

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 Engrossed: S2/1/05 S2/9/05 S2/15/05 S2/23/05 S3/1/05 H3/11/05

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.

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

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

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

36 (A) Records, stores, transmits, or dispenses any of the



1 following information for the purpose of retrieval after a crash:

2 (i) Vehicle speed;

3 (ii) Vehicle direction;

4 (iii) Vehicle location;

5 (iv) Steering performance; or

6 (v) Seatbelt restraint status;

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

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

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

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

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

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

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

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

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

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

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

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

33 (1) Is private;

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

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

36 (d)(1) If a motor vehicle is owned by one (1) owner, then the owner of

1 a motor vehicle may provide written consent in the form of a release signed
2 by the owner that authorizes a person or entity to retrieve or use the data.

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

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

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

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

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

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

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

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

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

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

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

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

10 (1) Preclearing weigh stations;

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

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

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

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

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

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

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

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

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

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

36 (j)(1) If a motor vehicle is equipped with a motor vehicle event data

1 recorder that is capable of recording, storing, transmitting, or dispensing
2 information as described in this section and that capability is part of a
3 subscription service, that the information may be recorded, stored,
4 transmitted or dispensed shall be disclosed in the subscription agreement.

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

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/s/ J. Jeffress