

HOUSE BILL REPORT

ESHB 2676

As Passed House:
February 19, 2020

Title: An act relating to establishing minimum requirements for the testing of autonomous vehicles.

Brief Description: Establishing minimum requirements for the testing of autonomous vehicles.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Kloba, Boehnke and Hudgins).

Brief History:

Committee Activity:

Transportation: 2/10/20, 2/11/20 [DPS].

Floor Activity:

Passed House: 2/19/20, 70-28.

Brief Summary of Engrossed Substitute Bill

- Requires a self-certifying entity under the Department of Licensing's (DOL) autonomous vehicle (AV) testing pilot program that operates AVs on public roadways to provide to the DOL contact information, information on testing locations, vehicle identification numbers, and proof of insurance, and to notify the DOL of any traffic incidents and traffic infractions on public roadways.
- Requires that self-certifying entities operating AVs on public roadways obtain an umbrella liability insurance policy that covers a minimum of \$5 million per occurrence for damages by reason of bodily injury or death or property damage caused by an AV.
- Permits the DOL to adopt a fee to be charged for self-certification to offset administrative costs of the self-certification AV testing pilot program.
- Mandates that the DOL provide public access to the information self-certifying entities provide.

HOUSE COMMITTEE ON TRANSPORTATION

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Young, Assistant Ranking Minority Member; Boehnke, Chapman, Doglio, Duerr, Entenman, Goehner, Gregerson, Kloba, Lovick, Mead, Orcutt, Ortiz-Self, Paul, Ramos, Riccelli, Shewmake, Van Werven and Volz.

Minority Report: Do not pass. Signed by 7 members: Representatives Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Chambers, Dufault, Eslick, Irwin and McCaslin.

Staff: Jennifer Harris (786-7143).

Background:

Autonomous Vehicle Testing Pilot Program.

In 2017 the Governor issued Executive Order 17-02, which authorized pilot programs for the testing of autonomous vehicles (AVs). The Executive Order authorized the testing of AVs both with and without a human operator present as part of the pilot program.

Under Executive Order 17-02, pilot programs conducting testing with human operators present in vehicles are required to comply with the following requirements:

- Vehicles must be operated or monitored only by a trained employee, contractor, or other person authorized by the entity developing autonomous technology.
- Vehicles must be monitored, and an operator must have the ability to direct the vehicle's movement if assistance is required.
- Individuals able to exercise operational control of an autonomous vehicle during operation must possess a valid United States driver's license.

Also under the executive order, pilot programs conducting testing without human operators present in vehicles are required to comply with the following requirements:

- Vehicles must be equipped with an automated driving system that performs all aspects of the driving task on a part- or full-time basis within the vehicle's operational design limits.
- Vehicles must be capable of bringing the vehicle to a safe condition in the event of a system failure.
- Vehicles must be capable of being operated in compliance with state motor vehicle laws relevant to the vehicle's operational design limits.

In addition, to participate in the pilot program, all vehicle owners must attest to proof of financial responsibility, as required under state law for all registered motor vehicles in the state, and developing entities must self-certify to the Department of Licensing (DOL) that they are compliant with all applicable requirements before beginning a pilot program.

Autonomous Vehicle Work Group.

A law enacted in 2018 established an AV Work Group convened by the Washington State Transportation Commission (Commission). The AV Work Group is tasked with developing

policy recommendations to address the operation of AVs on public roadways in the state, and includes participation from the Office of the Governor, the Office of the Insurance Commissioner (OIC), the DOL, the Washington State Department of Transportation (WSDOT), the Washington State Patrol (WSP), and the Washington Traffic Safety Commission (WTSC). The AV Work Group includes four members from the House of Representatives and four members from the Senate. The Commission also has the option of inviting additional participation.

The AV Work Group is responsible for following developments in AV technology, deployment, and at the policy level: exploring changes to state law, rules, and policy; disseminating information on AVs; and engaging the public to inform policy development at the direction of the Legislature. The Commission is required to develop and update recommendations annually based on the input provided by the AV Work Group, and to provide a report to the Governor and the Legislature by November 15 of each year. The AV Work Group is set to remain active through the end of 2023.

Motor Vehicle Insurance or Equivalent Requirements.

No person may operate a motor vehicle required to be registered in the state unless the person is insured under a motor vehicle liability policy, self-insured, covered by a certificate of deposit, or covered by a liability bond. A motor vehicle liability policy or bond must be issued by an insurance or surety company authorized to do business in the state and must provide a minimum coverage level of \$25,000 for bodily injury or death of a single person in any one accident, \$50,000 for bodily injury or death of two or more people in any one accident, and \$10,000 for injury to or destruction of property of others in any one accident.

To be self-insured, a person must have more than 25 vehicles registered in that person's name and the DOL must find that the person possesses the ability to pay a judgment obtained against him or her. The DOL will issue a certificate of deposit to the person named in it once that person has deposited \$60,000 in cash or securities that may legally be purchased by savings banks or for trust funds for a market value of \$60,000.

Proof of insurance or the equivalent for motor vehicle operation must be provided at the request of a law enforcement officer. When asked to do so by a law enforcement officer, failure to display this proof for motor vehicle operation is a traffic infraction and is subject to a fine of \$250 (\$553 with associated fees and surcharges). If a person cited for this violation provides written evidence either in person or by mail that, at the time the person was cited, he or she was in compliance with this requirement, the citation will be dismissed and the court may assess administrative costs of \$25 at the time of dismissal.

Any person who knowingly provides false evidence of financial responsibility to a law enforcement officer or to a court, including an expired or canceled insurance policy, bond, or certificate of deposit, is guilty of a misdemeanor.

Summary of Engrossed Substitute Bill:

Autonomous Vehicle Testing Pilot Program Reporting Requirements.

In order to test an AV on public roadways under the DOL's AV self-certification testing pilot program, the following information must be provided by the self-certifying entity testing the AV:

- contact information specified by the DOL;
- local jurisdictions where testing is planned;
- the vehicle identification numbers (VINs) of the AVs being tested, provided that the vehicles are mandated to have VINs by state or federal law; and
- proof of an insurance policy that meets the requirements for AVs participating in the pilot program (see below for details).

Any AV associated with the DOL's pilot program that does not have a VIN and is not otherwise required to have a VIN assigned to it under federal or state law must be assigned a unique identification number for the vehicle that is provided to the DOL and that is displayed in the vehicle in a manner similar to the display of VINs in motor vehicles.

The self-certifying entity testing the AV must notify the DOL of any traffic incident and any traffic infraction involving an AV on a public roadway in a calendar year on an annual basis by February 1 of the following calendar year. The self-certifying entity testing the AV on public roadways must provide written notice in advance of testing to every law enforcement agency with jurisdiction over any of the public roadways on which testing will occur that includes the period of time during which testing will occur.

The DOL may adopt a fee to be charged by the DOL for self-certification in an amount sufficient to offset administration of the self-certification testing pilot program.

The DOL must provide public access to the information self-certifying entities provide to it, and must provide an annual report to the House of Representatives and Senate transportation committees of the Legislature summarizing the information reported by self-certifying entities.

Pilot Program Insurance or Equivalent Requirements.

To test an AV under the DOL's AV self-certification testing pilot program, the testing entity must meet the following requirements:

- hold an umbrella liability insurance policy that covers the entity in an amount not less than \$5 million per occurrence for damages by reason of bodily injury or death or property damage caused by the operation of an AV for which information is provided under the AV self-certification testing pilot program; and
- maintain proof of this policy with the DOL in a form and manner specified by the DOL.

Requirements related to providing proof of motor vehicle insurance and penalties for providing false evidence of motor vehicle insurance generally applicable under state law are also applicable to pilot program insurance requirements.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on October 1, 2021.

Staff Summary of Public Testimony:

(In support) This bill requires that companies testing AVs on public roads provide some basic information. There are times when the AV Work Group does not have the information it needs, such as how many companies are actively testing AVs in Washington or whether there have been any incidents involving AVs being tested in Washington. It is hard to make decisions without having data on which to base it.

The AV Work Group's Executive Committee, as well as its liability subcommittee and the Commission itself, recommended that a \$5 million umbrella liability policy be mandated. A number of other states require similar coverage levels. The personal delivery device law that was enacted last session requires a \$100,000 liability policy. Autonomous vehicles are much heavier and travel much faster than personal delivery devices. It makes sense to require that they have a higher level of insurance coverage. Insurance requirements can be reduced as the safety of AVs improves over time.

This bill will promote innovation and provide public safety protections for the public. The information provided by AV companies will enable insurers to properly underwrite AVs, and addressing liability concerns will help win over support for this technology from the public and policy makers.

This bill is an important first step in establishing a testing regime. However, it does not go far enough. Requiring voluntary self-assessments would provide the state with a better understanding of a company's progress in AV development and safety. Before companies start testing, it is important that they make a case for the safety of their AVs that is validated by a third party.

(Opposed) The AV Work Group should evaluate the contents of the bill. The bill would also benefit from the use of model language that should be adopted across states.

It is not clear why an AV should be required to have \$5 million in liability coverage. When an AV is in an accident, it does not cause more damage than any other type of motor vehicle. This is punitive toward AVs or is looking for deep pockets in the event of a collision.

The bill includes a requirement for reporting AV system disengagements when there is a possibility that a traffic accident could occur, but it may not always be possible to identify AV system disengagements that meet this criteria. It is important to make sure that what is reported will be useful and meaningful.

(Other) The bill is a good idea, but should also require companies testing AVs to provide advance notice of where AV testing will occur to law enforcement a week in advance of testing. This assumes that current requirements that apply to all vehicles, such as that a licensed qualified driver must be in the vehicle and requirements related to informing law enforcement of a collision involving a vehicle, still apply to AVs being tested.

The insurance requirement was reviewed through the AV Work Group process, so it is acceptable. However, the information reporting requirements in the bill did not go through this process, so it should not be enacted.

The language of this bill should be modified to clarify that the requirements are only applicable to the operation of AVs for testing purposes.

Persons Testifying: (In support) Representative Kloba, prime sponsor; Lonnie Johns-Brown, Office of the Insurance Commissioner; Alex Pazuchanics, Seattle Department of Transportation; Daniel Malarkey, Sightline Institute; Paul Parker, Washington State Transportation Commission; and Dan McGrady, PEMCO Insurance.

(Opposed) Ryan Spiller, Alliance for Automotive Innovation; and Rose Feliciano, Internet Association.

(Other) James McMahan, Washington Association of Sheriffs and Police Chiefs; Jeff Gombosky, Tesla Motors; and Mike Ennis, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.