

98TH CONGRESS  
2D SESSION

# H. R. 5929

To amend the Federal Trade Commission Act to make the sale or distribution in or affecting commerce or the production for sale or distribution in or affecting commerce of counterfeit goods or services an unfair or deceptive act or practice and an unfair method of competition and to authorize the Federal Trade Commission to initiate seizure actions in such cases, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 1984

Mr. FLORIO (for himself, Mr. DINGELL, and Mr. BROYHILL) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Federal Trade Commission Act to make the sale or distribution in or affecting commerce or the production for sale or distribution in or affecting commerce of counterfeit goods or services an unfair or deceptive act or practice and an unfair method of competition and to authorize the Federal Trade Commission to initiate seizure actions in such cases, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

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1       **TITLE I—AMENDMENT TO FEDERAL TRADE**  
 2                                   **COMMISSION ACT**

3           **SECTION 101.** Section 5 of the Federal Trade Commis-  
 4 sion Act (15 U.S.C. 45) is amended by adding at the end the  
 5 following:

6           “(n)(1) The sale or distribution in or affecting commerce  
 7 or the production for sale or distribution in or affecting com-  
 8 merce of counterfeit goods or services is an unfair method of  
 9 competition in or affecting commerce and an unfair or decep-  
 10 tive act or practice in or affecting commerce.

11          “(2) On or after the date the Commission issues a com-  
 12 plaint under subsection (b) with respect to a sale, distribution,  
 13 or production of counterfeit goods, the Commission may pro-  
 14 ceed against the counterfeit goods, by process of libel for the  
 15 seizure and condemnation of such goods, in any district court  
 16 of the United States within the jurisdiction of which such  
 17 goods are found. Such proceedings shall conform as nearly as  
 18 possible to proceedings in rem in admiralty.

19          “(3) The Commission may order counterfeit goods de-  
 20 tained (in accordance with regulations prescribed by the  
 21 Commission) for a reasonable period which may not exceed—

22               “(A) twenty days or, if the Commission deter-  
 23 mines that a period of detention greater than twenty  
 24 days is required to institute an action under paragraph  
 25 (2), thirty days, or

1           “(B) the date on which an action is brought under  
2           paragraph (2) respecting such goods,  
3           whichever occurs first. A detention order under this para-  
4           graph may require the labeling or marking of goods during  
5           the period of their detention for the purpose of identifying the  
6           goods as detained. Any person who would be entitled to  
7           claim goods if they were seized under paragraph (2) may  
8           appeal to the Commission a detention of goods under this  
9           paragraph. Within five days of the date an appeal of deten-  
10          tion is filed with the Commission, the Commission, after af-  
11          fording opportunity for an informal hearing, shall by order  
12          confirm the detention or revoke it.

13          “(4) For purposes of this section the term ‘counterfeit  
14          goods or services’ means goods or services—

15                 “(A)(i) on or in connection with which a trade-  
16                 mark which is not authentic or genuine and which is  
17                 identical to or substantially indistinguishable from a  
18                 genuine trademark is used or intended to be used, and

19                 “(ii) for which the genuine trademark is registered  
20                 on the principal register in the United States Patent  
21                 and Trademark Office and is in use;

22                 “(B) for which there is in effect a valid unexpired  
23                 United States patent and which is manufactured by a  
24                 person other than the owner of the patent or a licensee  
25                 of the owner of the patent;

1           “(C) for which there is in effect a United States  
2           copyright and which is distributed, sold, or otherwise  
3           used without the permission of the copyright owner; or

4           “(D) which are designated by the Federal Trade  
5           Commission by regulation as counterfeit goods or serv-  
6           ices.

7   **TITLE II—AMENDMENTS TO THE TEXTILE**  
8           **FIBER PRODUCTS IDENTIFICATION ACT AND**  
9           **THE WOOL PRODUCTS LABELING ACT OF**  
10          **1939**

11          SEC. 201. Subsection (b) of section 4 of the Textile  
12          Fiber Products Identification Act (15 U.S.C. 70b) is amended  
13          by adding at the end thereof the following new paragraph:

14                 “(5) If it is a textile fiber product processed or  
15                 manufactured in the United States, it be so identi-  
16                 fied.”.

17          SEC. 202. Subsection (e) of section 4 of the Textile  
18          Fiber Products Identification Act (15 U.S.C. 70b) is amended  
19          to read as follows:

20                 “(e) For purposes of this Act, in addition to the textile  
21                 fiber products contained therein, a package of textile fiber  
22                 products intended for sale to the ultimate consumer shall be  
23                 misbranded unless such package has affixed to it a stamp,  
24                 tag, label, or other means of identification bearing the infor-  
25                 mation required by subsection (b), with respect to such con-

1 tained textile fiber products, or is transparent to the extent it  
2 allows for the clear reading of the stamp, tag, label, or other  
3 means of identification on the textile fiber product, or in the  
4 case of hosiery items, this section shall not be construed as  
5 requiring the affixing of a stamp, tag, label, or other means of  
6 identification to each hosiery product contained in a package  
7 if (1) such hosiery products are intended for sale to the ulti-  
8 mate consumer in such package, (2) such package has affixed  
9 to it a stamp, tag, label, or other means of identification bear-  
10 ing, with respect to the hosiery products contained therein,  
11 the information required by subsection (b), and (3) the infor-  
12 mation on the stamp, tag, label, or other means of identifica-  
13 tion affixed to such package is equally applicable with respect  
14 to each textile fiber product contained therein.”

15       SEC. 203. Section 4 of the Textile Fiber Products Iden-  
16 tification Act (15 U.S.C. 70b) is amended by adding at the  
17 end thereof the following new subsections:

18       “(i) For the purposes of this Act, a textile fiber product  
19 shall be considered to be falsely or deceptively advertised in  
20 any mail order catalog or mail order promotional material  
21 which is used in the direct sale or direct offering for sale of  
22 such textile fiber product, unless such textile fiber product  
23 description states in a clear and conspicuous manner that  
24 such textile fiber product is processed or manufactured in the  
25 United States of America, or imported, or both.

1           “(j) For purposes of this Act, any textile fiber product  
2 shall be misbranded if a stamp, tag, label, or other identifica-  
3 tion conforming to the requirements of this section is not on  
4 or affixed to the collar of such product if such product con-  
5 tains a collar, or if such product does not contain a collar in  
6 the most conspicuous place on the inner side of such product,  
7 unless it is on or affixed on the outer side of such product, or  
8 in the case of hosiery items on the outer side of such product  
9 or package.”.

10           SEC. 204. Paragraph (2) of section 4(a) of the Wool  
11 Products Labeling Act of 1939 (15 U.S.C. 68b(1)) is amend-  
12 ed by adding at the end thereof the following new subpara-  
13 graphs:

14           “(5) If it is an imported wool product without the  
15 name of the country where processed or manufactured.

16           “(6) If it is a wool product processed or manufac-  
17 tured in the United States, it shall be so identified.”.

18           SEC. 205. Section 4 of the Wool Products Labeling Act  
19 of 1939 (15 U.S.C. 68b) is amended by adding at the end  
20 thereof the following new subsections:

21           “(e) For the purposes of this Act, a wool product shall  
22 be considered to be falsely or deceptively advertised in any  
23 mail order catalog or mail order promotional material which  
24 is used in the direct sale or direct offering for sale of such  
25 wool product, unless such wool product description states in

1 a clear and conspicuous manner that such wool product is  
2 processed or manufactured in the United States of America,  
3 or imported, or both.

4 “(f) For purposes of this Act, any wool product shall be  
5 misbranded if a stamp, tag, label, or other identification con-  
6 forming to the requirements of this section is not on or affixed  
7 to the collar of such product if such product contains a collar,  
8 or if such product does not contain a collar in the most con-  
9 spicuous place on the inner side of such product, unless it is  
10 on or affixed on the outer side of such product or in the case  
11 of hosiery items, on the outer side of such product or pack-  
12 age.”.

13 SEC. 206. Section 5 of the Wool Products Labeling Act  
14 of 1939 (15 U.S.C. 68c) is amended—

15 (1) by striking out “Any person” in the first para-  
16 graph and inserting in lieu thereof “(a) Any person”,

17 (2) by striking out “Any person” in the second  
18 paragraph and inserting in lieu thereof “(b) Any  
19 person”, and

20 (3) by inserting after subsection (b) (as designated  
21 by this section) the following new subsection:

22 “(c) For the purposes of subsections (a) and (b) of this  
23 section, any package of wool products intended for sale to the  
24 ultimate consumer shall also be considered a wool product  
25 and shall have affixed to it a stamp, tag, label, or other

1 means of identification bearing the information required by  
2 section 4, with respect to the wool products contained there-  
3 in, unless such package of wool products is transparent to the  
4 extent that it allows for the clear reading of the stamp, tag,  
5 label, or other means of identification affixed to the wool  
6 product, or in the case of hosiery items this section shall not  
7 be construed as requiring the affixing of a stamp, tag, label,  
8 or other means of identification to each hosiery product con-  
9 tained in a package if (1) such hosiery products are intended  
10 for sale to the ultimate consumer in such package, (2) such  
11 package has affixed to it a stamp, tag, label, or other means  
12 of identification bearing, with respect to the hosiery products  
13 contained therein, the information required by subsection (4),  
14 and (3) the information on the stamp, tag, label, or other  
15 means of identification affixed to such package is equally ap-  
16 plicable with respect to each hosiery product contained there-  
17 in.

18       SEC. 207. The amendments made by this title shall be  
19 effective ninety days after the date of enactment of this Act.

