

A-Engrossed
House Bill 3152

Ordered by the House April 16
Including House Amendments dated April 16

Sponsored by Representative EVANS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Prohibits person, other than governmental entity or other person acting in accordance with federal, state or local law or under court order, from obtaining, sharing, selling, copying, transmitting, using, producing, generating or providing protected dealer data without motor vehicle dealer's prior express written consent or in any manner that is not consistent with dealer's prior express written consent. Prohibits person from preventing dealer or authorized integrator, by means of contract or other agreement or by taking action by technical methods or otherwise, from obtaining, sharing, selling, copying, transmitting, using, producing, generating or providing protected dealer data for dealer's own purposes.]

[Prohibits manufacturer, distributor or importer from requiring dealer to provide to manufacturer, distributor or importer any protected dealer data except protected dealer data that is also required manufacturer data and from requiring dealer to provide manufacturer, distributor or importer with prior express written consent as condition for participation in program or receiving benefit.]

Prohibits authorized integrator, unless authorized integrator is acting in accordance with federal, state or local government law or under valid court order, from obtaining, sharing, selling, copying, transmitting, using, producing, generating or providing protected dealer data without dealer's prior express written consent or in manner that is inconsistent with dealer's prior express written consent and from locking out, deactivating or denying dealer access to dealer data system, permitting another person to obtain, share, sell, copy, transmit, use, produce, generate or provide protected dealer data without dealer's prior express written consent or charging fee for or otherwise prohibiting, preventing, restricting or limiting dealer's ownership, possession or use of protected dealer data.

Permits dealer to withdraw, revoke or amend prior express written consent at dealer's discretion after giving 30 days' prior notice or immediately for good cause.

A BILL FOR AN ACT

1
2 Relating to the protected dealer data of motor vehicle dealers.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 650.120 to**
5 **650.170.**

6 **SECTION 2. (1) As used in this section:**

7 (a)(A) **"Authorized integrator"** means a person to which a dealer gives prior express
8 written consent to obtain, share, sell, copy, transmit, use, produce, generate or provide
9 protected dealer data for the purpose of performing a specific function for the dealer.

10 (B) **"Authorized integrator"** does not include a manufacturer, distributor or importer or
11 any entity that is a subsidiary or affiliate of, or acts on behalf of, a manufacturer, distributor
12 or importer.

13 (b) **"Dealer data system"** means software, hardware or firmware that a dealer owns,
14 leases, rents or controls and uses in the dealer's daily business operations.

15 (c) **"Prior express written consent"** means a written document, separate and distinct
16 from any other correspondence, contract, agreement or other writing a dealer has provided

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 to or exchanged with another person, in which a dealer:

2 (A) Provides explicit consent for and identifies all parties to, from or with which a person
3 may obtain, share, sell, copy, transmit, use, produce, generate or provide protected dealer
4 data;

5 (B) Details the nature of, and the scope within which, the person may obtain, share, sell,
6 copy, transmit, use, produce, generate or provide protected dealer data;

7 (C) Identifies all applicable provisions of state or federal law that govern the person's
8 obtaining, sharing, selling, copying, transmission, use, production, generation or provision
9 of protected dealer data; and

10 (D) Specifies the duration of the consent.

11 (d) "Protected dealer data" means:

12 (A) Any personal data or financial data about a consumer that a dealer generated or that
13 the consumer provided to the dealer and that is not otherwise publicly available; and

14 (B) Any other data that a dealer uses in connection with the dealer's daily business op-
15 erations and stores or maintains in a dealer data system.

16 (2) Unless an authorized integrator is acting in accordance with a federal, state or local
17 government law or under a valid court order, the authorized integrator may not:

18 (a) Obtain, share, sell, copy, transmit, use, produce, generate or provide protected dealer
19 data without a dealer's prior express written consent or in any manner that is not consistent
20 with the dealer's prior express written consent;

21 (b) Prohibit a dealer, by means of a contract or other agreement or by taking action by
22 technical methods or otherwise, from obtaining, sharing, selling, copying, transmitting, us-
23 ing, producing, generating or providing protected dealer data for the dealer's own purposes;

24 (c) Charge a fee or place a restriction on a dealer that has the effect of limiting or pro-
25 hibiting the dealer's or authorized integrator's ability to obtain, share, sell, copy, transmit,
26 use, produce, generate or provide protected dealer data;

27 (d) Lock out, deactivate or deny a dealer access to a dealer data system on which the
28 dealer stores or maintains protected dealer data;

29 (e) Permit another person to obtain, share, sell, copy, transmit, use, produce, generate
30 or provide protected dealer data without a dealer's prior express written consent; or

31 (f) Otherwise prohibit, prevent, restrict or limit a dealer's ownership, possession or use
32 of protected dealer data.

33 (3) A dealer may withdraw, revoke or amend a prior express written consent:

34 (a) At the dealer's sole discretion if the dealer gives 30 days' prior notice to the person
35 to which the dealer provided the prior express written consent; or

36 (b) Immediately, for good cause.

37 **SECTION 3.** Section 2 of this 2019 Act applies to a contract or other agreement with an
38 authorized integrator that a dealer enters into or renews on or after the effective date of
39 this 2019 Act.