

RE: Written Testimony and Objection to LD 1228

Dear Honorable Members of the Committee,

The Auto Care Association respectfully opposes LD 1228. The Auto Care Association is a national trade organization comprised of more than 3000-member companies and affiliates that manufacture, distribute, and sell aftermarket motor vehicle parts, accessories, services, tools, equipment, materials, and supplies. The Auto Care Association is the voice of the auto care industry – a \$516 billion plus industry comprised of more than 4.7 million American professionals. In Maine, our industry includes 8,361 jobs, generates \$2.9 billion in economic activity, and provides \$581.7 million in wages.

LD 1228 is unnecessary and if passed would threaten the will of 84% of the voters in Maine who supported the right to repair ballot question in 2023 (the “2023 Right to Repair Law”).

Maine’s efforts thus far to implement the resoundingly popular vehicle right to repair law (LD 1677) have been a model of hard work and industry collaboration. During its Second Regular Session, the 131st Legislature enacted LD 2289, Resolve, to Establish an Automotive Right to Repair Working Group. The Attorney General established the Working Group comprised of experts across the industry. The Working Group met for the first time in August 2024 and then met 9 additional times after that initial meeting. After hours of meetings and discussion amongst industry stakeholders, the Working Group submitted a detailed report on February 24, 2025, to the Joint Standing Committee on Housing and Economic Development (“Report”).

The Report set forth multiple unanimous conclusions regarding the independent entity charged with implementing the law. As part of that collaboration, the Working Group drafted and submitted proposed amendments to the 2023 Right to Repair Law (the “Working Group Amendment”) to give further clarity around what will be known as the Motor Vehicle Right to Repair Commission (“Commission”). Importantly, the Commission will be charged with monitoring and assessing compliance with the law, informally resolving complaints arising out of the law, and providing the Attorney General with technical expertise as needed. The Commission was visualized by industry experts on both sides of the issue who understand the issue and what it will take to implement the law. The Legislature should respect and defer to that collaborative expertise.

The Commission, not the Legislature, should recommend changes to the Data Access Law.

The Committee should reject LD 1228 in favor of the Working Group Amendment as the amendment establishes a process for implementation of the Data Access Law that is in the best interest of Maine.

The Commission, as established in the Working Group Amendment, will be comprised of experts across the industry appointed by the Governor. These experts will be well-versed in repairing and maintaining vehicles and are best suited to make recommendations as to the implementation of the Data Access Law.

The Commission will have 3 main roles:

- 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.

The experts on the Commission will have the opportunity to discuss and collaborate on best practices and solutions regarding the Data Access Law, ensuring the best possible results for vehicle owners in Maine. The legislative process, due to the myriads of different issues before it, is not as well suited to solution building in a technical arena.

Importantly, the Working Group Amendment specifically provides that the Commission will submit an annual report to the appropriate joint standing committee of the Legislature, the Governor, and the Attorney General

...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.

This language establishes a process by which any further changes to the Data Access Law can be identified by the experts on the Commission and presented to the governing bodies in a thoughtful and methodical way.

Last, the Working Group specifically recommended "including at least one member representing a heavy-duty vehicle manufacturer and at least one member who is an owner or operator of an independent repair facility specializing in heavy duty vehicles" on the Commission. With this recommendation, the Commission will be equipped to discuss heavy duty and commercial vehicles.

LD 1228 is detrimental to the Data Access Law.

Even if the Committee does not act on the Working Group Amendment, we respectfully request that the Committee vote no on LD 1228. There are numerous provisions in the bill that are problematic.

Commercial vehicles should remain in the law.

The Data Access Law includes heavy duty and commercial vehicles ensuring that both large fleets and small businesses can keep their businesses and supply chains running in Maine. There is no difference

between the components of a truck and the components of a passenger vehicle for purposes of maintenance and repair data – both trucks and cars generate repair codes that need to be read and acted upon.

The commercial vehicle aftermarket has historically had access to repair and maintenance data necessary to provide service to trucks for their service lifetime. Advances in technology are raising new challenges for access to in-vehicle data that did not exist previously and present an existential threat to independent shops. Manufacturers are now building proprietary firewalls around their on-board diagnostic systems. Absent access to systems and vehicle data transmitted through telematics, independent repair shops will be prevented from providing truck and fleet repair services. Mainers rely on to have critical goods such as groceries and medical products delivered to their homes.

Owners and independent repair facilities benefit from access to diagnostic and repair information and the working group has recommended that a representative of a heavy-duty vehicle manufacturer and an owner or operator of a heavy-duty vehicle independent repair facility be appointed to the commission to address any issues unique to heavy duty vehicles. Critically, taking out heavy duty trucks from the law would ignore the result of the referendum where 84% of voters approved including them.

The proposed definitions are problematic.

There is no basis for the extensive edits and additions to definitions for the Data Access Law. In many cases, as described below, the proposals introduce unnecessary complexity and or vagueness into the law. At worst, they substantively change the scope and meaning of the law and thereby counteract the will of the voters. Some examples of these concerns are below:

Diagnostic and repair information. The proposed definition is too narrow in that it could limit the information covered by the law to what is read by a scan tool or housed in an ECU. The universe of relevant data is any data element or piece of information generated by the operation of a motor vehicle and related to diagnostics, repair, service, or calibration of a motor vehicle.

Mobile based application. The proposed definition is too narrow in that the Data Access Law currently allows access through any device or application. The method of access should not be limited.

Owner-authorized. This definition appears designed to increase complexity for independent shops and vehicle owners to access their data. Diagnostic and repair data is not personally identifiable data – no social security numbers, names etc. Thus, references to federal data privacy laws, which may or may not be applicable, are unnecessary. Moreover, the use of “explicit” is vague --- for example, taking a vehicle to a shop for diagnosis is consent – but is it “explicit” under the law?

Reliable and accepted systems. The proposed definition also is too vague and would create enforcement. Validated by whom? Under what regulatory standards? Tested by whom and under what criteria?

Securely communicating. This definition is too prescriptive. Given the nature of diagnostic and repair data, it may not need to be encrypted to be secure.

Telematics systems. The definition does not need specific examples. Telematics defined in the passed ballot initiative is defined as strictly mechanical information transmitted wirelessly from the vehicle to the manufacturer's cloud and is limited to data to "diagnose, maintain, and repair the vehicle. Including examples runs the risk of incorrectly narrowing the definition and rendering it out of date as telematics services expand.

Motor vehicle. As discussed above, this is a substantive and completely unnecessary change to the scope of the law. There is no evidence at all to justify removing commercial vehicles from the Data Access Law.

Conclusion

In conclusion, we respectfully request that the Committee vote no on LD 1228. At most, the Committee should pass the Working Group Amendment and let the experts on the Commission do their work to ensure that vehicle owners in Maine have access to repair facilities of their choice.

Sincerely,

Lisa Foshee

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SVP – Government Affairs and General Counsel