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## Transportation Committee

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### SSB 5574

**Brief Description:** Protecting consumer data in motor vehicles.

**Sponsors:** Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kauffman, Kline, Tom, Hargrove, Oemig, Regala, Fairley, McAuliffe, McDermott, Fraser, Shin, Keiser and Kohl-Welles).

#### Brief Summary of Substitute Bill

- Requires a notification in the owner's manual of a vehicle, a subscription service agreement, or a product manual of the existence of any recording device that preserves or records data collected by sensors or systems within the motor vehicle.
- Prevents access to information on a recording device without the permission of the owner except in specific circumstances.
- Makes violations of the act a violation of the Consumer Protection Act.
- Prevents insurers from taking negative underwriting actions based on an individual's decision to deny access to data from a recording device.

**Hearing Date:** 3/16/09

**Staff:** David Munnecke (786-7315)

#### **Background:**

Recording devices, such as event data recorders (EDRs), sensing and diagnostic modules, and automatic crash notification systems, are installed in many vehicles by the manufacturer. Depending on the device, it can record between five and 90 seconds of information about the vehicle before and after a collision occurs. The data recorded may include vehicle speed, steering performance, brake performance, the driver's seatbelt status, direction of the vehicle, and vehicle location. Some of these recording devices can also transmit information about a collision to a central communications system so that emergency help can be sent. This same collision information may also be sent to the vehicle's manufacturer for safety analysis purposes.

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Recording devices may also be installed in vehicles pursuant to a subscription service, the most well known of which is probably the OnStar system. These subscription services provide the driver with directions, diagnostics, and emergency assistance. Subscription service devices may record and transmit data back to the service provider.

Washington law does not currently regulate these recording devices. On the federal level, the National Highway Traffic Safety Administration (NHTSA) has issued regulations relating to EDRs which auto manufacturers must comply with beginning in 2012. Under the regulations, auto manufacturers must disclose the presence of an EDR in the vehicle's owners manual along with an explanation of the functions and capabilities of the EDR. The NHTSA regulations also specify uniform requirements for the types of data that an EDR must collect, including vehicle speed, brake performance, and the seat belt status of the driver and front passenger.

**Summary of Bill:**

If an auto manufacturer has installed a recording device in a vehicle, it must disclose the device's presence and functions in the vehicle's owner's manual. Subscription services that include the use of a recording device must provide the same disclosures in the service agreement, and after-market products that include the use of a recording device must provide the same disclosures in the product manual.

A recording device is defined as an electronic system in a vehicle that preserves or records data collected by sensors or provided by other systems in the vehicle. It includes event data recorders, sensing and diagnostic modules, electronic control modules, automatic crash notification systems, and geographic information systems.

Data on a recording device may not be accessed by anyone other than the owner of the vehicle except in the following five situations: (1) upon a court order for the data; (2) when the owner consents; (3) for research to improve vehicle safety as long as the owner and the vehicle remain anonymous; (4) to respond to a medical emergency; and (5) when the data is being used to fulfill a subscription services agreement. The accessing of recording device data by anyone other than the owner except in one of the situations described above is a misdemeanor. The owner of the motor vehicle at the time the data is created retains exclusive ownership rights to the data and ownership of the data does not pass to an insurer because of a succession in ownership.

Insurers may not refuse to renew an insurance policy or take any other negative underwriting action against an insured solely because the insured will not provide access to recording device data. Similarly, owner consent to the retrieval or use of the data cannot be conditioned upon the settlement of a claim, and advance written permission to retrieve or use the data as a condition of an insurance policy is prohibited.

Violations of the act are per se violations of the Consumer Protection Act.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.