

MAINE STATE LEGISLATURE

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Sixty-Sixth Legislature.

HOUSE.

No. 120.

STATE OF MAINE.

— —

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND NINETY-THREE.

AN ACT to Protect Persons, Associations, and Unions of
Workingmen, and Others in their Labels, Trade-Marks,
Devices and Forms of Advertising.

*Be it enacted by the Senate and House of Representatives
in Legislature assembled, as follows:*

SECTION 1. Whenever any person, or any association,
2 or union of workingmen has adopted and used, or shall
3 hereafter adopt and use any label, trade-mark, device, or
4 form of advertisement to indicate that goods to which
5 such label, trade-mark, device, or form of advertisement
6 shall be attached or affixed, or on which the same shall
7 be printed, painted, stamped or impressed, were manu-
8 factured or produced, packed or put on sale by such
9 person or by such association or union, or by a member

10 or members thereof, which was not, before such adoption
11 and use, lawfully adopted, owned and used by another as
12 a label, trade-mark, device or form of advertisement,
13 from whom no right or authority to use and adopt the
14 same had been acquired by such person, or by such asso-
15 ciation or union, or by such member or members thereof,
16 nor a counterfeit, imitation, or semblance thereof, it shall
17 be unlawful to counterfeit or imitate such label, trade-
18 mark, device or form of advertisement, or use the same
19 without the consent or authority of the person, associa-
20 tion or union so having adopted and used it.

SECT. 2. Whoever knowingly, and with intent to
2 mislead or deceive, counterfeits or imitates any such label,
3 trade-mark, device or form of advertisement, or know-
4 ingly uses or sells any such counterfeit or imitation of
5 any such label, trade-mark, device or form of advertise-
6 ment, or knowingly sells or disposes of, or keeps, or has
7 in his possession with intent that the same shall be sold,
8 any goods to which any such counterfeit or imitation of
9 such label, trade-mark, device or form of advertisement
10 is attached or affixed, or on which the same is printed,
11 painted, stamped or impressed, shall, for the first offence
12 be punished by fine not exceeding one hundred dollars,
13 or by imprisonment for less than one year, and for the
14 second and every subsequent offence, he shall be punished
15 by fine not less than one hundred, not more than five
16 hundred dollars, or by imprisonment not less than sixty
17 days, nor more than three years.

SECT. 3. Every such person, association or union that
2 has heretofore adopted, or shall hereafter adopt, a label,
3 trade-mark, device, or form of advertisement as afore-
4 said, may file the same for record in the office of the
5 secretary of State, by leaving two copies, counterparts
6 or fac-similes thereof, with the secretary of State, together
7 with a statement in writing signed and sworn to by such
8 person or by some person for and in behalf of such asso-
9 ciation or union, stating when and by whom, so far as he
10 knows and believes, said label, trade mark or device was
11 adopted or used, in what manner, and for what purpose
12 the same is to be used, and by what right he claims the
13 same, and such other particulars as shall serve to iden-
14 tify the same ; said secretary shall deliver to such person,
15 association or union so filing the same, a duly attested
16 certificate of the record of the same, for which he shall
17 receive a fee of two dollars. Such certificate of record
18 shall, in all suits and prosecutions under this act, be
19 sufficient proof of the adoption of such label, trade-mark,
20 device, or form of advertisement. No label shall be
21 recorded that so nearly resembles one already recorded
22 as to be liable to be mistaken for such recorded label,
23 and the secretary of State may decline to record such
24 label as in his judgment is not entitled to record under
25 this act.

SECT. 4. Every such person, association or union that
2 has adopted and uses a label, trade-mark, device or form
3 of advertisement, as aforesaid, may proceed by suit to

4 enjoin the manufacture, use, display or sale of any such
5 counterfeits or imitations, or of any goods to which such
6 counterfeits or imitations shall be affixed or attached, or
7 on which the same shall be printed, painted or impressed,
8 and all courts having jurisdiction thereof shall grant in-
9 junctions to restrain such manufacture, use, display or
10 sale, and shall award the complainant in such suit, such
11 damages resulting from such wrongful manufacture, use,
12 display or sale as may by said court be deemed reason-
13 able, and shall require the defendants to pay such person,
14 association or union the profits derived from such wrong-
15 ful manufacture, use, display or sale; and said court
16 shall also order that all such counterfeits or imitations in
17 the possession or under the control of any defendant in
18 such case be delivered to an officer of the court, or to the
19 complainant, to be destroyed.

SECT. 5. Every person who shall wilfully use or dis-
2 play the genuine label, trade-mark, device, or form of
3 advertisement of any such person, association or union,
4 in any manner not authorized by such person, union or
5 association, shall be deemed guilty of a misdemeanor, and
6 shall be punished by imprisonment in the county jail not
7 more than six months, or by a fine not exceeding one
8 hundred dollars, or both; and upon conviction for a
9 second offense, shall be punished by imprisonment not
10 less than thirty days nor more than one year, or by fine
11 not less than fifty nor more than three hundred dollars,
12 or both.

SECT. 6. Any person or persons who shall in any way
2 wilfully use the name or seal of any such person, asso-
3 ciation or union, or officer thereof, in and about the sale
4 of goods or otherwise, not being authorized to use the
5 same, shall be guilty of a misdemeanor, and shall be
6 punished by imprisonment in the county jail not more
7 than six months, or by fine not exceeding one hundred
8 dollars, or both; and upon conviction for a second offense
9 shall be punished by imprisonment not less than thirty
10 days nor more than one year, or by fine not less than
11 fifty nor more than three hundred dollars, or both.

SECT. 7. Judges of municipal and police courts, and
2 trial justices, shall have jurisdiction of all offenses under
3 this act except where there has been a prior conviction in
4 which case they may examine and hold to bail, and in
5 case of conviction before such judge or trial justice, the
6 offender shall stand committed to the county jail until the
7 fine and costs imposed are fully paid, or until otherwise
8 discharged by law.

SECT. 8. In all cases where the association or union
2 mentioned in this act is not incorporated, suits and pro-
3 ceedings under this act may be commenced and prosecuted
4 by an officer or member of such association or union, for
5 and behalf of and for the benefit of such association or
6 union.



STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 15, 1893. }

Reported by Mr. MORRILL of Portland, from Committee on Legal
Affairs, and ordered printed under joint rules.

W. S. COTTON, *Clerk.*