

Regular Session, 2014

SENATE BILL NO. 32

BY SENATOR MORRISH

CRIME/PUNISHMENT. Provides criminal penalties for the manufacture, importation, sale, and installation of counterfeit air bags. (gov sig)

AN ACT

To amend and reenact R.S. 14:231, relative to offenses against property; to provide relative to air bag fraud; to provide penalties for knowingly manufacturing, importing, selling, offering for sale, or installing or reinstalling in any motor vehicle a counterfeit or nonfunctional air bag; to provide definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:231 is hereby amended and reenacted to read as follows:

§231. Air **Counterfeit and nonfunctional air bags prohibited; air** bag fraud prohibited

~~A. No person shall knowingly install or reinstall either of the following in a motor vehicle:~~

~~(1) An air bag, whether previously deployed or not, that was not designed to meet all applicable federal safety regulations for a vehicle of that make, model, and year.~~

~~(2) Any object in lieu of an air bag that was not designed to meet all applicable federal safety regulations for a vehicle of that make, model, and year.~~

1           ~~B. For purposes of this Section, an "air bag" means an inflatable occupant~~  
2           ~~restraint system designed to activate in a motor vehicle in the event of a traffic crash~~  
3           ~~to mitigate injury or ejection.~~

4           ~~C. Whoever violates the provisions of this Section shall be fined not more~~  
5           ~~than two thousand dollars, imprisoned not more than six months, or both.~~

6           **A. No person shall knowingly install or reinstall in any motor vehicle a**  
7           **counterfeit or nonfunctional air bag or any other object intended to fulfill the**  
8           **function of an air bag that does not meet the definition of "air bag" set forth in**  
9           **Subsection D of this Section.**

10          **B. No person shall knowingly manufacture, import, sell, or offer for sale**  
11          **a counterfeit or nonfunctional air bag or any other object intended to fulfill the**  
12          **function of an air bag that does not meet the definition of "air bag" set forth in**  
13          **Subsection D of this Section.**

14          **C. No person shall knowingly sell, install, or reinstall a device in a motor**  
15          **vehicle that causes the diagnostic system of the vehicle to indicate inaccurately**  
16          **that the vehicle is equipped with a functional air bag.**

17          **D. For purposes of this Section:**

18          **(1) "Air bag" means an inflatable occupant restraint system, including**  
19          **all component parts, such as the cover, sensors, controllers, inflators, and**  
20          **wiring, designed to activate in a motor vehicle in the event of a crash to mitigate**  
21          **injury or ejection and that meets the federal motor vehicle safety standards set**  
22          **forth in 49 C.F.R. 571.208 for the make, model, and model year of the motor**  
23          **vehicle.**

24          **(2) "Counterfeit air bag" means an air bag displaying a mark identically**  
25          **or substantially similar to the genuine mark of a motor vehicle manufacturer,**  
26          **without the authorization of the motor vehicle manufacturer.**

27          **(3) "Nonfunctional air bag" means any of the following:**

28          **(a) A replacement air bag that has been previously deployed or damaged.**

29          **(b) A replacement air bag that has an electrical fault that is detected by**

1 the air bag diagnostic system after the air bag is installed.

2 (c) A counterfeit air bag, air bag cover, or some other object that is  
3 installed in a motor vehicle in order to mislead or deceive an owner or operator  
4 of the motor vehicle into believing that a functional air bag has been installed.

5 (4) "Serious bodily injury" means bodily injury that involves  
6 unconsciousness, extreme physical pain, protracted and obvious disfigurement,  
7 protracted loss or impairment of the function of a bodily member, organ, or  
8 mental faculty, or a substantial risk of death.

9 E. Whoever violates the provisions of Subsection A or C of this Section  
10 shall:

11 (1) Upon first conviction, be fined not more than one thousand dollars,  
12 or imprisoned for not more than six months, or both, except as provided in  
13 Paragraph (2) of this Subsection.

14 (2) Upon a second and subsequent conviction, or if the violation results  
15 in the serious bodily injury or death of any person, be fined not more than two  
16 thousand five hundred dollars, or imprisoned, with or without hard labor, for  
17 not more than one year, or both.

18 F. Whoever violates the provisions of Subsection B of this Section shall:

19 (1) Upon conviction, be fined not more than two thousand five hundred  
20 dollars, or imprisoned, with or without hard labor, for not more than one year,  
21 or both, except as provided in Paragraphs (2) and (3) of this Subsection.

22 (2) Upon conviction, if the cumulative sales price of the air bags or  
23 objects involved in the violation is at least five thousand dollars but less than  
24 one hundred thousand dollars, or if the number of air bags or objects involved  
25 in the violation is at least one hundred but less than one thousand, be fined not  
26 more than five thousand dollars, or imprisoned, with or without hard labor, for  
27 not less than six months nor more than two years, or both.

28 (3) Upon conviction, if the cumulative sales price of the air bags or  
29 objects involved in the violation is one hundred thousand dollars or more, or if

**the number of air bags or objects involved in the violation is one thousand or more, be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both.**

**G. Each manufacture, importation, installation, reinstallation, sale, or offer for sale in violation of this Section shall constitute a separate and distinct violation.**

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

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#### DIGEST

Morrish (SB 32)

Present law provides that no person can knowingly install or reinstall either of the following in a motor vehicle:

- (1) An air bag, whether previously deployed or not, that was not designed to meet all applicable federal safety regulations for a vehicle of that make, model, and year.
- (2) Any object in lieu of an air bag that was not designed to meet all applicable federal safety regulations for a vehicle of that make, model, and year.

Proposed law essentially retains present law, and further prohibits the manufacture, importation, sale, or offer for sale of a counterfeit air bag, a nonfunctional air bag, or any other object intended to fulfill the function of an air bag, but that does not meet all applicable federal safety regulations for a vehicle of that make, model, and year.

Proposed law provides that no person can knowingly sell, install, or reinstall a device in a motor vehicle that causes the diagnostic system of the vehicle to indicate inaccurately that the vehicle is equipped with a functional air bag.

Present law defines an "air bag" as an inflatable occupant restraint system designed to activate in a motor vehicle in the event of a traffic crash to mitigate injury or ejection.

Proposed law deletes present law and provides the following definitions:

- (1) "Air bag" means an inflatable occupant restraint system, including all component parts, such as the cover, sensors, controllers, inflators, and wiring, designed to activate in a motor vehicle in the event of a crash to mitigate injury or ejection and that meets the applicable federal motor vehicle safety standards for the make, model, and model year of the motor vehicle.

- (2) "Counterfeit air bag" means an air bag displaying a mark identically or substantially similar to the genuine mark of a motor vehicle manufacturer, without the authorization of the motor vehicle manufacturer.
- (3) "Nonfunctional air bag" means a replacement air bag that has been previously deployed or damaged, a replacement air bag that has an electrical fault that is detected by the air bag diagnostic system after the air bag is installed, or a counterfeit air bag, air bag cover, or some other object that is installed in a motor vehicle in order to mislead or deceive an owner or operator of the motor vehicle into believing that a functional air bag has been installed.
- (4) "Serious bodily injury" means bodily injury that involves unconsciousness, extreme physical pain, or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

Present law provides that whoever violates the provisions of present law is to be fined not more than \$2,000, imprisoned not more than six months, or both.

Proposed law deletes present law and provides the following penalties based on the specifics of the violation:

- (1) Whoever violates the provisions of proposed law relative to installation, reinstallation, or the motor vehicle diagnostic system:
  - (a) Upon first conviction is to be fined not more than \$1,000, or imprisoned for not more than six months, or both, except as provided in proposed law.
  - (b) Upon a second and subsequent conviction, or if the violation results in the serious bodily injury or death of any person, is to be fined not more than \$2,000, or imprisoned, with or without hard labor, for not more than one year, or both.
- (2) Whoever violates the provisions of proposed law relative to manufacture, importation, sale, or offer for sale:
  - (a) Upon conviction is to be fined not more than \$2,000, or imprisoned, with or without hard labor, for not more than one year, or both, except as provided in proposed law.
  - (b) Upon conviction, if the cumulative sales price of the air bags or objects involved in the violation is at least \$5,000 but less than \$100,000, or if the number of air bags or objects involved in the violation is at least 100 but less than 1,000, is to be fined not more than \$5,000, or imprisoned, with or without hard labor, for not less than six months nor more than two years, or both.
  - (c) Upon conviction, if the cumulative sales price of the air bags or objects involved in the violation is \$100,000 or more, or if the number of air bags or objects involved in the violation is 1,000 or more, is to be fined not more than \$10,000, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both.

Proposed law provides that each manufacture, importation, installation, reinstallation, sale, or offer for sale in violation of proposed law constitutes a separate and distinct violation.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:231)