

February 6, 2021

The Honorable Mike Lefor  
Chair, House Industry, Business and Labor Committee  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

**RE: HB 1330 - RELATING TO PROHIBITING COVERED ENTITIES FROM  
SELLING USERS' PROTECTED DATA WITHOUT CONSENT  
POSITION: OPPOSE**

Dear Representative Lefor:

The Alliance for Automotive Innovation<sup>1</sup> (Auto Innovators) is writing to inform you of **our opposition to HB 1330**, which seeks to impose broad, yet exceptionally vague, requirements on business as it relates to consumer privacy. This bill goes beyond what other states have done and would create competing and conflicting state-level requirements when a federal standard is needed. Given that this issue was studied during the interim and a decision was made not to pursue the issue during the legislative session we request the bill not be advanced.

***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.<sup>2</sup> The auto industry’s Privacy Principles already prohibit the sale or sharing of sensitive data (including location data) in the absence of affirmative consent.

---

<sup>1</sup> 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>.

<sup>2</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)

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 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. First, HB 1330 lacks clear definitions and clarity about its scope and intent. This bill does not define key terms such as “sale,” or “collect”—critical definitions that determine the scope of the bill.

Second, the legislation is overly restrictive. It prohibits the sale of information even if the information is not identifiable or otherwise attributable to a particular user, including when data has been aggregated. Furthermore, HB 1330 does not contemplate various scenarios where a consumer gave the consent to the original collector but not a business which acquired that data from the original collector. California considered adopting similar requirements but rejected the idea.

Third, the bill creates a private right of action. Businesses may very well find themselves in a position of facing severe penalties for even very minor and inadvertent infractions and where there are no actual damages.

### ***Automotive Specific Concerns***

While the concerns noted above apply across all industries, their impacts raise unique problems for vehicle manufacturers. There is no provision on how HB 1330 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 may need to share information with affiliate companies within the organization and suppliers that focus on specified tasks within the manufacturing ecosystem, such as R&D, manufacturing, and warranties. If automakers are prohibited 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.

In addition, automakers, independent dealerships, and suppliers share information for purposes that benefit consumers and the public. Automakers may share information with dealerships and others for safety, security, warranty, or other purposes. California realized the importance of this and subsequently amended their law to not allow consumers to opt-out of ‘selling’ or sharing 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. 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,

A handwritten signature in black ink that reads "Josh Fisher". The signature is written in a cursive, flowing style.

Josh Fisher  
Director, State Affairs

