

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.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S2/1/05
A Bill

SENATE BILL 51

5 By: Senator J. Jeffress
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8 **For An Act To Be Entitled**

9 AN ACT TO PRESCRIBE THE OWNERSHIP OF INFORMATION
10 RECORDED BY A DATA RECORDER IN MOTOR VEHICLES AND
11 TO PROHIBIT THE USE OF THE DATA WITHOUT WRITTEN
12 PERMISSION OF THE OWNER OF THE VEHICLE; AND FOR
13 OTHER PURPOSES.
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15 **Subtitle**

16 TO PRESCRIBE THE OWNERSHIP OF
17 INFORMATION RECORDED BY A DATA RECORDER
18 IN A MOTOR VEHICLE AND TO PROHIBIT THE
19 USE OF THE DATA WITHOUT WRITTEN
20 PERMISSION OF THE OWNER OF THE VEHICLE.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 *SECTION 1. Arkansas Code Title 27, Chapter 37, Subchapter 1 is amended*
26 *to add an additional section to read as follows:*

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

28 *(a) As used in this section:*

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

31 *(2) "Motor vehicle data recorder" means:*

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

34 *(i) Engine speed;*

35 *(ii) Vehicle location or location history;*

36 *(iii) Brake performance;*



1 (iv) Steering performance;

2 (v) Airbag deployment or status;

3 (vi) Seatbelt restraint status;

4 (vii) Accelerator position; or

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

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

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

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

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

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

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

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

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

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

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

27 (1) Is private;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (1) Preclearing weigh stations;

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

36 (3) Replacing handwritten reports for any fuel tax reporting or

1 other mileage reporting purpose; or

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

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

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

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

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

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

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

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

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23 /s/ J. Jeffress
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