

BILL ANALYSIS

C.S.H.B. 160
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Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Event Data Recorders (EDR's) are commonly known as "black boxes" for the car and essentially perform the same function as a black box in an airplane. Initially these recording devices were meant to record the deployment of car air bags; however, EDR's now have the capability of recording speed, seat belt use, braking habits, the position of the gas pedal, the use of headlights, and the force of a collision.

Although EDR's have proven useful in diagnosing accident scenes, car black boxes do raise privacy concerns as 1) most drivers do not know that these devices are currently present in their vehicles and 2) information retrieved from black boxes is now being used to prosecute drivers both civilly and criminally. Consumers have a right to know whether a vehicle, which they have purchased, contains a device that will record their every action.

C.S.H.B. 160 seeks to require sellers and lessors of vehicles to disclose to buyers and lessees the presence of an Event Data Recorder. C.S.H.B. 160 also requires that a person, other than the owner of the vehicle, seeking to retrieve the information contained in the EDR must obtain either the owner's consent or a court order.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 160 amends the Transportation Code by inserting Section 547.615 requiring that sellers and lessors of vehicles equipped with EDR's disclose to a buyer or lessee the presence of such a device.

C.S.H.B. 160 also stipulates that should someone other than the owner of the vehicle want to access the information in the EDR, that person must first obtain either a court order or the owner's consent.

Finally, C.S.H.B. 160 states that if a recording device is part of a subscription service, then the presence of the device must be disclosed in the subscription agreement. The court order or owner's consent provision, described in the above paragraph, does not apply to subscription services.

EFFECTIVE DATE

This Act takes effect September 1, 2006.

COMPARISON OF SUBSTITUTE TO ORIGINAL

The substitute differs from the original in that the substitute describes the recording device as a "feature" and not as a "device."

The substitute deletes the "records a history of where the motor vehicles travels" language in subsection (a)(2) and inserts "records vehicle location data."

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The substitute inserts the language "when the accident occurs" in subsection (a)(6).

The substitute changes the notification provision in that before the bill called for "a person who sells or leases a vehicle" to give notification to the " buyer or lessee of a vehicle" of the presence of a recording device. The substitute asks instead that a "manufacturer" give notice in the "owner's manual."

The substitute amends the right of access language (subsection(c)) in the original bill by deleting the subpoena option and inserting an owner's consent option. In the same subsection, it also deletes the "law enforcement officer or prosecutor" language and inserts "a person other than the owner."

The substitute adds language stating that subscription services must disclose in the subscription agreement whether a recording device is present. It also states that the "court order or owner's consent" provision does not apply to subscription services.

The substitute changes the effective date of the bill from September 1, 2005, to September 1, 2006.