

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 7389  
OFFERED BY MRS. HARSHBARGER OF TENNESSEE**

Page 148, after line 11, insert the following:

- 1                   **PART VII—THE DRIVER ACT**
- 2 **SEC. 361. MOTOR VEHICLE OWNER ACCESS TO MOTOR VE-**
- 3                   **HICLE DATA.**
- 4           A manufacturer of a motor vehicle shall provide to
- 5 a motor vehicle owner secure access to, and joint control
- 6 of, any motor vehicle data of the motor vehicle of such
- 7 motor vehicle owner as follows:
- 8           (1) At no cost beyond the purchase price of
- 9           such motor vehicle.
- 10           (2) In real time.
- 11           (3) Without any restriction or limitation with
- 12           respect to the manner in which such motor vehicle
- 13           owner, for any lawful purpose—
- 14                   (A) uses such motor vehicle data; or
- 15                   (B) authorizes access to or use of such
- 16           motor vehicle data by a third party, other than
- 17           a person owned or controlled by a foreign ad-
- 18           versary (as defined in section 791.2 of title 15,
- 19           Code of Federal Regulations).

1           (4) Without a requirement that such motor ve-  
2           hicle owner pay a fee or purchase a license to  
3           decrypt such motor vehicle data or use a device pro-  
4           vided by such manufacturer to access and use such  
5           motor vehicle data.

6           (5) Through a motor vehicle interface port  
7           (such as an on-board diagnostics port) of such motor  
8           vehicle and through wireless transmission of such  
9           motor vehicle data (to the extent such motor vehicle  
10          is equipped with technology to wirelessly transmit  
11          such motor vehicle data).

12          (6) In a manner that facilitates the deletion of  
13          any user data stored in such motor vehicle.

14          (7) In compliance with any voluntary auto-  
15          motive industry cybersecurity standards require-  
16          ments (such as ISO/SAE 24134).

17 **SEC. 362. ADDITIONAL MOTOR VEHICLE OWNER DATA AC-**  
18 **CESS CONTROLS.**

19          (a) VEHICLE OWNERS' DATA ACCESS CONTROL  
20 WITH RESPECT TO MOTOR VEHICLE MANUFACTUR-  
21 ERS.—A manufacturer of a motor vehicle may not, with  
22 respect to a motor vehicle manufactured by such manufac-  
23 turer, sell any covered data unless the manufacturer pro-  
24 vides to the motor vehicle owner of such motor vehicle a

1 clear and conspicuous opportunity to opt out of any such  
2 sale.

3 (b) FLEET VEHICLE DRIVERS' DATA ACCESS CON-  
4 TROL WITH RESPECT TO MOTOR VEHICLE FLEET OWN-  
5 ERS.—

6 (1) IN GENERAL.—A motor vehicle fleet owner  
7 may not, with respect to a motor vehicle that such  
8 motor vehicle fleet owner leases or in which such  
9 motor vehicle fleet owner has an ownership or con-  
10 tracted beneficial interest, sell any covered data, un-  
11 less the motor vehicle fleet owner provides to the  
12 driver or operator of such motor vehicle a clear and  
13 conspicuous opportunity to opt out of any such sale.

14 (2) LIMITATION.—The requirement to provide  
15 an opportunity to opt out described in paragraph (1)  
16 does not apply if the relevant data is generated by  
17 a commercial or governmental fleet vehicle driven by  
18 a driver in the course of the employment of the driv-  
19 er, except if such driver behavior data is to be sold  
20 for the purpose of profiling in furtherance of deci-  
21 sions that knowingly cause negative legal or simi-  
22 larly significant harmful effects concerning the con-  
23 duct of a person outside the course of the employ-  
24 ment of the person.

1 (c) NATIONAL SECURITY.—A manufacturer of a  
2 motor vehicle or a motor vehicle fleet owner may not know-  
3 ingly sell motor vehicle data to any of the following:

4 (1) The Democratic People’s Republic of Korea.

5 (2) The People’s Republic of China.

6 (3) The Russian Federation.

7 (4) The Islamic Republic of Iran.

8 (5) The Bolivarian Republic of Venezuela.

9 (d) EXCEPTIONS.—For purposes of this section, a  
10 sale does not include any of the following activities:

11 (1) Transferring covered data to emergency re-  
12 sponders.

13 (2) Responding to an owner-initiated commu-  
14 nication originating from within a motor vehicle or  
15 an app, where covered data may be transferred only  
16 to provide the response.

17 (3) Responding to a vehicle-initiated commu-  
18 nication related to the safe operation of a motor ve-  
19 hicle, where covered data may be transferred only to  
20 provide the response.

21 (4) Responding to a driver or user-initiated  
22 communication originating from within a motor vehi-  
23 cle or an app, where covered data may be trans-  
24 ferred only to provide the response.

1           (5) Conducting research or efforts to improve,  
2           repair, enhance the safety of, or develop products,  
3           services, or technology.

4           (6) Investigating or defending claims and  
5           losses.

6           (7) Conducting investigations of potential prod-  
7           uct quality, fraud, theft, or safety issues.

8           (8) Determining or effectuating vehicle field ac-  
9           tions, including customer satisfaction campaigns,  
10          technical service bulletins, compliance recalls, and  
11          safety recalls.

12          (9) Detecting or responding to cybersecurity in-  
13          cidents.

14          (10) Administering and fulfilling motor vehicle  
15          warranties.

16          (11) Performing diagnostics and prognostics of  
17          a motor vehicle or a component of a motor vehicle.

18          (12) Identifying and addressing issues that im-  
19          pair functionality.

20          (13) Disclosing covered data to a processor that  
21          processes such covered data on behalf of a manufac-  
22          turer of a motor vehicle or a motor vehicle fleet  
23          owner.

1           (14) Disclosing or transferring covered data to  
2           an affiliate of a manufacturer of a motor vehicle or  
3           a motor vehicle fleet owner.

4           (15) Disclosing information that a consumer—  
5                 (A) intentionally makes available to the  
6                 general public through a channel of mass  
7                 media; and

8                 (B) does not restrict to a specific audience.

9           (16) Disclosing or transferring covered data to  
10           a third party as an asset that is part of a proposed  
11           or an actual merger, acquisition, bankruptcy, or  
12           other transaction in which the third party assumes  
13           control of all or part of the assets of a controller.

14           (17) Complying with a lawfully executed war-  
15           rant.

16           (18) Complying with a court order.

17 **SEC. 363. ENFORCEMENT BY COMMISSION.**

18           (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—  
19           A violation of section 361 shall be treated as a violation  
20           of a regulation under section 18(a)(1)(B) of the Federal  
21           Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regard-  
22           ing unfair or deceptive acts or practices.

23           (b) POWERS OF COMMISSION.—The Commission  
24           shall enforce section 361 in the same manner, by the same  
25           means, and with the same jurisdiction, powers, and duties

1 as though all applicable terms and provisions of the Fed-  
2 eral Trade Commission Act (15 U.S.C. 41 et seq.) were  
3 incorporated into and made a part of this part, and any  
4 person who violates section 361 shall be subject to the pen-  
5 alties and entitled to the privileges and immunities pro-  
6 vided in the Federal Trade Commission Act.

7 **SEC. 364. DISCLOSURE OF CONFIDENTIAL BUSINESS IN-**  
8 **FORMATION.**

9 Except as provided in section 361, nothing in this  
10 part shall be construed to require a motor vehicle manu-  
11 facturer to divulge confidential business information (as  
12 defined in section 512.3(c) of title 49, Code of Federal  
13 Regulations).

14 **SEC. 365. RELATIONSHIP TO STATE LAW.**

15 No State, or political subdivision of a State, may  
16 maintain, enforce, prescribe, or continue in effect any law,  
17 rule, regulation, requirement, standard, or other provision  
18 having the force and effect of law that relates to section  
19 361 of this part.

20 **SEC. 366. DEFINITIONS.**

21 In this part:

22 (1) **BIOMETRIC IDENTIFIER.**—The term “bio-  
23 metric identifier” means motor vehicle data gen-  
24 erated by automatic measurements relating to bio-

1 logical characteristics of an individual that are any  
2 of the following:

- 3 (A) Fingerprints.
- 4 (B) Facial features.
- 5 (C) Iris or retina patterns.
- 6 (D) Gait.
- 7 (E) Voice.
- 8 (F) Body measurements.
- 9 (G) Weight.

10 (2) COMMISSION.—The term “Commission”  
11 means the Federal Trade Commission.

12 (3) COVERED DATA.—

13 (A) IN GENERAL.—The term “covered  
14 data”—

15 (i) means personal data that relates to  
16 a biometric identifier, precise geolocation,  
17 or driver behavior with respect to a motor  
18 vehicle owner (or a driver or other user of  
19 a motor vehicle of such motor vehicle  
20 owner); and

21 (ii) includes personal data received by  
22 such motor vehicle from a personal device  
23 of such motor vehicle owner, driver, or  
24 other user of a motor vehicle.

1           (B) EXCLUSION.—The term “covered  
2           data” does not include deidentified, pseudony-  
3           mous, aggregate, or publicly available informa-  
4           tion.

5           (4) DRIVER BEHAVIOR.—The term “driver be-  
6           havior” means motor vehicle data that is used for  
7           the purpose of profiling in furtherance of decisions  
8           that knowingly cause a negative legal or similarly  
9           significant harmful effect concerning the conduct of  
10          a motor vehicle owner outside the course of the em-  
11          ployment of the motor vehicle owner.

12          (5) MOTOR VEHICLE.—The term “motor vehi-  
13          cle”—

14                (A) has the meaning given such term in  
15                section 30102(a) of title 49, United States  
16                Code; and

17                (B) includes a motor vehicle trailer.

18          (6) MOTOR VEHICLE DATA.—The term “motor  
19          vehicle data” means electronic data generated or  
20          processed onboard a motor vehicle, including data  
21          generated by sensors, receivers, computer processing  
22          units, and other components of the motor vehicle.

23          (7) MOTOR VEHICLE FLEET OWNER.—The term  
24          “motor vehicle fleet owner”—

25                (A) means a person—

1 (i) with an ownership or contracted  
2 beneficial interest in 5 or more motor vehi-  
3 cles; or

4 (ii) who is the lessee of a motor vehi-  
5 cle under a lease agreement with a term of  
6 at least 180 days; and

7 (B) includes a designee of a motor vehicle  
8 owner.

9 (8) MOTOR VEHICLE OWNER.—The term  
10 “motor vehicle owner”—

11 (A) means an owner of a motor vehicle;  
12 and

13 (B) includes—

14 (i) a designee of such owner;

15 (ii) a person with an ownership or  
16 contracted beneficial interest in a motor  
17 vehicle; and

18 (iii) a lessee of a motor vehicle under  
19 a lease agreement with a term of at least  
20 180 days.

21 (9) PERSONAL DATA.—The term “personal  
22 data”—

23 (A) means any motor vehicle data that is  
24 linked to an identified or identifiable natural  
25 person; and

1 (B) does not include deidentified, pseudon-  
2 ymous, aggregate, or publicly available informa-  
3 tion.

4 (10) PRECISE GEOLOCATION.—The term “pre-  
5 cise geolocation” means motor vehicle data that di-  
6 rectly identifies the specific location of a natural per-  
7 son with precision and accuracy within a radius of  
8 1,750 feet.

9 (11) SELL; SELLS; SALE.—The terms “sell”,  
10 “sells”, and “sale”—

11 (A) mean the exchange of data for mone-  
12 tary consideration; and

13 (B) do not include when a driver or user  
14 of a motor vehicle requests a specific product or  
15 service from a manufacturer of a motor vehicle  
16 or a motor vehicle fleet owner that is necessary  
17 for such manufacturer or motor vehicle fleet  
18 owner to disclose such motor vehicle data to a  
19 third party to provide such service or product  
20 to such driver or user.

21 (12) USER DATA.—The term “user data”—

22 (A) means data transferred from a per-  
23 sonal or external device to a motor vehicle by  
24 a motor vehicle owner or user of such motor ve-  
25 hicle; and

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(B) does not include motor vehicle data.

