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**NATION**

# Fake 'Made in the USA' cases have increased dramatically since 2016. Here's why.

*Sheep was fined more than \$200,000 for ripping out Made in China labels to de in the USA tags, it was just the latest example of the FTC's stepped-up*

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The \$200,000 fine levied against a Utah clothing company for ripping out "Made in China" tags and replacing them with "Made in the USA" labels is just the latest example of the Federal Trade Commission's stepped-up enforcement efforts that started during President Donald Trump's administration.

Lions Not Sheep was fined \$211,335 after claiming that the company's apparel was American made and adding "Made in the USA" tags to its internationally imported products, according to the FTC.

This week, the FTC also filed a complaint against a marketer after claiming that Adam J. Harmon and two companies he controls falsely told consumers that the personal protective equipment they sold during the pandemic was American made. The commission referred the complaint to the U.S. Justice Department, but the order would require Harmon and the companies to pay \$157,683 as a civil penalty.

The string of complaints comes after the FTC codified a new ruling to deter manufacturers from falsely labeling products with "Made in the USA" tags, which some experts have attributed to the increased number of complaints the commission has filed in the last year.

"They tightened things up and then they really started acting, going after violators more so than in the preceding couple of decades," said Charles Lindsey, an associate marketing professor at the University at Buffalo School of Management.

The rule change last summer was in line with the agency's trend in stepped-up enforcement: 70% of the fake "Made in the USA" cases filed in the past two decades have come since 2016.

Those 14 cases only account for the number of formal complaints the agency filed and do not include the FTC's other methods to encourage compliance.

Over the past 20 years "there were not a lot of enforcement actions but there was a lot of the FTC noticing these false claims, reaching out to companies and correcting them in a more informal way," Alex Brown, a partner at Alston & Bird, told USA TODAY.

"It was always being policed to a certain extent. It just wasn't the public enforcement that you've seen uptick over the course of the last five, six, seven years," said Brown, who has more than a decade of experience with FTC inquiries.

Brown credits the change in the number of formal complaints to the change of FTC leadership, noting that this issue was among former Commissioner Rohit Chopra's enforcement priorities when he assumed the role in 2018.

## **What the new rule says about 'Made in the USA' fraud**

The recent addition is considered a "restatement rule" since it does not impose any new obligations on manufactures, instead it reaffirms and clarifies already existing guidance, which will trigger stricter sanctions against violators, according to a July 2021 statement by Chopra.

The newly affirmed rule states that a product's final assembly or processing must take place within the U.S., all significant processing of a product must occur in the U.S. and that all or most of the product's components are made and sourced within the U.S. to qualify as an American made product.

The rule only applies to labeling claims and will allow the commission for the first time to impose civil penalties of up to \$43,280 per rule violation.

"I think what the FTC is clearly doing is they're sending a message to those companies that may be in the gray area about if they're made in America or not. And they're sending a public warning that says, 'Don't mess with that. Don't take liberties here ... we are regulating,'" Kelly Goldsmith, a marketing professor at Vanderbilt University, told USA TODAY.

## **The financial motive for fake 'Made in the USA' tags**

Goldsmith also noted that the FTC may be working to dissuade manufacturers from falsely labeling products as American-made as the incentive to do so increased with the pandemic.

"I think after what we lived through with COVID and the pandemic, I think there's a lot more hesitation among consumers about consuming things that have this kind of large

international footprint,” Goldsmith said.

“We got COVID that traveled across international borders. We’ve got monkey pox that traveled across international borders, and I think that it may be illogical to worry ... but that doesn’t matter because consumers don’t make decisions based on logic. A lot of the decisions they make are based on emotion,” she added.

While consumer behavior has shifted because of the pandemic, Americans’ desire to purchase American-made goods predates the global health crisis.

A 2013 survey showed that 78% of Americans would rather buy American products and more than 60% would be willing to spend as much as 10% more on American-made goods, according to Consumer Reports National Research Center.

Nearly a decade later, those sentiments held up: A Harris Poll and Retail Brew survey last month showed that 71% of Americans intentionally purchased American products and nearly half of those polled would be willing to pay up to 20% more for American-made products.

“I think ultimately there was a fear if you don’t enforce it, ultimately it becomes meaningless and consumers might not be willing to pay more,” Lindsey added. “I think there was a lot of pressure because of that to maintain the integrity of what it means because research shows, surveys show it’s so valuable.”

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