

LFC Requester:	Boerner, Christin
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**AGENCY BILL ANALYSIS
2014 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the Bill no. in the email subject line, e.g., HB2, and only attach one Bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original Bill, amendment, substitute or a correction of a previous Bill}

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date January 31, 2014
Bill No: HB193-305 Jan 31

Sponsor: Rep. William Rehm
Short No Alteration or Counterfeit
Title: Airbags

Reviewing Attorney General's Office
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SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHADED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s, committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis:

The Bill adds a new section to the Motor Vehicle Code creating several new requirements related to air bags in vehicles. The Bill also establishes criminal penalties for violations of the newly created vehicle air bag requirements.

Subsection (A)(1) makes it unlawful for a person to knowingly “fail to install an airbag in a motor vehicle after representing to another person that the person will install an airbag.”

Subsection (A)(2) makes it unlawful for a person to knowingly “install a counterfeit or substandard airbag in a motor vehicle.”

Subsection (A)(3) makes it unlawful for a person to knowingly “make or sell a counterfeit or substandard airbag to be installed in a motor vehicle.”

Subsection (A)(4) makes it unlawful for a person to knowingly “represent to another that a counterfeit airbag is not counterfeit or that a substandard airbag is not substandard.”

Subsection (A)(5) makes it unlawful for a person to knowingly “intentionally alter an airbag in a manner that causes the airbag to become a counterfeit or substandard airbag.”

Subsection (A)(6) makes it unlawful for a person to knowingly “sell a motor vehicle that is known by the seller at the time of the sale to have a counterfeit or substandard airbag installed without first warning the purchaser in writing of the counterfeit airbag or the substandard airbag.”

Subsection (A)(7) makes it unlawful for a person to “knowingly rent or offer for hire a motor vehicle that is not equipped with airbags required to be in the motor vehicle by the applicable federal safety regulations for the make, model and year of the vehicle.”

Subsection (A)(8) makes it unlawful for a person to knowingly “assist another in violating the provisions of subsection (A) with the intent that the crime be committed.”

Subsection (B) of the Bill specifies that a conviction pursuant to this section [referring to new subsections (A)(1) thru (A)(8)] will be a misdemeanor crime and shall be sentenced under the standard provisions for misdemeanor sentences (currently up to 364 days in jail or up to a

\$1,000 fine, or both.)

Subsection (C) of the Bill imposes fourth (4th) degree felony penalty for convictions under any of the crimes created by subsection (A)(1) thru (A)(8) if the offense results in great bodily harm (to a person.) The sentence for a fourth (4th) degree felony (at present) is up to 18 months in prison and up to a \$5,000 fine, or both.

Subsection (D) of the Bill specifies that this section (the new crimes created by the Bill) “shall not apply to airbags, counterfeit airbags or substandard airbags in a motor vehicle operated solely on a closed course or track. This provision would effectively make the new crimes created by the Bill inapplicable to situations involving “race cars” or other motor vehicles where the vehicle is not operated on any public roadways.

Subsection (E) of the Bill contains specific legal definitions for the terms “airbag”, “counterfeit airbag”, “great bodily harm”, “knowingly” or “known” and “substandard airbag” as those terms are used in the Bill. The definitions contained within this section all appear to be clearly worded and directly related to making the intent of the new section to be added to the Motor Vehicle Code understandable and enforceable.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

The adoption of any new criminal laws carries the possibility of additional cases being filed and prosecuted in the State criminal justice system – which always carries the potential for increased costs to the system.

SIGNIFICANT LEGAL ISSUES

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

TECHNICAL ISSUES OR DRAFTING ERROR

OTHER SUBSTANTIVE LEGAL ISSUES

ALTERNATIVES TO ENACTING THIS BILL

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS NEEDED TO IMPROVE THIS BILL