



Attorney General Bill McCollum

The Anti-Counterfeiting Act

SB 2374 by Senator Diaz de la Portilla/HB 1417 by Representative Gardiner

Problem

Counterfeiting and piracy cost the U.S. economy \$200-\$250 billion per year and are responsible for the loss of more than 750,000 American jobs. Counterfeiting also creates serious health and safety risks to consumers who may unknowingly purchase imposter products such as pharmaceuticals, household products and automobile parts.

Solution

To combat these crimes, Senator Diaz de la Portilla has filed SB 2374 and Representative Gardiner has filed HB 1417, —both based upon the U.S. Chamber of Commerce’s model legislation. The federal legislation targets those who manufacture, distribute or possess counterfeit goods with the intent to sell as well as those who counterfeit goods which cause bodily injury or serious bodily injury.

Key Provisions

The proposed legislation includes a tiered penalty system based on the quantity or the total retail value of counterfeited goods knowingly manufactured, possessed or sold. The penalties include:

- A first-degree misdemeanor for 100 or fewer items, or items with a retail value of \$2,500 or less;
- A third-degree felony for 100 items to fewer than 1,000 items, or items with a retail value of more than \$2,500 but less than \$20,000; and
- A second-degree felony for 1,000 or more items, or items with a retail value of \$20,000 or more.

The bills also increase the penalties for repeat offenders of counterfeiting and piracy by one offense level more than what it would have been for a first-time offender of that same act.

In addition to the tiered penalty system, the bills also contain a culpable negligence provision which allows for increased penalties against those that disregard human life or safety when they counterfeit goods, such as prescription drugs. The provision allows for the following penalties against those who engage in counterfeiting and cause or allow to be caused:

- Bodily injury to another will be charged with a third-degree felony;
- Serious bodily injury to another will be charged with a second-degree felony; and
- The death of another will be charged with a first-degree felony.