

# Vehicle Rental Agreements: Electronic Surveillance Technology

This Act prohibits a rental company that uses electronic surveillance technology in its rental vehicles from using, accessing, or obtaining information relating to the renter's use of the rental vehicle that was obtained using that technology, as specified. The bill also requires a rental company to obtain a renter's express authorization before using or disclosing to others information about the renter's use of the vehicle, and would make other conforming changes to those provisions.

Submitted as:

California

Chapter 317 of 2004

Status: Enacted into law in 2004.

## Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Definitions.*]

2 (a) As used in this Act:

3 (1) "Rental company" means any person or entity in the business of renting  
4 passenger vehicles to the public.

5 (2) "Renter" means any person in any manner obligated under a contract for the  
6 lease or hire of a passenger vehicle from a rental company for a period of less than [30 days].

7 (3) "Authorized driver" means:

8 (A) the renter,

9 (B) the renter's spouse if that person is a licensed driver and satisfies the  
10 rental company's minimum age requirement,

11 (C) the renter's employer or coworker if they are engaged in business  
12 activity with the renter, are licensed drivers, and satisfy the rental company's minimum age  
13 requirement, and

14 (D) any person expressly listed by the rental company on the renter's  
15 contract as an authorized driver.

16 (4) "Electronic surveillance technology" means a technological method or  
17 system used to observe, monitor, or collect information, including telematics, Global Positioning  
18 System (GPS), wireless technology, or location-based technologies. "Electronic surveillance  
19 technology" does not include event data recorders (EDR), sensing and diagnostic modules  
20 (SDM), or other systems that are used either:

21 (A) for the purpose of identifying, diagnosing, or monitoring functions  
22 related to the potential need to repair, service, or perform maintenance on the rental vehicle.

23 (B) as part of the vehicle's airbag sensing and diagnostic system in order  
24 to capture safety systems-related data for retrieval after a crash has occurred or in the event that  
25 the collision sensors are activated to prepare the decision making computer to make the  
26 determination to deploy or not to deploy the airbag.

27 (5) "Passenger vehicle" means a passenger vehicle as defined in [insert citation].

28

29 Section 2. [*Accessing Information from a Rental Vehicle that is Obtained Using*  
30 *Electronic Surveillance Technology.*]

31 (a) A rental company may not use, access, or obtain any information relating to the  
32 renter's use of the rental vehicle that was obtained using electronic surveillance technology,  
33 except in the following circumstances:

34 (1) (A) when the equipment is used by the rental company only for the  
35 purpose of locating a stolen, abandoned, or missing rental vehicle after [one] of the following:

36 (i) the renter or law enforcement has informed the rental company  
37 that the vehicle has been stolen, abandoned, or missing.

38 (ii) the rental vehicle has not been returned following [one week]  
39 after the contracted return date, or by [one week] following the end of an extension of that return  
40 date.

41 (iii) the rental company discovers the rental vehicle has been stolen  
42 or abandoned, and, if stolen, it shall report the vehicle stolen to law enforcement by filing a  
43 stolen vehicle report, unless law enforcement has already informed the rental company that the  
44 vehicle has been stolen, abandoned, or is missing.

45 (B) If electronic surveillance technology is activated pursuant to  
46 subparagraph (A) of paragraph (1), a rental company shall maintain a record, in either electronic  
47 or written form, of information relevant to the activation of such technology. That information  
48 shall include the rental agreement, including the return date, and the date and time the electronic  
49 surveillance technology was activated. The record shall also include, if relevant, a record of any  
50 written or other communication with the renter, including communications regarding extensions  
51 of the rental, police reports, or other written communication with law enforcement officials. The  
52 record shall be maintained for a period of at least [12 months] from the time the record is created  
53 and shall be made available upon the renter's request. The rental company shall maintain and  
54 furnish any explanatory codes necessary to read the record. A rental company shall not be  
55 required to maintain a record if electronic surveillance technology is activated to recover a rental  
56 vehicle that is stolen or missing at a time other than during a rental period.

57 (2) In response to a specific request from law enforcement pursuant to a subpoena  
58 or search warrant.

59 (3) Nothing in this subdivision prohibits a rental company from equipping rental  
60 vehicles with GPS based technology that provides navigation assistance to the occupants of the  
61 rental vehicle, if the rental company does not use, access, or obtain any information relating to  
62 the renter's use of the rental vehicle that was obtained using that technology, except for the  
63 purposes of discovering or repairing a defect in the technology and the information may then be  
64 used only for that purpose.

65 (4) Nothing in this subdivision prohibits a rental company from equipping rental  
66 vehicles with electronic surveillance technology that allows for the remote locking or unlocking  
67 of the vehicle at the request of the renter, if the rental company does not use, access, or obtain  
68 any information relating to the renter's use of the rental vehicle that was obtained using that  
69 technology, except as necessary to lock or unlock the vehicle.

70 (5) Nothing in this subdivision prohibits a rental company from equipping rental  
71 vehicles with electronic surveillance technology that allows the company to provide roadside  
72 assistance, such as towing, flat tire or fuel services, at the request of the renter, if the rental  
73 company does not use, access or obtain any information relating to the renter's use of the rental  
74 vehicle that was obtained using that technology except as necessary to provide the requested  
75 roadside assistance.

76 (6) Nothing in this subdivision prohibits a rental company from obtaining,  
77 accessing, or using information from electronic surveillance technology for the sole purpose of

78 determining the date and time the vehicle is returned to the rental company, and the total mileage  
79 driven and the vehicle fuel level of the returned vehicle. This paragraph, however, shall apply  
80 only after the renter has returned the vehicle to the rental company, and the information shall  
81 only be used for the purpose described in this paragraph.

82 (b) A rental company may not use electronic surveillance technology to track a renter in  
83 order to impose fines or surcharges relating to the renter's use of the rental vehicle.

84

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

86

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

88

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