
Transportation Committee

HB 2100

Brief Description: Concerning the autonomous vehicle self-certification testing pilot program.

Sponsors: Representatives Boehnke, Bronoske and Eslick.

Brief Summary of Bill

- Requires that written notice in advance of testing be provided to the Department of Licensing (DOL) rather than to law enforcement agencies with jurisdiction where testing will occur.
- Removes the 14 to 60-day in advance of testing timing requirement for notification of autonomous vehicle (AV) testing.
- Requires that a law enforcement interaction plan be provided when notice of testing is provided.
- Eliminates the moving violation reporting requirement that applies when a moving violation citation is issued during AV testing.
- Limits public access to information reported to the DOL to non-confidential business information.

Hearing Date: 2/1/22

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

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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.

To test an AV under the Department of Licensing's (DOL) AV self-certification testing pilot program, the testing entity must:

- hold an umbrella liability insurance policy that covers the entity in an amount of 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 included in 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.

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, the DOL, the Washington State Department of Transportation, the Washington State Patrol (WSP), and the Washington Traffic Safety Commission. The AV Work Group includes four members from the House of Representatives and four members from the Senate. The Commission has invited additional participants from a range of interests in AV technology and testing.

The AV Work Group is responsible for following developments in AV technology, deployment, and policy; 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.

AV Testing Requirements Taking Effect in 2022.

"Autonomous" is defined to mean a Level 4 or Level 5 driving automation system according to the Society of Automotive Engineering International's (SAE's) standard, as of October 1, 2022, or on a date provided in rule by the DOL. These levels of automation are levels that do not require the driver to take over driving from the vehicle while it is operating in an autonomous mode with its automated driving features activated.

As of October 1, 2022, 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.

Also as of October 1, 2022, by February 1 of each year, self-certifying entities testing AVs must submit a report to the DOL that includes the following information from the prior calendar year:

- vehicle collisions that involve an autonomous motor vehicle during testing on a public roadway and that are required by law to be reported to law enforcement; and
- moving violations for which a traffic citation or infraction was issued that involve an autonomous motor vehicle during testing on a public roadway.

The information on collisions and moving violations provided by the self-certifying entity to the DOL must include whether the autonomous driving system was operating the vehicle at the time of or immediately prior to the collision or moving violations. In the case of collisions, the information provided must also include details regarding the collision, including any loss of life, injury, or property damage that resulted from the collision.

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

The self-certifying entity testing the AV on public roadways must provide written notice in advance of testing to every local and state law enforcement agency with jurisdiction over any of the public roadways on which testing will occur in the applicable jurisdictions. For testing primarily on limited access highways during which the AV will travel through multiple local jurisdictions, which may include the limited incidental use of other roadways, the self-certifying

entity is only required to provide written notice to the WSP.

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

National Highway Traffic Safety Administration.

The National Highway Traffic Safety Administration (NHTSA) enforces vehicle performance standards. The NHTSA encourages entities that will be engaged in autonomous vehicle testing and deployment to submit a Voluntary Safety Self-Assessment prior to testing and deployment. These assessments are not subject to federal approval.

Under First Amended Standing General Order 2021-01 (General Order), in effect until June 30, 2024, the NHTSA requires vehicle and equipment manufacturers and operators of autonomous vehicles to report vehicle crashes to the agency.

Under the NHTSA's General Order, an Incident Report for qualifying incidents must be submitted within one calendar day after receipt of notice of the incident. An updated Incident Report for qualifying incidents must be received on the tenth calendar day after receipt of notice of the incident.

Qualifying incidents include:

- when a subject vehicle is involved in a crash on a publicly accessible road in the United States;
- with the automated driving system engaged at any time from 30 seconds immediately prior to the start of the crash through the conclusion of the crash; and
- where the crash resulted in any individual being transported to a hospital, a fatality, a vehicle tow-away, or an air bag deployment or that involves a vulnerable road user.

Incident Reports must be submitted on an incident report form developed by the NHTSA and are required to include: information on the vehicles involved in a collision, the scene of the collision, crash description, and relevant pre- and post-crash information, including whether the automated driving system was operating the vehicle at the time of or immediately prior to the collision or moving violation, and information on any loss of life, injury, or property damage that resulted from the collision.

Summary of Bill:

Advance notice of autonomous vehicle testing must be provided to the DOL instead of to law enforcement agencies where the testing will occur. A law enforcement interaction plan must be provided to the DOL at the time written notice is provided. Written notice can be provided at any point prior to testing, rather than between 14 and 60 days prior to testing.

An autonomous vehicle testing entity is no longer required to report moving violations involving an autonomous vehicle during testing on public roadways to the DOL.

The DOL may only provide public access to information reported by autonomous vehicle testing entities if it is non-confidential business information. Confidential business information is not disclosable to the public or in the DOL's annual report to the transportation committees of the Legislature.

Autonomous vehicle testing entities are not required to provide the local jurisdictions in which testing is planned to the DOL, but are required to provide zip codes where testing is planned. Total counts of autonomous vehicles to be tested must also be provided to the DOL.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on October 1, 2022.