

## **BILL ANALYSIS**

Senate Research Center

S.B. 228  
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As Filed

### **DIGEST**

Currently, Texas law does not provide adequate criminal sanctions for the counterfeiting of trademarks, service marks, and identification marks in the manufacture and sale of goods and services. The manufacture and sale of counterfeit goods and the offer of services through counterfeit service marks pose a threat to the health and safety of the residents of this state and result in economic disruption to the legitimate businesses located in this state, such as the aircraft parts industry, the auto parts industry, and the luxury goods industry. This bill sets forth criminal sanctions, including the forfeiture of property, for the counterfeiting of such marks in the manufacture and sale of goods and services.

### **PURPOSE**

As proposed, S.B. 228 sets forth criminal sanctions, including the forfeiture of property, for the counterfeiting of trademarks, service marks, and identification marks in the manufacture and sale of goods and services.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Sets forth the findings of the legislature regarding the manufacture and sale of counterfeit goods and services, the negative repercussions of such sales, and the need for appropriate legislative action to protect the public from such negative repercussions.

SECTION 2. Amends Title 2, Business and Commerce Code, by adding Chapter 20, as follows:

#### **CHAPTER 20. COUNTERFEIT TRADEMARKS, SERVICE MARKS, AND IDENTIFICATION MARKS**

Sec. 20.01. DEFINITIONS. Defines "identification mark," "protected mark," "service mark," and "trademark."

Sec. 20.02. COUNTERFEIT TRADEMARK, SERVICE MARK, OR IDENTIFICATION MARK. Sets forth the conditions in which a trademark, service mark, or identification mark is counterfeit.

Sec. 20.03. PRODUCTION OF COUNTERFEIT TRADEMARK, SERVICE MARK, OR IDENTIFICATION MARK. Sets forth the conditions under which a person commits a second degree felony, a third degree felony, or a Class A misdemeanor, regarding a person who knowingly produces a counterfeit mark or a good bearing such a mark.

Sec. 20.04. SALE OR OFFER FOR SALE OF COUNTERFEIT GOODS OR SERVICES. Provides that a person commits a third degree felony or a Class A misdemeanor if the person sells, offers to sell, or possesses with the intent to sell a good the person knows or should have known contained a counterfeit mark; or the person sells or offers for sale a service in conjunction with a service mark the person knows is counterfeit.

Sec. 20.05. POSSESSION OF MATERIALS OR DEVICES TO PRODUCE COUNTERFEIT TRADEMARK, SERVICE MARK, OR IDENTIFICATION MARK. Provides that a person commits a Class A misdemeanor if the person possesses a tool, machine, device, or other reproduction instrument or material with the intent to produce a counterfeit mark.

SECTION 3. Amends Article 59.01(2), Code of Criminal Procedure, to redefine "contraband."

SECTION 4. Effective date: September 1, 1997.

SECTION 5. Emergency clause.