

DRAFT VEHICLE OWNER RIGHTS LEGISLATIVE LANGUAGE

SEC. 1. SHORT TITLE. – This Act may be cited as the “Vehicle Owner Rights Act of 2021”.

SEC. 2. DEFINITIONS.

As used in this Act, these terms are defined as followed.

(a) **ACCESS TO MOTOR VEHICLE DATA.** – the term “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 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 to erase any and all data that the owner or user directly or electronically inputs into the motor vehicle.

(b) **CYBERSECURE INTERFACE.** – the term “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.

(c) **MANUFACTURER.** – the term “manufacturer” has the same meaning as under 49 U.S.C. Sec. 30102(a)(5).

(d) **MOTOR VEHICLE.** – the term “motor vehicle” has the same meaning as under 49 U.S.C. Sec. 30102(a)(6), and includes a motor vehicle trailer.

(e) **MOTOR VEHICLE DATA.** -- the term “motor vehicle data” means all data generated, or generated and retained, by the operation of a motor vehicle.

(f) **MOTOR VEHICLE OWNER.** – the term “motor vehicle 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 180 days,

and shall include the designee of a motor vehicle owner. This definition permits more than one person to be classified as the owner of a particular motor vehicle.

(g) **MOTOR VEHICLE TRAILER.** – the term “motor vehicle trailer” has the same meaning as under 49 C.F.R. Section 390.

(h) PERSON. – the term “person” shall mean an individual, trust, estate, partnership, association, company or corporation.

SEC. 3. ACCESS TO MOTOR VEHICLE DATA.

(a) IN GENERAL. A manufacturer shall provide access to motor vehicle data to the motor vehicle owner free of charge and 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) except as provided under (b) and (c) of this section.

(b) ACCESS CONTROLS. 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 are provided the means to gain access to motor vehicle data mandated under (a) of this section, and such means of access to motor vehicle data, is standardized by an independent standards making organization across all motor vehicles.

(c) PROHIBITION ON DATA ACCESS. – Notwithstanding any other provision of this Act, 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.

(d) DISCLOSURE OF TRADE SECRETS. – Nothing in this Act shall require a manufacturer to divulge a trade secret.

(e) NO WAIVER OF ACCESS RIGHT. – A manufacturer may not request a waiver of the vehicle owner’s right to data access under this Act, 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.

SECTION 4. INTERACTION WITH FEDERAL AND STATE LAWS.

Nothing in this Act shall be construed to preempt state or federal law, provided that no state or federal law may exempt manufacturers from the requirement to provide access to motor vehicle data to the motor vehicle owner free of charge and without any restriction or limitations except as provided under (b) and (c) of Section 3 of this Act.

SECTION 5. CONSUMER EDUCATION ON DATA DELETION.

Within 6 months of enactment, the Federal Trade Commission shall promulgate a regulation to implement the data deletion open application programming interface requirement in Section 2(a), including education for motor vehicle owners and users to utilize the open application programming interface to erase data directly or electronically inputted into the motor vehicle.

SECTION 6. FEDERAL TRADE COMMISSION ENFORCEMENT.

A violation of Section 3 of this Act shall be treated as an unfair or deceptive act or practice within the meaning of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)). The Federal Trade Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

SECTION 7. SAVINGS PROVISION WITH RESPECT TO PRIVACY LAWS.

Nothing in that Act shall be construed to permit a motor vehicle owner, or any entity given permission to access motor vehicle data by a motor vehicle owner, to violate any state or federal privacy or data privacy law or regulation.

SECTION 8. EFFECTIVE DATE

This Act shall become effective six months after the date of enactment.