

STORAGE NAME: h0157.ag.doc
DATE: February 12, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE & CONSUMER AFFAIRS
ANALYSIS**

BILL #: HB 157
RELATING TO: Motor vehicle airbags
SPONSOR(S): Representative(s) Weissman
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC)
 - (2) TRANSPORTATION (RIC)
 - (3) CRIM PREVENTION, CORRECTIONS & SAFETY (HCC)
 - (4) COUNCIL FOR COMPETITIVE COMMERCE
 - (5)
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I. SUMMARY:

HB 157 defines the terms "airbag" and "salvaged airbag" and requires any person engaged in the business of purchasing, selling, or installing salvaged airbags to maintain a record of the purchase, sale or installation of the airbag. The information must be maintained for 36 months and made available for inspection during normal business hours by any appropriate law enforcement agency. In addition, information contained in the record must be provided, upon request, to an insurer or consumer.

The bill also provides a felony penalty for the replacement of a deployed or defective airbag with anything other than a new or salvaged airbag.

The bill appears to have no fiscal impact to state or local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Since 1998, federal law has required all newly manufactured cars and trucks to have driver and front passenger airbags. By the year 2010, ninety percent of all vehicles will be equipped with airbags.

Airbags are not reusable. Thus, if an airbag is deployed in an accident, it must be replaced. Airbag replacement costs range from \$400 to \$1,500. The expense has created a market for used airbags (those not deployed, but still serviceable) salvaged from wrecked cars. Within the past several years, it has become increasingly popular among thieves to steal airbags for resale purposes.

Another problem is installation of bad or junk airbags. During a California investigation, of 1,200 vehicles inspected, 66, or 1 out of every 25, had fake airbags. Police in California found that instead of replacing airbags after crashes, fake airbags are stuffed with anything to give them the weight and feel of a properly repaired air bag. The bags are then sewn back into the steering column.

All airbags are labeled with a unique serial number distinguishing each airbag from every other airbag. When the serial number is entered into the National Crime Information Center computer system, it becomes possible for any person suspecting an airbag is stolen to find out by checking with the local police agency.

C. EFFECT OF PROPOSED CHANGES:

The bill defines an airbag as, ~~A~~an inflatable restraint system that is designed to be installed and to operate in a motor vehicle to activate in the event of a crash.@

The bill defines a salvaged airbag as an airbag ~~which~~ has been removed from a motor vehicle.@

The bill requires any person engaged in the business of purchasing, selling, or installing salvaged airbags to maintain a manual or electronic record of the purchase, sale, or installation of airbags. The record must include the following information:

- The identification number of the salvaged airbag;
- The vehicle identification number of the vehicle from which the salvaged airbag was removed;
- The name, address, and driver's license number or other means of identification of the person from whom the salvaged airbag was purchased;

- In the event the salvaged airbag is installed, the vehicle identification number of the vehicle into which the airbag is installed.

The bill requires that this record be maintained for 36 months following the transaction and provides that the information may be inspected during normal business hours by any law enforcement officer.

The bill also requires any person who sells a salvaged airbag to disclose to the purchaser or consumer that the airbag is salvaged. The bill provides that, upon request, information within a portion of such record pertaining to a specific transaction must be provided to an insurer or consumer.

The bill provides that it is unlawful for anyone to replace a deployed or defective airbag with anything other than a bona fide new airbag or salvaged airbag. Violation constitutes a second-degree felony.

D. SECTION-BY-SECTION ANALYSIS:

Please see Section C. Effect of Proposed Changes

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Please see Fiscal Comments.

2. Expenditures:

Please see Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Please see Fiscal Comments.

2. Expenditures:

Please see Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires persons selling, replacing, or installing salvaged airbags to implement and maintain new record-keeping procedures.

D. FISCAL COMMENTS:

The Criminal Justice Estimating Conference determined the bill does not have a fiscal impact.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill is exempt from the requirement of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise the revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Generally, the Fourth Amendment to the United States Constitution prohibits searches of people or property without a search warrant. One exception to this requirement is known as a warrantless administrative search. In Moore v. State, 442 So.2d 215 (Fla. 1983), the Florida Supreme Court upheld the constitutionality of s. 8112.055 which allows a law enforcement officer to inspect any junkyard, scrap metal processing plant, motor vehicle salvage yard, licensed motor vehicle dealer's lot, motor vehicle repair shop, parking lot or public garage, for the purpose of locating stolen vehicles, investigating the titling and registration of vehicles, inspecting vehicles or inspecting records.

In conducting its analysis, the Florida Supreme Court stated:

[W]arrantless administrative searches of business property are not automatically unreasonable because the "interest of the owner of commercial property is not one in being free from any inspections." To withstand challenge, however, the statute allowing such searches must not allow unbridled discretion and the searches must be of a pervasively regulated business so that the business owner is aware that his property is subject to inspection.

The warrantless search of airbag records provided for by HB 79 should pass constitutional scrutiny. An appellate court would likely find that the legislature has a legitimate interest in halting airbag theft. Further, the statute only allows an officer to conduct a warrantless search during normal business hours. The bill provides the type of information that a dealer in salvaged airbags is required to maintain and specifies how long the records must be maintained.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

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Susan D. Reese

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