

JAN 20 2010

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 system fraud
2 is a public safety concern for consumers and the motor vehicle
3 insurance industry. The purpose of this Act is to:

4 (1) Establish criminal penalties for fraudulent
5 installation or reinstallation of an airbag, with more
6 severe penalties for persons whose airbag fraud
7 results in serious injury or death;

8 (2) Require that any person engaged in the business of
9 purchasing, selling, or installing an airbag maintain
10 detailed records of airbags they purchase, sell, or
11 install;

12 (3) Mandate that any person engaged in the business of
13 installing an airbag submit an affidavit to a vehicle
14 owner saying that an airbag was installed properly;

15 (4) Require a person repairing a vehicle to affix a
16 permanent dashboard label disclosing whether a
17 salvaged airbag had been used;



- 1 (5) Establish that police accident reports must note
- 2 whether an airbag deployed; and
- 3 (6) Provide that a person trading or selling a motor
- 4 vehicle must disclose whether an airbag is inoperable.

5 SECTION 2. The Hawaii Revised Statutes is amended by
6 adding a new chapter to title 26 to be appropriately designated
7 and to read as follows:

8 **"CHAPTER**

9 **MOTOR VEHICLE AIRBAG FRAUD**

10 § -1 **Definitions.** As used in this chapter:

11 "Airbag" means any component of an inflatable occupant
12 restraint system that is designed in accordance with federal
13 safety regulations for the make, model, and year of the vehicle
14 to be installed and to operate in a motor vehicle to activate,
15 as specified by the vehicle manufacturer, in the event of a
16 crash. Airbag components include but are not limited to
17 sensors, controllers, wiring, and the airbag itself.

18 "Light manipulating system" means anything that would mask
19 or cause the inaccurate indication of the airbag system status,
20 condition, or operability.

21 "Person" means any natural person, corporation,
22 partnership, unincorporated association, or other entity.



1 "Salvaged airbag" means an original equipment manufacturer
2 non-deployed airbag that has been removed from a motor vehicle
3 for use in another vehicle.

4 § -2 Installation or reinstallation of any fraudulent
5 airbag; deceptive trade practices; criminal liability. (a) It
6 is a deceptive trade practice for any person to:

7 (1) Install or reinstall, as part of a vehicle inflatable
8 occupant restraint system, any object in lieu of an
9 airbag, including any light manipulating system;

10 (2) Sell or offer for sale any device with the intent that
11 the device will replace an airbag in any motor vehicle
12 if the person knows or reasonably should know that the
13 device does not meet federal safety requirements;

14 (3) Sell or offer for sale any device that when installed
15 in any motor vehicle gives the impression that a
16 viable airbag is installed in that vehicle, including
17 any light manipulating system; or

18 (4) Intentionally misrepresent the presence of an airbag
19 when one does not exist.

20 (b) Violation of this section is a class C felony.

21 (c) For a conviction under this section, the sentence
22 shall be:



1 (1) For a violation of subsection (a)(1) that results in
2 serious bodily injury or death:

3 (A) An indeterminate term of imprisonment for not
4 more than years;

5 (B) A fine of not more than \$; or

6 (C) Both; or

7 (2) For all other violations of this section:

8 (A) An indeterminate term of imprisonment for not
9 more than years;

10 (B) A fine of not more than \$; or

11 (C) Both.

12 § -3 Purchase, sale, or installation of new or salvaged

13 **airbag; records.** (a) Any person engaged in the business of
14 purchasing, selling, or installing salvaged airbags shall

15 maintain a manual or electronic record of the purchase, sale, or
16 installation, which must include:

17 (1) The identification number of the airbag;

18 (2) The vehicle identification number of the vehicle from
19 which the salvaged airbag was removed;

20 (3) The name, address, and driver's license number or
21 other means of identification of the person from whom
22 the salvaged airbag was purchased; and



1 (4) In the event that the salvaged airbag is installed,
2 the vehicle identification number of the vehicle into
3 which the airbag is installed.

4 No new or salvaged airbag shall be sold or installed which is or
5 has been subject to a specific manufacturer's or appropriate
6 authority's notice of recall.

7 (b) In the case of a new replacement airbag, any person
8 engaged in installing any airbag shall maintain the name and tax
9 identification number of the supplier of the airbag and record
10 the vehicle identification number of the vehicle into which the
11 airbag is installed, as well as the identification number of the
12 airbag being installed. Additionally, the airbag identification
13 of the previously deployed airbag being replaced shall be
14 recorded. Upon request of any law enforcement officer of this
15 State or other authorized representative of the department of
16 commerce and consumer affairs, the installer shall produce the
17 records required by this subsection and permit the department or
18 police officer to examine them.

19 (c) Any person who installs a salvaged airbag in a vehicle
20 shall apply a permanent, durable label that clearly states that
21 the vehicle contains a salvaged airbag. The label shall be



1 permanently installed on the dashboard of the vehicle. No
2 person shall willfully remove such a label.

3 (d) Any person who sells a vehicle with a salvaged airbag
4 or who installs a salvaged airbag shall disclose to the
5 purchaser and vehicle owner that the airbag is salvaged.

6 (e) Any person who installs a new or salvaged airbag shall
7 submit an affidavit to the vehicle owner or their representative
8 stating that the replacement airbag has been properly installed.

9 (f) All records shall be maintained for not less than five
10 years following the transaction and may be inspected during
11 normal business hours by any law enforcement officer of this
12 State or other authorized representative of the department of
13 commerce and consumer affairs.

14 Upon request, information within a portion of the records
15 required by this subsection pertaining to a specific transaction
16 shall be provided to the vehicle insurer and the vehicle owner.

17 (g) Persons engaged in the business of selling salvaged
18 airbags shall comply with rules adopted under chapter 91 by the
19 department of commerce and consumer affairs.

20 (h) The department of commerce and consumer affairs shall
21 adopt rules in accordance with chapter 91 for the purposes of



1 this section. The rules regarding the sale of salvaged airbags
2 shall include but not be limited to the following standards:

- 3 (1) Identification of the supplier of the airbag;
- 4 (2) Identification of the recipient vehicle, including
5 vehicle identification number, year, make, and model;
- 6 (3) Identification of the airbag module cover color (and
7 color code if available);
- 8 (4) Identification of the donor vehicle, including vehicle
9 identification number, year, make, and model;
- 10 (5) Supplier's internal stock number or locator number;
- 11 (6) Indication of source of interchange information (i.e.,
12 interchange manual or part number, original equipment
13 manufacturer information, etc.);
- 14 (7) A supplier certificate indicating that all the
15 requirements of the inspection protocol have been
16 successfully achieved and identifying the person who
17 completed the inspection; and
- 18 (8) A document containing the vehicle description,
19 including the year, make, and model for which the
20 airbag system component is required when being sold to
21 the end-user.



1 Salvaged airbags conforming to the foregoing standards shall be
2 accompanied by a certificate of conformance that shall be
3 retained by the installer.

4 § -4 **Prohibitions; penalties.** (a) It is unlawful for
5 any person to knowingly possess, sell, or install:

6 (1) A stolen airbag;

7 (2) An airbag from which the manufacturer's part number
8 labeling or vehicle identification number has been
9 removed, altered, or defaced; or

10 (3) An airbag taken from a stolen motor vehicle.

11 Violation of this subsection is a class C felony.

12 (b) Failure to maintain complete and accurate records,
13 prepare complete and accurate documents, provide information
14 from the record upon request, or properly disclose that an
15 airbag is salvaged, as required by this chapter, is a
16 misdemeanor.

17 (c) Violation of any other provision of this chapter for
18 which a separate penalty is not otherwise provided, shall be a
19 misdemeanor.

20 § -5 **Accidents; police report.** Any traffic accident
21 report required under chapter 291C shall clearly contain a



1 notation as to whether the motor vehicle's airbag or inflatable
2 restraint system had been deployed in the accident.

3 § -6 Sale or trade of motor vehicle with an inoperable
4 airbag. (a) Any person selling or trading a motor vehicle who
5 has actual knowledge that the motor vehicle's airbag is
6 inoperable shall notify the buyer or the person acquiring the
7 trade, in writing, that the airbag is inoperable.

8 (b) Violation of this section shall be a deceptive trade
9 practice and the violator shall be subject to the penalties
10 under section -2."

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

14 SECTION 4. This Act shall take effect upon its approval.

15

INTRODUCED BY: Rosely J. Baker
By Request



Report Title:

Motor Vehicles; Airbag Fraud

Description:

Establishes criminal penalties for fraudulent installation or reinstallation of an airbag. Requires that any person engaged in the business of purchasing, selling, or installing an airbag maintain detailed records of airbags they purchase, sell, or install. Mandates that any person engaged in the business of installing an airbag submit an affidavit to a vehicle owner saying that an airbag was installed properly. Requires a person repairing a vehicle to affix a permanent dashboard label disclosing that a salvaged airbag had been used. Establishes that police accident reports must note whether an airbag deployed. Requires that a person trading or selling a motor vehicle must disclose whether an airbag is inoperable.

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