



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4923 (as passed by the House)
House Bill 4924 (Substitute H-2 as passed by the House)
Sponsor: Representative Jim Lilly (H.B. 4923)
Representative Sarah Anthony (H.B. 4924)
House Committee: Transportation
Judiciary
Senate Committee: Judiciary and Public Safety

Date Completed: 9-22-20

CONTENT

House Bill 4924 (H-2) would amend the Michigan Penal Code to do the following:

- **Prohibit a person from importing, manufacturing, selling, distributing, installing, or reinstalling a counterfeit supplemental restraint system or a nonfunctional airbag.**
- **Prohibit a person from selling, leasing, or trading a vehicle known to have been installed with a counterfeit supplemental restraint system or a nonfunctional airbag.**
- **Prescribe a felony penalty for violating the bill.**

House Bill 4923 would amend the sentencing guidelines in the Code of Criminal Procedure to include the felony prescribed in House Bill 4924 (H-2) as a Class F felony against public safety, with a statutory maximum of four years' imprisonment.

House Bill 4923 is tie-barred to House Bill 4924. Each bill would take effect 90 days after its enactment.

House Bill 4924 (H-2) is described in greater detail below.

Under the bill, a person could not do any of the following:

- Knowingly and intentionally import, manufacture, sell, offer for sale, distribute, install, or reinstall in a motor vehicle a device intended to replace a supplemental restraint system component if the device was a counterfeit supplemental restraint system component, a nonfunctional airbag, or an object that a person knew was not designed to comply with 49 CFR 571.208 for the make, model, and year of that motor vehicle.
- Knowingly and intentionally sell, offer for sale, install, or reinstall in a motor vehicle a device that the person knew would cause a motor vehicle's diagnostic system to inaccurately indicate that the motor vehicle was equipped with a properly functioning supplemental restraint system.
- Knowingly and intentionally sell, lease, or trade a motor vehicle to a consumer if the person had actual knowledge that a counterfeit supplemental restraint system component, a nonfunctioning airbag, or an object that did not comply with 49 CFR 571.208 for the

make, model, and year of that motor vehicle had been installed as part of the vehicle's inflatable restraint system.

(49 CFR 571.208 generally prescribes the performance requirements for the protection of vehicle occupants in crashes.)

"Airbag" would mean a motor vehicle inflatable occupant restraint system that is part of a supplemental restraint system. "Nonfunctional airbag" would mean a replacement airbag to which one or more of the following applied:

- The airbag previously was deployed or damaged.
- The airbag has an electric fault that is detected by a motor vehicle's diagnostic system when the installation procedure is complete and the vehicle is returned to the customer who requested the work to be performed 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 vehicle into believing that a functional airbag has been installed.
- The airbag violates 49 USC 30120(j).

(49 USC 30120(j) prohibits a person from selling or leasing any motor vehicle equipment, including a tire, for installation on a motor vehicle, that is the subject of decision by the Secretary of Transportation that a motor vehicle or replacement equipment contains a defect or is the subject of a notice from a manufacturer that the vehicle or equipment is defect, in a condition that it may be reasonably used for its original purpose unless certain conditions are met.)

"Supplemental restraint system" would mean an inflatable restraint system as that term is defined in 49 CFR 571.208 that is designed for use in conjunction with active restraint systems. The term would include one or more airbags and all components required to ensure that an airbag functioned as designed by the manufacturer, including both of the following:

- That the airbag would operate as necessary in the event of a crash.
- That the airbag was designed in accordance with Federal motor vehicle safety standards for the make, model, and year of the motor vehicle in which it was or would be installed.

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

A person who violated the above provision would be guilty of a felony punishable by up to four years' imprisonment or a maximum fine of \$10,000, or both.

The bill would not apply to the owner or employee of a new or used motor vehicle dealership who did not have actual knowledge of the presence of a counterfeit supplemental restraint system component or nonfunctional airbag before it was sold.

The bill also would not create a duty for or require the owner or employee of a new or used motor vehicle dealership to inspect any vehicle in the motor vehicle dealership component or nonfunctional airbags before the sale of the vehicle.

Additionally, the bill would not apply to a person who installed a motor vehicle airbag used solely for research and development of airbag technology on motor vehicles that would not be drive on public roadways.

MCL 777.16u
Proposed MCL 750.421d (H.B. 4924)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

House Bill 4923

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

House Bill 4924 (H-2)

The bill would have a negative fiscal impact on the State and local government. New felony arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. However, it is unknown how many people would be prosecuted under the bill's provisions. The average cost to State government for felony probation supervision is approximately \$3,700 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$5,400 per prisoner per year. Any additional revenue from imposed fines would go to local libraries.

Fiscal Analyst: Joe Carrasco

SAS\S1920\s4923sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.