

Markey - 3

BAG17D04

Edward J. Markey  
S.L.C.

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To require automobile manufacturers to publish  
privacy policies.

**IN THE SENATE OF THE UNITED STATES—115th Cong., 1st Sess.**

**S. 1885**

To support the development of highly automated vehicle  
safety technologies, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MARKEY

Viz:

1 At the appropriate place, insert the following:

2 **SEC. \_\_\_\_ . PRIVACY PROTECTIONS FOR USERS OF MOTOR**

3 **VEHICLES.**

4 (a) **PERSONALLY IDENTIFIABLE INFORMATION DE-**  
5 **FINED.**—In this section, the term “personally identifiable  
6 information” means any information about an individual,  
7 or any information that is linked or reasonably linkable  
8 to an individual, including the following:

9 (1) The name of a user of a motor vehicle.

10 (2) The address of a user of a motor vehicle.

11 (3) The geographical location of the motor vehi-

12 cles.

1           (4) A photograph, video, or audio recording  
2 that contains the image or voice of a user of a motor  
3 vehicle.

4           (5) Indirect identifiers, including a motor vehi-  
5 cle user's date of birth, place of birth, Social Secu-  
6 rity number, biometric record, telephone number,  
7 credit card account number, insurance information,  
8 persistent identifier, email address, social media ad-  
9 dress, or other electronic address.

10          (6) Any aggregate or de-identified data of a  
11 user of a motor vehicle that, through reasonable ef-  
12 fort, is capable of being disaggregated or recon-  
13 structed to the point that an individual a user of a  
14 motor vehicle can be identified.

15          (7) Any data of a user of a motor vehicle or  
16 other information that, alone or in combination, is  
17 linked or linkable to a specific user of a motor vehi-  
18 cle that would allow a reasonable person, who does  
19 not have personal knowledge of the relevant cir-  
20 cumstances, to identify a user of a motor vehicle  
21 with reasonable certainty.

22          (b) **PRIVACY POLICIES.**—Beginning on the date that  
23 is 180 days after the date of the enactment of this Act,  
24 a manufacturer may not sell, offer for sale, introduce or  
25 deliver for introduction into interstate commerce, or im-

1 port into the United States any motor vehicle unless the  
2 manufacturer has established—

3 (1) a clear and conspicuous written privacy pol-  
4 icy, in plain language, that—

5 (A) is appropriate to the nature and scope  
6 of the activities regarding the collection, use, re-  
7 tention, dissemination, protection, and deletion  
8 of any data collected during the operation of  
9 the motor vehicle;

10 (B) details how personally identifiable in-  
11 formation that does or does not pertain to the  
12 operation of the motor vehicle can be used,  
13 shared, or sold;

14 (C) describes the inferences that can be  
15 drawn from personally identifiable information  
16 collected about individuals during the operation  
17 of motor vehicles;

18 (D) indicates whether a user of a motor  
19 vehicle can opt out of the collection, retention,  
20 sharing, or selling of personally identifiable in-  
21 formation, and the mechanism for exercising  
22 that option, if available;

23 (E) details the practices of the manufac-  
24 turer with respect to the data minimization, de-

1 identification, and retention of information  
2 about vehicle owners and occupants;

3 (F) details the practices of the manufac-  
4 turer for extending its privacy plan to the enti-  
5 ties with which it shares such information;

6 (G) is written in an easily understandable  
7 manner; and

8 (H) is publicly displayed; and

9 (2) a method for providing notice to vehicle  
10 owners or occupants about the privacy policy de-  
11 scribed in paragraph (1).

12 (c) REVIEW AND UPDATE.—Not less frequently than  
13 biennially, each motor vehicle manufacturer subject to  
14 subsection (b) shall review and, if necessary, update the  
15 written privacy policies for the motor vehicles manufac-  
16 tured by such manufacturer that are sold, leased, or  
17 rented in the United States.

18 (d) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
19 SION.—

20 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
21 TICES.—A violation of this section or a regulation  
22 promulgated under this section by a person with re-  
23 spect to whom the Federal Trade Commission is em-  
24 powered under section 5(a)(2) of the Federal Trade  
25 Commission Act (15 U.S.C. 45(a)(2)) shall be treat-

1 ed as a violation of a rule defining an unfair or de-  
2 ceptive act or practice prescribed under section  
3 18(a)(1)(B) of the Federal Trade Commission Act  
4 (15 U.S.C. 57a(a)(1)(B)).

5 (2) POWERS OF FEDERAL TRADE COMMIS-  
6 SION.—

7 (A) IN GENERAL.—The Commission shall  
8 enforce this section in the same manner, by the  
9 same means, and with the same jurisdiction,  
10 powers, and duties as though all applicable  
11 terms and provisions of the Federal Trade  
12 Commission Act (15 U.S.C. 41 et seq.) were in-  
13 corporated into and made a part of this Act.

14 (B) PRIVILEGES AND IMMUNITIES.—Any  
15 person who violates this section or a regulation  
16 promulgated under this section shall be subject  
17 to the penalties and entitled to the privileges  
18 and immunities provided in the Federal Trade  
19 Commission Act (15 U.S.C. 41 et seq.).

20 (e) ENFORCEMENT BY STATES.—

21 (1) AUTHORIZATION.—Subject to paragraph  
22 (2), in any case in which the attorney general of a  
23 State has reason to believe that an interest of the  
24 residents of the State has been or is threatened or  
25 adversely affected by the engagement of any person

1 in a practice that violates this section or any regula-  
2 tion promulgated under this section, the attorney  
3 general of the State may, as *parens patriae*, bring  
4 a civil action on behalf of the residents of the State  
5 in an appropriate district court of the United  
6 States—

7 (A) to enjoin such practice;

8 (B) to enforce compliance with this section  
9 or regulation;

10 (C) to obtain damages, restitution, or other  
11 compensation on behalf of residents of the  
12 State; or

13 (D) to obtain such other relief as the court  
14 may consider to be appropriate.

15 (2) RIGHTS OF FEDERAL TRADE COMMIS-  
16 SION.—

17 (A) NOTICE TO FEDERAL TRADE COMMIS-  
18 SION.—

19 (i) IN GENERAL.—Except as provided  
20 in clause (iii), the attorney general of a  
21 State shall notify the Commission in writ-  
22 ing that the attorney general intends to  
23 bring a civil action under paragraph (1)  
24 before initiating the civil action against a  
25 person described in subsection (d)(1).

1           (ii) CONTENTS.—The notification re-  
2           quired by clause (i) with respect to a civil  
3           action shall include a copy of the complaint  
4           to be filed to initiate the civil action.

5           (iii) EXCEPTION.—If it is not feasible  
6           for the attorney general of a State to pro-  
7           vide the notification required by clause (i)  
8           before initiating a civil action under para-  
9           graph (1), the attorney general shall notify  
10          the Commission immediately upon insti-  
11          tuting the civil action.

12          (B) INTERVENTION BY FEDERAL TRADE  
13          COMMISSION.—The Commission may—

14           (i) intervene in any civil action  
15           brought by the attorney general of a State  
16           under paragraph (1) against a person de-  
17           scribed in subsection (d)(1); and

18           (ii) upon intervening—

19               (I) be heard on all matters aris-  
20               ing in the civil action; and

21               (II) file petitions for appeal of a  
22               decision in the civil action.

23          (3) INVESTIGATORY POWERS.—Nothing in this  
24          subsection may be construed to prevent the attorney  
25          general of a State from exercising the powers con-

1       ferred on the attorney general by the laws of the  
2       State to conduct investigations, to administer oaths  
3       or affirmations, or to compel the attendance of wit-  
4       nesses or the production of documentary or other  
5       evidence.

6           (4) **PREEMPTIVE ACTION BY FEDERAL TRADE**  
7       **COMMISSION.**—If the Federal Trade Commission in-  
8       stitutes a civil action or an administrative action  
9       with respect to a violation of this section or a regu-  
10      lation promulgated under this section, the attorney  
11      general of a State may not, during the pendency of  
12      such action, bring a civil action under paragraph (1)  
13      against any defendant named in the complaint of the  
14      Commission for the violation with respect to which  
15      the Commission instituted such action.

16           (5) **VENUE; SERVICE OF PROCESS.**—

17           (A) **VENUE.**—Any action brought under  
18      paragraph (1) may be brought in—

19           (i) the district court of the United  
20      States that meets applicable requirements  
21      relating to venue under section 1391 of  
22      title 28, United States Code; or

23           (ii) another court of competent juris-  
24      diction.



1           (B) SERVICE OF PROCESS.—In an action  
2 brought under paragraph (1), process may be  
3 served in any district in which the defendant—

4                   (i) is an inhabitant; or

5                   (ii) may be found.

6           (6) ACTIONS BY OTHER STATE OFFICIALS.—

7           (A) IN GENERAL.—In addition to civil ac-  
8 tions brought by attorneys general under para-  
9 graph (1), any other consumer protection offi-  
10 cer of a State who is authorized by the State  
11 to do so may bring a civil action under para-  
12 graph (1), subject to the same requirements  
13 and limitations that apply under this subsection  
14 to civil actions brought by attorneys general.

15           (B) SAVINGS PROVISION.—Nothing in this  
16 subsection may be construed to prohibit an au-  
17 thorized official of a State from initiating or  
18 continuing any proceeding in a court of the  
19 State for a violation of any civil or criminal law  
20 of the State.