

SENATE BILL REPORT

ESHB 2676

As Reported by Senate Committee On:
Transportation, March 2, 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: Passed House: 2/19/20, 70-28.

Committee Activity: Transportation: 2/25/20, 3/02/20 [DPA, w/oRec].

Brief Summary of Amended Bill

- Requires a self-certifying entity under the Department of Licensing's autonomous vehicle (AV) testing pilot program to provide contact information, information on testing locations, vehicle identification numbers, proof of insurance, and information on any traffic incidents and infractions on public roads.
- Requires self-certifying entities operating AVs on public roads 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.
- Requires self-certifying entities to provide advance notice to all law enforcement agencies that there will be testing of AVs on public roads in the agency's jurisdiction over a specified period of time.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended.

Signed by Senators Hobbs, Chair; Saldaña, Vice Chair; Sheldon, Assistant Ranking Member; Cleveland, Das, Fortunato, Lovelett, Nguyen, O'Ban, Randall, Takko, Wilson, C. and Zeiger.

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.

Minority Report: That it be referred without recommendation.

Signed by Senators King, Ranking Member; Padden.

Staff: Kim Johnson (786-7472)

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; and
- 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; and
- 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

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 them. 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.

Summary of Amended Bill: Autonomous Vehicle Testing Pilot Program Reporting Requirements. 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.

DOL must provide public access to the information self-certifying entities submit.

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 DOL in a form and manner specified by 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.

Notification to Law Enforcement. The self-certifying entity must provide advance written notice to every law enforcement agency with jurisdiction over any of the public roadways on which testing will occur and the notice must include the period of time during which the testing will occur in the jurisdiction. However, if testing is to occur primarily on limited access highways that travels through multiple local jurisdictions, the self-certifying entity must only provide written notice to the Washington state patrol. The written notice must include a physical description of the vehicle being tested.

Traffic Collision and Infraction Reporting. The self-certifying entity must provide to DOL whether the collision or infraction originated from the vehicle being operated in autonomous mode. Additionally, certain details must be included about a collision, including any loss of life, injury, or property damage that resulted from the collision.

The self-certifying entity must submit the required report to DOL by February 1st, on an annual basis.

Fee. DOL is authorized to adopt a self-certification fee in an amount sufficient to offset administration of the pilot by DOL.

Annual Report. DOL must report to the House and Senate Transportation Committees of the Legislature summarizing the information reported by self-certifying entities.

EFFECT OF TRANSPORTATION COMMITTEE AMENDMENT(S):

- Narrows the requirement for notice to DOL to reflect "collisions" instead of a traffic incident. Also narrows the type of traffic infraction that must be reported, to those involving a moving violation.
- Specifies the reporting period for collisions and moving violations is on an annual basis covering the previous year, and is due to DOL by February 1st.
- Reporting is required only when the collision or infraction originated from the use of autonomous mode.
- Clarifies when notice requirement to law enforcement applies based on what type of roadway the test is occurring over.
- Provides a local law enforcement notice exception when the test is to travel primarily on limited access highways that happen to travel through multiple local jurisdictions, the notice is only required to be provided to WSP.
- Requires the notice to law enforcement include the physical description of the motor vehicle to be tested.
- Changes the effective date of the requirement of self-certifying entities to carry an umbrella insurance policy to 90 days sine die.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: 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.

This bill will help promote innovation while protecting the public and will aid in quicker investigation and insurance settlement for a motorist who may be in a collision with an AV. If you can afford to be testing this kind of technology, you should be able to afford adequate

liability coverage to protect anyone who may be hurt by an AV being tested. Eleven other states have \$5 million liability coverage and two have higher coverage requirements.

OTHER: 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 requirement may cause testing to go to other states.

We should only report on traffic collisions when the vehicle is in autonomous mode as that is what is relevant. This bill should require a prudent testing regime that includes the submission of a safety report and periodic re-certification. These companies should be required to notify within 10 days of an incident occurring.

This reporting requirement should only apply to Level 3.

Persons Testifying: PRO: Representative Shelley Kloba, Prime Sponsor; Dan McGrady, PEMCO Insurance; Jean Leonard, Washington Ins; Nationwide; State Farm; National Association of Mutual Insurance Companies; Paul Parker, Transportation Commission.

OTHER: Rose Feliciano, Internet Association, Director, Northwest Region; Shannon Walker, City of Seattle; Ryan Spiller, Alliance for Automotive Innovation.

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