

SAFELY ENSURING LIVES FUTURE DEPLOYMENT AND
RESEARCH IN VEHICLE EVOLUTION ACT

SEPTEMBER 5, 2017.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. WALDEN, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

[To accompany H.R. 3388]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3388) to provide for information on highly automated driving systems to be made available to prospective buyers, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Safely Ensuring Lives Future Deployment and Research In Vehicle Evolution Act” or the “SELF DRIVE Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. NHTSA authority and State preemption for autonomous motor vehicles.
- Sec. 4. Updated or new motor vehicle safety standards for highly automated vehicles.
- Sec. 5. Cybersecurity of automated driving systems.
- Sec. 6. General exemptions.
- Sec. 7. Motor vehicle testing or evaluation.
- Sec. 8. Information on highly automated driving systems made available to prospective buyers.
- Sec. 9. Highly Automated Vehicle Advisory Council.
- Sec. 10. Rear seat occupant alert system.
- Sec. 11. Headlamps.
- Sec. 12. Privacy plan required for highly automated vehicles.
- Sec. 13. Definitions.

SEC. 2. PURPOSE.

The purpose of this Act is to memorialize the Federal role in ensuring the safety of highly automated vehicles as it relates to design, construction, and performance, by encouraging the testing and deployment of such vehicles.

SEC. 3. NHTSA AUTHORITY AND STATE PREEMPTION FOR AUTONOMOUS MOTOR VEHICLES.

Section 30103 of title 49, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

“(b) **PREEMPTION.**—

“(1) **HIGHLY AUTOMATED VEHICLES.**—No State or political subdivision of a State may maintain, enforce, prescribe, or continue in effect any law or regulation regarding the design, construction, or performance of highly automated vehicles, automated driving systems, or components of automated driving systems unless such law or regulation is identical to a standard prescribed under this chapter.

“(2) **MOTOR VEHICLE STANDARD.**—When a motor vehicle safety standard is in effect under this chapter, a State or political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.

“(3) **RULES OF CONSTRUCTION.**—

“(A) **IN GENERAL.**—Nothing in this subsection may be construed to prohibit a State or a political subdivision of a State from maintaining, enforcing, prescribing, or continuing in effect any law or regulation regarding registration, licensing, driving education and training, insurance, law enforcement, crash investigations, safety and emissions inspections, congestion management of vehicles on the street within a State or political subdivision of a State, or traffic unless the law or regulation is an unreasonable restriction on the design, construction, or performance of highly automated vehicles, automated driving systems, or components of automated driving systems.

“(B) **MOTOR VEHICLE DEALERS.**—Nothing in this subsection may be construed to prohibit a State or political subdivision of a State from maintaining, enforcing, prescribing, or continuing in effect any law or regulation regarding the sale, distribution, repair, or service of highly automated vehicles, automated driving systems, or components of automated driving systems by a dealer, manufacturer, or distributor.

“(C) **CONFORMITY WITH FEDERAL LAW.**—Nothing in this subsection shall be construed to preempt, restrict, or limit a State or political subdivision of a State from acting in accordance with any other Federal law.

“(4) **HIGHER PERFORMANCE REQUIREMENT.**—However, the United States Government, a State, or a political subdivision of a State may prescribe a standard for a motor vehicle, motor vehicle equipment, highly automated vehicle, or automated driving system obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter.

“(5) **STATE ENFORCEMENT.**—A State may enforce a standard that is identical to a standard prescribed under this chapter.”; and

(2) by amending subsection (e) to read as follows:

“(e) **COMMON LAW LIABILITY.**—

“(1) **IN GENERAL.**—Compliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.

“(2) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to preempt common law claims.”.

SEC. 4. UPDATED OR NEW MOTOR VEHICLE SAFETY STANDARDS FOR HIGHLY AUTOMATED VEHICLES.

(a) **IN GENERAL.**—Chapter 301 of subtitle VI of title 49, United States Code, is amended by inserting after section 30128 the following new section:

“§ 30129. Updated or new motor vehicle safety standards for highly automated vehicles

“(a) **SAFETY ASSESSMENT CERTIFICATION.**—

“(1) **FINAL RULE.**—Not later than 24 months after the date of the enactment of this section, the Secretary of Transportation shall issue a final rule requiring the submission of safety assessment certifications regarding how safety is being addressed by each entity developing a highly automated vehicle or an automated driving system. Such rule shall include—

“(A) a specification of which entities are required to submit such certifications;

“(B) a clear description of the relevant test results, data, and other contents required to be submitted by such entity, in order to demonstrate that such entity’s vehicles are likely to maintain safety, and function as intended and contain fail safe features, to be included in such certifications; and

“(C) a specification of the circumstances under which such certifications are required to be updated or resubmitted.

“(2) **INTERIM REQUIREMENT.**—Until the final rule issued under paragraph (1) takes effect, safety assessment letters shall be submitted to the National Highway Traffic Safety Administration as contemplated by the Federal Automated Vehicles Policy issued in September 2016, or any successor guidance issued on highly automated vehicles requiring a safety assessment letter.

“(3) **PERIODIC REVIEW AND UPDATING.**—Not later than 5 years after the date on which the final rule is issued under paragraph (1), and not less frequently than every 5 years thereafter, the Secretary shall—

“(A) review such rule; and

“(B) update such rule if the Secretary considers it necessary.

“(4) **RULES OF CONSTRUCTION.**—

“(A) **NO CONDITIONS ON DEPLOYMENT.**—Nothing in this subsection may be construed to limit or affect the Secretary’s authority under any other provision of law. The Secretary may not condition deployment or testing of highly automated vehicles on review of safety assessment certifications.

“(B) **NO NEW AUTHORITIES.**—No new authorities are granted to the Secretary under this section other than the promulgation of the rule pursuant to paragraph (1).

“(5) **REVIEW AND RESEARCH.**—To accommodate the development and deployment of highly automated vehicles and to ensure the safety and security of highly automated vehicles and motor vehicles and others that will share the roads with highly automated vehicles, not later than 180 days after the date of the enactment of this section, the Secretary shall—

“(A) initiate or continue a review of the Federal motor vehicle safety standards in effect on such date of enactment; and

“(B) initiate or continue research regarding new Federal motor vehicle safety standards.

“(b) **RULEMAKING AND SAFETY PRIORITY PLAN.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this section, the Secretary shall make available to the public and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a rulemaking and safety priority plan, as necessary to accommodate the development and deployment of highly automated vehicles and to ensure the safety and security of highly automated vehicles and motor vehicles and others that will share the roads with highly automated vehicles, to—

“(A) update the motor vehicle safety standards in effect on such date of enactment;

“(B) issue new motor vehicle safety standards; and

“(C) consider how objective ranges in performance standards could be used to test motor vehicle safety standards, which safety standards would be appropriate for such testing, and whether additional authority would facilitate such testing.

“(2) **INCLUSION OF PRIORITIES.**—

“(A) **PRIORITIES.**—The plan required by paragraph (1) shall detail the overall priorities of the National Highway Traffic Safety Administration for the 5 years following the issuance of the plan, including both priorities with respect to highly automated vehicles and priorities with respect to other

safety initiatives of the Administration, in order to meet the Nation’s motor vehicle safety challenges.

“(B) IDENTIFICATION OF ELEMENTS THAT MAY REQUIRE STANDARDS.—For highly automated vehicles, the National Highway Traffic Safety Administration should identify elements that may require performance standards including human machine interface, sensors, and actuators, and consider process and procedure standards for software and cybersecurity as necessary.

“(3) PERIODIC UPDATING.—The plan required by paragraph (1) shall be updated every 2 years, or more frequently if the Secretary considers it necessary.

“(4) RULEMAKING PROCEEDINGS ON UPDATED OR NEW MOTOR VEHICLE SAFETY STANDARDS.—

“(A) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall initiate the first rulemaking proceeding in accordance with the rulemaking and safety priority plan required by paragraph (1).

“(B) PRIORITIZATION OF SUBSEQUENT PROCEEDINGS.—The Secretary shall continue initiating rulemaking proceedings in accordance with such plan. The Secretary may change at any time those priorities to address matters the Secretary considers of greater priority. If the Secretary makes such a change, the Secretary shall complete an interim update of the priority plan, make such update available to the public, and submit such update to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 301 of subtitle VI of title 49, United States Code, is amended by inserting after the item relating to section 30128 the following new item:

“30129. Updated or new motor vehicle safety standards for highly automated vehicles.”.

SEC. 5. CYBERSECURITY OF AUTOMATED DRIVING SYSTEMS.

(a) IN GENERAL.—Chapter 301 of subtitle VI of title 49, United States Code, is amended by inserting after section 30129 (as added by section 4) the following new section:

“§ 30130. Cybersecurity of automated driving systems

“(a) CYBERSECURITY PLAN.—A manufacturer may not sell, offer for sale, introduce or deliver for introduction into commerce, or import into the United States, any highly automated vehicle, vehicle that performs partial driving automation, or automated driving system unless such manufacturer has developed a cybersecurity plan that includes the following:

“(1) A written cybersecurity policy with respect to the practices of the manufacturer for detecting and responding to cyber attacks, unauthorized intrusions, and false and spurious messages or vehicle control commands. This policy shall include—

“(A) a process for identifying, assessing, and mitigating reasonably foreseeable vulnerabilities from cyber attacks or unauthorized intrusions, including false and spurious messages and malicious vehicle control commands; and

“(B) a process for taking preventive and corrective action to mitigate against vulnerabilities in a highly automated vehicle or a vehicle that performs partial driving automation, including incident response plans, intrusion detection and prevention systems that safeguard key controls, systems, and procedures through testing or monitoring, and updates to such process based on changed circumstances.

“(2) The identification of an officer or other individual of the manufacturer as the point of contact with responsibility for the management of cybersecurity.

“(3) A process for limiting access to automated driving systems.

“(4) A process for employee training and supervision for implementation and maintenance of the policies and procedures required by this section, including controls on employee access to automated driving systems.

“(b) EFFECTIVE DATE.—This section shall take effect 180 days after the date of enactment of this section.”.

(b) ENFORCEMENT AUTHORITY.—Section 30165(a)(1) of title 49, United States Code, is amended by inserting “30130,” after “30127,”.

(c) CLERICAL AMENDMENT.—The analysis for chapter 301 of subtitle VI of title 49, United States Code, is amended by inserting after the item relating to section 30129 (as added by section 4) the following new item:

“30130. Cybersecurity of automated driving systems.”.

SEC. 6. GENERAL EXEMPTIONS.

Section 30113 of title 49, United States Code, is amended—

(1) in subsection (b)(3)(B)—

(A) in clause (iii), by striking “; or” and inserting a semicolon;

(B) in clause (iv), by striking the period at the end and inserting “; or”;
and

(C) by adding at the end the following:

“(v) the exemption would make easier the development or field evaluation of—

“(I) a feature of a highly automated vehicle providing a safety level at least equal to the safety level of the standard for which exemption is sought; or

“(II) a highly automated vehicle providing an overall safety level at least equal to the overall safety level of nonexempt vehicles.”;

(2) in subsection (c), by adding at the end the following:

“(5) if the application is made under subsection (b)(3)(B)(v) of this section—

“(A) such development, testing, and other data necessary to demonstrate that the motor vehicle is a highly automated vehicle; and

“(B) a detailed analysis that includes supporting test data, including both on-road and validation and testing data showing (as applicable) that—

“(i) the safety level of the feature at least equals the safety level of the standard for which exemption is sought; or

“(ii) the vehicle provides an overall safety level at least equal to the overall safety level of nonexempt vehicles.”;

(3) in subsection (d), by striking “A manufacturer is eligible” and all that follows and inserting the following:

“(1) **ELIGIBILITY UNDER SUBSECTION (b)(3)(B)(i).**—A manufacturer is eligible for an exemption under subsection (b)(3)(B)(i) of this section (including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1)) only if the Secretary determines that the manufacturer’s total motor vehicle production in the most recent year of production is not more than 10,000.

“(2) **ELIGIBILITY UNDER SUBSECTION (b)(3)(B)(iii).**—A manufacturer is eligible for an exemption under subsection (b)(3)(B)(iii) of this section only if the Secretary determines the exemption is for not more than 2,500 vehicles to be sold in the United States in any 12-month period.

“(3) **ELIGIBILITY UNDER SUBSECTION (b)(3)(B)(ii), (iv), or (v).**—A manufacturer is eligible for an exemption under subsection (b)(3)(B)(ii), (iv), or (v) of this section only if the Secretary determines the exemption is for not more than 100,000 vehicles per manufacturer to be sold, leased, or otherwise introduced into commerce in the United States in any 12-month period.

“(4) **LIMITATION ON NUMBER OF VEHICLES EXEMPTED.**—All exemptions granted to a manufacturer under subsections (b)(3)(B)(i) through (v) shall not exceed a total of (i) 25,000 vehicles manufactured within the first 12-month period, (ii) 50,000 vehicles manufactured within the second 12-month period, (iii) 100,000 vehicles manufactured within the third 12-month period, and, (iv) 100,000 vehicles manufactured within the fourth 12-month period. Any renewals under subsections (b)(3)(B)(i) through (v) shall not exceed a total of 100,000 vehicles manufactured within a 12-month period.”;

(4) in subsection (e), by striking “An exemption or renewal” and all that follows and inserting the following:

“(1) **EXEMPTION UNDER SUBSECTION (b)(3)(B)(i).**—An exemption or renewal under subsection (b)(3)(B)(i) of this section may be granted for not more than 3 years.

“(2) **EXEMPTION UNDER SUBSECTION (b)(3)(B)(iii).**—An exemption or renewal under subsection (b)(3)(B)(iii) of this section may be granted for not more than 2 years.

“(3) **EXEMPTION UNDER SUBSECTION (b)(3)(B)(ii), (iv), or (v).**—An exemption or renewal under subsection (b)(3)(B)(ii), (iv), or (v) of this section may be granted for not more than 4 years.”; and

(5) by adding at the end the following:

“(i) **LIMITATION ON CERTAIN EXEMPTIONS.**—No exemption from crashworthiness standards of motor vehicle safety standards shall be granted under subsection (b)(3)(B)(v) until the Secretary issues the safety assessment certification rule pursuant to section 30129(a) and the rulemaking and safety priority plan pursuant to section 30129(b) and one year has passed from the date by which the Secretary has issued both such rule and such plan. This subsection shall not apply to exemptions from occupant protection standards if the exemption is for a vehicle that will not carry its operator or passengers. This subsection shall not apply to exemptions from

crashworthiness standards if the exemption sought is for a standard addressing the steering control system and it is for a vehicle that—

“(1) will not have a steering control system;

“(2) provides impact protection to an occupant in the front left seat at a level at least equal to the level provided in nonexempt vehicles; and

“(3) provides a safety level at least equal to the safety level of the standard for which the exemption is sought.

“(j) REPORTING REQUIREMENT.—A manufacturer granted an exemption under subsection (b)(3)(B)(ii), (iv), or (v), shall provide information about all crashes of which it has actual knowledge involving such exempted vehicles, regardless of whether a claim is submitted to the manufacturer, in accordance with part 579 of title 49, Code of Federal Regulations.

“(k) PROCESS AND ANALYSIS.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary of Transportation shall publish in the Federal Register a notice that details the process and analysis used for the consideration of exemption or renewal applications under subsection (b)(3)(B)(v).

“(2) PERIODIC REVIEW AND UPDATING.—The notice required by paragraph (1) shall be reviewed every 5 years and updated if the Secretary considers it necessary.

“(l) EXEMPTION DATABASE.—

“(1) IN GENERAL.—The Secretary shall establish a publicly available and searchable electronic database of each motor vehicle for which an exemption from motor vehicle safety standards prescribed under this chapter or a bumper standard prescribed under chapter 325 has been granted.

“(2) VEHICLE IDENTIFICATION NUMBER.—The database established under paragraph (1) shall be searchable by Vehicle Identification Number and shall include no information identifying the vehicle owner.”.

SEC. 7. MOTOR VEHICLE TESTING OR EVALUATION.

Section 30112(b)(10) of title 49, United States Code, is amended—

(1) by striking “that prior to the date of enactment of this paragraph”;

(2) in subparagraph (A), by striking “motor vehicles into the United States that are certified” and inserting “into the United States motor vehicles that are certified, or motor vehicle equipment utilized in a motor vehicle that is certified,”;

(3) in subparagraph (C), by striking the period at the end and inserting “; or”;

(4) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving their margins 2 ems to the right;

(5) by striking “evaluation by a manufacturer that agrees not to sell or offer for sale” and inserting the following: “evaluation by—

“(A) a manufacturer that agrees not to sell or lease or offer for sale or lease”; and

(6) by adding at the end the following:

“(B) a manufacturer of highly automated vehicles, automated driving systems, or components of automated driving systems that agrees not to sell or lease or offer for sale or lease the highly automated vehicles, automated driving systems, or components of automated driving systems at the conclusion of the testing or evaluation and—

“(i) has submitted to the Secretary—

“(I) the name of the individual, partnership, corporation, or institution of higher education and a point of contact;

“(II) the residence address of the individual, partnership, corporation, or institution of higher education and State of incorporation if applicable;

“(III) a description of each type of motor vehicle used during development of highly automated vehicles, automated driving systems, or components of automated driving systems manufactured by the individual, partnership, corporation, or institution of higher education; and

“(IV) proof of insurance for any State in which the individual, partnership, corporation, or institution of higher education intends to test or evaluate highly automated vehicles; and

“(ii) if applicable, has identified an agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.”.

SEC. 8. INFORMATION ON HIGHLY AUTOMATED DRIVING SYSTEMS MADE AVAILABLE TO PROSPECTIVE BUYERS.

(a) RESEARCH.—Not later than 3 years after the date of enactment of this Act, the Secretary of Transportation shall complete research to determine the most effective

method and terminology for informing consumers for each highly automated vehicle or a vehicle that performs partial driving automation about the capabilities and limitations of that vehicle. The Secretary shall determine whether such information is based upon or includes the terminology as defined by SAE International in Recommended Practice Report J3016 (published September 2016) or whether such description should include alternative terminology.

(b) **RULEMAKING.**—After the completion of the study required under subsection (a), the Secretary shall initiate a rulemaking proceeding to require manufacturers to inform consumers of the capabilities and limitations of a vehicle’s driving automation system or feature for any highly automated vehicle or any vehicle that performs partial driving automation.

SEC. 9. HIGHLY AUTOMATED VEHICLE ADVISORY COUNCIL.

(a) **ESTABLISHMENT.**—Subject to the availability of appropriations, not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall establish in the National Highway Traffic Safety Administration a Highly Automated Vehicle Advisory Council (hereinafter referred to as the “Council”).

(b) **MEMBERSHIP.**—Members of the Council shall include a diverse group representative of business, academia and independent researchers, State and local authorities, safety and consumer advocates, engineers, labor organizations, environmental experts, a representative of the National Highway Traffic Safety Administration, and other members determined to be appropriate by the Secretary. Any subcommittee of the Council shall be composed of not less than 15 and not more than 30 members appointed by the Secretary.

(c) **TERMS.**—Members of the Council shall be appointed by the Secretary of Transportation and shall serve for a term of three years.

(d) **VACANCIES.**—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(e) **DUTIES AND SUBCOMMITTEES.**—The Council may form subcommittees as needed to undertake information gathering activities, develop technical advice, and present best practices or recommendations to the Secretary regarding—

(1) advancing mobility access for the disabled community with respect to the deployment of automated driving systems to identify impediments to their use and ensure an awareness of the needs of the disabled community as these vehicles are being designed for distribution in commerce;

(2) mobility access for senior citizens and populations underserved by traditional public transportation services and educational outreach efforts with respect to the testing and distribution of highly automated vehicles in commerce;

(3) cybersecurity for the testing, deployment, and updating of automated driving systems with respect to supply chain risk management, interactions with Information Sharing and Analysis Centers and Information Sharing and Analysis Organizations, and a framework for identifying and implementing recalls of motor vehicles or motor vehicle equipment;

(4) the development of a framework that allows manufacturers of highly automated vehicles to share with each other and the National Highway Traffic Safety Administration relevant, situational information related to any testing or deployment event on public streets resulting or that reasonably could have resulted in damage to the vehicle or any occupant thereof and validation of such vehicles in a manner that does not risk public disclosure of such information or disclosure of confidential business information;

(5) labor and employment issues that may be affected by the deployment of highly automated vehicles;

(6) the environmental impacts of the deployment of highly automated vehicles, and the development and deployment of alternative fuel infrastructure alongside the development and deployment of highly automated vehicles;

(7) protection of consumer privacy and security of information collected by highly automated vehicles;

(8) cabin safety for highly automated vehicle passengers, and how automated driving systems may impact collision vectors, overall crashworthiness, and the use and placement of airbags, seatbelts, anchor belts, head restraints, and other protective features in the cabin;

(9) the testing and deployment of highly automated vehicles and automated driving systems in areas that are rural, remote, mountainous, insular, or unmapped to evaluate operational limitations caused by natural geographical or man-made features, or adverse weather conditions, and to enhance the safety and reliability of highly automated vehicles and automated driving systems used in such areas with such features or conditions; and

(10) independent verification and validation procedures for highly automated vehicles that may be useful to safeguard motor vehicle safety.

(f) REPORT TO CONGRESS.—The recommendations of the Council shall also be reported to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(g) FEDERAL ADVISORY COMMITTEE ACT.—The establishment and operation of the Council and any subcommittees of the Council shall conform to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

(h) TECHNICAL ASSISTANCE.—On request of the Council, the Secretary shall provide such technical assistance to the Council as the Secretary determines to be necessary to carry out the Council's duties.

(i) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Transportation to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(j) PAYMENT AND EXPENSES.—Members of the Council shall serve without pay, except travel and per diem will be paid each member for meetings called by the Secretary.

(k) TERMINATION.—The Council and any subcommittees of the Council shall terminate 6 years after the date of enactment of this Act.

SEC. 10. REAR SEAT OCCUPANT ALERT SYSTEM.

(a) IN GENERAL.—Chapter 301 of subtitle VI of title 49, United States Code, is amended by inserting after section 30130 (as added by section 5) the following new section:

“§ 30131. Rear seat occupant alert system

“(a) RULEMAKING REQUIRED.—Not later than 2 years after the date of enactment of this section, the Secretary shall issue a final rule requiring all new passenger motor vehicles weighing less than 10,000 pounds gross vehicle weight to be equipped with an alarm system to alert the operator to check rear designated seating positions after the vehicle motor or engine is deactivated by the operator.

“(b) PHASE-IN.—The rule issued pursuant to subsection (a) shall require full compliance with the rule beginning on September 1st of the calendar year that begins 2 years after the date on which the final rule is issued.

“(c) DEFINITIONS.—For purposes of this section—

“(1) the term ‘passenger motor vehicle’ has the meaning given that term in section 32101; and

“(2) the term ‘rear designated seating position’ means any designated seating position that is rearward of the front seat.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 301 of subtitle VI of title 49, United States Code, is amended by inserting after the item relating to section 30130 (as added by section 5) the following new item:

“30131. Rear seat occupant alert system.”.

SEC. 11. HEADLAMPS.

(a) SAFETY RESEARCH INITIATIVE.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall complete research into the development of updated motor vehicle safety standards or performance requirements for motor vehicle headlamps that would improve the performance of headlamps and improve overall safety.

(b) RULEMAKING OR REPORT.—

(1) RULEMAKING.—After the completion of the research required by subsection (a), the Secretary shall initiate a rulemaking proceeding to revise the motor vehicle safety standards regarding headlamps if the Secretary determines that a revision of the standards meets the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

(2) REPORT.—If the Secretary determines that a revision to the standard described in paragraph (1) does not meet the requirements and considerations set forth in such subsections, the Secretary shall submit a report describing the reasons for not revising the standard to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 12. PRIVACY PLAN REQUIRED FOR HIGHLY AUTOMATED VEHICLES.

(a) PRIVACY PLAN.—A manufacturer may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any highly automated vehicle, vehicle that performs partial driving automation, or auto-

mated driving system unless the manufacturer has developed a privacy plan that includes the following:

(1) A written privacy plan with respect to the collection, use, sharing, and storage of information about vehicle owners or occupants collected by a highly automated vehicle, vehicle that performs partial driving automation, or automated driving system. Such policy shall include the following:

(A) The practices of the manufacturer with respect to the way that information about vehicle owners or occupants is collected, used, shared, or stored.

(B) The practices of the manufacturer with respect to the choices offered to vehicle owners or occupants regarding the collection, use, sharing, and storage of such information.

(C) The practices of the manufacturer with respect to the data minimization, de-identification, and retention of information about vehicle owners or occupants.

(D) The practices of the manufacturer with respect to extending its privacy plan to the entities it shares such information with.

(2) A method for providing notice to vehicle owners or occupants about the privacy policy.

(3) If information about vehicle owners or occupants is altered or combined so that the information can no longer reasonably be linked to the highly automated vehicle, vehicle that performs partial driving automation, or automated driving system from which the information is retrieved, the vehicle owner, or occupants, the manufacturer is not required to include the process or practices regarding that information in the privacy policy.

(4) If information about an occupant is anonymized or encrypted the manufacturer is not required to include the process or practices regarding that information in the privacy policy.

(b) **STUDY.**—The Federal Trade Commission shall conduct a study and submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the highly automated vehicle marketplace, including an examination of the following issues:

(1) Which entities in the ecosystem have access to vehicle owner or occupant data.

(2) Which entities in the highly automated vehicle marketplace have privacy plans.

(3) What are the terms and disclosures made in such privacy plans, including regarding the collection, use, sharing, and storage of vehicle owner or occupant data.

(4) What disclosures are made to consumers about such privacy plans.

(5) What methods are available to enable deletion of information about vehicle owners or occupants from any data storage system within the vehicle (other than a system that is critical to the safety or operation of the vehicle) before the vehicle is sold, leased, or rented, or otherwise occupied by a new owner or occupant.

(c) **FEDERAL TRADE COMMISSION ENFORCEMENT.**—A violation of subsection (a) shall be treated as an unfair or deceptive act or practice within the meaning of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)). The Federal Trade Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(d) **EFFECTIVE DATE.**—This section shall take effect 180 days after the date of enactment of this section and shall only apply to highly automated vehicles, vehicles that perform partial driving automation, or automated driving systems first introduced after the effective date of this section.

SEC. 13. DEFINITIONS.

(a) **AMENDMENTS TO TITLE 49, UNITED STATES CODE.**—Section 30102 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) through (13) as paragraphs (2), (3), (4), (5), (8), (9), (10), (11), (12), (13), (15), (16), and (17), respectively;

(B) by inserting before paragraph (2) (as so redesignated) the following: “(1) ‘automated driving system’ means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether such system is limited to a specific operational design domain.”;

(C) by inserting after paragraph (5) (as so redesignated) the following:
 “(6) ‘dynamic driving task’ means all of the real time operational and tactical functions required to operate a vehicle in on-road traffic, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints, and including—

- “(A) lateral vehicle motion control via steering;
- “(B) longitudinal vehicle motion control via acceleration and deceleration;
- “(C) monitoring the driving environment via object and event detection, recognition, classification, and response preparation;
- “(D) object and event response execution;
- “(E) maneuver planning; and
- “(F) enhancing conspicuity via lighting, signaling, and gesturing.

“(7) ‘highly automated vehicle’—
 “(A) means a motor vehicle equipped with an automated driving system;
 and
 “(B) does not include a commercial motor vehicle (as defined in section 31101).”;

(D) by inserting after paragraph (13) (as so redesignated) the following:
 “(14) ‘operational design domain’ means the specific conditions under which a given driving automation system or feature thereof is designed to function.”;
 and

(E) by adding at the end the following:
 “(18) ‘vehicle that performs partial driving automation’ does not include a commercial motor vehicle (as defined in section 31101).”; and

(2) by adding at the end the following:

- “(c) REVISIONS TO CERTAIN DEFINITIONS.—
- “(1) If SAE International (or its successor organization) revises the definition of any of the terms defined in paragraph (1), (6), or (14) of subsection (a) in Recommended Practice Report J3016, it shall notify the Secretary of the revision. The Secretary shall publish a notice in the Federal Register to inform the public of the new definition unless, within 90 days after receiving notice of the new definition and after opening a period for public comment on the new definition, the Secretary notifies SAE International (or its successor organization) that the Secretary has determined that the new definition does not meet the need for motor vehicle safety, or is otherwise inconsistent with the purposes of this chapter. If the Secretary so notifies SAE International (or its successor organization), the existing definition in subsection (a) shall remain in effect.
- “(2) If the Secretary does not reject a definition revised by SAE International (or its successor organization) as described in paragraph (1), the Secretary shall promptly make any conforming amendments to the regulations and standards of the Secretary that are necessary. The revised definition shall apply for purposes of this chapter. The requirements of section 553 of title 5 shall not apply to the making of any such conforming amendments.
- “(3) Pursuant to section 553 of title 5, the Secretary may update any of the definitions in paragraph (1), (6), or (14) of subsection (a) if the Secretary determines that materially changed circumstances regarding highly automated vehicles have impacted motor vehicle safety such that the definitions need to be updated to reflect such circumstances.”.

(b) DEFINITIONS IN THIS ACT.—As used in this Act—

(1) the term “automated driving system” has the meaning given such term in subsection (a) of section 30102 of title 49, United States Code, subject to any revisions made to the definition of such term pursuant to subsection (c) of such section;

(2) the term “highly automated vehicle” has the meaning given such term in subsection (a) of section 30102 of title 49, United States Code, not subject to any revision under subsection (c) of such section; and

(3) the term “vehicle that performs partial driving automation” has the meaning given such term in subsection (a) of section 30102 of title 49, United States Code, not subject to any revision under subsection (c) of such section.

Amend the title so as to read: “A bill to amend title 49, United States Code, regarding the authority of the National Highway Traffic Safety Administration over highly automated vehicles, to provide safety measures for such vehicles, and for other purposes.”.

Amend the title so as to read:

A bill to amend title 49, United States Code, regarding the authority of the National Highway Traffic Safety Administration over

highly automated vehicles, to provide safety measures for such vehicles, and for other purposes.

PURPOSE AND SUMMARY

The Safely Ensuring Lives Future Deployment and Research in Vehicle Evolution (SELF DRIVE) Act supports the testing, development, and deployment of highly automated vehicles in the United States. The SELF DRIVE Act encourages economic development, jobs, and continued investment by incumbent entities and new entrants developing lifesaving automotive technology to address historic rising fatality rates on our nation's highways.

The purpose of the SELF DRIVE Act is to uphold State and local governments' authority regarding registration, licensing, driving education and training, insurance, law enforcement, crash investigations, safety and emissions inspections, congestion management of vehicles on their streets, and traffic laws and regulations as well as memorialize the Federal role in ensuring the safety of highly automated vehicles.

BACKGROUND AND NEED FOR LEGISLATION

The National Highway Traffic Safety Administration (NHTSA) is responsible for issuing safety standards to meet its mission of saving lives, preventing injuries, and reducing economic costs due to road traffic crashes. NHTSA accomplishes these goals by issuing Federal motor vehicle safety standards, pursuing enforcement actions, and requiring manufacturers to recall vehicles that have safety-related defects or fail to meet a safety standard. Manufacturers certify that their vehicles meet all applicable standards after testing in laboratories, on private or public automotive proving grounds, test tracks, and on public roads.

There were 35,092 traffic fatalities and 2.44 million people injured on U.S. roadways in 2015.¹ Estimates for 2016 indicate the number of fatalities will increase by 6 percent, which would be the first time in almost a decade that more than 40,000 people have died in traffic accidents in a single year.² Ninety-four percent of highway fatalities are attributable to human error.³

Self-driving vehicles and the technology underpinning such vehicles have the potential to reduce significantly traffic fatalities by removing the element of human error and improve transportation mobility and accessibility for communities, including the elderly and disabled. The legislation addresses cybersecurity and privacy so manufacturers will continue to consider these issues early in the development cycle. While the commercial deployment of self-driving vehicles is years in the future, the testing and development of such systems is happening in the United States and abroad today.

Improving the exemption process at NHTSA to allow for the agency to learn more about this technology as entities develop and prove the safety of their systems and could help move the agency forward in reviewing and updating existing safety regulations. The

¹ <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812318>.

² Neil Boudette, "U.S. Traffic Deaths Rise for a Second Straight Year" New York Times, Feb. 15, 2017, https://www.nytimes.com/2017/02/15/business/highway-traffic-safety.html?_r=0.

³ "U.S. Traffic Deaths Jump by 10.4 Percent in First Half of 2016." The Associated Press, Oct. 5, 2016, <http://www.nbcnews.com/news/us-news/u-s-traffic-deaths-jump-10-4-percent-first-half-n660241>.

safety assessment certification process in the legislation could improve NHTSA's understanding of the technology and cannot be used to delay the testing or deployment of self-driving cars.

Twenty States have enacted laws regarding some aspect of self-driving vehicles. Varying State and local laws regarding the design, construction, or performance of these vehicles could create barriers preventing these vehicles from traveling across State borders, using the interstate highway system, or impede investment in the future automotive technology, including advanced or connected infrastructure, in the United States.

For example, earlier this year North Carolina enacted a law requiring the steering wheel, brakes, and other equipment used to operate a vehicle be stowed away so that an occupant cannot assume control while the vehicle is in self-driving mode.⁴ Under New York law, a driver is required to keep one hand on the steering wheel at all times in all vehicles.⁵ One car designed to comply with North Carolina's law cannot also comply with New York law. As highlighted in testimony before the Committee, manufacturers and other entities developing this technology are closely watching State and Federal legislative activity to make decisions about research and development investments in the United States and in other countries.

Throughout meetings and hearings related to the legislation, Members and stakeholders brought forward improvements to existing procedures at NHTSA that would support the safe testing, development, and deployment of self-driving vehicles in the United States. A number of these policy improvements are included in the legislation. Several policy additions are included in the legislation to address existing safety issues and priority setting processes at NHTSA.

COMMITTEE CONSIDERATION

The Subcommittee on Digital Commerce and Consumer Protection held a hearing entitled "Self-Driving Vehicle Legislation" on fourteen bills, on June 23, 2017 (many of these bills were consolidated into H.R. 3388, as amended by the Committee). The Subcommittee received testimony from:

- Mitch Bainwol, President and CEO, Alliance of Automobile Manufacturers;
- John Bozzella, President and CEO, Global Automakers;
- Tim Day, Senior Vice President, Chamber Technology Engagement Center, U.S. Chamber of Commerce;
- David L. Strickland, Counsel, Self-Driving Coalition for Safer Streets and Partner, Venable LLP;
- Alan Morrison, Lerner Family Associate Dean for Public Interest and Public Service Law, The George Washington University Law School; and,
- Will Wallace, Policy Analyst, Consumers Union.

On July 19, 2017, the Subcommittee on Digital Commerce and Consumer Protection met in open markup session and forwarded a discussion draft entitled "a bill to amend title 49, United States Code, to provide the National Highway Traffic Safety Administra-

⁴ <http://www.ncleg.net/Sessions/2017/Bills/House/PDF/H469v7.pdf>.

⁵ <http://buffalonews.com/2017/07/31/new-york-takes-baby-steps-toward-self-driving-vehicles/>.

tion with authority over highly automated vehicles, to provide safety measures for such vehicles, and for other purposes” to the full Committee by a voice vote. On July 27, 2017, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 3388, as amended, reported to the House by a recorded vote 54 yeas and 0 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

**COMMITTEE ON ENERGY AND COMMERCE -- 115TH CONGRESS
ROLL CALL VOTE # 45**

BILL: H.R. 3388, Designating Each Car's Automation Level Act

AMENDMENT: A motion by Mr. Walden to order H.R. 3388 favorably reported to the House, as amended.
(Final Passage)

DISPOSITION: AGREED TO, by a roll call vote of 54 yeas and 0 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Walden	X			Mr. Pallone	X		
Mr. Barton	X			Mr. Rush	X		
Mr. Upton	X			Ms. Eshoo	X		
Mr. Shimkus	X			Mr. Engel	X		
Mr. Murphy	X			Mr. Green	X		
Mr. Burgess	X			Ms. DeGette	X		
Mrs. Blackburn	X			Mr. Doyle	X		
Mr. Scalise				Ms. Schakowsky	X		
Mr. Latta	X			Mr. Butterfield	X		
Mrs. McMorris Rodgers	X			Ms. Matsui	X		
Mr. Harper	X			Ms. Castor	X		
Mr. Lance	X			Mr. Sarbanes	X		
Mr. Guthrie	X			Mr. McNerney	X		
Mr. Olson	X			Mr. Welch	X		
Mr. McKinley	X			Mr. Lujan	X		
Mr. Kinzinger	X			Mr. Tonko	X		
Mr. Griffith	X			Ms. Clarke	X		
Mr. Bilirakis	X			Mr. Loeb sack	X		
Mr. Johnson	X			Mr. Schrader	X		
Mr. Long	X			Mr. Kennedy	X		
Mr. Bucshon	X			Mr. Cardenas	X		
Mr. Flores	X			Mr. Ruiz	X		
Mrs. Brooks	X			Mr. Peters	X		
Mr. Mullin	X			Ms. Dingell	X		
Mr. Hudson	X						
Mr. Collins	X						
Mr. Cramer	X						
Mr. Walberg	X						
Mrs. Walters	X						
Mr. Costello	X						
Mr. Carter	X						

07/27/2017

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3388 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 1, 2017.

Hon. GREG WALDEN,
*Chairman, Committee on Energy, and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3388, the SELF DRIVE Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

KEITH HALL, *Director.*

Enclosure.

H.R. 3388—SELF DRIVE Act

Summary: H.R. 3388 would clarify the federal role in regulating vehicles that can drive without a person controlling the vehicle. Those vehicles are defined in the bill as Highly Automated Vehicles (HAVs). The bill would require the National Highway Traffic Safety Administration (NHTSA) to complete several rulemakings, establish an advisory council on HAVs, and create a publicly available database about manufacturers that receive exemptions from current law. The bill would require vehicle manufacturers to comply with cybersecurity plans and would make manufacturers that fail to comply subject to civil penalties.

CBO estimates that implementing the legislation would cost \$10 million over the 2018–2022 period, assuming appropriation of the necessary amounts.

Enacting H.R. 3388 would increase revenues from civil penalties; therefore, pay-as-you-go procedures apply. However, CBO estimates that those increases would total less than \$500,000 over the 2018–2027 period. Enacting the bill would not affect direct spending.

CBO estimates that enacting H.R. 3388 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3388 would impose an intergovernmental mandate, as defined in the Unfunded Mandates Reform Act (UMRA), by preempting the authority of state and local governments to regulate the design, construction, and performance of HAVs, unless such regulations are at least protective as federal regulations. Although it would limit the application of state and local regulations, the bill would impose no duty on state or local governments that would result in additional spending or a loss of revenues.

H.R. 3388 would impose private-sector mandates as defined in UMRA on manufacturers of automobiles. Based on information about motor vehicle sales in the United States and information about current business practices from industry sources, CBO estimates that the cost of complying with those mandates would exceed the annual threshold established in UMRA (\$156 million in 2017, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 3388 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—						
	2017	2018	2019	2020	2021	2022	2017–2022
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level	0	1	2	2	2	3	10
Estimated Outlays	0	1	2	2	2	3	10

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the beginning of fiscal year 2018, that the necessary amounts will be appropriated each year, and that spending will follow historical patterns for similar activities.

H.R. 3388 would require NHTSA to complete several rulemakings regarding standards and testing of HAVs, establish an advisory council on HAVs, and create a publicly available database about manufacturers that receive exemptions from current law.

Based on an analysis of information from NHTSA, CBO estimates that the rulemakings would require the agency to hire about 12 new people. CBO expects that about half of those people would be hired in 2018 and the rest in 2019. Based on the average wages and compensation for federal employees of NHTSA, CBO estimates that each additional person would cost about \$175,000 per year. As a result, enacting the rulemaking provisions would cost \$9 million over the 2018–2022 period.

Under the bill, NHTSA also would have to create a database of manufactures of HAVs that receive exemptions from current safety standards that apply to motor vehicles and make that information publically available. Based on information from the agency, CBO estimates that implementing this provision would cost about \$1 million over the 2018–2022 period.

Pay-as-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that enacting the bill would increase revenues over the 2017–2027 period by less than \$500,000. Enacting the bill would not affect direct spending.

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 3388 would not increase net direct spend-

ing or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

Estimated impact on state, local, and tribal governments: H.R. 3388 would impose an intergovernmental mandate, as defined in UMRA, by preempting the authority of state and local governments to regulate the design, construction, and performance of HAVs, unless such regulations are at least protective as federal regulations. State and local governments are not currently regulating these aspects of HAVs. Although the bill would limit the application of state and local regulations, it would impose no duty on state or local governments that would result in additional spending or a loss of revenues.

Estimated impact on the private sector: H.R. 3388 would impose private-sector mandates as defined in UMRA on manufacturers of automobiles. Specifically, the bill would require manufacturers to:

- Install an alarm system in all passenger vehicles that would alert drivers to check the rear seat of their vehicles after turning off the engine;
- Submit certifications to NHTSA that describe how safety issues are being addressed in HAVs;
- Prepare cybersecurity and privacy plans for HAVs; and
- Inform customers about the capabilities and limitations of HAVs in accordance with a future rulemaking.

The bill also would require NHTSA to update or issue new motor vehicle safety standards to address automated systems. Those standards may facilitate the development of HAVs, but also may require manufacturers of those vehicles to incur additional costs.

Based on an analysis of data on vehicle sales from the Bureau of Economic Analysis, CBO estimates that manufacturers would need to install alarm systems in more than 10 million motor vehicles annually. The cost of installing a system would depend on the rule to be issued by the Secretary of Transportation. Some vehicles currently contain systems that may comply with the rule. However, because of the large number of vehicles that would be affected by the mandate, CBO estimates that the cost of the mandate would exceed \$100 million annually. On the basis of information from industry experts, CBO estimates that the cost of complying with the mandates to prepare plans, submit safety assessment certifications, and provide information to customers would total tens of millions of dollars over the next five year period.

The net cost of the mandates would equal the additional costs incurred, offset by any savings associated with complying with the bill's requirements. For example, some of the costs of the mandate may be mitigated if the motor vehicle safety standards for automated systems lower the cost of producing such vehicles. However, CBO expects that most of those savings would be realized a few years after manufacturers have begun to incur the costs to install the rear-seat alarm system. In aggregate, CBO estimates that the annual net cost of complying with all of the mandates in the bill would exceed the threshold established in UMRA for private-sector mandates (\$156 million in 2017, adjusted annually for inflation) in at least some of the first five years the mandates are in effect.

Estimate prepared by: Federal costs: Sarah Puro; Impact on state, local, and tribal governments: Jon Sperl; Impact on the Private Sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of H.R. 3388 is to encourage the testing and deployment of highly automated vehicles by memorializing the State and Federal roles to protect roadway and motor vehicle safety.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3388 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 3388 contains no earmarks, limited tax benefits, or limited tariff benefits.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, the Committee finds that the following directed rule makings are contained in H.R. 3388:

1. Section 4 requires the Secretary of Transportation to issue a final rule requiring the submission of safety assessment certifications regarding how safety is being addressed by each entity developing a highly automated vehicle or automated driving system.
2. Section 10 requires the Secretary of Transportation to issue a final rule requiring all new passenger motor vehicles weighing less than 10,000 pounds gross vehicle weight to be equipped with an alarm system to alert the operator to check rear designated seating positions after the vehicle motor engine is deactivated by the operator.

ADVISORY COMMITTEE STATEMENT

H.R. 3388 establishes a Highly Automated Vehicle Advisory Council. The functions of the Council are not being performed by one or more agencies or by an advisory committee already in exist-

ence, or by enlarging the mandate of an existing advisory committee.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title; Table of contents

Section 1 provides that the Act may be cited as the “Safely Ensuring Lives Future Deployment and Research In Vehicle Evolution Act” or the “SELF DRIVE Act”. This section includes the table of contents.

Section 2. Purpose

Section 2 states that the purpose of this Act is to memorialize the Federal role in ensuring the safety of highly automated vehicles as it relates to design, construction, and performance, by encouraging the testing and deployment of such vehicles.

Section 3. NHTSA authority and State preemption for autonomous motor vehicles

Section 3 maintains the current roles and responsibilities for States and localities regarding registration, licensing, driving education and training, insurance, law enforcement, crash investigations, safety and emissions inspections, congestion management on streets, and traffic laws and regulations. This section also maintains the Federal role in ensuring the safety of the design, construction, or performance of highly automated vehicles, automated driving systems, or components of automated driving systems. States may impose identical standards to those prescribed under chapter 301 of title 49, U.S. Code.

Nothing in the section impacts a State or locality acting in accordance with other Federal laws, preempts common law claims, or impacts State motor vehicle franchise laws.

Section 4. Updated or new motor vehicle safety standards for highly automated vehicles

Section 4 establishes a new subsection requiring the Secretary of Transportation (Secretary) to complete a rulemaking requiring the submission of a safety assessment certification regarding how safety is being addressed by each entity developing a highly automated vehicle or automated driving system. The Secretary may not condition deployment or testing of highly automated vehicles on review of safety assessment certifications.

This section requires the Secretary to publish a rulemaking and safety priority plan to ensure the safety and security of highly automated vehicles and motor vehicles and others that will share the roads with highly automated vehicles. The Secretary must initiate the first rulemaking in such plan not later than 18 months after the date of enactment.

Section 5. Cybersecurity of automated driving systems

Section 5 requires manufacturers to develop a cybersecurity plan that includes certain elements before selling or introducing into commerce highly automated vehicles, vehicles that performs partial driving automation, or automated driving systems.

Section 6. General exemptions

Section 6 amends section 30113 of title 49 of the U.S. Code to add a new exemption category, increase the number of exemptions the Secretary may grant, and increase the length of time exemptions are valid. Additionally, this section adds a limitation for certain exemptions, a reporting requirement for manufacturers, directs the Secretary to publish the process and analysis used for consideration of exemptions, and creates a new exemption database.

This section amends section 30113(b) to include a new exemption specific to highly automated vehicles and requires manufacturers demonstrate in their application that there has been no reduction in safety. This section amends section 30113(d) to increase the number of exemptions a manufacturer may request and creates a phase-in process whereby a manufacturer may seek 25,000 exemptions within the first 12-month period and that number increases to 100,000 within the fourth 12-month period. This section amends section 30113(e) by increasing the length from 2 years to 4 years for which an exemption is valid.

This section does not allow exemptions from crashworthiness to be granted until the secretary issues the safety assessment certification rule pursuant to Section 30129(a) and the safety priority plan pursuant to section 30129(b) and one year has passed from the date by which both have been issued. This section adds a new reporting requirement for manufacturers regarding all crashes of which the manufacturer has actual knowledge involving vehicles exempted under section 30113(b)(3)(B)(ii), (iv), or (v). This section directs the Secretary to publish in the Federal Register a notice that details the process and analysis used for the consideration of exemption or renewal applications under section 30113(b)(3)(B)(v). This section creates a publicly available and searchable electronic database of each motor vehicle for which an exemption has been granted.

Section 7. Motor vehicle testing or evaluation

Section 7 amends section 30112(b)(10) of title 49 of the U.S. Code to include suppliers and manufacturers of highly automated vehicles, automated driving systems, or components of automated driving systems. This section requires manufacturers of highly automated vehicles, automated driving systems and components of automated driving systems to disclose identifying information as well as proof of insurance for any State in which the entity intends to test or evaluate.

Section 8. Information on highly automated driving systems made available to prospective buyers

Section 8 requires the Secretary to complete research to determine the most effective method and terminology for informing consumers about the capabilities and limitations of highly automated

vehicles or vehicles that perform partial driving automation and then initiate a rulemaking requiring manufacturers to inform consumers about such capabilities and limitations.

Section 9. Highly Automated Vehicle Advisory Council

Section 9 directs the Secretary to establish the “Highly Automated Vehicle Advisory Council” within NHTSA. The Council and any Subcommittees it may form shall undertake information gathering activities, develop technical advice, and present best practices and recommendations to the Secretary regarding mobility access for the disabled community, senior citizens, and populations underserved by traditional public transportation service, independent verification and validation procedures and cybersecurity for highly automated vehicles, protection of consumer privacy and security, protection and sharing of confidential business information, testing and deployment in areas that are rural and mountainous, as well as labor, employment, environmental and cabin safety issues. This section also requires the Council to publish and submit to Congress any recommendations made to the Secretary.

Section 10. Rear seat occupant alert system

Section 10 directs the Secretary to issue a final rule to require all new passenger motor vehicles be equipped with an alarm system to alert the vehicle operator to check a rear seating position after the vehicle motor or engine is deactivated.

Section 11. Headlamps

Section 11 directs the Secretary to research the development of updated safety standards or performance requirements for motor vehicle headlamps to enhance their performance and improve overall safety.

Section 12. Privacy plan required for highly automated vehicles

Section 12 requires manufacturers to develop a written privacy plan for highly automated vehicles, vehicles that perform partial driving automation, or automated driving systems. The Federal Trade Commission must submit a report to Congress on its study of manufacturer privacy plans and practices.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

* * * * *

SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

* * * * *

PART A—GENERAL

* * * * *

CHAPTER 301—MOTOR VEHICLE SAFETY

SUBCHAPTER I—GENERAL

Sec.
30101. Purpose and policy.

* * * * *

SUBCHAPTER II—STANDARDS AND COMPLIANCE

* * * * *

30129. Updated or new motor vehicle safety standards for highly automated vehicles.
30130. Cybersecurity of automated driving systems.
30131. Rear seat occupant alert system.

* * * * *

SUBCHAPTER I—GENERAL

* * * * *

§ 30102. Definitions

- (a) GENERAL DEFINITIONS.—In this chapter—
 - (1) “automated driving system” means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether such system is limited to a specific operational design domain.
 - [(1)] (2) “covered rental vehicle” means a motor vehicle that—
 - (A) has a gross vehicle weight rating of 10,000 pounds or less;
 - (B) is rented without a driver for an initial term of less than 4 months; and
 - (C) is part of a motor vehicle fleet of 35 or more motor vehicles that are used for rental purposes by a rental company.
 - [(2)] (3) “dealer” means a person selling and distributing new motor vehicles or motor vehicle equipment primarily to purchasers that in good faith purchase the vehicles or equipment other than for resale.
 - [(3)] (4) “defect” includes any defect in performance, construction, a component, or material of a motor vehicle or motor vehicle equipment.
 - [(4)] (5) “distributor” means a person primarily selling and distributing motor vehicles or motor vehicle equipment for resale.
 - (6) “dynamic driving task” means all of the real time operational and tactical functions required to operate a vehicle in on-road traffic, excluding the strategic functions such as trip

scheduling and selection of destinations and waypoints, and including—

(A) lateral vehicle motion control via steering;

(B) longitudinal vehicle motion control via acceleration and deceleration;

(C) monitoring the driving environment via object and event detection, recognition, classification, and response preparation;

(D) object and event response execution;

(E) maneuver planning; and

(F) enhancing conspicuity via lighting, signaling, and gesturing.

(7) “highly automated vehicle”—

(A) means a motor vehicle equipped with an automated driving system; and

(B) does not include a commercial motor vehicle (as defined in section 31101).

[(5)] (8) “interstate commerce” means commerce between a place in a State and a place in another State or between places in the same State through another State.

[(6)] (9) “manufacturer” means a person—

(A) manufacturing or assembling motor vehicles or motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

[(7)] (10) “motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

[(8)] (11) “motor vehicle equipment” means—

(A) any system, part, or component of a motor vehicle as originally manufactured;

(B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or

(C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner, that—

(i) is not a system, part, or component of a motor vehicle; and

(ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding users of motor vehicles against risk of accident, injury, or death.

[(9)] (12) “motor vehicle safety” means the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.

[(10)] (13) “motor vehicle safety standard” means a minimum standard for motor vehicle or motor vehicle equipment performance.

(14) “operational design domain” means the specific conditions under which a given driving automation system or feature thereof is designed to function.

[(11)] (15) “rental company” means a person who—

(A) is engaged in the business of renting covered rental vehicles; and

(B) uses for rental purposes a motor vehicle fleet of 35 or more covered rental vehicles, on average, during the calendar year.

[(12)] (16) “State” means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

[(13)] (17) “United States district court” means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

(18) “vehicle that performs partial driving automation” does not include a commercial motor vehicle (as defined in section 31101).

(b) LIMITED DEFINITIONS.—(1) In sections 30117(b), 30118-30121, and 30166(f) of this title—

(A) “adequate repair” does not include repair resulting in substantially impaired operation of a motor vehicle or motor vehicle equipment;

(B) “first purchaser” means the first purchaser of a motor vehicle or motor vehicle equipment other than for resale;

(C) “original equipment” means motor vehicle equipment (including a tire) installed in or on a motor vehicle at the time of delivery to the first purchaser;

(D) “replacement equipment” means motor vehicle equipment (including a tire) that is not original equipment;

(E) a brand name owner of a tire marketed under a brand name not owned by the manufacturer of the tire is deemed to be the manufacturer of the tire;

(F) a defect in original equipment, or noncompliance of original equipment with a motor vehicle safety standard prescribed under this chapter, is deemed to be a defect or noncompliance of the motor vehicle in or on which the equipment was installed at the time of delivery to the first purchaser;

(G) a manufacturer of a motor vehicle in or on which original equipment was installed when delivered to the first purchaser is deemed to be the manufacturer of the equipment; and

(H) a retreader of a tire is deemed to be the manufacturer of the tire.

(2) The Secretary of Transportation may prescribe regulations changing paragraph (1)(C), (D), (F), or (G) of this subsection.

(c) REVISIONS TO CERTAIN DEFINITIONS.—

(1) If SAE International (or its successor organization) revises the definition of any of the terms defined in paragraph (1), (6), or (14) of subsection (a) in Recommended Practice Report J3016, it shall notify the Secretary of the revision. The Secretary shall publish a notice in the Federal Register to inform

the public of the new definition unless, within 90 days after receiving notice of the new definition and after opening a period for public comment on the new definition, the Secretary notifies SAE International (or its successor organization) that the Secretary has determined that the new definition does not meet the need for motor vehicle safety, or is otherwise inconsistent with the purposes of this chapter. If the Secretary so notifies SAE International (or its successor organization), the existing definition in subsection (a) shall remain in effect.

(2) If the Secretary does not reject a definition revised by SAE International (or its successor organization) as described in paragraph (1), the Secretary shall promptly make any conforming amendments to the regulations and standards of the Secretary that are necessary. The revised definition shall apply for purposes of this chapter. The requirements of section 553 of title 5 shall not apply to the making of any such conforming amendments.

(3) Pursuant to section 553 of title 5, the Secretary may update any of the definitions in paragraph (1), (6), or (14) of subsection (a) if the Secretary determines that materially changed circumstances regarding highly automated vehicles have impacted motor vehicle safety such that the definitions need to be updated to reflect such circumstances.

§ 30103. Relationship to other laws

(a) **UNIFORMITY OF REGULATIONS.**—The Secretary of Transportation may not prescribe a safety regulation related to a motor vehicle subject to subchapter I of chapter 135 of this title that differs from a motor vehicle safety standard prescribed under this chapter. However, the Secretary may prescribe, for a motor vehicle operated by a carrier subject to subchapter I of chapter 135, a safety regulation that imposes a higher standard of performance after manufacture than that required by an applicable standard in effect at the time of manufacture.

[(b) **PREEMPTION.**—(1) When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. However, the United States Government, a State, or a political subdivision of a State may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter.

[(2) A State may enforce a standard that is identical to a standard prescribed under this chapter.]

(b) **PREEMPTION.**—

*(1) **HIGHLY AUTOMATED VEHICLES.**—No State or political subdivision of a State may maintain, enforce, prescribe, or continue in effect any law or regulation regarding the design, construction, or performance of highly automated vehicles, automated driving systems, or components of automated driving systems unless such law or regulation is identical to a standard prescribed under this chapter.*

(2) *MOTOR VEHICLE STANDARD.*—When a motor vehicle safety standard is in effect under this chapter, a State or political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.

(3) *RULES OF CONSTRUCTION.*—

(A) *IN GENERAL.*—Nothing in this subsection may be construed to prohibit a State or a political subdivision of a State from maintaining, enforcing, prescribing, or continuing in effect any law or regulation regarding registration, licensing, driving education and training, insurance, law enforcement, crash investigations, safety and emissions inspections, congestion management of vehicles on the street within a State or political subdivision of a State, or traffic unless the law or regulation is an unreasonable restriction on the design, construction, or performance of highly automated vehicles, automated driving systems, or components of automated driving systems.

(B) *MOTOR VEHICLE DEALERS.*—Nothing in this subsection may be construed to prohibit a State or political subdivision of a State from maintaining, enforcing, prescribing, or continuing in effect any law or regulation regarding the sale, distribution, repair, or service of highly automated vehicles, automated driving systems, or components of automated driving systems by a dealer, manufacturer, or distributor.

(C) *CONFORMITY WITH FEDERAL LAW.*—Nothing in this subsection shall be construed to preempt, restrict, or limit a State or political subdivision of a State from acting in accordance with any other Federal law.

(4) *HIGHER PERFORMANCE REQUIREMENT.*—However, the United States Government, a State, or a political subdivision of a State may prescribe a standard for a motor vehicle, motor vehicle equipment, highly automated vehicle, or automated driving system obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter.

(5) *STATE ENFORCEMENT.*—A State may enforce a standard that is identical to a standard prescribed under this chapter.

(c) *ANTITRUST LAWS.*—This chapter does not—

(1) exempt from the antitrust laws conduct that is unlawful under those laws; or

(2) prohibit under the antitrust laws conduct that is lawful under those laws.

(d) *WARRANTY OBLIGATIONS AND ADDITIONAL LEGAL RIGHTS AND REMEDIES.*—Sections 30117(b), 30118-30121, 30166(f), and 30167(a) and (b) of this title do not establish or affect a warranty obligation under a law of the United States or a State. A remedy under those sections and sections 30161 and 30162 of this title is in addition to other rights and remedies under other laws of the United States or a State.

[(e) *COMMON LAW LIABILITY.*—Compliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.]

(e) *COMMON LAW LIABILITY.*—

(1) *IN GENERAL.*—*Compliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.*

(2) *RULE OF CONSTRUCTION.*—*Nothing in this section shall be construed to preempt common law claims.*

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SUBCHAPTER II—STANDARDS AND COMPLIANCE

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§ 30112. Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment

(a) *GENERAL.*—(1) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard prescribed under this chapter takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30115 of this title.

(2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a school or school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multifunction school activity buses under this title. This paragraph does not apply to the purchase or lease of a 15-passenger van under a contract executed before the date of enactment of this paragraph.

(3) Except as provided in this section, section 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.

(b) *NONAPPLICATION.*—This section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a motor vehicle or motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale;

(2) a person—

(A) establishing that the person had no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment does not comply with applicable motor vehicle safety standards prescribed under this chapter;

- (B) holding, without knowing about the noncompliance and before the vehicle or equipment is first purchased in good faith other than for resale, a certificate issued by a manufacturer or importer stating the vehicle or equipment complies with applicable standards prescribed under this chapter; or
- (C) having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b);
- (3) a motor vehicle or motor vehicle equipment intended only for export, labeled for export on the vehicle or equipment and on the outside of any container of the vehicle or equipment, and exported;
- (4) a motor vehicle the Secretary of Transportation decides under section 30141 of this title is capable of complying with applicable standards prescribed under this chapter;
- (5) a motor vehicle imported for personal use by an individual who receives an exemption under section 30142 of this title;
- (6) a motor vehicle under section 30143 of this title imported by an individual employed outside the United States;
- (7) a motor vehicle under section 30144 of this title imported on a temporary basis;
- (8) a motor vehicle or item of motor vehicle equipment under section 30145 of this title requiring further manufacturing;
- (9) a motor vehicle that is at least 25 years old; or
- (10) the introduction of a motor vehicle in interstate commerce solely for purposes of testing or [evaluation by a manufacturer that agrees not to sell or offer for sale] *evaluation by—*

(A) a manufacturer that agrees not to sell or lease or offer for sale or lease the motor vehicle at the conclusion of the testing or evaluation and [that prior to the date of enactment of this paragraph]—

[(A)] *(i) has manufactured and distributed [motor vehicles into the United States that are certified] into the United States motor vehicles that are certified, or motor vehicle equipment utilized in a motor vehicle that is certified, to comply with all applicable Federal motor vehicle safety standards;*

[(B)] *(ii) has submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and*

[(C)] *(iii) if applicable, has identified an agent for service of process in accordance with part 551 of such title[.]; or*

(B) a manufacturer of highly automated vehicles, automated driving systems, or components of automated driving systems that agrees not to sell or lease or offer for sale or lease the highly automated vehicles, automated driving systems, or components of automated driving systems at the conclusion of the testing or evaluation and—

(i) has submitted to the Secretary—

(I) *the name of the individual, partnership, corporation, or institution of higher education and a point of contact;*

(II) *the residence address of the individual, partnership, corporation, or institution of higher education and State of incorporation if applicable;*

(III) *a description of each type of motor vehicle used during development of highly automated vehicles, automated driving systems, or components of automated driving systems manufactured by the individual, partnership, corporation, or institution of higher education; and*

(IV) *proof of insurance for any State in which the individual, partnership, corporation, or institution of higher education intends to test or evaluate highly automated vehicles; and*

(i) if applicable, has identified an agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.

§ 30113. General exemptions

(a) DEFINITION.—In this section, “low-emission motor vehicle” means a motor vehicle meeting the standards for new motor vehicles applicable to the vehicle under section 202 of the Clean Air Act (42 U.S.C. 7521) when the vehicle is manufactured and emitting an air pollutant in an amount significantly below one of those standards.

(b) AUTHORITY TO EXEMPT AND PROCEDURES.—(1) The Secretary of Transportation may exempt, on a temporary basis, motor vehicles from a motor vehicle safety standard prescribed under this chapter or passenger motor vehicles from a bumper standard prescribed under chapter 325 of this title, on terms the Secretary considers appropriate. An exemption may be renewed. A renewal may be granted only on reapplication and must conform to the requirements of this subsection.

(2) The Secretary may begin a proceeding under this subsection when a manufacturer applies for an exemption or a renewal of an exemption. The Secretary shall publish notice of the application and provide an opportunity to comment. An application for an exemption or for a renewal of an exemption shall be filed at a time and in the way, and contain information, this section and the Secretary require.

(3) The Secretary may act under this subsection on finding that—

(A) an exemption is consistent with the public interest and this chapter or chapter 325 of this title (as applicable); and

(B)(i) compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith;

(ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;

(iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle [; or];

(iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles[.]; or

(v) *the exemption would make easier the development or field evaluation of—*

(I) a feature of a highly automated vehicle providing a safety level at least equal to the safety level of the standard for which exemption is sought; or

(II) a highly automated vehicle providing an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(c) CONTENTS OF APPLICATIONS.—A manufacturer applying for an exemption under subsection (b) of this section shall include the following information in the application:

(1) if the application is made under subsection (b)(3)(B)(i) of this section, a complete financial statement describing the economic hardship and a complete description of the manufacturer's good faith effort to comply with each motor vehicle safety standard prescribed under this chapter, or a bumper standard prescribed under chapter 325 of this title, from which the manufacturer is requesting an exemption.

(2) if the application is made under subsection (b)(3)(B)(ii) of this section, a record of the research, development, and testing establishing the innovative nature of the safety feature and a detailed analysis establishing that the safety level of the feature at least equals the safety level of the standard.

(3) if the application is made under subsection (b)(3)(B)(iii) of this section, a record of the research, development, and testing establishing that the motor vehicle is a low-emission motor vehicle and that the safety level of the vehicle is not lowered unreasonably by exemption from the standard.

(4) if the application is made under subsection (b)(3)(B)(iv) of this section, a detailed analysis showing how the vehicle provides an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(5) *if the application is made under subsection (b)(3)(B)(v) of this section—*

(A) such development, testing, and other data necessary to demonstrate that the motor vehicle is a highly automated vehicle; and

(B) a detailed analysis that includes supporting test data, including both on-road and validation and testing data showing (as applicable) that—

(i) the safety level of the feature at least equals the safety level of the standard for which exemption is sought; or

(ii) the vehicle provides an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(d) ELIGIBILITY.—[A manufacturer is eligible for an exemption under subsection (b)(3)(B)(i) of this section (including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1)) only if the Secretary determines that the manufacturer's total motor vehicle production in the most recent

year of production is not more than 10,000. A manufacturer is eligible for an exemption under subsection (b)(3)(B)(ii), (iii), or (iv) of this section only if the Secretary determines the exemption is for not more than 2,500 vehicles to be sold in the United States in any 12-month period.】

(1) *ELIGIBILITY UNDER SUBSECTION (B)(3)(B)(I).*—A manufacturer is eligible for an exemption under subsection (b)(3)(B)(i) of this section (including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1)) only if the Secretary determines that the manufacturer's total motor vehicle production in the most recent year of production is not more than 10,000.

(2) *ELIGIBILITY UNDER SUBSECTION (B)(3)(B)(III).*—A manufacturer is eligible for an exemption under subsection (b)(3)(B)(iii) of this section only if the Secretary determines the exemption is for not more than 2,500 vehicles to be sold in the United States in any 12-month period.

(3) *ELIGIBILITY UNDER SUBSECTION (B)(3)(B)(II), (IV), OR (V).*—A manufacturer is eligible for an exemption under subsection (b)(3)(B)(ii), (iv), or (v) of this section only if the Secretary determines the exemption is for not more than 100,000 vehicles per manufacturer to be sold, leased, or otherwise introduced into commerce in the United States in any 12-month period.

(4) *LIMITATION ON NUMBER OF VEHICLES EXEMPTED.*—All exemptions granted to a manufacturer under subsections (b)(3)(B)(i) through (v) shall not exceed a total of (i) 25,000 vehicles manufactured within the first 12-month period, (ii) 50,000 vehicles manufactured within the second 12-month period, (iii) 100,000 vehicles manufactured within the third 12-month period, and, (iv) 100,000 vehicles manufactured within the fourth 12-month period. Any renewals under subsections (b)(3)(B)(i) through (v) shall not exceed a total of 100,000 vehicles manufactured within a 12-month period.

(e) *MAXIMUM PERIOD.*—【An exemption or renewal under subsection (b)(3)(B)(i) of this section may be granted for not more than 3 years. An exemption or renewal under subsection (b)(3)(B)(ii), (iii), or (iv) of this section may be granted for not more than 2 years.】

(1) *EXEMPTION UNDER SUBSECTION (B)(3)(B)(I).*—An exemption or renewal under subsection (b)(3)(B)(i) of this section may be granted for not more than 3 years.

(2) *EXEMPTION UNDER SUBSECTION (B)(3)(B)(III).*—An exemption or renewal under subsection (b)(3)(B)(iii) of this section may be granted for not more than 2 years.

(3) *EXEMPTION UNDER SUBSECTION (B)(3)(B)(II), (IV), OR (V).*—An exemption or renewal under subsection (b)(3)(B)(ii), (iv), or (v) of this section may be granted for not more than 4 years.

(f) *DISCLOSURE.*—The Secretary may make public, by the 10th day after an application is filed, information contained in the application or relevant to the application unless the information concerns or is related to a trade secret or other confidential information not relevant to the application.

(g) *NOTICE OF DECISION.*—The Secretary shall publish in the Federal Register a notice of each decision granting an exemption under this section and the reasons for granting it.

(h) **PERMANENT LABEL REQUIREMENT.**—The Secretary shall require a permanent label to be fixed to a motor vehicle granted an exemption under this section. The label shall either name or describe each motor vehicle safety standard prescribed under this chapter or bumper standard prescribed under chapter 325 of this title from which the vehicle is exempt. The Secretary may require that written notice of an exemption be delivered by appropriate means to the dealer and the first purchaser of the vehicle other than for resale.

(i) **LIMITATION ON CERTAIN EXEMPTIONS.**—No exemption from crashworthiness standards of motor vehicle safety standards shall be granted under subsection (b)(3)(B)(v) until the Secretary issues the safety assessment certification rule pursuant to section 30129(a) and the rulemaking and safety priority plan pursuant to section 30129(b) and one year has passed from the date by which the Secretary has issued both such rule and such plan. This subsection shall not apply to exemptions from occupant protection standards if the exemption is for a vehicle that will not carry its operator or passengers. This subsection shall not apply to exemptions from crashworthiness standards if the exemption sought is for a standard addressing the steering control system and it is for a vehicle that—

(1) will not have a steering control system;

(2) provides impact protection to an occupant in the front left seat at a level at least equal to the level provided in nonexempt vehicles; and

(3) provides a safety level at least equal to the safety level of the standard for which the exemption is sought.

(j) **REPORTING REQUIREMENT.**—A manufacturer granted an exemption under subsection (b)(3)(B)(ii), (iv), or (v), shall provide information about all crashes of which it has actual knowledge involving such exempted vehicles, regardless of whether a claim is submitted to the manufacturer, in accordance with part 579 of title 49, Code of Federal Regulations.

(k) **PROCESS AND ANALYSIS.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this subsection, the Secretary of Transportation shall publish in the Federal Register a notice that details the process and analysis used for the consideration of exemption or renewal applications under subsection (b)(3)(B)(v).

(2) **PERIODIC REVIEW AND UPDATING.**—The notice required by paragraph (1) shall be reviewed every 5 years and updated if the Secretary considers it necessary.

(l) **EXEMPTION DATABASE.**—

(1) **IN GENERAL.**—The Secretary shall establish a publicly available and searchable electronic database of each motor vehicle for which an exemption from motor vehicle safety standards prescribed under this chapter or a bumper standard prescribed under chapter 325 has been granted.

(2) **VEHICLE IDENTIFICATION NUMBER.**—The database established under paragraph (1) shall be searchable by Vehicle Identification Number and shall include no information identifying the vehicle owner.

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§30129. Updated or new motor vehicle safety standards for highly automated vehicles

(a) **SAFETY ASSESSMENT CERTIFICATION.**—

(1) **FINAL RULE.**—Not later than 24 months after the date of the enactment of this section, the Secretary of Transportation shall issue a final rule requiring the submission of safety assessment certifications regarding how safety is being addressed by each entity developing a highly automated vehicle or an automated driving system. Such rule shall include—

(A) a specification of which entities are required to submit such certifications;

(B) a clear description of the relevant test results, data, and other contents required to be submitted by such entity, in order to demonstrate that such entity's vehicles are likely to maintain safety, and function as intended and contain fail safe features, to be included in such certifications; and

(C) a specification of the circumstances under which such certifications are required to be updated or resubmitted.

(2) **INTERIM REQUIREMENT.**—Until the final rule issued under paragraph (1) takes effect, safety assessment letters shall be submitted to the National Highway Traffic Safety Administration as contemplated by the Federal Automated Vehicles Policy issued in September 2016, or any successor guidance issued on highly automated vehicles requiring a safety assessment letter.

(3) **PERIODIC REVIEW AND UPDATING.**—Not later than 5 years after the date on which the final rule is issued under paragraph (1), and not less frequently than every 5 years thereafter, the Secretary shall—

(A) review such rule; and

(B) update such rule if the Secretary considers it necessary.

(4) **RULES OF CONSTRUCTION.**—

(A) **NO CONDITIONS ON DEPLOYMENT.**—Nothing in this subsection may be construed to limit or affect the Secretary's authority under any other provision of law. The Secretary may not condition deployment or testing of highly automated vehicles on review of safety assessment certifications.

(B) **NO NEW AUTHORITIES.**—No new authorities are granted to the Secretary under this section other than the promulgation of the rule pursuant to paragraph (1).

(5) **REVIEW AND RESEARCH.**—To accommodate the development and deployment of highly automated vehicles and to ensure the safety and security of highly automated vehicles and motor vehicles and others that will share the roads with highly automated vehicles, not later than 180 days after the date of the enactment of this section, the Secretary shall—

(A) initiate or continue a review of the Federal motor vehicle safety standards in effect on such date of enactment; and

(B) initiate or continue research regarding new Federal motor vehicle safety standards.

(b) **RULEMAKING AND SAFETY PRIORITY PLAN.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this section, the Secretary shall make available to

the public and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a rulemaking and safety priority plan, as necessary to accommodate the development and deployment of highly automated vehicles and to ensure the safety and security of highly automated vehicles and motor vehicles and others that will share the roads with highly automated vehicles, to—

(A) update the motor vehicle safety standards in effect on such date of enactment;

(B) issue new motor vehicle safety standards; and

(C) consider how objective ranges in performance standards could be used to test motor vehicle safety standards, which safety standards would be appropriate for such testing, and whether additional authority would facilitate such testing.

(2) INCLUSION OF PRIORITIES.—

(A) PRIORITIES.—The plan required by paragraph (1) shall detail the overall priorities of the National Highway Traffic Safety Administration for the 5 years following the issuance of the plan, including both priorities with respect to highly automated vehicles and priorities with respect to other safety initiatives of the Administration, in order to meet the Nation’s motor vehicle safety challenges.

(B) IDENTIFICATION OF ELEMENTS THAT MAY REQUIRE STANDARDS.—For highly automated vehicles, the National Highway Traffic Safety Administration should identify elements that may require performance standards including human machine interface, sensors, and actuators, and consider process and procedure standards for software and cybersecurity as necessary.

(3) PERIODIC UPDATING.—The plan required by paragraph (1) shall be updated every 2 years, or more frequently if the Secretary considers it necessary.

(4) RULEMAKING PROCEEDINGS ON UPDATED OR NEW MOTOR VEHICLE SAFETY STANDARDS.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall initiate the first rulemaking proceeding in accordance with the rulemaking and safety priority plan required by paragraph (1).

(B) PRIORITIZATION OF SUBSEQUENT PROCEEDINGS.—The Secretary shall continue initiating rulemaking proceedings in accordance with such plan. The Secretary may change at any time those priorities to address matters the Secretary considers of greater priority. If the Secretary makes such a change, the Secretary shall complete an interim update of the priority plan, make such update available to the public, and submit such update to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

§ 30130. Cybersecurity of automated driving systems

(a) *CYBERSECURITY PLAN.*—A manufacturer may not sell, offer for sale, introduce or deliver for introduction into commerce, or import into the United States, any highly automated vehicle, vehicle that performs partial driving automation, or automated driving system unless such manufacturer has developed a cybersecurity plan that includes the following:

(1) A written cybersecurity policy with respect to the practices of the manufacturer for detecting and responding to cyber attacks, unauthorized intrusions, and false and spurious messages or vehicle control commands. This policy shall include—

(A) a process for identifying, assessing, and mitigating reasonably foreseeable vulnerabilities from cyber attacks or unauthorized intrusions, including false and spurious messages and malicious vehicle control commands; and

(B) a process for taking preventive and corrective action to mitigate against vulnerabilities in a highly automated vehicle or a vehicle that performs partial driving automation, including incident response plans, intrusion detection and prevention systems that safeguard key controls, systems, and procedures through testing or monitoring, and updates to such process based on changed circumstances.

(2) The identification of an officer or other individual of the manufacturer as the point of contact with responsibility for the management of cybersecurity.

(3) A process for limiting access to automated driving systems.

(4) A process for employee training and supervision for implementation and maintenance of the policies and procedures required by this section, including controls on employee access to automated driving systems.

(b) *EFFECTIVE DATE.*—This section shall take effect 180 days after the date of enactment of this section.

§ 30131. Rear seat occupant alert system

(a) *RULEMAKING REQUIRED.*—Not later than 2 years after the date of enactment of this section, the Secretary shall issue a final rule requiring all new passenger motor vehicles weighing less than 10,000 pounds gross vehicle weight to be equipped with an alarm system to alert the operator to check rear designated seating positions after the vehicle motor or engine is deactivated by the operator.

(b) *PHASE-IN.*—The rule issued pursuant to subsection (a) shall require full compliance with the rule beginning on September 1st of the calendar year that begins 2 years after the date on which the final rule is issued.

(c) *DEFINITIONS.*—For purposes of this section—

(1) the term “passenger motor vehicle” has the meaning given that term in section 32101; and

(2) the term “rear designated seating position” means any designated seating position that is rearward of the front seat.

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SUBCHAPTER IV—ENFORCEMENT AND ADMINISTRATIVE

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§ 30165. Civil penalty

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—A person that violates any of section 30112, 30115, 30117 through 30122, 30123(a), 30125(c), 30127, 30130, 30141 through 30147, or 31137, or a regulation prescribed thereunder, is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum penalty under this subsection for a related series of violations is \$35,000,000.

(2) SCHOOL BUSES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), the maximum amount of a civil penalty under this paragraph shall be \$10,000 in the case of—

- (i) the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or
- (ii) a violation of section 30112(a)(2) of this title.

(B) RELATED SERIES OF VIOLATIONS.—A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by that section. The maximum penalty under this paragraph for a related series of violations is \$15,000,000.

(3) SECTION 30166.—Except as provided in paragraph (4), a person who violates section 30166 or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is \$5,000 per violation per day. The maximum penalty under this paragraph for a related series of daily violations is \$35,000,000.

(4) FALSE OR MISLEADING REPORTS.—A person who knowingly and willfully submits materially false or misleading information to the Secretary, after certifying the same information as accurate under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than \$5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is \$1,000,000.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—

- (1) the nature of the defect or noncompliance;

(2) knowledge by the person charged of its obligations under this chapter;

(3) the severity of the risk of injury;

(4) the occurrence or absence of injury;

(5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;

(6) actions taken by the person charged to identify, investigate, or mitigate the condition;

(7) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;

(8) whether the person has been assessed civil penalties under this section during the most recent 5 years; and

(9) other appropriate factors.

(d) SUBPENAS FOR WITNESSES.—In a civil action brought under this section, a subpoena for a witness may be served in any judicial district.

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