



June 15, 2018

Ms. Lucy Grelle
Publications Manager
Uniform Law Commission
111 N. Wabash Ave., Suite 1010
Chicago, IL 60602

Re: *Highly Automated Vehicles Act*, Revised Draft Following the February 16-18, 2018 Drafting Committee Meeting [June 2018]

Dear Ms. Grelle:

On behalf of the members of the Alliance of Automobile Manufacturers (“Alliance”)¹ this responds to the Uniform Law Commission (“ULC”) request for comment on the annual meeting draft of the Highly Automated Vehicles (“HAV”) Act that will be discussed at the ULC Annual Meeting in July, 2018.

While the latest draft of the HAV Act reflects improvements from the previous version, Alliance members have concerns regarding the creation of new and potentially burdensome requirements that are not well justified and would potentially delay the deployment of automated driving systems (“ADS”)–equipped vehicles. The draft HAV Act should defer to the existing state policies concerning liability, vehicle registration and insurance laws and acknowledge that real world experience is necessary to determine the need for any deviation away from the current structure.

Additionally, the draft HAV Act should focus only on issues that are within the State’s jurisdiction; issues that are governed by federal law should be considered beyond the scope of the HAV Act. Presently, the draft HAV Act impinges on federal jurisdiction in several places and ways, as detailed below.

Our specific concerns are as follows:

The concept of “automated vehicle provider” registration and safety assurance by that provider should be removed [§5].

- Creating a new state-specific safety regime by creating an automated vehicle provider is unnecessary and would likely deter ADS-equipped vehicle deployment within a state that adopts the Act. Vehicle safety is properly addressed by the

¹ The Alliance of Automobile Manufacturers is a trade association of automobile manufacturers representing approximately seventy percent of all car and light trucks sales in the United States. The Alliance’s members include BMW Group, FCA US LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche, Toyota, Volkswagen Group of America, and Volvo Cars North America. For more information, please visit <https://autoalliance.org/>.

National Highway Traffic Safety Administration (“NHTSA”) – not by individual states.

- An entirely new legal entity introduces complexity. It should be assumed that existing laws and statutes will be able to adapt to self-driving technology until experience shows otherwise.
- Existing state vehicle registration requirements work well for ADS-equipped vehicles – there is no need to create an additional registration process for automated vehicles.
- NHTSA has promulgated a Safety Self-Assessment in their ADS Guidance 2.0 that provides a roadmap of considerations for an entity developing or manufacturing an ADS-equipped vehicle.

The “automated vehicle provider” should not be identified as the “driver” of an ADS-equipped vehicle [§9(a)-(b)].

- This does not make sense from a technical perspective. Further, NHTSA and several state laws have already defined the “driver” as the ADS for ADS-equipped vehicles and this does not include the wide range of entities that would be considered “automated vehicle providers” in the draft Act.

The draft HAV Act should not require a public warranty regarding the ADS-equipped vehicle’s capabilities [§5(a)(7)].

- Existing law (e.g. federal Motor Vehicle Safety Act) uses self-certification coupled with well-established defect authority to regulate safety of motor vehicles. Further, NHTSA’s ADS Guidance 2.0 details a Safety Self-Assessment that comprehends ADS-equipped vehicle safety. Vesting vehicle safety regulation in the federal government is fundamental to the American vehicle regulatory system and no additional proclamations to the above are necessary regarding vehicle design.
- The type of broad warranty required by the draft Act would create more regulatory complexity and legal uncertainty without advancing public safety.

States are not responsible for vehicle equipment [§7].

- Section 7 of the draft HAV Act seeks to regulate motor vehicle equipment. Such regulation is the province of the federal government. This section should be removed.

§8(c) contains a technical error.

- Vehicle design is not a state role.
- Section 8(c) should be edited to clarify that it does not impact design.
- It contains a misunderstanding about how ADS operate in addition to inadvertently impacting design. If a human driver or operator terminates the ADS operation, even if they are attempting to avoid a crash, the automated operation will not necessarily

continue. For instance, a Level 3 ADS-equipped vehicle may have a fallback ready user that intervenes and inadvertently causes a crash that the Level 3 feature would have avoided. Similarly, a Level 4 or 5 ADS-equipped vehicle may have a user that overrides the ADS and accidentally causes a crash.

The application of the draft HAV Act should be clarified [§3].

- Should the HAV Act be enacted into law, the provisions would apply to existing ADS-equipped vehicles in that state no differently than any modification to state laws for non-ADS-equipped vehicles (e.g. updates to vehicle registration, etc.). Thus, the final clause of §3(a) is not necessary and should be amended as follows:

This act applies to ownership, registration, insurance, and operation of an automated vehicle upon the date of enactment, ~~even if the ownership, registration, insurance, and operation of the vehicle was compliant with laws before the effective date of this act.~~

We welcome any follow-up questions on the above issues and look forward to the next iteration of the draft HAV Act.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Weinberger', with a long horizontal flourish extending to the right.

Jonathan Weinberger
Vice President, Innovation and Technology
Alliance of Automobile Manufacturers