

**STORAGE NAME:** h0157a.tr.doc  
**DATE:** March 7, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
TRANSPORTATION  
ANALYSIS**

**BILL #:** HB 157  
**RELATING TO:** Motor vehicle airbags  
**SPONSOR(S):** 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 (HCC)
  - (4) COUNCIL FOR COMPETITIVE COMMERCE
  - (5)
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**I. SUMMARY:**

Currently, s. 860.145, F.S., also known as the "Airbag Antitheft Act," specifies recordkeeping 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 recordkeeping requirements.

HB 157 regulates the replacement of airbags. It also incorporates much of the existing law's language. The bill 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 bona fide new or salvaged airbag.

HB 157 appears to have no fiscal impact to state or local government, nor does it appear to raise constitutional or other legal issues.

HB 157 would take effect July 1, 2001.

**Note: An amendment adopted by the Transportation Committee on March 7, 2001, deletes duplicative language on airbag definitions and salvage reporting requirements, instead incorporating them by reference. It also directs that replacement airbags be installed in vehicles of the same make, model and year for which they were designed. The amendment is traveling with the bill**

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes  No  N/A

HB 157 expands government regulations by requiring persons selling, replacing, or installing salvaged airbags to implement and maintain a variety of record-keeping procedures.

2. Lower Taxes Yes  No  N/A

3. Individual Freedom Yes  No  N/A

4. Personal Responsibility Yes  No  N/A

5. Family Empowerment Yes  No  N/A

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. 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. And, 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 the Sunshine state. 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.

Each airbag is labeled by the manufacturer 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). Described as the "Airbag Antitheft Act," the legislation included definitions; recordkeeping requirements for persons who are in the business of purchasing, selling, or installing

airbags; and penalties for violators of these provisions. The penalty for knowingly possessing, selling, or installing a stolen airbag, installing a new airbag from which the manufacturer's part identification number has been removed, altered or replaced; or installing an airbag taken from a stolen car is a third-degree felony. The penalty for failing to maintain complete and accurate records, to provide information upon request, and failing to comply with the other recordkeeping requirements is a first-degree misdemeanor.

**C. EFFECT OF PROPOSED CHANGES:**

HB 157 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 also defines a salvaged airbag as an airbag which has been removed from a motor vehicle.

In addition, HB 157 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.

HB 157 does not specify a penalty for failing to comply with these recordkeeping requirements. However, identical recordkeeping requirements in the Airbag Antitheft Act," s. 860.145, F.S., specifies that any person who fails to comply with those requirements commits a first-degree misdemeanor, punishable by a maximum one year in prison and a \$1,000 fine.

Finally, HB 157 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, punishable by up to 15 years in prison and a \$10,000 fine, or more if the violator is a habitual felony offender as defined in s. 775.084, F.S.

**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:

HB 157 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 on state or local governments.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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:

HB 157 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:

HB 157 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. 812.055, F.S., 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 s. 860.145, F.S., so far has passed constitutional scrutiny, so it is likely that the nearly identical language in HB 157 also raises no legal issues.

**B. RULE-MAKING AUTHORITY:**

N/A

**C. OTHER COMMENTS:**

None.

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

On March 7, 2001, the Transportation Committee adopted without objection one amendment filed by the bill sponsor. The amendment incorporates by reference into HB 157 the airbag definitions, recordkeeping requirements and penalty provisions in s. 860.145, F.S. The amendment also specifies that replacement airbags can be installed only in the same make, model and year vehicles for which they were designed.

**VII. SIGNATURES:**

**COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:**

Prepared by:

Susan D. Reese

Staff Director:

Susan D. Reese

**COMMITTEE ON TRANSPORTATION:**

Prepared by:

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