



National Conference of State Legislatures Office of State-Federal Relations

Senate Releases Bipartisan Autonomous Vehicle Legislation That Pre-empts States

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On Sep. 28, the Senate Commerce Committee Chairman John Thune (R-S.D.) and Senators Gary Peters (D-Mich.), Roy Blunt (R-Mo.), and Debbie Stabenow (D-Mich.) unveiled legislation regarding autonomous vehicles—the American Vision for Safer Transportation Through Advancement of Revolutionary Technologies ([AV START](#)) Act. The Commerce Committee will consider the legislation at a markup scheduled for Oct. 4.

The AV START Act is similar to the House passed SELF DRIVE Act (read NCSL's Information Alert [here](#)) but does contain some significant differences.

Pre-emption

The Senate committee bill currently includes a pre-emption section identical to that included in the bill passed by the House, although NCSL staff remain engaged with Senate staff. NCSL, along with the National Governors Association, American Association of Motor Vehicle Administrators, American Association of State Highway and Transportation Officials and the Governors Highway Safety Association issued a joint [letter](#) noting serious concern with this section and its expansion of federal pre-emption into motor vehicle operations. Specifically, the bill would pre-empt states from regulating the performance of automated driving systems (ADS) as well as any “unreasonable restrictions” concerning registration, licensing, driving education and training, insurance, law enforcement, crash investigations, safety and emissions inspections, congestion management of vehicles on the street with in a state or political subdivision of a state, or traffic on the design, construction, or performance of highly automated vehicles or ADS.

Additionally, the bill would also prohibit a state from issuing licenses for a dedicated highly automated vehicle (DHAV), which the bill defines as a level 4 or 5 automated vehicle, in a way that discriminates against those with disabilities.

Updating FMVSS

The bill begins the process of updating vehicle safety standards account for a new type of motor vehicle. Specifically, the bill would direct an accelerated process for the Secretary of Transportation to remove and update references to human drivers and occupants in the federal motor vehicle safety standards. Additionally, the bill would allow manufacturers of automated vehicles or ADS to begin testing, even if they do not comply with relevant FMVSS under certain conditions.

FMVSS Exemptions

The bill updates how the federal government will provide exemptions from certain federal safety standards for those companies wishing to unveil autonomous vehicles. Current exemptions from safety standards are limited to 2,500 per year although the bill will gradually raise this to 100,000.

Safety Evaluation Report

The bill would require each manufacturer of a highly autonomous vehicle (HAV) or ADS to submit a safety evaluation report to the Department of Transportation (DOT). Each report would have to address how the manufacturer is addressing nine subject areas, through documented testing, validation and assessment, relating to the development of the HAV or ADS. These subject areas would include:

- System safety
- Data recording
- Cybersecurity
- Human-machine interface
- Crashworthiness
- Documentation of capabilities
- Post-crash behavior
- Account for applicable laws
- Automation function

Advisory Council

The bill establishes a highly-automated vehicle technical committee of 15 members to generate recommendations to DOT on highly automated vehicles. The bill notes that states should be included as members.

Traffic Safety and Law Enforcement

This section would direct the Secretary to work with state and local governments and law enforcement agencies to research how HAVs will impact law enforcement and traffic safety as well as how to improve crash data regarding HAVs.

Cybersecurity

This section would require manufacturers of HAVs and ADS to develop and execute a written plan for identifying and reducing cybersecurity risks to the motor vehicle safety of such vehicles and systems.

As a reminder, the National Highway and Transportation Safety Administration (NHTSA) released new federal guidance for ADS, [A Vision for Safety 2.0](#) on Sept. 6. For more information, read NCSL's Info Alert [here](#).

For any further questions or concerns regarding NHTSA's release, please contact NCSL staff [Ben Husch](#) (202-624-7779) or [Kristen Hildreth](#) (202-624-3597).

Additional Key Documents:

[State Legislation on Autonomous Vehicles](#)

[House Passed SELF DRIVE Act - H.R.3388](#)