



## NATIONAL CONFERENCE of STATE LEGISLATURES

*The Forum for America's Ideas*

June 14, 2018

The Honorable Orrin Hatch  
Chairman  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Ron Wyden  
Ranking Member  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

**Deb Peters**  
*Senator – District 9  
South Dakota  
President, NCSL*

**Chuck Truesdell**  
*Fiscal Analyst  
Office of Budget Review  
Legislative Research Commission  
Kentucky  
Staff Chair, NCSL*

**William T. Pound**  
*Executive Director*

RE: Request for Information to Educate Americans on Dangers of Counterfeit Goods

Dear Chairman Hatch, Ranking Member Wyden and Members of the Senate Committee on Finance,

On behalf of the National Conference of State Legislatures (NCSL), the bipartisan organization representing the legislatures of our nation's states, commonwealths and territories, we write to express our support of congressional action to protect our mutual constituents from counterfeit and hazardous goods bought and sold online. Furthermore, we express our support of the Committee's recent request for information on the proliferation of counterfeit goods from rights holder associations, online retailers, shipping companies, and payment processors. These industries are vital partners in the quest to secure international shipping logistics and methodology.

As conventional commerce swiftly transitions to e-commerce, our nation is being flooded with millions of small packages originating in foreign countries. Unfortunately, statistics continue to show that a significant percentage of these packages contain counterfeit items, posing health and safety issues for unknowing consumers.<sup>1</sup> Current events dictate that the status quo change. Porous international shipping channels must become more resistant to the methods of e-commerce criminals. Glaring weaknesses in current protocols must be addressed.

The health and safety of our nation's consumers and the intellectual property (IP) rights of our nation's innovators must be of the highest priority for Congress and the Administration. Counterfeit and hazardous items are hurting, even killing, unknowing purchasers. Manufacturers are being sued for defective products that imitate their likeness and trademarks. From counterfeit air bags and defective solar sunglasses to lethal controlled substances and prescription medications, states are becoming inundated with hazardous items. The recent surge in e-commerce and accompanying volume of in-bound packages has overwhelmed state and local law enforcement's ability to effectively locate and investigate suspect packages. Moreover, in many cases, consumers have no recourse, legal or otherwise.

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<sup>1</sup> Government Accountability Office, *Agencies Can Improve Efforts to Address Risks Posed by Changing Counterfeits Market*. GAO-18-216. January 30, 2018. In this particular study, 43 percent of items purchased online were determined to be counterfeits by the real products' manufacturers and intellectual rights holders.

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United States Customs and Border Protection (CPB) has implemented advance electronic manifesting and security screening as a key tool for identifying and intercepting high-risk shipments that may include illegal or dangerous goods such as synthetic drugs. Pursuant to the Trade Act of 2002, private shipping and logistics companies are legally required to provide this important electronic data to CBP before packages arrive in the US. This provision, however, exempts the United States Postal Service (USPS), which delivers over 400 million packages brought into the United States from the posts of foreign countries each year. The vast majority of packages coming into the United States, including nearly 300 million each year from China, the leading source of counterfeit goods and synthetic narcotics, enters our country without this important electronic security data. This exemption is a threat to our national security.

Under the growing threat of foreign-based counterfeiters, drug producers and IP infringers, it is critically important that CBP have access to advance electronic manifest data for all packages coming into the United States; however, NCSL recognizes that there is not one simple fix for this pervasive and wide-spread problem. Law enforcement, Congress and industry must work together to strengthen our nation's defenses against e-commerce threats. NCSL supports Congress' efforts to reign-in counterfeit goods, increase IP protections for our nation's innovators and close shipping and logistics loopholes. Should you have questions or need additional information about NCSL's position on counterfeit goods, e-commerce and IP, please feel free to contact Ethan Wilson (202-624-8686 / [ethan.wilson@ncsl.org](mailto:ethan.wilson@ncsl.org)).

Sincerely,



Senator Wayne Harper, Utah



Representative Brian Patrick Kennedy, Rhode Island  
Speaker Pro Tem

Co-chairs of NCSL's Communications, Financial Services and Interstate Commerce Committee