

January 23, 2018

The Honorable John Thune, Chairman  
The Honorable Bill Nelson, Ranking Member  
Senate Committee on Commerce, Science, and Transportation  
Washington, DC 20510

Dear Chairman Thune and Ranking Member Nelson:

As leaders of public interest organizations representing consumers, safety advocates, persons with disabilities, law enforcement, and victims and survivors of motor vehicle crashes, we are writing to relay our strong views and growing concerns about legislation being considered by the U.S. Senate to advance driverless cars.

**Automakers themselves readily admit that AV technology is still in its infancy.**

At the recent Consumer Electronics Show (CES) in Las Vegas and the 2018 Detroit Auto Show, the most newsworthy revelations about the future of autonomous vehicle technology came from statements of senior industry executives about the time frame, and not their products. Despite unrealistic and overly optimistic predictions by some in the auto and tech industries, the truth is that driverless cars are still many years away.

For example, Gill Pratt, chief executive officer of Toyota Research Institute, stated, “It’s a mistake to say that the finish line is coming up very soon. Things are changing rapidly, but this will be a long journey.”<sup>i</sup>

Additionally, Bryan Salesky, the Chief Executive Officer of Argo AI, a company partnering with Ford on the development of AV technology noted, “We’re still very much in the early days of making self-driving cars a reality. Those who think fully self-driving vehicles will be ubiquitous on city streets months from now or even in a few years are not well connected to the state of the art or committed to the safe deployment of the technology. For those of us who have been working on the technology for a long time, we’re going to tell you the issue is still really hard, as the systems are as complex as ever.”<sup>ii</sup>

**There is no need to rush legislation that so clearly fails to protect public safety.**

These statements, as well as others, raise a critical question. Why is legislation, S. 1885, the AV START Act (American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act), being rushed to passage when it is deeply flawed and includes many provisions that will jeopardize public safety?

For example, provisions in S. 1885 allow, potentially, for millions of untested and unproven AVs to be exempt from current minimum federal motor vehicle safety performance standards (FMVSS). These vehicles will not be restricted to testing but are, rather, intended to be sold to the public without appropriate independent or governmental oversight. More needs to be done to provide essential safety protections to occupants in the AVs and those sharing the roads with them.

Additionally, auto and tech industries are given unfettered and unchecked discretion to disconnect steering wheels, brakes and other safety systems without any government review and approval. There are no legislative requirements for the National Highway Traffic Safety Administration (NHTSA) to issue even the most basic and fundamental safety rules or minimum performance standards for: protecting against hackers with cybersecurity requirements; ensuring the human driver remains alert and attentive when the computer is operating the vehicle; the electronics that power and operate safety and autonomous driving systems as the Federal Aviation Administration (FAA) requires for aircraft; and, an AV “vision test” to guarantee the AV will properly detect and respond to other vehicles, roadway infrastructure, pedestrians, bicyclists and interactions with law enforcement.

Instead of creating an unchecked, unregulated path for the entry of AVs exempt from safety standards into the marketplace, academic facilities and testing grounds should be utilized as the proper venues for evaluating AV technology. Academic institutions across the country as well as research centers such as those already established in Michigan and Florida, among others, should serve as the incubators for this unchartered technology.

**What consumers don't know will hurt them.**

The AV START Act not only denies the public essential protections by allowing sweeping safety exemptions, but the bill also omits any mandatory government requirements for consumers to know about exemptions and other information. The legislation should direct NHTSA to establish a publicly-available AV database with basic safety information about the AV level, safety exemptions, and limitations and capabilities of the AV driving system. And, manufacturers should be required to report immediately all crashes involving an AV to NHTSA - data which should then be made publicly available.

**Public opinion indicates consumers do not support the Senate approach.**

A recently released public opinion poll conducted by ORC International shows significant and widespread public concern, regardless of age, income level, political affiliation and location, about important issues in the Senate bill. These issues include: mass exemptions from existing safety standards (63% oppose); disconnection of vehicle controls such as the steering wheel and brake and gas pedals when the AV is being operated by a computer (75% oppose); minimum safety standards for new features related to the operation of AVs (73% support); cybersecurity standards (81% support); standards governing the ability of a human driver to safely take back control from the AV (84% support); minimum performance requirements for computers that operate AVs (80% support); and, the need for online consumer information about AV capabilities (87% support).

**NHTSA lacks adequate financial and staff resources and legal authorities to do the job.**

The intolerable current high level of motor vehicle crashes, fatalities and injuries, combined with the demands being placed on NHTSA with regard to the advent of AV technology, necessitates an increase to the agency budget. While the FAST Act<sup>iii</sup> did provide some additional resources, it is still inadequate to manage the challenges facing the agency and the additional responsibilities that would be required under the AV START Act. Safety should not be compromised and progress should not be slowed because the agency does not have adequate technical expertise, organization and funding to oversee the development and deployment of AVs. The administration has proposed cuts in the NHTSA's FY2018 budget and that is both unacceptable and dangerous to public safety.

Regulating AVs presents unique challenges for NHTSA, and those issues warrant the agency being given additional tools to protect against potentially catastrophic defects. Flaws or viruses in computer software of AVs could adversely affect tens of thousands of vehicles simultaneously. The agency, therefore, should be given imminent hazard authority in order to expedite the grounding of vehicles that the agency has identified as having a potentially widespread software problem or cybersecurity threats that could lead to inordinate crashes, deaths and injuries. Also, because of the potential serious nature of any software problem that could imperil safety in thousands of vehicles, the ability to levy criminal penalties is essential. Criminal penalties will deter manufacturers and suppliers from willfully permitting the sale of AV systems with flawed software operating systems that could pose a danger to human life in the event of a crash.

**There is time to get it right.**

These recent poll results combined with the reality that driverless cars are still many, many years away call for a balanced approach to protect public safety and promote consumer confidence in the technology. Whether it is children's toys, new medications or innovative vehicle technologies, these potential advances should be first assessed in a controlled environment instead of allowing widespread public sale and distribution to determine whether they are safe or have unintended consequences. The Senate bill lacks this balance and that needs to change.

We want to work with the Senate Commerce, Science, and Transportation Committee to develop legislation that encourages the safe development and deployment of driverless cars but discourages reckless decision-making and rushed-to-market product development.

Sincerely,

Catherine Chase, President  
Advocates for Highway and Auto Safety

Jason Levine, Executive Director  
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Jack Gillis, Director of Public Affairs  
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Andrew McGuire, Executive Director  
Trauma Foundation

Ralf Hotchkiss, Co-Founder  
Whirlwind Wheelchair International

cc: Members of the Committee on Commerce, Science, and Transportation

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<sup>i</sup> David Welch and Gabrielle Coppola, *Don't Worry, Petrolheads. Driverless Cars Are Still Years Away*, Bloomberg News (Jan, 9, 2018), available at: <https://www.bloomberg.com/news/articles/2018-01-09/toyota-to-hyundai-say-pump-brakes-on-hopes-of-robo-cars-arrival>

<sup>ii</sup> Bryan Salesky, *A Decade after DARPA: Our View on the State of the Art in Self-Driving Cars* (Oct. 16, 2017), available at: <https://medium.com/self-driven/a-decade-after-darpa-our-view-on-the-state-of-the-art-in-self-driving-cars-3e8698e6afe8>

<sup>iii</sup> Pub. L. 114-94 (2015).