

HOUSE BILL 1104

R4

8lr2620

By: **Delegate Stein**

Introduced and read first time: February 7, 2018

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2018

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws – Manufacturers and Dealers – Consumer Data Protection**

3 FOR the purpose of requiring vehicle manufacturers, distributors, and factory branches, or
4 their agents, to allow vehicle dealers to furnish certain consumer data in a certain
5 manner; ~~prohibiting manufacturers, distributors, and factory branches, or their~~
6 ~~agents, from requiring a dealer to grant access to the dealer's data management~~
7 ~~systems;~~ authorizing manufacturers, distributors, and factory branches, or their
8 agents, to access data management systems with express written consent of the
9 dealer; establishing standards for express written consent for access to a dealer's
10 data management system; requiring manufacturers, distributors, and factory
11 branches, or their agents, to provide certain indemnification to dealers for a violation
12 of this Act; prohibiting manufacturers, distributors, and factory branches from
13 taking adverse action against dealers that refuse to grant access to certain data;
14 authorizing manufacturers, distributors, and factory branches to require certain
15 data from dealers regarding warranty repair, ~~or~~ certain vehicle sales, safety or recall
16 obligations, or validation and payment of certain incentives; prohibiting
17 manufacturers, distributors, and factory branches, or their agents, from requiring a
18 dealer to grant access to the dealer's data management systems through a franchise
19 agreement; defining certain terms; and generally relating to consumer data
20 protection by vehicle manufacturers and dealers.

21 BY adding to
22 Article – Transportation
23 Section 15–207.1
24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2012 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Transportation

15-207.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(2) (I) “CONSUMER DATA” MEANS NONPUBLIC PERSONAL
INFORMATION, AS DEFINED IN 15 U.S.C. § 6809(4), COLLECTED BY A DEALER AND
PROVIDED BY THE DEALER DIRECTLY TO A MANUFACTURER, DISTRIBUTOR, OR
FACTORY BRANCH, OR ITS AGENT.

(II) “CONSUMER DATA” DOES NOT INCLUDE THE SAME OR
SIMILAR DATA THAT IS OBTAINED BY A MANUFACTURER FROM ANY OTHER SOURCE.

(3) “DATA MANAGEMENT SYSTEM” MEANS A COMPUTER HARDWARE
OR SOFTWARE SYSTEM THAT:

(I) IS OWNED, LEASED, OR LICENSED BY A DEALER, INCLUDING
A SYSTEM OF WEB-BASED APPLICATIONS;

(II) IS LOCATED AT THE DEALERSHIP OR HOSTED REMOTELY;
AND

(III) STORES AND PROVIDES ACCESS TO CONSUMER DATA
COLLECTED AND STORED BY THE DEALER.

(B) NOTWITHSTANDING THE PROVISIONS OF ANY FRANCHISE AGREEMENT,
A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH, OR ITS AGENT:

(1) SHALL ALLOW A DEALER TO FURNISH CONSUMER DATA IN A
WIDELY ACCEPTED FILE FORMAT, SUCH AS COMMA-SEPARATED VALUES, AND
THROUGH A THIRD-PARTY VENDOR SELECTED BY THE DEALER;

~~(2) MAY NOT REQUIRE THAT A DEALER GRANT THE MANUFACTURER,
DISTRIBUTOR, OR FACTORY BRANCH, OR ITS AGENT, ACCESS TO THE DEALER’S DATA
MANAGEMENT SYSTEM TO OBTAIN CONSUMER DATA;~~

1 ~~(3)~~ (2) MAY ACCESS OR OBTAIN CONSUMER DATA DIRECTLY FROM
2 A DEALER'S DATA MANAGEMENT SYSTEM ONLY WITH THE EXPRESS WRITTEN
3 CONSENT OF THE DEALER; AND

4 ~~(4)~~ (3) MAY NOT TAKE ANY ADVERSE ACTION AGAINST A DEALER
5 FOR REFUSING TO GRANT ACCESS TO THE DEALER'S DATA MANAGEMENT SYSTEM;

6 ~~(5)~~ (4) MAY REQUIRE THAT A FRANCHISED DEALER OF THE
7 MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH PROVIDE CONSUMER DATA
8 OR TRANSACTIONAL DATA THAT PERTAINS TO: ~~A WARRANTY REPAIR OR THE SALE~~
9 ~~OF A NEW OR CERTIFIED PRE-OWNED VEHICLE; AND~~

10 (I) CLAIMS FOR WARRANTY PARTS OR REPAIRS;

11 (II) SALES AND DELIVERIES OF NEW OR CERTIFIED PRE-OWNED
12 VEHICLES OF ANY LINE MAKE OF THE MANUFACTURER, DISTRIBUTOR, OR FACTORY
13 BRANCH;

14 (III) SAFETY OR RECALL OBLIGATIONS; OR

15 (IV) VALIDATION AND PAYMENT OF CUSTOMER OR DEALER
16 INCENTIVES; AND

17 ~~(6)~~ (5) SHALL INDEMNIFY THE DEALER FOR ANY THIRD-PARTY
18 CLAIMS ASSERTED AGAINST OR DAMAGES INCURRED BY THE DEALER TO THE
19 EXTENT THE CLAIMS OF DAMAGES ARE CAUSED BY ACCESS TO ~~OR USE OR AND~~
20 UNLAWFUL DISCLOSURE OF CONSUMER DATA IN VIOLATION OF THIS SECTION
21 RESULTING FROM A BREACH CAUSED BY THE MANUFACTURER, DISTRIBUTOR, OR
22 FACTORY BRANCH, OR ITS AGENT, OR A THIRD PARTY TO WHICH THE
23 MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH, OR ITS AGENT, HAS
24 PROVIDED THE CONSUMER DATA IN VIOLATION OF THIS SECTION.

25 (C) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH, OR ITS AGENT,
26 MAY NOT REQUIRE THAT A DEALER GRANT THE MANUFACTURER, DISTRIBUTOR, OR
27 FACTORY BRANCH, OR ITS AGENT, ACCESS TO THE DEALER'S DATA MANAGEMENT
28 SYSTEM THROUGH A FRANCHISE AGREEMENT OR AS A CONDITION OF RENEWAL OR
29 CONTINUATION OF THE FRANCHISE AGREEMENT.

30 ~~(e)~~ (D) WRITTEN CONSENT UNDER SUBSECTION ~~(B)(3)~~ (B)(2) OF THIS
31 SECTION:

32 (1) SHALL BE SEPARATE FROM THE DEALER FRANCHISE
33 AGREEMENT;

1 **(2) SHALL BE EXECUTED BY THE DEALER; AND**

2 **(3) MAY BE WITHDRAWN BY THE DEALER ON 30 DAYS' WRITTEN**
3 **NOTICE TO THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.