

Federal Policy Developments Concerning Autonomous Vehicles

August 9, 2019

Recent events in Washington, D.C., suggest that we may see developments this fall with regard to autonomous vehicles (AV) policy. A letter from key congressional committees seeking comments on AV issues and other developments suggest we may see draft AV legislation after the August recess. Two recent rulemaking notices from the Department of Transportation (DOT) also suggest that we may see changes in federal regulations that could ease restrictions on the use of Automated Driving Systems (ADS). Now is the time for industry stakeholders to work to influence developments in Washington.

Efforts to pass federal AV legislation have been unsuccessful to date. The Senate Commerce Committee advanced the American Vision for Safer Transportation through Advancement of Revolutionary Technologies (**AV START**) Act in 2017. That bill died after the full chamber failed to take it up in December 2018, due, in part, to concerns regarding privacy, safety and cybersecurity issues. Another bill, the Safely Ensuring Lives Future Deployment and Research in Vehicle Evolution (**SELF DRIVE**) Act, passed the House without opposition, but similarly died in the Senate in December 2018.

Recent events suggest lawmakers may be open to pursuing a new AV bill after the August recess. As [we noted in a blog post](#), the Senate Commerce Committee and the House Energy and Commerce Committee recently signaled that they may be reviving efforts to pass federal AV legislation. The Committees issued a joint letter last week seeking feedback from industry stakeholders on AV-related issues. In their letter, the Committees indicated that they are working together on bipartisan AV legislation. Responses to the letter are due August 23. The letter follows comments by Senator John Thune (R-SD), author of the AV START Act, in which he stated that he is planning to introduce the same bill text as previously approved to serve as a basis for ongoing negotiations. ([The Hill](#).)

In addition to signs of potential congressional activity, two recent notices of regulatory rulemaking indicate that the DOT is considering changes to regulations related to the use of ADS. The notices suggest that significant changes to ADS-related regulations could occur in the coming year.

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- First, the Federal Motor Carrier Safety Administration (FMCSA) within the DOT recently issued a Notice of Proposed Rulemaking regarding the introduction of ADS-equipped commercial motor vehicles (CMVs) onto the Nation's roadways. ([FMCSA Notice](#).) FMCSA is seeking public comment about Federal Motor Carrier Safety Regulations (FMCSRs) that may need to be amended, revised or eliminated to facilitate the safe introduction of ADS-equipped CMVs. FMCSA is considering changes to account for the differences between human operators and ADSs. Comments are due by August 26, 2019.
- Second, the National Highway Traffic Safety Administration (NHTSA) within the DOT recently issued a Notice of Proposed Rulemaking regarding removing regulatory barriers for vehicles with ADS. ([NHTSA Notice](#).) NHTSA is seeking public comment on the near- and long-term challenges of testing and verifying compliance with existing crash avoidance (100-series) Federal Motor Vehicle Safety Standards (FMVSSs) for ADS-Dedicated Vehicles (ADS-DVs) that lack traditional manual controls necessary for human control but that are otherwise typical vehicles with typical seating configurations. In short, NHTSA is considering changes that may eliminate safety requirements that assume the involvement of a human driver. Comments are due by August 28, 2019.¹

These developments point to the possibility of significant movement with regard to federal AV policy in the coming months and year that could provide certainty regarding demonstration, deployment and eventual sale of AVs. Industry stakeholders should move now to work to influence these developments in ways that make sense for business. Our AV group is closely monitoring developments and can assist with comment submissions.

¹ NHTSA granted a 30-day extension of the comment period in response to public request. ([NHTSA Comment Period Extension](#).)

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