

(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 PERSON'S GOODS OR SERVICES.

(4) "RETAIL VALUE" MEANS:

(I) THE TRADEMARK COUNTERFEITER'S SELLING PRICE FOR THE ITEMS OR SERVICES BEARING OR IDENTIFIED BY THE COUNTERFEIT MARK; OR

(II) THE TRADEMARK COUNTERFEITER'S SELLING PRICE OF THE FINISHED PRODUCT, IF ITEMS BEARING A COUNTERFEIT MARK ARE COMPONENTS OF A FINISHED PRODUCT.

(B) A PERSON COMMITS THE OFFENSE OF TRADEMARK COUNTERFEITING WHEN THE PERSON WILLFULLY MANUFACTURES, ~~USES~~ PRODUCES, DISPLAYS, ADVERTISES, DISTRIBUTES, OFFERS FOR SALE, SELLS, OR POSSESSES WITH THE INTENT TO SELL OR DISTRIBUTE ITEMS OR SERVICES THAT THE PERSON KNOWS ARE BEARING OR IDENTIFIED BY A COUNTERFEIT MARK.

(C) A PERSON CONVICTED OF TRADEMARK COUNTERFEITING WHERE THE AGGREGATE RETAIL VALUE OF THE ITEMS OR SERVICES IS \$1,000 OR GREATER IS GUILTY OF A FELONY AND SHALL:

(1) RESTORE TRANSFER ALL OF THE ITEMS TO THE OWNER OF THE INTELLECTUAL PROPERTY; AND

(2) BE FINED NOT MORE THAN \$10,000 OR IMPRISONED FOR NOT MORE THAN 15 YEARS OR BOTH.

(D) (1) A PERSON CONVICTED OF TRADEMARK COUNTERFEITING WHERE THE AGGREGATE RETAIL VALUE OF THE ITEMS OR SERVICES IS LESS THAN \$1,000 IS GUILTY OF A MISDEMEANOR AND SHALL:

(I) RESTORE TRANSFER ALL OF THE ITEMS TO THE OWNER OF THE INTELLECTUAL PROPERTY; AND

(II) BE FINED NOT MORE THAN \$1,000 OR IMPRISONED FOR NOT MORE THAN 18 MONTHS OR BOTH.

(2) ALL ACTIONS OR PROSECUTIONS FOR TRADEMARK COUNTERFEITING WHERE THE AGGREGATE RETAIL VALUE OF THE ITEMS OR SERVICES IS LESS THAN \$1,000 SHALL BE COMMENCED WITHIN 2 YEARS AFTER THE COMMISSION OF THE OFFENSE.

(E) A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF SUBSECTION (D) OF THIS SECTION IS SUBJECT TO A FINE OF NOT MORE THAN \$5,000.

(F) AN ITEM BEARING A COUNTERFEIT MARK IS SUBJECT TO SEIZURE BY A LAW ENFORCEMENT OFFICER FOR PRESERVATION OF THE ITEM FOR RESTORATION TRANSFER TO THE OWNER OF THE INTELLECTUAL PROPERTY AFTER A CONVICTION UNDER THIS SECTION UNDER AN AGREEMENT WITH THE PERSON ALLEGED TO HAVE COMMITTED THE OFFENSE OR AFTER CONVICTION UNDER THIS SECTION.