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## QUESTION 1: Law Proposed by Initiative Petition

# Motor Vehicle Mechanical Data

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 5, 2020?

### SUMMARY

As required by law, summaries are written by the State Attorney General.

► 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.

### WHAT YOUR VOTE WILL DO

As required by law, the statements describing the effect of a "yes" or "no" vote are written jointly by the State Attorney General and the Secretary of the Commonwealth.

► **A YES VOTE** would provide motor vehicle owners and independent repair facilities with expanded access to wirelessly transmitted mechanical data related to their vehicles' maintenance and repair.

**A NO VOTE** would make no change in the law governing access to vehicles' wirelessly transmitted mechanical data.

### STATEMENT OF FISCAL CONSEQUENCES

As required by law, statements of fiscal consequences are written by the Executive Office of Administration and Finance.

► The proposed law has no discernible material fiscal consequences for state and municipal government finances.

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### ARGUMENTS ►

As provided by law, the 150-word arguments are written by proponents and opponents of each question, and reflect their opinions. The Commonwealth of Massachusetts does not endorse these arguments, and does not certify the truth or accuracy of any statement made in these arguments. The names of the individuals and organizations who wrote each argument, and any written comments by others about each argument, are on file in the Office of the Secretary of the Commonwealth.

**IN FAVOR:** A YES vote for Right to Repair will guarantee that as technology advances, drivers can continue to get their cars repaired where they want.

We passed the first Right to Repair law in 2012, but as new cars become more computerized auto manufacturers are using a loophole to restrict access to data needed to diagnose problems, make repairs, and perform maintenance.

This means car owners are steered toward more expensive dealer repair options. Vote YES to protect independent repair shops and preserve your ability to shop around.

Voting YES provides access ONLY to mechanical and repair information, not personal information.

A YES vote ensures that YOU will have the choice to provide access to the repair information necessary to fix your car to your local independent repair shop even as cars become more computerized.

It's your car, you paid for it, you should get it fixed where you want.

**Tommy Hickey**  
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**AGAINST:** Vote NO on Question 1 to protect your privacy, your safety, and your family.

Question 1 has nothing to do with fixing cars. Question 1 is a data grab by third parties who want to gather your personal vehicle information and access it remotely, including location data in real time.

Domestic violence advocates warn how dangerous this information could be. Jane Doe, the Massachusetts Coalition Against Sexual Assault and Domestic Violence, wrote, "Access to vehicle data, particularly call logs and GPS location, enables persons who perpetrate abuse to possess the tools necessary to track and monitor their victim." A similar proposal failed in California after the California Coalition Against Sexual Assault warned, "from this information, a third party, such as a sexual predator, could stalk and/or harm victims."

Privacy advocates, cybersecurity experts, and domestic violence advocacy groups urge you to vote NO on Question 1.

**Steve McElhinney**  
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### FULL TEXT OF QUESTION

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

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

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

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

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

SECTION 2. Section 2 (d) (1) of Chapter 93K is hereby amended by inserting at the end thereof the following new paragraph:

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

SECTION 3. Said Chapter 93K is hereby further amended by striking subsection (f) of Section 2 and inserting in place thereof the following: —

(f) 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. Such platform shall be capable of securely communicating all mechanical data emanating directly

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### FULL TEXT OF QUESTION (continued)

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.

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

(g) The Attorney General is hereby directed to establish for prospective vehicle owners a motor vehicle telematics system notice that includes, but is not limited to, the following features: (i) an explanation of motor vehicle telematics and its purposes, (ii) a description summarizing the mechanical data collected, stored and transmitted by a telematics system, (iii) the prospective owner's ability to access the vehicle's mechanical data through a mobile device, and (iv) an owner's right to authorize an independent repair facility to access the vehicle's mechanical data for vehicle diagnostics, repair and

maintenance purposes. The notice form shall provide for the prospective owner's signature certifying that the prospective owner has read the telematics system notice.

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

SECTION 5. Section 6 of Chapter 93K is hereby amended by adding at the end the following —

(e) Notwithstanding subsections (b) and (c), any owner or independent repair facility authorized by an owner who has been denied access to mechanical data in violation of subsections (d) (1) or (f) of section 2 may initiate a civil action seeking any remedies under law, including any remedy authorized by chapter 93A. Each denial of access in violation of said subsections shall be compensable by an award of treble damages or \$10,000, whichever amount is greater.

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## QUESTION 2: Law Proposed by Initiative Petition

# Ranked-Choice Voting

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 5, 2020?

### SUMMARY

As required by law, summaries are written by the State Attorney General.

► This proposed law would implement a voting system known as “ranked-choice voting,” in which voters rank one or more candidates by order of preference. Ranked-choice voting would be used in primary and general elections for all Massachusetts statewide offices, state legislative offices, federal congressional offices, and certain other offices beginning in 2022. Ranked-choice voting would not be used in elections for president, county commissioner, or regional district school committee member.

Under the proposed law, votes would be counted in a series of rounds. In the first round, if one candidate received more than 50 percent of the first-place votes, that candidate would be declared the winner and no other rounds would be necessary. If no candidate received more than 50 percent of the first-place votes, then the candidate or candidates who received the fewest first-place votes would be eliminated and, in the next round, each vote for an eliminated candidate would instead be counted toward the next highest-ranked candidate on that voter’s ballot. Depending on the number of candidates, additional rounds of counting could occur, with the last-place candidate or candidates in each round being eliminated and the votes for an eliminated candidate going to the voter’s next choice out of the remaining

candidates. A tie for last place in any round would be broken by comparing the tied candidates’ support in earlier rounds. Ultimately, the candidate who was, out of the remaining candidates, the preference of a majority of voters would be declared the winner.

Ranked-choice voting would be used only in races where a single candidate is to be declared the winner and not in races where more than one person is to be elected.

Under the proposed law, if no candidate received more than 50 percent of first-place votes in the first round, the rounds of ballot-counting necessary for ranked-choice voting would be conducted at a central tabulation facility. At the facility, voters’ rankings would be entered into a computer, which would then be used to calculate the results of each round of the counting process. The proposed law provides that candidates in a statewide or district election would have at least three days to request a recount.

The Secretary of State would be required to issue regulations to implement the proposed law and conduct a voter education campaign about the ranked-choice voting process. The proposed law would take effect on January 1, 2022.

### WHAT YOUR VOTE WILL DO

As required by law, the statements describing the effect of a “yes” or “no” vote are written jointly by the State Attorney General and the Secretary of the Commonwealth.

► **A YES VOTE** would create a system of ranked-choice voting in which voters would have the option to rank candidates in order of preference and votes would be counted in rounds, eliminating candidates with the lowest votes until one candidate has received a majority.

**A NO VOTE** would make no change in the laws governing voting and how votes are counted.

### STATEMENT OF FISCAL CONSEQUENCES

As required by law, statements of fiscal consequences are written by the Executive Office of Administration and Finance.

► This measure will likely require implementation costs for state and municipal elections officials, but because the proposed law would only apply to elections and primaries that are held on or

after January 1, 2022, the fiscal consequences of this proposed measure for state and municipal government finances are otherwise unknown.

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### ARGUMENTS ►

As provided by law, the 150-word arguments are written by proponents and opponents of each question, and reflect their opinions. The Commonwealth of Massachusetts does not endorse these arguments, and does not certify the truth or accuracy of any statement made in these arguments. The names of the individuals and organizations who wrote each argument, and any written comments by others about each argument, are on file in the Office of the Secretary of the Commonwealth.

**IN FAVOR:** A YES VOTE adopts ranked choice voting, a common-sense reform that puts more power in the hands of voters.

Ranked choice voting addresses three problems:

- Big money and corrupt special interests have too much control over our democracy
- Politicians can win with less than a majority, and independents are shut out
- Politics are tearing us apart, preventing solutions to major challenges

It works by giving voters the option to rank candidates in order of preference. You can vote for just one candidate like you always have, or you can rank your first, second and third choice. If your favorite candidate doesn't win, your vote is instantly counted for your second choice so candidates must compete for every vote. Ranked choice voting ensures the winner has majority support and reflects the true will of the people.

A YES VOTE gives voters more voice and will help make our democracy stronger.

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**[www.voterchoice2020.org](http://www.voterchoice2020.org)**

**AGAINST:** Two Democratic Governors rejected ranked choice voting because it was confusing and denied voters informed choice. Democratic Governor Jerry Brown witnessed a mayoral election in Oakland where the winner won with voters' seventh and eighth place rankings. Governor Brown said, "Ranked-choice voting is overly complicated and confusing. I believe it deprives voters of genuinely informed choice." Democratic Governor Gavin Newsom said Ranked Choice Voting "has often led to voter confusion and the promise that ranked choice voting leads to greater democracy is not necessarily fulfilled."

Ranked Choice Voting ballots force voters to guess the candidates who will remain standing in multiple voting rounds and cast their votes in the dark. If they guess wrong and vote for eliminated candidates, their ballots are not counted in the final vote. Winners win a false "majority" of remaining ballots, not a true majority of all the voters voting in the election.

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### FULL TEXT OF QUESTION

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

SECTION 1. Section 1 of chapter 50 of the General Laws is hereby amended by inserting after the definition of "Primary" and prior to the definition of "Registrars", the following definition:—

"Ranked-choice voting" means, in the case of elections and primaries for which ballots are prepared in accordance with section 43A of chapter 54, a method of casting and tabulating ballots more particularly described in sections 2A and 2B of chapter 50.

SECTION 2. Section 2 of said chapter 50 is hereby amended by adding the following sentence to the end of said section:—

The determination of the person receiving the highest number of votes for an office in a ranked-choice voting election or primary shall be governed by sections 2A and 2B of chapter 50.

SECTION 3. Said chapter 50 is hereby further amended by inserting after section 2 the following section 2A:—

Section 2A. As used in this section and section 2B, unless

the context otherwise indicates, the following terms have the following meanings:

"Active preference" means a vote assigned to the highest continuing ranking on a continuing ballot.

"Batch elimination" means the simultaneous defeat of multiple candidates because, with respect to the candidates, one of the following applies:

(a) The candidate cannot be elected because the candidate's active preference total in a round of ranked-choice voting tabulation plus the total of all continuing ballots that could possibly be transferred to the candidate in future rounds from candidates with fewer active preferences or an equal number of active preferences is not enough to surpass the candidate with the next-higher active preference total in the round; or

(b) The candidate has a lower active preference total than a candidate described in subparagraph (a).

"Concluded ballot" means a ballot that does not rank any continuing candidate, contains an overvote at the highest continuing ranking, or contains two or more sequential skipped rankings before its highest continuing ranking.

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### FULL TEXT OF QUESTION (continued)

“Continuing ballot” means a ballot that is not a concluded ballot.

“Continuing candidate” means a candidate who has not been defeated.

“Highest continuing ranking” means the continuing candidate with the highest ranking on a voter’s ballot.

“Last-place candidate” means (a) the candidate with the lowest active preference total in a round of the ranked-choice voting tabulation, or (b) a candidate that is defeated in batch elimination.

“Overvote” means a circumstance in which a voter ranks more than one candidate at the same ranking.

“Ranking” means the number assigned on a ballot by a voter to a candidate to express the voter’s preference for that candidate. Ranking number one is the highest ranking, ranking number two is the next-highest ranking and so on.

“Round” means an instance of the sequence of voting tabulation steps established in subsection 1 of section 2B.

“Skipped ranking” means a ranking not assigned on a ballot by a voter to any candidate, in the circumstance where a lower ranking is assigned on a ballot by a voter to a candidate.

SECTION 4. Said chapter 50 is hereby further amended by inserting after section 2A the following section 2B:—

Section 2B. The following applies for determining the results of ranked-choice voting elections and primaries.

1. Except as provided in subsection 2 below pertaining to ties, the following procedures are used to determine the person receiving the highest number of votes, for purposes of section 2 of chapter 50, in an election or primary for any office elected by ranked-choice voting. Tabulation must proceed in rounds. In a round, the number of active preferences for each continuing candidate must be counted. A continuing ballot counts as one active preference for its highest-ranked continuing candidate for that round. A concluded ballot is not counted for any continuing candidate. The round ends with one of the following:

A. In the first round only, if a candidate receives greater than fifty percent of all active preferences counted in the first round for all candidates, such candidate is determined to be the person receiving the highest number of votes and the tabulation shall end.

B. Otherwise, if there are more than two continuing candidates, the last-place candidate is defeated, or the last-place candidates are defeated in batch elimination, and a new round begins.

C. If there are two or fewer continuing candidates, the candidate with the most active preferences is determined to be the person receiving the highest number of votes and the tabulation shall end.

2. If two or more last-place candidates are tied and batch elimination does not apply, the one with the fewest active preferences in the prior round is defeated. If two or more such tied candidates were tied in the prior round, the second tie shall be decided by referring similarly to the standing of candidates, in terms of active preferences, in the second-prior round. This principle shall be applied successively as many times as may be necessary, a tie shown in any prior round being decided by referring to the standing of the tied candidates in the round immediately preceding the round in which the tie exists.

3. For the purposes of determining the percentage of the entire vote cast in the commonwealth for an office to be filled by all the voters of the commonwealth, as provided in the definition of “political party” in Section 1 of chapter 50, the number of votes cast for a party’s candidate for an applicable office elected by ranked-choice voting shall be the number of active preferences credited to that candidate after the initial counting in the first round described in subsection 1 above.

SECTION 5. Section 1 of chapter 53 of the General Laws is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:—

A party that makes one or more nominations shall be entitled to have the name of each of its candidates printed on the ballot to be used at the ensuing election; but, unless the nomination is made in a primary for which ballots are prepared in accordance with section 43A of chapter 54 or in several caucuses held in more than one ward or in more than one precinct or group of precincts by direct plurality vote, a certificate of nomination must be filed as provided in section five.

SECTION 6. Section 2 of said chapter 53 is hereby amended by striking out the second sentence and inserting in place thereof the following two sentences:—

All nominations and elections in primaries for which ballots are prepared in accordance with section 43A of chapter 54 shall use ranked-choice voting for determining the person receiving the highest number of votes. All nominations and elections in caucuses shall be by direct plurality vote.

SECTION 7. Chapter 54 of the General Laws is hereby further amended by inserting after section 43A the following section 43B:—

Section 43B. All elections and primaries for which ballots are prepared in accordance with section 43A and for which

## QUESTION 2: Law Proposed by Initiative Petition

### FULL TEXT OF QUESTION (continued)

only one person is to be elected shall, for the purposes of section 2 of chapter 50, use ranked-choice voting to determine the person receiving the highest number of votes for an office, except as follows:

(a) Ranked-choice voting shall not be used for the election of presidential electors.

(b) Ranked-choice voting shall not be used for offices described and elected in accordance with section 4 of chapter 34 and section 14E of chapter 71.

(c) Ranked-choice voting shall not be used in a particular election or primary for offices in which there are two or fewer candidates, as reported by the state secretary pursuant to section 49 of chapter 54.

SECTION 8. Section 77 of chapter 54 of the General Laws is hereby amended by striking the phrase “marking a cross (X) in the square at the right of the name of each candidate for whom he intends to vote” and inserting in place thereof the following phrase: “marking the ballot in a manner prescribed by the state secretary by regulation”.

SECTION 9. Section 78 of chapter 54 of the General Laws is hereby amended by striking the phrase “mark a cross (X) in the square at the right of the names of the group of candidates for said offices for whom he desires to vote” in the third sentence and inserting in place thereof the following phrase: “mark the ballot in a manner prescribed by the state secretary by regulation”.

SECTION 10. Chapter 54 of the General Laws is hereby further amended by inserting after section 105A the following section 105B:—

Section 105B. For all elections or primaries using ranked-choice voting under section 43B, the state secretary shall establish a central tabulation facility for the purpose of tabulating active preferences after the first round of counting is completed pursuant to sections 33H and 105.

In the case of an election or primary where the person receiving the highest number of votes is not determined under paragraph 1A of section 2B of chapter 50, and notwithstanding any provision any general, special, or local law to the contrary, the record of all ballots cast in the elections or primaries shall be delivered to the central tabulation facility established under this section as follows:

A. For ballots counted under section 33H, the city or town clerk shall deliver the cast vote records, meaning a data record of each ranking marked of each ballot cast, whether in electronic, paper or other form, by secure means as established and approved by the state secretary by regulation, or otherwise as described in section 105A. For ballots that are not included in the cast vote records,

such as a ballot that is rejected by a computer or counting unit, or that is mutilated so that it cannot be inserted in a computer or counting unit, the ballots shall be entered into the cast vote records in a manner that can be observed by two inspectors of different political parties, so as to be delivered in the full cast vote record.

B. For ballots counted under section 105, notwithstanding the requirements to place all election material in a locked facility, the city or town clerk shall deliver all cast ballots including absentee ballots by secure means as established and approved by the state secretary by regulation, or otherwise as described in section 105A.

For the central tabulation facility designated under this section, the state secretary shall appoint the following election officers: a warden, a deputy warden, a clerk and deputy clerk and as many inspectors and deputy inspectors as the state secretary determines are necessary.

Each chair of a state committee may appoint in writing a person the chair considers to be a computer expert to monitor the electronic counting of ballots at the central tabulation facility. The expert shall be assigned by the presiding officer to a position within the center that will enable the expert to observe all operations.

The state secretary shall be the presiding officer at the central tabulation facility and shall assign to the election officers such duties as will ensure the accurate and complete tabulation of the ballots in accordance with rules and regulations for the operation of such tabulation center promulgated by the office of the state secretary.

Through means established by the state secretary, the rankings shown on each ballot for each election or primary subject to tabulation under this section shall be converted into a machine readable form. The converted ballots shall then be entered in a computer the state secretary considers capable of conducting the tabulation process described in section 2B of chapter 50. Upon completion of all rounds of tabulation, the state secretary, or an election officer designated by the state secretary, shall publicly and in the presence of the other election officers, audibly and distinctly, announce the number of active preferences cast for each continuing candidate in each round for each office being tabulated at the central tabulation facility. The state secretary shall further examine all original and all additional copies of the records and make them part of the records of such election or primary, and shall certify and attest copies of the records of votes for the several candidates in each round of tabulation.

SECTION 11. Section 135 of said chapter 54 is hereby amended by adding the following paragraph after the

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### FULL TEXT OF QUESTION (continued)

seventh paragraph of said section:—

In the case of state-wide or district-wide recounts, as described in the preceding two paragraphs, in elections or primaries subject to ranked-choice voting and where ballots are to be or have been tabulated in a central tabulation facility pursuant to section 105B, the time for filing a petition for a recount shall be extended to on or before five o'clock post meridian on the third day following the announcement of the results of tabulation conducted pursuant to section 105B if the time for filing otherwise provided in this section would have otherwise already

expired by such extended date.

SECTION 12. The state secretary shall promulgate by October 1, 2021, regulations consistent with this act and that ensure that ballots using ranked-choice voting shall be simple and easy to understand. In addition, the state secretary shall conduct a voter education campaign to familiarize voters with ranked-choice voting.

SECTION 13. This act applies to elections and primaries held on or after January 1, 2022.