



May 9, 2023

Hon. Chip Curry, Senate Chair
Hon. Tiffany Roberts, House Chair
Committee on Innovation, Development, Economic Advancement and Business
100 State House Station
Augusta, ME 04333

RE: Opposed: Initiative Petition on Automotive Right to Repair Ballot – LD 1677

Dear Chairman Curry, Chairwoman Roberts, and Members of the Committee:

On behalf of the Alliance for Automotive Innovation¹, thank you for the opportunity to set the record straight on LD 1677, the initiative petition misleadingly framed as necessary to ensure independent repairers have the information needed to service modern vehicles.

Here's the truth: Automakers already make available to independent repair businesses all the information needed to diagnose and service a vehicle. Questions around the reparability of modern automobiles were definitively answered a decade ago under a nationwide agreement guaranteeing repairers and vehicle owners access to the same repair and diagnostic information provided to auto dealers. To make it even easier to retrieve the information needed to repair a vehicle, automakers also created a one-stop location online to serve as a gateway to access virtually every automaker's repair website, logically found at www.OEM1stop.com.

Automakers support vehicle owners' right to repair. Consumers today have a wide range of options when seeking repairs on their vehicle. They can bring it to an authorized dealer repair facility, a national chain repairer, an independent repair facility, or a vehicle owner can undertake the repair themselves if technologically inclined. There is no "dealer monopoly" on the repair marketplace. In fact, over 70% of post-warranty repair work today is performed outside of an automaker's authorized dealer network. Competition is alive and well in the automotive repair industry. This is the very definition of consumer choice.

You may wonder, *that's today, what about the future?* The national automotive right to repair agreement signed in 2014 understood that the auto industry is constantly evolving, so it was consciously futureproofed to account for changes. The memorandum of understanding (MOU) took a 2013 Massachusetts right to repair law and memorialized automaker commitments to it across the entire country. Despite all the false and misleading assertions to the contrary, both the Massachusetts law and the MOU address potential repairer needs to access telematic data – a catchall term for data generated on the vehicle and then transmitted off it or data from external sources transmitted to the vehicle through an

¹ From the manufacturers producing most vehicles sold in the U.S., to autonomous vehicle innovators, to equipment suppliers, battery producers, and semiconductor makers – the Alliance for Automotive Innovation represents the full auto industry, a sector supporting 10 million American jobs and five percent of the overall economy. Active in Washington, D.C. and all 50 states, the association is committed to a cleaner, safer, and smarter personal transportation future. www.autosinnovate.org.

automaker's secure network. **The MOU guarantees repairer access to telematics data if it meets three simple, but important, criteria** – 1. the access to the information is necessary to complete a repair; 2. the information is also provided to an automaker's dealers; and 3. the information is not available from another source, like a scan tool or other device. Likewise – anticipating the industry-defining shift toward electric vehicles – the MOU is completely agnostic on powertrain. Regardless of whether a vehicle is powered by an internal combustion engine or an electric motor, automakers are committed to the obligations laid out in the national MOU. Simply put, it applies to all vehicles.

To demonstrate this MOU commitment, we have worked with Representative Bruce White to have after-deadline legislation filed for consideration this session. We expect our proposal to be released from the Revisor's Office in the coming days. This important legislation would codify into Maine law all the protections necessary to ensure independent repair facilities continue to have access to the information necessary to successfully diagnose and safely repair a vehicle on fair and reasonable terms. The legislation is modeled after the current automobile Right to Repair MOU, which the Federal Trade Commission described² as having the “...effect of creating a broad, if not complete, right to repair in the automotive industry across the United States.”

Automakers support a consumer's right to repair. Our members are the gold standard in providing consumers with a full spectrum of repair options, as they provide all the parts, tools, and repair and diagnostic information to service a vehicle throughout its long life. Despite this reality and despite our proposal guaranteeing in Maine law independent repairers access to the information needed to complete a repair, we know the groups bankrolling this campaign will still oppose our legislation.

So, if this is not about the ability to complete a repair today or in the future, what are the proponents actually after? First, it is important to be clear about who are the true proponents that are forcing this ballot question on Maine voters – out-of-state, big-box auto part retailers. This is not an initiative funded by – or universally supported by – local repairers in Maine or elsewhere.

As of the ballot committee's most recent financial filing in April, of the \$1.65 million raised so far by the “Maine” Automotive Right to Repair Committee, not a single dollar was contributed by a Maine repairer – not one dollar from any resident of Maine. Roughly two-thirds of it has come from the Coalition for Auto Repair Equality – a shell group whose governing board according to tax documents is made up of executives from AutoZone, Advanced Auto, NAPA, O'Reilly Auto Parts, and others. As best we can tell, the rest of the money appears to come from corporations across the country who supply cheap, copycat auto parts.

These proponents have done a great job of scaring local repairers that they will not have access to needed repair information in the future, which is nothing short of fearmongering. What these big-box retailers and others want is real-time access to vehicle systems to harvest a trove of private information – including vehicle location in real time – for direct sales and marketing opportunities. It is that simple. Access to telematics data is not necessary to complete a repair, but would be great for corporate chains to send coupons for an oil change to your in-vehicle dashboard every time you drive are within a few miles of their location, for example.

² Federal Trade Commission, Nix The Fix: An FTC Report to Congress on Repair Restrictions, May 2021, Page 45. Accessible at: https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf.

Our concerns go beyond just consumer privacy. The ballot proposal mandates not only that telematic data must be shared, but it also mandates how the information is to be shared. The ballot question requires that a remote, bidirectional connection be established between the vehicle and any number of possible third-party service entities, which has the practical effect of severely weakening the cybersecurity of vehicles. Each automaker has developed its own telematics system to relay information to their vehicles via a hardened connection. The ballot question seeks to change that and mandate a uniform system of access “*standardized across all makes and models of motor vehicles sold in this State.*” It also prohibits an automaker from providing any cybersecurity gateway which is precisely how automakers protect vehicles from attack.

If this sounds concerning, it is. When referencing the ballot question upon which Maine’s question is based that was pushed by the same parties in Massachusetts in 2020, the National Highway Traffic Safety Administration³ said it would “*...raise substantial safety risks for American families.*” Further, the Department of Justice⁴ said it “*...creates a similar serious cybersecurity risk to motor vehicle safety...*” This was not just a view held by government authorities; a cyber expert from the Massachusetts Institute of Technology⁵ also warned that countries with a history of cyberattacks could use such an open system called for in this legislation to directly hack vehicles, saying it would, “*...accelerate society toward a major cyber terrorism threat.*” The aftermarket part companies pushing for this ballot question are not experts in cybersecurity, whereas the actual experts have condemned this idea unequivocally.

Let’s also take a moment to acknowledge that the proponents are not pushing this ballot question after first petitioning this committee for their desired changes. They have intentionally bypassed the normal legislative process, and they have done so for two very clear reasons.

First, they do not want their proposal to be subject to the appropriate and typical scrutiny that comes with the regular legislative process – where they would be forced to answer your questions and not hide behind press conferences and vague, unchallenged statements. And second, when they previously tried to push their ill-conceived plans to open vehicle systems to remote access by third parties before the legislatures of California, Rhode Island, and Massachusetts, those bills never made it out of the very first committee!

We are asking the Legislature to put forward our language as a competing ballot measure, as allowed by the Maine state constitution, to stand in sharp contrast to this intentionally misleading ballot proposal. The proponents should not be allowed to mislead Mainers. And as legislators, you should not allow Maine voters to be fooled into believing that this monetizable data grab by national aftermarket part manufacturers and retailers is necessary to ensure the repairability of automobiles today and into the future.

Here's what automakers believe: Mainers should have the right to repair their vehicle anytime, anywhere, anyplace. They do. And it isn't going away.

³ National Highway Traffic Safety Administration – Letter to Massachusetts Legislature, July, 2020.
Accessible at: <https://bit.ly/3Ht1YHN>

⁴ US Department of Justice filing in Alliance for Automotive Innovation v. Healey/Campbell, June 2021.
Accessible at: <https://bit.ly/3kFn5v1>

⁵ Reimer, Bryan Ph.D, Letter to Massachusetts Legislature, January 2020.
Accessible at: <https://bit.ly/3XZqnHE>

We're confident Representative White's alternate ballot initiative ensures total driver choice and total access for independent repairers to the information needed to repair a vehicle.

After all, that's exactly what the out-of-state big box retailers say they are fighting for. So, if they're against Representative White's effort, Mainers ought to wonder why?

Considering the significant media attention to this issue, and the deliberate, ongoing, and bad faith effort among out-of-state big-box retailers to pit independent repair businesses against automakers, we appreciate the opportunity to set the record straight and voice our opposition to LD 1677.

Please find the attached memorandum for further information on the subject and do not hesitate to reach out to me, at wweikel@autosinnovate.org, should you have additional questions.

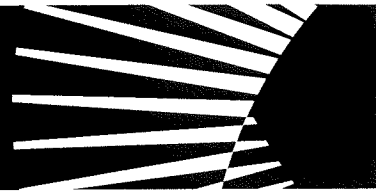
Thank you for your consideration of our views.

Sincerely,

A handwritten signature in black ink that reads "Wayne Weikel". The signature is written in a cursive, flowing style.

Wayne Weikel
Vice-President, State Affairs

cc: Members, Committee on Innovation, Development, Economic Advancement and Business



MEMO

TO: Interested Parties
FROM: Alliance for Automotive Innovation
DATE: October 2022
RE: Dig Deeper: Maine Telematics Ballot Initiative

Here we go again. The country's biggest auto repair and parts chains have banded together to fund another state ballot referendum to get their hands on a vehicle's electronic data.

This time, national automotive aftermarket companies are backing an initiative in Maine. If passed, it would force the manufacturer of your vehicle to provide unrestricted remote data access to your car or truck's computer – even if that data isn't required to repair the vehicle (and it isn't).

What gives? This is a monetizable data grab from national aftermarket part manufacturers and retailers masquerading as consumer protection and support for small businesses.

Dig deeper. This ballot initiative is entirely unnecessary. Mainers already can have their car repaired by any repair shop they choose. And all the information needed to diagnose and repair a vehicle today is also already made available to all vehicle repair shops. But the ballot initiative does pose a real cybersecurity and privacy threat to Maine's drivers. More on that below.

Take a step back. This effort in Maine is commonly (but wrongly) characterized as a fight over vehicle "right to repair" seeking to pit small or independent repair shops against auto manufacturers. That's not at all what this is about.

Automotive right to repair already exists and always will. Unlimited access by national aftermarket manufacturers and retailers to your vehicle telematic data is not right to repair. Don't conflate the two.

Who is behind the Maine ballot initiative?

While local auto repairers have been made the face of this ballot initiative, in reality, it's backed by national and international auto aftermarket part retailers and manufacturers headquartered outside of Maine. When a similar effort was pushed in Massachusetts in 2020, the Massachusetts Right to Repair Coalition reported nearly \$25 million in expenditures. Nearly all of it – 99.975 percent – came from out-of-state interests¹.

What is right to repair in the automotive context?

Right to repair is the principle that a vehicle owner should have the ability and choice to service their vehicle anytime, anywhere, anyplace. Automakers agree and support numerous initiatives to facilitate seamless independent auto service and repair.

¹ [Massachusetts Right to Repair Coalition; OCPF Committee Number 95469](#)



Automakers offer drivers a wide range of repair options – more than any other industry. In fact, automakers already and routinely make available to independent repair shops all the parts, service information and vehicle data needed to diagnose and repair a vehicle.

What is auto telematics?

Auto telematics is a technology that allows remote, wireless access to vehicle systems. This wireless access essentially gives someone the ability to receive electronic data generated by a vehicle anytime and anywhere.

Automakers use this technology to provide consumers with updates on a vehicle's health – often through a smartphone app that provides turn-by-turn directions and other geographic information like the nearest gas station. In the future, automakers will be able to provide software updates and fixes remotely – just like your phone carrier does today – reducing the need to even bring your vehicle into a repair shop.

What is the question on the ballot in Maine?

The ballot paperwork filed in Maine asks this question: “Do you support independent auto repair shops and car repair businesses to have access to electronic mechanical data equipment and parts for all motor vehicles, including commercial motor vehicles, in order to repair the vehicle and ensure motor vehicle roadway safety?”

Well, who disagrees with that? Certainly not the automotive industry. The actual ballot language is seeking to codify something very different. It is an effort by the national aftermarket to gain wireless access to, and even control of, a vehicle's data, even when the vehicle isn't in their shop for a repair or other service.

Do independent repair shops have access to information to diagnose and repair vehicles?

Yes. Automakers make all the necessary information to repair vehicles available to a range of independent repair businesses. This was settled nearly a decade ago based on a commitment under a 2013 Massachusetts Automotive Right to Repair law. Automakers guaranteed independent repairers access to the same vehicle repair and diagnostics information provided to auto dealers.

Automakers and the independent repair industry put this commitment in writing in 2014 in a national memorandum of understanding (MOU). Because of this commitment, automakers make available to consumers and independent repair facilities nationwide the information necessary to diagnose and repair vehicles. There's even [OEM1Stop](#), a centralized website created by automakers for repair technicians to get that information.

Keep in mind, the MOU applies to nearly 99 percent of all cars and light-duty trucks sold in the United States each year. And it applies equally to cars propelled by internal combustion engines and battery electric and hybrid vehicles. So, when someone says, “but this doesn't apply to electric vehicles or today's increasingly connected cars...” – that's flat wrong.

The transition to EVs doesn't change anything about the aftermarket's access to repair and diagnostic information. This was recently reaffirmed during the adoption of



California's Advanced Clean Cars II process, which will govern how EVs are built and sold. Again, the MOU doesn't distinguish by propulsion system. It applies to internal combustion vehicles and EVs.

Is the system working? How do we know?

Yes. Very well. Automakers view independent repair shops as a vital part of the overall repair universe. For almost a decade, the MOU has worked.

Today, most post-warranty work – 70 percent – is handled by the independent repair community. The Federal Trade Commission – the government's top consumer protection and competition agency – has cited the automotive industry as an example of the repair aftermarket "working well." Take a look at any automaker's authorized collision repair network. It isn't filled with dealer-owned collision shops. Most networks are actually more than 70 percent non-dealer collision shops.

OK, automakers provide the information for traditional repairs, only? What about telematics? That's the future as vehicles keep getting more digital and connected, right?

First, access to telematic data has nothing to do with repairing a vehicle. In fact, there isn't one vehicle repair that requires access to telematic data to complete. Not a single one. Don't forget: every independent repairer also has easy access to a vehicle's information by plugging into its OBD-II port to perform diagnostic tests.

Additionally, the MOU anticipated these advances in vehicle technology. The nationwide agreement already requires the sharing of telematic data with an independent repairer under these conditions: when it is necessary for a repair, is also provided to an authorized dealer, and is not otherwise available. In other words, the technologies of the future were built into the agreement that is in place today. But those provisions have never been used because telematic data is not needed to diagnose and complete a safe and proper repair.

If the national aftermarket doesn't need telematic data to repair the car today, why do they want it?

What national aftermarket part manufacturers and the big retailers are seeking is unfettered access to a trove of your private telematic data for direct sales and marketing opportunities. The data isn't needed to repair the vehicle, so that's what we mean by a monetizable data grab.

So what?

Here's a scenario. You get a routine repair done at your mechanic. After your leave, the shop retains a pipeline of access to your vehicle's telematic data and can continue to receive that information wirelessly from your vehicle – days or months after the repair.

What can they do with that sensitive data?

The better question: what can't they do with it? They can see where your car has been and where you've driven. Your route. How fast you've been going. They can sell the data. They can place ads on your in-vehicle computer, like their own advertising platform.



These are applications that more closely resemble what happens when you search the internet than anything having do with a traditional vehicle repair. The ballot question contains no limits on how long the data can be stored and no protections against the copying, bundling and sale of this sensitive data to third parties, like insurance companies.

Plus, this is a clear cybersecurity risk. There's no telling if the shop has proper cyber controls and firewalls in place or is vulnerable to a hack. Independent shops aren't bound by the same cyber standards required of auto manufacturers handling this sensitive data.

What do you mean by a cybersecurity risk?

Beyond just the risk of improper data storage practices in a repair shop, the very pipeline mandated by the ballot question could be attacked. Today, telematic systems provide one, hardened connection to the outside world. The ballot question would create any number of connections from each vehicle to third parties over which data would be sent.

Criminals could exploit each of these digital connections between the vehicle and the independent repair shop to not only access the vehicle's data but to hack into the vehicle or embed malicious code. An attack like this could target critical vehicle safety systems.

The cyber risk associated with that type of direct vehicle access is a major concern of both the National Highway Traffic Safety Administration (NHTSA) and the Department of Justice. Each have raised concerns that unrestricted access to auto telematics is a cyber risk and will make American families less safe. The Massachusetts Institute of Technology also suggested criminals from countries with a history of cyberattacks could use the data stored at repair shops or third parties to hack vehicles.

Come on, can they really do that? That sounds alarmist.

That's what the ballot initiative seeks. Data in the wrong hands or without proper cybersecurity controls is a threat to privacy and safety.

But shouldn't a small business or an independent repairer have the right to fix any vehicle. Shouldn't consumers have a choice?

Yes and of course. Many repairers have been intentionally misled to believe that without a new law, they won't be able to service or repair vehicles now or in the future. It's simply not true. Automakers don't want that outcome either.

Again, roughly 70 percent of post-warranty work today is completed by the independent repair community. Competition is alive and well in the automotive repair industry. Drivers have a wide range of repair options, including: a dealer repair facility, a national chain repairer, an independent repair facility or the vehicle owner. The system is working.

Automotive right to repair exists. Always has, always will.