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

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



1 Hawaii consumers from persons who knowingly manufacture, import,
2 sell, or install these dangerous counterfeit airbag products.

3 The purpose of this Act is to prohibit a person from
4 intentionally or knowingly:

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

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

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

20 "§286- Counterfeit airbags. (a) No person shall
21 intentionally or knowingly manufacture, import, install,



1 reinstall, distribute, sell, or offer for sale any counterfeit
2 supplemental restraint system component, nonfunctional airbag,
3 or airbag that does not meet federal safety requirements as
4 provided in title 49 Code of Federal Regulations section
5 571.208, with the intent of replacing an airbag in any motor
6 vehicle, with:

- 7 (1) A counterfeit supplemental restraint system component;
- 8 (2) A nonfunctional airbag; or
- 9 (3) An airbag that does not meet federal safety
10 requirements.

11 (b) No person shall intentionally or knowingly sell, offer
12 for sale, install, or reinstall in a motor vehicle any device
13 that causes the motor vehicle's diagnostic systems to fail to
14 warn that the motor vehicle is equipped with:

- 15 (1) A counterfeit supplemental restraint system component;
- 16 (2) A nonfunctional airbag;
- 17 (3) An airbag that does not meet federal safety
18 requirements; or
- 19 (4) That no airbag is installed.



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

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

5 (e) The remedies prescribed in this section are cumulative
6 and in addition to any other remedies provided by law.

7 (f) As used in this section:

8 "Airbag" means a motor vehicle inflatable occupant
9 restraint system device that is part of a supplemental restraint
10 system.

11 "Counterfeit supplemental restraint system component" means
12 a replacement supplemental restraint system component, including
13 but not limited to an airbag, that displays a mark identical or
14 substantially similar to the genuine mark of a motor vehicle
15 manufacturer or a supplier of parts to the manufacturer of a
16 motor vehicle without authorization from that manufacturer or
17 supplier, respectively.

18 "Motor vehicle" means every vehicle that is required under
19 title 49 Code of Federal Regulations section 571.208 to have an
20 airbag installed.



1 "Nonfunctional airbag" means a replacement airbag that
2 meets any of the following criteria:

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

4 (2) The airbag has an electric fault that is detected by
5 the motor vehicle's airbag diagnostic systems when the
6 installation procedure is completed and the motor
7 vehicle is returned to the customer who requested the
8 work to be performed or when ownership is intended to
9 be transferred;

10 (3) The airbag includes a part or object, including but
11 not limited to a supplemental restraint system
12 component, installed in a motor vehicle to mislead the
13 owner or operator of the motor vehicle into believing
14 that a functional airbag has been installed; or

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

17 "Supplemental restraint system" means a passive inflatable
18 motor vehicle occupant crash protection system designed for use
19 in conjunction with active restraint systems as described in
20 title 49 Code of Federal Regulations section 571.208. A
21 supplemental restraint system includes one or more airbags and



1 all components required to ensure that an airbag works as
2 designed by the motor vehicle manufacturer, including:

- 3 (1) The airbag operates in the event of a crash; and
4 (2) The airbag is designed in accordance with federal
5 motor vehicle safety standards for the specific make,
6 model, and year of the motor vehicle in which it is or
7 will be installed."

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

11 SECTION 4. New statutory material is underscored.

12 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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