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**HOUSE BILL 1731**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Kloba, Boehnke, and Shewmake

AN ACT Relating to enhancing requirements for autonomous vehicle testing; amending RCW 46.04.370, 46.92.010, and 42.56.270; adding new sections to chapter 46.92 RCW; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 46.92 RCW to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Automated driving system" includes hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether it is limited to a specific operational design domain and regardless of the presence of a safety operator.

(2) "Autonomous operation" means the performance of the entire dynamic driving task by an autonomous driving system, beginning upon performance of the entire dynamic driving task by an autonomous driving system and continuing until the autonomous driving system is disengaged.

(3) "Autonomous vehicle" means a vehicle with a level 4 or level 5 automated driving system as provided in the society of automotive engineering international's standard J3016, as it existed on October 1, 2022, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this chapter.

(4) "Autonomous vehicle testing entity" means a person conducting autonomous vehicle testing in the state.

(5) "Dynamic driving task" means all of the real-time operational and tactical functions collectively required to operate a vehicle in on-road traffic, including controlling lateral and longitudinal vehicle motion, monitoring the driving environment, executing responses to objects and events, planning vehicle maneuvers, and enhancing vehicle conspicuity. "Dynamic driving task" does not include the strategic functions of driving, such as scheduling trips, selecting destinations, and specifying routes.

(6) "Minimal risk condition" means a condition to which a test operator or autonomous driving system brings a vehicle to reduce the risk of a collision when a trip cannot or should not be completed, such as bringing the vehicle to a complete stop.

(7) "Operate" means the activities performed by a human operator or an autonomous driving system to perform the entire dynamic driving task for an autonomous vehicle.

(8) "Operational design domain" means the environmental, geographic, time-of-day, traffic, infrastructure, and other conditions under which an autonomous driving system is specifically designed to function.

(9) "Operator" means the autonomous driving system or natural person operating a motor vehicle equipped with an automated driving system.

(10) "Testing" means the operation of an autonomous vehicle on public roadways to assess or demonstrate the autonomous vehicle's capabilities.

**Sec.**  RCW 46.04.370 and 1975 c 62 s 6 are each amended to read as follows:

"Operator or driver" means every person who drives or is in actual physical control of a vehicle. "Operator or driver" of an autonomous vehicle has the same meaning as "operator" in section 1 of this act.

**Sec.**  RCW 46.92.010 and 2021 c 193 s 1 are each amended to read as follows:

(1) ((~~In order to test an autonomous motor vehicle on any public roadway under the department's~~)) The department is authorized to administer an autonomous motor vehicle self-certification testing pilot program((~~, the~~)) and may adopt rules as necessary to implement this chapter. An autonomous vehicle testing entity conducting testing of an autonomous vehicle on public roadways in Washington state must meet the requirements of this section.

(2) The following information must be provided to the department by the ((~~self-certifying~~)) autonomous vehicle testing entity testing ((~~the~~)) an autonomous motor vehicle:

(a) Contact information specified by the department;

(b) Local jurisdictions where testing is planned;

(c) The vehicle identification numbers of the autonomous vehicles being tested, provided that one is required by state or federal law; ((~~and~~))

(d) Proof of an insurance policy that meets the requirements of RCW 46.30.050;

(e) The registered agent of the autonomous vehicle testing entity, including the registered agent's name, address, and driver's license number, and any other information the department may require for the enforcement authorized under section 4 of this act; and

(f) If the testing entity has submitted a safety self-assessment to the national highway traffic safety administration, the most recent voluntary safety self-assessment transmitted to the national highway traffic safety administration.

((~~(2)~~)) (3) Any autonomous motor vehicle to which subsection ((~~(1)~~)) (2) of this section is applicable and that does not have a vehicle identification number and is not otherwise required under state or federal law to have a vehicle identification number assigned to it must be assigned a unique identification number that is provided to the department and that is displayed in the vehicle in a manner similar to the display of vehicle identification numbers in motor vehicles.

((~~(3)(a) The self-certifying~~)) (4)(a) To test an autonomous vehicle with a human operator present in the vehicle on a public roadway, the autonomous vehicle testing entity must certify that:

(i) Only a trained employee, contractor, or other person authorized by the developer of the automated driving system will operate or monitor the vehicle being tested;

(ii) The human operator of the autonomous vehicle being tested must possess a valid United States driver's license;

(iii) Vehicles will, at all times, be monitored by the human operator present in the vehicle;

(iv) The human operator present in the vehicle will, at all times, have the ability to direct the vehicle's movements if human operator assistance is required; and

(v) Vehicle operation will comply with Washington state motor vehicle laws at all times, including during autonomous operation of the vehicle.

(b) To test an autonomous motor vehicle without a human operator present in the vehicle on any public roadway, the autonomous vehicle testing entity must certify that:

(i) Vehicles being tested will be equipped with an automated driving system that performs all aspects of the dynamic driving task within the vehicle's operational design domain;

(ii) Vehicles being tested will be capable of achieving a minimal risk condition without human intervention when necessary to maintain safe operations;

(iii) Vehicle operation will comply with Washington state motor vehicle laws, including during autonomous operation of the vehicle; and

(iv) In developing the automated driving system and preparing the autonomous vehicle for testing on public roadways, the autonomous vehicle testing entity has:

(A) Put in place a comprehensive safety case framework with identifiable safety-related goals and mandatory feedback mechanisms;

(B) Conducted driving simulations and closed-course testing in preparation for testing on public roadways;

(C) Evaluated the safety record of the autonomous vehicle being tested to determine its readiness for testing on public roadways;

(D) Put in place any additional safety measures appropriate to the less predictable driving environment of testing on public roadways based on the evidence collected under (b)(iv)(A) through (C) of this subsection; and

(E) Verified that the vehicle meets appropriate and applicable industry standards to help defend against, detect, and respond to cyberattacks, unauthorized intrusions, and false vehicle control commands.

(5)(a)(i) To provide information to inform the safe operation of autonomous vehicles during testing on public roadways, the autonomous vehicle testing entity testing ((~~the~~)) an autonomous motor vehicle on any public roadway must notify the department of:

((~~(i)~~)) (A) Any collisions that are required to be reported to law enforcement under ((~~RCW 46.52.030~~)) (b) of this subsection, involving an autonomous motor vehicle during testing on any public roadway; and

((~~(ii)~~)) (B) Any moving violations, as defined in administrative rule as authorized under RCW 46.20.2891, for which a citation or infraction was issued, involving an autonomous motor vehicle during testing on any public roadway.

((~~(b)~~)) (ii) By February 1st of each year, the self-certifying entity must submit a report to the department covering reportable events from the prior calendar year.

((~~(c)~~)) (iii) The ((~~self-certifying~~)) autonomous vehicle testing entity shall provide the information required by the department under (a)(i) of this subsection. The information provided must include whether the ((~~autonomous~~)) automated driving system was operating the vehicle at the time of or immediately prior to the collision or moving violation((~~, and in the case of a collision, details regarding the collision, including any loss of life, injury, or property damage that resulted from the collision~~)).

((~~(d)~~)) (b)(i) The autonomous vehicle testing entity shall also provide the department with the information transmitted to the national highway traffic safety administration under the national highway traffic safety administration's autonomous vehicle incident reporting requirements, or those adopted by the department by rule, as referenced in (b)(ii) of this subsection. The information required under this subsection must be submitted by the same deadlines for information submission set by the national highway traffic safety administration in its reporting requirements referenced in (b)(ii)(A) of this subsection, or those adopted by the department by rule under (b)(ii)(B) of this subsection.

(ii)(A) The reporting requirements applicable to (b)(i) of this subsection are those set by the national highway traffic safety administration in first amended standing general order 2021-01 as it existed on the effective date of this section, or under subsequent reporting requirements of the national highway traffic safety administration as may be provided by the department by rule, consistent with the purposes of this chapter.

(B) If the national highway traffic safety administration's reporting requirements in first amended standing general order 2021-01 as it existed on the effective date of this section are eliminated or reduced, the reporting requirements applicable to (b)(i) and (ii)(A) of this subsection may be supplemented or replaced by rules of the department to ensure reporting of collisions continues to include information on the vehicles involved in a collision, the scene of the collision, crash description, and relevant precrash and postcrash 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.

(c) The provisions of this section are supplemental to all other rights and duties under law applicable in the event of a motor vehicle collision.

((~~(4)~~)) (6) The autonomous vehicle testing entity shall promptly notify the department of any changes in the information required to be provided under this section.

(7)(a) The ((~~self-certifying~~)) autonomous vehicle testing entity testing the autonomous motor vehicle on public roadways ((~~under the department's autonomous vehicle self-certification testing pilot program~~)) must provide written notice in advance of testing to local and state law enforcement agencies and local fire service providers with jurisdiction over any of the public roadways on which testing will occur that includes the expected period of time during which testing will occur in the applicable jurisdictions, including city police departments within city limits where testing will occur, county sheriff departments outside of city limits in counties where testing will occur, and the Washington state patrol when testing will occur on limited access highways, as defined in RCW 47.52.010.

(b) However, for testing primarily on limited access highways that travels through multiple local jurisdictions, which may include the limited incidental use of other roadways, the ((~~self-certifying~~)) autonomous vehicle testing entity must only provide written notice as specified in this subsection to the Washington state patrol and local fire service providers.

(c) Written notice provided under this subsection must: ((~~(a)~~))

(i) Be provided not less than fourteen and not more than sixty days in advance of testing; ((~~(b) include~~))

(ii) Include contact information where the law enforcement agency and fire service provider can communicate with the ((~~self-certifying~~)) autonomous vehicle testing entity testing the autonomous vehicle regarding the testing planned in that jurisdiction; and ((~~(c) provide~~))

(iii) Provide the physical description of the motor vehicle or vehicles being tested, including make, model, color, and license plate number.

((~~(5)~~)) (d) An autonomous vehicle interaction guide for law enforcement and fire service providers must be provided at the time written notice is provided, which must include instructions for interaction with autonomous vehicles without human operators when these vehicles will be tested.

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

((~~(6)~~)) (9) The department shall provide public access to the information ((~~self-certifying~~)) autonomous vehicle testing entities provide to it, subject to the limitations in RCW 42.56.270, and shall provide an annual report to the house and senate transportation committees of the legislature, as well as to the autonomous vehicle work group established under RCW 47.01.510 while that section remains in effect, summarizing the information reported by ((~~self-certifying~~)) autonomous vehicle testing entities under this section.

((~~(7)~~)) (10) An autonomous motor vehicle may not be operated on any public roadway for the purposes of testing in Washington state until the department is provided with the information required under ((~~subsection~~)) subsections (1) and (3) of this section.

((~~(8) For purposes of this section, "autonomous" means a level four or five driving automation system as provided in the society of automotive engineering international's standard J3016, as it existed on October 1, 2022, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 46.92 RCW to read as follows:

(1) A violation of chapter 46.61 RCW by the operator of an autonomous motor vehicle driven without a human operator present in the vehicle, as authorized under RCW 46.92.010(4)(b), is a traffic infraction. A notice of infraction must be mailed to the registered agent of the autonomous vehicle testing entity conducting testing within 14 days of the violation.

(2) The registered agent of the autonomous vehicle testing entity conducting testing is responsible for an infraction under RCW 46.63.030(1) when subsection (1) of this section applies.

(3) Infractions committed under subsection (1) of this section are not part of the registered agent's driving record under RCW 46.52.101 and 46.52.120.

**Sec.**  RCW 42.56.270 and 2021 c 308 s 4 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750; (b) highway construction or improvement as required by RCW 47.28.070; or (c) alternative public works contracting procedures as required by RCW 39.10.200 through 39.10.905;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), marijuana producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(c) Valuable formulae or financial or proprietary commercial information records received during a consultative visit or while providing consultative services to a licensed marijuana business in accordance with RCW 69.50.561;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services or the health care authority for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8);

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business; and

(iii) Financial or proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.31.625 (3)(b) and (4);

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70A.500 RCW to implement chapter 70A.500 RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under RCW 43.330.502, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information;

(21) Market share data submitted by a manufacturer under RCW 70A.500.190(4);

(22) Financial information supplied to the department of financial institutions, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities;

(23) Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to RCW 90.56.565(1)(a), and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to RCW 90.56.565;

(24) Financial institution and retirement account information, and building security plan information, supplied to the liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or prospective licensee for the purpose of obtaining, maintaining, or renewing a license to produce, process, transport, or sell marijuana as allowed under chapter 69.50 RCW;

(25) Marijuana transport information, vehicle and driver identification data, and account numbers or unique access identifiers issued to private entities for traceability system access, submitted by an individual or business to the liquor and cannabis board under the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345 for the purpose of marijuana product traceability. Disclosure to local, state, and federal officials is not considered public disclosure for purposes of this section;

(26) Financial and commercial information submitted to or obtained by the retirement board of any city that is responsible for the management of an employees' retirement system pursuant to the authority of chapter 35.39 RCW, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the retirement fund or to result in private loss to the providers of this information except that (a) the names and commitment amounts of the private funds in which retirement funds are invested and (b) the aggregate quarterly performance results for a retirement fund's portfolio of investments in such funds are subject to disclosure;

(27) Proprietary financial, commercial, operations, and technical and research information and data submitted to or obtained by the liquor and cannabis board in applications for marijuana research licenses under RCW 69.50.372, or in reports submitted by marijuana research licensees in accordance with rules adopted by the liquor and cannabis board under RCW 69.50.372;

(28) Trade secrets, technology, proprietary information, and financial considerations contained in any agreements or contracts, entered into by a licensed marijuana business under RCW 69.50.395, which may be submitted to or obtained by the state liquor and cannabis board;

(29) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the Andy Hill cancer research endowment program in applications for, or delivery of, grants under chapter 43.348 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(30) Proprietary information filed with the department of health under chapter 69.48 RCW;

(31) Records filed with the department of ecology under chapter 70A.515 RCW that a court has determined are confidential valuable commercial information under RCW 70A.515.130; ((~~and~~))

(32) Unaggregated financial, proprietary, or commercial information submitted to or obtained by the liquor and cannabis board in applications for licenses under RCW 66.24.140 or 66.24.145, or in any reports or remittances submitted by a person licensed under RCW 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis board under chapter 66.08 RCW; and

(33) Commercial or proprietary information submitted to the department of licensing by autonomous vehicle testing entities under RCW 46.92.010(5) to which the national highway transportation safety administration grants confidential status.

NEW SECTION. **Sec.**  This act takes effect October 1, 2022.

**--- END ---**