

HOUSE No. 4302

The Commonwealth of Massachusetts

INITIATIVE PETITION OF THOMAS HICKEY AND OTHERS.

OFFICE OF THE SECRETARY.

BOSTON, JANUARY 1, 20120

Steven T. James
Clerk of the House of Representatives
State House
Boston, Massachusetts 02133

Sir: - I herewith transmit to you, in accordance with the requirements of Article XLVIII of the Amendments to the Constitution, "An Initiative Petition for a Law to Enhance, Update and Protect the 2013 Motor Vehicle Right to Repair Law," signed by ten qualified voters and filed with this department on or before December 4, 2019, together with additional signatures of qualified voters in the number of 103,634, being a sufficient number to comply with the Provisions of said Article.

Sincerely,

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth.

AN INITIATIVE PETITION.

Pursuant to Article XLVIII of the Amendments to the Constitution of the Commonwealth, as amended, the undersigned qualified voters of the Commonwealth, ten in number at least, hereby petition for the enactment into law of the following measure:

HOUSE No. 4302

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to Enhance, Update and Protect the 2013 Motor Vehicle Right to Repair Law.

Be it enacted by the People, and by their authority, as follows:

1 SECTION 1. Section 1 of Chapter 93K of the General Laws is hereby amended by
2 inserting after the definition of “Manufacturer” the following definition: —

3 “Mechanical data”, any vehicle-specific data, including telematics system data,
4 generated, stored in or transmitted by a motor vehicle used for or otherwise related to the
5 diagnosis, repair or maintenance of the vehicle.

6 Section 1 of said Chapter 93K is hereby further amended by inserting after the definition
7 of “Owner” the following new definition: —

8 “Telematics system,” any system in a motor vehicle that collects information generated
9 by the operation of the vehicle and transmits such information, in this chapter referred to as
10 “telematics system data,” utilizing wireless communications to a remote receiving point where it
11 is stored.

12 SECTION 2. Section 2 (d) (1) of Chapter 93K is hereby amended by inserting at the end
13 thereof the following new paragraph: Notwithstanding anything in the preceding paragraph,

14 motor vehicle owners' and independent repair facilities' access to vehicle on-board diagnostic
15 systems shall be standardized and not require any authorization by the manufacturer, directly or
16 indirectly, unless the authorization system for access to vehicle networks and their on-board
17 diagnostic systems is standardized across all makes and models sold in the Commonwealth and
18 is administered by an entity unaffiliated with a manufacturer.

19 SECTION 3. Said Chapter 93K is hereby further amended by striking subsection (f) of
20 Section 2 and inserting in place thereof the following: — (f) Commencing in model year 2022
21 and thereafter a manufacturer of motor vehicles sold in the Commonwealth, including heavy
22 duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, that utilizes a
23 telematics system shall be required to equip such vehicles with an inter-operable, standardized
24 and open access platform across all of the manufacturer's makes and models. Such platform shall
25 be capable of securely communicating all mechanical data emanating directly from the motor
26 vehicle via direct data connection to the platform. Such platform shall be directly accessible by
27 the owner of the vehicle through a mobile-based application and, upon the authorization of the
28 vehicle owner, all mechanical data shall be directly accessible by an independent repair facility
29 or a class 1 dealer licensed pursuant to section 58 of chapter 140 limited to the time to complete
30 the repair or for a period of time agreed to by the vehicle owner for the purposes of maintaining,
31 diagnosing and repairing the motor vehicle. Access shall include the ability to send commands to
32 in-vehicle components if needed for purposes of maintenance, diagnostics and repair.

33 SECTION 4. Said Chapter 93K is hereby further amended by adding after subsection (f)
34 of section 2 the following:

35 (g) The Attorney General is hereby directed to establish for prospective vehicle owners a
36 motor vehicle telematics system notice that includes, but is not limited to, the following features:
37 (i) an explanation of motor vehicle telematics and its purposes, (ii) a description summarizing the
38 mechanical data collected, stored and transmitted by a telematics system, (iii) the prospective
39 owner's ability to access the vehicle's mechanical data through a mobile device, and (iv) an
40 owner's right to authorize an independent repair facility to access the vehicle's mechanical data
41 for vehicle diagnostics, repair and maintenance purposes. The notice form shall provide for the
42 prospective owner's signature certifying that the prospective owner has read the telematics
43 system notice.

44 (h) When selling or leasing motor vehicles containing a telematics system, a dealer
45 holding a class 1 or class 2 license as defined in section 58 of chapter 140 shall provide the
46 motor vehicle telematics system notice to the prospective owner, obtain the prospective owner's
47 signed certification that he or she has read the notice, and provide a copy of the signed notice to
48 the prospective owner. A dealer's failure to comply with the provisions of this subsection shall
49 be grounds for any action by the licensing authority relative to the dealer's license, up to and
50 including revocation, pursuant to section 59 of chapter 140.

51 SECTION 5. Section 6 of Chapter 93K is hereby amended by adding at the end the
52 following — (e) Notwithstanding subsections (b) and (c), any owner or independent repair
53 facility authorized by an owner who has been denied access to mechanical data in violation of
54 subsections (d) (1) or (f) of section 2 may initiate a civil action seeking any remedies under law,
55 including any remedy authorized by chapter 93A. Each denial of access in violation of said
56 subsections shall be compensable by an award of treble damages or \$10,000, whichever amount
57 is greater.

FIRST TEN SIGNERS

<u>NAME</u>	<u>RESIDENCE</u>	<u>CITY OR TOWN</u>
Thomas Hickey	38 Mayflower Road	Winchester
Alice L. Williams	14 Seward Avenue	Beverly
Joseph T. Peters	21 Parramatta Road	Beverly
Darryl J. Crowley	12 Museum Road	Beverly
Mary P. Brennan	3 Prescott Street	Boston
John D. Caldwell, Jr.	3 Prescott Street	Boston
John Daniel Caldwell, III	3 Prescott Street	Boston
Chrisann Gillen	133 Commander Shea Blvd. #806	Quincy
Evangelos X. Papageorg	97 McAndrew Road	Braintree
Mark Reed	470 South River Street	Marshfield

CERTIFICATE OF THE ATTORNEY GENERAL.

September 4, 2019

Honorable William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Room 1705
Boston, Massachusetts 02108

RE: Initiative Petition No. 19-06: Initiative Law to Enhance, Update and
Protect the 2013 Motor Vehicle Right to Repair Law

Dear Secretary Galvin:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, I have reviewed the above-referenced initiative petition, which was submitted to me on or before the first Wednesday of August of this year.

I hereby certify that this measure is in proper form for submission to the people; that the measure is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people at either of the two preceding biennial state elections; and that it contains only subjects that are related or are mutually dependent and which are not excluded from the initiative process pursuant to Article 48, the Initiative, Part 2, Section 2.

In accordance with Article 48, I enclose a fair, concise summary of the measure.

Sincerely,

MAURA HEALEY,
Attorney General.

Summary of 19-06.

This proposed law would require that motor vehicle owners and independent repair facilities be provided with expanded access to mechanical data related to vehicle maintenance and repair.

Starting with model year 2022, the proposed law would require manufacturers of motor vehicles sold in Massachusetts to equip any such vehicles that use telematics systems -- systems that collect and wirelessly transmit mechanical data to a remote server -- with a standardized open access data platform. Owners of motor vehicles with telematics systems would get access to mechanical data through a mobile device application. With vehicle owner authorization, independent repair facilities (those not affiliated with a manufacturer) and independent dealerships would be able to retrieve mechanical data from, and send commands to, the vehicle for repair, maintenance, and diagnostic testing.

Under the proposed law, manufacturers would not be allowed to require authorization before owners or repair facilities could access mechanical data stored in a motor vehicle's on-board diagnostic system, except through an authorization process standardized across all makes and models and administered by an entity unaffiliated with the manufacturer.

The proposed law would require the Attorney General to prepare a notice for prospective motor vehicle owners and lessees explaining telematics systems and the proposed law's requirements concerning access to the vehicle's mechanical data. Under the proposed law, dealers would have to provide prospective owners with, and prospective owners would have to acknowledge receipt of, the notice before buying or leasing a vehicle. Failure to comply with these notice requirements would subject motor vehicle dealers to sanctions by the applicable licensing authority.

Motor vehicle owners and independent repair facilities could enforce this law through state consumer protection laws and recover civil penalties of the greater of treble damages or \$10,000 per violation.