

AMERICAN INSURANCE ASSOCIATION (AIA)

Proposed Amendments to Draft Model Act Regarding Auto Airbag Fraud

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Section 1. Purpose

Airbag system fraud is a public safety concern for consumers and the automobile insurance system. Efforts to combat this problem—one that could place innocent consumers at risk of serious bodily injuries—have been piecemeal. This model is intended to address the issue in a coordinated way. It is through this collective effort that consumers will be protected and the integrity of the insurance-restraint system assured.

Section 2. Summary

The Act establishes criminal penalties for fraudulent installation or reinstallation of ~~an airbag any airbag~~ system component, with more severe penalties for persons whose airbag system fraud results in serious injury or death; requires that ~~auto-repair facilities~~ any person engaged in the business of purchasing, selling, or installing any airbag system component maintain detailed records of airbags they purchase, sell, or install; mandates that ~~a repair facility~~ any person engaged in the business of installing any airbag system component submit an affidavit to a vehicle owner saying that an airbag was installed and calibrated properly; establishes that police accident reports must note whether ~~an airbag any airbag~~ system component deployed; and provides that a person trading or selling a motor vehicle must disclose whether ~~an airbag any airbag system component~~ is inoperable.

Section 3. Definitions

- A. “Airbag” “Airbag system component” means any part of an inflatable restraint system that is designed to be installed and to operate in a motor vehicle to activate in the event of a crash.
- B. “Light manipulating system” means anything that would mask or cause the inaccurate indication of the airbag system status, condition or operability.
- C. “Person” means any natural person, corporation, partnership, unincorporated association or other entity.
- BD.** “Salvaged airbag component” means any airbag system component that has been removed from a motor vehicle for use in another vehicle.

Section 4. Installation or reinstallation of any false airbag system component; deceptive trade practices; criminal liability

- A. It is a deceptive trade practice when:
1. a person installs or reinstalls, as part of a vehicle inflatable restraint system, any object in lieu of an airbag system component that was designed in accordance with federal safety regulations for the make, model, and year of the vehicle airbag system component, including any light manipulating system
 2. a person sells or offers for sale any device with the intent that such device will replace an airbag system component in any motor vehicle if such person knows or reasonably should know that such device does not meet federal safety requirements
 3. a person sells or offers for sale ~~an airbag cover~~ any device that when installed in any motor vehicle gives the impression that a viable airbag system component is installed in that vehicle, including any light manipulating system
- B. Any person who violates this section is guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than \$ ____ and not more than \$ ____ per violation, or imprisonment in *[insert facility]* for up to ____ year(s), or both.
- C. A person whose violation of subsection A(1) of this section results in serious bodily injury or death shall be imprisoned for not more than ____ years or fined not more than \$____, or both.

Section 5. Airbag system antitheft

- A. *Purchase, sale, or installation of new or salvaged airbags system components; records*
1. Any person engaged in the business of purchasing, selling, or installing salvaged airbags system components shall maintain a manual or electronic record of the purchase, sale, or installation, which must include, if available, the identification number of the airbag; the vehicle identification number of the vehicle from which the salvaged airbag was removed; the name, address, date of birth, and driver's license number or other means of identification of the person from whom the salvaged airbag was purchased; and, in the event that the salvaged airbag is installed, the vehicle identification number of the vehicle into which the airbag is installed.
 2. In the case of a new replacement airbag system component, ~~a motor vehicle repair shop~~ any person engaged in installing any airbag system component shall maintain the name and tax identification number of the supplier of the airbag system component. Upon request of any law enforcement officer of this state or other authorized representative of the agency charged with administration of this section, the ~~motor vehicle repair shop~~ installer shall produce such records and permit said agent or police officer to examine them.
 3. Any person who sells a salvaged airbag or who installs a salvaged airbag system component must disclose to the purchaser or ~~consumer~~ vehicle owner that the airbag system component is salvaged.
 4. The person ~~or business~~ that installs a new or salvaged airbag system component shall submit an affidavit to the vehicle owner or their representative stating that the replacement airbag system component had been properly installed, including that it had been calibrated correctly.

5. All records must be maintained for not less than five years following the transaction and may be inspected during normal business hours by any law enforcement officer of this state or other authorized representative of the agency charged with administration of this section.
6. Upon request, information within a portion of such record pertaining to a specific transaction must be provided to an insurer or **consumer vehicle owner**.

B. *Prohibition; penalties*

1. It is unlawful for any person to knowingly possess, sell, or install a stolen uninstalled airbag **system component**; a new or salvaged airbag **system component** from which the manufacturer's part identification number **labeling** has been removed, altered, or defaced; or an airbag **system component** taken from a stolen motor vehicle. Any person who violates this paragraph commits a felony of the *[insert degree]*.
2. Any person who fails to maintain complete and accurate records, to prepare complete and accurate documents, to provide information within a portion of such record upon request, or to properly disclose that an airbag **system component** is salvaged, as required by this Act, commits a misdemeanor.

Section 6. Accidents; police authorities report

Any automobile vehicle accident report that is filed by the appropriate law enforcement agency shall clearly contain a notation as to whether the automobile's airbag **system** or inflatable restraint system had been deployed in the accident, **including deployed seatbelts. In addition, the accident report should record the status of the airbag system warning lamp.**

Section 7. Sale or trade of motor vehicle with an inoperable airbag system component

- A. Any person selling or trading a motor vehicle who has actual knowledge that the motor vehicle's airbag **system** is inoperable shall notify the buyer or the person acquiring the trade, in writing, that the airbag **system** is inoperable.
- B. A person who violates subsection A of this section shall be subject to a fine of not more than \$ ____.

Section 8. Severability

If any section, paragraph, sentence, clause, phrase, or any part of this Act passed is declared invalid, the remaining sections, paragraphs, sentences, clauses, phrases, or parts thereof shall be in no manner affected and shall remain in full force and effect.

Section 9. Effective Date

This Act shall take effect on *[insert months]* following enactment of the bill.

DRAFTING NOTE:

It is important to address the entire airbag system as other components (besides the airbag modules) are vital to the effective operation of the system. Many of the other components, besides the airbags, are designed for one time deployment. Other airbag system components such as sensors, control

modules, seatbelt pretensioners and clocksprings are widely sold as salvage. All airbag system components should be included in any effective legislation that addresses this issue. It is important to include the business as well as the person that does the work in this legislation, otherwise an employee is the person that gets fined or jailed and the business is not held responsible. Seatbelt pretensioners also deploy in accidents that do not deploy the airbags. Officers may need education to see if the seatbelts deployed, a physical inspection will reveal if the deployed or not. Some airbag serial numbers are not readily visible. All airbag system component labeling should be preserved.

Additions indicated by **boldface underline**.
Deletions indicated by **~~boldface strikethrough~~**.