S T A T E O F N E W Y O R K

1219

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO, POWELL, CLARK, HOYT, MAGEE, LUPARDO -- Multi-Sponsored by -- M. of A. BRENNAN, BRODSKY, CAHILL, COLTON, COOK, FARRELL, GREENE, HIKIND, HOOPER, KOON, MAYERSOHN, McENENY, MILLMAN, ORTIZ, PERRY, SCARBOROUGH, WEISENBERG, WRIGHT -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the replacement of deployed airbags and the unlawful dealing in inflatable restraint systems and to repeal certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (e) of subdivision 6 of section 398-d of the vehicle and traffic law, as amended by chapter 78 of the laws of 1998, is amended to read as follows:

(e) [On and after March first, nineteen hundred ninety-nine, in no case shall any inflatable restraint system be replaced with anything other than a newly manufactured inflatable restraint system or a salvaged inflatable restraint system certified according to standards established by a nationally recognized testing, engineering and research body as provided for in subdivision two of section four hundred fifteen-c of this chapter] (I) IN NO CASE SHALL ANY PERSON REPLACE AN INFLATABLE RESTRAINT SYSTEM WITH ANYTHING OTHER THAN A NEWLY MANUFACTURED INFLATABLE RESTRAINT SYSTEM IN CONFORMANCE WITH ORIGINAL EQUIPMENT MANUFACTURER REQUIREMENTS AND WHICH MATCHES THE EXACT INTERCHANGE OR MANUFACTURER'S PART NUMBER FOR THE VEHICLE IN WHICH IT IS INSTALLED OR A SALVAGED INFLATABLE RESTRAINT SYSTEM IN CONFORMANCE WITH ORIGINAL EQUIPMENT MANUFACTURER REQUIREMENTS AND WHICH IS CERTIFIED PURSUANT TO THE PROVISIONS OF SECTION FOUR HUNDRED FIFTEEN-C OF THIS CHAPTER AND WHICH MATCHES THE EXACT INTERCHANGE OR MANUFACTURER'S PART NUMBER FOR THE VEHICLE IN WHICH IT IS INSTALLED. MOTOR VEHICLE REPAIR SHOPS SHALL

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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PROVIDE THE CUSTOMER WITH A COPY OF SUCH CERTIFICATION, AND SHALL VERIFY THAT THE SELF-DIAGNOSTIC SYSTEM FOR THE INFLATABLE RESTRAINT SYSTEM INDICATES THAT THE ENTIRE INFLATABLE RESTRAINT SYSTEM IS OPERATING PROPERLY.

(II)(A) A MOTOR VEHICLE REPAIR SHOP SHALL ALSO PROVIDE THE CUSTOMER WITH A COPY OF A NUMBERED INVOICE OR BILL OF SALE IDENTIFYING SUCH SALVAGED INFLATABLE RESTRAINT SYSTEM, INCLUDING THE IDENTIFICATION NUMBER, THE NAME AND ADDRESS OF THE SELLER AND THE DATE OF SALE. (B) A MOTOR VEHICLE REPAIR SHOP SHALL ALSO KEEP ON FILE THE ORIGINAL NUMBERED INVOICE OR BILL OF SALE.

(III) IT SHALL BE UNLAWFUL FOR A MOTOR VEHICLE REPAIR SHOP TO REMOVE OR TAMPER WITH THE IDENTIFICATION NUMBER OF ANY INFLATABLE RESTRAINT SYSTEM. REMOVAL OR TAMPERING WITH SUCH IDENTIFICATION NUMBER SHALL BE A CLASS E FELONY.

S 2. Section 415-c of the vehicle and traffic law is REPEALED and a new section 415-c is added to read as follows:

S 415-C. SALE OF SALVAGED INFLATABLE RESTRAINT SYSTEMS; RESTRICTIONS. 1. THE SALE OF ANY SALVAGED INFLATABLE RESTRAINT SYSTEM SHALL BE ACCOMPANIED BY A NUMBERED INVOICE OR BILL OF SALE IDENTIFYING SUCH PART, INCLUDING THE PART IDENTIFICATION NUMBER AS WELL AS THE VEHICLE IDENTIFICATION NUMBER THAT THE INFLATABLE RESTRAINT SYSTEM WAS REMOVED FROM.

2. (A) NO SALVAGED INFLATABLE RESTRAINT SYSTEM SHALL BE SOLD OR OFFERED FOR SALE UNLESS THE SELLER CERTIFIES, AND PROVIDES THE BUYER AT THE TIME OF SALE WITH A WRITTEN COPY THEREOF, THAT:

(I) THE SALVAGED INFLATABLE RESTRAINT SYSTEM IS FIT FOR INSTALLATION; AND

(II) THE SELLER IS A DISMANTLER REGISTERED PURSUANT TO SECTION FOUR HUNDRED FIFTEEN-A OF THIS ARTICLE; AND

(III) THE VEHICLE FROM WHICH SUCH SYSTEM WAS SALVAGED DID NOT SUFFER ANY FIRE OR FLOOD DAMAGE; AND

(IV) SUCH SYSTEM WAS STORED IN A COOL, DRY LOCATION, WITH TRIM FACING UPWARD ON A NON-FLAMMABLE SURFACE; AND

(V) SUCH SELLER INSPECTED SUCH SYSTEM PRIOR TO SALE AND THERE WAS NO VISIBLE DAMAGE TO THE CASING, ELECTRICAL WIRES OR CONTACTS, AND THAT NO OTHER DEFECT WAS VISIBLE.

(B) NO SALVAGED INFLATABLE RESTRAINT SYSTEM SHALL BE INSTALLED IN A VEHICLE UNLESS IT CONFORMS WITH ORIGINAL EQUIPMENT MANUFACTURER REQUIREMENTS, MATCHES THE EXACT INTERCHANGE OR MANUFACTURER'S PART NUMBER FOR THE VEHICLE IN WHICH IT IS INSTALLED, AND IS CERTIFIED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION.

S 3. The vehicle and traffic law is amended by adding a new section 415-d to read as follows:

S 415-D. UNLAWFUL DEALING IN INFLATABLE RESTRAINT SYSTEMS. 1. NO PERSON OR DEALER SHALL INTENTIONALLY SELL, OFFER FOR SALE, LEASE OR OFFER TO LEASE ANY MOTOR VEHICLE WHEREIN HE OR SHE HAS:

(A) INSTALLED AN INFLATABLE RESTRAINT SYSTEM WHICH HE OR SHE KNOWS TO BE INOPERABLE, OR NOT MEETING ORIGINAL EQUIPMENT MANUFACTURER REQUIREMENTS OR NOT MATCHING THE EXACT INTERCHANGE OR MANUFACTURER'S PART NUMBER FOR THE VEHICLE IN WHICH IT IS INSTALLED; AND/OR

(B) KNOWINGLY RETROFITTED THE MOTOR VEHICLE IN A MANNER WHERE IT APPEARS THAT AN INOPERABLE INFLATABLE RESTRAINT SYSTEM IS OPERABLE, OR IT APPEARS THAT SUCH VEHICLE IS EQUIPPED WITH AN INFLATABLE RESTRAINT SYSTEM WHEN HE OR SHE KNOWS SUCH SYSTEM IS IN FACT NOT PRESENT; AND/OR

(C) KNOWINGLY DISCONNECTED OR REMOVED ANY INDICATOR LIGHT OR OTHER MECHANISM THE PURPOSE OF WHICH IS TO GIVE NOTICE TO THE OPERATOR OF THE

MOTOR VEHICLE THAT THE INFLATABLE RESTRAINT SYSTEM IS NOT FUNCTIONING PROPERLY.

2. NO PERSON OR DEALER SHALL INTENTIONALLY OFFER FOR SALE OR INSTALL A NEW OR NON-DEPLOYED SALVAGE INFLATABLE RESTRAINT SYSTEM:

(A) WHICH HE OR SHE KNOWS TO BE INOPERABLE; OR

(B) WHICH HE OR SHE KNOWS DOES NOT MEET ORIGINAL EQUIPMENT MANUFACTURERS REQUIREMENTS; OR

(C) WHICH HE OR SHE KNOWS DOES NOT MATCH THE EXACT INTERCHANGE OR MANUFACTURER'S PART NUMBER FOR THE VEHICLE IN WHICH IT IS INSTALLED.

3. NO PERSON OR DEALER SHALL DEFACE, AS DEFINED IN SUBDIVISION SEVEN OF SECTION 265.00 OF THE PENAL LAW, THE IDENTIFICATION NUMBER OF ANY INFLATABLE RESTRAINT SYSTEM.

4. (A) ANY PERSON OR DEALER CONVICTED OF VIOLATING THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR AND SHALL BE PUNISHED BY A FINE OF NOT MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS OR BY IMPRISONMENT FOR NOT MORE THAN ONE HUNDRED EIGHTY DAYS OR BY BOTH SUCH FINE AND IMPRISONMENT, AND (B) ANY PERSON OR DEALER WHO VIOLATES A PROVISION OF THIS SECTION AND HAS PREVIOUSLY BEEN CONVICTED WITHIN THE PRECEDING FIVE YEARS OF A VIOLATION OF THIS SECTION, SHALL BE GUILTY OF A FELONY.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.