

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1325, L.D. 1885, Bill, "An Act To Protect Drivers' Privacy by Clarifying Ownership of Data Recorded by Motor Vehicle Data Recorders"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 29-A MRSA c. 17, sub-c. 3 is enacted to read:

SUBCHAPTER 3

MOTOR VEHICLE EVENT DATA RECORDERS

§1971. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Event data recorder. "Event data recorder" means a feature that is installed by the manufacturer of a motor vehicle and does one or more of the following for the purpose of capturing data for retrieval after a crash:

A. Records vehicle speed, direction or both;

B. Records vehicle location data;

- 2 C. Records vehicle steering performance;
4 D. Records vehicle brake performance, including whether
6 brakes were applied before the crash;
8 E. Records the driver's seatbelt status; and
10 F. Has the ability to transmit information concerning a
12 crash in which the motor vehicle has been involved to a
14 central communication system when a crash occurs.

12 2. Owner. "Owner" means:

- 14 A. A person having all the incidents of ownership,
16 including the legal title of the motor vehicle, whether or
18 not the person lends, rents or creates a security interest
20 in the motor vehicle;
22 B. A person entitled to the possession of the motor vehicle
24 as the purchaser under a security agreement; or
26 C. A person entitled to possession of the motor vehicle as
28 lessee pursuant to a written lease agreement, as long as the
30 agreement at inception is for a period of at least 3 months.

26 §1972. Ownership and access to data

28 1. Ownership; access. Data described in section 2561,
30 subsection 1 that are recorded on an event data recorder may not
32 be downloaded or otherwise retrieved by a person other than the
34 owner of the motor vehicle at the time the data are accessed,
36 except under the following circumstances:

- 34 A. The owner of the motor vehicle or the owner's agent or
36 legal representative consents to the retrieval of the
38 information;
40 B. A court of competent jurisdiction in this State orders
42 the production of the data;
44 C. For purposes of improving motor vehicle safety, security
46 or traffic management, including medical research on the
48 human body's reaction to motor vehicle crashes, as long as
 the identity of the owner or driver is not disclosed in
 connection with that retrieved data. For the purposes of
 this paragraph, the disclosure of the vehicle identification
 number with the last 4 digits deleted does not constitute
 the disclosure of the identity of the owner or driver;

2 D. The data are retrieved by a licensed motor vehicle
3 dealer or by an automotive technician for the purpose of
4 diagnosing, servicing or repairing the motor vehicle;

6 E. The data are retrieved for the purpose of determining
7 the need for or facilitating emergency medical response in
8 the event of a motor vehicle crash;

10 F. The data are retrieved by a law enforcement officer
11 acting pursuant to authority recognized under applicable
12 statutory or constitutional law; or

14 G. The data are requested as part of routine civil or
15 criminal discovery.

16 **2. Release of data prohibited; exceptions.** A person,
17 including a service or data processor operating on behalf of such
18 person, authorized to download or otherwise retrieve data from
19 the event data recorder pursuant to subsection 1, paragraph C may
20 not release the data except:

22 A. For the purpose of motor vehicle safety and medical
23 research communities to advance motor vehicle safety,
24 security or traffic management; or

26 B. To a data processor solely for the purposes permitted by
27 this subsection only if the identity of the owner or driver
28 is not disclosed.

30 **3. Disclosure by subscription services.** If a motor vehicle
31 is equipped with an event data recorder that is capable of
32 recording or transmitting information described in section 1971,
33 subsection 1 and that capability is part of a subscription
34 service, the fact that the information may be recorded or
35 transmitted must be disclosed in the subscription service
36 agreement.

38 **4. Application concerning subscription services.**
39 Subsection 1 does not apply to subscription services meeting the
40 requirements of subsection 3.

42 **5. Duty to cooperate.** Nothing in this subchapter affects
43 an insured's duty to cooperate as provided in an applicable
44 insurance contract or agreement.

46 **§1973. Disclosure by manufacturer**

48 A manufacturer of a new motor vehicle sold or leased in this
49 State that is equipped with one or more event data recorders,
50 including those known as "sensing and diagnostic modules," shall
disclose that fact in the owner's manual for the motor vehicle.'

SUMMARY

This amendment replaces the bill.

This amendment provides that data recorded by an event data recorder in a motor vehicle are the property of the owner of the motor vehicle and may not be downloaded or accessed by anyone other than the owner, with certain exceptions. The exceptions are:

1. The owner of the motor vehicle or the owner's agent or legal representative consents to the retrieval of the information;

2. A court of competent jurisdiction in this State orders the production of the data;

3. For purposes of improving motor vehicle safety, security or traffic management, including medical research on the human body's reaction to motor vehicle crashes, as long as the identity of the owner or driver is not disclosed in connection with that retrieved data;

4. The data are retrieved by a licensed motor vehicle dealer or by an automotive technician for the purpose of diagnosing, servicing or repairing the motor vehicle;

5. The data are retrieved for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle crash;

6. The data are retrieved by a law enforcement officer acting pursuant to authority recognized under applicable statutory or constitutional law; and

7. The data are requested as part of routine discovery.

If the event data recorder is capable of recording or transmitting the motor vehicle's location as part of a subscription service, that information must be disclosed in the subscription service agreement. The limitation on the downloading and accessing of data does not apply to subscription services meeting the service subscription agreement disclosure requirement.

The manufacturer of a new motor vehicle that contains an event data recorder and that is sold or leased in this State shall disclose the presence of the event data recorder in the owner's manual for that motor vehicle.

COMMITTEE AMENDMENT "A" to H.P. 1325, L.D. 1885

2 Insurance policies require the insured to cooperate with the
insurer in the investigation of any accident or claim under the
4 policy. This amendment makes it clear that this duty is not
affected by the new provisions.