



## Rollin' With the Regulators: The Annual Meetings of the American Association of Motor Vehicle Administrators and National Association of Motor Vehicle Boards & Commissions



By Eric A. Baker, *Wisconsin Dealer Law*

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NADC members overwhelmingly consider the professional networking and programming at our NADC conferences among the most rewarding professional development opportunities in our industry. But if you've ever thought that it would be interesting to include the perspectives of state regulators or the manufacturer reps in these presentations (and cocktail hours), then you should seriously consider getting out to the annual fall meetings of the American Association of Motor Vehicle Administrators ("AAMVA") and the National Association of Motor Vehicle Boards & Commissions ("NAMVBC").

these associations, let alone the meetings. In fact, a fellow NADC member clued me in on these meetings just a few years ago.

The AAMVA is the much larger organization, consisting of motor vehicle administrators, law enforcement, and other highway safety regulators. The focus of the AAMVA is on vehicle registration, driver licensing, highway law enforcement and other safety issues. One of its primary goals is the development and promotion of uniformity and reciprocity of motor vehicle regulation among the states and Canadian provinces.<sup>1</sup> Virtually every state and Canadian province is active to some degree in the AAMVA.

### What are the AAMVA and NAMVBC?

If you've never heard of these associations, you're not alone. My informal survey confirmed that most NADC members have never heard of

<sup>1</sup> <https://www.aamva.org/about>

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The NAMVBC membership is open to “any government agency responsible for issuing, licensing, or sanctioning licensees that are engaged in the sales or distribution of vehicles,” and its Mission Statement is: “Promoting fair, reasonable and uniform laws among the states with respect to the distribution and marketing of motor vehicles in order to prevent frauds and unfair business practices, and to promote and maintain a fair and sound system of distribution of motor vehicles to the public.”<sup>2</sup> Participation in NAMVBC fluctuates, and, currently, nineteen jurisdictions are listed as active.<sup>3</sup>

Full membership in these associations is restricted to government agencies and their officials. Each association, however, has associate membership opportunities for private stakeholders, and several of our NADC members, as well as motor vehicle manufacturers and their allied law firms, accountants, and other vendors are active associate members. Like NADC, these associations have restricted email listservs, and they also collaborate internally through working groups and committees.

### **AAMVA and NAMVBC Fall Meetings**

Each association conducts a multi-day fall meeting, usually in late September, which includes educational programming directed to agency personnel, as well as sponsored networking receptions and dinners. Meeting registration is open to non-member attendance. For the first time, this past fall, the two associations scheduled their meetings to overlap, so as to accommodate regulators who participate in both groups. Madison, Wisconsin, was fortunate to host this inaugural summit.

The AAMVA Annual International Conference runs on a multi-track format, with sessions on motor vehicle law enforcement, DMV administration (DMV technology, cyber security, customer experience), driver’s licensing, and motor vehicle titling and records management. Although AAMVA sessions generally are not germane to attorney practice, there are usually around one thousand attendees (agency and allied industry representatives) and some NADC members appreciate the opportunity to interact in a conference environment with agency personnel they also engage on dealership-client matters.

The NAMVBC meeting focuses more narrowly on dealership licensing and regulation, including manufacturer-dealership “franchise” relations. This past September’s meeting included sessions on the Future Regulation of Dealership Operations (with NADC member Bruce Anderson presenting), EV Direct Sales (with NADC member Anthony Bento), Warranty Reimbursement (with NADC member Jim Appleton), Right to Repair Legislation (with NADC member Robert O’Koniewski), COVID Pandemic Impact on the Motor Vehicle Industry (with NADC member Greg Kirkpatrick), Constitutional Challenges to State Franchise Laws (with NADC member Lauren Bailey), Dealer Terminations (with

NADC associate member Joe Roesner), and Regulation of Multi-Stage Vehicle Manufacturing and Distribution (with yours truly). NAMVBC presentations are generally conducted in a panel format, including a manufacturer-side representative (often outside legal counsel) and sometimes state government agency representatives. The inevitable verbal sparring between these competing viewpoints not only adds insight; it is often quite entertaining, as well!

The NAVMBC meeting attendance is usually in the range of 100 to 150, including many state regulators, but also in-house and outside legal counsel for manufacturers, non-attorney manufacturer representatives, NADA legal staff, ATAEs, and some dealership in-house and outside legal counsel. The presentations are sufficiently focused on legal issues that NAMVBC obtained attorney CLE approval for this year’s agenda from a number of jurisdictions. Afternoons are capped off with either a scheduled reception or dinner for all attendees, and it is routine for semi-organized groups to continue informal networking at area establishments.

### **Join the Bandwagon!**

The 2024 AAMVA Annual International Conference is set for September 24-26, in Atlanta, Georgia.<sup>4</sup> The NAVMBC meeting is tentatively planned for that same week and location, and details will be available on the NAMVBC website when they are finalized: <http://namvbc.org/upcoming-meeting.html>. Our NADC colleagues would heartily welcome more dealer-side representation at these meetings, so mark your calendars and come on out. Hope to see you there!

I’ve had the chance to do a lot of other things as a board member and I hope that the organization has benefitted from my service, but I know that I benefitted more. My motive in joining the board was purely selfish. I learned so much about the law, the industry and myself. I will miss it.

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<sup>2</sup> <http://namvbc.org/index.html>

<sup>3</sup> <http://namvbc.org/government-members.html>

<sup>4</sup> <https://www.aamva.org/events-education/conferences-meetings>



## President's Message

Scott Silverman  
DSR Motor Group  
NADC President

### Fake it 'til you make it.

Technically, that is not allowed for attorneys. The model ethical rules 1.1 (implemented in most states) provide “A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.”... so, how do you get there with limited resources?

Our association was established nearly 20 years ago, thanks to the vision, dedication, and unwavering commitment of a select group of pioneering attorneys. They laid the foundation for what has since evolved into a beacon of knowledge, wisdom, and camaraderie for all of us in the automotive legal industry.

Over the years, we have grown and adapted to meet the ever-evolving challenges and opportunities in the world of automotive law. We have become a vital resource for sharing knowledge, insights, and best practices in our field. The NADC is a repository of expertise.

At the beginning of my career in the '90s, I joined a medium-sized firm in Boston that was a general service firm with approximately 80 attorneys that happened to have a small auto practice. While many dealers used their family attorney or real estate counsel for small disputes and manufacturer “ding” letters, they routinely knew to seek more experienced and/or specialized counsel when it came to “bet the farm” type litigation. However, there were probably no more than four to five attorneys in the state focused on representing auto dealers – each of which were competing against each other for clients rather than collaborating. I began working on siting disputes, termination cases, incentive audits – with some experienced senior counsel, and then on my own. In retrospect, my experience paled in comparison to that of the counsel representing the manufacturers. Even more daunting, most relevant judicial decisions were hard to find — typically with cases decided at the injunction stage or trial court (or even with a confidential tribunal) at a time when the internet did not provide the same type of robust search capabilities that we have today (remember when attorneys had to decide whether to use westlaw or lexis!, maybe that still happens, but as in-house counsel, fortunately,



I get to avoid it). As a young associate I learned the anxiety associated with spinning my wheels, long weekends spent researching topics... and writing down my own time because the work needed never fit any reasonable expectation for what the client's anticipated.

On the other end of these auto disputes, representing manufacturers, was a collection of very large, experienced law firms whose attorneys shared the knowledge and experience of probably every type of manufacturer/dealer dispute. However, it is not just the shortlist of firms that represent the alliance that we confront. Attorney generals communicate and consumer protection groups have their associations, and the FTC along with other federal agencies all can operate as both rule makers and enforcers. While those opponents remain similarly armed in dealer disputes, NADC has provided an incredible step towards leveling the playing field. Of course, that is only part of what NADC represents. Helping to educate dealer counsel on regulatory matters transactional issues, customer disputes, and other categories. It has begun to fill a void of cohesiveness that always existed with opposing counsel.

While our founding members, at the time, may not have fully envisioned the incredible resource they were creating, they set the stage for the exceptional community we have become. We owe them an immense debt of gratitude for their foresight. As we commemorate two decades of the NADC, let us take a moment to express our heartfelt appreciation to the original architects of this association. Their vision, hard work, and the enduring legacy they have created should inspire us to continue building upon their solid foundation. Together, we must ensure that the NADC remains a vibrant hub for knowledge-sharing and collective growth. I know it is something I needed. Here's to another 20 years of excellence and camaraderie.

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# PRIVACY CHANGES COMING TO YOUR DEALERSHIP

By Andrea Amico, *Privacy4Cars*

"As California goes, so goes the nation" is no mere saying. Perhaps nobody better than automotive dealers have lived on their skin this adage, with regulations and enforcement practices quickly and regularly expanding from the sunny Pacific shores across the land. With that in mind, NADC members should pay particular attention to the recent announcement of the California Privacy Protection Agency ("CPPA") that it will be "reviewing the data privacy practices of connected vehicle (CV) manufacturers and related CV technologies." In its original [announcement](#) much is left untold, but two things are clear: first, this is not just about manufacturers but about a broader ecosystem, and second, the checklist companies will be held against is the list of rights consumers have. In this article, we will focus on (1) why dealers should pay urgent attention to CPPA's investigation, (2) what percentage of the vehicles on a dealer lot fall under its scope, and (3) why addressing the Right To Know should be the top priority for dealership attorneys, since dealerships face huge gaps and it's the most litigated CA consumer right which resulted in changing the practices for online business across the whole United States.

## Dealers should pay urgent attention to CPPA's investigation

California is considered a bellwether state by attorneys for good reasons. This is possibly even more true for privacy regulations. The 2018 California's Consumer Privacy Act ("[CCPA](#)") was the first privacy law in the land and set in motion legislative efforts around the country. At the time of this article, [11 states have passed comprehensive privacy laws](#) (California, Colorado, Connecticut, Indiana, Iowa, Montana, Oregon, Tennessee, Texas, Utah, and Virginia). Two more, Washington and Florida, enacted strong sectorial privacy laws that affect dealers. Five have active bills (Delaware, Massachusetts, New Jersey, North Carolina, and Pennsylvania) and another 16 have inactive bills that most likely will resume with the next legislative cycle. California also kept rising the bar for what companies are expected to do to protect consumers: in November 2020, voters approved Proposition 24, the California Privacy Rights Act ("[CPRA](#)") which amended the CCPA and added new additional privacy protections that began on January 1, 2023. At accelerating speed, privacy laws are sweeping, and California is leading.

One unique feature of California's privacy laws is that they created the CPPA, which is first agency in the country to be solely focused on enforcing privacy regulations, a role typically taken by the FTC or a state's Attorney General (CCPA also has a Private Right of Action provision). NADC members should find extremely telling and worth of notice that the very first place CPPA decided to probe is the privacy practices surrounding vehicles. If [enforcement history](#) is any lesson, B2C businesses, in particular retailers, are typically first in line when AGs and other enforcement agencies look at pointing fingers at who in their eyes wronged consumers.

## Most if not all the vehicles on dealership lots are in-scope Connected Vehicles

NADC members should not assume that what manufacturers call Connected Vehicles has any resemblance with the legal definition of what a CV is. If you were to, you would underestimate the number of vehicles in scope by an order of magnitude and about 15 years of manufacturing: chances are that most, and possibly all the vehicles on your lot right now are CVs!

So what falls under the legal definition of CVs? Attorneys should look no further than [SB-327](#): a law that California passed just about the same time of CCPA and was the first IoT (Internet of Things) Security law in the world. SB-327 set the standard for laws across the globe for what constitutes a "connected device". In the words of the legislators: "*Connected device*" means any device, or other physical object that is capable of connecting to the Internet, directly or indirectly, and that is assigned an Internet Protocol address or Bluetooth address. In laymen's terms: if you can sync a phone and stream music through the car's speakers, that vehicle is a "connected device", hence a CV. This is a far simpler, older, and more widespread technology than what manufacturers colloquially refer to as a "CVs": vehicles that have their own native, embedded connectivity (meaning they contain a Telematics Control Unit with direct access to a mobile telecom network via a "SIM").

When the IoT security law was passed, realizing there were no categorization of various vehicle connectivity technologies, [Privacy4Cars proposed the world's first taxonomy of Connected](#)

[Vehicles](#). Attorneys may find useful to refer to it to understand the differences between Level 0 (no connectivity) to Level 5 (V2X, the highest possible level of connectivity) and the privacy implications of each rising level. What OEMs call CVs is between Levels 3 and 5 (all EVs for instance are level 5, because they connect to the charging infrastructure). What the law regulates includes Level 1 and 2 that were in showrooms at the turn of the millennium, i.e. ~15 year gap between SB-327's definition and the OEM's: an astounding symptom of how overlooked the legal issues posed by connected vehicles have been—until recently.

### **First order of business: fixing the Right to Know gap**

The head of enforcement of CPPA, Michael Mako, explained in a [TV interview on August 8<sup>th</sup>](#) that the scope of the investigation is “Connected Vehicles” (“CVs”) and the objective is “to understand how privacy rights of consumers are being respected and honored in this very complex web [of companies]”. Mako continues by mentioning geolocation information, data from phones, and interactions through the infotainment as examples of vehicle data collection.

The Right To Know is the first right listed on the CCPA (hence fully enforceable) and is rooted in the principle that businesses should be transparent and tell consumers what data will be collected and with whom it will be shared or sold to—essentially the privacy-specific version of the federal or your local Unfair and Deceptive Acts and Practices acts. So how well are dealers faring in this area? In a recent mystery shopping exercise, Privacy4Cars discovered that less than 1 in 20 dealer associates correctly answered consumers' basic vehicle privacy questions about whether the car they just test drove was capable of collecting personal information, and whether the manufacturer has the right to share it and sell it to third parties (the correct answers, for the recently manufactured vehicles consumers test drove, were “yes” and “yes”). If less than 5% correct does not sound good, it gets worse: about two-thirds of salespeople vehemently denied any data collection and sharing/selling was taking place: a significant UDAP risk considering their statements were in stark opposition to the OEMs' publicly available privacy policies and terms. We should add: zero sales associates were able to make any factually accurate comparison between the two different vehicles consumers had just taken for a test drive. Imagine not being able to communicate accurately to consumers how two cars for sale compare in gas mileage or safety features: plaintiff attorneys would be rubbing their hands [as they file misrepresentation lawsuits](#) for failure to disclose material facts by asserting the vehicle does or does not have or do certain things. This scenario is the unfortunate current norm in showrooms across the nation when it comes to vehicle privacy features and, CPPA and other agencies may argue, is a far cry from the commitment to “represent our products clearly and factually” in [NADA's Code Of Ethics](#).

While regulators and plaintiff attorneys could easily put the full blame on dealers, the reality is that dealers are being set up for failure. At Privacy4Cars we spent years analyzing and benchmarking the legal documents OEMs publish to disclose their data practices. What we found is that this information is spread throughout various documents, that those documents are not always easy to find, and that recent vehicles require typically over 2 hours of reading of thick legalese that is beyond the reading comprehension abilities of a large share of vehicle buyers (and dealership employees). We also found no evidence of any document OEMs or associations had made available to dealerships to address this massive knowledge gap.

For this reason, at the end of May 2023 we launched <https://vehicleprivacyreport.com>, the first free resource for consumers to easily understand key privacy facts about any vehicle, including the world's first privacy labels for cars: a set of 10 icons that graphically illustrate what data the OEM collects and with whom they share/sell it. For dealerships we created a simple website script that automatically labels 100% of the inventory for sale (and doubles as a merchandising tool): think of it as “the Carfax of privacy” or as “the cookie banner of vehicles”. We are currently publishing almost one million labels per week on dealership websites.

### **Obligation to disclose vehicle privacy practices?**

So are dealerships mandated to make explicit disclosures to consumers about the data practices for any given vehicle on their lot prior to selling it? Guidance has not yet been so specific, but what we do know is that California's Attorney General made it abundantly clear that burying information about tracking users in the fine lines of a policy is insufficient—which is why hopefully your or your clients' dealerships have a cookie banner (a practice that has rapidly bled outside of California). If authorities are concerned to the point of [dishing 7-figures fines](#) when retailers are not telling consumers about cookies, time will tell how they will feel about whether there is a need for dealerships to disclose the collection of identifiers, precise geolocation, biometrics, information from connected phones, and profiling of users people are subject to when they buy a vehicle, one of the largest financial commitments Americans can make.

Undisclosed data practices may be more than a privacy issue: across the Atlantic, the Publication Office of the European Union released earlier this year a [“study on the provision of information to consumers about the processing of vehicle-generated data”](#) authored by the Directorate-General for Justice and Consumers (roughly equivalent to our AG Office). Their mystery shopping findings where very much in line with the Privacy4Cars' studies mentioned before and their concern was that, since consumers value privacy, not disclosing the significant privacy implications of modern vehicles may

be distorting the market because consumers may have made different purchasing choices or would have been willing to pay a different amount had they know. In short: not telling consumers about what data their vehicle sucks out once the dealer hands them the keys is a possible case of unfair competition.

The prudent approach to stay clear of Section 5 of the Federal Trade Commission Act and of the growing list of privacy laws in the country is to uphold the Right To Know and take measures to make proactive disclosures to consumers well before they walk into your dealership's office. Dealerships should have a policy on how to make disclosures and have proper electronic or physical materials and collaterals for every vehicle on their lot that the staff can reference to so to provide a high level of accuracy and consistency of information. Those materials should reference the manufacturers' legal disclosures but would also need to strike a balance on how to easily communicate privacy information without requiring the average consumer to get a JD or to add hours to the purchasing process. Unfortunately relying on the knowledge and best effort of dealership personnel to make accurate and timely privacy disclosures is akin to hoping they can make vehicle history disclosures without relying on specialized technology providers. Counsels should take leadership in demanding stores adopt robust processes, policies, and tools.

The second key right, **the Right to Delete**, is rooted in the principle that consumers should be able to minimize their data footprint. While there is no precise equivalent in NY, the [SHIELD Act](#), the [Disposal of records containing personal identifying information \(399-H\)](#), and other laws (including the [record disposal sections of GLBA](#)) require businesses to be proactively responsible for the deletion of personal information (PI), including prior to disposing of an asset that contains unencrypted records (almost all vehicles fall under this definition). Considering it is often easy to re-identify a consumer from data dealers frequently leave in vehicles for sale, loaners, and the like (e.g. from the name of synched smartphones, the home address, the phone number in the voicemail settings or favorites); that people's contacts and text messages often contain regulated PI such as account numbers, social security numbers, passwords, tokens, and second factors of authentication; that increasingly vehicles capture biometrics; and that more and more vehicles allow consumers to make financial transactions (from purchasing gas or coffee, to paying tolls, to unlocking pricey features) through the infotainment or other devices in vehicles, it is easy to see how a scrupulous AG or plaintiff attorney may build a case against most NY dealerships (please note under SHIELD there is no need to prove harm, only data disposal negligence, to file a complaint).

New York auto dealers should consider using the news out of California as an opportunity to raise their internal standards for

vehicle privacy practices. The best way to do so is by committing to transparency throughout the entire vehicle sale or trade-in/lease return process. Consider putting privacy-related information, including what personal information a vehicle might capture, share or sell, on the vehicle's listing page. Be sure all members of the sales staff are properly trained in communicating privacy-related information to customers, and delete stored personal information from any vehicle that is changing hands on the business' lot. Forward-thinking dealers will learn in an upcoming GNYADA webinar how they can correctly yet simply represent policies and terms that would take hours for a lawyer to read, and not only lower their customers' and their business' risk, but also use disclosures and protections to build traffic, consumer engagement on their website, loyalty, and more business advantages to gain a competitive advantage against their less progressive counterparts.

*Andrea Amico is the founder and CEO of [Privacy4Cars](#), the first and only technology company focused on identifying and resolving data privacy issues across the automotive ecosystem. Privacy4Cars' patented AutoCleared™ solution helps users quickly and confidently delete vehicle users' personal information (e.g., phone numbers, call logs, location history, garage door codes, and more) while building compliance records. Its [Vehicle Privacy Report™](#) tool is a first-of-its-kind privacy disclosure and merchandising feature dealers can use to automatically populate VIN-specific privacy labels for 100% of their inventory. Andrea can be reached at [info@privacy4cars.com](mailto:info@privacy4cars.com).*



# Vehicle Privacy Report™

2018 Acura MDX  
SH-AWD w/Technology Pkg

Stock #: 024367    Mileage: 64,550  
Engine: 3.5L 24V SOH...    Color: White  
Trans: Select    Interior: Leather  
Drive: AWD    VIN:

SHOW ME THE CAR FAX  
FAIR VALUE

GET PRIVACY CAR FACTS

Retail \$29,989

Estimate Financing  
No credit score risk

Compare    Price Drop Notifications

Inquiry    Make Offer    Financing    Text Us

- Add **VIN-Specific badges** that link to free Reports
- **100% automatic** script adds badges and links for all cars
- Your webmaster can add this feature in minutes

- **Show your customers you care** about privacy and you are the “Apple Store” of dealerships
- **Your competitors’ customers will find YOU** and bring YOU their trades and lease-end

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Privacy4Cars promotes transparency, fairness, and higher privacy standards in the automotive industry.

CONSUMERS:  
Get privacy car facts for FREE by searching your VIN.

Enter 17-Digit VIN    Get Privacy Car Facts

What and where is the VIN?

Find Dealers That Care About YOUR Privacy

**VEHICLE PRIVACY LABEL™**  
Manufacturer Policies & Terms: Click Buttons for Details

OEM Collects ⊕

Identifiers YES	Biometrics NO	Location YES	Synched Phones YES	User Profiles YES
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OEM Shares/Sells to ⊕

Affiliates YES	Service Providers NO	Insurance UNCLEAR	Government UNCLEAR	Data Brokers NO
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Illustrative example of Privacy Label for a VIN

- Don't let your salespeople make things up: it is a massive **legal and reputation risk**
- 10 standardized VIN-specific icons of legal disclosures to **protect your business**

- Get recognized as a trusted "Privacy Care" dealer.
- Unlock more benefits by deleting personal data from cars with our multi-patented AutoCleared™ tool



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*Anyway you add it up, you're on the road to compliance.*



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*Accelerate2Compliance is your FTC compliance expert. An NADA Affinity Partner, the Accelerate2Compliance (A2C) program is built to help dealers install complete and technical FTC safeguards and related solutions. The A2C roadmap assists dealerships with identifying information security compliance risk, implementing policies and procedures, delivering ongoing training and testing, and assessing vendor vulnerabilities. We'll give you the key fob to a shiny new assessment. And you drive toward compliance.*

*Privacy4Cars offers a suite of services to expand protections, by focusing on privacy, safety, security, and compliance. Its patented AutoCleared™ solution helps users quickly and confidently delete vehicle users' personal information — phone numbers, call logs, location history, garage door codes, and more — while building compliance records. Its Vehicle Privacy Report™ tool is a first-of-its-kind one hundred percent automated tool to make fair and transparent disclosures for all vehicles dealers have in their inventory. For speeding toward protection, this is 4-on-the-floor.*

**Schedule a consultation today.**

**[Accelerate2Compliance.com](https://Accelerate2Compliance.com) / [Privacy4Cars.com](https://Privacy4Cars.com)**



# Industry Alert: FTC's New Data Breach Reporting Rule and Implications for Dealerships

By Chris Cleveland, *ComplyAuto*

The Federal Trade Commission (FTC) has recently intensified its stance on consumer data protection by unveiling a significant amendment to the FTC Safeguards Rule. This directive, centered around data breach reporting, is of paramount importance to all dealerships across the country. The legal team at ComplyAuto has reviewed the published amendment and FTC comments at length and have summarized their findings below.

## Mandatory Reporting and Increased Accountability

Dealerships are now obligated to promptly report any data breach affecting 500 or more customers directly to the FTC. Beyond the act of reporting, this rule ushers in heightened accountability. An electronic report to the FTC not only standardizes the process but also triggers an immediate investigation into the dealership's security protocols and compliance with the Safeguards Rule.

## FTC's Unambiguous Position on Data Breaches

Within the FTC's comments, it states that "[t]he Commission believes that taking action to correct a potential Safeguards Rule violation before additional security events can harm consumers is appropriate and desirable." This statement underscores the FTC's commitment to proactive consumer data protection and to go after violating businesses with the full force of the federal government.

## Encryption: A Non-Negotiable Requirement

The amendment specifically places a significant emphasis on encryption. Dealerships must report breaches involving "unencrypted" data, making it imperative for dealers to adopt encrypted messaging tools and ensure the encryption of device hard drives in order to secure their customer information. Not doing so would not only put you at significant risk to a data breach but also squarely in the FTC's crosshairs.

## Time-Sensitive Reporting and Public Disclosure Risks

Dealerships are afforded a mere 30 days from the discovery of a breach to report it to the FTC. The FTC's decision to make these reports public heightens the risk of negative media attention, reputational damage, and a potential erosion of customer trust. In such a highly competitive industry and the importance of personal information, being publicly named in a data breach could mean the difference between losing a customer or losing a dealership.

## ComplyAuto: Your Partner in Data Breach Compliance

Dealerships that are currently lagging in compliance are treading very dangerous waters, but by mid-2024, when this amendment becomes effective, the full force of the Safeguards Rule will be in play. "Flying under the radar" will no longer be an option and non-compliance could lead to serious regulatory and reputational consequences.

Endorsed by over 35 state dealer associations, ComplyAuto is the singular one-stop solution for the Safeguards Rule and all of its iterations. It is the only platform that offers encryption tools for messaging and devices, directly catering to the stringent encryption requirements of the amendment.

## Key Takeaways: Navigating the New Data Breach Reporting Landscape

For dealerships to stay ahead of the curve, understanding the crux of the new rules is essential:

- Mandatory reporting of breaches affecting 500+ customers.
- Required electronic reporting via an FTC-provided form.
- Emphasis on encrypted messaging tools and device hard drive encryption.
- Only breaches involving "unencrypted" data are reportable.
- A strict 30-day reporting window post breach discovery.
- Public disclosure by the FTC, with associated reputational risks.
- Full rule enforcement expected by mid-2024\*.

For more information about our Safeguards Rule solutions, please visit us at <https://www.complyauto.com> or email us at [info@complyauto.com](mailto:info@complyauto.com).

*\*The amendment becomes effective 180 days after it is published in the Federal Registrar. We will keep our clients up-to-date and notify you when that occurs.*

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# UPDATE: Treasury, IRS Release Proposed Regulations and Procedures for Clean Vehicle Credit Transfers

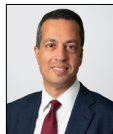
By Nicole M. Elliott, Mary Kate Nicholson, and Amish Shah, *Holland & Knight LLP*



Elliott



Nicholson



Shah

In our October issue, the article “Treasury, IRS Release Proposed Regulations and Procedures for Clean Vehicle Credit Transfers” discussed recent guidance issued by the Internal Revenue Service detailing how a taxpayer purchasing a new a new clean vehicle or previously owned clean vehicle can transfer such credit to a registered dealer in exchange for a financial benefit equal to the amount of the credit. At the time of publication, the IRS portal through which dealers can seek payment of the transferred credit was not yet available. That portal is now open and can be found at <https://www.irs.gov/credits-deductions/register-your-dealership-to-enable-credits-for-clean-vehicle-buyers>.

At this time dealers can only register the business; the IRS expects to fully launch the portal later this year. Dealerships should designate employees who are authorized to access the registration system. In order to set up your registration you need to use ID.me to verify your personal identity. You will also need to provide your dealership’s Employer Identification Number (EIN), proof of dealer license to sell vehicles, including license number and copy of license, and bank account information (if dealership intends to receive advance payments).

The IRS will review the registration and could potentially ask for more information and will either approve or deny registration. If you encounter any difficulty with the registration process, contact [irs.clean.vehicles.dealer.info@irs.gov](mailto:irs.clean.vehicles.dealer.info@irs.gov) with questions.



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