

hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive,” after “such goods or services”.

Subsec. (b). Pub. L. 109–181, §1(b)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Upon a determination by a preponderance of the evidence that any articles in the possession of a defendant in a prosecution under this section bear counterfeit marks, the United States may obtain an order for the destruction of such articles.”

Subsec. (e)(1). Pub. L. 109–181, §1(b)(3)(B), amended concluding provisions generally. Prior to amendment, concluding provisions read as follows: “but such term does not include any mark or designation used in connection with goods or services of which the manufacturer or producer was, at the time of the manufacture or production in question authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation;”.

Subsec. (e)(1)(A). Pub. L. 109–181, §1(b)(3)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: “a spurious mark—

“(i) that is used in connection with trafficking in goods or services;

“(ii) that is identical with, or substantially indistinguishable from, a mark registered for those goods or services on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered; and

“(iii) the use of which is likely to cause confusion, to cause mistake, or to deceive; or”.

Subsec. (e)(2). Pub. L. 109–181, §2(b)(1), added par. (2) and struck out former par. (2) which read as follows: “the term ‘traffic’ means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent so to transport, transfer, or dispose of; and”.

Subsec. (e)(3), (4). Pub. L. 109–181, §2(b)(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsecs. (f), (g). Pub. L. 109–181, §1(b)(4), added subsec. (f) and redesignated former subsec. (f) as (g).

2002—Subsec. (e)(1)(B). Pub. L. 107–140 substituted “section 220506 of title 36” for “section 220706 of title 36”.

Subsec. (f). Pub. L. 107–273, §205(e), designated existing provisions as par. (1), substituted “this title” for “title 18” wherever appearing, redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1), and added par. (2).

1998—Subsec. (e)(1)(B). Pub. L. 105–225, §4(b)(1), as amended by Pub. L. 105–354, §2(c)(1), substituted “section 220706 of title 36” for “section 110 of the Olympic Charter Act”.

Subsec. (e)(2). Pub. L. 105–225, §4(b)(2), as amended by Pub. L. 105–354, §2(c)(1), inserted “and” after semicolon at end.

Subsec. (e)(3). Pub. L. 105–225, §4(b)(3), as amended by Pub. L. 105–354, §2(c)(1), substituted a period for “; and” at end.

Subsec. (e)(4). Pub. L. 105–225, §4(b)(4), as amended by Pub. L. 105–354, §2(c)(1), struck out par. (4) which read as follows: “the term ‘Olympic Charter Act’ means the Act entitled ‘An Act to incorporate the United States Olympic Association’, approved September 21, 1950 (36 U.S.C. 371 et seq.).”

1997—Subsecs. (d) to (f). Pub. L. 105–147 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1996—Subsec. (e). Pub. L. 104–153 added subsec. (e).

1994—Pub. L. 103–322, §330016(1)(U), which directed the amendment of this section by striking “not more than \$250,000” and inserting “under this title”, could not be executed because the phrase “not more than \$250,000” did not appear in text subsequent to amendment of subsec. (a) by Pub. L. 103–322, §320104(a). See below.

Subsec. (a). Pub. L. 103–322, §320104(a), in first sentence, substituted “\$2,000,000 or imprisoned not more

than 10 years” for “\$250,000 or imprisoned not more than five years” and “\$5,000,000” for “\$1,000,000”, and in second sentence, substituted “\$5,000,000 or imprisoned not more than 20 years” for “\$1,000,000 or imprisoned not more than fifteen years” and “\$15,000,000” for “\$5,000,000”.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–354, §2(c), Nov. 3, 1998, 112 Stat. 3244, provided that the amendment made by section 2(c) is effective Aug. 12, 1998.

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### PRIORITY GIVEN TO CERTAIN INVESTIGATIONS AND PROSECUTIONS

Pub. L. 112–144, title VII, §717(a)(4), July 9, 2012, 126 Stat. 1076, provided that: “The Attorney General shall give increased priority to efforts to investigate and prosecute offenses under section 2320 of title 18, United States Code, that involve counterfeit drugs.”

#### FINDINGS

Pub. L. 109–181, §1(a)(2), Mar. 16, 2006, 120 Stat. 285, provided that: “The Congress finds that—

“(A) the United States economy is losing millions of dollars in tax revenue and tens of thousands of jobs because of the manufacture, distribution, and sale of counterfeit goods;

“(B) the Bureau of Customs and Border Protection estimates that counterfeiting costs the United States \$200 billion annually;

“(C) counterfeit automobile parts, including brake pads, cost the auto industry alone billions of dollars in lost sales each year;

“(D) counterfeit products have invaded numerous industries, including those producing auto parts, electrical appliances, medicines, tools, toys, office equipment, clothing, and many other products;

“(E) ties have been established between counterfeiting and terrorist organizations that use the sale of counterfeit goods to raise and launder money;

“(F) ongoing counterfeiting of manufactured goods poses a widespread threat to public health and safety; and

“(G) strong domestic criminal remedies against counterfeiting will permit the United States to seek stronger anticounterfeiting provisions in bilateral and international agreements with trading partners.”

#### § 2321. Trafficking in certain motor vehicles or motor vehicle parts

(a) Whoever buys, receives, possesses, or obtains control of, with intent to sell or otherwise dispose of, a motor vehicle or motor vehicle part, knowing that an identification number for such motor vehicle or part has been removed, obliterated, tampered with, or altered, shall be fined under this title or imprisoned not more than ten years, or both.

(b) Subsection (a) does not apply if the removal, obliteration, tampering, or alteration—

(1) is caused by collision or fire; or

(2) is not a violation of section 511 of this title.

(c) As used in this section, the terms “identification number” and “motor vehicle” have the

meaning given those terms in section 511 of this title.

(Added Pub. L. 98-547, title II, §204(a), Oct. 25, 1984, 98 Stat. 2770, §2320; renumbered §2321, Pub. L. 99-646, §42(a), Nov. 10, 1986, 100 Stat. 3601; amended Pub. L. 103-322, title XXXIII, §330016(1)(N), Sept. 13, 1994, 108 Stat. 2148.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$20,000”.

### § 2322. Chop shops

#### (a) IN GENERAL.—

(1) UNLAWFUL ACTION.—Any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be punished by a fine under this title or by imprisonment for not more than 15 years, or both. If a conviction of a person under this paragraph is for a violation committed after the first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to any fine and imprisonment.

(2) INJUNCTIONS.—The Attorney General shall, as appropriate, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation.

(b) DEFINITION.—For purposes of this section, the term “chop shop” means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.

(Added Pub. L. 102-519, title I, §105(a), Oct. 25, 1992, 106 Stat. 3385.)

### § 2323. Forfeiture, destruction, and restitution

#### (a) CIVIL FORFEITURE.—

(1) PROPERTY SUBJECT TO FORFEITURE.—The following property is subject to forfeiture to the United States Government:

(A) Any article, the making or trafficking of which is, prohibited under section 506 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title.

(B) Any property used, or intended to be used, in any manner or part to commit or facilitate the commission of an offense referred to in subparagraph (A).

(C) Any property constituting or derived from any proceeds obtained directly or indirectly as a result of the commission of an offense referred to in subparagraph (A).

(2) PROCEDURES.—The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. For seizures made under this section, the court shall enter an appropriate protective

order with respect to discovery and use of any records or information that has been seized. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used. At the conclusion of the forfeiture proceedings, unless otherwise requested by an agency of the United States, the court shall order that any property forfeited under paragraph (1) be destroyed, or otherwise disposed of according to law.

#### (b) CRIMINAL FORFEITURE.—

(1) PROPERTY SUBJECT TO FORFEITURE.—The court, in imposing sentence on a person convicted of an offense under section 506 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, shall order, in addition to any other sentence imposed, that the person forfeit to the United States Government any property subject to forfeiture under subsection (a) for that offense.

#### (2) PROCEDURES.—

(A) IN GENERAL.—The forfeiture of property under paragraph (1), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

(B) DESTRUCTION.—At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States shall order that any—

(i) forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law; and

(ii) infringing items or other property described in subsection (a)(1)(A) and forfeited under paragraph (1) of this subsection be destroyed or otherwise disposed of according to law.

(c) RESTITUTION.—When a person is convicted of an offense under section 506 of title 17 or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, the court, pursuant to sections 3556, 3663A, and 3664 of this title, shall order the person to pay restitution to any victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii) of this title.

(Added Pub. L. 110-403, title II, §206(a), Oct. 13, 2008, 122 Stat. 4262.)

## CHAPTER 113A—TELEMARKETING FRAUD

Sec.	
2325.	Definition.
2326.	Enhanced penalties.
2327.	Mandatory restitution.

#### PRIOR PROVISIONS

A prior chapter 113A of part I of this title, consisting of section 2331 et seq. and relating to terrorism, was renumbered chapter 113B of part I of this title by Pub. L. 103-322, title XXV, §250002(a)(1), Sept. 13, 1994, 108 Stat. 2082.

### § 2325. Definition

In this chapter, “telemarketing”—