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# A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that automakers have  
2 begun collecting personal data from drivers' vehicles and are  
3 now selling collected information to affiliate companies,  
4 insurance partners, data brokers, and other third parties  
5 without owner knowledge or consent.

6           The legislature also finds that, according to a report from  
7 the New York Times, automakers such as General Motors, Honda,  
8 Toyota, and Kia recently began including features in their  
9 vehicle-connected mobile applications that trade users' driving  
10 behaviors. The existence of data collecting and sharing  
11 partnerships between automakers, data brokers, and insurance  
12 companies often remains completely unknown to drivers whose data  
13 is being collected and sold. Some drivers with vehicles made by  
14 General Motors have stated that they were still being tracked  
15 even when the tracking feature on their vehicle was turned off.  
16 As a result, drivers' insurance rates have increased due to  
17 driver data being sold to data brokers and insurance companies.



1           Accordingly, the purpose of this Act is to prohibit  
2 automakers from collecting, sharing, or selling driver data to a  
3 third party without the express consent of the driver.

4           SECTION 2. Chapter 481B, Hawaii Revised Statutes, is  
5 amended by adding a new section to part I to be appropriately  
6 designated and to read as follows:

7           "§481B-     Sale of driver data without consent; prohibited.

8           (a) No person, in any manner or by any means, shall collect,  
9 share, sell, or offer for sale any driver data that is recorded  
10 or collected through any means by a motor vehicle without the  
11 explicit consent of the individual who is the owner or lessee of  
12 the motor vehicle.

13           (b) Disclosure notifications for data collection shall be  
14 provided to the individual who is the owner or lessee of the  
15 motor vehicle in clear and conspicuous language.

16           (c) Consent shall be required for each disclosure as  
17 related to specific motor vehicle services; provided that if  
18 consent for data collection is denied by the individual who is  
19 the owner or lessee of the motor vehicle for any specific  
20 service, the denial shall not be used to refuse the specific  
21 service for the individual who is the owner or lessee of the



1 motor vehicle when additional data collection or data sharing is  
2 reasonably unnecessary.

3 (d) This section shall only apply to new motor vehicles  
4 sold or software updates for existing motor vehicles.

5 (e) For the purposes of this section:

6 "Clear and conspicuous" means obtaining a clear affirmative  
7 act signifying a consumer's freely given, specific, informed,  
8 and unambiguous authorization for an act or practice after  
9 having been informed, in response to a specific request from a  
10 person; provided that:

11 (1) The request is provided to the consumer in a clear and  
12 conspicuous stand-alone disclosure;

13 (2) The request includes a description of the processing  
14 purpose for which the consumer's consent is sought  
15 and;

16 (A) Clearly distinguishes between an act or practice  
17 that is necessary to fulfill a request of the  
18 consumer and an act or practice that is for  
19 another purpose;

20 (B) Clearly states the specific categories of  
21 personal data that the controller intends to



- 1           collect, process, or transfer under each act or
- 2           practice; and
- 3       (C) Is written in easy-to-understand language and
- 4           includes a prominent heading that would enable a
- 5           reasonable consumer to identify and understand
- 6           each act or practice;
- 7       (3) The request clearly explains the consumer's rights
- 8           related to consent;
- 9       (4) The request is made in a manner reasonably accessible
- 10           to and usable by consumers with disabilities;
- 11       (5) The request is made available to the consumer in each
- 12           language where the controller provides a product or
- 13           service for which authorization is sought;
- 14       (6) The option to refuse to give consent is at least as
- 15           prominent as the option to give consent and the option
- 16           to refuse to give consent takes the same number of
- 17           steps or fewer as the option to give consent; and
- 18       (7) Affirmative consent to an act or practice is not
- 19           inferred from the inaction of the consumer or the
- 20           consumer's continued use of a service or product
- 21           provided by the controller.



1 "Clear and conspicuous" does not include:

2 (1) Acceptance of a general or broad terms of use or  
3 similar document that contains descriptions of  
4 personal data processing along with other, unrelated  
5 information;

6 (2) Hovering over, muting, pausing, or closing a given  
7 piece of content;

8 (3) Agreement obtained through the use of a false,  
9 fraudulent, or materially misleading statement or  
10 representation; or

11 (4) Agreement obtained through the use of dark patterns.

12 "Consent" means the prior express opt-in authorization for  
13 a specific use that may be revoked by the individual at any  
14 time.

15 "Driver data" means any information related to a person  
16 operating a motor vehicle that is collected from a user's  
17 interactions with a motor vehicle, which may include:

18 (1) Personal or personally identifiable information and  
19 other sensitive details about a user's actions and  
20 movements;



- 1       (2) Patterns of driving behavior, such as speeding,  
2           frequent stops, and aggressive braking;
- 3       (3) Geolocation data, such as vehicle tracking  
4           information, routes taken, and location history; and
- 5       (4) Information about a vehicle's operation and usage  
6           patterns, such as frequent driving times, routes, or  
7           destinations.

8       "Owner" has the same meaning as defined in section 291C-1.

9       "Sale" means selling, renting, releasing, disclosing,  
10       disseminating, making available, transferring, or otherwise  
11       communicating orally, in writing, or by electronic or other  
12       means, a user's driver data to another business or a third party  
13       for monetary or other valuable consideration. "Sale" does not  
14       include the releasing, disclosing, disseminating, making  
15       available, transferring, or otherwise communicating orally, in  
16       writing, or by electronic or other means, a user's driver data  
17       for the purpose of responding to an emergency."

18       SECTION 3. This Act does not affect rights and duties that  
19       matured, penalties that were incurred, and proceedings that were  
20       begun before its effective date.



1 SECTION 4. This Act shall not be applied so as to impair  
2 any contract existing as of the effective date of this Act in a  
3 manner violative of either the Hawaii State Constitution or  
4 article I, section 10, of the United States Constitution.

5 SECTION 5. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Data Privacy; Driver Data; Personal Information; Consumer Protection; Disclosures; Unfair and Deceptive Practices; Motor Vehicles

**Description:**

Prohibits the collection, sale, or disclosure of any driver data that is obtained by a motor vehicle or other connected car service, feature, or application to any third-party without the explicit consent of the owner or lessee of the vehicle. Designates exemptions. Requires any disclosure notification for any data collection to be clear and conspicuous. Effective 7/1/2050. (SD1)

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