

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1356 (Delegate Lam, *et al.*)
Environment and Transportation

Motor Vehicles - Vehicle Event Data Recorders

This bill prohibits an automobile liability insurer from taking specified actions against an insured when he or she refuses to consent to the retrieval or use of data on an event data recorder (EDR). If a vehicle is registered in the State, an installed EDR, and its corresponding data, are the property of the motor vehicle owner. The bill also specifies the circumstances under which a person other than a vehicle owner may access an EDR and establishes other requirements and prohibitions related to EDRs on motor vehicles in the State.

Fiscal Summary

State Effect: Minimal increase in Maryland Insurance Administration (MIA) special fund revenues in FY 2017 due to \$125 rate and form filings for automobile liability insurers that currently use EDR data in the manner prohibited by the bill. Review of the filings can be handled with existing resources. General fund revenues decrease minimally due to the 2% premium tax, to the extent that the bill results in lower premiums for insureds, but may increase minimally from the penalty provision applicable to certain provisions under the Maryland Vehicle Law (maximum \$500 fine). The bill is not expected to materially affect the District Court's caseload. Enforcement can be handled with existing resources.

Maryland Automobile Insurance Fund (MAIF) Effect: Because MAIF does not currently use EDR data in the manner prohibited by the bill, its operations and finances are not affected.

Local Effect: The bill is not anticipated to materially affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill defines an “event data recorder” as a device installed in a motor vehicle that captures specified types of data (for example, seatbelt status and location data) for retrieval after a motor vehicle accident.

An automobile liability insurer may not:

- reclassify an insured into a driver classification that entails a higher premium due to the insured’s refusal to consent to the retrieval or use of data on a motor vehicle EDR;
- refuse to issue or renew the insured’s policy because the owner of the motor vehicle refuses such consent; or
- condition the payment or settlement of a claim on the owner’s consent to the retrieval or use of EDR data.

A person other than a motor vehicle owner may only retrieve an EDR’s data under specified circumstances. A manufacturer of a new motor vehicle sold or leased in the State must disclose that a vehicle is equipped with an EDR. Any subscription service contract that involves the collection and transmission of EDR data must disclose that fact in its terms and conditions. The lessor of a motor vehicle may not require the lessee to consent to the retrieval or use of EDR data as a condition of the lease. A person may not knowingly alter or delete EDR data or destroy an EDR within six months after an accident involving the vehicle that resulted in the death or bodily injury of a person.

Current Law: Maryland law requires an owner of a motor vehicle that is required to be registered in the State to maintain insurance for the vehicle during the registration period. The security required must provide at least the payment of claims:

- for bodily injury or death arising from an accident of up to \$30,000 for any one person and up to \$60,000 for any two or more persons;
- for property of others damaged or destroyed in an accident of up to \$15,000;
- unless waived, for personal injury protection of \$2,500 per person; and
- for uninsured motorist coverage (unless waived, the amount equals the amount of liability coverage provided under the policy; if waived, the amount equals the minimum required insurance for liability coverage).

When setting their rates for automobile liability insurance policies, insurers must follow specified requirements. For example, an insurer may not place an insured driver into a classification that entails a higher premium for longer than three years because of a specific claim or because of the insured’s driving record. Additionally, an insurer may not

reclassify an insured into a classification that entails a higher premium for any accident reports or court convictions on file at the Motor Vehicle Administration that are related to the insured's driving of an emergency vehicle.

Background: According to the National Highway Traffic Safety Administration (NHTSA), not all vehicles are equipped with EDRs; however, most manufacturers have made the decision to install some EDR capabilities into their vehicles. Beginning with vehicles manufactured on or after September 1, 2010, EDRs must meet minimum specifications, set by NHTSA, for data collection, transmission, and accuracy.

The Department of State Police and the Maryland Transportation Authority advise that their law enforcement officers only access EDR data when they have a warrant that authorizes them to do so.

State Revenues: Although it is unclear at this time how many insurers in the State penalize insureds based on EDRs in the manners prohibited by the bill, it is assumed that at least some do. Therefore, those insurers must make rate and form filings with MIA to change those policies and pay the \$125 filing fee in fiscal 2017 only. Additionally, to the extent that the bill's prohibition results in lower premiums for the affected insureds, general fund revenues decrease due to the 2% tax collected on premiums paid in the State; however, any such impact is expected to be minimal.

General fund revenues may increase minimally from the penalty provision applicable to certain prohibitions under the Maryland Vehicle Law (maximum \$500 fine).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Automobile Insurance Fund, Maryland Insurance Administration, Maryland Institute for Emergency Medical Services Systems, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, National Highway Traffic Safety Administration, Department of Legislative Services

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