

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 906  
OFFERED BY MR. BUCSHON OF INDIANA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Preserving Consumer  
3 Choice for Safe and Secure Repair Act”.

**4 SEC. 2. FINDINGS.**

5       Congress finds that—

6           (1) 75 percent of all post-warranty repairs are  
7 done by independent repair shops;

8           (2) the auto industry and United States con-  
9 sumers rely on a vibrant and competitive inde-  
10 pendent repair community;

11           (3) automotive manufacturers currently provide  
12 the tools, data, software, and information necessary  
13 for independent repair shops to compete in the mar-  
14 ketplace and provide consumer choice in automotive  
15 repair;

16           (4) as technology advances and vehicle systems  
17 become more advanced, vehicle repair and mainte-  
18 nance will evolve, requiring continued collaboration

1 and cooperation between all stakeholders to ensure  
2 that independent repairers and consumers have ac-  
3 cess to the skills, education, training, tools, parts,  
4 data, and information necessary to maintain con-  
5 sumer choice and competition in vehicle repair;

6 (5) consumer choice, consumer control, motor  
7 vehicle cybersecurity, privacy, and safety are all valid  
8 concerns and must be balanced to preserve a safe,  
9 secure, and competitive market for automotive re-  
10 pair; and

11 (6) it is in the interest of the United States to  
12 foster competition in the motor vehicle repair indus-  
13 try and not limit consumers in their choices for  
14 maintenance, service, and repair, allowing consumers  
15 and the industry to benefit from a system that fos-  
16 ters communication, collaboration, and promotes  
17 consumer choice.

18 **SEC. 3. AUTOMOTIVE RIGHT TO REPAIR.**

19 (a) DEFINITIONS.—

20 (1) IN GENERAL.—In this section:

21 (A) AUTOMOBILE.—

22 (i) IN GENERAL.—The term “auto-  
23 mobile” has the meaning given the term  
24 “motor vehicle” in section 30102(a)(7) of  
25 title 49, United States Code.

1 (ii) EXCLUSIONS.—Notwithstanding  
2 clause (i), the term “automobile” does not  
3 include the following:

4 (I) A vehicle with a gross vehicle  
5 weight over 14,000 pounds.

6 (II) A recreational vehicle or a  
7 vehicle originally designed or perma-  
8 nently altered and equipped for  
9 human habitation that is not used to  
10 transport property other than prop-  
11 erty used for human habitation or  
12 camping purposes.

13 (III) A motorcycle.

14 (B) DISTRIBUTOR.—The term “dis-  
15 tributor” means any person who primarily of-  
16 fers, sells, or distributes new automobiles to au-  
17 thorized franchised dealers or maintains dis-  
18 tributor representatives.

19 (C) FRANCHISED DEALER.—The term  
20 “franchised dealer” means a person who in the  
21 ordinary course of its business is engaged—

22 (i) in the business of buying, selling,  
23 exchanging, or offering to negotiate, nego-  
24 tiating, or advertising the sale of auto-  
25 mobiles to consumers or other end users

1                   pursuant to a franchise agreement with a  
2                   manufacturer; and

3                   (ii) in the diagnosis, service, mainte-  
4                   nance, or repair of automobiles or auto-  
5                   mobile engines pursuant to such franchise  
6                   agreement.

7                   (D) DIAGNOSTIC AND REPAIR INFORMA-  
8                   TION.—The term “diagnostic and repair infor-  
9                   mation” means technical repair information, re-  
10                  pair updates, and diagnostic and repair tools.

11                  (E) FRANCHISE AGREEMENT.—The term  
12                  “franchise agreement” means a written ar-  
13                  rangement for a definite or indefinite period  
14                  under which a manufacturer or distributor  
15                  grants to a franchised dealer a license to use a  
16                  trade name, service mark, or related char-  
17                  acteristic and in which there is a community of  
18                  interest in the marketing of new automobiles or  
19                  services related thereto at wholesale, retail,  
20                  leasing, or otherwise.

21                  (F) IMMOBILIZER SYSTEM.—The term  
22                  “immobilizer system” means an electronic de-  
23                  vice or software designed for the sole purpose of  
24                  preventing the theft of an automobile or auto-  
25                  mobile components by preventing the auto-

1 mobile in which it is installed from starting  
2 without the correct activation or authorization  
3 code.

4 (G) INDEPENDENT REPAIR FACILITY.—  
5 The term “independent repair facility” means a  
6 person that does not engage in business with a  
7 manufacturer through a franchise agreement or  
8 is not affiliated with an authorized dealer of a  
9 manufacturer and that is engaged in the diag-  
10 nosis, service, maintenance, or repair of auto-  
11 mobiles or automobile engines.

12 (H) MANUFACTURER.—The term “manu-  
13 facturer” means a person engaged in the busi-  
14 ness of manufacturing or assembling new auto-  
15 mobiles.

16 (I) VEHICLE OWNER.—The term “vehicle  
17 owner” means a person that owns or leases an  
18 automobile.

19 (J) TELEMATICS SERVICES.—The term  
20 “telematics services” means any activity or  
21 function that is enabled by the wireless trans-  
22 mission of data to or from a vehicle, including  
23 but not limited to automatic airbag deployment  
24 and crash notification, remote diagnostics, navi-  
25 gation, stolen vehicle location, remote door

1 unlock, transmitting emergency and vehicle lo-  
2 cation information to a public safety answering  
3 point, or any other service integrating vehicle  
4 location technology and wireless communica-  
5 tions.

6 (2) FAIR AND REASONABLE TERMS.—In deter-  
7 mining whether an agreement regarding diagnostic  
8 and repair information or access to the same af-  
9 fected by this section is on fair and reasonable terms  
10 for purposes of this section, consideration shall be  
11 given to relevant factors, including, but not limited  
12 to—

13 (A) the net cost to the franchised dealer-  
14 ships of the manufacturer or distributor under  
15 a franchise agreement for similar diagnostic  
16 and repair information obtained from manufac-  
17 turers or distributors, less any discounts, re-  
18 bates, or other incentive programs;

19 (B) the cost to the manufacturer or dis-  
20 tributor for preparing and distributing the diag-  
21 nostic and repair information, excluding any re-  
22 search and development costs incurred in de-  
23 signing and implementing, upgrading, or alter-  
24 ing the on-board computer and related software  
25 or any other vehicle part or component and am-

1           ortized capital costs for the preparation and  
2           distribution of the diagnostic and repair infor-  
3           mation;

4           (C) the price charged by other manufactur-  
5           ers for similar diagnostic and repair informa-  
6           tion, including the price charged by a manufac-  
7           turer for similar diagnostic and repair informa-  
8           tion before the launch of manufacturer or dis-  
9           tributor websites;

10          (D) the ability of aftermarket technicians  
11          or shops to afford the diagnostic and repair in-  
12          formation;

13          (E) the means by which the diagnostic and  
14          repair information is distributed;

15          (F) the extent to which the diagnostic and  
16          repair information is used, including the num-  
17          ber of users and the frequency, duration, and  
18          volume of use; and

19          (G) the effect of inflation.

20          (b) DIAGNOSTIC AND REPAIR INFORMATION FOR  
21          MODEL YEARS 2002 THROUGH 2017.—A manufacturer  
22          of an automobile produced for model year 2002 or any  
23          subsequent model year through model year 2017 shall—

24               (1) make available for purchase by owners and  
25               by independent repair facilities, the same diagnostic

1 and repair information that the manufacturer or dis-  
2 tributor makes available to franchised dealers of the  
3 manufacturer or distributor through the internet-  
4 based diagnostic and repair information system, in-  
5 cluding repair technical updates, of the manufac-  
6 turer, distributor or another electronically accessible  
7 diagnostic and repair information system of the  
8 manufacturer;

9 (2) make the content of the diagnostic and re-  
10 pair information of the manufacturer available to  
11 owners and independent repair facilities in the same  
12 form and manner and to the same extent as it is  
13 made available to franchised dealers using the diag-  
14 nostic and repair information system;

15 (3) provide access to the diagnostic and repair  
16 information of the manufacturer for purchase by  
17 owners and independent repair facilities on a daily,  
18 monthly, and yearly subscription basis and on fair  
19 and reasonable terms; and

20 (4) provide diagnostic and repair information to  
21 each aftermarket scan tool company and each third-  
22 party service information provider with whom the  
23 manufacturer or distributor has appropriate licens-  
24 ing, contractual, or confidentiality agreements for  
25 the sole purpose of building aftermarket diagnostic



1 tools and third-party service information publica-  
2 tions and systems (if a manufacturer or distributor  
3 makes diagnostic and repair information available as  
4 provided by this paragraph, the manufacturer or dis-  
5 tributor is considered to have satisfied the require-  
6 ments of this subsection and is not responsible for  
7 the content and functionality of aftermarket diag-  
8 nostic tools or service information systems).

9 (c) DIAGNOSTIC AND REPAIR INFORMATION FOR  
10 MODEL YEARS 2018 AND LATER.—A manufacturer of an  
11 automobile produced for model year 2018 or any subse-  
12 quent model year shall, with respect to such automobiles,  
13 provide, on fair and reasonable terms—

14 (1) access to the same on-board diagnostic and  
15 repair information system available to franchised  
16 dealers including technical updates to such on-board  
17 systems using an off-the-shelf personal computer  
18 with sufficient memory, processor speed,  
19 connectivity, and other capabilities as specified by  
20 the vehicle manufacturer; and

21 (2) at least one of—

22 (A) a nonproprietary automobile interface  
23 device that complies with the most updated  
24 version of SAE International standard J2534  
25 (commonly referred to as “SAE J2534”), the

1 International Organization for Standardization  
2 standard 22900 (commonly referred to as “ISO  
3 22900”), or any successor to such standards as  
4 may be accepted or published by SAE Inter-  
5 national or the International Organization for  
6 Standardization;

7 (B) an on-board diagnostic and repair in-  
8 formation system integrated and entirely self-  
9 contained within the automobile, including serv-  
10 ice information systems integrated into an on-  
11 board display; or

12 (C) a system that provides direct access to  
13 on-board diagnostic and repair information  
14 through a nonproprietary automobile interface,  
15 including ethernet, universal serial bus, or dig-  
16 ital versatile disc.

17 (d) APPLICABILITY TO CUSTOMER SERVICE CAM-  
18 PAIGNS AND RECALLS.—

19 (1) IN GENERAL.—A manufacturer shall not be  
20 prohibited from making proprietary tools available  
21 exclusively to franchised dealers if such tools are for  
22 a specific specialized diagnostic or repair procedure  
23 developed for the sole purpose of—

1 (A) a customer service campaign meeting  
2 the requirements set out in section 579.5 of  
3 title 49, Code of Federal Regulations; or

4 (B) performance of a specific technical  
5 service bulletin or recall after the automobile  
6 was produced and where the original automobile  
7 design was not originally intended for direct  
8 interface through a nonproprietary automobile  
9 interface set out in subsection (c).

10 (2) LIMITATION.—Provision of such proprietary  
11 tools under paragraph (1) shall not constitute a vio-  
12 lation of this section even if such proprietary tools  
13 provide functions not available through the interface  
14 set forth in subsection (c), provided such proprietary  
15 tools are also available to the aftermarket on fair  
16 and reasonable terms.

17 (3) RULE OF CONSTRUCTION.—Nothing in this  
18 subsection authorizes manufacturers to exclusively  
19 develop proprietary tools, without a nonproprietary  
20 equivalent as set forth in subsection (c), for diag-  
21 nostic and repair procedures that fall outside the  
22 provisions of this subsection or to otherwise operate  
23 in a manner inconsistent with the requirements of  
24 subsection (c).

1           (e) IMMOBILIZER SYSTEMS AND SECURITY-RELATED  
2 ELECTRONIC MODULES.—A manufacturer or distributor  
3 may exclude information necessary to reset an immobilizer  
4 system or security-related electronic modules, including  
5 any associated software, from diagnostic and repair infor-  
6 mation provided to owners and independent repair facili-  
7 ties under this section. If excluded under this subsection,  
8 the information necessary to reset an immobilizer system  
9 or security-related electronic modules shall be obtainable  
10 by owners and independent repair facilities through a se-  
11 cure, reliable data release system.

12           (f) WIRELESS COMMUNICATIONS.—With the excep-  
13 tion of any telematics services diagnostic and repair infor-  
14 mation that is provided to franchised dealers, is necessary  
15 to diagnose and repair the vehicle of a customer, and is  
16 not otherwise available to an independent repair facility  
17 by means of the information or tools required by this sec-  
18 tion, this section does not apply to or require manufactur-  
19 ers to provide to any third-party, including but not limited  
20 to any independent repair facility, telematics services or  
21 any other remote or information service, diagnostic or oth-  
22 erwise, delivered to or derived from an automobile by wire-  
23 less communications.

24           (g) RULES OF CONSTRUCTION.—

1           (1) IN GENERAL.—Nothing in this section may  
2           be construed to—

3                   (A) abrogate a telematics services or other  
4                   contract that exists between a manufacturer,  
5                   distributor, or service provider and an owner or  
6                   a franchised dealer;

7                   (B) require a manufacturer, distributor, or  
8                   a franchised dealer to disclose to any person the  
9                   identity of existing customers or customer lists;

10                   (C) prevent a manufacturer or a dis-  
11                   tributor and an owner or independent repair fa-  
12                   cility that are subject to this section from  
13                   agreeing to the sale of information and tools on  
14                   any terms on which they agree;

15                   (D) require a franchised dealer to use a  
16                   nonproprietary automobile interface, tool, or  
17                   software;

18                   (E) prohibit a manufacturer from devel-  
19                   oping a proprietary vehicle diagnostic and re-  
20                   programming device, if the manufacturer or dis-  
21                   tributor also complies with this section and the  
22                   manufacturer makes the device available to  
23                   independent repair facilities on fair and reason-  
24                   able terms;

1 (F) require a manufacturer or distributor  
2 to divulge anything that constitutes, represents,  
3 evidences, or records intellectual property, in-  
4 cluding secret or confidentially held designs,  
5 processes, procedures, formulas, inventions, or  
6 improvements, secret or confidentially held sci-  
7 entific, technical, merchandising, production, fi-  
8 nancial, business, or management information,  
9 or anything within the definition of the term  
10 “trade secret” in section 1839 of title 18,  
11 United States Code;

12 (G) require a manufacturer or distributor  
13 to compromise the physical or cyber security of  
14 any automobile or automobile systems or com-  
15 ponents;

16 (H) abrogate, interfere with, contradict, or  
17 alter the terms of any franchise agreement exe-  
18 cuted and in force between a franchised dealer  
19 and a manufacturer or distributor on the effec-  
20 tive date of this section, including the perform-  
21 ance or provision of warranty or recall repair  
22 work by a franchised dealer on behalf of a man-  
23 ufacturer or distributor pursuant to the fran-  
24 chise agreement;

1 (I) require a manufacturer or distributor  
2 or franchised dealer to provide an owner or  
3 independent repair facility access to information  
4 not related to diagnostics and repair of auto-  
5 mobiles provided by a manufacturer to a fran-  
6 chised dealer or provided by a franchised dealer  
7 to a manufacturer or distributor pursuant to  
8 the terms of a franchise agreement; or

9 (J) require a manufacturer, distributor, or  
10 franchised dealer to transmit any vehicle-gen-  
11 erated data, including telematics services diag-  
12 nostic and repair information, to a third party  
13 without obtaining the informed written consent  
14 of the vehicle owner prior to transmitting such  
15 data.

16 (2) CLARIFICATION.—A provision in a franchise  
17 agreement executed on or after the effective date of  
18 this section that purports to waive, avoid, restrict, or  
19 limit the compliance of a manufacturer or dis-  
20 tributor with this section is void and unenforceable.

21 (h) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
22 SION.—

23 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
24 TICES.—A violation of this section shall be treated  
25 as an unfair or deceptive act or practice under sec-

1       tion 5 of the Federal Trade Commission Act (15  
2       U.S.C. 45).

3           (2) POWERS OF COMMISSION.—The Federal  
4       Trade Commission shall enforce this section in the  
5       same manner, by the same means, and with the  
6       same jurisdiction, powers, and duties as though all  
7       applicable terms and provisions of the Federal Trade  
8       Commission Act (15 U.S.C. 41 et seq.) were incor-  
9       porated into and made a part of this section. Any  
10      person who violates this section shall be subject to  
11      the penalties and entitled to the privileges and im-  
12      munities provided in the Federal Trade Commission  
13      Act.

14           (3) RIGHT TO CURE.—

15           (A) NOTICE TO MANUFACTURER.—Prior to  
16      the Commission initiating any action for a vio-  
17      lation of this section, the manufacturer or dis-  
18      tributor shall be provided a written notice by  
19      the Commission identifying the specific provi-  
20      sion of this section it alleges has been or is  
21      being violated.

22           (B) EFFECT OF CURE.—If, within 30 days  
23      of receipt of the written notice of violation, the  
24      manufacturer or distributor provides the Com-  
25      mission a written statement demonstrating that



1           the violation has been cured, there shall be no  
2           violation of this section.

3                   (C) FAILURE TO CURE.—If the manufac-  
4           turer or distributor fails to cure a violation  
5           within 30 days of receipt of the written notice  
6           of violation, the Commission may initiate an ac-  
7           tion pursuant to paragraph (2).

8           (i) RELATIONSHIP TO STATE LAWS.—No State or  
9           political subdivision of a State may adopt, maintain, en-  
10          force, prescribe, or continue in effect any law, regulation,  
11          rule, standard, requirement, or other provision having the  
12          force and effect of law of any State, or political subdivision  
13          of a State, related to the provisions of this section, or a  
14          rule, regulation, or requirement promulgated under this  
15          section.

16          (j) EFFECTIVE DATE.—This section shall take effect  
17          on January 1, 2025.

Amend the title so as to read: “A bill to affirm in Federal law the existing right to safe and secure vehicle repairs through automotive diagnostic and repair data, systems, and tools for vehicle owners and independent automotive repairers, and for other purposes.”.

