
Craig A. Nichols

Geoff M. Nichols
Lee Ann Donaldson

April 30, 2019

The Honorable Oregon Legislature
900 Court Street NE
Salem, Oregon 97301

Re: Letter in Support of HB 3152

Dear Honorable Members of the Oregon Legislature:

Nichols Law Group LLC (“Nichols Law Group”) is a law firm in Portland, Oregon specializing in the representation of Oregon automobile dealers. Additionally, our firm represents the Oregon Auto Dealers Association (“OADA”). Nichols Law Group supports HB 3152.

There have been a number of strongly worded and grossly misleading aspersions submitted to the Committee by misinformed citizens and billion-dollar corporations alike. They have caused confusion as to the intent behind HB 3152 in an attempt to maintain the status quo – that is, to allow companies that sell enterprise software to auto dealers to manage, control, and retain ownership over customer data collected by the dealers. By exercising control over this data, these companies, known as dealer management systems providers (“DMS Providers”), are then able to sell it back to the dealers that collected it, increasing the DMS Providers’ profits at the expense of the dealers and their customers. In addition to being monopolist and anticompetitive, this practice is fundamentally wrong and hurts Oregonians.

The true purpose of HB 3152 is nothing more than to protect the personal, financial, and non-personal data which customers willingly give to dealers, which the dealers then use to improve their customer service practices, tailor individualized marketing experiences, and ensure compliance with state and federal laws. Contrary to what the DMS Providers have said, HB 3152 does not open the DMS Providers’ systems to hackers or impact the integrity of their propriety software in any way, nor does it allow nefarious cyber criminals to compromise entire dealer networks. These arguments are intended to scare the Committee into rejecting the Bill, thereby doing nothing.

By passing HB 3152, Oregonians end the practice of DMS Providers charging dealers cyber-ransom to access their own data, while re-shifting the right to control and manage customer data to the entities that collected it: the dealers. Importantly, nothing in the Bill gives dealers any rights to exercise ownership over information or data that is propriety to the manufacturer or DMS Provider. The only information and data governed by HB 3152 is that which customers give to dealers in connection with the purchase or lease of a vehicle or other product or service. For regulatory purposes, including compliance with state and federal law, other parties are entitled to certain information, and the Bill has been drafted to provide such information to those parties. Other data collected and held by dealers is not, and should not be, required to be handed over by the dealers to third parties like DMS Providers. HB 3152 recognizes that.

For the reasons stated above, Nichols Law Group strongly supports the passage of HB 3152. If there are any questions or wishes to discuss the Bill in further detail, please contact me directly.

Respectfully,

Craig A. Nichols
Nichols Law Group

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