

AMENDED IN ASSEMBLY MAY 9, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

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)

(Coauthors: Assembly Members Chang, Cooper, Holden, and Wilk)

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 amended, Mullin. Vehicle equipment:—~~counterfeit supplemental restraint system components~~ 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 ~~air bag~~, *airbags*, so that it falsely indicates the supplemental restraint system is in proper working order; or (b) knowingly distribute or sell a previously deployed ~~air bag~~ *airbag* or component that will no longer meet the original equipment manufacturing form or function for proper operation.

This bill would repeal these provisions and instead make it a misdemeanor for any person to *knowingly and intentionally* manufacture, import, install, reinstall, distribute, sell, or offer for sale any device ~~with the intent that the device replace an airbag~~ *intended to replace a supplemental restraint system component, as defined*, in any motor

vehicle if ~~the person knows or reasonably should know~~ that the device is a counterfeit ~~airbag~~ *supplemental restraint system component* or a nonfunctional airbag, as defined, or does not meet specified federal safety requirements. The bill would also make it a misdemeanor to ~~knowingly and intentionally~~ sell, install, or reinstall in a vehicle any device that causes the vehicle’s diagnostic systems to fail to warn when the vehicle is equipped with a counterfeit ~~airbag~~ *supplemental restraint system component* or nonfunctional airbag, or when no airbag is installed. The bill would deem any of the violations described as an unfair or deceptive act or practice for purposes of the Consumers Legal Remedies Act, as specified. 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 SEC. 2. Section 27317 is added to the Vehicle Code, to read:
- 3 27317. (a) A person shall not ~~knowingly and intentionally~~
- 4 manufacture, import, install, reinstall, distribute, sell, or offer for
- 5 sale any device ~~with the intent that the device replace an airbag~~
- 6 ~~intended to replace a supplemental restraint system component in~~
- 7 any motor vehicle if ~~the person knows or reasonably should know~~
- 8 ~~that the device is a counterfeit airbag~~ *the device is a counterfeit*
- 9 *supplemental restraint system component* or a nonfunctional airbag,
- 10 or does not meet federal safety requirements as provided in Section
- 11 571.208 of Title 49 of the Code of Federal Regulations.
- 12 (b) A person shall not ~~knowingly and intentionally~~ sell, install,
- 13 or reinstall in a vehicle, any device that causes the vehicle’s
- 14 diagnostic systems to fail to warn when the vehicle is equipped
- 15 with a counterfeit ~~airbag~~ *supplemental restraint system component*
- 16 or nonfunctional airbag, or when no airbag is installed.
- 17 (c) A violation of subdivision (a) or (b) is a misdemeanor
- 18 punishable by a fine of up to five thousand dollars (\$5,000) or by

1 imprisonment in a county jail for up to one year, or by both the
2 fine and imprisonment.

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

9 (e) An installation or reinstallation shall not have occurred for
10 purposes of this section until the work is complete.

11 (f) The following definitions shall apply for purposes of this
12 section:

13 ~~(1) "Airbag" means a motor vehicle inflatable occupant restraint~~
14 ~~system device, including all component parts, such as the cover,~~
15 ~~sensors, controllers, inflators, and wiring, that the vehicle~~
16 ~~manufacturer recommends be replaced after deployment that meets~~
17 ~~both of the following criteria:~~

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

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

22 *(1) "Airbag" means a motor vehicle inflatable occupant*
23 *restraint system device that is part of a supplemental restraint*
24 *system.*

25 ~~(2) "Counterfeit airbag" "Counterfeit supplemental restraint~~
26 ~~system component" means a replacement supplemental restraint~~
27 ~~system component, including, but not limited to, an airbag that~~
28 ~~displays a mark identical or substantially similar to the genuine~~
29 ~~mark of a motor vehicle manufacturer or a supplier of parts to the~~
30 ~~manufacturer of a motor vehicle without authorization from that~~
31 ~~manufacturer or supplier. supplier, respectively.~~

32 (3) "Nonfunctional airbag" means a replacement airbag that
33 meets any of the following criteria:

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

35 (B) The airbag has an electric fault that is detected by the
36 vehicle's airbag diagnostic systems after the installation procedure
37 is completed.

38 (C) The airbag includes a part or object, including, but not
39 limited to, ~~a counterfeit or repaired airbag cover or airbag~~
40 ~~component, supplemental restraint system component~~ installed in

1 a motor vehicle to mislead the owner or operator of the motor
2 vehicle into believing that a functional airbag has been installed.

3 (4) *“Supplemental restraint system,” commonly referred to as*
4 *an “SRS,” means a passive inflatable motor vehicle occupant*
5 *crash protection system designed for use in conjunction with active*
6 *restraint systems, as defined in Section 571.208 of Title 49 of the*
7 *Code of Federal Regulations. A supplemental restraint system*
8 *includes one or more airbags and all components required to*
9 *ensure that an airbag works as designed by the vehicle*
10 *manufacturer, including both of the following:*

- 11 (A) *The airbag operates in the event of a crash.*
- 12 (B) *The airbag is designed in accordance with federal motor*
13 *vehicle safety standards for the specific make, model, and year of*
14 *the motor vehicle in which it is or will be installed.*

15 SEC. 3. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.