

Subcommittee on Innovation, Data, & Commerce

Markup of 16 Bills

[November 2, 2023]

Documents for the record

At the conclusion of the meeting, the chair asked and was given unanimous consent to include the following documents into the record:

1. Letter from U.S. PIRG Campaign on H.R. 906, October 26, 2023.
2. Letter from EMA on H.R. 906, October 30, 2023.
3. Letter from AFL-CIO on H.R. 5146, October 25, 2023.
4. Letter from AHLA on the No Hidden Fees on Extra Expenses for Stays Act, November 1, 2023.
5. Letter from MIC on H.R. 906, November 1, 2023.
6. Supplemental document to (5).
7. Supplemental document to (5).
8. Letter from MEMA Aftermarket Suppliers on H.R. 906, November 1, 2023.
9. Technical assistance to H.R. 906.
10. Letter from NHTSA to vehicle manufacturers, June 13, 2023.
11. Letter from Flex on the Advancing Gig Economy Act, November 2, 2023.
12. Letter from AFL-CIO on draft legislation “To establish a supply chain resiliency and crisis response program in the Department of Commerce, and for other purposes,” November 1, 2023.
13. Letter from Consumer Reports on H.R. _____, the “No Hidden Fees on Extra Expenses for Stays Act of 2023,” November 1, 2023.
14. Business Insider article titled “Most Car Companies Can Sell Your Personal Info, Study Finds.”
15. Op-ed titled “REPAIR Act will guarantee the right to safe, affordable and accessible vehicle repair.”
16. Letter from Fix the Tix on H.R. 3950, the TICKET Act.
17. Letter from the United Steelworkers on legislation entitled “To establish a supply chain resiliency and crisis response program in the Department of Commerce, and for other purposes,” November 1, 2023.
18. Letter from the American Association for Justice on Rep. Bucshon’s legislation “To establish a supply chain resiliency and crisis response program in the Department of Commerce, and for other purposes,” November 1, 2023.
19. Letter from CTA on H.R. 5398.
20. Supplemental document to (5).
21. Letter from various organizations on H.R. 906, October 31, 2023.
22. Press release from the Autocare Association on the right to repair.
23. Comments from AAVOR on H.R. 906, November 2, 2023/
24. Letter from over 100 organizations on supply chains, May 10, 2022.

October 26, 2023

The Honorable Gus Bilirakis
Chairman of the Innovation, Data and
Commerce Subcommittee
Energy and Commerce Committee

The Honorable Tim Walberg
Vice Chair of the Innovation, Data and
Commerce Subcommittee
Energy and Commerce Committee

The Honorable Jan Schakowsky
Ranking Member of the Innovation, Data and
Commerce Subcommittee
Energy and Commerce Committee

The Honorable Cathy McMorris Rodgers
Chair of the House
Energy and Commerce Committee

The Honorable Frank Pallone
Ranking Member of the
House Energy and Commerce Committee

Re: Support for mandating equal access to car repair data, HR 906, the REPAIR Act.

Dear Chair and members of the Innovation, Data and Commerce Subcommittee,

As consumer organizations, we are writing to express our support for the REPAIR Act as a common-sense way to improve competition for car repairs and protect small, independent repair shops, as well as protect consumer interests over the data our cars generate. We urge the committee to advance HR 906.

There is a diverse, bipartisan community following Right to Repair issues from coast to coast. Forty-five of the 50 states have considered legislation on this topic in the last few years, and legislation has already been enacted in some five states over the last two years.

As some of the lead organizations working to promote the Right to Repair, we strongly support the goals of the REPAIR Act, which would guarantee that car owners retain the ability to access the wireless data transmitted about the repair and maintenance of their cars. PIRG thoroughly vetted this policy in the lead up to the 2020 ballot measure in Massachusetts, which passed with a 3 to 1 margin. It is clear that the American people support this policy by wide margins.

Car repair is getting increasingly expensive, year after year. Meanwhile, we've turned cars into rolling computers, which depend on the internet to operate. As cars get more dependent on software, manufacturers are using that technology to tether their users to their proprietary services, increasingly impacting repair, in addition to privacy, security and even the safety of our cars.

The data our cars generate should not be viewed as the property of the manufacturer, to be used however they see fit, and at the expense of an open repair market. We should be able to access critical information about the repair and maintenance of our cars, such as potential repair needs, and share that information with our local mechanic if we so choose.

Manufacturers often claim that it would be dangerous for us to access our own car's data, but that, somehow, it is not a risk when manufacturers and dealers access this data. However, independent security experts evaluated these claims and found them without merit. The National Highway Transportation Safety Administration also found that there are safe and secure ways to comply with Massachusetts' new law around telematic data access, the basis of the REPAIR Act.

To the extent that car data poses a risk, lawmakers should set up clear guidelines for the type of data that can and can't be collected, and how that data is transmitted and secured. At the same time, lawmakers must protect independent car repair, a critical part of the American economy. If we allow manufacturers to use software in cars to prevent competition in car repair, costs will keep going up, we will have fewer choices and more hassle when it comes to car repair.

Please do not hesitate to contact us if you have any questions or concerns.

Sincerely,

Nathan Proctor
Senior Right to Repair Campaign Director
U.S. PIRG

ABOUT PIRG: PIRG is an advocate for the public interest. We speak out for a healthier, safer world in which we're freer to pursue our own individual well-being and the common good. PIRG and our network of state organizations have a 50 year track record of bringing people together around solutions that work, and not stopping until we get real results.

George Slover
Senior Counsel for Competition Policy
The Center for Democracy & Technology

ABOUT CDT: The Center for Democracy & Technology (CDT) is the leading nonpartisan, nonprofit organization fighting to advance civil rights and civil liberties in the digital age. We shape technology policy, governance, and design with a focus on equity and democratic values. Established in 1994, CDT has been a trusted advocate for digital rights since the earliest days of the internet.

October 30, 2023

The Honorable Cathy McMorris Rodgers
Chair
Energy and Commerce Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
Energy and Commerce Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Gus Bilirakis
Chairman
Innovation, Data, and Commerce Subcmte.
Energy and Commerce Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jan Schakowsky
Ranking Member
Innovation, Data, and Commerce Subcmte.
Energy and Commerce Committee
U.S. House of Representatives
Washington, D.C. 20515

**RE: H.R. 906 – Right to Equitable and Professional Auto Industry Repair Act
(REPAIR Act)**

Dear Chair Rodgers, Chairman Bilirakis, Ranking Member Pallone, and Ranking Member Schakowsky:

The Truck and Engine Manufacturers Association (EMA) represents the Nation’s leading manufacturers of commercial vehicles, internal combustion engines, and zero-emission powertrains. EMA member companies design and produce vehicles with a gross vehicle weight rating (GVWR) greater than 10,000 pounds. Those heavy-duty vehicles are highly customized to perform a wide variety of commercial functions, including, but not limited to, interstate trucking, regional freight shipping, intracity pickup and delivery, parcel delivery, refuse hauling, construction, emergency services, and public transportation.

The stated purpose of H.R. 906 is to ensure that consumers have access to relevant data from their automobiles. However, the bill applies to “motor vehicles,” a broad term that includes passenger automobiles and that are purchased by consumers, and it applies to heavy-duty commercial vehicles that are *not* automobiles and are *not* used by consumers. We request that the Energy and Commerce Committee modify H.R. 906 to avoid the unnecessary, imprudent, and apparently unintentional extension of the bill to commercial vehicles.

Commercial vehicles are sold to trucking companies and other entities in business-to-business transactions. They are not simply big cars. Commercial vehicles are produced in annual volumes of less than five percent that of passenger automobiles. Passenger cars are marketed to

consumers for their personal use to carry people and their belongings. Commercial vehicles are purchased by trucking companies and other businesses that highly customize the vehicles to suit their specific commercial needs. Additionally, commercial vehicles are not manufactured in a vertically integrated fashion like automobiles; instead they may have an engine, transmission, and rear axle each produced by a different supplier.

As written, H.R. 906 would require commercial vehicle manufacturers to provide access to data that independent component manufacturers would not. Commercial vehicle manufacturers design and build proprietary components, and also offer components built by independent manufacturers -- thus they are in direct competition with their own suppliers. By applying to vehicle manufacturers, the H.R. 906 data access requirements would unfairly advantage independent component manufacturers and expose vehicle manufacturers to unavoidable enforcement liability. Under the enforcement provisions in the bill, a commercial vehicle manufacturer could be found liable for withholding electronic engine data that the independent supplier is not obligated to provide.

Most commercial vehicles are built in multiple stages, with the “vehicle” manufacturer producing an incomplete chassis that must be finished by an independent body manufacturer to become a dump truck, ambulance, or shuttle bus – or any one of wide range of vehicle configurations. Many completed commercial trucks will have yet another manufacturer install equipment like a pump, lift, or crane before the vehicle is put into service. H.R. 906 would apply to thousands of small and specialized businesses that install bodies and equipment on those chassis to complete commercial vehicles. The enforcement provisions in the bill may be devastating to many small bodybuilders in the commercial vehicle manufacturing chain.

Maintenance and repair of commercial vehicles is performed in a manner that is consistent with the business-to-business nature of the industry. An out-of-service commercial vehicle is a stranded asset for the business that purchased it; therefore manufacturers employ service managers, service engineers, and 24-hour call centers that are singularly focused on getting vehicles back in service as quickly as possible. To most efficiently maintain and repair vehicles, many trucking fleets obtain authorization from the manufacturer to perform their own warranty and service repairs, with access to the same tools and data as a dealership. Often it becomes necessary for commercial vehicle dealerships to contract with independent repair facilities, that also have access to all the necessary tools and information, to complete warranty and service repairs. Additionally, truck dealerships frequently must cooperate with component distributors to ensure that repairs are properly allocated between component and vehicle service facilities. To keep their businesses profitable, trucking fleets demand that commercial vehicles are serviced and repaired as efficiently as possible.

It is unclear what data access problem with commercial vehicles that H.R. 906 would solve. The business-to-business relationships between commercial vehicle manufacturers and users drives the efficient and flexible service operations, where all parties have access to the data they need to maximize vehicle uptime.

Access to vehicle-generated data of commercial vehicles would increase the risk of

particular and serious dangers. Heavy-duty commercial vehicles use increasingly sophisticated electronic driver assistance systems and comprehensive fleet management telematics systems. Interference with safety-critical functions like steering, acceleration, and braking of an 80,000-pound tractor-semitrailer combination vehicle could be disastrous, especially if the vehicle is carrying hazardous materials. Additionally, malicious actors are highly motivated to gain access to fleet management telematics to steal trucking business secrets and to enable cargo theft.

Congress and the federal agencies address passenger automobiles and commercial vehicles separately and differently. Those independent statutory and regulatory approaches exist because of many of the distinctions between the two industries that are mentioned above. A unique approach for commercial vehicles by the Environmental Protection Agency has resulted in very successful heavy-duty engine and vehicle programs to reduce pollutant and greenhouse gas emissions. Similarly, the National Highway Safety Administration has highly successful programs to that address heavy-duty vehicle safety. Congress created the Federal Motor Carrier Administration solely to improve the safety of commercial vehicles and their operation.

We support sensible regulation of the commercial vehicle industry; however, as written, H.R. 906 would create significant negative consequences by imprudently extending a consumer-oriented passenger automobile program to heavy-duty commercial vehicles. Accordingly, we request modifying the H.R. 906 definition of “motor “vehicle” to clarify that the bill does not apply to heavy-duty commercial vehicles with a GVWR greater than 10,000 pounds. The clarification may be accomplished with the following modification to Sec. 7:

(8) MOTOR VEHICLE.—The term “motor vehicle” has the meaning given such term in section 30102(a) of title 49, United States Code, except the term does not include vehicles with a gross vehicle weight rating greater than 10,000 pounds, and of the 23 term “motor vehicle trailer” in section 390 of title 24 49, Code of Federal Regulations.

We stand ready to work with the Committee to understand and address any aspect of data availability that is negatively affecting the maintenance and repair of commercial vehicles. Should you have any questions or need any additional information, please do not hesitate to contact me at (312) 929-1972 or tblubaugh@emamail.org.

Respectfully submitted,



Timothy A. Blubaugh
Truck and Engine Manufacturers Association

AFL-CIO

LEGISLATIVE ALERT

October 25, 2023

Innovation, Data, And Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Members of the Subcommittee on Innovation, Data, and Commerce:

On behalf of the 60 affiliates of the AFL-CIO, representing 12.5 million working people, the AFL-CIO urges you to vote no on H.R. 5146, the Advancing Gig Economy (AGE) Act. This legislation serves only to bolster a sector that currently degrades job quality and dilutes worker power by circumventing the state and federal laws that provide guaranteed wage levels, overtime pay, safety protections, and other benefits.

All workers deserve a job with good wages and benefits, strong labor standards, workplace safety, and union representation. The current trend of wage stagnation and racial and economic inequality, directly related to the growing gig economy, is unsustainable and threatens future economic growth.

The AGE Act, however, seeks to expand the gig economy without providing any safeguards or protections for the workers who make these businesses run. The bill provides no opportunity for workers or their unions to comment on whether “promoting the growth of the gig economy” is a worthy effort for the federal government or state governments at all.

As explained in our submission to the Subcommittee for its Wednesday, September 20, 2023 hearing on this bill, we have serious concerns with the work directed by this legislation, the agencies directed to perform the research, and the lack of clarity regarding the definitions of platform and app-based work. At base, the federal government should not work to embolden an industry that often pays less than the minimum wage and evades basic protections like overtime, sick pay, or unemployment insurance.

Therefore, we ask that you vote no on this legislation.

Sincerely,



William Samuel
Director, Government Affairs



November 1, 2023

The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank Pallone Jr.
Ranking Member
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

The Honorable Gus M. Bilirakis
Chairman
Subcommittee on Innovation, Data, and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Janice D. Schakowsky
Ranking Member
Subcommittee on Innovation, Data, and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chair McMorris Rodgers, Ranking Member Pallone, Chairman Bilirakis, and Ranking Member Schakowsky,

On behalf of the American Hotel and Lodging Association (AHLA), I am writing to express our support for the No Hidden Fees on Extra Expenses for Stays Act.

AHLA is the singular voice representing every segment of the hotel industry including major chains, independent hotels, management companies, REITs, bed and breakfasts, industry partners, and more. The industry is made up of more than 62,000 hotels, 33,000 of which are small businesses, comprising 5.6 million rooms across the United States. These hotels generate more than \$300 billion in sales every year and support more than 8.3 million jobs. Hotels are integral contributors to communities across the country and annually generate nearly \$75 billion in tax revenue at the federal, state, and local levels.

AHLA is thankful to Representative Young Kim, along with the Committee, for recognizing the need for consistent and broadly applicable mandatory fee disclosure and display requirements across the *entire* lodging, booking, and advertising ecosystem. This bill would create a national standard for display of lodging prices and require that any mandatory fees be included in prices wherever they are advertised, distributed, and sold. We recognize that work continues on the bill and look forward to engaging with members of the Committee in a bipartisan fashion on final legislation.

While hotels disclose mandatory additional fees to consumers in accordance with existing FTC guidance now, it is vital that any updated display requirements apply across the competitive lodging advertising and booking landscape. Recently, many of the largest hotel chains that AHLA represents – including Marriott International, Hilton, Choice Hotels International, Omni Hotels & Resorts, and Hyatt – have implemented, or announced plans to imminently implement, changes to ensure that mandatory fees are displayed upfront in the pricing consumers are offered through their owned channels.

Critically, as consumers shop for and book lodging through a wide variety of channels and providers, this proposed legislation would apply to third-party distributors, such as online travel agencies (e.g., Expedia), metasearch sites (e.g., Google), as well as short-term rental platforms (e.g., Airbnb), the bulk of which currently do not include mandatory fees in upfront pricing. Any regulation mandating fee display and disclosure must be consistently applied to *all* accommodation providers, advertisers, and broader industry participants to ensure consumers see the same information, in a consistent manner, anywhere they shop. A level competitive playing field for industry participants paired with clear and consistent display for consumers is of paramount importance and we believe this drafted legislation achieves those goals.

We look forward to working with you and your colleagues to support America's hotel and lodging industry, employees, guests, and local communities.

Sincerely,

Chip Rogers
President and CEO
American Hotel and Lodging Association



**MOTORCYCLE
INDUSTRY
COUNCIL.**

November 1, 2023

RE: HR 906 Mark-up Hearing – exclude motorcycles

House Energy & Commerce Subcommittee Members on Innovation, Data and Commerce:

The Motorcycle Industry Council (MIC) is a not-for-profit, national trade association representing several hundred manufacturers, distributors, dealers and retailers of motorcycles, scooters, motorcycle parts, accessories and related goods, and allied trades. We are a \$50 billion per year industry with many Original Equipment Manufacturers (OEMs) and more than 8,000 retailers that support 73,000 jobs at dealerships which are typically small business contributors in every state across the nation.

MIC's motorcycle manufacturers and dealers have significant concerns with HR 906 and request that motorcycles be excluded from the bill. We also support the substitute bill/amendment that we understand Representatives Bucshon and Dingell will be offering, which has the support of the Alliance For Automotive Innovation (AFAI) and others. Short of excluding motorcycles or including amendments that would clarify our concerns, we must oppose the bill.

The Subcommittee's recent hearing focused on the need to codify a right to repair Memorandum of Understanding that was reached between the auto industry and independent repair organizations this summer. Many of the members and witnesses focused on a need to ensure the MOU has enforceability, which is what HR 906 intended to do.

Unfortunately, HR 906 goes well beyond the MOU's parameters and due to the definition of motor vehicle used in the bill, adjacent industries are captured and subjected to provisions that are largely not issues for the motorcycle industry. Almost none of our motorcycle manufacturers capture any over-the-air telematics, and the two companies that do have very limited vehicles with the service. Motorcycles are brought into dealerships for warranty services and for those that are out of warranty, individuals and independent motorcycle repair shops have access to printed and/or online services to diagnose and repair their vehicles. OEMs make proprietary online services and tools available either directly through the OE or through their franchise dealers for purchase. OEMs charge their franchise dealers for access to the diagnostics system and HR 906 should not prohibit the same fees from being collected from individuals or independent repair shops. Establishing and maintaining these systems are quite expensive and one segment of the repair community should not be given free access while others must pay. Doing so would harm dealerships and their small business bottom line.

We support the Bucshon/Dingell amendment that would accomplish the stated goal of codifying the auto industry MOU and appreciate your consideration of supporting that targeted approach.

Sincerely,

A handwritten signature in blue ink that reads "Scott P. Schloegel".

Scott P. Schloegel
Senior Vice President Government Relations
Motorcycle Industry Council



MOTORCYCLE
INDUSTRY
COUNCIL

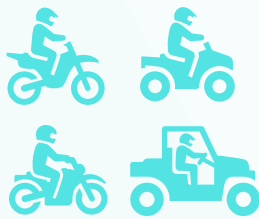
**U.S. TOTAL
2022**

ECONOMIC IMPACT OF THE POWERSPORTS INDUSTRY



\$50.1 Billion

THE VALUE OF THE POWERSPORTS
RETAIL MARKETPLACE



1.4 Million

ESTIMATED NEW
POWERSPORTS RETAIL SALES

DIRECT ECONOMIC CONTRIBUTIONS OF POWERSPORTS RETAILERS



8,035

NUMBER OF POWERSPORTS
RETAILERS



73,081

PEOPLE EMPLOYED AT
DEALERSHIPS



\$3.4 Billion

TOTAL PAYROLL

NATIONAL OWNERSHIP



52% of Millennial motorcycle owners frequently commute via motorcycle



The median income of motorcycle owners in the U.S. was **\$62,500**



69% of Millennial motorcycle owners were interested in purchasing an electric motorcycle in the future. Top drivers were Gas Prices and the Environment



74% of motorcycle owners had achieved at least some college or post-graduate education



For more information about the motorcycle and powersports industry in your district, please contact the MIC's Government Relations Office at (703) 416-0444.

To receive our weekly Ride Report, please visit mic.org.

Source:
2020 MIC Retail Outlet Audit
2022 MIC Retail Outlet Profile Study
2018 MIC Motorcycle Owner Survey

2021 MIC Motorcycle Statistical Annual
2020 Estimated New Powersports Retail Sales,
Motorcycle Industry Council, Inc., Irvine, CA
U.S. Department of Transportation, Federal Highway
Administration, December 2020





MOTORCYCLE
INDUSTRY
COUNCIL

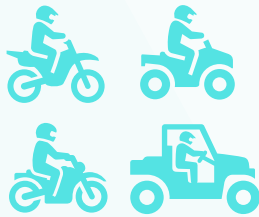
FLORIDA 2022

ECONOMIC IMPACT OF THE POWERSPORTS INDUSTRY



\$3.0 Billion

THE VALUE OF THE POWERSPORTS
RETAIL MARKETPLACE



76,297

ESTIMATED NEW
POWERSPORTS RETAIL SALES

DIRECT ECONOMIC CONTRIBUTIONS OF POWERSPORTS RETAILERS



502

NUMBER OF POWERSPORTS
RETAILERS



3,787

PEOPLE EMPLOYED AT
DEALERSHIPS



\$163.1 Million

TOTAL PAYROLL

NATIONAL OWNERSHIP



52% of Millennial motorcycle owners frequently commute via motorcycle



The median income of motorcycle owners in the U.S. was **\$62,500**



69% of Millennial motorcycle owners were interested in purchasing an electric motorcycle in the future. Top drivers were Gas Prices and the Environment



74% of motorcycle owners had achieved at least some college or post-graduate education



For more information about the motorcycle and powersports industry in your district, please contact the MIC's Government Relations Office at (703) 416-0444.

To receive our weekly Ride Report, please visit mic.org.

Source:
2020 MIC Retail Outlet Audit
2022 MIC Retail Outlet Profile Study
2018 MIC Motorcycle Owner Survey

2021 MIC Motorcycle Statistical Annual
2020 Estimated New Powersports Retail Sales,
Motorcycle Industry Council, Inc., Irvine, CA
U.S. Department of Transportation, Federal Highway
Administration, December 2020





November 1, 2023

The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20510

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20510

The Honorable Gus Bilirakis
Chairman
Subcommittee on Innovation, Data,
and Commerce
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20510

The Honorable Jan Schakowsky
Ranking Member
Subcommittee on Innovation, Data,
and Commerce
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20510

Dear Chair Rodgers, Chairman Bilirakis, Ranking Member Pallone, and Ranking Member Schakowsky:

We are MEMA Aftermarket Suppliers – a membership group within MEMA, The Vehicle Suppliers Association. We are comprised of the companies that manufacture and remanufacture parts, components, and systems for use in the motor vehicle aftermarket. Aftermarket suppliers ensure that quality parts and service choices are available to the 294 million vehicles on our nation’s roads. Suppliers are the foundation of a vibrant aftermarket industry, which employs more than 4 million Americans across manufacturers, motor vehicle repair facilities, distribution centers, and service providers. On behalf of this industry, MEMA Aftermarket Suppliers urges the Members of the Subcommittee on Innovation, Data, and Commerce to support reporting H.R. 906, the Right to Equitable and Professional Auto Industry Repair (REPAIR) Act out of subcommittee during the upcoming business meeting and to oppose any amendments in the nature of a substitute.

For more than 100 years, vehicle owners have been able to choose where and with what parts and components to repair their vehicles. For some vehicle owners, those repairs have been “do-it-yourself” or, in the case of fleet owners, completed by an employee. The vast majority of vehicle repairs are conducted at independent aftermarket repair facilities due to choices of convenience and price. In the United States, the independent aftermarket currently provides about 70 percent of post-warranty automobile repairs; approximately 70 percent of repairs of all heavy-duty commercial vehicle repairs are completed by the fleets.

New technologies continue to limit independent repair shops’ access to vehicle data, creating more repair and maintenance barriers. Without legislation, the independent aftermarket’s service and repair market share could shrink from 70 percent to just 54 percent by 2035, redirecting \$92 billion out of the aftermarket. The resulting decreased competition will have a significant impact on consumers, including higher costs, longer wait times, and fewer options.

MEMA, The Vehicle Suppliers Association

79 TW Alexander Drive • 4501 Research Commons • Suite 200 • P.O. Box 13966 • Research Triangle Park, NC 27709
919-549-4800 • Fax: 919-549-1465 • mema.org

Just as important, the independent aftermarket already ensures the safety, cybersecurity, and privacy of vehicle data. The aftermarket has a long history of securely handling private information and has worked in partnership with the entire industry to safeguard that data. The REPAIR Act builds upon the approaches the aftermarket currently relies on and the methods employed by automakers. The collaborative industry governance, as envisioned in the REPAIR Act, will lead to a safer and more cybersecure future for consumers. Providing the aftermarket—both repair shops and suppliers—with direct wireless, bi-directional access to, and only to, the vehicle data necessary will allow the industry to continue to meet this market demand in a safe and cybersecure fashion.

The REPAIR Act is a comprehensive bill with bipartisan cosponsors. The legislation will ensure that consumers and vehicle owners can:

- Choose access to both light-duty and heavy-duty vehicle repair, maintenance, and parts of their choosing through all iterations of vehicle technology on the road today and to come.
- Access to all necessary telematics and diagnostics data for the vehicles they own.

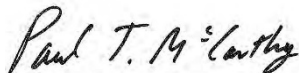
Additionally, the REPAIR ACT will ensure a vibrant and competitive marketplace by:

- Creating a mechanism for enforcement safeguarding access to information and data.
- Ensuring the ability for independent repair shops and suppliers, using bi-directional communication, to update vehicles and parts to the latest software.
- Authorizing the National Highway Traffic and Safety Administration (NHTSA) to set cybersecurity rules governing wireless access.
- Addressing the risk of repair monopolies that can occur when access to data and information is restricted.

MEMA Aftermarket Suppliers also urges the Subcommittee to oppose the amendment in the nature of a substitute filed by Representative Buchson. The amendment codifies portions of a Memorandum of Understanding (MOU) from 2014 but fails to address key consumer protections addressed in the REPAIR Act. These essential consumer protections include enforcement, inclusion of all classes and sizes of vehicle in operation, access to telematics and diagnostics data beyond that available through the OBD-II port, the ability for independent repair shops, using bi-directional communication, to update vehicles and parts to the latest software, address the risk of repair monopolies, and protections ensuring consumers access to vehicle repair, maintenance, and parts of their choosing through all iterations of vehicle technology on the road today and coming in the future.

MEMA Aftermarket Suppliers thanks the Subcommittee for holding the upcoming business meeting and is committed to working with Subcommittee members and stakeholders to identify further improvements to the bill. We urge the Subcommittee to favorably report H.R. 906 to the full Committee and to seek a consensus on this critical consumer issue. If you have questions or need additional information, please contact Catherine Boland at cboland@mema.org or 301-509-2791.

Sincerely,



Paul McCarthy
President and Chief Operating Officer
MEMA Aftermarket Suppliers



This technical drafting assistance is provided in response to a Congressional request and is not intended to reflect the viewpoint or policies of any element of the Department of Transportation or the Administration.

118TH CONGRESS
1ST SESSION

I

H. R. 906

To ensure consumers have access to data relating to their motor vehicles, critical repair information, and tools, and to provide them choices for the maintenance, service, and repair of their motor vehicles, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2023

Mr. DUNN of Florida (for himself, Mr. BOYLE of Pennsylvania, Mr. DAVIDSON, and Ms. PEREZ) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To ensure consumers have access to data relating to their motor vehicles, critical repair information, and tools, and to provide them choices for the maintenance, service, and repair of their motor vehicles, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Right to Equitable and
5 Professional Auto Industry Repair Act” or the “REPAIR
6 Act”.

This technical drafting assistance is provided in response to a Congressional request and is not intended to reflect the viewpoint or policies of any element of the Department of Transportation or the Administration.

1 SEC. 2. FINDINGS.

2 Congress finds that—

3 (1) as technology advances and vehicle systems
4 become more advanced, vehicle repair and mainte-
5 nance will require access to extensive vehicle data,
6 software, sophisticated replacement components,
7 training, diagnostic tools, and enhanced diagnostic
8 repair services;

9 (2) consumers and their designees must have
10 access to vehicle-generated data and aftermarket
11 parts that are necessary to maintain consumer
12 choice and competitive pricing;

13 (3) consumer choice, consumer control, motor
14 vehicle cybersecurity, and safety are all valid con-
15 cerns and do not have to be mutually exclusive;

16 (4) vehicles generate increasingly massive
17 amounts of data and the Federal Trade Commission
18 and the National Highway Traffic Safety Adminis-
19 tration are uniquely positioned, after considering
20 consumers' privacy and cybersecurity needs, to des-
21 ignate additional types of data not specifically con-
22 sidered or identified by Congress that consumers
23 should be able to easily share with persons they
24 choose for the reasons they choose and examine fair
25 competition in evolving motor vehicle technologies;
26 and

This technical drafting assistance is provided in response to a Congressional request and is not intended to reflect the viewpoint or policies of any element of the Department of Transportation or the Administration.

1 (5) it is in the interest of the United States to
2 foster competition in the motor vehicle repair indus-
3 try and not limit consumers in their choices for
4 maintenance, service, and repair, allowing consumers
5 and the industry to benefit from a system that fos-
6 ters communication, collaboration, and innovation
7 and promotes consumer choice.

8 **SEC. 3. MAINTAINING COMPETITION AFTER CONSUMERS**
9 **PURCHASE OR LEASE THEIR MOTOR VEHI-**
10 **CLES.**

11 (a) IN GENERAL.—

12 (1) PROHIBITION ON MOTOR VEHICLE MANU-
13 FACTURERS WITHHOLDING OF DATA, CRITICAL RE-
14 PAIR INFORMATION, AND TOOLS.—A motor vehicle
15 manufacturer shall not employ any technological
16 barrier or specified legal barrier that impairs the
17 ability of—

18 (A) a motor vehicle owner or the motor ve-
19 hicle owner’s designee to access vehicle-gen-
20 erated data pursuant to subparagraphs (A) and
21 (B) of paragraph (2);

22 (B) a motor vehicle owner or the motor ve-
23 hicle owner’s designee, or an aftermarket parts
24 manufacturer, a motor vehicle equipment manu-
25 facturer, an aftermarket parts remanufacturer,

Commented [NH TSA1]: “any barrier” is broad. Could be interpreted to mean that “authentication” necessary to protect cybersecurity falls into this category. If an owner is provided valid credentials, without the need for expensive specialized tools, authentication may not be considered a barrier.

Commented [NH TSA2]: This requirement would conflict with Vehicle Safety Act obligations to remedy defects where the maintenance of such barrier is critical to automotive safety. Further, this appears to conflict with section (a)(4) below on cybersecurity.

Commented [NH TSA3]: “or” should be “such as” to be consistent with the rest of the bill that focuses on the owner having access or having the option to designate access. This contemplates access to third parties without an owner designation as written.

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1 or a motor vehicle repair facility and their dis-
2 tributors and service providers to access critical
3 repair information and tools pursuant to para-
4 graph (2)(C);

5 (C) a motor vehicle owner or the motor ve-
6 hicle owner’s designee to use a vehicle towing or
7 service provider of their choice;

8 (D) an aftermarket parts manufacturer, a
9 motor vehicle equipment manufacturer, an
10 aftermarket parts remanufacturer, or a motor
11 vehicle repair facility and their distributors and
12 service providers to produce or offer compatible
13 aftermarket parts; or

14 (E) a motor vehicle owner or the motor ve-
15 hicle owner’s designee to diagnose, repair, and
16 maintain a motor vehicle in the same manner
17 as any motor vehicle manufacturer or motor ve-
18 hicle dealer.

19 (2) REQUIREMENT TO PROVIDE MOTOR VEHI-
20 CLE DATA TO OWNERS.—A motor vehicle manufac-
21 turer shall—

22 (A) effective on the date of enactment of
23 this Act, provide for motor vehicle owners or
24 their designees, without restrictions or limita-
25 tions (including a fee, license, or fee to use a
manufacturer device if necessary), to

Commented [NHTSA4]: This is broad. Access to vehicle data is necessary to repair a vehicle. What goes into offering compatible aftermarket parts is generally a different business decision.

Repairing a vehicle per owner’s designation is already handled in (B). Recommend deleting (D).

Commented [NHTSA5]: Same comment as above. Where the restrictions are necessary to maintain safety, this requirement appears to conflict with the Vehicle Safety Act obligations of those manufacturers.

Commented [NHTSA6]: There may be privacy or security concerns with this.

Also, “requiring of a device mandated by the motor vehicle manufacturer” may not be the barrier, but rather the cost of the tool or fees associated with the manufacturer device that may be the issue.

Deleted: requiring use of a device mandated by the motor vehicle manufacturer to decrypt vehicle-generated data)

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1 have access to vehicle-generated data;
2 (B) beginning not later than 1 year after
3 publication of the final rule issued under sec-
4 tion 5(b), if the motor vehicle manufacturer uti-
5 lizes wireless technology or telematics systems
6 to transmit any vehicle-generated data, make
7 available vehicle-generated data described in
8 subparagraph (A) to the motor vehicle owner
9 and their designees, directly and wirelessly from
10 the vehicle through a standardized access plat-
11 form; and

12 (C) effective on the date of enactment of
13 this Act, make available to motor vehicle owners
14 and their designees, **such as** aftermarket parts manu-
15 facturers, aftermarket parts remanufacturers,
16 and motor vehicle repair facilities, and their dis-
17 tributors and service providers without restric-
18 tions or limitations, any critical repair informa-
19 tion and tools related to the motor vehicles it
20 manufactures at a fair, reasonable, and non-
21 discriminatory cost.

22 (3) PROHIBITION ON CERTAIN MANDATES BY
23 MOTOR VEHICLE MANUFACTURERS RELATED TO RE-

Commented [NHTSA7]: This is broad. Cryptography should be excluded from consideration of being a restriction or limitation. OEMs may need to be able to employ cryptography if they have to provide the owner a key to access that data. If cryptography is not allowed, there may be serious cybersecurity/safety issues.

Commented [NHTSA8]: Vehicle owner's designee cover the intent and everything else are examples. If others can access without owner's designation, it may create cybersecurity and privacy concerns.

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1 PAIRS.—Outside of recall and warranty repairs, a
2 motor vehicle manufacturer shall not, within repair
3 or maintenance service procedures, recommenda-
4 tions, service bulletins, repair manuals, position
5 statements, or other similar repair or maintenance
6 guides that are distributed to consumers or to pro-
7 fessional repairers—

8 (A) mandate or imply a mandate to use
9 any particular brand or manufacturer of parts,
10 tools, or equipment; or

11 (B) recommend the use of any particular
12 brand or manufacturer of parts, tools, or equip-
13 ment unless the motor vehicle manufacturer
14 provides a prominent notice immediately fol-
15 lowing the recommendation, in the same font as
16 the recommendation and in a font size no
17 smaller than the font size used in the rec-
18 ommendation, stating that: “Vehicle owners can
19 choose which repair parts, tools, and equipment
20 to purchase and should carefully consider their
21 options.”.

22 (4) CYBERSECURITY.—Nothing in this section
23 shall preclude a manufacturer from employing cryp-
24 tographic or technological protections necessary to

Commented [NHTSA9]: Subpar parts can put the whole vehicle at risk.

OEMs may need to warn consumers of the potential impacts of replacement parts that may not have validated integrity.

Commented [NHTSA10]: Parts of this bill conflict with this statement.

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1 secure vehicle-generated data, safety critical vehicle
2 systems, and vehicles.

3 (5) PROHIBITION ON CERTAIN LIMITATIONS.—
4 The entity managing access to vehicle-generated
5 data transmitted by the standardized access plat-
6 form shall not limit the number or types of persons
7 which each motor vehicle owner may designate as si-
8 multaneous designees under this subsection.

9 (6) NOTIFICATIONS.—Each motor vehicle man-
10 ufacturer shall notify motor vehicle owners either via
11 an on-vehicle screen or through a mobile device that
12 vehicle-generated data is being accessed. Notifica-
13 tions shall specify whether each such access by the
14 motor vehicle owner, a designee of the motor vehicle
15 owner, or the motor vehicle manufacturer, includes
16 the ability to send an in-vehicle command or soft-
17 ware update in order to complete a repair.

18 (7) LIMITATION.—A motor vehicle manufac-
19 turer, including any affiliates of the motor vehicle
20 manufacturer, and any persons working on behalf of
21 the motor vehicle manufacturer, shall not be consid-
22 ered or treated as, or in the same way, as the motor
23 vehicle owner or as designees of the motor vehicle
24 owner for any purpose except for including them in

Commented [NHTSA11]: This is contrary to section (a)(2)(A) above.

Commented [NHTSA12]: In most cases, owners for their own safety/security need to disallow access after repairs are done.

Commented [NHTSA13]: This does not exist.

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1 notifications of persistent access to vehicle-generated
2 data.

3 (b) NULLIFICATION OF ATTEMPTS TO RESTRICT
4 COMPETITION AND CONSUMER RIGHTS.—Any provision
5 in a contract executed on or after the date of enactment
6 of this Act by or on behalf of a motor vehicle manufacturer
7 that purports to violate subsection (a) shall be null and
8 void to the extent that it would allow the motor vehicle
9 manufacturer to avoid its obligations under subsection (a).

10 SEC. 4. FAIR COMPETITION AFTER VEHICLES ARE SOLD
11 ADVISORY COMMITTEE.

12 (a) ESTABLISHMENT.—Not later than 90 days after
13 the date of enactment of this Act, the Commission shall
14 establish a “Fair Competition After Vehicles Are Sold Ad-
15 visory Committee”, hereafter referred to as the “Advisory
16 Committee”. The Chairman of the Commission (or the
17 designee of the Chairman) shall serve as the chairman of
18 the Advisory Committee.

19 (b) MEMBERSHIP.—The Advisory Committee shall be
20 composed of the following members:

21 (1) The Director of the Bureau of Competition,
22 or his or her designee.

23 (2) The Administrator of the National Highway
24 Traffic Safety Administration, or his or her des-
25 ignee.

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1 (3) Eleven individuals, appointed by the Chair-
2 man of the Commission, from each of the following:

3 (A) Independent repair facilities.

4 (B) Motor vehicle parts retailers.

5 (C) Motor vehicle parts distributors.

6 (D) Original equipment parts manufactur-
7 ers.

8 (E) Aftermarket parts manufacturers.

9 (F) Aftermarket tools manufacturers.

10 (G) Motor vehicle manufacturers.

11 (H) Vehicle dealership service centers.

12 (I) Consumer rights organizations.

13 (J) Automobile insurers.

14 (K) Trucking companies.

15 (c) FUNCTION.—The Advisory Committee shall pro-
16 vide recommendations to the Commission on implementa-
17 tion of this Act and competition issues after motor vehicles
18 are sold, including those facing the vehicle repair industry
19 to include an assessment of existing and emerging barriers
20 related to vehicle repair, as well as ensuring motor vehicle
21 owners' control over their vehicle-generated data.

22 (d) DUTIES.—In carrying out its function under sub-
23 section (c), the Advisory Committee shall—

24 (1) foster industry collaboration in a clear and
25 transparent manner;

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- 1 (2) coordinate with and include participation by
2 the private sector, including representatives of—
3 (A) independent repair facilities;
4 (B) motor vehicle parts retailers;
5 (C) motor vehicle parts distributors;
6 (D) original equipment parts manufactur-
7 ers;
8 (E) aftermarket parts manufacturers;
9 (F) aftermarket tools manufacturers;
10 (G) motor vehicle manufacturers;
11 (H) vehicle dealership service centers;
12 (I) consumer rights organizations;
13 (J) automobile insurers;
14 (K) members of the public; and
15 (L) other interested parties; and
16 (3) assess existing and emerging barriers to
17 competitive vehicle repair.
18 (e) MEETINGS.—The Advisory Committee shall meet
19 at least three times per year at the call of the chairman.
20 (f) REPORT.—On at least an annual basis, the Advi-
21 sory Committee shall issue a report to the chairman on
22 efforts by the industries represented within the Advisory
23 Committee to implement this Act as well as an assessment
24 of existing and emerging barriers to vehicle repair and
25 motor vehicle owners' control over their vehicle-generated

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1 data, including whether additional types of data should be
2 included in the definition of vehicle-generated data. The
3 Commission shall provide a copy of each report to the
4 Committee on Energy and Commerce of the House of
5 Representatives and the Committee on Commerce,
6 Science, and Transportation of the Senate within 30 days
7 of receipt of each report.

8 (g) TERMINATION.—The Advisory Committee shall
9 terminate upon an agreement of a majority of the mem-
10 bership. The Advisory Committee shall provide notice of
11 its planned termination to the Committee on Energy and
12 Commerce of the House of Representatives and the Com-
13 mittee on Commerce, Science, and Transportation of the
14 Senate, not later than 30 days prior to such termination
15 and shall include a basis for the termination.

16 SEC. 5. RULEMAKING AND OTHER DIRECTIVES.

17 (a) SECURITY STANDARDS FOR ACCESS TO VEHICLE-
18 GENERATED DATA THROUGH THE STANDARDIZED AC-
19 CESS PLATFORM.—Not later than 1 year after the date
20 of enactment of this Act, the National Highway Traffic
21 Safety Administration, in consultation with the Commis-
22 sion, shall, by regulations issued under section 553 of title
23 5, United States Code, issue standards for access to data
24 through the standardized access platform and establish
25 guidance to ensure the security of vehicle-generated data

Commented [NHTSA14]: NHTSA's FMVSS are performance standards focusing on resolving motor vehicle safety issues. Security of vehicle-generated data may not always present a safety issue, and depends on the architecture of the vehicle. Under 49 USC 30111, NHTSA could not issue a standard (i.e., FMVSS) if safety is not at issue.

5 USC 553 is the general rulemaking process that agencies must follow – it is not a substantive provision that provides authority for NHTSA or any other agency to issue substantive regulations.

NHTSA would not be able to issue standards because to our knowledge no standardized access platform currently exists, and would not be able to meet this deadline.

Commented [NHTSA15]: As currently written none of NHTSA enforcement mechanisms would apply to regulations issued pursuant to this section.

See comment to section 6 below.

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1 and vehicles as related to the access of vehicle-generated
2 data required pursuant to this Act.

3 (b) DESIGNATION OF INDEPENDENT ENTITY TO AD-
4 MINISTER ACCESS TO DATA THROUGH THE STANDARD-
5 IZED ACCESS PLATFORM.—

6 (1) IN GENERAL.—Not later than 2 years after
7 the date of enactment of this Act, the Commission,
8 in consultation with the National Highway Traffic
9 Safety Administration, shall, by regulations issued
10 under section 553 of title 5, United States Code,
11 designate an independent entity not controlled by
12 one or more motor vehicle manufacturers to estab-
13 lish and administer access to vehicle-generated data
14 transmitted by standardized access platforms.

15 (2) COMPOSITION.—Such independent entity
16 designated under paragraph (1) shall consist of a
17 cross-section of industry stakeholders, including
18 aftermarket part manufacturers, telematics service
19 providers, and motor vehicle manufacturers.

20 (3) RESPONSIBILITIES.—The responsibilities of
21 such independent entity shall include—

22 (A) managing cybersecure access of vehi-
23 cle-generated data, including ensuring, on an
24 ongoing basis, that access to the platform is se-
25 cure based on all applicable international stand-

Commented [NHTSA16]: This creates large scale cybersecurity risks. DHS, DOD, and other security agencies would need to be involved in administration of such an entity.

There may be constitutional concerns with this structure.

Commented [NHTSA17]: This composition may not be sufficient in representing national security risks created by centralizing access to all vehicles.

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1 ards, including those required by the National
2 Highway Traffic Safety Administration in the
3 final regulations issued pursuant to paragraph
4 (1);

5 (B) managing legitimate data requests,
6 data standardization, and harmonization; and

7 (C) dispute resolution.

8 (c) INFORMING MOTOR VEHICLE OWNERS OF THEIR
9 RIGHTS UNDER THIS ACT.—Not later than 2 years after
10 the date of enactment of this Act, the Commission, in con-
11 sultation with the National Highway Traffic Safety Ad-
12 ministration, shall issue final regulations under section
13 553 of title 5, United States Code, to require motor vehicle
14 manufacturers and motor vehicle dealers to inform motor
15 vehicle owners of their rights under this Act at the point
16 of purchase or lease of a motor vehicle.

17 SEC. 6. ENFORCEMENT BY THE FEDERAL TRADE COMMIS-
18 SION.

19 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—

20 A violation of this Act or a regulation issued under section
21 5 shall be treated as a violation of a regulation under sec-

22 tion 18(a)(1)(B) of the Federal Trade Commission Act

23 (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive

24 acts or practices. The Commission shall enforce this sec-

25 tion in the same manner, by the same means, and with

Commented [NHTSA18]: This seems unusual for NHTSA to issue regulations and FTC to enforce the regulations. If a violation of this Act or any regulation is a deceptive act or practice (i.e., FTC is responsible for enforcing), then suggest FTC as the agency to issue the regulation in consultation with NHTSA for technical expertise.

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1 the same jurisdiction, powers, and duties as though all ap-
2 plicable terms and provisions of the Federal Trade Com-
3 mission Act (15 U.S.C. 41 et seq.) were incorporated into
4 and made a part of this Act.

5 (b) PRIVILEGES AND IMMUNITIES.—Any person who
6 violates this Act shall be subject to the penalties and enti-
7 tled to the privileges and immunities provided in the Fed-
8 eral Trade Commission Act.

9 (c) COMPLAINT PROCESS.—

10 (1) FILING.—Any person alleging any action
11 taken or refused to be taken by any motor vehicle
12 manufacturer subject to this Act, in violation of this
13 Act may file a complaint with the Commission brief-
14 ly stating the facts of such complaint.

15 (2) NOTIFICATION TO AND RESPONSE FROM
16 MOTOR VEHICLE MANUFACTURER.—Upon receiving
17 a complaint under this subsection, the Commission
18 shall forward the complaint to the motor vehicle
19 manufacturer named in the complaint, and request
20 that such motor vehicle manufacturer answer such
21 complaint in writing within a reasonable time to be
22 specified by the Commission.

23 (3) FURTHER ACTION.—If such motor vehicle
24 manufacturer within the time specified in paragraph
25 (2) has ceased the conduct that is the subject of the

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1 complaint and has otherwise made reparation for
2 any harm or injury alleged to have been caused, the
3 motor vehicle manufacturer shall be relieved of li-
4 ability to the complainant only for the particular vio-
5 lation of law thus complained of. If such motor vehi-
6 cle manufacturer does not satisfy the complaint
7 within the time specified or there is any reasonable
8 ground for investigating such complaint, the Com-
9 mission shall investigate the matters complained of
10 in such manner and by such means as it shall con-
11 sider proper. No complaint may at any time be dis-
12 missed because of the absence of direct damage to
13 the complaint.

14 (4) DEADLINE FOR ORDERS BY THE COMMIS-
15 SION.—The Commission shall, with respect to any
16 investigation of complaint of a violation of this Act
17 or a regulation issued under section 5, issue an
18 order concluding such investigation within 5 months
19 after the date on which the complaint was filed. Any
20 order concluding an investigation under this para-
21 graph shall be a final order and may be appealed to
22 the Federal district court for the District of Colum-
23 bia.

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1 SEC. 7. DEFINITIONS.

2 (a) DEFINITIONS.—In this Act, the following defini-
3 tions apply:

4 (1) AFTERMARKET PART.—The term
5 “aftermarket part” means any part offered for sale
6 or for installation in or on a motor vehicle after such
7 vehicle has left the vehicle manufacturer’s produc-
8 tion line. Such term does not include any original
9 equipment or part manufactured for a motor vehicle
10 manufacturer.

11 (2) BARRIER.—The term “barrier” means a re-
12 striction that prohibits, makes more difficult, or
13 tends to make more difficult, the ability of a person
14 to exercise rights under this Act.

15 (3) CRITICAL REPAIR INFORMATION AND
16 TOOLS.—The term “critical repair information and
17 tools” means all necessary technical and compat-
18 ibility information, tools, equipment, schematics,
19 parts nomenclature and descriptions, parts catalogs,
20 repair procedures, training materials, software, and
21 technology, specifically including but not limited to
22 information related to diagnostics, repair, service,
23 calibration or recalibration of parts and systems to
24 return a vehicle to operational specifications.

Commented [NHTSA19]: Definition should exclude “cryptography” being a form of barrier.

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1 (4) INSURER.—The term “insurer” has the
2 meaning given that term under section 313(r) of
3 title 31, United States Code.

4 (5) MOTOR VEHICLE REPAIR FACILITY.—The
5 term “motor vehicle repair facility” means any per-
6 son or business who, in the ordinary course of its
7 business, is engaged in the business of diagnosis,
8 service, maintenance, repair, or calibration of motor
9 vehicles or motor vehicle equipment.

10 (6) MOTOR VEHICLE DEALER.—The term
11 “motor vehicle dealer” means a dealer, as defined in
12 section 30102(a) of title 49, United States Code,
13 which has an agreement with a motor vehicle manu-
14 facturer related to the diagnostics, repair, or service
15 of a motor vehicle.

16 (7) MOTOR VEHICLE MANUFACTURER.—The
17 term “motor vehicle manufacturer” means an entity
18 manufacturing a “motor vehicle” as defined in sec-
19 tion 30102(a) of title 49, United States Code.

20 (8) MOTOR VEHICLE.—The term “motor vehi-
21 cle” has the meaning given such term in section
22 30102(a) of title 49, United States Code, and of the
23 term “motor vehicle trailer” in section 390 of title
24 49, Code of Federal Regulations.

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1 (9) MOTOR VEHICLE EQUIPMENT.—The term
2 “motor vehicle equipment” has the meaning given
3 such term in section 30102(a) of title 49, United
4 States Code.

5 (10) MOTOR VEHICLE OWNER.—The term
6 “motor vehicle owner” means a person with a
7 present possessive ownership right in a motor vehicle
8 or a lessee of a motor vehicle. It does not include a
9 motor vehicle manufacturer or a person operating on
10 behalf of a motor vehicle manufacturer, a motor ve-
11 hicle financing company, a motor vehicle dealer, or
12 a motor vehicle lessor.

13 (11) PERSON.—The term “person” means an
14 individual, trust, estate, partnership, association,
15 company, or corporation.

16 (12) COMMISSION.—The term “Commission”
17 means the Federal Trade Commission.

18 (13) CHAIRMAN.—The term “Chairman” means
19 the Chairman of the Federal Trade Commission.

20 (14) REMANUFACTURER.—The term “remanu-
21 facturer” means a person utilizing a standardized
22 industrial process by which previously sold, worn, or
23 non-functional products are returned to same-as-
24 new, or better, condition and performance. The proc-
25 ess is in line with specific technical specifications, in-

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1 cluding engineering, quality, and testing standards.

2 The process yields fully warranted products.

3 (15) SERVICE PROVIDER.—The term “service
4 provider” means any designee of a motor vehicle
5 owner or motor vehicle repair facility employed by
6 the motor vehicle owner or motor vehicle repair facil-
7 ity to assist with the diagnosis and repair of a vehi-
8 cle including wireless and remote technologies, or
9 with any other wireless and remote services com-
10 parable to those provided by a vehicle manufacturer.

11 (16) SPECIFIED LEGAL BARRIER.—The term
12 “specified legal barrier” means—

13 (A) requesting a waiver of a motor vehicle
14 owner’s right to use a repair facility of the con-
15 sumer’s choice under this Act, requiring a waiv-
16 er as a condition for purchasing, leasing, oper-
17 ating, or obtaining warranty repairs, or offering
18 any compensation or other incentive for such a
19 waiver; or

20 (B) a barrier included within the definition
21 of “specified legal barrier” in regulations pro-
22 mulgated by the Commission pursuant to sub-
23 section (b).

24 (17) STANDARDIZED ACCESS PLATFORM.—The
25 term “standardized access platform” means a

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1 cybersecure authentication and authorization system
2 developed by a motor vehicle manufacturer, for the
3 motor vehicles it manufactures, that has the ability
4 to securely access and communicate vehicle gen-
5 erated data emanating directly from a motor vehicle
6 via direct local and remote wireless data connections
7 **bidirectionally and in real time.**

Commented [NHTSA20]: This is broad – raises significant cybersecurity issues.

8 (18) TECHNOLOGICAL BARRIER.—The term
9 “technological barrier” means any technological re-
10 striction that prohibits, makes more difficult, or
11 tends to make more difficult, the ability of a person
12 to exercise rights under this Act. It includes any
13 such restriction specifically prohibited by regulations
14 promulgated by the Commission pursuant to sub-
15 section (b).

16 (19) TELEMATICS SYSTEM.—The term
17 “telematics system” means any system in a motor
18 vehicle that collects information generated by the op-
19 eration of the vehicle and transmits such informa-
20 tion, utilizing wireless communications to a remote
21 receiving point where it is stored.

22 (20) VEHICLE-GENERATED DATA.—The term
23 “vehicle-generated data” means any direct, real-
24 time, in-vehicle data generated, or generated and re-
25 tained, by the operation of a motor vehicle related

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1 to diagnostics, repair, service, wear, and calibration
2 or recalibration of parts and systems required to re-
3 turn a vehicle to operational specifications in compli-
4 ance with Federal motor vehicle safety and emis-
5 sions laws, regulations, and standards, as well as
6 any data related to the types of data included within
7 the definition of vehicle-generated data in regula-
8 tions promulgated by the Commission pursuant to
9 subsection (b).

10 (b) AUTHORITY TO EXPAND CERTAIN DEFINI-
11 TIONS.—

12 (1) REGULATIONS.—The Commission, in con-
13 sultation with the National Highway Traffic Safety
14 Administration, may, by regulation under section
15 553 of title 5, United States Code—

16 (A) expand the definition of specified legal
17 barrier under subsection (a)(16) to include bar-
18 riers to—

19 (i) motor vehicle repair; or
20 (ii) control by a motor vehicle owner
21 of the motor vehicle owner’s vehicle-gen-
22 erated data;

23 (B) include within the definition of techno-
24 logical barrier under subsection (a)(18) specific
25 prohibited practices; or

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1 (C) add additional types of data to the def-
2 inition of vehicle-generated data under sub-
3 section (a)(20), regardless of whether those
4 types of data are related to motor vehicle re-
5 pair, taking cybersecurity and privacy into con-
6 sideration, to allow consumers and their des-
7 ignees to directly access additional types of ve-
8 hicle-generated data, and for additional pur-
9 poses.

10 (2) REVIEW.—The Commission shall review its
11 authority under paragraph (1) not less frequently
12 than every 3 years after the date of enactment of
13 this Act to consider whether it is necessary to up-
14 date such definitions under such authority to ensure
15 that the standardized access platform is effective for
16 motor vehicle owners and their designees. In con-
17 ducting such reviews, the Commission shall request
18 comments from aftermarket parts manufacturers,
19 motor vehicle repair facilities, motor vehicle manu-
20 facturers, consumer rights organizations, automobile
21 insurers, and others for the Commission to collect
22 information on new, emerging barriers and other
23 issues relevant to the Commission’s determination of
24 whether to updates such definitions.

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1 **SEC. 8. REPORT TO CONGRESS.**

2 Not later than 2 years after the date of enactment
3 of this Act, and every two years thereafter, the Commis-
4 sion shall submit to the Committee on Energy and Com-
5 merce of the House of Representatives and the Committee
6 on Commerce, Science, and Transportation of the Senate
7 a report that includes—

8 (1) a summary of investigations conducted and
9 orders issued under section 6, including descriptions
10 of unfair practices relating to repair and data access
11 restrictions, and a summary of best practices from
12 stakeholders;

13 (2) actions the Commission is taking to adapt
14 to changes and advances in motor vehicle technology
15 to maintain competition in the motor vehicle
16 aftermarket and to ensure motor vehicle owners'
17 control over their vehicle-generated data; and

18 (3) any recommendations by the Commission
19 for legislation that would improve the ability of the
20 Commission and other relevant Federal agencies to
21 further protect consumers from unfair acts limiting
22 competition in motor vehicle repair and strengthen
23 their control over their vehicle-generated data.

24 **SEC. 9. EFFECT ON STATE LAW.**

25 (a) **IN GENERAL.**—Except as provided in subsection
26 (b), this Act shall preempt State law only to the extent

Commented [NH TSA21]: Open access requirements may create significant cyber security concerns.

This technical drafting assistance is provided in response to a Congressional request and is not intended to reflect the viewpoint or policies of any element of the Department of Transportation or the Administration.

1 a State law imposes a duty on a manufacturer that is nar-
2 rower than the duties described in this section.

3 (b) PREEMPTION.—Notwithstanding subsection (a),
4 this Act shall preempt any State law mandating the use
5 of any particular brand or manufacturer of parts, tools,
6 or equipment for the purpose of maintaining, diagnosing,
7 or repairing a motor vehicle.

8 **SEC. 10. SEVERABILITY.**

9 If any provision of this Act is held to be invalid, the
10 remainder of this Act shall not be affected thereby.

Æ



U.S. Department of Transportation
**National Highway Traffic Safety
Administration**



June 13, 2023

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Dear Counsel for Vehicle Manufacturers:

The National Highway Traffic Safety Administration (NHTSA) is sending this letter to advise vehicle manufacturers of their obligations under the National Traffic and Motor Vehicle Safety Act (Safety Act), 49 C.F.R. Chapter 301, in light of a Massachusetts law that NHTSA believes poses significant safety concerns. That law, previously known as SD645 and now codified at Chapter 93K of the Massachusetts General Laws (the Data Access Law), requires open remote access to vehicle telematics.¹ As explained below, the Data Access Law conflicts with and therefore is preempted by the Safety Act.

While NHTSA has stressed that it is important for consumers to continue to have the ability to choose where to have their vehicles serviced and repaired, consumers must be afforded choice in

¹ NHTSA understands that Massachusetts stated its intent to enforce the law beginning on June 1, 2023. *Alliance for Automotive Innovation v. Campbell*, Case No. 1:20-cv-12090, Dkt. No. 330 (“Notice of Intent to Terminate Non-Enforcement Stipulation”) (D. Mass) (hereinafter “Notice of Intent”).

a manner that does not pose an unreasonable risk to motor vehicle safety.² In this case, NHTSA previously described its serious safety concerns with the Data Access Law’s requirement of open remote access in a filing in pending federal district court litigation that challenges the law. *Alliance for Automotive Innovation v. Campbell*, Case No. 1:20-cv-12090, Dkt. No. 202 (D. Mass) (“United States’ Statement of Interest”).³ The open remote access to vehicle telematics effectively required by this law specifically entails “the ability to send commands.”⁴ Open access to vehicle manufacturers’ telematics offerings with the ability to remotely send commands allows for manipulation of systems on a vehicle, including safety-critical functions such as steering, acceleration, or braking, as well as equipment required by Federal Motor Vehicle Safety Standards (FMVSS) such as air bags and electronic stability control. A malicious actor here or abroad could utilize such open access to remotely command vehicles to operate dangerously, including attacking multiple vehicles concurrently.⁵ Vehicle crashes, injuries, or deaths are foreseeable outcomes of such a situation.

Vehicle manufacturers appear to recognize that vehicles with the open remote access telematics required by the Data Access Law would contain a safety defect. Federal law does not allow a manufacturer to sell vehicles that it knows contain a safety defect. *See* 49 U.S.C. §§ 30112(a)(3); 30118(c)(1). Furthermore, as you are aware, the Safety Act imposes an affirmative obligation on vehicle manufacturers to initiate a recall of vehicles that contain a safety defect. 49 U.S.C. § 30118(c).

Given the serious safety risks posed by the Data Access Law, taking action to open remote access to vehicles’ telematics units in accordance with that law, which requires communication pathways to vehicle control systems, would conflict with your obligations under the Safety Act.⁶ “The purpose of the Safety Act . . . is not to protect individuals from the risks associated with defective vehicles only after serious injuries have already occurred; it is to prevent serious

² To ensure consumers have adequate access to repair facilities, a 2014 Memorandum of Understanding (MOU) already provides secure access to vehicle telematics to independent repair facilities nationwide. *See* MOU (Jan. 15, 2014) *available at* <https://www.autocare.org/docs/default-source/government-affairs/r2r-mou-and-agreement-signed.pdf>.

³ *See also* Letter from James Owens, Deputy Administrator, NHTSA, to Massachusetts’s Joint Committee on Consumer Protection and Professional Licensure (Jul. 20, 2020) *available at* https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/nhtsa_testimony_in_response_to_ma_committee_letter_july_20_2020.pdf.

⁴ Mass. Gen. Laws 93K § 2(f).

⁵ As NHTSA has previously stated: “Wireless interfaces into vehicle systems create new attack vectors that could potentially be remotely exploited. Unauthorized wireless access to vehicle computing resources could scale rapidly to multiple vehicles without appropriate controls.” *Cybersecurity Best Practices for the Safety of Modern Vehicles at 15* (Sept. 2022), *available at* <https://www.nhtsa.gov/sites/nhtsa.gov/files/2022-09/cybersecurity-best-practices-safety-modern-vehicles-2022-tag.pdf>.

⁶ *See, e.g.*, NHTSA Recall No. 15V-461, *available at* <https://static.nhtsa.gov/odi/rc1/2015/RCLRPT-15V461-9313.PDF>; NHTSA Recall No. 15V-508, *available at* <https://static.nhtsa.gov/odi/rc1/2015/RCLRPT-15V508-8738.PDF>.

injuries stemming from established defects before they occur.” *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977).

NHTSA is aware that certain vehicle manufacturers have stated an intent to disable vehicle telematics, presumably to avoid the application of the Data Access Law to their vehicles.⁷ This measure has its own adverse impacts on safety. For example, telematics-based safety features could facilitate better emergency response in the event of a vehicle crash. Telematics data can also be an important source of information for safety oversight and field performance monitoring by the authorities and vehicle manufacturers. NHTSA often utilizes telematics data in its investigations, and the inability to obtain these data from vehicles with this capability undermines the agency’s ability to fully examine safety-related issues. In addition, some vehicle manufacturers have the ability to fix safety problems by remedying recalls through vehicle telematics, which will be lost if those systems are disabled. Manufacturers should assess the impacts of any planned actions on roadway safety comprehensively.

We appreciate your attention to this important safety matter and trust you will give your highest priority to ensuring motor vehicle safety. Because the Safety Act conflicts with and therefore preempts the Data Access Law, NHTSA expects vehicle manufacturers to fully comply with their Federal safety obligations.

Sincerely,

KERRY E
KOLODZIE

Digitally signed by
KERRY E KOLODZIEJ
Date: 2023.06.13
12:47:08 -04'00'

J

Kerry Kolodziej
Assistant Chief Counsel
for Litigation and Enforcement

CC:

Robert E. Toone
Assistant Attorney General
Commonwealth of Massachusetts
[REDACTED]

Jessica Simmons
Assistant General Counsel
Alliance for Automotive Innovation
[REDACTED]

⁷ Notice of Intent.



November 2, 2023

The Honorable Gus Bilirakis
Chair
Subcommittee on Innovation, Data and
Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Jan Schakowsky
Ranking Member
Subcommittee on Innovation, Data and
Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chair Bilirakis, Ranking Member Schakowsky, and Members of the Subcommittee:

Thank you for holding today's markup. Flex¹ offers the following statement regarding the Advancing Gig Economy Act:

"Flex commends Rep. Joyce's leadership in introducing the Advancing Gig Economy Act, which aims to support the app-based economy and the millions of Americans who choose to use app-based platforms to earn income and live, work, and run their businesses on their own terms. App-based platforms have proven to be crucial tools for communities, individuals, and families in combatting inflation, spurring small business growth, and expanding access to food, healthcare, and transportation options. We look forward to working with Rep. Joyce and other leaders as the bill moves through the legislative process and appreciate their forward-looking approach to our 21st century economy."

¹ Flex is the voice of the app-based economy, representing America's leading app-based rideshare and delivery platforms and the people who count on them. Our member companies — DoorDash, Grubhub, HopSkipDrive, Instacart, Lyft, Shipt, and Uber— help provide access to crucial goods and services to customers safely and efficiently, offer flexible earning opportunities to workers, and support economic growth in communities across the country.

AFL-CIO

LEGISLATIVE ALERT

November 1, 2023

Innovation, Data, And Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Members of the Subcommittee on Innovation, Data, and Commerce:

On behalf of the 60 affiliates of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), representing 12.5 million working people across our economy, I write to urge you to vote no on the draft legislation “To establish a supply chain resiliency and crisis response program in the Department of Commerce, and for other purposes.”

The pandemic revealed the dangerous costs of fragile supply chains in a crisis, and showed how decades of failed trade and economic policy led to deindustrialization that puts our national and economic security at risk. These failed policies have led to the loss of millions of high-quality, family-supporting jobs and hollowed out communities across our country. Efforts to strengthen critical domestic industries and infrastructure with high-quality jobs are essential to anchor resilient supply chains and ensure strong and secure local, national and global economies.

We welcome the continued focus by Congress and the Subcommittee on ensuring supply chain resilience but we cannot support the current bill which does not include labor as an integral stakeholder. The AFL-CIO represents hundreds of thousands of members in strategic and emerging sectors, across defense, critical minerals, semiconductors, advanced vehicle technology, electronics, medical technology, and strategic energy infrastructure. Our members are on the front lines of critical supply chains – essential to every stage of production, transport and use of these critical technologies, and they are the essential workers we count on to respond in a crisis. The voice of these workers is absolutely essential to crafting an effective and durable supply chain resiliency strategy.

We are also concerned that the current draft is insufficient to the challenge facing our economy and security. In addition to inclusion of labor in key processes, it should include more robust provisions to enable Commerce to plan, coordinate and execute a supply chain strategy and program.

The AFL-CIO remains fully committed to working with the Subcommittee to improve this or other supply chain related legislation. However, we refuse to accept an approach that does not include a seat at the table for the very workers who will be critical to the success of these efforts to restore the health and resiliency of our supply chains. Thus, we urge you to vote no on this draft legislation.

Sincerely,



William Samuel
Director, Government Affairs



November 1, 2023

The Honorable Gus Bilirakis, Chairman
The Honorable Jan Schakowsky, Ranking Member
Subcommittee on Innovation, Data and Commerce
House Committee on Energy and Commerce
U.S. House of Representatives Washington,
DC 20515

RE: Consumer Reports Support for H.R. _____, the “No Hidden Fees on Extra Expenses for Stays Act of 2023”

Dear Chairman Bilirakis and Ranking Member Schakowsky,

Consumer Reports (CR)¹ strongly supports H.R. _____, the No Hidden Fees on Extra Expenses for Stays Act of 2023, to protect consumers by requiring “all-in” pricing for hotel stays, including any other mandatory charges and resort fees. By requiring the upfront disclosure of the full cost of the hotel stay, inclusive of all mandatory and unavoidable fees, the No Hidden FEES Act will help ensure price transparency when consumers compare their choices for hotel accommodations, and enable them to make informed purchase decisions at the point of sale.

Hidden fees for hotel stays are a major concern for consumers, because they make it harder to shop for hotel accommodations and purchase an affordably priced hotel stay. In April 2023, Consumer Reports conducted a nationally representative survey of 2,121 U.S. adults to learn more about their experiences with hidden fees across a range of products and services in the last two years. CR found that 37 percent of those surveyed had experienced hidden fees for hotel stays. More than half of those surveyed said the additional fees charged caused them to exceed their budget.²

¹ Consumer Reports (CR) is an independent, nonprofit membership organization that works side by side with consumers to create a fairer, safer, and healthier world. Since 1936, CR has provided evidencebased product testing and ratings, rigorous research, hard-hitting investigative journalism, public education, and steadfast policy action on behalf of consumers’ interests. Unconstrained by advertising, CR has exposed landmark public health and safety issues and strives to be a catalyst for pro-consumer changes in the marketplace. From championing responsible auto safety standards, to winning food and water protections, to enhancing healthcare quality, to fighting back against predatory lenders in the financial markets, Consumer Reports has always been on the front lines, raising the voices of consumers.

² *Electric-Only Vehicles, Car Maintenance, Hidden Fees, Pet Food and Plant-Based Milk, American Experiences Survey: A Nationally Representative Multi-Mode Survey*, prepared by the Consumer Reports Survey Research Department (April, 2023), p.15-20, available at:

https://article.images.consumerreports.org/image/upload/v1682544745/prod/content/dam/surveys/April_2023_AES_Toplines.pdf

In 2019, Consumer Reports published “Protect Yourself from Hidden Fees,” which examined hidden fees for a variety of services in major sectors of the US economy. We noted that:

...The explosion in add-on fees may be an outgrowth of the rise of online shopping websites such as Expedia and Hotels.com, which allow consumers to quickly compare prices from multiple sellers and to zero in on the cheapest options. That stepped-up price competition has helped to lower prices for many goods and services.

But there’s an unintended consequence: As companies strive to become the lowest-price provider, they have a powerful incentive to make their prices appear lower, often by labeling a portion of the cost as a fee, says Glenn Ellison, a professor of economics at the Massachusetts Institute of Technology who has studied online pricing. When disguised as fees, these costs may not be picked up by online shopping portal engines, though some websites may eventually capture them.

As CR pointed out in our letter to the FTC in 2019, US hotel fees and surcharges have steadily increased over the years, from \$2 billion in 2012, to \$2.7 billion in 2017, to \$2.93 billion in 2018.³ These fees are now being charged at a wide range of hotels and have a variety of names, including “urban amenities fees” or “destination fees,” that imply that the fee is largely related to the location of the hotel. These fees have continued to skyrocket in cities such as New York, San Francisco, Washington, DC, and others. For instance, New York City went from 15 hotels charging such a fee in 2016, to 42 in 2017, and then 85 in 2018.⁴

According to hotel websites, these fees cover items such as restaurant credit, internet access, domestic and international phone calls, and discount coupons for tours and events. As described in our 2019 letter, Consumer Reports examined the websites of the 34 hotels that received letters from the FTC in 2012 and 2013. We found that 31 of the 34 hotels continued to charge resort fees, and that none of the 31 includes those resort fees in the price quoted to consumers. Similarly, none of the 10 Online Travel Agencies (OTAs) that were still operating included the resort fees in its initial quoted prices.⁵

Among the 31 hotels that continue to charge resort fees, none included those fees in the initial online price shown to consumers, the CR analysis found. Instead, the hotels show only the base cost of the room on the first pricing page, without including additional mandatory

³ Anna Laitin, *Consumer Reports Letter to the Federal Trade Commission Division of Advertising Practices*, (August 19, 2019) available at:

<https://advocacy.consumerreports.org/wp-content/uploads/2019/08/CR-letter-to-FTC-hotel-resort-fees-080619.pdf>; See also: Julie Sickel, *U.S. Hotel Fees and Surcharges Projected to Hit \$2.93B in 2018*, Business Travel News (October 24, 2018), available at: <https://www.businesstravelnews.com/Lodging/US-Hotel-Fees-and-Surcharges-Projected-to-Hit2-93B-in-2018>.

⁴ Lauren Wolfe, *New York City Has Unique Issues Related to Resort Fees*, KillResortFees.com, available at: <http://killresortfees.com/newyorkcity>

⁵ Anna Laitin, *Consumer Reports Letter to the Federal Trade Commission Division of Advertising Practices*, (August 19, 2019) available at: <https://advocacy.consumerreports.org/wp-content/uploads/2019/08/CR-letter-to-FTC-hotel-resort-fees-080619.pdf>

charges, though some mentioned the existence of fees in small print or via a hyperlink. Customers must make multiple clicks to arrive at a checkout page to see the total costs, including fees. Among the hotels surveyed, those add-on expenses, including resort fees and other surcharges, as well as taxes, ballooned the total costs by 11 percent to more than 100 percent.

Although all the hotel websites reviewed by CR failed to show the additional fees and charges clearly, some were even less clear than others. Four hotels, including Atlantis Casino Resort Spa, Eldorado Hotel Casino in Reno, Nev., Mohegan Sun in Uncasville, Conn., and Wynn Las Vegas and Encore Hotel made no mention of their resort fees when presenting the initial room rate, delaying notification until customers reach the checkout page. Other hotels mentioned the existence of add-on fees on the first pricing page, but those details are difficult to see. The Four Seasons Scottsdale noted other fees and charges at the bottom of the room rate page, but customers have to click through a hyperlink for details. The Tuscana Resort in Orlando provided a small-print reference to fees and taxes, which was visible only if customers scrolled down below the room rate information.

A similar lack of fee disclosure was found at all 10 online travel agencies that are still operating, including Booking.com and Expedia, which both own several of the agencies. These websites showcase initial room rates without including mandatory fees, which appear only after customers clicked through additional pages.

As we described in the letter:

Consumers use Online Travel Agencies (OTAs) to comparison shop. Unfortunately, with the use of resort fees by hotel operators, comparison shopping cannot be completed without significant costs to the consumer in time and energy. All ten of the still-operational OTAs that were sent [FTC] warning letters in 2012 or 2013—several of which are joined in common ownership—fail to display the resort fee on the first page of the search where consumers see the advertised rate, which is where they comparison shop.⁶ Consumers must click on a specific hotel in order to see the mention and price of a hotel's resort fee. Consumers must then click again in order to see the true total price. This obfuscation of the true price of a stay at these hotels means that consumers are prevented from conveniently making cost comparisons between hotels. Furthermore, even when the OTAs finally do disclose the full cost, they vary in how they display the total to the consumer at check-out.⁷

⁶ Eleven OTAs received the FTC Warning letters. The CR analysis excluded Quikbook, which is no longer in business. Cited in: Anna Laitin, *Consumer Reports Letter to the Federal Trade Commission Division of Advertising Practices*, (August 19, 2019) available at: <https://advocacy.consumerreports.org/wp-content/uploads/2019/08/CR-letter-to-FTC-hotel-resort-fees-080619.pdf>

⁷ Ibid.

We also noted that Priceline was failing to display the full cost of a stay, but by highlighting the lower cost, it was employing a form of “dark patterns” to obscure the true price from consumers.⁸

According to consumer stories collected by CR in January 2023, consumers continue to be disappointed and frustrated by the widespread practice of unfair and deceptive hotel resort fees.

Michael from San Leandro, California said:

I find resort fees to be the most offensive. When I first saw them, I assumed that they were state taxes of some kind. When I realized they weren't, I hit the ceiling. They are not included when you make reservations online until the reservation is complete, and there is no rhyme or reason to how they are calculated.

Sharon from Port Orchard, Washington said:

Not being able to budget hotel rooms because you don't know exactly what fees you may have to pay keeps me from traveling except for family emergencies. Fun travel has gone away because of all the fees of airports, taxis, Ubers, and hotel accommodations.

Cynthia from Marlboro, New York told us:

Staying at a nice (aka an expensive) hotel, we were charged a resort fee for a pool which we didn't use. The pool was outside and it was winter in Vermont. We spoke with elderly walker and wheel chair bound seniors who were also charge and also did not use the pool. The room rates were high enough -- the resort fees were not necessary.

Koolish from Berkeley, California also said hotel resort fees were unfair to consumers with disabilities:

Resort fees for hotels (not including parking, the one thing a disabled traveler needs most to be included, [are charged] for bikes I cannot ride, coffee that costs them \$1 etc. These fees are between \$29-\$40.

By requiring all mandatory fees and charges to be included in the prices stated for hotel stays for primary sellers and online search websites, the No Hidden FEES Act will help ensure that consumers can see the full price when they are first picking out their room, and evaluating their choices. This enables consumers to make informed decisions based on the full price, and “apples to apples” comparisons of competitive offerings, without having to spend many additional

⁸ Ibid.

minutes or hours checking for surprise charges at the tail end of the shopping process, prior to checkout.

This common-sense requirement for “all-in pricing” for hotel accommodations is urgently needed and long overdue. By establishing fair ground rules for all ticket sellers and market participants, the No Hidden FEES Act also creates a level playing field for all market actors to act appropriately.

For all these reasons, Consumer Reports strongly supports the No Hidden Fees Act. We urge members of the House Energy and Commerce Committee to please cosponsor and support this critically important consumer protection legislation, and to secure its passage through the full House of Representatives.

Sincerely,

A handwritten signature in black ink that reads "Chuck Bell". The signature is written in a cursive, slightly slanted style.

Chuck Bell
Programs Director

Consumer Reports
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Most Car Companies Can Sell Your Personal Info, Study Finds

[businessinsider.com/most-car-companies-can-collect-sell-personal-data-policy-study-2023-9](https://www.businessinsider.com/most-car-companies-can-collect-sell-personal-data-policy-study-2023-9)

Associated Press



Car owners have little control over their vehicle collecting personal data.

AP Photo/Michael Dwyer

- A new study found many car companies can collect and sell your personal data, sparking privacy concerns.
- Carmakers like Nissan could know your race, sexual orientation, health, and immigration status.
- Most of the companies surveyed do not give users the option to have their information deleted.

BOSTON (AP) — Cars are getting an "F" in data privacy. Most major manufacturers admit they may be selling your personal information, a new study finds, with half also saying they would share it with the government or law enforcement without a court order.

The proliferation of sensors in automobiles — from telematics to fully digitized control consoles — has made them prodigious data-collection hubs.

But drivers are given little or no control over the personal data their vehicles collect, researchers for the nonprofit Mozilla Foundation said Wednesday in their [latest "Privacy Not Included" survey](#). Security standards are also vague, a big concern given automakers' track record of susceptibility to hacking.

"Cars seem to have really flown under the privacy radar and I'm really hoping that we can help remedy that because they are truly awful," said Jen Caltrider, the study's research lead. "Cars have microphones and people have all kinds of sensitive conversations in them. Cars have cameras that face inward and outward."

Unless they opt for a used, pre-digital model, car buyers "just don't have a lot of options," Caltrider said.

Cars scored worst for privacy among more than a dozen product categories — including [fitness trackers](#), [reproductive-health apps](#), [smart speakers](#), and [other connected home appliances](#) — that Mozilla has studied since 2017.

Not one of the 25 car brands whose privacy notices were reviewed — chosen for their popularity in Europe and North America — met the minimum privacy standards of Mozilla, which promotes open-source, public-interest technologies and maintains the Firefox browser. By contrast, 37% of the [mental health apps](#) the non-profit reviewed this year did.

Nineteen automakers say they can sell your personal data, their notices reveal. Half will share your information with the government or law enforcement in response to a "request" — as opposed to requiring a court order. Only two — Renault and Dacia, which are not sold in North America — offer drivers the option to have their data deleted.

"Increasingly, most cars are wiretaps on wheels," said Albert Fox Cahn, a technology and human rights fellow at Harvard's Carr Center for Human Rights Policy. "The electronics that drivers pay more and more money to install are collecting more and more data on them and their passengers."

"There is something uniquely invasive about transforming the privacy of one's car into a corporate surveillance space," he added.

A trade group representing the makers of most cars and light trucks sold in the U.S., the Alliance for Automotive Innovation, took issue with that characterization. In a [letter sent Tuesday](#) to U.S. House and Senate leadership, it said it shares "the goal of protecting the privacy of consumers."

It called for a federal privacy law, saying a "patchwork of state privacy laws creates confusion among consumers about their privacy rights and makes compliance unnecessarily difficult." The absence of such a law lets connected devices and smartphones amass data for tailored

ad targeting and other marketing — while also raising the odds of massive information theft through cybersecurity breaches.

The Associated Press asked the Alliance, which has resisted efforts to provide car owners and independent repair shops with access to onboard data if it supports allowing car buyers to automatically opt out of data collection — and granting them the option of having collected data deleted. Spokesman Brian Weiss said that for safety reasons the group "has concerns" about letting customers completely opt out — but does endorse giving them greater control over how the data is used in marketing and by third parties.

In a 2020 Pew Research survey, 52% of Americans said they had opted against using a product or service because they were worried about the amount of personal information it would collect about them.

On security, Mozilla's minimum standards include encrypting all personal information on a car. The researchers said most car brands ignored their emailed questions on the matter and those that did offer partial, unsatisfactory responses.

Japan-based Nissan astounded researchers with the level of honesty and detailed breakdowns of data collection its privacy notice provides, a stark contrast with Big Tech companies such as Facebook or Google. "Sensitive personal information" collected includes driver's license numbers, immigration status, race, sexual orientation, and health diagnoses.

Further, Nissan says it can share "inferences" drawn from the data to create profiles "reflecting the consumer's preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes."

It was among six car companies that said they could collect "genetic information" or "genetic characteristics," the researchers found.

Nissan also said it collected information on "sexual activity." It didn't explain how.

The all-electric Tesla brand scored high on Mozilla's "creepiness" index. If an owner opts out of data collection, Tesla's privacy notice says the company may not be able to notify drivers "in real time" of issues that could result in "reduced functionality, serious damage, or inoperability."

Neither Nissan nor Tesla immediately responded to questions about their practices.

Mozilla's Caltrider credited laws like the 27-nation European Union's General Data Protection Regulation and California's Consumer Privacy Act for compelling carmakers to provide existing data collection information.

It's a start, she said, by raising awareness among consumers just as occurred in the 2010s when a consumer backlash prompted TV makers to offer more alternatives to surveillance-heavy connected displays.

REPAIR Act will guarantee the right to safe, affordable and accessible vehicle repair

[H thehill.com/opinion/congress-blog/4110148-repair-act-will-guarantee-the-right-to-safe-affordable-and-accessible-vehicle-repair/](https://thehill.com/opinion/congress-blog/4110148-repair-act-will-guarantee-the-right-to-safe-affordable-and-accessible-vehicle-repair/)

Rep. Neal Dunn (R-Fla.), opinion contributor

July 21, 2023



Getty Images

On July 11, a memorandum of understanding (MOU) between vehicle manufacturers and two automotive repair industry groups was released, [detailing an “industry agreement”](#) related to automobile right-to-repair. It is notable that the Alliance for Automotive Innovation omits the size and scope of these two “representatives of the independent repair community” that signed this letter.

More than 30 members of Congress have co-sponsored my bill, [H.R. 906 — the REPAIR Act](#), including original co-sponsors Reps. Marie Gluesenkamp Perez (D-Wash.), Warren Davidson (R-Ohio) and Brendan Boyle (D-Pa.). The Alliance for Automotive Innovation opposes the REPAIR Act, which will empower consumers with options when it comes to vehicle repair.

Vocal supporters of the REPAIR Act, with substantially more representation, did not agree to the stated “renewed commitment” in the MOU, which has no binding mechanism. [REPAIR Act supporters](#) include the Consumer Access to Repair (CAR) Coalition (Allstate, Autozone, Farmers Insurance), Discount Tire, Auto Care Association, Motor & Equipment

Manufacturers Association (MEMA), American Motorcyclist Association, and Specialty Equipment Market Association (SEMA), along with automobile and motorcycle enthusiasts across America. Without support from groups representing a majority of employees in aftermarket repair, it is inappropriate to cite this as a “landmark agreement,” which would omit the need for binding action between industries.

Additionally, the stated MOU claims to “affirm a 2014 national agreement on automotive right-to-repair” but excludes the main signatory on that 2014 MOU representing the independent aftermarket, the Auto Care Association. How could the trade association that originally signed the 2014 MOU and still representing hundreds of thousands of businesses around the country not be party to this “landmark agreement?”

All of these groups, representing the vast majority of the independent aftermarket, oppose this MOU as inappropriate for several reasons, not the least of which is that the MOU has no enforcement mechanism. The MOU is voluntary, does not apply to all manufacturers and has no details as to how repair data will be shared in a timely and unrestricted manner.

The reason I introduced the REPAIR Act in the 118th Congress is rooted in the lack of a binding, workable solution to anti-competitive behavior affecting the auto repair industry and consumers alike.

The MOU in question should be seen as a subtle and disguised attempt to dissuade you from recognizing the importance of the REPAIR Act. It is important to recognize the overwhelming support of more than 536,000 businesses that are engaged in the manufacturing, distribution and sale of motor vehicle parts, accessories, tools, equipment and supplies. These businesses provide vehicle service, maintenance and repair for the 292 million registered motor vehicles in our nation.

Moreover, they unanimously affirm that the implementation of the REPAIR Act is the sole means to ensure and safeguard consumer choice within the vehicle repair industry. I reaffirm the overdue need to pass the REPAIR Act, and the public is demanding action from this Congress that guarantees their right to safe, affordable and accessible vehicle repair. My colleagues should recognize that this MOU will not have a lasting effect on a mounting antitrust and consumer choice problem.

If the original equipment manufacturers can control the fate of the car, they own it, not you. It's a lease, not a sale.

Dr. Neal Dunn represents the 2nd District of Florida, which includes all or part of 19 counties in North Florida. He serves on the House Energy and Commerce Committee.

Tags [Neal Dunn](#) [REPAIR Act](#) [Right to Repair](#)

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Music and Events Industry Calls For Changes to H.R. 3950, The TICKET Act, to Prevent Legalization of Fake Tickets

Will Work with the E&C Committee to Improve Legislation Prior To Full-Committee Markup

WASHINGTON D.C.—November 2, 2023—*The Fix the Tix coalition, representing every major constituency in the music and events industry, released the following statement ahead of the House Energy and Commerce (E&C) Committee Subcommittee on Innovation, Data, and Commerce markup of the Transparency in Charges for Key Events Ticketing (TICKET) Act:*

“The Fix the Tix coalition applauds E&C Subcommittee on Innovation, Data, and Commerce Chair Gus Bilirakis (R-FL) and Ranking Member Jan Schakowsky (D-IL) for making ticketing issues a part of their subcommittee’s agenda. Their commitment to working with the music community, from artists to venues, is appreciated.

While the TICKET Act’s focus on all-in pricing is laudable, the music and events industry is forced to oppose the House version of this bill due to an included provision that would effectively legalize speculative tickets. Speculative ticketing is the unauthorized sale of tickets not in the possession of the company or person who sold them, and it’s a huge threat to consumers and the entire live entertainment industry. Speculative tickets don’t exist when they are sold - which makes them fake.

The TICKET Act should not legalize fake tickets. It should ban them for good with no loopholes for speculative tickets under a different name. A simple disclosure of fake tickets does not protect consumers; it empowers the bad behavior of predators. The Senate Commerce Committee recognized this and removed the provision during the consideration of the bill. We urge the House to do the same.

A TICKET Act that bans speculative tickets and prohibits deceptive marketing and websites is a bill that the music industry can support - and one we hope to work with Reps. Bilirakis and Schakowsky to build prior to the full Committee markup of the TICKET Act.

The Fix the Tix coalition urges swift action to fix the TICKET Act to ban speculative tickets and deceptive marketing and websites - and to work toward comprehensive ticketing reform to create a better experience for consumers, artists, and stages.”

More information on Fix the Tix may be found at www.fixthetix.org.



November 1, 2023

Via Email

Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

RE: United Steelworkers opposes legislation entitled “To establish a supply chain resiliency and crisis response program in the Department of Commerce, and for other purposes”.

Dear Representative:

The United Steelworkers (USW), the largest manufacturing union in North America, urges the Energy and Commerce committee to oppose the currently unnumbered bill entitled “To establish a supply chain resiliency and crisis response program in the department of commerce, and for other purposes” scheduled to be marked-up at the Innovation, Data, And Commerce subcommittee hearing on November 2, 2023.

The union sent a previous letter raising concerns regarding the draft legislation at a related September hearing, and the union appreciates the time Representative Bucshon’s office spent considering how best to foster long established labor, management, and government cooperation on supply chains. Unfortunately, it appears Representative Bucshon could not win over the current committee majority on a direct reference to labor stakeholders in the bill. As such the draft text produced by the Majority does not see labor as a valued partner on supply chain issues.


As a union that regularly interacts with the Department of Commerce (DOC) on a host of trade and supply chain related issues, it is extremely disappointing to see labor’s omission in this bill. By leaving the supply chain expertise of the American worker on the sideline, the legislation naively omits organizations that represent workers who actually build goods and move our nation’s supply chains from any consultation process. By failing to bring organized labor to the table, this legislation, unfortunately, appears to let historical political grievances overrule smart policy.

The legislation also does not incorporate significant policy advancements that were discussed, moved, and voted on in the previous Congress. For example, USW was supportive of the America COMPETES Act, which incorporated bipartisan legislation from this committee, and would reduce dependence on critical materials from China, encourage domestic manufacturing expansion with fair guardrails, and ensure that labor and management cooperate in the creation of good-paying union jobs.

While it is vital that the DOC do more to prepare and build resilience in the supply chains that serve the largest economy in the world, this legislation provides a weak DOC prioritization by simply creating a “program” without establishing a position to lead the work. This reduces accountability, and ultimately, responsibility, on an issue that has previously led to shortages of key goods, price inflation, factory closures, unloaded shipping containers, and other negative effects on our nation's economic wellbeing.

USW urges members of the subcommittee to vote “no” on this legislation during the mark-up, and the union hopes that a more pro-worker, bipartisan effort on supply chains will supplant this bill in the future.

Sincerely,



Roy Houseman, Jr.
Legislative Director



November 1, 2023

The Honorable Gus Bilirakis
Chairman
House Subcommittee on Innovation, Data,
and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Jan Schakowsky
Ranking Member
House Subcommittee on Innovation, Data,
and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bilirakis and Ranking Member Schakowsky:

The American Association for Justice (AAJ) in advance of the November 2nd markup, urges opposition to the supply chain bill being introduced by Representative Larry Bucshon. We strongly support the mission and charge of the Committee to create and sustain innovative solutions and strong, reliable supply chains. However, a program that disregards the laws of the states and shields critical and relevant information from the public while protecting private entities only weakens innovation and threatens real accountability. As a result, we oppose Representative Bucshon's bill at this time.

More specifically, as currently written Representative Bucshon's bill would allow supply chain information provided by private entities to be kept "confidential," including but not limited to FOIA requests. Furthermore, the bill does not define the term "confidential," nor does it clearly protect and preserve state laws which allow state citizens to access information through discovery. Without defining what "confidential" means as it relates to this program, the private sector could use this confidentiality provision to avoid submitting to discovery in state or local courts. It could also thwart other agency programs that provide for the disclosure of certain documents.

AAJ does not oppose limited protections for the sharing of data specifically related to supply chain issues, however the protections for data sharing in this bill are overly broad, undefined and could lead to unintended consequences. The purpose of this bill, which is to establish a program that would monitor the supply chains of critical goods is laudable. However, it needs further clarification so that it does not weaken accountability and hide pertinent information from public scrutiny.

Sincerely,

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

Linda Lipsen
CEO

American Association for Justice

November 1, 2023

The Honorable Cathy McMorris Rodgers
Rayburn House Office Building
Washington, DC 20515

The Honorable Gus Bilirakis
Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone
Rayburn House Office Building
Washington, DC 20515

The Honorable Jan Schakowsky
Rayburn House Office Building
Washington, DC 20515

Dear Chair McMorris Rodgers, Ranking Member Pallone, Chair Bilirakis and Ranking Member Schakowsky,

In advance of the Energy and Commerce Committee's markup on November 2, 2023, the Consumer Technology Association (CTA®) writes to express support for H.R. 5398 Advancing Tech Startups Act. By studying the startup ecosystem and identifying opportunities to encourage the creation and growth of technology startup companies, Congress and the Administration will be better positioned to enhance American global economic competitiveness.

As North America's largest technology trade association, CTA is the tech sector. Our over 1000 members are the world's leading innovators – from startups to global brands – helping support more than 18 million American jobs. CTA owns and produces CES® – the most influential tech event in the world. 80% of CTA members are small businesses.

CTA is driven by the belief that innovation is the lifeblood of the technology industry. With a commitment to fostering the growth and success of emerging entrepreneurs and their groundbreaking ideas, CTA provides a supportive ecosystem that encourages creativity and risk-taking. I have authored four books that offer strategies, insight and guidance to entrepreneurs and startups looking to thrive in the ever-evolving tech industry. CTA established a \$10 million investment fund in venture capital firms dedicated to supporting diverse entrepreneurs. This commitment not only catalyzes innovation, but also creates a more inclusive technology landscape, where individuals from all backgrounds can access the resources and mentorship needed to transform their ideas into successful business ventures. At the annual CES, Eureka Park serves as a dynamic and pivotal platform dedicated to supporting entrepreneurs. Eureka Park offers startups an invaluable opportunity to showcase their cutting-edge products and ideas to a global audience of industry leaders, investors, and potential partners.

Entrepreneurship is a vital component of American identity and technology startups have played a pivotal role in shaping the economic landscape of the United States. These companies not only drive economic

Producer of



growth but also create jobs, fuel innovation, solve societal and global challenges, and strengthen our position in the global marketplace. H.R. 5398 will enable the compilation of information on and insights into the current state of the technology startup ecosystem, its contributions to U.S. GDP, supply chain best practices and vulnerabilities, and opportunities for public-private partnerships. Such research can provide valuable information about the challenges that startups face and how they overcome those challenges, which can inform targeted policies to help them succeed. Additionally, the study will identify potential areas where state and federal government can support the creation and growth of startups. CTA also supports adding provisions to the legislation that identify current U.S. government policies that undermine startups, including the U.S. Trade Representative's recent abandonment of long-standing digital trade policies.

To maintain our leadership in technology and innovation, we must champion startups and support their growth. H.R. 5398 will enable the government to strategically plan for a more robust startup ecosystem and identify policies that can be adopted to encourage startup creation and growth. CTA urges the committee to pass H.R. 5398 Advancing Tech Startups Act. We stand ready as a resource and partner.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Shapiro". The signature is fluid and cursive, with a large initial "G" and "S".

Gary Shapiro
President and CEO
Consumer Technology Association



MOTORCYCLE
INDUSTRY
COUNCIL

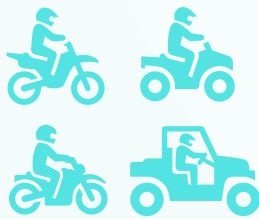
ILLINOIS 2022

ECONOMIC IMPACT OF THE POWERSPORTS INDUSTRY



\$1.2 Billion

THE VALUE OF THE POWERSPORTS
RETAIL MARKETPLACE



36,490

ESTIMATED NEW
POWERSPORTS RETAIL SALES

DIRECT ECONOMIC CONTRIBUTIONS OF POWERSPORTS RETAILERS



230

NUMBER OF POWERSPORTS
RETAILERS



2,174

PEOPLE EMPLOYED AT
DEALERSHIPS



\$102.7 Million

TOTAL PAYROLL

NATIONAL OWNERSHIP



52% of Millennial motorcycle owners frequently commute via motorcycle



The median income of motorcycle owners in the U.S. was **\$62,500**



69% of Millennial motorcycle owners were interested in purchasing an electric motorcycle in the future. Top drivers were Gas Prices and the Environment



74% of motorcycle owners had achieved at least some college or post-graduate education



For more information about the motorcycle and powersports industry in your district, please contact the MIC's Government Relations Office at (703) 416-0444.

To receive our weekly Ride Report, please visit mic.org.

Source:
2020 MIC Retail Outlet Audit
2022 MIC Retail Outlet Profile Study
2018 MIC Motorcycle Owner Survey

2021 MIC Motorcycle Statistical Annual
2020 Estimated New Powersports Retail Sales,
Motorcycle Industry Council, Inc., Irvine, CA
U.S. Department of Transportation, Federal Highway
Administration, December 2020





October 31, 2023

The Honorable Cathy McMorris Rodgers
 Chair
 House Committee on Energy and Commerce
 2125 Rayburn House Office Building
 Washington, D.C. 20515

The Honorable Frank Pallone
 Ranking Member
 House Committee on Energy and Commerce
 2322A Rayburn House Office Building
 Washington, D.C. 20515

The Honorable Gus Bilirakis
 Chairman
 Subcommittee on Innovation, Data,
 and Commerce
 House Committee on Energy and Commerce
 2125 Rayburn House Office Building
 Washington, D.C. 20515

The Honorable Jan Schakowsky
 Ranking Member
 Subcommittee on Innovation, Data,
 and Commerce
 House Committee on Energy and Commerce
 2322A Rayburn House Office Building
 Washington, D.C. 20515

Dear Chair McMorris Rodgers, Ranking Member Pallone, Chairman Bilirakis, and Ranking Member Schakowsky,

Our organizations represent the companies at the forefront of innovations that will shape the future of transportation and mobility, as well as the retailers and independent repairers that are integral to maintaining the vehicle fleet, both now and in the future. At this transformative moment for our industry, we are concerned that the requirements of the Right to Equitable and Professional Auto Industry Repair (REPAIR) Act (H.R. 906) undercut U.S. innovation and undermine the privacy, security and safety of U.S. consumers. For these reasons, we strongly oppose the REPAIR Act.

When it comes to a consumer’s right to choose where their vehicle is repaired, the automotive sector is the model of consumer choice. Consumers have a wide range of options on where to seek service or repair: these include working on the vehicle themselves or choosing to take it to a dealer or manufacturer repair facility, insurance company direct repair network, OEM certified independent collision center, Multi Shop Operator (MSO), or an independent repair facility.

Competition is alive and well in the automotive repair industry because all the information necessary to diagnose and repair a vehicle is available today. This is supported by the Federal Trade Commission’s¹ (FTC) report noting that the automotive sector has been a leader in self-regulation of consumer repair choice. It is also why independent repair facilities currently perform the vast majority of automotive

¹ See FTC “Nixing the Fix” Report to Congress at 45-46, noting that the automotive sector has been a model of self-regulation for access to repair information.

diagnostic and repair work. Indeed, over 75 percent of out-of-warranty repair work is performed outside of an automaker's authorized network. This is the very definition of consumer choice.

Contrary to its stated purpose, the REPAIR Act does not advance consumers' ability to have their vehicles repaired by the repairer of their choice or ensure they will receive a safe repair. Instead, it is a mandate for a complex technical "solution" in search of a problem. What the REPAIR Act actually does is create new privacy, safety, and cybersecurity risks and open the door to expand the scope well beyond vehicle repair. For example:

- 1. The Bill Opens Access to ALL Vehicle Data Without Corresponding Consumer Protections:** The bill grants immediate remote access to vehicle-generated data for third parties. But the bill does not limit access to just the data needed to repair the vehicle. It also provides no consumer protections to address important issues, such as how third parties will confirm the identity of a vehicle's true owner, how third parties will obtain consent or how they would be required to protect the highly sensitive personal data from the vehicle, if there are any limits on designees' access to vehicle-generated data, liability and accountability for those accessing data, or how privacy and cybersecurity would be addressed before regulations are issued.
- 2. NHTSA has Long Maintained that the Key Attributes of the Bill's Standardized Access Platform are Inherently Unsafe:** NHTSA has [continuously](#) warned that an open data access platform presents a major safety threat when it is able "to, at scale, remotely access and send commands that affect a vehicle's critical safety systems." NHTSA has [further noted](#) how malicious actors "could utilize such open access to remotely command vehicles to operate dangerously, including attacking multiple vehicles concurrently." All those elements appear to be minimum features contemplated for the bill's "standardized access platform." While there are alternative methods for safely making repair data accessible, the bill rejects them in order to mandate a singular, technology-specific approach questioned by independent safety regulators.
- 3. The Bill's Scope Far Exceeds Right to Repair:** Although this legislation has been framed as being about what is generically called the "right to repair," it involves data far beyond what is necessary for diagnostics and repair and does nothing to ensure that the information and tools available today are utilized to produce a safe repair for consumers. The public should beware that this bill would provide a pathway for third parties to gain unfettered and unprotected access to virtually any type of vehicle data. Moreover, this broader scope is better suited to legislation that more comprehensively addresses issues arising from data generally, such as privacy.

The broad scope is most notably apparent from the bill empowering the FTC to require access for "designees" to additional types of data, to be used "for additional purposes" and "regardless of whether those types of data are related to motor vehicle repair." Clearly, this policy has no bearing on right to repair.

These are just some of the many concerns raised by the approach outlined in this legislation. Further, last year Ranking Member Jan Schakowsky (D-IL) requested that the Government Accountability Office (GAO) conduct a review of many of the questions at the heart of this legislation, including the state of competition in automotive repair and federal agencies' abilities to oversee competition in automotive repair. Such a study, which is ongoing, is a prudent step to evaluate the automotive repair landscape. We

believe this report, which is expected to be completed in the coming months, should inform any effort to legislate on this topic.

This is an exciting and transformative moment for the global auto industry as new technologies reshape personal transportation. Without question, the evolution of automotive technology will change how consumers, businesses, and society interact with vehicles. The REPAIR Act would jeopardize these changes by undermining consumer trust in this technology and creating completely unnecessary risks to privacy, security, and vehicle safety. At this time of tremendous innovation, automakers remain committed to providing independent repairers with the tools and information necessary to keep pace with this generational transformation of the industry.

On behalf of our members and the millions of American jobs they support - including those across the independent repair community - we oppose H.R. 906 and look forward to working with you to maintain a competitive automotive repair market, protect consumer privacy, ensure vehicle security and safety, and keep the United States at the forefront of global automotive and personal mobility innovation.

Sincerely,

Alliance for Automotive Innovation

American Automotive Policy Council (AAPC)

American International Automobile Dealers Association (AIADA)

Automotive Service Association (ASA)

Autos Drive America

National Association of Minority Automobile Dealers (NAMAD)

National Automobile Dealers Association (NADA)

Society of Collision Repair Specialists (SCRS)

TechNet

Truck & Engine Manufacturers Association (EMA)

Zero Emission Transportation Association (ZETA)



Codification of MOU Will Not Ensure the Right to Repair for Vehicle Owners and Independent Repair Shops

The automotive manufacturers (“OEMs”) have proposed codifying the 2014 memorandum of understanding (MOU) purporting to provide independent repair facilities with access to the same repair and diagnostic information that auto manufacturers provide to authorized dealer networks.

Codifying this MOU, as written, fails to ensure the right to repair for your constituents and the independent repair shops in your district in significant ways including:

- ❑ It does not require OEMs to provide vehicle owners or independent repair shops with **direct** access to telematically-generated repair and maintenance data. This means an independent repair shop could be forced to subscribe to multiple third-party tools to get access to telematics data, rather than through a single direct source.
- ❑ It does not give independent repair shops the ability to send commands to the vehicle to implement or test repairs.
- ❑ It allows OEMs to circumvent the requirement to make repair data available wirelessly by making repair data available to the aftermarket via the OBD port and to their dealerships wirelessly. This allows the OEMs to diagnose repair issues over the internet when the car is in the customer’s driveway but requires the independent shop to ask the customer to bring the vehicle to the shop.
- ❑ It ignores the need to maintain competition for repair parts and services to prevent potential manufacturer monopolies.
- ❑ It excludes heavy duty vehicles and motorcycles.
- ❑ It fails to address the safety and security of wirelessly transmitted vehicle data.
- ❑ It adds exclusions (that were not in the MOU) that makes compliance with the obligations only at the discretion of the manufacturers (Sections 2(g)(1)(F) and 2(g)(1)(G) add overly broad security and intellectual property exclusions designed to allow OEMs, without documentation or third-party validation, to withhold access to repair and maintenance data).

HR 906, the REPAIR Act, would preserve competition, affordability, accessibility, and a vibrant supply chain by:

- ❑ Addressing anticompetitive repair restrictions identified by the Federal Trade Commission in 2021.
- ❑ Allowing vehicle owners to securely share their vehicle’s repair and maintenance data with their repairer of choice.
- ❑ Requiring National Highway Traffic Safety Administration to establish cybersecurity protections for data access.
- ❑ Preserving IP and allowing manufacturers to develop their own vehicle data interfaces.
- ❑ Establishing a stakeholder advisory committee to flag any emerging repair restrictions.

For more information, please contact Lisa Foshee, SVP of Government Affairs, at lisa.foshee@autocare.org or 404-713-8266.

Auto Care Association is the voice of the auto care industry, a more than \$400 billion industry comprised of over 4.5 million American workers that keeps drivers on the road safer, longer. Auto Care represents over 536,000 companies and affiliates that manufacture, distribute and sell motor vehicle parts, accessories, services, tools, equipment, materials, and supplies. Those businesses include over 280,000 repair facilities and 915,000 technicians nationwide.



**AMERICAN ALLIANCE OF VEHICLE OWNERS' RIGHTS
ENCOURAGES IMPROVEMENTS TO "REPAIR" ACT IN ORDER TO FULLY
SUPPORT THE RIGHTS OF VEHICLE OWNERS**

November 2, 2023

The American Alliance for Vehicle Owners' Rights ("AAVOR") continues to support strongly one of the underlying concepts of H.R. 906, the "REPAIR" Act – real-time, direct, free, and bi-directional access by vehicle owners to vehicle generated data – including, but not limited to, repair and maintenance data.

AAVOR urges the House Energy and Commerce Committee to expand the definition of "vehicle generated data" beyond repair and maintenance data and revise the definition of "motor vehicle owner" to cover all motor vehicle owners.

AAVOR's members represent interests from across the mobility ecosystem, including consumer advocates, fleet owners and operators, shared mobility service providers, preventative automotive maintenance and repair providers, insurers, automotive recyclers, and telematics providers.

AAVOR welcomes the opportunity to work with the authors of H.R. 906 to address these issues prior to full committee consideration of H.R. 906. AAVOR opposes any amendments to H.R. 906 that would undermine the right of vehicle owners to access the vehicle generated data from the vehicles – whether trucks, cars or busses -- they own and urges the Subcommittee to reject any such amendments to H.R. 906.

American Car Rental Association

NAFA Fleet Management Association

American Property Casualty Insurance Association

National Consumers League

Automotive Recyclers Association

Owner Operator Independent Drivers Association

Consumer Action

Preventative Automotive Maintenance Association

Mobile Electronics Association

**AMERICAN ALLIANCE FOR VEHICLE OWNERS' RIGHTS
1707 L STREET, N.W., WASHINGTON, D.C. 20036
WWW.AAVOR.ORG**

May 10, 2022

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
H-232, U.S. Capitol
Washington, DC 20515

The Honorable Chuck Schumer
Majority Leader
U.S. Senate
Room S-221, U.S. Capitol
Washington, DC 20510

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
H-204, U.S. Capitol
Washington, DC 20515

The Honorable Mitch McConnell
Republican Leader
U.S. Senate
S-230, U.S. Capitol
Washington, DC 20510

Dear Speaker Pelosi and Leaders Schumer, McCarthy, and McConnell:

As members of Congress come together to advance bipartisan legislation strengthening supply chains and enhancing U.S. economic competitiveness, the undersigned organizations write to express our strong support for the Manufacturing Security and Resilience Program and other critical provisions included in the supply chain resilience subtitle of the House-passed America COMPETES Act (Sec. 20201 through 20211 of H.R. 4521).

The pandemic laid bare what many of us have known for years: American workers and consumers—and thus the American economy—depend on a robust supply chain bolstered by American manufacturers. The federal government needs dedicated funding to help manufacturers meet these challenges in times of crisis, as well as supply chain expertise and the ability to nimbly coordinate across agencies and policy silos to strengthen U.S. competitiveness, drive manufacturing growth, and ensure the continued availability, accessibility, and affordability of critical products.

The America COMPETES Act contains provisions that would establish a Manufacturing Security and Resilience Program (“Program”) to support businesses working to develop, diversify, preserve, and improve critical supply chains and the manufacturing of critical goods. The Program would be administered within the Department of Commerce (“Department”), which would be responsible for leading a government-wide effort to invest in manufacturing and address supply chain risk. Through grants, loans, and loan guarantees, the Program would support the development of new technologies, growth in the U.S. manufacturing base, re-tooling of industrial equipment, and production of critical goods. We believe that such a Program will play an essential role in strengthening supply chains crucial for consumers and ensuring Americans’ quality of life and economic prosperity for decades to come.

Additionally, we appreciate that the America COMPETES Act empowers the Department to conduct comprehensive supply chain mapping and monitoring, provide \$45 billion of financial assistance to strengthen supply chains and manufacturing, and equip the private sector with the tools and best practices needed to address supply chain weaknesses before they become full blown crises. Critically, the subtitle outlines a clarified vision for the Department on its implementation of the Program, benefiting from the lessons learned from the supply chain disruptions experienced in the timeframe since Senate passage of the United States Innovation and Competition Act of 2021 (“USICA”).

As you discuss the path forward for provisions subject to the conference process in both chambers, we encourage you to support enactment of this Program and the other critical measures in the supply chain resilience subtitle. Adopting these provisions of the House-passed COMPETES Act as part of bipartisan legislation to support American competitiveness will empower unprecedented

expertise at the Department and the ability to invest in sectors critical to the health, economic well-being, and security of our country.

Sincerely,

AICC, The Independent Packaging Association
Air-Conditioning, Heating & Refrigeration Institute
American Automotive Policy Council
American Chemistry Council
American Cleaning Institute
American Coatings Association
American Composites Manufacturers Association
American Feed Industry Association
American Foundry Society
American Frozen Foods Institute
American Mold Builders Association
American Wood Council
Ames Chamber of Commerce
Associated Equipment Distributors
Associated Industries of Florida
Associated Industries of Massachusetts
Associated Industries of Missouri
Associated Industries of Vermont
Association of Equipment Manufacturers
Association of Home Appliance Manufacturers
Auto Care Association
Barrow County Chamber of Commerce
Battery Materials & Technology Coalition
Beer Institute
Berkeley Chamber of Commerce
Brick Industry Association
Buffalo Niagara Manufacturers Alliance
Business and Industry Association of New Hampshire
California Manufacturers & Technology Association
Can Manufacturers Institute
Cedar Rapids Metro Economic Alliance
Central Fairfax Chamber of Commerce
Charleston Metro Chamber of Commerce
Chillicothe Ross Chamber of Commerce
Cobb Chamber of Commerce
Colorado Advanced Manufacturing Association
Composite Can and Tube Institute
Consumer Brands Association
Consumer Healthcare Products Association
Corn Refiners Association
Council Bluffs Area Chamber of Commerce
Dental Trade Alliance
Effingham County Chamber of Commerce
Electronic Components Industry Association
Employ America Action Fund
Flexible Packaging Association
Forging Industry Association
Glass Packaging Institute

Global Cold Chain Alliance
Greater Des Moines Partnership
Greater Mount Airy Chamber of Commerce
Gwinnett Chamber of Commerce
Hampton Roads Chamber of Commerce
Illinois Manufacturers' Association
INDA, The Association of the Nonwoven Fabrics Industry
Independent Lubricant Manufacturers Association
Industrial Fasteners Institute
Industrial Packaging Alliance of North America
Industrial Truck Association
Information Technology Industry Council
International Bottled Water Association
International Food Additives Council
Iowa Association of Business and Industry
Iowa Business Council
IPC - Build Electronics Better
Juniata River Valley Chamber of Commerce
Kansas Chamber and the Kansas Manufacturing Council
Lansing Regional Chamber of Commerce
Maine State Chamber of Commerce
Manufacturing Alliance of Philadelphia
Metal Powder Industries Federation
Midwest Manufacturers Association
Minnesota Chamber of Commerce
Mississippi Manufacturers Association
Montana Chamber of Commerce
Motor & Equipment Manufacturers Association
Murray County Chamber of Commerce
National Association of Manufacturers
National Association of Trailer Manufacturers
National Automatic Merchandising Association
National Confectioners Association
National Electrical Manufacturers Association
National Foreign Trade Council
National Glass Association
National Marine Manufacturers Association
National Seasoning Manufacturers Association, Inc.
National Tooling and Machining Association
National Waste & Recycling Association
Nebraska Chamber of Commerce & Industry
Non-Ferrous Founders' Society
North American Association of Food Equipment Manufacturers
North American Die Casting Association
North Carolina Chamber
Northeast Pennsylvania Manufacturers & Employers Association
Norwin Chamber of Commerce
Outdoor Power Equipment Institute, Inc.
Pennsylvania Manufacturers' Association
Pet Advocacy Network
Plastics Pipe Institute
Plumbing Manufacturers International
Power Tool Institute

Precision Machined Products Association
Precision Metalforming Association
PRINTING United Alliance
Railway Supply Institute
Reshoring Initiative
Rhode Island Manufacturers Association
Roanoke Regional Chamber of Commerce
Rowan Chamber of Commerce
Salem-Roanoke County Chamber of Commerce
San Antonio Manufacturers Association
Schuylkill Chamber of Commerce
SNAC International
Society of Chemical Manufacturers & Affiliates
Society of Glass & Ceramic Decorators Products
Software & Information Industry Association
Somerset County Chamber of Commerce
South Carolina Chamber of Commerce
Specialty Tools & Fasteners Distributors Association
St. Paul Area Chamber
SynBio Coalition
Texas Association of Manufacturers
Texas International Produce Association
The Aluminum Association
The Association For Manufacturing Technology
The Carpet and Rug Institute
The Hardwood Federation
The Ohio Manufacturers' Association
The Toy Association
Utah Manufacturers Association
Valve Manufacturers Association
Virginia Chamber of Commerce
Window & Door Manufacturers Association
York County Economic Alliance

cc: The Honorable Frank Pallone, Jr.
Chair, U.S. House Committee on Energy and Commerce

The Honorable Maria Cantwell
Chair, U.S. Senate Committee on Commerce, Science, and Transportation

The Honorable Cathy McMorris Rodgers
Ranking Member, U.S. House Committee on Energy and Commerce

The Honorable Roger Wicker
Ranking Member, U.S. Senate Committee on Commerce, Science, and Transportation