

ASSEMBLY BILL

No. 2387

**Introduced by Assembly Member Mullin
(Coauthor: Assembly Member Holden)**

February 18, 2016

An act to repeal and add Section 27317 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2387, as introduced, Mullin. Vehicle equipment: counterfeit and nonfunctional airbags.

Existing law makes it a misdemeanor for a person to (a) install, reinstall, rewire, tamper with, alter, or modify for compensation, a vehicle's computer system or supplemental restraint system, otherwise referred to as an airbag, so that it falsely indicates the supplemental restraint system is in proper working order; or (b) knowingly distribute or sell a previously deployed airbag or component that will no longer meet the original equipment manufacturing form or function for proper operation.

This bill would repeal the above provisions and instead would prohibit a person from manufacturing, importing, installing, reinstalling, selling, or offering for sale any device with the intent that the device replace an airbag in any motor vehicle if the person knows or reasonably should know that the device is a counterfeit airbag or a nonfunctional airbag, or does not meet specified federal safety requirements. The bill would also prohibit the sale, or installation or reinstallation in a vehicle, of a device that causes the vehicle's diagnostic system to inaccurately indicate that the vehicle is equipped with a functional airbag when a counterfeit or nonfunctional airbag, or no airbag is installed. The bill

would deem a knowing violation of these provisions an unfair or deceptive act or practice for purposes of the existing Consumers Legal Remedies Act, and a felony punishable as prescribed. By creating new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 27317 of the Vehicle Code is repealed.
- 2 ~~27317. A person who installs, reinstalls, rewires, tampers with,~~
- 3 ~~alters, or modifies for compensation, a vehicle’s computer system~~
- 4 ~~or supplemental restraint system, including, but not limited to, the~~
- 5 ~~supplemental restraint system’s on-board system performance~~
- 6 ~~indicators, so that it falsely indicates the supplemental restraint~~
- 7 ~~system is in proper working order, or who knowingly distributes~~
- 8 ~~or sells a previously deployed air bag or previously deployed air~~
- 9 ~~bag component that will no longer meet the original equipment~~
- 10 ~~manufacturing form or function for proper operation, is guilty of~~
- 11 ~~a misdemeanor punishable by a fine of up to five thousand dollars~~
- 12 ~~(\$5,000) or by imprisonment in a county jail for up to one year,~~
- 13 ~~or by both the fine and imprisonment.~~
- 14 SEC. 2. Section 27317 is added to the Vehicle Code, to read:
- 15 27317. (a) The following definitions shall apply for purposes
- 16 of this section:
- 17 (1) “Airbag” means a motor vehicle inflatable occupant restraint
- 18 system, including all component parts, such as the cover, sensors,
- 19 controllers, inflators, and wiring, that does both of the following:
- 20 (A) Operates in the event of a crash.
- 21 (B) Is designed in accordance with federal motor vehicle safety
- 22 standards for the specific make, model, and year of the motor
- 23 vehicle in which it is or will be installed.
- 24 (2) “Counterfeit airbag” means an airbag that displays a mark
- 25 identical or similar to the genuine mark of a motor vehicle
- 26 manufacturer without authorization from that manufacturer.

1 (3) “Nonfunctional airbag” means a replacement airbag that
2 meets any of the following criteria:

3 (A) The airbag was previously deployed or damaged.

4 (B) The airbag has an electric fault that is detected by the vehicle
5 airbag diagnostic system after the installation procedure is
6 completed.

7 (C) The airbag includes a part or object, including, but not
8 limited to, a counterfeit or repaired airbag cover, installed in a
9 motor vehicle to mislead the owner or operator of the motor vehicle
10 into believing that a functional airbag has been installed.

11 (b) A person shall not manufacture, import, install, reinstall,
12 sell, or offer for sale any device with the intent that the device
13 replace an airbag in any motor vehicle if the person knows or
14 reasonably should know that the device is a counterfeit airbag or
15 a nonfunctional airbag, or does not meet federal safety requirements
16 as provided in Section 571.208 of Title 49 of the Code of Federal
17 Regulations.

18 (c) A person shall not sell, or install or reinstall in a vehicle,
19 any device that causes the vehicle’s diagnostic system to
20 inaccurately indicate that the vehicle is equipped with a functional
21 airbag when a counterfeit airbag or nonfunctional airbag, or no
22 airbag, is installed.

23 (d) A knowing violation of subdivision (b) or (c) shall be
24 deemed an unfair or deceptive act or practice for purposes of the
25 Consumers Legal Remedies Act (Chapter 1 (commencing with
26 Sec. 1750) of Title 1.5 of Part 4 of Division 3, Civ. C.). Each
27 manufacture, importation, installation, reinstallation, sale, or offer
28 for sale shall constitute a separate and distinct violation.

29 (e) A knowing violation of subdivision (b) or (c) is a felony,
30 punishable by a fine not to exceed five thousand dollars (\$5,000),
31 by imprisonment pursuant to subdivision (h) of Section 1170 of
32 the Penal Code not to exceed five years, or by both that fine and
33 imprisonment.

34 SEC. 3. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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