

February 5, 2024

Lynne Cayting
Chief Mobile Sources Section
Bureau of Air Quality
Department of Environmental Protection
17 State House Station
August, ME 04333

FILED ELECTRONICALLY

Re: ACRA Comments on State of Maine Chapter 127-A – Advanced Clean Cars II Program

Dear Ms. Cayting:

The Board of Directors of the American Car Rental Association (ACRA) respectfully submits these comments to the Maine Board of Environmental Protection (BEP) and the Maine Department of Environmental Protection (DEP) regarding proposed Chapter 127-A: Advanced Clean Cars II Program (ACCI). ACRA requests that this proposal be rejected by the BEP and the subject of adopting a *de facto* zero emissions vehicle (ZEV) mandate in the State of Maine be referred to the state legislature for consideration and potential action.

A. Description of ACRA

ACRA is the national representative for over 98% of our nation's car rental industry. ACRA's membership is comprised of over 300 car rental companies, including all of the brands you would recognize such as Alamo, Avis, Budget, Dollar, Enterprise, Fox, Hertz, National, Sixt and Thrifty. ACRA members also include many system licensees and franchisees, mid-size, regional and independent car rental companies as well as smaller, "mom & pop" operators. ACRA members have over 2.1 million registered vehicles in service in the United States, with fleets ranging in size from one million cars to ten cars and employ over 160,000 individuals across the nation. On average, ACRA members purchase 10 percent of the light duty vehicles sold in the U.S. each year.

In Maine, if a resident or business traveler or tourist is renting a car, the chances are very high they are renting from a member of ACRA. Therefore, please consider these ACRA comments as the comments of the car rental operators across the state of Maine.

ACRA's members are committed to reduced greenhouse gas emissions from mobile sources, including rental cars, and have demonstrated their commitment to transitioning from internal combustion vehicles to electric, hydrogen and other alternative-fueled vehicles. But ACRA firmly posits that such reductions and transitions must be accomplished through incentives and with regard to consumer acceptance and demand for alternative fueled vehicles, not via mandates such as the Maine proposal.

B. ACRA's Comments on Proposed Chapter 127-A

1. ACCII must be treated as a "major substantive" rule and be considered by the elected officials in the Maine legislature – not as an administrative action. This proposal will result in a *de facto* ZEV mandate in the state and the benefits, as well as the costs, of such a mandate must be weighed by the state's elected officials, not by an administrative agency in response to a petition signed by 150 individuals.
2. Currently, only 4 percent of vehicles sold in Maine are ZEVs and there are less than 1,000 electric vehicle charging locations in the entire state. The proposal would mandate that the share of ZEVs sold in Maine increase to 43 percent by 2028 – 4 years! -- and 82 percent by 2033 – without any attention in this proposal to the lack of fueling and charging infrastructure in place in the state for these vehicles. Without a demonstration of consumer acceptance of ZEVs, including by car rental customers specifically, and the presence of adequate ZEV fueling and charging infrastructure throughout the state for use by consumers, such goals are unrealistic.
3. One plausible result from this proposal is that both Maine citizens and Maine visitors will rent non-ZEVs outside the state to avoid the state's ZEV mandate, resulting in sharply reduced environmental benefits and stranded ZEV rental cars at locations in the state.

4. ACRA has supported federal ZEV incentives and ACRA's president has been appointed to the Federal Electric Vehicle Working Group – a federal advisory committee chartered to smooth the transition to ZEVs. ACRA's members have made significant investments in ZEVs and ZEV fueling and charging infrastructure over the past several years. And those commitments will continue into the future. But ACRA suggests that ZEV mandates, divorced from consumer demand, cost and electricity (or hydrogen) supply considerations, are unlikely to succeed.

5. As a simple matter of law, Maine is prohibited under federal law from adopting Chapter 127-A. Litigation currently is underway regarding the authority of California to adopt its version of ACCII through its federal Clean Air Act (CAA) waiver authority. Until that litigation is resolved, Maine's adoption of Chapter 127-A would be premature and violate the pre-emption provisions of the CAA. Given the U.S. Supreme Court's 2022 ruling against federal regulation of greenhouse gases by the Environmental Protection Agency with respect to power plants, ACRA suggests that Maine's administrative consideration of proposed Chapter 127-A is unsupported by current federal statutory and common law. If California's waiver request is denied in the federal courts – particularly when it is considered by the U.S. Supreme Court -- then Chapter 127-A will be also be declared invalid – rendering all implementation costs and efforts wasteful and moot.

Thank you for considering ACRA's comments on proposed Chapter 127-A: Advanced Clean Cars II Program. ACRA hopes to have the opportunity to work with Maine's legislature to craft a ZEV promotion program that involves incentives, rather than mandates, and takes into account consumer demand, charging infrastructure and fuel availability. If you have questions about ACRA's comments, please contact Gregory M. Scott at 202-297-5123 or at gscott@merevir.com.

Sincerely yours,



Sharon Faulker
Executive Director