



February 6, 2023

The Honorable Melony Griffith  
Chair, Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: SB 169 - Biometric Data**  
**Position: Unfavorable**

Chair Griffith:

The Alliance for Automotive Innovation (Auto Innovators) is writing to inform you of **our opposition to SB 169**, which establishes requirements & restrictions on private entities use, collection, & maintenance of biometric data.

From the manufacturers producing most vehicles sold in the U.S. to autonomous vehicle innovators to equipment suppliers, battery producers and semiconductor makers – Alliance for Automotive Innovation represents the full auto industry, a sector supporting 10 million American jobs and five percent of the economy.

***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 provide heightened protection for certain types of sensitive data, including biometric data.<sup>1</sup> 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.

***Unique Considerations for Vehicle Safety Technology***

Privacy requirements of this nature require a standardized, nationwide approach so there is not a dizzying array of varied state requirements. Privacy protections regarding biometrics are being enforced by the Federal Trade Commission (FTC)<sup>1</sup>. The FTC has been the chief regulator for privacy and data security for decades, and its approach has been to use its authority under Section 5 of the FTC Act to encourage companies to implement strong privacy and data security

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<sup>1</sup> [https://autoalliance.org/wp-content/uploads/2017/01/Consumer\\_Privacy\\_Principlesfor\\_VehicleTechnologies\\_Services.pdf](https://autoalliance.org/wp-content/uploads/2017/01/Consumer_Privacy_Principlesfor_VehicleTechnologies_Services.pdf)

practices. As noted above, the auto industries “Privacy Principles” are enforceable under Section 5 of the FTC Act. We prefer this standard approach over individual states enacting disparate and conflicting laws.

SB 169 raises unique challenges for the auto industry. While the requirement to have a written policy that lays out a retention schedule conforms with the industry’s existing Privacy Principles, the requirement to destroy the information no later than three years after the company’s last interaction are arbitrary. A requirement to provide clear disclosure to consumers about how long such information will be maintained should be sufficient. Moreover, in practice, this requirement may prove challenging because, in the automotive case, manufacturers do not generally have visibility into who is driving or using a particular vehicle at a particular time and will therefore have no way of knowing when a particular customer last interacted with the vehicle.

Additionally, in the automotive context, a strict deletion requirement may interfere with automakers ability to evaluate the performance of the technology and federal requirements concerning vehicle recalls. Any deletion requirement should be accompanied by reasonable exceptions which recognize these concerns.

As written, SB 169 requires automakers to provide a service dependent on biometric data even if the consumer does not want his or her biometric data collected. It is common sense not to require a company to provide a service if the consumer is not willing to provide the data that is required to utilize said service.

Finally, under the SB 169, businesses may very well find themselves in a position of facing severe penalties for alleged violations and even very minor and inadvertent infractions and where there are no actual damages. We think existing remedies under state law are sufficient to address these issues.

Thank you for your consideration of the Auto Innovators’ position. Please do not hesitate to contact me at [jfisher@autosinnovate.org](mailto:jfisher@autosinnovate.org) or 202-326-5562, should I be able to provide any additional information.

Sincerely,



Josh Fisher  
Director, State Affairs

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<sup>i</sup> <https://www.ftc.gov/news-events/press-releases/2021/01/california-company-settles-ftc-allegations-it-deceived-consumers>