

SB 256 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Prepared By: Patricia Pascone, LPRO Analyst

Meeting Dates: 3/28, 3/30

WHAT THE MEASURE DOES:

Prohibits manufacture, sale, import, distribution or any transfer of a counterfeit automobile supplemental restraint system component, including a noncompliant or nonfunctioning airbag; installation of any such component or part that causes the vehicle's diagnostic system to fail to warn a vehicle operator of the component; and sale, lease, trade or transfer of any vehicle with such components. Makes a violation an unlawful practice under the Unlawful Trade Practices Act.

REVENUE: Has minimal revenue impact

FISCAL: Has minimal fiscal impact

ISSUES DISCUSSED:

- Federal actions largely limited to trademark infringement enforcement
- Similar laws enacted in 31 states
- Examples of counterfeit airbags discovered filled with debris or which required bomb squad detonation
- Permitting insurance sales of totaled vehicles
- How many people have been caught importing counterfeit airbags

EFFECT OF AMENDMENT:

-1 Modifies definition of "nonfunctional airbag" to refer only to a replacement airbag that meets the specified criteria listed.

BACKGROUND:

The National Highway Transportation Safety Agency reported that counterfeit airbags have been shown to consistently malfunction, including non-deployment and sometimes expulsion of metal shrapnel. In Oregon, the improper repair of a vehicle inflatable restraint system is a Class A misdemeanor. Violation of the federal crime of trafficking in counterfeit goods can carry up to a ten-year prison sentence and a fine of up to \$2 million for an individual, or \$5 million for a person other than individual. In one example from 2019, Oregon U.S. Attorneys prosecuted a California man who re-sold imported counterfeit airbags to five purchasers on e-bay. The man received a six-month sentence.

The Attorney General or a district attorney can enforce a UTPA violation by issuing an investigative demand and bringing a civil action to enjoin the unlawful practice. Additionally, for violations of ORS 646.608, ORS 646.638 provides individuals a private right of action. A person who suffers an ascertainable loss of money or property because of an unlawful act can sue within one year for actual damages or statutory damages, punitive damages, and equitable relief, and can recover attorney fees and costs if successful.

Senate Bill 256 would prohibit the sale, manufacture, or installation of a counterfeit automobile supplemental restraint system component, or the sale or transfer of any vehicle with such component, and would make a violation actionable under the Unlawful Trade Practices Act.