

1 motor vehicle that is equipped with a partially
2 automated driving system.”.

3 **Subtitle B—Aftermarket and**
4 **Consumer Protection**

5 **PART I—REPAIR ACT**

6 **SEC. 201. DEFINITIONS.**

7 In this part:

8 (1) **AFTERMARKET PART.**—The term
9 “aftermarket part”—

10 (A) means any part offered for sale or for
11 installation in or on a motor vehicle after such
12 motor vehicle has left the production line of a
13 motor vehicle manufacturer; and

14 (B) does not include any new original
15 motor vehicle equipment manufactured for a
16 motor vehicle manufacturer.

17 (2) **COMMISSION.**—The term “Commission”
18 means the Federal Trade Commission.

19 (3) **COVERED ACTIVITY.**—The term “covered
20 activity” means any diagnosis, maintenance, or re-
21 pair of a motor vehicle (including any calibration or
22 recalibration required as part of any such diagnosis,
23 maintenance, or repair) necessary to return the
24 motor vehicle to operational specifications.

25 (4) **COVERED DATA.**—

1 (A) IN GENERAL.—The term “covered
2 data” means any in-vehicle data used for the
3 performance of a covered activity or to comply
4 with Federal motor vehicle safety or emissions
5 laws, regulations, or standards that is or was
6 generated by the operation of a motor vehicle.

7 (B) EXCLUSIONS.—The term “covered
8 data” does not include any personally identifi-
9 able information about a human occupant of
10 such vehicle.

11 (5) COVERED REPAIR INFORMATION AND
12 TOOLS.—The term “covered repair information and
13 tools” means any equipment, tools, repair proce-
14 dures, technical information, software, wiring dia-
15 gram, training material, parts nomenclature or de-
16 scription, and parts catalogue necessary to perform
17 a covered activity.

18 (6) LEGAL BARRIER.—The term “legal barrier”
19 means—

20 (A) a request for a waiver of the right of
21 a motor vehicle owner under this part to use a
22 motor vehicle repair facility of the choosing of
23 such motor vehicle owner;

24 (B) a requirement for such a waiver as a
25 condition for purchasing, leasing, operating, or

1 obtaining warranty repairs for a motor vehicle;
2 or

3 (C) an offer for such owner to receive any
4 compensation or other incentive for such a
5 waiver.

6 (7) MOTOR VEHICLE.—

7 (A) IN GENERAL.—The term “motor vehi-
8 cle” has the meaning—

9 (i) given that term in section
10 30102(a) of title 49, United States Code;
11 and

12 (ii) given the term “trailer” in section
13 390 of title 49, Code of Federal Regula-
14 tions.

15 (B) EXCLUSIONS.—The term “motor vehi-
16 cle” does not include any of the following:

17 (i) A multipurpose off highway utility
18 vehicle, recreational off highway vehicle,
19 all-terrain vehicle, or motorized bicycle.

20 (ii) A vehicle driven or drawn by me-
21 chanical power originally designed or per-
22 manently altered and equipped to provide
23 temporary residential accommodations that
24 is not used to transport property (except

1 for property used for temporary residential
2 accommodations or camping purposes).

3 (8) MOTOR VEHICLE DEALER.—The term
4 “motor vehicle dealer” means a person selling and
5 distributing new motor vehicles or motor vehicle
6 equipment primarily to purchasers that in good faith
7 purchase the vehicles or equipment other than for
8 resale.

9 (9) MOTOR VEHICLE EQUIPMENT.—The term
10 “motor vehicle equipment” means—

11 (A) any system, part, or component of a
12 motor vehicle as originally manufactured;

13 (B) any similar part or component manu-
14 factured or sold for replacement or improve-
15 ment of a system, part, or component, or as an
16 accessory or addition to a motor vehicle; or

17 (C) any device or an article or apparel, in-
18 cluding a motorcycle helmet and excluding med-
19 icine or eyeglasses prescribed by a licensed
20 practitioner, that—

21 (i) is not a system, part, or compo-
22 nent of a motor vehicle; and

23 (ii) is manufactured, sold, delivered,
24 or offered to be sold for use on public
25 streets, roads, and highways with the ap-

1 parent purpose of safeguarding users of
2 motor vehicles against risk of accident, in-
3 jury, or death.

4 (10) MOTOR VEHICLE MANUFACTURER.—The
5 term “motor vehicle manufacturer” means a per-
6 son—

7 (A) manufacturing or assembling motor ve-
8 hicles or motor vehicle equipment; or

9 (B) importing motor vehicles or motor ve-
10 hicle equipment for resale.

11 (11) MOTOR VEHICLE OWNER.—

12 (A) IN GENERAL.—The term “motor vehi-
13 cle owner” means a person who is—

14 (i) a record or beneficial owner, holder
15 of title, or lessee of a motor vehicle;

16 (ii) entitled to the use and possession
17 of a motor vehicle subject to a security in-
18 terest in another person; or

19 (iii) a lessee or a bailee of a motor ve-
20 hicle, in the trade or business of renting or
21 leasing a motor vehicle.

22 (B) EXCLUSIONS.—The term “motor vehi-
23 cle owner” does not include—

24 (i) a motor vehicle manufacturer; or

25 (ii) a person operating on behalf of—

- 1 (I) a motor vehicle manufacturer;
2 (II) a motor vehicle financing
3 company;
4 (III) a motor vehicle dealer; or
5 (IV) a motor vehicle lessor.

6 (12) MOTOR VEHICLE REPAIR FACILITY.—The
7 term “motor vehicle repair facility” means any per-
8 son who, in the ordinary course of business, per-
9 forms a covered activity, including a motor vehicle
10 dealer who performs a covered activity that relates
11 to a motor vehicle not affiliated with the franchise
12 of the motor vehicle dealer.

13 (13) REMANUFACTURER.—The term “remanu-
14 facturer” means a person who uses a standardized
15 industrial process by which previously sold, worn, or
16 non-functional products are returned to same-as-new
17 (or better) condition and performance in a process
18 that is in line with specific technical specifications
19 (including engineering, quality, and testing stand-
20 ards) and yields fully warranted products.

21 (14) TECHNOLOGICAL BARRIER.—The term
22 “technological barrier”—

23 (A) means any hardware, software,
24 firmware, digital protocol, technical security
25 feature, or other technological mechanism that

1 prevents, restricts, or delays the exercise of a
2 right under this part (except for latency or au-
3 thentication purposes); and

4 (B) includes—

5 (i) the limitation of access (including
6 bidirectional access) to necessary tools, di-
7 agnostic information, software, or data re-
8 quired to perform a covered activity; and

9 (ii) the imposition of a requirement
10 for proprietary authentication, authoriza-
11 tion codes, or digital software locks that
12 cannot be reasonably obtained for not more
13 than the fair and reasonable cost of pro-
14 viding such authentication, authorization,
15 or keys by a motor vehicle owner, motor
16 vehicle repair facility, or service provider.

17 (15) **TELEMATICS SYSTEM.**—The term
18 “telematics system” means any system in a motor
19 vehicle that collects covered data and transmits such
20 covered data using wireless communications to a re-
21 mote receiving point where the covered data is
22 stored.

1 **SEC. 202. CODIFYING AND ENFORCING RIGHT TO REPAIR**

2 **MOUS.**

3 (a) PASSENGER VEHICLES.—A motor vehicle manu-
4 facturer of a motor vehicle that weighs 14,000 pounds or
5 less shall comply with sections 1 through 5 of the Memo-
6 randum of Understanding entered into on January 15,
7 2014, by the Automotive Aftermarket Industry Associa-
8 tion, the Coalition for Auto Repair Equality, the Alliance
9 of Automobile Manufacturers, and the Association of
10 Global Automakers.

11 (b) COMMERCIAL VEHICLES.—A motor vehicle manu-
12 facturer of a motor vehicle that weighs more than 14,000
13 pounds shall comply with sections 2 through 8 of the
14 Memorandum of Understanding National Commercial Ve-
15 hicle Service Information entered into August 2015 by the
16 Commercial Vehicle Solutions Network, the Equipment
17 and Tool Institute, the Heavy Duty Aftermarket Canada,
18 Auto Care Association, and the Truck and Engine Manu-
19 facturers Association.

20 (c) RULES OF CONSTRUCTION.—

21 (1) UPDATE TO MOU.—Nothing in this section
22 may be construed to imply that an update to the
23 Memorandum of Understanding described in sub-
24 section (a) or (b) is enforceable by the Commission.

25 (2) WITHDRAWAL FROM MOU.—Nothing in this
26 section may be construed to imply that withdrawal

1 by any party from the Memorandum of Under-
2 standing described in subsection (a) or (b) affects
3 the enforcement of this Act.

4 (3) DISPUTE RESOLUTION.—Nothing in this
5 section may be construed to imply that any dispute
6 resolution process established in the Memorandum of
7 Understanding described in subsection (a) or (b) is
8 enforceable by the Commission.

9 **SEC. 203. ENFORCEMENT BY COMMISSION.**

10 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—
11 A violation of this part shall be treated as a violation of
12 a regulation under section 18(a)(1)(B) of the Federal
13 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regard-
14 ing unfair or deceptive acts or practices.

15 (b) POWERS OF COMMISSION.—The Commission
16 shall enforce this part in the same manner, by the same
17 means, and with the same jurisdiction, powers, and duties
18 as though all applicable terms and provisions of the Fed-
19 eral Trade Commission Act (15 U.S.C. 41 et seq.) were
20 incorporated into and made a part of this Act, and any
21 person who violates this part shall be subject to the pen-
22 alties and entitled to the privileges and immunities pro-
23 vided in the Federal Trade Commission Act.

24 (c) RULE OF CONSTRUCTION ON COMMISSION AU-
25 THORITY.— Nothing in this part may be construed to

1 limit the authority of the Commission under any other
2 provision of law.

3 **SEC. 204. STUDY AND REPORT.**

4 (a) **STUDY ON MARKETPLACE PRACTICES.**—The
5 Commission shall conduct a study under section 6(b) of
6 the Federal Trade Commission Act (15 U.S.C. 46(b)) that
7 examines certain marketplace practices in the motor vehi-
8 cle aftermarket, including the following:

9 (1) Practices that prohibit or restrict the—

10 (A) access to covered data over wireless
11 technology via any telematics systems for the
12 performance of a covered activity by motor ve-
13 hicle owners, motor vehicle repair facilities,
14 aftermarket parts manufacturers, and
15 aftermarket parts remanufacturers, or diag-
16 nostic tool manufacturers; and

17 (B) the ability for a consumer to select any
18 brand or manufacturer of parts, tools, or motor
19 vehicle equipment.

20 (2) Practices by motor vehicle manufacturers to
21 limit the ability of aftermarket parts manufacturers,
22 motor vehicle equipment manufacturers, an
23 aftermarket parts remanufacturer, or a motor vehi-
24 cle repair facility from selling compatible

1 aftermarket parts or functionally integrating com-
2 patible aftermarket parts into motor vehicles.

3 (3) Access to covered repair information and
4 tools.

5 (4) Any impact of increased use of software and
6 electronics in motor vehicles to the maintenance, di-
7 agnosis, and repair of such motor vehicles.

8 (5) Any other relevant practice related to the
9 performance of a covered activity.

10 (b) SUMMARY REQUIRED.—The Commission shall
11 develop a summary of any investigation conducted and
12 order issued under this part as of the date of submission
13 of the report required pursuant to subsection (c) that shall
14 include a description of unfair or deceptive practices relat-
15 ing to the following:

16 (1) Any legal barrier or technological barrier to
17 the performance of a covered activity.

18 (2) The effectiveness of this part to address
19 marketplace practices in the motor vehicle
20 aftermarket to protect consumers and promote com-
21 petition.

22 (c) SUBMISSION OF REPORT.—Not later than 4 years
23 after the date of the enactment of this Act, the Commis-
24 sion shall submit to Congress a report that includes the

1 results of the study required by subsection (a) and the
2 summary required by subsection (b).

3 (d) CONSULTATION REQUIRED.—In carrying out this
4 section, the Commission shall consult with the following:

5 (1) The Secretary of Transportation and the
6 head of any other relevant Federal agency (as deter-
7 mined by the Commission).

8 (2) Consumers, consumer advocacy groups,
9 motor vehicle repair facilities, motor vehicle manu-
10 facturers, aftermarket parts manufacturers,
11 aftermarket parts remanufacturers, diagnostic tool
12 manufacturers, motor vehicle equipment manufac-
13 turers, and motor vehicle dealers.

14 **SEC. 205. RELATIONSHIP TO STATE LAWS.**

15 (a) NO STATE PREEMPTION ON CERTAIN LAWS.—
16 Nothing in this part may be construed to preempt any
17 State or local law that regulates the relationships between
18 motor vehicle manufacturers, distributors, and motor vehi-
19 cle dealers, including motor vehicle dealer franchise laws,
20 warranty laws, and prohibitions on the direct sale of motor
21 vehicles by manufacturers.

22 (b) NO PREEMPTION OF STATE COMMON LAW.—
23 Nothing in this part may be construed to preempt any
24 State common law rights or any State statute that codifies
25 or supplements rights or remedies recognized at common

1 law, criminal law, or State law regulating fraud, generally
2 applicable deceptive trade practices, privacy, data security,
3 unauthorized access to personal information, notification
4 of unauthorized access to personal information, torts, or
5 product warranties.

6 (c) MOTOR VEHICLE OWNER DATA.—Nothing in this
7 part may be construed to grant any entity other than the
8 owner of a motor vehicle a property right or ownership
9 right with respect to the motor vehicle data generated, col-
10 lected, processed or stored by the vehicle of the owner.

11 **PART II—ADAS FUNCTIONALITY AND INTEGRITY**

12 **ACT**

13 **SEC. 221. ADAS FUNCTIONALITY AND INTEGRITY ACT.**

14 (a) IN GENERAL.—

15 (1) STUDY.—Not later than 18 months after
16 the date of the enactment of this Act, the Adminis-
17 trator shall complete a study and make available on
18 a publicly accessible, searchable website maintained
19 by the National Highway Traffic Safety Administra-
20 tion a report that includes the following:

21 (A) An identification of the 10 most preva-
22 lent legal modifications and customizations
23 made to a passenger motor vehicle for the pre-
24 vious 3 years.