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**TESTIMONY OF SENATOR TONI N. HARP**

**March 23, 2007**

**SENATE BILL 974: AN ACT LIMITING LAW ENFORCEMENT ACCESS  
TO RECORDED INFORMATION IN "BLACK BOX" EVENT DATA RECORDERS IN  
MOTOR VEHICLES.**

**SENATOR TONI N. HARP – 10<sup>TH</sup> DISTRICT**

Senator McDonald, Representative Lawlor, Ranking and other members of the Judiciary Committee, thank you for the opportunity to testify today on behalf of SB974, An Act Limiting Law Enforcement Access to Recorded Information in 'Black Box' Event Data Recorders in Motor Vehicles.

This legislation protects the precious commodities of privacy and personal liberty; guaranteed freedoms that are already eroding at an unacceptable rate in our country, I'm afraid. These 'black boxes' act in much the same way flight data recorders help track the operation of aircraft, recording such things as speed of travel, braking, skidding, and air bag deployment.

Manufacturers understandably want the information for defense of product liability lawsuits; law enforcement understandably wants the information for investigation of serious accidents and criminal prosecution as necessary. But I think the price for this information is too high if it means surrendering invaluable privacy.

Each of us remembers the story of the car rental customer not long ago who was surcharged for going over the speed limit by the car rental company because of information

obtained from a Global Positioning transponder installed in the rental car. The customer fought the ticket on privacy grounds and won a compromise arrangement. Still, in my mind, the alarm was sounded.

SB 974 does not suggest that information recorded on these 'black boxes' remain locked away forever. Instead it clearly allows for it to be shared under a half-dozen provisions, among them when written consent is given by the car owner, when the data is used to improve automobile safety, or when a formal search warrant is issued by the court.

If the recorded information is ever needed for a police investigation it can certainly still be made available as any evidence might be. We simply want law enforcement officials and investigators to understand that just because the information exists doesn't mean they automatically have access to it.

First of all, very often these 'black boxes' exist in new cars without an owner's knowledge. For private information to be available to whoever wants it, whenever he or she wants it, when the subject of the information *doesn't even know it exists* is simply unconscionable. I believe this recorded information should be subject to the same legal protections as any other private information.

Another important consideration is the accuracy of the information recorded in the first place. I'm not aware of any scheduled tune-ups or recalibrations of these 'black boxes' and their standards can vary from one manufacturer to the next, so I worry about the extent to which the data can be relied upon.

Perhaps the most onerous of all concerns I have is the unsavory but inevitable extension of how far the availability of this recorded information can or might travel if it is not kept in check with this bill.

Connecticut is among more than a dozen states considering comparable restrictions on the accessibility, distribution, and use of 'black box' information. Our neighbors in New York and Massachusetts are among them, too. An editorial in one Massachusetts publication goes so far as to suggest the presence of these recorders might be tantamount to 'electronic spying.'

California was one of the first states to enact legislation to protect recorded information on these 'black boxes,' primarily on Fourth Amendment grounds protecting against unlawful search and seizure as I understand it. One of the proponents of the California law likened it to painstakingly going through a house or any other crime scene: the search is limited to what must be done to secure the scene from a safety standpoint. Anything more thorough than that requires a warrant.

This legislation before you today – about which I feel very strongly – is simply our attempt to apply the brakes to a culture in which rapidly advancing technology makes too much information available to too many people. In this climate of enhanced suspicion and surveillance it makes sense to me that we ensure the privacy of residents and drivers in Connecticut.

I urge your careful consideration of this bill and favorable action so we can make certain personal, private information remains personal and private, with statutorily limited exceptions.

Thank you very much.