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US House Unanimously Passes Automated Vehicle Legislation

September 6, 2017

Today, the US House of Representatives unanimously passed the SELF DRIVE Act, which would create a federal regulatory framework for highly automated vehicles. The Act, if signed into law, would create a delineation between state and federal regulators regarding the development and deployment of automated vehicles, aiming to harmonize at least portions of the patchwork of state laws that currently govern autonomous vehicle testing and deployment. For example, the Act would preempt state regulations of vehicle design, construction, or performance, while allowing states to continue control over vehicle registration, licensing, and collision investigation, among other vehicle-related regulations.

The SELF DRIVE Act builds on the Federal Automated Vehicle Policy issued by the Department of Transportation (DOT) in 2016, seeking to make mandatory certain reporting requirements outlined in that Policy. Still, the Act would allow flexibility in how manufacturers develop automated vehicle technologies. For example, the Act, like policies the DOT has promoted, favors transparency and public reporting requirements over specific technical requirements for automated vehicles. The Act also would promote further rulemaking by the DOT on issues related to safety certification, cybersecurity, data privacy, and consumer education.

The full text of the bill can be found [here](#). The highlights are:

- **Division of state/federal authority:** Federal regulators would have full responsibility for regulating the safe design, construction, and performance of AVs. The SELF DRIVE Act expressly preempts state regulations of vehicle design, construction, or performance. States would



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continue to control vehicle registration, licensing, driver education, insurance, law enforcement, collision investigations, safety and emissions inspections, congestion management, and traffic laws and regulation.

- **Mandatory safety assessment letters:** Within 24 months of enactment, DOT would be required to issue a final rule that requires manufacturers to submit to NHTSA safety assessment certifications for their automated vehicles. But the Act bars DOT from conditioning deployment of AVs on the agency's review of these certifications. Before issuance of this rule, the 2016 Federal Automated Vehicle Policy's guidance on optional safety assessment letters would remain as the DOT's guidance to manufacturers.
- **Federal Motor Vehicle Safety Standards and Expanded exemption authority.** Within one year of enactment, NHTSA would be required to issue a rule-making and safety priority plan regarding updating Federal Motor Vehicle Safety Standards (FMVSS) to address automated vehicles. NHTSA also would have authority to grant manufacturers exemptions for AVs that do not comply with FMVSS for up to 25,000 per manufacturer for highly automated vehicles in the first year after enactment, and up to 100,000 vehicles per manufacturer three years after enactment (as compared to 2,500 vehicles per year under existing rules). NHTSA's exemption authority would allow it to grant exemptions for vehicles that lack, for instance, steering wheels, parking brakes, mirrors, or other features currently required under FMVSS.
- **Cybersecurity:** Manufacturers would be required to develop "cybersecurity plans" that include detection and response to cyberattacks, unauthorized intrusion, and false messages or vehicle commands.
- **Data privacy:** Manufacturers would also be required to develop a "privacy plan" with respect to the collection, use, sharing, and storage of data about vehicle owners or occupants collected by an automated vehicle.
- **Consumer education:** DOT would be required to create a rule requiring manufacturers to inform consumers of the capabilities and limitations of their automated systems.
- **Advisory Council:** The Act would create a Highly Automated Vehicle Advisory Council within the National Highway Traffic Safety Administration. Members would be appointed by the Secretary of Transportation and would include academics, engineers, consumer advocates, and environmental experts, among others. The Council would gather information, offer technical advice, and recommend best practices to DOT as it develops rules about automated vehicles.

If you have any questions regarding the SELF DRIVE Act, please contact the authors of this alert or your O'Melveny advisor.

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