

ARKANSAS SENATE
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of Senate Bill No. 51

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

Amendment No. 1 to Senate Bill No. 51.

Amend Senate Bill No. 51 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"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 data recorder -- Data ownership.

(a) As used in this section:

(1) "Data" means vehicle performance and status information stored in a motor vehicle data recorder;

(2) "Motor vehicle data recorder" means:

(A) A factory-installed device in a motor vehicle that records, stores, transmits, or dispenses any of the following information:

(i) Engine speed;

(ii) Vehicle location or location history;

(iii) Brake performance;

(iv) Steering performance;

(v) Airbag deployment or status;

(vi) Seatbelt restraint status;

(vii) Accelerator position; or

(viii) Other technical information regarding vehicle dynamics and system status; and

(B) A sensing and diagnostic module in a motor vehicle manufactured by any automobile manufacturer; and

(3) "Owner" means a person or entity:

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

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

(iii) Who is entitled to possession of the motor vehicle as the purchaser under a security agreement.

(b) At the time of purchase, an owner of a motor vehicle shall be given written notice by the seller or manufacturer that includes the



following:

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

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

(3) The type of data that is stored on the motor vehicle data recorder.

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

(1) Is private;

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

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

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

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

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

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

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

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

(3) A lienholder or insurer shall not make the owner's consent to the retrieval or use of the data conditioned upon the payment or settlement of an obligation or claim.

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

(1) A court of competent jurisdiction in Arkansas orders the production of the data;

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

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

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

(1) Preclearing weigh stations;

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

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

(4) Complying with a state or federal law.

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

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

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

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

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

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

(i) Notwithstanding any other provision of this section, the use of data from a motor vehicle data recorder shall not be permitted into evidence in a civil or criminal matter pending before a court in the State of Arkansas if the original manufacturer's warranty of the motor vehicle has expired."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator J. Jeffress

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Secretary