

The Worst of the Worst of the AV START Act (S. 1885)

On Wednesday, October 4, the Senate Committee on Commerce, Science and Transportation will consider the American Vision for Safer Transportation through Advancement of Revolutionary Technologies (AV START) Act (S. 1885). This bill will set autonomous vehicle (AV) policy for decades to come, but is rife with major problems for safety and consumers. Not only does it pave the way for the mass deployment of unproven driverless cars, it leaves the public vulnerable to severe safety risks. Below is a list of the “worst of the worst” provisions and omissions in the legislation.

Dangerously Ignores Level 2 AVs (Sec. 2)

The AV START Act does not include SAE Level 2 AVs, like the Tesla Model S that was involved in the 2016 fatal crash in Florida. Level 2 AVs will likely comprise the majority of the passenger vehicle AV fleet in the early years of deployment, and proper safeguards to curb Tesla-like failures must be in place. Manufacturers of Level 2 vehicles must submit a Safety Evaluation Report (SER), as required under the bill which generally describes certain aspects of the technology. Moreover, consumers must be given essential information about the capabilities of Level 2 systems.

Prevents States from Adequately Protecting their Citizens (Sec. 3)

The bill takes an unorthodox and unprecedented approach to preemption, in that it prohibits state action *before* the federal government has taken regulatory action. Until the National Highway Traffic Safety Administration (NHTSA) issues comprehensive safety standards, states must retain their traditional legal role to ensure public safety.

Ballooning Exemption Numbers are Unwise and Unwarranted (Sec. 6)

Under this legislation, manufacturers can receive wholesale exemptions from critical safety standards. This could result in the mass deployment of hundreds of thousands of vehicles with exemptions from Federal Motor Vehicle Safety Standards (FMVSS). The bill provides for a 1,900 percent increase from the current cap of 2,500 exempt vehicles in the first year alone. The number of exempted vehicles jumps from 50,000 to 75,000 in year two, and then rises to 100,000 in year three. The proposed number of exemptions is excessive and endangers public safety and should be lowered.

No Mechanism to Ensure or Evaluate Safety Performance (Sec. 6)

Without proper oversight, manufacturers could get more and more exemptions for inherently dangerous products whose potential hazards may not have been identified. This deadly scenario will turn our nation’s streets and highways into “proving grounds” for unproven technology. NHTSA must have the ability to properly evaluate the on-road safety performance of vehicles exempted from FMVSS before allowing even more AVs on the road in subsequent years.

Vehicles Should Not be Exempt from Occupant Protection and Crashworthiness Standards (Sec. 6)

There should be a prohibition on a manufacturer receiving exemptions that weaken or eliminate occupant protection or crashworthiness. These essential standards have saved hundreds of thousands of lives and degrading them is an egregious threat to public safety.

Turning Off Safety Systems (Sec. 7)

Until now, manufacturers were prohibited by law from rendering safety systems inoperable. The AV START Act allows manufacturers to shut down any system or piece of equipment during autonomous operation of the vehicle. This is a stunning change in procedure that could render safety equipment, such as airbags, inoperable and thus ineffective at the discretion of the manufacturer.

Keeping Consumers and Researchers in the Dark (Sec. 12)

Under the bill, consumers will not be given appropriate safety information until a committee has completed its work, which could take years. Even then, the adoption of the recommendations is voluntary. Consumers must have access to clear and concise information about the capabilities and limitations of an AV at the point of sale. Additionally, NHTSA should be required to establish a publicly-available database with basic safety information for consumers and for safety research. Independent research organizations and academic institutions need this data to be able to analyze on-road safety performance of AV systems. Being able to assess the comparative safety performance of AVs could be instrumental to uncovering dangerous safety defects.

Leaves Vehicles Dangerously Susceptible to Hacking and other Cyber Threats (Sec. 14)

Given the recent record of high-profile cyber-attacks, it is imperative that strong protections be in place to protect against potentially catastrophic hacks of autonomous vehicles. The AV START Act should require a minimum performance standard to ensure cybersecurity protections.

NHTSA is Grossly Underfunded and Ill-Equipped to be an Effective Cop on the Beat

The NHTSA's current budget is sorely insufficient given the multitude of new responsibilities and duties the agency will have as AVs are deployed in mass. The agency should be given the funding and expertise necessary to effectively carry out its safety mission. Additionally, NHTSA should be given imminent hazard authority to immediately intervene against widespread safety defects, and enhanced penalty authority to ensure manufacturers do not willfully and knowingly put defective AVs into the marketplace.

The Bill Allows Hands-Off-the-Wheel and Minds-Off-the-Road

In vehicles that require a human to take control from the AV system, the driver must be kept engaged. The bill should require the establishment of minimum performance standards for driver engagement, a need which was underscored by the NTSB Tesla crash investigation. The NTSB found that the Tesla Autopilot facilitated the driver's inattention and overreliance on the system, which ultimately contributed to his death. The NTSB also found that these problems are widespread across manufacturers with similar systems.