HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Vincent A. Pedone

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to protect the rights of consumer to diagnose, service, and repair, or have repaired for them, motor vehicles in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Vincent A. Pedone	15th Worcester
James M. Murphy	4th Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION SEE HOUSE, NO. 296 OF 2007-2008.]

The Commonwealth of Massachusetts

In	the	Year	Two	Thousand	and	Nine

AN ACT TO PROTECT THE RIGHTS OF CONSUMER TO DIAGNOSE, SERVICE, AND REPAIR, OR HAVE REPAIRED FOR THEM, MOTOR VEHICLES IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 **SECTION 1.** This Act may be cited as "The Massachusetts Motor Vehicle Owners' Right to Repair Act 2 of 2009." 3 **SECTION 2.** The Legislature finds and declares that: 4 a) The ability to diagnose, service, and repair a motor vehicle in a timely, reliable, and affordable 5 manner is essential to the safety and well-being of consumers in this Commonwealth. 6 Consumers are entitled to choose among competing repair facilities for the convenient, reliable, b) 7 and affordable repair of their motor vehicles. 8 Increased competition among repair facilities will benefit vehicle owners in this Commonwealth. c) 9 d) Computers of various kinds are commonly being used in motor vehicle systems, such as pollution 10 control, transmission, anti-lock brakes, electronic and mechanical systems, heating and air 11 conditioning, mobile electronics, airbags, and steering. 12 e) The diagnosis, service, and repair of these vehicle systems are essential to the safe and proper 13 operation of motor vehicles. 14 f) In many instances, access codes prevent owners from making, or having made, the necessary 15 diagnosis, service, and repair of their motor vehicles in a timely, convenient, reliable, and 16 affordable manner. 17 Vehicle owners in the Commonwealth of Massachusetts must have the right: g) 18 to obtain all information necessary to provide for the diagnosis, service, and 19 repair of their vehicles; 20 (2) to choose between original parts and aftermarket parts when repairing their 21 motor vehicles; and 22 (3) to make, or have made, repairs necessary to keep their vehicles in reasonably 23 good and serviceable condition during the life of the vehicle.

h) The restriction of access to vehicle repair information inherently limits who can repair motor vehicles and what brands of parts may be used to repair those vehicles, which limits consumer choice, and impedes competition.

SECTION 3. The purposes of this Act are:

- a) to ensure the safety of all vehicle owners in the Commonwealth of Massachusetts by requiring disclosure of all information necessary for the proper diagnosis, service, and repair of a motor vehicle in a timely, reliable, and affordable manner.
 - b) to encourage competition in the diagnosis, service, and repair of motor vehicles in the Commonwealth of Massachusetts.

SECTION 4. Notwithstanding any General or special law, or any rule or regulation, to the contrary, all manufacturers of motor vehicles sold in the Commonwealth of Massachusetts must:

 a) Promptly provide to the vehicle owner, or to a repair facility of the motor vehicle owner's choosing, the information necessary to diagnose, service, or repair the vehicle. The motor vehicle manufacturer must make available all non-emission-related service information, training information, and diagnostic tools on a non-discriminatory basis to any repair facility of the owner's choosing, and must not limit such information to those repair facilities that are within the manufacturers' approved network. The information to be made available must include the following:

(1) the same service and training information related to vehicle repair must be made available to all independent vehicle repair facilities in the same manner and extent as it is made available to franchised dealerships, and must include all information needed to activate all controls that can be activated by a franchised dealership.

the same diagnostic tools and capabilities related to vehicle repair that are made available to franchised dealerships must be made available to independent vehicle repair facilities. These diagnostic tools and capabilities must be made available for purchase by motor vehicle owners or their agents through reasonable business means. The service and training information and manufacturer diagnostic capabilities must be available to independent vehicle repair facilities, and to the companies from which they normally purchase diagnostic tools, without the need for the motor vehicle owner to return to a franchised dealership.

b) Protection of Trade Secrets.

 Nothing in this Act shall be deemed to require the disclosure of trade secrets, nor the public disclosure of any information related exclusively to the design and manufacturer of motor vehicle parts. No information necessary to repair a motor vehicle shall be withheld by a manufacturer if such information is provided, either directly or indirectly by such manufacturer, to franchised dealerships or other vehicle repair facilities.

SECTION 5. Not later than one year after the date of enactment of this Act, the Office of Consumer Affairs and Business Regulation shall prescribe regulations setting forth an appropriate and uniform method by which motor vehicle manufacturers must provide the information required by Section 4 of this Act, including disclosure in writing, on the Internet, or in any other manner, or under such terms as the Office of Consumer Affairs and Business Regulation shall deem appropriate. These regulations shall take effect upon final issuance of such regulations and shall apply to vehicles manufactured after the 1994 model year.

- **SECTION 6.** Notwithstanding any General or special law, or any rule or regulation, to the contrary, the Office of Consumer Affairs and Business Regulation may not prescribe any regulations that:
 - a) interfere with the authority of the Administrator of the Environmental Protection Agency under section 202(m) of the Clean Air Act (42 U.S.C. 7521(m)) with regard to motor vehicle emissions control diagnostic systems; or
 - b) conflict with any rules and/or regulations prescribed by the Administrator of the Environmental Protection Agency under that section.

SECTION 7. Notwithstanding any General or special law, or any rule or regulation, to the contrary any violation of any of the provisions of this Act committed by any manufacturer of a motor vehicle offered for sale in the Commonwealth, in addition to any other penalty provided by law, shall be subject to a penalty of not more than \$10,000.00 for the first offense and not more than \$20,000.00 for the second and each subsequent offense. In the event of ongoing non-compliance with this Act, such manufacturer shall be subject to a penalty of not more than \$20,000.00 after each period of sixty days of ongoing non-compliance. A vehicle owner or a repair facility may bring a civil action to enjoin a violation of this Act, and to recover all economic damages arising from such violation(s), and all costs of litigation, including reasonable attorney and expert witness fees