

GPS & PAYMENT ASSURANCE TECHNOLOGY

**Are you
compliant?**



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SCOPE OF THE TRAINING

- **Review of the GPS and Payment Assurance Technology**
 - History of Device Industry
 - Device Types and Usage
 - GPS - Asset/Collateral geolocation tracking technology
 - Payment Assurance - Payment reminders w/ or w/o starter interrupt capabilities
 - Market Overview
 - Service Provider Compliance
- **Compliance**
 - Federal Review
 - State Law Overview
 - Best Practices

PAYMENT ASSURANCE & GPS HISTORY

GPS was created by the US Department of Defense and was originally run with 24 satellites - fully operational 1995/1996.

1996 OnStar on First Vehicle.

1997 PassTime created the first Payment Assurance device and shortly after created the industries first Payment Assurance disclosure.

2000 President Clinton opened satellite use for non-military purposes.

GPS technology, into the late 90's, early 2000s, even with the executive order, was too expensive for the BHPH community.

From 2000 to present day, the costs of GPS technology and payment assurance technology has decreased, and the use in the subprime industry has expanded.

2001, Hudson Cook completed first GPS disclosure project for PassTime.

2008 PATA was created by industry participants in order to establish policies and best practices for its member companies.



OVERVIEW OF DEVICES

PHYSICAL COMPONENTS

PAYMENT REMINDER DEVICES:

Used as a collection tool and for asset recovery

- Code-based payments (no GPS)
- Relay (for starter interrupt)

GPS (wireless) DEVICES:

Used for as a consumer device, fleet applications and in auto theft recovery

- Module or chipset
- Cellular module
- GSM/CDMA antenna
- GPS antenna
- Relay (for starter interrupt)

DUAL DEVICES are a wireless combination of the payment reminder and GPS functionality listed above.

HOW GPS DEVICES WORK

- A GPS device is installed typically at the point of sale or at post repossession reinstatement.
 - Not all GPS devices have payment assurance capabilities.
 - Many are geolocation only devices.
- GPS device provides operational maintenance reporting.
- Manual locations are available as needed.
- Alternative available features may include: payment reminder (examples are tones or email), low power notification, anti-theft, starter-interrupt, and tow-detection notification.

HOW PAYMENT ASSURANCE DEVICES WORK

- Starter Interrupt Devices (SID) are typically installed at origination or as a condition of post repossession reinstatement
- Devices can provide payment reminders (example is a series of tones) as scheduled by the creditor and disclosed to the consumer. Not all starter interrupt devices have payment reminders.
- If payment is not received on its scheduled due date, the SID will send a command to prevent the vehicle from starting. (PATA recommends compliance with state right to cure notice and waiting periods prior to disablement.)
 - Assuming proper installation, the device will NOT shut off the vehicle while driving.
- Emergency backup systems in place (based on the provider). Examples are 1-800 numbers, emergency codes. *See California law in materials for state law requirements.*

CREDIT SCORES AND MARKET RISK

Score Range	
Category	Vantage Score 3.0
Super Prime	740+
Prime	680-739
Non-prime	620-679
Subprime	550-619
Deep subprime	<550

Used vehicle financing, in subprime and deep subprime, makes up about 41.25% of the overall market place as of Q2 2014. These two segments take on the most risk distribution by market share, at 76.2%. Industry experts believe that the device market holds anywhere from 35-55% of the market share.

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CONSUMER ADVOCATE ISSUES

DO'S & DON'TS (FAQ'S)

What is an Emergency Code and how is it used?

An Emergency Code provides the ability to start an already disabled vehicle for a 24 hour period in the case of an emergency.

To activate the 24 hour Emergency Code, simply turn the key to the “On” position when the dashboard lights come on or start the car. If there is a warning tone, wait until it has completed. Point the remote at the steering wheel, press the **PAY** Button and enter 999 999. At the end of the code a “Positive” Tone should be heard.

CONSUMER ADVOCATE ISSUES CONT.

DO'S & DON'TS (FAQ'S)

Who can access the data?

Certain data can be accessed by lender/dealer/device owner based upon the standards created by the device manufacturer/provider. Device manufacturer/provider typically retains data not accessible to lender/dealer/device owner. End user consumer typically does not have access to location and other data.

CONSUMER ADVOCATE ISSUES CONT.

DO'S & DON'TS (FAQ'S)

What security measures are in place to access the website, track and disable consumers?

PassTime has each dealer or finance company sign a Service Agreement with PassTime in which the company agrees to use the device in compliance with all applicable State and Federal laws (including all consumer privacy and anti-discrimination laws) - and PassTime reserves the right to disable any device or even any dealership/finance company where PassTime in its sole discretion suspects abusive, improper, or illegal monitoring of any vehicle. While the PassTime software periodically queries all devices on a random basis, a dealer or finance company does have the right to query a device independently or disable a vehicle.



CONSUMER ADVOCATE ISSUES CONT.

DO'S & DON'TS (FAQ'S)

Will the device stop a car while driving?

No, SID devices are hardwired to be used as the starter interrupt wire. This allows us to effectively disable the vehicle starter without affecting actual vehicle operation. The car will disable when the ignition is turned to the “off” position and the vehicle is no longer running. Even if a disable command was sent to the vehicle while the car is in motion it would still have no affect on the operation of the car. It can't turn off a car whose engine is “on” when installed properly.

FEDERAL REVIEW

FEDERAL FINANCIAL SERVICES LAWS

Consumer Financial Protection Bureau (CFPB) - Created by Dodd Frank Act - Super-regulator of financial services industry that:

- Enforces existing consumer financial protection laws
- Creates and enforces new consumer financial protection rules
- Monitors consumer credit industry
- Supervises certain financial institutions (larger participants - auto industry)

UDAAP

- Unfair, deceptive, and abusive acts and practices (UDAAP)
- Similar to FTCs UDAP
- Debt collection authority

Service Providers

- GPS and SID providers may be considered service providers subject to CFPB authority

FEDERAL REVIEW

FEDERAL FINANCIAL SERVICES LAWS

Other Laws that Impact GPS and SID

- Truth in Lending Act & Regulation Z
 - Disclosure law
 - Finance charge
- Equal Credit Opportunity Act & Regulation B
 - Discrimination prohibited on basis of race, color, religion, national origin, sex, marital status, age; because the person receives some type of public assistance; or because a person has asserted rights under a consumer credit protection statute
- There are others, but in interest of time - moving on.

FEDERAL REVIEW

FEDERAL FINANCIAL SERVICES LAWS

**NO FEDERAL LAW
EXPRESSLY PERMITS OR
PROHIBITS GPS OR SIDS
..... BUT MANY IMPACT THE
USE OF THE DEVICES BY
REGULATING THE CREDITORS
WHO USE THEM**

STATE LAW ISSUES

STATE LAWS

- State laws regulate terms and conditions of vehicle sales and financing
- Few state laws directly regulate GPS and SIDs
- Like federal law, many state laws indirectly regulate GPS and SIDs by regulation of the auto finance industry
- Navigating through the law can seem like getting through a maze (or rather, a minefield)
- Focus on some of the types of laws that regulate dealers and finance sources, and thereby GPS and SIDs (including some laws that actually regulate GPS and SIDs)

STATE LAW ISSUES

STATE LAWS

SIDs and the Uniform Commercial Code

- Regulates recovery of collateral when a consumer defaults on a contract
- After default, a secured party may take possession of the collateral
- Repossess non-judicially (self-help) if no breach of the peace
- Use of an SID should be treated as repossession

STATE LAW ISSUES

STATE LAWS

Right to Cure under Credit Laws

- States define “default” differently
- Many states grant consumers a right to cure default before a secured party may repossess the collateral
- Typically provide for a notice of default and a period of time to cure before a creditor may repossess
- Recommend that creditors observe cure rights prior to disabling vehicle using a SID

STATE LAW ISSUES

STATE LAWS

California Requirements (BHPH Dealers)

- Notifies the buyer in writing at the time of sale that the vehicle is equipped with SID, and that it can shut down the car;
- Informs the buyer that a warning will be provided no less than 48 hours before the use of the SID to disable vehicle and discloses the manner & method in which that warning will occur. Dealer must offer the buyer a choice of warning methods, including warning from the device, telephone call, email, or text message, if available; and
- In the event of an emergency, provides the buyer with the ability to start a dealer-disabled vehicle for no less than 24 hours after the vehicle's initial disablement.

STATE LAW ISSUES

STATE LAWS

SID Use Potential Benefits

- Reduces cost of repossession (towing and storage)
- When properly used, should not breach the peace
- Allows for cure of default and restart of vehicle
- Allows customer who might not qualify to obtain credit

Mitigating Regulator Concerns

- Creditors can address safety concerns by more accurately explaining how the device actually works
- Cannot disable running vehicle
- Provide emergency codes
- Written disclosure and consent
- Address privacy and safeguarding issues

STATE LAW ISSUES

STATE LAWS

GPS Under Existing State Law

- Only a handful of states expressly limit GPS
- Where no regulation, consumer advocates voice privacy concerns
- General UDAP and UDAAP issues

State Limitations on GPS Use

- Connecticut (electronic self help) - must only be used after default and not for monitoring
- CA, DE, IL, MI, TN, & TX criminalize the use of electronic tracking devices w/o the owner's consent
- CA & TN require consent and a waiver of a privacy right; DE, IL, MI, TX just require consent.

STATE LAW ISSUES

STATE LAWS

Mitigating Concerns

- Obtain from the customer a signed writing agreeing to the use of the GPS component
- Writing must include a knowing waiver of any right to privacy concerning the location of the vehicle
- Must be clear and conspicuous
- Must use device consistent with default and right to cure requirements, if applicable
- May not use SID and likely GPS in Wisconsin

BEST PRACTICES

IMPLEMENTING GPS AND SID TECHNOLOGY IN A FINANCING PROGRAM

- Do have the personnel who will install the devices properly trained, or use properly trained third-party installers.
- Do have the use of the devices and all paperwork dealing with the devices reviewed by your lawyer. Have him or her check that the use of the devices complies with both state and federal law.

BEST PRACTICES

IMPLEMENTING GPS AND SID TECHNOLOGY IN A FINANCING PROGRAM

- Do fully disclose to the customer that the device is on the vehicle, how the device works, emergency procedures, if any, and anything else your lawyer tells you to disclose.

Failure to disclose the use of a SID/GPS device by the lender/dealer/device owner violates industry best practice standards and may be unlawful in some states.

- Do contact your state legislators and consumer protection authorities and educate them on how the devices work, how you intend to use them and how they benefit you and your customers – if you let the consumer advocates tell the story, you won't like the result.

BEST PRACTICES

IMPLEMENTING GPS AND SID TECHNOLOGY IN A FINANCING PROGRAM

- Don't try to pass the cost of the devices along to the customers whose cars are to be equipped with the devices. Treat the cost as a general item of overhead, like the dealership's electricity bill.

BEST PRACTICES

IMPLEMENTING GPS AND SID TECHNOLOGY IN A FINANCING PROGRAM

- Don't discriminate in requiring the devices in a manner that violates federal or state anti-discrimination laws. An example of discrimination is only requiring the devices on the cars of single women.
- Do track complaints and complaint resolution related to the devices. Do include your product provider in compliant tracking and resolution process.

BEST PRACTICES

IMPLEMENTING GPS AND SID TECHNOLOGY IN A FINANCING PROGRAM

- Do your “due diligence” on the company selling the devices. See if they have done their legal homework.
- Do alert your insurance carrier that you intend to use the devices and get their confirmation in writing that risks arising from the use of the devices are covered by your policy.
- Do determine *before you start* to use the devices what your state consumer protection authorities and/or your state attorney general have to say about the devices.

QUESTIONS?

RESOURCES

DEVICE TECHNOLOGY IN A FINANCING PROGRAM

<http://www.patassociation.com/index.php>

<http://www.bhphinfo.com/>

<http://www.niada.com/>

<http://www.ftc.gov/>

<http://www.consumerfinance.gov/>

DISCLAIMERS

Legal Disclaimer

This Starter Interrupt and GPS Compliance Program is provided for informational purposes only. It is not legal advice. Please consult your own legal counsel to ensure your operations are consistent with federal and state law.