

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

Date: (Filing No. H-)

INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1227, L.D. 1911, “An Act Concerning Automotive Right to Repair”

Amend the bill by striking out everything after the enacting clause and inserting the following:

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

1-A. Dealer. "Dealer" means a person engaged in the business of buying, selling, exchanging or offering to negotiate, negotiating or advertising the sale of a motor vehicle under a franchise agreement with a manufacturer and that:

- A. Has an established place of business for those purposes in this State;
- B. Has a current dealer license issued by the Secretary of State; and
- C. Is engaged in the diagnosis, service, maintenance or repair of motor vehicles or motor vehicle engines under the terms of the franchise agreement.

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

1-B. Diagnostic and repair information. "Diagnostic and repair information" includes technical repair updates and diagnostic and repair tools.

Sec. 3. 29-A MRSA §1801, sub-§1-C is enacted to read:

1-C. Diagnostic tool manufacturer. "Diagnostic tool manufacturer" means a person that is not a manufacturer or affiliated with a manufacturer that develops, manufactures and sells electronic tools and associated software that connect to a motor vehicle's computer and electronic control module for purposes of downloading or accessing vehicle diagnostic trouble codes and diagnostic and repair data and reprogramming the vehicle's computer and electronic control module to return the vehicle to its original operating state.

Sec. 4. 29-A MRSA §1801, sub-§2-B is enacted to read:

COMMITTEE AMENDMENT

1 **2-B. Immobilizer system.** "Immobilizer system" means an electronic device designed
2 for the sole purpose of preventing the theft of a motor vehicle by preventing the motor
3 vehicle in which it is installed from starting without the correct activation or authorization
4 code.

5 **Sec. 5. 29-A MRSA §1801, sub-§2-C** is enacted to read:

6 **2-C. Independent repair facility.** "Independent repair facility" means a person that
7 is not affiliated with a manufacturer or manufacturer's authorized dealer and that is engaged
8 in the diagnosis, service, maintenance or repair of motor vehicles or motor vehicle engines,
9 except that "independent repair facility" includes a manufacturer's authorized dealer or
10 other entity within a manufacturer's certified repair network when the dealer or other entity
11 is engaged in the diagnosis, service, maintenance or repair of a motor vehicle or motor
12 vehicle engine that is not affiliated with the manufacturer.

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

14 **2-D. Manufacturer.** "Manufacturer" means a person engaged in the business of
15 manufacturing or assembling new motor vehicles that are sold in this State.

16 **Sec. 7. 29-A MRSA §1801, sub-§2-E** is enacted to read:

17 **2-E. Motor vehicle.** "Motor vehicle" or "vehicle" has the same meaning as in section
18 101, subsection 42, except that it does not include a motorcycle.

19 **Sec. 8. 29-A MRSA §1801, sub-§2-F** is enacted to read:

20 **2-F. Owner.** "Owner" means a person or business that owns or leases a motor vehicle
21 registered in this State.

22 **Sec. 9. 29-A MRSA §1801, sub-§6**, as enacted by IB 2023, c. 3, §2, is amended to
23 read:

24 **6. Telematics system.** "Telematics system" means a system in a motor vehicle that
25 collects information generated by the operation of the vehicle and transmits that
26 information using wireless communications to a remote receiving point where the
27 information is stored or used. "Telematics system" includes, but is not limited to, any of
28 the following services:

29 A. Automatic airbag deployment and crash notification;

30 B. Remote diagnostics;

31 C. Navigation;

32 D. Vehicle location;

33 E. Remote door unlock;

34 F. Transmitting emergency and vehicle location information to public safety
35 answering points; and

36 G. Any other service integrating vehicle location technology, wireless
37 communications or convenience features in a vehicle.

38 **Sec. 10. 29-A MRSA §1810, sub-§1**, as enacted by IB 2023, c. 3, §3, is amended
39 to read:

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

8 **Sec. 11. 29-A MRSA §1810, sub-§2,** as enacted by IB 2023, c. 3, §3, is repealed.

9 **Sec. 12. 29-A MRSA §1810, sub-§2-A** is enacted to read:

10 **2-A. Access to telematics system diagnostic and repair information.** Beginning
11 August 1, 2025, a manufacturer of a motor vehicle, including a commercial motor vehicle
12 and a heavy duty vehicle having a gross vehicle weight rating of more than 14,000 pounds,
13 that makes telematics system diagnostic and repair information available to dealers and
14 dealer-affiliated repair facilities shall make such diagnostic and repair information
15 available to owners, diagnostic tool manufacturers and independent repair facilities.

16 **Sec. 13. 29-A MRSA §1810, sub-§6,** as enacted by IB 2023, c. 3, §3, is repealed.

17 **Sec. 14. 29-A MRSA §1810, sub-§6-A** is enacted to read:

18 **6-A. Required access to motor vehicle-generated repair and diagnostic data.** A
19 manufacturer of a motor vehicle, including a commercial motor vehicle and a heavy duty
20 vehicle having a gross vehicle weight rating of more than 14,000 pounds, shall provide to
21 an owner, a diagnostic tool manufacturer and an independent repair facility:

22 A. Without restriction or limitation except as otherwise provided in this section, access
23 to motor vehicle-generated data using the vehicle's interface ports, including the on-
24 board diagnostics port and the J1939 port; and

25 B. To the extent the motor vehicle is equipped for wireless transmission of vehicle-
26 generated data using the vehicle's telematics system, access to motor vehicle-generated
27 repair and diagnostic data without any required fee or cost to the owner, diagnostic tool
28 manufacturer or independent repair facility and in the same manner, within the same
29 time frame, using the same method and subject to the same cryptographic or
30 technological protections by which the manufacturer provides such data to another
31 manufacturer, an affiliate of the manufacturer, a dealer, an authorized motor vehicle
32 service provider or any other 3rd party to whom the manufacturer provides such data.

33 **Sec. 15. 29-A MRSA §1810, sub-§6-B** is enacted to read:

34 **6-B. Enforcement by owner, diagnostic tool manufacturer or independent repair**
35 **facility.** If an owner, diagnostic tool manufacturer or independent repair facility believes
36 that a manufacturer has failed to provide diagnostic and repair information or a tool
37 required by this section, the owner, diagnostic tool manufacturer or independent repair
38 facility may notify the manufacturer in writing. A manufacturer that receives a notice under
39 this subsection shall provide the diagnostic and repair information no later than the 30th
40 day after the date of the notice. If the manufacturer fails to respond to the notice provided,
41 or if the owner, diagnostic tool manufacturer or independent repair facility is not satisfied
42 with the manufacturer's action in response to the notice, the owner, diagnostic tool

1 manufacturer or independent repair facility may file a complaint in the Superior Court or,
2 if applicable, in the United States District Court for the District of Maine.

3 **Sec. 16. 29-A MRSA §1810, sub-§8**, as enacted by IB 2023, c. 3, §3, is amended
4 to read:

5 **8. Enforcement.** ~~If the independent entity described by subsection 2~~ an owner,
6 diagnostic tool manufacturer or independent repair facility has reason to believe that a
7 manufacturer has violated any provision of this section, the ~~independent entity owner,~~
8 diagnostic tool manufacturer or independent repair facility shall notify the Attorney
9 General. The Attorney General shall promptly institute any actions or proceedings the
10 Attorney General considers appropriate. ~~The independent entity, through the Attorney~~
11 ~~General, may apply to the Superior Court of any county of the State to enforce any lawful~~
12 ~~order made or action taken by the independent entity pursuant to this section.~~

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

18 **Sec. 17. 29-A MRSA §1810, sub-§9** is enacted to read:

19 **9. Interpretation.** This section may not be construed to:

20 A. Abrogate a telematics systems contract or other contract that exists between a
21 manufacturer or a service provider and an owner or a dealer;

22 B. Require a manufacturer or a dealer to disclose to any person the identity of existing
23 customers or customer lists;

24 C. Prevent a manufacturer and an owner, diagnostic tool manufacturer or independent
25 repair facility that are subject to this section from agreeing to the sale of information
26 and tools on any other terms on which they agree;

27 D. Require a dealer to use a nonproprietary motor vehicle interface;

28 E. Prohibit a manufacturer from developing a proprietary vehicle diagnostic and
29 reprogramming device, as long as the manufacturer also complies with this section;

30 F. Require a manufacturer to divulge anything that constitutes, represents, evidences
31 or records intellectual property, including secret or confidentially held designs,
32 processes, procedures, formulas, inventions or improvements; secret or confidentially
33 held scientific, technical, merchandising, production, financial, business or
34 management information; or anything within the definition of "trade secret" in 18
35 United States Code, Section 1839(3);

36 G. Require a manufacturer to compromise the physical security or cybersecurity of
37 any motor vehicle or motor vehicle systems or components;

38 H. Abrogate, interfere with, contradict or alter the terms of any franchise agreement
39 executed and in force between a dealer and a manufacturer before January 5, 2024,
40 including, but not limited to, the performance or provision of warranty or recall repair
41 work by a dealer on behalf of a manufacturer pursuant to the franchise agreement. A
42 provision in a franchise agreement executed on or after January 5, 2024 that purports

1 to waive, avoid, restrict or limit a manufacturer's compliance with this section is void
2 and unenforceable; or

3 I. Require a manufacturer or dealer to provide an owner, diagnostic tool manufacturer
4 or independent repair facility access to information not related to diagnostics and repair
5 of motor vehicles provided by a manufacturer to a dealer or provided by a dealer to a
6 manufacturer pursuant to the terms of a franchise agreement.

7 **Sec. 18. Automotive right to repair working group.** The Attorney General shall
8 convene a working group to develop recommendations for legislation to establish an entity
9 with rule-making and enforcement authority to adopt standards governing access to motor
10 vehicle telematics systems and to otherwise implement and enforce the requirements of the
11 Maine Revised Statutes, Title 29-A, section 1810.

12 1. The Attorney General or the Attorney General's designee shall participate in the
13 working group and shall invite the participation in the working group of the following
14 additional members:

- 15 A. The Secretary of State or the Secretary of State's designee;
- 16 B. Two members representing motor vehicle manufacturers, at least one of whom must
- 17 represent an organization of motor vehicle manufacturers;
- 18 C. One member representing aftermarket parts manufacturers;
- 19 D. One member representing aftermarket parts distributors and retailers;
- 20 E. One member representing independent repair facilities;
- 21 F. One member representing new motor vehicle dealers;
- 22 G. One member representing a consumer advocacy organization; and
- 23 H. One member representing a data privacy advocacy organization.

24 Members of the working group serve without compensation. The Office of the Attorney
25 General shall provide necessary staffing services to the working group.

26 2. The working group shall develop recommendations for legislation to establish an
27 entity to ensure cyber-secure access to motor vehicle-generated data to owners and owner-
28 authorized independent repair facilities for maintenance, diagnostic and repair purposes.
29 The recommendations developed by the working group must address that entity's ability
30 to:

- 31 A. Identify and adopt relevant standards for implementing the requirements of Title
- 32 29-A, section 1810, including standards relating to access to vehicle telematics
- 33 systems;
- 34 B. Monitor motor vehicle manufacturer compliance with standards adopted by the
- 35 entity;
- 36 C. Develop and monitor policies for the evolving use and availability of data generated
- 37 by the operations of motor vehicles;
- 38 D. Create policies for compliance with relevant laws, regulations, standards,
- 39 technologies and best practices related to motor vehicle data, with consideration given
- 40 to privacy and cybersecurity concerns; and

1 E. Adopt rules necessary for implementation and enforcement of Title 29-A, section
2 1810 and to enforce the requirements of that law consistent with those rules.

3 3. On or before January 15, 2025, the Attorney General shall submit to the joint
4 standing committee of the Legislature having jurisdiction over innovation, development,
5 economic advancement and business matters a report containing the findings and
6 recommendations of the working group under this section. After reviewing the report, the
7 committee may report out legislation relating to the report to the 132nd Legislature in 2025.'

8 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
9 number to read consecutively.

10 **SUMMARY**

11 This amendment, which is the minority report of the committee, replaces the bill. It
12 amends the automotive right to repair law as follows.

13 1. It provides additional definitions.

14 2. It further defines the types of services that are considered part of a telematics system.

15 3. It amends the law to add diagnostic tool manufacturers to the list of entities that are
16 permitted access to the vehicle on-board diagnostics systems of motor vehicles.

17 4. It repeals the provision regarding required equipment for accessing vehicle-
18 generated data.

19 5. It provides a deadline by which time manufacturers must make the required
20 diagnostic and repair information available.

21 6. It establishes processes by which diagnostic tool manufacturers, independent repair
22 facilities, owners or the Attorney General may enforce the law against manufacturers.

23 7. It includes provisions regarding the interpretation of the right to repair law.

24 The amendment also directs the Attorney General or the Attorney General's designee
25 to convene an automotive right to repair working group.

26 **FISCAL NOTE REQUIRED**

27 **(See attached)**