By: Hall S.B. No. 436

A BILL TO BE ENTITLED

AN ACT

relating to the diagnosis, maintenance, and repair of certain motor vehicles; providing a civil penalty.

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

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 125 to read as follows:

CHAPTER 125. DIAGNOSIS, MAINTENANCE, AND REPAIR OF MOTOR VEHICLES

Sec. 125.0001. DEFINITIONS. In this chapter:

(1) "Aftermarket part" means a part offered for sale or for installation in or on a motor vehicle after the motor vehicle has left the motor vehicle manufacturer's production line. The term does not include a piece of original equipment or part manufactured for a motor vehicle manufacturer.

(2) "Barrier" means a restriction that prohibits, makes more difficult, or tends to make more difficult the ability of an owner to repair the owner's motor vehicle in the manner the owner deems appropriate.

(3) "Critical repair information or tools" means necessary compatibility information equipment, schematics, tools, parts nomenclature or descriptions, parts catalogs, repair procedures, training materials, software, or technology, including information related to diagnostics, repair, and maintenance, including calibration or recalibration of parts and systems, used to return a motor vehicle to operational specifications.

(4) "Dealer" has the meaning assigned by Section 503.001, Transportation Code.

(5) "Department" means the Texas Department of Motor Vehicles.

(6) "Distributor" has the meaning assigned by Section 2301.002, Occupations Code.

(7) "Manufacturer" has the meaning assigned by Section 503.001, Transportation Code.

(8) "Motor vehicle" has the meaning assigned by Section 501.002, Transportation Code.

(9) "Motor vehicle equipment" has the meaning assigned by 49 U.S.C. Section 30102(a).

(10) "Motor vehicle repair facility" means a person who is engaged in the business of diagnosis, maintenance, or repair, including servicing and calibration, of motor vehicles or motor vehicle equipment.

(11) "Owner" means a person, or the person's designee, who owns or leases a motor vehicle. The term does not include a manufacturer, a person acting on behalf of a manufacturer, a motor vehicle financing company, a motor vehicle dealer, or a motor vehicle lessor.

(12) "Remanufacturer" means a person who uses a standardized industrial process that returns previously sold, worn, or nonfunctional products to like new or better condition and performance, resulting in a fully warranted product.

(13) "Service provider" means a designee of an owner or a designee of a motor vehicle repair facility that is hired or

otherwise engaged by the owner or motor vehicle repair facility to assist with the diagnosis and repair of a motor vehicle.

(14) "Specified legal barrier" means:

(A) a request or requirement that an owner waive the owner's right to use a motor vehicle repair facility of the owner's choice;

(B) an offer of compensation or another incentive in exchange for an owner waiving the owner's right to use a motor vehicle repair facility of the owner's choice; or

(C) any additional specified legal barrier identified by department rule.

(15) "Standardized access platform" means a cybersecure authentication and authorization system developed by a manufacturer that has the capability to securely access and communicate vehicle-generated data that emanates directly from the motor vehicle by direct local and remote wireless data connections bidirectionally and in real time.

(16) "Technological barrier" means a technological restriction that prohibits, makes more difficult, or tends to make more difficult the ability of an owner to repair the owner's motor vehicle in the manner the owner deems appropriate. The term includes a technological barrier identified by department rule.

(17) "Telematics system" means a system in a motor vehicle that collects information generated by the operation of the motor vehicle and, using wireless communication, transmits the information to a remote receiving point where it will be stored.

(18) "Vehicle-generated data" means direct,

real-time, onboard data generated by the operation of a motor vehicle that is related to the motor vehicle's diagnostics, repair, or maintenance, including service, wear, and calibration or recalibration of parts and systems, required to maintain or return the motor vehicle to operational specifications in compliance with federal motor vehicle safety and emissions laws, regulations, and standards.

Sec. 125.0002. MANUFACTURER BARRIERS PROHIBITED. A manufacturer may not use a technological barrier or specified legal barrier that impairs the ability of:

(1) an owner to access the vehicle-generated data generated by the owner's motor vehicle that the manufacturer is required to make available under Sections 125.0003(a) and (b);

(2) an owner, an aftermarket parts manufacturer, an aftermarket parts remanufacturer, a motor vehicle equipment manufacturer, a motor vehicle repair facility, a distributor, or a service provider to access critical repair information or tools that the manufacturer is required to make available under Section 125.0003(c);

(3) an owner to use a service provider of the owner's choice;

(4) an aftermarket parts manufacturer, an aftermarket parts remanufacturer, a motor vehicle equipment manufacturer, a motor vehicle repair facility, a distributor, or a service provider to produce or offer compatible aftermarket parts; or

(5) an owner to diagnose, repair, and maintain the owner's motor vehicle in the same manner as a manufacturer or motor

vehicle dealer.

Sec. 125.0003. DATA, INFORMATION, AND TOOL ACCESS. (a) A manufacturer shall provide to each owner of a motor vehicle manufactured by the manufacturer access to vehicle-generated data generated by the owner's vehicle without restriction, limitation, fee, or license or requiring use of a device mandated by the manufacturer to decrypt vehicle-generated data.

(b) If a manufacturer uses wireless technology or a telematics system to transmit vehicle-generated data, the manufacturer shall provide access to the vehicle-generated data as required under Subsection (a) and in a direct and wireless method through a standardized access platform.

(c) A manufacturer shall provide to an owner, aftermarket parts manufacturer, aftermarket parts remanufacturer, motor vehicle repair facility, distributor, or service provider of a vehicle manufactured by the manufacturer access to critical repair information or tools related to the motor vehicle without restriction or limitation and at a fair, reasonable, and nondiscriminatory cost.

(d) A manufacturer shall develop a system, either through an onboard screen or through an application that an owner can download, that notifies an owner when the vehicle-generated data generated by the owner's motor vehicle is being accessed. The notification must specify if the access includes the ability for the person accessing the data to send a command or software update to complete a repair. A manufacturer or person working on behalf of a manufacturer may be considered an owner of a motor vehicle for the

limited purpose of receiving a notification under this subsection if permitted by the owner.

(e) A person who manages access to a motor vehicle's vehicle-generated data transmitted by a standardized access platform may not limit the number or types of persons that an owner may designate as the owner's designee.

Sec. 125.0004. MANUFACTURER MANDATES PROHIBITED. (a) A manufacturer may not, through repair or maintenance service procedures, recommendations, service bulletins, repair manuals, position statements, or other similar repair or maintenance guidelines that the manufacturer distributes:

(1) mandate, or imply a mandate for, the use of a particular brand or manufacturer of parts, tools, or equipment; or

(2) recommend the use of a particular brand or manufacturer of parts, tools, or equipment, unless the manufacturer provides a prominent notice immediately following the recommendation, in the same font used in the recommendation and in a font size no smaller than the font size used in the recommendation that states, "NOTICE: Motor vehicle owners can choose which repair parts, tools, and equipment to purchase and should carefully consider their options."

(b) This section does not apply to recall or warranty repairs.

Sec. 125.0005. CONTRACTS VOIDED. A provision of a contract or arrangement that waives, avoids, restricts, or limits the manufacturer's obligations under this chapter is void and unenforceable.

Sec. 125.0006. REPORTS. The department shall, on or before September 1 of each even-numbered year, submit a report to the governor and the appropriate standing committees of the legislature that includes:

(1) a summary of the department's administration and enforcement of this chapter; and

(2) the department's recommendations for legislation that would improve the department's ability to further protect owners from limits on competition in motor vehicle repair and to strengthen an owner's control over the data generated by the owner's motor vehicle.

Sec. 125.0007. RULES. (a) The department shall adopt rules to administer and enforce this section, including rules relating to:

(1) prohibiting technological barriers;

(2) prohibiting specified legal barriers related to motor vehicle repair or to an owner's control of data generated by the owner's motor vehicle;

(3) the types of data that constitute vehicle-generated data, unrestricted by whether the type of data is related to motor vehicle repair, taking into consideration cybersecurity and privacy;

(4) allowing an owner to directly access the data generated by the owner's motor vehicle; and

(5) requirements for manufacturers and motor vehicle dealers to inform an owner at the point of purchase or lease of the motor vehicle owner's rights and the manufacturer's obligations

under this chapter.

(b) The department shall at least once every three years review the department's authority under Subsection (a) and consider whether it is necessary to adopt rules under that subsection to ensure that standardized access platforms are effective for owners.

Sec. 125.0008. CIVIL PENALTY. (a) A manufacturer that violates Section 125.0002, 125.0003, or 125.0004 is liable to this state for a civil penalty in an amount not to exceed $10,000 for each act of violation and each day a violation occurs or continues to occur.

(b) The attorney general may bring an action to recover the civil penalty imposed under this section.

(c) An action under this section may be brought in a district court in:

(1) Travis County; or

(2) a county in which any part of the violation occurs.

(d) The attorney general may recover reasonable expenses incurred in obtaining a civil penalty under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Sec. 125.0009. CONSTRUCTION OF CHAPTER. This chapter may not be construed to prevent a manufacturer from using a cryptographic or technological protection necessary to secure motor vehicles, vehicle-generated data, or safety critical vehicle systems from an unintended audience.

SECTION 2. Section 125.0005, Business & Commerce Code, as added by this Act, applies only to a contract or arrangement entered

into, renewed, or modified on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2027.