

1 HB370  
2 157608-1  
3 By Representatives Wood, Farley, DeMarco and Hubbard (M)  
4 RFD: Judiciary  
5 First Read: 30-JAN-14

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8 SYNOPSIS: Under existing law, a person commits the  
9 offense of fraudulent repair of an airbag if, after  
10 an airbag has deployed in a motor vehicle, he or  
11 she installs a new airbag that the person knew was  
12 not designed in accordance with applicable federal  
13 standards or installs a used airbag in a motor  
14 vehicle and fails to disclose to the owner that a  
15 used airbag was installed.

16 This bill would define the term "airbag" and  
17 rename this offense "airbag fraud" and would  
18 provide criminal penalties for importing,  
19 installing, reinstalling, selling, or offering to  
20 sell a counterfeit or nonfunctional airbag,  
21 selling, installing, or reinstalling a device in a  
22 motor vehicle that causes the vehicle's diagnostic  
23 system to inaccurately indicate that the vehicle is  
24 equipped with a functional airbag, or installing or  
25 requesting another to install a counterfeit or  
26 nonfunctional airbag and selling or offering to  
27 sell the vehicle to another person with the intent

1 to deceive the purchaser about the existence of the  
2 counterfeit airbag or nonfunctional airbag in the  
3 vehicle.

4 This bill would also provide enhanced  
5 criminal penalties if the airbag fraud caused  
6 physical injury to a person.

7 Amendment 621 of the Constitution of Alabama  
8 of 1901, now appearing as Section 111.05 of the  
9 Official Recompilation of the Constitution of  
10 Alabama of 1901, as amended, prohibits a general  
11 law whose purpose or effect would be to require a  
12 new or increased expenditure of local funds from  
13 becoming effective with regard to a local  
14 governmental entity without enactment by a 2/3 vote  
15 unless: it comes within one of a number of  
16 specified exceptions; it is approved by the  
17 affected entity; or the Legislature appropriates  
18 funds, or provides a local source of revenue, to  
19 the entity for the purpose.

20 The purpose or effect of this bill would be  
21 to require a new or increased expenditure of local  
22 funds within the meaning of the amendment. However,  
23 the bill does not require approval of a local  
24 governmental entity or enactment by a 2/3 vote to  
25 become effective because it comes within one of the  
26 specified exceptions contained in the amendment.

1 A BILL  
2 TO BE ENTITLED  
3 AN ACT  
4

5 To amend Section 13A-11-270, Code of Alabama 1975;  
6 to provide criminal penalties for selling, installing, or  
7 reinstalling a device in a motor vehicle that causes the  
8 vehicle's diagnostic system to inaccurately indicate that the  
9 vehicle is equipped with a functional airbag; to provide  
10 criminal penalties for installing or requesting another to  
11 install a counterfeit airbag or nonfunctional airbag and  
12 selling or offering to sell the vehicle to another with the  
13 intent to deceive the purchaser about the existence of the  
14 counterfeit airbag or nonfunctional airbag in the vehicle; to  
15 provide enhanced criminal penalties for committing airbag  
16 fraud that causes physical injury; to repeal Section  
17 13A-11-271, Code of Alabama 1975, relating to the fraudulent  
18 sale of a motor vehicle without an airbag; and in connection  
19 therewith would have as its purpose or effect the requirement  
20 of a new or increased expenditure of local funds within the  
21 meaning of Amendment 621 of the Constitution of Alabama of  
22 1901, now appearing as Section 111.05 of the Official  
23 Recompilation of the Constitution of Alabama of 1901, as  
24 amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 13A-11-270, Code of Alabama 1975,  
27 is amended to read as follows:

1            "§13A-11-271.

2            "(a) For the purposes of this section, the following  
3 terms shall have the following meanings:

4            "(1) AIRBAG. A motor vehicle inflatable occupant  
5 restraint system or any component thereof that satisfies both  
6 of the following:

7            "a. Operates in the event of a crash.

8            "b. Was designed in accordance with all applicable  
9 federal safety standards for the specific make, model, and  
10 year of the motor vehicle in which it is or will be installed.

11           "(2) COUNTERFEIT AIRBAG. A replacement motor vehicle  
12 inflatable occupant restraint system or any component thereof  
13 displaying a mark identical or similar to the genuine mark of  
14 a motor vehicle manufacturer without authorization from the  
15 manufacturer.

16           "(3) NONFUNCTIONAL AIRBAG. A replacement motor  
17 vehicle inflatable occupant restraint system or any component  
18 thereof that satisfies any of the following:

19           "a. Was previously deployed or damaged.

20           "b. Has a fault that is detected by the vehicle  
21 diagnostic system after the installation procedure is  
22 completed.

23           "c. Includes any part or object, including, but not  
24 limited to, a counterfeit airbag, a nonfunctional airbag, or a  
25 repaired airbag cover, installed in a motor vehicle to mislead  
26 the owner or operator of such motor vehicle into believing  
27 that a functional airbag has been installed.

1           "~~(a)(b)~~ A person commits the offense of ~~fraudulent~~  
2 ~~repair of an airbag fraud~~ if, ~~after an airbag has been~~  
3 ~~deployed in a motor vehicle,~~ the person knowingly and  
4 intentionally as defined in Section 13A-2-2, does ~~either any~~  
5 of the following:

6           "(1) ~~Installs Manufactures, imports, sells, offers~~  
7 for sale, installs, or reinstalls a new counterfeit airbag, a  
8 nonfunctional airbag, or any other device to replace an airbag  
9 ~~which that~~ the person knew was not designed in accordance with  
10 all applicable federal safety standards for the make, model,  
11 and year of the motor vehicle.

12           "(2) Installs a used airbag in a motor vehicle and  
13 fails to disclose to the owner or lessee that a used airbag  
14 has been installed.

15           "(3) Sells any device, or installs or reinstalls in  
16 any vehicle any device, that causes the vehicle's diagnostic  
17 system to inaccurately indicate that the vehicle is equipped  
18 with a functional airbag when a counterfeit airbag,  
19 nonfunctional airbag, or no airbag is installed.

20           "(4) Installs or requests another to install a  
21 counterfeit airbag or nonfunctional airbag and sells or offers  
22 to sell the vehicle to another person with the intent to  
23 deceive the purchaser about the existence of the counterfeit  
24 airbag or nonfunctional airbag in the vehicle.

25           "~~(b) Fraudulent repair of an airbag~~ (c) Airbag fraud  
26 is a Class A misdemeanor. If the fraud contributes to a  
27 person's physical injury, airbag fraud is a Class C felony."

1                   Section 2. Section 13A-11-271, Code of Alabama 1975,  
2 relating to the fraudulent sale of a motor vehicle without an  
3 airbag, is repealed.

4                   Section 3. Although this bill would have as its  
5 purpose or effect the requirement of a new or increased  
6 expenditure of local funds, the bill is excluded from further  
7 requirements and application under Amendment 621, now  
8 appearing as Section 111.05 of the Official Recompilation of  
9 the Constitution of Alabama of 1901, as amended, because the  
10 bill defines a new crime or amends the definition of an  
11 existing crime.

12                   Section 4. This act shall become effective on the  
13 first day of the third month following its passage and  
14 approval by the Governor, or its otherwise becoming law.