

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

July 18, 2017

To: Subcommittee on Digital Commerce and Consumer Protection Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Markup of H.R. __, Staff Draft on Highly Automated Vehicle Testing and Deployment

On Wednesday, July 19, 2017, at 10:00 a.m. in room 2123 of the Rayburn House Office Building, the Subcommittee on Digital Commerce and Consumer Protection will markup H.R. __, Staff Draft on Highly Automated Vehicle Testing and Deployment. The draft combines a selection of the discussion drafts considered at the legislative hearing on June 27, 2017, plus additional provisions. A summary of the draft's provisions follows.

Sec. 1. Table of Contents.

Sec. 2. NHTSA Authority and State Preemption for Autonomous Motor Vehicles.
This section preempts state laws or regulations regarding the design and construction of highly automated vehicles (HAVs). It protects states' authority to regulate, among other things, vehicle registration, licensing, insurance, and traffic laws unless the law or regulation is effectively an unreasonable restriction on the design or construction of HAVs. This section remains under discussion as the draft moves forward.

Sec. 3. Updated or New Federal Motor Vehicle Safety Standards for Highly Automated Vehicles.

Subsection (a). This subsection directs the Secretary of Transportation to complete a rulemaking to require automakers and other entities developing HAVs or automated driving systems to submit safety assessment certifications regarding how they are addressing safety. Until the final rule is issued, safety assessment letters are required

as contemplated by the Federal Automated Vehicles Policy issued in September 2016, or any successor guidance issued on HAVs.

Subsection (b). This subsection directs the Secretary to review current Federal Motor Vehicle Safety Standards (FMVSS) and research possible new FMVSS to accommodate the deployment of HAVs and to ensure safety and security.

Subsection (c). This subsection directs the Secretary to make available to the public a rulemaking and safety priority plan that details the safety priorities of the National Highway Traffic Safety Administration (NHTSA) with regard to HAVs and other safety initiatives. The plan must be updated at least every two years.

Subsection (d). This subsection directs the Secretary to initiate the first rulemaking proceeding within 18 months of the enactment of the Act and to continue rulemaking in accordance with the rulemaking and safety priority plan.

Sec. 4. Cybersecurity of Automated Driving Systems. Under this section, a person may not sell or import any HAVs or vehicles that perform partial driving automation unless the person has developed a cybersecurity plan. The plan must include a written cybersecurity policy that includes a process for identifying and mitigating reasonably foreseeable vulnerabilities and a process for taking preventative and corrective action to mitigate against vulnerabilities; the identification of an employee with responsibility for the management of cybersecurity; a process for controlling access to automated driving systems; and a process for employee training and supervision.

Sec. 5. General Exemptions. This section authorizes automakers to obtain exemptions from FMVSS to make easier the development or field evaluation of an HAV, or a feature of an HAV if the vehicle or the feature provides a safety level at least equal to the standard for which exemption is sought, or has an overall safety level at least equal to nonexempt vehicles. This section expands the number of cars permitted to be exempted under certain conditions from 2,500 to 100,000 per manufacturer for all exemptions in a year. Additionally, this section expands the number of years for which exemptions may be granted from two years to five years. Both the number of vehicles and the number of years are still under discussion as the draft moves forward. Exemptions from crashworthiness standards would be prohibited under this section until one year after the Secretary issues both the rule on the safety assessment certification and the rulemaking and safety priority plan. The Secretary is also granted authority to stay an exemption in the event an exempted HAV is found to contain a defect. Manufacturers granted an exemption under this section must also submit information about crashes involving exempted vehicles.

This section further requires the Secretary to publish in the Federal Register a notice that details the process and analysis used for consideration of exemption or renewal applications.

Sec. 6. Motor Vehicle Testing or Evaluation. This section expands permissions created in the Fixing America's Surface Transportation Act (FAST Act), signed into law in the 114th

Congress, for testing vehicles not in compliance with FMVSS to equipment manufacturers, suppliers, universities, and new entrants to the HAV market.

Sec. 7. Information On Highly Automated Driving Systems Made Available To Prospective Buyers. This section directs the Secretary to conduct research to determine the most effective method and terminology for informing consumers of the level of automation and capabilities of Level 2 through Level 5 automated vehicles. After the completion of the research, the Secretary is directed to initiate a rulemaking proceeding to require manufacturers to inform consumers of the capabilities and limitations of a vehicle's driving automation system.

Sec. 8. Highly Automated Vehicles Advisory Council. This section directs the Secretary to establish a Federal Automated Vehicle Advisory Council in accordance with the Federal Advisory Committee Act. Membership of the Council would include a diverse group representative of all interests. The Council may form subcommittees as needed to present best practices or recommendations to the Secretary regarding the effects of the development and deployment of HAVs with respect to: (1) mobility access for the disabled community; (2) mobility access for senior citizens and other underserved populations; (3) cybersecurity for HAVs; (4) the sharing of certain relevant information regarding HAV testing and deployment that does not risk public disclosure of proprietary information; (5) labor and employment issues; (6) environmental issues; (7) privacy and security of information collected by HAVs; and (8) the safety of passengers in HAVs as cabin seating changes over time. The Council would be required to submit its recommendations to Congress. The draft terminates the Council after six years.

Sec. 9. Rear Seat Occupant Alert System. This section directs the Secretary to issue a final rule within three years requiring all new cars to be equipped with a system for alerting the driver to check the backseat for children or others before leaving the car.

Sec. 10. Headlamps. This section directs the Secretary to conduct research regarding the development of updated safety standards for headlights. If the Secretary determines that revision to the standards is necessary, a rulemaking proceeding must be initiated after completion of the research. If the Secretary determines that revision to the standards is not necessary, the Secretary shall submit a report to Congress describing the reasons for not revising the standards.

Sec. 11. Definitions. The term highly automated vehicle is defined as a vehicle with an automated driving system, which is Level 3 or higher, as defined by SAE International. Other definitions in the bill of the terms 'automated driving system,' 'dynamic driving task,' and 'operational design domain' mirror definitions of terms established by SAE International in Recommended Practice Report J3016 published in September 2016. The definition provides for revision of definitions through rulemaking if SAE International revises those definitions and notifies the Secretary of the revisions.