A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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

SECTION 1. The legislature finds that airbag systems are an essential and complicated component of vehicle safety systems. Federal regulations require automobiles to be equipped with several airbags throughout the cabin and prescribe how each airbag must respond in the event of a collision. The airbag system is designed so that each individual airbag works in concert with the other to provide optimal protection for all passengers. This is possible because in the milliseconds after an impact occurs, sensors throughout the vehicle register critical information about the collision, such as the speed of the vehicle, the point of impact, and the size, weight, and position of each passenger. This information is used to determine which airbags to deploy, in what order to deploy them, and the level of force at which to deploy them. The National Highway Traffic Safety Administration estimates that this advanced technology has saved the lives of tens of thousands of Americans over the past two decades.
In order to provide this level of protection, the entire system needs to work as it was designed; therefore, single counterfeit airbag or airbag component can compromise the entire system. Unfortunately, foreign and domestic counterfeiters are flooding the market with cheap and ineffective knock-offs in an attempt to turn a profit by defrauding unknowing consumers. In many cases, these counterfeits are filled with sawdust, newspaper, or nothing at all. The presence of counterfeit airbags is creating a clear and present public safety risk to consumers.

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

(1) 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; and

(2) 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.

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

§286- Counterfeit airbags. (a) No person shall intentionally or knowingly manufacture, import, install,
reinstall, distribute, sell, or offer for sale any counterfeit supplemental restraint system component, nonfunctional airbag, or airbag that does not meet federal safety requirements as provided in title 49 Code of Federal Regulations section 571.208.

(b) No person shall intentionally or knowingly sell, offer for sale, install, or reinstall 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.

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

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

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

(f) As used in this section:

"Airbag" means a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system.
"Counterfeit supplemental restraint system component" means a replacement supplemental restraint system component, including but not limited to an airbag, that displays a mark identical or substantially similar to the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle without authorization from that manufacturer or supplier, respectively.

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

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

(1) The airbag was previously deployed or damaged;

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

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

(4) The airbag is subject to the prohibitions of title 49 
United States Code 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: [Signatures]
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.

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