

Amendment No. 1.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Highway & Waterway Safety
2 Subcommittee

3 Representative Rooney offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 320.646, Florida Statutes, is created
8 to read:

9 320.646 Consumer data protection.—

10 (1) As used in this section, the term:

11 (a) "Consumer data" means "nonpublic personal information"
12 as such term is defined in 15 U.S.C. s. 6809(4) collected by a
13 motor vehicle dealer and which is provided by the motor vehicle
14 dealer directly to a licensee or third party acting on behalf of
15 a licensee. Consumer data does not include the same or similar
16 data which is obtained by a licensee from any other source.

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17 (b) "Data management system" means a computer hardware or
18 software system that is owned, leased, or licensed by a motor
19 vehicle dealer, including a system of web-based applications,
20 computer software, or computer hardware, whether located at the
21 motor vehicle dealership or hosted remotely, and that stores and
22 provides access to consumer data collected or stored by a motor
23 vehicle dealer. The term includes, but is not limited to,
24 dealership management systems and customer relations management
25 systems.

26 (2) Notwithstanding the provisions of any franchise
27 agreement, with respect to consumer data a licensee or a third
28 party acting on behalf of a licensee:

29 (a) Shall comply with all, and not knowingly cause a motor
30 vehicle dealer to violate any, applicable restrictions on reuse
31 or disclosure of the consumer data established by federal or
32 state law and must provide a written statement to the motor
33 vehicle dealer upon request describing the established
34 procedures adopted by the licensee or third party acting on
35 behalf of the licensee which meet or exceed any federal or state
36 requirements to safeguard the consumer data, including, but not
37 limited to, those established in the Gramm-Leach-Bliley Act, 15
38 U.S.C. ss. 6801 et seq.

39 (b) Shall, upon the written request of the motor vehicle
40 dealer, provide a written list of the consumer data obtained
41 from the motor vehicle dealer and all persons to whom any
42 consumer data has been provided by the licensee or a third party

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43 acting on behalf of a licensee during the preceding 6 months.
44 The dealer may make such a request no more than once every 6
45 months. The list must indicate the specific fields of consumer
46 data which were provided to each person. Notwithstanding the
47 foregoing, such a list need not include:

48 1. A person to whom consumer data was provided, or the
49 specific consumer data provided to such person, if the person
50 was, at the time the consumer data was provided, one of the
51 licensee's service providers, subcontractors or consultants
52 acting in the course of such person's performance of services on
53 behalf of or for the benefit of the licensee or motor vehicle
54 dealer, provided that the licensee has entered into an agreement
55 with such person requiring that the person comply with the
56 safeguard requirements of applicable state and federal law,
57 including, but not limited to, those established in the Gramm-
58 Leach-Bliley Act, 15 U.S.C. ss. 6801 et seq; or

59 2. A person to whom consumer data was provided, or the
60 specific consumer data provided to such person, if the motor
61 vehicle dealer has previously consented in writing to such
62 person receiving the consumer data provided and the motor
63 vehicle dealer has not withdrawn such consent in writing.

64 (c) May not require that a motor vehicle dealer grant the
65 licensee or a third party direct or indirect access to the
66 dealer's data management system to obtain consumer data. A
67 licensee must permit a motor vehicle dealer to furnish consumer
68 data in a widely accepted file format, such as comma delimited,

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69 and through a third-party vendor selected by the motor vehicle
70 dealer. However, a licensee may access or obtain consumer data
71 directly from a motor vehicle dealer's data management system
72 with the express consent of the dealer. The consent must be in
73 the form of a written document that is separate from the
74 parties' franchise agreement, is executed by the motor vehicle
75 dealer, and may be withdrawn by the dealer upon 30 days' written
76 notice to the licensee.

77 (d) Must indemnify the motor vehicle dealer for any third-
78 party claims asserted against or damages incurred by the motor
79 vehicle dealer to the extent caused by access to, use of, or
80 disclosure of consumer data in violation of this section by the
81 licensee, a third party acting on behalf of the licensee, or a
82 third party to whom the licensee has provided consumer data.

83 (3) In any cause of action against a licensee pursuant to
84 s. 320.697 for a violation of paragraphs (2) (a), (2) (b), or
85 (2) (c), the person bringing the action has the burden of proving
86 that the violation was willful or with sufficient frequency to
87 establish a pattern of wrongdoing with respect to such person's
88 consumer data.

89 Section 2. For the purpose of incorporating section
90 320.646, Florida Statutes, as created by this act, in a
91 reference thereto, section 320.6992, Florida Statutes, is
92 reenacted to read:

93 320.6992 Application.—Sections 320.60-320.70, including
94 amendments to ss. 320.60-320.70, apply to all presently existing

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95 or hereafter established systems of distribution of motor
 96 vehicles in this state, except to the extent that such
 97 application would impair valid contractual agreements in
 98 violation of the State Constitution or Federal Constitution.
 99 Sections 320.60-320.70 do not apply to any judicial or
 100 administrative proceeding pending as of October 1, 1988. All
 101 agreements renewed, amended, or entered into subsequent to
 102 October 1, 1988, shall be governed by ss. 320.60-320.70,
 103 including any amendments to ss. 320.60-320.70 which have been or
 104 may be from time to time adopted, unless the amendment
 105 specifically provides otherwise, and except to the extent that
 106 such application would impair valid contractual agreements in
 107 violation of the State Constitution or Federal Constitution.

108 Section 3. This act shall take effect upon becoming a
 109 law.

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112 **T I T L E A M E N D M E N T**

113 Remove everything before the enacting clause and insert:
 114 An act relating to protection of motor vehicle dealers' consumer
 115 data; creating s. 320.646, F.S.; defining the terms "consumer
 116 data" and "data management system"; requiring that a licensee or
 117 a third party comply with certain restrictions on reuse or
 118 disclosure of consumer data received from a motor vehicle
 119 dealer; requiring that such person provide a written statement
 120 to the motor vehicle dealer delineating the established

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121 | procedures adopted by the person which meet or exceed certain
122 | requirements to safeguard consumer data; requiring that upon
123 | request of a motor vehicle dealer a licensee provide a list of
124 | the consumer data obtained and all persons to whom any of the
125 | data has been disclosed, subject to certain requirements;
126 | prohibiting a licensee from requiring a motor vehicle dealer to
127 | grant the licensee or third party access to the dealer's data
128 | management system; requiring a licensee to permit a motor
129 | vehicle dealer to furnish consumer data in a widely accepted
130 | file format and through a third-party vendor selected by the
131 | motor vehicle dealer; authorizing a licensee to access or obtain
132 | consumer data from a motor vehicle dealer's data management
133 | system with the dealer's express written consent, subject to
134 | certain requirements; requiring the licensee to indemnify the
135 | motor vehicle dealer for certain claims or damages; providing
136 | that a person bringing a specified cause of action for certain
137 | violations must meet certain requirements; reenacting s.
138 | 320.6992, F.S., relating to the provisions that apply to
139 | established systems of distribution of motor vehicles in this
140 | state, to incorporate s. 320.646, F.S., as created by the act,
141 | in a reference thereto; providing an effective date.