

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1464 (Delegate Love)
Environment and Transportation

Vehicle Laws - Vehicle Data - Ownership and Use

This bill establishes a regulatory framework at the State level for the collection and distribution of data collected by an autonomous vehicle, electric vehicle, or vehicle equipped with a vehicle data recorder.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Maryland Automobile Insurance Fund (MAIF) Effect: None. MAIF does not use vehicle telematics.

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Protected data” means data on vehicle speed, route, location, direction, steering performance and use, brake performance and use, seat belt status and use, and the number of passengers in a vehicle. “Vehicle data recorder” means a device installed in a motor vehicle to record or transmit data about the motor vehicle, as specified, and includes an event data recorder (EDR), as defined by federal law.

The owner of an autonomous vehicle, electric vehicle, or vehicle equipped with a vehicle data recorder owns any data collected and stored by the vehicle or vehicle data recorder. A person who is not the owner of the vehicle may not retrieve or distribute the data unless

(1) the owner or owner's agent consents to the retrieval or distribution; (2) doing so is necessary for the purpose of an emergency medical response in the event of a vehicle accident; or (3) the data is retrieved or distributed under a court order. However, data may be retrieved or distributed by specified entities if that data is aggregated nonindividualized and nonpersonalized data.

An insurer or insurance broker may not take specified adverse actions against a vehicle owner or the owner's insurance policy, based solely on the refusal of a vehicle owner to consent to access to protected data collected and stored from a vehicle or vehicle data recorder. The prohibited actions include, among other things, refusing to renew the insurance policy, reducing insurance coverage under the policy, increasing the vehicle owner's insurance premium, and refusing to place the vehicle owner in the best motor vehicle insurance tier.

A person who violates the bill's requirements is subject to a fine of up to (1) \$500 for a first violation; (2) \$1,000 for a second violation; and (3) \$2,500 for a third or subsequent violation.

Current Law: There are no State laws or regulations that specifically govern EDRs, vehicle telematics, usage-based insurance (UBI) programs, or the collection of data by autonomous vehicles, electric vehicles, or vehicles with other types of vehicle data recorders.

The federal [Driver Privacy Act of 2015](#) governs the use of EDRs on motor vehicles at the national level. Generally, the Act affirms that any data collected and retained by an EDR, regardless of when the motor vehicle was manufactured, is the property of the owner, or, in the case of a leased vehicle, the lessee of the motor vehicle in which the EDR is installed. EDR means a device or function in a vehicle that records the vehicle's dynamic time-series data during the time period just prior to a crash event (*e.g.*, vehicle speed versus time) or during a crash event (*e.g.*, delta-V versus time), intended for retrieval after the crash event. For the purposes of this definition, the event data does not include audio and video data.

The Act generally prohibits data recorded or transmitted by an EDR from being accessed by a person who does not own the data except under specified circumstances, including, with the consent of the owner, if ordered to be retrieved by a court or other judicial or administrative authority with the appropriate jurisdiction, or if the data is collected for traffic safety research and does not include any personally identifiable information. These provisions are similar to the privacy requirements established by the bill.

Background: The National Conference of State Legislatures (NCSL) describes EDRs as "black boxes" or "sensing and diagnostic modules" that capture information, such as the speed of a vehicle and the use of a safety belt, in the event of a collision to help understand

how the vehicle's systems performed. Most car manufacturers currently install these devices in new vehicles. NCSL reports that [17 states have laws governing data privacy](#) for EDRs on motor vehicles. Among other provisions, the states generally prohibit data collected from a motor vehicle EDR from being downloaded without the consent of the vehicle owner or policyholder, with certain exceptions.

UBI programs use EDRs (known as telematics devices) installed on or in an insured vehicle to directly monitor driving behavior (such as distances driven, speeding, or hard braking). Once the data is collected and analyzed, an insurer adjusts the premiums accordingly. Traditional automobile insurance relies on actuarial analysis of data, including driving record, credit-based insurance score, personal characteristics, vehicle type, and garage location. UBI programs add individual driving behaviors as an additional rating factor.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Insurance Administration; Maryland Department of Transportation; Department of State Police; Maryland Automobile Insurance Fund; Department of Legislative Services

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