

The following statutes are the statutes that are utilized in the prosecution of trademark counterfeiting and piracy cases. If you are a member of law enforcement, please feel free to contact IC for further information.

IC can assist law enforcement in several aspects of counterfeiting and piracy cases.

State Statutes for Prosecuting Counterfeiting & Piracy

State	True Name & Address	Criminal Trademark Infringement
Alabama	Ala Code Sec. 13A-8-83 ; 13A-8-86 (penalties)	Ala Code 1975 §13A-9-10 (criminal simulation/misd)
Alaska	AK St § 45.50.900(a)(2) (misd.)	AK St § 11.46.530 (criminal simulation)
Arizona	A.R.S § 13-3705(A)(3),(4)	A.R.S. § 44-1453
Arkansas	Ark. Stat. Ann. § 5-37-510(c)	Ark. Stat. Ann. § 5-37-213 (criminal simulation)
California	Cal. Penal Code § 653(w)	Cal. Penal Code § 350; see § 186.1 et seq. (forfeiture)
Colorado	C.R.S.A § 18-4-604 (misd.)	C.R.S.A. § 18-5-110.5 (misd.)
Connecticut	CGSA § 53-142c (misd.)	CGSA § 53-347a (subsection (a)); see also CGSA 53a-141 (criminal simulation/misd.)
Delaware	DE ST TI § Sec. 922(a) (misd.)	DE ST TI § 3312, 3314 (civil only; no applicable criminal simulation statute)
District of Columbia	DC ST § 22-3214.01	DC ST § 22-901 (definition); 22-902
Florida	FLA. STAT § 540.11(3)(a)(3)	FLA STAT § 831.03 and 831.05
Georgia	Ga. Code Ann. § 16-8-60(b)	Ga. Code Ann. § 10-1-454
Hawaii	NONE	HI ST § 708-875
Idaho	ID ST § 18-7603(3) ; 18-7604 (misd.)	ID ST §§ 18-3614 to 3617 (misd.)

Illinois	720 ILCS §. 5/16-8 ; 5/16-7(b)(5) ("unidentified sound or audio visual" defined as without having a true name and address)	765 ILCS § 1040/2; §1040/8 (penalties)
Indiana	Ind. Code Ann. § 24-4-10-4; § 24-1-10-5 (penalty/infraction)	Ind. Code Ann. § 24-2-1-13 (civil only; no applicable criminal simulation statute)
Iowa	Iowa Code §14.15.2 ; see also 714.2 (penalties as theft)	Iowa Code § 714.26
Kansas	KS ST § 21-3750	KS ST § 21-3763
Kentucky	KY Rev. Stat. § 434.445(4)	KY Rev. Stat. § 365.241

Louisiana	LSA-RS Crim. Law § 14:223.6; § 14 :223.3 (penalties)	LSA-R.S. Crim. Law § 14:229 ; 14:223.7 & 12:223.8; 12 :223.3 (penalties)
Maine	NONE	17 M.R.S.A. § 705 (subsection 1.A --criminal simulation/"class E crime")
Maryland	MD Code, Crim. Law, § 7-308(d)(2); § 7-309 (misd.)	MD Code, Crim. Law, § 8-611
Massachusetts	Mass. Gen. Laws 266 § 143C; §143D (penalties)	Mass. Gen. Laws 266 § 147
Michigan	MI Stat. Ann. § 752.1053; § 752.1054 (penalties)	MI Stat. Ann. § 750.263; see also § 750.264 (possession of counterfeit mark or template/misd.)
Minnesota	M.S.A §325E.18; 325E.201 (penalties)	M.S.A. § 609-895; § 333.42 (misd.)
Mississippi	Miss. Code Ann. § 97-23-89	Miss. Code Ann. § 97-21-57 (misd.)
Missouri	Mo. Ann. Stat. § 570.240 and 570.41 ; 570.255 (penalties)	Mo. Ann. Stat. § 570.103
Montana	MT ST § 30-13-144	MT ST § 45-6-318 (deceptive practices act, including mislabeling; not specific to trademark; misd.)

Nebraska	NE ST § 28-1324; 28-1326 (class II misdemeanor)	NE ST § 87-139 & 141 (civil); §§ 87-302 and 87-308 (deceptive trade practices/not specific to trademark; misd.)
Nevada	NRS § 205.217(2); 193.30 (penalties)	NRS § 205.210; see also §§ 205.200, 205.205 and 600.450 (misd.)
New Hampshire	N.H. Rev. Stat. § 352-A:3; § 352-A:5 (penalties; this section sets forth penalties for violations of 352-A-2 [copyright of pre-1972 materials], but oddly does not set forth penalties for violation of 352-A:3)	N.H. Rev. Stat § 638:6-a (dealing in counterfeit recordings; misd.)
New Jersey	N.J.S.A. § 2C:21-21.c(4)	N.J.S.A. 2C:21-32
New Mexico	N.M.S.A. § 30-16B-4	N.M.S.A. 1978, §§ 57-3B-14 and -16 (civil only; no applicable criminal simulation statute)
New York	NY Penal §§ 275.35 and 275.40; see 275.45 (personal use limitation)	NY Penal §§ 165.70 (definition), 165.71 (misd.), 165.72 and 165.73 (felonies); see also NY Arts and Culture Affairs § 33.09 (misd.)
North Carolina	N.C. G.S.A. § 14-435; § 14-437 (penalties)	N.C.G.S.A. § 80-11.1

North Dakota	N.D. ST § 47-21.1-03; (misd. per § 47-21.1-06)	N.D. ST § 51-07-04 (misd.)
Ohio	Ohio Rev. Code § 1333.52(B) ; 1333.9(F)(misd.)	Ohio Rev. Code § 2913.34
Oklahoma	21 OKL ST Ann. § 1979	21 OKL. ST. Ann. § 1990.2
Oregon	O.R.S. § 164.872	O.R.S. §§ 647.135 and 647.140 (misdemeanors); 647.145 and 647.150 (felonies); 647.155 (forfeiture)
Pennsylvania	18 Pa. C.S.A. § 4116(e)	18 Pa. C.S.A. § 4119

Rhode Island	R.I. ST § 6-13.1-15(c)	R.I. ST § 11-17-13
South Carolina	S.C. Code Ann. § 16-11-930; § 16-11-940 (penalties)	S.C. Code Ann. § 39-15-1190 (“counterfeit mark” defined as identical to one registered with the state; misd.)
South Dakota	S.D.C.L. § 43-43A-3	S.D.C.L. § 37-6-1 (definition); §§ 37-6-2 and 37-6-3 (misd.)
Tennessee	Tenn. Code Ann. § 39-14-139(a); punishable as theft: 39-14-105	Tenn. Code Ann. §§ 39-14-152; 39-14-105 (penalties); see also § 39-14-115 (criminal simulation; felony)
Texas	VTCA, Bus & C. § 35-94(a)	VTCA, Penal Code § 32.23
Utah	UT. ST. § 13-10-8	UT. ST. § 76-10-1006 (sale) and § 76-10-1007 (use) (both misd.). See also § 76-6-518 (criminal simulation)
Vermont	NONE	VT ST T. 13 § 2023 (criminal simulation – but statute only refers to someone who “makes or alters” [and does not refer to possession or sale] “any object so it appears to have value because of . . . source or authorship which it does not”) VT ST T. 9 § 2530; § 2531 (trademark must be registered with the state; misd.)
Virginia	VA Code Ann. § 59.1-41.4; § 59.1-41.6 (penalties)	VA Code Ann. § 59.1-92.12 (civil); § 59.1-92.13.B (criminal penalties if one violates section 59.1-92.12 “knowingly and intentionally”. However, similar problem as with Vermont statute since it only refers to someone who “counterfeits”, or “reproduces” but not someone who sells or possesses. The portion of section 59.1-92.13 that refers to “uses” of a counterfeit mark appears

to requires that the true mark be registered with the state)

Washington	WA. State Ann. §19.25.040	WA. State Ann. § 9.16.005 (definition); § 9.16.030; § 9.16.035 (penalties)
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West Virginia	W.VA Code § 61-3-50(a) [paragraph 4]	W.VA Code § 47-2-12 (civil; no applicable criminal simulation statute)
Wisconsin	W.S.A. § 943.209	W.S.A. § 132.20 (felony)
Wyoming	NONE	WY ST. § 6-3-610 (mislabeling; misd. punishable by fine only) (same problem as with Vermont statute)

NOTE

Penalties: Unless otherwise noted, the statutes provide for a tiered punishment scheme, in which the crime is classified as a misdemeanor or felony depending on the number items and/or their total value and/or whether it is a first or subsequent offense.

True Name and Address Statutes: The only states that do not have a TNA statute are: 1) HAWAII; 2) MAINE; 3) VERMONT and 4) WYOMING. Nevertheless, HAWAII and MAINE do have applicable criminal statutes for trademark infringement (trademark infringement statute in the case of Hawaii, and criminal simulation statute in the case of Maine).

VERMONT and WYOMING do have criminal simulation/mislabeling statutes. The problem here, as noted in the chart, is that Vermont and Wyoming’s statutes criminalize someone who “makes”, “alters”, “brands, stamps, labels or marks”, which would likely be problematic in the case of a vendor.

Criminal Trademark Infringement Statutes: A number of states do not have criminal trademark infringement statutes, but do have applicable “criminal simulation” statutes that may be used to charge trademark infringement. Unlike criminal trademark infringement statutes, which specifically criminalize the sale, possession etc of a counterfeit mark (or items containing such marks), criminal simulation statutes are more general in nature. Most of these statutes have language similar to Connecticut’s language (emphasis added):

*A person is guilty of criminal simulation when: (1) with intent to defraud, he makes or alters any object in such a manner that it appears to have an antiquity, rarity, **source or authorship which it does not in fact possess**; or (2) with knowledge of its true character and with intent to defraud, he issues or possesses an object so simulated.*

As noted above, Vermont and Wyoming’s criminal simulation statutes do not refer to someone who possesses or sells such items.