
House Bill XXXX

State of Washington 65th Legislature 2017 Regular Session

1 AN ACT Relating to Building Autonomous Technologies, Manufacturing, and Networks
2 • adding a new chapter to TITLE 46;
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHING-
4 TON:

5 **NEW SECTION. Sec. 1. Definitions**

6 The following definitions shall apply to all sections within this chapter.

- 7 • Autonomous Vehicle - A motor vehicle that is equipped with a self-driving
8 system. Any vehicle at or exceeding - Level Three as established by the
9 Society of American Engineers shall qualify as an autonomous vehicle.
- 10 • Self-driving system - Artificial Intelligence system that is capable of func-
11 tioning under conditions which require it to engage in the dynamic driving
12 task.
- 13 • Testing - Driving of an autonomous vehicle under supervision of a human
14 operator that can take control of the vehicle immediately, manually or
15 remotely.
- 16 • Autonomous Vehicle Manufacturer – Any individual or company that
17 develops autonomous vehicles for testing or deployment purposes on public
18 roadways; this shall include original equipment manufacturers, alterers, or
19 modifiers;

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- 1 • Other Autonomous Vehicle Entity – is any individual or company that is not
- 2 a manufacturer and is involved in any activity related to the manufacturing,
- 3 testing, operation, selling, or renting of an autonomous vehicle
- 4 • Dynamic Driving Task - Use of sensory and motive capacity to engage,
- 5 direct, and control a vehicle whether through the use of eyes, hands, or
- 6 technological means.
- 7 • Activator - Individual who activates the automated vehicle functionality
- 8 • “Operator or driver” means every person who drives or is in actual physical
- 9 control of a vehicle provided that in regard to any vehicle whose self-driving
- 10 system is rated as level four or higher and is properly engaged, the self-
- 11 driving system shall be the driver and the self-driving system shall be
- 12 considered the operator or driver of the vehicle.

13 **Levels of Automation**

- 14 • Level Zero Autonomous Vehicle - the full-time performance by the human
- 15 driver of all aspects of the dynamic driving task, even when enhanced by
- 16 warning or intervention systems
- 17 • Level One Autonomous Vehicle - the driving mode-specific execution by
- 18 a driver assistance system of either steering or acceleration/deceleration
- 19 using information about the driving environment and with the expectation
- 20 that the human driver perform all remaining aspects of the dynamic driving
- 21 task
- 22 • Level Two Autonomous Vehicle - the driving mode-specific execution by
- 23 one or more driver assistance systems of both steering and acceleration/
- 24 deceleration using information about the driving environment and with
- 25 the expectation that the human driver perform all remaining aspects of
- 26 the dynamic driving task
- 27 • Level Three Autonomous Vehicle - the driving mode-specific performance
- 28 by an automated driving system of all aspects of the dynamic driving task
- 29 with the expectation that the human driver will respond appropriately to
- 30 a request to intervene
- 31 • Level Four Autonomous Vehicle - the driving mode-specific performance
- 32 by an automated driving system of all aspects of the dynamic driving task,
- 33 even if a human driver does not respond appropriately to a request to
- 34 intervene
- 35 • Level Five Autonomous Vehicle - the full-time performance by an automated
- 36 driving system of all aspects of the dynamic driving task under all roadway
- 37 and environmental conditions that can be managed by a human driver

1 NEW SECTION Agency Delegations

2 ADMINISTRATIVE ISSUES

3 **The Committee.** The Transportation Commission will create and launch the
4 “Committee for Autonomous Technologies Safety and Cybersecurity” (Cyber-
5 CATS). The Committee shall include representatives from the Office of the
6 Governor, the Department of Licensing, the State Department of Transporta-
7 tion, the Washington State Patrol, Washington Traffic Safety Commission, the
8 Office of the Chief Information Officer, Washington State Office of the Insurance
9 Commissioner, Washington State Department of Social and Health Services,
10 tolling and transit authorities from the Washington Department of Transporta-
11 tion, among other representatives necessary for coordinating the testing and
12 operating activities of the autonomous technology. CyberCATS should consult
13 with representatives from related industries at regular intervals.

14 **Information.** The Department of Licensing will inform the CyberCATS about
15 the requests received to test autonomous vehicles and the status of the De-
16 partment’s responses to them. Data testing requirements. The Department of
17 Licensing will define with the CyberCATS the necessary data from the entity to
18 register an autonomous vehicle in Washington State.

19 **Scope and Purpose** Review of existing laws. CyberCATS will review main
20 statutes to identify any legal issues that need to be addressed prior to the
21 deployment and operation of automated vehicles and to ensure safe testing
22 and deployment of autonomous vehicles. In particular, but not limited to,
23 the licensing and registration procedures; driver information and training; the
24 insurance and liability rules as well as the enforcement of traffic laws and
25 motor vehicle inspections; requirements and needs of law enforcement related to
26 autonomous vehicles; and whether a preclearance regime for the operation of
27 autonomous vehicles should be adopted by Washington State.

28 CyberCATS shall coordinate with the following agencies to produce reports: -
29 Department of Employment Security is charged with undertaking a study on
30 effects and recommendations to address a reduction in “drivers” necessary to
31 meet state transportation needs - Department of Natural Resources is charged
32 with undertaking a study of effects and recommendations on the environmental
33 impact of AVs - Traffic Safety Commission is charged with undertaking a study
34 of effects and making recommendations on the integration of AVs - Department
35 of Transportation is charged with compiling a list of necessary infrastructure
36 upgrades to facilitate the safe integration of AVs into WA roadways

37 **Timing** - The reports shall be produced and presented to the legislature within
38 one year.

39 **Additional Tasks** At regular intervals, CyberCATS shall evaluate and deter-
40 mine additional related studies which need to be carried out for the effective

1 administration of autonomous vehicles. # NEW SECTION Deployed Vehicles

2 **For Levels 2 and 3 autonomous vehicles:**

- 3 • The manufacturer or reseller shall provide the activator with information
- 4 about the levels of automation for specific vehicles.
- 5 • The activator shall understand their responsibilities for each level of au-
- 6 timation.

7 **For Levels 2 autonomous vehicles and lower:**

- 8 • The activator must hold a valid driving license in the United States.
- 9 • The activator is responsible for safe operation of the vehicle
- 10 • The activator is required to follow state traffic laws
- 11 • The activator is required to follow laws for licensed drivers created by the
- 12 Department of Licensing
- 13 • The activator must monitor the operation of the vehicle
- 14 • The activator must be immediately available to perform the driving task
- 15 when requested or the lower level automated system disengages.

16 **For Level 3 autonomous vehicles:**

- 17 • The activator must hold a valid driving license in the United States.
- 18 • The activator shall be responsible for resuming the dynamic driving task
- 19 within a reasonable time period after alert by the vehicle.
- 20 • The activator shall comply with all traffic laws, except that the activator
- 21 is not required to comport with 46.61.665, 46.61.667, and 46.61.668 and
- 22 related distracted driving laws to the extent that they do not unreasonably
- 23 interfere with the ability to resume the dynamic driving task when required
- 24 by the vehicle.

25 **For Levels 4 and 5 autonomous vehicles:**

- 26 • The activator is the individual who engages the autonomous driving capa-
- 27 bilities of the vehicle
- 28 • The activator does not need to be in the vehicle during operation
- 29 • The activator must exercise reasonable prudence when activating au-
- 30 tonomous functions.
- 31 • The activator and individuals being transported by a level 4 or level 5
- 32 autonomous vehicle do not require a valid driver's license.

1 **Registration and Titling**

- 2 • The vehicle shall be allowed by the Department of Licensing to safely
3 operate
- 4 • At regular intervals, or on major software revisions, a manufacturer shall
5 submit to the Department of Licensing a report of the vehicle's autonomous
6 capabilities, which shall be denoted on the vehicle's registration at the
7 time of issuance or renewal. The level of automation shall comply with
8 the definitions stated in this chapter.
 - 9 – The manufacturer shall include testing data related to safety for the
10 major software revision.
 - 11 – The manufacturer must be in compliance with the privacy require-
12 ments of this chapter.
- 13 • The registrant shall acknowledge that they understand the operation
14 requirements for the level of automation.
- 15 • When technology that allows a vehicle to be operated without a human
16 driver either at all times or under limited circumstances is installed on
17 a vehicle after the initial purchase, the vehicle shall need to get new
18 registration.
- 19 • The Dep

20 **For vehicles of level 3 and above:**

- 21 • The Department of Licensing shall issue a license plate to properly regis-
22 tered vehicles with a signifier that the vehicle has autonomous capacity.

23 **Autonomous Registration Recision**

- 24 • The Department of Transportation in coordination with the State Patrol
25 and the Department of Licensing shall have the authority to ban a vehicle
26 model's autonomous operation upon a showing of significant and systemic
27 malfunction of the autonomous system related to safety.

28 **Operation requirements**

- 29 • All accidents with vehicles must be reported in accordance to Washington
30 State laws.

31 **NEW SECTION Driving Under the Influence**

32 Notwithstanding the provisions of RCW 46.61.502, a person shall not be consid-
33 ered to drive or be in control of a vehicle within the meaning of the statute if

1 they are transported by a vehicle of an automation level greater than or equal
2 to 4, and such autonomous functions are engaged for the entire duration of such
3 transport.

4 **NEW SECTION Implied Consent**

5 Notwithstanding the provisions of RCW 46.20.308 “Implied consent- Test refusal-
6 Procedures”, a person who rides in a vehicle designated to be an autonomous
7 vehicle of SAE level 4 shall not be subject to a breath or blood test within
8 the meaning of this statute unless the arresting officer has reasonable grounds
9 to believe that the person had disabled or failed to engage the autonomous
10 functionality of the vehicle during that person’s physical control of the vehicle.

11 **Insurance**

- 12 • Any individual operating an autonomous vehicle for personal use must
13 obtain insurance in such amount required by RCW 46.29.090.
- 14 • Any individual who owns an autonomous vehicle and permits use of the
15 vehicle for commercial use shall carry insurance that complies 48.177.010
- 16 • For testing purposes, the manufacturer shall carry insurance of not less
17 than \$5,000,000, or a bond of equal amount.
- 18 • A transportation network company “network operator” shall have insurance
19 of not less than \$100,000 for every vehicle at such time as the vehicle
20 participates in the network.

21 **NEW SECTION Liability**

- 22 • For any civil claim which occurs with a vehicle operating at automation
23 level 3 as certified by the manufacturer or the Department of Licensing,
24 any party to an action based on the incident may establish a rebuttable
25 presumption that the autonomous function of the vehicle was the proximate
26 cause of the claim. The presumption may be established by showing by a
27 preponderance of the evidence the following items:
 - 28 1. The autonomous functionality of the vehicle was engaged at the time
29 the claim arose;
 - 30 2. Any of the owner, operator, or other responsible party reasonably
31 maintained the vehicle’s autonomous driving components in accor-
32 dance with applicable state law and manufacturer guidelines. Once
33 such showing has been made, the manufacturer, upfitter, or other

1 party which affixed and made available autonomous driving func-
2 tionality to the vehicle operator may be joined in the action.

3 **NEW SECTION Officer's Report**

- 4 • Officers shall collect such information as shall be proscribed by the chief of
5 police as they relate to event data recorders or other information necessary
6 for the effective policing of autonomous vehicles.

7 **NEW SECTION Privacy**

8 The manufacturer must submit to the Chief Privacy Officer a report detailing
9 the company's efforts to protect consumer privacy upon deployment and every
10 two years thereafter.

11 Manufacturers' privacy policy shall include:

- 12 1. User Notice and Consent- provide users with clear notification indicating
13 the types of information collected, what information is shared outside the
14 vehicle, and instructions on how to modify privacy settings.
- 15 2. Data Security - implement hardware and software at a level representing
16 a "best-practice" in the industry. Limit access to data on an "as-needed"
17 basis.
- 18 3. 3rd Party Data Sharing and accountability- distinctly inform users of
19 any parties, other than the manufacturer/operator, who have access to
20 information collected by their AV. Also indicate whether this information
21 is being purchased. In addition, take reasonable steps to ensure that the
22 3rd parties comply with data privacy and security notices.
- 23 4. Contextual Use - use data only for purposes previously agreed to by the
24 user.
- 25 5. User Choice - provide users with meaningful opportunity to operate AVs
26 ranging from bare transportation functionality to more enhanced personal-
27 ization.
- 28 6. "Critical Incident Recorder" File- the manufacturer shall provide the
29 relevant law enforcement agency, owners, and activators with means for
30 exporting event log of sensor information before and after an accident or
31 other critical incident in a generally used file format.
- 32 7. Breach Report and Notification - implement a data-breach response plan
33 for notification to users when there is a reasonable possibility that the
34 security and integrity of their personal data may have been compromised.
- 35 8. Data Management Limitations – collect and store the minimum amount of
36 identified or identifiable data, and for the minimum time necessary for the
37 purposes for which the personal data were collected. Whenever possible,

1 add, to the privacy security measures, the de-identification of personal
2 data
3 9. Manufacturers shall make available to owners of vehicles a record of the
4 engagement and disengagement of autonomous vehicle functionality.
5 The Chief Privacy Officer shall publish all reports online for public viewing
6 within 90 days of receipt. The Chief Privacy Officer shall review and issue annual
7 recommendations to the legislature identifying any recommended statutory
8 updates.

9 **NEW SECTION Testing**

10 **APPLYING FOR A TEST VEHICLE PERMIT**

- 11 • – A manufacturer or autonomous vehicle entity that wants to test the
12 vehicle on public roadways must apply to the Department of Licensing
13 which may issue the test vehicle permit. The application must include:
 - 14 • Statement that each vehicle follows NHTSA Performance guidance and
15 complies with applicable Federal Motor Vehicle Safety Standard.
 - 16 • Identification of manufacturer or autonomous vehicle entity and contact
17 information of the testing program director.
 - 18 • Vehicles' identification to be tested on public roadways by VIN, vehicle
19 type, and year, make, and model.
 - 20 • Identification of the operator of the test vehicle with their driver's license
21 number, and respective jurisdiction.
 - 22 • Safety and compliance plan, including self-certification of testing and com-
23 pliance to NHTSA's guidance (a copy of the summary Safety Assessment
24 submitted to the NHTSA per the Vehicle Performance Guidance).
 - 25 • Privacy data policy.
 - 26 • Evidence of insurance, surety bond, or proof of self-insurance for 5 million
27 US dollars.
 - 28 • Summary of the activators' training.
 - 29 • The Agency will grant testing approval when evidence of insurance, activa-
30 tors training, and self-certification

31 **ISSUING PERMISSION TO TEST**

- 32 • The Department of Licensing must involve the Washington State Patrol
33 before granting permission of testing.

- 1 • The Department of Licensing will provide notice of the privacy data
- 2 policy of the manufacturer or an autonomous vehicle entity presented in
- 3 the application for testing a vehicle to the Chief Privacy Officer of the
- 4 Washington State.
- 5 • Permission can be granted with restrictions of geographic areas.
- 6 • Authorization may be suspended if the tester fails to comply with the
- 7 abovementioned requirements.
- 8 • The Department of Licensing will issue a letter of authorization of testing
- 9 in the jurisdiction and a permit for each testing vehicle.
- 10 • The vehicle-specific permit must be carried in the test vehicle all the times.
- 11 • The vehicle must be properly registered and titled in accordance to the
- 12 State laws.

13 **OPERATION UNDER TESTING LICENSE**

- 14 • The vehicle can only be tested by an activator designated by the company.
- 15 • The activator must hold a valid driving license in the United States.
- 16 • The activator must have received the proper training to manage the specific
- 17 test vehicle.
- 18 • The activator must be able to take immediate control of the vehicle,
- 19 manually or remotely, in case of an emergency or malfunctioning of the
- 20 vehicle.
- 21 • The activator is responsible for following the traffic rules and of any traffic
- 22 violation of the vehicle.
- 23 • All accidents with test vehicles must be reported in accordance to State
- 24 laws.
- 25 • A testing license must specify the range of autonomous capacities to be
- 26 tested.

27 **Penalties**

28 Failure to follow state testing requirements for a vehicle operating under a testing
29 license will result in a fine. The Department of Licensing shall be responsible for
30 issuing fines for non-compliance.

31 **NEW SECTION Traffic Laws**

32 Any application of traffic laws to the operation of autonomous vehicles shall
33 be constructed to afford the autonomous vehicle the same discretion which a
34 reasonable human driver is afforded when faced with exigent circumstances.

35 Such exigent circumstances include, but are not limited to obstructed roadways,
36 allowances for pedestrians and bicyclists, and natural disasters.