

HOUSE BILL REPORT

SSB 6341

As Reported by House Committee On:
Transportation

Title: An act relating to electronic data recorders in motor vehicles.

Brief Description: Concerning electronic data recorders in motor vehicles.

Sponsors: Senate Committee on Consumer Protection & Housing (originally sponsored by Senators Kauffman, Delvin and Marr).

Brief History:

Committee Activity:

Transportation: 2/27/08, 3/3/08 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House Committee)**

- Requires a notification of the existence of an electronic data recorder (EDR) in the owner's manual of a vehicle or a subscription service agreement.
- Prevents access to information on an EDR 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 EDR data.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended. Signed by 24 members: Representatives Clibborn, Chair; Flannigan, Vice Chair; Appleton, Armstrong, Campbell, Dickerson, Eddy, Herrera, Hudgins, Jarrett, Kristiansen, Loomis, Rodne, Rolfes, Sells, Simpson, Smith, Springer, Takko, Upthegrove, Wallace, Warnick, Williams and Wood.

Minority Report: Do not pass. Signed by 1 member: Representative Ericksen, Ranking Minority Member.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: David Munnecke (786-7315).

Background:

Electronic data recorders (EDR), also referred to as event data recorders or vehicle black boxes, are installed in some vehicles by the manufacturer. Depending on the device, it records between five and 90 seconds of information about the vehicle before and after a collision occurs. The data that the EDR records may include: vehicle speed, steering performance, brake performance, the driver's seatbelt status, direction of the vehicle, and vehicle location.

An EDR often transmits 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.

Electronic data recorders 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 EDRs record and transmit data back to the service provider.

Washington does not currently regulate EDRs. On the federal level, the National Highway Traffic Safety Association (NHTSA) has issued regulations relating to EDRs which automobile manufacturers must comply with beginning in 2010. Under the regulations, automobile manufacturers must disclose the presence of an EDR in the vehicle's owners manual 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 seat belt status of driver and front passenger.

Summary of Amended Bill:

An EDR is defined as a device or function in a vehicle that records data during the period just prior to or during a crash, or a device or function in a vehicle that has the ability to transmit information concerning a collision to an external system.

If an automobile manufacturer has installed an EDR in a vehicle, it must disclose the EDR's presence and functions in the vehicle's owners manual. Subscription services that include the use of an EDR must provide the same disclosures in the service agreement. The EDR data 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. Unlawful access of the EDR data is a misdemeanor.

For purposes of obtaining the EDR data to investigate a collision, the owner of the EDR data is the owner of the vehicle at the time of the collision.

Insurers may not non-renew or take any other negative underwriting action against an insured solely because the insured will not provide access to the EDR data.

Violations of the act are per se violations of the consumer protection act.

Technical changes unrelated to this bill are made to RCW 46.63.020 upon request of the Code Reviser's Office.

Amended Bill Compared to Substitute Bill:

The original definition of an EDR is replaced with the definition of an event data recorder utilized in the federal regulation, except in the case of the ability to transmit information in the event of a collision, which is added.

The original disclosure statement regarding an EDR that must be included in the owner's manual is removed and the disclosure statement from the federal regulation is required instead, with the addition of information regarding the ability to transmit information, if appropriate.

A subscription service agreement is required to disclose the type of information that the specific EDR records rather than the information listed in the original definition of EDRs created by the act.

An effective date of July 1, 2009, is added to the act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect July 1, 2009.

Staff Summary of Public Testimony:

(In support) Consumers should know that there is a device recording data in their vehicle, they should own the data that is recorded, and they should have to consent to any download that occurs. This bill addresses access by the insurance industry and gives people privacy rights in their data. This is a consumer protection act.

These standards match the national standards with a few additions that were added due to consumer protection concerns.

This is an important bill because it makes the owner of the vehicle the owner of the data in the vehicle. We don't want just anyone to have access to the data, and this bill would limit unfettered access. This data is already downloaded for both criminal and civil purposes, and warrants are not currently required, although they are sometimes sought.

(With concerns) Electronic data recorders are important devices to improve traffic safety. The National Highway Traffic Safety Administration (NHTSA) has issued regulations that are intended to provide a national standard, which includes the type of data collected.

The NHTSA standards have left the issue of data ownership to the states. The Alliance of Automobile Manufacturers feels that the owner of a vehicle should own the data in their vehicle.

(Opposed) General Motors is interested in uniformity when it comes to the standards for electronic data recorders. The OnStar system uses information provided by electronic data recorders to provide safer use of the vehicle and General Motors is concerned about static definitions that don't allow for changes to the technology.

Persons Testifying: (In support) Senator Kauffman, prime sponsor; and Jennifer Shaw, American Civil Liberties Union.

(With concerns) Nancee Wildermuth, Alliance of Automobile Manufacturers.

(Opposed) Cliff Webster, General Motors.

Persons Signed In To Testify But Not Testifying: None.