

The SHOP SAFE Act, H.R. 5374

Stopping Harmful Offers on Platforms by Screening Against Fakes in E-commerce

Customers may be unknowingly purchasing harmful counterfeit products when they make an online purchase—and the problem is growing.

- More and more American consumers are shopping online. U.S. e-commerce sales in 2020 exceeded \$790 billion.
- But counterfeiters have moved online too. They frequently take advantage of the features of online platforms to appear legitimate. They may use false and unvetted credentials. And they may make their counterfeit listings appear authentic to online shoppers, often by lifting wording and images from a real brand owner.
- As a result, it is surprisingly easy for customers to be misled into buying counterfeit products online. *Some reports estimate that about one-quarter of U.S. consumers have unknowingly purchased a counterfeit good online.*
- Most troubling, counterfeiters can escape the strict health and safety standards and regulations with which authentic products must comply, posing significant threats to Americans' health and safety. Counterfeit toys, car seats, cosmetic products, electronics, bicycle helmets, and car parts have all be found on online marketplaces.

The SHOP SAFE Act aims to reduce the availability of harmful counterfeit products by incentivizing online platforms to adopt best practices that will prevent third-party sellers from listing counterfeit products for sale.

- Current law holds direct sellers, like brick-and-mortar retailers, liable for the sale of counterfeit products. But, under current law, platforms that allow third-party sellers to sell harmful counterfeit products are often not liable for the sales of those counterfeit products, even when the third-party seller is unavailable to remedy damage to a brand owner.
- The SHOP SAFE Act aims to combat the sale of unsafe counterfeit products by incentivizing platforms to engage in best practices for screening and vetting sellers and products, addressing repeat counterfeiter sellers, and ensuring that consumers have relevant information available to them when they make their online purchases.
- The Act is tailored to products that have a health or safety impact, targeting counterfeit products that have the most serious consequences for consumers.
- The SHOP SAFE Act will protect consumers by reducing the presence of counterfeits online.

The SHOP SAFE Act takes a balanced approach.

- When platforms follow the best practices in the bill, they have a safe harbor from counterfeit listings of third-party sellers.
- The Act includes a provision to combat the improper use of the notice-and-takedown procedure.