

STORAGE NAME: h3357.cp
DATE: February 5, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME AND PUNISHMENT
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3357

RELATING TO: Motor Vehicle Airbags

SPONSOR(S): Rep. Stafford

COMPANION BILL(S): SB 944

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

- (1) CRIME AND PUNISHMENT
 - (2) TRANSPORTATION
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill creates the "Airbag Antitheft Act" which requires any person who offers to sell any salvaged airbag to submit the airbag part number to an appropriate law enforcement agency for determination of whether the airbag is stolen via a national theft computer system. This information must accompany the airbag during the sale.

The bill, also, requires all motor vehicle repair shops to supply the identity of the person or business which supplied any airbag they install. Any salvaged airbags, also, must include the vehicle identification number from which it was salvaged.

The bill creates a new, 3rd-degree felony penalty (punishable by up to 5-years in prison) for possession of a stolen airbag, and a new 1st-degree misdemeanor (punishable by up to 1-year in jail) for failure to provide or maintain proper records as required by the Act.

The bill becomes effective on October 1 of the year in which enacted.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Concerns Over Airbag Thefts

1998 is the first year in which all passenger vehicles are required to be equipped with inflatable restraint systems (airbags) for, both, driver and front passenger. By the year 2010, ninety percent of all vehicles will be equipped with airbags. Naturally, this requirement will create a significant need for replacement airbags for cars which have been in an accident.

Airbags are dangerous, explosive devices. They are powered by an explosive charge which causes the bag to deploy at speeds upwards of 200 m.p.h. Such forces have resulted in fatalities of 87 people during ordinary use.

Airbags are not reusable. That is, if they were deployed in an accident, they must be replaced. Ordinarily, a new airbag may be obtained through licensed manufacturers which is guaranteed to meet certain safety requirements. Because airbags cost around \$750, however, an automobile owner may be faced with repair costs of as much as \$1,500 after even a minor accident. Naturally, the high expense will create a market for used airbags, those which were salvaged from wrecked cars, but which did not deploy and are still serviceable. Likewise, criminal elements will be eager to supply the “**salvaged**” airbags, as well.

Insurance industry estimates predict approximately 170,000 airbags thefts per year, by the year 2010. Factoring in the cost per unit, this loss could cost policyholders between \$127 and \$253 million per year in higher premiums. Moreover, stolen airbags cannot guarantee the safety standards which are essential for proper use of this explosive device.

The National Crime Information Center (N.C.I.C.)

The National Crime Information Center is a computer network designed as a clearinghouse for information regarding criminal records and stolen property. The network is continually updated with new information, taken from police reports and court records. For example, when a car is stolen, the handling police agency enters the Vehicle Identification Number (V.I.N.) into the N.C.I.C. network. If a buyer desires to know whether a vehicle is stolen, he may request his local police agency to enter that vehicle's VIN number into the N.C.I.C.. If the car has been reported stolen, his entry will be returned with information identifying the car as stolen and the name of the police agency that reported the theft. The N.C.I.C. is not limited to information on stolen cars. Literally, any item which can be identified by a number, or other markings, may be registered.

Likewise, all airbags are labeled with a unique serial number which distinguishes each airbag from every other airbag. Thus, if these numbers were to be entered into the N.C.I.C. computer system, it would be possible for any person who suspected an airbag was stolen to find out by checking with the local police agency.

B. EFFECT OF PROPOSED CHANGES:

Airbags Defined

The bill defines an airbag as, "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, "one which has been removed from a motor vehicle."

Mandatory Identification Of All Salvaged Airbags Before Sale

The bill requires any person who offers to sell any **salvaged** airbag to submit the airbag part number to an appropriate law enforcement agency for determination of whether the airbag is stolen as indicated via a national theft computer system. This information must accompany the airbag during the sale.

New Record-Keeping Requirements For Auto Repair Shops

The bill requires all motor vehicle repair shops to supply the identity of the person or business which supplied any airbag they install. Any salvaged airbags, also, must include the vehicle identification number from which it was salvaged.

Each auto repair shop which either removes or installs airbags shall maintain a log book containing:

- 1) The date of removal or installation;
- 2) The motor vehicle identification number, license plate number, and make and model of the motor vehicle;
- 3) The part number of the airbag;
- 4) In the case of a **salvaged** airbag:
 - ▶ The vehicle identification number, license plate number, and make and model of the motor vehicle;
 - ▶ The name, address, and driver license number or other means of accurately identifying the person or business from whom such salvaged inflatable airbag was purchased;
 - ▶ In the case of a new airbag, the name, address, and any other information necessary to accurately identify the supplier.

Penalties

The bill creates a new, **3rd-degree felony penalty (punishable by up to 5-years in prison) for possession of a stolen airbag**, and a new **1st-degree misdemeanor (punishable by up to 1-year in jail) for failure to provide or maintain proper records** as required by the Act.

Auto Repair Shops

The bill, also, requires all motor vehicle repair shops to supply the identity of the person or business which supplied **any airbag** they install. Any **salvaged** airbags, also, must include the vehicle identification number from which it was salvaged.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

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2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. It requires auto-repair shops to implement and maintain new record-keeping procedures for the installation of airbags. Failure to maintain such records is a criminal offense -- a 1st-degree misdemeanor.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

The bill creates a new statute.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Creates the "Airbag Antitheft Act" and provides requirements for airbag dealers and auto repair shops; provides penalties for possession of a stolen airbag and failure to maintain records.

Section 2: Provides an effective date.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See, Fiscal Comments.

2. Recurring Effects:

See, Fiscal Comments.

3. *Long Run Effects Other Than Normal Growth:

See, Fiscal Comments.

4. Total Revenues and Expenditures:

See, Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See, Fiscal Comments.

2. Recurring Effects:

See, Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See, Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The bill requires auto-repair shops to implement and maintain new record-keeping procedures. It is impossible to determine the exact cost of these procedures, but any additional duties required of an employee is time which may not be spent producing a product and, hence, a profit.

2. Direct Private Sector Benefits:

See, Fiscal Comments.

3. Effects on Competition, Private Enterprise and Employment Markets:

See, Fiscal Comments.

D. FISCAL COMMENTS:

As of the publishing of this report, the Criminal Justice Estimating Conference had not met to determine the fiscal impact of the bill.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

Because the bill involves a criminal statute, it is exempt from this provision.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce anyone's revenue raising authority.

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

The bill does not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

Coordinating Airbag Serial Numbers With the N.C.I.C.

Unlike vehicle identification numbers (V.I.N.), airbag serial numbers are not recorded on vehicle registrations and may not be readily accessible to report when stolen. Nonetheless, manufacturers keep records regarding which airbag was built into which car. Hence, this problem is solvable, but it will require some coordination between reporting police agencies

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and the manufacturers. This coordination is properly provided by the Florida Department of Law Enforcement and does not require legislative guidance.

Criminal intent is an essential element for any criminal offense. The bill criminalizes the possession of a stolen airbag without regard to whether the possessor is actually aware of the airbag's stolen character. This conduct might be prosecuted under Section 812.014, F.S., Florida's theft statute, since possession of recently stolen property may be inferred as evidence of knowledge of an item's stolen character. See, Section 812.022, F.S.

Nonetheless, an amendment will be offered by the sponsor which adds a "knowing" element to the offense. That is, it will not be a crime unless the possessor "knowingly" possessed a stolen airbag.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

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