

January 24, 2022

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

**RE: SB 11 - MARYLAND ONLINE CONSUMER PROTECTION ACT
POSITION: UNFAVORABLE**

Dear Senator Kelley:

The Alliance for Automotive Innovation (Auto Innovators) is writing to inform you of **our opposition to SB 11**. Auto Innovators generally opposes efforts to enact state-level privacy laws and believes that the best way to protect consumers is through a single, national privacy framework. We are increasingly concerned that multiple states will enact privacy laws that provide inconsistent rights and obligations. A patchwork of state privacy laws not only make compliance difficult but will also create confusion among consumers about their privacy rights.

That is exactly what will happen if this bill, as currently drafted, were to become law. Colorado, California and Virginia have passed varying privacy laws. We are already facing a web of requirements in various states. We strongly urge the Maryland General Assembly to not add to this current patchwork. Alternatively, we recommend consideration of Virginia's privacy law to better ensure consistency among the states.

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 automakers producing nearly 99 percent of cars and light trucks sold in the U.S., Tier 1 original equipment suppliers, as well as other automotive technology companies.

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.¹ 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

¹ The complete Principles document can be found at www.automotiveprivacy.com

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 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.

Practical Concerns

With this in mind, we have significant concerns with the proposed legislation. SB 11 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 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 11 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 11 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 allow 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

Thank you for your consideration of the Auto Innovators' position. For more information, please contact our local representative, Bill Kress, at (410) 375-8548.

Sincerely,

A handwritten signature in black ink that reads "Josh Fisher". The signature is fluid and cursive, with the first name "Josh" and last name "Fisher" clearly distinguishable.

Josh Fisher
Director, State Affairs

