



**Transportation**  
for America

### Senate Automated Vehicle Bill

On Thursday September 28th, the Senate Commerce, Science, and Transportation Committee released a second draft of their automated vehicle legislation. Senate Commerce Committee Chairman John Thune (Republican, South Dakota) and Senator Gary Peters (Democrat, Michigan) have been leading the legislative efforts in the Senate for the past several months. The draft is also cosponsored by Senators Debbie Stabenow (Democrat, Michigan) and Roy Blunt (Republican, Missouri).

The discussion draft is scheduled to be marked up on Wednesday October 4<sup>th</sup> but T4America expects that some changes will be made to the draft before the Committee considers the draft on October 4<sup>th</sup> in order to address some concerns stakeholders have raised.

The release of the latest Senate discussion draft follows action in the House of Representatives, which on Wednesday, September 7th passed by voice vote their bipartisan automated vehicle legislation, H.R. 3388, the Safely Ensuring Lives Future Deployment and Research In Vehicle Evolution Act” or the “SELF DRIVE Act.

The impetus for both bills comes from a desire from manufacturers and operators of automated vehicles to move away from the current patchwork of each state having different rules and regulations when it comes to the testing and deployment of automated vehicles and instead establish a relatively uniform standard at the federal level.

The Senate discussion draft does a number of things including:

- Delineating the federal and state/local roles when it comes to regulating automated vehicles via a pre-emption clause,
- Establishing a specific exemption from federal motor vehicle safety standards to test automated vehicles,
- Raising the number of safety exemptions a manufacturer can get to test vehicles to 100,000 over three years and
- Establishing an automated vehicle advisory committee to advise the Secretary of U.S. DOT on a number of issues related to automated vehicles.

#### Preemption

The latest Senate discussion draft copies the House “SELF DRIVE” Act’s language when it comes to preemption. It preempts any state or local government from passing a new, or enforcing an existing, law or regulation that affects the design, construction or performance of a highly automated vehicle. It does reserve specific powers to state and local governments, including “registration, licensing, driving education and training insurance, law enforcement, crash investigations, safety and emissions inspections, congestion management of vehicles on the street within a State or political subdivision of a State.” However, it couches those reserved powers by saying any law passed by a State or local government in those areas cannot be an



## Transportation for America

“unreasonable” restriction on the design, construction or performance of a highly automated vehicle.

The draft does not include any definitions for the terms “performance” or “unreasonable restriction” and one concern is that because those terms aren’t defined, there could be lengthy and costly legal fights over whether certain state and local laws or regulations are preempted or not by this new framework.

### Safety Evaluation Report

The Senate discussion draft requires that manufacturers testing or introducing an AV into interstate commerce submit a Safety Evaluation Report (SER) to the U.S. DOT Secretary before they test or deploy their automated vehicle. The draft specifies that the manufacturer’s SER should provide a description of how the automated vehicle would address in nine areas:

- How the AV avoids safety risks, including whether its safety systems are functioning properly;
- Data collection of an AV’s performance, including its crashes and disengagements,
- Cybersecurity;
- Human-machine interface;
- Crashworthiness;
- Capabilities of the automated vehicle;
- Post-crash behavior;
- Compliance with traffic laws and rules of the road and
- The behavior and operation of the AV during on- or off-road testing, including an AV’s crash avoidance capability.

The discussion draft also requires the Secretary to make this data publicly available. However, the draft requires the Secretary to redact the data considered to be a trade secret or confidential business information, and the draft does not define what a trade secret or confidential business information is.

Finally, the Secretary is specifically prohibited in the draft from conditioning pre-approval of the testing, deployment, or sale of automated vehicles to consumers on a review or approval of the Safety Evaluation Report submitted by manufacturers. The draft includes a savings provision that the Committee says makes sure that the draft does not limit National Highway Traffic Safety Administration’s current recall, rulemaking, or enforcement powers and the savings provision does allow the Secretary to use the information contained in the SER to inform their post market enforcement powers.



## Transportation for America

### Data Sharing

Outside of the information that is required to be submitted through the SER to the U.S. DOT Secretary and updated annually, the discussion draft includes no requirements that operators or manufacturers of automated vehicles share any data with the states, localities, or law enforcement organizations in the places they are testing or deploying automated vehicles.

Automated vehicle technology has the potential to provide aggregated information about how people and goods move through our streets, but without access to these data, city and state governments will be blind to the impacts of emerging transportation technologies.

Data on vehicle collisions and near-misses allows cities to proactively redesign dangerous intersections and corridors to ensure safety for all street users. Understanding vehicle movement at the corridor level provides immense value for governments and citizens. Real-time data on vehicle speeds, travel times and volumes has the potential to inform speed limits, manage congestion, uncover patterns of excessive speeds, evaluate the success of street redesign projects and ultimately improve productivity and quality of life.

### Level of Exemptions

The Senate discussion draft would allow manufacturers to apply for an exemption from federal motor vehicle safety to test automated vehicles. Over a period of three years, the Senate draft would raise the cap on exemptions per manufacturer for testing automated vehicles from 2,500 to 100,000. The raise in the cap is tiered, so in the first year the cap is raised to 50,000 vehicles, the second year the cap would be 75,000 and in the third year, the cap would be raised to 100,000 vehicles and stay there for an additional two years. There are no restrictions in the bill on where automated vehicles could test or restrictions on how many automated vehicles could be tested in a given area. Theoretically, a manufacturer could test all 100,000 vehicles in one city or state.

### Automated Vehicle Advisory Committee

The Senate discussion draft proposes a new “Highly Automated Vehicles Technical Safety Committee” to advise the U.S. DOT Secretary on a host of issues related to the safety of automated vehicles. The discussion draft specifies that the Secretary shall select 15 members of the Committee from industry, safety advocates, technical experts and state and local government representatives but does not require that the Committee select representatives from each of those groups. The Committee is allowed to set up separate working groups to tackle select issues and the one working group specifically required by the draft is a working group on disabilities.

### Commercial Vehicles

One issue totally left out of the Senate discussion draft is commercial vehicles (defined as motor vehicles over 10,000 pounds) since that is a controversial topic. The Senate Commerce



## Transportation for America

Committee held a hearing recently specifically to examine whether commercial vehicles should be included in the bill. A number of witnesses, including the American Trucking Association, urged the Committee to include commercial vehicles, so that remains a possibility as the legislative process in the Senate moves forward. From our understanding, Chairman John Thune (South Dakota) would like the legislation to include trucks while Democrats, including Senator Gary Peters (Michigan) are vehemently opposed to including automated trucks in this draft. Indications are that commercial vehicles are not included in the draft because that would jeopardize bipartisan support for the bill.

### Conclusion

There is tremendous interest in Congress in speeding up the testing and deployment of automated vehicles because of the concerns of industry that the U.S. is falling behind other countries because of a lack of a national regulatory framework for AVs. Additionally, Congress is excited about the life-saving and revolutionary benefits AVs can bring in terms of motor vehicle safety and expanding mobility options for the people with disabilities, seniors, and other groups that may not drive or have access to a car. Therefore, legislation in some form around AVs is likely to become law. Right now, Congress is trying to strike the right balance between deploying these AVs as fast as possible while making sure they are tested and deployed in the short term in a safe manner that doesn't endanger the safety of other persons because of the problems and unforeseen issues that arise when testing a new technology.