

**39:10B-7 to 39:10B-9**  
**LEGISLATIVE HISTORY CHECKLIST**  
Compiled by the NJ State Law Library

**LAWS OF:** 2015                **CHAPTER:** 60

**NJSA:** 39:10B-7 to 39:10B-9 (Limits access to data recorded by motor vehicle recording devices)

**BILL NO:** A3579 (Substituted for S2433)

**SPONSOR(S)** Moriarty and others

**DATE INTRODUCED:** September 11, 2014

**COMMITTEE:**            **ASSEMBLY:** Consumer Affairs

**SENATE:** Law and Public Safety

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** March 26, 2015

**SENATE:** March 16, 2015

**DATE OF APPROVAL:**            May 11, 2015

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Fourth Reprint enacted)

**A3579**

<b>SPONSOR'S STATEMENT:</b> (Begins on page 3 of introduced bill)	Yes
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b> Yes
	<b>SENATE:</b> Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

<b>FLOOR AMENDMENT STATEMENT:</b>	Yes	11-13-14 12-15-14
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	No	

**S2433**

<b>SPONSOR'S STATEMENT:</b> (Begins on page 3 of introduced bill)	Yes
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b> No
	<b>SENATE:</b> Yes

<b>FLOOR AMENDMENT STATEMENT:</b>	No
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

LAW/RWH

P.L.2015, CHAPTER 60, *approved May 11, 2015*  
Assembly, No. 3579 (*Fourth Reprint*)

1 AN ACT concerning motor vehicle data recording devices and  
2 supplementing Title 39 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in this act:

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

15 “Recorded data” means the data stored or preserved  
16 electronically in a recording device identifying performance or  
17 operation information about the motor vehicle including, but not  
18 limited to the: speed of the motor vehicle or the direction in which  
19 the vehicle is traveling, or both; vehicle location data; vehicle  
20 steering performance; vehicle brake performance including, but not  
21 limited to, whether brakes were applied before a crash; driver's  
22 seatbelt status; and information concerning a crash in which the  
23 motor vehicle has been involved, including the ability to transmit  
24 such information to a central communications system. Recorded  
25 data excludes audio and video data.

26 “Recording device” means an electronic system, and the physical  
27 device or mechanism containing the electronic system, that  
28 primarily, or incidental to its primary function, preserves or records,  
29 in electronic form, data collected by sensors or provided by other  
30 systems within the vehicle. A recording device includes event data  
31 recorders, sensing and diagnostic modules, electronic control  
32 modules, automatic crash notification systems, geographic  
33 information systems, and any other device that records and  
34 preserves data that can be accessed <sup>1</sup>**[related to]** through<sup>1</sup> that  
35 vehicle. <sup>1</sup>A recording device shall not include personal recording  
36 devices, such as video cameras, dashboard cameras, or mobile  
37 telephones with recording capabilities.<sup>1</sup>

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ACO committee amendments adopted October 2, 2014.

<sup>2</sup>Assembly floor amendments adopted November 13, 2014.

<sup>3</sup>Assembly floor amendments adopted December 15, 2014.

<sup>4</sup>Senate SLP committee amendments adopted February 24, 2015.

1       2. a. Except as provided in subsection c. of this section, no  
2 person, except the owner of the motor vehicle that contains the  
3 recording device, or the owner's representative, may retrieve,  
4 obtain, or use data recorded, stored, or transmitted from the  
5 recording device, unless:

6       (1) The owner of the motor vehicle, or the owner's  
7 representative, consents <sup>4</sup>[in writing]<sup>4</sup> <sup>3</sup>to the duration and scope of  
8 data retrieval, retention, and use, prior to or<sup>3</sup> at the time the data is  
9 retrieved, obtained, or used;

10       (2) The recorded data is retrieved or obtained by a law  
11 enforcement officer pursuant to a search warrant issued by a judge  
12 of the Superior Court or upon order by a court of competent  
13 jurisdiction or <sup>4</sup>[another administrative authority having  
14 jurisdiction to issue such an order] , except for recorded data  
15 concerning vehicle location, a grand jury subpoena<sup>4</sup>;

16       (3) The recorded data is used for the purpose of improving  
17 motor vehicle safety, security, <sup>4</sup>performance, operation, compliance  
18 with traffic laws,<sup>4</sup> or traffic management, including for medical  
19 research on physical reaction to motor vehicle accidents, provided  
20 that the identity of the owner, operator or other occupant of the  
21 motor vehicle is not disclosed with respect to the data. For the  
22 purposes of this paragraph, the disclosure of a vehicle identification  
23 number with the last six numbers deleted shall not constitute  
24 disclosure of the identity of the owner, operator, or other occupant;

25       (4) The recorded data is retrieved or obtained by a licensed new  
26 motor vehicle dealer, a motor vehicle repair or servicing facility and  
27 a technician or mechanic at such a facility, or the manufacturer of  
28 the motor vehicle, and used for the sole purpose of diagnosing,  
29 servicing, or repairing the motor vehicle;

30       <sup>1</sup>(5) The recorded data is accessed by an emergency response  
31 provider and used for the sole purpose of determining the need for  
32 or facilitating an emergency medical response in the event of a  
33 motor vehicle crash, and assisting the emergency response provider  
34 in performing its duties;<sup>1</sup> or

35       <sup>1</sup>[(5)] (6)<sup>1</sup> The recorded data is retrieved or obtained pursuant  
36 to a legally proper discovery request or order in a civil action.

37       b. Any person who retrieves or obtains recorded data, except a  
38 law enforcement officer who retrieves or obtains the recorded data  
39 pursuant to paragraph (2) of subsection a. of this section, shall not  
40 further disclose such data, except that a person may further disclose  
41 recorded data pursuant to paragraph (3) <sup>1</sup>[or] <sup>1</sup> (4) <sup>1</sup>, or (5)<sup>1</sup> of  
42 subsection a. of this section if the identity of the owner, operator, or  
43 other occupant of the motor vehicle is not disclosed <sup>4</sup>, or the owner  
44 of the motor vehicle, or the owner's representative, consents to the  
45 additional disclosure prior to it being further disclosed<sup>4</sup>.

46       c. Recorded data may be retrieved, obtained, and used by a  
47 subscription service provider pursuant to a subscription service

1 agreement if the agreement discloses that the data may be recorded,  
2 stored, and transmitted.

3

4 3. a. No person shall knowingly alter or delete data on a  
5 recording device, or knowingly destroy a recording device <sup>3</sup>with the  
6 intent to prevent access to or destroy the recorded data,<sup>3</sup> within two  
7 years after a crash event that resulted in bodily injury or death.

8 b. <sup>3</sup>(1)<sup>3</sup> The alteration or deletion of data by a recording  
9 device with an overwriting or rewriting program or function, which  
10 is activated during the vehicle's normal operation, shall not be  
11 considered a knowing alteration or deletion pursuant to subsection  
12 a. of this section.

13 <sup>3</sup>(2) There shall be a rebuttable presumption that a vehicle  
14 recycler or scrap recycling facility, as defined in section 3 of  
15 P.L.2005, c.54 (C.13:1E-99.84), has no knowledge of the  
16 involvement of a motor vehicle in a crash event that resulted in  
17 bodily injury or death.<sup>3</sup>

18 c.<sup>2</sup> A person in violation of subsection a. of this section shall be  
19 liable for a civil penalty of \$5,000 for each offense, to be  
20 recoverable by the Chief Administrator of the New Jersey Motor  
21 Vehicle Commission pursuant to the provisions of the "Penalty  
22 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

23

24 4. This act shall take effect immediately.

25

26

27

28

29 Limits access to data recorded by motor vehicle recording  
30 devices.

**ASSEMBLY, No. 3579**

**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

INTRODUCED SEPTEMBER 11, 2014

**Sponsored by:**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**SYNOPSIS**

Limits access to data recorded by motor vehicle recording devices.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning motor vehicle data recording devices and  
2 supplementing Title 39 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in this act:

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

15 “Recorded data” means the data stored or preserved  
16 electronically in a recording device identifying performance or  
17 operation information about the motor vehicle including, but not  
18 limited to the: speed of the motor vehicle or the direction in which  
19 the vehicle is traveling, or both; vehicle location data; vehicle  
20 steering performance; vehicle brake performance including, but not  
21 limited to, whether brakes were applied before a crash; driver's  
22 seatbelt status; and information concerning a crash in which the  
23 motor vehicle has been involved, including the ability to transmit  
24 such information to a central communications system. Recorded  
25 data excludes audio and video data.

26 “Recording device” means an electronic system, and the physical  
27 device or mechanism containing the electronic system, that  
28 primarily, or incidental to its primary function, preserves or records,  
29 in electronic form, data collected by sensors or provided by other  
30 systems within the vehicle. A recording device includes event data  
31 recorders, sensing and diagnostic modules, electronic control  
32 modules, automatic crash notification systems, geographic  
33 information systems, and any other device that records and  
34 preserves data that can be accessed related to that vehicle.

35

36 2. a. Except as provided in subsection c. of this section, no  
37 person, except the owner of the motor vehicle that contains the  
38 recording device, or the owner’s representative, may retrieve,  
39 obtain, or use data recorded, stored, or transmitted from the  
40 recording device, unless:

41 (1) The owner of the motor vehicle, or the owner’s  
42 representative, consents in writing at the time the data is retrieved,  
43 obtained, or used;

44 (2) The recorded data is retrieved or obtained by a law  
45 enforcement officer pursuant to a search warrant issued by a judge  
46 of the Superior Court or upon order by a court of competent  
47 jurisdiction or another administrative authority having jurisdiction  
48 to issue such an order;

1 (3) The recorded data is used for the purpose of improving  
2 motor vehicle safety, security, or traffic management, including for  
3 medical research on physical reaction to motor vehicle accidents,  
4 provided that the identity of the owner, operator or other occupant  
5 of the motor vehicle is not disclosed with respect to the data. For  
6 the purposes of this paragraph, the disclosure of a vehicle  
7 identification number with the last six numbers deleted shall not  
8 constitute disclosure of the identity of the owner, operator, or other  
9 occupant;

10 (4) The recorded data is retrieved or obtained by a licensed new  
11 motor vehicle dealer, a motor vehicle repair or servicing facility and  
12 a technician or mechanic at such a facility, or the manufacturer of  
13 the motor vehicle, and used for the sole purpose of diagnosing,  
14 servicing, or repairing the motor vehicle; or

15 (5) The recorded data is retrieved or obtained pursuant to a  
16 legally proper discovery request or order in a civil action.

17 b. Any person who retrieves or obtains recorded data, except a  
18 law enforcement officer who retrieves or obtains the recorded data  
19 pursuant to paragraph (2) of subsection a. of this section, shall not  
20 further disclose such data, except that a person may further disclose  
21 recorded data pursuant to paragraph (3) or (4) of subsection a. of  
22 this section if the identity of the owner, operator, or other occupant  
23 of the motor vehicle is not disclosed.

24 c. Recorded data may be retrieved, obtained, and used by a  
25 subscription service provider pursuant to a subscription service  
26 agreement if the agreement discloses that the data may be recorded,  
27 stored, and transmitted.

28

29 3. a. No person shall knowingly alter or delete data on a  
30 recording device, or knowingly destroy a recording device within  
31 two years after a crash event that resulted in bodily injury or death.

32 b. A person in violation of subsection a. of this section shall be  
33 liable for a civil penalty of \$5,000 for each offense, to be  
34 recoverable by the Chief Administrator of the New Jersey Motor  
35 Vehicle Commission pursuant to the provisions of the "Penalty  
36 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

37

38 4. This act shall take effect immediately.

39

40

41

#### STATEMENT

42

43 This bill limits access to data recorded by motor vehicle  
44 recording devices, such as event data recorders.

45 Under the bill, no person, except the owner of the motor vehicle  
46 that contains the recording device, or the owner's representative,  
47 may retrieve, obtain, or use data recorded, stored, or transmitted  
48 from the recording device, unless:



A3579 MORIARTY

- 1 (1) the owner, or the owner's representative, consents in writing  
2 at the time the data is retrieved, obtained, or used;
- 3 (2) the recorded data is retrieved or obtained by a law  
4 enforcement officer pursuant to a search warrant issued by a  
5 Superior Court judge or upon order by a court of competent  
6 jurisdiction or another administrative authority;
- 7 (3) the recorded data is used for the purpose of improving motor  
8 vehicle safety, including security, traffic management, or medical  
9 research, provided that the identity of the owner, operator or other  
10 occupant of the vehicle is not disclosed;
- 11 (4) the recorded data is retrieved or obtained by a licensed new  
12 motor vehicle dealer, a motor vehicle repair or servicing facility and  
13 a technician or mechanic at such a facility, or the manufacturer of  
14 the motor vehicle, and used for the sole purpose of diagnosing,  
15 servicing, or repairing the motor vehicle; or
- 16 (5) the recorded data is retrieved or obtained pursuant to a  
17 legally proper discovery request or order in a civil action.
- 18 The bill also provides that recorded data may be retrieved,  
19 obtained, and used by a subscription service provider if the  
20 subscription service agreement discloses that the data may be  
21 recorded, stored, and transmitted.
- 22 Finally, the bill prohibits the alteration or deletion of data on a  
23 recording device or the destruction of a recording device after a  
24 crash resulting in bodily injury or death for a period of two years  
25 following the crash, and sets forth a \$5,000 civil penalty for  
26 violation.

# ASSEMBLY CONSUMER AFFAIRS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3579**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: OCTOBER 2, 2014

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Assembly Bill No. 3579.

Assembly Bill No. 3579 limits access to data recorded by motor vehicle recording devices, such as event data recorders and “black boxes.”

Under the amended bill, no person, except the owner of the motor vehicle that contains the recording device, or the owner’s representative, may retrieve, obtain, or use data recorded, stored, or transmitted from the recording device, unless:

(1) the owner, or the owner’s representative, consents in writing at the time the data is retrieved, obtained, or used;

(2) the recorded data is retrieved or obtained by a law enforcement officer pursuant to a search warrant issued by a Superior Court judge or upon order by a court of competent jurisdiction or another administrative authority;

(3) the recorded data is used for the purpose of improving motor vehicle safety, including security, traffic management, or medical research, provided that the identity of the owner, operator or other occupant of the vehicle is not disclosed;

(4) the recorded data is retrieved or obtained by a licensed new motor vehicle dealer, a motor vehicle repair or servicing facility and a technician or mechanic at such a facility, or the manufacturer of the motor vehicle, and used for the sole purpose of diagnosing, servicing, or repairing the motor vehicle;

(5) the recorded data is accessed by an emergency response provider and used for the sole purpose of determining the need for or facilitating an emergency medical response in the event of a motor vehicle crash; or

(6) the recorded data is retrieved or obtained pursuant to a legally proper discovery request or order in a civil action.

The amended bill also provides that recorded data may be retrieved, obtained, and used by a subscription service provider if the subscription service agreement discloses that the data may be recorded, stored, and transmitted.

Finally, the amended bill prohibits the alteration or deletion of data on a recording device or the destruction of a recording device after a crash resulting in bodily injury or death for a period of two years following the crash, and sets forth a \$5,000 civil penalty for violation.

COMMITTEE AMENDMENTS

The committee amendments clarify the definition of “recording device” to specifically exclude personal recording devices, and allow data to be accessed for the purpose of determining the need for or facilitating an emergency medical response in the event of a motor vehicle crash.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 3579**

with Assembly Floor Amendments  
(Proposed by Assemblyman MORIARTY)

ADOPTED: NOVEMBER 13, 2014

Assembly Bill No. 3579 (1R) limits access to data recorded by motor vehicle recording devices.

This amendment provides that the alteration or deletion of data by a recording device with an overwriting or rewriting program or function, which is activated during the vehicle's normal operation, would not be considered a knowing alteration or deletion and subject to a civil penalty of \$5,000 under the bill.

STATEMENT TO  
[Second Reprint]  
**ASSEMBLY, No. 3579**

with Assembly Floor Amendments  
(Proposed by Assemblyman Benson)

ADOPTED: DECEMBER 15, 2014

Assembly Bill No. 3579 (2R) limits access to data recorded by motor vehicle recording devices, such as event data recorders. These amendments clarify that when data is retrieved, obtained, or used with the written consent of the owner of the motor vehicle, or the owner's representative, the consent would include the duration and scope of data retrieval, retention, and use, prior to or at the time of retrieval or use.

These amendments also clarify that the bill prohibits knowingly destroying a recording device with the intent to prevent access to or destroy the recorded data, within two years after a crash event that resulted in bodily injury or death. These amendments establish a rebuttable presumption that a vehicle recycler or scrap recycling facility has no knowledge of the involvement of a vehicle in a crash event that resulted in bodily injury or death.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### [Third Reprint] **ASSEMBLY, No. 3579**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 12, 2015

The Senate Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 3579 (3R).

As amended and reported by the committee, Assembly Bill No. 3579 (3R) limits access to data from motor vehicle recording devices, such as event data recorders and “black boxes.”

Under the amended bill, persons other than the owner of the motor vehicle that contains the recording device, or the owner’s representative, are prohibited from retrieving, obtaining, or using data recorded, stored, or transmitted from the recording device, unless:

(1) the owner, or the owner’s representative, consents to the duration and scope of data retrieval, retention, and use, prior to or at the time the data is retrieved, obtained, or used;

(2) the recorded data is retrieved or obtained by a law enforcement officer pursuant to a search warrant issued by a Superior Court judge or upon order by a court of competent jurisdiction or, in the case of recorded data other than vehicle location, a grand jury subpoena;

(3) the recorded data is used for the purpose of improving motor vehicle safety, including security, performance, operation, compliance with traffic laws, traffic management, or medical research, provided that the identity of the owner, operator or other occupant of the vehicle is not disclosed;

(4) the recorded data is retrieved or obtained by a licensed new motor vehicle dealer, a motor vehicle repair or servicing facility and a technician or mechanic at such a facility, or the manufacturer of the motor vehicle, and used for the sole purpose of diagnosing, servicing, or repairing the motor vehicle;

(5) the recorded data is accessed by an emergency response provider and used for the sole purpose of determining the need for or facilitating an emergency medical response in the event of a motor vehicle crash; or

(6) the recorded data is retrieved or obtained pursuant to a legally proper discovery request or order in a civil action.

Also under the bill, recorded data may be retrieved, obtained, and used by a subscription service provider if the subscription service agreement discloses that the data may be recorded, stored, and transmitted.

The bill also prohibits the alteration or deletion of data on a recording device or the destruction of a recording device with the intent to prevent access to or destroy the recorded data after a crash resulting in bodily injury or death for a period of two years following the crash, and establishes a \$5,000 civil penalty for a violation. The alteration or deletion of data by a recording device with an overwriting or rewriting program or function, which is activated during the vehicle's normal operation, would not be considered a knowing alteration or deletion and therefore not subject to the civil penalty.

Finally, the bill establishes a rebuttable presumption that a vehicle recycler or scrap recycling facility has no knowledge of the involvement of a vehicle in a crash event that resulted in bodily injury or death.

It is the committee's understanding that this legislation is not intended to apply to custodians of government records under P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the "Open Public Records Act" (OPRA).

As amended and reported by the committee, Assembly Bill No. 3579 (3R) is identical to Senate Bill No. 2433, as also amended and reported by the committee on this same date.

**SENATE, No. 2433**

**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

INTRODUCED SEPTEMBER 22, 2014

**Sponsored by:**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Senator JAMES BEACH**

**District 6 (Burlington and Camden)**

**SYNOPSIS**

Limits access to data recorded by motor vehicle recording devices.

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT concerning motor vehicle data recording devices and  
2 supplementing Title 39 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in this act:

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

15 “Recorded data” means the data stored or preserved  
16 electronically in a recording device identifying performance or  
17 operation information about the motor vehicle including, but not  
18 limited to the: speed of the motor vehicle or the direction in which  
19 the vehicle is traveling, or both; vehicle location data; vehicle  
20 steering performance; vehicle brake performance including, but not  
21 limited to, whether brakes were applied before a crash; driver's  
22 seatbelt status; and information concerning a crash in which the  
23 motor vehicle has been involved, including the ability to transmit  
24 such information to a central communications system. Recorded  
25 data excludes audio and video data.

26 “Recording device” means an electronic system, and the physical  
27 device or mechanism containing the electronic system, that  
28 primarily, or incidental to its primary function, preserves or records,  
29 in electronic form, data collected by sensors or provided by other  
30 systems within the vehicle. A recording device includes event data  
31 recorders, sensing and diagnostic modules, electronic control  
32 modules, automatic crash notification systems, geographic  
33 information systems, and any other device that records and  
34 preserves data that can be accessed related to that vehicle.

35

36 2. a. Except as provided in subsection c. of this section, no  
37 person, except the owner of the motor vehicle that contains the  
38 recording device, or the owner's representative, may retrieve,  
39 obtain, or use data recorded, stored, or transmitted from the  
40 recording device, unless:

41 (1) The owner of the motor vehicle, or the owner's  
42 representative, consents in writing at the time the data is retrieved,  
43 obtained, or used;

44 (2) The recorded data is retrieved or obtained by a law  
45 enforcement officer pursuant to a search warrant issued by a judge  
46 of the Superior Court or upon order by a court of competent  
47 jurisdiction or another administrative authority having jurisdiction  
48 to issue such an order;

1 (3) The recorded data is used for the purpose of improving  
2 motor vehicle safety, security, or traffic management, including for  
3 medical research on physical reaction to motor vehicle accidents,  
4 provided that the identity of the owner, operator or other occupant  
5 of the motor vehicle is not disclosed with respect to the data. For  
6 the purposes of this paragraph, the disclosure of a vehicle  
7 identification number with the last six numbers deleted shall not  
8 constitute disclosure of the identity of the owner, operator, or other  
9 occupant;

10 (4) The recorded data is retrieved or obtained by a licensed new  
11 motor vehicle dealer, a motor vehicle repair or servicing facility and  
12 a technician or mechanic at such a facility, or the manufacturer of  
13 the motor vehicle, and used for the sole purpose of diagnosing,  
14 servicing, or repairing the motor vehicle; or

15 (5) The recorded data is retrieved or obtained pursuant to a  
16 legally proper discovery request or order in a civil action.

17 b. Any person who retrieves or obtains recorded data, except a  
18 law enforcement officer who retrieves or obtains the recorded data  
19 pursuant to paragraph (2) of subsection a. of this section, shall not  
20 further disclose such data, except that a person may further disclose  
21 recorded data pursuant to paragraph (3) or (4) of subsection a. of  
22 this section if the identity of the owner, operator, or other occupant  
23 of the motor vehicle is not disclosed.

24 c. Recorded data may be retrieved, obtained, and used by a  
25 subscription service provider pursuant to a subscription service  
26 agreement if the agreement discloses that the data may be recorded,  
27 stored, and transmitted.

28

29 3. a. No person shall knowingly alter or delete data on a  
30 recording device, or knowingly destroy a recording device within  
31 two years after a crash event that resulted in bodily injury or death.

32 b. A person in violation of subsection a. of this section shall be  
33 liable for a civil penalty of \$5,000 for each offense, to be  
34 recoverable by the Chief Administrator of the New Jersey Motor  
35 Vehicle Commission pursuant to the provisions of the "Penalty  
36 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

37

38 4. This act shall take effect immediately.

39

40

41

#### STATEMENT

42

43 This bill limits access to data recorded by motor vehicle  
44 recording devices, such as event data recorders.

45 Under the bill, no person, except the owner of the motor vehicle  
46 that contains the recording device, or the owner's representative,  
47 may retrieve, obtain, or use data recorded, stored, or transmitted  
48 from the recording device, unless:

S2433 MADDEN, BEACH

- 1 (1) the owner, or the owner's representative, consents in writing  
2 at the time the data is retrieved, obtained, or used;
- 3 (2) the recorded data is retrieved or obtained by a law  
4 enforcement officer pursuant to a search warrant issued by a  
5 Superior Court judge or upon order by a court of competent  
6 jurisdiction or another administrative authority;
- 7 (3) the recorded data is used for the purpose of improving motor  
8 vehicle safety, including security, traffic management, or medical  
9 research, provided that the identity of the owner, operator or other  
10 occupant of the vehicle is not disclosed;
- 11 (4) the recorded data is retrieved or obtained by a licensed new  
12 motor vehicle dealer, a motor vehicle repair or servicing facility and  
13 a technician or mechanic at such a facility, or the manufacturer of  
14 the motor vehicle, and used for the sole purpose of diagnosing,  
15 servicing, or repairing the motor vehicle; or
- 16 (5) the recorded data is retrieved or obtained pursuant to a  
17 legally proper discovery request or order in a civil action.
- 18 The bill also provides that recorded data may be retrieved,  
19 obtained, and used by a subscription service provider if the  
20 subscription service agreement discloses that the data may be  
21 recorded, stored, and transmitted.
- 22 Finally, the bill prohibits the alteration or deletion of data on a  
23 recording device or the destruction of a recording device after a  
24 crash resulting in bodily injury or death for a period of two years  
25 following the crash, and sets forth a \$5,000 civil penalty for  
26 violation.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### SENATE, No. 2433

with committee amendments

# STATE OF NEW JERSEY

DATED: FEBRUARY 12, 2015

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 2433.

As amended and reported by the committee, Senate Bill No. 2433 limits access to data from motor vehicle recording devices, such as event data recorders and “black boxes.”

Under the amended bill, persons other than the owner of the motor vehicle that contains the recording device or the owner’s representative, are prohibited from retrieving, obtaining, or using data recorded, stored, or transmitted from the recording device, unless:

(1) the owner, or the owner’s representative, consents to the duration and scope of data retrieval, retention, and use, prior to or at the time the data is retrieved, obtained, or used;

(2) the recorded data is retrieved or obtained by a law enforcement officer pursuant to a search warrant issued by a Superior Court judge or upon order by a court of competent jurisdiction or, in the case of recorded data other than vehicle location, also could be obtained by a law enforcement officer pursuant to a grand jury subpoena;

(3) the recorded data is used for the purpose of improving motor vehicle safety, including security, performance, operation, compliance with traffic laws, traffic management, or medical research, provided that the identity of the owner, operator or other occupant of the vehicle is not disclosed;

(4) the recorded data is retrieved or obtained by a licensed new motor vehicle dealer, a motor vehicle repair or servicing facility and a technician or mechanic at such a facility, or the manufacturer of the motor vehicle, and used for the sole purpose of diagnosing, servicing, or repairing the motor vehicle;

(5) the recorded data is accessed by an emergency response provider and used for the sole purpose of determining the need for or facilitating an emergency medical response in the event of a motor vehicle crash; or

(6) the recorded data is retrieved or obtained pursuant to a legally proper discovery request or order in a civil action.

Under the amended bill, recorded data also may be retrieved, obtained, and used by a subscription service provider if the

subscription service agreement discloses that the data may be recorded, stored, and transmitted.

The amended bill also prohibits the alteration or deletion of data on a recording device or the destruction of a recording device with the intent to prevent access to or destroy the recorded data after a crash resulting in bodily injury or death for a period of two years following the crash, and establishes a \$5,000 civil penalty for a violation. The alteration or deletion of data by a recording device with an overwriting or rewriting program or function, which is activated during the vehicle's normal operation, would not be considered a knowing alteration or deletion and therefore not subject to the civil penalty.

Finally, the amended bill establishes a rebuttable presumption that a vehicle recycler or scrap recycling facility has no knowledge of the involvement of a vehicle in a crash event that resulted in bodily injury or death.

It is the committee's understanding that this legislation is not intended to apply to custodians of government records under P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the "Open Public Records Act" (OPRA).

As amended and reported by the committee, Senate Bill No. 2433 is identical to Assembly Bill No. 3579 (3R), also amended and reported by the committee on this same date.