

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

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

**David M. Torrasi**  
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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act regulating the use of recording devices in motor vehicles.

\_\_\_\_\_  
PETITION OF:

NAME: \_\_\_\_\_ | DISTRICT/ADDRESS: \_\_\_\_\_

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 3660 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and 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 hereby amended by  
2 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 does 1 or more  
6 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 applied before an  
11 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 vehicle has been  
15 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 regardless of  
18 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 agreement.

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

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

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

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

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

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

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

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

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

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

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

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

50 (3) For the purpose of improving motor vehicle safety, including for medical research of the human  
51 body's reaction to motor vehicle accidents, and provided the identity of the owner or driver is not  
52 disclosed in connection with the retrieved data. The disclosure of the vehicle identification number with  
53 the last 6 digits deleted or redacted does not constitute the disclosure of the identity of the owner or  
54 driver.

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

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

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

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

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

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

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

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

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