

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 990
Judiciary

(Delegate Vallario)

Evidence - Motor Vehicle Accidents - Recording Devices

This bill limits the retrieval and disclosure of data contained in a “recording device” and applies prospectively to data stored on a recording device in a motor vehicle involved in an accident on or after the bill’s October 1, 2006 effective date.

Fiscal Summary

State Effect: None. The change would not directly affect governmental finances.

Local Effect: None. The change would not directly affect local finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill applies to a recording device commonly referred to as an event data recorder (EDR) or sensing and diagnostic module installed in a vehicle to retrieve data after an accident and has the ability to: (1) record information such as direction and speed of the vehicle, steering performance, brake performance, or the driver’s seat belt status; or (2) transmit information concerning a vehicle accident to a central communications system.

An “owner” under the bill includes a lessee of a motor vehicle under a written lease that is for a period of at least 90 days.

Data stored on an EDR in a motor vehicle after an accident may not be retrieved or disclosed, unless the data is retrieved or disclosed:

- by, or with the consent of, an owner of the motor vehicle at the time of the accident or the legal representative of an owner of the motor vehicle at the time of the accident for any purpose;
- pursuant to a court order;
- for the purpose of improving motor vehicle safety, including medical research related to motor vehicle accidents;
- by a person engaged in the business of diagnosing, servicing, or repairing a motor vehicle, under an agreement with an owner of the vehicle at the time of the accident;
- pursuant to a service agreement entered into by an owner of the motor vehicle and the possibility of data being retrieved is disclosed in the service agreement; or
- to determine the need for or facilitating an emergency medical response in the event of a motor vehicle accident.

Except as otherwise allowed under the bill, a person who retrieves data may not disclose the data. A person may release data retrieved from a recording device, other than owner or driver identification data, to conduct motor vehicle safety research, including medical research. A disclosure of the vehicle identification number with the last four digits deleted is not a disclosure of the identity of the vehicle's registered owner or driver.

The bill does not create, and may not be construed as creating, a new cause of action or substantive legal right against a person who retrieves or discloses data stored on a recording device in a motor vehicle.

A manufacturer of a vehicle that has such a recording device must disclose that fact in the owner's manual for the vehicle if the vehicle is: (1) manufactured on or after October 1, 2007; and (2) sold or leased in Maryland.

Current Law: State law does not address the disclosure of information collected from vehicle recording devices. However, disclosure requirements apply to other vehicle-related information. For example, the Motor Vehicle Administration may only make digital photographic images and signatures available to: (1) the courts; (2) criminal justice agencies; (3) driver license authorities; (4) the licensed individual; (5) the individual's attorney; (6) third parties designated by the individual; and (7) the Child Support Enforcement Administration. It may not otherwise permit public inspection of digital photographic images or signatures or the actual data stored. Similarly, federal and State law prohibit disclosure of a vehicle owner's personal information (*e.g.*, the owner's name and address) without the owner's consent, unless the information is requested by a court or government agency for official purposes.

Background: EDRs have been installed as standard equipment in an increasingly large number of passenger motor vehicles in recent years. The National Highway Traffic Safety Administration (NHTSA) estimated in 2001 that all model year 2002 passenger vehicles contained some type of recording capability and more than half could record crash pulse data. The complexity and scope of EDRs vary widely – some systems only collect vehicle acceleration and deceleration data, while others collect braking and steering information and system status. Currently, General Motors, Ford, and Isuzu install EDRs in all new vehicles. It is estimated that more than 30 million vehicles on the roads contain EDRs.

In 1997, the National Aeronautics and Space Administration Jet Propulsion Laboratory recommended that NHTSA study the feasibility of installing crash recorders on vehicles and obtaining crash data for safety analysis. NHTSA has been using EDRs to support its crash investigation program and convened a working group to study issues related to use of EDRs. The group concluded in 2001 that open access to EDR data, minus personal identifiers, will benefit researchers, crash investigators, and manufacturers in improving safety on the highways.

As more EDRs are installed in vehicles and more drivers become aware of their existence, privacy advocates have called on lawmakers to limit the use of the data. California enacted a law in 2004 that requires car manufacturers to disclose whether an EDR is installed, limits disclosure of EDR data, and requires protection of the owner's or driver's identity if data is disclosed.

According to the National Conference of State Legislatures, legislation pertaining to the use of EDRs and EDR data was introduced in 16 states in 2005. Legislation was enacted in Arkansas, Nevada, New York, North Dakota, and Texas in 2005.

Additional Information

Prior Introductions: This bill is similar to SB 286 of 2004, which received an unfavorable report from the Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Maryland Department of Transportation, National Highway Traffic Safety Administration, *The Washington Examiner*, Department of Legislative Services.

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