

**Department of Legislative Services**  
Maryland General Assembly  
2018 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 1031

(Senators Hough and Lee)

Judicial Proceedings

Rules and Executive Nominations

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

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This bill establishes consumer data protection standards for data collected by a vehicle dealer and subsequently provided to a manufacturer, distributor, or factory branch, or its agent. The bill prohibits a manufacturer, distributor, or factory branch, or its agent from imposing specified data-sharing requirements on dealers.

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**Fiscal Summary**

**State Effect:** The bill does not materially affect State finances or operations.

**Local Effect:** The bill does not materially affect local finances or operations.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** The bill defines “consumer data” as nonpublic personal information, as defined in federal law, collected by a dealer and provided by the dealer directly to a manufacturer, distributor, or factory branch, or its agent. “Consumer data” does not, however, include the same or similar data that is obtained by a manufacturer from any other source.

A “data management system” is a computer hardware or software system that (1) is owned, leased, or licensed by a dealer, including a system of web-based applications; (2) is located at the dealership or hosted remotely; and (3) stores and provides access to consumer data collected and stored by the dealer.

Under the bill, a manufacturer, distributor, or factory branch, or its agent (1) must allow a dealer to furnish consumer data in a widely accepted file format; (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 may not take any adverse action if a dealer refuses to grant access); (3) may require that a franchised dealer of the manufacturer, distributor, or factory branch provide specified consumer or transactional data; and (4) must indemnify the dealer for any third-party claims asserted against (or damages incurred by) the dealer, as specified.

A manufacturer, distributor, or factory branch, or its agent, may not require that a dealer grant access to the dealer's data management system through a franchise agreement or as a condition of renewal or continuation of the franchise agreement.

Although a manufacturer, distributor, or factory branch, or its agent may access or obtain consumer data with written consent of the dealer, the written consent must be separate from the dealer franchise agreement. In addition, the consent must be executed by the dealer and may be withdrawn by the dealer if written notice is provided at least 30 days beforehand.

**Current Law:** A motor vehicle manufacturer, distributor, or factory branch must be licensed by the Motor Vehicle Administration (MVA) in order to, among other things, transfer new vehicles and conduct business in new vehicles in Maryland. Likewise, a person may not conduct the business of a dealer unless licensed by MVA. MVA may refuse to grant, suspend, revoke, or refuse to renew a license under specified circumstances. For a manufacturer, distributor, or factory branch, those circumstances include a finding that the person (1) made any material misrepresentation in transferring a vehicle or truck component to a dealer or distributor; (2) failed to comply with any written warranty agreement; or (3) failed to reasonably compensate any franchised dealer for specified work.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None designated; however, HB 1104 (Delegate Stein – Environment and Transportation) is identical.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division); Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2018  
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