
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) The remedies prescribed in this section are cumulative
15 and in addition to any other remedies provided by law.

16 (f) As used in this section:

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

20 "Counterfeit supplemental restraint system component" means
21 a replacement supplemental restraint system component, including



1 but not limited to an airbag, that displays a mark identical or
2 substantially similar to the genuine mark of a motor vehicle
3 manufacturer or a supplier of parts to the manufacturer of a
4 motor vehicle without authorization from that manufacturer or
5 supplier, respectively.

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

9 "Nonfunctional airbag" means a replacement airbag that
10 meets any of the following criteria:

- 11 (1) The airbag was previously deployed or damaged;
12 (2) The airbag has an electric fault that is detected by
13 the motor vehicle's airbag diagnostic systems when the
14 installation procedure is completed and the motor
15 vehicle is returned to the customer who requested the
16 work to be performed or when ownership is intended to
17 be transferred;
18 (3) The airbag includes a part or object, including but
19 not limited to a supplemental restraint system
20 component, installed in a motor vehicle to mislead the



1 owner or operator of the motor vehicle into believing
2 that a functional airbag has been installed; or
3 (4) The airbag is subject to the prohibitions of title 49
4 United States Code Annotated section 30120(j).

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

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

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

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

20 SECTION 4. New statutory material is underscored.

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



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. (SD1)

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