

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: February 24, 1998 Revised: 03/04/98 _____

Subject: Airbag Antitheft Act

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Dugger</u>	<u>Miller</u>	<u>CJ</u>	<u>Fav/1amendment</u>
2.	<u>_____</u>	<u>_____</u>	<u>TR</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>WM</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Summary:

Senate Bill 944 creates a new statute, the "Airbag Antitheft Act," which is designed to combat the problem of possessing, selling, or installing stolen airbags or airbags with altered identification numbers. The act requires that sellers of salvaged airbags must verify with law enforcement through the national theft computer system that an airbag is not stolen before selling it. In addition, motor vehicle repair shops are required to maintain a log containing very specific identifying information relating to the installation or removal of airbags, as well as being required to supply similar identifying information on the invoice when replacing or installing a salvaged airbag.

Failure to maintain complete and accurate records under the act results in the commission of a first degree misdemeanor, punishable by incarceration up to one year in jail and/or a fine not exceeding \$1,000. Moreover, the act makes it a third degree felony for any person to possess or sell a stolen uninstalled airbag or any airbag that has the manufacturer's part identification number removed, altered, or defaced, or to install a stolen airbag or an airbag taken from a stolen motor vehicle. Under the Criminal Punishment Code, s. 921.0022, F.S., which becomes effective for offenses committed on or after October 1, 1998, the third degree felony penalty could range from a non-state prison sanction up to five years in prison.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

In 1991, Congress amended the Intermodal Surface Transportation Efficiency Act of 1991 to require airbags in all passenger cars and light trucks. Every passenger car manufactured on or after September 1, 1997, must be equipped with an airbag at both the driver and right front

passenger seating positions. Every light truck manufactured on or after September 1, 1998, must also be equipped with dual airbags. The final rule implementing this requirement was published in the Federal Register, 58 Fed. Reg. 46551, on September 2, 1993.

The National Highway Traffic Safety Administration estimates that between 1986 and November 1, 1997, airbags have saved the lives of approximately 2,620 drivers and passengers involved primarily in moderate and high speed crashes. However, as of the same date, 87 people involved in low speed crashes have also died as a result of airbags.

The airbag system is very sophisticated, with the airbag designed to deploy rapidly with great force, making it a dangerous device. Once deployed, an airbag cannot be reused. To properly replace it, vehicle manufacturers require replacement of the airbag, the clockspring under the airbag, and the airbag sensors in the front area of the vehicle. If these steps are not taken, the airbag may not deploy properly or it may be deployed inadvertently, which in either case, could cause serious injuries to the unsuspecting driver or passenger.

Airbags are fairly expensive (ranging from \$500 to \$1,500) and are hard to identify as stolen, but they are very easy to remove from a vehicle. According to law enforcement and the insurance industry, these factors make it conducive for airbags to be stolen. A market is created for stolen airbags when repair shops, knowingly or unwittingly, use salvaged or stolen airbags to replace a deployed or damaged airbag. Moreover, when airbags are stolen, usually the thief only steals the airbag itself, leaving the clockspring and the airbag sensors in the vehicle. This practice puts the public at risk because these stolen airbags are then installed with missing parts of the airbag system that are necessary to ensure proper deployment.

Although an airbag has an identifying serial number on it and, if suspected of being stolen, can be checked through the National Crime Information Center (NCIC) by local law enforcement to find out if in fact it has been entered in that system as stolen, in most instances, the stolen airbag has had the identifying numbers altered, defaced, or removed, making it almost impossible to prove it was stolen. For this same reason, it is also difficult for law enforcement to prove that a person is trafficking in stolen airbags by possessing them.

Section 812.019, F.S., makes it a second degree felony for any person to traffic in property that he or she knows or should have known is stolen. Under s. 812.016, F.S., it is a first degree misdemeanor for a dealer in property (a person in the business of buying and selling property) who knew or should have known that the identifying marks of the property in his or her possession have been removed or altered without the manufacturer's consent to possess such property. In addition, s. 319.33, F.S., criminalizes the possession or sale of motor vehicles, mobile homes, or their "major component parts" which have identification numbers that have been knowingly altered, defaced, or removed. This crime is punished as a third degree felony under s. 319.33, F.S. However, airbags are not covered under the definition of major component parts.

III. Effect of Proposed Changes:

Senate Bill 944 creates a new statute, the "Airbag Antitheft Act," which is designed to combat the problem of possessing, selling, or installing stolen airbags or airbags with altered identification numbers. It requires that sellers of salvaged airbags must verify with law enforcement through the national theft computer system that an airbag is not stolen before selling it. In addition, motor vehicle repair shops are required to maintain a log containing very specific identifying information relating to the installation or removal of airbags, as well as being required to supply similar identifying information on the invoice when replacing or installing a salvaged airbag. Consumers and insurers must receive a copy of the purchase invoice for the replacement airbag under the act.

The identifying information required under the act includes the following: the date of removal or installation; the motor vehicle identification number, license plate number, and make and model of the motor vehicle; the part number of the airbag; information sufficient to identify the supplier, in the case of a new airbag; and information sufficient to identify the vehicle and person from whom a salvaged airbag was purchased, in the case of a salvaged airbag.

Failure to maintain complete and accurate records under the act results in the commission of a first degree misdemeanor, punishable by incarceration up to one year in jail and/or a fine not exceeding \$1,000. Moreover, the act makes it a third degree felony for any person to possess or sell a stolen uninstalled airbag or any airbag that has the manufacturer's part identification number removed, altered, or defaced, or to install a stolen airbag or an airbag taken from a stolen motor vehicle. (Knowledge is not required under the bill for the commission of the third degree felony, although it is an element in most of the theft-type offenses under ch. 812, F.S.) Under the Criminal Punishment Code, s. 921.0022, F.S., which becomes effective for offenses committed on or after October 1, 1998, the third degree felony penalty could range from a non-state prison sanction up to five years in prison.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires motor vehicle repair shops to maintain records relating to the removal or installation of airbags. Any costs associated with this requirement should be relatively minimal.

C. Government Sector Impact:

According to the Criminal Justice Estimating Conference, there should be no fiscal impact as a result of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Criminal Justice:

Adds the element of knowledge to the crime of possessing, selling, or installing a stolen salvaged airbag or an airbag with an altered identification number.