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****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2001-85, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE
AGRICULTURE & CONSUMER AFFAIRS
FINAL ANALYSIS**

BILL #: CS/HB 157
RELATING TO: Motor Vehicle Airbags
SPONSOR(S): Council for Competitive Commerce and Representative(s) Weissman and others
TIED BILL(S): None

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

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 8 NAYS 0
 - (2) TRANSPORTATION YEAS 13 NAYS 0 (RIC)
 - (3) CRIME PREVENTION, CORRECTIONS & SAFETY YEAS 8 NAYS 0 (HCC)
 - (4) COUNCIL ON COMPETITIVE COMMERCE YEAS 11 NAYS 0
 - (5)
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I. SUMMARY:

Currently, s. 860.145, F.S., also known as the "Airbag Antitheft Act," specifies record-keeping requirements for persons engaged in the business of purchasing, selling, or installing salvaged airbags. It also specifies penalties for persons who knowingly possess, sell, or install a stolen airbag, and persons who violate the record-keeping requirements.

The committee substitute creates s. 860.146, F.S., to define the terms "fake airbag" and "junk-filled airbag compartment" and to make it a second-degree felony for anyone to knowingly purchase, sell, or install on any vehicle any fake airbag or junk-filled airbag compartment.

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

As originally filed, the bill duplicated much of the language contained in s. 860.145, F.S. See section IV. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES for details.

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" or "salvaged" airbags (those not deployed, but still serviceable) from wrecked cars. Within the past several years, it has become increasingly popular among thieves to steal airbags for resale purposes. A 1996 study by State Farm Insurance showed that 18 out of every 10,000 cars were broken into and their airbags stolen – nearly triple the number reported stolen in 1993. Additionally, the National Highway Loss Data Institute reported that approximately 10 percent of all auto-theft claims are for air-bag thefts.

Another problem is installation of fake or dummy airbags. Investigations by the Los Angeles Police Department have discovered auto repair shops installing dummy air bags as replacements for deployed airbags. These dummy airbags are stuffed with anything from socks to shredded newspaper to Styrofoam, giving them the weight and feel of a real air bag. These fake airbags are then sewn back into the steering column. According to the Florida Auto Theft Journal, dummy airbags also are becoming a problem in Florida. The state Department of Agriculture and Consumer Services has investigated two complaints since 1999 about fraudulent airbag installations, but these cases were handled as insurance fraud. There appears to be no further data about the extent of the problem in Florida.

The manufacturer labels each airbag with a unique serial number distinguishing it from every other airbag. When the serial number is entered into the National Crime Information Center computer system, it becomes possible for persons suspecting an airbag is stolen to find out by checking with their local police agency.

In response to the trend in airbag thefts, the Legislature in 1999 passed HB 79 (chapter 99-170, Laws of Florida) that created section 860.145, F.S. Described as the "Airbag Antitheft Act," the legislation included: 1) definitions of the terms "airbag" and "salvaged airbag" 2) record-keeping requirements for persons who are in the business of purchasing, selling, or installing airbags; 3) a requirement that the records be maintained for 36 months and a provision that allowed the records to be inspected during normal business hours by any law enforcement officer; 4) a requirement that

any person who sells or installs a salvaged airbag disclose to the purchaser or consumer that the airbag is salvaged. The law makes it a third-degree felony to knowingly possess, sell, or install a stolen airbag; install a new airbag from which the manufacturer's part identification number has been removed, altered or replaced; or install an airbag taken from a stolen car. It is a first-degree misdemeanor to fail to maintain complete and accurate records, fail to provide information upon request, and fail to disclose that an airbag is salvaged.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 157 creates s.860.146, F.S., making it a second-degree felony for for anyone to knowingly purchase, sell, or install on any vehicle any fake airbag or junk-filled airbag compartment. A second-degree felony is punishable by up to fifteen years in prison and a \$10,000 fine. The bill does not rank the offense in the Offense Severity Ranking Chart of the Criminal Punishment Code and it will therefore default as a Level Four offense. Pursuant to this ranking, a person convicted of this crime could receive a sentence ranging from probation to 15 years imprisonment.

The bill also provides definitions for "fake airbag" and "junk-filled airbag compartment".

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:

None

D. FISCAL COMMENTS:

The Criminal Justice Estimating Conference determined the bill does not have a fiscal impact on state or local governments.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/HB 157 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:

CS/HB 157 does not reduce the authority that counties or municipalities have to raise the revenues in the aggregate.

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

CS/HB 157 does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The new s. 860.146, F.S., creates a separate, specific statute relating to the purchase, sale or installation of fake airbags or junk-filled airbag compartments.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 7, 2001, the Transportation Committee adopted without objection a strike everything amendment filed by the bill sponsor. The amendment incorporates by reference into HB 157 the airbag definitions, record-keeping requirements and penalty provisions in s. 860.145, F.S. The amendment provides that it is a second degree felony for any person to install or reinstall in a motor vehicle any object in lieu of a new or salvaged airbag that was designed in accordance with federal safety standards for the make, model and year of that vehicle, as part of a motor vehicle inflatable restraint system. This will prohibit the installation of a "fake airbag" and prohibit the installation of an airbag that was not designed for the car in which it is being installed. The amendment traveled with the bill.

On April 5, 2001, the Council for Competitive Commerce passed the bill as a committee substitute incorporating the "strike-everything" amendment adopted by the Transportation Committee.

Difference between the committee substitute and the bill, as filed: The original bill made it a second-degree felony to replace a defective or deployed airbag with anything other than a new or salvaged airbag made for the particular vehicle. It then duplicated the existing language in s. 860.145, F.S., except for including the penalty provisions relating to record-keeping. The CS makes specific

provisions in s. 860.145 apply by reference, and makes it a second-degree felony to knowingly purchase, sell, or install a fake airbag or junk-filled airbag compartment.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Staff Director:

Susan D. Reese

Susan D. Reese

COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

Prepared by:

Staff Director:

Joyce Pugh

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AS FURTHER REVISED BY THE COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

Prepared by:

Staff Director:

Trina Kramer

David De La Paz

AS FURTHER REVISED BY THE COUNCIL ON COMPETITIVE COMMERCE:

Prepared by:

Council Director:

Rebecca R. Everhart

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

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Susan D. Reese

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