
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 air bag systems are
2 an essential and complicated component of vehicle safety
3 systems. Federal regulations require automobiles to be equipped
4 with several air bags throughout the cabin and prescribe how
5 each air bag must respond in the event of a collision. The air
6 bag system is designed so that each individual air bag 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 air bags to deploy, in what order to deploy
14 them, and the level of force at which to deploy them. The
15 National Highway Traffic Safety Administration estimates that
16 this advanced technology has saved the lives of tens of
17 thousands of 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, a single
3 counterfeit air bag or air bag component can compromise the
4 entire system. Unfortunately, foreign and domestic
5 counterfeiters are flooding the market with cheap and
6 ineffective knock-offs in an attempt to turn a profit by
7 defrauding unknowing consumers. In many cases, these
8 counterfeits are filled with sawdust, newspaper, or nothing at
9 all. The presence of counterfeit air bags is creating a clear
10 and present public safety risk to consumers.

11 The legislature further finds that over the past few years,
12 tens of thousands of counterfeit air bags 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 air bags do not violate federal
16 trademark law. As a result, several thousand potentially
17 dangerous counterfeit air bags 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 air bag 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 air bag, or air bag that does not meet
9 federal safety requirements, with the intent that such
10 device replace an air bag in any air-bag-required
11 motor vehicle; and

12 (2) Selling, offering for sale, installing, or
13 reinstalling in an air-bag-required motor vehicle any
14 device that causes the air-bag-required motor
15 vehicle's diagnostic systems to fail to warn that an
16 air bag is not installed or the air-bag-required motor
17 vehicle is equipped with a counterfeit supplemental
18 restraint system component or nonfunctional air bag,
19 as applicable.



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

4 "§286- Counterfeit air bags. (a) No person shall
5 intentionally or knowingly manufacture, import, install,
6 reinstall, distribute, sell, or offer for sale any counterfeit
7 supplemental restraint system component, nonfunctional air bag,
8 or air bag that does not meet federal safety requirements as
9 provided in title 49 Code of Federal Regulations section
10 571.208, with the intent that such device replace an air bag in
11 any air-bag-required motor vehicle.

12 (b) No person shall intentionally or knowingly sell, offer
13 for sale, install, or reinstall in an air-bag-required motor
14 vehicle any device that causes the air-bag-required motor
15 vehicle's diagnostic systems to fail to warn that:

- 16 (1) An air bag is not installed; or
17 (2) The air-bag-required motor vehicle is equipped with:
18 (A) A counterfeit supplemental restraint system
19 component;
20 (B) A nonfunctional air bag; or



1 (C) An air bag that does not meet federal safety
2 requirements as provided in title 49 Code of
3 Federal Regulations section 571.208.

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

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

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

10 (f) As used in this section:

11 "Air bag" means an air-bag-required motor vehicle
12 inflatable occupant restraint system device that is part of a
13 supplemental restraint system.

14 "Air-bag-required motor vehicle" means every vehicle that
15 is required under title 49 Code of Federal Regulations section
16 571.208 to have an air bag installed.

17 "Counterfeit supplemental restraint system component" means
18 a replacement supplemental restraint system component, including
19 but not limited to an air bag, that displays a mark identical or
20 substantially similar to the genuine mark of an air-bag-required
21 motor vehicle manufacturer or a supplier of parts to the



1 manufacturer of an air-bag-required motor vehicle without
2 authorization from that manufacturer or supplier, respectively.

3 "Nonfunctional air bag" means a replacement air bag that
4 meets any of the following criteria:

- 5 (1) The air bag was previously deployed or damaged;
6 (2) The air bag has an electric fault that is detected by
7 the air-bag-required motor vehicle's air bag
8 diagnostic systems when the installation procedure is
9 completed and the air-bag-required motor vehicle is
10 returned to the customer who requested the work to be
11 performed or when ownership is intended to be
12 transferred;
13 (3) The air bag includes a part or object, including but
14 not limited to a supplemental restraint system
15 component, installed in an air-bag-required motor
16 vehicle to mislead the owner or operator of the air-
17 bag-required motor vehicle into believing that a
18 functional air bag has been installed; or
19 (4) The air bag is subject to the prohibitions of title 49
20 United States Code section 30120(j).



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

- 9 (1) The air bag operates in the event of a crash; and
10 (2) The air bag is designed in accordance with federal
11 air-bag-required motor vehicle safety standards for
12 the specific make, model, and year of the air-bag-
13 required motor vehicle in which it is or will be
14 installed."

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

18 SECTION 4. New statutory material is underscored.

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



Report Title:

Motor Vehicles; Counterfeit Air Bags; Restraint Systems

Description:

Prohibits intentionally or knowingly manufacturing, importing, installing, reinstalling, distributing, selling, or offering for sale any counterfeit supplemental restraint system component, nonfunctional air bag, or air bag that does not meet federal safety requirements, with the intent that such device replace an air bag in any air-bag-required motor vehicle. Prohibits intentionally or knowingly selling, offering for sale, installing, or reinstalling in an air-bag-required motor vehicle any device that causes the air-bag-required motor vehicle's diagnostic systems to fail to warn that an air bag is not installed or the air-bag-required motor vehicle is equipped with a counterfeit supplemental restraint system component or nonfunctional air bag, as applicable. (HD1)

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