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(Original Signature of Member)

119TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To require manufacturers of motor vehicles to provide motor vehicle owners with access to and use of motor vehicle data of motor vehicles, and for other purposes.

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**IN THE HOUSE OF REPRESENTATIVES**

Mrs. HARSHBARGER introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To require manufacturers of motor vehicles to provide motor vehicle owners with access to and use of motor vehicle data of motor vehicles, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Data Rights for Infor-  
5       mation and Vehicle Electronics in Real-time Act” or the  
6       “DRIVER Act”.

1 **SEC. 2. MOTOR VEHICLE OWNER ACCESS TO MOTOR VEHI-**  
2 **CLE DATA.**

3 A manufacturer of a motor vehicle shall provide to  
4 a motor vehicle owner secure access to, and joint control  
5 of, any motor vehicle data of the motor vehicle of such  
6 motor vehicle owner as follows:

7 (1) At no cost beyond the purchase price of  
8 such motor vehicle.

9 (2) In real time.

10 (3) Without any restriction or limitation with  
11 respect to the manner in which such motor vehicle  
12 owner, for any lawful purpose—

13 (A) uses such motor vehicle data; or

14 (B) authorizes access to or use of such  
15 motor vehicle data by a third party, other than  
16 a person owned or controlled by a foreign ad-  
17 versary (as defined in section 791.2 of title 15,  
18 Code of Federal Regulations).

19 (4) Without a requirement that such motor ve-  
20 hicle owner pay a fee or purchase a license to  
21 decrypt such motor vehicle data or use a device pro-  
22 vided by such manufacturer to access and use such  
23 motor vehicle data.

24 (5) Through a motor vehicle interface port  
25 (such as an on-board diagnostics port) of such motor  
26 vehicle and through wireless transmission of such

1 motor vehicle data (to the extent such motor vehicle  
2 is equipped with technology to wirelessly transmit  
3 such motor vehicle data).

4 (6) In a manner that facilitates the deletion of  
5 any user data stored in such motor vehicle.

6 (7) In compliance with any voluntary auto-  
7 motive industry cybersecurity standards require-  
8 ments (such as ISO/SAE 24134).

9 **SEC. 3. ADDITIONAL MOTOR VEHICLE OWNER DATA AC-**  
10 **CESS CONTROLS.**

11 (a) VEHICLE OWNERS' DATA ACCESS CONTROL  
12 WITH RESPECT TO MOTOR VEHICLE MANUFACTUR-  
13 ERS.—A manufacturer of a motor vehicle may not, with  
14 respect to a motor vehicle manufactured by such manufac-  
15 turer, sell any covered data unless the manufacturer pro-  
16 vides to the motor vehicle owner of such motor vehicle a  
17 clear and conspicuous opportunity to opt out of any such  
18 sale.

19 (b) FLEET VEHICLE DRIVERS' DATA ACCESS CON-  
20 TROL WITH RESPECT TO MOTOR VEHICLE FLEET OWN-  
21 ERS.—

22 (1) IN GENERAL.—A motor vehicle fleet owner  
23 may not, with respect to a motor vehicle that such  
24 motor vehicle fleet owner leases or in which such  
25 motor vehicle fleet owner has an ownership or con-

1       tracted beneficial interest, sell any covered data, un-  
2       less the motor vehicle fleet owner provides to the  
3       driver or operator of such motor vehicle a clear and  
4       conspicuous opportunity to opt out of any such sale.

5           (2) LIMITATION.—The requirement to provide  
6       an opportunity to opt out described in paragraph (1)  
7       does not apply if the relevant data is generated by  
8       a commercial or governmental fleet vehicle driven by  
9       a driver in the course of the employment of the driv-  
10      er, except if such driver behavior data is to be sold  
11      for the purpose of profiling in furtherance of deci-  
12      sions that knowingly cause negative legal or simi-  
13      larly significant harmful effects concerning the con-  
14      duct of a person outside the course of the employ-  
15      ment of the person.

16      (c) NATIONAL SECURITY.—A manufacturer of a  
17      motor vehicle or a motor vehicle fleet owner may not know-  
18      ingly sell motor vehicle data to any of the following:

- 19           (1) The Democratic People’s Republic of Korea.
- 20           (2) The People’s Republic of China.
- 21           (3) The Russian Federation.
- 22           (4) The Islamic Republic of Iran.
- 23           (5) The Bolivarian Republic of Venezuela.

24      (d) EXCEPTIONS.—For purposes of this section, a  
25      sale does not include any of the following activities:

1           (1) Transferring covered data to emergency re-  
2           sponders.

3           (2) Responding to an owner-initiated commu-  
4           nication originating from within a motor vehicle or  
5           an app, where covered data may be transferred only  
6           to provide the response.

7           (3) Responding to a vehicle-initiated commu-  
8           nication related to the safe operation of a motor ve-  
9           hicle, where covered data may be transferred only to  
10          provide the response.

11          (4) Responding to a driver or user-initiated  
12          communication originating from within a motor vehi-  
13          cle or an app, where covered data may be trans-  
14          ferred only to provide the response.

15          (5) Conducting research or efforts to improve,  
16          repair, enhance the safety of, or develop products,  
17          services, or technology.

18          (6) Investigating or defending claims and  
19          losses.

20          (7) Conducting investigations of potential prod-  
21          uct quality, fraud, theft, or safety issues.

22          (8) Determining or effectuating vehicle field ac-  
23          tions, including customer satisfaction campaigns,  
24          technical service bulletins, compliance recalls, and  
25          safety recalls.

1           (9) Detecting or responding to cybersecurity in-  
2       cidents.

3           (10) Administering and fulfilling motor vehicle  
4       warranties.

5           (11) Performing diagnostics and prognostics of  
6       a motor vehicle or a component of a motor vehicle.

7           (12) Identifying and addressing issues that im-  
8       pair functionality.

9           (13) Disclosing covered data to a processor that  
10      processes such covered data on behalf of a manufac-  
11      turer of a motor vehicle or a motor vehicle fleet  
12      owner.

13          (14) Disclosing or transferring covered data to  
14      an affiliate of a manufacturer of a motor vehicle or  
15      a motor vehicle fleet owner.

16          (15) Disclosing information that a consumer—

17              (A) intentionally makes available to the  
18      general public through a channel of mass  
19      media; and

20              (B) does not restrict to a specific audience.

21          (16) Disclosing or transferring covered data to  
22      a third party as an asset that is part of a proposed  
23      or an actual merger, acquisition, bankruptcy, or  
24      other transaction in which the third party assumes  
25      control of all or part of the assets of a controller.

1 (17) Complying with a lawfully executed war-  
2 rant.

3 (18) Complying with a court order.

4 **SEC. 4. ENFORCEMENT BY COMMISSION.**

5 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—

6 A violation of section 2 shall be treated as a violation of  
7 a regulation under section 18(a)(1)(B) of the Federal  
8 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regard-  
9 ing unfair or deceptive acts or practices.

10 (b) POWERS OF COMMISSION.—The Commission  
11 shall enforce section 2 in the same manner, by the same  
12 means, and with the same jurisdiction, powers, and duties  
13 as though all applicable terms and provisions of the Fed-  
14 eral Trade Commission Act (15 U.S.C. 41 et seq.) were  
15 incorporated into and made a part of this Act, and any  
16 person who violates such section shall be subject to the  
17 penalties and entitled to the privileges and immunities  
18 provided in the Federal Trade Commission Act.

19 **SEC. 5. DISCLOSURE OF CONFIDENTIAL BUSINESS INFOR-**  
20 **MATION.**

21 Except as provided in section 2, nothing in this Act  
22 shall be construed to require a motor vehicle manufacturer  
23 to divulge confidential business information (as defined in  
24 section 512.3(c) of title 49, Code of Federal Regulations).

1   **SEC. 6. RELATIONSHIP TO STATE LAW.**

2       No State, or political subdivision of a State, may  
3   maintain, enforce, prescribe, or continue in effect any law,  
4   rule, regulation, requirement, standard, or other provision  
5   having the force and effect of law that relates to section  
6   2 of this Act.

7   **SEC. 7. DEFINITIONS.**

8       In this Act:

9           (1) **BIOMETRIC IDENTIFIER.**—The term “bio-  
10   metric identifier” means motor vehicle data gen-  
11   erated by automatic measurements relating to bio-  
12   logical characteristics of an individual that are any  
13   of the following:

- 14           (A) Fingerprints.
- 15           (B) Facial features.
- 16           (C) Iris or retina patterns.
- 17           (D) Gait.
- 18           (E) Voice.
- 19           (F) Body measurements.
- 20           (G) Weight.

21           (2) **COMMISSION.**—The term “Commission”  
22   means the Federal Trade Commission.

23           (3) **COVERED DATA.**—

24           (A) **IN GENERAL.**—The term “covered  
25   data”—

1 (i) means personal data that relates to  
2 a biometric identifier, precise geolocation,  
3 or driver behavior with respect to a motor  
4 vehicle owner (or a driver or other user of  
5 a motor vehicle of such motor vehicle  
6 owner); and

7 (ii) includes personal data received by  
8 such motor vehicle from a personal device  
9 of such motor vehicle owner, driver, or  
10 other user of a motor vehicle.

11 (B) EXCLUSION.—The term “covered  
12 data” does not include deidentified, pseudony-  
13 mous, aggregate, or publicly available informa-  
14 tion.

15 (4) DRIVER BEHAVIOR.—The term “driver be-  
16 havior” means motor vehicle data that is used for  
17 the purpose of profiling in furtherance of decisions  
18 that knowingly cause a negative legal or similarly  
19 significant harmful effect concerning the conduct of  
20 a motor vehicle owner outside the course of the em-  
21 ployment of the motor vehicle owner.

22 (5) MOTOR VEHICLE.—The term “motor vehi-  
23 cle”—

1 (A) has the meaning given such term in  
2 section 30102(a) of title 49, United States  
3 Code; and

4 (B) includes a motor vehicle trailer.

5 (6) MOTOR VEHICLE DATA.—The term “motor  
6 vehicle data” means electronic data generated or  
7 processed onboard a motor vehicle, including data  
8 generated by sensors, receivers, computer processing  
9 units, and other components of the motor vehicle.

10 (7) MOTOR VEHICLE FLEET OWNER.—The term  
11 “motor vehicle fleet owner”—

12 (A) means a person—

13 (i) with an ownership or contracted  
14 beneficial interest in 5 or more motor vehi-  
15 cles; or

16 (ii) who is the lessee of a motor vehi-  
17 cle under a lease agreement with a term of  
18 at least 180 days; and

19 (B) includes a designee of a motor vehicle  
20 owner.

21 (8) MOTOR VEHICLE OWNER.—The term  
22 “motor vehicle owner”—

23 (A) means an owner of a motor vehicle;  
24 and

25 (B) includes—

- 1 (i) a designee of such owner;  
2 (ii) a person with an ownership or  
3 contracted beneficial interest in a motor  
4 vehicle; and  
5 (iii) a lessee of a motor vehicle under  
6 a lease agreement with a term of at least  
7 180 days.

8 (9) PERSONAL DATA.—The term “personal  
9 data”—

10 (A) means any motor vehicle data that is  
11 linked to an identified or identifiable natural  
12 person; and

13 (B) does not include deidentified, pseudon-  
14 ymous, aggregate, or publicly available informa-  
15 tion.

16 (10) PRECISE GEOLOCATION.—The term “pre-  
17 cise geolocation” means motor vehicle data that di-  
18 rectly identifies the specific location of a natural per-  
19 son with precision and accuracy within a radius of  
20 1,750 feet.

21 (11) SELL; SELLS; SALE.—The terms “sell”,  
22 “sells”, and “sale”—

23 (A) mean the exchange of data for mone-  
24 tary consideration; and

1 (B) do not include when a driver or user  
2 of a motor vehicle requests a specific product or  
3 service from a manufacturer of a motor vehicle  
4 or a motor vehicle fleet owner that is necessary  
5 for such manufacturer or motor vehicle fleet  
6 owner to disclose such motor vehicle data to a  
7 third party to provide such service or product  
8 to such driver or user.

9 (12) USER DATA.—The term “user data”—

10 (A) means data transferred from a per-  
11 sonal or external device to a motor vehicle by  
12 a motor vehicle owner or user of such motor ve-  
13 hicle; and

14 (B) does not include motor vehicle data.