Regulating Data Recorders in Vehicles

This Act prescribes the ownership of information recorded by an event data recorder in motor vehicles and prohibits the use of the data without written permission of the owner of the vehicle.

Submitted as:
Arkansas
SB 51
Status: Enacted into law in 2005.

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act may be cited as “An Act to Prescribe the Ownership of Information Recorded by an Event Data Recorder in Motor Vehicles and to Prohibit the Use of the Data Without Written Permission of the Owner of the Vehicle.”

Section 2. [Definitions.] As used in this Act:
(1) “Authorized representative” means a person who is the attorney-in-fact for an owner or a person who has been appointed the administrator or personal representative of the estate of the owner;
(2) “Motor vehicle event data recorder” means a factory-installed feature in a motor vehicle that does one or more of the following:
   (A) Records, stores, transmits, or dispenses any of the following information for the purpose of retrieval after a crash:
      (i) Vehicle speed;
      (ii) Vehicle direction;
      (iii) Vehicle location;
      (iv) Steering performance; or
      (v) Seatbelt restraint status;
   (B) Has the capacity to transmit information concerning a crash in which the motor vehicle has been involved to a central communications system when a crash occurs; or
   (C) Includes a sensing and diagnostic module, restraint control module, electronic throttle control, or other similar component;
(3) “Owner” means a person or entity:
   (A) In whose name a motor vehicle is registered or titled;
   (B) Who leases a motor vehicle for at least [three months];
   (C) Who is entitled to possession of the motor vehicle as the purchaser under a security agreement; or
   (D) Who is the authorized representative of the owner.

Section 3. [Notice to Motor Vehicle Owners.]
(1) At the time of new vehicle purchase by a consumer from a dealership, an owner of a motor vehicle shall be given written notice by the seller or manufacturer that includes the following:
   (A) The presence of the motor vehicle event data recorder in the motor vehicle;
   (B) The type of motor vehicle event data recorder in the motor vehicle; and
Section 4. [Ownership, Consent, and Use of Data on a Motor Vehicle Data Recorder.]

(1) Except as specifically provided under this section, the data on a motor vehicle event data recorder:
   (A) Is private;
   (B) Is exclusively owned by the owner of the motor vehicle; and
   (C) Shall not be retrieved or used by another person or entity.

(2) If a motor vehicle is owned by [one] owner, then the owner of a motor vehicle may provide written consent in the form of a release signed by the owner that authorizes a person or entity to retrieve or use the data.

(3) If a motor vehicle is owned by more than [one] person or entity and if [all] owners agree to release the data, then [all] owners must consent in writing by signing a release to authorize a person or entity to retrieve or use the data.

(4) A release to a person or entity under this subsection shall be limited to permission for data collection and compilation only and shall not authorize the release of information that identifies the owner of the vehicle.

(5) If a motor vehicle is equipped with a motor vehicle event data recorder and is involved in an accident in this state, the owner of the motor vehicle at the time the data is created shall own and retain exclusive ownership rights to the data.

(6) The ownership of the data shall not pass to a lienholder or to an insurer because the lienholder or insurer succeeds in ownership to the vehicle as a result of the accident.

(7) The data shall not be used by a lienholder or an insurer for any reason without a written consent in the form of a release signed by the owner of the motor vehicle at the time of the accident that authorizes the lienholder or insurer to retrieve or use the data.

(8) A lienholder or insurer shall not make the owner’s consent to the retrieval or use of the data conditioned upon the payment or settlement of an obligation or claim; however, the insured is required to comply with all policy provisions including any provision that requires the insured to cooperate with the insurer.

(9) An insurer or lessor of a motor vehicle shall not require an owner to provide written permission for the access or retrieval of information from a motor vehicle event data recorder as a condition of the policy or lease.

(10) Except as specifically provided under this section, the data from a motor vehicle event data recorder shall only be produced without the consent of the owner at the time of the accident if:

   (A) A court of competent jurisdiction in the state orders the production of the data;
   (B) A law enforcement officer obtains the data based on probable cause of an offense under the laws of this state; or
   (C) A law enforcement officer, a firefighter, or an emergency medical services provider obtains the data in the course of responding to or investigating an emergency involving physical injury or the risk of physical injury to any person.

(11) The [State Highway and Transportation Department] may retrieve data from a motor vehicle event data recorder if the data is used for the following purposes:

   (A) Preclearing weigh stations;
   (B) Automating driver records of duty status as authorized by the United States Department of Transportation;
(C) Replacing handwritten reports for any fuel tax reporting or other mileage reporting purpose; or
(D) Complying with a state or federal law.

(12) To protect the public health, welfare, and safety, the following exceptions shall be allowed regarding the retrieval of data from a motor vehicle event data recorder:
(A) To determine the need or facilitate emergency medical care for the driver or passenger of a motor vehicle that is involved in a motor vehicle crash or other emergency, including obtaining data from a company that provides subscription services to the owners of motor vehicles for in-vehicle safety and security communications systems;
(B) To facilitate medical research of the human body’s reaction to motor vehicle crashes if:
   (i) The identity of the owner or driver is not disclosed in connection with the retrieved data; and
   (ii) The last four digits of the vehicle identification number are not disclosed; or
   (iii) To diagnose, service, or repair a motor vehicle.

(13) Notwithstanding any other provision of this section, the use of data from a motor vehicle event data recorder shall not be permitted into evidence in a civil or criminal matter pending before a court in this state unless it is shown to be relevant and reliable pursuant to the state [Rules of Evidence].

Section 5. [Disclosing Capabilities of Motor Vehicle Event Data Recorders and Subscription Service Agreements.]
(1) If a motor vehicle is equipped with a motor vehicle event data recorder that is capable of recording, storing, transmitting, or dispensing information as described in this section and that capability is part of a subscription service, the fact that the information may be recorded, stored, transmitted or dispensed shall be disclosed in the subscription agreement.
(2) Subsections 4(1),(2),(3),(4), and (12) shall not apply to subscription services that meet the requirements of this subsection.

Section 6. [Severability.] [Insert severability clause.]

Section 7. [Repealer.] [Insert repealer clause.]

Section 8. [Effective Date.] [Insert effective date.]
Regulating Data Recorders in Vehicles

This Act requires manufacturers of new motor vehicles sold or leased in the state that are equipped with one or more recording devices, commonly referred to as “event data recorders (EDR)” or “sensing and diagnostic modules (SDM),” to disclose that fact in the owner’s manual for the vehicle. The Act also prohibits specified data that is recorded on a recording device from being downloaded or otherwise retrieved by a person other than the registered owner of the motor vehicle, except under specified circumstances. The bill requires a subscription service agreement to disclose that specified information may be recorded or transmitted as part of the subscription service. This Act applies to all motor vehicles manufactured on or after July 1, 2004.

Submitted as:
California
Chapter 427 of 2003
Status: Enacted into law in 2003.

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act may be cited as “An Act to Address Disclosing Event Data Recorders and Sensing and Diagnostic Modules in Motor Vehicles.”

Section 2. [Disclosing Event Data Recorders and Diagnostic Modules in Motor Vehicles.]

(a) A manufacturer of a new motor vehicle sold or leased in this state, which is equipped with one or more recording devices commonly referred to as “event data recorders (EDR)” or “sensing and diagnostic modules (SDM),” shall disclose that fact in the owner’s manual for the vehicle.

(b) As used in this section, “recording device” means a device that is installed by the manufacturer of the vehicle and does one or more of the following, for the purpose of retrieving data after an accident:

(1) Records how fast and in which direction the motor vehicle is traveling.
(2) Records a history of where the motor vehicle travels.
(3) Records steering performance.
(4) Records brake performance, including, but not limited to, whether brakes were applied before an accident.
(5) Records the driver’s seatbelt status.
(6) Has the ability to transmit information concerning an accident in which the motor vehicle has been involved to a central communications system when an accident occurs.

(c) Data described in subdivision (b) that is recorded on a recording device may not be downloaded or otherwise retrieved by a person other than the registered owner of the motor vehicle, except under one of the following circumstances:

(1) The registered owner of the motor vehicle consents to the retrieval of the information.
(2) In response to an order of a court having jurisdiction to issue the order.
(3) For the purpose of improving motor vehicle safety, including for medical
research of the human body’s reaction to motor vehicle accidents, and the identity of the
registered owner or driver is not disclosed in connection with that retrieved data. The disclosure
of the vehicle identification number (VIN) for the purpose of improving vehicle safety, including
for medical research of the human body’s reaction to motor vehicle accidents, does not constitute
the disclosure of the identity of the registered owner or driver.

(4) The data is retrieved by a licensed new motor vehicle dealer, or by an
automotive technician as defined in [insert citation], for the purpose of diagnosing, servicing, or
repairing the motor vehicle.

(d) A person authorized to download or otherwise retrieve data from a recording device
pursuant to paragraph (3) of subdivision (c), may not release that data, except to share the data
among the motor vehicle safety and medical research communities, to advance motor vehicle
safety, and only if the identity of the registered owner or driver is not disclosed.

(e) (1) If a motor vehicle is equipped with a recording device that is capable of
recording or transmitting information as described in paragraph (2) or (6) of subdivision (b) and
that capability is part of a subscription service, the fact that the information may be recorded or
transmitted shall be disclosed in the subscription service agreement.

(2) Subdivision (c) does not apply to subscription services meeting the
requirements of paragraph (1).

(f) This section applies to all motor vehicles manufactured on or after [July 1, 2004].

Section 3. [Severability.] [Insert severability clause.]

Section 4. [Repealer.] [Insert repealer clause.]

Section 5. [Effective Date.] [Insert effective date.]