
A BILL FOR AN ACT

RELATING TO AUTOMOTIVE REPAIR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **MOTOR VEHICLE MECHANICAL SYSTEMS**

6 § -1 **Definitions.** As used in this chapter, unless the
7 context otherwise requires:

8 "Dealer" means any person or business who, in the ordinary
9 course of its business, lawfully sells or leases new motor
10 vehicles to consumers or other end users pursuant to a franchise
11 agreement and diagnoses, services, maintains, or repairs motor
12 vehicles or motor vehicle engines pursuant to the franchise
13 agreement. "Dealer", notwithstanding its affiliation with any
14 manufacturer, includes an independent repair facility for the
15 purposes of those instances when the dealer diagnoses, services,
16 maintains, or repairs motor vehicles or motor vehicle engines



1 that are not affiliated with the dealer's franchise
2 manufacturer.

3 "Franchise agreement" means an oral or written arrangement
4 for a definite or indefinite period during which a manufacturer
5 or distributor grants to a motor vehicle dealer a license to use
6 a trade name, service mark, or related characteristic and in
7 which there is a community of interest in the marketing of new
8 motor vehicles or services related thereto at wholesale, retail,
9 leasing, or otherwise.

10 "Heavy-duty vehicle" means any vehicle having a gross
11 vehicle weight rating of more than fourteen thousand pounds.

12 "Independent repair facility" means a person or business
13 operating in the State that is not affiliated with a
14 manufacturer or manufacturer's authorized dealer of motor
15 vehicles, which diagnoses, services, maintains, or repairs motor
16 vehicles or motor vehicle engines.

17 "Manufacturer" means any person or business engaged in the
18 business of manufacturing or assembling new motor vehicles.

19 "Mechanical data" means any vehicle-specific data,
20 including telematics system data, generated, stored in, or



1 transmitted by a motor vehicle used for or otherwise related to
2 the diagnosis, repair, or maintenance of the vehicle.

3 "Motor vehicle" means any self-propelled vehicle to be
4 operated on the public highways.

5 "Owner" means a person or business who owns or leases a
6 motor vehicle registered in the State.

7 "Telematics system" means any system in a motor vehicle
8 that collects information generated by the operation of the
9 vehicle and transmits the information, also known as "telematics
10 system data", using wireless communications to a remote
11 receiving point where it is stored.

12 § -2 Motor vehicles with telematics system; heavy-duty
13 vehicles; inter-operable, standardized, open-access platform;
14 mechanical data. (a) Beginning with model year 2022, a
15 manufacturer of motor vehicles sold in the State, including
16 heavy-duty vehicles, that utilizes a telematics system shall be
17 required to equip such vehicles with an inter-operable,
18 standardized, and open-access platform across all of the
19 manufacturer's makes and models. The platform shall be capable
20 of securely communicating all mechanical data emanating directly
21 from the motor vehicle via direct data connection to the



1 platform. The platform shall be directly accessible by the
2 owner of the vehicle through a mobile-based application and upon
3 the authorization of the vehicle owner, all mechanical data
4 shall be directly accessible by an independent repair facility,
5 limited to the time to complete the repair or for a period of
6 time agreed to by the vehicle owner for the purposes of
7 maintaining, diagnosing, and repairing the motor vehicle.
8 Access shall include the ability to send commands to in-vehicle
9 components if needed for purposes of maintenance, diagnostics
10 and repair.

11 (b) The director of commerce and consumer affairs shall
12 establish for prospective vehicle owners a motor vehicle
13 telematics system notice that includes but is not limited to the
14 following:

15 (1) An explanation of motor vehicle telematics and its
16 purposes;

17 (2) A description summarizing the mechanical data
18 collected, stored, and transmitted by a telematics
19 system;

20 (3) The prospective owner's ability to access the
21 vehicle's mechanical data through a mobile device; and



1 (4) An owner's right to authorize an independent repair
2 facility to access the vehicle's mechanical data for
3 vehicle diagnostics, repair, and maintenance purposes.

4 The notice form shall provide for the prospective owner's
5 signature certifying that the prospective owner has read the
6 telematics system notice.

7 (c) When selling or leasing motor vehicles containing a
8 telematics system, a dealer shall provide the motor vehicle
9 telematics system notice to the prospective owner, obtain the
10 prospective owner's signed certification that the prospective
11 owner has read the notice, and provide a copy of the signed
12 notice to the prospective owner.

13 A dealer's failure to comply with this subsection shall be
14 grounds for any action by the licensing authority relative to
15 the dealer's license, up to and including revocation.

16 (d) For purposes of this section, "immobilizer system"
17 means an electronic device designed for the sole purpose of
18 preventing the theft of a motor vehicle by preventing the motor
19 vehicle in which it is installed from starting without the
20 correct activation or authorization code.



1 **§ -3 Protection of manufacturer trade secrets.** (a)

2 Nothing in this chapter shall be construed to require a
3 manufacturer to divulge a trade secret.

4 (b) For purposes of this section, "trade secret" means
5 anything tangible or intangible or electronically stored or kept
6 that constitutes, represents, evidences, or records intellectual
7 property, including secret or confidentially held designs,
8 processes, procedures, formulas, inventions or improvements, or
9 secret or confidentially held scientific, technical,
10 merchandising, production, financial, business or management
11 information, or anything within the definition in title 18
12 United States Code section 1839(3).

13 **§ -4 Construction of chapter with other laws or**

14 **franchise agreements.** Notwithstanding any law to the contrary,
15 nothing in this chapter shall be construed to abrogate,
16 interfere with, contradict, or alter the terms of any franchise
17 agreement executed and in force between a dealer and a
18 manufacturer, including but not limited to the performance or
19 provision of warranty or recall repair work by a dealer on
20 behalf of a manufacturer pursuant to such franchise agreement;
21 provided that any provision in a franchise agreement that



purports to waive, avoid, restrict, or limit a manufacturer's compliance with this chapter shall be void and unenforceable.

§ -5 Access to non-diagnostic and repair information not required. Nothing in this chapter shall be construed to require manufacturers or dealers to provide an owner or independent repair facility access to non-diagnostic and repair information provided by a manufacturer to a dealer or by a dealer to a manufacturer pursuant to the terms of a franchise agreement.

§ -6 Remedies for violation. (a) In addition to any other remedies that may be available, any violation of this chapter shall be deemed to be unfair competition and a restraint of trade under chapter 480.

(b) An independent repair facility or owner that believes that a manufacturer has failed to provide information or a tool required by this chapter shall notify the manufacturer, in writing, through the National Automotive Service Task Force Service Information Request process, or its successor organization or process, and give the manufacturer thirty days from the time the manufacturer receives the complaint to cure the failure. If the manufacturer cures the complaint within the



1 time period, damages shall be limited to actual damages in any
2 subsequent litigation.

3 (c) If a manufacturer fails to respond to the notice
4 provided pursuant to subsection (b), or if an independent repair
5 facility or owner is not satisfied with the manufacturer's cure,
6 the independent repair facility or owner may file a complaint in
7 the circuit court or, if applicable, in the federal district
8 court for the district of Hawaii.

9 The complaint shall include but not be limited to:

- 10 (1) Written information confirming that the complainant
11 has visited the relevant manufacturer website and
12 attempted to effect a proper repair utilizing
13 information provided on the website, including
14 communication with customer assistance via the
15 manufacturer's toll-free call-in assistance, if made
16 available by the manufacturer;
- 17 (2) Written information confirming that the complainant
18 has obtained and utilized the relevant manufacturer's
19 scan or diagnostic tool necessary for the repair; and
- 20 (3) Evidence of manufacturer notification as set out in
21 subsection (b).



1 (d) Except in the case of a dispute arising between a
2 franchisor manufacturer and its franchisee dealer related to
3 either party's compliance with an existing franchise agreement,
4 a dealer shall have all the rights and remedies provided in this
5 chapter, including but not limited to exercising the rights and
6 remedies allowed an independent repair facility.

7 (e) Notwithstanding subsections (b) and (c), any owner or
8 independent repair facility authorized by an owner who has been
9 denied access to mechanical data in violation of
10 section -2(a) may initiate a civil action seeking any
11 remedies under law. Each denial of access in violation of these
12 sections shall be compensable by an award of treble damages or
13 \$10,000, whichever amount is greater."

14 SECTION 2. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 3. This Act shall take effect on July 1, 3000.



Report Title:

Motor Vehicle Mechanical Systems; Automotive Repair

Description:

Requires a manufacturer of model year 2022 or later motor vehicles that utilize telematics systems to equip the vehicles with an inter-operable, standardized, and open-access platform across all of the manufacturer's makes and models. Requires the Department of Commerce and Consumer Affairs to establish a motor vehicle telematics system notice. Effective 7/1/3000. (HD1)

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