

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.)

1 Section 1. [*Short Title.*] This Act may be cited as “An Act to Prescribe the Ownership of
2 Information Recorded by an Event Data Recorder in Motor Vehicles and to Prohibit the Use of
3 the Data Without Written Permission of the Owner of the Vehicle.”
4

5 Section 2. [*Definitions.*] As used in this Act:

6 (1) “Authorized representative” means a person who is the attorney-in-fact for an owner
7 or a person who has been appointed the administrator or personal representative of the estate of
8 the owner;

9 (2) “Motor vehicle event data recorder” means a factory-installed feature in a motor
10 vehicle that does one or more of the following:

11 (A) Records, stores, transmits, or dispenses any of the following information for
12 the purpose of retrieval after a crash:

13 (i) Vehicle speed;

14 (ii) Vehicle direction;

15 (iii) Vehicle location;

16 (iv) Steering performance; or

17 (v) Seatbelt restraint status;

18 (B) Has the capacity to transmit information concerning a crash in which the
19 motor vehicle has been involved to a central communications system when a crash occurs; or

20 (C) Includes a sensing and diagnostic module, restraint control module, electronic
21 throttle control, or other similar component;

22 (3) “Owner” means a person or entity:

23 (A) In whose name a motor vehicle is registered or titled;

24 (B) Who leases a motor vehicle for at least [three months];

25 (C) Who is entitled to possession of the motor vehicle as the purchaser under a
26 security agreement; or

27 (D) Who is the authorized representative of the owner.
28

29 Section 3. [*Notice to Motor Vehicle Owners.*]

30 (1) At the time of new vehicle purchase by a consumer from a dealership, an owner of a
31 motor vehicle shall be given written notice by the seller or manufacturer that includes the
32 following:

33 (A) The presence of the motor vehicle event data recorder in the motor vehicle;

34 (B) The type of motor vehicle event data recorder in the motor vehicle; and

35 (C) The type of data that is recorded, stored, or transmitted on the motor vehicle
36 event data recorder.

37
38 Section 4. [*Ownership, Consent, and Use of Data on a Motor Vehicle Data Recorder.*]

39 (1) Except as specifically provided under this section, the data on a motor vehicle event
40 data recorder:

41 (A) Is private;

42 (B) Is exclusively owned by the owner of the motor vehicle; and

43 (C) Shall not be retrieved or used by another person or entity.

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

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

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

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

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

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

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

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

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

71 (A) A court of competent jurisdiction in the state orders the production of the
72 data;

73 (B) A law enforcement officer obtains the data based on probable cause of an
74 offense under the laws of this state; or

75 (C) A law enforcement officer, a firefighter, or an emergency medical services
76 provider obtains the data in the course of responding to or investigating an emergency involving
77 physical injury or the risk of physical injury to any person.

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

80 (A) Preclearing weigh stations;

81 (B) Automating driver records of duty status as authorized by the United States
82 Department of Transportation;

83 (C) Replacing handwritten reports for any fuel tax reporting or other mileage
84 reporting purpose; or

85 (D) Complying with a state or federal law.

86 (12) To protect the public health, welfare, and safety, the following exceptions shall be
87 allowed regarding the retrieval of data from a motor vehicle event data recorder:

88 (A) To determine the need or facilitate emergency medical care for the driver or
89 passenger of a motor vehicle that is involved in a motor vehicle crash or other emergency,
90 including obtaining data from a company that provides subscription services to the owners of
91 motor vehicles for in-vehicle safety and security communications systems;

92 (B) To facilitate medical research of the human body's reaction to motor vehicle
93 crashes if:

94 (i) The identity of the owner or driver is not disclosed in connection with
95 the retrieved data; and

96 (ii) The last four digits of the vehicle identification number are not
97 disclosed; or

98 (iii) To diagnose, service, or repair a motor vehicle.

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

103
104 Section 5. [*Disclosing Capabilities of Motor Vehicle Event Data Recorders and*
105 *Subscription Service Agreements.*]

106 (1) If a motor vehicle is equipped with a motor vehicle event data recorder that is capable
107 of recording, storing, transmitting, or dispensing information as described in this section and that
108 capability is part of a subscription service, the fact that the information may be recorded, stored,
109 transmitted or dispensed shall be disclosed in the subscription agreement.

110 (2) Subsections 4(1),(2),(3),(4), and (12) shall not apply to subscription services that meet
111 the requirements of this subsection.

112
113 Section 6. [*Severability.*] [Insert severability clause.]

114
115 Section 7. [*Repealer.*] [Insert repealer clause.]

116
117 Section 8. [*Effective Date.*] [Insert effective date.]