

May 27, 2021

The Honorable Charles E. Schumer, Majority Leader
The Honorable Mitch McConnell, Minority Leader
United States Senate
Washington, D.C. 20510

Dear Majority Leader Schumer and Minority Leader McConnell:

As leaders of organizations representing consumer, public health and safety groups, disability rights, child passenger safety, truck safety and traffic crash victim advocates, and law enforcement, medical, and bicycling interests, we are writing to share our concerns about an amendment which may be offered to the U.S. Innovation & Competition Act (S. 1260) by Sen. John Thune (R-SD) that would allow the public sale of tens of thousands of autonomous vehicles (AVs) exempt from meeting existing safety standards. These mass exemptions would be permitted in the absence of new safety standards for the automated driving systems and other related issues including cybersecurity. (*Please see draft amendment attached*).

A widescale expansion of exemptions from safety standards will hamstring the ability of the U.S. Department of Transportation (DOT) to provide adequate oversight and disregards the need for sensible regulation of these new technologies. Moreover, Congress should not be developing our nation's first AV law through an amendment process. To help ensure the safe and equitable deployment of AVs, comprehensive legislation that addresses serious known problems already identified by objective research, real world experience and the findings of several crash investigations by the National Transportation Safety Board (NTSB) should be developed, drafted and debated. To help inform and assist in that process, a broad range of stakeholders created the AV Tenets which provide a roadmap for a commonsense, innovative and thoughtful approach. (*Please see enclosed*.) While the U.S. is not behind other countries in allowing the sale of AVs, we are seriously behind in establishing comprehensive safeguards and regulations to encourage deployment without jeopardizing public safety.

A detailed explanation of the staff draft AV amendment and its adverse impacts follows.

Subsection (b): Highly Automated Systems Safety Center of Excellence (page 3)

Subsection (b) establishes a "Highly Automated Systems Safety Center of Excellence" within the U.S. Department of Transportation (DOT) for the purpose of "maintaining a workforce at the Department that is capable of reviewing, assessing, and validating the safety of automated technologies." Our reasons for opposing include the funds and staff resources which would be expended to establish and maintain this center should instead be devoted to the National Highway Traffic Safety Administration's (NHTSA) rulemaking budget to develop and issue minimum safety standards for AV technology and AVs. Creating a study to evaluate the workforce impacts of AVs is woefully inadequate to address the significant disruption to American workers and in turn its impact on safety. Professional drivers help to ensure safe and accessible transportation for passengers and road users and are present to respond to emergencies and other passenger needs. In the event that the technology misperforms, fails or is hacked, drivers provide a necessary safety redundancy and assistance for passengers who may not be able to navigate the unanticipated scenario or exit the vehicle on their own. Lastly, there is no additional, independent authorization for funding of this center.

Subsection (c): Motor Vehicle Testing or Evaluation (page 6)

Subsection (c) expands the entities that can test AVs (levels 3-5) under 49 USC 30112(b). Our reasons for opposing include that under the FAST Act (P.L. 114-94, Sec. 24404), automakers are permitted to

test or evaluate an unlimited number of vehicles that do not comply with federal motor vehicle safety standards (FMVSS). [Please note the opposition of Advocates for Highway and Auto Safety and other organizations to this provision during deliberations on the FAST Act.] Nonetheless, AV testing is already underway. In 2019, the University of Florida Transportation Institute determined that approximately 80 companies were testing autonomous technology and AVs in the U.S. Additionally, the language broadly expands the eligibility pool for entities that can test, evaluate or demonstrate AVs to “employees, agents, or fleet management contractors of the manufacturer of the highly automated vehicle, the automated driving system, or any component of such vehicle or system.” Taken literally, this language could allow a human resources manager of an AV manufacturer (“employee”) or a sales representative of an AV manufacturer (“agent”) to name a few examples, to avail themselves of this exemption. Most importantly, our organizations object to broadening the testing exemption without safeguards to protect those in the AVs and all road users.

Subsection (d): Highly Automated Vehicles Exemptions (page 11)

Subsection (d) drastically expands the number of AVs that can be sold to the public under 49 USC 30113 that do not meet critical federal safety standards such as those that ensure occupant protection and crashworthiness. This provision will potentially unleash hundreds of thousands of vehicles equipped with technologies that are unproven and unregulated putting all road users at risk – both the occupants of the vehicles and other road users including bicyclists and pedestrians. Our reasons for opposing include that increasing the number of vehicles that may qualify for statutory exemptions from FMVSS is unwise, unnecessary and unsafe. No demonstrable evidence has been presented to show that the deployment of AVs requires larger volumes of exemptions from federal safety standards which are essential to public safety. Establishing minimum performance standards for automated driving systems would ensure safety and eliminate the need for expanded exemptions. Current law already permits manufacturers to apply for an unlimited number of exemptions. For each exemption granted, manufacturers can sell up to 2,500 exempt vehicles. Federal safety standards have been established as a result of thorough objective research, scientific studies and data. They are also subject to a robust and transparent public process and ensure the safety and security of all road users. Moreover, the standards represent the *minimum* level of safety the public should be afforded.

Further, exemptions permitted if they can be shown to promote access to people with disabilities should be required to provide access to *all* people with disabilities. As written, the exemption could promote development of AVs that provide access for some, such as people who are blind, but not all and potentially leave out other people with disabilities including those using wheelchairs and assistive devices. The proposed exemption process and resulting huge numbers of exempt vehicles permitted on the road (potentially millions) de facto turn everyone -- in and around exempted vehicles -- into unknowing and unwilling subjects in a risky experiment. The proposed subsection (C) (page 14) requires the Secretary to grant or deny an exemption for what could be novel technology within 180 days of receipt of the application. This is for technologies which the industry has repeatedly stated the Agency does not have the capacity to regulate. This timeline will force the Agency either to approve technology in an accelerated timeline with minimal oversight, be forced to dedicate massive amounts of money and expert staff to properly evaluate it, or continually deny applications regardless of merit.

Additionally, the proposed subsection (B) (page 17) represents a timeline not tied to the development or performance of technology but rather to the date of enactment of the act. In theory, a manufacturer could wait three years after enactment of the bill and introduce novel technology for AVs which would be eligible for introduction into as many as 80,000 vehicles. A manufacturer need not proceed through a series of increasing enumerated levels (year one 15,000 exemptions; year two 40,000; year three 80,000 vehicles) as outlined in the bill. After an exemption has been in place for four years, a manufacturer can then petition to sell an unlimited number of AVs that fails to comply with federal safety standards.

Clearly, the expansion of the current timeframe for exemptions from two to five years under the bill for a highly automated vehicle is incongruous with the industry's repeated claims that the technology is changing rapidly.

Subsection (e): Dual Use Vehicle Safety (page 21)

Subsection (e) eliminates the long-standing prohibition on manufacturers making a safety device inoperative without obtaining an exemption from the DOT pursuant to 49 USC 30122. Our reasons for opposing include that this language is a drastic departure from current law and would imperil the lives of all road users. Manufacturers are currently prohibited by law from rendering safety devices inoperative in a vehicle available for sale without getting a specific government exemption. This language would also allow manufacturers to unilaterally "turn off" safety systems related to the driving task, such as the steering wheel and brake pedals, during autonomous driving operation without any government oversight when there is no assurance that the automated driving system (ADS) will drive safely. Human drivers must have the ability to intervene when the ADS malfunctions.

Advancing safety and innovation can and must be realized together. Thank you for considering our views, and we urge the Senate to reject this amendment if offered.

Sincerely,

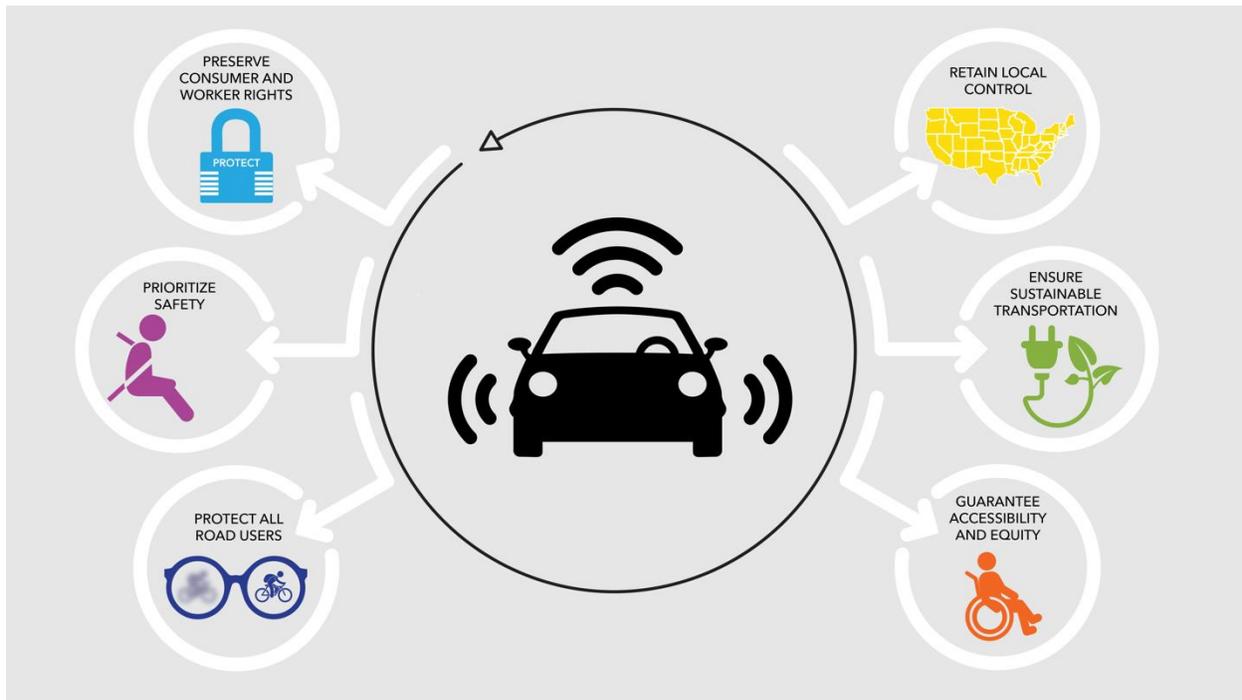
Advocates for Highway and Auto Safety
American Public Health Association
American Trauma Society
Bicycle Coalition of New Mexico
BikeOklahoma
Cascade Bicycle Club
Center for Auto Safety
Center for Disability Rights
Citizens for Reliable and Safe Highways
Conor Lynch Foundation
Consumer Federation of America
Consumers for Auto Reliability and Safety
Families for Safe Streets
Federal Law Enforcement Officers Association
Health by Design

IACP Highway Safety Committee
Kids and Car Safety
League of American Bicyclists
National Coalition for Safer Roads
National Consumers League
Parents Against Tired Truckers
Public Citizen
SoCal Families For Safe Streets
Society for Advancement of Violence and
Injury Research
Street Racing Kills
Trauma Foundation
Truck Safety Coalition
Washington Bikes
Whirlwind Wheelchair International

Encl: AV Tenets
Attached: Thune Staff Draft AV Amendment

Autonomous Vehicle (AV) Tenets¹

May 27, 2021



Prioritizing Safety of All Road Users

Safety Rulemakings: All levels of automated vehicles² must be subject to comprehensive and strong federal standards ensuring they are safe and save lives. While the U.S. Department of Transportation (DOT) has the authority to issue motor vehicle safety standards for all levels of automated vehicles, for the last four years, it has abrogated this responsibility by focusing its efforts on inadequate voluntary initiatives. When Congress considers legislation on AVs, it is imperative that the protection of all road users is the guiding principle and that legislation requires the DOT to commence rulemakings on safety standards and issue final rules by a prompt date certain with a reasonable compliance date. The rulemakings must address known and foreseeable safety issues, many of which have been identified by the National Transportation Safety Board (NTSB) and other research institutions, including:

- **Revising Federal Motor Vehicle Safety Standards:** Any actions by the National Highway Traffic Safety Administration (NHTSA, Agency) to revise or repeal existing Federal Motor Vehicle Safety Standards (FMVSS) in order to facilitate the introduction of AVs must be preceded by and conducted in a public rulemaking process and cannot be undertaken by internal Agency actions. Any revision must meet the safety need provided by current standards.
- **Collision Avoidance Systems:** Certain advanced safety technologies, which may be foundational technologies for AVs, already have proven to be effective at preventing and mitigating crashes

¹ These tenets are limited to vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less unless otherwise noted; however, it is imperative that automated delivery vehicles (including those used on sidewalks and other non-roadways) and commercial motor vehicles be subject to comprehensive regulations, including rules regarding the presence of a licensed, qualified driver behind the wheel.

² Partially automated vehicles (SAE International Level 2) and conditional / highly automated vehicles (SAE International Levels 3, 4, 5).

across all on-road modes of transportation and must be standard equipment with federal minimum performance requirements. These include automatic emergency braking with pedestrian and cyclist detection, lane departure warning, and blind spot warning, among others. A lack of performance standards has contributed to instances of dangerous malfunctions of this technology, highlighting the need for rulemakings for collision avoidance systems and other fundamental AV technologies. As collision avoidance technology continues to improve and evolve, it should also be required to detect and prevent collisions with all vulnerable road users and objects in the operating environment.

- **“Vision Test” for AVs:** Driverless cars must be subject to a “vision test” to guarantee an AV will operate on all roads and in all weather conditions and properly detect and respond to other vehicles, all people and objects in the operating environment including but not limited to Black and Brown people, pedestrians, bicyclists, wheelchair users and people with assistive technology, children and strollers, motorcycles, roadway infrastructure, construction zones and roadside personnel, and interactions with law enforcement and first responders. Any algorithm that will inform the technology must be free of bias. Risk assessments for AVs must ensure adequate training data which is representative of all users of the transportation system. Manufacturers and developers must be required to meet basic principles in the development and use of algorithms including: the use of algorithms should be transparent to the end users; algorithmic decision-making should be testable for errors and bias while still preserving intellectual property rights; algorithms should be designed with fairness and accuracy in mind; the data set used for algorithmic decision-making should avoid the use of proxies; and, algorithmic decision-making processes that could have significant consumer consequences should be explainable. The DOT must review algorithms and risk assessment procedures for potential issues, and any identified problems must be then corrected by the developer or manufacturer and verified by the DOT. Coordination and oversight should be led by the Office of the NHTSA Civil Rights Director in partnership with the Office of the Assistant Secretary for Research and Technology, NHTSA Office of Vehicle Safety Research, and NHTSA Chief Counsel's office. The Office of the NHTSA Civil Rights Director should be given adequate resources, expertise and authority to accomplish this role.
- **Human-Machine Interface (HMI) for Driver Engagement:** Research demonstrates that even for a driver who is alert and performing the dynamic driving task, a delay in reaction time occurs between observing a safety problem, reacting and taking needed action. For a driver who is disengaged from the driving task during autonomous operation of a vehicle (i.e., sleeping, texting, watching a movie), that delay will be longer because the driver must first be alerted to re-engage, understand and process the situation, and then take control of the vehicle before taking appropriate action. Therefore, an AV must provide adequate alerts to capture the attention of the human driver with sufficient time to respond and assume the dynamic driving task for any level of vehicle automation that may require human intervention. This mechanism must be accessible to all occupants, including people with disabilities and vulnerable populations.
- **Cybersecurity Standard:** Vehicles must be subject to cybersecurity requirements to prevent hacking and to ensure mitigation and remediation of cybersecurity events. The Federal Aviation Administration (FAA) has a process for the certification and oversight of all U.S. commercial airplanes, including avionics cybersecurity, although improvement is needed according to a recent Government Accountability Office (GAO) study.³ The DOT should be directed, in cooperation with the National Institute of Standards and Technology (NIST), to develop a cybersecurity standard for automated driving systems. The DOT should then require the cybersecurity standard be applied to all new vehicles. The DOT must be engaged in all relevant discussions on artificial intelligence.

³ United States Government Accountability Office, Aviation Cybersecurity, FAA Should Fully Implement Key Practices to Strengthen Its Oversight of Avionics Risks, GAO-21-86 (Oct. 2020).

- ***Electronics and Software Safety Standard:*** Vehicles must be subject to minimum performance requirements for the vehicle electronics and software that power and operate vehicle safety and driving automation systems individually and as interdependent components.
- ***Operational Design Domain (ODD):*** The NHTSA must issue federal standards to ensure safeguards for driving automation systems to limit their operation to the ODD in which they are capable of functioning safely. An ODD includes elements such as: the type of roadway, geographical area, speed range, vehicle operating status, and environmental and temporal conditions in which the vehicle is capable of operating safely; any roadway or infrastructure asset required for the operation of the vehicle, such as roadside equipment, pavement markings, signage, and traffic signals; and, the means by which the vehicle will respond if the defined ODD changes or any circumstance which causes vehicle to operate outside of its defined ODD. The rule shall also: specify requirements for how the vehicle will safely transition to a minimal risk condition as a result of a malfunction or when operating outside of the ODD, including the necessity for human intervention that is accessible to all occupants including people with disabilities and vulnerable populations; and, the ability of the vehicle to comply with local laws as part of whether the vehicle is operating inside the ODD.
- ***Functional Safety Standard:*** Requires a manufacturer to ensure the design, development, verification and validation of safety-related electronics or software demonstrates to NHTSA that an AV will perform reliably and safely under the conditions the vehicle is designed to encounter. Additionally, NHTSA must validate that the manufacturer's certifications of functional safety are accurate and reliable by conducting their own testing as needed.
- ***Safe Fallback:*** Every driving automation system must be able to detect a malfunction, a degraded state, or operation outside of ODD and safely transition to a condition which reduces the risk of a crash or physical injury. In the event of a failure, it is essential that the occupants of a driverless car have the ability to assume manual control to complete or command a safe transition to reach a safe location and safely exit the vehicle. This mechanism must be accessible to all occupants, including people with disabilities and vulnerable populations. Commercial vehicles, including those used for public transportation or freight, present distinct challenges, such as the need to identify qualifications necessary to operate, that will need to be addressed separately.
- ***Crash Procedures Standard:*** Requires manufacturers to have procedures in place, including proper shutdown protocols, for when an AV is involved in a crash to ensure the safety of all occupants of the AV, other road users and emergency responders.
- ***Standard for Over-the-Air (OTA) Updates:*** Requires consumers be given timely and appropriate information on the details of the OTA update and ensures any needed training or tutorials are provided. Limits the circumstances in which manufacturers can update a vehicle OTA and provides requirements for OTA updates that necessitate a recall or an additional demonstration of safety. OTA updates that enhance the safety of a vehicle should not be optional or require the consumer to incur any additional expense. During the update process cybersecurity must be maintained. In developing the OTA standard, NHTSA should develop rigorous testing around the most effective way to push out OTA updates to owners and operators of vehicles. Updates must be accessible for all users, including people with disabilities. In addition, information on OTA updates should be available in multiple languages, similar to compliance with Section 508 of the Rehabilitation Act of 1973 (Pub. L. 93-112), and via video with closed captioning as appropriate, as well as other means of communication to promote access. In a commercial setting, it will be especially critical for there to be clear protocols for how and when OTA updates are carried out.

Safety and Performance Data: With the increasing number of vehicles with different automated technologies being tested and some being sold to the public, standardized data elements, recording, and access to safety event data are necessary for the proper oversight and analysis of the performance of the driving automation systems. Vehicles on the road today are already producing enormous amounts of data,

and the amount and type of data will only increase as driving automation evolves. There are many stakeholders who need that data for numerous and varied reasons, most importantly safety. The DOT must issue a FMVSS requiring all vehicles to be equipped with technology that captures all necessary data to understand and evaluate the safety performance of AVs on the road. Moreover, following best practices, data on disengagements and near-misses would help to identify flaws in the technology and may allow cities and states to proactively invest in infrastructure improvements or update the design of dangerous intersections and corridors to ensure safety for all street users. Real-time data on vehicle speeds, travel times, and volumes enables states, cities, and communities to manage congestion and speed, uncover patterns of excessive speeds, evaluate the success of street design projects, and ultimately improve productivity and quality of life. It could also facilitate emergency response by summoning and providing important information to emergency personnel, assist in the safe extraction of occupants, and provide a way for first responders to safely disable and secure the vehicle. Safety and performance data should be made available to relevant stakeholders such as state and local governments, federal agencies, operators or dispatchers of the vehicle itself, independent research bodies, law enforcement, first responders, insurers, and the public, with appropriate privacy protections.

Manufacturer Submissions to NHTSA: Any submission to NHTSA by AV manufacturers or developers must be mandatory, publicly available and include thorough and adequate data and documentation. Additionally, NHTSA must be directed to review and evaluate all submissions to assess whether an approach to automated driving system (ADS) development and testing includes appropriate safeguards for operation on public roads. Moreover, submissions should be substantive and include, but not be limited to the following issues: ADS control capabilities; ODD; other limitations and constraints; methods and timing of driver engagement (if applicable); data definitions; recording; and, accessibility. Miles accumulated by simulation, as opposed to on-road testing, cannot substitute for on-road testing or serve as the sole basis for the data included in the submission. (See section below on Proper Oversight of Testing.) If NHTSA finds information indicating further operation of these vehicles on public streets poses a danger, the Agency must be able to intervene and enforce the law⁴ effectively, which will require not just the greater use of its existing authority but also new, stronger enforcement authorities that should be enacted by Congress (See section below on Additional Resources and Enforcement Authorities for NHTSA). If the Agency determines that a submission is deficient, manufacturers must be required to submit any additional information requested. The legislation should clarify that the Agency has civil and criminal penalty authority for false, fictitious or fraudulent submissions under 18 United States Code (USC) 1001. This submission process cannot be a substitute for NHTSA promptly issuing minimum performance standards through a public rulemaking process.

Proper Oversight of Testing: AV testing is already underway in many states and localities. Fundamental and commonsense safeguards must be instituted for testing on public roads including the establishment of independent institutional review boards (IRBs) to certify the safety of the protocols and procedures for testing of AVs on public roads. The IRB requirements established by the Department of Health and Human Services (HHS) in 45 Code of Federal Regulations (CFR) 46 should serve as a basis for the requirements for IRBs overseeing AV road testing and be modified as needed for this particular use. Test vehicles should be prohibited from providing a service for compensation. In Section 24404 of the Fixing America's Surface Transportation Act (FAST) Act (Pub. L. 114-94), Congress excluded test vehicles from having to comply with federal standards as long as those vehicles are not sold to the public.

⁴ Motor Vehicle Safety Act, Pub. L. 89-563 (1966).

NHTSA actions required:

- Develop empirical data reporting standards and metrics for such data;
- Mandate developer reporting of the metrics to the public to enable comparison of AV safety performance among developers;
- Require manufacturers to provide data on the safety and performance of test vehicles and systems and to report safety-critical events including crashes and incidents that occur during testing that result in death, injuries or property damage;
- Verify developer compliance with all applicable laws;
- Make safety-critical event information publicly available with the rebuttable presumption in favor of disclosure, unless it is deemed proprietary or confidential in accordance with federal law;
- Determine which safety-critical events must result in the suspension of testing until a thorough review is completed and additional safeguards are implemented and verified by the Agency, as necessary; and,
- Prior to the introduction of the AV into commerce, review and analyze testing for oversight and research purposes, including but not limited to rulemaking.

Additional Resources and Enforcement Authorities for NHTSA: Ensuring NHTSA has adequate resources, funds, staff, and enforcement authority is essential for the Agency to successfully carry out its statutory mission and address the multiple challenges presented by the testing and deployment of self-driving technologies. The Agency also should be given additional enforcement powers including imminent hazard authority, and enhanced authority to pursue criminal penalties and levy larger civil penalties to ensure industry accountability and thwart misconduct.⁵

Guaranteeing Accessibility for All

Access for Individuals with Disabilities and Older Adults: Nearly one in five people in the U.S. has a disability (more than 57 million), and 16 percent of the U.S. population is over the age of 65. Yet, significant barriers to accessible, affordable and reliable transportation remain across all modes, and many people with disabilities are unable to obtain a driver's license and cannot afford to purchase an accessible vehicle. Autonomous driving technology has the potential to increase access and mobility for older adults and individuals with disabilities, including those with sensory, cognitive, and physical disabilities, wheelchair users, and people with neurological conditions, who have varying needs as well as traditionally underserved communities. This goal can be realized by Congressional directive ensuring access for everyone, including accessible HMI, and ramps and securement for wheelchair users. Discrimination on the basis of disability in licensing for SAE International level 4 and 5 AVs must also be prohibited. In addition, the diverse needs of all members of the disability community and older adults must be accommodated for systems that require human engagement as well as when developing a safe fallback.

Access for Underbanked Populations: Access to on-demand transport services is often predicated on the ability to make digital payments. Twenty-five percent of U.S. households are unbanked or underbanked, with higher incidence in working-age disabled households, lower-income households, less-educated households, younger households, Black and Hispanic households, and households with volatile income. AV-based transport services must consider a variety of ways in which payment for service can be made in order to ensure that this technology supports equitable access and the inclusion of all.

⁵ If NHTSA is not to have authority over the commercial operation of an AV, these same oversight powers must be conveyed to the respective modal agency responsible for overseeing the deployment of commercial AVs.

Equity: Transportation is an imperative part of life. It is the connector for people’s work, medical care, worship, recreation, essentials for life and all other tasks. As new modes of transportation continue to grow and evolve, investment and development must include a process where all people can safely participate.

Accessibility, Passenger Safety, and Transportation Services: The safety of passengers is not a monolith, and the measurement and descriptions of safety differ for all people in particular for those who are part of marginalized communities. The use of public transportation safely is currently partially in control of the operators of the modes and vehicles. Human interaction remains essential even when there is an AV and no operators. There must be clear plans that coordinate the safe transportation for all people including the need for delivery of medical care as well as laws that embrace social equity to protect those who are marginalized (Black and Brown people, Indigenous people, lesbian, gay, bisexual, transgender, queer, + (LGBTQ+) people, people with disabilities, women, older adults, and all other groups) in the implementation of these transportation services.

Preserving Consumer and Worker Rights

Consumer Information: Consumer information regarding AVs should be available at the point of sale, in the owner’s manual, including publicly accessible electronic owner’s manuals, and in any OTA updates. The vehicle identification number (VIN) should be updated to reflect whether certain features were built into the vehicle, either as standard or optional equipment. Additionally, similar to the user-friendly [safercar.gov](https://www.safercar.gov) website, NHTSA must establish a website accessible by VIN with basic safety information about the AV level, safety exemptions, and limitations and capabilities of the AV driving system including those resulting from OTA updates. The U.S. New Car Assessment Program (NCAP) was the first government program to provide the public with comprehensive auto safety ratings, including crash test results. It is vital that Congress require NHTSA to act upon consumer and stakeholder recommendations to modernize U.S. NCAP ([See Claybrook/Advocates for Highway and Auto Safety paper](#)) and include ratings on how vehicles perform in crashes with motorcyclists, pedestrians and bicyclists. This enhancement of NCAP will be especially crucial as AVs are introduced into the marketplace. Consumer information should be available in multiple languages, similar to compliance with Section 508 of the Rehabilitation Act of 1973 (Pub. L. 93-112), and via video with closed captioning as appropriate, as well as other means of communication to promote access.

Privacy: Passenger vehicles have the potential to collect significant amounts of data that could interfere with personal privacy rights. Therefore, all manufacturers of passenger motor vehicles, including AVs, should be required to comply with robust data privacy safeguards and policies. Any personally identifiable information (PII) should only be collected or shared for purposes of delivering the services a consumer has requested or affirmatively opted-in to, with appropriately tailored exceptions for essential public purposes, safety, data security, compliance with regulatory requirements, and analytics/performance monitoring, among other purposes. Companies should be required to be transparent with consumers and workers operating a vehicle about the collection and sharing of information, protect information associated with the vehicle and the vehicle itself from data breaches, obtain consumers' express permission to sell or disclose their PII to third parties, and provide consumers the ability to access and delete PII that is not needed to support essential public purposes, safety, data security, compliance with regulatory requirements, and analytics/performance monitoring. The ability of NHTSA, the NTSB, and local law enforcement to access critical safety performance data, while preserving the integrity of personal, private or identifying data, in a timely manner for research, crash investigation and other governmental purposes must be preserved. In addition, radio spectrum needed for traffic safety purposes including vehicle-to-everything communications must be limited to non-commercial use.

Workforce Protections: The deployment of AV technology will have a significant impact on our Nation's workforce. While these technologies will create new business and employment opportunities, they will also lead to displacement and major shifts in jobs and job functions that will not necessarily be linked to those new opportunities, especially for those same individuals who are being displaced. Policymakers have a major role to play in determining whether AV deployment will help or harm working people and whether the benefits from these technologies will be broadly shared. Absent strong leadership, AV technology risks worsening severe inequalities already inherent in our society, predominantly for blue collar workers. Existing and foreseeable issues which stand to be greatly exacerbated by this technology must be addressed before this technology is broadly deployed on our roads. Similarly, unforeseeable issues throughout deployment will need to be resolved with input from affected stakeholders. Congress must ensure that workers and unions are partners in the development and implementation of AV technology and policy. It must recognize the projected negative effects of a transition to AVs, including but not limited to ensuring strong worker protections in federal funding and procurements, and providing worker support programs for current and future workers including training and re-skilling to ensure that displaced and otherwise affected workers are able to move into middle class jobs created by technological change. In order to achieve these goals, Congress must also take action to require companies and government agencies that plan to transition to AV fleets to be transparent and honest with their workers regarding budgets, plans - including training programs - and timelines for the implementation of new technology. In workplaces where the employees are unionized and thus bargain collectively, these issues should be negotiated.

Whistleblower Protections: Employees or contractors of any manufacturer, supplier, or operator of software or hardware for AVs who want to report safety defects to NHTSA should not be prevented from doing so as the result of a non-disclosure agreement (NDA). The type of protections afforded whistleblowers in Section 31307 of the Moving Ahead for Progress in the 21st Century (MAP-21) Act (Pub. L. 112-141) as well as Section 24352 in the FAST Act (Pub. L. 114-94) must be extended in any AV bill. In addition, the Department of Labor prohibits a NDA that prevents an individual from providing information to the federal government. However, only a limited number of cases have been filed with the Occupational Safety and Health Administration. Therefore, more must be done to inform employees as to their rights and responsibilities when such a situation arises.

Consumer and Worker Rights⁶: The well-established rights of consumers to seek accountability in a court of law for injuries suffered as a result of AVs must be preserved. Nothing in this bill shall exempt a person from liability at common law or under a state law or permit a consumer to be required to forgo their rights by a manufacturer or provider of AVs. Moreover, exploitative independent contractor relationships that shield AV companies from liability and deny workers basic workplace rights should be explicitly prevented.

Ensuring Local Control and Sustainable Transportation

Local, State and Federal Regulatory Roles: The statutory mission of the DOT established by Congress in 1966 is to regulate the performance of motor vehicles to ensure public safety, which now includes AVs. In keeping with existing law and practice, the federal government should prescribe regulations for the performance of these vehicles, leaving regulation of the operation of these vehicles to the states. Even after federal regulations are in place regarding AVs, existing federalism practices demand that states retain a legal right and a duty to their residents to develop proposals and implement solutions to ensure public safety. In addition, state and local governments have the authority to manage the operation of vehicles on their streets to address concerns such as safety, noise, local air quality, and congestion. Any action on the

⁶ Advocates for Highway and Auto Safety does not take a position on this issue.

regulation of AVs shall not preempt states and localities from regulating the operation of these vehicles just as they do for traditional motor vehicles.

In-Depth Study of AV Impacts on Transportation Systems and Environment: AVs could have direct and indirect negative impacts on safety, congestion, pollution, land use, accessibility, transportation infrastructure capacity and needs, energy consumption, public transit, jobs and job functions, mobility and equity. DOT must be directed to undertake a comprehensive study to inform policymakers and the public about how these vehicles will impact our existing transportation systems and ensure effective mitigation of problems identified. Implementation of infrastructure to support the safe operations of AVs, such as placement of electric vehicle charging stations, visible lane striping, and uniform and unobstructed signage, must be equitable for all communities to ensure equal opportunity for people of all racial and socioeconomic backgrounds.

NOTE: The AV Tenets outlined in this document do not constitute the entirety of each supporting organization's policy priorities related to AVs.

Supporters of Autonomous Vehicle (AV) Tenets

Active Transportation Alliance (Metro Chicago)
Advocates for Highway and Auto Safety
American Association for Justice
American Motorcyclist Association
American Public Health Association
American Trauma Society
Association of Pedestrian and Bicycle Professionals
Bicycle Coalition of New Mexico
BikeNWA
BikeOklahoma
Bike Pittsburgh
BikeSD
BikeWalkKC
Brain Injury Association of America
California Association of Bicycling Organizations
Cascade Bicycle Club
Center for Auto Safety

Center for Disability Rights, Inc.
Citizens for Reliable and Safe Highways
Consumer Action
Consumer Federation of America
Consumers for Auto Reliability and Safety
Consumer Reports
Disability Rights Education and Defense Fund
Emergency Nurses Association
Empire State Consumer Project, Inc.
Environmental Law & Policy Center
Families for Safe Streets
Federal Law Enforcement Officers Association
GorgePedal.com
Health by Design
Idaho Walk Bike Alliance
International Brotherhood of Teamsters
Joan Claybrook, President Emeritus, Public Citizen, Former Administrator, National Highway Traffic Safety Administration
KidsAndCars.org
LA Walks
League of American Bicyclists
Missouri Bicycle and Pedestrian Federation
National Association of City Transportation Officials (NACTO)
National Coalition for Safer Roads
National Consumers League
New Urban Mobility Alliance
Parents Against Tired Truckers
Public Citizen
Owner-Operator Independent Drivers Association
Rails-to-Trails Conservancy

Ride Illinois
San Francisco Families for Safer Streets
Shenandoah Valley Bicycle Coalition
SoCal Families for Safe Streets
The Daniel Initiative
Transport Workers Union
Transportation Alternatives
Transportation for America
Transportation Trades Department, AFL-CIO
Trauma Foundation
Truck Safety Coalition
Virginia Citizens Consumer Council
Walk SF
Washington Bikes
Whirlwind Wheelchair International
Wyoming Pathways

Glossary of Acronyms

ADS – Automated Driving System

AV – Autonomous Vehicle

CFR – Code of Federal Regulations

DOT – Department of Transportation

FAA – Federal Aviation Administration

FAST – Fixing America’s Surface Transportation Act, Pub. L. 114-94

FMVSS – Federal Motor Vehicle Safety Standard

GAO – Government Accountability Office

GVWR – Gross Vehicle Weight Rating

HHS – Health and Human Services

HMI – Human-Machine Interface

IRB – Institutional Review Board

LGBTQ+ -- Lesbian, Gay, Bisexual, Transgender, Queer, +

MAP-21 – Moving Ahead for Progress in the 21st Century Act, Pub. L. 112-141

NCAP – New Car Assessment Program

NDA – Non-Disclosure Agreement

NHTSA – National Highway Traffic Safety Administration

NIST – National Institute of Standards and Technology

NTSB – National Transportation Safety Board

ODD – Operational Design Domain

OTA – Over-the-Air

PII – Personally Identifiable Information

SAE – Society of Automotive Engineers

USC – United States Code

VIN – Vehicle Identification Number