

EXHIBIT A

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July 3, 2024

The Honorable Chip Curry
The Honorable Tiffany Roberts
Committee on Innovation, Development,
Economic Advancement and Business
100 State House Station
Augusta, ME 04333

Re: *Automotive Right to Repair Legislation*

Dear Senator Curry and Representative Roberts:

Last November, Maine voters approved Initiated Bill 3 (LD 1677), *An Act Regarding Automotive Right to Repair*. The law took effect on January 5, 2024 and requires manufacturers of certain motor vehicles to make on-board diagnostic and repair information systems accessible to owners and independent repair facilities.¹ One provision in particular requires the Attorney General to “designate an independent entity not controlled by one or more motor vehicle manufacturers to establish and administer access to vehicle-generated data that is available through the on-board diagnostic system or that is transmitted by the standardized access platform authorized under this section.”² This “independent entity” shall:

- A. Identify and adopt relevant standards for implementation of this section and relevant provisions for accreditation and certification of organizations and for a system for monitoring policy compliance;
- B. Monitor and develop policies for the evolving use and availability of data generated by the operations of motor vehicles; and

¹ 29-A M.R.S. § 1810

² 29-A M.R.S. § 1810(2)

- C. Create policies for compliance with relevant laws, regulations, standards, technologies and best practices related to access to motor vehicle data.

Subsequently, during its Second Regular Session, the 131st Legislature considered two pieces of legislation relating to the Right to Repair law: LD 1911, *An Act Concerning Automotive Right to Repair*, and LD 2289, *Resolve, to Establish an Automotive Right to Repair Working Group*. LD 1911 began as a competing measure to the citizen-initiated LD 1677. Amendments were subsequently introduced to either eliminate an independent entity or at least delay the designation of an independent entity. LD 2289 was likely intended to complement these amendments because it proposed a working group to immediately make a study of what is needed for an effective independent entity.

Specifically, with respect to LD 2289, this resolve directed the Attorney General to “convene a working group to develop recommendations for legislation to establish an entity with rule-making and enforcement authority to adopt standards governing access to motor vehicle telematics systems and to otherwise implement and enforce the requirements of the Maine Revised Statutes, Title 29-A, section 1810.” The working group is directed to address the entity’s ability to, among other things, “[i]dentify and adopt relevant standards for implementing the requirements of Title 29-A, section 1810,” “[d]evelop and monitor policies for the evolving use and availability of data generated by the operations of motor vehicles,” and “[c]reate policies for compliance with relevant laws, regulations, standards, technologies and best practices related to motor vehicle data.” The entity the working group is to study creating is thus the same as the “independent entity” the Attorney General is to designate pursuant to 29-A M.R.S. § 1810(2).


Ultimately, LD 2289 was passed into law, while LD 1911 was not. This left my office in a position of having to create a working group to study what is needed for an effective entity *and* the requirement to designate an independent entity. After consideration of the requirements placed upon my office, it makes sense to convene a working group in order to develop legislation to create the entity that could then be designated as the independent entity. Importantly, the effectiveness of the independent entity would benefit from clarification of the entity’s legal status and its ability to promulgate rules, issue enforceable orders, and receive funding to carry out its activities. Consideration could also be given to privacy and cybersecurity concerns relating to potentially sensitive motor vehicle information. Accordingly, I have decided to proceed with creating the study group as set forth in Chapter 171 before designating an independent entity.

I have instructed my Chief Deputy, Chris Taub, and the Chief of my Consumer Protection Division, Christina Moylan, to coordinate the creation and work of the study group. In the coming weeks, they will be inviting individuals, as described in Chapter 171, to participate in the group. Upon formation, the group will meet throughout the remainder of this year and into early next year. By February 28, 2025, I will submit to this Committee a report detailing the findings and recommendations of the working group.

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If I may provide any additional information regarding this matter, please let me know.

Sincerely,


Aaron M. Frey
Attorney General

§1810. Right to repair

1. Access to diagnostic systems. Access to the vehicle on-board diagnostic systems of all motor vehicles, including commercial motor vehicles and heavy duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, must be standardized and made accessible to owners and independent repair facilities and the access may not require authorization by the manufacturer, directly or indirectly, unless that authorization is standardized across all makes and models of motor vehicles sold in this State ~~and is administered by the independent entity described in subsection 2.~~

2. ~~Independent entity~~ Motor Vehicle Right to Repair Commission established.

A. Commission established. The Motor Vehicle Right to Repair Commission, as established in Title 5, section 12004-G, subsection [X] and referred to in this section as “the commission,” shall carry out the purposes of this subsection.

B. Membership. ~~The Attorney General~~Governor shall designate an independent entity appoint ~~eleven~~twelve members to the commission. These members must include: not controlled by one or more motor vehicle manufacturers to establish and administer access to vehicle-generated data that is available through the on-board diagnostic system or that is transmitted by the standardized access platform authorized under this section. The independent entity must consist of one representative each from a cross-section of industry trade groups including but not limited to organizations representing motor vehicle manufacturers, aftermarket parts manufacturers, aftermarket parts distributors and retailers, independent motor vehicle service providers and new-car dealers. The independent entity shall manage cyber-secure access to motor vehicle-generated data, including ensuring on an ongoing basis that access to the on-board diagnostic system and standardized access platform is secure based on all applicable United States and international standards.

_____ (1) Three members representing motor vehicle manufacturers, at least one of whom represents an organization of motor vehicle manufacturers, and at least one of whom represents a heavy duty vehicle manufacturer;

(2) One member representing aftermarket parts manufacturers;

(3) One member representing diagnostic tool manufacturers;

(4) One member representing aftermarket parts distributors and retailers;

(5) Three members representing ~~Maine~~ independent repair facilities, at least one of whom is an

owner or operator of an independent repair facility specializing in automobiles, and at least one of whom is an owner or operator of an independent repair facility specializing in heavy duty vehicles;

(6) One member representing ~~Maine~~ new motor vehicle dealers;

(7) One member with expertise in automotive cyber-security matters; and

(8) One member representing the public who is a resident of ~~Maine~~, who shall serve as chair.

C. Terms. Members are appointed to 3-year terms. Of the initial appointees, ~~three~~four appointees shall be appointed to an initial term of one year, ~~three~~four appointees shall be appointed to an initial term of two years, and four appointees shall be appointed to an initial term of three years. In making appointments, the Governor may take into consideration the nominations timely made by industry stakeholders or trade associations.

D. Meetings. The commission shall meet at least quarterly, but may meet more frequently at the chair's discretion.

E. Staff. The Attorney General may provide administrative support within the limits of existing resources.

F. Duties. ~~The independent entity shall:~~

A. (1) The commission shall

- a. Monitor and assess implementation of and motor vehicle manufacturers' compliance with this section;
- b. Attempt to informally resolve any complaints from owners and independent repair facilities alleging a manufacturer's non-compliance with this section, and, if a complaint cannot be resolved, considering whether to refer the matter to the Attorney General for enforcement action; and
- c. Designate one or more technical experts with whom the Attorney General may consult in assessing enforcement referrals and maintaining enforcement actions.

(2) The commission may

- a. Issue recommendations for best practices for manufacturers to use in providing access to vehicle data.; and
- b. Hear from stakeholders and other interested parties regarding privacy issues associated with the disclosure of motor vehicle-generated data.

Identify and adopt relevant standards for implementation of this section and relevant provisions for accreditation and certification of organizations and for a system for monitoring policy compliance;

B. Monitor and develop policies for the evolving use and availability of data generated by the operations of motor vehicles; and

C. Create policies for compliance with relevant laws, regulations, standards, technologies and best practices related to access to motor vehicle data.

G. Report. The commission shall submit annually to the joint standing committee of the legislature having jurisdiction over innovation, development, economic advancement, and business matters, the Governor, and the Attorney General, a report describing the commission's activities during the preceding year, identifying any implementation or compliance issues that it encountered, and recommending any amendments to the statute, including amendments providing the entity with additional authority, to address any implementation or compliance issues.

3. Model year 2002 and later motor vehicles. For model year 2002 motor vehicles, including commercial motor vehicles and heavy duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, each manufacturer of motor vehicles sold in this State shall make available for purchase under fair and reasonable terms by owners and independent repair facilities all diagnostic repair tools, parts, software and components incorporating the same diagnostic, functional repair and wireless capabilities that the manufacturer makes available to its authorized repair shops. Each manufacturer shall:

A. Provide diagnostic repair information to each aftermarket scan tool company and each 3rd-party service information provider with whom the manufacturer has appropriate licensing, contractual or

confidentiality agreements for the sole purpose of building aftermarket diagnostic tools and 3rd-party service information publications and systems. ~~Once a~~ manufacturer who makes information available pursuant to this paragraph, ~~the manufacturer is considered to have has~~ satisfied its obligations under this paragraph and thereafter is not responsible for the content and functionality of aftermarket diagnostic tools or service information systems;

B. Make available for purchase by owners of motor vehicles and by independent repair facilities the same diagnostic and repair information, including repair technical updates, that the manufacturer makes available to its authorized repair shops through the manufacturer's Internet-based diagnostic and repair information system; and

C. Provide access to the manufacturer's diagnostic and repair information system for purchase by owners of motor vehicles and independent repair facilities on a daily, monthly and yearly subscription basis and upon fair and reasonable terms.

All parts, tools, software and other components necessary to complete a full repair of the vehicle, as referenced in this subsection, must be ~~included and~~ provided to owners of motor vehicles and authorized independent repair shops.

4. Model year 2002-2017 motor vehicles. For model year 2002-2017 motor vehicles, including commercial motor vehicles and heavy-duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, manufacturers must provide access to a vehicle's on-board diagnostic and repair information system ~~must be the same for to~~ an owner or ~~an owner-authorized~~ independent repair facility to the same extent as that provided to a new vehicle dealer.

5. Model year 2018 and later motor vehicles. For model year 2018 and later motor vehicles, including commercial motor vehicles and heavy duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, manufacturers must provide access to the on-board diagnostic and repair information system ~~must be available~~ through use of an off-the-shelf personal computer with sufficient memory, processor speed, connectivity and other capabilities as specified by the vehicle manufacturer and:

A. A nonproprietary vehicle interface device that complies with SAE International standard J2534, SAE International standard J1939, commonly referred to as SAE J2534 and SAE J1939, the International Organization for Standardization standard 22900, commonly referred to as ISO 22900, or any successor to SAE J2534, SAE J1939 or ISO 22900 as may be accepted or published by SAE International or the International Organization for Standardization, as appropriate;

B. An on-board diagnostic and repair information system integrated into and entirely self-contained within the vehicle, including, but not limited to, service information systems integrated into an on-board display; ~~and or~~

C. A system that provides direct access to on-board diagnostic and repair information through a nonproprietary vehicle interface, such as ethernet, universal serial bus or digital versatile disc.

Each manufacturer shall provide access to the same on-board diagnostic and repair information available to their dealers, including technical updates to such on-board systems, through such nonproprietary interfaces as referenced in this subsection. All parts, tools, software and other components necessary to complete a full repair of a vehicle, as referenced in this subsection, must be ~~included and~~ provided to motor vehicle owners and authorized independent repair shops.

6. Required equipment Telematics. Not later than one year from the effective date of this section, a manufacturer of motor vehicles sold in this State, including commercial motor vehicles and heavy

duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, that uses a telematics system is required to equip vehicles sold in this State with an inter-operable, ~~and~~ standardized ~~and~~ owner-authorized access platform across all of the manufacturer's makes and models. The platform must be capable of securely communicating all mechanical data emanating directly from the motor vehicle via direct data connection to the platform. The platform must be directly accessible by the motor vehicle owner through a mobile-based application and, upon the authorization of the owner, all mechanical data must be directly accessible by an independent repair facility or a licensed dealer as described in section 851, subsections 2 and 9, limited to the time to complete the repair or for a period of time agreed to by the motor vehicle owner for the purposes of maintaining, diagnosing and repairing the motor vehicle. Access must include the ability to receive data and send commands to in-vehicle components if needed for purposes of maintenance, diagnostics and repair and that the manufacturer makes available to its authorized repair shops. All parts, tools, software and other components necessary to complete a full repair of the vehicle, as referenced in this subsection, must be ~~included and~~ provided to motor vehicle owners and owner-authorized independent repair shops.

7. Exclusions. Manufacturers of motor vehicles sold in the United States may exclude diagnostic, service and repair information necessary to reset an immobilizer system or security-related electronic modules from information provided to motor vehicle owners and independent repair facilities. If excluded under this subsection, the information necessary to reset an immobilizer system or security-related electronic modules must be made available to motor vehicle owners and independent repair facilities through the secure data release model system as used on the effective date of this section by the National Automotive Service Task Force or other known, reliable and accepted systems.

8. Enforcement. If the independent entity commission described by subsection 2 has reason to believe that a manufacturer has violated any provision of this section, the independent entity commission shall notify the Attorney General. In response to a referral from the commission, or in any other instance where the Attorney General believes this section may have been violated, the Attorney General ~~shall promptly~~ may institute any actions ~~or proceedings the Attorney General considers appropriate.~~ ~~The independent entity, through the Attorney General, may apply to~~ in the Superior Court of any county of the State to enforce ~~any lawful order made or action taken by the independent entity pursuant to~~ this section. The Attorney General may seek injunctive relief and a civil penalty of not more than \$10,000 for each violation of this section.

A motor vehicle owner or independent repair facility authorized by an owner who has been denied access to mechanical data in violation of this section may initiate a civil action seeking any remedies under law. Each denial of access is compensable by an award of treble damages or \$10,000, whichever amount is greater.