



**TESTIMONY BY:**

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**LATE**

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 7, 2020  
1:15 P.M.  
State Capitol, Room 225

**S.B. 3158**  
**RELATING TO MOTOR VEHICLES**

Senate Committee(s) on Transportation and  
Public Safety, Intergovernmental & Military Affairs

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The Department of Transportation (DOT) **supports** S.B. 3158 which prohibits a person from intentionally or knowingly manufacturing, importing, installing, reinstalling, distributing, selling, or offering for sale any counterfeit supplemental restraint system component, nonfunctional airbag, or airbag that does not meet federal safety requirements.

The purpose of the bill is to curtail the distribution of counterfeit airbags in Hawaii. Since air bags are an important safety device, vehicle owners who have them repaired expect the repair to be completed properly. This bill provides recourse for motor vehicle owners who have the misfortune of having an air bag replaced with a worthless counterfeit.

Thank you for the opportunity to provide testimony.



February 5, 2020

Chair Lorraine R. Inouye and Members of the Committee  
Committee on Transportation  
Hawaii Senate

Chair Clarence K. Nishihara and Members of the Committee  
Committee on Public Safety, Intergovernmental, and Military Affairs  
Hawaii House of Representatives

RE: Support for Senate Bill 3158 – Counterfeit Airbags

Dear Chairs Inouye and Nishihara, and Members of the Committees:

The National Insurance Crime Bureau (NICB) is a national, century-old, not-for-profit organization supported by approximately 1,300 property and casualty insurance companies including many who write business in Hawaii. Working hand-in-hand with our member companies and law enforcement, we investigate organized criminal conspiracies dealing with insurance fraud and vehicle crime.

Counterfeit airbags are a national and growing concern. The National Highway Traffic Safety Administration (NHTSA) states that counterfeit airbags have been shown to “consistently malfunction,” from non-deployment to the expulsion of metal shrapnel during deployment. John Morton, then-director of U.S. Immigration and Customs Enforcement warned: “These airbags don't work. They're not going to save you in an accident. They are a fraud and a danger from start to finish, and you don't want them in your car, period.”

How counterfeit airbags are procured varies, from consumer unwittingly purchasing them on eBay to unscrupulous body shops purposely installing counterfeit bags while billing consumers and insurers for genuine, original bags.

No matter how counterfeit airbags are obtained and installed in the vehicles of unsuspecting motorists, the results can be deadly. For this reason, the NICB urges your support for SB 3158.

Thank you for your review and consideration; if you have any questions or need additional information, please contact me at [hhandler@nicb.org](mailto:hhandler@nicb.org) or 847-544-7083.

Sincerely,

A handwritten signature in blue ink that reads "Howard Handler".

Howard Handler  
Director, Government Affairs



**SanHi**

GOVERNMENT STRATEGIES  
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 6, 2020

TO: Senator Lorraine Inouye  
Chair, Committee on Transportation

Senator Clarence Nishihara  
Chair, Committee on Public Safety  
*Submitted Via Capitol Website*

FROM: Tiffany Yajima

RE: **S.B. 3158 – Relating Motor Vehicles**  
**Hearing Date: Friday, February 7, 2020 at 1:15p.m.**  
**Conference Room: 225**

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Dear Chair Inouye, Chair Nishihara and Members of the joint Committees:

We submit this testimony on behalf of the Alliance for Automotive Innovation.

The Alliance for Automotive Innovation is the singular, authoritative and respected voice of the automotive industry. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents the manufacturers producing nearly 99 percent of cars and light trucks sold in the U.S. Members include motor vehicle manufacturers, original equipment suppliers, technology, and other automotive-related companies and trade associations.

The Alliance **strongly supports** S.B. 3158, which would prohibit a person from intentionally or knowingly manufacturing, importing, installing, reinstalling, distributing, selling, or offering for sale any counterfeit supplemental restraint system component, nonfunctional airbag, or airbag that does not meet federal safety requirements.

Supplemental restraint systems, commonly referred to as airbags, are one of the most important safety features of today's automobile. These devices have saved countless lives and reduced the severity of injury of those involved in automobile accidents an immeasurable number of times.

Counterfeit airbags present a serious public safety risk to consumers. Counterfeit airbags are known to malfunction by either failing to inflate or by inflating but expelling dangerous shrapnel. We believe regulation of counterfeit airbags will play an important role in maintaining the integrity of this life-saving device.

Thank you for the opportunity to submit testimony in support of this measure.



**LATE**

John Uekawa, President  
Dave Rolf, Executive Director

HADA TESTIMONY with CONCERNS and voicing  
STRONG OPPOSITION UNLESS AMENDED AS PROPOSED  
on SB3158

RELATING TO MOTOR VEHICLES

Presented to the Senate Committee on Transportation and the Senate Committee on Public Safety,  
Intergovernmental and Military Affairs  
At the Public Hearing, 1:15 p.m. Thursday, February 7, 2020  
Conference Room 225, Hawaii State Capitol

Chairs Inouye and Nishihara, vice chairs Harimoto and Waikai and members of the committees:

This bill may have the unintended consequence of exposing to felony prosecution a person who sells a used vehicle unless the focus of the measure can be focused on persons with the intent, or those who engage in the act, of replacing the vehicle's airbag device with a counterfeit airbag.

Language from Connecticut proposes a felony penalty for anyone who engages in the sale of such non-authorized products with the intent that "such devices" be used to "replace" the original equipment manufacturer (automaker) airbags.

In discussions with some of the proponents of this bill we agreed upon language from Connecticut that puts the focus on "such devices" and the act or intent of replacing an airbag with a counterfeit device. Please see the following proposed amendment:

Counterfeit airbags. (a) No person shall intentionally or knowingly manufacture, import, install, reinstall, distribute, sell, or offer for sale any counterfeit supplemental restraint system component, nonfunctional airbag, or airbag that does not meet federal safety requirements as provided in title 49 Code of Federal Regulations section 571.208 with the intent that such device replace an air bag in any motor vehicle.

Thank you for the opportunity to testify on this measure.

Respectfully submitted,  
David Rolf for the members of the Hawaii Automobile Dealers Association





**HONDA**

**Honda North America, Inc.**  
1001 G Street, N.W. Suite 950  
Washington, D.C. 20001  
Phone (202) 661-4400

February 7, 2020

Senator Lorraine Inouye  
Senate Transportation Committee  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

**Re: Honda's Support for Senate Bill 3158 (Prohibiting Counterfeit Airbags)**

Dear Chairwoman Inouye:

Thank you for the opportunity to express Honda's strong support for SB 3158, which prohibits the knowing and intentional trafficking of counterfeit supplemental restraint systems and nonfunctional airbags. Honda is aware of several instances across the country where these products have seriously injured or even killed motorists. Last year CBS news did a story highlighting one such fatality in Texas.<sup>1</sup> To combat this problem Honda is taking a holistic approach, and has spent the past several years working with a broad coalition of stakeholders to raise awareness of this problem, remove internet listings of these products, support federal law enforcement investigations and prosecutions, and to supplement federal law with state laws to protect consumers from these dangerous knockoffs.

While counterfeit parts are not new to the industry, automakers have seen a dramatic rise in the number of counterfeit and otherwise "nonfunctional" critical safety components entering the marketplace in recent years. These products primarily originate in China and are imported to the United States. Here they are sold online to unscrupulous repair shops who install these products in the vehicles of unknowing consumers. While consumers may not be able to tell the difference between real and fake airbags, those manufacturing, selling and installing these products can. There are a number of physical tells and other red flags that are obvious to repair professionals, several of which are explained in detail on the attached "SPOT A FAKE" handout.

Thousands of these imitation airbags have been tested over the years and in every case these knockoffs have failed to meet federal crash worthiness standards, often catastrophically. In 2012 The National Highway Traffic Safety Administration (NHTSA) issued a consumer advisory warning the public about this problem and released a now famous video showing just how dangerous these products can be.<sup>2</sup> Because of the cost and precision involved in replicating airbag technology, many counterfeiters do not even bother to try. Instead they chose to fill airbags with sawdust, newspaper, paper towels, Styrofoam or other debris that were never intended to provide vehicle occupants with protection during a crash.

The automotive industry is working closely with federal authorities in Homeland Security, Customs and Border Protection and the FBI to identify counterfeit airbags and prosecute those responsible when possible. Unfortunately, despite their best efforts, federal agents have limited authority to combat this

<sup>1</sup> <https://dfw.cbslocal.com/2019/02/25/fake-airbag-filled-black-tape-shop-rag-deadly-crash/>

<sup>2</sup> <https://www.youtube.com/watch?v=TSk2JUuQ3j0>

problem. Federal authorities are only able to prosecute counterfeiters when they violate federal trademark law. This occurs when a registered trademark or a mark substantially similar to a registered trademark is used on an airbag without the approval of the rights-holder. Because the majority of legitimate airbags and airbag components do not contain trademarks, those trafficking in fakes cannot be prosecuted under trademark law. Even when these fakes are discovered by authorities they are often eventually released and can find their way into the marketplace. Additionally, in some cases counterfeiters are shipping airbags without an affixed trademark in order to avoid confiscation and prosecution. Once in the country, the manufacturer's insignia is attached and the counterfeit is sold.

Because of these shortcomings, Honda has worked with a coalition of stakeholders to push for legislation in states across the country to supplement federal law. Over time, this coalition has grown to include automakers, auto dealers, insurers, automotive recyclers and several safety advocates. Current law in Hawaii is silent on the topic of airbag fraud. This bill would make it a crime and allow state and federal cooperation to address this critical safety issue.

Over the past five years our coalition has enacted similar laws in twenty-two other states with overwhelming bipartisan support. This legislative effort has also been adopted as model legislation by the Council of State Governments in the 2015 "Suggested State Legislation" docket and was endorsed by the National Foundation of Women Legislators in November of 2017. Honda respectfully asks for your support in enacting this important consumer safety legislation in Hawaii as well.

Thank you again for your time and interest in this important safety issue. Customer safety has always been at the core of Honda's philosophy, which is why eleven Honda and Acura models earned the Insurance Institute for Highway Safety's Top Safety Pick award for model year 2019 and why Honda is considered a safety leader in the industry.

Honda is proud of its relationship with Hawaii, which is home to the 49 authorized Honda and Acura dealers who employ over 900 people and provide Hawaii consumers with a wide range of products that utilize the latest environmental and safety technologies. For more information about Honda's presence in the United States or our safety leadership, please visit [www.hondainamerica.com](http://www.hondainamerica.com) or follow us on Twitter @HondaInAmerica.

Thank you for your time and attention on this very important consumer protection issue. If you have any questions, or if Honda can otherwise be a resource for you please do not hesitate to contact me.

Sincerely,



Craig Orlan  
Senior State Relations Specialist  
Honda North America, Inc.



# SPOT A FAKE



## HOW TO IDENTIFY A COUNTERFEIT AIRBAG?



**Counterfeit airbags are out there, and pose a serious risk to consumer safety!**

The following 18 states have enacted Honda's model legislation to prohibit the trafficking of dangerous counterfeit and nonfunctional airbags:  
AL | CA | CT | FL | GA | IA | LA | MA | MD | NJ | NM | NY | OH | RI | SC | TN | TX | WA



### Still images taken from NHTSA's test video of counterfeit airbags in 2012

Over the past several years, tens of thousands of ineffective counterfeit airbags have been discovered by multiple law enforcement agencies in raids across the country. These products are imported to the United States where they are sold online to unscrupulous repair shops who knowingly and intentionally install these products in the vehicles of unwitting consumers. In 2012 the National Highway Traffic Safety Administration (NHTSA) issued a consumer advisory alerting vehicle owners about the danger these airbags pose. This is a problem that impacts not just Honda vehicles, but nearly every make and model vehicle on the road, putting thousands of motorists at risk for serious injury or death.

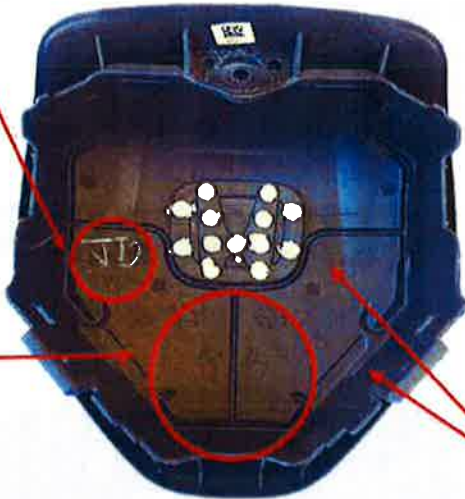
Flip the page to learn more about the key differences between genuine OEM airbags and counterfeit airbags

**HONDA**



Quality inspector's initials

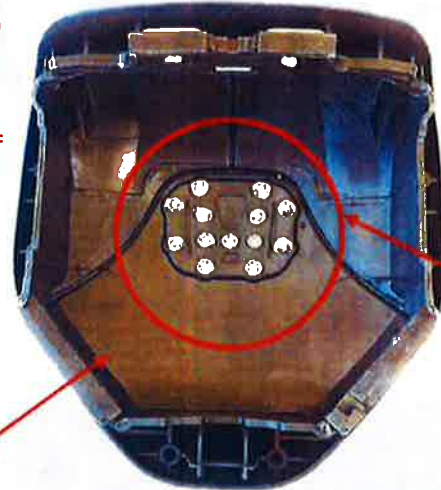
### Genuine Honda



Information used for quality control

OVERALL REAR DESIGN OF THE COUNTERFEIT IS NOT CONSISTENT WITH THAT OF THE GENUINE

### Counterfeit



Emblem improperly attached by melting with heat

### Genuine Honda



Airbag covers are engineered so that upon deployment, the cover splits along well designed tear seams. This creates a flap that allows the rapidly inflating bag to pass through the cover and create an air cushion without injuring the vehicle occupants. Counterfeits use poor quality molds and materials that do not open as designed.

Genuine OEM inflators are precisely secured and carefully fitted over a metal plate to ensure that the inflator remains in its proper position in the event of a collision. Counterfeit inflators are often very loosely attached presenting a serious safety risk to motorists if the inflator were to deploy.

### Counterfeit



### Genuine Honda



### Counterfeit



Genuine airbags are labeled and precisely folded to ensure a consistent and safe deployment in the event of a collision. Counterfeit airbags are often haphazardly packed and folded, which can result in an improper and extremely dangerous deployment. Because of the cost and precision involved in replicating genuine airbag technology, many counterfeiters do not even bother to try. Instead they chose to fill airbags with Styrofoam or other debris that will not provide occupants with any protection in the event of a collision.

### Genuine Honda



### Counterfeit



New genuine OEM airbags can only be purchased from authorized OEM dealerships as required by state motor vehicle franchise laws and OEM / dealer contracts. Because of the explosive nature of these products, they are carefully packaged and labeled as a Class 9 Hazmat as required by federal law. Counterfeit airbags are sold over the internet on various e-commerce websites, often at unreasonably low price points. They are improperly packaged without proper indications that a hazardous material is in the box.

**While some of these differences may not be obvious to consumers, they are to automotive repair professionals!**

If you have any questions please feel free to reach out to Ember Brillhart or Craig Orlan in Honda's Government Affairs office at 202.661.4400