

JAN 23 2020

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



S.B. NO. 3158

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.

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

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

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

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

18 (f) As used in this section:

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



1 "Counterfeit supplemental restraint system component" means
2 a replacement supplemental restraint system component, including
3 but not limited to an airbag, that displays a mark identical or
4 substantially similar to the genuine mark of a motor vehicle
5 manufacturer or a supplier of parts to the manufacturer of a
6 motor vehicle without authorization from that manufacturer or
7 supplier, respectively.

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

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

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



1 component, installed in a motor vehicle to mislead the
2 owner or operator of the motor vehicle into believing
3 that a functional airbag has been installed; or

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

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

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

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

21 SECTION 4. New statutory material is underscored.



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

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OR

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S.B. NO. 3158

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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