

HOUSE BILL REPORT

HB 1500

As Reported by House Committee On:
Transportation

Title: An act relating to recording devices in motor vehicles.

Brief Description: Concerning recording devices in motor vehicles.

Sponsors: Representatives Eddy, Hasegawa, McCune, Crouse, Nelson and Uptegrove.

Brief History:

Committee Activity:

Transportation: 2/3/09, 2/18/09 [DPS].

Brief Summary of Substitute Bill

- Requires a notification in the owner's manual of a vehicle, a subscription service agreement, or a product manual of the existence of any recording device that preserves or records data collected by sensors or systems within the motor vehicle.
- Prevents access to or sale of information on a recording device without the permission of the owner except in specific circumstances.
- Makes violations of the act a violation of the Consumer Protection Act.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 26 members: Representatives Clibborn, Chair; Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong, Campbell, Cox, Driscoll, Eddy, Ericksen, Finn, Flannigan, Herrera, Johnson, Klippert, Kristiansen, Moeller, Rolfes, Sells, Shea, Simpson, Springer, Takko, Wallace, Williams and Wood.

Staff: David Munnecke (786-7315)

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Recording devices, such as event data recorders (EDRs), sensing and diagnostic modules, and automatic crash notification systems, are installed in many vehicles by the manufacturer. Depending on the device, it can record between five and 90 seconds of information about the vehicle before and after a collision occurs. The data recorded may include: vehicle speed, steering performance, brake performance, the driver's seatbelt status, direction of the vehicle, and vehicle location. Some of these recording devices can also transmit information about a collision to a central communications system so that emergency help can be sent. This same collision information may also be sent to the vehicle's manufacturer for safety analysis purposes.

Recording devices may also be installed in vehicles pursuant to a subscription service, the most well known of which is probably the OnStar system. These subscription services provide the driver with directions, diagnostics, and emergency assistance. Subscription service devices may record and transmit data back to the service provider.

Washington law does not currently regulate these recording devices. On the federal level, the National Highway Traffic Safety Administration (NHTSA) has issued regulations relating to EDRs which auto manufacturers must comply with beginning in 2012. Under the regulations, auto manufacturers must disclose the presence of an EDR in the vehicle's owner's manual with an explanation of the functions and capabilities of the EDR. The NHTSA regulations also specify uniform requirements for the types of data that an EDR must collect, including vehicle speed, brake performance, and seat belt status of driver and front passenger.

Summary of Substitute Bill:

A recording device is defined as an electronic system in a vehicle that preserves or records data collected by sensors or provided by other systems in the vehicle. It includes event data recorders, sensing and diagnostic modules, electronic control modules, automatic crash notification systems, and geographic information systems.

If an auto manufacturer has installed a recording device in a vehicle, it must disclose the device's presence and functions in the vehicle's owner's manual. Subscription services that include the use of a recording device must provide the same disclosures in the service agreement, and after-market products that include the use of a recording device must provide the same disclosures in the product manual. Any disclosure that is made in writing is deemed a disclosure for purposes of the owner's manual or product manual.

Data recorded on or transmitted by a recording device may not be accessed by anyone other than the owner of the vehicle except in the following five situations: (1) upon a court order for the data; (2) when the owner consents; (3) for research to improve vehicle safety as long as the owner and the vehicle remain anonymous; (4) to respond to a medical emergency; and (5) when the data is being used to fulfill a subscription services' agreement. Information recorded or transmitted by a recording device may also not be sold to a third party without the explicit permission of the owner of the data. The accessing or selling of recording device

data by anyone other than the owner except in one of the situations described above is a misdemeanor.

Violations of the act are per se violations of the Consumer Protection Act.

Substitute Bill Compared to Original Bill:

The requirements that the disclosures regarding the existence and function of a recording device be in bold face type are removed, and any written disclosure of the existence and function of a recording device is deemed a disclosure in either an owner's manual or a product manual.

A prohibition is added such that information recorded or transmitted by a recording device may not be sold to a third party without the explicit permission of the owner of the data.

The requirement that insurers may not refuse to renew an insurance policy or take any other negative underwriting action against an insured solely because the insured will not provide access to recording device data is removed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2010.

Staff Summary of Public Testimony:

(In support) There are a myriad of ways to gather information about people in today's society, and sometimes this is done without people's knowledge or consent. Rules and laws need to be put in place in order to protect the privacy of drivers. Currently this is done on the state level, but it should be done on the federal level as well.

This legislation is directed more at tomorrow's technology than today's. This legislation covers navigation systems, diagnostic tools, tolling technologies, and any other devices that keep data records. Information regarding an individual's location is extremely sensitive regardless of where it goes. Many devices need to collect data in order to improve the device or allow for other functionalities and as memory gets cheaper over time the ease of collecting data will grow. The legislation is not intended to prevent development of new and improved technologies, but it is designed to ensure that these technologies are used in the way that consumers expect. If consumers know that they control the technology and are thus not concerned by it, this will help with the adoption of future technologies.

(In support with amendments) Amendments are needed to this bill in order to achieve consistent and uniform requirements for automobile manufacturers. The legislation needs to establish what an EDR is, who owns the information, how notice is accomplished, what the standards for access are, and the appropriate remedies.

(With concerns) Manufacturers are concerned about this legislation because bold face type is usually used only for significant safety warnings. Also, manufacturers are interested in seeing consistent requirements across the nation because of the difficulty and cost of meeting a patchwork of standards.

Usage-based insurance is a new concept that allows people to be rated based on how they drive. This is done through an after market device that transmits data from the vehicle. This legislation would disallow underwriting changes based on that data, effectively preventing the offering of usage-based insurance in the state.

(Opposed) None.

Persons Testifying: (In support) Representative Eddy, prime sponsor; Dave Overstreet, Automobile Association of America Washington; and Doug Klunder, American Civil Liberties Union of Washington.

(In support with amendments) Cliff Webster, American Insurance Association and General Motors.

(With concerns) Ryan Spiller, Automobile Alliance; and Carrie Tellefson, Progressive Insurance.

Persons Signed In To Testify But Not Testifying: None.