

# ATAE Guidance on State Comprehensive Data Privacy Legislation

Nineteen states have passed comprehensive data privacy laws. States are stepping in to fill the void due to the lack of comprehensive federal data privacy legislation. The below is meant to guide ATAEs and dealers in analyzing upcoming comprehensive data privacy legislation.

## Checklist for Analyzing Comprehensive Data Privacy Legislation

*The checklist below can be used to analyze state comprehensive data privacy legislation.*

### **Does the legislation have an exemption for the Gramm Leach Bliley Act (“GLBA”)?**



Since dealerships are regulated as financial institutions under the GLBA, this exemption could make it so dealerships are not covered by the legislation.

#### **Is the GLBA exemption entity level or data level?**



Entity level exemption is preferred because it would exempt the dealership from coverage.

Data-level exemptions may exempt some specific data from coverage under the legislation, but dealers may still be subject to the legislation.

### **Does the legislation have a small business exemption?**



A small business exemption is usually based on if the business controls below a certain amount of consumer data. Based on the number, states should estimate how many dealerships would fall under this exemption.

### **Is there a limit on sharing sensitive information with third parties?**



Since dealerships are required to share a variety of information with third parties (OEMs, DMS providers, etc.) it should be closely examined what information can be shared and what consumer permissions are required.

Some state legislation also prohibits the “sale” of data. If sale is broadly defined, dealers could violate the law by sharing this data.

### **Is there language to limit the amount of data that can be collected (data minimization)?**



Legislation could require businesses to only collect data that is reasonable, necessary and proportionate to provide or maintain a product or service requested by the consumer. This language should be closely examined as dealerships collect a variety of information for various purposes such as sales, financing and servicing of vehicles.

### **Is there language indicating what laws will apply if data is shared with an entity in another state?**



Dealers share information with OEMs located in other states and sell vehicles to customers in other states. The data security laws of the state the dealer is in should apply.