

SENATE, No. 471

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

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District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Requires disclosure of data recording devices in motor vehicles; limits access to recorded data.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 9/24/2020)

1 **AN ACT** concerning motor vehicle data recording devices and
2 supplementing Title 39 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. As used in this act:

8 “Owner” means a person having all the incidents of ownership,
9 including the legal title of a vehicle whether or not such person
10 lends, rents, or creates a security interest in the vehicle; a person
11 entitled to the possession of a vehicle as the purchaser under a
12 security agreement; or a person entitled to possession of the vehicle
13 as the lessee pursuant to a written lease agreement, provided such
14 agreement at inception is for a period in excess of three months.

15 “Recorded data” means the data stored or preserved
16 electronically in a recording device identifying performance or
17 operation information about the motor vehicle including, but not
18 limited to the: speed of the motor vehicle or the direction in which
19 the vehicle is traveling, or both; vehicle location data; vehicle
20 steering performance; vehicle brake performance including, but not
21 limited to, whether brakes were applied before a crash; driver's
22 seatbelt status; and information concerning a crash in which the
23 motor vehicle has been involved, including the ability to transmit
24 such information to a central communications system.

25 “Recording device” means an electronic system, and the physical
26 device or mechanism containing the electronic system, that
27 primarily, or incidental to its primary function, preserves or records,
28 in electronic form, data collected by sensors or provided by other
29 systems within the vehicle. A recording device includes event data
30 recorders, sensing and diagnostic modules, electronic control
31 modules, automatic crash notification systems, geographic
32 information systems, and any other device that records and
33 preserves data that can be accessed related to that vehicle.

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35 2. A manufacturer of a new motor vehicle that is equipped with
36 a recording device, installed by the manufacturer and sold or leased
37 in this State, shall disclose that fact in or along with the owner's
38 manual for the vehicle.

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40 3. a. Recorded data shall only be accessed by the motor
41 vehicle owner, or with the consent of the motor vehicle owner or
42 the owner's agent or legal representative, except as provided
43 pursuant to subsection b. of this section.

44 b. Recorded data may be downloaded or otherwise retrieved by
45 a person other than the owner of the motor vehicle:

46 (1) if the owner of the motor vehicle or the owner's agent or
47 legal representative has a contract with a third-party subscription

1 service that requires access to a recording device or recorded data in
2 order to perform the contract, so long as the subscription service
3 contract includes a disclosure pursuant to section 4 of
4 P.L. , c. (C.) (pending before the Legislature as this bill)
5 and the recorded data is only accessed and used in accordance with
6 the contract;

7 (2) upon order by a court of competent jurisdiction or another
8 administrative authority having jurisdiction to issue such an order;

9 (3) if the recorded data is accessed by an emergency response
10 provider and is used for the sole purpose of determining the need
11 for or facilitating an emergency medical response in the event of a
12 motor vehicle crash and assisting them in performing their duties as
13 emergency response providers;

14 (4) if a motor vehicle repair or servicing facility, including a
15 licensed new motor vehicle dealer, or a technician or mechanic at
16 such a facility, requires access to recorded data in order to carry out
17 normal and ordinary diagnosing, servicing, and repair duties and the
18 recorded data is used for the sole purpose of performing such
19 duties; or

20 (5) for the purpose of improving motor vehicle safety, security,
21 or traffic management, including for medical research of the human
22 body's reaction to motor vehicle crashes, provided that the identity
23 of the registered owner or driver is not disclosed in connection with
24 that retrieved data. For purposes of this paragraph, the disclosure of
25 the vehicle identification number with the last four digits deleted
26 does not constitute the disclosure of the identity of the registered
27 owner or driver.

28 c. A person, including a service or data processor operating on
29 behalf of an emergency response provider authorized to download
30 or otherwise retrieve data from a recording device pursuant to
31 paragraph (3) of subsection b. of this section, may not release that
32 data, except for the purposes of motor vehicle safety and medical
33 research communities to advance motor vehicle safety, security or
34 traffic management, or to a data processor solely for the purpose
35 permitted by this subsection, and only if the identity of the owner or
36 driver is not disclosed.

37 d. The consent of the motor vehicle owner, or the owner's
38 agent or legal representative, for use of recorded data for purposes
39 of investigating a motor vehicle accident or insurance claim shall
40 not be requested or obtained until after the event giving rise to the
41 claim has occurred, and shall not be made a condition of the
42 defense, payment or settlement of an obligation or claim. For
43 underwriting and rating purposes, the motor vehicle owner may
44 provide consent either directly to the insurer or through and as
45 certified by a named insured.

46 e. No person or facility, allowed to retrieve recorded data
47 pursuant to paragraph (4) of subsection b. of this section, may

1 transmit or otherwise convey the recorded data to a third party
2 unless necessary to carry out their duties thereunder.

3 4. Any subscription service for a motor vehicle equipped with a
4 recording device that is capable of recording vehicle location data,
5 or information concerning a crash in which the motor vehicle has
6 been involved that is transmitted to a central communications
7 system, shall disclose, in the subscription service agreement or
8 contract for the service, that such information may be recorded or
9 transmitted.

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11 5. After a crash event that resulted in bodily injury or death, no
12 person shall knowingly alter or delete data on a recording device, or
13 knowingly destroy a recording device, unless a reasonable amount
14 of time sufficient for a law enforcement officer to obtain a search
15 warrant has transpired.

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17 6. a. No insurer shall refuse to renew a motor vehicle
18 insurance policy solely because of the refusal of a motor vehicle
19 owner to provide consent or access to recorded data from a
20 recording device, pursuant to section 3 of P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22 b. No insurer or agent shall reduce coverage, increase the
23 insured's premium, apply a surcharge, refuse to apply a discount
24 other than a discount that is based on data recorded by a recording
25 device, place in a less favorable tier, refuse to place in the
26 company's best tier, or when there are multiple companies available
27 within a group of insurers, fail to place in the most favorably priced
28 company solely because a motor vehicle owner refuses to allow an
29 insurer access to recorded data from a recording device. However,
30 nothing in this section shall prohibit an insurer from charging an
31 actuarially sound rate in accordance with any existing law, rule, or
32 regulation.

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34 7. This act shall take effect immediately, except section 2 shall
35 take effect on the first day of the month in which the manufacturer
36 introduces the new model year motor vehicle that occurs at least six
37 months after the date of enactment.

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STATEMENT

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42 This bill would require the disclosure of data recording devices,
43 such as event data recorders, in motor vehicles, and further limit
44 access to recorded data.

45 Specifically, at least six months after the bill's effective date and
46 upon introduction of a new model year motor vehicle, a
47 manufacturer of a new motor vehicle that is equipped with a

1 recording device must disclose that fact in or along with the
2 owner's manual for the vehicle. Any subscription service for a
3 motor vehicle equipped with a recording device that is capable of
4 recording vehicle location data, or information concerning a crash
5 in which the motor vehicle has been involved that is transmitted to a
6 central communications system, must also disclose that such
7 information may be recorded or transmitted.

8 Section 3 of the bill provides that recorded data may only be
9 accessed by the motor vehicle owner, or with the consent of the
10 motor vehicle owner or the owner's agent or legal representative,
11 except:

12 (1) if the owner of the motor vehicle or the owner's agent or
13 legal representative has a contract with a third-party subscription
14 service that requires access to a recording device or recorded data in
15 order to perform the contract, so long as the subscription service
16 contract includes a disclosure and the recorded data is only accessed
17 and used in accordance with the contract;

18 (2) upon order by a court of competent jurisdiction or another
19 administrative authority having jurisdiction to issue such an order;

20 (3) if the recorded data is accessed by an emergency response
21 provider and is used for the sole purpose of determining the need
22 for or facilitating an emergency medical response in the event of a
23 motor vehicle crash and assisting them in performing their duties as
24 emergency response providers;

25 (4) if a motor vehicle repair or servicing facility, including a
26 licensed new motor vehicle dealer, or a technician or mechanic at
27 such a facility, requires access to recorded data in order to carry out
28 normal and ordinary diagnosing, servicing, and repair duties and the
29 recorded data is used for the sole purpose of performing such
30 duties; or

31 (5) for the purpose of improving motor vehicle safety, security,
32 or traffic management, including for medical research of the human
33 body's reaction to motor vehicle crashes, provided that the identity
34 of the registered owner or driver is not disclosed in connection with
35 that retrieved data.

36 The bill prohibits a person from knowingly altering or deleting
37 data on a recording device, or knowingly destroying a recording
38 device, after a crash event that resulted in bodily injury or death,
39 within a reasonable amount of time sufficient for a law enforcement
40 officer to obtain a search warrant.

41 Furthermore, no insurer could refuse to renew a motor vehicle
42 insurance policy solely because of the refusal of a motor vehicle
43 owner to provide consent or access to recorded data from a
44 recording device. No insurer or agent could reduce coverage,
45 increase the insured's premium, apply a surcharge, refuse to apply a
46 discount other than a discount that is based on data recorded by a
47 recording device, place in a less favorable tier, or refuse to place in
48 the company's best tier. When there are multiple companies

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- 1 available within a group of insurers, the bill prohibits insurers from
- 2 failing to place in the most favorably priced company solely
- 3 because a motor vehicle owner refuses to allow an insurer access to
- 4 recorded data from a recording device.