

JAN 24 2018

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# A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that airbag systems are  
2 an essential and complicated component of vehicle safety  
3 systems. Federal regulations require automobiles to be equipped  
4 with several airbags throughout the cabin and prescribe how each  
5 airbag must respond in the event of a collision. The airbag  
6 system is designed so that each individual airbag works in  
7 concert with the other to provide optimal protection for all  
8 passengers. This is possible because in the milliseconds after  
9 an impact occurs, sensors throughout the vehicle register  
10 critical information about the collision, such as the speed of  
11 the vehicle, the point of impact, and the size, weight, and  
12 position of each passenger. This information is used to  
13 determine which airbags to deploy, in what order to deploy them,  
14 and the level of force at which to deploy them. The National  
15 Highway Traffic Safety Administration estimates that this  
16 advanced technology has saved the lives of tens of thousands of  
17 Americans over the past two decades.



1        In order to provide this level of protection, the entire  
2        system needs to work as it was designed and a single counterfeit  
3        airbag or airbag component can compromise the entire system.  
4        Unfortunately, foreign and domestic counterfeiters are flooding  
5        the market with cheap and ineffective knock-offs in an attempt  
6        to turn a profit by defrauding unknowing consumers. In many  
7        cases, these counterfeits are filled with sawdust, newspaper, or  
8        nothing at all. The presence of counterfeit airbags is creating  
9        a clear and present public safety risk to consumers.

10       The legislature further finds that over the past few years,  
11       tens of thousands of counterfeit airbags have been confiscated  
12       by federal agents in raids across the country. However, federal  
13       law enforcement agencies have limited authority to combat this  
14       problem because many fake airbags do not violate federal  
15       trademark law. As a result, several thousand potentially  
16       dangerous counterfeit airbags are able to enter the stream of  
17       commerce each year where they are sold over the Internet through  
18       legitimate and illegitimate websites, thereby placing Hawaii  
19       motorists at risk. There is no existing state law to protect  
20       Hawaii consumers from persons who knowingly manufacture, import,  
21       sell, or install these dangerous counterfeit airbag products.



1       The purpose of this Act is to prohibit a person from  
2 intentionally or knowingly:

3       (1) Manufacturing, importing, installing, reinstalling,  
4 distributing, selling, or offering for sale any  
5 counterfeit supplemental restraint system component,  
6 nonfunctional airbag, or airbag that does not meet  
7 federal safety requirements; and

8       (2) Selling, offering for sale, installing, or  
9 reinstalling in a motor vehicle any device that causes  
10 the motor vehicle's diagnostic systems to fail to warn  
11 that the motor vehicle is equipped with a counterfeit  
12 supplemental restraint system component or  
13 nonfunctional airbag or that no airbag is installed,  
14 as applicable.

15       SECTION 2. Chapter 286, Hawaii Revised Statutes, is  
16 amended by adding a new section to part IV to be appropriately  
17 designated and to read as follows:

18       "§286-     Counterfeit airbags. (a) No person shall  
19 intentionally or knowingly manufacture, import, install,  
20 reinstall, distribute, sell, or offer for sale any counterfeit  
21 supplemental restraint system component, nonfunctional airbag,



1 or airbag that does not meet federal safety requirements as  
2 provided in title 49 Code of Federal Regulations section  
3 571.208.

4 (b) No person shall intentionally or knowingly sell, offer  
5 for sale, install, or reinstall in a motor vehicle any device  
6 that causes the motor vehicle's diagnostic systems to fail to  
7 warn that the motor vehicle is equipped with a counterfeit  
8 supplemental restraint system component or nonfunctional airbag  
9 or that no airbag is installed, as applicable.

10 (c) For purposes of this section, an installation or  
11 reinstallation shall not be deemed to have occurred until the  
12 work is complete.

13 (d) A violation of this section is a class C felony.

14 (e) As used in this section:

15 "Airbag" means a motor vehicle inflatable occupant  
16 restraint system device that is part of a supplemental restraint  
17 system.

18 "Counterfeit supplemental restraint system component" means  
19 a replacement supplemental restraint system component, including  
20 but not limited to an airbag that displays a mark identical or  
21 substantially similar to the genuine mark of a motor vehicle



1 manufacturer or a supplier of parts to the manufacturer of a  
2 motor vehicle without authorization from that manufacturer or  
3 supplier, respectively.

4 "Motor vehicle" means every vehicle that is required under  
5 title 49 Code of Federal Regulations section 571.208 to have an  
6 airbag installed.

7 "Nonfunctional airbag" means a replacement airbag that  
8 meets any of the following criteria:

9 (1) The airbag was previously deployed or damaged;

10 (2) The airbag has an electric fault that is detected by  
11 the motor vehicle's airbag diagnostic systems when the  
12 installation procedure is completed and the motor  
13 vehicle is returned to the customer who requested the  
14 work to be performed or when ownership is intended to  
15 be transferred;

16 (3) The airbag includes a part or object, including but  
17 not limited to a supplemental restraint system  
18 component, installed in a motor vehicle to mislead the  
19 owner or operator of the motor vehicle into believing  
20 that a functional airbag has been installed; or



(4) The airbag is subject to the prohibitions of title 49 United States Code Annotated section 30120(j).

"Supplemental restraint system" means a passive inflatable motor vehicle occupant crash protection system designed for use in conjunction with active restraint systems as described in title 49 Code of Federal Regulations section 571.208. A supplemental restraint system includes one or more airbags and all components required to ensure that an airbag works as designed by the motor vehicle manufacturer, including:

(1) The airbag operates in the event of a crash; and

(2) The airbag is designed in accordance with federal motor vehicle safety standards for the specific make, model, and year of the motor vehicle in which it is or will be installed."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY:

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# S.B. NO. 2915

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# S.B. NO. 2915

**Report Title:**

Motor Vehicles; Counterfeit Airbags; Restraint Systems

**Description:**

Prohibits a person from intentionally or knowingly manufacturing, importing, installing, reinstalling, distributing, selling, or offering for sale any counterfeit supplemental restraint system component, nonfunctional airbag, or airbag that does not meet federal safety requirements. Prohibits a person from intentionally or knowingly selling, offering for sale, installing, or reinstalling in a motor vehicle any device that causes the motor vehicle's diagnostic systems to fail to warn that the motor vehicle is equipped with a counterfeit supplemental restraint system component or nonfunctional airbag or that no airbag is installed, as applicable.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

