
DIGEST

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HB 737 Engrossed

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. 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. Specifies that such disclosure made in writing is deemed a disclosure in the product manual.

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 (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.

Proposed law (R.S. 32:696) provides that the failure of an insurer to obtain access to the recorded data does not create an independent or private cause of action in favor of any person.

Proposed law (R.S. 32:697(A)) prohibits an insurer from refusing to renew a motor vehicle insurance policy solely because an owner of a motor vehicle refuses to provide access to recorded data from a recording device.

Proposed law (R.S. 32:697(B)) prohibits an insurer from reducing coverage, increasing the insured's premium, applying a surcharge, refusing to apply a discount other than a discount that is based on data recorded by a recording device, placing in a less favorable tier, refusing to place in the company's best tier, or when there are multiple companies available within a group of insurers, failing to place in the most favorably priced company solely because a motor vehicle owner refuses to allow an insurer access to recorded data from a recording device.

Proposed law (R.S. 32:698) 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. 32:691-698)

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.