

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 As Enrolled: S2/1/05 S2/9/05 S2/15/05 S2/23/05 S3/1/05

2 85th General Assembly

A Bill

3 Regular Session, 2005

SENATE BILL 51

4
5 By: Senator J. Jeffress

For An Act To Be Entitled

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

Subtitle

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

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

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

28 27-37-103. Motor vehicle event data recorder -- Data ownership.

29 (a) As used in this section:

30 (1) "Motor vehicle event data recorder" means a factory-
31 installed feature in a motor vehicle that:

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

34 (i) Vehicle speed;

35 (ii) Vehicle direction;

36 (iii) Vehicle location;



1 (iv) Steering performance; or

2 (v) Seatbelt restraint status;

3 (B) Has the capacity to transmit information concerning a
4 crash in which the motor vehicle has been involved to a central
5 communications system when a crash occurs; and

6 (C) Includes a sensing and diagnostic module;

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

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

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

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

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

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

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

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

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

26 (1) Is private;

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

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

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

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

36 (3) A release to a person or entity under this subsection shall

1 be limited to permission for data collection and compilation only and shall
2 not authorize the release of information that identifies the owner of the
3 vehicle.

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

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

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

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

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

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

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

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

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

35 (1) Preclearing weigh stations;

36 (2) Automating driver records of duty status as authorized by

1 the United States Department of Transportation;

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

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

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

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

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

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

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

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

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

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

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

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33 /s/ J. Jeffress
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