

4 pending anti-counterfeiting bills:

Shop Safe Act - HR6058

SANTA Act - S3073

Inform Consumers Act - F3431

Counterfeit Goods Seizure Act of 2019 - S.2987

HR6058: Stopping Harmful Offers on Platforms by Screening Against Fakes in E-Commerce Act—the “Shop Safe” Act.

Introduced March 2, 2020 by Rep. Jerry Nadler

- Latest Action: Introduced in House

Purpose: To make e-commerce platforms contributorily liable when third-party sellers use counterfeit marks in connection with the sale of goods that involve the health or safety of the purchaser.

- “Health or Safety” - The bill defines such goods as those whose use could lead to illness, disease, injury, adverse event, allergic reaction, or death. So covers counterfeit car seat, but not designer handbag.

The SHOP SAFE Act would amend section 32 of the Trademark Act of 1946 to make e-commerce platforms contributory liable for use of a counterfeit mark by a third-party seller unless the platforms satisfy the statutory requirements (10 "best practices"). It applies only to "goods that implicate health and safety," as defined in the bill. The 10 best practices:

1. Verifying the seller's identity, location, and contact information.
2. Requiring the seller to verify and attest that its goods are not counterfeit.
3. Conditioning the seller's use of the platform on agreeing not to sell counterfeits and consenting to being sued in U.S. court.
4. Displaying the seller's identity, location, and contact information; where the goods are made; and from where the goods will be shipped.
5. Requiring sellers to use images that accurately depict the actual goods offered for sale and that the seller owns or has permission to use.
6. Using technology to screen for counterfeits before a seller's goods appear on the platform.
7. Implementing a timely takedown process for removing listings for counterfeit goods.
8. Terminating sellers that have listed or sold counterfeit goods three times.
9. Screening sellers to prevent terminated sellers from rejoining or remaining on the platform under a different alias or storefront.
10. Sharing an infringing seller's information with law enforcement and, upon request, the owner of the registered trademark.

A copy of the full bill text can be found [here](#).

A section by section analysis of the bill can be found [here](#).

A one-pager on the bill can be found [here](#).

S. 3073: Stop All Nefarious Toys in America—the SANTA Act

Introduced Dec. 17, 2019 by Sen. Bill Cassidy

- Latest action: Referred to the Committee on Commerce, Science, and Transportation

Purpose: To require online marketplaces verify and disclose the identities of sellers selling children's products.

The SANTA Act would require online marketplaces to verify and disclose to consumers the identities, business address, phone number, and email address of those who sell children's products. An online marketplace would need to obtain a third-party seller's bank account information, government-issued photo identification, and business contact information as well. Consumer protection against counterfeit children's products will be strengthened by the disclosure of verified information about online sellers.

A copy of the full bill text can be found [here](#).

S. 3431: “Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act”—the INFORM Consumers Act

Introduced March 10, 2020 by Sen. Bill Cassidy

- Latest action: Referred to the Committee on Commerce, Science, and Transportation

Purpose: To require online marketplaces to disclose certain verified information regarding high-volume third party sellers of consumer products to inform consumers.

Third-party sellers trick consumers into buying counterfeit and hazardous products online. This bipartisan bill provides information so that consumers can distinguish between genuine retailers and frauds in the internet marketplace. The Act instructs online marketplaces to order their high-volume third-party sellers to disclose to consumers the seller's name, business address, email address, phone number and whether the seller is a manufacturer, importer, retailer or a reseller of consumer products. The sellers will be verified by supplying the seller's government ID, tax ID, bank account information and contact information. High-volume third-party sellers are defined as vendors who have made 200 or more discrete sales in a 12-month period amounting to \$5,000 or more. These measures inform consumers and aid in avoiding the purchasing of counterfeit goods.

A copy of the full bill text can be found [here](#).

S.2987 **Counterfeit Goods Seizure Act of 2019**

Introduced Dec. 5, 2019 by Sen. Thom Tillis

- Latest action: Referred to the Committee on Finance

Purpose: A bill to authorize U.S. Customs and Border Protection to seize imported merchandise that infringes a design patent, and for other purposes.

Customs and Border Patrol (CBP) currently has authority to seize goods that infringe trademarks and copyrights, but does not have authority to seize goods based on design patent infringement. Co-sponsor of the bill Senator Hirono explained: “While Customs and Border Protection has the authority to seize products that infringe copyrights and trademarks at the border, it lacks this same authority for products that infringe a design patent.” Counterfeiters exploit this loophole by removing or covering infringing trademarks on imported counterfeit products. The CPB then clears the counterfeit products, only for the counterfeiters to add or uncover the infringing trademark once the product has cleared customs. The Counterfeit Goods Seizure Act of 2019 closes this loophole by expanding the direct seizure authority of CBP to include design patents.

A copy of the full bill text can be found [here](#).

The Intellectual Property Owners Association and American Intellectual Property Law Association wrote a [letter of support](#). The International Trademark Association also wrote a [letter of support](#).