
OLR Bill Analysis

sSB 1040

AN ACT CONCERNING COUNTERFEIT AND NONFUNCTIONAL AIRBAGS.

SUMMARY:

By law, it is a crime for anyone to sell or offer for sale a device intended to replace a motor vehicle air bag if the seller knows or reasonably should know that it does not meet federal safety standards. A violator faces a fine of up to \$2,000, up to one year in prison, or both.

The bill increases the penalty to a fine of up to \$5,000, up to five years in prison, or both and makes it a crime to manufacture, import, install, or reinstall such a device. It additionally makes it a crime, punishable by the increased penalty, to sell, offer for sale, manufacture, import, install, or reinstall a counterfeit or nonfunctional air bag, which the bill defines (see below).

It imposes the same increased penalty on someone who sells, installs, or reinstalls a device that causes a vehicle's diagnostic system to inaccurately indicate it is equipped with a functional air bag when (1) a counterfeit or nonfunctional air bag is installed or (2) no air bag is installed.

By law, selling or offering for sale a device that the seller knows or reasonably should know does not meet federal safety standards is an unfair or deceptive trade practice (see BACKGROUND). Each sale is a separate and distinct violation. The bill also makes the above violations an unfair trade practice and makes each sale, offer for sale, manufacture, importation, installation, or reinstallation a separate and distinct violation.

Under current law, air bag fraud occurs when someone, with intent to defraud another person, knowingly installs or reinstalls an object

other than a properly designed air bag. The bill expands air bag fraud to include the sale, installation, or reinstallation of a counterfeit or nonfunctional air bag with intent to defraud. The penalty for air bag fraud depends on the amount charged the person defrauded.

EFFECTIVE DATE: October 1, 2013

DEFINITIONS

Air Bag

Under the bill, an “air bag” is a motor vehicle inflatable occupant restraint system, including all component parts, such as the cover, sensors, controllers, inflators, and wiring, that (1) operates in a crash and (2) is designed according to federal motor vehicle safety standards for the specific make, model, and year of the motor vehicle in which it is or will be installed.

Counterfeit Air Bag

A “counterfeit air bag” is such a system that displays a mark identical or similar to the genuine mark of a motor vehicle manufacturer without that manufacturer’s authorization.

Nonfunctional Air Bag

A nonfunctional air bag is a replacement air bag system that (1) was previously deployed or damaged; (2) has an electric fault detected by a vehicle’s air bag diagnostic system after installation; or (3) includes any part or object, including a counterfeit or repaired air bag cover, installed in a motor vehicle to mislead the vehicles’ owner or operator into believing a functional air bag has been installed.

BACKGROUND

Unfair or Deceptive Trade Practice

The law prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary

statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys' fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violating a restraining order.

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 34 Nay 0 (03/15/2013)