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**SENATE BILL NO. 90**

Offered January 11, 2006

Prefiled January 6, 2006

A *BILL to amend the Code of Virginia by adding a section numbered 46.2-1088.6, relating to motor vehicle electronic recording devices.*

\_\_\_\_\_  
Patron—Watkins

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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 a section numbered 46.2-1088.6 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 the 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, recorded 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 (GIS) systems, 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;*

*5. Upon authority of a court or other judicial or administrative authority of competent jurisdiction;*

*6. The recorded data is accessed and used only for the purpose of improving motor vehicle safety,*

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59 security, or traffic management, including for medical research of the human body's reaction to motor  
60 vehicle crashes, and provided that the identity of the owner or driver is not disclosed in connection with  
61 that recorded data. A person, including a service or data processor operating on behalf of such person,  
62 authorized to access recorded data from a recording device pursuant to this paragraph, may not release  
63 that data, except: (i) for the purposes of motor vehicle safety and medical research communities to  
64 advance motor vehicle safety, security, or traffic management; or (ii) to a data processor solely for the  
65 purposes permitted by this subsection, and only if the identity of the owner or driver is not disclosed.  
66 For the purposes of this subsection, the disclosure of the vehicle identification number (VIN) with the  
67 last four digits deleted does not constitute the disclosure of the identity of the owner or driver; or  
68 7. The data is accessed for insurance underwriting or rating, provided that the primary named  
69 insured has consented to the access to the data.  
70 C. Where the recording device and recorded data are not removed or separated from the motor  
71 vehicle, the ownership of the recording device and recorded data survives the sale of the motor vehicle  
72 to any nonbeneficial owner such as an insurer, salvage yard, or other person who does not possess and  
73 use the motor vehicle for normal transportation purposes.