

2015 DRAFTING REQUEST

Bill

Received: 1/22/2016 Received By: emueller
For: Duey Stroebel (608) 266-7513 Same as LRB: -4645
May Contact: By/Representing: Ethan
Subject: Insurance - auto Drafter: emueller
Transportation - mot veh dealers Addl. Drafters: pkahler
Transportation - motor vehicles

Extra Copies:

Submit via email: YES
Requester's email: Sen.Stroebel@legis.wisconsin.gov
Carbon copy (CC) to: eric.mueller@legis.wisconsin.gov
zachary.wyatt@legis.wisconsin.gov
tamara.dodge@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Regulation of black boxes (event data recorders) in motor vehicles and prohibiting certain insurance practices related to accessing information in event data recorders

Instructions:

15-2655 with modifications

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 1/22/2016	knochall 1/22/2016	_____			
/1			_____	sbasford 1/22/2016	mbarman 2/1/2016	State

FE Sent For:

at
intro

<END>

Mueller, Eric

From: Hollenberger, Ethan
Sent: Friday, January 22, 2016 10:12 AM
To: Mueller, Eric
Subject: Black Box Bill Changes

Importance: High

Hi Eric,

A week or so ago, I sent some final changes for our black box bill. I haven't heard from you. I wanted to make sure you got those.

At this point, we need a draft today if possible.

Changes:

Make the section concerning the DOT and buyer's guide effective July 1, 2016. The rest of the bill can have an applicability date of effective immediately. (added to Section 6)

Section 3 change penalty to shall be required to forfeit not less than \$200 nor more than \$2000 per occurrence.

Section 4 eliminate

Page 5 line 18 after "accident" eliminate through line 21. (No three minute restriction)

Add an exemption for data accessed by a licensed motor vehicle dealer, or by an automotive technician for the purposes of diagnosing, serving or repairing the motor vehicle. Data may not be kept without written consent.

Thank you,
Ethan

Ethan J. Hollenberger
Office of Senator Duey Stroebel
(608) 266-7513

per Ethan, by phone 1-22-16

OK to remove all of sub. (4) of s. 632.375

s. 347.375 (2) already applies to insurer and removing just the last sentence of sub (4) would make an exception for usage-based policies so that such an insurer could not request access & inconsistent w/ s. 347.375(2)(c)



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2655/P5 4539/1
EVM&PJK:klm&wlj

2015 Bill

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

INSERT

1/22/16

Today

Regenerate
statutes

- 1 AN ACT *to amend* 347.50 (1); and *to create* 218.0152 (4), 347.375, 347.50 (1g)
- 2 and 632.375 of the statutes; **relating to:** motor vehicle event data recorders,
- 3 prohibited insurance practices related to accessing or using information
- 4 collected by event data recorders, and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

This bill regulates the use of event data recorders (EDRs) in motor vehicles and prohibits certain insurance practices on the basis of whether an insured under a motor vehicle liability insurance policy authorizes the insurer to access or use information collected by an EDR.

This bill prohibits, with certain exceptions, any person from accessing, collecting, or transferring information stored on an EDR equipped to a motor vehicle unless the person discloses the intended use of the information and receives the written consent of an owner of the vehicle. A person who violates the disclosure requirements or the prohibition on access, collection, or transfer of EDR information may be fined not more than \$10,000 or imprisoned for not more than nine months, or both. If the offense involves the transfer of personally identifiable information, the person may be fined no more than \$20,000 or imprisoned for not more than nine months, or both.

Also under this bill, the Department of Transportation (DOT) must require a statement as to whether the vehicle is equipped with an EDR to be displayed on any guide DOT requires to be displayed on used motor vehicles displayed or offered for sale by a motor vehicle dealer.

required to forfeit not less than \$200 nor more than \$2,000

installed in

The bill prohibits an insurer from conditioning the issuance or renewal of a motor vehicle liability insurance policy on whether the insured vehicle or vehicle to be insured is equipped with an EDR or whether, if it is so equipped, the insured or applicant for insurance authorizes the insurer to access or use information collected by the EDR. The bill also prohibits an insurer from canceling a motor vehicle liability insurance policy, excluding or limiting coverage under a motor vehicle liability insurance policy, or denying a claim under a motor vehicle liability insurance policy, on the basis of whether the insured vehicle is equipped with an EDR or whether, if it is so equipped, the insured authorizes the insurer to access or use information collected by the EDR. However, the bill permits an insurer to request that an insured whose vehicle is equipped with an EDR allow the insurer to access and use information collected by the EDR for purposes of investigating an accident. (If the insured gives written consent, the information that the insurer may use is limited to information collected within three minutes before and three minutes after an accident.) The bill makes an exception from these prohibitions and limitations for a usage-based motor vehicle liability insurance policy, which is an insurance policy for which the premium is based on the active, digital monitoring of how the insured drives.

FE: S

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 218.0152 (4) of the statutes is created to read:
 2 218.0152 (4) Any guide required by the department of transportation to be
 3 displayed on used motor vehicles displayed or offered for sale by a motor vehicle
 4 dealer shall include a statement as to whether the vehicle is equipped with an event
 5 data recorder, as defined in s. 347.375 (1) (a).

6 **SECTION 2.** 347.375 of the statutes is created to read:
 7 **347.375 Event data recorders. (1)** In this section:

8 (a) “Event data recorder” means a device installed in a motor vehicle for the
 9 purposes of recording or transmitting information about the motor vehicle, including
 10 a device that performs any of the following functions:

- 11 1. Recording the direction and rate of speed at which the motor vehicle travels.
- 12 2. Recording the locations to which the motor vehicle travels.

1 3. Recording information concerning steering performance.

2 4. Recording information concerning brake performance, including whether
3 the brake was applied before an accident.

4 5. Recording information regarding safety belt usage.

5 6. Transmitting information concerning an accident to a central
6 communications system.

7 (b) Notwithstanding s. 340.01 (42), "owner" means, with respect to a vehicle
8 that is leased to a lessee for a period of 3 months or more, the lessee.

9 (c) "Usage-based motor vehicle liability insurance policy" has the meaning
10 given in s. ~~632.375~~ (1) (b). → 632.367

11 (2) No person may access, collect, or transfer information stored on an event
12 data recorder ^{installed in} ~~equipped on~~ a motor vehicle unless the person discloses the intended
13 use of the information to an owner and receives the written consent of an owner,
14 except for any of the following:

15 (a) To effectuate a court order.

16 (b) In the provision of a service for which an owner has contracted, if the
17 information to be accessed or transferred is described in the contract for the service.

18 (c) To obtain vehicle use information in connection with a usage-based motor
19 vehicle liability insurance policy and for which consent was given at the time the
20 policy was entered into.

21 (d) For the department or any law enforcement agency to transfer information,
22 including personally identifiable information, as defined in s. 19.62 (5), to an insurer,
23 insurance support organization, or self-insured entity, or to the agents, employees,
24 or contractors of an insurer, insurance support organization, or self-insured entity,

1 in connection with claims investigation activities, antifraud activities, rating, or
2 underwriting.

INS
4-2

****NOTE: This exception uses language from the Driver's Privacy Protection Act slightly reworded to avoid ambiguity. The exception does not address law enforcement accessing or collecting data from EDRs. Please let me know if you want any changes.

3 SECTION 3. 347.50 (1) of the statutes is amended to read:

4 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.375, s.
5 347.385 (5), s. 347.413 (1) or s. 347.415 (1m), (2) and (3) to (5) or s. 347.417 (1) or s.
6 347.475 or s. 347.48 (2m) or (4) or s. 347.489, may be required to forfeit not less than
7 \$10 nor more than \$200.

8 SECTION 4. 347.50 (1g) of the statutes is created to read:

9 347.50 (1g) (a) (Except as provided in par. (b),) any person violating s. 347.375

10 (2) may (fined not) more than \$10,000 or imprisoned for not more than 9 months, or

11 both. \$2,000

12 (b) If a violation of s. 347.375 (2) involves the transfer of personally identifiable
13 information, as defined in s. 19.62 (5), the violator may be fined not more than
14 \$20,000 or imprisoned for not more than 9 months, or both.

15 SECTION 5. ~~632.375~~ of the statutes is created to read:

632.367
632.375
632.367

16 ~~632.375~~ Prohibited practices based on access to event data recorder
17 information. (1) DEFINITIONS. In this section:

18 (a) "Event data recorder" has the meaning given in s. 347.375 (1) (a).

19 (b) "Usage-based motor vehicle liability insurance policy" means a motor
20 vehicle liability insurance policy for which the premium rate is based not only on
21 such factors as the type of vehicle and number of miles driven, but also on driving
22 habits and behaviors, such as where, when, and how the vehicle is driven, as shown
23 by the active, digital monitoring of such habits and behaviors.

be required to forfeit not less than \$200 nor

1 (2) POLICY ISSUANCE OR RENEWAL. An insurer may not condition the issuance or
2 renewal of a motor vehicle liability insurance policy wholly or substantially on
3 whether the motor vehicle insured or to be insured under the policy is equipped with
4 an event data recorder or, if the vehicle is equipped with an event data recorder, on
5 whether the insured or applicant for insurance authorizes the insurer to have access
6 to or use information collected by the event data recorder.

7 (3) POLICY CANCELLATION OR COVERAGE EXCLUSION, LIMITATION, OR DENIAL. An
8 insurer may not cancel a motor vehicle liability insurance policy, exclude or limit
9 coverage under a motor vehicle liability insurance policy, or deny a claim under a
10 motor vehicle liability insurance policy wholly or substantially on the basis of
11 whether the motor vehicle insured under the policy is equipped with an event data
12 recorder or, if the vehicle is equipped with an event data recorder, on the basis of
13 whether the insured authorizes the insurer to have access to or use information
14 collected by the event data recorder.

15 (4) ACCESS FOR ACCIDENT INVESTIGATION. If an insured motor vehicle is equipped
16 with an event data recorder, the insurer may request access to and use of the
17 information collected by the event data recorder for purposes of investigating an
18 accident. If the insured provides written consent for the insurer to access the event
19 data recorder information, the information that the insurer may use under this
20 subsection is limited to information collected by the data recorder not more than 3
21 minutes before the accident nor more than 3 minutes after the accident.

22 (5) EXCEPTION FOR USAGE-BASED POLICIES. Subsections (2) to (4) do not apply
23 with respect to a usage-based motor vehicle liability insurance policy.

24 **SECTION 6. Initial applicability.**

and (3)

1 (1) PROHIBITED INSURANCE PRACTICES. If a motor vehicle liability insurance
2 policy that is in effect on the effective date of this subsection contains a provision that
3 is inconsistent with the creation of section 632.375 (3) of the statutes, the creation
4 of section 632.375 (3) of the statutes first applies to that motor vehicle liability
5 insurance policy on the date on which it is renewed.

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(END)

632.367(3)

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4539/?ins
EVM:...

1 INS 4-2

2

3 (e) For a motor vehicle dealer, as defined in 218.0101 (23) (a), or person in the
4 business of maintenance or repair of motor vehicles to access information stored on
5 an event data recorder installed in a motor vehicle if the information is used solely
6 for diagnosing, servicing, or repairing the motor vehicle.

7

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8

9 **SECTION 1. Effective date.** This act takes effect on the day after publication,
10 except as follows:

11 (1) The treatment of section 218.0152 (4) of the statutes takes effect on July 1,
12 2016.

Barman, Mike

From: Hollenberger, Ethan
Sent: Monday, February 01, 2016 10:53 AM
To: LRB.Legal
Subject: Draft Review: LRB -4539/1

Please Jacket LRB -4539/1 for the SENATE.