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IN THE SENATE

BY THE COMMITTEE ON
COMMERCE AND LABOR

SENATE BILL NO. 123

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIRST LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act to provide for the protection of associations and unions of working men and artisans, or other persons in their labels, trademarks, and forms of advertisements; providing for the filing of such labels, trademarks, and forms of advertisement with the secretary of state; prescribing penalties for the counterfeiting and fraudulent use of such labels, trademarks and forms of advertisement; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

Section 1. COUNTERFEIT OR IMITATION LABEL, TRADEMARK, ETC., OF LABOR ASSOCIATION: PRODUCTION, USE, SALE, CIRCULATION: UNLAWFULNESS. Whenever any person, or any association or union of working men has heretofore adopted or used, or shall hereafter adopt or use any label, trademark, term, design, device or form of advertisement for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other product of labor, as having been made, manufactured, produced, prepared, packed or put on sale by such person, or association or union of working men or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trademark, term, design, device or form of advertisement or to

1 use, sell, offer for sale, or in any way utter or circulate any
2 counterfeit or imitation of any such labels, trademark, term,
3 design, device or form of advertisement.

4 Sec. 2. SAME: POSSESSION, SALE OF MARKED GOODS: UNAUTHORIZED
5 USE OF GENUINE LABEL OR SEAL: MISDEMEANOR: PROOF IN CIVIL ACTION.

6 Whoever counterfeits or imitates any such label, trademark, term,
7 design, device or form of advertisement, or sells, offers for
8 sale, or in any way utters or circulates any counterfeit or
9 imitation of any such label, trademark, term, design, device,
10 or form of advertisement; or knowingly uses any such counterfeit
11 or imitation; or knowingly sells or disposes of, or keeps or has
12 in his possession with intent that the same shall be sold or
13 disposed of, any goods, wares, merchandise or other product of
14 labor to which any such counterfeit or imitation is attached or
15 affixed or on which any such counterfeit or imitation is printed,
16 painted, stamped or impressed; or knowingly sells or disposes of
17 any goods, wares, merchandise or other product of labor contained
18 in any box, case, can or package, to which, or on which any such
19 counterfeit or imitation is attached, affixed, printed, painted,
20 stamped or impressed; or keeps or has in his possession with
21 intent that the same shall be sold or disposed of, any goods,
22 wares, merchandise or other product of labor in any box, case,
23 can, or package, to which or on which any such counterfeit or
24 imitation is attached, affixed, printed, painted, stamped or
25 impressed, or shall use or display the genuine label trademark,
26 term, design, device or form of advertisement of any such person,
27 association or union in any manner, not being authorized so to do
28 by such person, union or association, or who shall in any way
29 use the name or seal of any such person, association or union

1 or officer thereof, in and about the sale of goods or otherwise,
2 not being authorized to so use the same, shall be deemed guilty
3 of a misdemeanor, and shall be punished as hereinafter provided.
4 In suits or proceedings for damage, or for equitable relief by
5 or on behalf of any such person, association or union, on account
6 of the violation of any provision of this Act, it shall not be
7 necessary to prove that such violation was knowingly or wilfully
8 committed.

9 Sec. 3. PENALTY. Any person, whether a member of a firm or
10 corporation, or otherwise, who shall violate any of the provisions
11 of Sec. 1 of this Act, or who shall knowingly or wilfully violate
12 any of the provisions of Sec. 2 of this Act, shall be deemed to
13 have committed a misdemeanor thereby, and on conviction thereof,
14 shall be punished by a fine of not less than fifty dollars nor
15 more than two hundred dollars, or by imprisonment for a period
16 not exceeding 90 days, or both such fine and imprisonment in
17 the discretion of the court. Any person who shall be convicted
18 a second time for violating any of the provisions of Sec. 1 of
19 this Act, or who shall knowingly or wilfully violate any pro-
20 visions of Sec. 2 of this Act, shall be punished by imprisonment
21 for not less than 60 days nor more than 90 days.

22 Sec. 4. CIVIL AND CRIMINAL ACTIONS: PROCEDURE. In actions
23 at law or proceedings in equity brought on behalf of any such
24 association or union which is not incorporated, the same may be
25 brought in the name of any member of such association or union,
26 who has been duly authorized so to do by such association or
27 union, but for the use and benefit of all the members of such
28 association or union: Provided, that before commencing such
29 action or proceeding, the member so authorized shall file with

1 the magistrate or clerk of such court, a certificate of the
2 president and secretary of such association or union, showing
3 that such authority has been granted. Any criminal proceeding
4 brought for a violation of any provision of this Act, may be
5 prosecuted by the authorized attorney of such association or
6 union, in the court where originally commenced, but in such case
7 the fees and compensation of such attorney shall be borne and
8 paid exclusively by such association or union; provided, that
9 nothing herein shall be deemed to prevent the prosecuting attor-
10 ney from conducting any such prosecution, or the said authorized
11 attorney of such association or union from deputizing a duly
12 qualified attorney at law to appear in his stead.

13 Sec. 5. FILING OF LABEL, TRADEMARK, ETC: STATEMENT, FEE,
14 CIVIL LIABILITY AND PENALTY FOR FRAUD: CERTIFICATE, FEE, EVIDENCE
15 Every such person, association or union that has heretofore
16 adopted or used or shall hereafter adopt or use a label, trade-
17 mark, term, design, device or form of advertisement, as provided
18 in Sec. 1 of this Act, shall file the same for record in the
19 office of the secretary of state by leaving two copies, counter-
20 parts or facsimiles thereof with said secretary, and by filing
21 therewith a sworn statement specifying the name or names of the
22 person, association or union on whose behalf such label, trade-
23 mark, term, design, device, or form of advertisement shall be
24 filed, the class of merchandise and a particular description of
25 the goods to which it has been or is intended to be appropriated;
26 that the party so filing or on whose behalf such label, trade-
27 mark, term, design, device or form of advertisement shall be
28 filed has the right to the use of the same, and that no other
29 person, firm, association, union or corporation has the right to

1 such use, either in the identical form, or in any such near sem-
2 blance thereto as may be calculated to deceive, and that the
3 facsimile copies or counterparts filed therewith are true and
4 correct. There shall be paid for such filing and recording a
5 fee of one dollar. Any person who shall for himself or on
6 behalf of any other person, association or union procure the
7 filing of any label, trademark, term, design, device, or form
8 of advertisement in the office of the secretary of state under
9 the provisions of this Act, by making any false or fraudulent
10 representations or declaration, verbally or in writing, or by
11 any fraudulent means, shall be liable to pay any damages sus-
12 tained in consequence of any such filing, to be recovered by or
13 on behalf of the party injured thereby in any court having juris-
14 diction, and shall be punished by a fine not exceeding one hundred
15 dollars or by imprisonment not exceeding three months or by both
16 such fine and imprisonment. Said secretary shall deliver to
17 such person, association or union so filing or causing to be
18 filed any such label, trademark, term, design, device, or form
19 of advertisement, so many duly attested certificates of the re-
20 cording of the same as such person, association or union may
21 apply for, for each of which certificates said secretary shall
22 receive a fee of one dollar. Any such certificate of record
23 shall in all suits and prosecutions under this Act be prima facie
24 proof of the adoption of such label, trademark, term, design,
25 device, or form of advertisement. Said secretary of state shall
26 not record for any person, union or association, any label,
27 trademark, term, design, device or form of advertisement that
28 would reasonably be mistaken for any label, trademark, term,
29 design, device, or form of advertisement theretofore filed by or

1 on behalf of any other person, union or association.

2 Sec. 6. CERTIFICATE: ASSIGNABILITY. In no case shall the
3 certificate from the secretary of state, obtained in conformity
4 with Sec. 5 of this Act, be assignable by the party to whom the
5 same is issued.

6 Sec. 7. EFFECTIVE DATE. This Act shall take effect imme-
7 diately upon its passage and approval or upon its becoming law
8 without such approval.

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