



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-4645/1  
EVM&PJK:klm&wlj

## 2015 ASSEMBLY BILL 838

February 1, 2016 – Introduced by Representatives KREMER, QUINN, HORLACHER, A. OTT, THIESFELDT, DUCHOW, TAUCHEN and TITTL, cosponsored by Senators STROEBEL, LASEE, NASS, TIFFANY, LEMAHIEU, CARPENTER and C. LARSON. Referred to Committee on 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

**ASSEMBLY BILL 838**

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.

**ASSEMBLY BILL 838**

- 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

**ASSEMBLY BILL 838**

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.

**ASSEMBLY BILL 838**

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.

**SECTION 6. Initial applicability.**

11  
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)**