

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-THREE

—
I.B. 3 - L.D. 1677

An Act Regarding Automotive Right to Repair

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 29-A MRSA §1801, sub-§2-A is enacted to read:

2-A. Mechanical data. "Mechanical data" means any vehicle-specific data, including telematics system data, generated by, stored in or transmitted by a motor vehicle and used in the diagnosis, repair or maintenance of a motor vehicle.

Sec. 2. 29-A MRSA §1801, sub-§6 is enacted to read:

6. Telematics system. "Telematics system" means a system in a motor vehicle that collects information generated by the operation of the vehicle and transmits that information using wireless communications to a remote receiving point where the information is stored or used.

Sec. 3. 29-A MRSA §1810 is enacted to read:

§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. The Attorney General shall 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. 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. The 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

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

3. Model year 2002 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 makes information available pursuant to this paragraph, the manufacturer is considered to have 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, access to a vehicle's on-board diagnostic and repair information system must be the same for an owner or an independent repair facility 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, 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

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. 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 interoperable, 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 send commands to in-vehicle components if needed for purposes of maintenance, diagnostics and repair. 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 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 described by subsection 2 has reason to believe that a manufacturer has violated any provision of this section, the independent entity shall notify the Attorney General. The Attorney General shall promptly institute any actions or proceedings the Attorney General considers appropriate. The independent entity, through the Attorney General, may apply to 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.

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.

Sec. 4. 29-A MRSA §1811 is enacted to read:

§1811. Telematics system notice

1. Notice. The Attorney General shall establish for prospective motor vehicle owners a motor vehicle telematics system notice that includes, but is not limited to, the following features:

- A. An explanation of telematics systems and their purposes;
- B. A description summarizing the mechanical data collected, stored and transmitted by a telematics system;
- C. The prospective motor vehicle owner's ability to access the vehicle's mechanical data through a mobile device; and
- D. A motor vehicle owner's right to authorize an independent repair facility to access the vehicle's mechanical data for vehicle diagnostics, repair and maintenance purposes.

2. Notice form. The notice form must provide for the prospective motor vehicle owner's signature certifying that the prospective owner has read the telematics system notice under subsection 1.

3. Provision of notice. When selling or leasing motor vehicles containing a telematics system, a dealer as defined in section 851, subsection 2 and a new vehicle dealer as defined in section 851, subsection 9 shall provide the telematics system notice under subsection 1 to the prospective owner, obtain the prospective owner's signed certification that the prospective owner has read the notice and provide a copy of the signed notice to the prospective owner. A dealer's failure to comply with the provisions of this subsection is grounds for any action by the licensing authority relative to the dealer's license, up to and including revocation.