

House of Representatives State of Tennessee



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FOR IMMEDIATE RELEASE

Dear Friends:

I serve as Tennessee's Business Team Leader for the NFWL's Business & Economic Development Policy Committee. Currently, the committee is considering a policy issue - Anticounterfeiting. We will have a conference call within the next week and I would welcome any comments you may have regarding the issue and how it affects your industry.

I have attached an informational piece to serve as an introduction to the policy issue.

Thank you for the privilege of representing you.

Sincerely,

Rep. Donna Rowland

NFWL Business & Economic Development Policy Committee Anti-Counterfeiting Initiative

The National Foundation for Women Legislators' (NFWL) Business & Economic Development Policy Committee has partnered with the International AntiCounterfeiting Coalition (IACC) in investigating the rise in the sale of pirate and counterfeit goods in order to create state legislation that will protect consumers and businesses.

Recently counterfeiting of intellectual property has reached an all-time high. Each year, counterfeiters steal hundreds of billions of dollars from legitimate business owners, and defraud state, local, and federal governments of millions more in lost tax revenues. Counterfeiters have put over three-quarters of a million Americans out of work.

Earlier this year the federal government acknowledged the seriousness of this issue when it passed the "Stop Counterfeiting in Manufactured Goods Act". This legislation gets to the heart of the problem and demands that counterfeiters be held accountable for their crimes. Unfortunately many states do not provide similar heightened protections. As a result a counterfeiter prosecuted under state anti-

counterfeiting laws will be treated far more leniently than one prosecuted for the same illegal acts under federal law.

A Model State Anticounterfeiting Statute has been prepared which provides a clear framework local business and industry from counterfeiters and their illegal products. The Model Statute's most significant features include:

- Bringing State Penalties For Counterfeiting In Line With Federal Standards
18 U.S.C. 2320, the federal law that criminalizes trademark counterfeiting recognizes the serious threat posed to consumers, businesses, and government by providing severe penalties for violations of the law. Federal law provides for prison sentences of up to 20 years with additional fines of up to \$15,000,000, depending upon the level of the offense.
- Enhanced Penalties for Crimes Involving Threats to Health, Safety, and Welfare
Counterfeit goods such as pharmaceuticals, electronics, food, and clothing can pose substantial risks to public health and safety. The Model Statute provides a felony-enhancement for any criminal counterfeiting offense that results in the actual or attempted injury or death of another person (similar to pending federal legislation) allowing for sentences of up to 30 years in prison.
- Mandatory Forfeiture, Destruction, and Restitution
Current law in most states provides for the **discretionary** destruction of counterfeit goods themselves. Similar to the recently enacted federal law, the Model Statute mandates the destruction of the counterfeit goods, the materials and implements used to produce those illicit products, **and** also provides for the forfeiture of any property used to aid the commission of those illegal activities. Furthermore, the Model Statute also permits the forfeiture of any proceeds of the individual's illegal acts, and requires any individual convicted of a counterfeiting offense to pay restitution to the victims as is the case under current federal law.