

Trade-Marks.

1. Associations and unions may adopt labels, trade-marks, &c.
2. Penalty for counterfeiting labels, &c.
3. Penalty for using counterfeited labels, trade-marks, &c.
4. Labels, trade-marks or form of advertisements to be filed in office of secretary of state.
5. Manufacturers may be enjoined from using or sale of counterfeit trade marks, &c.
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16. Penalty.
17. Labels, &c., may be filed and recorded in office of secretary of state.
18. Repealer.

An act to provide for the adoption of labels, trade-marks and forms of advertising by associations or unions of workmen, and to regulate the same.

Approved March 27, 1889.

P. L. 1889, p. 107.

Associations and unions may adopt labels, trade-marks, &c.

Penalty for counterfeiting labels, &c.

Penalty for using counterfeited labels, trade-marks, &c.

Proviso.

Labels, trade-marks or form of advertisements to be filed in office of secretary of state.

Manufacturers may be enjoined from using or sale of counterfeit trade-marks, &c.

Associations authorized to proceed against all persons wrongfully using or displaying labels, &c.

Repealer.

1. That it shall be lawful for associations and unions of workmen to adopt, for their protection, labels, trade-marks and forms of advertisement, announcing that goods manufactured by members of such associations or unions are as manufactured.

2. That all persons counterfeiting such labels, trade-marks or forms of advertisements, shall be guilty of a misdemeanor, punishable on conviction by imprisonment for a term of not less than three months nor more than one year, or by a fine of not less than one hundred dollars nor more than five hundred dollars, or both. [See Sec. 16, *post.*]

3. That every person who shall use any counterfeited label, trade-mark, or form of advertisement of such unions or associations, knowing the same to be counterfeited, after having been notified in writing by the owner thereof or his or its agent that the same is counterfeited, shall be guilty of a misdemeanor, punishable by imprisonment for a term of not less than three months nor more than one year, or by a fine of not less than one hundred dollars nor more than five hundred dollars, or both; *provided*, that such notice in writing contains a copy, counterpart or fac-simile of such label, trade-mark or form of advertisement. [See Sec. 16, *post.*]

4. That every such association or union adopting a label, trade-mark or form of advertisement as aforesaid, shall file the same in the office of the secretary of state by leaving two copies, counterparts or fac-similes thereof, with said secretary of state, who shall, under his hand and seal, deliver to the association or union filing the same, a certificate of record, for which he shall receive a fee of twenty-five cents. [See Sec. 17, *post.*]

5. That every such association or union adopting a label, trade-mark or form of advertisement as aforesaid, may proceed, by suit, in the courts of this state, to enjoin the manufacture, use, display or sale of any such counterfeits, and that all courts having jurisdiction thereof, shall grant an injunction to restrain and prevent such manufacture, use, display or sale, and shall award the complainants such damages resulting from such wrongful use as may be proved, and shall require the defendants to pay to the party injured the profits derived from such wrongful use, or both profits and damages; and the court shall also order all such counterfeits in the possession or under the control of the defendant in such case to be delivered to an officer of the court or to the complainant to be destroyed.

6. That in like manner such unions or associations shall be authorized to proceed against all persons who shall wrongfully use or display the genuine labels, trade-mark or forms of advertisements of the respective associations or unions, not being authorized by such associations or unions to use or display the same.

7. That all acts and parts of acts inconsistent with the provisions of this act be and they are hereby repealed.

A further supplement to an act entitled "An act to protect trade-marks and labels."⁽¹⁾

Approved March 23, 1892. P. L. 1892, p. 187.

8. SEC. 1. [Amended by Sec. 15, *post.*]

9. SEC. 2. [Amended by Sec. 16, *post.*]

10. SEC. 3. [Amended by Sec. 17, *post.*]

11. SEC. 4. That in actions at law, proceedings in equity brought on behalf of any such association or union which is not incorporated, the same may be brought in the name of any member of such association or union who has been duly authorized so to do by such association or union, but for the use and benefit of all the members of such association or union; *provided*, that before commencing such action or proceeding the members so authorized shall file with the county clerk of such county a certificate of the president and secretary of such association or union, showing that such authority has been granted.

How action may be brought.

Proviso.

12. SEC. 5. That every such association or union shall cause to be filed in the office of the secretary of state, duplicate copies of such label, mark, name, brand or device, who shall, under his hand and seal, deliver to the party filing or registering the same a certified copy and a certificate of the filing thereof, for which he shall receive a fee of one dollar; the application for the certificate shall be accompanied by an affidavit from the president or secretary of any sub-association or union, showing that the same is the genuine label, trade-mark or form of advertisement of such association or union.

Copies of labels, marks, &c., to be filed in office of secretary of state.

13. SEC. 6. That in no case shall the certificate from the secretary of state, obtained in conformity with the fifth section of this act, be assignable by the party to whom the same is issued.

Certificate of secretary of state not assignable.

14. SEC. 7. That all acts or parts of acts inconsistent with the provisions of this act be and are hereby repealed.

Repealer.

An act to amend an act entitled "A further supplement to an act entitled 'An act to protect trade-marks and labels,' approved March twenty-third, one thousand eight hundred and ninety-two."

Approved March 14, 1895. P. L. 1895, p. 270.

15. SEC. 1. That section one of the act entitled "A further supplement to an act entitled 'An act to protect trade-marks and labels,' approved March twenty-third, one thousand eight hundred and ninety-two," be and the same is hereby amended to read as follows:

[That whenever any person, or any association or union of workmen has heretofore adopted or used, or shall hereafter adopt or use, any label, trade-mark, term, design, device or form of advertisement for the purpose of designating, making known, or distinguishing any goods, wares, merchandise or other product of labor, as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of workmen, or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade-mark, term, design, device or form of advertisement, or to use, sell, offer for sale or in any way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement.]

Unlawful to counterfeit union labels, trade-marks, &c., or to use, sell or utter the same.

16. SEC. 2. That section two of said act be amended to read as follows:

[That whoever counterfeits or imitates any such label, trade-mark, term, design, device or form of advertisement, or sells, offers for sale, or in any way utters or circulates any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement, or knowingly uses any such counterfeit or imitation, or knowingly sells or disposes of, or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which any such counterfeit or imitation is attached or affixed, or on which

Penalty.

(1) This act is probably intended to be a supplement to the next preceding act.

any such counterfeit or imitation is printed, painted, stamped or impressed, or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be punished by a fine of not less than one hundred dollars nor more than two hundred dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment, at the discretion of the court.]

17. SEC. 3. That section three of said act be amended to read as follows :

[That every such person, association or union that has heretofore adopted or used, or shall hereafter adopt or use, any label, trade-mark, term, design, device or form of advertisement, as provided in section one of this act, may file the same for record in the office of the secretary of state by leaving two copies, counterparts or fac-similes thereof, with said secretary, and by filing therewith a sworn statement, specifying the name or names of the person, association or union on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed, the class of merchandise, and a particular description of the goods to which it has been or is intended to be appropriated ; that the party so filing, or on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed, has the right to the use of the same, and that no other person, firm, association, union or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the fac-simile copies or counterparts filed therewith are true and correct ; there shall be paid for such filing and recording a fee of one dollar ; any person who shall, for himself or on behalf of any other person, association or union, procure the filing of any label, trade-mark, term, design, device or form of advertisement in the office of the secretary of state under the provisions of this act by making any false or fraudulent representations or declaration, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by or on behalf of the party injured thereby, in any court having jurisdiction, and shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding one year, or both, at the discretion of the court ; said secretary shall deliver to such person, association or union so filing or causing to be filed any such label, trade-mark, term, design, device or form of advertisement, so many duly-attested certificates of the recording of the same as such person, association or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar ; any such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade-mark, term, design, device or form of advertisement ; said secretary of state shall not record for any person, union or association any label, trade-mark, term, design, device or form of advertisement that would reasonably be mistaken for any label, trade-mark, term, design, device or form of advertisement theretofore filed by or on behalf of any other person, union or association.]

18. SEC. 4. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Labels, &c., may be filed and recorded in office of secretary of state.

Fee for recording.

Penalty for false representation.

Fee for furnishing certificates of record.

Certificates shall be admitted in evidence.

Repealer.