



March 24, 2019

Dear Senate President Karen Fann:

On behalf of the American Consumer Institute, a nonprofit educational and research organization representing the interests of millions of consumers, I am writing you today because our concerns with House Bill 2418, which proposes to regulate large-scale auto industry enterprise computer systems. We believe that this legislation would enable consumer data to be put at risk, that it is contrary to fundamental property rights, and it violates both the Arizona and U.S. Constitutions. It is our judgment that House Bill 2418 is anti-consumer, and that it would undoubtedly and substantially put the private data of consumers at risk, if enacted into law.

Dealer Management Systems (DMSs) have become a key computing system that that dealers use for sales, service, finance, inventory, accounting operations and other purposes. DMSs are responsible for ensuring that all data stored on the system, regardless of source, is secure. These systems contain personally identifiable information of consumers, potentially including their name, address, phone number, Social Security number, employment data, purchase history, financial information and other private information that needs protection from the general public, hackers, data brokers, vendors and marketing firms, and other third-parties.

House Bill 2418 would require dealer management systems to permit system access to anyone designated by a dealer, without regard to that person's technical competence, ethical values or criminal history, or commitment to utilize the data in ways that do not harm other DMS participants (e.g., auto manufacturers, lenders and consumers). It would not prohibit the resale or secondary use of personal data by "authorized" third-parties; it would not require consumer notification if and when their personal data has been used; and it would not prohibit unauthorized access, collection or retention of consumer data by "authorized" third-parties. In effect, the bill would legalize data breaches of personally identifiable information. Consumers deserve better.

It is axiomatic that every access point into a network is also an access point for hackers and malware, and that each access point increases risk not only to the network but to every participant in the network. Absent clear evidence of social good (which has not been presented in support of this legislation), government regulations mandating unfettered access to otherwise secure networks that carry proprietary, financial and

sensitive consumer data will irrationally and unnecessarily put millions of Arizona consumers at risk of data breach and theft.

Additionally, DMS software is copyrighted content. The U.S. Constitution and Title 17 of the United States Code grants ownership in intellectual property as an incentive to creators, including software developers and publishers. A government mandate of who gets access to copyrighted content, particularly for commercial reasons, undermines the value of copyrights and the value of the publishers' property, and is likely an unconstitutional taking.

In our free market system, dealers are free to choose DMSs that offer different prices and features, including different security features. Dealers can also choose to create their own systems and write their own software. House Bill 2418 is government over-regulation – it interferes with private contracts and it puts consumers private data in potential jeopardy – with no evident benefit to Arizona citizens.

I urge the Chair and members of the committee to consider these issues and act in the best interests of Arizona consumers, and in accordance with constitutionally protected property rights.

Sincerely,



Steve Pociask
President / CEO
American Consumer Institute
Center for Citizen Research
1701 Pennsylvania Avenue, NW, Suite 200
Washington, DC 20006
Steve@TheAmericanConsumer.Org