ALLIANCE FOR AUTOMOTIVE INNOVATION

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 interests[1].

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. <u>Always has, always will.</u>