

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1885

S.P. 663

In Senate, March 16, 1999

**Resolve, to Create a Task Force to Study Counterfeiting and the
Unauthorized Sale of Consumer Goods and Labels.**

(EMERGENCY)

Reference to the Committee on Business and Economic Development suggested and
ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator KILKELLY of Lincoln.
Cosponsored by Senator LaFOUNTAIN of York, Representatives: COLWELL of Gardiner,
FISHER of Brewer, POVICH of Ellsworth.

2 **Emergency preamble.** Whereas, Acts and resolves of the
Legislature do not become effective until 90 days after
adjournment unless enacted as emergencies; and

4
6 Whereas, law enforcement agencies and retail merchants in
this State have seen increasing evidence that counterfeit goods
are being brought into this State to be sold to unsuspecting
8 consumers; and

10 Whereas, the sale of these counterfeit goods reduces the
opportunity of legitimate merchants to compete in the
12 marketplace; and

14 Whereas, the sale of these counterfeit goods is often
undertaken by unlicensed individuals and results in lost revenue
16 to the State; and

18 Whereas, the use of counterfeit Universal Price Code, "UPC,"
labels is also increasing in this State and results in lost
20 revenue to the State and to its merchants; and

22 Whereas, the public health and well-being of the citizens of
this State may be threatened by the unauthorized sale of certain
24 consumer goods, such as infant formulas, cosmetics, personal care
products, nonprescription drugs and medical devices, at unused
26 property markets or flea markets; and

28 Whereas, no formal study has been done to evaluate the
extent of these growing practices that threaten the public health
and safety and the need of any necessary governmental response or
30 oversight; and

32
34 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
36 necessary for the preservation of the public peace, health and
safety; now, therefore, be it

38 **Sec. 1. Task force established. Resolved:** That the Task Force to
40 Study Counterfeiting and the Unauthorized Sale of Consumer Goods
and Labels, referred to in this resolve as the "task force," is
42 established; and be it further

44 **Sec. 2. Appointments. Resolved:** That appointments to the task
force must be made within 30 days of the effective date of this
46 resolve. The task force consists of the following members
appointed by the Governor, President of the Senate and the
48 Speaker of the House.

50 1. The Governor shall appoint 3 members, one representing
state law enforcement, one representing municipal law enforcement
52 and one representing retail merchants.

2 2. The President of the Senate shall appoint 3 members:
two Senators, one of whom must be a member of the minority party,
4 and one member representing a labor organization.

6 3. The Speaker of the House shall appoint 3 members: two
members of the House of Representatives, one of whom must be a
8 member of the minority party, and one member representing the
district attorneys of this State; and be it further

10 **Sec. 3. Duties. Resolved:** That the task force shall examine
12 the effect of counterfeit goods in this State and the use of
counterfeit UPC labels on lost revenue to the State, the loss to
14 merchants and manufacturers of legitimate goods and the impact on
consumers. The task force shall examine the sale of consumer
16 products at unused property sales and flea markets and determine
whether these sales are authorized and the potential harmful
18 consequences of the sale of these products. The task force shall
examine whether current state law acts as an appropriate
20 deterrent or imposes sufficient sanctions for such conduct; and
be it further

22 **Sec. 4. Meetings; election of chair. Resolved:** That within 30
24 days after appointment of all members, the Executive Director of
the Legislative Council shall call and convene the first meeting
26 of the task force. The task force shall select a chair from
among its members. Additional meetings may be called by the
28 chair or by a majority of task force members; and be it further

30 **Sec. 5. Compensation. Resolved:** That the task force members
serve without compensation; and be it further

32 **Sec. 6. Staffing. Resolved:** That the Department of Public
34 Safety shall provide the task force with staffing and clerical
support; and be it further

36 **Sec. 7. Report. Resolved:** That the task force shall submit
38 its findings and recommendations, including any recommended
legislation, to the Joint Standing Committee on Criminal Justice
40 by January 15, 2000. The Joint Standing Committee on Criminal
Justice may report out legislation regarding measures to prevent
42 counterfeiting of consumer goods and labels and to regulate
appropriately the sale of certain consumer goods at unused
44 property sales and flea markets.

46 **Emergency clause.** In view of the emergency cited in the
preamble, this resolve takes effect when approved.

48

SUMMARY

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4 This resolve establishes the Task Force to Study
6 Counterfeiting and the Unauthorized Sale of Consumer Goods and
8 Labels. The task force is directed to study the increasing sale
10 of counterfeit goods in this State and recommend statutory
12 changes, if needed, to ensure appropriate sanctions are imposed
on this activity. The task force also is directed to study the
offering for sale of certain consumer goods in flea markets that
may endanger the health and well-being of the State's consumers.
Finally, the task force is directed to study the use of improper
or counterfeit Universal Price Code labels by persons trying to
defraud merchants.