S T A T E O F N E W Y O R K

3059

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. BENJAMIN -- Multi-Sponsored by -- M. of A. MILLER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, the vehicle and traffic law and the general business law, in relation to use of event data recorders in motor vehicles

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 165.09 of the penal law is amended by adding a new subdivision 3 to read as follows:

3. HE OR SHE INTENTIONALLY TAMPERS WITH, DESTROYS, DISABLES OR REMOVES AN EVENT DATA RECORDER FROM A MOTOR VEHICLE, EXCEPT THAT IT IS A DEFENSE TO SUCH CHARGE THAT SUCH PERSON WAS AUTHORIZED TO DO SO PURSUANT TO LAW. FOR PURPOSES OF THIS SUBDIVISION, AN "EVENT DATA RECORDER" IS AS DEFINED IN SECTION THREE HUNDRED NINETY-TWO-C OF THE VEHICLE AND TRAFFIC LAW.

S 2. The vehicle and traffic law is amended by adding a new section 392-c to read as follows:

S 392-C. EVENT DATA RECORDER EVIDENCE IN ACTIONS OR PROCEEDINGS INVOLVING MOTOR VEHICLES. 1. DEFINITION. FOR PURPOSES OF THIS SECTION, AN "EVENT DATA RECORDER" MEANS A DEVICE INSTALLED IN A MOTOR VEHICLE THAT HAS THE ABILITY TO RECORD THE LAST SECONDS BEFORE A COLLISION INCLUDING, BUT NOT LIMITED TO, THE VEHICLE'S SPEED, THE ENGINE SPEED, WHETHER THE BRAKES ARE APPLIED, AND THE POSITION OF THE GAS PEDAL, THE MOMENT THE AIR BAGS DEPLOYED, WHETHER THE SAFETY BELTS WERE IN USE, AND THE FORCE OF THE COLLISION.

2. EVENT DATA RECORDER EVIDENCE. EVERY PERSON OPERATING A MOTOR VEHICLE WITH AN EVENT DATA RECORDER ON BOARD WHICH HAS BEEN INVOLVED IN AN ACCIDENT OR WHICH IS OPERATED IN VIOLATION OF ANY OF THE PROVISIONS OF THIS CHAPTER SHALL, AT THE REQUEST OF A POLICE OFFICER AT THE ACCIDENT SCENE OR IN RESPONSE TO A DULY ISSUED WARRANT, SUBMIT SUCH EVENT DATA RECORDER TO THE CUSTODY OF LAW ENFORCEMENT FOR ACCIDENT RECONSTRUCTION ANALYSIS AND REPORT. A COPY OF SUCH EVENT DATA RECORDER'S ANALYSIS AND

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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REPORT SHALL BE PROVIDED DIRECTLY TO THE PARTIES OF ANY ACTION OR PROCEEDING AS SOON AS PRACTICABLE.

3. ADMISSIBILITY. UPON THE TRIAL OF ANY ACTION OR PROCEEDING ARISING OUT OF ACTIONS ALLEGED TO HAVE BEEN COMMITTED BY ANY PERSON ARRESTED FOR A VIOLATION OR A CRIME INVOLVING A MOTOR VEHICLE WITH AN EVENT DATA RECORDER ON BOARD, THE COURT SHALL ADMIT EVIDENCE LAWFULLY OBTAINED FROM THE VEHICLE'S EVENT DATA RECORDER. FOR PURPOSES OF THIS SUBDIVISION, THE STATE SHALL ESTABLISH THAT ANY PERSON ARRESTED BASED ON DATA RETRIEVED FROM AN EVENT DATA RECORDER HAD ACTUAL KNOWLEDGE OF SUCH EVENT DATA RECORDER'S PRESENCE ON BOARD THE MOTOR VEHICLE BEFORE MAKING ANY STATEMENTS TO LAW ENFORCEMENT AGENTS SOUGHT TO BE ADMITTED AGAINST SUCH PERSON IN AN ACTION OR PROCEEDING.

4. SUPPRESSION. A DEFENDANT WHO HAS BEEN COMPELLED TO SUBMIT EVENT DATA RECORDER EVIDENCE OR STATEMENT EVIDENCE PURSUANT TO THIS SECTION MAY MOVE FOR THE SUPPRESSION OF SUCH EVIDENCE IN ACCORDANCE WITH ARTICLE SEVEN HUNDRED TEN OF THE CRIMINAL PROCEDURE LAW ON THE GROUNDS THAT THE EVIDENCE WAS OBTAINED IN VIOLATION OF THE PROVISIONS OF SUCH SUBDIVISION OR ANY OTHER APPLICABLE LAW.

S 3. The general business law is amended by adding a new section 198-c to read as follows:

S 198-C. SALE OR LEASE OF MOTOR VEHICLES CONTAINING EVENT DATA RECORDERS. 1. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, EACH SALE OR LEASE OF A MOTOR VEHICLE WITH AN EVENT DATA RECORDER ON BOARD SHALL INCLUDE A WRITTEN AND VERBAL WARNING TO THE PURCHASER OR LEASEHOLDER THAT AN EVENT DATA RECORDER IS LOCATED ON BOARD AND THAT IT CONSTITUTES A CRIME IN NEW YORK STATE TO TAMPER WITH, DISABLE, REMOVE OR DESTROY SUCH EVENT DATA RECORDER.

2. FOR PURPOSES OF THIS SECTION, AN "EVENT DATA RECORDER" MEANS A DEVICE INSTALLED IN A MOTOR VEHICLE THAT HAS THE ABILITY TO RECORD THE LAST SECONDS BEFORE A COLLISION INCLUDING, BUT NOT LIMITED TO, THE VEHICLE'S SPEED, THE ENGINE SPEED, WHETHER THE BRAKES ARE APPLIED, AND THE POSITION OF THE GAS PEDAL, THE MOMENT THE AIR BAGS DEPLOYED, WHETHER THE SAFETY BELTS WERE IN USE, AND THE FORCE OF THE COLLISION.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.