



**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
OFFICE OF CONSUMER PROTECTION**

DAVID Y. IGE
GOVERNOR

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

STEPHEN H. LEVINS
EXECUTIVE DIRECTOR, OFFICE OF CONSUMER PROTECTION

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Hawai'i Reaches \$7 Million Settlement With Takata Over Dangerous Airbags

The Department of Commerce and Consumer Affairs Office of Consumer Protection on behalf of the State of Hawai'i today announced a settlement with Takata Corporation and its U.S. subsidiary, TK Holdings, Inc. (Takata) over the State's claims that Takata engaged in unlawful practices in connection with the marketing and sale of its dangerous airbags installed in vehicles sold to Hawai'i consumers.

Takata, which is currently in bankruptcy and will probably cease to exist before the end of this year, agreed to pay Hawai'i, along with two other jurisdictions, the U.S. Virgin Islands and the State of New Mexico, approximately \$7 million, which represents the largest payment to any state or group of states related to the dangerous Takata airbags. Of this amount, Hawaii will receive the largest portion, which is projected to be approximately \$3 million.

The use of Takata's airbags led to the largest recall in automotive history, involving more than 40 million vehicles in the U.S. and a \$1 billion criminal plea agreement with the federal Department of Justice, and resulted in TK Holdings filing for Ch. 11 bankruptcy in June 2017. The settlement, which the Office of Consumer Protection achieved by continuing to pursue its claims and protect Hawaii's rights in the bankruptcy, has now been approved by the United States bankruptcy court.

In May 2016, Hawai'i was the first state to file a lawsuit against Takata and Honda for causing millions of cars to be sold with the dangerous airbags. In May 2017, the State filed a second lawsuit against three more automakers – Toyota, Nissan, and Ford. The U.S. Virgin Islands and the State of New Mexico, who join Hawai'i in the \$7 million settlement, also filed lawsuits against Takata and the automakers.

Hawai'i alleges that Takata and the automakers knew or should have known for more than a decade that the airbags installed in their cars could explode, posing grave,

sometimes fatal, dangers to the cars' occupants. The lawsuits further allege that the automakers used ammonium nitrate propelled airbags because they were cheaper, despite information that ammonium nitrate, a chemical principally used to propel rockets and for mining and demolition, was volatile and unpredictable. This is especially true in hot and humid climates, like Hawai'i, where temperature changes and moisture can accelerate the breakdown of the chemical propellant and cause it to explode. For that reason, the National Highway Transportation Safety Administration (NHTSA) has required automakers to prioritize the recall of affected vehicles in Hawai'i along with other jurisdictions with high heat and humidity.

Today's settlement resolves Hawaii's claims against the Takata companies. Hawai'i will continue to pursue its lawsuits against the automakers Honda, Toyota, Nissan, and Ford.

Said Stephen Levins, Executive Director of the State Office of Consumer Protection, "Airbags are one of the most critical safety devices in vehicles and are supposed to protect Hawai'i consumers and their families in the event of an accident – not endanger them. This settlement with the bankrupt Takata companies will return millions of dollars to the State for Takata's alleged deception regarding the risks posed by its dangerous and deadly airbags.

My office will continue aggressively to pursue the remaining named automakers, which we allege also played a significant role in misleading Hawai'i consumers and concealing from them critical safety and risk information about the airbags in the cars they sold."

The longer these vehicles stay on the road, the more dangerous they become. The National Highway Traffic Safety Administration urges consumers to not drive these vehicles listed below unless they are going straight to a dealer to have them repaired immediately:

- 2001-2002 Honda Civic
- 2001-2002 Honda Accord
- 2002-2003 Acura TL
- 2002 Honda CR-V
- 2002 Honda Odyssey
- 2003 Acura CL
- 2003 Honda Pilot
- Certain 2006 Ford Ranger (Ford advises do not drive)
- Certain 2006 Mazda B Series (Mazda advises do not drive)

These vehicles represent only a handful of the recalled cars. The Office of Consumer Protection strongly encourages consumers to check <https://www.safercar.gov> or to contact their car dealer to determine whether their car has been recalled. If it has, consumers should contact their dealer as soon as possible to make an appointment to get their car fixed for free.

The State of Hawai'i is also being assisted in this action by the Honolulu law firm of Cronin Fried Sekiya Kekina & Fairbanks and the Washington, D.C., office of the law firm Motley Rice.

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Media Contact:

William Nhieu

Communications Officer

Department of Commerce and Consumer Affairs

Email: wnhieu@dcca.hawaii.gov

Phone: (808) 586-7582

Cell: (808) 389-2788