HIGHLY AUTOMATED VEHICLES ACT

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

MEETING IN ITS ONE-HUNDRED-AND-TWENTY-SEVENTH YEAR
LOUISVILLE, KENTUCKY
JULY 20 - JULY 26, 2018

HIGHLY AUTOMATED VEHICLES ACT

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June 20, 2018
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REPORTER’S VERSION RELEASE NOTE

Introduction

As discussed in previous release notes, automated driving encompasses a wide range of technologies, applications of those technologies, business models for those applications, and participants in those business models.¹ For example, a vehicle capable of automated operation may or may not:

(a) Be capable of automated operation for an entire trip.
(b) Include traditional devices for a human to steer, brake, and accelerate.
(c) Require a human who can resume driving when requested to do so.
(d) Require that this human be physically present in the vehicle.
(e) Rely on a human located far from the vehicle to provide instructions and information.
(f) Use specific sensor technologies, including camera, radar, sonar, or lidar.
(g) Use highly detailed maps created in advance.
(h) Communicate directly with other vehicles.
(i) Be designed for all roads.
(j) Be sold to individual consumers.
(k) Be originally manufactured as an automated vehicle.
(l) Be retrofitted by an automated driving developer other than the vehicle manufacturer.
(m) Be modified by third parties without the involvement of the automated driving developer.
(n) Carry passengers, deliver goods, provide other services, or perform innovative functions.

In other words, because there will be so many different forms of automated driving, picturing and attempting to legislate for the singular “driverless car” may be both impractical and counterproductive. Instead, it may be more helpful to identify and explore assumptions in contemporary legal rules as well as in contemporary discussions of automated driving.

Scope

In clarifying and focusing the scope provided to it, the Committee has concluded that:

(a) Vehicle deployment is in scope, while research-and-development testing is out of scope.
(b) Automated driving from SAE levels 3 through 5 is in scope, while driver assistance below level 3 is out of scope. (Accordingly, platooning below level 3 is out of scope.)²

¹ See Bryant Walker Smith, How Governments Can Promote Automated Driving, available at newlypossible.org.
² See Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles (SAE J3016), available at sae.org.
(c) Remote human input into automated driving is in scope, while remote human driving is out of scope.
(d) Allocation of fault in the context of the vehicle code is in scope, while liability rules of general application are out of scope.
(e) Clarification of automotive insurance requirements in the context of automated driving may be in scope, while regulation of insurance in general is out of scope.

**Automated driving provider**

The draft uniform law continues to answer the question “who drives an automated vehicle?” with “the automated driving provider.”

(The Committee has discussed alternative names for this concept, including “automated driving entity,” “automated driving developer,” and “automated driver,” but a consensus has yet to emerge on a preferred term.)

Similar to how drivers are licensed and subject to obligations under state vehicle codes, the automated driving provider would register and be subject to many of these same obligations. More fundamentally, the automated driving provider would be the legal entity that vouches for automated operation—and that thereby makes an explicit promise to the state and its public.

The diversity of automated driving requires flexibility within this concept. Automated driving systems may be installed on vehicles by the developer of the system, the manufacturer of the vehicle, or another entity altogether. These vehicles may be owned by sophisticated technology companies, by fleet operators with some familiarity with automation, or by individuals (or their lenders) with no technical knowledge whatsoever. But regardless of ownership, the continued safety of automated operation is likely to require the ongoing involvement of a technically competent entity that facilitates data transfers, software updates, and technical support.

Accordingly, the draft uniform law defines the automated driving provider not by a specific role in the stream of commerce but, rather, by a willingness and ability to meet specific technical and legal requirements. Many of these potential requirements have been added or modified per the discussion at the February 2018 meeting, in part to mitigate administrative difficulties identified by participants from state regulatory agencies. At the suggestion of several commissioners, this draft also moves these provisions from the Vehicle Registration section to a new Automated Driving Provider Registration section in order to clearly bifurcate registration of the provider and registration of the vehicle.

At the February 2018 meeting, a majority of the Committee voted to retain automated driving provider registration. A majority of industry stakeholders present preferred to abolish any registration and thereby eliminate the entire concept of the automated driving provider. A majority of stakeholders present from organizations other than industry preferred to retain
registration or to expand it by imposing more substantive requirements.
HIGHLY AUTOMATED VEHICLES ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Highly Automated Vehicles Act.

SECTION 2. DEFINITION. In this [act]:

(1) “Associated automated vehicle” means an automated vehicle an automated driving provider identifies pursuant to Section 5(a)(5).

(2) “Automated driving provider” means a person that registers with the [relevant state agency] pursuant to Section 5.

(3) “Automated driving system” means the combination of hardware and software collectively capable of performing the entire dynamic driving task on a sustained basis.

(4) “Automated operation” means the performance of the entire dynamic driving task by an automated driving system. Automated operation begins upon the performance of the entire dynamic driving task by an automated driving system and continues until a human driver or operator terminates the performance, but if a human driver or operator terminates the performance to mitigate a crash hazard caused by the automated driving system, automated operation continues until the crash hazard is no longer present.

(5) “Automated vehicle” means a motor vehicle with an automated driving system, regardless of whether the vehicle is under automated operation.

(6) “Completely automated trip” means travel in an automated vehicle that, from the point of departure until the point of arrival, is under automated operation by means of an automated driving system designed to achieve a minimal risk condition.

(7) “Dedicated automated vehicle” means an automated vehicle designed for exclusively automated operation when used for transportation on a [road open to the public].
(8) “Drive” means as provided in [this state’s vehicle code], except that an automated driving provider exclusively drives an associated automated vehicle under automated operation.

(9) “Driver” means as provided in the vehicle code, except that an automated driving provider is the exclusive driver of an associated automated vehicle under automated operation.

(10) “Dynamic driving task” means the real-time operational and tactical functions collectively required to operate a vehicle in on-road traffic, including controlling lateral and longitudinal vehicle motion, monitoring the driving environment, executing responses to objects and events, planning vehicle maneuvers, and enhancing vehicle conspicuity. The term does not mean the strategic functions of driving, including scheduling trips, selecting destinations, and specifying routes.

(11) “Minimal risk condition” means a condition to which a vehicle user or an automated driving system may bring a vehicle to reduce the risk of a crash when a trip cannot or should not be completed.

(12) “Operate” has the meaning in [this state’s vehicle code], except that an automated driving provider exclusively operates an associated automated vehicle under automated operation.

(13) “Operational design domain” means the environmental, geographic, time-of-day, traffic, infrastructure, and other conditions under an automated driving system is specifically designed to function.

(14) “Operator” has the meaning in [this state’s vehicle code], except that an automated driving provider is the exclusive operator of an associated automated vehicle under automated operation.

(15) “Person” has the meaning in [this state’s vehicle code.] [means an individual, estate,
business or nonprofit entity, public corporation, government or governmental subdivision,
agency, or instrumentality, or other legal entity].

SECTION 3. APPLICATION; GOVERNING LAW.

(a) This [act] applies to ownership, registration, insurance, and operation of an automated
vehicle, even if the ownership, registration, insurance, and operation of the vehicle complied
with laws other than this [act] before [the effective date of this [act]].

(b) The [relevant state agency or agencies] may make rules, issue interpretations, and
take other lawful actions to administer and enforce this [act].

SECTION 4. DRIVING LICENSING.

(a) An individual is not required to hold a driving license to undertake a completely
automated trip.

(b) An automated driving provider is not required to hold a driving license to drive an
automated vehicle under automated operation.

SECTION 5. AUTOMATED DRIVING PROVIDER REGISTRATION.

(a) To register as an automated driving provider, a person must:

(1) participate in a substantial manner in the development of an automated driving
system;

[(2) submit to the United States National Highway Traffic Safety Administration
a safety self-assessment or equivalent report for the automated driving system;]

[(3) register as a manufacturer of motor vehicles or motor vehicle equipment
pursuant to the requirements of the United States National Highway Traffic Safety
Administration;]

[(4) register as a motor vehicle manufacturer pursuant to the motor vehicle

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manufacturer registration laws of this state;]

(5) identify, by vehicle identification number, each automated vehicle the person
intends to be an associated automated vehicle;

(6) represent to the [relevant state agency] that sufficient evidence demonstrates
that

OPTION 1: the automated operation of each associated automated vehicle
will comply with [this state’s rules of the road];

OPTION 2: the automated driving system of each associated automated
vehicle can comply with [this state’s rules of the road];

OPTION 3: the automated driving system of each associated automated
vehicle is designed to detect and respond to vehicle and roadway situations in compliance with
[this state’s vehicle code] and with local law applicable to the performance of the dynamic
driving task in the operational design domain of the system, except when necessary to enhance
the safety of the occupants of the vehicle, other road users, or other persons;

(7) warrant to the public that [REPEAT THE OPTION SELECTED ABOVE];

(8) irrevocably appoint the [relevant state agency] as a lawful agent upon which
process may be served in an action arising from the automated operation of an associated
automated vehicle; [and]

[(9) pay a fee specified by the [relevant state agency] for processing the
automated driving provider registration; and]

(10) submit to the [relevant state agency], in a form acceptable to the [agency], a
statement representing and documenting that the person complies with this section.

(b) If a person is registered as an automated driving provider in another state, the
[relevant state agency] may deem the person to be registered in this state or may exempt the person from a requirement of this section.

(c) An automated driving provider must make available to the purchaser or owner of an associated automated vehicle a summary of the submission by the provider to the [relevant state agency] in a form acceptable to the [relevant state agency].

SECTION 6. VEHICLE REGISTRATION.

(a) Registration of an automated vehicle may be granted, maintained, or renewed only if the vehicle is an associated automated vehicle.

(b) The [relevant state agency] may decline, suspend, revoke, or decline to renew the registration of an automated vehicle that is not an associated automated vehicle, not properly maintained, not insured in accordance with applicable law, not compliant with a registration requirement, or otherwise not fit to be operated.

(c) If the [relevant state agency] declines, suspends, revokes, or declines to renew the registration of an automated vehicle, it may grant a temporary registration that applies to the vehicle only when it is not under automated operation.

(d) Registration of a motor vehicle that is no longer an automated vehicle may be granted, maintained, or renewed only if the registrant represents to the [Department of Motor Vehicles] that the vehicle cannot and will not be used under automated operation on a [road open to the public].

(e) Registration of an automated vehicle does not create a presumption as to the safety of the vehicle or its equipment.

SECTION 7. EQUIPMENT.

(a) [This state’s vehicle code] shall be interpreted to facilitate the development and
deployment of automated vehicles in a way that improves traffic safety.

(b) An automated vehicle must be properly maintained.

(c) A provision of [this state’s vehicle code] requiring equipment that is necessary only for the performance of the dynamic driving task by a human driver does not apply with respect to a dedicated automated vehicle.

(d) A provision of [this state’s vehicle code] prohibiting an electronic device in a vehicle, other than a device used to evade law enforcement, does not apply with respect to a dedicated automated vehicle.

(e) A provision under [this state’s vehicle code] prohibiting an electronic device in a vehicle, other than a device used to evade law enforcement, may not be enforced with respect to an automated vehicle under automated operation.

SECTION 8. RULES OF THE ROAD.

(a) [This state’s rules of the road] shall be interpreted to facilitate the development and deployment of automated vehicles in a way that improves traffic safety.

(b) Automated operation of an automated vehicle in accordance with applicable federal, state, and local law and in a reasonably safe manner is lawful.

(c) An automated driving provider must take reasonable steps to comply with [this state’s rules of the road] during automated operation of an associated automated vehicle.

(d) An automated driving provider is liable for a failure to comply with [this state’s rules of the road] during the automated operation of an associated automated vehicle as a human driver or operator would be if the vehicle were not under automated operation.

(e) An automated vehicle may not be operated on a [road open to the public] if the vehicle is not properly maintained, not insured in accordance with applicable law, not compliant
with a registration requirement, or otherwise not fit to be operated.

(f) An automated vehicle under automated operation shall not be considered unattended or abandoned solely because an individual is not in or near the vehicle, unless the vehicle is not lawfully registered, poses a risk to public safety, or unreasonably obstructs other road users.

(g) A child, incapacitated person, or pet in an automated vehicle shall not be considered attended solely because the vehicle is under automated operation.

(h) A restriction under [this state’s vehicle code] on the use of an in-vehicle electronic device, other than a device used to evade law enforcement, does not apply during the automated operation of an automated vehicle.

(i) A requirement under [this state’s vehicle code] that imposes a minimum following distance other than a reasonable and prudent distance does not apply to the automated operation of an automated vehicle.

[SECTION 9. INSURANCE.]

(a) An automated driving provider shall be considered a [permissive driver] under an insurance policy applicable to an associated automated vehicle.

(b) The coverage limits applicable to the automated driving provider as a permissive driver shall be the bodily injury and property damage liability limits under the policy unless the policy or an endorsement to the policy specifies different limits applicable to the automated driving provider as a permissive driver, but the bodily injury and property damage liability limits shall not be less than the amounts set forth in [the financial responsibility law].

(c) This section does not modify or limit the liability of an automated driving provider under statutory or common law.

(d) This [act] does not displace other insurance requirements, and the insurance required
under this [act] does not satisfy other insurance requirements.]

SECTION 10. VIOLATIONS. A violation of this act is a violation of this Title and
does not preclude liability under other laws.

SECTION 11. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In
applying and construing this uniform act, consideration shall be given to the need to promote
uniformity of the law with respect to its subject matter among states that enact it.

[SECTION 12. SEVERABILITY. If a provision of this [act] or its application to a
person or circumstance is held invalid, the invalidity does not affect other provisions or
applications of this [act] which can be given effect without the invalid provision or application,
and to this end the provisions of this [act] are severable.]

SECTION 13. EFFECTIVE DATE. This [act] takes effect [[30] days after its
enactment].