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MEMORANDUM

To: Members of the Wisconsin Legislature
From: Eric Englund
Date: February 2, 2006
Subject: Opposition – Black Box Legislation – AB 925/SB 507

On behalf of the Wisconsin Insurance Alliance (WIA) and the more than two hundred auto insurers doing business in Wisconsin, I write to express our OPPOSITION to SENATE BILL 507 & ASSEMBLY BILL 925. This proposed legislation contains language that specifically restricts an insurer's ability to access certain motor vehicle information that could assist in more accurately determining the outcome of a claim.

BACKGROUND

Motor vehicle Event Data Recorders (EDRs or black boxes) date back more than 30 years when the National Highway Traffic Safety Administration (NHTSA) first began using these electronic devices to better analyze motor vehicle crash data. Over the years this data has been used to benefit many groups including auto consumers, safety and traffic control officials, law enforcement, vehicle manufacturers, vehicle repair personnel and auto insurance companies. For insurers, the data contained in the black boxes may be used for a variety of claims, rating and underwriting purposes.

AB 925/SB 507

The essence of this proposed legislation is threefold:

- 1) To require notice to the owner of the automobile that these "black boxes" are in place.
- 2) To restrict access to information contained in the black boxes.
- 3) To specifically prohibit insurers from using black box data in determining a claim and whether or not to insure an individual or how much to charge them.

We strongly object to the language in the legislation directed at insurers for the following reasons:

- The bill provides extraordinary protection to data contained in these black boxes that is not available for other types of personal data including medical records, personnel records, and other information deemed confidential (see proposed Sec. 347.365 (3)). We believe this proposed section places access to this information outside the realm of the normal parameters of claims investigation and civil litigation. There are sufficient safeguards under current law that protects the consumer's information. There is no reason to create new protections for this specific set of data.

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- The bill further prohibits insurers from using the data as a tool in the normal course of Underwriting and Pricing. We strongly believe that while an insured has rights under current law to deny access to this data, insurers should similarly have the right to make decisions on Underwriting and Pricing based on the availability or lack of availability of certain necessary information.

An insurers' ability to appropriately underwrite (choose who they want to insure), price (determine how much to charge someone), and adjust claims (figure out what really happened) are a function of available and the most accurate information. If state law protects people who speed or who drive drunk, insurers will not have the availability to have those "bad drivers" pay more for insurance. Similarly, if insurers don't have access to information to determine if someone was breaking the law (e.g. speeding when an accident occurred) insurers will lack the precision and tools to efficiently resolve and expedite claims.

Auto insurers recognize the need to protect consumer information. It is important to note that under current law insurers are already required to comply with federal and state privacy laws. However, crash data contained in "black boxes" directly can contribute to the efficient and fair adjudication of claims. We strongly object to legislation that prohibits access to information that helps our industry use more accurate information and less subjective data.

We respectfully request that you OPPOSE language contained in SB 507 and AB 925 that restricts insurers from properly going about their business.