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**HOUSE BILL NO. 816**

Offered January 11, 2006

Prefiled January 10, 2006

A *BILL to amend the Code of Virginia by adding in Article 10 of Chapter 10 of Title 46.2 a section numbered 46.2-1088.6, and by adding a section numbered 46.2-1532.2, relating to motor vehicle electronic recording devices; disclosure.*

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 Patron—May
 

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Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 10 of Chapter 10 of Title 46.2 a section numbered 46.2-1088.6, and by adding a section numbered 46.2-1532.2, as follows:**

**§ 46.2-1088.6. Motor vehicle recording devices.**

**A. As used in this section:**

*"Accessed" means downloaded, extracted, scanned, read, or otherwise retrieved.*

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

*"Primary named insured" means the person with whom an insurer has entered into an insurance contract and who is responsible for payment of the premiums for that contract.*

*"Recorded data" means the data stored or preserved electronically in a recording device identifying performance or operation information about the motor vehicle including, but not limited to:*

*1. Speed of the motor vehicle or the direction in which the vehicle is traveling, or both;*

*2. Vehicle location data;*

*3. Vehicle steering performance;*

*4. Vehicle brake performance including, but not limited to, whether brakes were applied before a crash;*

*5. The driver's seatbelt status; and*

*6. Information concerning a crash in which the motor vehicle has been involved, including the ability to transmit such information to a central communications system.*

*"Recording device" means an electronic system, and the physical device or mechanism containing the electronic system, that primarily, or incidental to its primary function, preserves or records, in electronic form, data collected by sensors or provided by other systems within the vehicle. "Recording device" includes event data recorders (EDRs), sensing and diagnostic modules (SDMs), electronic control modules (ECMs), automatic crash notification (ACN) systems, geographic information systems (GISs), and any other device that records and preserves data that can be accessed related to that vehicle.*

**B. Recorded data may not be accessed by a person other than an owner of the motor vehicle, except under any one or more of the following circumstances:**

*1. The owner of the motor vehicle or the owner's agent or legal representative consents to access to the recorded data; provided, however, that consent related to an insurance claim may not be requested or obtained from the owner or the owner's agent or legal representative until after the event giving rise to the claim has occurred;*

*2. The owner of the motor vehicle has a contract with a third party, other than an insurance contract, that requires access to a recording device or recorded data in order to perform the contract, so long as the recorded data is only accessed and used in accordance with the contract;*

*3. A licensed new motor vehicle dealer, or a technician, mechanic, or garage person at a motor vehicle repair or servicing facility requires access to recorded data in order to carry out his normal and ordinary diagnosing, servicing, and repair duties;*

*4. The recorded data is accessed by an emergency medical response provider for the purpose of determining the need for or facilitating an emergency medical response. Such persons are authorized to receive data transmitted or communicated by any electronic system of a motor vehicle that constitutes an automatic crash notification system and utilizes or reports data provided by or recorded by recording devices installed on or attached to a motor vehicle to assist them in performing their duties as emergency medical response providers;*

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59       5. Upon authority of a court or other judicial or administrative authority of competent jurisdiction;  
60 or  
61       6. The data is accessed for insurance underwriting or rating, provided that the primary named  
62 insured has consented to that access.  
63       C. Where the recording device and recorded data are not removed or separated from the motor  
64 vehicle, the ownership of the recording device and recorded data survives the sale of the motor vehicle  
65 to any nonbeneficial owner such as an insurer, salvage yard, or other person who does not possess and  
66 use the motor vehicle for normal transportation purposes.  
67       § 46.2-1532.2. Certain disclosures required by motor vehicle manufacturers; motor vehicle recording  
68 devices.  
69       A. A manufacturer of a new vehicle sold or leased in the Commonwealth that is equipped with one  
70 or more recording devices installed by the manufacturer shall disclose that fact in the owner's manual  
71 for the vehicle.  
72       B. The provisions of this section shall apply only to vehicles manufactured for 2008 and subsequent  
73 model years.