

HOUSE No. 4122

The Commonwealth of Massachusetts

PRESENTED BY:

Paul McMurtry

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to enhance, update and protect the 2013 Motor Vehicle Right to Repair Law.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|------------------------------|------------------------------------|
| <i>Paul McMurtry</i> | <i>11th Norfolk</i> |
| <i>Kathleen R. LaNatra</i> | <i>12th Plymouth</i> |
| <i>Denise Provost</i> | <i>27th Middlesex</i> |
| <i>Peter Capano</i> | <i>11th Essex</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> |
| <i>Steven Ultrino</i> | <i>33rd Middlesex</i> |
| <i>Bruce J. Ayers</i> | <i>1st Norfolk</i> |
| <i>Bradley H. Jones, Jr.</i> | <i>20th Middlesex</i> |
| <i>Mathew J. Muratore</i> | <i>1st Plymouth</i> |
| <i>Patricia A. Haddad</i> | <i>5th Bristol</i> |
| <i>Danielle W. Gregoire</i> | <i>4th Middlesex</i> |
| <i>Brian M. Ashe</i> | <i>2nd Hampden</i> |
| <i>Kenneth I. Gordon</i> | <i>21st Middlesex</i> |
| <i>Michael D. Brady</i> | <i>Second Plymouth and Bristol</i> |
| <i>Christopher Hendricks</i> | <i>11th Bristol</i> |
| <i>David F. DeCoste</i> | <i>5th Plymouth</i> |
| <i>Jonathan D. Zlotnik</i> | <i>2nd Worcester</i> |
| <i>Michael J. Soter</i> | <i>8th Worcester</i> |

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|-----------------------------|--|
| <i>Linda Dean Campbell</i> | <i>15th Essex</i> |
| <i>David Paul Linsky</i> | <i>5th Middlesex</i> |
| <i>Dean A. Tran</i> | <i>Worcester and Middlesex</i> |
| <i>Joanne M. Comerford</i> | <i>Hampshire, Franklin and Worcester</i> |
| <i>Shaunna L. O'Connell</i> | <i>3rd Bristol</i> |
| <i>Alice Hanlon Peisch</i> | <i>14th Norfolk</i> |
| <i>Carole A. Fiola</i> | <i>6th Bristol</i> |
| <i>James Arciero</i> | <i>2nd Middlesex</i> |
| <i>Joan Meschino</i> | <i>3rd Plymouth</i> |
| <i>Steven S. Howitt</i> | <i>4th Bristol</i> |
| <i>Elizabeth A. Poirier</i> | <i>14th Bristol</i> |

HOUSE No. 4122

By Mr. McMurtry of Dedham, a petition (subject to Joint Rule 12) of Paul McMurtry and others relative to motor vehicle owners’ and independent repair facilities’ access to vehicle on-board diagnostic systems. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninety-First General Court
(2019-2020)**
—————

An Act to enhance, update and protect the 2013 Motor Vehicle Right to Repair Law.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of Chapter 93K of the General Laws is hereby amended by
2 inserting after the definition of “Manufacturer” the following definition: —

3 “Mechanical data”, any vehicle-specific data, including telematics system data,
4 generated, stored in or transmitted by a motor vehicle used for or otherwise related to the
5 diagnosis, repair or maintenance of the vehicle.

6 Section 1 of said Chapter 93K is hereby further amended by inserting after the definition
7 of “Owner” the following new definition:—

8 “Telematics system,” any system in a motor vehicle that collects information generated
9 by the operation of the vehicle and transmits such information, in this chapter referred to as
10 “telematics system data,” utilizing wireless communications to a remote receiving point where it
11 is stored.

12 SECTION 2. Section 2 (d) (1) of Chapter 93K is hereby amended by inserting at the end
13 thereof the following new paragraph: Notwithstanding anything in the preceding paragraph,
14 motor vehicle owners' and independent repair facilities' access to vehicle on-board diagnostic
15 systems shall be standardized and not require any authorization by the manufacturer, directly or
16 indirectly, unless the authorization system for access to vehicle networks and their on-board
17 diagnostic systems is standardized across all makes and models sold in the Commonwealth and
18 is administered by an entity unaffiliated with a manufacturer.

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20 SECTION 3. Said Chapter 93K is hereby further amended by striking subsection (f) of
21 Section 2 and inserting in place thereof the following: —

22 (f) Commencing in model year 2022 and thereafter a manufacturer of motor vehicles sold
23 in the Commonwealth, including heavy duty vehicles having a gross vehicle weight rating of
24 more than 14,000 pounds, that utilizes a telematics system shall be required to equip such
25 vehicles with an inter-operable, standardized and open access platform across all of the
26 manufacturer's makes and models. Such platform shall be capable of securely communicating
27 all mechanical data emanating directly from the motor vehicle via direct data connection to the
28 platform. Such platform shall be directly accessible by the owner of the vehicle through a
29 mobile-based application and, upon the authorization of the vehicle owner, all mechanical data
30 shall be directly accessible by an independent repair facility or a class 1 dealer licensed pursuant
31 to section 58 of chapter 140 limited to the time to complete the repair or for a period of time
32 agreed to by the vehicle owner for the purposes of maintaining, diagnosing and repairing the

33 motor vehicle. Access shall include the ability to send commands to in-vehicle components if
34 needed for purposes of maintenance, diagnostics and repair.

35 SECTION 4. Said Chapter 93K is hereby further amended by adding after subsection (f)
36 of section 2 the following:

37 (g) The Attorney General is hereby directed to establish for prospective vehicle owners a
38 motor vehicle telematics system notice that includes, but is not limited to, the following features:

39 (i) an explanation of motor vehicle telematics and its purposes, (ii) a description summarizing the
40 mechanical data collected, stored and transmitted by a telematics system, (iii) the prospective
41 owner's ability to access the vehicle's mechanical data through a mobile device, and (iv) an
42 owner's right to authorize an independent repair facility to access the vehicle's mechanical data
43 for vehicle diagnostics, repair and maintenance purposes. The notice form shall provide for the
44 prospective owner's signature certifying that the prospective owner has read the telematics
45 system notice.

46 (h) When selling or leasing motor vehicles containing a telematics system, a dealer
47 holding a class 1 or class 2 license as defined in section 58 of chapter 140 shall provide the
48 motor vehicle telematics system notice to the prospective owner, obtain the prospective owner's
49 signed certification that he or she has read the notice, and provide a copy of the signed notice to
50 the prospective owner. A dealer's failure to comply with the provisions of this subsection shall
51 be grounds for any action by the licensing authority relative to the dealer's license, up to and
52 including revocation, pursuant to section 59 of chapter 140.

53 SECTION 5. Section 6 of Chapter 93K is hereby amended by adding at the end the
54 following—

55 (e) Notwithstanding subsections (b) and (c), any owner or independent repair facility
56 authorized by an owner who has been denied access to mechanical data in violation of
57 subsections (d)(1) or (f) of section 2 may initiate a civil action seeking any remedies under law,
58 including any remedy authorized by chapter 93A. Each denial of access in violation of said
59 subsections shall be compensable by an award of treble damages or \$10,000, whichever amount
60 is greater.