

any such person, union or association, knowing the same to be counterfeit or imitation, (he) shall be guilty of a misdemeanor and shall on conviction by any court having criminal jurisdiction be punished by imprisonment in the city or county jail for a term of not less than one month nor more than one year, or by a fine of not less than one hundred dollars nor more than two hundred dollars, or both in the discretion of the court, and the burden of proving that the defendant did not know the true character of the said label, trade mark or form of advertisement, and that he used the same in good faith shall be on the defendant.

Counterfeit
or imitation
of
label or
trade-
mark, &c.

SEC. 3. *And be it enacted*, That every such person, association or union that has heretofore adopted, or shall hereafter adopt, a label, trade-mark or form of advertisement as aforesaid, may file the same for record, in the office of the Secretary of State by leaving two copies, counterparts or fac-similes thereof, with the Secretary of State and said secretary shall deliver to such person, association or union so filing the same duly attested certificate of the record of the same for which he shall receive a fee of one dollar, such certificate of record shall be in all suits and prosecutions under this act sufficient proof of the adoption of such label, trade-mark or form of advertisement, and of the right of said person, association or union to adopt the same, no label shall be recorded, that probably would be mistaken for a label already of record, of which question the said secretary shall be the judge.

May file
label
or trade-
mark for
record.

SEC. 4. *And be it enacted*, That every such person, association or union adopting a label, trade-mark or form of advertisement as aforesaid, may proceed by suit to enjoin the manufacturer, use, display or sale of any such counterfeit, or imitation, and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display or sale, and shall award the complainant in such suit such damage resulting from such wrongful manufacture, use, display or sale, as may by said court be deemed just and reasonable, according to the evidence in the case, and shall require the defendants to pay such persons, associations, or unions, the profits derived from such wrongful manufacture, use, display or sale, and in addition to court costs, such reasonable attorneys' fees as the court may allow, and said court shall also order that all such counterfeit or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant to be destroyed.

May enjoin
use, dis-
play or sale
of counter-
feit label,
&c

SEC. 5 *And be it enacted*, That every person who shall use or display the genuine label, trade-mark or form of advertisement, of any such person, association, or union, in