

By Senator Bradley

7-00308C-16

2016960\_\_

1  
2 A bill to be entitled  
3 An act relating to protection of motor vehicle  
4 dealers' consumer data; creating s. 320.646, F.S.;  
5 defining the terms "consumer data" and "data  
6 management system"; requiring that a licensee or a  
7 third party comply with certain restrictions on reuse  
8 or disclosure of consumer data received from a motor  
9 vehicle dealer; requiring that such person provide a  
10 written statement to the motor vehicle dealer  
11 delineating the established procedures adopted by the  
12 person which meet or exceed certain requirements to  
13 safeguard consumer data; requiring that upon request  
14 of a motor vehicle dealer a licensee provide a list of  
15 the consumer data obtained and all persons to whom any  
16 of the data has been disclosed, subject to certain  
17 requirements; prohibiting a licensee from requiring a  
18 motor vehicle dealer to grant the licensee or a third  
19 party access to the dealer's data management system;  
20 requiring a licensee to permit a motor vehicle dealer  
21 to furnish consumer data in a widely accepted file  
22 format and through a third-party vendor selected by  
23 the motor vehicle dealer; authorizing a licensee to  
24 access or obtain consumer data from a motor vehicle  
25 dealer's data management system with the dealer's  
26 express written consent, subject to certain  
27 requirements; requiring the licensee to indemnify the  
28 motor vehicle dealer for certain claims or damages;  
29 reenacting s. 320.6992, F.S., relating to the

7-00308C-16

2016960\_\_

30 provisions that apply to established systems of  
31 distribution of motor vehicles in this state, to  
32 incorporate s. 320.646, F.S., as created by the act,  
33 in a reference thereto; providing an effective date.  
34

35 Be It Enacted by the Legislature of the State of Florida:  
36

37 Section 1. Section 320.646, Florida Statutes, is created to  
38 read:

39 320.646 Consumer data protection.-

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

41 (a) "Consumer data" means any information collected or  
42 record created by a motor vehicle dealer which contains personal  
43 information about a consumer, including, but not limited to, the  
44 consumer's name, address, telephone number, e-mail address,  
45 social security number, date of birth, driver license number,  
46 credit card number, or any other information from which the  
47 identity of the consumer could be derived.

48 (b) "Data management system" means a computer hardware or  
49 software system that is owned, leased, or licensed by a motor  
50 vehicle dealer, including a system of web-based applications,  
51 computer software, or computer hardware, whether located at the  
52 motor vehicle dealership or hosted remotely, and that stores and  
53 provides access to consumer data collected or stored by a motor  
54 vehicle dealer. The term includes, but is not limited to,  
55 dealership management systems and customer relations management  
56 systems.

57 (2) Notwithstanding the provisions of any franchise  
58 agreement, a licensee that receives consumer data from a motor

7-00308C-16

2016960\_\_

59 vehicle dealer or requires that a motor vehicle dealer provide  
60 consumer data to a third party:

61 (a) Must comply with all restrictions on reuse or  
62 disclosure of data established by federal and state law and must  
63 provide a written statement to the motor vehicle dealer  
64 delineating the established procedures adopted by the licensee  
65 or a third party which meet or exceed any federal or state  
66 requirements to safeguard consumer data, including, but not  
67 limited to, those established in the Gramm-Leach-Bliley Act, 15  
68 U.S.C. ss. 6801 et seq.

69 (b) Must, upon the written request of the motor vehicle  
70 dealer, provide a written list of the consumer data obtained  
71 from a motor vehicle dealer and all persons to whom any of the  
72 consumer data has been provided by the licensee or a third party  
73 during the preceding 12 months. The dealer may make such a  
74 request no more than once every 6 months. The list must indicate  
75 the specific fields of the consumer data which were provided to  
76 each person.

77 (c) May not require that a motor vehicle dealer grant the  
78 licensee or a third party direct or indirect access to the  
79 dealer's data management system to collect consumer data. A  
80 licensee must permit a motor vehicle dealer to furnish consumer  
81 data in a widely accepted file format, such as comma delineated,  
82 and through a third-party vendor selected by the motor vehicle  
83 dealer. However, a licensee may access or obtain consumer data  
84 directly from a motor vehicle dealer's data management system  
85 with the express consent of the dealer. The consent must be in  
86 the form of a written document that is separate from the  
87 parties' franchise agreement, is executed by the motor vehicle

7-00308C-16

2016960\_\_

88 dealer, and may be withdrawn by the dealer at any time.

89 (d) Must indemnify the motor vehicle dealer for any claims  
90 asserted against or damages incurred by the motor vehicle dealer  
91 as a result of the licensee's or a third party's access, use, or  
92 disclosure of the consumer data.

93 Section 2. For the purpose of incorporating section  
94 320.646, Florida Statutes, as created by this act, in a  
95 reference thereto, section 320.6992, Florida Statutes, is  
96 reenacted to read:

97 320.6992 Application.—Sections 320.60-320.70, including  
98 amendments to ss. 320.60-320.70, apply to all presently existing  
99 or hereafter established systems of distribution of motor  
100 vehicles in this state, except to the extent that such  
101 application would impair valid contractual agreements in  
102 violation of the State Constitution or Federal Constitution.  
103 Sections 320.60-320.70 do not apply to any judicial or  
104 administrative proceeding pending as of October 1, 1988. All  
105 agreements renewed, amended, or entered into subsequent to  
106 October 1, 1988, shall be governed by ss. 320.60-320.70,  
107 including any amendments to ss. 320.60-320.70 which have been or  
108 may be from time to time adopted, unless the amendment  
109 specifically provides otherwise, and except to the extent that  
110 such application would impair valid contractual agreements in  
111 violation of the State Constitution or Federal Constitution.

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