

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2387

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

February 18, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2387, as amended, Mullin. Vehicle equipment: counterfeit and nonfunctional ~~airbags~~; *air bags*.

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~~, *air bag*, so that it falsely indicates the supplemental restraint system is in proper working order; or (b) knowingly distribute or sell a previously deployed ~~airbag~~ *air bag* 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.~~

This bill would additionally make it a misdemeanor for a person to knowingly distribute, sell, or install a counterfeit or nonfunctional air bag, as defined. The bill would also make it a misdemeanor for any person to manufacture, import, install, reinstall, sell, or offer for sale any device with the intent that the device replace an air bag in any motor vehicle if the person knows or reasonably should know that the device is a counterfeit air bag or a nonfunctional air bag or does not meet specified federal safety requirements. The bill would provide that a person who installs a nonfunctional air bag that is nonfunctional solely because it has an electric fault, as specified, is only guilty of the crimes described above if, after the electrical fault is discovered, he or she fails to either replace the nonfunctional air bag with a functional air bag in a reasonable time or fails to notify the purchaser or other recipient of the vehicle that the air bag is nonfunctional. 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 amended to
- 2 read:
- 3 27317. (a) A person who installs, reinstalls, rewires, tampers
- 4 with, alters, or modifies for compensation, a vehicle’s computer
- 5 system or supplemental restraint system, including, but not limited
- 6 to, the supplemental restraint system’s on-board system
- 7 performance indicators, so that it falsely indicates the supplemental
- 8 restraint system is in proper working order, or who knowingly
- 9 distributes or sells a previously deployed air bag or previously
- 10 deployed air bag component that will no longer meet the original

1 equipment manufacturing form or function for proper operation,
2 *or who knowingly distributes, sells, or installs a counterfeit or*
3 *nonfunctional airbag* is guilty of a misdemeanor punishable by a
4 fine of up to five thousand dollars (\$5,000) or by imprisonment in
5 a county jail for up to one year, or by both the fine and
6 imprisonment.

7 *(b) Any person who manufactures, imports, installs, reinstalls,*
8 *sells, or offers for sale any device with the intent that the device*
9 *replace an airbag in any motor vehicle if the person knows or*
10 *reasonably should know that the device is a counterfeit airbag or*
11 *a nonfunctional airbag, or does not meet federal safety*
12 *requirements as provided in Section 571.208 of Title 49 of the*
13 *Code of Federal Regulations is guilty of a misdemeanor punishable*
14 *by a fine of up to five thousand dollars (\$5,000) or by imprisonment*
15 *in a county jail for up to one year, or by both the fine and*
16 *imprisonment.*

17 *(c) A person who installs a nonfunctional that is nonfunctional*
18 *solely based on the definition in subparagraph (C) of paragraph*
19 *(2) of subdivision (d) is only guilty of the offenses described in*
20 *subdivisions (a) or (b) if, after the electric fault is detected by the*
21 *vehicle airbag diagnostic system, the installer fails to either replace*
22 *the nonfunctional airbag with a functional airbag in a reasonable*
23 *time or fails to replace the notify the purchaser or other recipient*
24 *of the vehicle that the airbag is nonfunctional.*

25 *(d) The following definitions shall apply for purposes of this*
26 *section:*

27 *(1) "Counterfeit air bag" means an air bag that does any of*
28 *the following: displays a mark identical or similar to the genuine*
29 *mark of a motor vehicle manufacturer without authorization from*
30 *that manufacturer; any air bag falsely represented to be an airbag*
31 *of any true dealer, manufacturer or producer of the air bag; or a*
32 *counterfeit or repaired airbag cover, installed in a motor vehicle*
33 *to mislead the owner or operator of the motor vehicle into believing*
34 *that a functional airbag has been installed.*

35 *(2) "nonfunctional air bag" means a replacement air bag that*
36 *meets any of the following criteria:*

37 *(B) An airbag was previously deployed or damaged.*

38 *(C) An airbag has an electric fault that is detected by the vehicle*
39 *airbag diagnostic system after the installation procedure is*
40 *completed.*

1 (D) An airbag includes a part or object, including, but not
 2 limited to, a counterfeit or repaired airbag cover, installed in a
 3 motor vehicle to mislead the owner or operator of the motor vehicle
 4 into believing that a functional airbag has been installed.

5 (E) An airbag was subject to factory recall.

6 ~~SECTION 1. Section 27317 of the Vehicle Code is repealed.~~

7 ~~SEC. 2. Section 27317 is added to the Vehicle Code, to read:~~

8 ~~27317. (a) The following definitions shall apply for purposes~~
 9 ~~of this section:~~

10 ~~(1) "Airbag" means a motor vehicle inflatable occupant restraint~~
 11 ~~system, including all component parts, such as the cover, sensors,~~
 12 ~~controllers, inflators, and wiring, that does both of the following:~~

13 ~~(A) Operates in the event of a crash.~~

14 ~~(B) Is designed in accordance with federal motor vehicle safety~~
 15 ~~standards for the specific make, model, and year of the motor~~
 16 ~~vehicle in which it is or will be installed.~~

17 ~~(2) "Counterfeit airbag" means an airbag that displays a mark~~
 18 ~~identical or similar to the genuine mark of a motor vehicle~~
 19 ~~manufacturer without authorization from that manufacturer.~~

20 ~~(3) "Nonfunctional airbag" means a replacement airbag that~~
 21 ~~meets any of the following criteria:~~

22 ~~(A) The airbag was previously deployed or damaged.~~

23 ~~(B) The airbag has an electric fault that is detected by the vehicle~~
 24 ~~airbag diagnostic system after the installation procedure is~~
 25 ~~completed.~~

26 ~~(C) The airbag includes a part or object, including, but not~~
 27 ~~limited to, a counterfeit or repaired airbag cover, installed in a~~
 28 ~~motor vehicle to mislead the owner or operator of the motor vehicle~~
 29 ~~into believing that a functional airbag has been installed.~~

30 ~~(b) A person shall not manufacture, import, install, reinstall,~~
 31 ~~sell, or offer for sale any device with the intent that the device~~
 32 ~~replace an airbag in any motor vehicle if the person knows or~~
 33 ~~reasonably should know that the device is a counterfeit airbag or~~
 34 ~~a nonfunctional airbag, or does not meet federal safety requirements~~
 35 ~~as provided in Section 571.208 of Title 49 of the Code of Federal~~
 36 ~~Regulations.~~

37 ~~(c) A person shall not sell, or install or reinstall in a vehicle,~~
 38 ~~any device that causes the vehicle's diagnostic system to~~
 39 ~~inaccurately indicate that the vehicle is equipped with a functional~~

1 ~~airbag when a counterfeit airbag or nonfunctional airbag, or no~~
2 ~~airbag, is installed.~~

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

9 ~~(e) A knowing violation of subdivision (b) or (c) is a felony,~~
10 ~~punishable by a fine not to exceed five thousand dollars (\$5,000),~~
11 ~~by imprisonment pursuant to subdivision (h) of Section 1170 of~~
12 ~~the Penal Code not to exceed five years, or by both that fine and~~
13 ~~imprisonment.~~

14 SEC.

15 ~~3.~~

16 2. No reimbursement is required by this act pursuant to Section
17 6 of Article XIII B of the California Constitution because the only
18 costs that may be incurred by a local agency or school district will
19 be incurred because this act creates a new crime or infraction,
20 eliminates a crime or infraction, or changes the penalty for a crime
21 or infraction, within the meaning of Section 17556 of the
22 Government Code, or changes the definition of a crime within the
23 meaning of Section 6 of Article XIII B of the California
24 Constitution.