



THE INDEPENDENT VOICE OF TRUST

Exploring Online Fraud and the Sale of Counterfeit Goods

The Cost of Online Fraud and Counterfeits



Date: 01 October 2020



Dana Baiocco
Commissioner
Consumer Product
Safety Commission

Section 12: Imminent Hazards

Commission...may file in US district court an action

(1) against an **imminently hazardous consumer product** for seizure of such product under subsection (2)(b); or

(2) **against any person who is a manufacturer, distributor, or retailer of such product**; or

(3) both

Section 16. Inspection and Recordkeeping

- (a) Inspections – Commission officers (with conditions)
 - (1) are authorized to enter (A) any factory, warehouse, or establishment in which consumer products are manufactured or held, **in connection with distribution in commerce** (B) any firewalled conformity assessment bodies accredited under section 14(f)(2)(D), or (C) **any conveyance being used to transport consumer products in connection with distribution in commerce**; and
 - (2) to inspect, at reasonable times and in a reasonable manner such conveyance or those areas of such factory, firewalled conformity assessment body, warehouse, or **establishment where such products are manufactured, held or transported and which may relate to the safety of such products**. Each such inspection shall be commenced and completed with reasonable promptness.
- (b) Recordkeeping – Every person who is a **manufacturer, private labeler, or distributor of a consumer product** shall establish and maintain such records, make such reports, and provide such information as the Commission may, by rule, reasonably require for the purposes of implementing this Act, or to determine compliance with rules or order prescribed under this Act, or to determine compliance with rules or orders prescribed under this Act.
- (c) **Identification of manufacturers, importers, retailers and distributors** – Upon request by a [Commission] officer or employee
 - (1) Every **importer, retailer, or distributor of a consumer products** (or other product or substance over which the Commission has jurisdiction under this or any other Act) shall identify the manufacturer of that product by name, address, or such other identifying information as the officer or employee may request, **to the extent that such information is known or can be readily determined by the importer, retailer, or distributor**; and
 - (2) Every **manufacturer** shall identify by name, address, or such other identifying information as the Commission may request –
 - (A) **Each retailer or distributor to which the manufacturer directly supplied a given consumer product** (or other product or substance under CPSC jurisdiction
 - (B) Each subcontractor involved in the production or fabrication of such product or substance;
 - (C) Each subcontractor from which the manufacturer obtained a component thereof.

The Commission shall, by rule, **condition the manufacturing for sale, offering for sale, distribution in commerce, or importation into the US or any consumer product or other product on the manufacturer's compliance with the inspection and recordkeeping requirements of this Act** and the Commission's rules with respect to such requirements.

Section 15 (b) Reporting Obligations

Every manufacturer of a consumer product, or other product or substance over which the Commission has jurisdiction under any Act enforced by the Commission, **distributed in commerce, and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product—**

- (1) **Fails to comply with an applicable consumer product safety rule** or with a voluntary consumer product safety standard upon which the Commission has relied under Section 9 [explaining process related to safety standards];
- (2) **Fails to comply with any other rule, regulation, standard, or ban under this Act or any Act enforced by the Commission;**
- (3) **Contains a defect which could create a substantial product hazard** described in subsection (a)(2) [product defect]
- (4) **Creates an unreasonable risk of serious injury or death...**

Shall **immediately inform the Commission** of such failure to comply, of such defect, or of such risk.....

(c)(1) if the Commission determines It may order **the manufacturer or any distributor or retailer of the product** to take any one of the following action:

(A) cease distribution

(B) **notify all persons that transport, store, distribute, or otherwise handle the product, to which the product has been transported, sold, distributed, or otherwise handled, to cease immediate distribution of the product.**

(C) to notify appropriate State and local public health officials;

(D) to give **public notice** of the defect or failure to comply including posting clear and conspicuous notice on its Internet website, **providing notice to any third party Internet website on which such manufacturer, retailers, distributor or licensor has placed the product for sale....**

(E) **to mail notice to each person who is a manufacturer, distributor, or retailer of such product.**

(F) **to mail notice to every person to whom the person required to give notice knows such product was delivered or sold.**

Section 17. Imports (15 U.S.C. ¶ 2066 *et seq.*)

- (a) Any consumer product offered for importation into the customs territory of the US shall be refused admission into such customs territory if such product
 - (1) **Fails to comply** with an applicable consumer product safety rule
 - (2) **Is not accompanied by a certificate** required by this Act or any other Act enforced by the Commission, or is accompanied by a **false certificate**, if the manufacturer in the exercise of due care has reason to know that the certificate is false or misleading in any material respect, or is **not accompanied by a label or certificate required under Section 14** (Product Certification and Labeling), or any rule or regulation under such section
 - (3) Is or has been determined to be **an imminently hazardous consumer product** in a proceeding brought under **Section 12** [imminent hazard];
 - (4) Has a **product defect which constitutes a substantial product hazard** (under **Section 15(a)(2)**) [Reporting Obligations] or
 - (5) Is **a product which was manufactured by a person who the Commission has informed the Secretary of Treasury** is in violation of subsection (g) [Sends you back to Section 16: Compliance with Inspection and Recordkeeping requirements under **Section 16**.

*Destroy them. Or the owner, consignee, or importer of record can submit an application to Secretary of Treasury asking for permission to export in lieu of destruction (has 90 days)

Section 12: Imminent Hazards Court action (1) against imminently hazardous consumer product for seizure; or (2) against any person who is a manufacturer, distributor, or retailer of such product; (3) both.

Section 15(b) Reporting: Every manufacturer of a consumer product, distributed in commerce, and every distributor and product retailer, who obtains information that reasonably supports the conclusion that product—

Fails to comply with an applicable consumer product safety rule

Fails to comply with any other rule, regulation, standard, or ban under this Act;

Contains a **defect which could create a substantial product hazard**

Creates an unreasonable risk of serious injury or death...

Commission may order **manufacturer or any distributor or retailer of the product** to:

(A) **cease** distribution

(B) **notify** all persons that **transport, store, distribute, or otherwise handle the product**, to which the product has been transported, sold, distributed, or otherwise handled, to **cease** immediate distribution of the product.

(C) notify appropriate State and local public health officials;

(D) give public notice of the defect or failure to comply including posting clear and conspicuous notice on its Internet website, *providing notice to any third party Internet website on which such manufacturer, retailers, distributor or licensor has placed the product for sale*

(E) mail notice to manufacturer, distributor, or retailer of such product.

(F) mail notice to everyone person required to give notice knows product was delivered or sold to

Section 17. Imports: Any consumer product offered for importation shall be refused admission if product

(1) **Fails to comply with an applicable consumer product safety rule**

(2) Is not accompanied by a certificate, is accompanied by false certificate (reasons to know standard) or

(3) is not accompanied by a label or certificate required under Section 14 (Product Certification and Labeling)

(4) Is an imminently hazardous consumer product in a Section 12 proceeding

(5) Has a product defect/ substantial product hazard (under Section 15)

(6) Is a product manufactured by a person the Commission informed the Secretary of Treasury is in violation of subsection (g) [Sends you back to Section 16: **Compliance with Inspection and Recordkeeping requirements.**

Section 16. Inspection and Recordkeeping. Commission authorized to **enter** (A) any factory, warehouse, or establishment in which consumer products are manufactured or held, in connection with distribution in commerce (B) any firewalled conformity assessment bodies accredited under section 14(f)(2)(D), or (C) any conveyance being used to transport consumer products in connection with distribution in commerce;

to **inspect**...factory, firewalled conformity assessment body, warehouse, or establishment where such products are manufactured, held or transported and which may relate to the safety of such products.

A manufacturer, private labeler, or distributor of a consumer product shall establish and maintain such records, make such reports, and provide such information as Commission requires

Commission may request that any **importer, retailer, or distributor** of consumer products shall **identify the manufacturer of that product by name, address, or such other identifying information** to the extent that such information is known or can be readily determined by the importer, retailer, or distributor; and

Every **manufacturer shall identify** by name, address, or such other identifying information as the Commission may request: (A) Each **retailer or distributor** to which the manufacturer **directly supplied** a given consumer product (B) Each **subcontractor** involved in production or fabrication from which the manufacturer obtained a **component.**

The Commission shall **condition the manufacturing for sale, offering for sale, distribution in commerce, or importation into the US or any consumer product or other product on the manufacturer's compliance with the inspection and recordkeeping requirements** of this Act.



Kim Gianopoulos
Director, International Affairs
and Trade Team
US Government Accountability
Officer



U.S. Efforts to Combat Counterfeit Goods

Kimberly Gianopoulos
Director, International Affairs and Trade
Presentation to the TIC Council Americas
October 1, 2020

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- GAO is a legislative branch agency that conducts research in support of the U.S. Congress.
- GAO is divided into mission teams that cover different areas of the federal government, such as defense, health care, and homeland security.
- The work being discussed today is part of GAO's work on international affairs and trade.
 - Our reporting on counterfeits is part of a portfolio of trade-related research that also includes topics such as wildlife trafficking, foreign investment in the United States, tariff exclusions, and anti-dumping and countervailing duties.

Recent and Forthcoming GAO Work on Intellectual Property Rights

- January 2018
 - *Intellectual Property: Agencies Can Improve Efforts to Address Risks Posed by Changing Counterfeits Market* ([GAO-18-216](#))
- Follow-up report to be issued in October 2020 (GAO-20-692)
- Completed at the request of the Senate Finance Committee

Changes in Market for Counterfeit Goods

- Anything can be counterfeited
- Counterfeit sales have shifted from secondary to primary markets
- E-commerce provides counterfeiters direct access to consumers

Characteristics Accompanying the Shift from Secondary to Primary Market for Counterfeit Goods

	Secondary market	Primary market
Appearance of good	Appears fake	Appears authentic
Price	Considerably lower than retail price for authentic goods	Close to retail price for authentic goods
Point of sale	In person (e.g., street vendors and flea markets)	Primarily online (e.g., illicit websites or third-party sellers on popular consumer websites)

Source: GAO analysis of U.S. agency documents, interviews, and data and international organization reports. | GAO-18-216

Key Findings:

Results of GAO Undercover Purchases (2018)

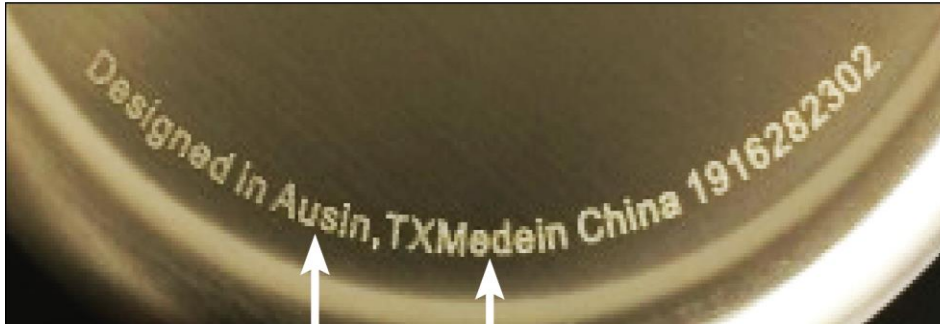
- 20 of 47 items we purchased from third party sellers across five popular consumer websites were counterfeit, according to testing by rights holders

Results from Rights-Holder Testing of GAO Undercover Purchases of Four Frequently Counterfeited Consumer Products

	Nike Air Jordan shoes	Yeti travel mugs	Urban Decay cosmetics	UL–certified phone chargers	Total
Authentic	15	3	0	9	27
Counterfeit	0	6	13	1	20
Total	15	9	13	10	47

Source: GAO | GAO-18-216

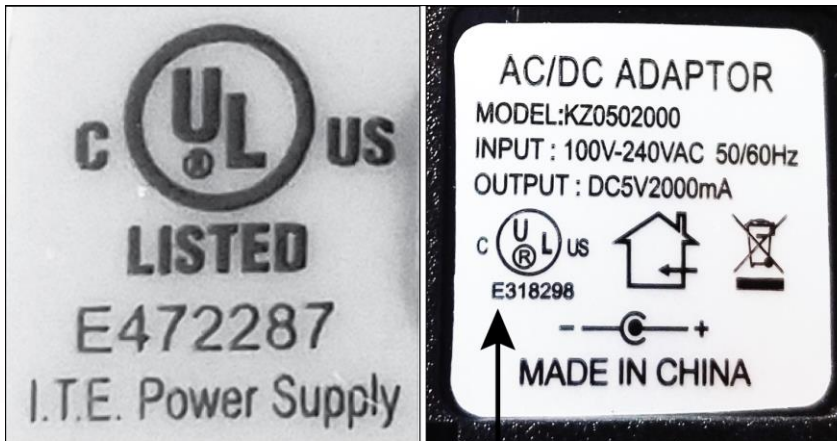
Examples of Discrepancies between Counterfeit and Authentic Goods (2018)



"Austin" misspelled as "Ausin"

"Made" misspelled as "Mede".

Source: GAO. | GAO-18-216



The counterfeit trademark is missing the term "LISTED" as well as the product name.

Source: GAO. | GAO-18-216



Source: Urban Decay. | GAO-18-216

Recommendations (2018)

- We recommended that
 - CBP take steps to evaluate the effectiveness of its efforts
 - CBP assess what, if any, additional information would be beneficial to share with the private sector and take action to enhance information sharing
- CBP concurred with both recommendations
 - In September 2018, CBP worked to develop priorities and metrics and began efforts to improve tracking of metrics and evaluation of selected activities to enhance enforcement actions.
 - In December 2018, CBP identified a need to establish information sharing for e-commerce as the first step in implementing its E-Commerce Strategy.

Forthcoming report (October 2020)

- Reviews:
 - relevant European Union and U.S. processes to combat counterfeit goods in small packages
 - challenges in this area
 - steps taken by CBP
- Will be available on www.gao.gov by the end of October (GAO-20-692)

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Congressional Relations

Orice Williams Brown, Managing Director, WilliamsO@gao.gov
(202) 512-4400, U.S. Government Accountability Office
441 G Street, NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov
(202) 512-4800, U.S. Government Accountability Office
441 G Street, NW, Room 7149, Washington, DC 20548

Strategic Planning and External Liaison

James-Christian Blockwood, Managing Director, spel@gao.gov
(202) 512-4707, U.S. Government Accountability Office,
441 G Street NW, Room 7814, Washington, DC 20548

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Jill Notini
Vice President of
Communications & Marketing
AHAM

**FILTER
IT OUT**



Filter It Out

An effort to end the sale of counterfeit refrigerator filters.



*“Toothpaste. Contact lenses. **Water filters.** Wine. Scammers aren't just ripping off expensive designer clothes and watches anymore. They've turned to more mundane items that are probably on your grocery list or in your medicine cabinet...They're sold all over the internet and on store shelves.”*

-CNN Money

Which one is counterfeit?



FILTER
IT OUT

#FILTEROUTH20

The Challenge

- Counterfeit and deceptively labeled water filters are flooding into U.S. markets and sold online every day.
- These filters often fail to meet the safety and structural standards that consumers, manufacturers and regulators expect.
- Consumers purchase the filters thinking that they're buying genuine, certified filters, sometimes for a cheaper price than brand-name products.

Testing and Data

- Installing a counterfeit or deceptively labeled water filter into a refrigerator can result in health and safety issues.
 - Test show a failure to remove contaminants.
 - AHAM testing shows counterfeit filters adding more than 10 toxic chemicals to water.
 - Poor fit has led to damage of the appliance and the kitchen, when leaks occur.
- Counterfeit and deceptively labeled filters do not contain the same technologies as authentically branded products.
 - They are not tested to industry drinking water system standards NSF/ANSI 42 and NSF/ANSI 53.

Industry Response

- AHAM partnership with 17 refrigerator brands, launched a public education campaign called **Filter It Out** to raise awareness of the counterfeit issue and help consumers search for filters they can trust.
- The 3 primary certification agencies for this water drinking system are supporting this campaign. They are NSF International (National Sanitation Foundation), Water Quality Association, and IAPMO.
- Upcoming Buy Real, Be Safe campaign by UL in November.

FILTER
IT OUT



Who's Involved

AMANA®

beko

Blomberg

 BOSCH

 Electrolux

FRIGIDAIRE

GAGGENAU

 GE APPLIANCES

 JENN-AIR®

KitchenAid®

 LG

MAYTAG®

Miele

SAMSUNG

SUBZERO
WOLF

Thermador★

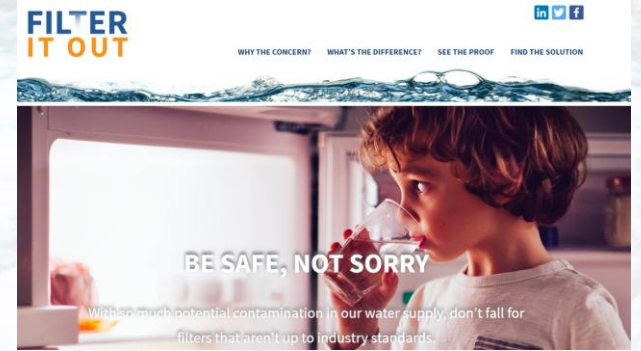
Whirlpool™

FILTER
IT OUT

 **AHAM**
ASSOCIATION OF HOME
APPLIANCE MANUFACTURERS

Progress to Date

- The industry has created an online hub with **credible information and resources** for consumers.
- Our site – FilterItOut.org:
 - Highlights the importance of selecting a water filter that will perform as expected
 - Demonstrates the risk of unknowingly buying a counterfeit or deceptively labeled filter
 - Provides additional information to verify the concern
 - Connects users with reliable sources of trusted filters

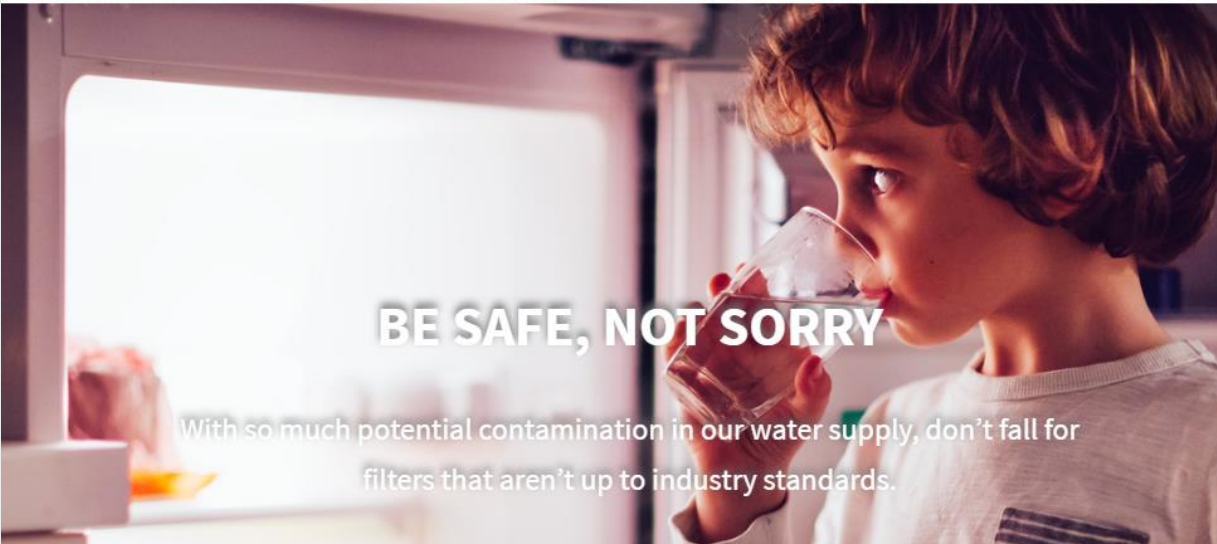


Examples of Content

FILTER IT OUT

in tw f

WHY THE CONCERN? WHAT'S THE DIFFERENCE? SEE THE PROOF FIND THE SOLUTION



BE SAFE, NOT SORRY

With so much potential contamination in our water supply, don't fall for filters that aren't up to industry standards.

WHY THE CONCERN?


Counterfeit water filters are sold online every day. People buy these filters thinking that they are buying genuine certified filters – and there is a problem.

Intending designs, which often include the illegal use of brand names, logos and product labels, help disguise counterfeit as authentic replacement water filter products. Consumers are tricked into thinking they're buying products with the same benefits and performance as branded filters – and for a cheaper price, too.


Some of the filters appear identical to brand-name filters, making it difficult for even the experts at U.S. Customs and Border Protection to tell the difference between them. Other filters include deceptive or faulty claims about fit and performance, but do not in fact offer the same level of quality or assurance as ones produced by your refrigerator manufacturer.

THE UNINTENDED CONSEQUENCES FOR CONSUMERS


Installing counterfeit or deceptively labeled filters into your refrigerator can put your loved ones, appliance and home at risk. These filters do not contain the same technologies as brand-name devices and often include lesser amounts of the components you need to keep your water clean and appliance working properly. The consequences are a steep price to pay.



Failure to remove contaminants from your drinking water including lead, mercury, herbicides, pesticides, asbestos and pharmaceuticals



Damage to your refrigerator and kitchen if there is a leak



Violation of your refrigerator warranty, potentially costing you added time and money for product repairs

ONE BRAND'S STORY

It's not uncommon for a major refrigerator manufacturer to receive questions from U.S. Customs and Border Protection (CBP) about the authenticity of replacement water filters flooding in from overseas. One manufacturer recently notified CBP to identify a shipment of more than 70,000 counterfeit filters en route to Florida from a factory in China. According to the manufacturer, the packaging has an immediate signal to Customs officials that the filters may not be genuine. Upon further inspection of the filters and confirmation that the packaging was indeed fake, the filters were tested and found to contain less carbon than is used by the genuine filters. And, the filters produced gray, murky water unsuitable for drinking. Had they been installed by consumers, they may have caused leaks or broken the refrigerators.

What does this story mean for you as a consumer? For one thing, not all counterfeit and deceptively labeled filters are intercepted before they reach your local store or are mailed to your home. A large number of replacement filters are purchased online, making efforts to identify and seize the phony products very difficult. And while manufacturers are working directly with online retailers and CBP to remove the filters from our markets, there is still a need for consumers to understand the problem and help take action to address it.

FIND THE SOLUTION

FIND THE SOLUTION

With so much uncertainty about the quality of water filters available online, choose one that is trusted and sold by a refrigerator manufacturer that stands behind its products.

AMANA FIND YOUR FILTER >	beko FIND YOUR FILTER >	Blomberg FIND YOUR FILTER >
BOSCH FIND YOUR FILTER >	Electrolux FIND YOUR FILTER >	FRIGIDAIRE FIND YOUR FILTER >
GAGGENAU FIND YOUR FILTER >	GE APPLIANCES FIND YOUR FILTER >	JENN-AIR FIND YOUR FILTER >
KitchenAid FIND YOUR FILTER >	LG FIND YOUR FILTER >	MAYTAG FIND YOUR FILTER >
Miele FIND YOUR FILTER >	SAMSUNG FIND YOUR FILTER >	SUB-ZERO WOLF FIND YOUR FILTER >
Thermador FIND YOUR FILTER >	Whirlpool FIND YOUR FILTER >	

FILTER
IT OUT



**WHAT DOES THIS MEAN FOR YOU
AND YOUR FAMILY?**

**FILTER
IT OUT**



Social Media

Digital Trends @DigitalTrends

Major appliance makers warn against counterfeit refrigerator water filters
bit.ly/2ekbj28



RETWEETS 5 LIKES 8

7:25 PM - 28 Oct 2016

Rob Holmes @HolmesPI

Major appliance makers warn against counterfeit refrigerator water filters



Major appliance manufacturers are warning that deceptively labeled counterfeit refrigerator water filters for sale online may not filter sufficiently.
digitaltrends.com

11:08 AM - 9 Nov 2016

GE Appliances

November 7 at 11:01am · 🌐

Be safe, not sorry. With so much potential contamination in our water supply, don't fall for filters that aren't up to industry standards. Learn more: <http://oak.ctx.ly/tr/57wye>



AHAM

BE SAFE, NOT SORRY With so much potential contamination in our water supply, don't fall for filters that aren't up to industry standards. LOOKS CAN BE DECEIVING Counterfeit and deceptively labeled water filters feature brand names, logos and product

FILTERITOUT.ORG

Like Comment Share

11

2 shares

Top Comments

NSF @LiveSafely_NSF

Look for water filters certified to NSF/ANSI drinking water standards when replacing old ones. bit.ly/2ebXUvI #FilterOutH2O



RETWEET 1 LIKE 1

WQA @wqa_ · Nov 29

WQA joins the Filter It Out campaign to call awareness to counterfeit & deceptively labeled water filters.
ow.ly/hfXp306EfJI

Commissioner Baiocco Retweeted

AHAM Policy @AHAM_policy · Sep 3

@CBSInvestigate: Things you can do to keep your home safe during #Covid_19

"There are a lot of people taking advantage of consumers by selling counterfeit or sub-par products," @CommissionerBa3

Counterfeit water filters is a growing problem in the U.S. filteritout.org

CBS 17 Investigators @CBSInvestigate · Aug 31

Staying safe during #covid19 means more than just social distancing & wearing masks. I talk with the head of the @USCPSC about things you can do to keep your home safe during the pandemic. #cbs17 cbs17.com/news/investiga...

Carolyn Forte @ForteCarolyn

The sale of counterfeit and deceptively labeled water filters is a growing problem in the U.S. Get the facts at filteritout.org.

RETWEET 1 LIKE 1

10:15 AM - 29 Oct 2016

Michigan Residents - Is Your Water Filter Working?

Ad www.filteritout.org

Water contamination is a major concern in MI. Be confident in your water filter.

**FILTER
IT OUT**



Partnership

- Through this campaign, industry leaders are taking action to educate consumers and direct them to trusted products.
- Government, through coordinated action, also has a critical role to play.
 - Block importation of counterfeit water filters.
 - Support increased funding for inspections at the ports.
 - Enforce laws against counterfeiters.
 - Help to educate the consumer, increasing the awareness of potential health & safety issues, and property damage.

Coalition and Action

- Buy Safe America Coalition
- Legislation pending before Congress
 - INFORM Consumers Act (H.R. 7756 & S. 3431)
 - SHOP SAFE Act of 2020 (H.R. 6058)
- Work continues!

Thank you. Contact Information

Jill Notini

VP, Communications & Marketing

jnotini@aham.org

(202) 872-5955 ext 318

Questions?



Dana
Baiocco
CPSC



Kim
Gianopoulos
GAO



Jill Notini
AHAM



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Testing, inspection and certification

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