

# House Bill 3152

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 **as introduced**.

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.

## A BILL FOR AN ACT

Relating to the protected dealer data of motor vehicle dealers.

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

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

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

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

(b) "Dealer data system" means software, hardware or firmware that a dealer uses in the dealer's business operations.

(c) "Prior express written consent" means a written document, separate and distinct from any other correspondence, contract, agreement or other writing a dealer has provided to or exchanged with another person, in which a dealer:

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

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

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

(D) Specifies the duration of the consent.

(d) "Protected dealer data" means:

(A) Any personal data, financial data or other data about a consumer that a dealer ob-

**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 tained or generated or that the consumer provided to the dealer; and

2 (B) Any other data that a dealer uses in connection with the dealer's business operations  
3 or stores or maintains in a dealer data system or in another manner.

4 (e) "Required manufacturer data" means data that:

5 (A) A manufacturer, distributor or importer has a right to obtain under federal law; or

6 (B) Is necessary to complete or verify a financial transaction between a dealer and a  
7 manufacturer, distributor or importer.

8 (2) A person, other than a governmental entity or other person that is acting in accord-  
9 ance with a federal, state or local government law or under a valid court order, may not:

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

13 (b) Prohibit a dealer or authorized integrator, by means of a contract or other agreement  
14 or by taking action by technical methods or otherwise, from obtaining, sharing, selling,  
15 copying, transmitting, using, producing, generating or providing protected dealer data for the  
16 dealer's own purposes;

17 (c) Charge a fee or place a restriction on a dealer or an authorized integrator that has  
18 the effect of limiting or prohibiting the dealer's or authorized integrator's ability to obtain,  
19 share, sell, copy, transmit, use, produce, generate or provide protected dealer data;

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

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

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

26 (3) A manufacturer, distributor or importer may not require a dealer to provide to the  
27 manufacturer, distributor or importer any protected dealer data except protected dealer data  
28 that is also required manufacturer data. The manufacturer, distributor or importer may use  
29 any required manufacturer data the manufacturer, distributor or importer receives solely  
30 to fulfill legal requirements or in connection with a transaction between the dealer and the  
31 manufacturer, distributor or importer.

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

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

35 (B) Immediately, for good cause.

36 (b) A manufacturer, distributor or importer may not require a dealer to provide the  
37 manufacturer, distributor or importer with a prior express written consent as a condition  
38 of participating in a program, benefitting from a standard or policy or obtaining a bonus,  
39 incentive, rebate or other benefit.

40 **SECTION 3.** Section 2 of this 2019 Act applies to a contract or other agreement with a  
41 manufacturer, distributor or importer that a dealer enters into or renews on or after the  
42 effective date of this 2019 Act. For the purposes of this section, a manufacturer, distributor  
43 or importer renews a contract or other agreement with a dealer if during the term of the  
44 contract or agreement the manufacturer, distributor or importer unilaterally amends, de-  
45letes or adds a material provision from or to the contract or other agreement.

