

Chapter 517

(House Bill 1104)

AN ACT concerning

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

FOR the purpose of requiring vehicle manufacturers, distributors, and factory branches, or their agents, to allow vehicle dealers to furnish certain consumer data in a certain manner; ~~prohibiting manufacturers, distributors, and factory branches, or their agents, from requiring a dealer to grant access to the dealer’s data management systems;~~ authorizing manufacturers, distributors, and factory branches, or their agents, to access data management systems with express written consent of the dealer; establishing standards for express written consent for access to a dealer’s data management system; requiring manufacturers, distributors, and factory branches, or their agents, to provide certain indemnification to dealers for a violation of this Act; prohibiting manufacturers, distributors, and factory branches from taking adverse action against dealers that refuse to grant access to certain data; authorizing manufacturers, distributors, and factory branches to require certain data from dealers regarding warranty repair, ~~or~~ certain vehicle sales, safety or recall obligations, or validation and payment of certain incentives; prohibiting manufacturers, distributors, and factory branches, or their agents, from requiring a dealer to grant access to the dealer’s data management systems through a franchise agreement; defining certain terms; and generally relating to consumer data protection by vehicle manufacturers and dealers.

BY adding to  
Article – Transportation  
Section 15–207.1  
Annotated Code of Maryland  
(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) (1) “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;~~

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

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

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

(I) CLAIMS FOR WARRANTY PARTS OR REPAIRS;

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

(III) SAFETY OR RECALL OBLIGATIONS; OR

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

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

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

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

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

(2) SHALL BE EXECUTED BY THE DEALER; AND

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

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

Approved by the Governor, May 8, 2018.