

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2006

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Legislative Document

No. 1885

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H.P. 1325

House of Representatives, January 3, 2006

### **An Act To Protect Drivers' Privacy by Clarifying Ownership of Data Recorded by Motor Vehicle Data Recorders**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 28, 2005. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PELLETIER-SIMPSON of Auburn.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 10 MRSA §1192**, as enacted by PL 1989, c. 51, is amended to read:

6 **§1192. Disclosure requirements**

8 No A dealer may not sell or offer to sell any new motor vehicle unless the dealer affixes to the windshield or side window of the motor vehicle the following written disclosures:

12 1. **Manufacturer's suggested retail price.** The manufacturer's suggested retail price;

14 2. **Manufacturer's suggested price on options.** The retail delivered price suggested by the manufacturer for each accessory or item of optional equipment, physically attached to the motor vehicle at the time of its delivery to the dealer, which that is not included in the price of the motor vehicle as stated pursuant to subsection 1;

22 3. **Transportation charges.** The amount, if any, charged to the dealer for transportation of the motor vehicle to the location at which it is delivered to the dealer; and

26 4. **Total amount.** The total of the amounts specified pursuant to subsections 1, 2 and 3; and

28 5. **Motor vehicle data recorder.** The presence of a motor vehicle data recorder on the vehicle, including the type of motor vehicle data recorder and the type of data that is stored on the motor vehicle data recorder. For purposes of this subsection, "motor vehicle data recorder" has the same meaning as in Title 29-A, section 2651, subsection 2.

36 **Sec. 2. 29-A MRSA c. 23, sub-c. 7** is enacted to read:

38 **SUBCHAPTER 7**

40 **MOTOR VEHICLE DATA RECORDERS**

42 **§2651. Definitions**

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

46 1. **Data.** "Data" means vehicle performance and status information stored in a motor vehicle data recorder.

2            2. Motor vehicle data recorder. "Motor vehicle data  
3 recorder" means:

4            A. A factory-installed device in a motor vehicle that  
5 records, stores, transmits or dispenses any of the following  
6 information:

7                    (1) Engine speed;

8                    (2) Vehicle location or location history;

9                    (3) Brake performance;

10                   (4) Steering performance;

11                   (5) Airbag deployment or status;

12                   (6) Seatbelt restraint status;

13                   (7) Accelerator position; or

14                   (8) Other technical information regarding vehicle  
15 dynamics and system status; and

16            B. A sensing and diagnostic module in a motor vehicle  
17 manufactured by any automobile manufacturer.

18            3. Owner. "Owner" means a person or entity:

19                   A. In whose name a motor vehicle is registered or titled;

20                   B. Who leases a motor vehicle for at least 3 months; or

21                   C. Who is entitled to possession of a motor vehicle as the  
22 purchaser under a security agreement.

23            **§2652. Privacy of motor vehicle data recorder data; exceptions**

24                   1. Ownership; access. Except as otherwise provided in this  
25 section, the data stored on a motor vehicle data recorder:

26                   A. Is private;

27                   B. Is exclusively owned by the owner of the motor vehicle;  
28 and

29                   C. May not be retrieved or used by any person or entity  
30 other than the owner.

2           **2. Ownership of vehicle; consent.**   Consent to access data  
3           on a motor vehicle data recorder is governed by this subsection.

4           A. If the motor vehicle is owned by one owner, then the  
5           data may not be retrieved or used without the written  
6           consent in the form of a release signed by that owner that  
7           authorizes a person or entity to retrieve or use the data.

8           B. If a motor vehicle is owned by more than one person or  
9           entity, then the data may not be retrieved or used without  
10           written consent of all the owners in the form of a release  
11           that authorizes a person or entity to retrieve or use the  
12           data.

13           A release to a person or entity under this subsection is limited  
14           to permission for data collection and compilation only and does  
15           not authorize the release of information that identifies the  
16           owner of the vehicle.

17           **3. Ownership of data in case of accident.**   If a motor  
18           vehicle equipped with a motor vehicle data recorder is involved  
19           in an accident in this State, the owner of the motor vehicle at  
20           the time of the accident owns and retains exclusive ownership  
21           rights to the data.

22           **4. Lienholder or insurer ownership.**   Ownership of the data  
23           does not pass to a lienholder or to an insurer because the  
24           lienholder or insurer succeeds in ownership to the vehicle as a  
25           result of an accident.

26           A. The data may not be used by a lienholder or an insurer  
27           for any reason without written consent as provided in  
28           subsection 2 in the form of a release signed by the owner of  
29           the motor vehicle at the time of the accident that  
30           authorizes the lienholder or insurer to retrieve or use the  
31           data.

32           B. A lienholder or insurer may not make payment or  
33           settlement of an obligation or claim conditioned upon the  
34           owner's consent to the retrieval or use of the data.

35           **5. Data access without owner's consent.**   Notwithstanding  
36           subsections 1, 2 and 3, the data from a motor vehicle data  
37           recorder of a motor vehicle involved in an accident may be  
38           accessed without the consent of the owner at the time of the  
39           accident if:

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

2           B. A law enforcement officer obtains the data based on  
probable cause of an offense under the laws of this State; or

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

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10           6. Access to data by department. Notwithstanding  
subsections 1 and 2, the department may obtain data from a motor  
12           vehicle data recorder if the data is used solely for the  
following purposes:

14           A. Preclearing weigh stations;

16           B. Automating driver records of duty status as authorized  
by the United States Department of Transportation;

18           C. Replacing handwritten reports for any fuel tax reporting  
20           or other mileage reporting purpose; or

22           D. Complying with a state or federal law.

24           7. Use of data in criminal or civil matter.  
26           Notwithstanding any other provision of this section, data from a  
motor vehicle data recorder may not be used as evidence in a  
28           civil or criminal matter pending before a court of this State if  
the original manufacturer's warranty of the motor vehicle has  
30           expired.

32           8. Exceptions. This section does not apply to the use of  
data from a motor vehicle data recorder:

34           A. To determine the need for or to facilitate emergency  
36           medical care for the driver or passenger of a motor vehicle  
that is involved in a motor vehicle accident or other  
38           emergency, including obtaining data from a company that  
provides subscription services to the owners of motor  
40           vehicles for in-vehicle safety and security communications  
systems;

42           B. To facilitate medical research of the effect of motor  
vehicle crashes on the human body as long as:

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

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

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C. To diagnose, service or repair a motor vehicle.

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**SUMMARY**

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This bill, based on Arkansas law, governs the use of data from motor vehicle data recorders. This bill:

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1. Specifies that the data is the private and exclusive property of the owner of the motor vehicle;

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2. Specifies what type of consent is required and from whom in order to obtain access to the data;

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3. Allows the data to be accessed only in certain situations, such as:

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A. When necessary to facilitate emergency medical care for the owner or passenger of a vehicle involved in a motor vehicle accident;

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B. When ordered by a court;

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C. When a law enforcement officer has probable cause to believe that an offense of Maine law has occurred;

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D. For research purposes, as long as there is no identification of the owner or operator of the motor vehicle; and

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E. For the purpose of diagnosing, servicing or repairing a motor vehicle;

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4. Prohibits a lienholder or insurer who obtains ownership of the vehicle after an accident from accessing the data without consent of the owner or withholding an insurance payment unless consent is given;

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5. Allows the Department of Transportation to access the motor vehicle data recorder for purposes related to preclearing weigh stations, automating driver records of duty status replacing handwritten reports for mileage reporting or complying with state or federal law;

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6. Requires a seller or manufacturer of a motor vehicle equipped with a motor vehicle data recorder to inform the buyer, in writing, of the presence on the vehicle of a motor vehicle data recorder and the type of data captured by the motor vehicle data recorder; and

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2           7. Prohibits the admission into evidence in a civil or  
criminal matter of data from a motor vehicle data recorder if the  
original manufacturer's warranty of the motor vehicle has expired.