

## ATTACHMENT A

**BILL:** HOUSE RESOLUTION BILL 3388 / U.S. SENATE BILL 1885

**AUTHOR:** CONGRESSMAN ROBERT E. LATTA (R-OHIO) / U.S. SENATOR JOHN THUNE (R-SOUTH DAKOTA)

**SUBJECT:** FEDERAL AUTONOMOUS VEHICLE LEGISLATION

**STATUS:** H.R. 3388 PASSED BY U.S. HOUSE OF REPRESENTATIVES  
S. 1885 PASSED BY THE SENATE COMMITTEE ON  
COMMERCE, SCIENCE AND TRANSPORTATION – PENDING  
CONSIDERATION BY FULL SENATE

**ACTION:** WORK WITH AUTHOR

### **RECOMMENDATION**

Staff recommends the Board of Directors adopt a Work With Author position on H.R. 3388 and S.1885 to ensure that the State of California, Los Angeles County and individual cities across Los Angeles County are able to appropriately regulate the operation of autonomous vehicles on their roadways to safeguard public safety.

### **ISSUE**

Congress is working in both chambers to approve autonomous vehicle legislation that would set the stage for the continuing development of autonomous vehicles across the United States. While the Federal Government has jurisdiction over vehicle design, construction and performance, States and localities have jurisdiction over when, where and how autonomous vehicles operate. Both the House and the Senate bills contain sections providing federal preemption over State and local laws, which has raised concerns over the ability of States and local governments to control and ensure the safe operation of autonomous vehicles. An additional concern is that neither the House nor Senate bills address data sharing between the private sector and States and local governments.

### **DISCUSSION**

As firms developing autonomous vehicles continue to develop and test Highly Autonomous Vehicles (HAV), it is important to establish clear guidelines that are uniform throughout the country in order to not stifle innovation in this new and growing industry. At the same time, it is important for States and local governments who will have HAVs being tested on their streets and highways be able to ensure the safety of the public as well as to regulate the operation of these new vehicles in an effective and efficient manner. Two bills have been considered in Congress have been drafted to establish uniform standards for autonomous vehicles. Congressman Robert Latta (R-OH) has authored H.R. 3388, the Safely Ensuring Lives Future Deployment and Research In Vehicle Evolution Act, or the SELF DRIVE Act. U.S. Senator John Thune

(R-SD) has authored S. 1885, the American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act, or the AV START Act. Both the SELF DRIVE Act and the AV START Act provide for a process for research and require federal rulemaking on how autonomous vehicle manufacturers inform consumers of research outcomes. The SELF DRIVE Act has passed the U.S. House of Representatives and the AV START Act was favorably reported out of the Committee on Commerce, Science and Transportation and is currently awaiting consideration by the full Senate.

H.R. 3388 contains language preempting State and local laws that place an “unreasonable restriction” on design, construction and performance of HAVs. The term “performance” as it relates to motor vehicles or HAVs has not been defined in any statutes, regulations, or guidelines. Instead, the term performance is referenced in the definitions of “motor vehicle safety” and “motor vehicle standard” within Chapter 301 of the United States Code, which regulates motor vehicle safety. The National Highway Traffic Safety Administration (NHTSA) has been delegated the authority to regulate the safety, design and performance aspects of motor vehicles and motor vehicle equipment, and States continue to be responsible for regulating the human driver and vehicle operations. Because the HAV system is considered the “driver” in an HAV, there are circumstances in which States and local governments must regulate the in-use “performance” of the HAV system as the driver, rather than the equipment.

While S. 1885 initially included the exact same preemption language as H.R. 3388, the language was removed during the Committee markup. The Committee adopted an amendment that modified the bill by removing language specifically reserving for State and local governments the authority to regulate typically State and local concerns such as law enforcement and traffic laws. This language should be reinserted in S. 1885 and combined with the suggested clarification on the term performance before being passed by the Senate.

If H.R. 3388 and S. 1885 were amended to clearly state that the term performance, as it relates to preempting state laws, excludes all local and state traffic laws, States and local governments would be in a much stronger position to ensure public safety as it relates to the operation of autonomous vehicles on their roadways.

Another concern is that neither H.R. 3388 nor S. 1885 addresses data sharing between the private sector and States and local governments. Both bills should be modified to require private sector entities to share anonymized automated vehicle operation and performance data with State and local governments to ensure that States and local governments are able to ensure the safe operation of automated vehicles on our roadways.

## **DETERMINATION OF SAFETY IMPACT**

Without properly addressing the issue of data sharing and defining the term “performance” and making clear that “performance” does not preempt or preclude continued enforcement of and compliance with local traffic laws, States and local

governments may not be able to effectively ensure the safe and efficient operation of Highly Autonomous Vehicles on local streets.

### **FINANCIAL IMPACT**

There is no financial impact determined at this time.

### **ALTERNATIVES CONSIDERED**

Our agency could consider the option of not being involved in the development of federal legislation with respect to autonomous vehicles. Metro staff does not recommend this alternative.

### **NEXT STEPS**

Should the Board adopt a position to work with the authors on both bills, staff will communicate the Board's position to the authors and their professional staff and work to ensure that our Board-adopted recommendation is reflected in the final legislation Congress adopts with respect to autonomous vehicles. Staff will continue to keep the Board informed as this issue is addressed throughout the 115<sup>th</sup> Congress.