

SENATE BILL NO. 283
INTRODUCED BY G. LIND

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING DISCLOSURE OF COLLECTION AND USE OF PERSONAL DATA ON EVENT DATA RECORDERS IN MOTOR VEHICLES; REGULATING USE OF EVENT DATA RECORDER INFORMATION; LIMITING ACCESS AND USE OF INFORMATION FROM EVENT DATA RECORDERS BY INSURERS; AND AMENDING SECTION 33-18-210, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Disclosure of recording devices on rented or leased motor vehicles
-- definition. (1) A person who leases or rents to another person in this state a motor vehicle equipped with an event data recorder shall disclose in the lease or rental agreement the presence, capacity, and capabilities of the event data recorder.

(2) As used in this section, an "event data recorder" means a device that is installed by the manufacturer of the motor vehicle and does one or more of the following for the purpose of retrieving data:

- (a) records the speed of the motor vehicle and the direction the motor vehicle is traveling;
- (b) records motor vehicle location data;
- (c) records steering performance;
- (d) records brake performance, including whether brakes were applied before an accident;
- (e) records the driver's safety belt status; and
- (f) has the ability to transmit information concerning an accident in which the motor vehicle has been involved to a central communications system when an accident occurs.

NEW SECTION. Section 2. Event data recorder uses -- prohibited uses. (1) Data recorded on an event data recorder, as described in [section 1], may not be downloaded or otherwise retrieved by a person other than the owner of the motor vehicle except under one of the following circumstances:

- (a) consent by the registered owner of the motor vehicle or by the owner's agent or legal representative;
- (b) in response to an order of a court having jurisdiction to issue the order; or
- (c) for the purpose of improving motor vehicle safety, including for medical research of the human body's reaction to motor vehicle accidents, but only if the identity of the registered owner or driver is not disclosed in

connection with the data. The disclosure of all but the last four digits of the vehicle identification number for the purposes of this subsection (1)(c) does not constitute the disclosure of the identity of the registered owner or driver.

(2) A person, including a service technician or data processor operating on behalf of the person who is authorized to download or otherwise retrieve data from an event data recorder pursuant to subsection (1)(c), may not release that data except for the purposes of motor vehicle safety and medical research.

(3) (a) A subscription service agreement must contain a notification that the subscription service uses devices to provide motor vehicle location data and to transmit to a central communications system any information concerning an accident in which the motor vehicle has been involved when an accident occurs.

(b) A subscription service is exempt from the prohibition on downloading or retrieving information in subsection (1) if the subscription service meets the requirement in subsection (3)(a).

(4) When used to gather information for maintenance or repair of a leased or rented motor vehicle, the information downloaded from an event data recorder may not be used against a specific lessee or renter except under order of a court having jurisdiction to issue the order and upon notification of the lessee or renter.

(5) For the purposes of this section, a "lessee" or "renter" is a person who for a consideration obtains temporary use of a rental motor vehicle.

Section 3. Section 33-18-210, MCA, is amended to read:

"33-18-210. Unfair discrimination and rebates prohibited -- property, casualty, and surety insurances. (1) A title, property, casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

- (a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;
- (b) special favor or advantage in the dividends or other benefits to accrue on the policy; or
- (c) valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) An insured named in a policy or an employee of the insured may not knowingly receive or accept, directly or indirectly, a:

- (a) rebate, discount, abatement, credit, or reduction of premium;
- (b) special favor or advantage; or
- (c) valuable consideration or inducement.

(3) An insurer may not make or permit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics or between insureds because of race, color, creed, religion, or national origin.

(4) This section may not be construed as prohibiting the payment of commissions or other compensation to licensed insurance producers or as prohibiting an insurer from allowing or returning lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

(5) An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(6) An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk or on the personal property contained in the residential property, because of the age of the residential property, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(7) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual because of the sex or marital status of the individual. However, an insurer may take marital status into account for the purpose of defining persons eligible for dependents' benefits.

(8) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired. However, this subsection does not apply to accident and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.

(9) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available to an individual based solely on adverse information contained in a driving record

that is 3 years old or older. However, an insurer may provide discounts to an insured based on favorable aspects of an insured's claims history that is 3 years old or older.

(10) An insurer may not charge points or surcharge a private passenger motor vehicle policy because of a claim submitted under the insured's policy if the insured was not at fault.

(11) An insurer may not require as a condition of insurability the consent of a motor vehicle owner for access to data that may be stored within an event data recorder, as defined in [section 1], and may not use data retrieved with the owner's consent before or after an accident for the purpose of rate assessment."

NEW SECTION. **Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 61, and the provisions of Title 61 apply to [sections 1 and 2].

- END -