



# Ohio Legislative Service Commission

## Bill Analysis

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### Am. H.B. 177

130th General Assembly

(As Reported by H. Transportation, Public Safety, and Homeland Security)

**Reps.** Pelanda, Duffey, Buchy, Cera, Reece, Patmon, Mallory, Beck, Ruhl, Celebrezze, R. Hagan, Milkovich, Perales

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## BILL SUMMARY

- Prohibits the installation or reinstallation of a counterfeit or nonfunctional air bag in a motor vehicle, and the manufacture, import, sale, or offer for sale of a counterfeit or nonfunctional air bag.
- Prohibits the sale, installation, or reinstallation of a device in a motor vehicle that causes the vehicle's diagnostic system to inaccurately indicate that the vehicle is equipped with a functional air bag.
- Increases the penalty for improper replacement of an air bag in a motor vehicle if the violation results in the bodily injury or death of an individual.

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## CONTENT AND OPERATION

### Replacement of motor vehicle air bags

#### Prohibitions

The bill modifies the current prohibition regarding improper motor vehicle air bag replacement by prohibiting any person from installing or reinstalling in any motor vehicle *a counterfeit or nonfunctional air bag* or any object *intended* to fulfill the function of an air bag, other than an air bag that was designed in conformance with or is regulated by Federal Motor Vehicle Safety Standard Number 208 for the make, model, and model year of the vehicle, knowing that the object is not in accordance with that standard. Currently, this provision prohibits any person from installing or reinstalling in any motor vehicle any object to fulfill the function of an air bag, *including an air bag*, other than an air bag that was designed in conformance with or is regulated by the applicable

federal motor vehicle safety standard for that vehicle, knowing that the object is not in accordance with that standard.<sup>1</sup>

The bill also establishes two new prohibitions. The first prohibition prohibits any person from knowingly manufacturing, importing, selling, or offering for sale any of the following:

(1) A counterfeit air bag;

(2) A nonfunctional air bag;

(3) Any other object that is intended to be installed in a motor vehicle to fulfill the function of an air bag and that is not in conformance with F.M.V. Safety Standard 208 for the make, model, and model year of the vehicle in which the object is intended to be installed.<sup>2</sup>

The second prohibition the bill prohibits any person from knowingly selling, installing, or reinstalling a device in a motor vehicle that causes the diagnostic system of the vehicle to inaccurately indicate that the vehicle is equipped with a functional air bag.<sup>3</sup>

## **Penalties**

The bill applies existing penalties to the current prohibition as modified by the bill and to the bill's second new prohibition described above. Thus, under the bill, any person who violates either of those prohibitions is guilty of improper replacement of a motor vehicle air bag, a first degree misdemeanor (jail term of not more than six months, a fine of not more than \$1,000, or both). On each subsequent offense, the person is guilty of a fifth degree felony (definite prison term of 6 to 12 months in monthly increments, a fine of not more than \$2,500, or both). A new provision provides that if a violation of any of the prohibitions results in the bodily injury or death of an individual, the person is guilty of a fifth degree felony.<sup>4</sup>

Regarding the bill's first new prohibition described above, which prohibits any person from knowingly manufacturing, importing, selling, or offering for sale a counterfeit air bag, nonfunctional air bag, or any other object that does not conform

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<sup>1</sup> R.C. 4549.20(B).

<sup>2</sup> R.C. 4549.20(C)(1) to (3).

<sup>3</sup> R.C. 4549.20(D).

<sup>4</sup> R.C. 4549.20(E)(1).



with F.M.V. Safety Standard 208, the bill provides that whoever violates this prohibition generally is guilty of a fifth degree felony. If the cumulative sales price of the air bags or objects involved in the violation is \$5,000 or more but less than \$100,000 or if the number of air bags or objects involved in the violation is more than 100 but less than 1,000, the violation is a fourth degree felony (definite prison term of 6 to 18 months in monthly increments, a fine of not more than \$5,000, or both). 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, the violation is a third degree felony (definite prison term of 9, 12, 18, 24, 30, or 36 months, a fine of not more than \$10,000, or both).<sup>5</sup>

In addition, under the bill, each manufacture, importation, installation, reinstallation, sale, or offer for sale in violation of the bill constitutes a separate and distinct violation.<sup>6</sup>

### **Definitions**

The bill contains the following two new definitions:

(1) "Counterfeit air bag" means an air bag displaying a mark identical or similar to the genuine mark of a motor vehicle manufacturer, without the authorization of the motor vehicle manufacturer.

(2) "Nonfunctional air bag" means any of the following:

(a) A replacement air bag that has been previously deployed or damaged;

(b) A replacement air bag that has an electrical fault that is detected by the air bag diagnostic system of a vehicle after the air bag is installed; or

(c) A counterfeit air bag, air bag cover, or some other object that is installed in a vehicle to deceive an owner or operator of the vehicle into believing that a functional air bag has been installed.<sup>7</sup>

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<sup>5</sup> R.C. 4549.20(E)(2)(a) and (b).

<sup>6</sup> R.C. 4549.20(E)(3).

<sup>7</sup> R.C. 4549.20(A)(2) and (3).



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## HISTORY

ACTION	DATE
Introduced	05-28-13
Reported, H. Transportation, Public Safety, and Homeland Security	06-19-13

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