

HB 482 -- COUNTERFEITING

SPONSOR: Walton

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Homeland Security by a vote of 6 to 0.

This bill changes the laws regarding the counterfeiting of goods. In its main provisions, the bill:

- (1) Redefines "counterfeit mark," "retail value," "physical injury," and "serious physical injury";
- (2) Makes a counterfeiting offense involving less than 100 items or services valued at \$1,000 or less a class A misdemeanor;
- (3) Increases the penalty for a counterfeiting offense involving 100 to 1,000 items or services valued at \$1,000 to \$10,000 from a class D felony to a class C felony;
- (4) Increases the penalty for a counterfeiting offense when the person has been previously convicted two or more times, the violation involves 1,000 or more items or services valued at \$10,000 or more, or the person knowingly or recklessly causes or attempts to cause the physical injury of another person from a class C felony to a class B felony;
- (5) Adds the penalty of a class A felony if the person knowingly or recklessly causes or attempts to cause the serious physical injury or death of another person in the commission of any counterfeiting offense;
- (6) Requires the forfeiture of all counterfeited property used or sold and any property directly or indirectly obtained as the result of the counterfeiting offense;
- (7) Requires the court, at the conclusion of all criminal and civil forfeiture proceedings, to order any forfeited item to be destroyed with the written consent of the trademark owners; and
- (8) Requires any person convicted of a counterfeiting offense to pay restitution to the trademark owner and any other victim of the offense in the amount of any expenses incurred by the trademark owner in the investigation and prosecution of the offense as well as any lost profits realized by the offense.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Expected to be less than \$100,000 in FY 2008, FY 2009, and FY 2010. No impact on Other State Funds in FY 2008, FY 2009, and FY 2010.

PROPONENTS: Supporters say that counterfeiting costs corporations millions of dollars every year; counterfeiters do not pay taxes at any level and tend to send their profits out of the country; and counterfeiters are involved in underground organized crime. The counterfeited products do not undergo quality control, often pose safety risks to consumers, and may cause environmental problems.

Testifying for the bill were Representative Walton; Lisa Armstrong, Coalition to Advance the Protection of Sports Logos and International Anti-Counterfeiting Coalition; and David Hempen, Energizer Battery.

OPPONENTS: There was no opposition voiced to the committee.