

Regulating Data Recorders in Vehicles

Event data recorders (EDRs) are commonly known as “black boxes” for the car and essentially perform the same function as a black box in an airplane. Initially these recording devices were meant to record the deployment of car air bags. However, EDRs now have the capability of recording speed, seat belt use, braking habits, the position of the gas pedal, the use of headlights, and the force of a collision.

Although EDRs have proven useful in diagnostic accident scenes, car black boxes do raise privacy concerns as most drivers do not know that these devices are currently in their vehicles and information retrieved from black boxes is now being used to prosecute drivers both civilly and criminally. Consumers have a right to know whether a vehicle they have purchased contains a device that will record their every action.

This Act requires sellers and lessors of vehicles to disclose to buyers and lessees the presence of an EDR. The Act also requires that a person, other than the owner of the vehicle, seeking to retrieve the information contained in the EDR obtain either the owner's consent or a court order.

Submitted as:

Texas

HB 160

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 Relating to Motor Vehicles
2 Equipped with Recording Devices.”
3

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

5 (1) “Owner” means a person who:

6 (A) has all the incidents of ownership of a motor vehicle, including legal title,
7 regardless of whether the person lends, rents, or creates a security interest in the vehicle;

8 (B) is entitled to possession of a motor vehicle as a purchaser under a security
9 agreement; or

10 (C) is entitled to possession of a motor vehicle as a lessee under a written lease
11 agreement if the agreement is for a period of not less than three months.

12 (2) “Recording device” means a feature that is installed by the manufacturer in a motor
13 vehicle and that does any of the following for the purpose of retrieving information from the
14 vehicle after an accident in which the vehicle has been involved:

15 (A) records the speed and direction the vehicle is traveling;

16 (B) records vehicle location data;

17 (C) records steering performance;

18 (D) records brake performance, including information on whether brakes were
19 applied before an accident;

20 (E) records the driver’s safety belt status; or

21 (F) transmits information concerning the accident to a central communications
22 system when the accident occurs.

23

24 (3) A manufacturer of a new motor vehicle that is sold or leased in this state and that is
25 equipped with a recording device shall disclose that fact in the owner's manual of the vehicle.

26 (4) Information recorded or transmitted by a recording device may not be retrieved by a
27 person other than the owner of the motor vehicle in which the recording device is installed
28 except:

29 (A) on court order;

30 (B) with the consent of the owner for any purpose, including for the purpose of
31 diagnosing, servicing, or repairing the motor vehicle;

32 (C) for the purpose of improving motor vehicle safety, including for medical
33 research on the human body's reaction to motor vehicle accidents, if the identity of the owner or
34 driver of the vehicle is not disclosed in connection with the retrieved information; or

35 (D) for the purpose of determining the need for or facilitating emergency
36 medical response in the event of a motor vehicle accident.

37 (5) For information recorded or transmitted by a recording device described by this
38 section, a court order may be obtained only after a showing that:

39 (A) retrieval of the information is necessary to protect the public safety; or

40 (B) the information is evidence of an offense or constitutes evidence that a
41 particular person committed an offense.

42 (6) Disclosure of a motor vehicle's vehicle identification number with the last six digits
43 deleted or redacted is not disclosure of the identity of the owner or driver and retrieved
44 information may be disclosed only:

45 (A) For the purposes of motor vehicle safety and medical research communities to
46 advance the purposes described in this section; or

47 (B) To a data processor solely for the purposes described in this section.

48 (7) If a recording device is used as part of a subscription service, the subscription service
49 agreement must disclose that the device may record or transmit information as described by this
50 section. Subsection 4 of this section does not apply to a subscription service under this
51 subsection.

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

54

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

56

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