

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 844

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING DISCLOSURE OF EVENT DATA
RECORDERS IN MOTOR VEHICLES; RESTRICTING THE USE OF EVENT DATA
RECORDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-1-4.5 NMSA 1978 (being Laws 1990,
Chapter 120, Section 6, as amended) is amended to read:

"66-1-4.5. DEFINITIONS.--As used in the Motor Vehicle
Code:

A. "essential parts" means all integral and body
parts of a vehicle of a type required to be registered by the
provisions of the Motor Vehicle Code, the removal, alteration
or substitution of which would tend to conceal the identity of
the vehicle or substantially alter its appearance, model, type
or mode of operation;

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underscored material = new
[bracketed material] = delete

1 B. "established place of business", for a dealer or
2 auto recycler, means a place:

3 (1) devoted exclusively to the business for
4 which the dealer or auto recycler is licensed and related
5 business;

6 (2) identified by a prominently displayed sign
7 giving the dealer's or auto recycler's trade name used by the
8 business;

9 (3) of sufficient size or space to permit the
10 display of one or more vehicles or to permit the parking or
11 storing of vehicles to be dismantled or wrecked for recycling;

12 (4) on which there is located an enclosed
13 building on a permanent foundation, which building meets the
14 building requirements of the community and is large enough to
15 accommodate the office or offices of the dealer or auto
16 recycler and large enough to provide a safe place to keep the
17 books and records of the dealer or auto recycler;

18 (5) where the principal portion of the
19 business of the dealer or auto recycler is conducted and where
20 the books and records of the business are kept and maintained;
21 and

22 (6) where vehicle sales are of new vehicles
23 only, such as a department store or a franchisee of a
24 department store, as long as the department store or franchisee
25 keeps the books and records of its vehicle business in a

1 general office location at its place of business; as used in
 2 this paragraph, "department store" means a business that offers
 3 a variety of merchandise other than vehicles, and sales of the
 4 merchandise other than vehicles constitute at least eighty
 5 percent of the gross sales of the business; ~~and~~

6 C. "event data recorder" means a device or function
 7 in a vehicle that records the vehicle's dynamic, time-series
 8 data during the time period just prior to a crash event or
 9 during a crash event, which data is intended for retrieval
 10 after the crash event. "Event data recorder" does not include
 11 audio and video data; and

12 ~~[C.]~~ D. "explosives" means any chemical compound or
 13 mechanical mixture that is commonly used or intended for the
 14 purpose of producing an explosion and that contains any
 15 oxidizing and combustive units or other ingredients in such
 16 proportions, quantities or packing that an ignition by fire,
 17 friction, concussion, percussion or detonator of any part of
 18 the compound or mixture may cause such a sudden generation of
 19 highly heated gases that the resultant gaseous pressures are
 20 capable of producing destructive effects on contiguous objects
 21 or of destroying life or limb."

22 Section 2. A new section of the Motor Vehicle Code is
 23 enacted to read:

24 "[NEW MATERIAL] EVENT DATA RECORDERS--NOTICE--USE.--

25 A. If a motor vehicle is equipped with an event

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1 data recorder installed by a manufacturer, that fact shall be
2 disclosed:

3 (1) in the owner's manual beginning January 1,
4 2008; and

5 (2) by any subscription service that records,
6 transmits or otherwise uses information from an event data
7 recorder in the subscription service agreement.

8 B. Information from an event data recorder shall
9 not be retrieved or downloaded by anyone other than the owner
10 of the motor vehicle at the time the data is accessed, except
11 in the following circumstances:

12 (1) the owner or the owner's agent or
13 representative consents to the retrieval of the data;

14 (2) in response to an order of a court or
15 administrative agency having jurisdiction to issue the order;

16 (3) to improve motor vehicle safety, security
17 or traffic management, including for medical research of the
18 human body's reaction to motor vehicle crashes; provided that
19 the identity of the owner or driver is not disclosed in
20 connection with the data, but the disclosure of the vehicle
21 identification number does not constitute the disclosure of the
22 identity of the owner or driver;

23 (4) to diagnose, service or repair the motor
24 vehicle; provided that the data is retrieved by a licensed
25 dealer or by an automotive technician;

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1 (5) to determine the need for or facilitate
2 emergency medical response in the event of a motor vehicle
3 accident; and

4 (6) the data is retrieved pursuant to the
5 terms and conditions of a subscription service agreement.

6 C. A person, including a service or data processor
7 operating on behalf of the person, authorized to download or
8 otherwise retrieve data from an event data recorder pursuant to
9 Subsection B of this section may not release that data, except:

10 (1) for the purposes of motor vehicle safety
11 and medical research communities to advance motor vehicle
12 safety; or

13 (2) to a data processor; provided that the
14 identity of the owner or driver is not disclosed.

15 D. Information from an event data recorder
16 retrieved in violation of this section is inadmissible as
17 evidence in any civil, criminal or administrative action.

18 E. For the purposes of this section, "owner" means:

19 (1) a person having all the incidents of
20 ownership, including legal title to a vehicle, whether or not
21 the person lends, rents or creates a security interest in the
22 vehicle;

23 (2) a person entitled to possession of a
24 vehicle as the purchaser under a security agreement; or

25 (3) a person entitled to possession of a

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1 vehicle as a lessee pursuant to a written lease agreement,
2 provided such agreement is, at inception, for a period in
3 excess of three months.

4 F. If any part or application of this section is
5 held invalid, the remainder or its application to other
6 situations or persons shall not be affected."