

**HOUSE . . . . . No. 3660**

By Mr. Torrasi of North Andover, petition of David M. Torrasi and others relative to regulating the use of recording devices in motor vehicles. Transportation.

**The Commonwealth of Massachusetts**

PETITION OF:

David M. Torrasi	Douglas W. Petersen
Barbara A. L'Italien	Thomas P. Kennedy
Thomas M. McGee	Cleon H. Turner
Anthony J. Verga	John W. Scibak
Stephen R. Canessa	Jennifer M. Callahan
Gale D. Candaras	

In the Year Two Thousand and Seven.

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 2004
- 2 Official Edition, is hereby amended by inserting after section 9D the
- 3 following section:—
- 4 Section 9E. (a) As used in this section, the following words shall
- 5 have the following meanings:—
- 6 (1) “Recording device”, a device that is installed by the manufac-
- 7 turer of the vehicle and does 1 or more of the following, for the pur-
- 8 pose of retrieving data after an accident:—
- 9 (i) records vehicle speed and direction,
- 10 (ii) records vehicle location data,
- 11 (iii) records vehicle steering performance,
- 12 (iv) records brake performance, including, but not limited to,
- 13 whether brakes were applied before an accident,
- 14 (v) records the driver’s seatbelt status,
- 15 (vi) records whether the air bag deployed,

16 (vii) has the ability to transmit information concerning an acci-  
17 dent in which the motor vehicle has been involved to a central com-  
18 munications system when an accident occurs.

19 (2) “Owner”, any of the following:—

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

23 (ii) A person entitled to the possession of a vehicle as the pur-  
24 chaser under a security agreement.

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

28 (b) (1) A manufacturer of a new motor vehicle sold or leased in  
29 the commonwealth, which is equipped with one or more recording  
30 devices commonly referred to as “event data recorders”, including  
31 “sensing and diagnostic modules,” shall disclose the presence,  
32 capacity, and capabilities of the recording devices in the owner’s  
33 manual for the vehicle.

34 (2) A motor vehicle dealer shall include within the purchase con-  
35 tract in a clear and conspicuous manner information on the possi-  
36 bility of the presence of a recording device.

37 (3) Clear and conspicuous information on the possibility of the  
38 presence of a recording device shall be affixed by a sticker to a  
39 window of each new motor vehicle offered for sale or lease in the  
40 Commonwealth.

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

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

48 (2) The data shall not be used by a lienholder or an insurer for any  
49 reason without a written consent in the form of a release signed by  
50 the owner of the motor vehicle at the time of the accident that autho-  
51 rizes the lienholder or insurer to retrieve or use the data.

52 (3) A lienholder or insurer shall not make the owner’s consent to  
53 the retrieval or use of the data conditioned upon the payment or set-  
54 tlement of an obligation or claim.

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

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

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

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

68 (3) For the purpose of improving motor vehicle safety, including  
69 for medical research of the human body's reaction to motor vehicle  
70 accidents, and provided the identity of the owner or driver is not dis-  
71 closed in connection with the retrieved data. The disclosure of the  
72 vehicle identification number with the last 6 digits deleted or  
73 redacted does not constitute the disclosure of the identity of the  
74 owner or driver.

75 (4) The data is retrieved by a licensed new motor vehicle dealer,  
76 or by an automotive technician for the purpose of diagnosing, ser-  
77 vicing, or repairing the motor vehicle.

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

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

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

87 (2) to a data processor solely for the purposes permitted by sub-  
88 section (e), and only if the identity of the owner or driver is not dis-  
89 closed.

90 (f) (1) If a motor vehicle is equipped with a recording device that  
91 is capable of recording or transmitting information as described in  
92 subdivision (a) and that capability is part of a subscription service,

93 the fact that the information may be recorded or transmitted shall be  
94 disclosed in the subscription service agreement.

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

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

1 SECTION 2. This act, except subsection (b), shall apply to all  
2 motor vehicles containing a recording device. Subsection (b) shall  
3 apply to all motor vehicles containing a recording device manufac-  
4 tured on or after January 1, 2008.