

Assembly Bill No. 2387

Passed the Assembly August 25, 2016

Chief Clerk of the Assembly

Passed the Senate August 22, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2387, Mullin. Vehicle equipment: 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 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 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 intended to replace a supplemental restraint system component, as defined, in any motor vehicle if the device is a counterfeit 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 supplemental restraint system component or nonfunctional airbag, or when no airbag is installed. The bill would provide that its provisions do not affect any duties, rights, or remedies otherwise available at law or preclude prosecution under any other law. 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.

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

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 Section 27317 of the Vehicle Code is repealed.

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

27317. (a) A person shall not knowingly and intentionally manufacture, import, install, reinstall, distribute, sell, or offer for sale any device intended to replace a supplemental restraint system component in any motor vehicle if the device is a counterfeit supplemental restraint system component or a nonfunctional airbag, or does not meet federal safety requirements as provided in Section 571.208 of Title 49 of the Code of Federal Regulations.

(b) A person shall not 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 supplemental restraint system component or nonfunctional airbag, or when no airbag is installed.

(c) A violation of subdivision (a) or (b) is a misdemeanor punishable by a fine of up to five thousand dollars (\$5,000) or by imprisonment in a county jail for up to one year, or by both the fine and imprisonment.

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

(e) The following definitions shall apply for purposes of this section:

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

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

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

(A) The airbag was previously deployed or damaged.

(B) The airbag has an electric fault that is detected by the vehicle's airbag diagnostic systems when the installation procedure is completed and the vehicle is returned to the customer who

requested the work to be performed or when ownership is intended to be transferred.

(C) The airbag includes a part or object, including, but not limited to, a supplemental restraint system component installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed.

(D) The airbag is subject to the prohibitions of subsection (j) of Section 30120 of Title 49 of the United States Code.

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

(A) The airbag operates in the event of a crash.

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

(f) This section does not affect any duties, rights, or remedies otherwise available at law.

(g) This section does not preclude prosecution under any other law.

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

Approved _____, 2016

Governor