

## Just Who Owns EDR / ACM Data



### Driver Privacy Act of 2015

Factories that use data in an event data recorder system to be included in a post-crash motor vehicle, just approved by Congress.

### Driver Privacy Act of 2015



## Driver Privacy Act of 2015



### Where is it OK?

A court or state judicial or administrative authority must authorize the use of the data.

The Act is intended primarily to be used for investigation or inspection purposes under section 2533(a) or 2533(b) of the 50 United States Code.

### Do Not Collect Driver Privacy Act of 2015 (DPA) with The Drivers Privacy Protection Act (DPPA)

### And Along Comes California



### California Privacy Law

On October 11, 2015, California Governor Jerry Brown signed a controversial law protecting Californians' Personal Information.

### California wants to ban sale of encrypted smartphones

California's newest data protection law (Chapter 87-2015) introduced the legislation that would prohibit the sale of encrypted smartphones.

### What About:

Are those devices and services subject to the same regulations?  
What Are The Limitations of These?

### Car called 911 after 2 hit and runs.

In this case, the driver's My Bluetooth voice dialing feature triggered the car to call 911.

### Contact Information



### Reference Materials

https://www.california.gov/...



### Hazards? What Hazards?



### Hazards? What Hazards?



### Vehicle Event Data Recorder Study

What happened during the study? The study involved installing event data recorders on vehicles.

### How are Employees Affected?

What implications might there be for workers? The study could affect how employers handle data.



Just Who Owns EDR / ACM Data

Toyota Prius - Airbag Module Driver Privacy Act of 2015
Features that are able to collect data...
I "These technologies make 'black box' recovery of EDR data easier...

Hazards? What Hazards?
The Star Tribune



Hazards? What Hazards?
The Star Tribune



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The Star Tribune



Driver Privacy Act of 2015
Discoverability of data

Driver Privacy Act of 2015
Protect

Driver Privacy Act of 2015

When is it OK?
A court or other judicial or administrative authority...
The data is returned pursuant to an investigation or inspection...
The data is returned for the purpose of investigating the event...

Vehicle Event Data Recorder Study

What?
The Star Tribune 1 year after the start of the...
How are Employers Affected?
What?
The Star Tribune...

Do Not Confuse Driver Privacy Act of 2015 (DPA) with The Drivers Privacy Protection Act (DPPA)

And Along Comes California
RESEARCHER GROUP

California Privacy Law:
Relevance, Primarily
On October 16, 2015, California Governor Jerry Brown signed the new privacy law...

California wants to ban sale of encrypted smartphones
California Assembly member John Chiang (D-SB) introduced the legislation...

What About?
On the other device and camera subject to the same regulations?
What Are The Limitations of These?
On the other device...

Car called 911 after 2 hit and runs.
In this case, the driver, Mr. Rosenbaum, says, "After my 911 call, I was stuck in traffic for 20 minutes..."

Contact Information
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www.scotteadwyer.com



References Materials
http://www.california.gov/13449...
http://www.senatorbill.com/106730

# ■ Laws, Privacy & More! ■

Vol XCIII, No. 311

Monday, January 25, 2016

\$1.25

## Just Who Owns EDR / ACM Data

**Toyota Prius – Airbag Module**

Seiko  
#SIC-234A  
128 or 256 Bytes Serial EEPROM



**Driver Privacy Act of 2015**

**Hazards? What Hazards?**  
Big Shot Attorneys

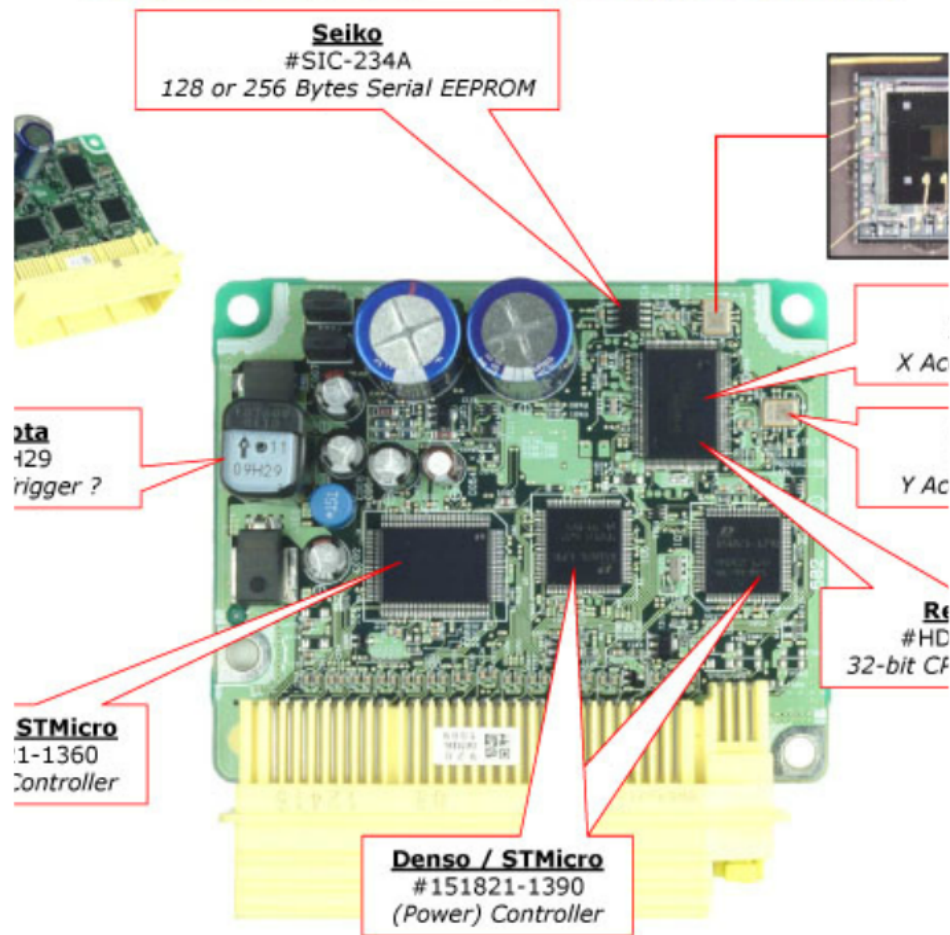




I AM NOT  
AN  
ATTORNEY!  
( I do play one  
on T.V.)

# Just Who Owns EDR / ACM Data

## Toyota Prius – Airbag Module



Toyota Prius Misc Modules.

## Driver Privacy Act of 2015

Declares that any data in an event data recorder required to be installed in a passenger motor vehicle (as provided for under Department of Transportation [DOT] regulations concerning the collection, storage, and retrievability of onboard motor vehicle crash event data) is the property of the owner or lessee of the vehicle in which the recorder is installed, regardless of when the vehicle was manufactured.

( "These technologies include "event data recorders" or EDRs that capture a range of information just prior to or during a crash event." )

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# Driver Privacy Act of 2015

## Ownership of data

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— Any data retained by an event data recorder, regardless of when the motor vehicle in which it is installed was manufactured, is the property of the owner, or, in the case of a leased vehicle, the lessee of the motor vehicle in which the event data recorder is installed.





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# Driver Privacy Act of 2015

## Privacy

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—Data recorded or transmitted by an event data recorder may not be accessed by a person other than an owner or a lessee of the motor vehicle in which the event data recorder is installed unless...



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# Driver Privacy Act of 2015

## When is it OK?



a court or other judicial or administrative authority having jurisdiction—

(A) authorizes the retrieval of the data; and

(B) to the extent that there is retrieved data, the data is subject to the standards for admission into evidence required by that court or other administrative authority;

an owner or a lessee of the motor vehicle provides written, electronic, or recorded audio consent to the retrieval of the data for any purpose, including the purpose of diagnosing, servicing, or repairing the motor vehicle, or by agreeing to a subscription that describes how data will be retrieved and used

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the data is retrieved pursuant to an investigation or inspection authorized under section 1131(a) or 30166 of title 49, United States Code, and the personally identifiable information of an owner or a lessee of the vehicle and the vehicle identification number (VIN) is not disclosed in connection with the retrieved data, except that the VIN may be disclosed to the certifying manufacturer

the data is retrieved for the purpose of

the data is retrieved for the purpose of determining the need for, or facilitating, emergency medical response in response to a motor vehicle crash

the data is retrieved for traffic safety research, and the personally identifiable information of an owner or a lessee of the vehicle and the vehicle identification number is not disclosed in connection with the retrieved data.

Hazards....



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# Hazards? What Hazards?

## Big Shot Attorneys

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# Hazards? What Hazards?

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# Hazards? What Hazards?

## Judge Judy!

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*"If you live to be a hundred, you will never be as smart as me. On your BEST day, you're not as smart as I am on my WORST day."*

Qpolitical.com



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# Vehicle Event Data Recorder Study

## In addition, the law calls for:

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In general.

- Not later than 1 year after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety shall submit to Congress a report that contains the results of a study conducted by the Administrator to determine **the amount of time**, event data recorders installed in passenger motor vehicles should capture and record for retrieval vehicle-related data in conjunction with an event in order to provide sufficient information to investigate the cause of motor vehicle crashes.
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- Rulemaking.—Not later than 2 years after submitting the report required under subsection (a), the Administrator shall promulgate regulations to establish the appropriate period during which event data recorders installed in passenger motor vehicles may capture and record for retrieval vehicle-related data to the time necessary to provide accident investigators with vehicle-related information pertinent to crashes involving such motor vehicles. - The end....

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# How are Employers Affected?

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- Most monitoring programs apply to employees operating company-owned vehicles. In those cases, the employer owns or leases the vehicle and is legally allowed to access the data captured by the EDR. Of course, employers may nonetheless want to inform employees of the monitoring activity, and also have special considerations concerning certain groups in their workforce, including those represented by a union and those operating in other countries.
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- For those employers whose employees use vehicles that the employees own or lease, accessing EDR data will require the employees' written, electronic, or recorded audio consent. Many employers are already doing this, particularly in states where this has been required for some time. However, the Act mandates this nationwide.



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# What About:

## On Star, Hum, Sync, Etc

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Are these devices and services subject to the same regulations?

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# What Are The Limitations of These?

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# What Are The Limitations of These?:

On Star, Hum, Sync, Etc

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These technologies not only allow you to start your car with your smartphone, but also to assist you when you are involved in a crash. Most of the time (if the service is active) when a sensor is activated, the car connects you to emergency services over the speakerphone so you can get help.

**Do Not Confuse Driver Privacy Act of 2015 (DPA)**

**with**

**The Drivers Privacy Protection Act 1994 (DPPA)**

with  
The Drivers Privacy Protection Act 1994 (DPPA)

# Laws, Privacy & More!

Vol XCIII, No. 311

Monday, January 25, 2016

\$1.25

## And Along Comes California:



ELECTRONIC FRONTIER FOUNDATION

Victory in California! Gov. Brown Signs

## California wants to ban sale of encrypted smartphones

California assembly member Jim Cooper (D-9th) introduced the legislation -- bill 1681 -- which requires any smartphone manufactured "on or after January 1, 2017, and sold in California after that date" to be "capable

## Car called 911 after 2 Hit and Runs.

In this case, the driver, Ms. Bernstein, was driving her Ford equipped with Ssync in Florida. At some point while she was driving, the crash sensors on her car were activated and an emergency Dispatcher called Bernstein in her car. Bernstein told the Dispatcher that there



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# And Along Comes California:

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**ELECTRONIC FRONTIER FOUNDATION**

**Victory in California! Gov. Brown Signs  
CalECPA, Requiring Police to Get a  
Warrant Before Accessing Your Data**

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## California Privacy Law: Businesses Primarily

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On October 9th, 2015, California Governor, Jerry Brown, signed a comprehensive law protecting digital privacy. The California "Electronic Communications Privacy Act" (CECPA) requires any state law enforcement agency or any other investigative entity, to obtain a warrant before asking for digital information.

The digital information includes: digital communications, e-mail, text messages, documents stored in the cloud and any metadata associated with such information. The law also requires a warrant before law enforcement can track the location of electronic devices or even search such **mobile devices**.

It will be interesting to see if the California law encourages federal law makers to strengthen the federal statutes.

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Any smartphone that couldn't be decrypted on-demand would subject a seller to a \$2,500 fine.

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# Smartphones

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# Car called 911 after 2 Hit and Runs.

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In this case, the driver, Ms. Bernstein, was driving her Ford equipped with Snyc in Florida. At some point while she was driving, the crash sensors on her car were activated and an emergency Dispatcher called Bernstein in her car. Bernstein told the Dispatcher that there wasn't a problem, but the Dispatcher then said "OK. But your car called in saying you'd been involved in an accident. It doesn't do that for no reason. Did you leave the scene of an accident?" Bernstein denied and went about her merry way.

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# Contact Information

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