

February 26, 2020

HB 888 - SECURITY FEATURE FOR CONNECTED DEVICES - OPPOSE

The Alliance for Automotive Innovation¹ (Auto Innovators) is writing to inform you of **our opposition to HB 888**, which requires manufactures of connected devices to equip the connected device with certain security features.

HB 888 is similar to legislation passed in California. Like the California legislation, HB 888 imposes vague and open-ended requirements that will require manufacturers to grapple with its interpretation when designing product security features.

However, HB 888 lacks a critical exemption included in California's legislation. California's law states that its provisions do not apply to a device "the functionality of which is subject to security requirements under federal law, regulations, or guidance promulgated by a federal agency pursuant to its regulatory enforcement authority." Automobiles fall under this exemption because they are already covered by cybersecurity best practice guidance published by the National Highway Traffic Safety Administration.² Additionally, the auto industry has taken proactive measures to protect consumer privacy by developing the automotive "Privacy Principles" which commit automakers to take certain steps to protect the personal data generated by their vehicles.³ The Principles' fundamentals are based on the Federal Trade Commission's (FTC) Fair Information Practice Principles (FIPPs), which, in turn, rest on privacy practice frameworks used in the United States and around the world for over forty years. These Privacy Principles have been expressly adopted by the vast majority of the auto industry and are enforceable by the Federal Trade Commission (FTC).

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://www.nhtsa.gov/staticfiles/nvs/pdf/812333_CybersecurityForModernVehicles.pdf

³ https://autoalliance.org/wp-content/uploads/2017/01/Consumer_Privacy_Principlesfor_VehicleTechnologies_Services-03-21-19.pdf

Additionally, given action at the federal level, HB 888 is not necessary to protect consumers in Maryland. For example, the FTC, which has broad authority over consumer product safety under section 5 of the FTC Act, issued the Internet of Things Privacy & Security in a Connected World guidance document in 2015. The FTC has also taken enforcement action against connected device manufacturers, thus developing a set of regulatory expectations for manufacturers with respect to cybersecurity. Similarly, the FTC and the National Highway Traffic Safety Administration (NHTSA) held a workshop on security and safety of autonomous vehicles in June 2017, in part to discuss developing standards.

While the California law has serious problems with its overbroad and vague language, the exemption noted above provides a crucial level of clarity for manufacturers which is missing in HB 888. At a minimum, HB 888 should be amended to include this same exemption.

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, slightly slanted style.

Josh Fisher
Director, State Affairs