

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1050 Session of 2006

INTRODUCED BY MADIGAN, WONDERLING, O'PAKE, ERICKSON, PUNT, STOUT, RAFFERTY, GORDNER, WENGER, PILEGGI, KASUNIC, CORMAN, FUMO, LAVALLE, COSTA, LEMMOND, GREENLEAF, TARTAGLIONE, EARLL, RHOADES, KITCHEN AND ROBBINS, JANUARY 3, 2006

AS AMENDED ON THIRD CONSIDERATION, APRIL 25, 2006

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, requiring manufacturers AND DEALERS to disclose <—
3 information relating to vehicles equipped with event data
4 recorders or sensing and diagnostic modules; AND PROHIBITING <—
5 THE USE OF DATA OBTAINED FROM RECORDING DEVICES UNDER CERTAIN
6 CIRCUMSTANCES.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 75 of the Pennsylvania Consolidated
10 Statutes is amended by adding a section to read:

11 § 4109. Recording devices.

12 (a) Disclosure required. A manufacturer of a new motor (A) <—

13 LEGISLATIVE INTENT.--THE GENERAL ASSEMBLY RECOGNIZES THE
14 FOLLOWING PUBLIC POLICY PURPOSES AND DECLARES THAT THE FOLLOWING
15 OBJECTIVES OF THE COMMONWEALTH ARE TO BE SERVED BY THIS SECTION:

16 (1) THE USE OF RECORDING DEVICES IN MOTOR VEHICLES,
17 COMMONLY REFERRED TO AS EVENT DATA RECORDERS (EDR) OR SENSING
18 AND DIAGNOSTIC MODULES (SDM), IS INTENDED TO ASSIST IN THE
19 STUDY OF MOTOR VEHICLE ACCIDENTS, IMPROVE MOTOR VEHICLE

1 SAFETY AND FURTHER RELATED MEDICAL RESEARCH.

2 (2) RECORDING DEVICES ARE INSTALLED IN MOTOR VEHICLES
3 WITHOUT THE CONSENT, AND OFTEN WITHOUT THE KNOWLEDGE, OF
4 CONSUMERS THAT OWN THE MOTOR VEHICLES.

5 (3) RECORDING DEVICES, BY NATURE OF THE DATA RECORDED,
6 RESULT IN AN INTRUSION INTO THE PRIVACY OF THE OWNERS AND
7 OPERATORS OF MOTOR VEHICLES.

8 (4) RECORDING DEVICES, INSTALLED BY THE MANUFACTURER,
9 HAVE NOT BEEN DESIGNED FOR THE PURPOSES OF DETERMINING
10 ACCIDENT FAULT AND THEIR ABILITY TO ACCURATELY ESTABLISH THE
11 CAUSAL FACTORS IN AN ACCIDENT HAS NOT BEEN STUDIED.

12 FURTHERMORE, NO GUIDELINES FOR THE USE OF THIS TECHNOLOGY
13 HAVE BEEN ESTABLISHED BY ANYBODY HAVING JURISDICTION OVER
14 ORIGINAL EQUIPMENT MANUFACTURING OF MOTOR VEHICLES.

15 (5) THE GENERAL ASSEMBLY SEEKS TO FURTHER THE PUBLIC
16 INTEREST PURPOSES OF RECORDING DEVICES WHILE AT THE SAME TIME
17 LIMIT AND MINIMIZE THE INTRUSION INTO CONSUMER PRIVACY CAUSED
18 BY SUCH DEVICES. THE GENERAL ASSEMBLY BELIEVES THAT MANDATORY
19 DISCLOSURE TO CONSUMERS OF THE PRESENCE OF RECORDING DEVICES
20 IN MOTOR VEHICLES AND A PRESUMPTION IN FAVOR OF LIMITING OR
21 DENYING ACCESS TO DATA RECORDED ON RECORDING DEVICES BY
22 PERSONS OTHER THAN THE REGISTERED OWNER OF THE MOTOR VEHICLE
23 FURTHERS THIS POLICY GOAL.

24 (B) DISCLOSURE REQUIRED.--

25 (1) FOR NEW MOTOR VEHICLES PRODUCED ON OR AFTER JANUARY
26 1, 2007, A MANUFACTURER OF A NEW MOTOR vehicle sold or leased
27 in this Commonwealth which is equipped with one or more
28 recording devices, commonly referred to as event data
29 recorders (EDR) or sensing and diagnostic modules (SDM),
30 shall disclose that fact in the owner's manual for the

1 vehicle.

2 (2) A DEALER WHO SELLS OR LEASES A NEW MOTOR VEHICLE <—
3 SUBJECT TO SUBSECTION (A) SHALL VERBALLY DISCLOSE TO THE
4 PURCHASER OR LESSEE AT THE TIME OF THE TRANSACTION THAT THE
5 MOTOR VEHICLE IS EQUIPPED WITH ONE OR MORE RECORDING DEVICES
6 AND SHALL OBTAIN A WRITTEN ACKNOWLEDGMENT FROM THE PURCHASER
7 OR LESSEE THAT THE DISCLOSURE WAS MADE IN ACCORDANCE WITH
8 THIS PARAGRAPH.

9 ~~(b) (C) Use of data.--Data described under subsection (f)~~ <—
10 (G) that is recorded on a recording device may not be downloaded <—
11 or otherwise retrieved by a person other than the registered
12 owner of the motor vehicle, except under one of the following
13 circumstances:

14 (1) The registered owner of the motor vehicle consents
15 to the retrieval of the information.

16 ~~(2) In response to an order of a court having~~ <—
17 ~~jurisdiction to issue the order.~~

18 (2) IN RESPONSE TO ANY OF THE FOLLOWING: <—

19 (I) AN ORDER OF A COURT HAVING JURISDICTION TO ISSUE
20 THE ORDER.

21 (II) IN LITIGATION ARISING OUT OF AN ACCIDENT
22 INVOLVING A MOTOR VEHICLE, A LAWFUL SUBPOENA ISSUED OR A
23 REQUEST FOR PRODUCTION OF DOCUMENTS OR THINGS PURSUANT TO
24 THE RULES OF CIVIL PROCEDURE FILED TO DOWNLOAD OR
25 RETRIEVE THE MOTOR VEHICLE DATA RECORDER OR DATA, SO LONG
26 AS THE DATA IS USED SOLELY TO DETERMINE A CAUSAL FACTOR
27 OF THE ACCIDENT.

28 (3) For the purpose of improving motor vehicle safety,
29 including for medical research of the human body's reaction
30 to motor vehicle accidents, and the identity of the

1 registered owner or driver is not disclosed in connection
2 with that retrieved data. The disclosure of the vehicle
3 identification number WITH THE LAST FOUR DIGITS DELETED for <—
4 the purpose of improving vehicle safety, including for
5 medical research of the human body's reaction to motor
6 vehicle accidents, does not constitute the disclosure of the
7 identity of the registered owner or driver.

8 (4) The data is retrieved by a licensed new motor
9 vehicle dealer or by an automotive technician for the purpose
10 of diagnosing, servicing or repairing the motor vehicle AND <—
11 IS NOT RELEASED FOR ANY OTHER PURPOSE, EXCEPT AS DESCRIBED IN
12 PARAGRAPH (3) OR AS OTHERWISE AUTHORIZED BY THE REGISTERED
13 OWNER.

14 ~~(e)~~ (D) Release of data.--A person authorized to download or <—
15 otherwise retrieve data from a recording device in accordance
16 with subsection ~~(b)(3)~~ (C)(3) may not release that data, except <—
17 to share the data among the motor vehicle safety and medical
18 research communities, to advance motor vehicle safety and only
19 if the identity of the registered owner or driver is not
20 disclosed.

21 (E) USE OF DATA FOR UNDERWRITING PURPOSES.--UNDER NO <—
22 CIRCUMSTANCES SHALL THE DATA RETRIEVED FROM RECORDING DEVICES IN
23 NONCOMMERCIAL VEHICLES BE USED FOR THE PURPOSE OF IMPOSING AN
24 INSURANCE SURCHARGE.

25 ~~(d)~~ (F) Subscription services.-- <—

26 (1) If a motor vehicle is equipped with a recording
27 device that is capable of recording or transmitting
28 information as described in paragraph (2) or (6) of the
29 definition of "recording device" under subsection ~~(f)~~ (G) and <—
30 that capability is part of a subscription service, the fact

1 that the information may be recorded or transmitted shall be
2 disclosed in the subscription service agreement.

3 (2) Subsection ~~(b)~~ (C) does not apply to subscription <—
4 services meeting the requirements of paragraph (1).

5 ~~(c) Applicability. This section applies to all motor~~ <—
6 ~~vehicles manufactured on or after July 1, 2006.~~

7 ~~(f)~~ (G) Definition.--As used in this section, the term <—
8 "recording device" means a device that is installed by the
9 manufacturer of the vehicle and does one or more of the
10 following, for the purpose of retrieving data after an accident:

11 (1) Records how fast and in which direction the motor
12 vehicle is traveling.

13 (2) Records a history of where the motor vehicle
14 travels.

15 (3) Records steering performance.

16 (4) Records brake performance, including, but not
17 limited to, whether brakes were applied before an accident.

18 (5) Records the driver's seatbelt status.

19 (6) Has the ability to transmit information concerning
20 an accident in which the motor vehicle has been involved to a
21 central communications system when an accident occurs.

22 Section 2. This act shall take effect in 60 days.