

February 14, 2024

The Honorable Dick Sears, Jr.
Vermont Senate Judiciary Committee
115 State Street, Rm. 1
Montpelier, VT 05633-5301

Re: Support for Senate Bill 309

Dear Chairman Sears and Members of the Senate Judiciary Committee,

Thank you for the opportunity to express Honda's strong support for Senate Bill 309, legislation that includes a provision that would prohibit the trafficking of counterfeit airbags in Vermont. Honda is aware of several instances across the country where these products have seriously injured or even killed motorists. CBS news recently did a story highlighting one such fatality in Texas¹. 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 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. They are then 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, there are a number of physical tells and other red flags that are obvious to sellers and repair professionals.

Hundreds of these imitation airbags have been tested over the years and in every case the 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.²

Because of the cost and precision involved in replicating airbag technology, many counterfeiters do not even bother to try replicating the technology. Instead, they chose to fill airbags with sawdust, newspaper, paper towels, Styrofoam or other debris that is not 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 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 approval. Because the majority of legitimate airbags and airbag components do not contain trademarks, those

¹ <https://preview.msn.com/en-us/tv/golden-globes-video/counterfeit-airbag-found-in-deadly-north-texas-crash/vp-BBU5IQM>

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

trafficking in fakes cannot be prosecuted under trademark law. Even when these fakes are discovered by authorities they are often released and can eventually find their way back 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. This coalition has grown to include automakers, auto dealers, insurers, automotive recyclers and local safety groups. Over the past several years, our coalition has enacted similar laws in thirty-four states with overwhelming bipartisan support. Honda respectfully asks for your support in enacting this important consumer safety legislation in Vermont as well.

We appreciate your attention to this important safety issue. Honda is proud of our relationship with Vermont, which is home to 39 authorized Honda and Acura dealerships that employ more than 400 people and provide Vermont consumers with a wide range of products that utilize the latest environmental and safety technologies. For more information on Honda's presence in the United States or our safety leadership, please visit www.hondainamerica.com or follow us on X, formerly known as Twitter, at @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
Director of State and Local Government Affairs
American Honda Motor Company, Inc.

CC: Members of the Vermont Senate Judiciary Committee