STATE OF NEW YORK

7014

2023-2024 Regular Sessions

IN SENATE

May 16, 2023

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to access to motor vehicle data by the owner or designee of a motor vehicle

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 198-d to read as follows:

§ 198-d. Access to motor vehicle data. (a) As used in this section:

(1) "Access to motor vehicle data" means direct, in-vehicle, real-time, intelligible and bi-directional accessibility to motor vehicle data, including but not limited to connected vehicle data and access to electronic control units, through a technology-neutral, standards-based, cybersecure interface which may include, but is not limited to, a wired onboard diagnostics port or a wireless connection; such interface shall permit the operation of an open application programming interface that enables a motor vehicle owner or user authorized by the motor vehicle owner to redirect data to a third party authorized by the motor vehicle owner or erase any and all data that the motor vehicle owner or user directly or electronically inputs into the motor vehicle.

(2) "Cybersecure interface" means an interface that provides both secure interoperability and access to motor vehicle data between a motor vehicle and the motor vehicle's owner.

(3) "Motor vehicle data" means all data generated, or generated and retained, by the operation of a motor vehicle including but not limited to vehicle characteristics including but not limited to make and model, vehicle build sheet information, data collected by onboard sensors including but not limited to odometer, accelerometer, malfunction indicators, crash or collision indicators, as well as advanced driving assistance systems including but not limited to adaptive cruise control, automatic following distance control, automatic emergency braking, lane departure correction, and other autonomous/assisted driving features, and additional contextual and/or environmental data obtained by the vehicle including but not limited to GPS and/or location, time of day,

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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road conditions, vehicle following distance, usage of onboard entertainment systems.

(4) "Owner" means:

(i) a person with an ownership or contracted beneficial interest in a motor vehicle; or

(ii) the lessee of a motor vehicle under a lease agreement of a term not less than one hundred eighty days and shall include the designee of a motor vehicle owner.

(5) "Person" shall mean an individual, trust, estate, partnership, association, company, or corporation.

(b) A manufacturer shall provide access to motor vehicle data, wherever stored, of the same quality as is available to the data holder, to the owner and to any third party designees of the motor vehicle owner, without undue delay, free of charge, of the same quality as is available to the data holder, without any restriction or limitations including, but not limited to, a fee or license to decrypt motor vehicle data or a requirement to use a device provided by the manufacturer to access and use motor vehicle data, and where applicable, continuously and in real-time, in a structured, commonly used machine readable format except as provided under subdivisions (c), (d) and (e) of this section.

(c) This section does not preclude a manufacturer from employing cryptographic or technological protections necessary to secure motor vehicle data, provided that the motor vehicle owner, and the motor vehicle owner's designees, are provided the means to gain access to motor vehicle data mandated under subdivision (b) of this section, and such means of access to motor vehicle data, is standardized by an independent standard making organization across all motor vehicles.

(d) Notwithstanding any other provision of this section, no person, including but not limited to a motor vehicle owner, shall be permitted to access motor vehicle data if the person is the subject of a protective order under state law with respect to the natural person using the motor vehicle.

(e) Nothing in this section shall require a manufacturer to divulge a trade secret. The existence of a manufacturer's proprietary method for collecting, storing, formatting, or communicating vehicle data, telematics or similar program shall not preclude access to motor vehicle data under subdivision (b) of this section.

(f) A manufacturer may not request a waiver of the vehicle owner's right to data access under this section, require a waiver as a condition for purchasing, leasing, operating, or obtaining warranty repairs, or offer any compensation or other incentive for a waiver. Any such waiver obtained by a manufacturer shall be null and void.

§ 2. This act shall take effect immediately and shall expire and be deemed repealed upon the enactment of federal law, rule or regulation that requires manufacturers to provide access to motor vehicle data, wherever stored, of the same quality as is available to the data holder, to the motor vehicle owner and to any third-party designees as required by section one of this act; provided that the commissioner of the department of motor vehicles shall notify the legislative bill drafting commission upon the occurrence of the enactment of such federal law, rule or regulation in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.