. § 647.105. If the defendant has acted in bad faith or with knowledge then the court may enter a judgment up to three times the sum of the defendant's profits, the owner's damages, and reasonable attorneys' fees. However, the registrant is not entitled to recover profits or damages unless the acts were committed "with the intent to cause confusion or mistake or to deceive." ORE. REV. STAT. ANN. § 647.095(2).
Dilution	Ore. Rev. Stat. Ann. § 647.107	The statute provides for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services. If the defendant willfully intended to cause dilution of the mark then the owner is entitled to other remedies provided in the chapter. See ORE. REV. STAT. ANN. §§ 647.005 <i>et seq.</i>
Unfair Competition	Not applicable	Oregon has no specific unfair competition statute.
Unlawful Trade Practices Act	Ore. Rev. Stat. Ann. §§ 646.605-646.656	Oregon's Act protects consumers and competitors. ³⁵ Remedies: Injunctive relief as well as actual damages or \$200, whichever is greater. The court may also award punitive damages and such equitable relief as it deems necessary. ORE. REV. STAT. ANN. § 646.638.
Common Law	Not applicable	Oregon recognizes a common law right of unfair competition. ³⁶

³⁵ See, e.g., *Meridian Transportation Resources, LLC v. Magic Carrier Resources, LLC*, 518 F. Supp.2d 1255 (D. Or. 2007).

³⁶ *Dial Temporary Help Service, Inc. v. Shrock*, 946 F. Supp. 847 (D. Ore. 1996).

PENNSYLVANIA		
Statute	Code Provision	Statutory Description
Trademark Registration	54 Pa. Consol. Stat. §§ 1101 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Pennsylvania. §§ 1123, 1125. Remedies include injunctive relief and recovery of infringer's profits and/or the owner's damages and destruction of infringer's goods. Lost profits may be limited to those cases where acts were committed with knowledge that such mark was intended to cause confusion, mistake, or to deceive. In the event a court finds that the defendant has acted in bad faith or with knowledge, that court, in its discretion, may enter a judgment for an amount not to exceed three times such profits and damages and/or reasonable attorneys' fees.
Dilution	54 Pa. Consol. Stat. § 1124	If the mark in question is famous, the statute provides for injunctive relief. If willful intent is proven, then additional remedies are available subject to the discretion of the Court. ³⁷
Unfair Trade Practices and Consumer Protection Law	73 Pa. Consol. Stat. §§ 201-1 <i>et seq.</i>	This Act prevents unfair methods of competition and unfair or deceptive acts or practices such as: "(i) Passing off goods or services as those of another; (ii) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services." The Attorney General or District Attorney may seek injunctive relief to restrain such practices. The Act provides a private right of action to recover actual damages or \$100, whichever is greater. In its discretion, the court may award up to three times the actual damages sustained, but not less than \$100. The court may also award additional relief including costs and reasonable attorneys' fees. ³⁸ A civil penalty of not more than \$5,000 may be assessed per violation.
Common Law	Not applicable	Owners of unregistered trademarks may still pursue civil remedies based upon common law. § 1126. ³⁹ Pennsylvania recognizes common law unfair competition, including remedies for infringement of trademarks. Remedies include injunctive relief and damages.

³⁷ Hershey Foods Corp. v. Mars Inc., 998 F. Supp. 500 (M.D. Pa. 1998).

³⁸ Limited by *In re Abramson, Bankruptcy*, 313 B.R. 195, 198 (W.D. Pa. 2004) (finding that once a debtor is in bankruptcy a debtor's remedies to attack an allegedly inflated proof of claim are limited to those in the Bankruptcy Code).

³⁹ Bicentennial Commission v. Olde Bradford Co., 365 A.2d 172 (Pa. Comm. 1976).

PUERTO RICO		
Statute	Code Provision	Statutory Description
Trademark Registration	10 P.R. L. Ann. § 223w	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Puerto Rico. Remedies include injunctive relief, seizure of infringing articles, and damages. In its discretion, the court may award damages up to three times the profits of the defendant and/or loss of the plaintiff when the violation was intentional or in bad faith.
Dilution	10 Laws P.R. L. § 223y	The statute provides for injunctive relief with respect to famous marks. If the defendant had the intention of causing dilution then the owner will also be entitled to the remedies including actual and statutory damages, profits, destruction of the infringing goods, and cancellation of the infringing mark.
Consumer Protection Act	10 P.R. L. Ann. §§ 257 <i>et seq.</i>	Puerto Rico's Act primarily regulates restraints of trade and monopolies. It declares unfair methods of competition and unfair or deceptive acts or practices in trade or commerce to be unlawful.
Unfair Competition	Not applicable	Puerto Rico does not have a separate statute for unfair competition.
Common Law	Not applicable	Local courts recognize common law actions for trademark, trade dress, and trade name infringement. Remedies: Injunctive relief, damages, and attorneys' fees.

RHODE ISLAND		
Statute	Code Provision	Statutory Description
Trademark Registration	R.I. Gen. L. §§ 6-2-1 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Rhode Island. Remedies include injunctive relief, destruction of all counterfeits, and awarding of all profits derived from infringement as well as damages suffered except that profits may only be awarded upon a showing that the acts were committed with knowledge. A state registration is not required for the public prosecutor to bring criminal charges for theft of trademarks. § 11-17-13.
Dilution	R.I. Gen. L. § 6-2-12	The statute provides for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services.
Unfair Competition	Not applicable	Rhode Island does not have a separate, general state statute prohibiting unfair competition.

Deceptive Trade Practices Act	R.I. Gen. L. § 6-13.1-1 <i>et seq.</i>	Rhode Island's statute provides for a private right of action, but not for competitors. ⁴⁰ The statute declares that "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are declared unlawful." A consumer may recover actual damages or two hundred dollars (\$200), whichever is greater. The court may, in its discretion, award punitive damages and may provide other equitable relief that it deems necessary or proper.
Common Law	Not applicable	Rhode Island recognizes a common law right of unfair competition. Remedies: Injunctive relief.

SOUTH CAROLINA		
Statute	Code Provision	Statutory Description
Trademark Registration	S.C. Code Ann. §§ 39-15-1105 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in South Carolina. § 39-15-1170. Remedies include injunctive relief, destruction of infringing articles, profits, or damages, except that the registrant may only be entitled to recover profits or damages unless the acts have been committed with the intent to cause confusion or mistake or to deceive. The court has discretion to award treble damages in cases where there was knowledge or bad faith. S.C. CODE ANN. §§ 39-15-1160, 39-15-1170.
Dilution	S.C. Code Ann. § 39-15-1165	If the mark is "famous," then the remedies are limited to injunctive relief. If the acts were committed willfully, remedies may include damages, profits, and destruction of goods.
Unfair Trade Practices Act	S.C. Code Ann. §§ 39-5-10 <i>et seq.</i>	The act is designed to protect against unfair and deceptive acts in any trade or commerce. Remedies: Actual damages and, if the acts were willful, treble damages.
Unfair Competition	Not applicable	South Carolina does not have a separate, general state statute prohibiting unfair competition.
Common Law	Not applicable	South Carolina recognizes a common law right of unfair competition. Remedies: Injunctive relief and actual damages. ⁴¹

⁴⁰ See *ERI Max Entertainment v. Streisand*, 690 A.2d 1351 (R.I. 1997) (dismissing this cause of action for lack of standing where a competitor had sued under this Act).

⁴¹ *Taylor v. Hoppin' Johns, Inc.*, 405 S.E.2d 410 (S.C. App. 1991).

SOUTH DAKOTA		
Statute	Code Provision	Statutory Description
Trademark Registration	S.D. Codif. L. §§ 37-6-1 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in South Dakota. Remedies: Injunctive relief and seizure and destruction of infringing articles. Profits and/or damages are recoverable if the acts were committed with the intent to cause confusion or mistake or to deceive. § 37-6-26.
Dilution	Not applicable	South Dakota does not have a dilution statute.
Deceptive Trade Practices and Consumer Protection Act	S.D. Codif. L. §§ 37-24-1 <i>et seq.</i>	The Act prohibits the use of deceptive acts or practices in the conduct of a business. The State Attorney General may bring an action for an injunction and for restitution. §§ 37-24-23, 37-24-29. Private actions are also allowed for actual damages suffered. § 37-24-31.
Common Law	Not applicable	South Dakota courts recognize common law actions for trademark, trade dress, and trade name infringement. Remedies: Injunctive relief, damages, and lost profits.

TENNESSEE		
Statute	Code Provision	Statutory Description
Trademark Registration	Tenn. Code Ann. §§ 47-25-501 <i>et seq.</i> Revision: Tenn. Code Ann. § 47-25-503(e)	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Tennessee. Remedies: Injunctive relief, destruction of goods, and profits and/or damages, except that profits or damages may only be awarded upon a showing that the acts were committed with intent to cause confusion, mistake, or deception. The court, in its discretion, may award treble damages and/or reasonable attorneys' fees in such cases where there was knowledge or bad faith or otherwise as according to the circumstances of the case. TENN. CODE ANN. §§ 47-25-512, 47-25-514. In subsection (e), "one (1) specimen" is substituted for "three (3) specimens".
Dilution	Tenn. Code Ann. § 47-25-513	The statute provides for protection of marks famous in the state. Remedies: Injunction, unless willfulness is shown, in which case the same remedies are available under trademark infringement.
Unfair Competition	Not applicable	Tennessee does not have a separate statute prohibiting unfair competition.
Common Law	Not applicable	Tennessee recognizes a common law right of unfair competition which provides for remedies similar to those provided under the Lanham Act.

TEXAS		
Statute	Code Provision	Statutory Description
Trademark Registration General Provisions	Revision: Bus. & C. § 16.001	Amended: (1) "Applicant" means the person applying for registration of a mark under this chapter and includes his legal representative, successor, assignee, and predecessor in title to the mark sought to be registered. (5) "Mark" includes a trademark or service mark that is registrable under this chapter, regardless of whether the trademark or service mark is actually registered.*
	Bus. & C. § 16.002	*Added text in bold. Added definitions for: (2) "Dilution" means dilution by blurring or dilution by tarnishment, without regard to the presence or absence of: (A) competition between the owner of a famous mark and another person; (B) actual or likely confusion, mistake, or deception; or (C) actual economic harm
	Bus. & C. § 16.003	(3) "Dilution by blurring" means an association arising from the similarity between a mark or trade name and a famous mark that impairs the famous mark's distinctiveness.
	Bus. & C. § 16.004	(4) "Dilution by tarnishment" means an association arising from the similarity between a mark or trade name and a famous mark that harms the famous mark's reputation.
Registration of Mark	Bus. & C. § 16.058	(6) "Person," with respect to the applicant or another person who is entitled to a benefit or privilege or is rendered liable under this chapter, includes: (A) a natural person; and (B) a firm, partnership, corporation, association, union, or other organization that may sue or be sued in that capacity. (7) "Registrant" means the person to whom a registration of a mark has been issued under this chapter. The term includes the person's legal representative, successor, or assignee.
	Bus. & C. § 16.066	Created in 2012: "(a) This chapter does not apply to the registration or use of a livestock brand or other indicia of ownership of goods that do not qualify as a mark." Added in 2013: "(b) Except as provided by this subsection, a trade name is not registrable under this chapter. If a trade name is also a service mark or trademark, the trade name is registrable as a service mark or trademark."

		<p>Added: “(c) Use of a mark made merely to reserve a right in the mark is not considered to be a bona fide use of a mark for purposes of this chapter.”</p> <p>Added: (a) A mark is considered to be abandoned when: (1) the mark’s use has been discontinued with intent not to resume the use; or (2) the owner’s conduct, including an omission or commission of an act, causes the mark to lose its significance as a mark. (b) Intent not to resume use of a mark under Subsection (a)(1) may be inferred from the circumstances. (c) Nonuse of a mark as described by Subsection (a)(1) for three consecutive years constitutes <i>prima facie</i> evidence of the mark’s abandonment.</p> <p>Increased Requirements: (a) If the application complies with the requirements of this chapter, the secretary of state shall cause a certificate of registration to be issued and delivered to the applicant. (b) The certificate of registration must: (1) be signed by the secretary of state; (2) be issued under the secretary of state’s official seal; (3) indicate the name and business address of the person claiming ownership of the mark; (4) if the applicant is a corporation, indicate the state under whose laws the applicant was incorporated or organized; (5) if the applicant is a partnership, indicate the state under whose laws the partnership was organized and the names of the general partners; (6) include a description of the goods or services on or in connection with which the mark is being used; (7) state the class of the goods or services; (8) state the date claimed for the first use of the mark anywhere; (9) state the date claimed for the first use of the mark in this state; (10) show a reproduction of the mark; (11) state the registration date; and (12) state the term of the registration.</p> <p>Added: (a) The secretary of state by rule shall prescribe the amount of fees payable for the various applications and for the filing and recording of those applications for related services. (b) Unless specified otherwise by the secretary of state, a fee under this chapter is not refundable.</p>
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<p>Enforcement</p>	<p>V.T.C.A., Bus. & C. §§ 16.101 <i>et seq.</i></p>	<p>A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Texas. Remedies: Injunctive relief, damages, and destruction of all infringing counterfeits or imitations in the possession or under the control of the violator. If a court finds that the violator acted with knowledge or in bad faith, it may enter judgment in an amount not to exceed three times the amount of profits and damages and award reasonable attorneys' fees.</p>
<p>Dilution</p>	<p>V.T.C.A., Bus. & C. § 16.103</p> <p>Revision:</p>	<p>Provides protection for famous marks. Remedies: Injunctive relief, and, if willful intent to cause dilution of the famous mark is shown, all other remedies available under trademark infringement subject to the court's discretion and principles of equity.</p> <p>(a) Subject to the principles of equity, the owner of a mark that is famous and distinctive, inherently or through acquired distinctiveness, in this state is entitled to enjoin another person's commercial use of a mark or trade name that begins after the mark has become famous if use of the mark or trade name is likely to cause the dilution of the famous mark.</p> <p>(b) For purposes of this section, a mark is considered to be famous if the mark is widely designation of source of the goods or services of the mark's owner. In determining whether a mark is famous, a court may consider factors including:</p> <ol style="list-style-type: none"> (1) the duration, extent, and geographic reach of the advertisement and publicity of the mark in this state, regardless of whether the mark is advertised or publicized by the owner or a third party; (2) the amount, volume, and geographic extent of sales of goods or services offered under the mark in this state; (3) the extent of actual recognition of the mark in this state; and (4) whether the mark is registered in this state or in the United States Patent and Trademark Office. <p>(c) In an action brought under this section, the owner of a famous mark is entitled to injunctive relief throughout the geographic area in this state in which the mark is found to have become famous before the use of the other mark. If the court finds that the person against whom the injunctive relief is sought wilfully intended to cause the dilution of the famous mark, the owner shall also be entitled to remedies under this chapter, subject to the court's discretion and principles of equity.</p> <p>(d) A person may not bring an action under this section for:</p> <ol style="list-style-type: none"> (1) a fair use, including a nominative or descriptive fair use, or facilitation of

		<p>the fair use, of a famous mark by another person other than as a designation of source for the person's own goods or services, including a fair use in connection with:</p> <p>(A) advertising or promoting that permits consumers to compare goods or services; or</p> <p>(B) identifying and parodying, criticizing, or commenting on the famous mark owner or the famous mark owner's goods or services;</p> <p>(2) a noncommercial use of the mark; or</p> <p>(3) any form of news reporting or commentary.</p>
Forum for Action	Revision: Bus. & C. § 16.106	<p>(a) An action to require cancellation of a mark registered under this chapter or in mandamus to compel registration of a mark under this chapter shall be brought in a district court of Travis County. In an action to compel registration of a mark, the proceeding must be based solely on the record before the secretary of state.</p> <p>(b) In an action for cancellation, the secretary of state may not be made a party to the proceeding but shall be notified of the filing of the complaint by the clerk of the court in which the action is filed and shall be given the right to intervene in the action.</p> <p>(c) In an action brought against a non-resident registrant, service may be made on the secretary of state as agent for service of process of the registrant in accordance with the procedures established for service on foreign corporations and business entities under the Business Organizations Code.</p>
Deceptive Trade Practices – Consumer Protection Act	V.T.C.A., Bus. & C. §§ 17.41 <i>et seq.</i>	<p>The Act is designed to protect against deceptive acts in trade or commerce. The Act specifically lists twenty-four 'per se' violations of deceptive acts. They include, among others, passing off goods of another and causing confusion as to the source of such goods. Remedies: Injunctive relief, economic damages (the trier of fact may award not more than three times the amount of economic damages; or if the trier of fact finds the conduct was committed intentionally, the consumer may recover damages for mental anguish, as found by the trier of fact, and the trier of fact may award not more than three times the amount of damages for mental anguish and economic damages), and other relief to be determined by the Court.⁴² TEX. BUS. & COM. CODE § 17.50. The Act does not apply to business consumers who have over \$25 million in assets. § 17.45(4).</p>

⁴² Duncan v. Luke Johnson Ford, Inc., 603 S.W.2d 777 (Tex. 1980).

Unfair Competition	Not applicable	Texas does not have a separate statute prohibiting unfair competition.
Common Law	Not applicable	Texas has recognized the common law right of unfair competition. Remedies: Damages, injunctions, lost profits, and punitive damages. ⁴³

UTAH		
Statute	Code Provision	Statutory Description
Trademark Registration	Utah Code Ann. §§ 70-3a-101 <i>et seq.</i> Revision: Utah Code Ann. § 70-3a-305	<p>A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Utah. Remedies include an injunction, profits or damages (except that the registrant may not be able to recover profits or damages unless there was intent to cause confusion, mistake, or to deceive), destruction of goods, and where the other party committed the wrongful act with knowledge or in bad faith or otherwise within the discretion of the court as according to the circumstances of the case, treble damages and attorneys' fees. UTAH CODE ANN. §§ 70-3a-402, 70-3a-404.</p> <p>(1) The registration of a mark under this chapter expires five years after the date the division certifies the registration under Section 70-3a-304.</p> <p>(2) A registration may be renewed for an additional five years from the date a registration expires if the registrant:</p> <p>(a) files an application with the division:</p> <p>(i) at least no sooner than six months before the expiration of the registration and no later than six months after the expiration of the registration*; and</p> <p>(ii) in accordance with the requirements made by rule by the division:</p> <p>(A) pursuant to Section 70-3a-201; and</p> <p>(B) consistent with this section; and</p> <p>(b) pays a renewal fee determined by the division in accordance with Section 70-3a-203.</p> <p>(3) If a registrant complies with this section, the registrant may renew a mark at the expiration of each five-year term.</p> <p>(4)(a) A registration in effect before May 6, 2002:</p> <p>(i) shall continue in full force and effect for the registration's unexpired term; and</p> <p>(ii) may be renewed by:</p> <p>(A) filing an application for renewal with the division:</p> <p>(1) within six months before the expiration of the registration the time prescribed in Subsection (2)(a)(i); and</p>

⁴³ Miller v. Lone Star Tavern, Inc., 593 S.W.2d 341 (Tex. Civ. App. 1979).

		<p>(II) in accordance with rules made by the division pursuant to Section 70–3a–201; and</p> <p>(B) paying the required renewal fee determined by the division in accordance with Section 70–3a–203.</p> <p>(b) If a registration in effect before May 6, 2002, is renewed in accordance with this Subsection (4), the registration shall be renewed for a term of five years.</p> <p>(5) Any application for renewal under this chapter, whether a registration made under this chapter or a registration made under a prior Utah statute, shall include:</p> <p>(a) a verified statement that the mark has been and is still in use; and</p> <p>(b)(i) a specimen showing actual use of the mark on or in connection with the goods or services; or</p> <p>(ii) a verified statement that the mark has not changed.</p> <p>*Amended text in bold.</p>
Dilution	Utah Code Ann. § 70-3a-403	The statute provides for protection of famous marks. Remedies: Injunction and, if willfulness is shown, other remedies available under trademark infringement.
Unfair Practices Act	Utah Code Ann. §§ 13-5-1 <i>et seq.</i>	The Act substantially regulates monopolies and restraints of trade and is not applicable to trademark infringement matters.
Consumer Sales Practices Act	Utah Code Ann. §§ 13-11-1 <i>et seq.</i>	The Act deals with consumer sales practices, but several aspects can be applied to trademark infringement matters. The Division of Consumer Protection can commence an action and obtain injunctive relief, declaratory judgment, recovery of actual damages sustained by complaining consumers, and impose an administrative fine of up to \$2,500 for each violation. Private actions are also allowed. Remedies: Declaratory judgment, injunctive relief, and actual damages or \$2,000, whichever is greater. Class actions are allowable under this Act.
Unfair Competition	Utah Code Ann. §§ 13-5a-101 <i>et seq.</i>	Utah provides a private cause of action against a person who engages in unfair competition. Remedies: Actual damages, costs and attorneys' fees, punitive damages.
Common Law	Not applicable	Utah courts recognize a common law cause of action for unfair competition, which encompasses palming off ⁴⁴ and unfairly benefitting from the good will and reputation of another. Remedies: Injunctive relief and damages.

⁴⁴ Overstock.com, Inc. v. SmartBargains, Inc., 192 P.3d 858 (Utah 2008).

VERMONT		
Statute	Code Provision	Statutory Description
Trademark Registration	9 Vt. Stat. Ann. §§ 2521 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Vermont. Remedies: Injunctive relief and the recovery of all profits derived from the violation. In addition, the court may order that all counterfeits and imitations be destroyed. A state registration is required for the public prosecutor to bring criminal charges for theft of trademarks. § 2531.
Dilution	Not applicable	Vermont does not have a dilution statute.
Consumer Fraud Act	9 Vt. Stat. Ann. §§ 2451 <i>et seq.</i>	Vermont's Act protects consumers and competitors and prohibits unfair competition in commerce, and unfair or deceptive acts or practices in commerce. Remedies: Civil fines of not more than \$10,000 per each violation as well as actual damages, attorneys' fees and, in some cases, exemplary damages not exceeding three times the value of the consideration given.
Common Law	Not applicable	Vermont recognizes a common law right of action for unfair competition, but the majority of case law follows the statute. ⁴⁵

VIRGINIA		
Statute	Code Provision	Statutory Description
Trademark Registration	Va. Code Ann. §§ 59.1-92.1 <i>et seq.</i> Revision: Va. Code Ann. § 59.1-92.2	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Virginia. § 59.1-92.12. Remedies: Injunctive relief, and, only if the acts were committed with intent to cause confusion or mistake or to deceive, profits, damages, or attorneys' fees; destruction of any violating material in the possession or control of the defendant; discretionary attorneys' fees. "Use" means the <i>bona fide</i> use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. For the purposes of this chapter, a mark shall be deemed to be in use (i) on goods when it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale, and the goods are possessed in the Commonwealth* or sold or otherwise

⁴⁵ Vermont Motor Co. v. Monk, 75 A.2d 671 (Vt. 1950).

		<p>distributed in commerce in the Commonwealth, and (ii) in connection with services when it is used or displayed in the course of selling or providing services in the Commonwealth, or advertising descriptive of services available within the Commonwealth that is communicated within or into the Commonwealth.</p> <p>*Amended language in bold.</p>
Dilution	Not applicable	Virginia does not have a dilution statute.
Consumer Protection Act	Va. Code Ann. §§ 59.1-196 <i>et seq.</i>	Competitors do not have standing to sue under this Act. Prohibited practices include: 1) Misrepresenting goods or services as those of another; and 2) Misrepresenting the source sponsorship, approval, or certification of goods or services. VA. CODE ANN. § 59.1-200. Remedies: Actual damages, or \$500, whichever is greater. If the trier of fact finds that the violation was willful, it may increase damages to an amount not exceeding three times the actual damages sustained, or \$1,000, whichever is greater. Reasonable attorneys' fees and costs are also available. VA. CODE ANN. § 59.1-204.
Unfair Competition	Not applicable	Virginia does not have a separate statute prohibiting unfair competition.
Common Law	Not applicable	Virginia courts recognize a common law right of action of unfair competition associated with trademarks. Remedies: Injunctive relief and damages.

WASHINGTON		
Statute	Code Provision	Statutory Description
Trademark Registration	Wash. Rev. Code §§ 19.77.010 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Washington. § 19.77.140. Remedies: Injunctive relief, seizure and destruction of infringing articles, and profits and/or damages (except that the registrant may not be able to recover profits or damages unless there was intent to confuse or mistake or to deceive). The court, in its discretion, may award reasonable attorneys' fees and/or treble damages in such cases where the court finds the other party committed the wrongful acts in bad faith or otherwise as according to the circumstances of the case.
Dilution	Wash. Rev. Code § 19.77.160	The statute provides for injunctive relief only, although if willful intent is proven, remedies under the trademark statute may be available subject to the discretion of the court and the principles of equity.
Unfair Business Practices – Consumer Protection Act	Wash. Rev. Code § 19.86.010 <i>et seq.</i>	Although the Act generally deals with monopolies and restraint of trade, it has been held to prohibit trademark infringement as well. The State Attorney General may bring an action for injunctive relief and/or restitution. The Act also provides for a private right of action. Remedies: Injunctive relief, actual damages, costs, and reasonable attorneys' fees. The court has discretion to treble the damages up to \$25,000 and award costs and attorneys' fees. WASH. REV. CODE § 19.86.090.
Unfair Competition	Not applicable	Washington does not have a separate statute prohibiting unfair competition.
Common Law	Not applicable	Washington courts recognize common law actions for trademark infringement. Remedies: Injunctive relief.

WEST VIRGINIA		
Statute	Code Provision	Statutory Description
Trademark Registration	W. Va. Code §§ 47-2-1 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in West Virginia. Remedies: Injunctive relief, destruction of goods, profits and/or damages (except that the registrant may not be able to recover profits and/or damages unless there was intent to confuse or mistake or to deceive). The court in its discretion, may award treble damages and/or reasonable attorney's fees where the other party committed the wrongful acts with knowledge or in bad faith or otherwise as according to the circumstances of the case.
Dilution	W. Va. Code § 47-2-13	The statute provides for protection of unique or distinctive marks notwithstanding the absence of confusion as to the source of goods or services. Remedies: Injunctive relief only, but if willful intent is proven, then the owner of the mark may be entitled to other remedies under trademark infringement.
Unfair Competition	Not applicable	West Virginia does not have a separate state statute prohibiting unfair competition.
Common Law	Not applicable	West Virginia recognizes a common law right of unfair competition applicable to trademarks. Remedies: Injunctive relief.

WISCONSIN		
Statute	Code Provision	Statutory Description
Trademark Registration	Wis. Stat. §§ 132.01 <i>et seq.</i> Amended: Wis. Stat. § 132.001 Wis. Stat. § 132.01 Wis. Stat. § 132.031 Wis. Stat. § 132.04 Wis. Stat. § 132.11	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Wisconsin. § 132.033. Remedies: Actual damages, destruction of goods, reasonable attorneys' fees, costs, and, if willfulness is shown, treble damages. “(1m) “Department” means the department of financial institutions.” Replaced all references to the “secretary of state” with “the department.” Replaced all references to the “secretary of state” with “the department.” Replaced all references to the “secretary of state” with “the department.” Replaced all references to the “secretary of state” with “the department.”
Dilution	Not applicable	Wisconsin does not have a separate statute for dilution.
Unfair Business Practices Act	Wis. Stat. §§ 100.20 <i>et seq.</i>	The Act protects against unfair business activities. Private actions are limited to violations of orders pursuant to this section. Remedies: Double damages, together with costs, including reasonable attorneys' fees.
Unfair Competition	Not applicable	Wisconsin does not have a separate state statute prohibiting unfair competition.
Common Law	Not applicable	Wisconsin courts recognize a common law right of unfair competition applicable to trademarks. Remedies: Damages, profits, and/or injunctive relief. ⁴⁶

⁴⁶ Leon’s Frozen Custard, Inc. v. Leon Corp., 513 N.W.2d 636 (Wis. App. 1994).

WYOMING		
Statute	Code Provision	Statutory Description
Trademark Registration	Wyo. Stat. Ann. §§ 40-1-101 <i>et seq.</i>	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Wyoming. § 40-1-112. Remedies: Injunctive relief, destruction of infringer's goods, profits and/or damages, except that the registrant may not be able to recover profits or damages unless there was intent to cause confusion or mistake or to deceive. Treble damages and attorney's fees may be awarded where the other party committed the wrongful act with knowledge or in bad faith or otherwise as according to the circumstances of the case.
Dilution	Wyo. Stat. Ann. § 40-1-115	The statute provides for injunctive relief only, although if willful intent is proven, remedies under the trademark statute are available.
Unfair Business Practices Act	Not applicable	Wyoming does not have an unfair business practices act, which would apply to trademark matters.
Unfair Competition	Not applicable	Wyoming does not have a separate state statute prohibiting unfair competition.
Common Law	Not applicable	Wyoming courts recognize a common law right of unfair competition applicable to trademarks. Remedies: Injunctive relief and actual damages if the defendant acted with intent to confuse or deceive purchasers. ⁴⁷

(Text continued on page 9-47)

⁴⁷ Plains Tire and Battery Co. v. Plains A to Z Tire Co., 622 P.2d 917 (Wyo. 1981).

WYOMING		
Statute	Code Provision	Statutory Description
Trademark Registration	Wyo. Stat. Ann. §§ 40-1-101 et seq.	A state trademark registration is required for a party to sue for trademark counterfeiting or infringement in Wyoming. § 40-1-112. Remedies: Injunctive relief, destruction of infringer's goods, profits and/or damages, except that the registrant may not be able to recover profits or damages unless there was intent to cause confusion or mistake or to deceive. Treble damages and attorney's fees may be awarded where the other party committed the wrongful act with knowledge or in bad faith or otherwise as according to the circumstances of the case.
Dilution	Wyo. Stat. Ann. § 40-1-115	The statute provides for injunctive relief only, although if willful intent is proven, remedies under the trademark statute are available.
Unfair Business Practices Act	Not applicable	Wyoming does not have an unfair business practices act, which would apply to trademark matters.
Unfair Competition	Not applicable	Wyoming does not have a separate state statute prohibiting unfair competition.
Common Law	Not applicable	Wyoming courts recognize a common law right of unfair competition applicable to trademarks. Remedies: Injunctive relief and actual damages if the defendant acted with intent to confuse or deceive purchasers ⁴⁷

⁴⁷ Plains Tire and Battery Co. v. Plains A to Z Tire Co., 622 P.2d 917 (Wyo. 1981).

§ 9.04 Chart of State Criminal Counterfeiting Statutes¹

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
ALABAMA (1975) Theft of Trade-marks or Trade Secrets See also: Criminal Simulation; Forgery and Related Offenses	Ala. Code § 13A-8-10.4 § 13A-9-10 §§ 13A-9-1 et seq.	§ 13A-8-10.4 (b) A person commits the crime of "theft of trade secrets or trademarks" if, without the owner's effective consent, he knowingly: (1) Steals a trade secret; (2) Makes a copy of an article representing a trade secret; (3) Communicates or transmits a trade secret; (4) Makes a copy or reproduction of a trademark for any commercial purpose; or (5) Sells an article on which a trademark is reproduced knowing said trademark was used without the owner's consent. (c) Theft of trade secrets or trademarks is a Class C felony.		§ 13A-8-10.4(5) "Trademark." Any word, name, symbol, or device adopted and used by any person or business entity to identify his goods or services, and to distinguish them from the goods or services of others.	

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ALASKA (1962, amended 1978) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Resitution Provisions
Simulation See also: Forgery; Criminal Possession of a Forgery Device	Alaska Stat. § 11.46.530 § 11.46.500-10 § 11.46.520	<p>§ 11.46.530</p> <p>(a) A person commits the crime of criminal simulation if,</p> <p>(1) with intent to defraud, the person makes or alters any object in such a manner that it appears to have a rarity, age, source, or authorship that it does not in fact possess; or</p> <p>(2) with knowledge of its true character and with intent to defraud, the person possesses or utters an object so simulated.</p> <p>(b) Criminal simulation is</p> <p>(1) a class C felony if the value of what the object purports to represent is \$500 or more;</p> <p>(2) a class A misdemeanor if the value of what the object purports to represent is \$50 or more but less than \$500;</p> <p>(3) a class B misdemeanor if the value of what the object purports to represent is less than \$50.</p>			

<p>ARIZONA (1/1/60, amended 5/26/98, amended 4/29/08)</p> <p>State Law(s)</p>	<p>Statutory Section(s)</p> <p>Ariz. Rev. Stat. § 44-1453</p>	<p>Statutory Elements</p> <p>§ 44-1453 A. Except as provided in subsections B, C, and D of this section, a person who knowingly and with intent to sell distributes, uses, displays, advertises, distributes, offers for sale, sells or possesses any item that bears a counterfeit mark or any service that is identified by a counterfeit mark is guilty of a class 1 misdemeanor. B. A person who commits any act proscribed in subsection A of this section is guilty of a class 6 felony if either: 1. The person has one previous conviction under this section. 2. At least one of the following is true: (a) The violation involves more than one hundred but fewer than one thousand items that bear the counterfeit mark. (b) The total retail value of all of the items or services that bear or are identified by the counterfeit mark is more than one thousand dollars but less than ten thousand dollars.</p>	<p>Registration Requirements</p> <p>§ 44-1453 I. Any certificate of registration pursuant to this article or federal law of any intellectual property is prima facie evidence of the facts stated in the certificate of registration.</p>	<p>Statutory Definitions</p> <p>§ 44-1453 1. "Counterfeit mark" means: (a) Any unauthorized reproduction or copy of intellectual property. (b) Intellectual property that is affixed to any item that is knowingly sold, offered for sale, manufactured or distributed or to any identifying services offered or rendered without the authority of the intellectual property owner. 2. "Intellectual property" means any trademark, service mark, trade name, label, term, device, design or word that is adopted or used by a person to identify that person's goods or services. 3. "Retail value" means: (a) For items that bear a counterfeit mark and that are components of a finished product, the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.</p>	<p>Forfeiture/ Destruction/ Restitution Provisions</p> <p>Seizure of all items bearing counterfeit marks and the instrumentalities of the crime. All personal property subject to forfeiture pursuant to Title 13, Ch. 39. Destruction of all items bearing counterfeit marks or other dispositions with intellectual property owner's consent. In any criminal proceeding in which a person is convicted of a violation of this section, a court may order defendant to pay restitution to the intellectual property owner.</p>
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State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>ARIZONA (1/1/60, amended 5/26/98, amended 4/29/08)</p> <p>See also: Criminal Simulation; classification; Forgery; classification; Definitions; Deceptive Business Practices; Classification</p> <p>Use of Unauthorized Copy of Computer Software; Violation; Classification</p> <p>Use of Trademarked Containers for Other Articles; Violation; Classification</p>	<p>§ 13-2004 § 13-2002 § 13-2001 (T) § 13-2202 § 44-1455 § 44-1456</p>	<p>C. A person who knowingly manufactures or produces with intent to sell or distribute any item that bears a counterfeit mark or any service that is identified by a counterfeit mark is guilty of a class 5 felony.</p> <p>D. A person who commits any act prescribed by subsection A is guilty of a class 5 felony if either:</p> <ol style="list-style-type: none"> 1. The person has two or more previous convictions under this section. 2. At least one of the following is true: <ol style="list-style-type: none"> (a) The violation involves at least one thousand items that bear the counterfeit mark. (b) The total retail value of all items or services that bear or are identified by the counterfeit mark is at least ten thousand dollars. <p>E. A person who knowingly has possession, custody or control of at least 26 items that bear a counterfeit mark is presumed to possess the items with intent to sell or distribute the items.</p>		<p>(b) For all other items that bear a counterfeit mark or services that are identified by a counterfeit mark, the counterfeiter's regular selling price for those items or services.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>ARKANSAS (1947, amended 1975)</p> <p>Criminal Simulation</p> <p>See also: Forgery, elements and degrees of offense, Criminal Possession, forgery devices</p>	<p>Ark. Code Ann. § 5-37-213</p> <p>§ 5-37-201 (T)</p> <p>§ 5-37-209</p>	<p>(a) A person commits criminal simulation if, with purpose to defraud or injure, the person:</p> <ul style="list-style-type: none"> (1) Makes, alters, or represents any object in such fashion that it appears to have antiquity, rarity, source or authorship, ingredient, or composition that it does not in fact have; or (2) Possesses or transfers an object simulated as described in subdivision (a)(1) of this section with knowledge of its true character. <p>(b) Criminal simulation is a:</p> <ul style="list-style-type: none"> (1) Class D felony if the value of the object simulated exceeds one hundred dollars (\$100); or (2) Class A misdemeanor if otherwise committed. 			

<p>CALIFORNIA (1872, amended 1998, amended 2012)</p>	<p>State Law(s)</p>	<p>Statutory Section(s) Cal. Penal Code 9, § 350</p>	<p>Statutory Elements</p> <p>(a) Any person who willfully manufactures, intentionally sells, or knowingly possesses for sale any counterfeit mark registered with the Secretary of state or registered on the Principal Register of the United States Patent and Trademark Office, shall, upon conviction, be punishable as follows:</p> <p>(1) When the offense involves less than 1,000 of the articles described in this subdivision, with a total retail or fair market value less than that required for grand theft as defined in Section 487, and if the person is an individual, he or she shall be punished by a fine of not more than ten thousand dollars (\$10,000) or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment; or, if the person is a business entity, by a fine not more than two hundred thousand dollars (\$200,000).</p> <p>(2) Where the offense involves \$1000, or more of the articles described in this subdivision with a total retail or fair market value less than that required for grand theft as defined Section 487, and if the person is an individual, he or she shall be punished by imprisonment in a county jail not to exceed one year, or pursuant to subdivision</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p> <p>For the purposes of this section, the following definitions shall apply:</p> <p>(3) "Counterfeit mark" means a spurious mark that is identical with, or confusingly similar to, a registered mark and is used, or intended to be used, on or in connection with the same type of goods or services for which the genuine mark is registered. It is not necessary for the mark to be displayed on the outside of an article for there to be a violation. For articles containing digitally stored information, it shall be sufficient to constitute a violation if the counterfeit mark appears on a video display when the information is retrieved from the article. The term "spurious mark" includes genuine marks used on or in connection with spurious articles and includes identical articles containing identical marks, where the goods or marks were reproduced without authorization of, or in excess of any authorization granted by, the registrant.</p>	<p>Forfeiture/ Destruction/ Restitution Provisions</p> <p>Forfeiture and destruction of all items bearing counterfeit trademarks and instrumentalities of the crime. Exception for certain vehicles (i) in which non-defendant has a community property interest; (ii) it is the sole vehicle for defendant's immediate family; or are (iii) necessary to defendant's livelihood or other purpose. Upon request of any law enforcement agency and consent from specific registrants, the court may consider a motion to have the items described in paragraph (1) of this section, not including recordings or audiovisual works as defined in Section 653w, donated to a nonprofit organization for the purpose of distributing the goods to persons living in poverty at no charge to the persons served by the organization. A court shall order a person convicted of an offense under Penal Code § 350 to pay restitution to the trademark owner and any other victim pursuant to Section 1202.4</p>
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<p>CALIFORNIA (1872, amended 1998, amended 2012)</p>	<p>State Law(s)</p>	<p>Statutory Sec- tion(s)</p>	<p>Statutory Elements</p> <p>(h) of Section 1170 for 16 months, or two or three years, or by a fine not to exceed five hundred thousand dollars (\$500,000), or by both that imprisonment and fine, or, if the person is a business entity, by a fine not to exceed one million dollars (\$1,000,000).</p> <p>(b) Any person who has been convicted of a violation of either paragraph (1) or (2) of subdivision (a) shall, upon a subsequent conviction of paragraph (1) of subdivision (a), if the person is an individual, be punished by a fine of not more than one hundred thousand dollars (\$100,000), or by imprisonment in a county jail for not more than one year, or pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, or by both that fine and imprisonment; or, if the person is a business entity, by a fine of not more than four hundred thousand dollars (\$400,000).</p>	<p>Registration Require- ments</p>	<p>Statutory Definitions</p> <p>(4) "Knowingly possess" means that the person possessing an article knew or had reason to believe that it was spurious, or that it was used on or in connection with spurious articles, or that it was reproduced without authorization of, or in excess of any authorization granted by, the registrant.</p> <p>(6) "Registrant" means any person to whom the registration of a mark is issued and that person's legal representatives, successors, or assigns.</p> <p>(7) "Sale" includes resale.</p>	<p>Forfeiture/ Destruction/ Restitution Provisions</p>
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<p>CALIFORNIA (1872, amended 1998, amended 2012)</p>	<p>State Law(s)</p>	<p>Taking, damaging, or destruction of property; commission of a felony; additional punishment</p> <p>See also: Forgery Signatures or Seals; Corruption of Records; Sale of Goods; Falsely Using Name of Other Dealer, Manufacturer or Producer; Punishment; Exception of Sales under Own Name or Brand with Consent of True Manufacturer or Producer</p>	<p>Statutory Section(s)</p> <p>§ 12022.6 13 § 470 9 § 351a</p>	<p>Statutory Elements</p> <p>(f) This section shall not be enforced against any party who has adopted and lawfully used the same or confusingly similar mark in the rendition of like services or the manufacture or sale of like goods in this state from a date prior to the earliest effective date of registration of the service mark or trademark either with the Secretary of State or on the Principle Register of the United States Patent and Trademark Office.</p> <p>(g) An owner, officer, employee, or agent who provides, rents, leases, licenses, or sells real property upon which a violation of subdivision (a) occurs shall not be subject to a criminal penalty pursuant to this section, unless he or she sells, or possesses for sale, articles bearing a counterfeit mark in violation of this section. This subdivision shall not be construed to abrogate or limit any civil rights or remedies for a trademark violation.</p> <p>(a) When a person takes, damages, or destroys any property in the commission or attempted commission of a felony, with the intent to cause that taking, damage, or destruction, the court shall impose an additional term as follows: (see statute for § 1 through 4).</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p> <p>(8) "Value" has the following meanings: (A) When counterfeit items of computer software are manufactured or possessed for sale, the "value" of those items shall be equivalent to the retail price or fair market price of the true items that are counterfeited. (B) When counterfeited but unassembled components of computer software packages or any other articles described under subdivision (a) are recovered, including, but not limited to, counterfeited digital disks, instruction manuals, licensing envelopes, labels, patches, fabric, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging, or any other components of any type or nature that are designed, marketed, or otherwise intended to be used on or in connection with any articles described under subdivision</p>	<p>Forfeiture/ Destruction/ Restitution Provisions</p>
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CALIFORNIA (1872, amended 1998, amended 2012)	State Law(s)	Statutory Sec- tion(s)	Statutory Elements	Registration Require- ments	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
					<p>(a), the "value" of those components shall be equivalent to the retail price or fair market value of the number of completed computer software packages or other completed articles described under subdivision (a) that could have been made from those components.</p> <p>(C) "Retail or fair market value" of a counterfeit article means a value equivalent to the retail price or fair market value, as of the last day of the charged crime, of a completed similar genuine article containing a genuine mark.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>COLORADO (2001)</p> <p>Trademark Counterfeiting</p> <p>See also: Criminal Simulation; Forgery; Criminal Impersonation; Definitions</p> <p>Fraud in effecting sales; Theft</p>	<p>§ 18-5-110.5 § 18-5-110 § 18-5-102 § 18-5-113 § 18-5-101(T) § 18-5-301 § 18-4-401</p>	<p>(1) A person commits trademark counterfeiting if such person intentionally manufactures, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute marks, goods, or services that the person knows are, bear, or are identified by one or more counterfeit marks and has possession, custody, or control of more than twenty-five items bearing a counterfeit mark.</p> <p>(2)(a) Trademark counterfeiting is: (I) A class 2 misdemeanor if a person has not previously been convicted under this section and the violation involves fewer than one hundred items that are, bear, or are identified by a counterfeit mark or the total retail value of all goods or services that are, bear, or are identified by a counterfeit mark is less than one thousand dollars; (II) A class 1 misdemeanor if: (A) A person has one or more previous convictions under this section; or (B) The violation involves one hundred or more items that are, bear, or are identified by a counterfeit mark or the total retail value of all goods or services that are, bear, or are identified by a counterfeit mark is one thousand dollars or more.</p>	<p>(4) In a trial under this section, any state or federal certificate of registration of a trademark shall be prima facie evidence of the facts stated therein.</p>	<p>(a) "Counterfeit mark" means a mark identical to or substantially indistinguishable from a trademark that, without the permission of the owner of the trademark, is: (I) Affixed or designed to be affixed to, or displayed or otherwise associated with, goods; or (II) Displayed in advertising for, or otherwise associated with, services. (b)(I) "Retail value" means the counterfeiter's regular selling price for the goods or services that bear or are identified by a counterfeit mark. (II) In the case of items bearing a counterfeit mark that are components of a finished product, "retail value" means the counterfeiter's regular selling price for the finished product. (III) For purposes of subsection (2) of this section, the quantity or retail value of goods or services shall include the aggregate quantity or retail value of all marks, goods, and services that are, bear, or are identified by counterfeit marks.</p>	

COLORADO (2001)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
			<p>(b) In addition to the penalties specified in paragraph (a) of this subsection (2), any person convicted under this section shall be liable for a fine in an amount equal to three times the total retail value of all goods or services that bear or are identified by a counterfeit mark unless extenuating circumstances are shown by such person.</p> <p>(c) The remedies provided in this section are in addition to, and not in lieu of, any other civil or criminal penalties or remedies provided by law.</p>		<p>(c) "Trademark" means any trademark registered under the laws of this state or of the United States.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>CONNECTICUT (10/1/71, amended 1997)</p> <p>Prohibited Acts Relative to Stamps, Labels, Trademarks, Service Marks, Collective Marks and Certification Marks</p> <p>See also: Criminal Simulation; Forgery and Related Offenses</p>	<p>Conn. Gen. Stat. Ann. § 53-347a</p> <p>§ 53a-141</p> <p>§ 53a-139, 140, 142</p>	<p>(a) Any person who uses, forges or counterfeits the individual stamp or label of any mechanic or manufacturer, with intent to defraud another, or vendors or offers to vend any goods having any such forged or counterfeited stamp or label thereon, knowing it to be forged or counterfeited, without disclosing the fact to the purchaser, shall be imprisoned not more than five years or fined not more than two hundred fifty thousand dollars or both.</p> <p>(b) Any person who, fraudulently and with intent to deceive, affixes any mark recorded under chapter 621a1 or any imitation thereof calculated to deceive, to any goods, receptacle or package similar in descriptive properties to those to which such mark is appropriated; or who, fraudulently and with intent to deceive, places, in any receptacle or package to which is lawfully affixed a recorded mark, goods other than those which such mark is designed and appropriated to protect; or who, fraudulently and with intent to deceive, deals in or keeps for sale any goods with a mark fraudulently affixed as above described in this section, or any goods contained in any package or receptacle having a lawful mark, which are not such goods as such mark was designed and appropriated to protect,</p>			<p>§ 35-18h</p> <p>A court of competent jurisdiction may order that defendants pay copy-right registration all profits derived from, or all damages suffered by reason of wrongful manufacture, use, display or sale, or both such profits and damages; and such court may also order that any such reproduction, counterfeit or imitation be delivered to an officer of the court to be destroyed, or to the complainant.</p>

CONNECTICUT (10/1/71, amended 1997)	State Law(s)	Statutory Sec- tion(s)	Statutory Elements	Registration Require- ments	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
			<p>shall be fined not more than two hundred fifty thousand dollars or imprisoned not more than five years or both.</p> <p>(c) Any person, firm, partnership, corporation, association, union or other organization (1) who wilfully and knowingly counterfeits or imitates, or offers for sale or otherwise utters or circulates any counterfeit or imitation of a mark recorded under chapter 622a.2 or (2) who uses or displays a genuine mark recorded under said chapter in a manner not authorized by the registrant and knowing that such use or display is not so authorized; or (3) who in any way uses the name or mark, whether recorded under said chapter or not, of any individual, firm, partnership, corporation, association, union or other organization, in and about the sale of goods or otherwise not being authorized to use the same and knowing that such use is unauthorized, shall be fined not more than two hundred fifty thousand dollars or imprisoned not more than five years or be both fined and imprisoned. In all cases where such association, union or other organization is not incorporated, complaint may be made by any officer or member of such association, union or organization on behalf of such union, association or organization.</p>			

DELAWARE (7/7/05)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>Trademark Counterfeiting</p> <p>See also: Forgery Possession of Forgery Devices; Deceptive Trade Practices</p>	<p>11 Del. Code Ann. § 926 § 861 § 862 § 2.532</p>	<p>(a) Any person who knowingly manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses with intent to sell or distribute any items or services bearing or identified by a counterfeit mark shall be guilty of the crime of trademark counterfeiting.</p> <p>(c) Presumption. --A person having possession, custody or control of more than 25 items bearing a counterfeit mark shall be presumed to possess said items with intent to sell or distribute.</p> <p>(d) Penalties.—</p> <p>(1) Except as provided in paragraphs (2) and (3) of this subsection, a violation of this section constitutes a class A misdemeanor.</p> <p>(2) A violation of this section constitutes a class G felony if:</p> <p>a. The defendant has previously been convicted under this section; or</p> <p>b. The violation involved more than 100 but less than 1,000 items bearing a counterfeit mark or the total retail value of all items or services bearing or identified by a counterfeit mark is more than \$2,000, but less than \$10,000.</p>	<p>(h) Evidence. --Any federal or state certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.</p>	<p>(b) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:</p> <p>(1) "Counterfeit mark" means:</p> <p>a. Any unauthorized reproduction or copy of intellectual property.</p> <p>b. Intellectual property 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 intellectual property.</p> <p>(2) "Intellectual property" means any trademark, service mark, trade name, label, term, device, design or word adopted or used by a person to identify that person's goods or services.</p>	<p>(g) Seizure, forfeiture and disposition.--</p> <p>(1) Any items bearing a counterfeit mark, and all personal property, including, but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, knowingly employed or used in connection with a violation of this section may be seized by any law enforcement officer.</p> <p>(2) All seized personal property referenced in paragraph (1) of this subsection shall be forfeited in accordance with applicable law, unless the prosecuting attorney responsible for the charges and the intellectual property owner consent in writing to another disposition.</p>

DELAWARE (7/7/05)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
			<p>(3) A violation of this section constitutes a class E felony if:</p> <ul style="list-style-type: none"> a. The defendant has been previously convicted of two or more offenses under this section; b. The violation involved the manufacture or production of items bearing counterfeit marks; or c. The violation involved 1,000 or more items bearing a counterfeit mark or the total retail value of all items or services bearing or identified by a counterfeit mark is \$10,000 or more. <p>(e) Quantity or retail value. --The quantity or retail value of items or services shall include the aggregate quantity or retail value of all items or services bearing or identified by every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses.</p> <p>(f) Fine. --Any person convicted under this section shall be fined not less than \$5,000 or an amount up to 3 times the retail value of the items or services bearing or identified by a counterfeit mark, whichever is greater, unless extenuating circumstances are shown by the defendant.</p>		<p>3) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. 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.</p>	

<p>DISTRICT OF COLUMBIA (6/3/97)</p> <p>State Law(s)</p>	<p>Statutory Section(s)</p> <p>D.C. Code Ann. § 22-902 (formerly cited as § 22-752)</p>	<p>Statutory Elements</p> <p>(a) A person commits the offense of counterfeiting if such person willfully manufactures, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute any items, or services bearing or identified by a counterfeit mark. There shall be a rebuttable presumption that a person having possession, custody, or control of more than 15 items bearing a counterfeit mark possesses said items with the intent to sell or distribute.</p> <p>(b) A person convicted of counterfeiting shall be subject to the following penalties:</p> <p>(1) For the first conviction, except as provided in paragraphs (2) and (3) of this subsection, by a fine not exceeding \$1,000 or by imprisonment for not more than 180 days, or both;</p> <p>(2) For the second conviction, or if convicted under this section of an offense involving more than 100 but fewer than 1,000 items, or involving items with a total retail value greater than \$1,000 but less than \$10,000, by a fine not exceeding \$3,000 or by imprisonment for not more than 3 years, or both, and</p>	<p>Registration Requirements</p> <p>(f) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.</p>	<p>Statutory Definitions</p> <p>(1) "Counterfeit mark" means: (A) Any unauthorized reproduction or copy of intellectual property; or (B) Intellectual property 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 intellectual property.</p> <p>(2) "Intellectual property" means any trademark, service mark, trade name, label, term, picture, seal, word, or advertisement or any combination of these adopted or used by a person to identify such person's goods or services and which is lawfully filed for record in the Office of the Secretary of State of any state or which the exclusive right to</p>	<p>Forfeiture/Destruction/ Restitution Provisions</p> <p>Forfeiture of all items bearing counterfeit marks and instrumentalities of the crime.</p> <p>Destruction of all items bearing counterfeit marks or donation with intellectual property owners consent</p>
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DISTRICT OF COLUMBIA (6/3/97) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/ Restitution Provisions
		<p>(3) For the third or subsequent conviction, or if convicted under this section of an offense involving the manufacture or production of items bearing counterfeit marks involving 1,000 or more items, or involving items with a total retail value of \$10,000 or greater, by a fine not exceeding \$10,000 or by imprisonment for not more than 10 years, or both.</p> <p>(c) For the purposes of this chapter, 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, advertises, distributes, offers for sale, sells, or possesses.</p> <p>(d) The fines provided in subsection (b) of this section shall be no less than 3 times the retail value of the items bearing, or services identified by, a counterfeit mark, unless extenuating circumstances are shown by the defendant.</p> <p>Whoever willfully forges, or counterfeits, or makes use of any imitation calculated to deceive the public, though with colorable difference or deviation therefrom, of the private brand, wrapper, label, trademark, bottle, or package usually affixed or used by any person to or with the goods, wares, merchandise, preparation, or mixture of such person,</p>			

DISTRICT OF COLUMBIA (6/3/97) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		with intent to pass off any work, goods, manufacture, compound, preparation, or mixture as the manufacture or production of such person which is not really such, shall be fined not more than \$500 or imprisoned not more than 180 days, or both.			
FLORIDA (amended 1995, amended 7/2/08, effective 10/1/08) State Law(s)					
Involving Forging or Counterfeiting Private Labels	Fla. Stat. Ann. § 831.032	(1) Whoever, knowingly and willfully, forges or counterfeits, or causes or procures to be forged or counterfeited, manufactures, distributes or transports, or possesses with intent to distribute goods or services, the trademark or service mark of any person, entity, or association, which goods or services are intended for resale, or knowingly possesses tools or other reproduction materials for reproduction of specific forged or counterfeit trademarks or service marks commits the crime of counterfeiting. (2) Whoever knowingly sells or offers for sale, or knowingly purchases and keeps or has in his or her possession, with intent that the same shall be sold or disposed,	§ 831.031 (2) A state or federal certificate of registration of trademark shall be prima facie evidence of the facts stated therein.	§ 831.03 (1) "Bodily injury" means: (a) A cut, abrasion, bruise, burn, or disfigurement; (b) Physical pain; (c) Illness; (d) Impairment of the function of a bodily member, organ, or mental faculty; or (e) Any other injury to the body, no matter how temporary. (2) "Culpable negligence" means reckless disregard of human life or safety and consciously doing an act or following a course of conduct	§ 831.032 (c) In lieu of a fine otherwise authorized by law, when any person has been convicted of an offense under this section, the court may fine the person up to three times the retail value of the goods seized, manufactured, or sold, whichever is greater, and may enter orders awarding court costs and the costs of investigation and prosecution, reasonably incurred. The court shall hold a hearing to determine the amount of the fine authorized by this paragraph.

FLORIDA (amended 1995, amended 7/2/08, effective 10/1/08) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		<p>or vend any goods having thereon a forged or counterfeit trademark, or who knowingly sells or offers for sale any service which is sold in conjunction with a forged or counterfeit service mark, of any person, entity, or association, knowing the same to be forged or counterfeited, commits the crime of selling or offering for sale counterfeit goods or services.</p> <p>(3)(a) Violation of subsection (1) or subsection (2) is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, except that:</p> <p>1. A violation of subsection (1) or subsection (2) is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offense involves 100 or more counterfeit marks or if the goods involved in the offense have a total retail value of more than \$2,500, but less than \$20,000.</p> <p>2. A violation of subsection (1) or subsection (2) is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offense involves 1,000 or more items bearing one or more counterfeit marks or if the goods involved in the offense have a total retail value of \$20,000 or more.</p>		<p>that the actor knew, or reasonably should have known, was likely to cause bodily injury.</p> <p>(3) "Forged or counterfeit trademark or service mark" refers to a mark:</p> <p>(a) That is applied to or used in connection with any goods, services, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging or any other components of any type or nature that are designed, marketed, or otherwise intended to be used on or in connection with any goods or services;</p> <p>(b) That is identical with or an imitation of a mark registered for those goods or services on the principal register in the United States Patent and Trademark Office or the trademark register for the State of Florida or any other state, or protected by the Amateur Sports Act of 1978, 36 U.S.C. s. 380, whether or not the offender knew such mark was so registered or protected;</p>	<p>(d) When a person is convicted of an offense under this section, the court, pursuant to s. 775.089, shall order the person to pay restitution to the trademark owner and any other victim of the offense. In determining the value of the property loss to the trademark owner, the court shall include expenses incurred by the trademark owner in the investigation or prosecution of the offense as well as the disgorgement of any profits realized by a person convicted of the offense.</p> <p>§ 831.033</p> <p>(1)(a) Any goods to which forged or counterfeit trademarks or service marks are attached or affixed or any tools or other materials for the reproduction of any specific forged or counterfeit trademark or service mark which are produced or possessed in violation of this section may be seized by any law enforcement officer.</p>

<p>FLORIDA (amended 1995, amended 7/2/08, effective 10/1/08)</p>	<p>State Law(s)</p>	<p>Statutory Sec-tion(s)</p>	<p>Statutory Elements</p>	<p>Registration Require-ments</p>	<p>Statutory Definitions</p>	<p>Forfeiture/ Destruction/ Restitution Provisions</p>
			<p>3. A violation of subsection (1) or subsection (2) is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if, during the commission or as a result of the commission of the offense, the person engaging in the offense knowingly or by culpable negligence causes or allows to be caused bodily injury to another.</p> <p>4. A violation of subsection (1) or subsection (2) is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if, during the commission or as a result of the commission of the offense, the person engaging in the offense knowingly or by culpable negligence causes or allows to be caused serious bodily injury to another.</p>		<p>(c) The use of which is unauthorized by the owner of the registered mark; and</p> <p>(d) The application or use of which is either likely to cause confusion, to cause mistake, or to deceive or is otherwise intended to be used on or in connection with the goods or services for which the mark is registered.</p> <p>(4) "Retail value" means:</p> <p>(a) The counterfeiter's regular selling price for the goods or services, unless the goods or services bearing a counterfeit mark would appear to a reasonably prudent person to be authentic, then the retail value shall be the price of the authentic counterpart; or, if no authentic reasonably similar counterpart exists, then the retail value shall remain the counterfeiter's regular selling price.</p> <p>(b) In the case of labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation,</p>	<p>(b) Any personal property, including, but not limited to, any item, object, tool, machine, or vehicle of any kind, employed as an instrument in aiding or abetting in the commission of, or the crime of counterfeiting as proscribed by ss. 831.03-831.034, and not otherwise included in paragraph (a), may be seized and is subject to forfeiture pursuant to ss. 932.701-932.704.</p> <p>(2) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the state the following:</p> <p>(a) Any property constituting or derived from any proceeds the person obtained, directly or indirectly, as the result of the offense.</p> <p>(b) Any of the person's property used, or intended to be used, in any manner or part, to commit, facilitate, aid, or abet the commission of the offense.</p>

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
FLORIDA (amended 1995, amended 7/2/08, effective 10/1/08)				<p>or packaging or any other components of any type or nature that are designed, marketed, or otherwise intended to be used on or in connection with any goods or services, the retail value shall be treated as if each component was a finished good and valued as described in paragraph (a).</p> <p>(5) "Serious bodily injury" means:</p> <ul style="list-style-type: none"> (a) A substantial risk of death; (b) Extreme physical pain; (c) Protracted and obvious disfigurement; or (d) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty. 	<p>(c) Any item that bears or consists of a counterfeit mark used in committing the offense.</p> <p>(3) At the conclusion of all forfeiture proceedings, the court shall order that any forfeited item bearing or consisting of a counterfeit mark be destroyed or alternatively disposed of in another manner with the written consent of the trademark owners. The owners of the registered or protected mark shall be responsible for the costs incurred in the disposition of the forged or counterfeit items.</p>

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>GEORGIA (1981, amended 7/1/96)</p> <p>Forging or counterfeiting of, or use of forged or counterfeited, trademarks, service marks, or copyrighted or registered designs; penalties</p> <p>See also: Offense of Forgery; Unauthorized Use of Name or Seal;</p>	<p>Ga. Code Ann. § 10-1-454 § 16-9-1 (T) § 10-1-453</p>	<p>(b) Any person who knowingly and willfully forges or counterfeits any trademark, service mark, or copyrighted or registered design, without the consent of the owner of such trademark, service mark, or copyrighted or registered design, or who knowingly possesses any tool, machine, device, or other reproduction instrument or material with the intent to reproduce any forged or counterfeited trademark, service mark, or copyrighted or registered design shall be guilty of the offense of trademark, service mark, or copyrighted or registered design counterfeiting and, upon conviction, shall be punished as follows:</p> <p>(1) If the goods or services to which the forged or counterfeited trademarks, service marks, or copyrighted or registered designs are attached or affixed, or in connection with which they are used, or to which the offender intended they be attached or affixed, or in connection with which the offender intended they be used, have, in the aggregate, a retail sale value of \$100,000.00 or more, such person shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than five nor more than 20 years and by a fine not to exceed \$200,000.00 or twice the retail sale value of the goods or services, whichever is greater;</p>	<p>Any State or Federal Registration or Protected by the Amateur Sports Act of 1978.</p>	<p>(a) As used in this Code section, the term "forged or counterfeited trademark, service mark, or copyrighted or registered design" means any mark or design which is identical to, substantially indistinguishable from, or an imitation of a trademark, service mark, or copyrighted or registered design which is registered for those types of goods or services with the Secretary of State pursuant to this part or registered on the Principal Register of the United States Patent and Trademark Office or registered under the laws of any other state or protected by the federal Amateur Sports Act of 1978, 36 U.S.C. Section 380, whether or not the offender knew such mark or design was so registered or protected, if the use of such trademark, service mark, or copyrighted or registered design has not been authorized by the owner thereof. The unregistered symbols, emblems, trademarks, insignias, and words covered by the federal Amateur Sports Act of 1978, 36 U.S.C. Section 380, shall be afforded protection under the trademark law in the same manner as registered trademarks, service marks, and copyrighted or registered designs.</p>	<p>Forfeiture of all items bearing counterfeit marks, proceeds derived from the crime and instrumentalities of the crime.</p> <p>Sale of items bearing counterfeit marks available with owners consent. Sale of items provided that trademark and/or copyrighted designs are obliterated.</p>

GEORGIA (1981, amended 7/1/96) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		<p>(2) If the goods or services to which the forged or counterfeit trademarks, service marks, or copyrighted or registered designs are attached or affixed, or in connection with which they are used, or to which the offender intended they be attached or affixed, or in connection with which the offender intended they be used, have, in the aggregate, a retail sale value of \$10,000.00 or more but less than \$100,000.00, such person shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than two nor more than ten years and by a fine not to exceed \$20,000.00 or twice the retail sale value of the goods or services, whichever is greater;</p> <p>(3) If the goods or services to which the forged or counterfeit trademarks, service marks, or copyrighted or registered designs are attached or affixed, or in connection with which they are used, or to which the offender intended they be attached or affixed, or in connection with which the offender intended they be used, have, in the aggregate, a retail sale value of less than \$10,000.00, such person shall be guilty of a misdemeanor of a high and aggravated nature; or</p>			

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>GEORGIA (1981, amended 7/1/96)</p>		<p>(4) If a person who violates this subsection previously has been convicted of another violation of this subsection, such person shall be guilty of a felony and, upon conviction of the second or subsequent such violation, shall be punished by imprisonment for not less than ten nor more than 20 years and by a fine not to exceed \$200,000.00 or twice the retail sale value of the goods or services, whichever is greater.</p> <p>(c) Any person who sells or resells or offers for sale or resale or who purchases and keeps or has in his or her possession with the intent to sell or resell any goods he or she knows or should have known bear a forged or counterfeit trademark or copyrighted or registered design or who sells or offers for sale any service which is sold or offered for sale in conjunction with a forged or counterfeit service mark or copyrighted or registered design, knowing the same to be forged or counterfeited, shall be guilty of the offense of selling or offering for sale counterfeit goods or services and, upon conviction, shall be punished as follows:</p> <p>(1) If the goods or services sold or offered for sale to which the forged or counterfeit trademarks, service marks, or copyrighted or registered designs are attached or affixed, or in connection with which they are used, have, in the aggregate,</p>			

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>GEORGIA (1981, amended 7/1/96)</p>		<p>a retail sale value of \$10,000.00 or more, such person shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than five years and by a fine not to exceed \$50,000.00 or twice the retail sale value of the goods or services, whichever is greater;</p> <p>(2) If the goods or services to which the forged or counterfeit trademarks, service marks, or copyrighted or registered designs are attached or affixed, or in connection with which they are used, have, in the aggregate, a retail sale value of less than \$10,000.00, such person shall be guilty of a misdemeanor of a high and aggravated nature, or</p> <p>(3) If a person who violates this subsection previously has been convicted of another violation of paragraph (1) of this subsection, such person shall be guilty of a felony and, upon conviction of the second or subsequent such violation, shall be punished by imprisonment for not less than five nor more than ten years and by a fine not to exceed \$100,000.00 or twice the retail sale value of the goods or services, whichever is greater.</p>			

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
HAWAII (6/21/97) Trademark Counterfeiting Sentencing of Repeat Offenders	Haw. Code Ann. § 708-875 § 706-606.5	<p>(1) A person commits the offense of trademark counterfeiting who knowingly manufactures, produces, displays, advertises, distributes, offers for sale, sells, or possesses with the intent to sell or distribute any item bearing or identified by a counterfeit mark, knowing that the mark is counterfeit.</p> <p>(3) Trademark counterfeiting is a class C felony.</p> <p>(1) . . . any person convicted of . . . the following class C felonies . . . section 708-875 relating to trademark counterfeiting . . . shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:</p> <p>(a) One prior felony conviction:</p> <p>(iv) Where the instant conviction is for a class C felony offense enumerated above--one year, eight months;</p> <p>(b) Two prior felony convictions:</p> <p>(iv) Where the instant conviction is for a class C felony offense enumerated above--three years, four months</p> <p>(c) Three or more prior felony convictions:</p> <p>(iv) Where the instant conviction is for a class C felony offense enumerated above--five years.</p>	State or Federal Registration	<p>(2) As used in this section:</p> <p>“Counterfeit mark” means any spurious mark that is identical to or confusingly similar to any print, label, trademark, service mark, or trade name registered in accordance with chapter 482 or registered on the Principal Register of the United States Patent and Trademark Office.</p> <p>“Sale” includes resale.</p>	Forfeiture and destruction of all items bearing counterfeit marks and instrumentalities of the crime upon conviction or plea of nolo contendere.

HAWAII (6/21/97)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>See also: Criminal Simulation; Forgery and Related Offenses</p>	<p>37§708-855 37§708-850(T), et seq.</p>	<p>(2) Except as in subsection (3), a person shall not be sentenced to a mandatory minimum period of imprisonment under this section unless the instant felony offense was committed during such period as follows: (e) Within five years after a prior felony conviction where the prior felony conviction was for a class C felony offense enumerated above;</p> <p>(3) If a person was sentenced for a prior felony conviction to a special term under section 706-667, then the person shall not be sentenced to a mandatory minimum period of imprisonment under this section unless the instant felony offense was committed during such period as follows: (c) Within four years after the prior felony conviction where the prior felony conviction was for a class C felony offense enumerated above.</p> <p>(7) For purposes of this section: (a) Convictions under two or more counts of an indictment or complaint shall be considered a single conviction without regard to when the convictions occur. (b) A prior conviction in this or another jurisdiction shall be deemed a felony conviction if it was punishable by a sentence of death or of imprisonment in excess of one year; and (c) A conviction occurs on the date judgment is entered.</p>				

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>IDAHO (1/1/72)</p> <p>Forging or Counterfeiting Trade-marks</p>	<p>Idaho Code § 18-3614</p>	<p>Every person who willfully forges or counterfeits or procures to be forged or counterfeited, any trade-mark usually affixed by any person to his goods, with intent to pass off any goods to which such forged or counterfeited trade-mark is affixed or intended to be affixed, as the goods of such person, is guilty of a misdemeanor.</p>		<p>§ 18-3616</p> <p>The phrases "forged trade-mark" and "counterfeited trade-marks," or their equivalents, as used in this chapter include every alteration or imitation of any trade-mark so resembling the original as to be likely to deceive.</p>	
<p>Sale of Counterfeit Goods</p>	<p>§ 18-3615</p>	<p>Every person who sells or keeps for sale any goods upon or to which any counterfeited trade-mark has been affixed, intending to represent such goods as the genuine goods of another, knowing the same to be counterfeited, is guilty of a misdemeanor.</p>		<p>§ 18-3617</p> <p>The phrase "trademark" as used in the three (3) preceding sections, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant or tradesman, to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, other than any name, word, or expression generally denoting any goods to be of some particular class or description.</p>	
<p>Punishment for Counterfeiting</p>	<p>§ 18-3608</p>	<p>Counterfeiting is punishable by imprisonment in the state prison for not less than one (1) nor more than fourteen (14) years.</p>			

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
ILLINOIS (1/1/93, amended 6/1/97, amended 8/24/09, effective 1/1/10)					
Counterfeit Mark or Imitates of Trade-Mark or Service Mark	765 Ill. Compiled Stat. 1040/2, formerly cited as Ill. Stat., Ch. 140, ¶ 24	Whoever uses a counterfeit mark or imitates any trade-mark or service mark of which he or she is not the rightful owner or in any way utters or circulates any counterfeit or imitation of such a trade-mark or service mark or knowingly uses such counterfeit or imitation or knowingly sells or disposes of or keeps or has in his or her possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise, or other product of labor or service, to which any such counterfeit or imitation is attached or affixed, or on which any such counterfeit or imitation is printed, painted, stamped or impressed, or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can, or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, or keeps or has in his possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor in any box, case, can or package to which or on which any such counterfeit, or imitation is attached, affixed, printed, painted, stamped or impressed or knowingly sells a service using a counterfeit service mark, shall be guilty of	1040/8 (i) A state or federal certificate of registration of trademark is prima facie evidence of the facts stated therein.	1040/1 "Counterfeit item" means any goods, components of goods, or services made, produced, or knowingly sold or knowingly distributed that use or display a counterfeit mark. "Counterfeit mark" means a spurious mark: (1) That is applied to or used in connection with any goods, services, labels, patches, fabric, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging or any other components of any type or nature that are designed, marketed, or otherwise intended to be used on or in connection with any goods or services; (2) That is identical with, or substantially indistinguishable from, a mark registered in this State, any state, or on the principal register in the United States Patent and Trademark Office and in use,	1040/9 Forfeiture and destruction of all items bearing counterfeit marks and instrumentalities of the crime with the consent of defendant or after judicial determination Court may order restitution to mark owners
Unauthorized Use or Display of Trade-Mark, Trade Name, or Service Mark	765 Ill. Compiled Stat. 1040/3, formerly cited as Ill. Stat., Ch. 140, ¶ 25				
Unauthorized Use or Display of Trade-Mark, Trade Name, or Service Mark	765 Ill. Compiled Stat. 1040/4, formerly cited as Ill. Stat., Ch. 140, ¶ 26				
Sentence	765 Ill. Compiled Stat. 1040/8				
See also: Forgery	720 Ill. Compiled Stat. 5/17-3				

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>ILLINOIS (1/1/93, amended 6/1/97, amended 8/24/09, effective 1/1/10)</p>		<p>a Class A misdemeanor for each offense, or in the case of a counterfeit item shall be punished as provided in Section 8.</p> <p>Every person who shall knowingly use a counterfeit mark or display a trade-mark, trade name, or service mark of which he or she is not the lawful owner in any manner not authorized by such owner, whether or not the unauthorized use creates a likelihood of confusion or misunderstanding, (a) in the sale of goods or services produced by the owner, but with alterations in packaging or labeling, or (b) in the sale of goods or services produced by the owner but in a packaging form not intended by him for such sale, or (c) in the packaging or labeling of goods or services not produced by the owner, if the trade-mark, trade name, or service mark of the owner is used for the purpose or with the effect of exploiting or impairing the owner's good will or as a means of representing a quality, property or characteristic of the goods or services being sold, other than the utility of the goods or services in the repair of or as a replacement of a component of the product of the owner and the trade-mark, trade name, or service mark is used in a non-misleading manner solely to indicate such utility, shall be deemed guilty</p>		<p>whether or not the defendant knew such mark was so registered; and</p> <p>(3) The application or use of which either (i) is likely to cause confusion, to cause mistake, or to deceive; or (ii) otherwise intended to be used on or in connection with the goods or services for which the mark is registered.</p> <p>“Trade-mark” means anything adopted and used by a person to identify goods made, sold, produced or distributed by him or her or with his or her authorization and which distinguishes them from goods made, sold, produced or distributed by others and registered in this State, any state, or on the principal register in the United States Patent and Trademark Office.</p> <p>“Service mark” means anything adopted and used by a person to identify services rendered by him or her or with his or her authorization and that distinguishes them from services rendered by others.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>ILLINOIS (1/1/93, amended 6/1/97, amended 8/24/09, effective 1/1/10)</p> <p>Unauthorized Use of Name or Seal of Trade-Mark or Service Mark</p> <p>Sentence</p> <p>See also: Forgery</p>	<p>765 Ill. Compiled Stat. 1040/4, formerly cited as Ill. Stat., Ch. 140, ¶ 26</p> <p>765 Ill. Compiled Stat. 1040/8</p> <p>720 Ill. Compiled Stat. 5/17-3</p>	<p>of a Class A misdemeanor, or in the case of a counterfeit item shall be punished as provided in Section 8. In all cases where such owner is an incorporated association or union, suits under this Act may be commenced and prosecuted by any officer or member of such association or union on behalf of and for the use of such association or union.</p> <p>Any person or persons who shall in any way knowingly use the name or seal of any trade-mark or service mark owner in and about the sale of goods or services or otherwise, not being authorized to so use the same shall be deemed guilty of a Class A misdemeanor, or in the case of a counterfeit item shall be punished as provided in Section 8.</p> <p>(a) A person who knowingly sells, offers for sale, holds for sale, or uses fewer than 100 counterfeit items or counterfeit items having a retail value in the aggregate of \$300 or less is guilty of a Class A misdemeanor and shall be fined at least 25% of the retail value of all counterfeit items but no more than \$1,000, except as follows :</p>		<p>“Person” means any individual, firm, partnership, corporation, association, union or other organization.</p> <p>A mark shall be deemed to be “used” (1) in the case of a trade-mark, when it is placed in any manner on the goods, in or on any container for the goods, on the tags or labels affixed to the goods or containers, or is displayed in physical association with the goods in the sale or distribution thereof, or (2) in the case of a service mark, if it identifies a service, even though the service may be rendered in connection with the sale or distribution of goods of the owner of the mark. A mark shall be deemed to be “used in this State” (1) in the case of a trade-mark when it is used on goods which are sold or otherwise distributed in this State, or (2) in the case of a service mark if the service identified by the mark is rendered or received in this State.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>ILLINOIS (1/1/93, amended 6/1/97, amended 8/24/09, effective 1/1/10)</p>		<p>(1) A person who has a prior conviction for a violation of this Act within the preceding 5 years is guilty of a Class 4 felony and shall be fined at least 50% but no more than 100% of the retail value of all counterfeit items.</p> <p>(2) A person who, as a result of the offense, causes bodily harm to another is guilty of a Class 3 felony and shall be fined at least 50% but no more than 100% of the retail value of all counterfeit items.</p> <p>(3) A person who, as a result of the offense, causes serious bodily harm to, or the death of, another is guilty of a Class 2 felony.</p> <p>(b) A person who knowingly sells, offers for sale, holds for sale, or uses 100 or more but fewer than 500 counterfeit items or counterfeit items having a retail value in the aggregate of more than \$300 but less than \$10,000 is guilty of a Class 3 felony and shall be fined at least 25% but no more than 100% of the retail value of all counterfeit items, except as follows :</p>		<p>“Trade-name” includes individual names and surnames, firm names and corporate names used by manufacturers, industrialists, merchants, agriculturists, and others to identify their businesses, vocations, or occupations; the names or titles lawfully adopted and used by persons, firms, associations, corporations, companies, unions, and any manufacturing, industrial, commercial, agricultural, or other organizations engaged in trade or commerce and capable of suing and being sued in a court of law.</p> <p>“Retail value” means: (1) The counterfeiter’s per unit regular price for the counterfeit item, unless the counterfeit item would appear to a reasonably prudent person to be authentic, then the retail value shall be the price of the authentic counterpart, or if no authentic reasonably similar counterpart exists, then the retail value shall remain the counterfeiter’s per unit regular sale price for the counterfeit item.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
ILLINOIS (1/1/93, amended 6/1/97, amended 8/24/09, effective 1/1/10)		<p>(c) A person who knowingly sells, offers for sale, holds for sale, or uses 500 or more but fewer than 2,000 counterfeit items or counterfeit items having a retail value in the aggregate of \$10,000 or more but less than \$100,000 is guilty of a Class 2 felony and shall be fined at least 50% but no more than 100% of the retail value of all counterfeit items, except that a person who has a prior conviction of this Act within the preceding 5 years is guilty of a Class 2 felony and shall be fined at least 100% but no more than 300% of the retail value of all counterfeit items.</p> <p>(d) A person who knowingly sells, offers for sale, holds for sale, or uses 2,000 or more counterfeit items or counterfeit items having a retail value in the aggregate of \$100,000 but less than \$500,000 is guilty of a Class 1 felony and shall be fined at least 50% but no more than 100% of the retail value of all counterfeit items, except that a person who has a prior conviction of this Act within the preceding 5 years is guilty of a Class 1 felony and shall be fined at least 100% but no more than 300% of the retail value of all counterfeit items.</p>		<p>(2) In the case of labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, or other components of any type or nature that are designed, marketed, or otherwise intended to be used on or in connection with any counterfeit item, the retail value shall be treated as if each component was a finished good and valued as detailed in paragraph (1) above.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>ILLINOIS (1/1/93, amended 6/1/97, amended 8/24/09, effective 1/1/10)</p>		<p>(e) A person who knowingly sells, offers for sale, holds for sale, or uses 2,000 or more counterfeit items or counterfeit items having a retail value in the aggregate of \$500,000 or more is guilty of a Class 1 non-probationable felony. (e-5) For the purposes of determining the number of counterfeit items of counterfeit items presumed not to be simply in possession of such, but to possess said items with intent to offer for sale, to sell, or to distribute items under subsection (a), (b), (c), (d), or (e), the service marks or trade marks need not be an aggregate of identical marks but may be the aggregate of all counterfeit items offered for sale, held for sale, or used by the defendant.</p> <p>(f) Unless otherwise specifically provided, a person, including a corporation, convicted of violating this Act shall be fined at least 25% of the retail value of all the counterfeit items. In addition to any fine, the court shall order that restitution be paid to the owners of the trademark, trade name, or service mark, and to any other victim of the offense.</p> <p>A manufacturer of counterfeit items is guilty of a Class 3 felony for a first offense and a Class 2 felony for second or subsequent offenses and may be fined up to 3 times the retail value of all counterfeit items produced by the manufacturer.</p>			

<p>ILLINOIS (1/1/93, amended 6/1/97, amended 8/24/09, effective 1/1/10)</p>	<p>State Law(s)</p>	<p>Statutory Sec- tion(s)</p>	<p>Statutory Elements (h) A person having possession, custody, or control of more than 25 counterfeit items or counterfeit marks shall be</p>	<p>Registration Require- ments</p>	<p>Statutory Definitions</p>	<p>Forfeiture/Destruction/Restitution Provisions</p>
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State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>INDIANA (1976, amended in 2005)</p> <p>Counterfeiting; forgery; application fraud</p> <p>See also: Deception</p>	<p>Ind. Code § 35-43-5-2 (1)</p> <p>§ 35-43-5-3</p>	<p>(a) A person who knowingly or intentionally: (1) makes or utters a written instrument in such a manner that it purports to have been made: (A) by another person; (B) at another time; (C) with different provisions; or (D) by authority of one who did not give authority; or (2) possesses more than one (1) written instrument knowing that the written instruments were made in a manner that they purport to have been made: (A) by another person; (B) at another time; (C) with different provisions; or (D) by authority of one who did not give authority; commits counterfeiting, a Class D felony.</p> <p>(b) A person who, with intent to defraud, makes, utters, or possesses a written instrument in such a manner that it purports to have been made: (1) by another person; (2) at another time; (3) with different provisions; or (4) by authority of one who did not give authority; commits forgery, a Class C felony.</p>	<p>State or Federal Registration</p> <p>§ 24-2-1-15</p> <p>Does not adversely affect the rights or the enforcement of rights in a mark acquired in good faith at any time at common law</p>	<p>§ 35-43-5-1</p> <p>(f) "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.</p>	<p>§34-24-1-1</p> <p>(a) The following may be seized: (13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.</p>

<p>IOWA (7/1/2004)</p> <p>State Law(s)</p>	<p>Statutory Section(s)</p> <p>XVI Iowa Code Ann. § 714.26 § 715A.3 § 715A.2(T)</p>	<p>Statutory Elements</p> <p>2. Criminal offense. A person who knowingly manufactures, produces, displays, advertises, distributes, offers for sale, sells, possesses with intent to sell or distributes any item or knowingly provides service bearing or identified by a counterfeit mark commits intellectual property counterfeiting.</p> <p>a. A person commits intellectual property counterfeiting in the first degree if any of the following apply:</p> <p>(1) The person is manufacturing or producing an item bearing or identified by a counterfeit mark.</p> <p>(2) The offense involves more than one thousand items bearing or identified by a counterfeit mark or the total retail value of such items is equal to or greater than ten thousand dollars.</p> <p>(3) The offense is a third or subsequent violation of this section.</p> <p>Intellectual property counterfeiting in the first degree is a class "C" felony.</p> <p>b. A person commits intellectual property counterfeiting in the second degree if any of the following apply:</p>	<p>Registration Requirements</p> <p>3. Evidence. Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of ownership of the intellectual property in dispute.</p>	<p>Statutory Definitions</p> <p>a. "Counterfeit mark;" means any unauthorized reproduction or copy of intellectual property, or intellectual property affixed to any item knowingly sold, offered for sale, manufactured, or distributed, or identifying services offered or rendered, without authority of the owner of the intellectual property.</p>	<p>Forfeiture/ Destruction/ Restitution Provisions</p> <p>disposition. Any items bearing or identified by a counterfeit mark, and all personal property, including but not limited to any items, objects, tools, machines, equipment, instrumentalities, or vehicles used in connection with a violation of this section, shall be seized by any law enforcement agency.</p> <p>a. All seized personal property shall be disposed of in accordance with section 809.5 or as provided in paragraph "b".</p>
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IOWA (7/1/2004) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		<p>(1) The offense involves more than one hundred items but does not involve more than one thousand items bearing or identified by a counterfeit mark or the total retail value of such items is equal to or greater than one thousand dollars but less than ten thousand dollars.</p> <p>(2) The offense is a second violation of this section.</p> <p>Intellectual property counterfeiting in the second degree is a class "D" felony.</p> <p>c. All intellectual property counterfeiting which is not intellectual property counterfeiting in the first degree or second degree is intellectual property counterfeiting in the third degree. Intellectual property counterfeiting in the third degree is an aggravated misdemeanor.</p>			<p>b. Upon request of the intellectual property owner, all seized items bearing or identified by a counterfeit mark shall be released by the seizing agency to the intellectual property owner for destruction or disposition. If the intellectual property owner does not request release of the seized items, the items shall be destroyed unless the intellectual property owner consents to another disposition.</p>

<p>KANSAS (7/1/2000, amended 5/13/2010, effective 7/2/2011)</p>	<p>State Law(s)</p>	<p>Counterfeiting See also: Deceptive Acts and Practices; Forgery</p>	<p>Statutory Sec- tion(s) Kan. Stat. Ann. § 21-5825 § 50-626 § 21-5825</p>	<p>Statutory Elements (a) Counterfeiting is manufacturing, using, dis- playing, advertising, distributing or possessing with intent to distribute any item or services knowing such item or services bear or are identified by a counterfeit mark. (b) Counterfeiting is a: (1) Severity level 7, nonperson felony if: (A) The retail value of such item or service is \$25,000 or more; (B) such counterfeiting involves 1,000 or more items bearing a counterfeit mark; or (C) a third or subsequent violation of this section; (2) severity level 9, nonperson felony if: (A) The retail value of such item or service is at least \$1,000 but less than \$25,000; (B) such counterfeiting involves more than 100 but less than 1,000 items bearing a counterfeit mark; or (C) a second violation of this section; and (3) class A nonperson misdemeanor, if the retail value of such item or service is less than \$1,000.</p>	<p>Registration Require- ments (d) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.</p>	<p>Statutory Definitions (e) As used in this section: (1) "Counterfeit mark" means: (A) Any unauthorized reproduction or copy of intellectual property; or (B) intellectual property 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 intellectual property; (2) "intellectual property" means any trademark, service mark or trade name as such terms are defined in K.S.A. 81-202, and amendments thereof; and</p>	<p>Forfeiture/ Destruction/ Restitution Provisions § 60-4105 The following property is subject to forfeiture: (h) all controlled substances, raw materials, controlled substance analogues, counterfeit substances, or imitation controlled substances that have been manufactured, distributed, dispensed, possessed, or acquired in violation of the laws of this state; and (i) any items bearing a counterfeit mark.</p>
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<p>KANSAS (7/1/2000, amended 5/13/2010, effective 7/2/2011)</p>	<p>State Law(s)</p>	<p>Statutory Sec- tion(s)</p>	<p>Statutory Elements</p> <p>(c) A person having possession, custody or control of more than 25 items bearing a counterfeit mark shall be presumed to possess such items with intent to distribute.</p> <p>(f) 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 or possesses.</p>	<p>Registration Require- ments</p>	<p>Statutory Definitions</p> <p>(3) "retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. 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.</p>	<p>Forfeiture/ Destruction/ Restitution Provisions</p>
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<p>KENTUCKY (7/14/2000)</p> <p>State Law(s)</p>	<p>Statutory Section(s)</p> <p>Ky. Rev. Stat. Ann. § 365.241</p> <p>§§ 516.020(T) et seq.</p> <p>§§ 516.108 et seq.</p>	<p>Statutory Elements</p> <p>(2) Any person who willfully manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute any item or service that the person knows bears or is identified by a counterfeit mark shall be guilty of counterfeiting.</p> <p>(3) A person having possession, custody, or control of more than twenty-five (25) items that the person knows bear or are identified by a counterfeit mark shall be presumed to possess the items with the intent to sell or distribute.</p> <p>(4) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor, except where the person has been previously convicted of a violation of this section or the violation involves more than one hundred (100) 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), in which case the person shall be guilty of a Class D felony. Unless reduced by the court for extenuating circumstances and notwithstanding KRS Chapter 534, upon conviction the offender shall, in addition to any other allowable disposition, be fined an amount equal to the greater of:</p>	<p>Registration Requirements</p> <p>(7) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated in the certificate.</p>	<p>Statutory Definitions</p> <p>(1) As used in this section:</p> <p>(a) "Counterfeit mark" means:</p> <ol style="list-style-type: none"> 1. Any unauthorized reproduction or copy of intellectual property, or 2. Intellectual property knowingly affixed to any item without the authority of the owner of the intellectual property. <p>(b) "Intellectual property" means any trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify the person's goods or services.</p> <p>(c) "Person" includes, in addition to its meaning under KRS 446.010, any association, organization, or entity amenable to suit in a court of law.</p>	<p>Forfeiture/ Destruction/ Restitution Provisions</p> <p>(6) Except for items in the possession of a person not in violation of this section, any items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities, or vehicles of any kind, employed or used in connection with a violation of this section shall be seized by any law enforcement officer.</p> <p>(a) Except as otherwise provided in this subsection, all personal property seized under this subsection shall be forfeited in accordance with KRS 431.100.</p> <p>(b) Upon request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner.</p>
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KENTUCKY (7/14/2000) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		<p>(a) Three (3) times the retail value of the items bearing, or services identified by, the counterfeit mark;</p> <p>(b) Double the amount of the defendant's gain from commission of the offense; or</p> <p>(c) As otherwise allowed in KRS Chapter 534 for felonies and misdemeanors.</p> <p>(5) 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.</p> <p>(9) Notwithstanding any statute to the contrary, fines imposed under this section shall be paid into the crime victims' compensation fund established in KRS 346.185.</p>		<p>(d) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. 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.</p>	<p>(c) If the intellectual property owner does not request release of seized items bearing a counterfeit mark, the items shall be destroyed unless the intellectual property owner consents to another disposition.</p> <p>(8) The remedies provided in this section shall be cumulative to other civil and criminal remedies provided by law.</p>

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>LOUISIANA (1984, amended 6/20/2011)</p> <p>State Law(s)</p> <p>Illegal Use of Counterfeit Trademark; Penalties</p> <p>See also: Forgery</p>	<p>La. Stat. Ann. § 14:229 § 14:72</p>	<p>A. No person shall knowingly sell, possess with the intent to sell, or otherwise transfer for compensation anything of value having a counterfeit trademark.</p> <p>C. Whoever violates the provisions of this Section shall be fined not more than ten thousand dollars, or be imprisoned with or without hard labor for not more than five years, or both.</p> <p>D. In lieu of a fine otherwise authorized by law, any person convicted of engaging in conduct in violation of the provisions of this Section through which said person derived pecuniary value, or by which said person caused personal injury or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is greater. The court shall hold a hearing to determine the amount of the fine authorized by this Subsection.</p>	<p>Any State or Federal Registration</p>	<p>B. For the purposes of this Section:</p> <p>(1) "Person" shall include an individual, corporation, partnership, association, or other body of persons, whether incorporated or not.</p> <p>(2) "Counterfeit trademark" shall mean a false trademark that is identical to or substantially indistinguishable from:</p> <p>(a) A genuine trademark registered on the principal register in the United States Patent and Trademark Office and used or intended for use on or in connection with goods or services; or</p> <p>(b) A genuine trademark specifically protected by any state or federal statute.</p> <p>§ 14:223.1</p> <p>(7) "Counterfeit label" means an identifying label or container that appears to be genuine but is not.</p>	

MAINE (1979, effective 1/1/80) State Law(s)	Statutory Sec- tion(s)	Statutory Elements	Registration Require- ments	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
Criminal Simulation See also: Forgery; Possession of Forg- ery Devices; Deceptive Business Practices	17-A Me. Rev. Stat. Ann. § 705 § 703 (T) § 704 § 901	. A person is guilty of criminal simulation if: A. With intent to defraud, he makes or alters any property so that it appears to have an age, rarity, quality, composition, source or authorship which it does not in fact possess; or with knowledge of its true character and with intent to defraud, he transfers or possesses property so simulated, or . . . 2. Criminal simulation is a Class E crime.			

MARYLAND (10/1/2002)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
Trademark Counterfeiting	See also: False and Fraudulent Advertisement	Md. Code, Criminal L., § 8-611, formerly cited as Md. Code, Art. 27, § 48A	(b) A person may not willfully manufacture, produce, display, advertise, distribute, offer for sale, sell, or possess with the intent to sell or distribute goods or services that the person knows are bearing or are identified by a counterfeit mark. (c) If the aggregate retail value of the goods or services is \$1,000 or more, a person who violates this section is guilty of the felony of trademark counterfeiting and on conviction: (1) is subject to imprisonment not exceeding 15 years or a fine not exceeding \$10,000 or both; and (2) shall transfer all of the goods to the owner of the intellectual property. (d) If the aggregate retail value of the goods or services is less than \$1,000, a person who violates this section is guilty of the misdemeanor of trademark counterfeiting and on conviction: (1) is subject to: (i) for a first violation, imprisonment not exceeding 18 months or a fine not exceeding \$1,000 or both; or	(g) State or federal registration of intellectual property is prima facie evidence that the intellectual property is a trademark or trade name.	(a) (1) In this section the following words have the meanings indicated. (2) "Counterfeit mark" means: (i) an unauthorized copy of intellectual property; or (ii) intellectual property affixed to goods knowingly sold, offered for sale, manufactured, or distributed, to identify services offered or rendered, without the authority of the owner of the intellectual property. (3) "Intellectual property" means a trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify the goods or services of the person. (4) "Retail value" means: (i) a trademark counterfeiter's selling price for the goods or services that bear or are identified by the counterfeit mark; or	(f) Any goods bearing a counterfeit mark are subject to seizure by a law enforcement officer to preserve the goods for transfer to the owner of the intellectual property either: (1) under an agreement with the person alleged to have committed the crime; or (2) after a conviction under this section.

MARYLAND (10/1/2002)	Statutory Sec- tion(s)	Statutory Elements	Registration Require- ments	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
State Law(s)		<p>(i) for each subsequent violation, imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both; and</p> <p>(2) shall transfer all of the goods to the owner of the intellectual property.</p> <p>(e) An action or prosecution for trademark counterfeiting in which the aggregate retail value of the goods or services is less than \$1,000 shall be commenced within 2 years after the commission of the crime.</p>		<p>(i) a trademark counterfeiter's selling price of the finished product, if the goods that bear a counterfeit mark are components of the finished product.</p> <p>(5) "Trademark counterfeiter" means a person who commits the crime of trademark counterfeiting prohibited by this section.</p>	

<p>MASSACHUSETTS (5/15/98) State Law(s)</p>	<p>Statutory Section(s) Mass. Gen. L. Ann., Ch. 266, § 147</p>	<p>Statutory Elements (b) Whoever willfully 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 punished as follows: (1) if the violation involves 100 or fewer items bearing a counterfeit mark or the total retail value of all items bearing or of services identified by a counterfeit mark is \$1,000 or less and is a first offense, by imprisonment in a jail or house of correction for not more than two and one-half years; (2) if the violation involves more than 100 but fewer than 1,000 items bearing a counterfeit mark or the total retail value of all items bearing or of services identified by a counterfeit mark is more than \$1,000 but less than \$10,000 or is a second offense, by imprisonment in the state prison for not more than five years; (3) if the violation involves 1,000 or more items bearing a counterfeit mark or the total retail value of all items bearing or of services identified by a counterfeit mark is \$10,000 or more or if the violation involves the manufacture or production of items bearing counterfeit marks or if the violation involves the manufacture or production of items that pose a threat to the public health or</p>	<p>Registration Requirements (d) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.</p>	<p>Statutory Definitions (a) For purposes of this section, the following words shall have the following meanings:-- "Counterfeit mark", any unauthorized reproduction or copy of intellectual property, or intellectual property 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 intellectual property. "Intellectual property", any trademark, service mark, trade name, label, term, device, design or word that is (1) adopted or used by a person to identify such person's goods or services, and (2) registered, filed or recorded under the laws of the Commonwealth or of any other state, or registered in the principal register of the United States Patent and Trademark Office. "Retail value", the counterfeiter's regular selling price for the item or service bearing</p>	<p>Forfeiture/Destruction/Restitution Provisions (g) Any items bearing a counterfeit mark and all personal property including, but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with a violation of this section shall be seized by any law enforcement officer; provided, however, that all such seized personal property shall be forfeited in accordance with the provisions of chapter 257. Upon the request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner for destruction or disposition; provided, however, that if the intellectual property owner does not request release of seized items bearing a counterfeit mark, such items shall be destroyed unless the intellectual property owner consents to another disposition.</p>
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MASSACHUSETTS (5/15/98) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
		<p>safety or it is a third or subsequent offense, by imprisonment in the state prison for not more than ten years.</p> <p>(c) For the 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 of services identified by every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses.</p> <p>(d) A person having possession, custody or control of more than 25 items bearing a counterfeit mark shall be presumed to possess said items with the intent to sell or distribute.</p> <p>(e) Any person convicted under this section shall, in addition to any penalty imposed pursuant to subsection (b), be punished by a fine in an amount not to exceed three times the retail value of the items bearing or of services identified by a counterfeit mark, unless extenuating circumstances are shown by the defendant.</p> <p>(f) Any person convicted under this section shall, in addition to any penalty imposed pursuant to subsections (b) and (e), be punished by a fine in an amount equal to 75 per cent of the retail value of the items bearing or of services identified by a counterfeit mark, when the items involved pose a threat to public health or safety.</p>		<p>or identified by the counterfeit mark; provided, however, that 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.</p>	

<p>MICHIGAN (3/1/98, amended 12/25/2002, effec- tive 3/31/2003)</p>	<p>State Law(s)</p>	<p>Statutory Sec- tion(s) Mich. Comp. L. Ann. § 750.263</p>	<p>Statutory Elements</p>	<p>Registration Require- ments</p>	<p>Statutory Definitions</p>	<p>Forfeiture/Destruction/Restitution Provisions</p>
		<p>(1) A person who willfully counterfeits an identifying mark with intent to deceive or defraud another person or to represent an item of property or service as bearing or identified by an authorized identifying mark is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.</p> <p>(2) Except as provided in subsection (3), a person who willfully delivers, offers to deliver, uses, displays, advertises, or possesses with intent to deliver any item of property or services bearing, or identified by a counterfeit mark, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00 or 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine.</p> <p>(3) A person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$50,000.00 or 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine, if any of the following apply:</p>			<p>(7) As used in this section and section 264:</p> <p>(a) "Aggregate value of the violation" means the total value of all items of property or services bearing or identified by a counterfeit mark and involved in the violation, determined using the defendant's regular or intended selling price for each item or service or, if an item of property is intended as a component of a finished product, the defendant's regular or intended selling price of the finished product in which the component would be used.</p> <p>(b) "Counterfeit mark" means either of the following:</p> <p>(i) A copy or imitation of an identifying mark without authorization by the identifying mark's owner.</p> <p>(ii) An identifying mark affixed to an item of property</p>	<p>(6) Any item of property bearing a counterfeit mark shall be seized under warrant or incident to a lawful arrest. An item of property that bears a counterfeit mark is subject to forfeiture in the same manner as provided in sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. Upon determination that an item of property bears a counterfeit mark, the court shall order the item forfeited and shall do 1 of the following:</p>

<p>MICHIGAN (3/1/98, amended 12/25/2002, effec- tive 3/31/2003)</p>	<p>State Law(s)</p>	<p>See also: Possession of coun- terfeit mark, device or material to create counterfeit mark, or identifying mark to create counterfeit mark</p>	<p>Statutory Sec- tion(s)</p> <p>§ 750.264</p>	<p>Statutory Elements</p> <p>(a) The person has a prior conviction under this section, section 264 or 265a, 1 or former section 265 or a law of the United States or another state substantially corresponding to this section, section 264 or 265a, or former section 265.</p> <p>(b) The violation involved more than 100 items of property.</p> <p>(c) The aggregate value of the violation is more than \$1,000.00.</p> <p>(4) A person who willfully manufactures or produces an item of property bearing or identified by a counterfeit mark is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$50,000. 00 or 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine.</p> <p>(5) Willful possession of more than 25 items of property bearing or identified by a counterfeit mark gives rise to a rebuttable presumption that the person possessed those items with intent to deliver them in violation of subsection (2).</p>	<p>Registration Require- ments</p>	<p>Statutory Definitions</p> <p>or identifying services without authorization by the identifying mark's owner.</p> <p>(c) "Deliver" means to actually or constructively transfer or attempt to transfer an item of property from 1 person to another, regardless of whether there is an agency relation-ship.</p> <p>(d) "Identifying mark" means a trademark, service mark, trade name, name, label, device, design, symbol, or word, in any combina-tion, lawfully adopted or used by a person to identify items of property manufactured, sold, or licensed by the person or services performed by the person.</p> <p>(e) "Person" means an individual, partnership, corporation, limited liability company, association, union, or other legal entity. For purposes of ownership of an identifying mark, person includes a governmental entity.</p>	<p>Forfeiture/Destruction/Restitution Provisions</p> <p>(a) If the owner of the identifying mark requests, return the item to that owner for destruction or another disposition or use approved by the court.</p> <p>(b) In the absence of a request under subdivision (a), order the seizing law enforcement agency to destroy the item as contraband or order an alternative disposition or use with the consent of the owner of the identifying mark.</p>
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MICHIGAN (3/1/98, amended 12/25/2002, effec- tive 3/31/2003)	State Law(s)	Statutory Sec- tion(s)	Statutory Elements	Registration Require- ments	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
			<p>A person who possesses a counterfeit mark with intent to use or deliver it, who possesses a die, plate, engraving, template, pattern, or material with intent to create a counterfeit mark, or who possesses an identifying mark without authorization of the identifying mark's owner and with intent to create a counterfeit mark is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.</p>			

<p>MINNESOTA (1986, amended 5/7/99)</p>	<p>State Law(s)</p>	<p>Statutory Section(s) Minn. Stat. Ann. § 609.895</p>	<p>Statutory Elements Subd. 2. Crime. A person who intentionally manufactures, produces, distributes, offers for sale, sells, or possesses with intent to sell or distribute any counterfeited item or service, knowing or having reason to know that the item or service is counterfeited, is guilty of counterfeiting intellectual property and may be punished as provided in subdivision 3. Subd. 3. Penalties. (a) A person who is convicted of violating subdivision 2 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$100,000, or both, if: (1) the violation involves the manufacture or production of a counterfeited item or items; (2) the violation involves the distribution, offer for sale, sale, or possession with intent to sell or distribute 1,000 or more counterfeited items; (3) the violation involves the distribution, offer for sale, sale, or possession with intent to sell or distribute counterfeited items or services having a retail value of more than \$10,000; or</p>	<p>Registration Requirements Subd. 6. Prima facie evidence. A Minnesota or federal certificate of registration of an intellectual property is prima facie evidence of the registrant's ownership and exclusive right to use the intellectual property in connection with the goods or services described in the certificate.</p>	<p>Statutory Definitions (a) As used in this section, the following terms have the meanings given them. (b) "Counterfeit mark" means: (1) any unauthorized reproduction or copy of intellectual property; or (2) intellectual property affixed to any item without the authority of the owner of the intellectual property. (c) "Counterfeited item or service" means an item or service bearing or identified by a counterfeit mark. (d) "Intellectual property" means any trademark, service mark, or trade name. (e) "Retail value" means: (1) the usual selling price of the article or service bearing or identified by the counterfeit mark; or (2) the usual selling price of a finished product on or in which components bearing or identified by a counterfeit mark are used.</p>	<p>Forfeiture/Destruction/Restitution Provisions Subd. 5. Forfeiture. Property used to commit or facilitate the commission of a violation of this section, and all money and property representing proceeds of a violation of this section, shall be forfeited in accordance with sections 609.531 to 609.5316. Notwithstanding any provision of section 609.5315 to the contrary, forfeited items bearing or identified by a counterfeit mark must be destroyed unless the intellectual property owner consents to another disposition.</p>
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MINNESOTA (1986, amended 5/7/99)	State Law(s)	Statutory Sec- tion(s)	Statutory Elements	Registration Require- ments	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
			<p>(4) the defendant has two or more prior convictions for violating this section or a law of another state or the United States that provides criminal penalties for counterfeiting intellectual property.</p> <p>(b) Except as otherwise provided in paragraph (a), a person who is convicted of violating sub-division 2 may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$50,000, or both, if:</p> <p>(1) the violation involves more than 100 but fewer than 1,000 counterfeited items;</p> <p>(2) the violation involves counterfeited items or services having a retail value of more than \$1,000 but not more than \$10,000; or</p> <p>(3) the defendant has one prior conviction for violating this section or a law of another state or the United States that provides criminal penalties for counterfeiting intellectual property</p>		<p>(f) "Service mark" means a mark used by a person to identify services and to distinguish them from the services of others.</p> <p>(g) "Trademark" means a mark used by a person to identify goods and to distinguish them from the goods of others.</p> <p>(h) "Trade name" means a word, name, symbol, device, or any combination of the foregoing in any form or arrangement, used by a person to identify the person's business, vocation, or occupation and to distinguish it from the business, vocation, or occupation of others.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>MINNESOTA (1986, amended 5/7/99)</p> <p>See also: Forgery; Counterfeiting or dealing in counter- feits; now punished</p>	<p>§ 609.63 § 333.42</p>	<p>(d) If the defendant distributes, sells, offers for sale, or possesses with intent to sell or distribute more than one item or service bearing or identified by more than one counterfeit mark, the quantity or retail value of these items and services may be aggregated for purposes of determining penalties under this subdivision.</p> <p>Subd. 4. Alternative fine. In lieu of the fine authorized by subdivision 3, a person convicted of violating this section who received economic gain from the act or caused economic loss during the act may be sentenced to pay a fine calculated in the manner provided in section 609.904, subdivision 2.</p>			

<p>MISSISSIPPI (1857, amended 1942, amended 3/1/2011, amended 4/18/2012)</p>	<p>State Law(s)</p>	<p>Trade-marks and labels; penalties for offenses; forfeitures</p>	<p>Statutory Sec- tion(s)</p>	<p>Miss. Code Ann. § 97-21-53</p>	<p>Statutory Elements</p> <p>(1) Every person who shall knowingly and will-fully forge or counterfeit, or cause or procure to be forged or counterfeited, any representation, likeness, similitude, copy, or imitation of the private stamp, wrappers, or labels usually fixed by any mechanic or manufacturer to, and used by such mechanic or manufacturer on, in, or about the sale of any goods, wares, or merchandise whatsoever, shall be punished as follows:</p> <p>(a) If the goods or services to which the forged or counterfeit representation, likeness, similitude, copy of imitation of the private stamp, wrappers or labels are attached or affixed, or in connection with which they are used, or to which the offender intended they be attached or affixed, or in connection with which the offender intended they be used, have, in the aggregate, a retail value of the goods if they were not forged or counterfeited of One Thousand Dollars (\$1,000.00), or more, the person shall be guilty of a felony and, upon conviction, may be imprisoned for up to five (5) years and fined up to Ten Thousand Dollars (\$10,000.00); or</p>	<p>Statutory Requirements</p>	<p>§ 75-25-5</p> <p>(a) Subject to the limitations set forth in this chapter, any person who uses a mark may file in the office of the secretary, in a manner complying with the requirements of the secretary, an application for registration of that mark setting forth, but not limited to, the following information:</p> <p>(1) The name and business address of the person applying for such registration; and, if a corporation, the state of incorporation, or if a partnership or other entity, the state in which the entity is organized and the names of the general partners, owners and/or managers, as specified by the secretary;</p> <p>(2) The goods or services on or in connection with which the mark is used and the mode or manner in which the mark is used on or in connection with such goods or services and the class in which such goods or services fall;</p>	<p>Statutory Definitions</p>	<p>Forfeiture/Destruction/Resti- tution Provisions</p> <p>§ 97-21-53</p> <p>(2) Property used in any way to violate the provisions of this section shall be subject to forfeiture under Sections 97-21-101 and 97-21-103.</p>
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<p>MISSISSIPPI (1857, amended 1942, amended 3/1/2011, amended 4/18/2012)</p>	<p>State Law(s)</p>	<p>Statutory Section(s)</p> <p>§ 97-21-57</p>	<p>Statutory Elements</p> <p>(b) If the goods or services to which the forged or counterfeit representation, likeness, similitude, copy, or imitation of the private stamp, wrappers, or labels are attached or affixed, or in connection with which they are used, or to which the offender intended they be attached or affixed, or in connection with which the offender intended they be used, have, in the aggregate, a retail value of less than One Thousand Dollars (\$1,000.00), the person shall be guilty of a misdemeanor and, upon conviction, may be imprisoned for up to one (1) year and fined up to Five Thousand Dollars (\$5,000.00).</p> <p>(1) Every person who shall have in his possession any die, plate, engraving, or printed label, stamp, or wrapper, or any representation, likeness, similitude, copy, or imitation of the private stamp, wrapper, or label usually fixed by any mechanic or manufacturer to, and used by such mechanic or manufacturer on, in, or about the sale of any goods, wares,</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p>	<p>Forfeiture/Destruction/Restitution Provisions</p> <p>§ 97-21-57</p> <p>(2) Property used in any way to violate the provisions of this section shall be subject to forfeiture under Sections 97-21-101 and 97-21-103.</p> <p>§ 97-21-101</p> <p>(1) All property, real or personal, including money, used in the course of, intended for use in the course of, derived from, or realized through, conduct in violation of Section 97-21-53, 97-21-55, 97-21-57 or 97-23-89 is subject to civil forfeiture to the state pursuant to the provisions of Section 2 of this act; provided, however, that a forfeiture of personal property encumbered by a bona fide security interest or real property encumbered by a bona fide mortgage, deed of trust, lien or encumbrance of record shall be subject to the interest of the secured party or subject to the interest of the holder of the mortgage, deed of trust, lien or encumbrance of record if such secured party or holder neither had knowledge of or consented to the act or omission.</p>
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<p>MISSISSIPPI (1857, amended 1942, amended 3/1/2011, amended 4/18/2012)</p> <p>State Law(s)</p>	<p>Statutory Section(s)</p>	<p>Statutory Elements</p> <p>or merchandise, with intent to use or sell the said die, plate or engraving, or printed stamp, label, or wrapper, for the purpose of aiding or assisting, in any way whatever, in vending any goods, wares, or merchandise in imitation of, or intended to resemble and be sold for the goods, wares, or merchandise of such mechanic or manufacturer, shall be guilty of a felony, and, upon conviction, be punished by imprisonment for not more than five (5) years and a fine of Ten Thousand Dollars (\$10,000.00).</p> <p>(1) Every person who shall sell, vend, or possess with intent to sell or vend any goods, wares, or merchandise having thereon any forged or counterfeit stamp or label, imitating, resembling, or purporting to be the stamp or label of any mechanic or manufacturer, knowing the same to be forged or counterfeited, and resembling or purporting to be imitations of the stamps or labels of such mechanic or manufacturer shall be punished as follows:</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p>	<p>Forfeiture/Destruction/Restitution Provisions</p> <p>(2) Property subject to forfeiture may be seized by law enforcement officers upon process issued by any appropriate court having jurisdiction over the property. Seizure without process may be made if:</p> <p>(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under a lawful administrative inspection;</p> <p>(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this article.</p> <p>(4) Any aggrieved person may institute a civil proceeding against any person or enterprise convicted of engaging in activity in violation of Section 97-21-53, 97-21-55, 97-21-57 or 97-23-89. In such proceeding, relief shall be granted in conformity with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, except that no showing of immediate and irreparable injury, loss or damage to the person shall have to be made.</p> <p>(7) The application of one (1) civil remedy under any provision of this act shall not preclude the application of any other remedy, civil or criminal, under this act or any other provision of law. Civil remedies under this act are supplemental.</p>
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MISSOURI (1968, amended 1/18/98) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>Definitions – Counterfeiting Marks - Penalties</p> <p>See also: Forgery; Possession of a Forging Instrumentality</p>	<p>Vernon’s Ann. Mo. Stat. § 570.103</p> <p>§ 570.090</p> <p>§ 570.100</p>	<p>2. Any person who willfully 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 the crime of counterfeiting. A person having possession, custody or control of more than twenty-five items bearing a counterfeit mark shall be presumed to possess said items with intent to sell or distribute.</p> <p>3. Counterfeiting shall be a class A misdemeanor, except as provided in subsections 4 and 5 of this section.</p> <p>4. Counterfeiting shall be a class D felony if:</p> <p>(1) The defendant has previously been convicted under this section; or</p> <p>(2) The violation involves more than one hundred but fewer than one thousand 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, but less than ten thousand dollars.</p> <p>5. Counterfeiting shall be a class C felony if:</p> <p>(1) The defendant has been previously convicted of two or more offenses under this section;</p> <p>(2) The violation involves the manufacture or production of items bearing counterfeit marks; or</p>	<p>9. Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.</p>	<p>(1) “Counterfeit mark”, any unauthorized reproduction or copy of intellectual property or intellectual property 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 intellectual property;</p> <p>(2) “Intellectual property”, any trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify such person’s goods or services;</p> <p>(3) “Retail value”, the counterfeiter’s regular selling price for the item or service bearing or identified by the counterfeit mark. 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.</p>	<p>§ 570.105</p> <p>1. Any items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with a violation of section 570.103 or this section shall be seized by any law enforcement officer. All seized personal property shall be forfeited in accordance with section 513.600, RSMo, et seq.</p> <p>2. Upon the request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner for destruction or disposition. If the intellectual property owner does not request release of seized items bearing a counterfeit mark, such items shall be destroyed unless the intellectual property owner consents to another disposition.</p>

MISSOURI (1968, amended 1/18/98) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
		<p>(3) The violation involves one thousand 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.</p> <p>6. 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.</p> <p>7. Any person convicted of counterfeiting shall be fined an amount up to three times the retail value of the items bearing, or services identified by, a counterfeit mark, unless extenuating circumstances are shown by the defendant.</p> <p>8. The remedies provided for herein shall be cumulative to the other civil remedies provided by law.</p>			

<p>MONTANA (1973, amended 4/6/2009, amended 3/26/2011, effective 10/1/2011)</p> <p>State Law(s)</p>	<p>Statutory Section(s)</p> <p>Mont. Code Ann. § 30-13-338</p>	<p>Statutory Elements</p> <p>(1)(a) A person commits the offense of trademark counterfeiting if the person knowingly manufactures, distributes, transports, offers for sale, sells, or possesses with intent to sell or distribute any goods, services, labels, patches, fabric, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, packaging, or any other components of any type or nature that are designed, marketed, or otherwise intended to be used on or in connection with any goods or services bearing a counterfeit mark.</p> <p>(b) A person having possession, custody, or control of more than 25 items of goods, labels, patches, fabric, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, packaging, or any other components of any type or nature bearing a counterfeit mark must be presumed to possess the items with intent to offer for sale, sell, or distribute the items.</p> <p>(2)(a) A person convicted of the offense of trademark counterfeiting shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both, if the offense involves less than 100 items bearing one or</p>	<p>Registration Requirements</p> <p>§ 30-13-336</p> <p>Nothing in this part adversely affects the rights or the enforcement of rights in marks acquired at common law in good faith at any time.</p>	<p>Statutory Definitions</p> <p>§ 30-13-301</p> <p>(3) "Counterfeit mark" means a spurious mark:</p> <p>(a) that is applied to or used in connection with any goods, services, labels, patches, fabric, stickers, wrappers, charms, boxes, containers, cans, cases, hangtags, documentation, packaging, or any other components of any type or nature that are designed, marketed, or otherwise intended to be used on or in connection with any goods or services;</p> <p>(b) that is identical with or substantially indistinguishable from a mark that is in use and is registered in this state or any other state or on the principal register in the United States patent and trademark office, whether or not the person employing the mark knew the mark was registered; and</p> <p>(c) the application or use of which is:</p> <p>(i) likely to deceive or cause confusion or mistake; or</p>	<p>Forfeiture/Destruction/Restitution Provisions</p> <p>(3) When imposing sentence on a person convicted of a violation of this section, the court may order restitution as provided in 30-13-335 to any person harmed by the trademark counterfeiting.</p> <p>(4)(a) Any items bearing a counterfeit mark and all personal property employed or used in connection with counterfeiting, including but not limited to any items, objects, tools, machines, equipment, instruments, or vehicles of any kind, must be seized by law enforcement officials who have the opportunity to take possession of the items or personal property.</p> <p>(b) All seized items and personal property referenced in this subsection (4) must be forfeited and may, upon request of the registrant, be released to the registrant for destruction or destroyed by an officer of the court as provided in 30-13-335 unless the registrant agrees to another disposition of the seized items or personal property.</p> <p>§ 30-13-335</p>
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<p>MONTANA (1973, amended 4/6/2009, amended 3/26/2011, effective 10/1/2011)</p> <p>State Law(s)</p>	<p>Statutory Sec- tion(s)</p>	<p>Statutory Elements</p> <p>more counterfeit marks or the total retail value is less than \$1,000. A person convicted of a second offense shall be fined \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined \$1,000 and be imprisoned in the county jail for a term of not less than 30 days or more than 6 months.</p> <p>(b) If the offense involves 100 items or more bearing one or more counterfeit marks and the retail value is \$1,000 or more, the person shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 1 year, or both.</p>	<p>Registration Require- ments</p>	<p>Statutory Definitions</p> <p>(ii) otherwise intended to be used on or in connection with the goods or services for which a registered mark is registered.</p> <p>(4) "Counterfeiter" means a person employing a counterfeit mark.</p>	<p>Forfeiture/Destruction/Restitution Provisions</p> <p>(1) An owner of a mark registered under this part may proceed by suit to enjoin the manufacture, use, display, or sale of any counterfeits or imitations of the mark. Any court of competent jurisdiction may grant injunctions to restrain the manufacture, use, display, or sale as is considered by the court to be just and reasonable. The court may require the defendants to pay to the owner all profits derived from and all damages suffered by reason of the wrongful manufacture, use, display, or sale. The court may also order that any counterfeits or imitations in the possession or under the control of any defendant in the case be delivered to an officer of the court or to the complainant to be destroyed.</p>
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MONTANA (1973, amended 4/6/2009, amended 3/26/2011, effective 10/1/2011) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
				<p>(5) "Dilution" means the lessening of the capacity of a famous mark to identify and distinguish goods or services, regardless of the presence or absence of:</p> <p>(a) competition between the owner of the famous mark and other parties; or</p> <p>(b) likelihood of confusion, mistake, or deception.</p> <p>(6) "Mark" means any trademark or service mark entitled to registration under this part whether registered or not.</p> <p>(7) "Person" means any individual, firm, partnership, limited liability company, corporation, association, union, or other organization capable of suing and being sued in a court of law.</p> <p>(8) "Registrant" means the person to whom the registration of a mark under this part is issued or the person's legal representatives, successors, or assigns.</p>	<p>The court, in its discretion, may enter judgment for an amount not to exceed three times the profits and damages and reasonable attorney fees of the prevailing party in cases in which the court finds that the other party committed the wrongful acts with knowledge, in bad faith, or otherwise as according to the circumstances of the case.</p> <p>(2) The enumeration in this part of any right or remedy does not affect a registrant's right to prosecute under any criminal law of this state.</p>

MONTANA (1973, amended 4/6/2009, amended 3/26/2011, effective 10/1/2011) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
				<p>(9) "Retail value" means:</p> <p>(a) the counterfeiter's regular selling price for goods or services unless the goods or services bearing a counterfeit mark or the items and components described in subsection (9)(b) would appear to a reasonably prudent person to be authentic, in which case the retail value is the price of the authentic counterpart; or</p> <p>(b) in the case of items bearing a counterfeit mark that are components of a finished product and in the case of labels, patches, fabric, stickers, wrappers, badges, emblems, metal-lions, charms, boxes, containers, cans, cases, hangtags, documentation, packaging, or any other components of any type or nature that are designed, marketed, or otherwise intended to be used on or in connection with any goods or services, the counterfeiter's regular selling price of the finished product on or in which the items or component would be utilized.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>MONTANA (1973, amended 4/6/2009, amended 3/26/2011, effective 10/1/2011)</p> <p>State Law(s)</p> <p>See also: Deceptive Business Practices; Forgery</p>	<p>§ 45-6-318 § 45-6-325</p>	<p>Statutory Elements</p> <p>(10) "Service mark" means any word, name, symbol, or device or any combination of words, names, symbols, or devices used by a person to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown. Titles, character names used by a person, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they or the programs may advertise the goods of the sponsor.</p> <p>(11) "Trade name" means any name used by a person to identify a business or vocation of that person.</p> <p>(12) "Trademark" means any word, name, symbol, device, or any combination of words, names, symbols, or devices used by a person to identify and distinguish the goods of that person, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown.</p> <p>(13) "Use" means the bona fide use of a mark in the ordinary course of trade and not a use merely to reserve a right in a mark. For the purposes of this part, a mark is considered to be in use:</p> <p>(a) on goods when:</p> <p>(i) it is placed in any manner on the goods or other containers or the displays associated with the goods or on the tags or labels affixed to the goods; or</p>			

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
MONTANA (1973, amended 4/6/2009, amended 3/26/2011, effective 10/1/2011)		<p>(ii) if the nature of the goods makes placement on the goods or containers impracticable, it is placed on documents associated with the goods or their sale; and</p> <p>(iii) the goods are sold or transported in commerce in this state; and</p> <p>(b) on services when it is used or displayed in the sale or advertising of services and the services are rendered in this state.</p>			

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>NEBRASKA (1977)</p> <p>Criminal Simulation; Penalty</p> <p>See also: Forgery; Instruments; How Described; Forgery and Related Offenses; Criminal Possession of Forgery Devices; Penalty</p>	<p>Neb. Rev. Stat. § 28-606</p> <p>§ 29-1503</p> <p>§§ 28-602 (1), 28-603</p> <p>§ 28-605</p>	<p>(1) A person commits a criminal simulation when:</p> <p>(a) With intent to deceive or harm, he makes, alters, or represents an object in such fashion that it appears to have an antiquity, rarity, source or authorship, ingredient, or composition which it does not in fact have; or</p> <p>(b) With knowledge of its true character and with intent to use to deceive or harm, he utters, misrepresents, or possesses any object so simulated.</p> <p>(2) Criminal simulation is a Class III misdemeanor.</p>			

NEVADA (1911, amended 1967) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>Counterfeiting Trademark or Design</p> <p>Selling, Displaying, or Advertising Goods with False Trademark</p> <p>See also: Forgery of Conveyances, Negotiable Instruments, Stock Certificates, Wills, and Other Instruments; Utterance of Forged Instrument; Unlawful Acts; Penalty</p>	<p>Nev. Rev. Stat. § 205.205</p> <p>§ 205.210</p> <p>§ 205.090</p> <p>§ 600.450</p>	<p>Every person who shall use or display or have in his or her possession with intent to use or display the genuine label, trademark, term, design, device, or form of advertisement of any person, corporation, association or union lawfully filed for record according to law of the State, or the exclusive right to use which is guaranteed to any person, corporation, association or union by the laws of the United States, or of this State, without the written authority of such person, corporation, association or union, or who shall willfully forge or counterfeit or use or display or have in his or her possession with intent to use or display any representation, likeness, similitude, copy or imitation of any genuine label, trademark, term, design, device, or form of advertisement, so filed or protected, or any die, plate, stamp or other device for manufacturing the same, shall be guilty of a misdemeanor.</p> <p>1. A person shall not knowingly sell, display or advertise, or have in his or her possession with intent to sell, any goods, wares, merchandise, mixture, preparation or compound having affixed thereto any label, trademark, term, design, device or form of advertisement lawfully filed for record in the Office of the Secretary of State by any person, corporation, association or union, or the exclusive right to the use of which is guaranteed to the person, corporation, association or union under the</p>	<p>State or Federal Registration</p>	<p>§ 600.300</p> <p>“Trademark” means any word, name, symbol or device, or any combination of them, adopted and used by a person to identify goods made or sold by that person and to distinguish them from goods made or sold by others.</p> <p>§ 205.210</p> <p>5. As used in this section, “retail value” means:</p> <p>(a) If the item that is identified by a label, trademark, term, design, device or form of advertisement in violation of subsection 1 is a component of a finished product with multiple components, the price at which the person in violation of subsection 1 regularly sells the finished product; or</p> <p>(b) For any other item that is identified by a label, trademark, term, design, device or form of advertisement in violation of subsection 1, the price at which the person in violation of subsection 1 regularly sells the item.</p>	

NEVADA (1911, amended 1967) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
		<p>laws of the United States, if the label, trademark, term, design, device or form of advertisement has been used or affixed thereto without the written authority of the person, corporation, association or union, or having affixed thereto any forged or counterfeit representation, likeness, similitude, copy or imitation thereof.</p> <p>2. Except as otherwise provided in subsection 3, a violation of the provisions of subsection 1 is a misdemeanor.</p> <p>3. A violation of the provisions of subsection 1 is:</p> <p>(a) A category E felony if:</p> <p>(1) The person committing the violation has been previously convicted one time for a violation of the provisions of subsection 1; or</p> <p>(2) The goods, wares, merchandise, mixture, preparation or compound with respect to which the person violated the provisions of subsection 1:</p> <p>(I) Consists of at least 100 but less than 1,000 salable units; or</p> <p>(II) Has a retail value of at least \$1,000 but less than \$10,000.</p> <p>(b) A category D felony if:</p> <p>(1) The person committing the violation has been previously convicted two or more times for a violation of the provisions of subsection 1; or</p> <p>(2) The goods, wares, merchandise, mixture, preparation or compound with respect to which the person violated the provisions of subsection 1:</p> <p>(I) Consists of at least 1,000 salable units; or</p> <p>(II) Has a retail value of at least \$10,000.</p>			

NEVADA (1911, amended 1967)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
			<p>4. For the purposes of this section, in accordance with the provisions of NRS 47.230, it may be reasonably inferred that a person intends to sell goods, wares, merchandise, a mixture, a preparation or a compound if the person knowingly possesses at least 26 salable units of the goods, wares, merchandise, mixture, preparation or compound.</p>			

<p>NEW HAMPSHIRE (7/15/2009, amended 2010, effective 7/13/10)</p>	<p>State Law(s)</p>	<p>Dealing in Counterfeit Goods</p>	<p>Statutory Section(s) N.H. Rev. Stat. § 638:6-b</p>	<p>Statutory Elements II. Any person who purposely or knowingly manufactures, displays, advertises, distributes, offers for sale, sells or possesses with intent to sell, or distributes any goods bearing or identified by a counterfeit mark shall be guilty of a class A misdemeanor for a first offense and a class B felony for any subsequent offense. Each individual good bearing or identified by a counterfeit mark shall constitute a separate offense. III. Evidence that a person had possession, custody, or control of more than 25 items bearing a counterfeit mark shall be prima facie evidence that the person had possession with the intent to sell or distribute the items.</p>	<p>Registration Requirements</p>	<p>Statutory Definitions I. In this section, "counterfeit mark" means a spurious mark that: (a) Is applied to, or attached to, or used in connection with in any way, any goods, or packaging of such goods, or any other component of any type or nature that is designed, marketed, or otherwise intended to be used on or in connection with any goods; (b) Is identical to, or substantially indistinguishable from, a mark registered under RSA 350-A, or the laws of any other state, or that is recorded on the principal register in the United States Patent and Trademark Office and is in use, whether or not the defendant knew the mark was registered; and (c) By the application or use of such mark, is likely to cause confusion, to cause mistake, or to deceive.</p>	<p>Forfeiture/ Destruction/ Restitution Provisions IV. Any goods that bear or consist of a counterfeit mark used in committing a violation of this section shall be subject to forfeiture to the state of New Hampshire and no property right shall exist in such property. At the conclusion of all criminal proceedings, the court shall order such items be destroyed or disposed of in another manner with the written consent of the trademark owner. V (a) The following property is subject to forfeiture for an offense under this section: (1) Any property used by the defendant in any manner to facilitate, aid, or abet, a violation of this section; and (2) Any property constituting or derived from any proceeds obtained by the defendant, either directly or indirectly, as a result of a violation of this section. (b) Such property may be seized by a law enforcement agency for forfeiture as follows:</p>
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NEW HAMPSHIRE (7/15/2009, amended 2010, effective 7/13/10)	State Law(s)	Statutory Sec- tion(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
						<p>(1) Pursuant to a search warrant or seizure warrant on an affidavit under oath demonstrating that probable cause exists for its forfeiture;</p> <p>(2) Physically, on probable cause to believe that the property is subject to forfeiture; or</p> <p>(3) Constructively, on probable cause to believe that the property is subject to forfeiture under this section, by recording a notice of pending forfeiture in the registry of deeds in the county where the real property is located or at the town clerk's office where the person's property is located stating that the state intends to seek forfeiture of the identified property pursuant to this section.</p> <p>(c) A seizure for forfeiture without process under subparagraph (b)(2) or (b)(3) shall be reasonable if made under circumstances in which a warrantless seizure or arrest would be valid in accordance with state law.</p> <p>(d) The seizing agency shall notify the defendant within 7 days of any seizure of property of its intent to forfeit the property pursuant to this section.</p> <p>(e) The forfeiture of any property or item under this paragraph shall be governed by RSA 595-A:6. The state shall have the burden of proving by a preponderance of the evidence that the property is subject to forfeiture.</p>

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>NEW HAMPSHIRE (7/15/2009, amended 2010, effective 7/13/10)</p> <p>See also: Forgery; Deceptive Business Practices</p>	<p>§ 638:1 § 638:6</p>				<p>Except in the case of proceeds, upon a finding that the property is subject to forfeiture, the court shall determine whether the forfeiture of the property is not excessive in relation to the underlying criminal offense. In making this determination, the court shall consider whether in addition to any pertinent considerations:</p> <ul style="list-style-type: none"> (1) There is a substantial connection between the property to be forfeited and the underlying offense; (2) Criminal activities conducted by or through the use of the property were extensive; and (3) The value of the property to be forfeited greatly outweighs the cost of prosecution and the harm caused by the criminal conduct. <p>(f) Final orders for forfeiture shall be implemented by the seizing agency and all proceeds of the forfeiture shall go to that agency.</p> <p>(g) At the request of any party to the forfeiture proceeding, the court shall grant a continuance until the final resolution of any criminal proceedings which were brought against a party under this section and which arose from the transaction which gave rise to the forfeiture proceeding. No party's interest in property shall be forfeited unless a party has been found guilty of the underlying charge.</p> <p>VI. The court may order a person convicted under this section to pay restitution pursuant to RSA 651:63 to the trademark owner and to any other person the court may determine. Any restitution ordered by the court shall include, but is not limited to, attorney's fees, court costs, and any other expenses incurred by the trademark owner in the investigation and prosecution of the case.</p>

<p>NEW JERSEY (4/1/97, amended 1/4/2000, effective 1/4/2000)</p>	<p>State Law(s)</p>	<p>Trademark Counterfeiting; Definitions; Offenses See also: Criminal Simulation; Forgery and Related Offenses</p>	<p>Statutory Section(s) N.J. Stat. Ann. § 2C:21-32 § 2C:21-2 § 2C:21-1(f)</p>	<p>Statutory Elements a. This act shall be known and may be cited as the "New Jersey Trademark Counterfeiting Act." c. A person commits the offense of counterfeiting who, with the intent to deceive or defraud some other person, knowingly manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute within, or in conjunction with commercial activities within New Jersey, any item, or services, bearing, or identified by, a counterfeit mark. A person who has in his possession or under his control more than 25 items bearing a counterfeit mark shall be presumed to have violated this section. d. (1) An offense set forth in this act shall be punishable as a crime of the fourth degree if: the offense involves fewer than 100 items bearing a counterfeit mark; the offense involves a total retail value of less than \$1,000.00 for all items bearing, or services identified by, a counterfeit mark; or</p>	<p>Registration Requirements f. For purposes of this act: (2) any State or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.</p>	<p>Statutory Definitions b. As used in this act: (1) "Counterfeit mark" means a spurious mark that is identical with or substantially indistinguishable from a genuine mark that is registered on the principal register in the United States Patent and Trademark Office or registered in the New Jersey Secretary of State's office or a spurious mark that is identical with or substantially indistinguishable from the words, names, symbols, emblems, signs, insignias or any combination thereof, of the United States Olympic Committee or the International Olympic Committee; and that is used or is intended to be used on, or in conjunction with, goods or services for which the genuine mark is registered and in use.</p>	<p>Forfeiture/ Destruction/ Restitution Provisions e. All items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with a violation of this act, shall be subject to forfeiture in accordance with the procedures set forth in chapter 64 of Title 2C of the New Jersey Statutes.</p>
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NEW JERSEY (4/1/97, amended 1/4/2000, effective 1/4/2000) State Law(s)	Statutory Sec- tion(s)	Statutory Elements	Registration Require- ments	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		<p>the offense involves a first conviction under this act.</p> <p>(2) An offense set forth in this act shall be punishable as a crime of the third degree if: the offense involves 100 or more but fewer than 1,000 items bearing a counterfeit mark; the offense involves a total retail value of \$1,000.00 or more but less than \$15,000.00 of all items bearing, or services identified by, a counterfeit mark; or</p> <p>the offense involves a second conviction under this act.</p> <p>(3) An offense set forth in this act shall be punishable as a crime of the second degree if: the offense involves 1,000 or more items bearing a counterfeit mark; the offense involves a total retail value of \$15,000.00 or more of all items bearing, or services identified by a counterfeit mark; or the offense involves a third or subsequent conviction under this act.</p> <p>In addition, any person convicted under this act, notwithstanding the provisions of N.J.S.2C:43-3, shall be fined by the court an amount up to threefold the retail value of the items</p>		<p>(2) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. 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.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
NEW JERSEY (4/1/97, amended 1/4/2000, effective 1/4/2000)		<p>or services involved, providing that the fine imposed shall not exceed the following amounts: for a crime of the fourth degree, \$100,000.00; for a crime of the third degree, \$250,000.00; and for a crime of the second degree, \$500,000.00. f. For purposes of this act: (1) 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; g. Conviction for an offense under this act does not preclude the defendant's liability for the civil remedy available pursuant to section 2 of P.L.1987, c. 454 (C.56:3-13.16).</p>			

NEW MEXICO (1963, amended 7/1/2006) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
				<p>H. "trademark" means any word, name, symbol, device or any combination of these used by a person to identify and distinguish the goods of the person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if that source is unknown;</p> <p>I. "trade name" means any name used by a person to identify a business or vocation of the person; and</p> <p>J. "use" means the bona fide use of a mark in the ordinary course of trade and not made merely to reserve a right in the mark. For the purposes of the Trademark Act, a mark is deemed to be in use:</p> <p>(1) on goods when it is placed in any manner on the goods or on the containers or the displays associated with it or on the tags or labels affixed to them, or if the nature of the goods makes the placement impracticable, then on documents associated with the goods or their sale, and the goods are sold or transported in commerce in this state; and</p> <p>(2) on services when it is used or displayed in the sale or advertising of services and the services are rendered in this state.</p>	

<p>NEW MEXICO (1963, amended 7/1/2006)</p>	<p>State Law(s)</p>	<p>Statutory Section(s)</p>	<p>Statutory Elements</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p>	<p>Forfeiture/Destruction/Restitution Provisions</p>
<p>Forgery</p>	<p>N.M. Stat. Ann. § 30-16-10</p>	<p>A. Forgery consists of: (1) falsely making or altering any signature to, or any part of, any writing purporting to have any legal effect with intent to injure or defraud; or (2) knowingly issuing or transferring a forged writing with intent to injure or defraud. B. Whoever commits forgery when there is no quantifiable damage or when the damage is two thousand five hundred dollars (\$2,500) or less is guilty of a fourth degree felony. C. Whoever commits forgery when the damage is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony. D. Regardless of value, whoever commits forgery of a will, codicil, trust instrument, deed, mortgage, lien or any other instrument affecting title to real property is guilty of a third degree felony. E. Whoever commits forgery when the damage is over twenty thousand dollars (\$20,000) is guilty of a second degree felony.</p>	<p></p>	<p>§ 57-3B-3 C. "mark" includes any trademark or service mark entitled to registration under the Trademark Act whether registered or not; D. "person" and any other word or term used to designate the applicant or other party entitled to a benefit or privilege or rendered liable under the provisions of the Trademark Act, includes a juristic person as well as a natural person; "juristic person" includes a firm, partnership, corporation, union, association or other organization capable of suing and being sued in a court of law;</p>	<p>§ 57-3B-16 Any owner of a mark registered under the Trademark Act may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations of that mark and any court of competent jurisdiction may grant injunctions to restrain the manufacture, use, display or sale as may be deemed just and reasonable by the court. The court may require the defendants to pay to the owner all profits derived from or all damages suffered by reason of the wrongful manufacture, use, display or sale, or by both payment of all profits derived and damages suffered. The court may also order that any counterfeits or imitations in the possession or under the control of any defendant in the case be delivered to an officer of the court or to the complainant and that the counterfeits or imitations be destroyed</p>	

NEW YORK (11/92, amended 11/1/95)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
Trademark Counterfeiting in the Third Degree	N.Y. Penal L. § 165.71	A person is guilty of trademark counterfeiting in the 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.	Any State or Federal Registration	1. The term "trademark" means (a) any word, name, symbol, or device, or any combination thereof adopted and used by a person to identify goods made by a person and which distinguish them from those manufactured or sold by others which is in use and which is registered, filed or recorded under the laws of this state or of any other state or is registered in the principal register of the United States patent and trademark office; or (b) the symbol of the International Olympic Committee, consisting of five interlocking rings; the emblem of the United States Olympic Committee, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with five interlocking rings displayed on the chief; any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee or the United States Olympic Committee; or the words "Olympic", "Olympiad", "Cinuis Altius Fortius", or any combination thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection	§ 165.74 Any goods manufactured, sold, offered for sale, distributed or produced in violation of this article may be seized by any police officer. The magistrate must, within forty-eight hours after arraignment of the defendant, determine whether probable cause exists to believe that the goods had been manufactured, sold, offered for sale, distributed or produced in violation of this article, and upon a finding that probable cause exists to believe that the goods had been manufactured, sold, offered for sale, distributed, or produced in violation of this article, the court shall authorize such articles to be retained as evidence pending the trial of the defendant. Upon conviction of the defendant, the articles in respect whereof the defendant stands convicted shall be destroyed. Destruction shall not include auction, sale or distribution of the items in their original form.	
Trademark Counterfeiting in the Second Degree	§ 165.72	A person is guilty of trademark counterfeiting in the 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.	Any State or Federal Registration	1. The term "trademark" means (a) any word, name, symbol, or device, or any combination thereof adopted and used by a person to identify goods made by a person and which distinguish them from those manufactured or sold by others which is in use and which is registered, filed or recorded under the laws of this state or of any other state or is registered in the principal register of the United States patent and trademark office; or (b) the symbol of the International Olympic Committee, consisting of five interlocking rings; the emblem of the United States Olympic Committee, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with five interlocking rings displayed on the chief; any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee or the United States Olympic Committee; or the words "Olympic", "Olympiad", "Cinuis Altius Fortius", or any combination thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection	§ 165.74 Any goods manufactured, sold, offered for sale, distributed or produced in violation of this article may be seized by any police officer. The magistrate must, within forty-eight hours after arraignment of the defendant, determine whether probable cause exists to believe that the goods had been manufactured, sold, offered for sale, distributed or produced in violation of this article, and upon a finding that probable cause exists to believe that the goods had been manufactured, sold, offered for sale, distributed, or produced in violation of this article, the court shall authorize such articles to be retained as evidence pending the trial of the defendant. Upon conviction of the defendant, the articles in respect whereof the defendant stands convicted shall be destroyed. Destruction shall not include auction, sale or distribution of the items in their original form.	
Trademark Counterfeiting in the First Degree	§ 165.73	Trademark counterfeiting in the third degree is a class A misdemeanor. A person is guilty of trademark counterfeiting in the 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 counterfeit trademarks exceeds one thousand dollars.	Any State or Federal Registration	1. The term "trademark" means (a) any word, name, symbol, or device, or any combination thereof adopted and used by a person to identify goods made by a person and which distinguish them from those manufactured or sold by others which is in use and which is registered, filed or recorded under the laws of this state or of any other state or is registered in the principal register of the United States patent and trademark office; or (b) the symbol of the International Olympic Committee, consisting of five interlocking rings; the emblem of the United States Olympic Committee, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with five interlocking rings displayed on the chief; any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee or the United States Olympic Committee; or the words "Olympic", "Olympiad", "Cinuis Altius Fortius", or any combination thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection	§ 165.74 Any goods manufactured, sold, offered for sale, distributed or produced in violation of this article may be seized by any police officer. The magistrate must, within forty-eight hours after arraignment of the defendant, determine whether probable cause exists to believe that the goods had been manufactured, sold, offered for sale, distributed or produced in violation of this article, and upon a finding that probable cause exists to believe that the goods had been manufactured, sold, offered for sale, distributed, or produced in violation of this article, the court shall authorize such articles to be retained as evidence pending the trial of the defendant. Upon conviction of the defendant, the articles in respect whereof the defendant stands convicted shall be destroyed. Destruction shall not include auction, sale or distribution of the items in their original form.	
Trademark Counterfeiting in the First Degree	§ 165.73	Trademark counterfeiting in the second degree is a class E felony. A person is guilty of trademark counterfeiting in the 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 counterfeit trademarks exceeds one thousand dollars.	Any State or Federal Registration	1. The term "trademark" means (a) any word, name, symbol, or device, or any combination thereof adopted and used by a person to identify goods made by a person and which distinguish them from those manufactured or sold by others which is in use and which is registered, filed or recorded under the laws of this state or of any other state or is registered in the principal register of the United States patent and trademark office; or (b) the symbol of the International Olympic Committee, consisting of five interlocking rings; the emblem of the United States Olympic Committee, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with five interlocking rings displayed on the chief; any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee or the United States Olympic Committee; or the words "Olympic", "Olympiad", "Cinuis Altius Fortius", or any combination thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection	§ 165.74 Any goods manufactured, sold, offered for sale, distributed or produced in violation of this article may be seized by any police officer. The magistrate must, within forty-eight hours after arraignment of the defendant, determine whether probable cause exists to believe that the goods had been manufactured, sold, offered for sale, distributed or produced in violation of this article, and upon a finding that probable cause exists to believe that the goods had been manufactured, sold, offered for sale, distributed, or produced in violation of this article, the court shall authorize such articles to be retained as evidence pending the trial of the defendant. Upon conviction of the defendant, the articles in respect whereof the defendant stands convicted shall be destroyed. Destruction shall not include auction, sale or distribution of the items in their original form.	

NEW YORK (11/92, amended 11/1/95)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
See also: Criminal Simulation; Forgery; Fraudulent Accosting	§ 170.45 §§ 170.00 et seq. § 165.30	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 counterfeit trademarks exceeds one hundred thousand dollars. Trademark counterfeiting in the first degree is a class C felony.			with the United States Olympic Committee or any International Olympic Committee or United States Olympic Committee activity. 2. The term "counterfeit trademark" means a spurious trademark or an imitation of a trademark that is: (a) used in connection with trafficking in goods; and (b) used in connection with the sale, offering for sale or distribution of goods that are identical with or substantially indistinguishable from a trademark as defined in subdivision one of this section. The term "counterfeit trademark" does not include any mark used in connection with goods for which the person using such mark was authorized to use the trademark for the type of goods, so manufactured or produced by the holder of the right to use such mark or designation, whether or not such goods were manufactured or produced in the United States or in another country, and does not include imitations of trade dress or packaging such as color, shape and the like unless those features have been registered as trademarks as defined in subdivision one of this section.	

NEW YORK (11/92, amended 11/1/95)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
					<p>3. The term "traffic" means to transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or to obtain control of with intent to so transport, transfer, or otherwise dispose of.</p> <p>4. The term "goods" means any products, services, objects, materials, devices or substances which are identified by the use of a trademark</p>	

<p>NORTH CAROLINA (12/1/95)</p>	<p>State Law(s)</p>	<p>Statutory Section(s)</p>	<p>Statutory Elements</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p>	<p>Forfeiture/Destruction/Restitution Provisions</p>
<p>Criminal Use of Counterfeit Trademark</p>	<p>N.C. Gen. Stat. Ann. § 80-11.1</p>	<p>(b) Any person who knowingly and willfully (i) uses or causes to be used a counterfeit mark on or in connection with goods or services intended for sale or (ii) has possession, custody, or control of goods having a counterfeit mark used thereon or in connection therewith, that are intended for sale, shall be punished as follows: (1) If the goods or services having a counterfeit mark used thereon or in connection therewith, or on or in connection with which the person intends to use a counterfeit mark, have a retail sales value not exceeding three thousand dollars (\$3,000), the person is guilty of a Class 2 misdemeanor; (2) If the goods or services having a counterfeit mark used thereon or in connection therewith, or on or in connection with which the person intends to use a counterfeit mark, have a retail sales value exceeding three thousand dollars (\$3,000) but not exceeding ten thousand dollars (\$10,000), the person is guilty of a Class 1 felony; and</p>	<p>Slate or Federal Registration or the Amateur Sports Act of 1978 § 80-13 Nothing herein shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.</p>	<p>(a) For purposes of this section: (1) "Counterfeit mark" means a mark that is used in connection with the sale or offering for sale of goods or services that are identical to or substantially indistinguishable from the goods or services with which the mark is used or registered, and the use of which is likely to cause confusion, mistake, or deception, with the use occurring without authorization of the: a. Owner of the registered mark, and is identical to or substantially indistinguishable from a mark that is registered on the principal register of the United States Patent and Trademark Office or with the Trademark Division of the Department of the Secretary of State; or</p>	<p>(d) Any personal property, including any item, object, tool, machine, device, or vehicle of any kind, employed as an instrumentality in the commission of, or in aiding or abetting in the commission of a violation of subsection (b) or (c) of this section, is subject to seizure and forfeiture and shall be disposed of in accordance with the provisions of Article 2 of Chapter 15 of the General Statutes.</p>	

NORTH CAROLINA (12/1/95) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
See also: Uttering Forged Paper or Instrument Containing a Forged Endorsement	§ 14-120	<p>(3) If the goods or services having a counterfeit mark used thereon or in connection therewith, or on or in connection with which the person intends to use a counterfeit mark, have a retail sales value exceeding ten thousand dollars (\$10,000), the person is guilty of a Class H felony.</p> <p>The possession, custody, or control of more than 25 items having a counterfeit mark used thereon or in connection therewith creates a presumption that the person having possession, custody, or control of the items intended to sell those items.</p> <p>(c) Any person who knowingly (i) uses any object, tool, machine, or other device to produce or reproduce a counterfeit mark or (ii) has possession, custody, or control of any object, tool, machine, or device with intent to produce or reproduce a counterfeit mark, is guilty of a Class H felony.</p> <p>(e) For purposes of enforcing this section, the Department of the Secretary of State's law enforcement agents have statewide jurisdiction. These law enforcement agents may assist local law enforcement agencies in their investigations and may initiate and carry out, in coordination with local law enforcement agencies, investigations of violations of this section. These law enforcement agents have all of the powers and authority</p>		<p>b. Owner of the unregistered mark and is identical to or substantially indistinguishable from symbols, signs, emblems, insignias, trademarks, trade names, or words protected by section 110 of the Amateur Sports Act of 1978 (Title 36, U.S.C. § 380).</p> <p>(2) "Retail sales value" means the value computed by multiplying the number of items having a counterfeit mark used thereon or in connection therewith, by the retail price at which a similar item having a mark used thereon or in connection therewith, the use of which is authorized by the owner, is offered for sale to the public.</p>	

NORTH CAROLINA (12/1/95)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
			<p>of law enforcement officers when executing arrest warrants. These agents shall be authorized to have fictitious licenses, license tags, and registrations, pursuant to G.S. 20-39(h) or G.S. 14-250, for the purpose of conducting criminal investigations.</p> <p>(f) The Secretary of State may refer any available evidence concerning violations of this section to the proper district attorney, who may, with or without such a reference, institute the appropriate criminal proceedings. The attorneys employed by the Secretary of State shall be available to prosecute or assist in the prosecution of criminal cases when requested to do so by a district attorney and the Secretary of State approves.</p> <p>(g) Pursuant to an agreement between the departments, the Secretary of State may refer any available evidence concerning violations of this section to the Secretary of Revenue for purposes of determining the obligations of the violators of this section to the State under the provisions of Chapter 105 of the General Statutes.</p>			

NORTH DAKOTA (1973) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>Forgery or Counterfeiting</p> <p>See also: Selling Goods Bearing Counterfeit Trademark - Penalty</p>	<p>N.D. Cent. Code § 12.1-24-01 (T)</p> <p>§ 51-07-04</p>	<p>1. A person is guilty of forgery or counterfeiting if, with intent to deceive or harm the government or another person, or with knowledge that he is facilitating such deception or harm by another person, he:</p> <ul style="list-style-type: none"> a. Knowingly and falsely makes, completes, or alters any writing; or b. Knowingly utters or possesses a forged or counterfeited writing. <p>2. Forgery or counterfeiting is:</p> <ul style="list-style-type: none"> a. A class B felony if: <ul style="list-style-type: none"> (1) The actor forges or counterfeits an obligation or other security of the government; or (2) The offense is committed pursuant to a scheme to defraud another or others of money or property of a value in excess of ten thousand dollars. b. A class C felony if: <ul style="list-style-type: none"> (1) The actor is a public servant or an officer or employee of a financial institution and the offense is committed under color of office or is made possible by his office; 		<p>§ 12.1-24-04</p> <p>13. "Writing" means:</p> <ul style="list-style-type: none"> a. Any paper, document, or other instrument containing written or printed matter or its equivalent, including money, a money order, bond, public record, affidavit, certificate, contract, security, or obligation. b. Any coin or any gold or silver bar coined or stamped at a mint or assay office or any signature, certification, credit card, token, stamp, seal, badge, decoration, medal, trademark, or other symbol or evidence of value, right, privileges, or identification which is capable of being used to the advantage or disadvantage of the government or any person. 	

NORTH DAKOTA (1973)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Resti- tution Provisions
			<p>(2) The actor forges or counterfeits foreign money or other legal tender, or utters or possesses any forged or counterfeited obligation or security of the government or foreign money or legal tender;</p> <p>(3) The actor forges or counterfeits any writing from plates, dies, molds, photographs, or other similar instruments designed for multiple reproduction;</p> <p>(4) The actor forges or counterfeits a writing which purports to have been made by the government, or</p> <p>(5) The offense is committed pursuant to a scheme to defraud another or others of money or property of a value in excess of one hundred dollars.</p> <p>c. A class A misdemeanor in all other cases.</p>			

OHIO (1997) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>Trademark Counterfeiting</p>	<p>Baldwin's Ohio Rev. Code Ann. § 2913.34</p>	<p>(A) No person shall knowingly do any of the following:</p> <p>(1) Attach, affix, or otherwise use a counterfeit mark in connection with the manufacture of goods or services, whether or not the goods or services are intended for sale or resale;</p> <p>(2) Possess, sell, or offer for sale tools, machines, instruments, materials, articles, or other items of personal property with the knowledge that they are designed for the production or reproduction of counterfeit marks;</p> <p>(3) Purchase or otherwise acquire goods, and keep or otherwise have the goods in the person's possession, with the knowledge that a counterfeit mark is attached to, affixed to, or otherwise used in connection with the goods and with the intent to sell or otherwise dispose of the goods;</p> <p>(4) Sell, offer for sale, or otherwise dispose of goods with the knowledge that a counterfeit mark is attached to, affixed to, or otherwise used in connection with the goods;</p>	<p>State or Federal Registration</p>	<p>(F) As used in this section:</p> <p>(1)(a) Except as provided in division (F)(1)(b) of this section, "counterfeit mark" means a spurious trademark or a spurious service mark that satisfies both of the following:</p> <p>(i) It is identical with or substantially indistinguishable from a mark that is registered on the principal register in the United States patent and trademark office for the same goods or services as the goods or services to which or in connection with which the spurious trademark or spurious service mark is attached, affixed, or otherwise used or from a mark that is registered with the secretary of state pursuant to sections 1329.54 to 1329.67 of the Revised Code for the same goods or services as the goods or services to which or in connection with which the spurious trademark or spurious service mark is attached, affixed, or otherwise used, and the owner of the registration uses the registered mark, whether or not the offender knows that the mark is registered in a manner described in division (F)(1)(a)(i) of this section.</p> <p>(ii) Its use is likely to cause confusion or mistake or to deceive other persons.</p>	<p>(D)(1) Law enforcement officers may seize pursuant to Criminal Rule 41 or Chapter 2933, or 2981, of the Revised Code either of the following:</p> <p>(a) Goods to which or in connection with which a person attached, affixed, otherwise used, or intended to attach, affix, or otherwise use a counterfeit mark in violation of this section;</p> <p>(b) Tools, machines, instruments, materials, articles, vehicles, or other items of personal property that are possessed, sold, offered for sale, or used in a violation of this section or in an attempt to commit or complicity in the commission of a violation of this section.</p> <p>(2) Notwithstanding any contrary provision of Chapter 2981, of the Revised Code, if a person is convicted of or pleads guilty to a violation of this section, an attempt to violate this section, or complicity in a violation of this section, the court involved shall declare that the goods described in division (D)(1)</p>

OHIO (1997)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		<p>(2) Except as otherwise provided in this division, a violation of division (A)(1) of this section is a felony of the fifth degree. Except as otherwise provided in this division, if the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is five thousand dollars or more but less than one hundred thousand dollars or if the number of units of goods to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is more than one hundred units but less than one thousand units, a violation of division (A)(1) of this section is a felony of the fourth degree. If the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is one hundred thousand dollars or more or if the number of units of goods to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is one hundred thousand dollars or more, a violation of division (A)(1) of this section is a felony of the fourth degree. If the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is more than one hundred units but less than one thousand units, a violation of division (A)(1) of this section is a felony of the fourth degree. If the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is one hundred thousand dollars or more or if the number of units of goods to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is one hundred thousand dollars or more, a violation of division (A)(1) of this section is a felony of the fourth degree.</p>		<p>(i) It is identical with or substantially indistinguishable from a mark that is registered on the principal register in the United States patent and trademark office for the same goods or services as the goods or services to which or in connection with which the spurious trademark or spurious service mark is attached, affixed, or otherwise used or from a mark that is registered with the secretary of state pursuant to sections 1329.54 to 1329.67 of the Revised Code for the same goods or services as the goods or services to which or in connection with which the spurious trademark or spurious service mark is attached, affixed, or otherwise used, and the owner of the registration uses the registered mark, whether or not the offender knows that the mark is registered in a manner described in division (F)(1)(a)(i) of this section.</p> <p>(ii) Its use is likely to cause confusion or mistake or to deceive other persons.</p>	<p>(a) of this section and the personal property described in division (D)(1)(b) of this section are contraband and are forfeited. Prior to the court's entry of judgment under Criminal Rule 32, the owner of a registered trademark or service mark that is the subject of the counterfeit mark may recommend a manner in which the forfeited goods and forfeited personal property should be disposed of. If that owner makes a timely recommendation of a manner of disposition, the court is not bound by the recommendation.</p>	

OHIO (1997) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		<p>of division (A)(1) of this section is a felony of the third degree.</p> <p>(3) Except as otherwise provided in this division, a violation of division (A)(2) of this section is a misdemeanor of the first degree. If the circumstances of the violation indicate that the tools, machines, instruments, materials, articles, or other items of personal property involved in the violation were intended for use in the commission of a felony, a violation of division (A)(2) of this section is a felony of the fifth degree.</p> <p>(4) Except as otherwise provided in this division, a violation of division (A)(3), (4), or (5) of this section is a misdemeanor of the first degree. Except as otherwise provided in this division, if the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is one thousand dollars or more but less than seven thousand five hundred dollars, a violation of division (A)(3), (4), or (5) of this section is a felony of the fifth degree. Except as otherwise provided in this division, if the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is seven thousand five hundred dollars or more but less than one hundred fifty thousand dollars or if the number of units of goods to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is more than one hundred units but less than one thousand units, a violation of division (A)(3), (4), or (5) of this section is a felony of the fourth degree. If the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is one hundred fifty thousand dollars or more or if the</p>		<p>(b) "Counterfeit mark," does not include a mark or other designation that is attached to, affixed to, or otherwise used in connection with goods or services if the holder of the right to use the mark or other designation authorizes the manufacturer, producer, or vendor of those goods or services to attach, affix, or otherwise use the mark or other designation in connection with those goods or services at the time of their manufacture, production, or sale.</p> <p>(2) "Cumulative sales price" means the product of the lowest single unit sales price charged or sought to be charged by an offender for goods to which or in connection with which a counterfeit mark is attached, affixed, or otherwise used or of the lowest single service transaction price charged or sought to be charged by an offender for services in connection with which a counterfeit mark is used, multiplied by the total</p>	<p>If that owner makes a timely recommendation of a manner of disposition, the court may include in its entry of judgment an order that requires appropriate persons to dispose of the forfeited goods and forfeited personal property in the recommended manner. If that owner fails to make a timely recommendation of a manner of disposition or if that owner makes a timely recommendation of the manner of disposition but the court determines to not follow the recommendation, the court shall include in its entry of judgment an order that requires the law enforcement agency that employs the law enforcement officer who seized the forfeited goods or the forfeited personal property to destroy them or cause their destruction.</p>

OHIO (1997)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>State Law(s)</p> <p>See also: Criminal Simulation; Forgery; forging identification cards</p>	<p>§ 2913.32 § 2913.31(T)</p>	<p>number of units of goods to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is one thousand units or more, a violation of division (A)(3), (4), or (5) of this section is a felony of the third degree.</p> <p>(C) A defendant may assert as an affirmative defense to a charge of a violation of this section defenses, affirmative defenses, and limitations on remedies that would be available in a civil, criminal, or administrative action or proceeding under the "Lanham Act," 60 Stat. 427-443 (1946), 15 U. S.C. 1051-1127, as amended, "The Trademark Counterfeiting Act of 1984," 98 Stat. 2178, 18 U.S.C. 2320, as amended, Chapter 1329, or another section of the Revised Code, or common law.</p> <p>(E) This section does not affect the rights of an owner of a trademark or a service mark, or the enforcement in a civil action or in administrative proceedings of the rights of an owner of a trademark or a service mark, under the "Lanham Act," 60 Stat. 427-443 (1946), 15 U.S.C. 1051-1127, as amended. "The Trademark Counterfeiting Act of 1984," 92 Stat. 2178, 18 U.S.C. 2320, as amended, Chapter 1329, or another section of the Revised Code, or common law.</p>		<p>number of those goods or services, whether or not units of goods are sold or are in an offender's possession, custody, or control.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>OKLAHOMA (1999)</p> <p>Use, Possession, Distribution, Manufacture, Etc. of Item Bearing Counterfeit Mark – Penalties – Seizure and Forfeiture – Civil Actions – Damages and Attorney Fees</p>	<p>21 Okla. Stat. Ann. § 1990.2</p>	<p>A. Except as provided in subsections B and C of this section, a person who knowingly and with intent to sell or distribute, uses, displays, advertises, distributes, offers for sale, sells or possesses any item that bears a counterfeit mark or any service that is identified by a counterfeit mark shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00) or by both such fine and imprisonment.</p> <p>B. Any person who commits any prohibited act proscribed in subsection A of this section shall, upon conviction, be guilty of a Schedule G felony punishable as provided in the state's sentencing matrix, or by a fine of not more than the retail value of such items or services or both such fine and imprisonment, if either:</p> <ol style="list-style-type: none"> 1. The person has one previous conviction under any provision of this section; or 2. At least one of the following exists: <ol style="list-style-type: none"> a. the violation involves more than one hundred but fewer than one thousand items that bear the counterfeit mark, or b. the total retail value of all of the items or services that bear or are identified by the counterfeit mark is more 	<p>I. Any certificate of registration of any intellectual property pursuant to state or federal law is prima facie evidence of the facts stated in the certificate of registration and may be used at trial.</p>	<p>For the purposes of this act:</p> <ol style="list-style-type: none"> 1. "Counterfeit mark" means: <ol style="list-style-type: none"> a. any unauthorized reproduction or copy of intellectual property, and b. intellectual property that is affixed to any item that is knowingly sold, offered for sale, manufactured or distributed or to any identifying services offered or rendered without the authority of the intellectual property owner; 2. "Intellectual property" means any trademark, service mark, trade name, label, term, device, design or word that is adopted or used by a person to identify that person's goods or services; and 3. "Retail value" means: <ol style="list-style-type: none"> a. for items that bear a counterfeit mark and that are components of a finished product, the counterfeiter's regular selling price of the finished product on or in which the component would be utilized, or b. for all other items that bear a counterfeit mark or services that are identified by a counterfeit mark, the counterfeiter's regular selling price for those items or services 	<p>F. In any criminal proceeding in which a person is convicted of a violation of any provision of this section, the court may order the convicted person to pay restitution to the intellectual property owner in addition to any other provision allowed by law.</p> <p>G. The investigating law enforcement officer may seize any item that bears a counterfeit mark and all other personal property that is employed or used in connection with a violation of this section, including any items, objects, tools, machines, equipment, instrumentalities or vehicles. All personal property seized pursuant to this section shall be subject to forfeiture according to Section 1738 of Title 21 of the Oklahoma Statutes.</p> <p>H. After a forfeiture has been ordered by the district court, a law enforcement officer shall destroy all seized items that bear a counterfeit mark; however, if the counterfeit mark is removed from the seized items, the intellectual property owner may recommend to the court that the seized items be donated to a charitable organization.</p>

OKLAHOMA (1999) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
		<p>than One Thousand Dollars (\$1,000.00) but less than Ten Thousand Dollars (\$10,000.00).</p> <p>C. Any person who knowingly manufactures or produces with intent to sell or distribute any item that bears a counterfeit mark or any service that is identified by a counterfeit mark shall, upon conviction, be guilty of a Schedule F felony punishable as provided in the state's sentencing matrix, or by a fine not exceeding three times the retail value of such items or services, or by both such fine and imprisonment.</p> <p>D. Any person who commits any prohibited act proscribed by subsection A of this section shall, upon conviction, be guilty of a Schedule E felony punishable as provided in the state's sentencing matrix, or by a fine not exceeding three times the retail value of such items or services, or by both such fine and imprisonment if either:</p> <ol style="list-style-type: none"> 1. The person has two or more previous convictions under this section; or 2. At least one of the following exists: <ol style="list-style-type: none"> a. the violation involves at least one thousand items that bear the counterfeit mark, or 			

OKLAHOMA (1999) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
		<p>b. the total retail value of all of the items or services that bear or are identified by the counterfeit mark is at least Ten Thousand Dollars (\$10,000.00).</p> <p>E. For purposes of this section, any person who knowingly has possession, custody or control of at least twenty-six items that bear a counterfeit mark is presumed to possess the items with intent to sell or distribute the items.</p> <p>J. In addition to other remedies allowed by law, an intellectual property owner who sustains a loss as a result of any violation of this section may file a civil action against the defendant for recovery of up to treble damages and the costs of the suit including reasonable attorney fees.</p> <p>K. The remedies provided in this section are cumulative to all other civil and criminal remedies provided by law.</p> <p>L. For the purposes of this section, the quantity or retail value of items or services includes the aggregate quantity or retail value of all items that the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses and that bear a counterfeit mark or that are identified by a counterfeit mark.</p>			

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>OREGON (1999) (§ 647.155 amended 7/31/2005)</p> <p>State Law(s)</p>	<p>Ore. Rev. Stat. § 647.135 § 647.140</p> <p>§ 647.145</p> <p>§ 647.150</p>	<p>(1) A person commits trademark counterfeiting if the person knowingly and with the intent to sell or distribute and without the consent of the registrant uses, displays, advertises, distributes, offers for sale, sells or possesses any item that bears a counterfeit of a mark or any service that is identified by a counterfeit of a mark registered under this chapter or registered under this chapter or registered under 15 U.S.C. 1052 with knowledge that the mark is counterfeit.</p> <p>(3) A person does not commit trademark counterfeiting if the person has adopted and lawfully used the same or a confusingly similar mark in the rendition of like services or the manufacture of like goods in this state from a date before the effective date of registration of the service mark or trademark and continues to use the mark after the effective date of registration.</p> <p>(1) A person commits the crime of trademark counterfeiting in the third degree if the person commits trademark counterfeiting as described in ORS 647.135 and:</p> <p>(a) The total number of items bearing the counterfeit mark is not more than 100; or</p>	<p>§ 647.155</p> <p>(1) The provisions of this chapter do not adversely affect the rights or the enforcement of rights in marks or trade names acquired in good faith at any time at common law.</p>	<p>(2) For purposes of this section, a mark is counterfeit if:</p> <p>(a) It is a mark that is identical to or substantially indistinguishable from a registered mark; and</p> <p>(b) It is used on or in connection with the same type of goods or services for which the genuine mark is registered.</p>	<p>647.155</p> <p>(1) The following are subject to seizure and forfeiture in the same manner as the proceeds of prohibited conduct under ORS chapter 131A:</p> <p>(a) All raw materials and equipment that are used, or intended for use, in providing, manufacturing and delivering items bearing a counterfeit mark or services identified by a counterfeit mark;</p> <p>(b) All conveyances that are used, or intended for use, to transport items bearing a counterfeit mark;</p> <p>(c) All books, records, computers and data that are used or intended for use in the production, manufacture, sale or delivery of items bearing a counterfeit mark or services identified by a counterfeit mark; and</p>

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
OREGON (1999) (§ 647.155 amended 7/31/2005)		<p>(b) The total retail value of all of the items bearing the counterfeit mark or services that are identified by the counterfeit mark is not more than \$1,000.</p> <p>(2) Trademark counterfeiting in the third degree is a Class A misdemeanor. Notwithstanding ORS 161.655, if the person convicted under this section is a corporation, the maximum fine that may be imposed is \$100,000.</p> <p>(1) A person commits the crime of trademark counterfeiting in the second degree if the person:</p> <p>(a) Commits trademark counterfeiting as described in ORS 647.135 and;</p> <p>(A) Has one prior conviction for trademark counterfeiting in any degree;</p> <p>(B) The total number of items bearing the counterfeit mark is more than 100 but less than 1,000; or</p> <p>(C) The total retail value of all of the items bearing the counterfeit mark or services that are identified by the counterfeit mark is more than \$1,000 but less than \$10,000.</p>			<p>(d) All moneys, negotiable instruments, balances in deposit or other accounts, securities or other things of value furnished or intended to be furnished by any person in the course of activity constituting a violation of ORS 647.140, 647.145 or 647.150.</p> <p>(2) Items bearing a counterfeit mark are subject to seizure and disposition as provided in ORS 133.525 to 133.703. However, if the registrant so requests, the agency holding the seized items shall release the seized items to the registrant or make such other disposition as the registrant directs. If the registrant does not direct disposition of the seized items, the agency shall destroy the items.</p>

OREGON (1999) (§ 647.155 amended 7/31/2005) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		<p>(b) Knowingly manufactures or produces with intent to sell or distribute any item that bears a counterfeit mark or any service that is identified by a counterfeit mark.</p> <p>(2) Trademark counterfeiting in the second degree is a Class C felony. However, notwithstanding ORS 161.655, if the person is convicted under:</p> <p>(a) Subsection (1)(a)(A) of this section and is a corporation, the maximum fine that may be imposed is \$200,000.</p> <p>(b) Subsection (1)(b) of this section and the person has one prior conviction for trademark counterfeiting in any degree and is a corporation, the maximum fine that may be imposed is \$200,000.</p> <p>(1) A person commits the crime of trademark counterfeiting in the first degree if the person commits trademark counterfeiting as described in ORS 647.135 or 647.145 (1) (b) and:</p>			

OREGON (1999) (§ 647.155 amended 7/31/2005) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		(a) Has two or more prior convictions for trademark counterfeiting in any degree; (b) The total number of items bearing the counterfeit mark is 1,000 or more; or (c) The total retail value of all of the items bearing the counterfeit mark or services that are identified by the counterfeit mark is \$10,000 or more. (2) Trademark counterfeiting in the first degree is a Class B felony.			

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>PENNSYLVANIA (6/6/73, amended 10/16/96, amended 10/19/10, effective 12/20/10)</p> <p>Trademark Counterfeiting</p> <p>See also: Simulating Objects of Antiquity, Rarity, etc.; Forgery; Deceptive or Fraudulent Business Practices</p>	<p>18 Pa. Consol. Stat. § 4119</p> <p>§ 4102</p> <p>§ 4101(T)</p> <p>§ 4107</p>	<p>(a) Offense defined--Any person who knowingly and with intent to sell or otherwise transfer for purposes of commercial advantage or private financial gain:</p> <p>(1) manufactures;</p> <p>(2) sells;</p> <p>(3) offers for sale;</p> <p>(4) displays;</p> <p>(5) advertises;</p> <p>(6) distributes; or</p> <p>(7) transports any items or services bearing or identified by a counterfeit mark shall be guilty of the crime of trademark counterfeiting.</p> <p>(b) (Reserved).</p> <p>(c) Penalties.--</p> <p>(1) Except as provided in paragraphs (2) and (3), a violation of this section constitutes a misdemeanor of the first degree.</p> <p>(2) A violation of this section constitutes a felony of the third degree if:</p> <p>(i) the defendant has previously been convicted under this section; or</p>	<p>(g) Evidence.--Any Federal or State certificate of registration shall be prima facie evidence of the facts stated therein.</p>	<p>(i) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:</p> <p>“Counterfeit mark.” A spurious mark that meets all of the following:</p> <p>(1) Is applied to, used or intended to be used in connection with an item or service.</p> <p>(2) Is identical with or substantially indistinguishable from a mark registered and in use in this Commonwealth, any other state or on the principal register in the United States Patent and Trademark Office, whether or not the person knew the mark was registered.</p>	<p>(f) Seizure, forfeiture and disposition.--</p> <p>(1) Any items bearing a counterfeit mark, any property constituting or derived from any proceeds obtained, directly or indirectly, as the result of an offense under this section and all personal property, including, but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, used in connection with a violation of this section shall be seized by a law enforcement officer.</p> <p>(2)(i) All seized personal property referenced in paragraph (1) shall be forfeited in accordance with the procedures set forth in section 6501(d) (relating to scattering rubbish).</p> <p>(ii) Upon the conclusion of all criminal and civil forfeiture proceedings, the court shall order that forfeited items bearing or consisting of a counterfeit mark be destroyed or alternatively disposed of in another manner with the written consent of the trademark owners and the prosecuting attorney responsible for the charges.</p>

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>PENNSYLVANIA (6/6/73, amended 10/16/96, amended 10/19/10, effective 12/20/10)</p>		<p>(ii) the violation involves more than 100 but less than 1,000 items bearing a counterfeit mark or the total retail value of all items or services bearing or identified by a counterfeit mark is more than \$2,000, but less than \$10,000. (3) A violation of this section constitutes a felony of the second degree if: (i) the defendant has been previously convicted of two or more offenses under this section; (ii) the violation involves the manufacture or production of items bearing counterfeit marks; or (iii) the violation involves 1,000 or more items bearing a counterfeit mark or the total retail value of all items or services bearing or identified by a counterfeit mark is more than \$10,000.</p>		<p>(3) The application of which is either: (i) likely to cause confusion, to cause mistake or to deceive; or (ii) otherwise intended to be used on or in connection with the item or service for which the mark is registered. "Item." Any of the following: (1) Goods. (2) Labels. (3) Patches. (4) Fabric. (5) Stickers. (6) Wrappers. (7) Badges. (8) Emblems. (9) Medallions. (10) Charms. (11) Boxes (12) Containers. (13) Cans. (14) Cases. (15) Hangtags. (16) Documentation. (17) Packaging.</p>	<p>(3)(i) If a person is convicted of an offense under this section, the court shall order the person to pay restitution to the trademark owner and to any other victim of the offense. (ii) In determining the value of the property loss involving an offense against the trademark owner, a court shall grant restitution for all amounts, including expenses incurred by the trademark owner in the investigation and prosecution of the offense as well as the disgorgement of any profits realized by a person convicted of the offense.</p>

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>PENNSYLVANIA (6/6/73, amended 10/16/96, amended 10/19/10, effective 12/20/10)</p>		<p>(d) Quantity or retail value.--The quantity or retail value of items or services shall include the aggregate quantity or retail value of all items or services the defendant manufactures, sells, offers for sale, displays, advertises, distributes or transports.</p> <p>(e) Fine.--Any person convicted under this section shall be fined in accordance with existing law or an amount up to three times the retail value of the items or services bearing or identified by a counterfeit mark, whichever is greater.</p> <p>(h) Remedies cumulative.--The remedies provided for in this section shall be cumulative to the other civil and criminal remedies provided by law.</p>		<p>(18) Any other components of a type or nature that are designed, marketed or otherwise intended to be used on or in connection with any goods or services.</p> <p>"Retail value." One of the following: (1) The counterfeiter's regular selling price for the item or service bearing or identified by a counterfeit mark, except that it shall be the retail price of the authentic counterpart if the item or service bearing or identified by a counterfeit mark would appear to a reasonably prudent person to be authentic. If no authentic reasonably similar counterpart exists, the retail value shall be the counterfeiter's regular selling price. (2) If the items bearing a counterfeit mark are components of a finished product, the retail value shall be treated as if each component were a finished good and valued under paragraph (1).</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>PUERTO RICO (12/16/2009)</p> <p>State Law(s)</p> <p>Forgery of Documents (Former statutes regarding falsification of trademarks (§ 1311-1317) repealed on (6/18/04))</p> <p>Possession of Instruments for Forging</p> <p>Alteration of Information that Identifies Musical, Scientific or Literary Works</p>	<p>P.R. L. Ann. § 4846</p> <p>§ 4853</p> <p>§ 4854</p>	<p>Any person who, with the intent to defraud, makes a false document, instrument or writing, in whole or in part, by means of which any right, obligation or interest is created, transferred, terminated or otherwise affected, or who falsely alters, limits, suppresses or destroys, in whole or in part, a true right shall incur a fourth degree felony.</p> <p>Any person who makes or knowingly has in his possession any die, plate or any device, paper, metal, machine or any other thing which may be used in the forging of a seal, document, instrument or writing shall incur a fourth degree felony.</p> <p>Any person who alters information that identifies the author, title, edition number, or publisher, or who distorts, mutilates or alters the text of a book or of a literary, scientific or musical work or record, a tape recording or electronic sound recording (audio), or of a theatrical work without due authorization from the author or holder of the rights shall incur a fourth degree felony.</p>	<p>Secretary of State of Puerto Rico Registration or Federal Registration</p> <p>§ 223k</p> <p>The records of registered marks, statements and documents filed therein, and the mark registration certifies signed and sealed as stated above shall be attesting evidence in any suit in which said marks are the subject of a controversy.</p>	<p>§ 223</p> <p>(e) Mark -- Any sign or medium that serves to distinguish in the market the goods and services of a person, as well as the goods or services of another person. The term includes any trademark or service mark, certification mark and collective mark.</p> <p>(f) Trademark -- Any word, name, symbol, trade dress, medium, logo, design, color, sound, scent, shape, object or any combination thereof that:</p> <p>(1) Is used by a natural or juridical person in commerce, or</p> <p>(2) any natural or juridical person has a bona fide intention to use in commerce and applies for registration thereof; and serves to identify and distinguish his/her goods from those manufactured or sold by others and to indicate the source of said goods even if that source is unknown.</p> <p>(r) Use in commerce -- The bona fide use of a mark in trade in Puerto Rico. For purposes of this chapter, a mark shall be deemed to be in use in commerce:</p>	

	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>PUERTO RICO (12/16/2009) State Law(s)</p>				<p>(1) On goods, when it is placed in any manner on the goods or their packaging or containers or the shelves or displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale, and the goods are sold or transported in Puerto Rico, and</p> <p>(2) on services when it is used or displayed in the sale or advertising of services and the services are rendered in Puerto Rico.</p> <p>§ 4854</p> <p>The court may also impose restitution</p>	

<p>RHODE ISLAND (1997)</p> <p>State Law(s)</p>	<p>Statutory Section(s)</p> <p>R.I. Gen. L. Ann. § 11-17-13</p>	<p>Statutory Elements</p> <p>(b) Any person who knowingly and willfully forges or counterfeits any trademark, service mark, or identification mark, without the consent of the owner of the trademark, service mark or identification mark, or who knowingly possesses any tool, machine device, or other reproduction instrument or material with the intent to reproduce any forged or counterfeited trademark, service mark, or identification mark, shall be guilty of the offense of trademark counterfeiting.</p> <p>(c)(1) Any person who knowingly and willfully sells, offer to sell, or possesses with the intent to sell goods which contain a counterfeit trademark, service mark, or identification mark or sells or offers for sale a service in conjunction with a service mark the person knows is counterfeit, shall be guilty of the offense of trafficking in trademark counterfeits.</p> <p>(2) If the goods or service to which the forged or counterfeit trademarks, service marks, or identification marks are attached or affixed, or in connection with which they are used, or to which the offender intended they be attached or affixed, or in connection with which the offender intended they be used, have, in the aggregate, a retail value of the goods if they were not forged</p>	<p>Registration Requirements</p> <p>Any State or Federal Registration or Protected by the Federal Amateur Sports Act of 1978</p>	<p>Statutory Definitions</p> <p>(a) As used in this chapter, "forged" or "counterfeited trademark", "service mark", or "identification mark" means any mark or design which is: (1) identical to, substantially indistinguishable from, or an imitation of a trademark, service mark, or identification mark which is registered for those types of goods or services with the secretary of state pursuant to chapter 2 of title 6 or registered on the principal register of the United States Patent and Trademark Office or registered under the laws of any other state or protected by the Federal Amateur Sports Act of 1978, Title 36 USC § 380, or if a registered or unregistered use of the trademark or design or data plate, serial number, or part identification number; and (2) which has not been authorized by the owner of it and is done for pecuniary gain and with the intent to defraud the holder of the trademark, service mark, or identification mark.</p>	<p>Forfeiture/Destruction/Restitution Provisions</p> <p>(d)(1) Any personal property, including any item, object, tool, machine, device, or vehicle of any kind, employed as an instrumentality in the commission of, or in aiding or abetting in the commission of a violation of this section, or proceeds derived directly from a violation of this section, is subject to seizure and forfeiture and further proceedings shall be had for their forfeiture as is prescribed by law in chapter 21 of title 12; provided, that no property used by any person shall be forfeited under the provisions of this section unless it shall appear that the owner of the property had knowledge, actual or constructive, and was a consenting party to the illegal act.</p> <p>(2) Property taken or detained under this section shall not be replevable, but shall be deemed to be in the custody of the law enforcement agency making the seizure and whenever property is forfeited under this chapter it shall be utilized as follows:</p>
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RHODE ISLAND (1997)	State Law(s)	Statutory Sec- tion(s)	Statutory Elements	Registration Require- ments	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
			<p>or counterfeited of five thousand dollars (\$5,000) or more, the person shall be guilty of a felony and upon conviction may be imprisoned up to five (5) years and fined up to ten thousand dollars (\$10,000).</p> <p>(3) If the goods or service to which the forged or counterfeit trademarks, service marks, or registered designs are attached or affixed, or in connection with which they are used, or to which the offender intended they be attached or affixed, or in connection with which the offender intended they be used, have, in the aggregate, a retail value of the goods if they were not forged or counterfeited of less than five thousand dollars (\$5,000), the person shall be guilty of a misdemeanor and may be imprisoned up to one year and fined up to one thousand dollars (\$1,000).</p> <p>(4) Any person who knowingly: (i) uses an object, tool, machine, or other device to produce or reproduce a counterfeit mark, or (ii) has possession, custody, or control of any object, tool, machine, or device with intent to produce or reproduce a counterfeit mark, is guilty of a felony and may be imprisoned up to five (5) years and fined up to five thousand dollars (\$5,000).</p>			<p>(i) Where the seized property is a vessel, vehicle, aircraft, or other personal property, it may be retained and used by the law enforcement agency that seized that property where the use of the property is reasonably related to the law enforcement duties of the seizing agency. If the seized property is a motor vehicle which is inappropriate for use by the law enforcement agency due to style, size or color, the seizing agency shall be allowed to apply the proceeds of sale or the trade-in value of the vehicle for activities reasonably related to law enforcement duties.</p> <p>(ii) Eighty percent (80%) of the proceeds shall be divided among the state and local law enforcement agencies proportionately based upon their contribution to the investigation of the criminal activity related to the asset being forfeited; the balance shall go to the department of attorney general for purposes related to law enforcement.</p>

RHODE ISLAND (1997)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
			<p>(5) The possession, custody, or control of more than twenty-five (25) items having a counterfeit mark used on or in connection with them creates a presumption that the person having possession, custody, or control of the items intended to sell those items.</p> <p>(6) If a person who violates this section previously has been convicted of violating this section, the person shall be guilty of a felony and may be imprisoned up to five (5) years and fined up to five thousand dollars (\$5,000).</p>			<p>(3) At the conclusion of any criminal matter brought under this chapter any property seized pursuant to this chapter containing a counterfeit trademark, service mark, copyrighted or registered design shall be destroyed unless the owner of the trademark, service mark, or identification mark gives prior written consent to the use or sale of the property and the trademark, service mark, or identification mark is obliterated or removed from the property prior to the disposition of it.</p>

<p>SOUTH CAROLINA (10/13/94, amended 6/12/06)</p>	<p>State Law(s)</p>	<p>Sale of Goods or Services with Counterfeit Mark; Production or Reproduction of Counterfeit Mark; Penalties</p>	<p>Statutory Section(s) S.C. Code Ann. 1976 § 39-15-1190</p>	<p>Statutory Elements (B)(1) It is unlawful for a person knowingly and willfully to transport, transfer, distribute, sell, or otherwise dispose of, or to possess with intent to transfer, transport, distribute, sell, or otherwise dispose of, an item having a counterfeit mark on it or in connection with it. (a) A person who knowingly and willfully violates this subsection with respect to goods or services having a retail sales value of less than fifty thousand dollars is guilty of the offense of distribution of counterfeit marks and, upon conviction, must be punished as follows: (i) if the goods or services have a retail sales value of two thousand dollars or less, the person is guilty of a misdemeanor and must be fined not more than one thousand dollars or imprisoned not more than one year, or both; (ii) if the goods or services have a retail sales value of more than two thousand dollars but less than ten thousand dollars, the person is guilty of a felony and must be fined not more than ten thousand dollars or imprisoned not more than three years, or both;</p>	<p>Registration Requirements Federal or State Registration</p>	<p>Statutory Definitions (A) For purposes of this section: (1) "Counterfeit mark" means a mark that is: (a) identical to, or substantially indistinguishable from, a registered mark or unregistered mark; (b) used in connection with the sale or offering for sale of goods or services that are identical to, or substantially indistinguishable from, the goods or services with which the registered or unregistered mark is identified; (c) likely to cause confusion, mistake, or deception if used; and (d) not authorized by the owner of the registered or unregistered mark. (2) "Registered mark" means a mark that is registered on the principal register of the United States Patent and Trademark Office or with the South Carolina Secretary of State.</p>	<p>Forfeiture/Destruction/Restitution Provisions (D) Personal property, including any item, object, tool, machine, or device of any kind, employed as an instrumentality in the commission of or in aiding or abetting in the commission of a violation of subsection (B) or (C), is considered contraband and is subject to seizure and forfeiture in the same manner as other property used in the commission of specified criminal offenses as provided by law.</p>
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State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
SOUTH CAROLINA (10/13/94, amended 6/12/06)		<p>(iii) if the goods or services have a retail sales value of ten thousand dollars or more, but less than fifty thousand dollars, the person is guilty of a felony and must be fined not more than twenty thousand dollars or imprisoned not more than five years, or both;</p> <p>(iv) for a second or subsequent conviction of the offenses described in subitem (a), without regard to the retail sales value of the goods or services, the person is guilty of a felony and must be fined not less than one thousand dollars or more than fifty thousand dollars or imprisoned not more than ten years, or both.</p> <p>(b) A person who knowingly and willfully violates the provisions of this subsection with respect to goods or services having a retail sales value of fifty thousand dollars or more is guilty of the offense of trafficking in counterfeit marks. A person who knowingly and willfully commits the offense of trafficking as described in this subitem is guilty of a felony and, upon conviction, must be punished as follows:</p>		<p>(3) "Retail sales value" means the value computed by multiplying the number of items having a counterfeit mark used on them or in connection with them by the retail price at which a similar item having a mark used on it or in connection with it, the use of which is authorized by the owner, is offered for sale to the public.</p> <p>(4) "Unregistered mark" means a symbol, sign, emblem, insignia, trademark, trade name, or word protected by the federal Amateur Sports Act of 1978, Title 36 U.S.C. Section 380.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>SOUTH CAROLINA (10/13/94, amended 6/12/06)</p>		<p>(i) for a first offense, fined not less than ten thousand dollars or more than twenty-five thousand dollars or imprisoned not more than five years, or both;</p> <p>(ii) for a second or subsequent offense, fined not less than twenty thousand dollars or more than fifty thousand dollars or imprisoned not more than ten years, or both.</p> <p>(2) The possession, custody, or control of more than twenty-five items having a counterfeit mark used on them or in connection with them is prima facie evidence of a violation of this section.</p> <p>(C) A person who knowingly and wilfully uses any object, tool, machine, or other device to produce or reproduce a counterfeit mark or knowingly and wilfully has possession, custody, or control of any object, tool, machine, or device with intent to produce or reproduce a counterfeit mark is guilty of producing or reproducing counterfeit marks and, upon conviction, must be punished as provided in subsection (B).</p> <p>(E) For purposes of enforcing this section, investigators in the office of the Secretary of State have statewide jurisdiction. These investigators may conduct investigations independently or may assist local law enforcement agencies in their investigations and may initiate and carry out, in coordination with local law enforcement agencies, investigations of violations of this section.</p>			

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>SOUTH CAROLINA (10/13/94, amended 6/12/06)</p>		<p>Statutory Elements</p> <p>(F) The Secretary of State may refer available evidence concerning violations of this section to the appropriate solicitor who may, with or without the reference, institute the appropriate criminal proceedings.</p> <p>(G) The Secretary of State also may refer available evidence concerning violations of this section to the Department of Revenue for purposes of determining the obligations of the violators of this section pursuant to state income and other taxation laws.</p> <p>(H) The provisions of this section do not apply to persons who own, rent, or manage premises occupied by retailers unless that person had actual knowledge or actively participated in a violation of this section.</p>			

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Resitution Provisions
<p>SOUTH DAKOTA (1877, amended 1977)</p> <p>State Law(s)</p> <p>Forgery or Counterfeiting of Trademark as Misdemeanor – Fraudulent Use – Sale of Goods under Counterfeit Mark</p> <p>Making or Possessing Forgery or Counterfeiting Devices – Felony</p> <p>See also: Forgery</p>	<p>S.D. Codif. L. § 37-6-2</p>	<p>Every person who intentionally forges or counterfeits any trade-mark usually fixed by any person to any goods of such person with intent to pass off any goods to which such forged or counterfeited trade-mark is affixed as to the goods of such person; or who, with intent to defraud keeps any dies, plate, or brand, or imitation of the trade-mark of any person for the purpose of counterfeiting the same or selling such trade-mark when counterfeited, or affixing the same to any goods and selling the same as genuine goods of the person entitled to the trade-mark; or who fraudulently uses the genuine trade-mark of another with intent to sell or offer for sale or disposal, any goods as genuine, which are not the original and genuine goods of the person to whom the trade-mark properly belongs; or who sells or keeps for sale any goods upon which any counterfeit trade-mark has been affixed, intended to represent such goods as the genuine goods of another, knowing the trade-mark to be counterfeited, is guilty of a Class 1 misdemeanor.</p> <p>Any person who:</p> <p>(1) Makes or possesses, with knowledge of its character, any plate, die, or other device, apparatus, equipment, or article specifically designated for use in counterfeiting, unlawfully simulating, or otherwise forging, written instruments;</p> <p>(2) Makes or possesses any device, apparatus, equipment, or article capable of or adaptable to a use specified in subdivision (1) of this section, with intent to use it or to aid or permit another to use it, for the purpose of forgery, or</p>		<p>§ 37-6-1</p> <p>The following definitions apply to §§ 37-6-2 and 37-6-3:</p> <p>(1) "Affixing" within the meaning of such sections is complete, whether such mark is affixed to the goods themselves, or to any box, bale, barrel, bottle, case, cask, wrapper, or other package, or vessel, or any cover or stopper thereof, in which such goods are put up;</p> <p>(2) "Goods" includes every kind of goods, wares, merchandise, compound, or preparation which may be lawfully kept or offered for sale;</p> <p>(3) "Trade-mark" includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label, or wrapper, usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman to denote any goods to be goods imported, manufactured, produced, compounded, or sold by him, other than any name, word, or expression generally denoting any goods to be of some particular class or description.</p>	

SOUTH DAKOTA (1877, amended 1977)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/ Restitution Provisions
			(3) Possesses a genuine plate, die, or other device used in the production of written instruments, with intent to defraud; is guilty of a Class 6 felony.			

<p>TENNESSEE (1989, amended 7/1/00, amended 7/1/05)</p> <p>State Law(s)</p>	<p>Statutory Section(s)</p> <p>Tenn. Code Ann. § 39-14-152</p> <p>§ 39-14-115</p> <p>§ 39-14-114</p>	<p>Statutory Elements</p> <p>(b)(1) It is an offense for a person to knowingly manufacture any item or services bearing or identified by a counterfeit mark.</p> <p>(2) It is an offense for a person to use, display, advertise, distribute, offer for sale, sell, or possess with the intent to sell or distribute any item or service knowing the item or service bears or is identified by a counterfeit mark.</p> <p>(c) In determining whether a person who possesses an item bearing or identified by a counterfeit mark possesses the item with the intent to sell or distribute it in violation of subdivision (b)(2), the trier of fact may infer from the possession, custody or control of more than twenty-five (25) items bearing a counterfeit mark that the person possesses the items with the intent to sell or distribute them.</p> <p>(d) (1) A violation of subdivision (b)(1) shall be punished the same as is provided in § 39-14-115 for the offense of criminal simulation. In addition to that punishment, a person who violates subdivision (b)(1) shall be fined an amount up to three (3) times the retail value of the items bearing, or services identified by, a counterfeit mark, or the amount authorized in § 40-35-111 for the appropriate class of felony, whichever amount is greater.</p> <p>(2) A violation of subdivision (b)(2) shall be punished as theft and graded in accordance with § 39-14-105; provided, all violations of subdivision (b)(2) shall be punished by fine only.</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p> <p>(a) As used in this section: (1) "Counterfeit mark" means: (A) Any knowingly unauthorized reproduction or copy of intellectual property; or (B) Intellectual property 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 intellectual property; (2) "Intellectual property" means any trademark, service mark, trade name, label, term, device, design or word adopted or used by a person to identify that person's goods or services, and all rights protected by title 47, chapter 25, part 11; and (3) "Retail value" means the counterfeiter's regular bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished</p>	<p>Forfeiture/Destruction/Restitution Provisions</p> <p>(f) All personal property, including, but not limited to, any items bearing a counterfeit mark, or any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with a violation of this section shall be subject to judicial forfeiture pursuant to chapter 11, part 7 of this title. If the intellectual property owner does not request release of seized items bearing a counterfeit mark, those items shall be destroyed unless the intellectual property owner consents to another disposition.</p>
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<p>TENNESSEE (1989, amended 7/1/00, amended 7/1/05) State Law(s)</p>	<p>Statutory Section(s)</p>	<p>Statutory Elements</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p>	<p>Forfeiture/Destruction/Restitution Provisions</p>
		<p>except with respect to violations involving distribution, selling, offering for sale, or possessing with the intent to sell, in which case all methods and manner of punishment in § 39-14-105 shall apply.</p> <p>(e) For purposes of determining the appropriate offense grade for a defendant violating subdivision (b)(2), the quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant used, displayed, advertised, distributed, offered for sale, sold or possessed with the intent to sell or distribute at the time of the offense shall be aggregated.</p> <p>(g) Nothing in this section shall be construed as prohibiting an owner of intellectual property from seeking relief under any other provision of law, including the provisions of title 47, chapter 18, part 1, title 47, chapter 25, part 5, or title 47, chapter 25, part 11; provided, a defendant prosecuted under this section may not also be prosecuted for criminal simulation under § 39-14-115 based upon the same conduct.</p>		<p>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.</p>	

TEXAS (9/1/97, amended 6/17/11, effective 9/1/12) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>Trademark Counterfeiting See also: Criminal Simulation; Forgery</p>	<p>Vernon's Tex. Stat. and Codes Ann. § 32.23 § 32.22 § 32.21(T)</p>	<p>(b) A person commits an offense if the person intentionally manufactures, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute a counterfeit mark or an item or service that:</p> <p>(1) bears or is identified by a counterfeit mark; or</p> <p>(2) the person knows or should have known bears or is identified by a counterfeit mark.</p> <p>(d) For the purposes of Subsection (e), when items or services are the subject of counterfeiting in violation of this section pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense and the retail value of the items or services aggregated in determining the grade of offense.</p> <p>(e) An offense under this section is a:</p> <p>(1) Class C misdemeanor if the retail value of the item or service is less than \$20;</p>	<p>(c) A state or federal certificate of registration of intellectual property is prima facie evidence of the facts stated in the certificate.</p>	<p>(a) In this section:</p> <p>(1) "Counterfeit mark" means a mark that is identical to or substantially indistinguishable from a protected mark the use or production of which is not authorized by the owner of the protected mark.</p> <p>(2) "Identification mark" means a data plate, serial number, or part identification number. (Text of subsec. (a)(3) effective until Sept. 1, 2012)</p> <p>(3) "Protected mark" means a trademark or service mark or an identification mark that is:</p> <p>(A) registered with the secretary of state;</p> <p>(B) registered on the principal register of the United States Patent and Trademark Office;</p> <p>(C) registered under the laws of another state; or</p> <p>(D) protected by Section 16.105, Business & Commerce Code, or by 36 U.S.C. Section 371 et seq.</p> <p>(4) "Retail value" means the actor's regular selling price for a counterfeit mark or an item or service that bears or is identified by a counterfeit mark, except that if an item bearing</p>	

TEXAS (9/1/97, amended 6/17/11, effective 9/1/12) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		(2) Class B misdemeanor if the retail value of the item or service is \$20 or more but less than \$500;		<p>a counterfeit mark is a component of a finished product, the retail value means the actor's regular selling price of the finished product on or in which the component is used, distributed, or sold. (Text of subsec. (a)(5) effective until Sept. 1, 2012</p> <p>(5) "Service mark" has the meaning assigned by Section 16.001, Business & Commerce Code. (Text of subsec. (a)(6) effective until Sept. 1, 2012)</p> <p>(6) "Trademark" has the meaning assigned by Section 16.01, Business & Commerce Code. (Text of subsec. (a)(6) effective Sept. 1, 2012)</p> <p>(6) "Trademark" has the meaning assigned by Section 16.001, Business & Commerce Code.</p>	

UTAH (1984)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/Destruction/Restitution Provisions
<p>Selling Goods Under Counterfeited Trademark, Trade Name or Trade Device</p> <p>Use of Registered Trademark Without Consent</p> <p>Forging or Counterfeiting Trademark, Trade Name or Trade Device</p> <p>See also: Criminal Simulation; Forgery and Producing False Identification</p>	<p>Utah Code Ann. § 76-10-1003</p> <p>§ 76-10-1007</p> <p>§ 76-10-1002</p> <p>§ 76-6-518</p> <p>§ 76-6-501(T)</p>	<p>Every person who sells or keeps for sale any goods upon or to which any counterfeited trademark, trade name, or trade device has been affixed, after it has been filed with the Division of Corporations and Commercial Code, intending to represent the goods as the genuine goods of another, knowing it to be counterfeited, is guilty of a class B misdemeanor.</p> <p>Every person who adopts or in any way uses the registered trademark of another without the consent of the owner thereof, is guilty of a class B misdemeanor.</p> <p>Every person who willfully forges or counterfeits, or procures to be forged or counterfeited, any trademark, trade name, or trade device, usually affixed by any person, or by any association or union of workmen, to his or its goods, which has been filed with the Division of Corporations and Commercial Code, with intent to pass off any goods to which the forged or counterfeited trademark, trade name, or trade device is affixed, or intended to be affixed, as the goods of the person or association or union of workmen, is guilty of a class B misdemeanor.</p>	<p>§ 70-3a-104</p> <p>This chapter does not adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.</p> <p>§ 70-3a-102</p> <p>(1) This chapter shall be interpreted to provide for the registration and protection of trademarks and service marks in a manner substantially consistent with the federal system of trademark registration and protection under the Trademark Act of 1946, 15 U.S.C. Sec. 1051, et seq.</p>	<p>§ 76-10-1001</p> <p>For the purpose of this part:</p> <p>(1) "Forged trademark," "forged trade name," "forged trade device," and "counterfeited trademark," "counterfeited trade name," "counterfeited trade device," or their equivalents, as used in this part, include every alteration or imitation of any trademark, trade name, or trade device so resembling the original as to be likely to deceive.</p> <p>(2) "Trademark" or "trade name" or "trade device," as used in this part, includes every trademark registrable with the Division of Corporations and Commercial Code.</p>		

VERMONT (1957) State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>Violations</p> <p>Penalties</p> <p>See also: Uttering Forged or Counterfeit Instrument</p>	<p>9 Vt. Stat. Ann. § 2530 § 2531</p> <p>Title 13, § 1802</p>	<p>(1) Falsely make, counterfeit, imitate, sell, offer for sale, or in any way utter or circulate any trademark which has been registered in accordance with the provisions of this subchapter;</p> <p>(2) Affix to any article of merchandise a false or counterfeit or imitation trademark, or the genuine trademark of another which has been registered in accordance with the provisions of this subchapter, without the latter's consent;</p> <p>(3) Sell, keep, or offer for sale an article of merchandise, to which is affixed a false or counterfeit trademark, or the genuine trademark, or an imitation of the trademark of another which has been registered in accordance with the provisions of this subchapter, without the latter's consent;</p> <p>(4) Have in his possession a counterfeit trademark or a die, plate, brand or other thing for the purpose of falsely making or counterfeiting a trademark which has been registered in accordance with the provisions of this subchapter; or</p> <p>(5) Make or sell, or offer to sell or dispose of, or have in his possession with intent to sell or dispose of, an article of merchandise with a trademark which has been registered in accordance with the provisions of this subchapter by another, which indicates falsely the quantity, character, place of manufacture or production, or person manufacturing, producing or sponsoring the article.</p>		<p>§ 2521</p> <p>The term "trademark" as used herein includes any word, name, symbol or device or any combination thereof adopted and used (1) by a manufacturer or merchant to identify his goods and distinguish them from those manufactured or sold by others, or (2) by another person on goods produced by his labor.</p>	

VERMONT (1957)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
			Subject to the provisions of section 2532 of this title, any person who violates any of the provisions of section 2530 of this title shall be fined not more than \$500.00 or imprisoned for not more than one year, or both and shall be liable to pay all damages sustained in consequence of such violation of section 2530, to be recovered by or on behalf of the party injured thereby, in a civil action on this statute.			
VIRGINIA (amended 2008, amended 4/6/11, effective 7/1/11)						
State Law(s)		Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
Infringement Remedies and Penalties		Va. Code Ann. § 59.1-92.12 § 59.1-92.13	Subject to the provisions of § 59.1-92.15, any person who (i) uses in a manner likely to cause a consumer confusion, mistake, or deception as to the source or origin of any goods or services, without the consent of the owner of a registered mark, any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of such goods or services or (ii) reproduces, counterfeits, copies or colorably imitates a registered mark and applies such reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, advertisements, or any item intended to be used in a manner likely to cause a consumer confusion, mistake, or deception as to the source or origin of any goods or services in connection with the sale,	§ 59.1-92.13 D. In any proceeding under this chapter, any certificate of registration issued by the Commonwealth or the United States Patent and Trademark Office shall be prima facie evidence of the facts stated therein.	§ 59.1-92.2 "Mark" means any trademark or service mark registered in the Commonwealth or the United States Patent and Trademark Office, or entitled to registration under this chapter, whether registered or not. "Service mark" means any word, name, symbol, or device or any combination thereof used by a person to identify and distinguish the services of such person from the services of others.	§ 59.1-92.13 The court shall also order that any material that violates § 59.1-92.12 that is in the possession or under the control of any defendant in such case be destroyed or delivered to an officer of the court or to the owner for destruction, or alternatively disposed of in another manner with the written consent of the owner of the registered mark.

<p>VIRGINIA (amended 2008, amended 4/6/11, effective 7/1/11)</p>	<p>State Law(s)</p>	<p>Statutory Section(s)</p>	<p>Statutory Elements</p> <p>offering for sale, distribution, or advertising of such goods or services shall be liable in a civil action by the owner of a registered mark for any and all of the remedies provided in § 59.1-92.13, except that under this subdivision the owner shall not be entitled to recover profits, damages, or attorney fees unless the acts have been committed with knowledge that such mark is intended to be used to cause confusion or mistake or to deceive.</p> <p>A. Any owner of a registered mark in force and effect may proceed by suit in a court of competent jurisdiction to enjoin violations of § 59.1-92.12, seek such other remedies as are set forth herein, or both. Any court of competent jurisdiction may grant such injunctions as may be deemed just and reasonable to restrain such violations, and may require any defendant to pay to such owner all profits derived from and/or all damages suffered by reason of such violations. The court, in its discretion upon consideration of the circumstances of the case, may award reasonable attorney fees to the prevailing party.</p> <p>B. Any person who:</p> <p>1. Knowingly and intentionally violates the provisions of § 59.1-92.12 is guilty of a Class 1 misdemeanor and, upon a second or subsequent conviction, is guilty of a Class 6 felony.</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p> <p>“Trademark” means any word, name, symbol, or device or any combination thereof used by a person to identify and distinguish the goods of such person from those manufactured or sold by others.</p> <p>“Use” means the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. For the purposes of this chapter, a mark shall be deemed to be in use</p> <p>(i) on goods when it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale, and the goods are possessed in the Commonwealth or sold or otherwise distributed in commerce in the Commonwealth, and (ii) in connection with services when it is used or providing services in the Commonwealth,</p>	<p>Forfeiture/Destruction/Restitution Provisions</p> <p>C. Property subject to lawful seizure by any officer charged with enforcing this chapter shall include any article bearing or consisting of a counterfeit mark used in violation of this chapter, any property used in the substantial connection with or intended for use in the course of a violation of this chapter, or any interest or profits substantially connected to a violation of this chapter. Forfeiture, seizure, and disposition of such property shall be in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.</p> <p>E. In any criminal proceeding under subsection B, upon motion of the Commonwealth the court shall order any material that violates § 59.1-92.12 that is in the possession or under the control of any defendant or law-enforcement officer be destroyed or delivered to an officer of the court or to the owner of the registered mark for destruction, or alternatively disposed of in another manner with</p>
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<p>VIRGINIA (amended 2008, amended 4/6/11, effective 7/1/11)</p>	<p>State Law(s)</p>	<p>Statutory Section(s)</p>	<p>Statutory Elements</p> <p>2. Knowingly and intentionally violates the provisions of § 59.1-92.12 and possesses 100 or more identical counterfeit registered marks or possesses counterfeit items valued at \$200 or more, is guilty of a Class 6 felony.</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p> <p>or advertising descriptive of services available within the Commonwealth that is communicated within or into the Commonwealth.</p>	<p>Forfeiture/Destruction/Restitution Provisions</p> <p>the written consent of the owner of the registered mark.</p>
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State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>WASHINGTON (1999)</p> <p>Counterfeit Mark – Intellectual Property</p> <p>Imitating Lawful Brand</p> <p>Counterfeiting - Penalties</p> <p>Counterfeiting – Penalties</p> <p>See also: Removing Lawful Brands; Forgery</p>	<p>Wash. Rev. Code Ann. § 9.16.030</p> <p>§ 9.16.020</p> <p>§ 9.16.035</p> <p>§ 9.16.035</p> <p>§ 9.16.010</p> <p>§ 9A.60.020</p>	<p>Any person who willfully and knowingly, and for financial gain, manufactures, uses, displays, advertises, distributes, offers for sale, or distributes any item, or offers any services, bearing or identified by a counterfeit mark, is guilty of the crime of counterfeiting.</p> <p>Every person who, in any county, places upon any property, any brand or mark in the likeness or similitude of another brand or mark filed with the county auditor of such county by the owner thereof as a brand or mark for the designation or identification of a like kind of property, is:</p> <p>(1) If done with intent to confuse or commingle such property with, or to appropriate to his or her own use, the property of such other owner, guilty of a felony, punishable by imprisonment in a state correctional facility for not more than five years, or by imprisonment in the county jail for up to three hundred sixty-four days, or by a fine of not more than one thousand dollars, or by both fine and imprisonment; or</p>	<p>Any state or federal certificate of registration of any intellectual property is prima facie evidence of the facts stated in the certificate.</p>	<p>§ 9.16.005</p> <p>The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.</p> <p>(1) "Counterfeit mark" means:</p> <p>(a) Any unauthorized reproduction or copy of intellectual property; or</p> <p>(b) Intellectual property 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 intellectual property.</p> <p>(2) "Intellectual property" means any trademark, service mark, trade name, label, term, device, design, or work adopted or used by a person to identify such person's goods or services. Intellectual property does not have exclusive use rights to trade names registered under chapter 19.80 RCW.</p>	<p>§ 9.16.041</p> <p>(1) Any items bearing a counterfeit mark, and all personal property employed or used in connection with counterfeiting, including but not limited to, any items, objects, tools, machines, equipment, instruments, or vehicles of any kind, shall be seized by any law enforcement officer.</p> <p>All seized personal property referenced in this subsection shall be forfeited in accordance with RCW 10.105.010.</p> <p>(2) Upon request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner for destruction or disposition.</p> <p>(3) If the intellectual property owner does not request release of seized items bearing a counterfeit mark, such items shall be destroyed unless the intellectual property owner consents to another disposition.</p>

WASHINGTON (1999)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
		<p>(2) If done without such intent, guilty of a misdemeanor.</p> <p>(1) Counterfeiting is a misdemeanor, except as provided in subsections (2), (3) and (4) of this section.</p> <p>(2) Counterfeiting is a gross misdemeanor or if:</p> <p>(a) The defendant has previously been convicted under RCW 9.16.030, or</p> <p>(b) The violation involves more than one hundred but fewer than one thousand items bearing a counterfeit mark or the total retail value of all 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 but less than ten thousand dollars.</p> <p>(3) Counterfeiting is a class C felony if:</p> <p>(a) The defendant has been previously convicted of two or more offenses under RCW 9.16.030;</p> <p>(b) The violation involves the manufacture or production of items bearing counterfeit marks; or</p>			<p>(3) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. 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.</p> <p>§ 9.16.070</p> <p>A plate, label, trademark, term, design, device or form of advertisement is in the form and similitude of the genuine instrument imitated if the finished parts of the engraving thereupon shall resemble or conform to the similar parts of the genuine instrument.</p>	

WASHINGTON (1999)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
			<p>(c) The violation involves one thousand or more items bearing a counterfeit mark or the total retail value of all items bearing, or services identified by, a counterfeit mark is ten thousand dollars or more.</p> <p>(4) Counterfeiting is a class C felony if:</p> <p>(a) The violation involves the manufacture, production, or distribution of items bearing counterfeit marks; and</p> <p>(b) The defendant knew or should have known that the counterfeit items, by their intended use, endangered the health or safety of others.</p> <p>(5) 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, possesses, or possesses with intent to sell.</p> <p>(6) A person guilty of counterfeiting shall be fined an amount up to three times the retail value of the items bearing, or services identified by, a counterfeit mark, unless extenuating circumstances are shown by the defendant.</p>		<p>§ 9.16.050</p> <p>A label, trademark, term, design, device or form of advertisement shall be deemed to be affixed to any goods, wares, merchandise, mixture, preparation or compound whenever it is in any manner placed in or upon either the article itself, or the box, bale, barrel, bottle, case, cask or other vessel or package, or the cover, wrapper, stopper, brand, label or other thing in, by or with which the goods are packed, enclosed or otherwise prepared for sale or distribution.</p>	

State Law(s)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
WASHINGTON (1999)		(7) The penalties provided for in this section are cumulative and do not affect any other civil and criminal penalties provided by law.			
WEST VIRGINIA (1998)	Statutory Section(s)	Statutory Elements	Registration Requirements	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
Making plates, etc., for forgery, possession of same; penalties Forging or Uttering Other Writing; Penalty: Creation of Unauthorized Demand Draft	W. Va. Code § 61-4-4 § 61-4-5	If any person engrave, stamp, or cast, or otherwise make or mend any plate, block, press or other thing adapted and designed for the forging and false-making of any writing or other thing, the forging or false-making whereof is punishable by this article; or if such person have in his possession any such plate, block, press, or other thing, with intent to use, or cause or permit it to be used, in forging or false-making any such writing or other thing, he shall be deemed guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than two nor more ten years. (a) If any person forge any writing, other than such as is mentioned in the first and third sections of this article, to the prejudice of another's right, or utter or attempt to employ as true such forged writing, knowing it to be forged, he shall be guilty of a felony and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years, or, in the discretion of the court, be confined in jail not more than one year and be fined not exceeding five hundred dollars.			

<p>WISCONSIN (1905, amended 1993, amended 2/1/03)</p>	<p>State Law(s)</p>	<p>Wis. Stat. Ann. § 132.02</p>	<p>Statutory Section(s)</p>	<p>Statutory Elements</p> <p>1) It shall be unlawful for any person, firm, partnership, corporation, association or union of workmen, without the consent of the owner of any mark, to remove any such mark attached to merchandise or products of labor, for the purpose of using such merchandise or products of labor as a pattern for the duplicating or reproduction of the same, either in the identical form or in such near resemblance thereto as may be calculated to deceive.</p> <p>(3) It shall be unlawful for any other person to make use, with intent to deceive, of that mark or any counterfeit mark which is identical to or substantially identical to that mark, or to utter or display the same orally, or in any printed or written form in the conduct of his or her business or any business transaction without the express consent, license, and authority of the person, firm, partnership, corporation, association, or union so owning the same, and such unauthorized and unlawful use may be prohibited and prevented by injunction or other proper proceeding in a court of competent jurisdiction without recourse to the penal statute providing a punishment for such unlawful use. In case such association or union of workmen is not incorporated such actions may be commenced and prosecuted by an officer</p>	<p>Registration Requirements</p> <p>State Registration § 132.25</p> <p>Nothing in this chapter affects any right in a mark which is acquired under common law.</p>	<p>Statutory Definitions</p> <p>§ 132.001</p> <p>(1) "Counterfeit mark" means a spurious mark that is identical to or substantially identical to a genuine mark and that is used or intended to be used on or in connection with goods or services for which the genuine mark is registered and in use. "Counterfeit mark" does not mean any mark or designation used in connection with goods or services if, at the time the goods or services were manufactured or produced, the holder of the right to use the mark authorized the manufacturer or producer to use the mark or designation for the type of goods or services manufactured or produced.</p> <p>(1m) "Department" means the department of financial institutions.</p> <p>(2) "Mark" means a label, trademark, trade name, term, design, pattern, model, device, shopmark, drawing, specification, designation or form of advertisement that is adopted or used by any person to designate, make known or distinguish any goods or service as having</p>	<p>Forfeiture/ Destruction/ Restitution Provisions</p>
<p>Duplication or Reproduction</p>	<p>Statutory Section(s)</p>	<p>Statutory Elements</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p>	<p>Forfeiture/ Destruction/ Restitution Provisions</p>		

WISCONSIN (1905, amended 1993, amended 2/1/03)	State Law(s)	Statutory Section(s)	Statutory Elements	Registration Require- ments	Statutory Definitions	Forfeiture/ Destruction/ Restitution Provisions
<p>Penalty</p> <p>Trafficking in Counterfeit Marks</p> <p>See also: Forgery</p>	<p>§ 132.03</p> <p>§ 132.20(2)</p> <p>§ 943.38(3)(a)-(c)</p>	<p>or member of such association or union on behalf of and for the use of such association or union. This subsection does not apply to the purchase of merchandise in good faith from a distributor or the retail sale of that merchandise in good faith.</p> <p>Every person who knowingly and willfully violates s. 132.01 or 132.02, except those provisions relative to emergency repairs, shall be imprisoned for not more than 6 months or fined not more than \$10,000 or both.</p> <p>(2) Any person who, with intent to deceive, traffics or attempts to traffic in this state in a counterfeit mark or in any goods or service bearing or provided under a counterfeit mark is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50(3)(h), if the person is an individual he or she may be fined not more than \$250,000 and if the person is not an individual the person may be fined not more than \$1,000,000.</p>			<p>been made, prepared or provided by that person and that is registered by that person under s. 132.01.</p>	

<p>WYOMING (1982, amended 1983, amended 2/23/07, effective 7/1/07)</p>	<p>State Law(s)</p>	<p>WYOMING (1982, amended 1983, amended 2/23/07, effective 7/1/07)</p>	<p>Statutory Section(s)</p>	<p>Statutory Elements</p>	<p>Registration Requirements</p>	<p>Statutory Definitions</p>	<p>Forfeiture/Destruction/Restitution Provisions</p>
<p>Forgery; Penalties</p> <p>See also: Possession of Forged Writings and Forgery Devices; Penalties</p>	<p>Wyo. Stat. Ann. § 6-3-602 § 6-3-603</p>	<p>(a) A person is guilty of forgery if, with intent to defraud, he:</p> <p>(i) Alters any writing of another without authority;</p> <p>(ii) Makes, completes, executes, authenticates, issues or transfers any writing so that it purports to be the act of another who did not authorize that act, or to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed; or</p> <p>(iii) Utters any writing which he knows to be forged in a manner specified in paragraphs (i) or (ii) of this subsection.</p> <p>(b) Except as provided in subsection (c) of this section, forgery is a felony punishable by imprisonment for not more than ten (10) years, a fine of not more than ten thousand dollars (\$10,000.00), or both.</p>	<p>§ 6-3-601</p> <p>As used in this article "writing" means printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege or identification.</p>	<p>As used in this article "writing" means printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege or identification.</p>			