

Legislative Analysis



NONOPERATIONAL AIRBAGS

House Bill 4923 as introduced
Sponsor: Rep. Jim Lilly

House Bill 4924 as introduced
Sponsor: Rep. Sarah Anthony

Committee: Transportation
Complete to 11-4-19

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4924 would add section 421d to the Michigan Penal Code to prohibit a person from knowingly and intentionally doing any of the following:

- Importing, manufacturing, selling, offering for sale, distributing, installing, or reinstalling in a motor vehicle a device to replace a supplemental restraining system component if the device is a **counterfeit supplemental restraint system** component, a **nonfunctional airbag**, or an object that the person knows was not designed to comply with federal motor vehicle safety standards for the make, model, and year of that motor vehicle.
- Selling, offering for sale, installing, or reinstalling in a motor vehicle a device that causes the motor vehicle's diagnostic system to inaccurately indicate that it is equipped with a properly functioning **supplemental restraint system**.
- Selling, leasing, or trading a motor vehicle to a consumer if the person has actual knowledge that a counterfeit supplemental restraint system component, a nonfunctional airbag, or an object that the person has actual knowledge was not designed to comply with federal motor vehicle safety standards for the make, model, and year of that motor vehicle has been installed as part of the vehicle's inflatable restraint system.

Supplemental restraint system would mean an inflatable restraint system as defined in 49 CFR 571.208 that is designed for use in conjunction with active restraint systems. A supplemental restraint system would include one or more **airbags** and all components required to ensure that an airbag functions as designed by the manufacturer.

Airbag would mean a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system.

Counterfeit supplemental restraint system would mean a replacement supplemental restraint system component that displays a mark that is identical or substantially similar to the genuine mark of a manufacturer or supplier of parts but without the authorization of the manufacturer or supplier.

Nonfunctional airbag would mean a replacement airbag meeting one or more of the following:

- The airbag was previously deployed or damaged.
- The airbag has an electric fault that is detected by a motor vehicle's diagnostic system when installation is complete and the motor vehicle is returned to the customer who requested the work or when ownership of the vehicle is intended to be transferred.

- The airbag includes a part or object, including a supplemental restraint system component installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed.
- The airbag violates federal motor vehicle safety standards.

A violation would be a felony punishable by imprisonment for up to four years or a fine of up to \$10,000, or both.

The new section would not apply if the owner of a new or used motor vehicle dealership did not have actual knowledge of the presence of a counterfeit supplemental restraint system component or nonfunctional airbag before it is sold. The owner of the new or used dealership would not be required to inspect any vehicle in its possession for counterfeit supplemental restraint system components or nonfunctional airbags before the sale of the vehicle.

Proposed MCL 750.421d

House Bill 4923 would amend the Code of Criminal Procedure to add violation of proposed section 421d of the Michigan Penal Code to the sentencing guidelines. A violation would be a Class F felony against the public safety with a maximum term of imprisonment of four years. The bill is tie-barred to HB 4924, which means that it could not take effect unless HB 4924 were enacted.

MCL 777.16u

Each bill would take effect 90 days after enactment.

FISCAL IMPACT:

House Bill 4924 would have an indeterminate fiscal impact on the state and on local units of government. The number of felony convictions that would result under provisions of the bill is not known. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2018, the average cost of prison incarceration in a state facility was roughly \$38,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,700 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Increased costs could be offset, to some degree, depending on the amount of additional court-imposed fee revenue generated. Any increase in penal fine revenue would increase funding for public libraries, which are the constitutionally designated recipients of those revenues.

House Bill 4923 is a companion bill to HB 4924 and amends sentencing guidelines. House Bill 4923 would not have a direct fiscal impact on the state or on local units of government.

Legislative Analyst: E. Best
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.