2015 SENATE BILL 697

February 2, 2016 – Introduced by Senators STROEBEL, LASEE, NASS, TIFFANY, LEMAHIEU, MOULTON, CARPENTER and C. LARSON, cosponsored by Representatives KREMER, QUINN, HORLACHER, A. OTT, THIESFELDT, DUCHOW, TAUCHEN and TITTL. Referred to Committee on Government Operations and Consumer Protection.

1   AN ACT *to amend* 347.50 (1); and *to create* 218.0152 (4), 347.375, 347.50 (1g)

2   and 632.367 of the statutes; **relating to:** motor vehicle event data recorders,

3   prohibited insurance practices related to accessing or using information

4   collected by event data recorders, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill regulates the use of event data recorders (EDRs) in motor vehicles and prohibits certain insurance practices on the basis of whether an insured under a motor vehicle liability insurance policy authorizes the insurer to access or use information collected by an EDR.

This bill prohibits, with certain exceptions, any person from accessing, collecting, or transferring information stored on an EDR installed in a motor vehicle unless the person discloses the intended use of the information and receives the written consent of an owner of the vehicle. A person who violates the disclosure requirements or the prohibition on access, collection, or transfer of EDR information may be required to forfeit not less than $200 nor more than $2,000.

Also under this bill, the Department of Transportation (DOT) must require a statement as to whether the vehicle is equipped with an EDR to be displayed on any guide DOT requires to be displayed on used motor vehicles displayed or offered for sale by a motor vehicle dealer.

The bill prohibits an insurer from conditioning the issuance or renewal of a motor vehicle liability insurance policy on whether the insured vehicle or vehicle to be insured is equipped with an EDR or whether, if it is so equipped, the insured or

SENATE BILL 697

applicant for insurance authorizes the insurer to access or use information collected by the EDR. The bill also prohibits an insurer from canceling a motor vehicle liability insurance policy, excluding or limiting coverage under a motor vehicle liability insurance policy, or denying a claim under a motor vehicle liability insurance policy, on the basis of whether the insured vehicle is equipped with an EDR or whether, if it is so equipped, the insured authorizes the insurer to access or use information collected by the EDR. The bill makes an exception from these prohibitions for a usage−based motor vehicle liability insurance policy, which is an insurance policy for which the premium is based on the active, digital monitoring of how the insured drives.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1   SECTION 1. 218.0152 (4) of the statutes is created to read:

2   218.0152 **(4)** Any guide required by the department of transportation to be

3   displayed on used motor vehicles displayed or offered for sale by a motor vehicle

4   dealer shall include a statement as to whether the vehicle is equipped with an event

5   data recorder, as defined in s. 347.375 (1) (a).

6   SECTION 2. 347.375 of the statutes is created to read:

7   **347.375 Event data recorders. (1)** In this section:

8   (a) "Event data recorder" means a device installed in a motor vehicle for the

9   purposes of recording or transmitting information about the motor vehicle, including

10   a device that performs any of the following functions:

11   1. Recording the direction and rate of speed at which the motor vehicle travels.

12   2. Recording the locations to which the motor vehicle travels.

13   3. Recording information concerning steering performance.

14   4. Recording information concerning brake performance, including whether

15   the brake was applied before an accident.

1   5. Recording information regarding safety belt usage.

2   6. Transmitting information concerning an accident to a central

3   communications system.

4   (b) Notwithstanding s. 340.01 (42), "owner" means, with respect to a vehicle

5   that is leased to a lessee for a period of 3 months or more, the lessee.

6   (c) "Usage−based motor vehicle liability insurance policy" has the meaning

7   given in s. 632.367 (1) (b).

8   **(2)** No person may access, collect, or transfer information stored on an event

9   data recorder installed in a motor vehicle unless the person discloses the intended

10   use of the information to an owner and receives the written consent of an owner,

11   except for any of the following:

12   (a) To effectuate a court order.

13   (b) In the provision of a service for which an owner has contracted, if the

14   information to be accessed or transferred is described in the contract for the service.

15   (c) To obtain vehicle use information in connection with a usage−based motor

16   vehicle liability insurance policy and for which consent was given at the time the

17   policy was entered into.

18   (d) For the department or any law enforcement agency to transfer information,

19   including personally identifiable information, as defined in s. 19.62 (5), to an insurer,

20   insurance support organization, or self−insured entity, or to the agents, employees,

21   or contractors of an insurer, insurance support organization, or self−insured entity,

22   in connection with claims investigation activities, antifraud activities, rating, or

23   underwriting.

24   (e) For a motor vehicle dealer, as defined in 218.0101 (23) (a), or a person in the

25   business of maintenance or repair of motor vehicles to access information stored on

1   an event data recorder installed in a motor vehicle if the information is used solely

2   for diagnosing, servicing, or repairing the motor vehicle.

3   SECTION 3. 347.50 (1) of the statutes is amended to read:

4   347.50 **(1)** Any person violating ss. 347.35 to 347.49, except s. 347.375, s.

5   347.385 (5), s. 347.413 (1) or s. 347.415 (1m), (2) and (3) to (5) or s. 347.417 (1) or s.

6   347.475 or s. 347.48 (2m) or (4) or s. 347.489, may be required to forfeit not less than

7    $10 nor more than $200.

8   SECTION 4. 347.50 (1g) of the statutes is created to read:

9   347.50 **(1g)** Any person violating s. 347.375 (2) may be required to forfeit not

10   less than $200 nor more than $2,000.

11   SECTION 5. 632.367 of the statutes is created to read:

12   **632.367 Prohibited practices based on access to event data recorder**

13   **information. (1)** DEFINITIONS. In this section:

14   (a) "Event data recorder" has the meaning given in s. 347.375 (1) (a).

15   (b) "Usage−based motor vehicle liability insurance policy" means a motor

16   vehicle liability insurance policy for which the premium rate is based not only on

17   such factors as the type of vehicle and number of miles driven, but also on driving

18   habits and behaviors, such as where, when, and how the vehicle is driven, as shown

19   by the active, digital monitoring of such habits and behaviors.

20   **(2)** POLICY ISSUANCE OR RENEWAL. An insurer may not condition the issuance or

21   renewal of a motor vehicle liability insurance policy wholly or substantially on

22   whether the motor vehicle insured or to be insured under the policy is equipped with

23   an event data recorder or, if the vehicle is equipped with an event data recorder, on

24   whether the insured or applicant for insurance authorizes the insurer to have access

25   to or use information collected by the event data recorder.

1   **(3)** POLICY CANCELLATION OR COVERAGE EXCLUSION, LIMITATION, OR DENIAL. An

2   insurer may not cancel a motor vehicle liability insurance policy, exclude or limit

3   coverage under a motor vehicle liability insurance policy, or deny a claim under a

4   motor vehicle liability insurance policy wholly or substantially on the basis of

5   whether the motor vehicle insured under the policy is equipped with an event data

6   recorder or, if the vehicle is equipped with an event data recorder, on the basis of

7   whether the insured authorizes the insurer to have access to or use information

8   collected by the event data recorder.

9   **(4)** EXCEPTION FOR USAGE-BASED POLICIES. Subsections (2) and (3) do not apply

10   with respect to a usage–based motor vehicle liability insurance policy.

11   SECTION 6. **Initial applicability.**

12   (1) PROHIBITED INSURANCE PRACTICES. If a motor vehicle liability insurance

13   policy that is in effect on the effective date of this subsection contains a provision that

14   is inconsistent with the creation of section 632.367 (3) of the statutes, the creation

15   of section 632.367 (3) of the statutes first applies to that motor vehicle liability

16   insurance policy on the date on which it is renewed.

17   SECTION 7. **Effective date.** This act takes effect on the day after publication,

18   except as follows:

19   (1) The treatment of section 218.0152 (4) of the statutes takes effect on July 1,

20   2016.

21   **(END)**