

FINAL BILL REPORT

SSB 5574

C 485 L 09
Synopsis as Enacted

Brief Description: Protecting consumer data in motor vehicles.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kauffman, Kline, Tom, Hargrove, Oemig, Regala, Fairley, McAuliffe, McDermott, Fraser, Shin, Keiser and Kohl-Welles).

Senate Committee on Labor, Commerce & Consumer Protection
House Committee on Transportation

Background: 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. 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 Association (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 a EDR in the vehicle's owners 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: 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

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service agreement, and after-market products that include the use of a recording device must provide the same disclosures in the product manual. These disclosures may be accomplished through inserts into the manuals.

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.

Data on 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 or pursuant to discovery; (2) when consent is given by the owner or someone who would reasonably be assumed to have the consent of the owner; (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. The accessing of recording device data by anyone other than the owner except in one of the situations described above is a misdemeanor, as is the sale of any data from a recording device to a third party without the explicit permission of the owner.

Manufacturers of motor vehicles that are sold or leased in the state must ensure that tools for accessing and retrieving information stored in a recording device are commercially available.

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

Votes on Final Passage:

Senate	36	11	
House	97	0	(House amended) (Senate refused to concur) (House insisted on position)

Conference Committee

Senate	45	2
House	96	0

Effective: July 26, 2009
July 1, 2010 (Sections 1 - 4 and 6)