

**Joint Commission on Technology & Science
Emerging Technology Issues Advisory Committee
Monday, September 12, 2005
Richmond, VA**

**Using Event Data Recorders in Claims
Rey Becker – Vice President, Commercial Lines & Claims
Property Casualty Insurers Association of America (PCI)**

Background

- 15% of light vehicles on road equipped with EDRs
- 65-90% of model year 2004 vehicles equipped
- Proposed NHTSA rule

California AB 213 (2003)

- Notice in owners manual
- No access/downloading of data w/o permission or court order
- No exceptions for law enforcement or insurers
- Effective 7/1/04

Copycat Bills

- Alliance of Automobile Manufacturers (AAM) Model – Improved California approach – Registered owner & more flexible approach to authorization.
- 13 “copy cat” bills: AK, **AR**, MA, MT, **NV**, NH, **NY**, **ND**, PA, TN, **TX**, VA & WV.
- Arkansas – Perpetual ownership of data. Limitation upon required consent.
- Nevada – California-style law.
- New York – AAM Model.
- North Dakota – Data inadmissible. Limitation upon required consent.
- Texas – Originally limited to law enforcement.

Points

- Need to balance privacy vs. legitimate business needs and uses for data.
- Data is not sensitive personal financial or health information. No different than other objective data.
- Insurers have legitimate claims adjusting and investigation, fraud investigation, loss control and research needs for the data.
- EDR data is simply one of many tools that may or may not be used, depending upon a variety of factors. It is not the sole adjusting tool.
- Auto policies require policyholder cooperation and access to the vehicle and its contents.
- Requiring written consent can hamper fraud detection and investigation efforts.
- Requiring written consent can delay claims payment.
- Requiring court orders to obtain access encourages unnecessary litigation, adds unnecessary expense for policyholders, and delays claim payment.
- Data can be particularly useful in death cases, with no living witnesses, to quickly settle the claims of surviving family members.
- Restricting the admissibility of EDR data denies relevant objective information to the jury and hampers their fact-finding ability. This can produce unjust verdicts.