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**TESTIMONY BY:**

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

March 13, 2020  
10:15 A.M.  
State Capitol, Room 423

**LATE**

**S.B. 3158, S.D. 1**  
**RELATING TO MOTOR VEHICLES**

House Committee on Transportation

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The Department of Transportation **supports** S.B. 3158, S.D. 1 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.



**SanHi**

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: March 12, 2020

TO: Representative Henry Aquino  
Chair, Committee on Transportation

FROM: Tiffany Yajima

RE: **S.B. 3158, S.D.1 – Relating Motor Vehicles**  
**Hearing Date: Friday, March 13, 2020 at 10:15a.m.**  
**Conference Room: 423**

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Dear Chair Aquino, Vice Chair Hashimoto and Members of the Committee on Transportation:

On behalf of the Alliance for Automotive Innovation we submit this testimony in **strong support** for S.B. 3158, S.D.1.

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.

This measure 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.

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. Unfortunately, there has been a dramatic rise in the number of counterfeit or nonfunctional airbags in recent years. These products primarily originate overseas and are imported to the United States where they can be installed in the vehicles of unknowing consumers.

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. Regulation of counterfeit airbags will play an important role in maintaining the integrity of this life-saving device.

Current Hawaii law is silent on the topic of counterfeit airbags. This measure would bring Hawaii in line with at least 22 other states that have adopted similar legislation to address this critical consumer safety issue.

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

March 12, 2020

Chairman Henry J.C. Aquino  
Hawaii State Capitol, Room 419  
415 S. Beretania St.  
Honolulu, HI 96813

**LATE**

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

Dear Chairman Aquino and Members of the House Transportation Committee,

On behalf of the Automotive Anti-Counterfeiting Council, Inc. (A2C2), and our membership, I write to express our strong support for Senate Bill 3158, which prohibits the trafficking of replacement counterfeit and nonfunctional airbags and supplemental restraint systems (SRS), and imposes a penalty for these violations in Hawaii.

The A2C2 is a collaborative industry group comprised of FCA US, Ford, General Motors, Honda, Hyundai, Kia, Nissan, Subaru, Toyota, Volkswagen Group of America, 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. Airbags are a key component of vehicle supplemental restraint systems, 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.

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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>

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 and supplemental restraint systems is important because it provides an additional disincentive to would-be counterfeiters and unscrupulous repair shops.

A2C2 commends the 22 states that have already enacted similar 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,



Teena Bohi  
President  
Automotive Anti-Counterfeiting Council, Inc.  
[www.a2c2.com](http://www.a2c2.com)



**HONDA**



**TOYOTA**

**VOLKSWAGEN**  
GROUP OF AMERICA



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March 12, 2020

Chairman Henry J.C. Aquino  
Hawaii State Capitol, Room 419  
415 South Beretania Street  
Honolulu, HI 96813

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

Dear Chairman Aquino:

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 in Hawaii. 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.

Countless 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 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

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<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>



March 12, 2020

Chair Henry J.C. Aquino  
Committee on Transportation  
Hawaii House of Representatives

RE: Support for Senate Bill 3158, SD1 – Counterfeit Airbags

Dear Chair Aquino and Members of the Committee:

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, SD1.

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