

RCW 46.96.270 Release of dealer and customer data and information—Access to management computer systems—Immunity. (1)

Notwithstanding the terms or conditions of any consent, authorization, release, novation, franchise, or other contract or agreement, whenever any manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of or through, or approved, referred, endorsed, authorized, certified, granted preferred status, or recommended by, any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor, requires that a new motor vehicle dealer provide any other new motor vehicle dealer, consumer, or customer data or information through direct access to the dealer's management computer system, the new motor vehicle dealer is not required to provide, and may not be required to consent to provide in any written agreement, such direct access to its management computer system.

However, the new motor vehicle dealer may provide any other new motor vehicle dealer, consumer, or customer data or information specified by the requesting party by timely obtaining and pushing or otherwise furnishing the requested data to the requesting party in a widely accepted file format, such as comma delimited, provided that when a new motor vehicle dealer would otherwise be required to provide direct access to its management computer system under the terms of a consent, authorization, release, novation, franchise, or other contract or agreement, a new motor vehicle dealer that elects to provide data or information through other means may be charged a reasonable initial set-up fee and reasonable processing fee based on the actual incremental costs incurred by the party requesting the data for establishing and implementing the process for the dealer. Any term or provision contained in any consent, authorization, release, novation, franchise, or other contract or agreement that is inconsistent with this subsection is voidable at the option of the new motor vehicle dealer.

(2) Notwithstanding the terms or conditions of any consent, authorization, release, novation, franchise, or other contract or agreement, every manufacturer, factory branch, distributor, distributor branch, or any third party acting on behalf of or through any manufacturer, factory branch, distributor, or distributor branch, having electronic access to consumer or customer data or other information in a computer system utilized by a new motor vehicle dealer, or who has otherwise been provided consumer or customer data or information by the dealer, shall fully indemnify and hold harmless the dealer from whom it has acquired the consumer or customer data or other information from all damages, costs, and expenses incurred by the dealer including, but not limited to, judgments, settlements, fines, penalties, litigation costs, defense costs, court costs, costs related to the disclosure of security breaches, and attorneys' fees arising out of complaints, claims, security breaches, civil or administrative actions, and, to the fullest extent allowable under the law, governmental investigations and prosecutions to the extent caused by the manufacturer, factory branch, distributor, distributor branch, or third party acting on behalf of the manufacturer, factory branch, distributor, or distributor branch's access, storage, maintenance, use, sharing, disclosure, or retention of the dealer's consumer or customer data or other information, or maintenance or services provided to any computer system utilized by the dealer by the

manufacturer, factory branch, distributor, distributor branch, or third party acting on behalf of or through the manufacturer, factory branch, distributor, or distributor branch.

(3) Notwithstanding the terms or conditions of any consent, authorization, release, novation, franchise, or other contract or agreement, a dealer management computer system vendor or any third party acting on behalf of or through any dealer management computer system vendor, having electronic access to consumer or customer data or other information in a computer system utilized by a new motor vehicle dealer, or who has otherwise been provided consumer or customer data or information by the dealer, shall fully indemnify and hold harmless the dealer from whom it has acquired the consumer or customer data or other information from all damages, costs, and expenses incurred by the dealer including, but not limited to, judgments, settlements, fines, penalties, litigation costs, defense costs, court costs, costs related to the disclosure of security breaches, and attorneys' fees arising out of complaints, claims, security breaches, civil or administrative actions, and, to the fullest extent allowable under the law, governmental investigations and prosecutions to the extent caused by the dealer management computer system vendor or any third party acting on behalf of the dealer management computer system vendor's access, storage, maintenance, use, sharing, disclosure, or retention of the dealer's consumer or customer data or other information, or maintenance or services provided to any computer system utilized by the dealer, by the dealer management computer system vendor or third party acting on behalf of or through the dealer management computer system vendor. [2014 c 214 s 8.]

Application—2014 c 214: See note following RCW 46.70.045.