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# California State Senate

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June 15, 2015

Honorable Mary Nichols  
California Air Resources Board  
1001 "I" Street  
Sacramento, CA 95814

Re: On-Board Diagnostic (OBD) Information and Access

Dear Chairperson Nichols:

I write to express reservations about a CARB staff proposal to greatly expand the volume and nature of the information OBD systems will be required to collect and that could be retrieved by the government or third parties.

At the outset, I note existing OBD systems are highly successful. The emission systems of modern cars are extraordinarily clean. In fact, CARB states that emissions of pollutants from light-duty vehicles have been reduced by 99.7%. Given this success, why would CARB propose anything that may jeopardize this progress?

As importantly, I am concerned about the nature of the information that may be collected, whether it could be used to identify individuals and their driving habits, the manner in which you expect consumers to be informed of the new capabilities of the OBD systems, and how you anticipate obtaining consumers' consent to the collection and release of this information. I request answers to the following questions:

- Does the newly-identified information pertain to driving habits? For example, will individual information about speed, braking frequency, use of air conditioning, and length or frequency of trips be obtained? What other information will be collected?
- Will this information be linked to the specific drivers through VINS (Vehicle Identification Numbers)

- Will third parties have access to this information?
- How does CARB intend to use this information?
- Upon what legal authority does CARB rely to compel collection of this information?
- If the authority is based on existing authority for criterion and GHG reduction, why is the personal individualized data on each consumer needed?
- Can CARB guarantee aggregated information cannot be disaggregated? (As you know, recent studies belie the notion that “anonymized” information truly remains anonymous.)
- Lastly, how does CARB propose to alert consumers to this practice? Certainly some disclosure and consent must be obtained. Equally importantly, may consumers refuse consent and simply preserve the current functions of the OBD system? Can vehicle owners opt out of this data collection? Can consumer data be encrypted and if so, at whose expense? I have seen no discussion of these issues in CARB documents.

Also, I am curious about retrieval of the large volume of newly-collected information. How will it be done? Will retrieval require physical access to the OBD port? How often is this done? It is my understanding that most newly-purchased vehicles are not required to be “smogged” until the seventh year of operation. Does this mean that new car owners will be untouched by this new practice, but Californians who drive older vehicles will be subjected to the new regime? Presumably, persons who lease vehicles every two or three years will never be subject to the new regime? Is this fair? How does this type of disparate application to large populations of Californians promote cleaner air?

I wholeheartedly endorse the progress California has made in cleaning its air. Much of this progress is attributable to substantially cleaner and more efficient vehicles. However, that does not mean that all new ideas are good ideas. I look forward to receipt of the answers I have requested and discussing these issues with you.

Sincerely,

*Cathleen Galgiani*

Cathleen Galgiani  
Senator, 5<sup>th</sup> District

*Jim Cooper*  
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Jim Cooper

*Ian Calderon*  
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*Ted Gaines*  
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*Adam Gray*  
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*Matthew Dababneh*  
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*Patrick O'Donnell*  
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*Jose Medina* AD61  
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*Freddie Rodriguez* AD52  
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*Bill Dodd* AD04  
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