

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 7389
OFFERED BY MR. GUTHRIE OF KENTUCKY**

Page 52, strike line 6 and all that follows through page 64, line 10, and insert the following (and update the table of contents accordingly):

1 SEC. 201. DEFINITIONS.

2 In this part:

3 (1) AFTERMARKET PART.—The term
4 “aftermarket part”—

5 (A) means any part offered for sale or for
6 installation in or on a motor vehicle after such
7 motor vehicle has left the production line of a
8 motor vehicle manufacturer; and

9 (B) does not include any new original
10 motor vehicle equipment manufactured for a
11 motor vehicle manufacturer.

12 (2) AUTHORIZED MOTOR VEHICLE SERVICE
13 PROVIDER.—The term “authorized motor vehicle
14 service provider” means a person who—

15 (A) has an arrangement with a motor vehi-
16 cle manufacturer under which the motor vehicle
17 manufacturer grants to such person a license to

1 use a trade name, service mark, or other propri-
2 etary identifier to offer to perform a covered ac-
3 tivity under the name of the motor vehicle man-
4 ufacturer; or

5 (B) has another arrangement with the
6 motor vehicle manufacturer to offer such serv-
7 ices on behalf of the motor vehicle manufac-
8 turer.

9 (3) AUTOMATED DRIVING SYSTEM; ADS.—The
10 terms “automated driving system” and “ADS”—

11 (A)(i) means the hardware and software
12 that are collectively capable of performing the
13 entire dynamic driving task on a sustained
14 basis, regardless of whether such system is lim-
15 ited to a specific operational design domain;
16 and

17 (ii) include only a system that meets the
18 definition of Level 4 or Level 5 automation; and

19 (B) as applied to motor vehicles intended
20 for an individual consumer motor vehicle owner
21 to be owned by individual consumers, the terms
22 “automated driving system” and “ADS” ex-
23 clude the vehicle actuation systems that provide
24 braking, steering, throttle, suspension, or other
25 functions that execute commands from the sys-

1 tem defined in subparagraph (A), the data
2 transmission infrastructure such as wiring or
3 connectors, and any motor vehicle component
4 that performs a substantially similar function in
5 a motor vehicle not equipped with a system de-
6 fined in subparagraph (A).

7 (4) BODY BUILDER.—The term “body builder”
8 means any person who manufactures, fabricates, in-
9 stalls, modifies, or assembles a motor vehicle body,
10 body equipment, or specialized structure onto a com-
11 pleted or incomplete chassis, cab, or frame supplied
12 by another manufacturer that results in a completed
13 or further completed motor vehicle intended for on
14 road or off road use.

15 (5) COMMISSION.—The term “Commission”
16 means the Federal Trade Commission.

17 (6) COVERED ACTIVITY.—The term “covered
18 activity”—

19 (A) means any diagnosis, maintenance, or
20 repair of a motor vehicle (including any calibra-
21 tion or recalibration required as part of any
22 such diagnosis, maintenance, or repair) nec-
23 essary to return the motor vehicle to oper-
24 ational specifications; and

1 (B) does not include any recall or warranty
2 repair or any related diagnosis.

3 (7) COVERED DATA.—

4 (A) IN GENERAL.—The term “covered
5 data” means any in-vehicle data used for the
6 performance of a covered activity or to comply
7 with Federal motor vehicle safety or emissions
8 laws, regulations, or standards that is or was
9 generated by the operation of a motor vehicle.

10 (B) EXCLUSIONS.—The term “covered
11 data” does not include—

12 (i) a covered activity performed for an
13 ADS; or

14 (ii) any personally identifiable infor-
15 mation about a human occupant of such
16 vehicle.

17 (8) COVERED REPAIR INFORMATION AND
18 TOOLS.—The term “covered repair information and
19 tools” means any equipment, tools, repair proce-
20 dures, technical information, software, wiring dia-
21 gram, training material, parts nomenclature or de-
22 scription, and parts catalogue necessary to perform
23 a covered activity.

24 (9) DOCUMENTED REPAIR PROCEDURE.—The
25 term “documented repair procedure” means a writ-

1 ten repair instruction, recommendation, or directive
2 issued by a motor vehicle manufacturer specific to
3 the year, make, and model of a motor vehicle.

4 (10) DYNAMIC DRIVING TASK.—The terms “dy-
5 namic driving task”—

6 (A) means each real-time operational and
7 tactical function required to operate a vehicle in
8 on-road traffic;

9 (B) excludes any strategic function, such
10 as trip scheduling and selection of a destination
11 or waypoint; and

12 (C) includes—

13 (i) lateral vehicle motion control
14 through steering;

15 (ii) longitudinal motion control
16 through acceleration and deceleration;

17 (iii) monitoring the driving environ-
18 ment through object and event detection,
19 recognition, classification, and response
20 preparation;

21 (iv) object and event response execu-
22 tion;

23 (v) maneuver planning; and

1 (vi) enhancement of conspicuity
2 through lighting, sounding the horn, sig-
3 naling, gesturing, or another indicator.

4 (11) FRANCHISE AGREEMENT.—The term
5 “franchise agreement” means a written arrangement
6 for a definite or indefinite period in which a motor
7 vehicle manufacturer or distributor grants to a
8 motor vehicle dealer a license to use a trade name,
9 service mark, or related characteristic and in which
10 there is a community of interest in the marketing of
11 new motor vehicles or services related to such vehi-
12 cles at wholesale, retail, leasing, or otherwise.

13 (12) MOTOR VEHICLE.—

14 (A) IN GENERAL.—The term “motor vehi-
15 cle” has the meaning—

16 (i) given that term in section
17 30102(a) of title 49, United States Code;
18 and

19 (ii) given the term “trailer” in section
20 390 of title 49, Code of Federal Regula-
21 tions.

22 (B) EXCLUSIONS.—The term “motor vehi-
23 cle” does not include any of the following:

1 (i) A multipurpose off highway utility
2 vehicle, recreational off highway vehicle,
3 all-terrain vehicle, or motorized bicycle.

4 (ii) A vehicle driven or drawn by me-
5 chanical power originally designed or per-
6 manently altered and equipped to provide
7 temporary residential accommodations that
8 is not used to transport property (except
9 for property used for temporary residential
10 accommodations or camping purposes).

11 (iii) A motorcoach designed with an
12 elevated passenger deck located over a bag-
13 gage compartment and used—

14 (I) primarily for the seated trans-
15 portation of passengers for long dis-
16 tance, charter, tour, intercity, shuttle,
17 or similar operations; or

18 (II) as a temporary living quar-
19 ters for travel, entertainment, cor-
20 porate, or governmental use.

21 (13) MOTOR VEHICLE DEALER.—The term
22 “motor vehicle dealer” means a person selling and
23 distributing new motor vehicles or motor vehicle
24 equipment primarily to purchasers that in good faith

1 purchase the vehicles or equipment other than for
2 resale.

3 (14) MOTOR VEHICLE EQUIPMENT.—The term
4 “motor vehicle equipment” means—

5 (A) any system, part, or component of a
6 motor vehicle as originally manufactured;

7 (B) any similar part or component manu-
8 factured or sold for replacement or improve-
9 ment of a system, part, or component, or as an
10 accessory or addition to a motor vehicle; or

11 (C) any device or an article or apparel, in-
12 cluding a motorcycle helmet and excluding med-
13 icine or eyeglasses prescribed by a licensed
14 practitioner, that—

15 (i) is not a system, part, or compo-
16 nent of a motor vehicle; and

17 (ii) is manufactured, sold, delivered,
18 or offered to be sold for use on public
19 streets, roads, and highways with the ap-
20 parent purpose of safeguarding users of
21 motor vehicles against risk of accident, in-
22 jury, or death.

23 (15) MOTOR VEHICLE MANUFACTURER.—The
24 term “motor vehicle manufacturer” means a per-
25 son—

1 (A) manufacturing or assembling motor ve-
2 hicles or motor vehicle equipment; or

3 (B) importing motor vehicles or motor ve-
4 hicle equipment for resale.

5 (16) MOTOR VEHICLE OWNER.—

6 (A) IN GENERAL.—The term “motor vehi-
7 cle owner” means a person who is—

8 (i) a record or beneficial owner, holder
9 of title, or lessee of a motor vehicle;

10 (ii) entitled to the use and possession
11 of a motor vehicle subject to a security in-
12 terest in another person; or

13 (iii) a lessee or a bailee of a motor ve-
14 hicle in the trade or business of renting or
15 leasing such motor vehicle.

16 (B) EXCLUSIONS.—The term “motor vehi-
17 cle owner” does not include—

18 (i) a motor vehicle manufacturer; or

19 (ii) a person operating on behalf of—

20 (I) a motor vehicle manufacturer;

21 (II) a motor vehicle financing
22 company;

23 (III) a motor vehicle dealer;

24 (IV) a motor vehicle lessor; or

25 (V) a body builder.

1 (17) MOTOR VEHICLE REPAIR FACILITY.—The
2 term “motor vehicle repair facility” means any per-
3 son who, in the ordinary course of business, per-
4 forms a covered activity, including a motor vehicle
5 dealer who performs a covered activity that relates
6 to a motor vehicle not affiliated with the franchise
7 of the motor vehicle dealer.

8 (18) REMANUFACTURER.—The term “remanu-
9 facturer” means a person who uses a standardized
10 industrial process by which previously sold, worn, or
11 non-functional products are returned to same-as-new
12 (or better) condition and performance in a process
13 that is in line with specific technical specifications
14 (including engineering, quality, and testing stand-
15 ards) and yields fully warranted products.

16 (19) REPLACEMENT EQUIPMENT.—The term
17 “replacement equipment” means motor vehicle
18 equipment (including a tire) that is not original
19 equipment.

20 (20) SERVICE PROVIDER.—The term “service
21 provider” means any designee of a motor vehicle
22 owner or motor vehicle repair facility employed by
23 such motor vehicle owner or motor vehicle repair fa-
24 cility to assist with the diagnosis and repair of a
25 motor vehicle, including the diagnosis and repair of

1 wireless and remote technologies and any other wire-
2 less and remote services comparable to such services
3 provided by a motor vehicle manufacturer.

4 (21) LEGAL BARRIER.—The term “legal bar-
5 rier” means—

6 (A) a request for a waiver of the right of
7 a motor vehicle owner under this part including
8 to use a motor vehicle repair facility of the
9 choosing of such motor vehicle owner;

10 (B) a requirement for such a waiver as a
11 condition for purchasing, leasing, operating, or
12 obtaining warranty repairs for a motor vehicle;
13 or

14 (C) an offer for such owner to receive any
15 compensation or other incentive for such a
16 waiver.

17 (22) TECHNOLOGICAL BARRIER.—The term
18 “technological barrier”—

19 (A) means any hardware, software,
20 firmware, digital protocol, technical security
21 feature, or other technological mechanism that
22 prevents, restricts, or delays the exercise of a
23 right under this part (except for latency or au-
24 thentication purposes); and

25 (B) includes—

- 1 (i) the limitation of access (including
2 bidirectional access) to necessary tools, di-
3 agnostic information, software, or data re-
4 quired to perform a covered activity; and
- 5 (ii) the imposition of a requirement
6 for proprietary authentication, authoriza-
7 tion codes, or digital software locks that
8 cannot be reasonably obtained for not more
9 than the fair and reasonable cost of pro-
10 viding such authentication, authorization,
11 or keys by a motor vehicle owner, motor
12 vehicle repair facility, or service provider.

13 (23) **TELEMATICS SYSTEM.**—The term
14 “telematics system” means any system in a motor
15 vehicle that collects covered data and transmits such
16 covered data using wireless communications to a re-
17 mote receiving point where the covered data is
18 stored.

19 **SEC. 202. CODIFYING AND ENFORCING RIGHT TO REPAIR**
20 **MOUS.**

21 (a) **PASSENGER VEHICLES.**—A motor vehicle manu-
22 facturer of a motor vehicle that weighs 14,000 pounds or
23 less shall comply with sections 1 through 5 of the Memo-
24 randum of Understanding entered into on January 15,
25 2014, by the Automotive Aftermarket Industry Associa-

1 tion, the Coalition for Auto Repair Equality, the Alliance
2 of Automobile Manufacturers, and the Association of
3 Global Automakers.

4 (b) COMMERCIAL VEHICLES.—A motor vehicle manu-
5 facturer of a motor vehicle that weighs more than 14,000
6 pounds shall comply with sections 2 through 8 of the
7 Memorandum of Understanding National Commercial Ve-
8 hicle Service Information entered into August 2015 by the
9 Commercial Vehicle Solutions Network, the Equipment
10 and Tool Institute, the Heavy Duty Aftermarket Canada,
11 Auto Care Association, and the Truck and Engine Manu-
12 facturers Association.

13 (c) RULES OF CONSTRUCTION.—

14 (1) UPDATE TO MOU.—Nothing in this section
15 may be construed to imply that an update to the
16 Memorandum of Understanding described in sub-
17 section (a) or (b) is enforceable by the Commission.

18 (2) WITHDRAWAL FROM MOU.—Nothing in this
19 section may be construed to imply that withdrawal
20 by any party from the Memorandum of Under-
21 standing described in subsection (a) or (b) affects
22 the enforcement of this Act.

23 (3) DISPUTE RESOLUTION.—Nothing in this
24 section may be construed to imply that any dispute
25 resolution process established in the Memorandum of

1 Understanding described in subsection (a) or (b) is
2 enforceable by the Commission.

3 **SEC. 203. ADDITIONAL RIGHTS FOR MOTOR VEHICLE OWN-**
4 **ERS.**

5 (a) **TELEMATICS SYSTEM ACCESS TO COVERED**
6 **DATA.—**

7 (1) **IN GENERAL.—**A motor vehicle manufac-
8 turer shall provide a motor vehicle owner (or a des-
9 ignee of a motor vehicle owner) with access to cov-
10 ered data over wireless technology via any telematics
11 systems to the extent the motor vehicle of such
12 motor vehicle owner is equipped for wireless trans-
13 mission of such covered data and the manufacturer
14 provides covered data to any motor vehicle dealer or
15 authorized motor vehicle service provider over wire-
16 less technology.

17 (2) **PROVISION OF COVERED DATA.—**A motor
18 vehicle manufacturer shall provide the access re-
19 quired by paragraph (1)—

20 (A) in an equivalent, time, method, cost
21 (less discounts and rebates), and data content
22 set as any motor vehicle dealer or authorized
23 motor vehicle service provider to whom such
24 motor vehicle manufacturer provides access to
25 covered data to perform a covered activity; and

1 (B) subject to cryptographic and cyberse-
2 curity protections equivalent to that of any such
3 motor vehicle dealer or authorized motor vehicle
4 service provider.

5 (b) RIGHTS AND OBLIGATIONS OF DESIGNEES.—

6 (1) DESIGNATION AUTHORITY.—A motor vehi-
7 cle owner may designate any motor vehicle repair fa-
8 cility to receive access to covered data under sub-
9 section (a) and may separately designate, at the re-
10 quest of such facility, any aftermarket parts manu-
11 facturer, aftermarket parts remanufacturer, or diag-
12 nostic tool manufacturer to access such covered
13 data.

14 (2) AFFIRMATIVE CONSENT.—

15 (A) IN GENERAL.—Any designation under
16 paragraph (1) shall be made with the affirma-
17 tive consent of the motor vehicle owner.

18 (B) FORM.—The affirmative consent re-
19 quired by subparagraph (A) shall—

20 (i) be presented in a manner and for-
21 mat that is clear, conspicuous, unambig-
22 uous, non-deceptive, and separate from any
23 agreement, contract, or other document
24 not directly related to the relevant designa-
25 tion; and

1 (ii) include the specific categories of
2 covered data that the designee shall access,
3 the specific covered activity for which the
4 covered data is necessary, and the rights of
5 such owner related to revocation and dele-
6 tion.

7 (3) PROHIBITION ON LIMITATIONS ON DESIGNA-
8 TION.—A motor vehicle manufacturer or motor vehi-
9 cle repair facility may not limit the number or type
10 of designee that a motor vehicle owner may des-
11 ignate under paragraph (1).

12 (4) REVOCATION OF DESIGNATION.—A motor
13 vehicle owner may revoke any designation under
14 paragraph (1) via a clear and conspicuous means as
15 easy to use as the mechanism used to consent to the
16 designation in paragraph (2).

17 (5) LIMITATION.—A motor vehicle manufac-
18 turer that manufactures a motor vehicle may not be
19 considered to be a designee with respect to any cov-
20 ered data generated by such motor vehicle.

21 (c) PROTECTING THE USE OF COVERED DATA.—

22 (1) REQUEST TO DELETE DATA.—A person des-
23 igned under subsection (b)(1) to receive access to
24 covered data under subsection (a) shall delete such
25 covered data not later than 30 days after the date

1 on which the relevant motor vehicle owner requests
2 (digitally or in writing) such designee to do so or re-
3 vokes such designation under subsection (b)(4), with
4 the exception of covered data that is necessary to re-
5 tain for any of the following:

6 (A) Motor vehicle maintenance record-
7 keeping.

8 (B) Audit requirements pursuant to a
9 franchise agreement.

10 (C) Accounting.

11 (D) Compliance with this part or other
12 Federal or State law.

13 (2) USE OF COVERED DATA.—A designee de-
14 scribed in paragraph (1) or motor vehicle owner who
15 accesses or stores covered data under this part—

16 (A) may not use such covered data except
17 for the purpose of performing a covered activity
18 as such covered activity is requested or affirma-
19 tively consented to by the motor vehicle owner;
20 and

21 (B) may not sell, license, or transfer such
22 covered data to any other person.

23 (d) LIMITATIONS ON PREFERENCING.—

24 (1) IN GENERAL.—A motor vehicle manufac-
25 turer may not—

1 (A) mandate or imply a mandate to use
2 any particular brand or manufacturer of parts,
3 tools, or motor vehicle equipment; or

4 (B) recommend the use of any brand or
5 manufacturer of parts, tools, or motor vehicle
6 equipment without a clear and conspicuous no-
7 tice that immediately indicates the limitations
8 described in subparagraph (A).

9 (2) EXCEPTIONS.—This subsection does not
10 apply with respect to—

11 (A) a recall or warranty repair; or

12 (B) a service bulletin, repair manual, posi-
13 tion statement, or other similar repair and
14 maintenance guide that is distributed to con-
15 sumers or motor vehicle repair facilities.

16 (e) RIGHT TO SELECT MOTOR VEHICLE TOWING
17 PROVIDER.—A motor vehicle manufacturer may not im-
18 pair the ability of a motor vehicle owner to use a motor
19 vehicle towing or service provider chosen by such motor
20 vehicle owner.

21 (f) COMPATIBLE AFTERMARKET PARTS.—A motor
22 vehicle manufacturer may not impair the ability of an
23 aftermarket parts manufacturer, a motor vehicle equip-
24 ment manufacturer, an aftermarket parts remanufacturer,
25 or a motor vehicle repair facility (or a distributor or serv-

1 ice provider of a motor vehicle repair facility) to offer for
2 sale compatible aftermarket parts or functionally integrate
3 compatible aftermarket parts into a motor vehicle.

4 (g) ENSURING SAFE REPAIRS.—

5 (1) EQUIVALENT QUALITY REQUIRED.—In per-
6 forming a covered activity, a motor vehicle repair fa-
7 cility (that is not a motor vehicle dealer) may only
8 use replacement equipment that is of identical, rea-
9 sonably equivalent, or greater quality to the motor
10 vehicle equipment that such replacement equipment
11 is designed to replace.

12 (2) NOTICE TO CONSUMERS.—The requirement
13 described in paragraph (1) does not apply if a motor
14 vehicle repair facility provides written notice to a
15 motor vehicle owner that the relevant replacement
16 equipment is not of identical, reasonable equivalent,
17 or greater quality to the motor vehicle equipment
18 that is being replaced.

19 (h) RECORDS.—In carrying out the obligations de-
20 scribed in this part, a motor vehicle repair facility (that
21 is not a motor vehicle dealer) shall take reasonable steps
22 to maintain a record of any covered activity the motor ve-
23 hicle repair facility performs.

24 (i) ACCESS TO COVERED REPAIR INFORMATION AND
25 TOOLS.—A motor vehicle manufacturer must make access

1 to covered repair information and tools for a covered activ-
2 ity available to a motor vehicle owner, motor vehicle repair
3 facility, aftermarket parts manufacturer, aftermarket
4 parts remanufacturer or diagnostic tool manufacturer on
5 equivalent terms as provided to motor vehicle dealers or
6 authorized motor vehicle service providers.

7 **SEC. 204. ENFORCEMENT BY COMMISSION.**

8 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—
9 A violation of this part shall be treated as a violation of
10 a regulation under section 18(a)(1)(B) of the Federal
11 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regard-
12 ing unfair or deceptive acts or practices.

13 (b) POWERS OF COMMISSION.—The Commission
14 shall enforce this part in the same manner, by the same
15 means, and with the same jurisdiction, powers, and duties
16 as though all applicable terms and provisions of the Fed-
17 eral Trade Commission Act (15 U.S.C. 41 et seq.) were
18 incorporated into and made a part of this part, and any
19 person who violates this part shall be subject to the pen-
20 alties and entitled to the privileges and immunities pro-
21 vided in the Federal Trade Commission Act. Nothing in
22 this part shall be construed to limit the authority of the
23 Commission under any other provision of law.

1 **SEC. 205. STUDY AND REPORT.**

2 (a) **STUDY ON MARKETPLACE PRACTICES.**—The
3 Commission shall conduct a study under section 6(b) of
4 the Federal Trade Commission Act (15 U.S.C. 46(b)) that
5 examines certain marketplace practices in the motor vehi-
6 cle aftermarket, including the following:

7 (1) The role of documented repair procedures in
8 the motor vehicle aftermarket and any impact on
9 safety, competition, and consumer choice.

10 (2) Practices that prohibit or restrict the—

11 (A) use by a motor vehicle owner of any
12 motor vehicle repair facility or replacement
13 equipment; or

14 (B) ability of a motor vehicle owner to ob-
15 tain an independent appraisal to determine the
16 actual cash value of a repair or amount of loss
17 following a collision involving a motor vehicle of
18 the motor vehicle owner.

19 (3) Practices that impact the quality of replace-
20 ment equipment.

21 (4) Any impact of increased use of software and
22 electronics in motor vehicles to the maintenance and
23 repair of such motor vehicles.

24 (5) Any other relevant practice related to the
25 performance of a covered activity.

1 (b) SUMMARY REQUIRED.—Notwithstanding the last
2 undesignated paragraph of section 6 of the Federal Trade
3 Commission Act (15 U.S.C. 46), the Commission shall de-
4 velop a summary of any order issued under this part as
5 of the date of submission of the report required by sub-
6 section (c) that shall include a description of unfair or de-
7 ceptive practices relating to the following:

8 (1) Any legal barrier or technological barrier to
9 accessing the rights provided under this part.

10 (2) The impact of this part on consumer data
11 privacy and security.

12 (3) Any consumer savings passed along to con-
13 sumers incurred by the enactment of this part by
14 motor vehicle repair facilities, aftermarket parts
15 manufacturers, and property and casualty insurers.

16 (c) SUBMISSION OF REPORT.—Not later than 4 years
17 after the date of the enactment of this Act, the Commis-
18 sion shall submit to Congress a report that includes the
19 results of the study required by subsection (a) and the
20 summary required by subsection (b).

21 (d) CONSULTATION REQUIRED.—In carrying out this
22 section, the Commission shall consult with the Secretary
23 of Transportation and the head of any other relevant Fed-
24 eral agency (as determined by the Commission).

1 **SEC. 206. GENERAL PROVISIONS AND RULES OF CON-**
2 **STRUCTION.**

3 (a) TREATMENT OF ADS-EQUIPPED VEHICLES.—
4 Nothing in this part applies to motor vehicle components
5 of an ADS-equipped vehicle specifically and solely related
6 to a dynamic driving task.

7 (b) LEGAL AND TECHNOLOGICAL BARRIERS.—In en-
8 forcing this part, the Commission may consider the em-
9 ployment by a motor vehicle manufacturer of legal barriers
10 or technological barriers resulting in circumvention of the
11 provisions of the part.

12 (c) CLARIFICATION TO ADDRESS CONFLICTS.—For a
13 case in which any requirement of section 202 and section
14 203 are found to conflict, the requirement of section 203
15 governs.

16 (d) TREATMENT OF MOTOR VEHICLE DEALERS.—
17 Nothing in this part may be construed to do any of the
18 following:

19 (1) Apply to the performance of a covered activ-
20 ity in connection with a warranty or recall repair
21 and any related diagnosis.

22 (2) Prohibit a motor vehicle dealer from per-
23 forming a covered activity for a brand not covered
24 by the franchise of such motor vehicle dealer.

1 (3) Authorize a motor vehicle manufacturer to
2 require a motor vehicle dealer to purchase any cov-
3 ered repair information and tools.

4 (e) INTELLECTUAL PROPERTY.—Nothing in this part
5 may be construed to limit or expand any intellectual prop-
6 erty law or right provided under such law or to—

7 (1) compel a patent owner to license or transfer
8 any right in a patent of the patent owner (as de-
9 scribed in section 271 of title 35, United States
10 Code);

11 (2) compel an owner to disclose, license, or
12 transfer rights to any copyrighted work (as de-
13 scribed in section 106 of title 17, United States
14 Code) of the owner, including copyrighted software
15 and specifications; or

16 (3) compel an owner to disclose or license a
17 trade secret of the owner (as such terms are defined
18 in section 1839 of title 18, United States Code).

19 (f) CYBERSECURITY.—Nothing in this part may be
20 construed to preclude a motor vehicle manufacturer from
21 employing cryptographic or cybersecurity protections con-
22 sistent with the best practices of the National Highway
23 Traffic Safety Administration to ensure the security of a
24 motor vehicle.

1 (g) MOTOR VEHICLE THEFT DETERRENCE.—Noth-
2 ing in this part may be construed to—

3 (1) restrict a motor vehicle manufacturer from
4 employing measures to prevent the theft of a motor
5 vehicle; or

6 (2) require a motor vehicle manufacturer to dis-
7 close, provide, or make accessible any immobilizer
8 code, key programming material, anti-theft creden-
9 tial, or security access credentials other than
10 through a secure credentialed access program that is
11 established to prevent any such theft.

12 (h) DESIGNEE RELATIONSHIP PROTECTION.—Noth-
13 ing in this part may be construed to prevent a motor vehi-
14 cle manufacturer from implementing reasonable controls
15 to prevent fraud or access to covered data or critical repair
16 information and tools for purposes other than performing
17 a covered activity.

18 **SEC. 207. RELATIONSHIP TO STATE LAWS.**

19 (a) INTENT.—It is the intent of Congress to—

20 (1) establish a framework to provide rights for
21 motor vehicle owners to diagnose, repair, or main-
22 tain the motor vehicle of such motor vehicle owner,
23 and to provide access to the vehicle data and tools
24 necessary for such diagnosis, repair, and mainte-
25 nance; and

1 (2) that nothing in this part shall be construed
2 to abrogate, interfere with, contradict or alter the
3 terms of any provision of a State's franchise law or
4 the terms of any franchise agreement executed and
5 in force between a motor vehicle dealer and a motor
6 vehicle manufacturer, including, but not limited to,
7 the performance or provision of warranty or recall
8 repair work by a dealer on behalf of a manufacturer
9 pursuant to such franchise agreement.

10 (b) SAVINGS CLAUSE.—

11 (1) Nothing in this part may be construed to
12 preempt any State or local law that regulates the re-
13 lationships between motor vehicle manufacturers,
14 distributors, and dealers, including dealer franchise
15 laws, warranty laws, and prohibitions on the direct
16 sale of motor vehicles by manufacturers.

17 (2) Nothing in this part may be construed to
18 preempt any State common law rights or any State
19 statute codifying or supplementing rights or rem-
20 edies recognized at common law, criminal laws, or
21 State laws regulating fraud, generally applicable de-
22 ceptive trade practices, privacy, data security, unau-
23 thorized access to personal information, notification
24 of unauthorized access to personal information,
25 torts, or product warranties.

Page 90, after line 20, insert the following (and update the table of contents accordingly):

1 **PART V—SAFETY IS NOT FOR SALE ACT**

2 **SEC. 261. SAFETY IS NOT FOR SALE.**

3 (a) IN GENERAL.—Not later than 180 days after the
4 date of the enactment of this section, a person offering
5 for sale or lease an optional safety feature to a first pur-
6 chaser must offer such optional safety feature for sale or
7 lease—

- 8 (1) separately from any non-safety features; or
9 (2) as standard trim equipment.

10 (b) DISCLOSURE.—Any person offering for sale or
11 lease an optional safety feature as described in subsection
12 (a)(1) shall clearly and conspicuously disclose the cost of
13 such feature separately from any non-safety feature.

14 (c) FEDERAL TRADE COMMISSION.—A violation of
15 this section, or any rule prescribed pursuant to this sec-
16 tion, is enforceable as a violation of a rule defining an
17 unfair or deceptive act or practice prescribed under section
18 18(a)(1)(B) of the Federal Trade Commission Act (15
19 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission
20 shall enforce this section in the same manner, by the same
21 means, and with the same jurisdiction as though all appli-
22 cable terms and provisions of the Federal Trade Commis-
23 sion Act were incorporated into and made a part of this

1 section. Nothing in this section shall be construed to limit
2 the authority of the Federal Trade Commission under any
3 other law.

4 (d) STATE ATTORNEYS GENERAL.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (6), in any case in which the attorney general
7 of a State has reason to believe that an interest of
8 the residents of that State has been or is threatened
9 or adversely affected by the engagement of any per-
10 son in a practice that violates a rule prescribed pur-
11 suant to this section, the State, as *parens patriae*,
12 may bring a civil action on behalf of the residents
13 of the State in an appropriate district court of the
14 United States or other court of competent jurisdic-
15 tion to—

16 (A) enjoin that practice;

17 (B) enforce compliance with the rule;

18 (C) obtain civil penalties;

19 (D) obtain damages, restitution, or other
20 compensation on behalf of residents of the
21 State; and

22 (E) obtain such other relief as the court
23 may consider to be appropriate.

24 (2) NOTICE.—The State shall serve written no-
25 tice to the Commission of any civil action under

1 paragraph (1) at least 60 days prior to initiating
2 such civil action. The notice shall include a copy of
3 the complaint to be filed to initiate such civil action,
4 except that if it is not feasible for the State to pro-
5 vide such prior notice, the State shall provide notice
6 immediately upon instituting such civil action.

7 (3) INTERVENTION BY FTC.—Upon receiving
8 the notice required by paragraph (2), the Commis-
9 sion may intervene in such civil action and upon in-
10 tervening—

11 (A) be heard on all matters arising in such
12 civil action;

13 (B) remove the action to the appropriate
14 United States district court; and

15 (C) file petitions for appeal of a decision in
16 such civil action.

17 (4) SAVINGS CLAUSE.—Nothing in this sub-
18 section shall prevent the attorney general of a State
19 from exercising the powers conferred on the attorney
20 general by the laws of such State to conduct inves-
21 tigation or to administer oaths or affirmations or to
22 compel the attendance of witnesses or the production
23 of documentary and other evidence. Nothing in this
24 section shall prohibit the attorney general of a State,
25 or other authorized State officer, from proceeding in

1 State or Federal court on the basis of an alleged vio-
2 lation of any civil or criminal statute of that State.

3 (5) VENUE; SERVICE OF PROCESS; JOINDER.—

4 In a civil action brought under paragraph (1)—

5 (A) the venue shall be a judicial district in
6 which the defendant or a related party is found,
7 is an inhabitant, or transacts business, or wher-
8 ever venue is proper under section 1391 of title
9 28, United States Code;

10 (B) process may be served without regard
11 to the territorial limits of the district or of the
12 State in which the civil action is instituted; and

13 (C) a person who participated with a de-
14 fendant or related party in an alleged violation
15 that is being litigated in the civil action may be
16 joined in the civil action without regard to the
17 residence of the person.

18 (6) PREEMPTIVE ACTION BY FTC.—Whenever a
19 civil action or an administrative action has been in-
20 stituted by or on behalf of the Commission for viola-
21 tion of any rule described under paragraph (1), no
22 State may, during the pendency of such action insti-
23 tuted by or on behalf of the Commission, institute
24 a civil action under paragraph (1) against any de-

1 defendant named in the complaint in such action for
2 violation of any rule as alleged in such complaint.

3 (7) AWARD OF COSTS AND FEES.—If a State
4 prevails in any civil action under paragraph (1), the
5 State can recover reasonable costs and attorney fees.

6 (e) DEFINITIONS.—In this section:

7 (1) COMMISSION.—The term “Commission”
8 means the Federal Trade Commission.

9 (2) FIRST PURCHASER; MANUFACTURER;
10 MOTOR VEHICLE; MOTOR VEHICLE EQUIPMENT.—
11 The terms “first purchaser”, “manufacturer”,
12 “motor vehicle”, and “motor vehicle equipment”
13 have the meanings given to such terms in section
14 30102 of title 49, United States Code.

15 (3) MOTOR VEHICLE MODEL.—The term
16 “motor vehicle model” means a class of motor vehi-
17 cles—

18 (A) of the same type and make; and

19 (B) that share a high degree of com-
20 monality in design and construction.

21 (4) MOTOR VEHICLE TRIM.—The term “motor
22 vehicle trim” means a class of motor vehicles—

23 (A) of the same type, make, and motor ve-
24 hicle model, but not identical to the motor vehi-
25 cle model; and

1 (B) that share a high degree of com-
2 monality in design and construction.

3 (5) NON-SAFETY FEATURE.—The term “non-
4 safety feature” means optional motor vehicle equip-
5 ment that is not standard model equipment or an
6 optional safety feature.

7 (6) OPTIONAL SAFETY FEATURE.—The term
8 “optional safety feature” means motor vehicle equip-
9 ment that—

10 (A) is not standard model equipment; and

11 (B) either—

12 (i) performs the lateral or longitudinal
13 (but not both simultaneously) vehicle mo-
14 tion control subtasks of the dynamic driv-
15 ing task with the expectation that the driv-
16 er monitors the system to execute a re-
17 sponse to an object or event when nec-
18 essary;

19 (ii) alerts the driver—

20 (I) if there is an unreasonable
21 risk of a collision;

22 (II) to maintain the lane of trav-
23 el; or

24 (III) if the driver is operating the
25 motor vehicle in a way that indicates

1 the driver may be distracted, dis-
2 engaged, fatigued, intoxicated, or oth-
3 erwise impaired;

4 (iii) improves illumination of the road-
5 way;

6 (iv) enhances the view of the driver of
7 the roadway;

8 (v) alerts emergency services after a
9 crash of the motor vehicle is detected; or

10 (vi) any other feature determined ap-
11 propriate by the Commission, in consulta-
12 tion with the Secretary of Transportation.

13 (7) STANDARD MODEL EQUIPMENT.—The term
14 “standard model equipment” means motor vehicle
15 equipment installed in each motor vehicle within a
16 motor vehicle model, regardless of the motor vehicle
17 trim.

18 (8) STANDARD TRIM EQUIPMENT.—The term
19 “standard trim equipment” means motor vehicle
20 equipment installed in each motor vehicle of a motor
21 vehicle trim.

