

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7737

BILL NUMBER: HB 1591

DATE PREPARED: Jan 18, 1999

BILL AMENDED:

SUBJECT: Trademark protection.

FISCAL ANALYST: Ron Sobecki

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill amends the provision on the types of property that may be seized in a criminal action to include items bearing a counterfeit mark and all property used in trademark counterfeiting. It makes it a Class A misdemeanor to commit trademark counterfeiting. It also makes it a Class C felony to manufacture an item or services bearing or identified by a counterfeit mark. The bill also establishes fines.

Effective Date: July 1, 1999.

Explanation of State Expenditures: This bill makes it a Class A misdemeanor to commit trademark counterfeiting. The offense becomes a Class D and C felony depending on circumstances described in the bill. The following felonies and average terms as described in this bill are listed below.

A Class D felony is punishable by a prison term ranging from 6 months to 3 years or a reduction to a Class A misdemeanor depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from 2 to 8 years depending upon the mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost per offender for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily. The average length of stay in DOC facilities for a Class D felony is approximately seven months and for a Class C felony the average length of stay is approximately one year, seven months.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for Class D and Class C felonies is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered

would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: