



Tiffany Roberts

35 Buttonwood Road
South Berwick, ME 03908
Home: (207) 210-3287

Tiffany.Roberts@legislature.maine.gov

HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002

(207) 287-1400

TTY: MAINE RELAY 711

Testimony of Rep. Tiffany Roberts presenting

LD 2120, An Act Implementing the Recommendations of the Automotive Right to Repair Working Group. Before the Joint Standing Committee on Housing and Economic Development

Good afternoon, Senator Curry, Representative Gere, and esteemed members of the Joint Standing Committee on Housing and Economic Development. I am Representative Tiffany Roberts, and I represent House District 149, which includes parts of North and South Berwick. I am here today to present testimony in opposition to **LD 2211, An Act Implementing the Recommendations of the Automotive Right to Repair Working Group.**

I want to begin with the record, because that is where this discussion belongs.

The Attorney General's Working Group was convened under Resolve 2023, Chapter 171, to develop recommendations establishing the entity referenced in 29-A §1810 and to clarify its authority. The Working Group focused on that entity.

It reached a unanimous agreement that the entity should not control or gatekeep vehicle data. It should serve in an advisory capacity and not have rulemaking or enforcement authority; any enforcement would remain with the Attorney General. That was the framework. I support that framework.

LD 1228, which this committee put substantial work into, was drafted to implement that structure while also addressing definitional clarity and sequencing concerns that had surfaced through litigation and stakeholder engagement. The Governor vetoed LD 1228, stating that it included a telematics provision she viewed as outside the Working Group's unanimous recommendations, and she suggested another path forward.

LD 2211 is being presented as that path forward. It is not. Yes, LD 2211 replaces the independent entity with a Motor Vehicle Right-to-Repair Commission. I agree that the entity needed to change. But this bill goes further than the Working Group's charge.

It alters enforcement posture by shifting the Attorney General's authority from directive to discretionary language. At the same time, it leaves the private right of action fully intact, including treble damages or \$10,000 per denial, whichever is greater.

When a statute already includes private enforcement, every change to substantive obligations directly affects litigation exposure. Modifying enforcement posture while maintaining private litigation leverage increases uncertainty. It does not reduce it.

This statute remains under federal constitutional challenge. The complaint raises concerns about ambiguity in the "platform" language, inconsistent terminology, and conflicts with federal vehicle safety law. Replacing the entity does not resolve those issues.

LD 2211 adjusts timelines and structure, but it does not harmonize or define the litigated terms at the heart of the lawsuit. The bill adds a definition for "owner-authorized independent repair facility," which is helpful. But other contested terms remain undefined, like what an independent entity is. In a statute with a private right of action and active federal litigation, definitional precision is not cosmetic. It is protective.

There is also tension in the economic framework. Section 3 retains "fair and reasonable terms" for subscription-based access. Another section requires direct telematics access upon the owner's authorization, without reconciling compensation standards.

Two economic standards in the same statute, without reconciliation, invite pricing disputes, arbitrary-enforcement claims, constitutional challenges, including potential takings, and strengthened preemption arguments. Those risks grow, not shrink, when private litigation remains available.

The difference between LD 1228 and LD 2211 is not whether the entity should change. It should. The difference is scope. LD 1228 narrowed ambiguity without expanding liability. This bill replaces the entity and also modifies the enforcement language, adjusts deadlines, leaves the litigated terms unresolved, and introduces internal statutory tension. One approach reduces exposure. The other expands the statute's footprint while litigation is ongoing.

There is pressure in this space. From national advocates. From the industry. From parallel litigation in other states. That pressure is real. But the Legislature's responsibility is not to absorb pressure. It is to produce durable law. Durable law is coherent. Internally consistent. Capable of surviving judicial scrutiny. Expanding structural complexity while a statute is under review does not strengthen it. It makes it more vulnerable.

If further action is necessary, replace this bill with a narrowly tailored entity fix consistent with the Working Group's charge, or with the comprehensive statutory fix this committee already crafted. I support replacing the entity. I do not support expanding exposure under the label of implementation.

When a statute contains a private right of action and is under constitutional challenge, the responsible course is to narrow ambiguity, not widen the battlefield. I trust this committee to choose durability over pressure. For those reasons, I respectfully urge Ought Not to Pass. Thank you.