

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1419 of the Regular Session

State of Arkansas As Engrossed: S2/1/05 S2/9/05 S2/15/05 S2/23/05 S3/1/05 H3/11/05

85th General Assembly

A Bill

Regular Session, 2005

SENATE BILL 51

By: Senator J. Jeffress

For An Act To Be Entitled

AN ACT TO PRESCRIBE THE OWNERSHIP OF INFORMATION RECORDED BY AN EVENT DATA RECORDER IN MOTOR VEHICLES AND TO PROHIBIT THE USE OF THE DATA WITHOUT WRITTEN PERMISSION OF THE OWNER OF THE VEHICLE; AND FOR OTHER PURPOSES.

Subtitle

TO PRESCRIBE THE OWNERSHIP OF INFORMATION RECORDED BY AN EVENT DATA RECORDER IN A MOTOR VEHICLE AND TO PROHIBIT THE USE OF THE DATA WITHOUT WRITTEN PERMISSION OF THE OWNER OF THE VEHICLE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 27, Chapter 37, Subchapter 1 is amended to add an additional section to read as follows:

27-37-103. Motor vehicle event data recorder -- Data ownership.

(a) As used in this section:

(1) "Authorized representative" means a person who is the attorney-in-fact for an owner or a person who has been appointed the administrator or personal representative of the estate of the owner;

(2) "Motor vehicle event data recorder" means a factory-installed feature in a motor vehicle that does one (1) or more of the following:



1                   (A) Records, stores, transmits, or dispenses any of the  
2 following information for the purpose of retrieval after a crash:

- 3                   (i) Vehicle speed;
- 4                   (ii) Vehicle direction;
- 5                   (iii) Vehicle location;
- 6                   (iv) Steering performance; or
- 7                   (v) Seatbelt restraint status;

8                   (B) Has the capacity to transmit information concerning a  
9 crash in which the motor vehicle has been involved to a central  
10 communications system when a crash occurs; or

11                   (C) Includes a sensing and diagnostic module, restraint  
12 control module, electronic throttle control, or other similar component;

13                   (2) "Owner" means a person or entity:

14                   (i) In whose name a motor vehicle is registered or  
15 titled;

16                   (ii) Who leases a motor vehicle for at least three  
17 (3) months;

18                   (iii) Who is entitled to possession of the motor  
19 vehicle as the purchaser under a security agreement; or

20                   (iv) Who is the authorized representative of the  
21 owner.

22                   (b) At the time of new vehicle purchase by a consumer from a  
23 dealership, an owner of a motor vehicle shall be given written notice by the  
24 seller or manufacturer that includes the following:

25                   (1) The presence of the motor vehicle event data recorder in the  
26 motor vehicle;

27                   (2) The type of motor vehicle event data recorder in the motor  
28 vehicle; and

29                   (3) The type of data that is recorded, stored, or transmitted on  
30 the motor vehicle event data recorder.

31                   (c) Except as specifically provided under subsections (d), (f), (g),  
32 (h), and (i) of this section, the data on a motor vehicle event data  
33 recorder:

34                   (1) Is private;

35                   (2) Is exclusively owned by the owner of the motor vehicle; and

36                   (3) Shall not be retrieved or used by another person or entity.

1 (d)(1) If a motor vehicle is owned by one (1) owner, then the owner of  
2 a motor vehicle may provide written consent in the form of a release signed  
3 by the owner that authorizes a person or entity to retrieve or use the data.

4 (2) If a motor vehicle is owned by more than one (1) person or  
5 entity and if all owners agree to release the data, then all owners must  
6 consent in writing by signing a release to authorize a person or entity to  
7 retrieve or use the data.

8 (3) A release to a person or entity under this subsection shall  
9 be limited to permission for data collection and compilation only and shall  
10 not authorize the release of information that identifies the owner of the  
11 vehicle.

12 (e)(1)(A) If a motor vehicle is equipped with a motor vehicle event  
13 data recorder and is involved in an accident in Arkansas, the owner of the  
14 motor vehicle at the time the data is created shall own and retain exclusive  
15 ownership rights to the data.

16 (B) The ownership of the data shall not pass to a  
17 lienholder or to an insurer because the lienholder or insurer succeeds in  
18 ownership to the vehicle as a result of the accident.

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

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

28 (4) An insurer or lessor of a motor vehicle shall not require an  
29 owner to provide written permission for the access or retrieval of  
30 information from a motor vehicle event data recorder as a condition of the  
31 policy or lease.

32 (f) Except as specifically provided under subsections (d), (g), (h),  
33 and (i) of this section, the data from a motor vehicle event data recorder  
34 shall only be produced without the consent of the owner at the time of the  
35 accident if:

36 (1) A court of competent jurisdiction in Arkansas orders the

1 production of the data;

2 (2) A law enforcement officer obtains the data based on probable  
3 cause of an offense under the laws of the State of Arkansas; or

4 (3) A law enforcement officer, a firefighter, or an emergency  
5 medical services provider obtains the data in the course of responding to or  
6 investigating an emergency involving physical injury or the risk of physical  
7 injury to any person.

8 (g) The Arkansas State Highway and Transportation Department may  
9 retrieve data from a motor vehicle event data recorder if the data is used  
10 for the following purposes:

11 (1) Preclearing weigh stations;

12 (2) Automating driver records of duty status as authorized by  
13 the United States Department of Transportation;

14 (3) Replacing handwritten reports for any fuel tax reporting or  
15 other mileage reporting purpose; or

16 (4) Complying with a state or federal law.

17 (h) To protect the public health, welfare, and safety, the following  
18 exceptions shall be allowed regarding the retrieval of data from a motor  
19 vehicle event data recorder:

20 (1) To determine the need or facilitate emergency medical care  
21 for the driver or passenger of a motor vehicle that is involved in a motor  
22 vehicle crash or other emergency, including obtaining data from a company  
23 that provides subscription services to the owners of motor vehicles for in-  
24 vehicle safety and security communications systems;

25 (2) To facilitate medical research of the human body's reaction  
26 to motor vehicle crashes if:

27 (i) The identity of the owner or driver is not disclosed  
28 in connection with the retrieved data; and

29 (ii) The last four (4) digits of the vehicle  
30 identification number are not disclosed; or

31 (3) To diagnose, service, or repair a motor vehicle.

32 (i) Notwithstanding any other provision of this section, the use of  
33 data from a motor vehicle event data recorder shall not be permitted into  
34 evidence in a civil or criminal matter pending before a court in the State of  
35 Arkansas unless it is shown to be relevant and reliable pursuant to the  
36 Arkansas Rules of Evidence.

1 (j)(1) If a motor vehicle is equipped with a motor vehicle event data  
2 recorder that is capable of recording, storing, transmitting, or dispensing  
3 information as described in this section and that capability is part of a  
4 subscription service, that the information may be recorded, stored,  
5 transmitted or dispensed shall be disclosed in the subscription agreement.

6 (2) Subsections (c), (d), (f), (g), and (h) shall not apply to  
7 subscription services that meet the requirements of this subsection (j).

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9 /s/ J. Jeffress

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12 APPROVED: 3/30/2005  
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