

HB 1756 -- COUNTERFEITING

SPONSOR: Walton

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Homeland Security by a vote of 8 to 0.

This bill changes the laws regarding the counterfeiting of goods. In its main provisions, the bill:

- (1) Specifies that a counterfeiting offense involving less than 100 items or services valued at \$1,000 or less will be a class A misdemeanor;
- (2) Increases the penalty for a counterfeiting offense involving 100 to 1,000 items or services valued at \$1,000 to \$10,000 from a class D felony to a class C felony;
- (3) Increases the penalty for a counterfeiting offense from a class C felony to a class B felony when the person has been previously convicted two or more times, the violation involves 1,000 or more items or services valued at \$10,000 or more, or the person knowingly or recklessly causes or attempts to cause the physical injury of another person;
- (4) Adds the penalty of a class A felony if a person knowingly or recklessly causes or attempts to cause the serious physical injury or death of another person in the commission of any counterfeiting offense;
- (5) Requires the forfeiture of all counterfeited property used or sold and any property directly or indirectly obtained as the result of the counterfeiting offense;
- (6) Requires the court, at the conclusion of all criminal and civil forfeiture proceedings, to order any forfeited item to be destroyed with the written consent of the trademark owners; and
- (7) Requires any person convicted of a counterfeiting offense to pay restitution to the trademark owner and any other victim of the offense in the amount of any expenses incurred by the trademark owner in the investigation and prosecution of the offense as well as any profits realized by the person convicted of the offense.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Less than \$100,000 in FY 2009, FY 2010, and FY 2011. No impact on Other State Funds in FY 2009, FY 2010, and FY 2011.

PROPOSERS: Supporters say that the bill protects the creative

energy and hard work of Missouri businesses that are being undermined by individuals and organizations that deal in counterfeit goods. The counterfeited goods lack quality control measures that make them potentially dangerous to consumers. Counterfeiters promote child labor and unsafe labor conditions. The goods also are generally sold without sales tax costing lost tax revenue. It is estimated that counterfeiting costs Missouri an estimated 750,000 jobs. Some counterfeiters produce pharmaceutical products that are very dangerous.

Testifying for the bill were Representative Walton; Donna Schmitt, Energizer; Travis Johnson, International Anti-Counterfeiting Coalition; Pfizer, Incorporated; Charles Kleinhagen, Haldex Brake Products, Corporation; and Novartis Pharmaceuticals Corporation.

OPPONENTS: There was no opposition voiced to the committee.