

## **Congress Takes Aim at Counterfeit Drugs**

November 28, 2011 by [Jenevieve Maerker](#)

Bills were introduced in both the House and the Senate earlier this month to increase the penalties for trafficking in counterfeit drugs. Both versions of the proposed “Counterfeit Drug Penalty Enhancement Act of 2011” ([H.R. 3468](#) and [S. 1886](#)) would amend [18 U.S.C. § 2320](#), which criminalizes the use of counterfeit marks on or in connection with goods or services, to provide for enhanced penalties when the good in question is a drug.

A similar measure was introduced in October as part of H.R. 3261, the “Stop Online Piracy Act” or “SOPA,” a bill aimed primarily at shutting down web sites that traffic in goods that infringe copyright or trademark rights. (See [our earlier post for further information on SOPA](#).) The SOPA provision would clarify that § 2320 applies to drugs, but would only enhance the penalties in cases involving serious bodily harm, death, or counterfeit military goods or services.

Given the relatively controversial nature of some of SOPA’s other provisions, it is possible that the new, simpler legislation will prove to be a more efficient route to addressing this one aspect of the counterfeiting and piracy issue.

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