AMENDMENT NO._______ Calendar No._______

Purpose: To require automobile manufacturers to publish privacy policies.


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 VEHICLES.

3 (a) PERSONALLY IDENTIFIABLE INFORMATION DEFINED.—In this section, the term "personally identifiable information" means any information about an individual, or any information that is linked or reasonably linkable to an individual, including the following:

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

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

6 (3) The geographical location of the motor vehicles.
(4) A photograph, video, or audio recording that contains the image or voice of a user of a motor vehicle.

(5) Indirect identifiers, including a motor vehicle user’s date of birth, place of birth, Social Security number, biometric record, telephone number, credit card account number, insurance information, persistent identifier, email address, social media address, or other electronic address.

(6) Any aggregate or de-identified data of a user of a motor vehicle that, through reasonable effort, is capable of being disaggregated or reconstructed to the point that an individual a user of a motor vehicle can be identified.

(7) Any data of a user of a motor vehicle or other information that, alone or in combination, is linked or linkable to a specific user of a motor vehicle that would allow a reasonable person, who does not have personal knowledge of the relevant circumstances, to identify a user of a motor vehicle with reasonable certainty.

(b) PRIVACY POLICIES.—Beginning on the date that is 180 days after the date of the enactment of this Act, a manufacturer may not sell, offer for sale, introduce or deliver for introduction into interstate commerce, or im-
port into the United States any motor vehicle unless the manufacturer has established—

(1) a clear and conspicuous written privacy policy, in plain language, that—

(A) is appropriate to the nature and scope of the activities regarding the collection, use, retention, dissemination, protection, and deletion of any data collected during the operation of the motor vehicle;

(B) details how personally identifiable information that does or does not pertain to the operation of the motor vehicle can be used, shared, or sold;

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

(D) indicates whether a user of a motor vehicle can opt out of the collection, retention, sharing, or selling of personally identifiable information, and the mechanism for exercising that option, if available;

(E) details the practices of the manufacturer with respect to the data minimization, de-
identification, and retention of information about vehicle owners and occupants;

(E) details the practices of the manufacturer for extending its privacy plan to the entities with which it shares such information;

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

(H) is publicly displayed; and

(2) a method for providing notice to vehicle owners or occupants about the privacy policy described in paragraph (1).

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

(d) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of this section or a regulation promulgated under this section by a person with respect to whom the Federal Trade Commission is empowered under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) shall be treat-
ed as a violation of a rule defining an unfair or de-
ceptive act or practice prescribed under section
18(a)(1)(B) of the Federal Trade Commission Act
(15 U.S.C. 57a(a)(1)(B)).
(2) POWERS OF FEDERAL TRADE COMMI-
SION.—
(A) IN GENERAL.—The 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 (15 U.S.C. 41 et seq.) were in-
corporated into and made a part of this Act.
(B) PRIVILEGES AND IMMUNITIES.—Any
person who violates this section or a regulation
promulgated under this section shall be subject
to the penalties and entitled to the privileges
and immunities provided in the Federal Trade
Commission Act (15 U.S.C. 41 et seq.).
(e) ENFORCEMENT BY STATES.—
(1) AUTHORIZATION.—Subject to paragraph
(2), in any case in which the attorney general of a
State has reason to believe that an interest of the
residents of the State has been or is threatened or
adversely affected by the engagement of any person
in a practice that violates this section or any regulation promulgated under this section, the attorney general of the State may, as parens patriae, bring a civil action on behalf of the residents of the State in an appropriate district court of the United States—

(A) to enjoin such practice;

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

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

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

(2) **Rights of Federal Trade Commission.**—

(A) **Notice to Federal Trade Commission.**—

(i) IN GENERAL.—Except as provided in clause (iii), the attorney general of a State shall notify the Commission in writing that the attorney general intends to bring a civil action under paragraph (1) before initiating the civil action against a person described in subsection (d)(1).
(ii) CONTENTS.—The notification required by clause (i) with respect to a civil action shall include a copy of the complaint to be filed to initiate the civil action.

(iii) EXCEPTION.—If it is not feasible for the attorney general of a State to provide the notification required by clause (i) before initiating a civil action under paragraph (1), the attorney general shall notify the Commission immediately upon instituting the civil action.

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

(i) intervene in any civil action brought by the attorney general of a State under paragraph (1) against a person described in subsection (d)(1); and

(ii) upon intervening—

(I) be heard on all matters arising in the civil action; and

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

(3) INVESTIGATORY POWERS.—Nothing in this subsection may be construed to prevent the attorney general of a State from exercising the powers con-
ferred on the attorney general by the laws of the
State to conduct investigations, to administer oaths
or affirmations, or to compel the attendance of wit-
tnesses or the production of documentary or other
evidence.

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

(5) VENUE; SERVICE OF PROCESS.—

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

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

(ii) another court of competent juris-
diction.
(B) Service of process.—In an action brought under paragraph (1), process may be served in any district in which the defendant—
(i) is an inhabitant; or
(ii) may be found.

(6) Actions by other state officials.—

(A) In general.—In addition to civil actions brought by attorneys general under paragraph (1), any other consumer protection officer of a State who is authorized by the State to do so may bring a civil action under paragraph (1), subject to the same requirements and limitations that apply under this subsection to civil actions brought by attorneys general.

(B) Savings provision.—Nothing in this subsection may be construed to prohibit an authorized official of a State from initiating or continuing any proceeding in a court of the State for a violation of any civil or criminal law of the State.