



Legislation Text

File #: Res 0504-2010, **Version:** *

Res. No. 504

Resolution in support of pending legislation, A.10813, in the New York State Assembly, which would amend the general business law and the penal law by giving courts the option of donating counterfeit products once they are no longer used as evidence.

By Council Members Fidler, Garodnick, Brewer, Cabrera, Comrie, Dickens, Dromm, Gentile, James, Lander, Palma, Vann, Williams, Rodriguez, Rose and Halloran

Whereas, Every year, the New York City Police Department (NYPD) as well as other New York State law enforcement agencies investigate cases involving individuals and manufacturers who illegally sell counterfeit goods including usable clothing, which violate existing trademark laws; and

Whereas, To address this issue, the NYPD's Trademark Infringement Unit (TIU) is devoted to investigating trademark cases and works diligently to identify and recover counterfeit goods; and

Whereas, Pursuant to New York State Penal Law which states that "upon conviction of the defendant, the articles in respect whereof the defendant stands convicted shall be destroyed; destruction shall not include auction, sale or distribution of the items in their original form," on two recent occasions, the NYPD destroyed counterfeit clothing once it was no longer considered evidence in court; and

Whereas, Destroying clothes and other goods is unacceptable when there are many indigent individuals who could benefit from these goods; and

Whereas, In order to ensure that counterfeit products are put to good use, Assemblyman Alan Maisel introduced legislation, A.10813, which would amend the general business law and the penal law in relation to the disposition of counterfeit products; and

Whereas, If enacted, this bill would amend the general business law section pertaining to remedies by adding the option of allowing courts the ability to donate counterfeit products used as evidence; and

Whereas, In the event that a court decided to donate counterfeit goods, the bill would create an opt-out system for the lawful mark owners, meaning that the lawful mark owners would agree to the court's actions unless they objected in writing within 30 days; and

Whereas, The bill would also limit recipients of donated counterfeit goods to not-for-profit organizations with a history of providing goods and services to indigent individuals that petition the court for, and receive, approval; and

Whereas, The bill would explicitly prohibit the not-for-profit organizations and any individuals who receive goods from such non-profits from selling the donated goods they receive; and

Whereas, There is a provision in the bill that states that counterfeit audiovisual works or electronic equipment products shall not be donated and must be destroyed; and

Whereas, In addition to amending the general business law, the bill would also seek to amend the penal law to allow courts the option described above upon the request of any law enforcement agency once a defendant is convicted; and

Whereas, The New York State Assembly must pass this bill and the New York State Senate should introduce and pass a similar bill in order to ensure that the disposition of counterfeit products occurs in a manner that benefits the people of the State of New York; now, therefore, be it

Resolved, That the Council of the City of New York supports pending legislation, A.10813, in the New York State Assembly, which would amend the general business law and the penal law by giving courts the option of donating counterfeit products once they are no longer used as evidence.

SA
7/19/10
LS# 1127

