



SPONSOR: Rep. Briggs King & Sen. Pettyjohn
Reps. Mitchell, Morrison, Osienski, Smyk; Sens.
Richardson, Wilson

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 103

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO AUTO REPAIR FRAUD PREVENTION,
AND PROHIBITED TRADE PRACTICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4902A, Title 6 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 4902A. Definitions.

For the purposes of this chapter, the following definitions shall apply:

(1) “Airbag” means a motor vehicle inflatable occupant restraint system device that is part of a supplemental
restraint system.

~~(1)(2)~~ “Automotive repair facility” means any person who performs auto repair work on a motor vehicle for
financial profit.

~~(2)(3)~~ “Auto repair work” means performing or attempting to perform repairs and/or maintenance on a motor
vehicle for financial profit.

~~(4)~~ “Counterfeit supplemental restraint system component” means a replacement supplemental restraint
system component, including, but not limited to, an airbag, that displays a mark identical to, or substantially similar to,
the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle without
authorization from that manufacturer or supplier, respectively.

~~(3)(5)~~ “Motor vehicle” is as defined by 21 § 101(35).

~~(6)~~ “Nonfunctional airbag” means a replacement airbag that meets any of the following criteria:

a. The airbag was previously deployed or damaged;

b. The airbag has an electric fault that is detected by the vehicle’s airbag diagnostic systems when the
installation procedure is completed and the vehicle is returned to the customer who requested the work to be
performed or when ownership is intended to be transferred;

c. The airbag includes a part or object, including a supplemental restraint system component, that is installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed; or

d. The airbag is subject to the prohibitions of 49 U.S.C. § 30120(j).

(4)(7) "Pattern of violations" means 3 or more violations within a 1-year period.

(5)(8) "Person" includes an individual, corporation, statutory trust, business trust, estate, trust, partnership, association, 2 or more persons having a joint or common interest or any other legal or commercial entity.

(9) "Supplemental Restraint System" means a passive inflatable motor vehicle occupant crash protection system designed for use in conjunction with a seat belt as defined in 49 CFR 571.209. A supplemental restraint system includes one or more airbags and all components required to ensure that an airbag works as designed by the vehicle manufacturer including both of the following:

a. The airbag operates as designed in the event of a crash; and

b. The airbag is designed to meet federal motor vehicle safety standards for the specific make, model, and year of the vehicle in which it is or will be installed.

Section 2. Amend § 4903A, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4903A. Unlawful practices.

(a) Deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact with the intent that others rely upon such concealment, suppression or omission of any material fact in connection with auto repair work by any automotive repair facility, whether or not any person has in fact been misled, deceived or damaged thereby, or the act, use or employment by any auto repair facility of a deceptive trade practice in connection with auto repair work shall constitute an unlawful practice.

(b) Acts or practices by an automotive repair facility prohibited by subsection (a) of this section shall include but are not limited to:

(1) Refusing to return a customer's motor vehicle because the customer refused to pay for unauthorized auto repair work in violation of § 4907A of this title;

(2) Misrepresenting that auto repair work has been made to a motor vehicle;

(3) Misrepresenting that auto repair work is necessary to a motor vehicle repair;

(4) Misrepresenting that the motor vehicle is in a dangerous condition or that the customer's continued use of the vehicle may be harmful or cause significant damage to the vehicle;

51 (5) Misrepresenting that the motor vehicle will or will not pass state inspection requirements or is not
52 otherwise in compliance with state or federal requirements in connection with soliciting auto repair work;

53 (6) Performing unauthorized auto repair work in connection with a misrepresentation;

54 (7) Installing or reinstalling in a motor vehicle any nonoperative air bag or object in lieu of an operative air
55 bag that was designed in accordance with federal safety regulations for the make, model, and year of the vehicle as part
56 of the vehicle inflatable restraint system including a counterfeit supplemental restraint system component or a
57 nonfunctional airbag;

58 (8) Selling, installing or reinstalling any device that causes the vehicle's diagnostic systems to fail to warn
59 when the vehicle is equipped with a counterfeit supplemental restraint system component, nonfunctional airbag, or
60 when no airbag is installed.

61 (8)(9) Fraudulently altering any customer contract, estimate, invoice or other document;

62 (9)(10) Fraudulently misusing a customer's credit card; or

63 (10)(11) Engaging in a pattern of violations of § 4904A, § 4905A, § 4906A or § 4907A of this title or
64 violating § 4904A, § 4905A, § 4906A or § 4907A of this title with the intent to hinder the discovery of practices or
65 acts prohibited by this section.

66 c. A person shall not knowingly manufacture, import, distribute, sell, or offer for sale any device intended to
67 replace a supplemental restraint system component in any motor vehicle if the device is a counterfeit supplemental
68 restraint system component, a nonfunctional airbag, or a device that causes a vehicle to fail to meet federal motor
69 vehicle safety standards as provided in 49 CFR 571.208.

SYNOPSIS

This bill clarifies definitions relating to airbags, counterfeit supplemental restraint system components, nonfunctional airbags, and supplemental restraint systems, and prohibited trade practices.