
DIGEST

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HB 737 Reengrossed

2015 Regular Session

Ortego

Abstract: Provides for the ownership, disclosure, dissemination, retrieval, and retention of data located on recording devices in motor vehicles.

Proposed law (R.S. 32:691) defines accessed, custodian, owner, recorded data, and recording device.

Proposed law (R.S. 32:692(A)) requires a manufacturer of a new motor vehicle that is sold or leased in this state and that is equipped with a recording device to disclose that fact in the owner's manual of the vehicle. A disclosure in the owner's manual is a valid disclosure. Specifies that the provisions apply only to vehicles manufactured for 2008 and subsequent model years.

Proposed law (R.S. 32:692(B)) requires the manufacturer to disclose in the product manual the type of information that the recording device may record and whether the recording device has the ability to transmit recorded data to a central communications system or other external device. A disclosure in the product manual is a valid disclosure.

Proposed law (R.S. 32:692(C)) requires disclosure of recording device if the motor vehicle has a subscription agreement.

Proposed law (R.S. 32:693(A)(1)) mandates that the owner of the motor vehicle has exclusive rights to the recording device.

Proposed law (R.S. 32:693(A)(2)) provides that when the recorded data is not removed or separated from the motor vehicle, the ownership of the recorded data survives the sale of the motor vehicle to any non-beneficial owner, or other person who does not possess and use the motor vehicle for normal transportation purposes.

Proposed law (R.S. 32:693(B)) prohibits any person, other than the owner, from retrieving or accessing recorded data except when there is written consent by the owner; a court, judicial, or administrative order; for diagnosing, servicing, or repairing the vehicle; the dispatch of emergency medical personnel; probable cause related to the commission of an offense; improving motor vehicle safety, security, and traffic management; and for the original equipment manufacturer's internal safety and quality control. Proposed law specifies that the law enforcement exception does not apply to accident investigations.

Proposed law (R.S. 32:693(C)) prohibits an owner, insurer, or other person from deleting, erasing, manipulating, or otherwise making unavailable for access any recorded data when litigation is

reasonably anticipated.

Proposed law (R.S. 32:693(D)) prohibits an entity or person from transmitting or otherwise conveying the recorded data to a third party unless necessary to carry out their duties. The owner must have written notification identifying the name of the third party and reasons for disclosure.

Proposed law (R.S. 32:694) provides that custodian recorded data shall provide any recorded data or other information recorded, held, stored, maintained, or administered, to the owner of the motor vehicle, upon request, without a court order.

Proposed law (R.S. 32:695) prohibits the consent of the motor vehicle owner from being requested until after a claim arises, and specifies that it cannot be made a condition of the defense, payment, or settlement of an obligation or claim. Further provides that the motor vehicle owner may provide his consent either directly to the insurer or through and as certified by a named insured. In the event of a demand for coverage by the insured, the insured is required to comply with all contractual provisions within the insurance policy.

Proposed law (R.S. 32:696) provides that the failure of an insurer or owner to obtain access to the recorded data does not create an independent or private cause of action in favor of any person. Nothing in proposed law is construed to relieve the insurer or owner of the motor vehicle of the obligation to provide the recorded data in any litigation subject to the rights and remedies afforded to the parties by law.

Proposed law (R.S. 32:697) requires a manufacturer of a motor vehicle sold or leased in this state that is equipped with a recording device to ensure by licensing agreement or other means that tools are available that are capable of accessing and retrieving the recorded data stored in a recording device.

(Adds R.S. 32:691-697)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Make technical changes.
2. Delete provisions that defined recorded data and recording device and instead describes the elements that define recorded data and clarifies the definition of recording device.
3. Add a provision that specifies an original equipment manufacturer, in addition to a third party subscription service, could have a contractual relationship with an owner or owner's legal representative relative to accessing a recording device or recorded data.
4. Modify a provision that prescribes a court of competent jurisdiction to grant access to

- recorded data pursuant to discovery by broadening the application to a court, judicial, or administrative authority.
5. Add provisions that authorizes access to recorded data on a recording device when necessary to improve motor vehicle safety and for purposes of the original manufacturer's safety and quality control.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Clarify that "SIR" is "supplement inflatable restraint" warning lamp status.
3. Clarify that a disclosure in the owner's manual is deemed a valid disclosure.
4. Clarify that a disclosure in the product manual is deemed a valid disclosure.
5. Add an exception that proposed law regarding law enforcement access to recorded data is not applicable to accident investigations conducted by or involving law enforcement.
6. Clarify that law enforcement's access to recorded data is permissible in accordance with applicable criminal law.
7. Add a provision that requires the insured to comply with all contractual provisions within an insurance policy when there is a demand for coverage by the insured.
8. Clarify that proposed law relative to the failure to access recorded data is applicable to an insurer and owner of a motor vehicle.
9. Add a provision that prohibits an insurer or owner of a motor vehicle from being relieved of an obligation to provide recorded data in any litigation subject to the rights and remedies afforded to the parties by law.
10. Delete a provision that proscribes an insurer from refusing to renew a motor vehicle policy if an owner refuses to provide access to the recorded data on a recording device.
11. Delete a provision that proscribes an insurer from reducing coverage, increasing the insured's premium, or apply a discount if the owner of a motor vehicle refuses to provide access to the recorded data on a recording device.