**South Carolina General Assembly**

121st Session, 2015-2016

**A271, R295, S1015**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Leatherman and Johnson

Document Path: l:\council\bills\bbm\9416dg16.docx

Introduced in the Senate on January 21, 2016

Introduced in the House on April 27, 2016

Last Amended on June 2, 2016

Passed by the General Assembly on June 2, 2016

Governor's Action: June 9, 2016, Signed

Summary: Counterfeit or nonfunctional airbags

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/21/2016 Senate Introduced and read first time ([Senate Journal‑page 5](file:///h%3A%5CSJ%20Archive%5C2016%5C01-21-16.docx))

 1/21/2016 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 5](file:///h%3A%5CSJ%20Archive%5C2016%5C01-21-16.docx))

 2/25/2016 Senate Referred to Subcommittee: Gregory (ch), Malloy, Turner

 4/13/2016 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 16](file:///h%3A%5CSJ%20Archive%5C2016%5C04-13-16.docx))

 4/14/2016 Scrivener's error corrected

 4/21/2016 Senate Committee Amendment Adopted ([Senate Journal‑page 51](file:///h%3A%5CSJ%20Archive%5C2016%5C04-21-16.docx))

 4/21/2016 Senate Read second time ([Senate Journal‑page 51](file:///h%3A%5CSJ%20Archive%5C2016%5C04-21-16.docx))

 4/26/2016 Senate Read third time and sent to House ([Senate Journal‑page 22](file:///h%3A%5CSJ%20Archive%5C2016%5C04-26-16.docx))

 4/26/2016 Senate Roll call Ayes‑41 Nays‑1 ([Senate Journal‑page 22](file:///h%3A%5CSJ%20Archive%5C2016%5C04-26-16.docx))

 4/27/2016 House Introduced and read first time ([House Journal‑page 5](file:///h%3A%5CHJ%20Archive%5C2016%5C04-27-16.docx))

 4/27/2016 House Referred to Committee on **Judiciary** ([House Journal‑page 5](file:///h%3A%5CHJ%20Archive%5C2016%5C04-27-16.docx))

 5/24/2016 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 8](file:///h%3A%5CHJ%20Archive%5C2016%5C05-24-16.docx))

 5/31/2016 House Debate adjourned until Wed., 6‑1‑16 ([House Journal‑page 13](file:///h%3A%5CHJ%20Archive%5C2016%5C05-31-16.docx))

 6/1/2016 House Amended ([House Journal‑page 64](file:///h%3A%5CHJ%20Archive%5C2016%5C06-01-16.docx))

 6/1/2016 House Read second time ([House Journal‑page 64](file:///h%3A%5CHJ%20Archive%5C2016%5C06-01-16.docx))

 6/1/2016 House Roll call Yeas‑100 Nays‑1 ([House Journal‑page 64](file:///h%3A%5CHJ%20Archive%5C2016%5C06-01-16.docx))

 6/2/2016 House Read third time and returned to Senate with amendments ([House Journal‑page 4](file:///h%3A%5CHJ%20Archive%5C2016%5C06-02-16.docx))

 6/2/2016 Senate Non‑concurrence in House amendment ([Senate Journal‑page 35](file:///h%3A%5CSJ%20Archive%5C2016%5C06-02-16.docx))

 6/2/2016 House House recedes from amendment(s) ([House Journal‑page 62](file:///h%3A%5CHJ%20Archive%5C2016%5C06-02-16.docx))

 6/2/2016 Senate Ordered enrolled for ratification ([Senate Journal‑page 35](file:///h%3A%5CSJ%20Archive%5C2016%5C06-02-16.docx))

 6/6/2016 Ratified R 295

 6/9/2016 Signed By Governor

 6/16/2016 Effective date 06/09/16

 6/17/2016 Act No. 271

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**VERSIONS OF THIS BILL**

[1/21/2016](file:///p%3A%5Cpprever%5C2015-16%5C1015_20160121.docx)

[4/13/2016](file:///p%3A%5Cpprever%5C2015-16%5C1015_20160413.docx)

[4/14/2016](file:///p%3A%5Cpprever%5C2015-16%5C1015_20160414.docx)

[4/21/2016](file:///p%3A%5Cpprever%5C2015-16%5C1015_20160421.docx)

[5/24/2016](file:///p%3A%5Cpprever%5C2015-16%5C1015_20160524.docx)

[6/1/2016](file:///p%3A%5Cpprever%5C2015-16%5C1015_20160601.docx)

(A271, R295, S1015)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16‑13‑165 SO AS TO MAKE UNLAWFUL CERTAIN ACTIONS INVOLVING COUNTERFEIT OR NONFUNCTIONAL AIRBAGS.**

Be it enacted by the General Assembly of the State of South Carolina:

**Unlawful actions involving counterfeit or nonfunctional airbags**

SECTION 1. Article 1, Chapter 13, Title 16 of the 1976 Code is amended by adding:

 “Section 16‑13‑165. (A) It is unlawful for a person to:

 (1) knowingly and intentionally import, manufacture, sell, offer for sale, install, or reinstall in a motor vehicle, a counterfeit airbag, a nonfunctional airbag, or an object that the person knows was not designed to comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208), as amended, for the make, model, and year of the motor vehicle;

 (2) knowingly and intentionally sell, offer for sale, install, or reinstall in any motor vehicle a device that causes a motor vehicle’s diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning airbag;

 (3) knowingly and intentionally sell, lease, trade, or transfer a motor vehicle if the person knows that a counterfeit airbag, a nonfunctional airbag, or an object that the person knows was not designed to comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208), as amended, for the make, model, and year of the motor vehicle has been installed as part of the motor vehicle’s inflatable restraint system.

 (B)(1) A person who violates the provisions of this section by knowingly and intentionally installing or reinstalling an airbag that is counterfeit, nonfunctional, does not comply with the federal regulations described in subsection (A), or installs or reinstalls a device that causes a motor vehicle’s diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning airbag is:

 (a) for a first offense, guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned for not more than one year, or both;

 (b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

 (2) A person who violates the provisions of this section by knowingly and intentionally importing, manufacturing, selling, or offering to sell, an airbag that is counterfeit, nonfunctional, does not comply with the federal regulations described in subsection (A), or a device that causes a motor vehicle’s diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning airbag is:

 (a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both;

 (b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than ten years, or both.

 (3) A person who violates the provisions of this section by knowingly and intentionally selling, leasing, trading, or transferring a motor vehicle when the person knows that the motor vehicle contains an airbag that is counterfeit, nonfunctional, or does not comply with the federal regulations described in subsection (A), is:

 (a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both;

 (b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than ten years, or both.

 (4) A person whose violation of subsection (B)(2) or (B)(3) results in great bodily harm or death is:

 (a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than twenty‑five thousand dollars or imprisoned for not more than ten years, or both;

 (b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than one hundred thousand dollars or imprisoned for not more than twenty years, or both.

 (5) Persons other than individuals who violate the provisions of subsection (A) are:

 (a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than one million dollars or imprisoned subject to the discretion of the judge, or both;

 (b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than ten million dollars or imprisoned subject to the discretion of the judge, or both.

 (C) For purposes of this section:

 (1) ‘Airbag’ means an inflatable restraint system, or portion of an inflatable restraint system including, but not limited to, the cushion material, cover, sensors, controllers, inflators, and wiring that (a) operates in the event of a crash, and (b) is designed in accordance with federal motor vehicle safety standards for the make, model, and year of the motor vehicle in which it is or will be installed.

 (2) ‘Counterfeit airbag’ means an airbag that bears without authorization a mark identical or substantially similar to the genuine mark of the manufacturer of a motor vehicle or a supplier of parts to the manufacturer of a motor vehicle.

 (3) ‘Nonfunctional airbag’ means a replacement airbag that has been previously deployed or damaged or that has an electrical fault that is detected by the vehicle diagnostic system after the installation procedure is completed. A nonfunctional airbag also includes any object, including a counterfeit or repaired airbag, airbag component, or other component intended to deceive a vehicle owner or operator into believing that it is a functional airbag.

 (4) ‘Person’ or ‘persons’ means an individual, a group of individuals, whether incorporated or not, a corporation, a company, an association, an organization, a partnership, or any other form of legal entity.”

**Savings**

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 6th day of June, 2016.

Approved the 9th day of June, 2016.

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