

1 SB163
2 156199-2
3 By Senators Fielding, Marsh, Whatley, Allen, Smitherman,
4 Waggoner, Bedford, Figures, Irons, Holtzclaw, Blackwell,
5 Glover, Scofield, Reed, Holley, Ward, Taylor, Williams,
6 Hightower, Dial and Pittman
7 RFD: Judiciary
8 First Read: 14-JAN-14

2
3
4
5
6
7
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 rename this offense "airbag
17 fraud" and would provide criminal penalties for
18 selling, installing, or reinstalling a device in a
19 motor vehicle that causes the vehicle's diagnostic
20 system to inaccurately indicate that the vehicle is
21 equipped with a functional airbag or selling a
22 motor vehicle with a counterfeit airbag, a
23 nonfunctional airbag, or no airbag with the intent
24 to deceive the purchaser.

25 This bill would also provide enhanced
26 criminal penalties if the airbag fraud caused
27 physical injury to a person.

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

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 To amend Section 13A-11-270, Code of Alabama 1975;
27 to provide criminal penalties for selling, installing, or

1 reinstalling a device in a motor vehicle that causes the
2 vehicle's diagnostic system to inaccurately indicate that the
3 vehicle is equipped with a functional airbag; to provide
4 criminal penalties for selling a motor vehicle with a
5 counterfeit airbag, a nonfunctional airbag, or no airbag with
6 the intent to deceive the purchaser; to provide enhanced
7 criminal penalties for committing airbag fraud that causes
8 physical injury; to repeal Section 13A-11-271, Code of Alabama
9 1975, relating to the fraudulent sale of a motor vehicle
10 without an airbag; and in connection therewith would have as
11 its purpose or effect the requirement of a new or increased
12 expenditure of local funds within the meaning of Amendment 621
13 of the Constitution of Alabama of 1901, now appearing as
14 Section 111.05 of the Official Recompilation of the
15 Constitution of Alabama of 1901, as amended.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§13A-11-271.

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

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

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

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

4 "(2) COUNTERFEIT AIRBAG. A replacement motor vehicle
5 inflatable occupant restraint system or any component thereof
6 displaying a mark identical or similar to the genuine mark of
7 a motor vehicle manufacturer without authorization from the
8 manufacturer.

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

12 "a. Was previously deployed or damaged.

13 "b. Has a fault that is detected by the vehicle
14 diagnostic system after the installation procedure is
15 completed.

16 "c. Includes any part or object, including, but not
17 limited to, a counterfeit airbag, a nonfunctional airbag, or a
18 repaired airbag cover, installed in a motor vehicle to mislead
19 the owner or operator of such motor vehicle into believing
20 that a functional airbag has been installed.

21 ~~"(a)(b) A person commits the offense of fraudulent~~
22 ~~repair of an airbag fraud if, after an airbag has been~~
23 ~~deployed in a motor vehicle, the person knowingly and~~
24 ~~intentionally does either any of the following:~~

25 "(1) ~~Installs~~ Manufactures, imports, sells, offers
26 for sale, installs, or reinstalls a new counterfeit airbag, a
27 nonfunctional airbag, or any other device to replace an airbag

1 ~~which~~ that the person knew was not designed in accordance with
2 all applicable federal safety standards for the make, model,
3 and year of the motor vehicle.

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

7 "(3) Sells, installs, or reinstalls in any vehicle
8 any device that causes the vehicle's diagnostic system to
9 inaccurately indicate that the vehicle is equipped with a
10 functional airbag when a counterfeit airbag, nonfunctional
11 airbag, or no airbag is installed.

12 "(4) Sells a motor vehicle with a counterfeit
13 airbag, nonfunctional airbag, or no airbag to a purchaser with
14 the intent to deceive the purchaser by failing to disclose or
15 misrepresenting to the purchaser the existence of a
16 counterfeit airbag, nonfunctional airbag, or absence of an
17 airbag.

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

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

24 Section 3. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

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