



HOUSE BILL 546: Prohibit Counterfeit/Nonfunctional Airbags.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	April 16, 2019
Introduced by:	Reps. Faircloth, R. Turner, Cleveland, McNeill	Prepared by:	Wendy Ray
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: House Bill 546 would:

- *Define terms regarding airbags and motor vehicle restraint systems.*
- *Make it unlawful to transfer a motor vehicle that has a faulty airbag system, and clarify criminal liability for a franchise motor vehicle dealer and its owners for violating this provision.*
- *Make it a Class 1 misdemeanor to import, manufacture, sell, offer for sale, or distribute a counterfeit airbag component or nonfunctional airbag in a motor vehicle, or other component device that causes a vehicle to fail federal safety standards; a Class H felony if a violation of this section causes injury or death; and clarify criminal liability for a franchise motor vehicle dealer and its owners for violating this section.*

[As introduced, this bill was identical to S589, as introduced by Sen. Gunn, which is currently in Senate Judiciary.]

CURRENT LAW: *Standard No. 208* of the Federal Motor Vehicle Safety Standards (FMVSS) specifies equipment requirements for active and passive restraint systems that are installed in passenger cars, multipurpose passenger vehicles, trucks and buses, such as airbags. 49 C.F.R. 571.208.

It is unlawful to transfer a motor vehicle that has been involved in a collision without disclosing that the cost to repair the vehicle exceeds 25% of the fair market value, or fail to disclose that a motor vehicle has been involved in a flood or has a salvage title. A violation of this section is a **Class 2 misdemeanor** (up to 60 days incarceration). G.S. 20-71.4.

It is a **Class 1 misdemeanor** (up to 120 days incarceration) to install or reinstall an air bag in any motor vehicle other than one designed for the make, model and year of the vehicle. G.S. 20-136.2.

BILL ANALYSIS:

Section 1 of House Bill 546 would create defined terms for *Airbag, Counterfeit Supplemental Restraint System Component, Nonfunctional airbag, and Supplemental Restraint System (SRS).*

Section 2 would:

- Make it unlawful to transfer a motor vehicle if the transferor knows that a counterfeit SRS component, nonfunctional airbag, or no airbag has been installed in the vehicle.
- Clarify that a franchised motor vehicle dealer and its owners must have actual knowledge of the counterfeit SRS component or nonfunctional airbag to violate this section.

Section 3 would:

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- Make it a **Class 1 misdemeanor** (up to 120 days incarceration) and an unfair and deceptive trade practice to *import, manufacture, sell, offer for sale or distribute* a counterfeit SRS component or nonfunctional airbag in any motor vehicle, or other component device that causes the vehicle to fail federal safety standards.
- Make it a **Class H felony** (4-39 months incarceration) if a violation this section results in physical injury or death.
- Clarify that a franchised motor vehicle dealer and its owners must have actual knowledge of the counterfeit SRS component, nonfunctional airbag, or other component device to suffer criminal liability under this section.
- Allow for the lawful disposal of counterfeit SRS components or nonfunctional airbags.

EFFECTIVE DATE: The act would be effective October 1, 2019, and apply to offense committed on or after that date.

Shawn Middlebrooks, counsel to the House Judiciary Committee, substantially contributed to this summary.