

SENATE BILL REPORT

SB 5594

As of January 30, 2024

Title: An act relating to the operation of fully autonomous vehicles.

Brief Description: Concerning the operation of fully autonomous vehicles.

Sponsors: Senators Boehnke, Nguyen, Lias and King.

Brief History:

Committee Activity: Transportation: 2/07/23; 1/30/24.

Brief Summary of Bill

- Authorizes the operation of autonomous motor vehicles on public roadways, subject to certain requirements.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Brandon Popovac (786-7465)

Background: Autonomous Vehicle Testing Pilot Program. In 2017 the Governor issued Executive Order 17-02, which authorized pilot programs for testing autonomous vehicles (AVs). The executive order authorized testing AVs both with and without a human operator present as part of the pilot program. To participate in the pilot program all vehicle owners must attest to proof of financial responsibility, and developing entities must self-certify to the Department of Licensing (DOL) that they comply with all applicable requirements before beginning a pilot program.

Autonomous Vehicle Self-Certification Testing Pilot Program. To test an AV on public roadways, the following information must be provided to DOL by the entity testing the AV:

- contact information;
- the local jurisdiction where testing is planned;

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- vehicle identification number; and
- proof of an insurance policy.

By February 1st of each year, self-certifying entities testing AVs must submit a report to DOL that includes information from the prior calendar year regarding collisions and moving violations that involve an autonomous motor vehicle during testing on a public roadway.

The entity testing the AV on a public roadway 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.

To test an AV under the program, the testing entity must:

- 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 included in the AV self-certification testing pilot program; and
- maintain proof of this policy with DOL in a form and manner specified by DOL.

Autonomous Vehicle Work Group. The AV Work Group convened by the Washington State Transportation Commission was tasked with developing policy recommendations to address the operation of AVs on public roadways in the state. The AV Work Group was responsible for:

- following developments in AV technology, deployment, and policy;
- exploring changes to state law, rules, and policy;
- disseminating information on AVs;
- engaging the public to inform policy development at the direction of the Legislature; and
- developing and updating recommendations annually based on the input provided by the AV Work Group, and providing a report to the Governor and the Legislature by November 15th of each year.

Before it expired, the AV Work Group released a Roadmap to the Future report in December 2023 addressing the following focus areas to accommodate AV operations on state public roadways: agency readiness, public outreach, equity, safety, testing and pilots, and a path to deployment.

Society of Automotive Engineering International Standards. The Society of Automotive Engineering International (SAE) is a global association of more than 128,000 engineers and related technical experts in the aerospace, automotive, and commercial-vehicle industries. SAE has developed international standard J3016 related to automated driving that include levels one to five of driving automation—level zero meaning no automation, to level five meaning full vehicle autonomy. SAE standard J3016 was adopted by the U.S. Department of Transportation in 2016 for use in its federal automated vehicles policy.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): An autonomous motor vehicle (AV) may operate on public roadways in this state without a human driver when the automated driving system is engaged and the person submits the following information in writing to DOL before the AV is operating on state roadways:

- if a failure of the automated driving system occurs so that the system is unable to perform the entire dynamic driving task as intended by its operational design domain, the AV must achieve a minimal risk condition;
- the AV is capable of operating in compliance with the applicable traffic and motor vehicle safety laws when reasonable to do so, unless exempted by DOL;
- when required by federal law, the AV displays the required manufacturer's certification label indicating that it is certified to be in compliance with all applicable federal motor vehicle safety standards, including reference to any exemption granted by the national highway traffic safety administration (NHTSA); and
- the AV meets all applicable vehicle registration, titling, and insurance requirements.

Before operating an AV, a person must submit a law enforcement interaction plan to DOL and the Washington State Patrol that is reviewed by the person and updated as needed, and describes:

- how to communicate with a fleet support specialist who is available during the times the AV is in operation;
- how to safely remove the AV from the roadway and steps to safely tow the AV;
- how to recognize whether the AV's automated driving system is engaged;
- how to detect and ensure the automated driving system is deactivated;
- where to obtain vehicle owner, registrations, and insurance information within the vehicle; and
- any additional information the manufacturer or owner deems necessary regarding hazardous conditions or public safety risks associated with operation of the AV.

Before operating an AV a person must also submit to DOL a copy of the most recent voluntary self-assessment submitted to NHTSA.

Until December 31, 2028, a person operating an AV on public roadways in this state must provide notice to the law enforcement agencies with jurisdiction over the area the person will operate the autonomous motor vehicle within 14 days of operation, including the contact information of the AV owner and a copy of the law enforcement interaction plan.

A person operating an AV on public roadways without a human driver must have umbrella liability insurance coverage of at least \$5 million per occurrence for bodily injury or death or property damage caused by AV operation.

An AV must be properly registered and identified on the vehicle certificate of title and registration as an AV. To assess compliance with applicable traffic and motor vehicle laws,

the AV automated driving system is considered the driver or operator when the system is engaged. The system when engaged is also considered to be licensed to drive to operate the vehicle.

If there is an accident or collision involving an AV, the AV must remain on the scene and the AV owner, or owner representative, must report the accident or collision as statutorily required. By February 1st of each year until February 1, 2028, the AV owner must submit a report on all crashes or collisions from the previous calendar year to DOL and to all municipalities where the AV operated for more than five days in the previous calendar year.

A person may operate a motor vehicle equipped with an automated driving system capable of performing the entire dynamic driving task if:

- the system will issue a request to intervene whenever the automated driving system is not capable of performing the entire dynamic driving task, with the expectation that the person will respond appropriately to such a request; and
- the system is capable of being operated in compliance with rules of the road provisions when reasonable unless an exemption has been granted by DOL.

A human driver may operate an AV equipped with controls that allow for the human driver to control all or part of the dynamic driving task.

An AV designed to be operated exclusively by the automated driving system for all trips is not subject to motor vehicle equipment laws or rules that:

- relate to motor vehicle operation by a human driver seated in the vehicle; and
- are not relevant for an automated driving system.

An on-demand AV network must be allowed to operate under state laws governing the operation of transportation network companies, taxis, or other for-hire ground transportation of passengers, except for those state laws that reasonably apply only to a human driver would not apply to AV operation with the automated driving system engaged on the on-demand AV network. An AV that is a commercial motor vehicle may operate on public roadways, except that any motor vehicle law that reasonably applies only to a human driver does not apply to such a vehicle operating with the automated driving system engaged.

DOL is designated the exclusive state agency regulating AV operation, and any other state agency or local entity is prohibited from regulating or limiting the operation of AVs, automated driving systems, and on-demand AV networks. Local governments may exercise any existing authority within its jurisdiction not in conflict with AV operation authorization.

DOL may only suspend or cancel an AV registration or restrict AV operations for reasons related to safety. DOL may issue a request for information from the AV owner and person if DOL receives evidence that an AV is likely not in a safe mechanical conditions and likely to endanger persons. The AV owner or person must respond to such request using documents, meetings, or demonstrations within a reasonable time as specified by DOL.

Upon DOL review and evaluation of the responses from the AV owner or person and a determination the AV is not safe and will endanger persons, DOL may send the AV owner and person a notice of intent to suspend the AV registration or impose reasonable operation restrictions. The notice if sent must include reasons or evidence for the suspension or restrictions and a statement that a certification of correction or adjustment explaining how identified issues have been addressed must be submitted by the AV owner or person within a time period determined by DOL. DOL may suspend the AV registration or place restrictions on the AV if the AV owner or person fails to timely submit the certification or DOL finds the certification is not true or accurate. The AV owner or person may submit the required certification to remove the suspension or restrictions or request a hearing with ten days of the notice of intent to suspend or restrict AV operations. The hearing must be held within 60 days of the hearing request. Any commercial or proprietary information submitted to DOL by the AV owner or person for purposes of AV registration suspension or operations restrictions is not subject to public disclosure.

The AV self-certification testing pilot program administered by DOL is repealed.

AVs are defined as motor vehicles equipped with an automated driving system designed to function without a human driver as a level four or five system under SAE standard J3016. Definitions are also provided for automated driving system, dynamic driving task, minimal risk condition, on-demand AV network, and other key terms.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 26, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on October 1, 2024.

Staff Summary of Public Testimony (Regular Session 2023): PRO: The bill advances the work of the AV work group over the last four years. The bill pushes the state into an innovation space and will bring in companies to introduce new technologies. The bill would avoid a patchwork of local AV laws. It includes pilot program requirements on accident reporting, a 14-day operation mandate, and mandatory liability insurance coverage. AVs improve traffic safety, and AV testing has been successful for over the last five years. AVs overall have maintained a great safety record over the last 12 years. AV deployment will reap environmental benefits in reducing greenhouse gas emissions. The bill maintains public safety and government oversight, lays out proper roles for all federal, state, and local entities, and ensures law enforcement agencies are provided safety data. Other states have already authorized deployment of AVs. AVs are not subject to common human errors and vices when driving. AVs offer new mobility options, especially for senior citizens. Certain AV companies are undergoing current testing in Bellevue. It is important for the state to create a unified regulatory framework in light of rapidly developing AV technology and

commercial use. At least 90 percent of crashes caused by human drivers could be prevented or reduced by use of AVs. Some AV companies have strong and proven safety records and can scale the technology safely. AVs allow for transport of goods as well as passengers. All current vehicle equipment standards not entirely applicable to AVs and are appropriately exempted.

CON: The adoption of new technologies is not unique to teamsters unions, and such technology can displace millions of workers. Multiple additional issues need to be addressed, including workforce development and public safety concerns. The bill might benefit from including a requirement for a human driver operator at all times. The bill goes from zero to 100 miles per hour, and perhaps the AV pilot as recommended by the AV work group is appropriate. Despite the potential for improving safety, the bill does not address equity concerns around deployment and how to regulate AV use in overburdened communities. Liability questions remain if an automated driving system (ADS) is licensed to drive, and questions remain on how to determine if AVs are safe to operate. The bill is notably not a recent recommendation of the AV work group. Insurers have questions about AV crash data and who has access to such data. The bill excludes level 3 AV vehicles although such vehicle technology is the same as level 4 and 5 AVs. AVs may not be aware of all pedestrians crossing their path. There is no entity responsible for safety concerns within the AV itself. The AV operator might have liability issues when a negligent instrument results in ADS failure.

OTHER: AVs may not always respond adequately in certain emergency situations. The interaction plan needs more lead time and instructions on how to shut AVs down. A delayed effective date for implementation is requested. The bill goes in the wrong direction. No driver's license test for ADS technology raises safety and liability concerns. ADS has no regulatory framework within the bill. The bill violates the state Constitution with its preemption of other state agency oversight and local laws. It is preferred that the AV work group come up with recommendations in a future session. Auto dealers are supportive of new driving technology, including AVs. Vehicle consumers need auto dealer support when attempting to understand and how to operate AVs. Auto dealers are already experienced handling level 2 and 3 AVs. Provisions limiting cities from implementing regulations unique to local needs should be removed.

Persons Testifying (Transportation): PRO: Senator Matt Boehnke, Prime Sponsor; Jeff Farrah, Autonomous Vehicle Industry Association; Ashley Sutton, TechNet; ryan spiller, Alliance for automotive innovation; Bruce Agnew, ACES NW Network; Aidan Ali-Sullivan, Waymo; Paul Escobar, Zoox; Alain Xiong-Calmes, Chamber of Progress; Jose Alvarado, Cruise; Katie Stevens, Coalition for Safe Autonomous Vehicles and Electrification (SAVE Coalition).

CON: Philip Koopman; William Widen; Brenda Wiest, Teamsters Local 117; Bryce Yadon, Transportation Choices Coalition; Kenton Brine, Northwest Insurance Council; Kathryn Kolan, Washington Insurers, Nationwide Insurance, StateFarm Insurance.

OTHER: Jim Restucci, Washington State Transportation Commission; James McMahan, WA Assoc Sheriffs & Police Chiefs; Scott Hazlegrove, WA State Auto Dealers Association; Chris Long, City of Bellevue.

Persons Signed In To Testify But Not Testifying (Transportation): No one.

Staff Summary of Public Testimony On Proposed Substitute (Transportation): PRO: As an innovative technology state, Washington State should be competitive in certain AV markets. Other states are already testing statewide. This bill could inspire college students to produce the next generation of AVs. It is important for AVs to coordinate with local law enforcement and first responders for an appropriate response to AV operations. The proposed bill version updates some plan elements to provide uniformity for local law enforcement. Although there have been AV incidents, their companies have taken responsibility. The AV industry is committed to bringing safety to AV operations. AV self-testing began in Washington State seven years ago, and this bill creates a pathway to AV deployment as done by 23 other states. The bill clearly requires what is needed before AV operations. AVs should only be allowed if there are no safety risks and performs as well as other motor vehicles. AVs have the potential to save numerous lives, by creating safer streets and reducing traffic accidents. Traffic fatalities have increased in last few years, with many caused by human driving error and bad habits. AVs are never distracted or impaired. AVs will fill transit gaps for consumers, by bringing commodities to communities with limited options. A majority of voters are ready to ride in an AV. AVs benefit the climate and support other green transportation policies by reducing roadway congestion. Ninety-one percent of accidents are caused by human error. The proposed bill version address concerns by interested stakeholders.

CON: The bill has many shortcomings, and provides a liability shield for manufacturers of specific AV technology. ADS is not a legal person to satisfy insurance claims. Federal studies suggest higher insurance limits are recommended for AV operations near \$10 million per incident. AV manufacturers should bear some responsibility and liability. AVs are immature experimental technology and often make inhuman robotic errors as it has played out in other states. Reckless AV driving violations have no human counterpart. Publications reveal it is too early to know the safety benefits of AVs. Agency oversight is essential. The bill is a major step towards transforming product liability claims and cases, as multiple experts will be needed to analyze each claim and collision, bringing higher fees in litigation and legal consultation. Attorneys will not be able to afford to bring such cases. The minimal risk condition definition is circular and confusing. The AV work group released findings showing we are a ways from full AV integration. Determining the appropriate level of AV testing is essential before enabling safe operations. Liability coverage would need to handle more than just AV testing. AVs are not ready for our streets as evidenced by operations issues in California. First responders are concerned with how to address AVs in collisions, especially with how to extinguish AV fires. The bill is not ready for enactment even with recent improvements. Continuing AV technology research must

address public safety concerns.

OTHER: The requirements and definition applied to the term—person creates ambiguity in terms of reporting and liability compliance. There are concerns with application of bill to AV commercial trucks and that laws as applied to human operators do not apply to ADS. The bill fails to address prototype AVs. AVs are still a vehicle and should be similarly serviced and sold. Auto dealers are not adequately addressed in the bill, and AVs should be included under the auto dealer franchise laws. The proposed bill is consistent with certain jurisdictional AV policies. There are concerns with the removal of a city's authority to implement individual AV requirements and equity goals. Operational and equity concerns should count towards AV registration suspension or operations restriction. There are remaining AV safety concerns especially around liability since the registered owner is not liable but the ADS is. Some AVs are attracted to other on-road distractions. There are concerns over local government preemption especially within underserved areas. Local policies can ensure AV rideshare services in BIPOC communities and prevent transit interference. DOL must be allowed to halt AV operations immediately if there is a safety or operational concern.

Persons Testifying (Transportation): PRO: Senator Matt Boehnke, Prime Sponsor; Jeff Farrah, Autonomous Vehicle Industry Association; Robert Singleton, Chamber of Progress; Jeff Gombosky; Isaac Kastama, Clean & Prosperous Washington; Brandon Houskeeper, Alliance for Automotive Innovation ; Brent Ludeman, Waymo; Paul Escobar, Zoox; Ashley Sutton, TechNet.

CON: William Widen; Philip Koopman; Alex Dietz, Washington State Association for Justice; Katie Kolan, WA Insurers, Nationwide Insurance, and State Farm Insurance; Kenton Brine, NW Insurance Council; Samantha Grad, Teamsters 117; Ken Price, Amalgamated Transit Union 587.

OTHER: Jim Restucci, Wash. State Transportation Commission; Scott Hazlegrove, WA State Auto Dealers Association; Chris Long, City of Bellevue; Taylor Gardner, WA Assn of Sheriffs and Police Chiefs; Brandy DeLange, Association of Washington Cities; Beau Perschbacher, WA Dept. of Licensing.

Persons Signed In To Testify But Not Testifying (Transportation): No one.