

The Autonomous Vehicle Information Act.

SECTION 1: TITLE. This act may be cited as the “Autonomous Vehicle Information Act,” or “AVIA.”

SECTION 2: DEFINITIONS.

(1) “*Autonomous Vehicle*” is a privately owned passenger vehicle system combining both onboard and remote hardware and services that perform a driving function with or without a human actively monitoring the driving environment.

(2) “*Vehicle Performance Information*” is all information pertaining to the autonomous vehicle except for information that can, according to the Federal Trade Commission, reasonably identify the operator to a high probability, including, but not limited to, the autonomous vehicle’s:

(A) mileage, speed, braking force, fuel consumption, engine temperature, and oil pressure;

(B) Global Positioning System Location including routes, travel time, start and end location; and

(C) any data corresponding to the representation of the surrounding environment.

(3) “*Personally Identifiable Information*” is data that is linkable to a specific individual, including, but not limited to:

(A) the operator’s name, social security number, race, religion, ethnicity, sex, home address, telephone number, email address;

(B) the autonomous vehicle’s license plate or other unique identifier;

(C) unique identifiers associated with a device connected to the autonomous vehicle; and

(D) any vehicle performance information, used individually or in conjunction with other vehicle performance information, that can, according to the Federal Trade Commission, reasonably identify the operator to a high probability.

(4) “*Covered Entity*” is an autonomous vehicle manufacturer.

(5) “*Operator*,” “*driver*,” or “*user*” includes the purchaser of the autonomous vehicle and all occupants of the autonomous vehicle.

(6) “*Affirmative Express Consent*” is written consent that is clearly, knowingly, and unmistakably stated.

(7) “*Authorization*” is the process of verifying a party has access to data through the latest authorization industry standards.

(8) “*Breach*” is the unauthorized acquisition or disclosure of covered information held by the operator or covered entity that compromises the security, confidentiality, or integrity of covered information.

(9) “*Clear and Conspicuous*” means a placement that is prominent, unavoidable, and easily understandable.

(10) “*Covered Information*” includes personally identifiable information and vehicle performance information.

(12) “*Legitimate Business Purpose*” is a practice deemed necessary to ensure the functionality of the Autonomous Vehicle and is in accordance with this Act.

(13) “*On-Board Access*” means the Autonomous Vehicle itself provides a fully-functional interface for the operator to access the covered information.

(14) “*Share*” is the act of a covered entity providing a third-party access to personally identifiable information or vehicle performance information.

(15) “*Third-Party*” is an entity unrelated to the covered entity but assists a covered entity in achieving its legitimate business purpose.

TITLE I: BASELINE PRIVACY STANDARDS AND DATA PRACTICES

SECTION 101: OPERATOR CONSENT AND COVERED ENTITY TRANSPARENCY

(a) In general. Upon first interaction with the operator and before a covered entity collects, shares, or uses, an operator’s personally identifiable information, the covered entity shall:

(1) obtain affirmative, express consent from the operator in the form of a contractual, opt-in agreement with the operator; and

(2) provide the operator with clear and conspicuous notice in the form of a contractual agreement —

(A) explaining the collection, sharing, and using of the operator’s personally identifiable information; and

(B) disclosing to the operator that the operator may choose from all or any of the personal identifiable information collecting practices at any time during or after first interaction.

(b) Contractual Agreement. The contractual agreement pursuant to subsection (a) must contain:

(1) A clear and conspicuous explanation of the type of personally identifiable information that the covered entity will collect, share, or use;

(2) A clear and conspicuous explanation of the purposes for which the covered entity will collect, share, or use the personally identifiable information;

(3) A clear and conspicuous explanation of the types of third-parties that the covered entity will interact with; and

(4) A clear and conspicuous promise to the operator that the covered entity will obtain affirmative, express consent from the operator upon any substantial changes to the covered entity’s collection, sharing, or using practices.

(c) Format. The covered entity shall provide the contractual agreement in a clear, user-friendly, readable format.

(d) Exceptions. The covered entity need not obtain affirmative, express consent from the operator to comply with local, state, or federal law enforcement activity in response to a lawfully obtained warrant or other exigent circumstance.

SECTION 102: OPERATOR CONTROL OF AND ACCESS TO INFORMATION

(a) In general. The covered entity shall:

(1) provide the operator both remote and local, on-board access to the personally identifiable information so that the operator may —

(A) control, adjust, or correct any inaccurate personally identifiable information.

(b) Exceptions. Other than vehicle performance information that qualifies as personally identifiable information, an operator does not have the ability to adjust or correct vehicle performance information.

SECTION 103: MINIMIZATION, RETENTION, AND DELETION

(a) In general. The covered entity shall:

(1) use, collect, and retain the minimal amount of personally identifiable information necessary for the covered entity's legitimate business purposes;

(2) retain the personally identifiable information for the minimum time necessary to achieve the covered entity's legitimate business purposes;

(3) obtain affirmative, express consent from operator to collect, share, or use personally identifiable information upon —

(A) a dissolution of the covered entity; or

(B) a merger with or acquisition by another covered entity; and

(4) permanently delete and destroy the personally identifiable information upon completion or termination of the contractual agreement subject to Section 101(b) such that —

(A) the personally identifiable information is not stored, in any form, either remotely or locally, on any computer, server, disk, drive, or other storage device.

SECTION 104: BREACH NOTIFICATION AND MITIGATION

(a) In general. In the event of a breach, the covered entity shall immediately:

(1) alert the operator of the breach through a clear and conspicuous notification; and

(2) implement procedures to mitigate the impact of the breach.

SECTION 105: REASONABLE SECURITY SAFEGUARDS AND BIENNIAL AUDIT AND UPDATE OF DATA SECURITY PRACTICES

(a) In general. Reasonable security safeguards. The covered entity must implement reasonable data security safeguards to maintain and protect the integrity, safety, and accuracy of personally identifiable information including, but not limited to:

(1) encrypting all at rest and in-transit personally identifiable information and vehicle performance information;

(2) adhering to standard industry authentication mechanisms;

(3) designating one or multiple employees to ensure the covered entity complies with Section 105 of this Act; and

(4) following all other reasonable data security standards to prevent unauthorized access to personally identifiable information or vehicle performance information.

(b) Biennial audit and update. The covered entity must biennially audit and update its data security practices and procedures to ensure personally identifiable information and vehicle performance information is adequately protected such that the covered entity:

(1) retains a comprehensive record of all personally identifiable information and vehicle performance information;

(2) maintains up-to-date software; and

(3) notifies the operator upon software no longer being compatible with AV hardware.

SECTION 106: DATA PRACTICE TAX DEDUCTION.

(a) In general. The covered entity may deduct costs associated with implementing this Act as an ordinary business expense under 26 U.S.C. § 162.

SECTION 107: CONTRACTS WITH THIRD-PARTIES

(a) In general. The covered entity shall:

(1) obtain a contractual agreement with any and all third-parties to ensure third-parties adhere to this Act; and

(2) assure through its own due diligence that any and all third-parties are legitimate and have the capacity and ability to adhere to this Act.

(b) Liability. The covered entity, as well as the third-party, shall be held liable if the covered entity fails to adhere to Section 107(a) and the third-party subsequently incurs a breach.

TITLE II: ENFORCEMENT

SECTION 201: AUTHORITY

(a) In general. No later than one year after the passage of this bill, the Federal Trade Commission (FTC) shall promulgate, under 5 U.S.C. § 553 and in consultation with the National Highway Traffic Safety Administration (NHTSA), regulations that achieve the standards set under this Title.

(b) Enforcement. The FTC shall be authorized to enforce compliance with the requirements imposed by this Title or regulations promulgated under this Title. A violation of this Act, or of a regulation promulgated under this Act, shall be treated as a violation of rules defining unfair, deceptive, or abusive acts or practices prescribed under §18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C § 57a(a)(1)(B)). The Commission shall enforce this Act 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 (15 U.S.C. § 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such regulations shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made part of this Act.

(c) The Commission may, in accordance with section 553 of title 5, United States Code, issue such regulations it determines to be necessary to carry out this Act.

SECTION 202: ENFORCEMENT BY STATE ATTORNEYS GENERAL

(a) CIVIL ACTION — In any case in which the attorney general of a State, or agency of a State having consumer protection responsibilities, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person who violates this Act, the attorney general or such agency of the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

- (1) enjoin further violation of such section by the defendant;
- (2) compel compliance with such section;
- (3) obtain damage, restitution, or other compensation on behalf of residents of the State; or
- (4) obtain such other relief as the court may consider appropriate.

(b) INTERVENTION BY THE FTC —

(1) NOTICE AND INTERVENTION — The State shall provide prior written notice of any action under paragraph (a) to the Commission and provide the Commission with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right—

- (i) to intervene in the action;
- (ii) upon so intervening, to be heard on all matters arising therein; and
- (iii) to file petitions for appeal.

(2) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING — If the Commission has instituted a civil action for violation of this Act, no State attorney general or agency of a State may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Commission for any violation of this Act alleged in the complaint.

SECTION 203: PREEMPTION

(a) This Act supersedes only the provisions of State or local law that conflict with any provision of this Act. The Act shall not be construed to preempt State or local laws that provide consumers with a greater level of protection.

SECTION 204: PRIVATE RIGHT OF ACTION

This Act may not be considered or construed to provide any private right of action. No private civil action relating to any act or practice governed under this Act may be commenced or maintained in any State court or under State law (including a pendent State claim to an action under Federal law.

SECTION 205: CRIMINAL PENALTIES

(a) Whoever —

- (1) intentionally accesses personally identifiable information held by the operator or the covered entity without authorization or exceeds authorized access, and thereby obtains said information

shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under subsection (a) of this section is—

- (1) A \$50,000 fine under this title or imprisonment for not more than 10 years, or both, in the case of an offense under section (a), or an attempt to commit an offense punishable under this subparagraph, if—
 - (A) the offense was committed for purposes of commercial advantage or private financial gain;
 - (B) the offense was committed in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State.

(c) Subsection (a) and (b) is not applicable to researchers, if —

- (1) Access to the autonomous vehicle, or any related devices or data is lawfully acquired;
- (2) During research, the autonomous vehicle is operated solely for the purpose of good-faith security research or access to the related data is solely for the purpose of good-faith security research;
- (3) The research is conducted in a controlled setting designed to avoid harm to individuals or the public.

SECTION 206: SELF-CERTIFY AND REPORT

(a) In general. The covered entity shall disclose to the Commission an annual comprehensive report certifying that the covered entity is in full compliance with this Act and failure to do so shall result in a fine no greater than the 1 percent of the covered entity's revenue for that year.

SECTION 207: EFFECTIVE DATE

Unless otherwise specified, this Act shall apply to the collection, use, or disclosure of, and other actions with respect to, personally identifiable information and vehicle performance information that occurs on or after the date that is one year after the date of enactment of this Act.