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**SUBSTITUTE SENATE BILL 5574**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

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

READ FIRST TIME 02/18/09.

1       AN ACT Relating to protecting consumer data in motor vehicles;  
2 amending RCW 46.63.020; adding a new section to chapter 48.30 RCW;  
3 adding a new chapter to Title 46 RCW; prescribing penalties; and  
4 providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       NEW SECTION.   **Sec. 1.** The definitions in this section apply  
7 throughout this chapter unless the context clearly requires otherwise.

8       (1) "Recording device" means an electronic system, and the physical  
9 device or mechanism containing the electronic system, that primarily,  
10 or incidental to its primary function, preserves or records, in  
11 electronic form, data collected by sensors or provided by other systems  
12 within a motor vehicle. "Recording device" includes event data  
13 recorders, sensing and diagnostic modules, electronic control modules,  
14 automatic crash notification systems, geographic information systems,  
15 and any other device that records and preserves data that can be  
16 accessed related to that motor vehicle.

17       (2) "Owner" means:

18       (a) A person having all the incidents of ownership, including legal

1 title, of a motor vehicle, whether or not the person lends, rents, or  
2 creates a security interest in the motor vehicle;

3 (b) A person entitled to the possession of a motor vehicle as the  
4 purchaser under a security agreement;

5 (c) A person entitled to possession of a motor vehicle as a lessee  
6 pursuant to a written lease agreement for a period of more than three  
7 months; or

8 (d) If a third party requests access to a recording device to  
9 investigate a collision, the owner of the motor vehicle at the time the  
10 collision occurred.

11 NEW SECTION. **Sec. 2.** (1) A manufacturer of a motor vehicle sold  
12 or leased in this state, that is equipped with one or more recording  
13 devices, shall in bold face type disclose in the owner's manual that  
14 the motor vehicle is equipped with one or more recording devices and,  
15 if so, the type of data recorded and whether the recording device or  
16 devices have the ability to transmit information to a central  
17 communications system or other external device.

18 (2) If a recording device is used as part of a subscription  
19 service, the subscription service agreement must disclose the type of  
20 information that the device may record or transmit.

21 (3) A disclosure made by means of an insert into the owner's manual  
22 is deemed a disclosure in the owner's manual.

23 (4) If a recording device is to be installed in a vehicle  
24 aftermarket, the manufacturer of the device shall in bold face type  
25 disclose in the product manual the type of information that the device  
26 may record and whether the recording device has the ability to transmit  
27 information to a central communications system or other external  
28 device.

29 (5) A disclosure made by means of an insert into the product manual  
30 is deemed a disclosure in the product manual.

31 NEW SECTION. **Sec. 3.** (1) Information recorded or transmitted by  
32 a recording device may not be retrieved, downloaded, scanned, read, or  
33 otherwise accessed by a person other than the owner of the motor  
34 vehicle in which the recording device is installed except:

35 (a) Upon a court order;

1 (b) With the consent of the owner, given for a specific instance of  
2 access, for any purpose, including diagnosing, servicing, or repairing  
3 the motor vehicle;

4 (c) For improving motor vehicle safety, including medical research  
5 on the human body's reaction to motor vehicle collisions, if the  
6 identity of the motor vehicle or the owner or driver of the motor  
7 vehicle is not disclosed in connection with the retrieved information;

8 (d) For determining the need for or facilitating emergency medical  
9 response if a motor vehicle collision occurs, provided that the  
10 information retrieved is used solely for medical purposes; or

11 (e) For subscription services pursuant to an agreement in which  
12 disclosure required under section 2 of this act has been made, provided  
13 that the information retrieved is used solely for the purposes of  
14 fulfilling the subscription service and is not disclosed to a third  
15 party.

16 (2) For the purposes of subsection (1)(c) of this section:

17 (a) The disclosure of a motor vehicle's vehicle identification  
18 number with the last six digits deleted or redacted is not a disclosure  
19 of the identity of the owner or driver; and

20 (b) Retrieved information may only be disclosed to a data  
21 processor.

22 (3) Any person who violates this section is guilty of a  
23 misdemeanor.

24 NEW SECTION. **Sec. 4.** (1)(a) If a motor vehicle is equipped with  
25 one or more recording devices and is involved in an accident in  
26 Washington state, the owner of the motor vehicle at the time the data  
27 is created owns and retains exclusive ownership rights to the data.

28 (b) The ownership of the data may not pass to a lienholder or an  
29 insurer because the lienholder or insurer succeeds in ownership to the  
30 vehicle as a result of the accident.

31 (2) The data may not be used by a lienholder or an insurer for any  
32 reason without a written consent in the form of a release signed by the  
33 owner of the motor vehicle at the time of the accident that authorizes  
34 the lienholder or insurer to retrieve or use the data.

35 (3) A lienholder or insurer may not make the owner's consent to the  
36 retrieval or use of the data conditioned upon the payment or settlement

1 of an obligation or claim; however, the insured is required to comply  
2 with all policy provisions, including any provision that requires the  
3 insured to cooperate with the insurer.

4 (4) An insurer of a motor vehicle may not require an owner to  
5 provide written permission for the access or retrieval of information  
6 from a recording device as a condition of the policy or lease.

7 NEW SECTION. **Sec. 5.** The legislature finds that the practices  
8 covered by this chapter are matters vitally affecting the public  
9 interest for the purpose of applying chapter 19.86 RCW. A violation of  
10 this chapter is not reasonable in relation to the development and  
11 preservation of business and is an unfair or deceptive act in trade or  
12 commerce and an unfair method of competition for the purpose of  
13 applying chapter 19.86 RCW.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.30 RCW  
15 to read as follows:

16 (1) An insurer shall not refuse to renew a motor vehicle insurance  
17 policy solely because a motor vehicle owner, as defined in section 1 of  
18 this act, refuses to provide access to recorded data from a recording  
19 device, as defined in section 1 of this act.

20 (2) An insurer or agent shall not: Reduce coverage; increase the  
21 insured's premium; apply a surcharge; refuse to apply a discount other  
22 than a discount that is based on data recorded by a recording device as  
23 defined in section 1 of this act; or when there are multiple insurers  
24 available, fail to place the motor vehicle owner with the most  
25 favorably priced insurer, solely because a motor vehicle owner refuses  
26 to allow an insurer access to data from a recording device as defined  
27 in section 1 of this act.

28 **Sec. 7.** RCW 46.63.020 and 2008 c 282 s 11 are each amended to read  
29 as follows:

30 Failure to perform any act required or the performance of any act  
31 prohibited by this title or an equivalent administrative regulation or  
32 local law, ordinance, regulation, or resolution relating to traffic  
33 including parking, standing, stopping, and pedestrian offenses, is  
34 designated as a traffic infraction and may not be classified as a

1 criminal offense, except for an offense contained in the following  
2 provisions of this title or a violation of an equivalent administrative  
3 regulation or local law, ordinance, regulation, or resolution:

4 (1) RCW 46.09.120(2) relating to the operation of a nonhighway  
5 vehicle while under the influence of intoxicating liquor or a  
6 controlled substance;

7 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

8 (3) RCW 46.10.090(2) relating to the operation of a snowmobile  
9 while under the influence of intoxicating liquor or narcotics or habit-  
10 forming drugs or in a manner endangering the person of another;

11 (4) RCW 46.10.130 relating to the operation of snowmobiles;

12 (5) Chapter 46.12 RCW relating to certificates of ownership and  
13 registration and markings indicating that a vehicle has been destroyed  
14 or declared a total loss;

15 (6) RCW 46.16.010 relating to the nonpayment of taxes and fees by  
16 failure to register a vehicle and falsifying residency when registering  
17 a motor vehicle;

18 (7) RCW 46.16.011 relating to permitting unauthorized persons to  
19 drive;

20 (8) RCW 46.16.160 relating to vehicle trip permits;

21 (9) RCW 46.16.381(2) relating to knowingly providing false  
22 information in conjunction with an application for a special placard or  
23 license plate for disabled persons' parking;

24 (10) RCW 46.20.005 relating to driving without a valid driver's  
25 license;

26 (11) RCW 46.20.091 relating to false statements regarding a  
27 driver's license or instruction permit;

28 (12) RCW 46.20.0921 relating to the unlawful possession and use of  
29 a driver's license;

30 (13) RCW 46.20.342 relating to driving with a suspended or revoked  
31 license or status;

32 (14) RCW 46.20.345 relating to the operation of a motor vehicle  
33 with a suspended or revoked license;

34 (15) RCW 46.20.410 relating to the violation of restrictions of an  
35 occupational driver's license, temporary restricted driver's license,  
36 or ignition interlock driver's license;

37 (16) RCW 46.20.740 relating to operation of a motor vehicle without

1 an ignition interlock device in violation of a license notation that  
2 the device is required;

3 (17) RCW 46.20.750 relating to circumventing an ignition interlock  
4 device;

5 (18) RCW 46.25.170 relating to commercial driver's licenses;

6 (19) Chapter 46.29 RCW relating to financial responsibility;

7 (20) RCW 46.30.040 relating to providing false evidence of  
8 financial responsibility;

9 (21) RCW 46.37.435 relating to wrongful installation of  
10 sunscreening material;

11 (22) RCW 46.37.650 relating to the sale, resale, distribution, or  
12 installation of a previously deployed air bag;

13 (23) RCW 46.37.671 through 46.37.675 relating to signal preemption  
14 devices;

15 (24) RCW 46.44.180 relating to operation of mobile home pilot  
16 vehicles;

17 (25) RCW 46.48.175 relating to the transportation of dangerous  
18 articles;

19 (26) RCW 46.52.010 relating to duty on striking an unattended car  
20 or other property;

21 (27) RCW 46.52.020 relating to duty in case of injury to or death  
22 of a person or damage to an attended vehicle;

23 (28) RCW 46.52.090 relating to reports by repairmen, storagemen,  
24 and appraisers;

25 (29) RCW 46.52.130 relating to confidentiality of the driving  
26 record to be furnished to an insurance company, an employer, and an  
27 alcohol/drug assessment or treatment agency;

28 (30) RCW 46.55.020 relating to engaging in the activities of a  
29 registered tow truck operator without a registration certificate;

30 (31) RCW 46.55.035 relating to prohibited practices by tow truck  
31 operators;

32 (32) RCW 46.55.300 relating to vehicle immobilization;

33 (33) RCW 46.61.015 relating to obedience to police officers,  
34 flaggers, or firefighters;

35 (34) RCW 46.61.020 relating to refusal to give information to or  
36 cooperate with an officer;

37 (35) RCW 46.61.022 relating to failure to stop and give  
38 identification to an officer;

1 (36) RCW 46.61.024 relating to attempting to elude pursuing police  
2 vehicles;

3 (37) RCW 46.61.500 relating to reckless driving;

4 (38) RCW 46.61.502 and 46.61.504 relating to persons under the  
5 influence of intoxicating liquor or drugs;

6 (39) RCW 46.61.503 relating to a person under age twenty-one  
7 driving a motor vehicle after consuming alcohol;

8 (40) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

9 (41) RCW 46.61.522 relating to vehicular assault;

10 (42) RCW 46.61.5249 relating to first degree negligent driving;

11 (43) RCW 46.61.527(4) relating to reckless endangerment of roadway  
12 workers;

13 (44) RCW 46.61.530 relating to racing of vehicles on highways;

14 (45) RCW 46.61.655(7) (a) and (b) relating to failure to secure a  
15 load;

16 (46) RCW 46.61.685 relating to leaving children in an unattended  
17 vehicle with the motor running;

18 (47) RCW 46.61.740 relating to theft of motor vehicle fuel;

19 (48) RCW 46.64.010 relating to unlawful cancellation of or attempt  
20 to cancel a traffic citation;

21 (49) RCW 46.64.048 relating to attempting, aiding, abetting,  
22 coercing, and committing crimes;

23 (50) Chapter 46.65 RCW relating to habitual traffic offenders;

24 (51) RCW 46.68.010 relating to false statements made to obtain a  
25 refund;

26 (52) Section 3 of this act relating to recording device  
27 information;

28 (53) Chapter 46.70 RCW relating to unfair motor vehicle business  
29 practices, except where that chapter provides for the assessment of  
30 monetary penalties of a civil nature;

31 ((+53+)) (54) Chapter 46.72 RCW relating to the transportation of  
32 passengers in for hire vehicles;

33 ((+54+)) (55) RCW 46.72A.060 relating to limousine carrier  
34 insurance;

35 ((+55+)) (56) RCW 46.72A.070 relating to operation of a limousine  
36 without a vehicle certificate;

37 ((+56+)) (57) RCW 46.72A.080 relating to false advertising by a  
38 limousine carrier;

1        (~~(+57+)~~) (58) Chapter 46.80 RCW relating to motor vehicle wreckers;  
2        (~~(+58+)~~) (59) Chapter 46.82 RCW relating to driver's training  
3 schools;  
4        (~~(+59+)~~) (60) RCW 46.87.260 relating to alteration or forgery of a  
5 cab card, letter of authority, or other temporary authority issued  
6 under chapter 46.87 RCW;  
7        (~~(+60+)~~) (61) RCW 46.87.290 relating to operation of an  
8 unregistered or unlicensed vehicle under chapter 46.87 RCW.

9        NEW SECTION.    **Sec. 8.** Sections 1 through 5 of this act constitute  
10 a new chapter in Title 46 RCW.

11        NEW SECTION.    **Sec. 9.** This act takes effect July 1, 2010.

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