

SSB 5574 - H COMM AMD
By Committee on Transportation

NOT 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.

14 (2) "Owner" means:

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

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

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

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

26 NEW SECTION. **Sec. 2.** (1) A manufacturer of a motor vehicle sold
27 or leased in this state, that is equipped with one or more recording
28 devices, shall in bold face type disclose in the owner's manual that
29 the motor vehicle is equipped with one or more recording devices and,

1 if so, the type of data recorded and whether the recording device or
2 devices have the ability to transmit information to a central
3 communications system or other external device.

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

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

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

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

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

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

25 (b) With the consent of the owner or a person who the individual
26 requesting access to the information would reasonably believe has the
27 consent of the owner, given for a specific instance of access, for any
28 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
37 disclosure required under section 2 of this act has been made, provided

1 that the information retrieved is used solely for the purposes of
2 fulfilling the subscription service and is not disclosed to a third
3 party.

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 recorded or transmitted by a recording device may
11 not be sold to a third party unless the owner of the information
12 explicitly grants permission for the sale.

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

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

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

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

26 (3) A lienholder or insurer may not make the owner's consent to the
27 retrieval or use of the data conditioned upon the payment or settlement
28 of an obligation or claim; however, the insured is required to comply
29 with all policy provisions, including any provision that requires the
30 insured to cooperate with the insurer.

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

34 NEW SECTION. **Sec. 5.** A manufacturer of a motor vehicle sold or
35 leased in this state that is equipped with a recording device shall
36 ensure by licensing agreement or other means that a tool or tools are

1 available that are capable of accessing and retrieving the information
2 stored in a recording device. The tool or tools must be commercially
3 available no later than ninety days after the effective date of this
4 section.

5 NEW SECTION. **Sec. 6.** The legislature finds that the practices
6 covered by this chapter are matters vitally affecting the public
7 interest for the purpose of applying chapter 19.86 RCW. A violation of
8 this chapter is not reasonable in relation to the development and
9 preservation of business and is an unfair or deceptive act in trade or
10 commerce and an unfair method of competition for the purpose of
11 applying chapter 19.86 RCW.

12 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.30 RCW
13 to read as follows:

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

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

26 **Sec. 8.** RCW 46.63.020 and 2008 c 282 s 11 are each amended to read
27 as follows:

28 Failure to perform any act required or the performance of any act
29 prohibited by this title or an equivalent administrative regulation or
30 local law, ordinance, regulation, or resolution relating to traffic
31 including parking, standing, stopping, and pedestrian offenses, is
32 designated as a traffic infraction and may not be classified as a
33 criminal offense, except for an offense contained in the following
34 provisions of this title or a violation of an equivalent administrative
35 regulation or local law, ordinance, regulation, or resolution:

- 1 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
2 vehicle while under the influence of intoxicating liquor or a
3 controlled substance;
- 4 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;
- 5 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
6 while under the influence of intoxicating liquor or narcotics or habit-
7 forming drugs or in a manner endangering the person of another;
- 8 (4) RCW 46.10.130 relating to the operation of snowmobiles;
- 9 (5) Chapter 46.12 RCW relating to certificates of ownership and
10 registration and markings indicating that a vehicle has been destroyed
11 or declared a total loss;
- 12 (6) RCW 46.16.010 relating to the nonpayment of taxes and fees by
13 failure to register a vehicle and falsifying residency when registering
14 a motor vehicle;
- 15 (7) RCW 46.16.011 relating to permitting unauthorized persons to
16 drive;
- 17 (8) RCW 46.16.160 relating to vehicle trip permits;
- 18 (9) RCW 46.16.381(2) relating to knowingly providing false
19 information in conjunction with an application for a special placard or
20 license plate for disabled persons' parking;
- 21 (10) RCW 46.20.005 relating to driving without a valid driver's
22 license;
- 23 (11) RCW 46.20.091 relating to false statements regarding a
24 driver's license or instruction permit;
- 25 (12) RCW 46.20.0921 relating to the unlawful possession and use of
26 a driver's license;
- 27 (13) RCW 46.20.342 relating to driving with a suspended or revoked
28 license or status;
- 29 (14) RCW 46.20.345 relating to the operation of a motor vehicle
30 with a suspended or revoked license;
- 31 (15) RCW 46.20.410 relating to the violation of restrictions of an
32 occupational driver's license, temporary restricted driver's license,
33 or ignition interlock driver's license;
- 34 (16) RCW 46.20.740 relating to operation of a motor vehicle without
35 an ignition interlock device in violation of a license notation that
36 the device is required;
- 37 (17) RCW 46.20.750 relating to circumventing an ignition interlock
38 device;

- 1 (18) RCW 46.25.170 relating to commercial driver's licenses;
- 2 (19) Chapter 46.29 RCW relating to financial responsibility;
- 3 (20) RCW 46.30.040 relating to providing false evidence of
4 financial responsibility;
- 5 (21) RCW 46.37.435 relating to wrongful installation of
6 sunscreening material;
- 7 (22) RCW 46.37.650 relating to the sale, resale, distribution, or
8 installation of a previously deployed air bag;
- 9 (23) RCW 46.37.671 through 46.37.675 relating to signal preemption
10 devices;
- 11 (24) RCW 46.44.180 relating to operation of mobile home pilot
12 vehicles;
- 13 (25) RCW 46.48.175 relating to the transportation of dangerous
14 articles;
- 15 (26) RCW 46.52.010 relating to duty on striking an unattended car
16 or other property;
- 17 (27) RCW 46.52.020 relating to duty in case of injury to or death
18 of a person or damage to an attended vehicle;
- 19 (28) RCW 46.52.090 relating to reports by repairmen, storagemen,
20 and appraisers;
- 21 (29) RCW 46.52.130 relating to confidentiality of the driving
22 record to be furnished to an insurance company, an employer, and an
23 alcohol/drug assessment or treatment agency;
- 24 (30) RCW 46.55.020 relating to engaging in the activities of a
25 registered tow truck operator without a registration certificate;
- 26 (31) RCW 46.55.035 relating to prohibited practices by tow truck
27 operators;
- 28 (32) RCW 46.55.300 relating to vehicle immobilization;
- 29 (33) RCW 46.61.015 relating to obedience to police officers,
30 flaggers, or firefighters;
- 31 (34) RCW 46.61.020 relating to refusal to give information to or
32 cooperate with an officer;
- 33 (35) RCW 46.61.022 relating to failure to stop and give
34 identification to an officer;
- 35 (36) RCW 46.61.024 relating to attempting to elude pursuing police
36 vehicles;
- 37 (37) RCW 46.61.500 relating to reckless driving;

1 (38) RCW 46.61.502 and 46.61.504 relating to persons under the
2 influence of intoxicating liquor or drugs;
3 (39) RCW 46.61.503 relating to a person under age twenty-one
4 driving a motor vehicle after consuming alcohol;
5 (40) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
6 (41) RCW 46.61.522 relating to vehicular assault;
7 (42) RCW 46.61.5249 relating to first degree negligent driving;
8 (43) RCW 46.61.527(4) relating to reckless endangerment of roadway
9 workers;
10 (44) RCW 46.61.530 relating to racing of vehicles on highways;
11 (45) RCW 46.61.655(7) (a) and (b) relating to failure to secure a
12 load;
13 (46) RCW 46.61.685 relating to leaving children in an unattended
14 vehicle with the motor running;
15 (47) RCW 46.61.740 relating to theft of motor vehicle fuel;
16 (48) RCW 46.64.010 relating to unlawful cancellation of or attempt
17 to cancel a traffic citation;
18 (49) RCW 46.64.048 relating to attempting, aiding, abetting,
19 coercing, and committing crimes;
20 (50) Chapter 46.65 RCW relating to habitual traffic offenders;
21 (51) RCW 46.68.010 relating to false statements made to obtain a
22 refund;
23 (52) Section 3 of this act relating to recording device
24 information;
25 (53) Chapter 46.70 RCW relating to unfair motor vehicle business
26 practices, except where that chapter provides for the assessment of
27 monetary penalties of a civil nature;
28 ~~((+53+))~~ (54) Chapter 46.72 RCW relating to the transportation of
29 passengers in for hire vehicles;
30 ~~((+54+))~~ (55) RCW 46.72A.060 relating to limousine carrier
31 insurance;
32 ~~((+55+))~~ (56) RCW 46.72A.070 relating to operation of a limousine
33 without a vehicle certificate;
34 ~~((+56+))~~ (57) RCW 46.72A.080 relating to false advertising by a
35 limousine carrier;
36 ~~((+57+))~~ (58) Chapter 46.80 RCW relating to motor vehicle wreckers;
37 ~~((+58+))~~ (59) Chapter 46.82 RCW relating to driver's training
38 schools;

1 (~~(+59+)~~) (60) RCW 46.87.260 relating to alteration or forgery of a
2 cab card, letter of authority, or other temporary authority issued
3 under chapter 46.87 RCW;

4 (~~(+60+)~~) (61) RCW 46.87.290 relating to operation of an
5 unregistered or unlicensed vehicle under chapter 46.87 RCW.

6 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act constitute
7 a new chapter in Title 46 RCW.

8 NEW SECTION. **Sec. 10.** Sections 1 through 4 and 6 through 8 of
9 this act take effect July 1, 2010."

10 Correct the title.

EFFECT: (1) Allows access to the information on a recording
device pursuant to discovery.

(2) 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.

(3) Allows consent for a specific instance of access to be granted
by an individual that the person requesting access would reasonably
believe has the consent of the owner.

(4) Requires explicit permission from the owner of the information
prior to its sale to a third party.

(5) 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.

(6) Prevents an insurer from canceling a policy because a motor
vehicle owner refuses to provide access to data on a recording device.

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