



Consumers for Auto Reliability and Safety

October 25, 2017

Via Email: Randi Calkins, Regulations Analyst
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Re: Proposed Driverless Testing and Deployment Regulations – Released October 11, 2017

Thank you for the opportunity to comment regarding the Department of Motor Vehicle's proposed regulations, released on October 11, 2017, regarding Autonomous Vehicles (AVs).

CARS is a national, award-winning non-profit auto safety and consumer advocacy organization dedicated to preventing motor vehicle-related fatalities, injuries, and economic losses. CARS has actively advocated for many improvements in auto safety technology, and has participated in workshops and other forums regarding autonomous vehicles convened by the national Highway Traffic Safety Administration and the California Department of Motor Vehicles, to provide consumer / safety perspectives.

Unfortunately, the DMV failed to address the serious safety issues raised in our earlier comments, submitted April 24, 2017. Accordingly, we hereby incorporate those comments as an attachment, and continue to urge that each of the issues identified in those comments be addressed prior to finalization of any regulations.

With regard to the specific changes proposed in the most recent set of proposed regulations, we submit the following:

Lack of Federal Safety Standards Poses Threat to Public Safety

To date, NO federal motor vehicle safety standards exist which apply specifically to AVs. In the absence of even basic, minimal federal safeguards, issued by the National Highway Traffic Safety Administration, there is a serious regulatory vacuum that places public

safety at risk. For example, there is no standard that requires AVs to be reasonably secure from being hacked and controlled by cyber-criminals, or that requires AVs to be safe to operate in reasonably foreseeable weather conditions, or in the event of emergency evacuations from a fire zone where there is heavy smoke, and the power is out.

Until the necessary federal framework for AVs is in place, it would be premature and irresponsible for California's DMV to allow the sale or lease of AVs to retail consumers, particularly since they will inevitably be resold to other consumers who are not aware of the safety implications and the vehicles' limitations.

As the auto industry has repeatedly demonstrated for decades, that industry cannot be trusted to act in the interests of its customers, or to put their safety first, instead repeatedly and illegally concealing safety defects while their customers and others who share the roads continued to suffer debilitating injuries and to die. The need for federal safety standards to address AVs is indisputable and clear. The auto industry cannot, and must not, be trusted to voluntarily police itself.

However, it would be sensible and appropriate to allow the continued testing of AVs, under carefully controlled conditions, with adequate regulation and safeguards.

DMV's proposal threatens public safety through radical, unprecedented, and unauthorized shift in liability

We believe that the DMV lacks the authority to address issues of liability regarding autonomous vehicles. That is an area that is properly left to the Legislature and the Courts. The DMV must not be allowed to overturn legal precedents established by Courts of Law, or to usurp the power and authority reserved by the Legislature and its duly elected Members. The DMV lacks the authority to properly balance the public interest in safety with the desire of the automotive and technology industries to capitalize on their considerable investments in AV technologies.

Therefore, all of the proposed sections regarding AV liability are fundamentally flawed, and should be stricken. More specifically, the following proposed language exceeds the DMV's authority and threatens to harm the motoring public in California:

§228.28 Driver and Manufacturer Responsibility

The newly proposed language states that under Levels 3, 4, and 5, the manufacturer can be held responsible only when the vehicle has *"been maintained in compliance with manufacturer's specifications and any modifications to the vehicle that affect the operation of the vehicle's autonomous technology are in compliance with the manufacture's specifications."*

This proposal is an egregious and dangerous abuse of the DMV's authority, tipping the scales of justice in favor of irresponsible auto companies who fail to provide adequate safety technology, potentially placing what would likely be an insurmountable burden on the consumer to prove that the vehicle was maintained at all times in compliance with

specifications that may be designed specifically and solely to evade liability, or that may not even be related to the causes of a crash.

Also, this language in particular is problematic:

§227.38. Manufacturer's Permit to Test Autonomous Vehicles that do not Require a Driver.

“(b) The manufacturer certifies that, to the extent that the manufacturer's autonomous technology causes the autonomous vehicle to be at-fault in a collision, the manufacturer shall assume any and all responsibility for liability associated with the operation of the vehicles on public roads for damages caused by the autonomous vehicle in such collision, but subject to applicable law.”

This proposal fails to take into account instances where other manufacturing defects in the vehicle may cause failures of the autonomous technology, limiting certification only to the narrow category of autonomous technology, to the exclusion of other components that may directly and adversely affect that technology, harming the public.

Further, we agree with each of the specific concerns and objections raised by the Consumer Attorneys of California in their comments submitted on this date. Rather than repeat each of those points here, we hereby incorporate those by reference.

Thank you again for the opportunity to comment.

Respectfully submitted,

Rosemary Shahan

Rosemary Shahan
President