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PERSPECTIVE

Recent federal policy developments concerning autonomous vehicles

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This article provides an overview of recent developments in Washington, D.C. that may influence federal autonomous vehicle (AV) policy. These developments include markups of relevant fiscal measures, solicitation of comments on AV-related issues and discussions among lawmakers regarding potential legislation.

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 safety. 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.

States, in contrast, have been busy passing AV-related legislation. As of the end of 2018, 29 states had enacted legislation relating to autonomous vehicles. State AV legislation covers everything from insurance to cybersecurity. In the absence of federal action, the AV industry is facing a growing patchwork of state laws.



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Senate Majority Whip John Thune (R-S.D.) on Capitol Hill, in Washington, June 18, 2019.

Overview of Recent AV-Related Developments in Washington, D.C.

In late July, the Senate Committee on Environment and Public Works (EPW) advanced the America's Transportation Infrastructure Act (ATIA), which would reauthorize federal surface transportation programs for five years. ATIA would create a new Center of Excellence on New Mobility and Automated Vehicles, require the Department of Transportation to pursue studies of things like improving roadway infrastructure to facilitate deployment of AVs and ADS and establish a new emerging technology research pilot program. The Senate Commerce, Banking and Finance Committees must

still draft and incorporate sections of the bill that fall under their respective jurisdictions and conduct their own markups. No markups have been scheduled as of yet. No corresponding legislation has been introduced in the House and none is expected this year.

At the end of July, the Senate Commerce Committee and the House Energy and Commerce Committee signaled that they may revive efforts to pass federal AV legislation. The committees issued a joint letter 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 that letter were due

in late August. The committees may use the comments they receive to help guide upcoming discussions around federal AV policy.

The letter followed comments by Sen. John Thune (R-S.D.), author of the AV START Act, in which he stated that he is planning to introduce the same text of the act as was previously approved by the Senate Commerce Committee. Thune has suggested that Sen. Gary Peters (D-Mich.) will again co-sponsor the act with Thune.

A bipartisan group of lawmakers from both the Senate and the House reportedly held meetings over the summer to work on a potential deal. The inclusion of members of both chambers is apparently an effort to preempt concerns that could derail legislation once introduced. We have yet to see the results of those meetings.

On Aug. 23, a group of 47 organizations representing diverse stakeholders sent a letter to the chairs and ranking members of the Senate Commerce, Senate EPW, House Energy and Commerce, and House Transportation and Infrastructure Committee calling for action on AV legislation. The group recommended creating comprehensive performance standards to ensure safety, avoiding federal preemption of state laws, ensuring local policy control for road safety and protecting consumer rights.

In addition to signs of potential congressional activity, two recent notices of regulatory

rulemaking indicate that DOT is considering changes to regulations related to the use of ADS that may ease or remove restrictions that assume the involvement of a human driver. The public comment period for both notices closed in late August.

1) The Federal Motor Carrier Safety Administration (FMCSA) within DOT issued a Notice of Proposed Rulemaking regarding the introduction of ADS-equipped commercial motor vehicles (CMVs). FMCSA sought public comment about regulations that may need to be amended to facilitate the safe introduction of ADS-equipped CMVs. FMCSA is considering changes to account for the differences between human operators and ADSs. FMCSA has not provided an estimated timeline for the next steps in its rulemaking process.

2) The National Highway Traffic Safety Administration (NHTSA) within DOT issued a Notice of Proposed Rulemaking regarding removing regulatory barriers for vehicles with ADSs. NHTSA sought 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 for ADS-Dedicated Vehicles that lack traditional manual controls necessary for human control. NHTSA has set Aug. 30, 2020, as its target date for publishing its notice of proposed rulemaking.

Other relevant, pending DOT proposals are at various stages in the rulemaking process, with

comment periods scheduled for the coming year.

- NHTSA also plans to publish an advanced Notice of Proposed Rulemaking regarding ADS safety principles on Dec. 30, 2019, with a comment period ending on Feb. 28, 2020.

- A NHTSA Notice of Proposed Rulemaking regarding occupant protection for ADS is slated for publication on Dec. 31, 2019, with a comment period ending on Feb. 28, 2020.

- A NHTSA notice seeking comments on efforts to cre-

ate a pilot program to research emerging advanced vehicle safety technologies such as ADS is scheduled for publication on Jan. 31 with a comment period ending on March 30, 2020.

- A NHTSA advanced Notice of Proposed Rulemaking that would address federal standards for safety messaging in vehicles without conventional driver controls has been rescheduled to March 30 with a comment period ending on May 30, 2020.

- A NHTSA regulation regarding vehicle-to-vehicle communi-

cation (V2V) has an “underdetermined” publication date. The V2V rulemaking was initiated in July 2014.

These developments point to the possibility of movement with regard to federal AV policy in the coming months and year. Negotiations continue in the face of efforts to revise AV-related regulations. What is clear is that the end of 2019 and 2020 are shaping up to be an exciting period for the AV industry.

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