



SUMMARY OF STATEMENT OF JACQUELINE S. GILLAN

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Each year motor vehicle crashes kill tens of thousands and injure millions more at a cost to society of over \$800 billion. Advocates for Highway and Auto Safety (Advocates) firmly believes that autonomous vehicle (AV) technology has the potential to make significant and lasting reductions in this mortality and morbidity toll.

The NHTSA has a statutory duty to ensure the safety of AVs. Unfortunately, NHTSA has chosen to issue only “voluntary guidelines” for the development of AVs. Voluntary guidelines are not legally binding, are unenforceable, and are inadequate to ensure safety and protect the public.

Additionally, Advocates has significant safety and consumer concerns about the draft bills put forth by the Subcommittee on Digital Commerce and Consumer Protection. The draft legislation includes provisions that would almost certainly guarantee broad and dangerous safety exemptions without limitations on the number, scope and time period; unacceptable language pre-empting state action to protect the public in the absence of federal oversight and accountability; no requirements for the industry to show that new technologies have been adequately tested before being sold to the public; no requirements for any oversight by the National Highway Traffic Safety Administration (NHTSA) before technology is deployed; and, no assurances for transparency for non-proprietary data.

Vehicle and technology companies are already putting some AVs out on public roads and beginning to market these systems. The development of AV technology is not just taking place in the United States. In fact, AVs are being tested throughout the globe in places such as the United Arab Emirates and Singapore. Under current law, vehicles imported from overseas have to meet the requirements of the Federal Motor Vehicle Safety Standards (FMVSS). However, with only federal voluntary guidelines, foreign companies and entities may export products that could be dangerously unsafe and NHTSA will have little recourse. In addition, some experts predict that automated technology will be placed in trucks before passenger vehicles. The potential for an 80,000 pound truck using untested and unregulated technology on public roads is a very real scenario if NHTSA relies on voluntary guidelines of AV manufacturers.

A functional safety approach is essential to provide the framework for the design, development and deployment of autonomous vehicle technology. A similar process is currently utilized by the Federal Aviation Administration (FAA) in portions of its regulations to ensure safety while encouraging innovation.

Advocates agrees with the statutory mission of NHTSA to regulate the design and performance of motor vehicles to ensure public safety which, in modern day terms, includes AVs and technology. However, unless and until NHTSA issues comprehensive standards and regulations to govern the AV rules of the road, states have every legal right, indeed a duty to their citizens, to fill the regulatory vacuum with state developed proposals and solutions for ensuring public safety. NHTSA’s voluntary guidelines have left the field of AV safety open to the states to

fulfill their traditional role of protecting the health and welfare of their citizens. Other commenters to NHTSA on voluntary guidelines expressed a similar criticism about this regulatory vacuum including the National Conference of State Legislatures (NCSL) and the Pennsylvania Department of Transportation.

Advocates' Recommendations:

- **NHTSA must require that manufacturers meet a “functional safety standard” to guarantee safety of AVs before they are introduced into the marketplace.**
- **Manufacturers must be required to submit a Safety Assessment Letter (SAL) that confirms that the AV has been tested to ensure it operates safely. The SAL should include all of the test results and data to support the conclusion that the AV system functions as designed.**
- **NHTSA should be given the additional tools of imminent hazard authority to protect against potentially catastrophic defects with AVs and criminal penalties to ensure manufacturers do not willfully mislead or misinform the agency.**
- **Providing further broad statutory exemptions from the FMVSS for AVs is both unnecessary and unwise. Until NHTSA revises the FMVSS for level 4 and 5 AVs, manufacturers may seek appropriate exemptions under the current process expanded by Congress in the FAST Act (Pub. L. 114-94).**
- **AVs must have adequate cybersecurity and privacy standards to protect the public.**
- **AVs should be subject to binding privacy standards to ensure that consumer data is not used for purposes other than improving the safety and security of AVs.**
- **All non-propriety communications and responses between the agency and a manufacturer as it relates to any issues involving AVs must be made available for public review, scholarly research and safety analysis by independent stakeholders.**
- **Until NHTSA issues comprehensive standards and regulations to govern the AVs, states must not be precluded from filling the regulatory void with state developed solutions to protect their citizens.**
- **NHTSA must be given additional funding in order to meet demands being placed on the agency with regard to the advent of AV technology.**