



Blind Spots Remain as SELF DRIVE Act Passes House

The first federal bill on autonomous vehicle technology passed the full U.S. House of Representatives unanimously on September 6, 2017. The bill addresses important privacy, preemption, exemptions, testing, safety standards, and cybersecurity planning issues, unchanged since passing unanimously out of [committee](#). This critical first step also leaves several open issues related to self-driving cars to be addressed by the Senate, regulators, the private sector, or future legislation.

Commercial Vehicles

The bill does not address "commercial motor vehicles," meaning vehicles with more than 10 occupants and certain trucks. Commercial autonomous vehicles, now under development, will need legislative or regulatory attention, because they will create significant opportunities to improve safety and efficiency for companies, employees, and the public.

Testing Standards

The bill requires the National Highway Traffic Safety Administration ("NHTSA") to establish testing standards, including to determine when to use performance, as opposed to process and procedure, standards. Flexibility to craft appropriate testing will be needed, given the range of new and rapidly changing considerations. However, the bill delegates important safety and economic issues to NHTSA with minimal guidance.

Additional Advisory Council Issues

Also with minimal guidance, the bill suggests that the Advisory Council create subcommittees to resolve several complex issues, including:

- A framework for sharing accident-related information while preserving the confidentiality of proprietary information;
- Cybersecurity for supply chain risk management, information sharing, and recalls;
- Labor and employment issues related to highly automated vehicle ("HAV") deployment;
- Protection of consumer privacy; and
- Testing in rural areas and bad weather.

Infrastructure

The bill does not address the infrastructure improvements that may be necessary for HAVs, such as new roadway standards and physical changes due to differences between human and machine drivers. For example, Pennsylvania has allocated up to \$40 million of annual state funding to upgrade traffic signals to light-emitting diode technology and other intelligent transportation system applications. Such infrastructure improvements could also influence which HAV systems can be successfully deployed.

Tort Liability and Federal Preemption

The House bill preserves common law liability under state tort law. Federal preemption is provided for design, construction, and performance. The Senate also will need to consider the intersection of federal and state law for both regulations and tort liability.

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In addition to monitoring the advancement of legislation in the Senate, we will be monitoring legislative and regulatory developments regarding these open issues.

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