

SSB 5574 - H AMD 602

By Representative Clibborn

ADOPTED 04/14/2009

1 Strike everything after the enacting clause and insert the
2 following:

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

5 (1) "Recording device" means an electronic system, and the physical
6 device or mechanism containing the electronic system, that primarily,
7 or incidental to its primary function, preserves or records, in
8 electronic form, data collected by sensors or provided by other systems
9 within a motor vehicle. "Recording device" includes event data
10 recorders, sensing and diagnostic modules, electronic control modules,
11 automatic crash notification systems, geographic information systems,
12 and any other device that records and preserves data that can be
13 accessed related to that motor vehicle. "Recording device" does not
14 include onboard diagnostic systems whose exclusive function is to
15 capture fault codes used to diagnose or service the motor vehicle.

16 (2) "Owner" means:

17 (a) A person having all the incidents of ownership, including legal
18 title, of a motor vehicle, whether or not the person lends, rents, or
19 creates a security interest in the motor vehicle;

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

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

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

28 NEW SECTION. **Sec. 2.** (1) A manufacturer of a motor vehicle sold
29 or leased in this state, that is equipped with one or more recording

1 devices, shall disclose in the owner's manual that the motor vehicle is
2 equipped with one or more recording devices and, if so, the type of
3 data recorded and whether the recording device or devices have the
4 ability to transmit information to a central communications system or
5 other external device.

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

9 (3) A disclosure made in writing is deemed a disclosure in the
10 owner's manual.

11 (4) If a recording device is to be installed in a vehicle
12 aftermarket, the manufacturer or distributor of the device shall
13 disclose in the product manual the type of information that the device
14 may record and whether the recording device has the ability to transmit
15 information to a central communications system or other external
16 device.

17 (5) A disclosure made in writing is deemed a disclosure in the
18 product manual.

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

23 (a) Upon a court order or pursuant to discovery. Any information
24 recorded or transmitted by a recording device and obtained by a court
25 order or pursuant to discovery is private and confidential and is not
26 subject to public disclosure;

27 (b) With the consent of the owner, given for a specific instance of
28 access, for any purpose;

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

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

36 (e) For subscription services pursuant to an agreement in which

1 disclosure required under section 2 of this act has been made, provided
2 that the information retrieved is used solely for the purposes of
3 fulfilling the subscription service.

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

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

8 (b) Retrieved information may only be disclosed to a data
9 processor.

10 (3) Information that can be associated with an individual and that
11 is recorded or transmitted by a recording device may not be sold to a
12 third party unless the owner of the information explicitly grants
13 permission for the sale.

14 (4) Any person who violates this section is guilty of a
15 misdemeanor.

16 NEW SECTION. **Sec. 4.** The legislature finds that the practices
17 covered by this chapter are matters vitally affecting the public
18 interest for the purpose of applying chapter 19.86 RCW. A violation of
19 this chapter is not reasonable in relation to the development and
20 preservation of business and is an unfair or deceptive act in trade or
21 commerce and an unfair method of competition for the purpose of
22 applying chapter 19.86 RCW.

23 NEW SECTION. **Sec. 5.** A manufacturer of a motor vehicle sold or
24 leased in this state that is equipped with a recording device shall
25 ensure by licensing agreement or other means that a tool or tools are
26 available that are capable of accessing and retrieving the information
27 stored in a recording device. The tool or tools must be commercially
28 available no later than ninety days after the effective date of this
29 section.

30 **Sec. 6.** RCW 46.63.020 and 2008 c 282 s 11 are each amended to read
31 as follows:

32 Failure to perform any act required or the performance of any act
33 prohibited by this title or an equivalent administrative regulation or
34 local law, ordinance, regulation, or resolution relating to traffic
35 including parking, standing, stopping, and pedestrian offenses, is

1 designated as a traffic infraction and may not be classified as a
2 criminal offense, except for an offense contained in the following
3 provisions of this title or a violation of an equivalent administrative
4 regulation or local law, ordinance, regulation, or resolution:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (16) RCW 46.20.740 relating to operation of a motor vehicle without
2 an ignition interlock device in violation of a license notation that
3 the device is required;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (32) RCW 46.55.300 relating to vehicle immobilization;

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

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

1 (35) RCW 46.61.022 relating to failure to stop and give
2 identification to an officer;

3 (36) RCW 46.61.024 relating to attempting to elude pursuing police
4 vehicles;

5 (37) RCW 46.61.500 relating to reckless driving;

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

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

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

11 (41) RCW 46.61.522 relating to vehicular assault;

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

13 (43) RCW 46.61.527(4) relating to reckless endangerment of roadway
14 workers;

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

16 (45) RCW 46.61.655(7) (a) and (b) relating to failure to secure a
17 load;

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

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

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

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

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

26 (51) RCW 46.68.010 relating to false statements made to obtain a
27 refund;

28 (52) Section 3 of this act relating to recording device
29 information;

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

33 ((+53+)) (54) Chapter 46.72 RCW relating to the transportation of
34 passengers in for hire vehicles;

35 ((+54+)) (55) RCW 46.72A.060 relating to limousine carrier
36 insurance;

37 ((+55+)) (56) RCW 46.72A.070 relating to operation of a limousine
38 without a vehicle certificate;

1 (~~(56)~~) (57) RCW 46.72A.080 relating to false advertising by a
2 limousine carrier;

3 (~~(57)~~) (58) Chapter 46.80 RCW relating to motor vehicle wreckers;

4 (~~(58)~~) (59) Chapter 46.82 RCW relating to driver's training
5 schools;

6 (~~(59)~~) (60) RCW 46.87.260 relating to alteration or forgery of a
7 cab card, letter of authority, or other temporary authority issued
8 under chapter 46.87 RCW;

9 (~~(60)~~) (61) RCW 46.87.290 relating to operation of an
10 unregistered or unlicensed vehicle under chapter 46.87 RCW.

11 NEW SECTION. Sec. 7. Sections 1 through 5 of this act constitute
12 a new chapter in Title 46 RCW.

13 NEW SECTION. Sec. 8. Sections 1 through 4 and 6 of this act take
14 effect July 1, 2010."

15 Correct the title.

EFFECT: (1) Clarifies that the definition of a recording device
does not include onboard diagnostic systems whose exclusive function is
to capture codes used to diagnose or service the motor vehicle.

 (2) Removes the requirement that the disclosure of the existence of
recording devices in a motor vehicle be done in bold face type.

 (3) Allows the requirement of disclosing the existence of recording
devices in a motor vehicle to be met through any written disclosure.

 (4) Allows access to the information on a recording device pursuant
to discovery, and requires that any information on a recording device
that is obtained by a court order or pursuant to discovery be treated
as private and confidential and not be subject to public disclosure.

 (5) Requires explicit permission from the owner of any information
that can be associated with the owner prior to its sale to a third
party.

 (6) Removes language specifying the ownership of data on a
recording device after a change in control of the motor vehicle.

 (7) Requires that within 90 days of enactment a manufacturer
ensures that there are tools commercially available to access and
retrieve information stored in a recording device.

 (8) Removes restrictions related to underwriting actions that can
be taken by insurers when a motor vehicle owner refuses to provide
access to data on a recording device.

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