

**STORAGE NAME:** h0079z.cp  
**DATE:** May 17, 1999

**\*\*FINAL ACTION\*\***  
**\*\*SEE FINAL ACTION STATUS SECTION\*\***

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
CRIME AND PUNISHMENT  
FINAL ANALYSIS**

**BILL #:** HB 79  
**RELATING TO:** Airbag Antitheft Act  
**SPONSOR(S):** Representative Stafford  
**COMPANION BILL(S):** CS/SB 244

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

- (1) CRIME AND PUNISHMENT YEAS 6 NAYS 0
- (2) CRIMINAL JUSTICE APPROPRIATION (Withdrawn)
- (3)
- (4)
- (5)

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I. FINAL ACTION STATUS:

On May 14, 1999, HB 79 was approved by the Governor and became Chapter 99-170, Laws of Florida.

II. SUMMARY:

The bill creates the "Airbag Antitheft Act" which 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. This information must be maintained for 36 months and made available for inspection during normal business hours by any appropriate law enforcement agency. Moreover, information contained in the record must be provided, upon request, to an insurer or consumer.

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 creates a new, third degree felony for any person to knowingly possess, sell or install a stolen uninstalled airbag, a new or salvaged airbag from which the manufacturer's identification number has been defaced or an airbag taken from a stolen motor vehicle. The bill also makes it a first degree misdemeanor for a person to fail to maintain or prepare complete and accurate airbag records or to fail to disclose that an airbag is salvaged as required by the act.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

**Concerns Over Airbag Thefts**

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 which were salvaged from wrecked cars, but which did not deploy and are still serviceable. Within the past several years, it has become increasingly popular among thieves to steal airbags for resale purposes.

The insurance industry predicts that approximately 170,000 airbags will be stolen annually 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 will not meet the safety standards which are essential for proper use of an airbag.

**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:

HB 79 creates the "Airbag Antitheft Act".

**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 an airbag "which has been removed from a motor vehicle."

**New Record-Keeping Requirements**

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:

1. the identification number of the salvaged airbag;
2. the vehicle identification number of the vehicle from which the salvaged airbag was removed;

3. the name address, and driver's license number or other means of identification of the person from whom the salvaged airbag was purchased;
4. in the event that 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 a insurer or consumer.

### **Penalties**

The bill makes it a third-degree felony penalty, punishable by up to five years in prison, for any person to knowingly possess, sell, or install a stolen uninstalled airbag, a new or salvaged airbag from which the manufacturer's part identification number has been removed, altered, or defaced or an airbag taken from a stolen motor vehicle.

The bill makes it a first-degree misdemeanor, punishable by up to one year in jail, for any person to fail to maintain or prepare complete and accurate records, to fail to provide information within a portion of such record upon request or to fail to disclose that an airbag is salvaged as required by the act.

### **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

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 persons who purchase or sell any salvaged airbag or persons who replace airbags, to implement and maintain new record-keeping procedures for the installation of any 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 ANALYSIS:

**Section 1:** Creates the "Airbag Antitheft Act"; provides definitions; requires a record of any sale, replacement or installation of a salvaged airbag; specifies required information; provides for inspection and disclosure of records; prohibits certain activities and provides penalties.

**Section 2:** Provides that act shall take effect on October 1, 1999.

IV. FISCAL ANALYSIS & 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 persons who sell, replace or install salvaged airbags to implement and maintain new record-keeping procedures.

2. Direct Private Sector Benefits:

See, Fiscal Comments.

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

See, Fiscal Comments.

D. FISCAL COMMENTS:

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

V. 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.

VI. COMMENTS:

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 which a dealer in salvaged airbags is required to maintain and specifies how long the records must be maintained.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 13, 1999, Representative Stafford offered a strike everything amendment to HB 79 on the floor which the House of Representatives subsequently adopted. The amendment conformed HB 79 to Senate Bill 244. The amendment made the following changes to the original House bill:

- The strike everything amendment added the requirement that the records kept by an airbag dealer contain the vehicle identification number of the vehicle into which the salvaged airbag is installed.
- The original bill required that airbag records be made available for inspection upon demand of a law enforcement officer. The strike everything amendment requires the records to be maintained for 36 months and provides that the records may be inspected by a law enforcement officer during normal business hours.
- The strike everything amendment requires any person who sells or installs a salvaged airbag to disclose to the purchaser or consumer that the airbag is salvaged. The amendment also provides that failure to make this disclosure is a first degree misdemeanor.

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VIII. SIGNATURES:

**COMMITTEE ON CRIME AND PUNISHMENT:**

Prepared by:

Staff Director:

Johana P. Hatcher

J. Willis Renuart

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON CRIME AND PUNISHMENT:**

Prepared by:

Staff Director:

Trina Kramer

J. Willis Renuart