

Arkansas Code Title 27, Chapter 37, Subchapter 1, Section 103

27-37-103. Motor vehicle event data recorder -- Data ownership.

(a) As used in this section:

(1) "Authorized representative" means a person who is the attorney-in-fact for an owner or a person who has been appointed the administrator or personal representative of the estate of the owner;

(2) "Motor vehicle event data recorder" means a factory-installed feature in a motor vehicle that does one (1) or more of the following:

(A) Records, stores, transmits or dispenses any of the following information for the purpose of retrieval after a crash:

- (i) Vehicle speed;
- (ii) Vehicle direction;
- (iii) Vehicle location;
- (iv) Steering performance; or
- (v) Seatbelt restraint status.

(B) Has the capacity to transmit information concerning a crash in which the motor vehicle has been involved to a central communications system when a crash occurs; or

(C) Includes a sensing and diagnostic module, restraint control module, electronic throttle control or other similar component;

(3) "Owner" means a person or entity:

- (i) In whose name a motor vehicle is registered or titled;
- (ii) Who leases a motor vehicle for at least three (3) months;
- (iii) Who is entitled to possession of the motor vehicle as the purchaser under a security agreement; or
- (iv) Who is the authorized representative of the owner.

(b) At the time of new vehicle purchase by a consumer from a dealership, an owner of a motor vehicle shall be given written notice by the seller or manufacturer that includes the following:

- (1) The presence of the motor vehicle event data recorder in the motor vehicle;
- (2) The type of motor vehicle event data recorder in the motor vehicle; and
- (3) The type of data that is recorded, stored, or transmitted on the motor vehicle event data recorder.

(c) Except as specifically provided under subsections (d), (f), (g), (h) and (i) of this section, the data on a motor vehicle event data recorder:

- (1) Is private;
- (2) Is exclusively owned by the owner of the motor vehicle; and
- (3) Shall not be retrieved or used by another person or entity.

(d) If a motor vehicle is owned by one (1) owner, then the owner of a motor vehicle may provide written consent in the form of a release signed

(1) By the owner that authorizes a person or entity to retrieve or use the data.

(2) If a motor vehicle is owned by more than one (1) person or entity and if all owners agree to release the data, then all owners must consent in writing by signing a release to authorize a person or entity to retrieve or use the data.

(3) A release to a person or entity under this subsection shall be limited to permission for data collection and compilation only and shall not authorize the release of information that identifies the owner of the vehicle.

(e)(1)(A) If a motor vehicle is equipped with a motor vehicle event data recorder and is involved in an accident in Arkansas, the owner of the motor vehicle at the time the data is created shall own and retain exclusive ownership rights to the data.

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

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

(3) A lienholder or insurer shall not make the owner's consent to the retrieval or use of the data conditioned upon the payment or settlement of an obligation or claim; however, the insured is required to comply with all policy provisions including any provision that requires the insured to cooperate with the insurer.

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

(f) Except as specifically provided under subsections (d), (g), (h), and (i) of this section, the data from a motor vehicle event data recorder shall only be produced without the consent of the owner at the time of the accident if:

(1) A court of competent jurisdiction in Arkansas orders the production of the data;

(2) A law enforcement officer obtains the data based on probable cause of an offense under the laws of the State of Arkansas; or

(3) A law enforcement officer, a firefighter, or an emergency medical services provider obtains the data in the course of responding to or investigating an emergency involving physical injury or the risk of physical injury to any person.

(g) The Arkansas State Highway and Transportation Department may retrieve data from a motor vehicle event data recorder if the data is used for the following purposes:

(1) Preclearing weigh stations;

(2) Automating driver records of duty status as authorized by the United States Department of Transportation;

(3) Replacing handwritten reports for any fuel tax reporting or other mileage reporting purpose; or

(4) Complying with a state or federal law.

(h) To protect the public health, welfare, and safety, the following exceptions shall be allowed regarding the retrieval of data from a motor vehicle event data recorder:

(1) To determine the need or facilitate emergency medical care for the driver or passenger of a motor vehicle that is involved in a motor vehicle crash or other emergency, including obtaining data from a company that provides subscription services to the owners of motor vehicles for in-vehicle safety and security communications systems;

(2) To facilitate medical research of the human body's reaction to motor vehicle crashes if:

(i) The identity of the owner or driver is not disclosed in connection with the retrieved data; and

(ii) The last four (4) digits of the vehicle identification number are not disclosed; or

(3) To diagnose, service, or repair a motor vehicle.

(i) Notwithstanding any other provision of this section, the use of data from a motor vehicle event data recorder shall not be permitted into evidence in a civil or criminal matter pending before a court in the State of Arkansas unless it is shown to be relevant and reliable pursuant to the Arkansas Rules of Evidence.

(1) If a motor vehicle is equipped with a motor vehicle event data recorder that is capable of recording, storing, transmitting, or dispensing information as described in this section and that capability is part of a subscription service, that the information may be recorded, stored, transmitted or dispensed shall be disclosed in the subscription agreement.

(2) Subsections (c), (d), (f), (g), and (h) shall not apply to subscription services that meet the requirements of this subsection (j).