

**HOUSE . . . . . No. 3348**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act regulating the use of recording devices in motor vehicles..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 90 of the General Laws, as appearing 2006 Official Edition, is  
2 hereby amended by inserting after section 9D the following section:—

3 Section 9E.

4 (a) As used in this section, the following words shall have the following meanings:—

5 (1) “Recording device”, a device that is installed by the manufacturer of the vehicle and  
6 does 1 or more of the following, for the purpose of retrieving data after an accident:

7 (i) records vehicle speed and direction,

8 (ii) records vehicle location data,

9 (iii) records vehicle steering performance,

10 (iv) records brake performance, including, but not limited to, whether brakes were  
11 applied before an accident,

12 (v) records the driver's seatbelt status,  
13 (vi) records whether the air bag deployed,  
14 (vii) has the ability to transmit information concerning an accident in which the motor  
15 vehicle has been involved to a central communications system when an accident occurs.

16 (2) "Owner", any of the following:—

17 (i) A person having all the incidents of ownership, including the legal title of a vehicle  
18 regardless of whether the person lends, rents, or creates a security interest in the vehicle.

19 (ii) A person entitled to the possession of a vehicle as the purchaser under a security  
20 agreement.

21 (iii) The person entitled to possession of the vehicle as lessee under a written lease  
22 agreement, if the agreement at inception is for a period of more than 3 months.

23 (b) (1) A manufacturer of a new motor vehicle sold or leased in the commonwealth,  
24 which is equipped with one or more recording devices commonly referred to as "event data  
25 recorders", including "sensing and diagnostic modules," shall disclose the presence, capacity,  
26 and capabilities of the recording devices in the owner's manual for the vehicle.

27 (2) A motor vehicle dealer shall include within the purchase contract in a clear and  
28 conspicuous manner information on the possibility of the presence of a recording device.

29 (3) Clear and conspicuous information on the possibility of the presence of a recording  
30 device shall be affixed by a sticker to a window of each new motor vehicle offered for sale or  
31 lease in the commonwealth.

32 (c) (1) (i) If a motor vehicle is equipped with a recording device and is involved in an  
33 accident, the owner of the motor vehicle at the time the data is created shall own and retain  
34 exclusive ownership rights to the data.

35 (ii) The ownership of the data shall not pass to a lienholder or to an insurer because the  
36 lienholder or insurer succeeds in ownership to the vehicle as a result of the accident.

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

40 (3) A lienholder or insurer shall not make the owner's consent to the retrieval or use of  
41 the data conditioned upon the payment or settlement of an obligation or claim.

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

45 (d) Data described in paragraph (1) of subdivision (a) that is recorded on a recording  
46 device may not be downloaded or otherwise retrieved by a person other than the owner of the  
47 motor vehicle, except under one of the following circumstances:-

48 (1) The owner of the motor vehicle knowingly and voluntarily consents to the retrieval of  
49 the information at the time the data is accessed.

50 (2) In response to an order of a court having jurisdiction to issue the order.

51 (3) For the purpose of improving motor vehicle safety, including for medical research of  
52 the human body's reaction to motor vehicle accidents, and provided the identity of the owner or

53 driver is not disclosed in connection with the retrieved data. The disclosure of the vehicle  
54 identification number with the last 6 digits deleted or redacted does not constitute the disclosure  
55 of the identity of the owner or driver.

56 (4) The data is retrieved by a licensed new motor vehicle dealer, or by an automotive  
57 technician for the purpose of diagnosing, servicing, or repairing the motor vehicle.

58 (5) The data is retrieved for the purpose of determining the need for or facilitating  
59 emergency medical response in the event of a motor vehicle accident.

60 (e) A person, including a service or data processor operating on behalf of such a person,  
61 authorized to download or otherwise retrieve data from a recording device pursuant to paragraph  
62 (3) of subdivision (d), may not release that data, except:-

63 (1) for the purposes of motor vehicle safety, security, or traffic management; or

64 (2) to a data processor solely for the purposes permitted by subsection (e), and only if the  
65 identity of the owner or driver is not disclosed.

66 (f) (1) If a motor vehicle is equipped with a recording device that is capable of recording  
67 or transmitting information as described in subdivision (a) and that capability is part of a  
68 subscription service, the fact that the information may be recorded or transmitted shall be  
69 disclosed in the subscription service agreement.

70 (2) Subdivision (d) shall not apply to subscription services meeting the requirements of  
71 paragraph (1).

72 (g) Any violation of the provisions of subdivisions (b) and (f) shall be deemed to be an  
73 unfair and deceptive trade practice, as defined in section 2 of chapter 93A.

74           SECTION 2. This act, except subsection (b), shall apply to all motor vehicles containing  
75 a recording device. Subsection (b) shall apply to all motor vehicles containing a recording device  
76 manufactured on or after January 1, 2010.