

**TESTIMONY IN SUPPORT OF L.D. 2211, AN ACT IMPLEMENTING
THE RECOMMENDATIONS OF THE AUTOMOTIVE
RIGHT TO REPAIR WORKING GROUP**

Senator Curry, Representative Gere and esteemed members of the Committee on Housing and Economic Development, my name is Chris Taub, I live in Brunswick, and I serve as the Chief Deputy Attorney General under Attorney General Aaron Frey. I am here today to testify in strong support of L.D. 2211, “An Act Implementing the Recommendations of the Automotive Right to Repair Working Group.” This bill makes necessary amendments to the right to repair law that were unanimously recommended by a working group that included every major stakeholder, including automobile manufacturers. The bill will ensure that the right to repair law, as enacted by the voters, is workable and enforceable. I want to thank the Governor and the sponsor for their efforts to implement the working group’s recommendations by bringing this bill forward.

Background

In November 2023, over 84 percent of Maine voters approved Initiated Bill 3 (LD 1677), “An Act Regarding Automotive Right to Repair.” The law, primarily codified at 29-A M.R.S. § 1810, requires motor vehicle manufacturers to make access to on-board diagnostic and repair information the same for owners and owner-authorized independent repair facilities as it is for motor vehicle dealers. For 2002 models through the present, the law requires access through methods that require physical access to the vehicle. Since January 5, 2025, however, the law has required that vehicles sold in the state that use telematics systems be equipped “with an inter-operable, standardized and owner-authorized access platform across all of the manufacturer’s makes and models.” 29-A M.R.S. § 1810(6).¹ This means that diagnostic and repair information generated by the vehicle, with owner-authorization, is accessible remotely and without the physical presence of the vehicle.

The law also required 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.” 29-A M.R.S. § 1810(2).

Right to Repair Working Group

During its Second Regular Session, the 131st Legislature enacted L.D. 2289, “Resolve, to Establish an Automotive Right to Repair Working Group.” 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 Section 1810.

I, along with the Chief of our Consumer Protection Division, chaired the working group. All major stakeholders were represented on the working group, including independent repair facilities;

¹ A “telematics system” is 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.” 29-A M.R.S. § 1801(6).

aftermarket parts manufacturers, retailers and distributors; new motor vehicle dealers; the Secretary of State's office; a consumer advocacy organization; and a data privacy organization. Automobile manufacturers had two representatives on the working group. One representative participated on behalf of the Alliance for Automotive Innovation (Alliance). The Alliance represents most major automobile manufacturers, including Ford, GM, Honda, BMW, Hyundai, Isuzu, Kia, Mazda, Mercedes-Benz, Subaru, Toyota, Volkswagen, and Volvo. The other representative participated on behalf of Tesla, one of the few vehicle manufacturers that is not a member of the Alliance.

We met ten times between August 2024 and February 2025. The Office of the Attorney General expended significant resources in organizing and running the meetings and doing necessary preparatory work in advance of each meeting. On February 24, 2025, as directed by the Resolve, we submitted to this Committee a report detailing our findings and recommendations. A copy of that report is attached to this testimony.

Working Group's Unanimous Recommendations

The working group made several unanimous findings and recommendations. This was a remarkable achievement given the working group's broad range of interests. First, the working group found that the independent entity should not maintain, provide access to, or otherwise exercise control over vehicle data. Rather, all vehicle data should be directly accessible by owners and (upon authorization by owners) independent repair facilities. Manufacturers should decide for themselves the manner in which they will provide access to vehicle data and should remain responsible for addressing potential privacy and cyber-security issues in making data available. The working group also recommended (unanimously) that the statute should be amended to make clear that the independent entity (or its successor) will not maintain, provide access to, or otherwise exercise control over vehicle data.

There was also unanimous agreement that, at least initially, the independent entity should serve a purely advisory role and have no rulemaking or enforcement authority. The working group recommended that the independent entity should be an independent commission with members appointed by the Governor and representing the interests of all relevant stakeholders.

The working group also identified sections of the law that needed to be corrected or clarified. As noted above, the law was citizen-initiated and so it did not go through the same rigorous drafting process as is the case for legislator-initiated bills. There were some provisions that needed to be fixed.

L.D. 2211 Implements the Unanimous Recommendations of the Working Group

With its report to this Committee, the working group submitted specific amendments that it unanimously recommended be made to the right to repair law. *See* Report, Exhibit B. L.D. 2211 adopts those specific amendments, with some non-substantive changes to reflect statutory drafting conventions. These amendments are as follows:

Section 1 creates the Motor Vehicle Right to Repair Commission, as unanimously recommended by the working group.

Section 2 amends Section 1810(1) to eliminate the provision relating to the independent entity.

Section 3 adds a definition for “owner-authorized independent repair facility.” This was not a recommendation of the working group, but it makes good sense and we support it.

Section 4 repeals the provisions relating to the independent entity and Section 5 replaces them with provisions relating to the Motor Vehicle Right to Repair Commission. Section 5 sets forth the membership of the commission and its duties. Essentially, the Commission is to monitor compliance with the right to repair law, resolve complaints, issue “best practices” recommendations, and provide technical assistance to the Office of the Attorney General. The Commission must annually submit a report to this Committee describing any implementation or compliance issues it identified and making recommendations for amendments to the law.

Section 6 corrects what appears to be a drafting error in the citizen-initiated bill. The reference should be not to only 2002 model year vehicles, but to model 2002 or later.

Section 7 clarifies that for model year 2002-2017 motor vehicles, the manufacturer must provide owners and owner-authorized repair facilities with access to a vehicle’s on-board diagnostic and repair information system to the same extent that access is provided to a new vehicle dealer.

Section 8 corrects what appears to be a drafting error in the citizen-initiated bill by replacing an “and” with an “or.” For model year 2018 and later motor vehicles, a manufacturer must provide access to the on-board diagnostic and repair information system by one of three methods, and not all three.

Section 9 amends the provision governing telematic access to make clear that access must include the ability to both receive data and send commands. It also limits that access to only what the manufacturer makes available to its authorized repair shops. It delays the effectiveness of the provision until September 1, 2027. This gives motor vehicle manufacturers more than enough time to come into compliance with the telematic requirements. Presumably, manufacturers have been working towards that goal since November 2023, when Maine voters approved enactment of the right to repair law.

Section 10 amends the enforcement provisions of the right to repair law. It preserves the Attorney General’s prosecutorial discretion by making clear that the Attorney General is not required to institute an enforcement action upon a referral from the Commission and that the Attorney General’s ability to bring an enforcement action is not dependent on a referral. It also authorizes the Attorney General to seek injunctive relief for violations of the right to repair law and to seek civil penalties of up to \$10,000 per violation.

Finally, Section 11 provides for staggered terms for the initial appointment of the Commission’s members

Conclusion

Apart from Section 3 (adding a definition of “owner-authorized independent repair facility”), every amendment proposed in L.D. 2211 reflects the unanimous agreement of the working group, which, again, represented the interests of every significant stakeholder, including motor vehicle manufacturers. Maine voters spoke loud and clear that they (and their chosen independent repair shops) should be allowed to directly access diagnostic and repair information from their own cars. Manufacturers should not be allowed to restrict access to that information and thereby force owners to use only the manufacturers’ dealerships for maintenance and repair. The amendments L.D. 2211 would make are necessary to have a workable and enforceable right to repair law. It makes clear that manufacturers can decide for themselves how to provide direct access to vehicle data. Accordingly, we respectfully request that the Committee vote ought to pass on this bill implementing the unanimous recommendations of the working group and effectuate the intent of Maine voters.

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February 24, 2025

The Honorable Chip Curry, Senate Chair
The Honorable Traci Gere, House Chair
Joint Standing Committee on Housing and
Economic Development
Cross Office Building, Room 206
100 State House Station
Augusta, ME 04333

Re: *Report of the Automotive Right to Repair Working Group*

Dear Senator Curry and Representative Gere:

During its Second Regular Session, the 131st Legislature enacted Resolves 2023, ch. 171, "Resolve, to Establish an Automotive Right to Repair Working Group." It 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 Maine Revised Statutes, Title 29-A, section 1810." The Resolve further directed the Attorney General to submit a report by February 28, 2025 "to the joint standing committee of the Legislature having jurisdiction over innovation, development, economic advancement and business matters a report containing the findings and recommendations of the working group." It is my understanding that the Committee on Housing and Economic Development is that committee.

My office convened the working group as directed, and it met ten times between August 29, 2024 and February 12, 2025. In addition to comprehensive discussions among its members, the working group heard presentations from various technical experts and held two public hearings. All of the working group's meetings were video recorded, and those recordings, along with other information regarding the working group's meetings, are available here: <https://www.maine.gov/ag/automotive-right-to-repair/index.html>.

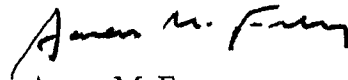
At its final meeting, the working group voted unanimously to approve a report that the group drafted over the course of its meetings. That report is enclosed.

I want to thank all of the working group members for their hard work, collegiality, and dedication. This was a time-consuming endeavor, and I deeply appreciate members' willingness to take this on among all of their other competing responsibilities.

The Honorable Chip Curry, Senate Chair
The Honorable Traci Gere, House Chair
February 24, 2025
Page 2

If the Committee has questions about the report or needs additional information, members of my office are available to attend a hearing or work session.

Very truly yours,



Aaron M. Frey
Attorney General

enclosure (1)

cc: Senator Donna Bailey
Senator Richard Bennett
Representative Amanda Collamore
Representative John Eder
Representative Cheryl Golek
Representative Cassie Julia
Representative Marc Malon
Representative Arthur Mingo
Representative Tiffany Roberts
Representative Mark Walker
Representative Yusuf Yusuf
(w/ enclosure)



**Automotive Right to Repair Working Group
Report Pursuant to Resolves 2023, ch. 171
February 24, 2025**

Maine's Automotive Right to Repair Law

In November 2023, Maine voters approved Initiated Bill 3 (LD 1677), An Act Regarding Automotive Right to Repair. The law requires motor vehicle manufacturers to make access to on-board diagnostic and repair information the same for owners and independent repair facilities as it is for new vehicle dealers and/or manufacturer-authorized repair facilities. 29-A M.R.S. § 1810. For 2002 models through the present, the law requires access through methods that require physical access to the vehicle. 29-A M.R.S. § 1810(3)-(5). Starting on January 5, 2025, however, vehicles sold in the state that use telematics systems must be equipped “with an interoperable, standardized and owner-authorized access platform across all of the manufacturer's makes and models.” 29-A M.R.S. § 1810(6). A “telematics system” is 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.” 29-A M.R.S. § 1801(6). This means that diagnostic and repair information generated by the vehicle, with owner-authorization, could be accessed remotely and without the physical presence of the vehicle.

The vehicle access platform “must be capable of securely communicating all mechanical data¹ emanating directly from the motor vehicle via direct data connection to the platform” and “must be directly accessible by the motor vehicle owner through a mobile-based application.” 29-A M.R.S. § 1810(6). Additionally, “upon the authorization of the owner,” the data “must be directly accessible by an independent repair facility or a licensed dealer . . . 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.” *Id.*

The law also 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.” 29-A M.R.S. § 1810(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
- C. Create policies for compliance with relevant laws, regulations, standards, technologies and best practices related to access to motor vehicle data.

¹ “Mechanical data” is “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.” 29-A M.R.S. § 1801(2-A).

Automotive Right to Repair Working Group

Subsequently, during its Second Regular Session, the 131st Legislature enacted LD 2289, Resolve, to Establish an Automotive Right to Repair Working Group. 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 Section 1810. The working group was charged with “develop[ing] recommendations for legislation to establish an entity to ensure cyber-secure access to motor vehicle-generated data to owners and owner-authorized independent repair facilities for maintenance, diagnostic and repair purposes.” The recommendations must address the entity’s ability to:

- A. Identify and adopt relevant standards for implementing the requirements of Title 29-A, Section 1810, including standards relating to access to vehicle telematics systems;
- B. Monitor motor vehicle manufacturer compliance with standards adopted by the entity;
- C. Develop and monitor policies for the evolving use and availability of data generated by the operations of motor vehicles;
- D. Create policies for compliance with relevant laws, regulations, standards, technologies and best practices related to motor vehicle data, with consideration given to privacy and cybersecurity concerns; and
- E. Adopt rules necessary for implementation and enforcement of Title 29-A, Section 1810 and to enforce the requirements of that law consistent with those rules.

The Resolve directed the Attorney General to submit a report by February 28, 2025 “to the joint standing committee of the Legislature having jurisdiction over innovation, development, economic advancement and business matters a report containing the findings and recommendations of the working group.” The committee may then report out legislation relating to the report to the 132nd Legislature in 2025.²

² Given the benefits resulting from the working group’s consideration of the powers, duties, and authority of the independent entity, the Attorney General decide to await conclusion of the working group’s work before designating an independent entity pursuant to Initiated Bill 3. See letter attached hereto as Exhibit A.

Formation of the Working Group

The Resolve directed the Attorney General or the Attorney General's designee to participate in the working group and to invite the following additional members:

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

The Attorney General designated Chief Deputy Attorney General Christopher Taub and Assistant Attorney General and Chief of the Consumer Protection Division Christina Moylan as his designees to participate in the working group. During the summer of 2024, DAG Taub and AAG Moylan reached out to the designated stakeholders to identify persons interested in serving on the working group. Ultimately, the following persons agreed to serve on the working group:

- A. Lynne Gardner, Esq., Director of Legal Affairs, Adjudications & Hearings for the Bureau of Motor Vehicles (serving as the Secretary of State's designee)
- B. Elizabeth Frazier, Esq. of Pierce Atwood LLP (representing the Alliance for Automotive Innovation, an organization of motor vehicle manufacturers)
- C. Brian Boggs, Director of Service Engineering at Tesla, Inc. (representing motor vehicle manufacturers)
- D. Eric Luftig, Senior Vice President of Product, Engineering, Manufacturing & Quality of Dorman Products (representing aftermarket parts manufacturers)
- E. Jeffrey Groves, General Counsel for O'Reilly Automotive, Inc., retired (representing aftermarket retailers and distributors)
- 6. Tommy Hickey of Brian S. Hickey & Associates and Executive Director of the Maine Automotive Right to Repair Coalition (representing independent repair facilities)
- 7. Tim Winkeler, President and CEO of VIP Tires & Service (representing independent repair facilities)
- 8. Jack Quirk, President of Quirk Auto Group (representing new motor vehicle dealers)

9. Meagan Sway, Policy Director for the ACLU of Maine (representing a consumer advocacy organization)³
10. Caitriona Fitzgerald, Deputy Director of the Electronic Privacy Information Center (representing a data privacy advocacy organization)

Working Group Meetings

The working group met ten times: August 29, 2024, September 11, 2024, September 26, 2024, October 16, 2024, October 30, 2024, November 18, 2024, December 2, 2024, December 20, 2024, January 17, 2025, and February 12, 2025.

At the working group's first meeting on August 29, there was a general discussion of the working group's goals and expectations for future meetings. The working group also adopted a remote meeting policy, pursuant to which in-person participation by members was expected unless a member determined that their physical presence would not be practical. At its meetings on September 11 and September 26, the working group heard technical and other presentations from stakeholders and others with relevant expertise who members had previously invited to the meetings. At its October 16 meeting, the working group held a public hearing and heard from members of the public who wished to present information, recommendations, or other matters to the group.

At its meetings on October 30 and November 18, members of the working group engaged in discussions regarding recommendations to be made for legislation establishing an entity to implement and enforce the requirements of the automotive right to repair law (29-A M.R.S. § 1810). The discussions covered a number of topics, including: 1) the nature of the entity (*e.g.*, an independent board or commission, a quasi-governmental entity, or a state regulatory agency); 2) whether the entity would maintain, provide access to, or otherwise exercise control over vehicle data; 3) whether the entity would determine who, and on what terms, individuals would have access to vehicle data (*e.g.*, a credentialing or verification process for independent repair facilities); 4) whether the entity would establish a standardized process by which all motor vehicle manufacturers would provide access to vehicle data; 5) whether the entity would need rulemaking authority; 6) whether the entity would need enforcement authority; 7) whether the entity would need staff; and 8) whether the entity would need funding and if so, the manner by which it should be funded.

After the November 18 meeting, and based on the discussions at that meeting and the one on October 30, the working group members representing the Office of the Attorney General prepared a draft of the working group's report to the legislative committee, along with a draft of

³ Michael Kebede, the ACLU of Maine's current Policy Director, later served on the working group in place of Ms. Sway.

proposed revisions to 29-A M.R.S. § 1810. These documents were circulated to working group members and posted on the working group's website.⁴

At its meeting on December 2, 2024, members of the working group reviewed and discussed the previously circulated draft report and draft revisions to 29-A M.R.S. § 1810. Some members proposed additional revisions to both documents before and after the meeting.

On December 6, 2024, working group members representing the Office of the Attorney General circulated to members and posted on the working group's website revised drafts of both the report and proposed revisions to 29-A M.R.S. § 1810, reflecting revisions proposed by working group members.

On December 20, 2024, the working group discussed the draft report and the proposed revisions to 29-A M.R.S. § 1810. Some members of the working group suggested further additions to the report, and it was decided that such suggestions should be submitted in writing to the members representing the Office of the Attorney General in advance of the working group's next meeting. Also at the December 20, 2024 meeting, the working group held a hearing for members of the public to comment on the two documents. The working group allowed members of the public to submit written comments through December 30, 2024, and this deadline was subsequently extended to January 3, 2025. Copies of all comments submitted to the working group are available on the working group's website.

On January 14, 2025, the members representing the Office of the Attorney General circulated a revised version of the report reflecting discussions at the December 20 meeting, public comments, and written submissions from working group members.

On January 17, 2025, the working group met to discuss the revised version of the report. Some additional revisions were discussed and agreed upon.

On February 7, 2025, the members representing the Office of the Attorney General circulated a revised version of the report reflecting the revisions agreed upon at the January 17 meeting.

On February 12, 2025, the working group met to review and discuss the revised version of the report. All members present voted to approve the revised version and authorized the members representing the Office of the Attorney General to submit the report to the Joint Standing Committee on Housing and Economic Development.

Working Group's Conclusions and Recommendations

The working group focused on the role of the entity with respect to access to vehicle data accessed remotely via telematics systems. Both members of the group and members of the public expressed concerns regarding privacy and cyber-security in allowing third parties to access this data. This led to extensive discussions among group members regarding the extent to which

⁴ See <https://www.maine.gov/ag/automotive-right-to-repair/index.html>.

the entity should maintain, provide access to, or otherwise exercise control over vehicle data. Ultimately, there was a unanimous consensus that the entity should not maintain, provide access to, or otherwise exercise control over vehicle data. Rather, all vehicle data should be directly accessible by owners and (upon authorization by owners) independent repair facilities to the extent required by 29-A M.R.S. § 1810. As is the case now, manufacturers would remain responsible for addressing potential privacy and cyber-security issues in making data available pursuant to 29-A M.R.S. § 1810.

Section 1810 can be interpreted as requiring the entity to administer access to vehicle data. For example, the statute states that the independent entity shall “establish and administer access to vehicle-generated data” and “manage cyber-secure access to motor vehicle-generated data.” The working group recommends that the statute be amended to make clear that the entity will not maintain, provide access to, or otherwise exercise control over vehicle data. Proposed amended statutory language addressing this recommendation and several other recommendations is attached to this report as Exhibit B.

There was also unanimous consensus that at least initially, the entity should serve a purely advisory role and have no rulemaking or enforcement authority. In this advisory role, the entity would have four major responsibilities: 1) monitoring and assessing implementation of the right to repair law, including manufacturers’ compliance with the law’s requirements; 2) attempting to informally resolve any complaints from owners and independent repair facilities alleging a manufacturer's non-compliance with the law, and, if a complaint cannot be resolved, considering whether to refer the matter to the Attorney General for enforcement action; 3) designating one or more technical experts with whom the Attorney General may consult in assessing enforcement referrals and maintaining enforcement actions, and 4) making an annual report to the legislative committee of jurisdiction, the Governor, and the Attorney General describing the entity’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, or additional legislation, to address any implementation or compliance issues. Given the recommendation that the entity have no rulemaking or enforcement authority, at least initially, the working group did not develop recommendations for establishing compliance standards. The working group expects that the entity will itself assess its need for authority to develop specific standards for compliance as part of its report addressing compliance issues.

There was consensus that the entity should not be a state agency but instead should be an independent commission. The Governor should appoint commission members as follows:

- A. 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;
- B. One member representing aftermarket parts manufacturers;

- C. One member representing diagnostic tool manufacturers;
- D. One member representing aftermarket parts distributors and retailers;
- E. 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;
- F. One member representing Maine new motor vehicle dealers;
- G. One member with expertise in automotive cyber-security matters; and
- H. One member representing the public who is a resident of Maine.

The working group recommends 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. This is because the working group received information indicating that heavy duty vehicles differ from automobiles with respect to how they are manufactured and assembled, used, owned, and repaired.

The member representing the public should serve as the commission's chair. Each member should serve a term of three years, with some initial appointees having shorter terms in order to stagger the terms. Members should not receive compensation but should be reimbursed for expenses for attendance at meetings. The commission should meet at least quarterly but should be allowed to meet more frequently at the chair's discretion.

One basis for the working group's recommendation that the commission be advisory is the working group's consensus that, at least initially, motor vehicle manufacturers should decide for themselves the manner in which they will provide access to all mechanical data emanating directly from the vehicle in compliance with the statute.

The working group recognized that depending on how manufacturers implement the telematics requirements of the law, it may become necessary to provide at least some level of standardization across all manufacturers. If the commission determines that access to vehicle data should be standardized, it could recommend in its annual report that it be given the necessary authority to adopt and implement appropriate standardization requirements. The commission can also consider issuing, solely as non-binding recommendations, "best practices" for manufacturers to use in providing access to vehicle data.

Once consensus was reached that the commission would not maintain, provide access to, or otherwise exercise control over vehicle data, and that it would initially serve a purely advisory role, the working group readily reached consensus on several other issues. The working group determined that the commission would not act as a "gatekeeper" between owners/independent repair facilities and vehicle manufacturers. There was discussion of whether manufacturers should be required to use "third-party authenticators" to manage access to vehicle data. The consensus was that while this should not be required initially, the commission may want to

consider imposing such a requirement if evidence suggests owners/independent repair facilities are experiencing obstacles in obtaining appropriate access to vehicle information. Similarly, while there was consensus that the commission initially should not impose a credentialing or other process to ensure that only properly authorized individuals receive access to vehicle information, the commission may want to consider whether such a process would be useful.

There was consensus that an automaker would not send a command to a vehicle in an unsafe manner. There was consensus that some commands sent to vehicles for maintenance, diagnosis, and repairs when physically present at a vehicle could pose safety risks when sent to the vehicle remotely. The commission may want to consider whether amendments to the law are necessary to mitigate these risks. By way of example only, auto makers have determined that certain commands should not be sent to a vehicle while the vehicle is in motion.

Because the commission will initially be only advisory, there was consensus among working group members that the entity will not immediately need rulemaking or enforcement authority. With respect to enforcement, the statute already authorizes the entity to refer matters to the Attorney General for enforcement. There is some ambiguity regarding whether the Attorney General can bring an enforcement action without a referral from the entity (for example, if the Attorney General receives a complaint directly from an owner or independent repair facility). There was consensus that the statute should be amended to make clear that a referral from the entity is not a prerequisite for enforcement action. If the commission determines that it needs its own enforcement authority, it can so recommend in its annual report.

The working group determined that at least initially, the commission will not need staff, although it may need some administrative support to assist in scheduling meetings, maintaining a website, arranging for remote access, and other administrative matters. The Office of the Attorney General may be able to provide at least some of that support. The working group does not expect that the commission will need funding beyond that necessary to compensate members for expenses.

The working group recognizes that the role it recommends that the commission play may not be entirely consistent with the role that the right to repair law seems to contemplate for the independent entity. That said, there was unanimous consensus that the role outlined above makes the most sense during the initial implementation of the law, with the understanding that the commission may well determine it should be given increased authority and responsibilities if issues are encountered with compliance during the law's implementation.

Attached as Exhibit B are recommended changes to the right to repair law. Primarily, the suggested changes set forth the process for appointing persons to the commission and redefine the entity's responsibilities, as discussed above. During the course of its work, the working group identified some additional provisions in the law that it determined should be clarified or corrected, and the attached reflects the working group's recommendations for those clarifications and corrections.

Other Recommendations

Some working group members had additional recommendations. While there was not consensus on these recommendations, the working group decided to include these recommendations in the report to the extent they may be helpful as the Legislature considers further actions.

Some members of the working group recommend that the commission consider hearing from stakeholders with relevant and necessary expertise, including consumer and privacy advocates. Because any person who has access to vehicle data could potentially misuse that data to obtain information regarding a vehicle's operator, and because such misuse by a perpetrator of domestic abuse could pose safety concerns, the commission should also consider hearing from advocates for survivors of domestic abuse.

Notwithstanding, working group members representing the aftermarket parts distributors and retailers, the independent repair facilities, and the aftermarket parts manufacturers would seek to clarify that the working group is not suggesting that 29-A M.R.S. § 1810 or diagnostic repair data presents an additional risk of domestic violence to that which existed prior to the statute.

The Alliance for Automotive Innovation recommends that the term "standardized access platform," which is referenced in 29-A M.R.S. § 1810(2) and (6), be defined.

The Alliance also recommends that Section 1810(6) be amended and/or clarified such that compliance with the section is not contingent upon implementation of a specific technological solution. The Alliance recommends that the section be "technologically neutral" with respect to compliance, such that compliance would be determined based not on whether a specific technology is implemented, but on whether data is provided as required by the law.

Both the Alliance and Tesla recommend that implementation of Section 1810(6) (the telematics provision) be postponed. While this provision does not expressly reference the entity, the Alliance and Tesla interpret that provision, in conjunction with 29-A M.R.S. § 1810(2), as requiring motor vehicle manufacturers to provide access to telematics data utilizing specific standards to be defined by the independent entity and integrating with and equipping their vehicles with a standardized access platform to be created and administered by the independent entity. As noted above, motor vehicle manufacturers must begin complying with the requirements of Section 1810(6) no later than January 5, 2025. The Alliance and Tesla contend that until Section 1810(2) is amended to clarify that the entity will not maintain, provide access to, or otherwise exercise control over vehicle data, it is uncertain what vehicle manufacturers must do to comply with Section 1810(6). The Alliance and Tesla recommend that implementation of Section 1810(6) be delayed until one year after any amendments to Section 1810.

Working group members representing the aftermarket parts distributors and retailers, the independent repair facilities, and the aftermarket parts manufacturers oppose postponing implementation of Section 1810(6). They contend that automobile manufacturers had ample opportunity to have discussions with the Maine Attorney General's office and stakeholders to

discuss any perceived uncertainties regarding what manufacturers must do to comply with the law. They also contend that manufacturers are currently technologically capable of complying with the law. Finally, they note that approximately 84% of Maine voters approved the citizen-initiated bill in November 2023.

Tesla recommends that the Legislature consider amending Section 1810 to exclude from its coverage commercial and heavy duty motor vehicles. Tesla notes that during the public hearing on October 16, 2024, information was presented that medium and heavy duty vehicles differ from automobiles with respect to their manufacture, usage, ownership, and repair. Tesla recommends that in light of these differences, the Legislature should consider the extent to which Section 1810 should apply to commercial motor vehicles and heavy duty vehicles.

Working group members representing the aftermarket parts distributors and retailers, the independent repair facilities, and the aftermarket parts manufacturers maintain that commercial and heavy duty motor vehicles should remain subject to the law. They point out that there was testimony that owners and independent repair facilities would benefit from access to diagnostic and repair information and that 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.

Tesla recommends that the Legislature consider amending Section 1810 as follows:

“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.”

Tesla contends that this will mitigate potential risks posed by remotely sending commands to vehicles and will ensure a level playing field for all types of repair facilities.

Working group members representing the aftermarket parts distributors and retailers, the independent repair facilities, and the aftermarket parts manufacturers believe this proposed language is ambiguous and would caution the Legislature in making any such amendment without fully understanding the implications regarding owners having access to maintenance, diagnostic, and repair data.

The member representing new motor vehicle dealers recommends that the provision in Section 1810 directing the independent entity to “[c]reate policies for compliance with relevant laws, regulations, standards, technologies and best practices related to access to motor vehicle data” be retained and that Section 1810 be amended to direct the independent entity to consider potential cyber-security and privacy concerns relating to telematics data and rules or other measures that could be implemented to address such concerns.

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.

The Honorable Chip Curry
The Honorable Tiffany Roberts
July 3, 2024
Page 3

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

Sincerely,



Aaron M. Frey
Attorney General

EXHIBIT B

§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~~ 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.