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Legal/Legislative

‘Right to Repair’: Trade groups plan ‘REPAIR Act’; OEMs turn to courts; CCC analyzes

By John Huetter

Automakers have filed a federal lawsuit to overturn Massachusetts’ new “Right to Repair” law, one of the latest notable developments following the ballot initiative’s overwhelming success at the polls Nov. 3.

The Auto Care Association and Automotive Aftermarket Suppliers Association also have alerted members they’re following up on the law with a push for a national “REPAIR Act.” They said they plan on working with a coalition including Allstate and aftermarket parts suppliers to do so.

CCC, meanwhile, pointed out the tight timeframe automakers face and some other considerations about putting the Massachusetts law into practice.

Let’s take a look at all of these. But first, a recap of the law and the voting.

The vote and the law

Official Massachusetts election results found 75 percent of voters backing the Right to Repair expansion, with only 25 percent opposed. The official tally was 2,599,182 in favor to 867,674 against.

“This is an extraordinary win for independent automotive service and collision repair facilities in the Commonwealth,” Alliance of Automotive Service Providers of Massachusetts Executive Director Evangelos “Lucky” Papageorg said in a statement Nov. 5. “The Right to Repair law was overwhelmingly supported in 2012; however, it needed updating due to advances in technology.”

Papageorg’s association — the primary Massachusetts collision repair organization — called itself one of the first signers to the petition sparking the R2R ballot initiative.

[The Right to Repair ballot question demands OEMs using a telematics system](#) create an “inter-operable, standardized and open access platform across all of the manufacturer’s makes and models.”

“Commencing in model year 2022 and thereafter a manufacturer of motor vehicles sold in the Commonwealth, including heavy duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, that utilizes a telematics system shall be required to equip such vehicles with an inter-operable, standardized and open access platform across all of the manufacturer’s makes and models,” the language added to state law by the question states. “Such platform shall be capable of securely communicating all mechanical data emanating directly from the motor vehicle via direct data connection to the platform. Such platform shall be directly accessible by the owner of the vehicle through a mobile-based application and, upon the authorization of the vehicle owner, all mechanical data shall be directly accessible by an independent repair facility or a class 1 dealer licensed pursuant to section 58 of chapter 140 limited to the time to complete the repair or for a period of time agreed to by the vehicle owner for the purposes of maintaining, diagnosing and repairing the motor vehicle. Access shall include the ability to send commands to in-vehicle components if needed for purposes of maintenance, diagnostics and repair.” Telematics is defined as “any system in a motor vehicle that collects

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Massachusetts' New Right-to-Repair Law and Small Auto Repair Shops

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as cars evolve is of the utmost importance, otherwise [automakers] get to circumvent a law that voters passed by [86 percent](#)," Hickey says, referring to the original 2013 question.

It's also good for small businesses. In 2020, there were roughly [233,400 repair shops](#) in the United States, a 1.7 percent increase from the year before.

The passing of Question 1 requires that, by model year 2022, manufacturers that sell vehicles with telematics systems in Massachusetts outfit them with a standardized, open data platform. It's this platform that makes the vehicle data directly accessible to owners and independent repairers, affording them the ability to pull important mechanical data and run diagnostics.

This concerns some in the data security community, like MIT's Bryan Reimer. He's concerned with data security — the central argument of one of Question 1's most staunch opponents, the [Coalition for Safe and Secure Data](#), backed by donations from manufacturers like Toyota and Ford.

"We're talking about highly complicated mechanical and software systems that can't be separated from fundamental vehicle safety anymore," he says. Reimer questions where the liability will lie when repairs impact safety — who is responsible if a repair leads to the malfunctioning of a safety component? — as well as any vulnerabilities the data transfer process at independent repair shops could open up to hacks. An October report from the [Tufts Center for State Policy Analysis](#) found that data privacy concerns are minimal as long as location data and personal information are not among the categories of data the law requires carmakers to hand over.

Ultimately Reimer sees the issue as more of a lack of enforcement of the 2013 law when it comes to violators like Tesla rather than a need to change what's on the books.

In the meantime, Massachusetts voters have afforded themselves the continued car equivalent of the ability to choose a cheaper, unbranded iPhone cord to charge your phone and transfer its contents rather than pay the markup for an Apple cord.

"The idea that your local repair guy is going to use your data for some ill purposes is not well conceived. Right now, the dealership has all that information. Who do you trust more — a dealership or your local guy that knows your name and who you are?" Wilder wonders.

(Source: Auto Care Association)

Paycheck Protection Program

A \$900 Billion COVID-19 relief bill was signed into law in late December 2020 --- The Consolidated Appropriations Act of 2021. Part of this legislation was \$325 Billion in additional money for the Paycheck Protection Program (PPP).

The new legislation has similarities to the first round of the PPP but there are several important differences. The Small Business Administration (SBA) is scheduled to finalize their guidance soon. As soon as the information is made available, we will provide more details on this new relief bill.

Important Payroll Changes for 2021

As we head into 2021, there are important changes in the payroll world that you should be aware of:

Social Security Changes: The Social Security Wage Base Limit for 2021 will be \$142,800. This translates to a maximum Social Security withholding of \$8,853.60 for each employee in 2021.

401(k) and Other Deferred Comp Plans: The annual employee contribution limit for 401(k), 403(b) and most 457 plans will be \$19,500 for tax year 2021. The catch-up contribution limit for employees over 50 will be \$6,500.

Health Savings Plan Limits: The annual limit on deductions for an individual with self-only coverage under a high-deductible health plan is \$3,600 for 2021. The limit on deductions for an individual with family coverage under a high-deductible health plan is \$7,200 for 2021.

Unemployment Rate Changes: As a reminder, your state will be sending an unemployment rate notice to you for 2021.

Minimum Wage Updates (Effective 1/1/2021): North Carolina -- \$7.25 (Tipped Minimum Wage -- \$2.13); South Carolina -- \$7.25 (Tipped Minimum Wage -- \$2.13); Tennessee -- \$7.25 (Tipped Minimum Wage -- \$2.13); and Virginia -- \$7.25 (Tipped Minimum Wage -- \$2.13).

Display OSHA Form 300A Summary of Work-Related Injuries and Illnesses: February 1-April 30, 2021

State and Federal OSHA regulations require that employers with over 10 employees at any time in 2020 must post the Annual Summary of Injuries and Illnesses Form 300A from February 1, 2021 to April 30, 2021. This form lists summary data for all related injuries and illnesses that occurred during calendar year 2020. The report must be placed where employee notices are usually posted by your company. Businesses with no injuries or illnesses for the year must also post the form.

Employers subject to these regulations should review their Form 300 Log of Work-Related Injuries and Illnesses to verify that all recordable injuries and illnesses are listed, that all entries are complete and accurate, and correct any deficiencies. Record work-related injuries or illnesses that result in death, loss of consciousness, days away from work, restricted work activity or job transfer, or medical treatment beyond first aid (other incidents that are significant as defined by OSHA must also be recorded).

Use Form 300A to report a summary of these injuries and illnesses, have an officer of the company sign the form, then post it from February 1-April 30, 2021.

You can download a copy of Form 200A "A Summary of Work-Related Injuries and Illnesses" from OSHA's website at www.osha.gov. Click on Recordkeeping, then on "Recordkeeping Forms" for OSHA Forms 300, 300A and 301. You may also use OSHA's on-line order form or call 1-800-321-OSHA.

Electronic submission of Records: Beginning in 2017, many employers were required to electronically submit the summary of injuries and illnesses to OSHA. Learn more about OSHA's rule on submitting injury and illness records electronically by visiting OSHA's website.

Industry News

Only 1.3% of Shops Don't Expect to Recover Financially from Pandemic

As of Dec. 1, 91% of independent repair shops have experienced a decrease in revenue this year, according to new research from IMR Inc., yet only 1.3% of those shops expect that their business won't financially recover from the hardships brought on by the coronavirus pandemic response. Interestingly, none of the urban repair shops surveyed felt that their businesses wouldn't financially recover, compared to 1.5% for suburban shops and 2.0% for rural shops.

In May, 33.9% of shops believed it would take less than a year to recover financially. That dropped to 22.9% in IMR's December survey. Now, 17.4% of shops anticipate that it will take more than a year to financially recover — up from 2.5% back in May.

IMR's research also shows that independent repair shops are still experiencing delays in parts delivery, but those delays are less frequent. When asked about delivery delays in May, 25.8% of shop owners stated that they were either "frequently" or "very frequently" experiencing disruptions. In November, that fell to only 3.6%. Now, less than half (47%) of shops surveyed are experiencing occasional delays — up from 23%.

And among shops having issues with parts supply, 58.6% indicated that they are "rarely" ordering those delayed parts from alternate suppliers. Only 11.1% replied that they are "frequently" ordering from another source.

(Source MAPA NewsSheet)



Did You Catch the Auto Care Association Town Hall Meeting with the State Automotive Aftermarket Associations?

If you missed the webinar held on December 3, 2020, you are in luck...the event was recorded. This town hall recording covered the year in review including: the impact of COVID-19; state and federal legislative and regulatory proposals; post-election analysis and the election's possible impact on 2021, plus more.

This webinar included the Automotive Aftermarket Association of the Mid-South, California Automotive Wholesalers Association, Automotive Parts and Service Association of Illinois, Wisconsin Automotive Parts Association, Automotive Aftermarket Association of the Southeast, Washington Automotive Industry Association and the Alabama Tire Dealers Association.

For a copy of the recording, contact Randy Lisk at the AAAMS office via email rlisk@aaamsonline.com or 1-800-849-8037.

Your Invisible Paycheck

To: _____
(Employee Name)

Not many of us realize how much it costs our company to keep us employed. Shown below is what it actually cost the company to employ you in 2020. This statement is provided to you for your information. It is not intended to show that our company is a generous employer. You earned the amount on the bottom line. We do feel that you and your family should know the costs of extra benefits and protection programs you have as an employee of _____.
(Company Name)

Your Total Paycheck in 2020

Your **Gross Earnings** before deductions.....\$ _____

Deductions from your paycheck amounted to:

Income Taxes (State & Federal).....	\$ _____
Social Security Taxes.....	\$ _____
Your Share of Group Insurance Premiums.....	\$ _____
Your Charitable Contributions.....	\$ _____
Total Deductions.....	\$ _____

Your **Net Earnings** (take-home pay)..... \$ _____

In addition to your wages, the company paid for you:

Social Security Taxes.....	\$ _____
Unemployment Insurance Taxes.....	\$ _____
Workers' Compensation Insurance Premiums.....	\$ _____
Retirement Plan Benefits.....	\$ _____
Life Insurance Premiums.....	\$ _____
Health Insurance Premiums.....	\$ _____
Dental Insurance Premiums.....	\$ _____
Other Company Provided Benefits.....	\$ _____

Total cost of company paid benefits.....\$ _____

Total company paid in 2020 for your wages & benefits.....\$ _____

Time paid, but not worked:

Included in your wages paid by the company were the following amounts for the time you did not work:

Company paid for _____ holidays.....	\$ _____
Company paid for _____ vacation days.....	\$ _____
Company paid for _____ sick leave days.....	\$ _____
Company paid for _____ other days.....	\$ _____

Total company paid you for time not worked.....\$ _____

In 2020 the company paid you in wages and benefits, a Grand Total of.....\$ _____

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