

MOTOR VEHICLE CONSUMER DATA PROTECTION

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Chris H. Wilson

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to motor vehicle consumer data protection.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ enacts provisions related to storing, sharing, and accessing motor vehicle consumer data.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

13-70-101, Utah Code Annotated 1953

13-70-102, Utah Code Annotated 1953

13-70-201, Utah Code Annotated 1953

13-70-202, Utah Code Annotated 1953

13-70-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section 13-70-101 is enacted to read:

29 **CHAPTER 70. MOTOR VEHICLE CONSUMER DATA PROTECTION**

30 **Part 1. General Provisions**

31 **13-70-101. Definitions.**

32 As used in this chapter:

33 (1) "Authorized integrator" means a third party with whom a franchisee enters into a
34 contract to perform a specific function for a franchisee that allows the third party to access
35 protected dealer data or to write data to a dealer data system, or both, to carry out the specified
36 function.

37 (2) "Consumer data" means non-public personal information defined in 15 U.S.C, Sec.
38 6809(4) as it existed on January 1, 2024.

39 (3) "Cyber ransom" means to encrypt, restrict, or prohibit, or to threaten or attempt to
40 encrypt, restrict, or prohibit a franchisee's or a franchisee's authorized integrator's access to
41 protected dealer data or other dealer data to obtain payment not agreed to by the franchisee or
42 the franchisee's authorized integrator in a written contract for services or goods.

43 (4) (a) "Dealer data system" means a software, hardware, or firmware system that is
44 owned, leased, or licensed by a franchisee, that includes a system of web-based applications,
45 computer software, or computer hardware, whether located at the franchisee's dealership or
46 hosted remotely, and that stores or provides access to protected dealer data.

47 (b) "Dealer data system" means a dealership management system or a consumer
48 relationship management system.

49 (5) "Dealer data vendor" means a third party dealer management system provider,
50 consumer relationship management system provider, or third party vendor providing similar
51 services that store protected dealer data pursuant to a contract with the franchisee.

52 (6) "Dealership" means the same as that term is defined in Section 13-14-102.

53 (7) "Fee" means payment for access to protected dealer data which is in addition to
54 charges written in an executed contract for goods or services.

55 (8) "Franchisee" means the same as that term is defined in Section 13-14-102.

56 (9) "Franchisee program" means a bonus, incentive, rebate, or other payment program
57 that a franchisor offers to a franchisee.

58 (10) "Franchisor" means the same as that term is defined in Section 13-14-102.

59 (11) (a) "Manufacturer" means a manufacturer of new motor vehicles.

60 (b) "Manufacturer" does not include a manufacturer acting in the capacity of a vendor,
61 service provider, dealer data vendor, or an affiliate or subsidiary of a manufacturer operating as
62 a vendor, service provider, or a dealer data vendor.

63 (12) "Other generally accepted standards" means security standards that are at least as
64 comprehensive as STAR standards.

65 (13) "Prior express written consent" means a franchisee's express written consent to
66 protected dealer data sharing that:

67 (a) is in a document separate from any other:

68 (i) consent;

69 (ii) contract;

70 (iii) franchise agreement; or

71 (iv) writing;

72 (b) identifies all parties with whom the protected dealer data may be shared; and

73 (c) contains:

74 (i) all details that the franchisee requires relating to the scope and nature of the
75 protected dealer data to be shared, including the data fields and the duration for which the
76 sharing is authorized; and

77 (ii) all provisions and restrictions that are required under federal law to allow sharing
78 the protected dealer data.

79 (14) "Protected dealer data" means:

80 (a) consumer data that:

81 (i) (A) a consumer provides to a franchisee; or

82 (B) a franchisee otherwise obtains;

83 (ii) is stored in the franchisee's dealer data system; and

84 (iii) is not otherwise publicly available;

85 (b) other data that relates to a franchisee's daily business operations and is stored in the
86 franchisee's dealer data system; and

87 (c) motor vehicle diagnostic data.

88 (15) (a) "Required manufacturer data" means data that:

89 (i) a manufacturer is required to obtain under federal or state law;

90 (ii) is required to complete or verify a transaction between the franchisee and the
91 manufacturer;
92 (iii) is motor vehicle diagnostic data; or
93 (iv) is reasonably necessary for:
94 (A) a safety notice, recall notice, manufacturer field action, or other legal notice
95 obligation relating to the repair, service, and update of a motor vehicle;
96 (B) the sale and delivery of a new motor vehicle or certified used motor vehicle to a
97 consumer, including necessary data for the vehicle manufacturer to activate services purchased
98 by the consumer;
99 (C) the validation and payment of consumer or franchisee incentives;
100 (D) claims for franchisee-supplied services relating to warranty parts or repairs;
101 (E) the evaluation of franchisee performance, including the evaluation of the
102 franchisee's monthly financial statements and sales or service, consumer satisfaction with the
103 franchisee through direct consumer contact, or consumer surveys;
104 (F) franchisee and market analytics;
105 (G) the identification of the franchisee that sold or leased a specific motor vehicle and
106 the date of the transaction;
107 (H) marketing purposes designed for the benefit of, or to direct leads to, franchisees;
108 (I) the development, evaluation, or improvement of the manufacturer's products or
109 services; or
110 (J) the daily operational interactions of the franchisee with the manufacturer or other
111 franchisees through applications hosted on the manufacturer's dealer electronic
112 communications system.
113 (b) "Required manufacturer data" does not include:
114 (i) consumer data on the consumer's credit application; or
115 (ii) a franchisee's individualized notes about a consumer that are not related to a
116 transaction.
117 (16) "Service provider" means a person that processes protected dealer data on behalf
118 of a franchisee and that receives, from or on behalf of the franchisee, consumer protected
119 dealer data for a business purpose pursuant to a written contract, if the contract prohibits the
120 person from:

- 121 (a) selling or sharing the protected dealer data;
- 122 (b) retaining, using, or disclosing the protected dealer data for any purpose other than
- 123 for the business purposes specified in the contract for the franchisee, including retaining, using,
- 124 or disclosing the protected dealer data for a commercial purpose other than the business
- 125 purposes specified in the contract with the franchisee, or as permitted under this title;
- 126 (c) retaining, using, or disclosing the protected dealer data outside of the direct
- 127 business relationship between the service provider and the franchisee; or
- 128 (d) combining the protected dealer data that the service provider receives from, or on
- 129 behalf of, the franchisee with personal information that the service provider receives from, or
- 130 on behalf of, another person or persons, or collects from the service provider's own interaction
- 131 with the consumer.
- 132 (17) "STAR standards" means the current, applicable security standards published by
- 133 the Standards for Technology in Automotive Retail.
- 134 (18) (a) "Third party" means a person other than a franchisee.
- 135 (b) "Third party" includes:
- 136 (i) a service provider;
- 137 (ii) a vendor, including a dealer data vendor and authorized integrator;
- 138 (iii) a manufacturer acting in the capacity of a vendor, service provider, or dealer data
- 139 vendor; or
- 140 (iv) an affiliate of a manufacturer described in Subsection (18)(b)(iii).
- 141 (c) "Third party" does not include:
- 142 (i) a governmental entity acting pursuant to federal, state, or local law;
- 143 (ii) a person acting pursuant to a valid court order;
- 144 (iii) a manufacturer, not acting in the capacity of a vendor, service provider, or dealer
- 145 data vendor; or
- 146 (iv) an affiliate of a manufacturer described in Subsection (18)(c)(iii).
- 147 (19) "Vendor" means a person to whom a franchisee makes available protected dealer
- 148 data for a business purpose, pursuant to a written contract with the franchisee, if the contract:
- 149 (a) prohibits the vendor from:
- 150 (i) selling or sharing the protected dealer data;
- 151 (ii) retaining, using, or disclosing the protected dealer data for any purpose other than

152 for the business purposes specified in the contract, including retaining, using, or disclosing the
153 protected dealer data for a commercial purpose other than the business purposes specified in
154 the contract, or as otherwise permitted under this title;

155 (iii) retaining, using, or disclosing the protected dealer data outside of the direct
156 business relationship between the vendor and the franchisee; and

157 (iv) combining the protected dealer data that the vendor receives pursuant to a written
158 contract with the franchisee with personal information that the vendor receives from or on
159 behalf of another person or persons, or collects from the vendor's own interaction with the
160 consumer;

161 (b) includes a certification made by the vendor that the vendor understands the
162 restrictions in Subsection (19)(a)(i) and will comply with the restrictions; and

163 (c) permits, subject to agreement with the vendor, the franchisee to monitor the
164 vendor's compliance with the contract through measures, including ongoing manual reviews,
165 automated scans, regular assessments, audits, or other technical and operational testing at least
166 once every 12 months.

167 (20) "Unreasonable restriction" means:

168 (a) an unreasonable limitation or condition on the scope or nature of the data that is
169 shared with an authorized integrator;

170 (b) an unreasonable limitation or condition on the ability of an authorized integrator to
171 write data to a dealer data system;

172 (c) an unreasonable limitation or condition on a third party that accesses or shares
173 protected dealer data or that writes data to a dealer data system;

174 (d) requiring unreasonable access to a franchisor's or a third party's sensitive,
175 competitive, or other confidential business information as a condition for accessing protected
176 dealer data or sharing protected dealer data with an authorized integrator;

177 (e) prohibiting or limiting a franchisee's ability to store, copy, securely share, or use
178 protected dealer data outside of the dealer data system in any manner or for any reason; or

179 (f) allowing access to, or accessing protected dealer data without, the franchisee's prior
180 express written consent.

181 Section 2. Section **13-70-102** is enacted to read:

182 **13-70-102. Applicability.**

183 This chapter does not:

184 (1) govern, restrict, or apply to data outside of a dealer data system, including data that
185 is generated by a motor vehicle or a device that a consumer connects to a motor vehicle;

186 (2) authorize a franchisee or third party to use data that the franchisee or third party
187 obtains from a person in a manner that is inconsistent with:

188 (a) an agreement with the person; or

189 (b) the purposes for which the person provides the data to the franchisee or third party;

190 or

191 (3) except as is necessary to fulfill a franchisee's obligation to provide warranty, repair,
192 or service to consumers, grant a franchisee:

193 (a) ownership of motor vehicle diagnostic data; or

194 (b) rights to share or use motor vehicle diagnostic data.

195 Section 3. Section 13-70-201 is enacted to read:

196 **Part 2. Data Protection Regulations**

197 **13-70-201. Data submissions to franchisors or third parties.**

198 (1) A franchisor or third party may not require a franchisee to grant to the franchisor,
199 third party, or person acting on behalf of the franchisor or third party, direct or indirect access
200 to the franchisee's dealer data system.

201 (2) A franchisee may submit or push data or information to a franchisor or third party
202 through an electronic file format or protocol if the electronic file format or protocol:

203 (a) is widely accepted; and

204 (b) complies with:

205 (i) STAR standards; or

206 (ii) other generally accepted standards.

207 Section 4. Section 13-70-202 is enacted to read:

208 **13-70-202. Service provider contracts -- Franchisors and third parties --**

209 **Prohibitions -- Requirements.**

210 (1) (a) A service provider contract may permit the franchisee to monitor the service
211 provider's compliance with the contract through ongoing manual reviews, automated scans,
212 regular assessments, audits, or other technical and operational testing, at least once every 12
213 months.

214 (b) If a service provider or vendor engages another person to assist the service provider
215 or vendor in processing protected dealer data for a business purpose on behalf of the franchisee,
216 or if another person engaged by the service provider or vendor engages a person to assist in
217 processing protected dealer data for that business purpose, the service provider or vendor shall
218 notify the franchisee of that engagement, and the engagement shall be pursuant to a written
219 contract binding the person to observe all the requirements described in Subsection
220 13-70-101(16).

221 (2) A franchisor or third party may not:

222 (a) access, share, sell, copy, use, or transmit protected dealer data without prior express
223 written consent;

224 (b) engage in any act of cyber ransom; or

225 (c) take action to prohibit or limit a franchisee's ability to protect, store, copy, share, or
226 use protected dealer data, including:

227 (i) imposing a fee for, or other restriction on, the franchisee or authorized integrator:

228 (A) accessing or sharing protected dealer data;

229 (B) writing data to a dealer data system; or

230 (C) submitting or pushing data or information to the third party under Subsection
231 13-70-201(2);

232 (ii) unreasonably prohibiting a third party or an authorized integrator that satisfies
233 STAR standards or other generally accepted standards from integrating into the franchisee's
234 dealer data system; or

235 (iii) placing an unreasonable restriction on integration by an authorized integrator or
236 third party.

237 (3) (a) Notwithstanding Subsection (2)(c)(i)(A), a franchisor or a third party may
238 charge a franchisee for providing access to protected dealer data to a franchisee, authorized
239 integrator, or other the third party if the franchisor or third party:

240 (i) discloses the charge to the franchisee in writing; and

241 (ii) upon written request by the franchisee, provides to the franchisee documentation
242 that the charges were agreed to in writing by the franchisee or provided for in the contract for
243 services or goods.

244 (b) If a third party fails to comply with Subsection (2)(a), a charge described in

245 Subsection (2)(a) is a fee prohibited under Subsection (2)(c)(i).
246 (4) (a) A franchisee may unilaterally revoke or amend the prior express written consent
247 described in Subsection (1)(a):
248 (i) with 60 days notice without cause; or
249 (ii) immediately for cause.
250 (b) (i) Except as provided in Subsection (4)(b)(ii), a franchisor may not seek or require
251 prior express written consent as a condition of or factor for consideration or eligibility for a:
252 (A) franchisor program;
253 (B) standard or policy; or
254 (C) benefit to a franchisee.
255 (ii) If a franchisor's program requires delivery of information that is protected dealer
256 data to qualify for the program and receive franchisor program benefits, a franchisee shall
257 provide the information to participate in the franchisor program.
258 (5) This section does not:
259 (a) limit a franchisee's, franchisor's, or third party's obligations:
260 (i) as a service provider;
261 (ii) under federal, state, or local law, to protect and secure protected dealer data; or
262 (iii) regarding required manufacturer data; and
263 (b) require a franchisor to pay a benefit to a franchisee if the franchisee refuses to
264 provide data reasonably necessary to participate in the franchisor program.
265 (6) A franchisor or franchisor's selected third party may not require a franchisee to pay
266 a fee for sharing required manufacturer data if:
267 (a) the franchisor requires a franchisee to provide required manufacturer data through a
268 specific third party that the franchisor selects;
269 (b) the franchisor does not allow the franchisee to submit the required manufacturer
270 data using the franchisee's choice of a third party vendor;
271 (c) the franchisee's data is in a format that is compatible with the format required by the
272 franchisor; and
273 (d) the third party vendor satisfies the STAR standards or other generally accepted
274 standards.
275 (7) A franchisor may not access, sell, copy, use, transmit, or require a franchisee to

276 share or provide access to protected dealer data, unless:

277 (a) the protected dealer data is required manufacturer data; or

278 (b) the franchisee provides prior express written consent.

279 (8) A franchisor may only use required manufacturer data that the franchisor obtains

280 from a dealer data system for the purposes described in Subsection 13-70-101(14).

281 (9) (a) A franchisor, authorized integrator, or other third party shall indemnify a

282 franchisee for any claims or damages if:

283 (i) the claims or damages directly result from a violation of this section by the party

284 from whom the franchisee is seeking indemnification;

285 (ii) the claims or damages directly result from a violation of this section by:

286 (A) a vendor or contractor as an agent acting on behalf of the party from whom the

287 franchisee is seeking indemnification; or

288 (B) a vendor or other service provider who the party from whom the franchisee is

289 seeking indemnification required the franchisee to use; and

290 (iii) the claims or damages result from a violation of this section for:

291 (A) accessing or providing access to protected dealer data;

292 (B) using protected dealer data; or

293 (C) disclosing protected dealer data.

294 (b) A franchisee bringing a cause of action against a franchisor, authorized integrator,

295 or other third party for a violation of this section has the burden of proof.

296 (10) Notwithstanding Subsection (6), this chapter does not restrict or limit a

297 franchisor's right to:

298 (a) access or obtain required manufacturer data;

299 (b) use, share, copy, or transmit required manufacturer data for the purposes described

300 in Subsection 13-70-101(15); or

301 (c) use or control data that is:

302 (i) proprietary to the franchisor;

303 (ii) created by the franchisor;

304 (iii) obtained from a source other than the franchisee; or

305 (iv) public information.

306 Section 5. Section 13-70-203 is enacted to read:

307 13-70-203. Dealer data vendors -- Authorized integrators -- Requirements.308 (1) (a) A dealer data vendor shall adopt and make available to a franchisee and
309 authorized integrator in a standardized framework:310 (i) the exchange, integration, and sharing of data between a dealer data system and an
311 authorized integrator; and312 (ii) the retrieval of data by an authorized integrator.313 (b) The standardized framework described in Subsection (1)(a) shall comply with
314 STAR standards or other generally accepted standards.315 (2) (a) Except as provided in Subsection (2)(b), a dealer data vendor shall provide to an
316 authorized integrator access to open application programming interfaces for the standardized
317 framework described in Subsection (1) that meet the reasonable commercial or technical
318 standard for secure data integration.319 (b) If the open application interfaces described in Subsection (2)(a) do not meet the
320 reasonable commercial or technical standard for secure data integration, a dealer data vendor
321 may provide to an authorized integrator a similar open access integration method that:322 (i) provides the same or better access to an authorized integrator as an application
323 programming interface; and324 (ii) uses the standardized framework described in Subsection (1).325 (3) A dealer data vendor and an authorized integrator:326 (a) may access, use, store, or share protected dealer data or any other data from a dealer
327 data system only to the extent allowed in the written agreement with the franchisee;328 (b) shall, upon a franchisee's request, provide the franchisee with a list of all persons:329 (i) with whom the dealer data vendor or authorized integrator is sharing, or has shared,
330 protected dealer data; or331 (ii) to whom the dealer data vendor or authorized integrator has allowed or is allowing
332 access to protected dealer data; and333 (c) shall allow a franchisee to audit the dealer data vendor's or authorized integrator's
334 access to and use of protected dealer data.335 (4) A franchisee may terminate an agreement between a dealer data vendor or
336 authorized integrator and the franchisee relating to access to, sharing of, selling of, copying,
337 using, or transmitting protected dealer data upon 90 days' notice.

338 (5) (a) If a dealer data vendor or authorized integrator receives a franchisee's notice
339 described in Subsection (4), the dealer data vendor or authorized integrator shall ensure a
340 secure transition of all protected dealer data to a successor dealer data vendor or successor
341 authorized integrator.

342 (b) In fulfilling the dealer data vendor's or authorized integrator's duties under
343 Subsection (5)(a), a dealer data vendor or authorized integrator shall:

344 (i) provide access to or an electronic copy of all protected dealer data and all other data
345 stored in the dealer data system in:

346 (A) a commercially reasonable time; and

347 (B) a format that the successor dealer data vendor or successor authorized integrator
348 can access and use; and

349 (ii) before the agreement terminates, delete or return to the franchisee all protected
350 dealer data pursuant to the franchisee's written directions.

351 **Section 6. Effective date.**

352 This bill takes effect on May 1, 2024.