



2023 South Dakota Legislature

House Bill 1158

Introduced by: **Representative** Duffy

1 **An Act to ban counterfeit airbags.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That chapter 32-15 be amended with a NEW SECTION:**

4 Terms used in this Act mean:

5 (1) "Airbag," a motor vehicle inflatable occupant restraint system device that is part
6 of a supplemental restraint system;

7 (2) "Counterfeit supplemental restraint system component," a replacement
8 supplemental restraint system component, including an airbag, that displays a
9 mark identical to, or substantially similar to, the genuine mark of a motor vehicle
10 manufacturer or a supplier of parts to the manufacturer of a motor vehicle without
11 authorization from that manufacturer or supplier, respectively;

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

14 (a) The airbag was previously deployed or damaged;

15 (b) The airbag has an electric fault that is detected by the motor vehicle airbag
16 diagnostic system when the installation procedure is completed, and the
17 motor vehicle is returned to the customer who requested the work
18 performed or when ownership is intended to be transferred;

19 (c) The airbag includes a part or object, including a supplemental restraint
20 system component, that is installed in a motor vehicle to mislead the owner
21 or operator of the motor vehicle into believing that a functional airbag has
22 been installed; or

23 (d) The airbag is subject to the prohibitions of 49 U.S.C. § 30120(j) as of
24 November 15, 2021;

(4) "Supplemental Restraint System," one or more airbags and all components required to ensure that an airbag works as designed by the vehicle manufacturer and the airbags:

(a) Operate as designed in the event of a crash; and

(b) Are designed to meet federal motor vehicle safety standards for the specific make, model, and year of the motor vehicle in which it is or will be installed.

Section 2. That chapter 32-15 be amended with a NEW SECTION:

No person may knowingly:

(1) Import, manufacture, sell, offer for sale, install, or reinstall in a motor vehicle a counterfeit supplemental restraint system component, a nonfunctional airbag, or an object that does not comply with 49 C.F.R. § 571.208 as of September 26, 2022, for the make, model, and year of the motor vehicle;

(2) Sell, offer for sale, install, or reinstall in any motor vehicle a device that causes the diagnostic system of the motor vehicle to inaccurately indicate that the motor is equipped with a properly functioning airbag; and

(3) Sell, lease, trade, or transfer a motor vehicle if the person knows that a counterfeit supplemental restraint system component, a nonfunctional airbag, or an object that does not comply with 49 C.F.R. § 571.208 as of September 26, 2022, for the make, model, and year of the motor vehicle, has been installed in the motor vehicle as part of the airbag.

A person who violates this section is guilty of a Class 2 misdemeanor.

Section 3. That chapter 32-15 be amended with a NEW SECTION:

Section 2 of this Act does not apply to:

(1) A person installing, reinstalling, or replacing an airbag or other component of an airbag in a motor vehicle used solely for police work; or

(2) An owner or employee of a motor vehicle dealership or the owner of a motor vehicle who, before the sale of the motor vehicle, does not have knowledge that the airbag, or another component of the motor vehicle's supplemental restraint system is counterfeit or nonfunctional.

This Act does not prevent liability of any party in a civil action, or create a duty that, before the sale of a vehicle, an owner or employee of a motor vehicle dealership or the owner of the vehicle must inspect a vehicle in possession of the dealership or owner to

- 1 determine whether the airbag, or another component of the vehicle's supplemental
- 2 restraint system, is counterfeit or nonfunctional.