



February 19, 2020

The Honorable Delores Kelley
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 957 - MARYLAND ONLINE CONSUMER PROTECTION ACT - OPPOSE

Dear Senator Kelley:

The Alliance for Automotive Innovation¹ (Auto Innovators) is writing to inform you of **our opposition to SB 957**, which is modeled on the California Consumer Privacy Act (CCPA). The CCPA is a sweeping privacy law that applies to businesses of all sizes across almost every industry, not just technology companies. It was rushed through the legislative process without the benefit of input from numerous crucial stakeholders. As a result, the law is deeply flawed. Many of the CCPA's provisions are simply unworkable in practice or will result in numerous unintended consequences. SB 957 shares many of the same problems as the CCPA.

Maintaining Consumer Privacy and Cybersecurity

The protection of consumer personal information is a priority for the automotive industry. Through the development of the "Consumer Privacy Protection Principles for Vehicle Technologies and Services," Auto Innovators' members committed to take steps to protect the personal data generated by their vehicles. These Privacy Principles are enforceable through the Federal Trade Commission and provide heightened protection for geolocation data and how drivers operate their vehicles.² With increasing vehicle connectivity, customer privacy must be a priority. Many of the advanced technologies and services in vehicles today are based upon information obtained from a variety of vehicle systems and involve the collection of information about a vehicle's location or a driver's use of a vehicle. Consumer trust is essential to the success of vehicle technologies and services. Auto Innovators and our members understand that consumers want to know how these vehicle technologies and services can deliver benefits to

¹ Formed in 2020, the Alliance for Automotive Innovation is the singular, authoritative and respected voice of the automotive industry. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents the manufacturers producing nearly 99 percent of cars and light trucks sold in the U.S. The newly established organization, a combination of the Association of Global Automakers and the Alliance of Automobile Manufacturers, is directly involved in regulatory and policy matters impacting the light-duty vehicle market across the country. Members include motor vehicle manufacturers, original equipment suppliers, technology and other automotive-related companies and trade associations. The Alliance for Automotive Innovation is headquartered in Washington, DC, with offices in Detroit, MI and Sacramento, CA. For more information, visit our website <http://www.autosinnovate.org>.

² https://autoalliance.org/wp-content/uploads/2017/01/Consumer_Privacy_Principlesfor_VehicleTechnologies_Services.pdf

them while respecting their privacy. Our members are committed to providing all their customers with a high level of protection of their personal data and maintaining their trust. **Therefore, automakers should be excluded from the onerous provisions of SB 957.**

Practical Concerns

With this in mind, we have significant concerns with the proposed legislation. SB 957 defines “personal information” far more broadly than what that term is commonly understood to include. The bill defines “personal information” as “information that identifies, relates to, describes, *is reasonably capable of being associated with*, or could reasonably be linked, directly or indirectly, with a particular consumer ...” (emphasis added). This emphasized language in particular would mean that essentially every piece of direct and indirect data about a person could be classified as “personal information.” The bill’s definition of de-identification, similar to CCPA, creates ambiguity around determining if particular methods of de-identification are sufficiently “reasonable” to pass the standard. This one-size-fits-all approach, including the imposition of costly and poorly defined mandates on businesses for the fulfillment of access and deletion requests, to personal information raises serious concerns from both a compliance and enforcement perspective.

Automotive Specific Concerns

While the concerns noted above apply across all industries, their impacts raise unique problems for vehicle manufacturers. When looking at records tied to a vehicle, automakers may have little insight into who was driving or otherwise riding in the vehicle at the time that the information was collected. Allowing non-owners access and deletion rights may risk disclosure of personally identifiable information (PII) of others in the vehicle. For instance, residents involved in domestic disputes could use this data to spy on each other in regard to their usage of the vehicle. Such concerns are very real and serve as a detriment to privacy.

To comply with requests from non-owners, automakers might need to collect and process personal information beyond that needed to provide vehicle services. As a result, SB 957 may practically require that non-identified personal information that a business holds be matched with identifiable personal information to comply with an access or deletion request. This means that a business will need to collect more data from a consumer.

The definition of collection of data is extremely broad. There is no provision on how SB 957 might be applied to information that is collected on a vehicle and not immediately accessed by the manufacturer but could be accessed by the business at some point in the future. Automakers use vehicle-level data they collect for analysis related to motor vehicle safety, performance, and security to comply with the standards set forth by NHTSA. Moreover, this data is crucial to the development, training, implementation, and assessment of automated vehicle technologies, advanced driver-assistance systems, and other life-saving vehicle technologies.

Automakers need to share this information with affiliate companies within the organization that focus on specified tasks within the manufacturing ecosystem, such as R&D, manufacturing, and warranties. If automakers are required, in response to a deletion request, to delete all information that could reasonably be linked to a vehicle, or are forbidden from sharing such information internally, that would negatively result in automakers not being able to use the information to develop, test, and deploy vehicles and technologies that will save lives.

Automakers, independent dealerships, and suppliers share information for purposes that benefit consumers and the public. Sharing vehicle information enables dealerships to access full repair histories for vehicles, makes it easier for consumers to obtain services from multiple dealerships, enables suppliers to use vehicle-level data to improve safety, security, and performance for vehicle parts and systems, and allows suppliers and dealers to share vehicle- or part-related information with automakers for safety, security, warranty, or other purposes. California realized the importance of this and subsequently amended their law to not allow consumers to opt-out of 'selling' or sharing their vehicle data to a third party when it is shared for the purpose of vehicle repair related to a warranty or a recall

Given that the state of California has an open rulemaking to further amend and clarify the original law it passed, other states should refrain from enacting laws that will either conflict or impose more burdensome requirements.

Thank you for your consideration of the Auto Innovators' position. Please do not hesitate to contact me at jfisher@autosinnovate.org or 202-326-5562, should I be able to provide any additional information.

Sincerely,

A handwritten signature in black ink that reads "Josh Fisher". The signature is written in a cursive style with a prominent "J" and "F".

Josh Fisher
Director, State Affairs