



Property Casualty Insurers

Association of America

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

Gentlemen,

The increasing automation of the driving function represents a paradigm shift for auto insurers, whose challenge will be to adapt to the changing nature of the driving risk by developing new products, underwriting methods and claims processes. As such, auto insurers are keenly interested in the development of automated vehicle technology, and the ongoing policy debate over the appropriate regulatory framework for vehicles equipped with this technology.

PCI, the Property Casualty Insurers Association of America, is the largest and most diverse property casualty insurance trade association made up of nearly 1,000-member companies whom together write 45 percent of the automobile insurance written in the United States. On behalf of our members, I would like to thank the committee for the opportunity to participate as an observer to the committee's work and offer our comments on the latest discussion draft of the "Highly Automated Vehicles Act".

The draft uses the concept of an "automated driving provider" (ADP) as the primary entity to be regulated. For insurers to develop new insurance products for ADPs as technology evolves, it will be critical that insurers have access to information that will allow them to identify vehicles with automated driving technology, and be able to differentiate between different providers and functions. The latest ULC draft, however, indicates that the criteria for an ADP in Section 6 remains under discussion but prohibits the registration of an automated vehicle in Section 5 unless an ADP identifies it as an "associated automated vehicle." PCI supports the identification of vehicles with automated vehicle capabilities by Vehicle Identification Number (VIN) on vehicle ownership and registration records, in addition to accident reporting. Because it's unlikely that the VIN alone could provide enough information to differentiate between providers and functions, PCI supports the creation of a separate mechanism that would make more detailed vehicle information publicly available.

As for the specific criteria for an ADP in Section 6, PCI recommends that vehicles with automated driving systems be able to demonstrate compliance with state and local traffic laws, as well as federal motor vehicle safety standards. If the ADP has applied for and received approval for any exemption to any federal motor vehicle safety standard (FMVSS) for an automated driving system, that should be disclosed to the state motor vehicle regulator and documented in vehicle ownership and registration records.

While liability for motor vehicle accidents is almost always based upon the conduct of human drivers today, with the advent of autonomous vehicles, accidents caused by performance failures of vehicle safety technology will result in claims that are also based in whole, or in part, on product liability. Section 8 attempts to resolve this issue by stating that 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 in automated operation." Understanding whom this liability would apply to is difficult to ascertain at this time, given the ambiguity of who an "automated driving provider" may be at this stage in the drafting process. Further, dictating liability outcomes at this early stage may create unintended outcomes that may be unworkable in practice. For that reason, we would suggest that issues relating to liability for the operation, maintenance, and use of autonomous vehicles, regardless of whether the vehicle is being operated by the driver or by the vehicle's technology, be omitted here, and ultimately addressed by the judicial system.

We appreciate that Section 9 of draft seeks to identify the nature of the “automated driving provider” within the current property and casualty insurance framework. As in the preceding paragraph, identifying an “automated driving provider” as a “permissive driver” may also be premature, since it is not yet clear whom that “automated driving provider” may eventually be at this stage. It is our belief that this concept should be set aside until the technology is better developed and issues related to data access and sharing are more fully addressed.

Thank you again for the opportunity to participate in this process. We look forward to continuing to participate as the drafting committee continues its work. As always, please let us know if you have questions or we can be of any assistance to the drafting committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Passmore". The signature is fluid and cursive, with the first name "Rob" being more prominent than the last name "Passmore".

Robert Passmore