

ASSEMBLY, No. 5683

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JUNE 28, 2023

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

SYNOPSIS

Requires vehicle manufacturers to provide real-time access to motor vehicle data to vehicle owners and representatives.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning access to motor vehicle data and amending and
2 supplementing P.L.2015, c.60.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.2015, c.60 (C.39:10B-7) is amended to read
8 as follows:

9 1. As used in **[this act]** P.L.2015, c.60 (C.39:10B-7 et seq.):
10 "Manufacturer" means a person or business engaged in the
11 manufacturing or assembling of new motor vehicles.

12 "Owner" means a person having all the incidents of ownership,
13 including the legal title of a vehicle whether or not such person
14 lends, rents, or creates a security interest in the vehicle; a person
15 entitled to the possession of a vehicle as the purchaser under a
16 security agreement; or a person entitled to possession of the vehicle
17 as the lessee pursuant to a written lease agreement, provided such
18 agreement at inception is for a period in excess of three months.

19 "Recorded data" means **[the data stored or preserved**
20 **electronically in a recording device identifying performance or**
21 **operation information about the motor vehicle including, but not**
22 **limited to the: speed of the motor vehicle or the direction in which**
23 **the vehicle is traveling, or both; vehicle location data; vehicle**
24 **steering performance; vehicle brake performance including, but not**
25 **limited to, whether brakes were applied before a crash; driver's**
26 **seatbelt status; and information concerning a crash in which the**
27 **motor vehicle has been involved, including the ability to transmit**
28 **such information to a central communications system. Recorded**
29 **data excludes audio and video data]** all data generated, or generated
30 and retained, by the operation of a motor vehicle.

31 "Recording device" means an electronic system, and the physical
32 device or mechanism containing the electronic system, that
33 primarily, or incidental to its primary function, preserves or records,
34 in electronic form, data collected by sensors or provided by other
35 systems within the vehicle. A recording device includes event data
36 recorders, sensing and diagnostic modules, electronic control
37 modules, automatic crash notification systems, geographic
38 information systems, and any other device that records and
39 preserves data that can be accessed through that vehicle. A
40 recording device shall not include personal recording devices, such
41 as video cameras, dashboard cameras, or mobile telephones with
42 recording capabilities.

43 "Vehicle data interface" means any device, application, program,
44 or other mechanism that enables a manufacturer or other person to
45 obtain and maintain direct, real-time, bidirectional accessibility and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 interoperability to the recorded data of a motor vehicle, as collected
2 by a recording device, which device, application, program, or other
3 mechanism may enable the storage, transmittal, alteration, or
4 deletion of any recorded data or other information collected from or
5 input by the owner of the motor vehicle.

6 (cf: P.L.2015, c.60, s.1)

7
8 2. Section 2 of P.L.2015, c.60 (C.39:10B-8) is amended to read
9 as follows:

10 2. a. Except as provided in subsection c. of this section and
11 section 3 of P.L. , c. (C.) (pending before the Legislature as
12 this bill), no person, except the owner of the motor vehicle that
13 contains the recording device, or the owner's representative, may
14 retrieve, obtain, or use data recorded, stored, or transmitted from
15 the recording device, unless:

16 (1) **【The】** the owner of the motor vehicle, or the owner's
17 representative, consents to the duration and scope of data retrieval,
18 retention, and use, prior to or at the time the data is retrieved,
19 obtained, or used;

20 (2) **【The】** the recorded data is retrieved or obtained by a law
21 enforcement officer pursuant to a search warrant issued by a judge
22 of the Superior Court or upon order by a court of competent
23 jurisdiction or, except for recorded data concerning vehicle
24 location, a grand jury subpoena;

25 (3) **【The】** the recorded data is used for the purpose of improving
26 motor vehicle safety, security, performance, operation, compliance
27 with traffic laws, or traffic management, including for medical
28 research on physical reaction to motor vehicle accidents, provided
29 that the identity of the owner, operator, or other occupant of the
30 motor vehicle is not disclosed with respect to the data. For the
31 purposes of this paragraph, the disclosure of a vehicle identification
32 number with the last six numbers deleted shall not constitute
33 disclosure of the identity of the owner, operator, or other occupant;

34 (4) **【The】** the recorded data is retrieved or obtained by a
35 licensed new motor vehicle dealer, a motor vehicle repair or
36 servicing facility and a technician or mechanic at such a facility, or
37 the manufacturer of the motor vehicle, and used for the sole purpose
38 of diagnosing, servicing, or repairing the motor vehicle;

39 (5) **【The】** the recorded data is accessed by an emergency
40 response provider and used for the sole purpose of determining the
41 need for or facilitating an emergency medical response in the event
42 of a motor vehicle crash, and assisting the emergency response
43 provider in performing its duties; or

44 (6) **【The】** the recorded data is retrieved or obtained pursuant to
45 a legally proper discovery request or order in a civil action.

46 b. **【Any person who retrieves or obtains recorded data, except】**
47 Except for a manufacturer that provides access to recorded data

1 pursuant to section 3 of P.L. , c. (C.) (pending before the
2 Legislature as this bill) or a law enforcement officer who retrieves
3 or obtains the recorded data pursuant to paragraph (2) of subsection
4 a. of this section, any person who retrieves or obtains recorded data
5 shall not further disclose such data, except that a person may further
6 disclose recorded data pursuant to paragraph (3), (4), or (5) of
7 subsection a. of this section if the identity of the owner, operator, or
8 other occupant of the motor vehicle is not disclosed, or the owner of
9 the motor vehicle, or the owner's representative, consents to the
10 additional disclosure prior to it being further disclosed.

11 c. Recorded data may be retrieved, obtained, and used by a
12 subscription service provider pursuant to a subscription service
13 agreement if the agreement discloses that the data may be recorded,
14 stored, and transmitted.
15 (cf: P.L.2015, c.60, s.2)

16
17 3. (New section) a. Notwithstanding any provision of section
18 2 of P.L.2015, c.60 (C.39:10B-8) to the contrary, when the
19 manufacturer of a motor vehicle retrieves or obtains the recorded
20 data of the motor vehicle through a vehicle data interface, the
21 manufacturer shall provide the owner of the motor vehicle or the
22 owner's representative with access to the recorded data through the
23 vehicle data interface. Except as otherwise provided in subsection
24 c. of this section, the manufacturer shall provide access to the
25 recorded data, as follows:

26 (1) free of charge, and without undue delay, upon the written
27 request of the owner or representative;

28 (2) in same quality as the recorded data is available to the
29 manufacturer, except that the data shall be transmitted to the owner
30 or representative in a continuous, real-time manner through the
31 vehicle data interface, and the data shall be accessible in a
32 structured, commonly used, machine-readable format; and

33 (3) without condition or limitation, including, but not limited to,
34 a fee or license to decrypt the recorded data or a requirement to use
35 a device provided by the manufacturer to access and use the
36 recorded data.

37 b. After the owner of a motor vehicle or the owner's
38 representative receives access to recorded data pursuant to this
39 section, the owner or owner's representative may transmit the
40 recorded data to any other person or entity authorized by the owner,
41 and, except as provided in subsection a. of section 3 of P.L.2015,
42 c.60 (C.39:10B-9), the owner may delete any recorded data or other
43 information input by the owner into the motor vehicle or recording
44 device.

45 c. (1) Nothing in this section shall preclude a manufacturer
46 from utilizing such cryptographic or technological protections as
47 are necessary to secure any recorded data retrieved or obtained from
48 a motor vehicle, except that the manufacturer shall enable the owner

1 of the motor vehicle or the owner's representative to access,
2 without condition or limitation, the recorded data in a structured,
3 commonly used, machine-readable format.

4 (2) Nothing in this section shall require a manufacturer to
5 divulge any trade secret, except that the manufacturer shall not deny
6 access to recorded data solely due to the existence of a proprietary
7 method for retrieving, obtaining, storing, using, or communicating
8 the recorded data.

9 d. A manufacturer shall not request, encourage, or require the
10 owner of a motor vehicle to waive the right to access any recorded
11 data pursuant to this section, including, but not limited to, any
12 requirement to enter into such waiver as a condition of purchasing,
13 leasing, operating, or obtaining warranty repairs for the motor
14 vehicle, or any offering of compensation or other incentive as an
15 inducement to enter into such waiver. Any waiver obtained by a
16 manufacturer on or after the effective date of P.L. , c. (C.)
17 (pending before the Legislature as this bill) shall be null and void.

18

19 4. Section 3 of P.L.2015, c.60 (C.39:10B-9) is amended to read
20 as follows:

21 3. a. No person shall knowingly alter or delete data on a
22 recording device, or knowingly destroy a recording device with the
23 intent to prevent access to or destroy the recorded data, within two
24 years after a crash event that resulted in bodily injury or death.

25 b. (1) The alteration or deletion of data by a recording device
26 with an overwriting or rewriting program or function, which is
27 activated during the vehicle's normal operation, shall not be
28 considered a knowing alteration or deletion pursuant to subsection
29 a. of this section.

30 (2) There shall be a rebuttable presumption that a vehicle
31 recycler or scrap recycling facility, as defined in section 3 of
32 P.L.2005, c.54 (C.13:1E-99.84), has no knowledge of the
33 involvement of a motor vehicle in a crash event that resulted in
34 bodily injury or death.

35 c. A person in violation of subsection a. of this section or
36 section 3 of P.L. , c. (C.) (pending before the Legislature
37 as this bill) shall be liable for a civil penalty of \$5,000 for each
38 offense, to be recoverable by the Chief Administrator of the New
39 Jersey Motor Vehicle Commission pursuant to the provisions of the
40 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
41 et seq.).

42 (cf: P.L.2015, c.60, s.3)

43

44 5. This act shall take effect immediately.

STATEMENT

This bill requires motor vehicle manufactures to provide the owner of a motor vehicle or the owner's representative with real-time access to certain motor vehicle data.

Under current law, a person other than the owner of a motor vehicle or the owner's representative is generally prohibited from obtaining or using certain motor vehicle data, known as "recorded data," which is collected from a recording device within the motor vehicle. However, a person other than the owner of a motor vehicle or the owner's representative may obtain or use recorded data in certain circumstances, such as upon the consent of the owner or representative.

Under the bill, when the manufacturer of a motor vehicle obtains recorded data through a vehicle data interface, the manufacturer would be required to provide the owner of the motor vehicle or the owner's representative with access to the recorded data through the vehicle data interface. For the purposes of this bill, a "vehicle data interface" is defined as any device, application, program, or other mechanism that enables a manufacturer or other person to obtain and maintain direct, real-time, bidirectional accessibility and interoperability to the recorded data of a motor vehicle as collected by a recording device. The bill also revises the definition of "recorded data" to include all data generated, or generated and retained, by the operation of a motor vehicle.

Specifically, the bill requires a manufacturer to provide access to recorded data: (1) free of charge, and without undue delay, upon the written request of the owner or representative; (2) in same quality as the recorded data is available to the manufacturer, except that the data is required to be transmitted in a continuous, real-time manner through the vehicle data interface and accessible in a structured, commonly used, machine-readable format; and (3) without condition or limitation, including, but not limited to, a fee or license to decrypt the recorded data or a requirement to use a device provided by the manufacturer to access and use the recorded data.

After the owner of a motor vehicle or the owner's representative receives access to recorded data from the manufacturer, the bill provides that the owner or representative may transmit the recorded data to any other person or entity authorized by the owner. The bill also provides that the owner of the motor vehicle may delete any recorded data or other information that was input by the owner into the motor vehicle or recording device, except as such deletions are otherwise prohibited under current law.

Under the bill, a manufacturer is prohibited from requesting, encouraging, or requiring the owner of any motor vehicle to waive the right to access recorded data. Any waiver entered into after the date of enactment of this bill would be deemed null and void.