

NHTSA Right to Repair Letter Background

Updated July 17, 2023

On June 13, 2023, NHTSA sent a letter to 22 major vehicle manufacturers advising them of their obligations under the National Traffic and Motor Vehicle Safety Act (Safety Act) and expressing the view that the Safety Act preempts the Massachusetts Data Access Law (SD645, also referred to as the Right to Repair law). Also on June 13, 2023, the government [filed](#) a “Notice of Transmittal of Letter to Vehicle Manufacturers” in the District Court for the District of Massachusetts, saying the letter notifies manufacturers that the Massachusetts law “conflicts with and is therefore pre-empted by the National Traffic and Motor Vehicle Safety Act.”

The Data Access Law requires car manufacturers who sell cars in Massachusetts to equip them with a standardized open data platform starting in 2022 so that owners and independent mechanics can access vehicle telematics data for repairs, maintenance, and diagnostics. The law was passed as an indirect initiated state statute in November 2020, with nearly three-fourths of Massachusetts residents voting in favor.

The Alliance for Automotive Innovation [filed suit](#) in November 2020 to stop the implementation of the Data Access Law, alleging safety concerns and arguing the law was preempted by federal law, including the Safety Act. After more than two years of litigation, Massachusetts Attorney General Andrea Joy Campbell [advised](#) the court on March 7, 2023, that the state would begin to enforce the law on June 1, 2023.

On May 30, 2023, Judge Woodlock, who is presiding over the litigation, [denied](#) a motion for a Temporary Restraining Order from the auto manufacturers that would have blocked the enforcement of the Massachusetts law. Judge Woodlock said that federal agencies had repeatedly failed to respond to requests to give their views on whether the state law was preempted by federal law (though they did weigh in to express safety concerns).

On June 15, 2023, Senators Warren and Markey [sent](#) a letter to Secretary Buttigieg and NHTSA Deputy Administrator Sophie Schulman asking NHTSA to explain its rationale for its harmful actions and respect Massachusetts state law by reversing course. Specifically, the letter asked NHTSA questions regarding: (1) The timing of the letter, given the ongoing litigation and the beginning of the enforcement of the law on June 1; (2) NHTSA’s efforts to validate the car manufacturers’ claims about safety concerns; (3) NHTSA’s communications with the automobile industry regarding the Right to Repair law; and (4) What agencies or leadership NHTSA consulted prior to sending the letter, including in order to ensure consistency with the Executive Order on competition. NHTSA has still not responded to the letter, but in a follow-up conversation with staff said that resolving this issue is a high priority and they have been working with the National Economic Council, the White House Counsel’s Office, DOT, DOJ, and FTC on a solution.