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June 9, 2016

The Honorable Nikki R. Haley  
Office of the Governor  
1205 Pendleton Street  
Columbia, SC 29201

**Re: Honda's Support for S.B 1015 (Counterfeit Airbag Prohibition)**

Dear Madam Governor:

I would like to express Honda's strong support for S.B. 1015 and ask that you sign this important consumer protection bill into law. This bill will prohibit the manufacture, importation, installation, reinstallation or sale of counterfeit and nonfunctional airbags in South Carolina.

Airbags are an essential component of modern vehicle safety systems, with several installed throughout each vehicle cabin as required by federal law. In the milliseconds after a collision, vehicle sensors measure critical information such as the size and position of the passenger, as well as the point and force of the impact. The vehicle then deploys each airbag in a specific order and with a precise amount of force to best protect the occupants. This level of precision requires each component to work as it was intended for the specific make, model and year of the vehicle for which it was designed. We encourage you to visit our website<sup>1</sup> to see video evidence of just how deadly the difference in one airbag inflating seven one-hundredths of a second early or late can be.

In 2010, federal authorities made Honda aware of a growing problem with cheap and ineffective counterfeit airbags entering the U.S. stream of commerce from China. While those airbags looked authentic from the outside, testing by the federal authorities, Honda, and independent third parties confirmed that the counterfeiters were unable to replicate the technology required to protect consumers in the event of a collision.<sup>2</sup> Because of the cost and precision involved in replicating our technology, many counterfeiters did not even bother to try. Instead they chose to fill airbags with sawdust, newspaper, paper towels, styrofoam or other debris that was never intended to provide vehicle occupants with protection during a crash.<sup>3</sup> These counterfeit airbags are then advertised as new and sold over the internet in an attempt to make a profit by defrauding consumers at the expense of public safety.

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<sup>1</sup> <http://collision.honda.com/airbagaware>

<sup>2</sup> <https://www.youtube.com/watch?v=B9pLMA6Tw2o>

<sup>3</sup> See Attachment #1

This problem is so widespread that on October 10, 2012, the National Highway Traffic Safety Administration (NHTSA) issued a consumer advisory<sup>4</sup> alerting vehicle owners and repair professionals about the danger. This advisory shows that this is a problem that impacts not just Honda vehicles, but nearly every make and model vehicle on the road and is putting thousands of motorists at risk for serious injury or even death.

Since discovering this problem, and because of the inherent danger these products pose to our customers, Honda has made combating these products a priority. We have launched a website [www.airbagaware.com](http://www.airbagaware.com) filled with news articles and videos in order to raise public awareness about this problem among consumers, repair professionals and policy makers. We have also worked closely with federal authorities in Homeland Security, Customs and Border Protection and the FBI to identify counterfeit airbags and prosecute those responsible when possible. Over the past few years, several thousand counterfeit airbags have been confiscated in raids across the country. To date, Honda has worked with federal authorities to secure the conviction of 16 people for trafficking counterfeit airbags.<sup>5</sup> Unfortunately, this is just the tip of the iceberg.

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 a fake airbag without the approval of the manufacturer or authorized parts supplier.<sup>6</sup> The majority of legitimate airbags, including passenger and side-curtain airbags do not contain trademarks and therefore fakes cannot be prosecuted under trademark law. Even when these fakes are discovered by authorities they must eventually be released and can eventually find their way into the marketplace. Additionally, counterfeiters are becoming increasingly aware of this loophole and are shipping driver-side airbags without the trademark in order to avoid confiscation and prosecution. Once in the country, the manufacturer's insignia is attached and the counterfeit product is sold.

Because of these shortcomings in federal law, Honda has worked with a coalition of stakeholders to push for legislation in states across the country that address these inadequacies. Over time this coalition has included automakers, insurers, automotive recyclers, local safety groups and other stakeholders. The airbag definition in Senate Bill 1015 is broad enough to include all airbags not designed in accordance with federal motor vehicle safety standards. The bill also addresses those who knowingly manufacture, sell and install these products into the vehicles of unknowing consumers. We believe that this bill will provide a real disincentive to someone who would consider engaging in this heinous act, and allow the state to pursue such actors. It will also allow federal authorities to confiscate these products when they are discovered. Over the past three years our coalition has enacted similar laws in twelve states (AL, CT, FL, IA, LA, MD, NJ, NM, NY, OH, TX, & WA) by a combined vote of 1721-1.<sup>7</sup> This bill was also adopted as model legislation by the Council of State Governments in their 2015 "Suggested State Legislation"

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<sup>4</sup>

<http://www.nhtsa.gov/About+NHTSA/Press+Releases/2012/Safety+Advisory:+NHTSA+Alerting+Consumers+to+Dangers+of+Counterfeit+Air+Bags>

<sup>5</sup> See attachment #1

<sup>6</sup> <http://www.uspto.gov/sites/default/files/tmLaw.pdf>

<sup>7</sup> See attachment #2

earned the Insurance Institute for Highway Safety's Top Safety Pick or Top Safety Pick + awards for model year 2015, and why Honda is considered a safety leader in the industry.

Honda is proud of our relationship with South Carolina which is home to Honda of South Carolina Mfg., Inc. which is the world headquarters of Honda's ATV and Side by Side production. This facility began production in 1998 and represents a \$338 Million dollar capital investment in the state. The facility currently employs over 900 associates who produce 266,000 ATVs and Side by Side vehicles and 310,000 engines annually. Additionally, South Carolina is home to 182 authorized Honda and Acura dealerships that employ over 1,900 residents and provide South Carolina consumers with a wide range of products that utilize the latest environmental and safety technologies. For more information on Honda's presence in South Carolina please visit [www.hondainamerica.com](http://www.hondainamerica.com) or follow us on Twitter @hondainamerica.

If you have any questions, or if Honda can otherwise be a resource for you please don't hesitate to contact me or Craig Orlan in our government affairs office at (202) 661-4400.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gary Mabrey", followed by a small flourish.

Gary Mabrey  
President