



## 2023 South Dakota Legislature

# House Bill 1158

Introduced by: **Representative Duffy**

1 **An Act to ban counterfeit airbags.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That chapter 32-15 be amended with a NEW SECTION:**

4 Terms used in this Act mean:

5 (1) "Airbag," a motor vehicle inflatable occupant restraint system device that is part  
6 of a supplemental restraint system;

7 (2) "Counterfeit supplemental restraint system component," a replacement  
8 supplemental restraint system component, including an airbag, that displays a  
9 mark identical to, or substantially similar to, the genuine mark of a motor vehicle  
10 manufacturer or a supplier of parts to the manufacturer of a motor vehicle without  
11 authorization from that manufacturer or supplier, respectively;

12 (3) "Nonfunctional airbag," a replacement airbag that meets any of the following  
13 criteria:

14 (a) The airbag was previously deployed or damaged;

15 (b) The airbag has an electric fault that is detected by the motor vehicle airbag  
16 diagnostic system when the installation procedure is completed, and the  
17 motor vehicle is returned to the customer who requested the work  
18 performed or when ownership is intended to be transferred;

19 (c) The airbag includes a part or object, including a supplemental restraint  
20 system component, that is installed in a motor vehicle to mislead the owner  
21 or operator of the motor vehicle into believing that a functional airbag has  
22 been installed; or

23 (d) The airbag is subject to the prohibitions of 49 U.S.C. § 30120(j) as of  
24 November 15, 2021;

- 1       (4) "Supplemental Restraint System," one or more airbags and all components  
2       required to ensure that an airbag works as designed by the vehicle manufacturer  
3       and the airbags:  
4       (a) Operate as designed in the event of a crash; and  
5       (b) Are designed to meet federal motor vehicle safety standards for the specific  
6       make, model, and year of the motor vehicle in which it is or will be installed.

7       **Section 2. That chapter 32-15 be amended with a NEW SECTION:**

8               No person may knowingly:

- 9       (1) Import, manufacture, sell, offer for sale, install, or reinstall in a motor vehicle a  
10       counterfeit supplemental restraint system component, a nonfunctional airbag, or  
11       an object that does not comply with 49 C.F.R. § 571.208 as of September 26,  
12       2022, for the make, model, and year of the motor vehicle;  
13       (2) Sell, offer for sale, install, or reinstall in any motor vehicle a device that causes the  
14       diagnostic system of the motor vehicle to inaccurately indicate that the motor is  
15       equipped with a properly functioning airbag; and  
16       (3) Sell, lease, trade, or transfer a motor vehicle if the person knows that a counterfeit  
17       supplemental restraint system component, a nonfunctional airbag, or an object  
18       that does not comply with 49 C.F.R. § 571.208 as of September 26, 2022, for the  
19       make, model, and year of the motor vehicle, has been installed in the motor vehicle  
20       as part of the airbag.  
21       A person who violates this section is guilty of a Class 2 misdemeanor.

22       **Section 3. That chapter 32-15 be amended with a NEW SECTION:**

23               Section 2 of this Act does not apply to:

- 24       (1) A person installing, reinstalling, or replacing an airbag or other component of an  
25       airbag in a motor vehicle used solely for police work; or  
26       (2) An owner or employee of a motor vehicle dealership or the owner of a motor vehicle  
27       who, before the sale of the motor vehicle, does not have knowledge that the airbag,  
28       or another component of the motor vehicle's supplemental restraint system is  
29       counterfeit or nonfunctional.

30       This Act does not prevent liability of any party in a civil action, or create a duty that,  
31       before the sale of a vehicle, an owner or employee of a motor vehicle dealership or the  
32       owner of the vehicle must inspect a vehicle in possession of the dealership or owner to

- 1 determine whether the airbag, or another component of the vehicle's supplemental
- 2 restraint system, is counterfeit or nonfunctional.