

2001 DRAFTING REQUEST

Bill

Received: 09/26/2000

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Steven Foti (608) 266-2401

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Alt. Drafters:

Subject: Transportation - motor vehicles

Extra Copies: TNF

Pre Topic:

No specific pre topic given

Topic:

Installation of previously deployed air bags

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	phurley 10/11/2000	gilfokm 10/17/2000	martykr 10/19/2000	_____	lrb_docadmin 10/19/2000	lrb_docadmin 01/18/2001	

FE Sent For:

<END>

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1/?	phurley	1-10/16 Kme	10/17	RS 10/17			

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Junk-filled air bags pose threat

Crooked mechanics stuffing steering columns with foam peanuts, beer cans

By Scott Bowles, USA TODAY

LOS ANGELES — David Walsh thought he'd found the ideal used car for his 16-year-old daughter: a 1995 Toyota that seemed reliable, good on gas and safe.

But when he took the Celica to the dealership for a tune up two weeks ago, he learned that the car's air bags were filled with old rags. In a crash, mechanics told him, nothing would have deployed to protect his daughter.

Walsh is one of a growing number of drivers stung by a new air bag scam. Police and insurance officials say crooked mechanics are not replacing the expensive bag mechanisms after car crashes. Instead, they're stuffing steering columns with junk, from foam peanuts to beer cans to old tennis shoes, and still charging customers up to \$3,000 for the "repair."

"It's a tough rip-off to catch," says Sam Massey, director of Supplemental Restraint Specialists, a Long Beach, Calif., company that investigates faulty restraint systems for insurance companies and attorneys. "Most people don't have an air bag checked. It's not like tires, where you can see damage. Then they don't find out until it's too late."

The fraud is so new that installing dummy air bags isn't illegal in 49 states.

In January, California passed the first bill to outlaw the installation of phony bags. A similar bill is before the New York Assembly, and Florida police agencies are scheduled to meet in November to draft legislation.

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Rae Tyson, spokesman for the National Highway Traffic Safety Administration, says the agency is concerned about fraud but has no power to enforce air bag laws after a new car is sold.

"Once it leaves the dealership, it becomes an issue for the states and consumer," he says. "Obviously, it's in the best interest of the public to make sure all safety devices are properly installed and operating."

But even as more states look at banning the practice, officials say air bag laws will be difficult to enforce. "Most cars with phony air bags are used vehicles that have had multiple owners," says Fred Roth, a spokesman for the California Highway Alliance, which advocates tougher seat belt and air bag legislation. "It's nearly impossible to track down the chain of ownership and determine who put in the bags."

Bad bags are being installed at an alarming rate, Massey says. During a recent stretch of inspections, his company found that of 1,200 vehicles it looked at, 66 had fake air bags, or one out of every 25 cars. On a visit to a California body shop last month, his mechanics found three cars with dummy bags.

"Ninety-nine percent of your mechanics and body shops are honest," he says. "But the one who installs the fake bags seems to install a ton of them."

One problem, he says, is that it's nearly impossible to determine whether an air bag is phony without removing it from the steering column and inspecting it.

Most air bag units are metal and about the size of a videocassette. Although small, the devices contain expensive, high-tech equipment, including computer modules and impact sensors. The units cost anywhere from \$1,000 to \$3,000.

Instead of purchasing the high-priced mechanisms, some mechanics are stuffing the devices with something, anything, to give it the weight and feel of a properly repaired bag. The bags are then sewn back into the steering column.

"It's a lot like buying a parachute," says Walsh, who is taking the couple who sold him the Toyota to small claims court. "You don't know if it works until it does. Or doesn't."

When it doesn't, the results can be deadly. Najma Ladhani, 53, of Vancouver, British Columbia, purchased a 1994 Toyota Corolla that had a phony air bag in it. Someone also had removed the air bag warning light. Ladhani, who wore a seat belt, died in a car crash April 29 that police said was survivable had an air bag deployed.

In California, seven people were injured last year in crashes involving fraudulent bags, prompting the Legislature to pass the Dummy Airbag Law. The bill makes installing a phony bag a misdemeanor punishable by a \$5,000 fine and one year in jail. In other states, the only recourse for victims is civil litigation.

The scam is on the rise because air bag repair has become big business. In addition to replacing bags that have deployed in crashes, mechanics are seeing more cars that have had the devices stolen from them.

According to the latest statistics from State Farm Insurance, which account for about one-fifth of nation's insured drivers, the company has 15,000 reports of stolen air bags a year. "Multiply that by five, and you have a sizeable problem," State Farm spokesman Dave Hurst says.

Insurance companies are pushing manufacturers to make air bags that are harder to steal. Most thieves can remove an air bag in seconds with a screwdriver.

In the meantime, Massey says, consumers have to look out for themselves. When a new air bag is installed, he says, a mechanic must provide an invoice showing the device came from either the car's manufacturer or a licensed dealership.

"And check every part," he warns. "Not just the bag, but the sensors, the modules, everything. It's a pain but better to find out sooner than later."

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Sec. 30122. Making safety devices and elements inoperative

- (a) Definition. - In this section, "motor vehicle repair business" means a person holding himself out to the public to repair for compensation a motor vehicle or motor vehicle equipment.
- (b) Prohibition. - A manufacturer, distributor, dealer, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, or repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.
- (c) Regulations. - The Secretary of Transportation may prescribe regulations -
 - (1) to exempt a person from this section if the Secretary decides the exemption is consistent with motor vehicle safety and section 30101 of this title; and
 - (2) to define "make inoperative".
- (d) Nonapplication. - This section does not apply to a safety belt interlock or buzzer designed to indicate a safety belt is not in use as described in section 30124 of this title.

[Code of Federal Regulations]
[Title 49, Volume 5, Parts 400 to 999]
[Revised as of October 1, 1999]
From the U.S. Government Printing Office via GPO Access
[CITE: 49CFR595.2]

[Page 884]

TITLE 49--TRANSPORTATION

CHAPTER V--NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION, DEPARTMENT
OF TRANSPORTATION

PART 595--RETROFIT ON-OFF SWITCHES FOR AIR BAGS--Table of Contents

Sec. 595.2 Purpose.

The purpose of this part is to provide an exemption from the ``make inoperative'' provision of 49 U.S.C. 30122 and authorize motor vehicle dealers and motor vehicle repair businesses to install retrofit on-off switches for air bags.

[Code of Federal Regulations]
[Title 49, Volume 5, Parts 400 to 999]
[Revised as of October 1, 1999]
From the U.S. Government Printing Office via GPO Access
[CITE: 49CFR595.3]

[Page 884]

TITLE 49--TRANSPORTATION

CHAPTER V--NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION, DEPARTMENT
OF TRANSPORTATION

PART 595--RETROFIT ON-OFF SWITCHES FOR AIR BAGS--Table of Contents

Sec. 595.3 Applicability.

This part applies to dealers and motor vehicle repair businesses.

[Code of Federal Regulations]
[Title 49, Volume 5, Parts 400 to 999]
[Revised as of October 1, 1999]
From the U.S. Government Printing Office via GPO Access
[CITE: 49CFR595.4]

[Page 884]

TITLE 49--TRANSPORTATION

CHAPTER V--NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION, DEPARTMENT
OF TRANSPORTATION

PART 595--RETROFIT ON-OFF SWITCHES FOR AIR BAGS--Table of Contents

Sec. 595.4 Definitions.

The term dealer, defined in 49 U.S.C. 30102(a), is used in accordance with its statutory meaning.

The term motor vehicle repair business is defined in 49 U.S.C. 30122(a) as "a person holding itself out to the public to repair for compensation a motor vehicle or motor vehicle equipment." This term includes businesses that receive compensation for servicing vehicles without malfunctioning or broken parts or systems by adding or removing features or components to or from those vehicles or otherwise customizing those vehicles.

[Code of Federal Regulations]
[Title 49, Volume 5, Parts 400 to 999]
[Revised as of October 1, 1999]
From the U.S. Government Printing Office via GPO Access
[CITE: 49CFR595.5]

[Page 884-898]

TITLE 49--TRANSPORTATION

CHAPTER V--NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION, DEPARTMENT
OF TRANSPORTATION

PART 595--RETROFIT ON-OFF SWITCHES FOR AIR BAGS--Table of Contents

Sec. 595.5 Requirements.

(a) Beginning January 19, 1998, a dealer or motor vehicle repair business may modify a motor vehicle by installing an on-off switch that allows an occupant of the vehicle to turn off an air bag in that vehicle, subject to the conditions in paragraphs (b)(1) through (5) of this section:

(b)(1) The dealer or motor vehicle repair business receives from the owner or lessee of the motor vehicle a letter from the National Highway Traffic Safety Administration that authorizes the installation of an on-off switch in that vehicle for that air bag and includes a form to be filled in by the dealer or motor vehicle repair business with information identifying itself and describing the installation it makes.

(2) The dealer or motor vehicle repair business installs the on-off switch in accordance with the instructions of the manufacturer of the switch.

(3) The on-off switch meets all of the conditions specified in paragraphs (b)(3)(i) and (ii) of this section.

(i) The on-off switch is operable solely by a key or a key-like object. The on-off switch shall be separate from the ignition switch for the vehicle, so that the driver must take some action other than inserting the ignition key or turning the ignition key in the ignition switch to turn off the air bag. Once turned off, the air bag shall remain off until it is turned back on by means of the device. If a single on-off switch is installed for both air bags, the on-off switch shall allow each air bag to be turned off without turning off the other air bag. The readiness indicator required by S4.5.2 of Sec. 571.208 of this chapter shall continue to monitor the readiness of the air bags even when one or both air bags has been turned off. The readiness indicator light shall not be illuminated solely because an air bag has been deactivated by means of an on-off switch.

[[Page 885]]

(ii) A telltale light in the interior of the vehicle shall be illuminated whenever the driver or passenger air bag is turned off by means of the on-off switch. The telltale for a driver air bag shall be clearly visible to an occupant of the driver's seating position. The telltale for a passenger air bag shall be clearly visible to occupants of all front seating positions. The telltale for an air bag:

(A) Shall be yellow;

(B) Shall have the identifying words ``DRIVER AIR BAG OFF'' or ``PASSENGER AIR BAG OFF,'' as appropriate, on the telltale or within 25 millimeters of the telltale;

(C) Shall remain illuminated for the entire time that the air bag is ``off;''

(D) Shall not be illuminated at any time when the air bag is ``on;'' and,

(E) Shall not be combined with the readiness indicator required by S4.5.2 of Sec. 571.208 of this chapter.

(4) The dealer or motor vehicle repair business provides the owner or lessee with an insert for the vehicle owner's manual that--

(i) Describes the operation of the on-off switch,

(ii) Lists the risk groups on the request form set forth in Appendix B of this Part,

(iii) States that an on-off switch should only be used to turn off an air bag for a member of one of those risk groups, and

(iv) States the safety consequences for using the on-off switch to turn off an air bag for persons who are not members of any of those risk groups. The description of those consequences includes information, specific to the make, model and model year of the owner's or lessee's vehicle, about any seat belt energy managing features, e.g., load limiters, that will affect seat belt performance when the air bag is turned off.

(5) In the form included in the agency authorization letter specified in paragraph (b)(1) of this section, the dealer or motor vehicle repair business fills in information describing itself and the on-off switch installation(s) it makes in the motor vehicle. The dealer or motor vehicle repair business then sends the form to the address below within 7 working days after the completion of the described installations: National Highway Traffic Safety Administration, Attention: Air Bag Switch Request Forms, 400 Seventh Street, S.W., Washington, D.C. 20590-1000.

[62 FR 62442, Nov. 21, 1997; 62 FR 67754, Dec. 30, 1997]

[[Page 886]]

[GRAPHIC] [TIFF OMITTED] TR21NO97.000

[[Page 887]]

[GRAPHIC] [TIFF OMITTED] TR21NO97.001

[[Page 888]]

[GRAPHIC] [TIFF OMITTED] TR21NO97.002

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[GRAPHIC] [TIFF OMITTED] TR21NO97.003

[[Page 890]]

[GRAPHIC] [TIFF OMITTED] TR21NO97.004

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[GRAPHIC] [TIFF OMITTED] TR21NO97.005

[[Page 892]]

[GRAPHIC] [TIFF OMITTED] TR21NO97.006

[[Page 893]]

[GRAPHIC] [TIFF OMITTED] TR21NO97.007

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[GRAPHIC] [TIFF OMITTED] TR21NO97.008

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[GRAPHIC] [TIFF OMITTED] TR21NO97.009

[[Page 896]]

[GRAPHIC] [TIFF OMITTED] TR21NO97.010

[[Page 897]]

[GRAPHIC] [TIFF OMITTED] TR21NO97.011

[[Page 898]]

[GRAPHIC] [TIFF OMITTED] TR21NO97.012

9-29: talked w/ Michael H @ Rep
Foti's office. Discussed CA & NY's
penalties:

CA

Class A misdemeanor
fine \$k
jail 1 yr
or both

NY

Class A misdemeanor
fine 1k
jail 1 yr OR
3yr probation
~~or~~ or both

Decided to put into c. 347 ~~& build in~~
put in 347.50(2) for penalties.



PJH
King

2001 BILL

*Submitted
10-11-00*
D. Note
Don

1 AN ACT ^{GEN. CAT.} relating to: prohibiting the installation of a previously deployed or
2 an otherwise nonfunctional airbag^e and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits a person from installing a previously deployed airbag into a motor vehicle, from removing or tampering with an airbag, with limited exceptions, or from concealing an absent or nonfunctional airbag. The bill provides the following penalties for each violation: a fine of not more than \$5,000 or imprisonment for not more than one year in a county jail or both.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 347.475 of the statutes is created to read:

4 **347.475 Airbags, prohibited practices.** (1) In this section, "airbag" means
5 an inflatable restraint system that is designed to be installed and to operate in a
6 motor vehicle to deploy by inflating upon an impact of the vehicle with another object.

7 (2) No person may, either personally or through an agent, sell, install, reinstall,
8 or distribute any previously deployed airbag.

BILL

SECTION 1

1 (3) No person may, either personally or through an agent, remove, disconnect,
 2 tamper with[✓] or otherwise circumvent the operation of any airbag, except for the
 3 purpose of testing, repairing[✓] or maintaining an airbag, salvaging an undeployed
 4 airbag, disposing of a deployed airbag, or replacing a deployed airbag with a
 5 functional airbag. This subsection ~~shall~~^{does} not apply to the installation or use of an
 6 on-off switch by any person who is authorized by federal law or regulation to install
 7 or use an on-off switch for an airbag.

8 (4) No person may, either personally or through an agent, install a cover or
 9 otherwise conceal or disguise a missing airbag or a previously deployed airbag.

INS. 27011
 SECTION 2. 347.50 (1) of the statutes is amended to read:

11 ~~347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.413 (1), or~~
 12 ~~s. 347.415 (1), (2), and (3) to (5), or s. 347.417 (1), 347.475, or s. 347.48 (2) or (4) (a),~~
 13 ~~or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200.~~

History: 1971 c. 278; 1975 c. 121; 1981 c. 327; 1983 a. 243; 1985 a. 309; 1987 a. 132; 1989 a. 22; 1991 a. 26, 277.

SECTION 3. 347.50 (2) of the statutes is amended to read:

14 347.50 (2) Any person violating s. 347.415 (1), (2), and (3) to (5), or 347.475[✓] may
 15 be fined not more than \$5,000 or imprisoned for not more than one year in the county
 16 jail, or both[✓], for each violation.
 17

History: 1971 c. 278; 1975 c. 121; 1981 c. 327; 1983 a. 243; 1985 a. 309; 1987 a. 132; 1989 a. 22; 1991 a. 26, 277.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0526/1dn

PJH:.....

img

Please review this draft carefully to ensure that it is consistent with your intent, noting in particular the penalty provision.

As we discussed, I have found similar statutes in New York and California, which provide the following penalties:

New York: a fine of up to \$1000, up to a year imprisonment or three years of probation, or both.

California: a fine of up to \$5000, up to a year imprisonment, or both.

Please let me know if you have any questions regarding this draft. I look forward to hearing from you.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us

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one *of*

**2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0526/lins
PJH:kmg:kmg

INSERT 2-11

347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.413 (1) or s. 347.415 (1), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s. 347.48 (2m) or (4) (a) or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200.

History: 1971 c. 278; 1975 c. 121; 1981 c. 327; 1983 a. 243; 1985 a. 309; 1987 a. 132; 1989 a. 22; 1991 a. 26, 277.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0526/1dn
PJH:kmg:km

October 17, 2000

Please review this draft carefully to ensure that it is consistent with your intent, noting in particular the penalty provision.

As we discussed, I have found similar statutes in New York and California, which provide the following penalties:

New York: a fine of up to \$1,000, up to one year of imprisonment or three years of probation, or both.

California: a fine of up to \$5,000, up to one year of imprisonment, or both.

Please let me know if you have any questions regarding this draft. I look forward to hearing from you.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us

Smith, Irma

From: Culotta, Jason
Sent: Thursday, January 18, 2001 9:15 AM
To: Smith, Irma
Subject: Jacketing of LRB 0526

I request that LRB 0526 be jacketed for the Assembly.
If you have any questions for me, you can reach me at 6-2540.
Thank you.