



April 2, 2021

Senator Brenner
Representative Tucker
Honorable Members of the Joint Standing Committee on
Environment and Natural Resources,

RE: Opposition for LD 872, "An Act Concerning Motor Vehicle Emissions Control System Tampering" as drafted, (amendment proposed)

On behalf of Copart, I write to you with our concerns regarding LD 872, as it is currently drafted. Copart is an international vehicle auction service company with a location in Lyman, Maine that services the entire state of Maine for our customers. Copart provides for the movement, storage and transport of wholesale, undamaged, and damaged vehicles for auto insurers, rental car companies, charities, and other consigners.

LD 872 prohibits a person from tampering with the emission control system of a motor vehicle and prohibits a dealer from the sale, lease or rental, or transfer of title or right of possession of a motor vehicle if a person has tampered with the emission control system. We agree this bill has noble goals and that this concept has a place in the vehicle marketplace. Our concern stems from high-volume dealer to dealer transactions when entities like Copart are selling vehicles that are potentially damaged, on consignment, and unowned by the business auctioning the vehicle.

Copart is a virtual marketplace for buyers and sellers to come together for high volume automobile disposal. While Copart has possession of the items sold, it is only for storage of the asset and we never take ownership and are not qualified to inspect the vehicles that we auction. They are owned by the consigners (insurance carriers, dealers, individuals etc.) and sold via a patented automated auction technology to the buyer. Due to the lack of ownership of the units we sell, our company has no history or knowledge of the vehicle condition and yet, under the bill as drafted, would be liable for a product with which we have no connection other than through our consignment process.

We have drafted an amendment to LD 872 and have shared it with the sponsor and the DEP. We have been working with the DEP to address the unintended consequences of the bill and



copart.com

P.O. Box 819

Alfred, Maine 04002

appreciate their cooperation. We believe our amendment addresses our needs yet does not take away from the goals and intent of the original language. We would appreciate your consideration of this amendment which would solve our concerns with the bill while still protecting consumers.

Thank you and please do not hesitate to reach out to me, or Dan Riley, Copart's local counsel, if you have any questions or need further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Binder". The signature is fluid and cursive.

Mark Binder

Director of Government Affairs

Mark.Binder@copart.com

214-534-6546

Attachment: Proposed amendment



Sec. 1. 38 MRSA §585-O is enacted to read:

§585-O. Motor vehicle emission control system tampering

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dealer" means a person engaged in the business of buying, selling, exchanging or offering to negotiate, negotiating or advertising the sale, lease or rental of a motor vehicle at retail and that has:

(1) An established place of business for those purposes in this State; and

(2) A current dealer license issued by the Secretary of State.

"Dealer" does not include a vehicle auction, or the State when selling state-owned motor vehicles.

B. "Emission control system" means a device or element of design installed on or in a motor vehicle or engine by the original manufacturer and certified to comply with pollutant emission standards established by federal or state law.

C. "Motor vehicle" means a self-propelled vehicle intended for operation on roads but excludes salvage vehicles and vehicles sold for parts or scrap.

D. "Person" means an individual, corporation, firm, partnership, joint venture, association, fiduciary, trust, estate or any other legal or commercial entity.

E. "Tamper" means to deactivate, dismantle, defeat, bypass, alter, modify, remove or otherwise render inoperable, in whole or in part, mechanical or electronic components of the emission control system that is installed on or in a motor vehicle by the original manufacturer of the motor vehicle.

F. "Retail" means as defined in Maine Revised Statutes Title 10, Part 3, Chapter 205 §1202 subsection 5.

2. Tampering prohibited. Tampering with the emission control system of a motor vehicle is prohibited as provided in this subsection.

A. A person may not tamper with the emission control system of a motor vehicle for compensation, except to repair or replace a part or all of the emission control system to return the emission control system to its original manufacturer's certified specifications.

B. A dealer may not sell, lease or rent, or offer to sell, lease or rent, or transfer title or right of possession of a motor vehicle if a person has tampered with the emission control system of the motor vehicle.

3. Penalties. A person that violates this section is subject to penalties under section 349.

4. Rulemaking. The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

The amended language is to ensure that auction dealers that consign vehicles for others at wholesale are protected from unknown tampering. This amendment also excludes vehicles which are branded as salvage since the title brand provides evidence of potential non-working emission systems.