

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5574

61st Legislature
2009 Regular Session

Passed by the Senate April 25, 2009
YEAS 45 NAYS 2

President of the Senate

Passed by the House April 25, 2009
YEAS 96 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5574** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5574

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

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

READ FIRST TIME 02/18/09.

1 AN ACT Relating to protecting consumer data in motor vehicles;
2 amending RCW 46.63.020; adding a new chapter to Title 46 RCW;
3 prescribing penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Recording device" means an electronic system, and the physical
8 device or mechanism containing the electronic system, that primarily,
9 or incidental to its primary function, preserves or records, in
10 electronic form, data collected by sensors or provided by other systems
11 within a motor vehicle. "Recording device" includes event data
12 recorders, sensing and diagnostic modules, electronic control modules,
13 automatic crash notification systems, geographic information systems,
14 and any other device that records and preserves data that can be
15 accessed related to that motor vehicle. "Recording device" does not
16 include onboard diagnostic systems whose exclusive function is to
17 capture fault codes used to diagnose or service the motor vehicle.

18 (2) "Owner" means:

1 (a) A person having all the incidents of ownership, including legal
2 title, of a motor vehicle, whether or not the person lends, rents, or
3 creates a security interest in the motor vehicle;

4 (b) A person entitled to the possession of a motor vehicle as the
5 purchaser under a security agreement;

6 (c) A person entitled to possession of a motor vehicle as a lessee
7 pursuant to a written lease agreement for a period of more than three
8 months; or

9 (d) If a third party requests access to a recording device to
10 investigate a collision, the owner of the motor vehicle at the time the
11 collision occurred.

12 NEW SECTION. **Sec. 2.** (1) A manufacturer of a motor vehicle sold
13 or leased in this state, that is equipped with one or more recording
14 devices, shall disclose in the owner's manual that the motor vehicle is
15 equipped with one or more recording devices and, if so, the type of
16 data recorded and whether the recording device or devices have the
17 ability to transmit information to a central communications system or
18 other external device.

19 (2) If a recording device is used as part of a subscription
20 service, the subscription service agreement must disclose the type of
21 information that the device may record or transmit.

22 (3) A disclosure made in writing is deemed a disclosure in the
23 owner's manual.

24 (4) If a recording device is to be installed in a vehicle
25 aftermarket, the manufacturer or distributor of the device shall
26 disclose in the product manual the type of information that the device
27 may record and whether the recording device has the ability to transmit
28 information to a central communications system or other external
29 device.

30 (5) A disclosure made in writing is deemed a disclosure in the
31 product manual.

32 NEW SECTION. **Sec. 3.** (1) Information recorded or transmitted by
33 a recording device may not be retrieved, downloaded, scanned, read, or
34 otherwise accessed by a person other than the owner of the motor
35 vehicle in which the recording device is installed except:

1 (a) Upon a court order or pursuant to discovery. Any information
2 recorded or transmitted by a recording device and obtained by a court
3 order or pursuant to discovery is private and confidential and is not
4 subject to public disclosure;

5 (b) With the consent of the owner, given for a specific instance of
6 access, for any purpose;

7 (c) For improving motor vehicle safety, including medical research
8 on the human body's reaction to motor vehicle collisions, if the
9 identity of the motor vehicle or the owner or driver of the motor
10 vehicle is not disclosed in connection with the retrieved information;

11 (d) For determining the need for or facilitating emergency medical
12 response if a motor vehicle collision occurs, provided that the
13 information retrieved is used solely for medical purposes; or

14 (e) For subscription services pursuant to an agreement in which
15 disclosure required under section 2 of this act has been made, provided
16 that the information retrieved is used solely for the purposes of
17 fulfilling the subscription service.

18 (2) For the purposes of subsection (1)(c) of this section:

19 (a) The disclosure of a motor vehicle's vehicle identification
20 number with the last six digits deleted or redacted is not a disclosure
21 of the identity of the owner or driver; and

22 (b) Retrieved information may only be disclosed to a data
23 processor.

24 (3) Information that can be associated with an individual and that
25 is recorded or transmitted by a recording device may not be sold to a
26 third party unless the owner of the information explicitly grants
27 permission for the sale.

28 (4) Any person who violates this section is guilty of a
29 misdemeanor.

30 NEW SECTION. **Sec. 4.** The legislature finds that the practices
31 covered by this chapter are matters vitally affecting the public
32 interest for the purpose of applying chapter 19.86 RCW. A violation of
33 this chapter is not reasonable in relation to the development and
34 preservation of business and is an unfair or deceptive act in trade or
35 commerce and an unfair method of competition for the purpose of
36 applying chapter 19.86 RCW.

1 NEW SECTION. **Sec. 5.** A manufacturer of a motor vehicle sold or
2 leased in this state that is equipped with a recording device shall
3 ensure by licensing agreement or other means that a tool or tools are
4 available that are capable of accessing and retrieving the information
5 stored in a recording device. The tool or tools must be commercially
6 available no later than ninety days after the effective date of this
7 section.

8 **Sec. 6.** RCW 46.63.020 and 2008 c 282 s 11 are each amended to read
9 as follows:

10 Failure to perform any act required or the performance of any act
11 prohibited by this title or an equivalent administrative regulation or
12 local law, ordinance, regulation, or resolution relating to traffic
13 including parking, standing, stopping, and pedestrian offenses, is
14 designated as a traffic infraction and may not be classified as a
15 criminal offense, except for an offense contained in the following
16 provisions of this title or a violation of an equivalent administrative
17 regulation or local law, ordinance, regulation, or resolution:

18 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
19 vehicle while under the influence of intoxicating liquor or a
20 controlled substance;

21 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

22 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
23 while under the influence of intoxicating liquor or narcotics or habit-
24 forming drugs or in a manner endangering the person of another;

25 (4) RCW 46.10.130 relating to the operation of snowmobiles;

26 (5) Chapter 46.12 RCW relating to certificates of ownership and
27 registration and markings indicating that a vehicle has been destroyed
28 or declared a total loss;

29 (6) RCW 46.16.010 relating to the nonpayment of taxes and fees by
30 failure to register a vehicle and falsifying residency when registering
31 a motor vehicle;

32 (7) RCW 46.16.011 relating to permitting unauthorized persons to
33 drive;

34 (8) RCW 46.16.160 relating to vehicle trip permits;

35 (9) RCW 46.16.381(2) relating to knowingly providing false
36 information in conjunction with an application for a special placard or
37 license plate for disabled persons' parking;

1 (10) RCW 46.20.005 relating to driving without a valid driver's
2 license;

3 (11) RCW 46.20.091 relating to false statements regarding a
4 driver's license or instruction permit;

5 (12) RCW 46.20.0921 relating to the unlawful possession and use of
6 a driver's license;

7 (13) RCW 46.20.342 relating to driving with a suspended or revoked
8 license or status;

9 (14) RCW 46.20.345 relating to the operation of a motor vehicle
10 with a suspended or revoked license;

11 (15) RCW 46.20.410 relating to the violation of restrictions of an
12 occupational driver's license, temporary restricted driver's license,
13 or ignition interlock driver's license;

14 (16) RCW 46.20.740 relating to operation of a motor vehicle without
15 an ignition interlock device in violation of a license notation that
16 the device is required;

17 (17) RCW 46.20.750 relating to circumventing an ignition interlock
18 device;

19 (18) RCW 46.25.170 relating to commercial driver's licenses;

20 (19) Chapter 46.29 RCW relating to financial responsibility;

21 (20) RCW 46.30.040 relating to providing false evidence of
22 financial responsibility;

23 (21) RCW 46.37.435 relating to wrongful installation of
24 sunscreening material;

25 (22) RCW 46.37.650 relating to the sale, resale, distribution, or
26 installation of a previously deployed air bag;

27 (23) RCW 46.37.671 through 46.37.675 relating to signal preemption
28 devices;

29 (24) RCW 46.44.180 relating to operation of mobile home pilot
30 vehicles;

31 (25) RCW 46.48.175 relating to the transportation of dangerous
32 articles;

33 (26) RCW 46.52.010 relating to duty on striking an unattended car
34 or other property;

35 (27) RCW 46.52.020 relating to duty in case of injury to or death
36 of a person or damage to an attended vehicle;

37 (28) RCW 46.52.090 relating to reports by repairmen, storagemen,
38 and appraisers;

1 (29) RCW 46.52.130 relating to confidentiality of the driving
2 record to be furnished to an insurance company, an employer, and an
3 alcohol/drug assessment or treatment agency;

4 (30) RCW 46.55.020 relating to engaging in the activities of a
5 registered tow truck operator without a registration certificate;

6 (31) RCW 46.55.035 relating to prohibited practices by tow truck
7 operators;

8 (32) RCW 46.55.300 relating to vehicle immobilization;

9 (33) RCW 46.61.015 relating to obedience to police officers,
10 flaggers, or firefighters;

11 (34) RCW 46.61.020 relating to refusal to give information to or
12 cooperate with an officer;

13 (35) RCW 46.61.022 relating to failure to stop and give
14 identification to an officer;

15 (36) RCW 46.61.024 relating to attempting to elude pursuing police
16 vehicles;

17 (37) RCW 46.61.500 relating to reckless driving;

18 (38) RCW 46.61.502 and 46.61.504 relating to persons under the
19 influence of intoxicating liquor or drugs;

20 (39) RCW 46.61.503 relating to a person under age twenty-one
21 driving a motor vehicle after consuming alcohol;

22 (40) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

23 (41) RCW 46.61.522 relating to vehicular assault;

24 (42) RCW 46.61.5249 relating to first degree negligent driving;

25 (43) RCW 46.61.527(4) relating to reckless endangerment of roadway
26 workers;

27 (44) RCW 46.61.530 relating to racing of vehicles on highways;

28 (45) RCW 46.61.655(7) (a) and (b) relating to failure to secure a
29 load;

30 (46) RCW 46.61.685 relating to leaving children in an unattended
31 vehicle with the motor running;

32 (47) RCW 46.61.740 relating to theft of motor vehicle fuel;

33 (48) RCW 46.64.010 relating to unlawful cancellation of or attempt
34 to cancel a traffic citation;

35 (49) RCW 46.64.048 relating to attempting, aiding, abetting,
36 coercing, and committing crimes;

37 (50) Chapter 46.65 RCW relating to habitual traffic offenders;

1 (51) RCW 46.68.010 relating to false statements made to obtain a
2 refund;
3 (52) Section 3 of this act relating to recording device
4 information;
5 (53) Chapter 46.70 RCW relating to unfair motor vehicle business
6 practices, except where that chapter provides for the assessment of
7 monetary penalties of a civil nature;
8 ((+53+)) (54) Chapter 46.72 RCW relating to the transportation of
9 passengers in for hire vehicles;
10 ((+54+)) (55) RCW 46.72A.060 relating to limousine carrier
11 insurance;
12 ((+55+)) (56) RCW 46.72A.070 relating to operation of a limousine
13 without a vehicle certificate;
14 ((+56+)) (57) RCW 46.72A.080 relating to false advertising by a
15 limousine carrier;
16 ((+57+)) (58) Chapter 46.80 RCW relating to motor vehicle wreckers;
17 ((+58+)) (59) Chapter 46.82 RCW relating to driver's training
18 schools;
19 ((+59+)) (60) RCW 46.87.260 relating to alteration or forgery of a
20 cab card, letter of authority, or other temporary authority issued
21 under chapter 46.87 RCW;
22 ((+60+)) (61) RCW 46.87.290 relating to operation of an
23 unregistered or unlicensed vehicle under chapter 46.87 RCW.

24 NEW SECTION. Sec. 7. Sections 1 through 5 of this act constitute
25 a new chapter in Title 46 RCW.

26 NEW SECTION. Sec. 8. Sections 1 through 4 and 6 of this act take
27 effect July 1, 2010.

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