July 9, 2019

Thomas J. Buiteweg, Chair of the Uniform Law Commission Committee on Highly Automated Vehicles
H. Clayton Walker, Vice Chair
Bryant Walker Smith, Reporter

Gentlemen:

As an Observer to the Committee, I am writing to you to convey some of the expert insights that collected from representatives of member companies of the National Association of Mutual Insurance Companies. You have been most gracious in accepting our comments in February of this year and we again offer comments on the important work that you have undertaken.

Let me begin by congratulating you on the tremendous effort and expertise that you have provided to the development of the March 1, 2018 version of the Highly Automated Vehicles Act. The scholarship and professional expertise that you have provided to this draft has resulted in great improvements over the prior efforts and a sound foundation for further development. I understand that this draft will be provided to the Commission at the annual meeting and that further work by the Committee will follow.

We are providing some thoughts that we hope that the Committee can consider in this further development. Perhaps the most salient point we would like to offer is in regard to safety. The single most important predicate for any effort to support the development of HAVs is the requirement that HAVs be as safe, if not safer, than existing human operated vehicles. Understanding that the jurisdictional authority regarding validation of safety remains unclear, state laws mandate the safe operation of motor vehicles in that state.

We are concerned that in the March draft, more than 20 references to safety were removed when compared with the February draft. While some were editing options clarified, other deletions inferred that the Committee may be less focused on making clear that the state had the authority to define and enforce HAV operational safety. As NHTSA moves further toward HAV promotion and further from defining and enforcing HAV structural safety at a federal level, we believe that the need for states to assume the operational safety mantle grows more important. Increased safety can never be a secondary concern for HAV development and we strongly urge the Committee to stress greater emphasis on safety in the model law in further revisions.
Developments are many and rapid in HAVs. Following the Committee’s revisions of the February draft into the March draft, the American Association of Motor Vehicle Administrators published their Jurisdictional Guidelines for the Safe Testing and Deployment of Highly Automated Vehicles, which you have certainly reviewed and considered. The AAMVA document has valuable recommendations for state level testing, titling, and data requirements for HAVs which the Committee may want to consider.

For example, the AAMVA Guidelines provide that existing driver license requirements remain applicable when the human driver is expected to be in control of the vehicle. The Committee’s March draft has been edited to address driver licensing required for “a completely automated trip”, but does not address driving operations in which the human driver may or must be in some control of the vehicle. HAVs are still in development and there will be different makes and models with varying features and capabilities. Fully autonomous SAE Level 5 ADS-DVs are envisioned which may someday be able to provide “a completely automated trip”, but even those vehicles may have – by regulation or consumer demand – emergency stop controls.

The AAMVA’s Guidelines insightfully note that the full implication of Level 4 and 5 technologies are not fully understood and that until those technologies are completely developed, driver license endorsements and restrictions are not recommended.

This leads to the point on which NAMIC’s members can add the most value to the development of the HAV model law – insurance. We understand and appreciate both the Committee’s need to include this important topic in considering HAV state law and the underlying reluctance of the Committee’s to address such a wide ranging and complex topic at this early stage. As the technical and market developments in HAVs proceed in fits and starts, property casualty insurers are trying to focus on moving targets to define and develop insurance products and services that best serve our policyholders.

Bloomberg predicts that HAVs will result in a shift in the type of auto insurance products and services from insurance companies. Our members are working furiously to understand the many technical, market and operational factors of HAV development and deployment, which seem to shift weekly. We are most interested in being involved with the development of insurance regulations that facilitate that development, but like the AAMVA Guidelines, perhaps the lightest touch in this area is most appropriate until the full implication of Level 4 and 5 technologies are fully developed and understood. To that end, we believe including specific insurance provisions as in Sections 9 (a) and (b) at this time is premature. We fully support the general statements expressed in Sections 9 (c) and (d) and believe those are important to clarify the scope of the HAV act.
HAV developments inevitably will lead to new liability issues, coverage limits, “driver” definitions, and our member insurance companies will develop insurance products and services to best address these evolutions. Anticipating this evolution and disruption related to HAVs, perhaps waiting for those developments to solidify before drafting specific insurance regulation would be more efficient and effective.

Overall, we support the fine work that has been done to date and commit to assisting in any way we can going forward. We thank you for your expertise and diligence in this project.

Sincerely,

[Signature]

Thomas Karol
General Counsel
National Association of Mutual Insurance Companies