

Substituted by the House, on motion of Mr. Torrisi of North Andover, for a bill with the same title (House, No. 2092). February 28, 2006.

The Commonwealth of Massachusetts

In the Year Two Thousand and Six.

AN ACT REGULATING THE USE OF RECORDING DEVICES IN MOTOR VEHICLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 90 of the General Laws is hereby
2 amended by inserting after section 9D the following section:—

3 Section 9E.

4 (a) As used in this section, the following words shall have the
5 following meanings:—

6 (1) “Recording device”, a device that is installed by the manu-
7 facturer of the vehicle and does 1 or more of the following, for the
8 purpose of retrieving data after an accident:

- 9 (i) records vehicle speed and direction,
- 10 (ii) records vehicle location data,
- 11 (iii) records vehicle steering performance,
- 12 (iv) records brake performance, including, but not limited to,
- 13 whether brakes were applied before an accident,
- 14 (v) records the driver’s seatbelt status,
- 15 (vi) records whether the air bag deployed,
- 16 (vii) has the ability to transmit information concerning an acci-
17 dent in which the motor vehicle has been involved to a central
18 communications system when an accident occurs.

19 (2) “Owner”, any of the following:—

20 (i) A person having all the incidents of ownership, including
21 the legal title of a vehicle regardless of whether the person lends,
22 rents, or creates a security interest in the vehicle.

23 (ii) A person entitled to the possession of a vehicle as the pur-
24 chaser under a security agreement.

25 (iii) The person entitled to possession of the vehicle as lessee
26 under a written lease agreement, if the agreement at inception is
27 for a period of more than 3 months.

28 (b) (1) A manufacturer of a new motor vehicle sold or leased in
29 the commonwealth, which is equipped with one or more recording
30 devices commonly referred to as “event data recorders”, including
31 “sensing and diagnostic modules,” shall disclose the presence,
32 capacity, and capabilities of the recording devices in the owner’s
33 manual for the vehicle.

34 (2) A motor vehicle dealer shall include within the purchase
35 contract in a clear and conspicuous manner information on the
36 possibility of the presence of a recording device.

37 (3) Clear and conspicuous information on the possibility of the
38 presence of a recording device shall be affixed by a sticker to a
39 window of each new motor vehicle offered for sale or lease in the
40 commonwealth.

41 (c) (1) (i) If a motor vehicle is equipped with a recording
42 device and is involved in an accident, the owner of the motor
43 vehicle at the time the data is created shall own and retain exclu-
44 sive ownership rights to the data.

45 (ii) The ownership of the data shall not pass to a lienholder or
46 to an insurer because the lienholder or insurer succeeds in owner-
47 ship to the vehicle as a result of the accident.

48 (2) The data shall not be used by a lienholder or an insurer for
49 any reason without a written consent in the form of a release
50 signed by the owner of the motor vehicle at the time of the acci-
51 dent that authorizes the lienholder or insurer to retrieve or use the
52 data.

53 (3) A lienholder or insurer shall not make the owner’s consent
54 to the retrieval or use of the data conditioned upon the payment or
55 settlement of an obligation or claim.

56 (4) An insurer or lessor of a motor vehicle shall not require an
57 owner to provide written permission for the access or retrieval of
58 information from a motor vehicle event data recorder as a condi-
59 tion of the policy or lease.

60 (d) Data described in paragraph (1) of subdivision (a) that is
61 recorded on a recording device may not be downloaded or other-
62 wise retrieved by a person other than the owner of the motor
63 vehicle, except under one of the following circumstances:—

64 (1) The owner of the motor vehicle knowingly and voluntarily
65 consents to the retrieval of the information at the time the data is
66 accessed.

67 (2) In response to an order of a court having jurisdiction to
68 issue the order.

69 (3) For the purpose of improving motor vehicle safety,
70 including for medical research of the human body's reaction to
71 motor vehicle accidents, and provided the identity of the owner or
72 driver is not disclosed in connection with the retrieved data. The
73 disclosure of the vehicle identification number with the last 6
74 digits deleted or redacted does not constitute the disclosure of the
75 identity of the owner or driver.

76 (4) The data is retrieved by a licensed new motor vehicle
77 dealer, or by an automotive technician for the purpose of diag-
78 nosing, servicing, or repairing the motor vehicle.

79 (5) The data is retrieved for the purpose of determining the
80 need for or facilitating emergency medical response in the event
81 of a motor vehicle accident.

82 (e) A person, including a service or data processor operating on
83 behalf of such a person, authorized to download or otherwise
84 retrieve data from a recording device pursuant to paragraph (3) of
85 subdivision (d), may not release that data, except:—

86 (1) for the purposes of motor vehicle safety, security, or traffic
87 management; or

88 (2) to a data processor solely for the purposes permitted by sub-
89 section (e), and only if the identity of the owner or driver is not
90 disclosed.

91 (f) (1) If a motor vehicle is equipped with a recording device
92 that is capable of recording or transmitting information as
93 described in subdivision (a) and that capability is part of a sub-
94 scription service, the fact that the information may be recorded or
95 transmitted shall be disclosed in the subscription service agree-
96 ment.

97 (2) Subdivision (d) shall not apply to subscription services
98 meeting the requirements of paragraph (1).

99 (g) Any violation of the provisions of subdivisions (b) and
100 (f) shall be deemed to be an unfair and deceptive trade practice, as
101 defined in section 2 of chapter 93A.

1 SECTION 2. This act shall apply to all motor vehicles manu-
2 factured on or after January 1, 2007, and to all motor vehicles
3 containing a recording device manufactured prior to said date.