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.

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENT TO FEDERAL TRADE COMMISSION ACT

SECTION 101. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following:

"(n)(1) The sale or distribution in or affecting commerce or the production for sale or distribution in or affecting commerce of counterfeit goods or services is an unfair method of competition in or affecting commerce and an unfair or deceptive act or practice in or affecting commerce.

"(2) On or after the date the Commission issues a complaint under subsection (b) with respect to a sale, distribution, or production of counterfeit goods, the Commission may proceed against the counterfeit goods, by process of libel for the seizure and condemnation of such goods, in any district court of the United States within the jurisdiction of which such goods are found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.

"(3) The Commission may order counterfeit goods detained (in accordance with regulations prescribed by the Commission) for a reasonable period which may not exceed—

"(A) twenty days or, if the Commission determines that a period of detention greater than twenty days is required to institute an action under paragraph (2), thirty days, or

"(B) the date on which an action is brought under paragraph (2) respecting such goods,

whichever occurs first. A detention order under this paragraph may require the labeling or marking of goods during the period of their detention for the purpose of identifying the goods as detained. Any person who would be entitled to claim goods if they were seized under paragraph (2) may appeal to the Commission a detention of goods under this paragraph. Within five days of the date an appeal of detention is filed with the Commission, the Commission, after affording opportunity for an informal hearing, shall by order confirm the detention or revoke it.

"(4) For purposes of this section the term 'counterfeit goods or services' means goods or services—

"(A)(i) on or in connection with which a trademark which is not authentic or genuine and which is identical to or substantially indistinguishable from a genuine trademark is used or intended to be used, and

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

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

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

"(D) which are designated by the Federal Trade Commission by regulation as counterfeit goods or services.

TITLE II—AMENDMENTS TO THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT AND THE WOOL PRODUCTS LABELING ACT OF 1939

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

"(5) If it is a textile fiber product processed or manufactured in the United States, it be so identified.".

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

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

tained textile fiber products, or is transparent to the extent it allows for the clear reading of the stamp, tag, label, or other means of identification on the textile fiber product, or in the case of hosiery items, this section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each hosiery product contained in a package if (1) such hosiery products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the hosiery products contained therein, the information required by subsection (b), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.".

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

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

"(j) For purposes of this Act, any textile fiber product shall be misbranded if a stamp, tag, label, or other identification conforming to the requirements of this section is not on or affixed to the collar of such product if such product contains a collar, or if such product does not contain a collar in the most conspicuous place on the inner side of such product, unless it is on or affixed on the outer side of such product, or in the case of hosiery items on the outer side of such product or package.".

SEC. 204. Paragraph (2) of section 4(a) of the Wool Products Labeling Act of 1939 (15 U.S.C. 68b(1)) is amended by adding at the end thereof the following new subparagraphs:

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

"(6) If it is a wool product processed or manufactured in the United States, it shall be so identified.".

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

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

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

"(f) For purposes of this Act, any wool product shall be misbranded if a stamp, tag, label, or other identification conforming to the requirements of this section is not on or affixed to the collar of such product if such product contains a collar, or if such product does not contain a collar in the most conspicuous place on the inner side of such product, unless it is on or affixed on the outer side of such product or in the case of hosiery items, on the outer side of such product or package.".

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

(1) by striking out "Any person" in the first paragraph and inserting in lieu thereof "(a) Any person",

(2) by striking out "Any person" in the second paragraph and inserting in lieu thereof "(b) Any person", and

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

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

means of identification bearing the information required by section 4, with respect to the wool products contained therein, unless such package of wool products is transparent to the extent that it allows for the clear reading of the stamp, tag, label, or other means of identification affixed to the wool product, or in the case of hosiery items this section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each hosiery product contained in a package if (1) such hosiery products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the hosiery products contained therein, the information required by subsection (4), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each hosiery product contained therein.

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

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