

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE.

1893.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
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PUBLIC LAWS

OF THE

STATE OF MAINE.

1893.

Chapter 276.

An Act to protect Persons, Associations and Unions of Workmen 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:

Unlawful to counterfeit labels, trade marks, etc., of any person, association or union of workmen.

SECT. 1. Whenever any person, or any association, or union of workmen has adopted and used, or shall hereafter adopt and use any label, trade mark, device, or form of advertisement to indicate that goods to which such label, trade mark, device or form of advertisement, shall be attached or affixed, or on which the same shall be printed, painted, stamped or impressed, were manufactured or produced, packed or put on sale by such person or by such association or union, or by a member or members thereof, which was not, before such adoption and use, lawfully adopted, owned and used by another as a label, trade mark, device or form of advertisement, from whom no right or authority to use and adopt the same had been acquired by such person, or by such association or union, or by such member or members thereof, nor a counterfeit, imitation or semblance thereof, it shall be unlawful to counterfeit or imitate such label, trade mark, device or form of advertisement, or use the same without the consent or authority of the person, association or union so having adopted and used it.

Penalty for counterfeiting label or trade mark.

SECT. 2. Whoever knowingly, and with intent to mislead or deceive, counterfeits or imitates any such label, trade mark, device or form of advertisement, or knowingly uses or sells any such counterfeit or imitation of any such label, trade mark, device or form of advertisement, or knowingly sells or disposes of, or keeps, or has in his possession with intent that the same shall be sold, any goods to which any such counterfeit or imitation of such label, trade mark, device or form of advertisement is attached or affixed, or on which the same is printed, painted, stamped or impressed, shall, for the first offense be punished by fine not exceeding one hundred dollars, or by imprisonment for less than one year, and for the second and every subsequent offense, he shall be punished by fine not less than one hundred, nor more than five hundred dollars, or by imprisonment not less than sixty days, nor more than three years.

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SECT. 3 Every such person, association or union that has heretofore adopted or shall hereafter adopt, a label, trade mark, device or form of advertisement as aforesaid shall file the same for record in the office of the secretary of state, by leaving two copies, counterparts or fac-similes thereof, with the secretary of state, together with a statement in writing, signed and sworn to by such person or by some person for and in behalf of such association or union stating when and by whom so far as he knows and believes, said label, trade mark, device or form of advertisement was adopted or used, in what manner and for what purpose the same is to be used and by what right he claims the same, and such other particulars as shall serve to identify the same, said secretary shall deliver to such person, association or union so filing the same a duly attested certificate of the record of the same, for which he shall receive a fee of two dollars. Such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade mark, device, or form of advertisement. No label, trade mark, device or form of advertisement shall be recorded that so nearly resembles one already recorded as to be liable to be mistaken for such label, trade mark, device or form of advertisement and when in the judgment of the secretary of state, such resemblance exists he shall refuse to record such label, trade mark, device or form of advertisement.

Labels and trade marks shall be filed and recorded in office of secretary of state.

—certificate of record, shall be proof of adoption.

—label closely resembling one already in use, shall not be recorded.

SECT. 4. Every such person, association or union that has adopted and uses a label, trade mark, device or form of advertisement, as aforesaid, and which has been recorded in the office of the secretary of state as hereinbefore provided, may proceed by suit to enjoin the manufacture, use, display or sale of any such counterfeits or imitations, or of any goods to which such counterfeits or imitations shall be affixed or attached, or on which the same shall be printed, painted or impressed, and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display or sale, and shall award the complainant in such suit, such damages resulting from such wrongful manufacture, use, display or sale as may by said court be deemed reasonable, and shall require the defendants to pay such person, association or union the profits derived from such wrongful manufacture, use, display or sale; and said court shall also order that all

Person using lawful trade mark may enjoin manufacture and use of counterfeits.

—court shall grant injunctions and award damages.

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—counterfeits,
to be destroyed.

Punishment for
willful use of
genuine trade
mark, in manner
not authorized.

such counterfeits or imitations in the possession or under the control of any defendant in such case, be delivered to an officer of the court, or to the complainant, to be destroyed.

SECT. 5. Every person who shall willfully use or display the genuine label, trade mark, device, or form of advertisement of any such person, association or union, in any manner not authorized by such person, union or association, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not more than six months, or by a fine not exceeding one hundred dollars, or both; and upon conviction for a second offense, shall be punished by imprisonment not less than thirty days nor more than one year, or by fine not less than fifty nor more than three hundred dollars, or both.

Punishment for
willful, unau-
thorized use of
name or seal.

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

—second offense.

How suits may
be prosecuted.

SECT. 7. In all cases where the association or union mentioned in this act is not incorporated, suits and proceedings under this act may be commenced and prosecuted by an officer or member of such association or union, for and in behalf of and for the benefit of such association or union.