



DAVID Y. IGE  
GOVERNOR

DOUGLAS S. CHIN  
LIEUTENANT GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION

TO THE SENATE COMMITTEES ON  
TRANSPORTATION AND ENERGY  
AND  
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE  
Regular Session of 2018

Friday, February 9, 2018  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2915, RELATING TO MOTOR VEHICLES.**

TO THE HONORABLE LORRAINE R. INOUE, CHAIR, THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE COMMITTEES:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on S.B. 2915, Relating to Motor Vehicles. My name is Stephen Levins, and I am the Executive Director of the Department’s Office of Consumer Protection (“OCP”). The Department supports this bill and offers the following comments.

This bill adds a new section to Hawaii Revised Statutes (“HRS”) chapter 286 that: (1) prohibits the sale, importation, installation, distribution, and manufacturing of counterfeit supplemental restraint system components, nonfunctioning airbags, or airbags that do not meet federal safety standards; and (2) defines certain terms relating to supplemental restraint systems.

A motor vehicle's Supplemental Restraint System ("SRS") is a sophisticated network of airbags and sensors designed and tested to work in conjunction with the seat belt system to enhance passenger safety in certain types of motor vehicle crashes. The SRS transmits impact data to a control unit that determines the timing and the order of airbag deployment to best protect the occupants. In a collision with enough force, the control unit triggers a propellant that precisely inflates an airbag in milliseconds. Airbags, a critical component of an SRS, generally deploy in two stages depending on factors like collision impact, seat position, and occupant weight. For the SRS to deliver all safety benefits, all components must work as designed; therefore, any changes to the system can affect performance. Using counterfeit airbags that do not integrate with the SRS or perform poorly during a collision can result in severe injuries or death.

The problem of counterfeit airbags has become such a serious public safety concern that in 2012, the National Highway Safety Administration ("NHTSA") issued a consumer safety advisory to alert motor vehicle owners and repair professionals to the dangers of counterfeit airbags. NHTSA warned consumers that counterfeit airbags consistently malfunction in ways that range from non-deployment to expulsion of metal shrapnel. Therefore, anyone who installs a counterfeit airbag in a motor vehicle places the occupants at risk for severe injuries or death. A motor vehicle's safety systems are supposed to protect, not injure. Accordingly, the Department submits that the criminal sanctions in this bill are appropriate to deter anyone from selling or installing a counterfeit airbag.

Also, the Department requests an amendment to page 4, lines 13-14 of the bill, to clarify that criminal remedies are not exclusive:

(d) A violation of this section is a class C felony.

**(e) The remedies prescribed in this chapter are cumulative and in addition to any other remedies provided by law.**

(f) As used in this section:

"Airbag" means a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system.

Thank you for the opportunity to testify on S.B. 2915. I would be happy to answer any questions the Committees may have.



February 9, 2018

The Honorable Lorraine R. Inouye  
Chair, Hawaii Senate Committee on Transportation and Energy  
Hawaii State Capitol, Room 210  
415 S. Beretania St.  
Honolulu, HI 96813

The Honorable Rosalyn H. Baker  
Chair, Hawaii Senate Committee on Commerce, Consumer Protection, and Health  
Hawaii State Capitol, Room 230  
415 S. Beretania St.  
Honolulu, HI 96813

Re: A2C2's Support for S.B. 2915

Dear Chairwomen Inouye and Baker:

On behalf of the Automotive Anti-Counterfeiting Council, Inc. (A2C2) and our membership, I write to express our strong support for S.B. 2915, which would prohibit the trafficking of replacement counterfeit and nonfunctional airbags, and imposes significant criminal penalties for these violations in Hawaii.

The A2C2 is a collaborative industry group comprised of BMW, FCA US, Ford, General Motors, Honda, Hyundai, Kia, Nissan, Subaru, Toyota and their subsidiary brands. Our mission is collaboration among automakers and their partners that strives to eliminate counterfeit automotive components that could harm U.S. consumers. A2C2 is a platform for member companies to collaborate with federal and state authorities in response to increasing trends in automotive counterfeiting.

The emergence and increase of counterfeit airbags and other critical safety parts in the marketplace is extremely troubling as they jeopardize the safety of vehicle occupants. In October 2012, the National Highway Traffic Safety Administration (NHTSA) and multiple federal law enforcement agencies issued a consumer advisory<sup>1</sup> alerting vehicle owners and repair professionals to the dangers of counterfeit airbags and their prevalence in the marketplace.

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<sup>1</sup> NHTSA / ICE Safety Advisory Alerting Consumers to Dangers of Counterfeit Air Bags:  
<https://www.ice.gov/news/releases/nhtsa-ice-alert-consumers-dangers-counterfeit-air-bags>



Airbags are a key component of vehicle supplemental restraint systems (SRS), which are credited with saving countless lives nationwide over the course of their history. A single counterfeit airbag or SRS component part can disrupt an entire SRS system and put occupants at risk for serious injury. Because of the complexity of such parts and the need for effective quality control, many counterfeiters refrain from attempting to replicate the life-saving technology contained in SRS systems. For example, many of the counterfeit airbags that have been recovered and examined in recent years were filled with newspaper or other debris.

While federal law addresses counterfeiting in a broader sense, the A2C2 feels that state legislation prohibiting the trafficking, sale or installation of counterfeit and nonfunctional airbags is important because it provides an additional disincentive to would-be counterfeiters and unscrupulous repair shops. Additionally, state legislation can also assist federal agents by giving them the authority to seize dangerous products that may not technically violate federal trademark law, and therefore fall outside the scope of their authority or jurisdiction. If this occurs, these dangerous products must be released, and are allowed to enter the stream of commerce where they can eventually find their way into the vehicles of unsuspecting motorists.

A2C2 commends the fifteen states that have already enacted legislation to address this problem, and urges Hawaii to join them. If you have any questions, or if the A2C2 can otherwise be of assistance to you, please do not hesitate to let me know.

Thank you for your time and consideration.

Sincerely,



William A. "Andy" Forsythe  
President  
Automotive Anti-Counterfeiting Council, Inc.  
[www.a2c2.com](http://www.a2c2.com)



**SB-2915**

Submitted on: 2/5/2018 5:26:50 PM

Testimony for TRE on 2/9/2018 9:00:00 AM

| <b>Submitted By</b>   | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|-----------------------|---------------------|---------------------------|---------------------------|
| Javier Mendez-Alvarez |                     | Support                   | No                        |

Comments:

**SB-2915**

Submitted on: 2/7/2018 9:38:33 AM

Testimony for TRE on 2/9/2018 9:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Craig Orlan         |                     | Support                   | No                        |

Comments: