

UNIFORM AUTOMATED OPERATION OF VEHICLES ACT

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

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WITH PREFATORY NOTE AND COMMENTS

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By
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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OF VEHICLES ACT**

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UNIFORM AUTOMATED OPERATION OF VEHICLES ACT

Prefatory Note

The Automated Operation of Vehicles Act addresses a narrow but foundational set of the many legal and policy issues raised by automated driving. It is intended to explicitly accommodate and specifically regulate the automated operation of automated vehicles. Colloquially, these vehicles may also be described as autonomous, driverless, or self-driving. Under at least some circumstances, they can steer, brake, accelerate, and signal by themselves while monitoring the road so that a human driver need not do so.

This act covers the deployment of these automated vehicles on roads held open to the public. It does not cover testing of aspirational automated vehicles for the purposes of research and development, which is the primary focus of many of the automated driving laws that states have already enacted. It does not cover remote driving, during which a human drives a vehicle while outside of or far from it. It also does not cover vehicle features that merely assist a human driver; even if these features brake, steer, and accelerate, they are still designed with the expectation that a human driver will monitor the road.

What the act does cover is still vast, for automated driving encompasses a wide range of technologies, applications of those technologies, business models for those applications, and participants in those business models. See Bryant Walker Smith, *How Governments Can Promote Automated Driving*, 47 N.M. L. Rev. 99 (2017), newlypossible.org.

For example, a vehicle capable of automated operation may or may not be designed for all roads, communities, and travel conditions; be capable of automated operation for an entire trip; include a traditional steering wheel, throttle, and brake pedal; need a human who can resume driving when requested to do so; need this human to be physically present in the vehicle; rely on a human located far from the vehicle to provide instructions and information; use specific sensor technologies, including camera, radar, lidar, sonar, inertial motion, and GPS; use highly detailed maps that are created in advance; communicate electronically with other vehicles; be originally manufactured as an automated vehicle; be retrofitted by a developer other than the vehicle manufacturer; be modified by third parties without the involvement of that developer; be sold to individual consumers; be deployed only as part of a fleet; carry passengers, deliver goods, provide services, or perform novel functions; and so on.

Because there could be so many different forms of automated driving, legislating for a singular vision of “driverless cars” is neither practical nor productive. Instead, it is more helpful to identify and explore assumptions in contemporary legal rules as well as in contemporary discussions of automated driving. This act is a product of this collective exploration.

The act accordingly attempts to reconcile automated driving with a typical state motor vehicle code. For this reason, in some ways the structure of the draft mirrors such a code: Many of its sections—including definitions, driver licensing, vehicle registration, equipment, and rules of the road—correspond to, refer to, and can be incorporated into some existing sections of a typical vehicle code. However, because existing codes vary widely in both substance and structure, the work of carefully codifying this act is left to each state that adopts it.

One key aspect of this act—automated driving providers—is not part of a traditional vehicle code but has parallels in how some states have approached automated vehicle testing, see, e.g., Cal. Veh. Code 38750; Ohio Executive Order 2018-04K, and in how both the National Transport Commission of Australia and the Law Commission of England and Wales envision automated vehicle deployment, see NTC Australia, Changing driving laws to support automated vehicles, ntc.gov.au/current-projects/changing-driving-laws-to-support-automated-vehicles (“automated driving system entity”); Law Commission, Automated Vehicles: A joint preliminary consultation paper, lawcom.gov.uk/project/automated-vehicles (same).

The automated driving provider is Automated Operation of Vehicles Act’s answer to the question of who or what drives an automated vehicle when it is under automated operation. States have a strong interest in regulating conventional driving, which they do in part by regulating human drivers: In general, these drivers must obtain driving licenses issued by states, must follow rules of the road set by states, and are subject to enforcement by the states. States likewise have a strong interest in regulating automated driving, which they can do in part by regulating the legal entities that effectively act as drivers.

Under the act, a qualified entity declares to the state that it will be the legal driver for certain automated vehicles. Provided that it meets certain qualifications, this “automated driving provider” might be an automated driving system developer, a vehicle manufacturer, a component supplier, a data provider, a fleet operator, an insurer, an affiliated firm, or another kind of market participant that has yet to emerge. The automated driving provider is primarily defined not by a specific role in the stream of commerce but, rather, by a willingness to self-identify and an ability to meet the technical and legal requirements specified in the act.

The act uses the motor vehicle registration framework that already exists in states—and that already applies to both conventional and automated vehicles—to encourage automated driving providers to self-identify. Existing law generally requires the registration of a motor vehicle that is operated on a public road, and the vehicle’s owner or lessee typically obtains this registration. Under this act, however, an owner or lessee may register an automated vehicle only if an automated driving provider has designated that vehicle as an associated automated vehicle. If the automated vehicle is not “associated” in this way with an automated driving provider, then it may not be registered and therefore may not be operated on public roads.

By harnessing an existing framework, the act seeks to respect and empower state motor vehicle agencies. Among other functions, such an agency typically licenses drivers and registers motor vehicles. Under this act, the agency does not register an automated driving provider in the same way that it licenses a traditional human driver. But the agency does ensure that every automated vehicle that it registers will have a legal driver—the automated driving provider—that meets basic requirements. The agency has the flexibility to adapt this process to its existing registration procedures and the authority to intervene decisively when the credibility of an automated driving provider or the roadworthiness of an automated vehicle is in doubt.

The act’s registration-centered approach is also intended to complement both current and potential federal motor vehicle legislative and regulatory law. The federal government plays an important role—but not an exclusive role—in regulating the design of motor vehicles. Although the U.S. National Highway Transportation Safety Administration (NHTSA) does not approve

motor vehicle designs, it does set specific standards for the performance of certain systems on these vehicles, and manufacturers then self-certify that the vehicles they produce meet these standards. Such standards currently exist for brakes, lights, and many other conventional systems but not for advanced driver assistance systems or automated driving systems. See U.S. Department of Transportation, Automated Vehicles, transportation.gov/AV. Federal law preempts incompatible state design standards, and bills in the 2017-18 Congress would have ambiguously expanded this federal preemption, see H.R.3388 (115th Congress); S.1885 (115th Congress).

Regardless, states are—and even under these federal bills would remain—largely responsible for ensuring that individual noncommercial vehicles are appropriately registered, maintained, and operated. For example, a motor vehicle that met federal standards when it was first sold may not be roadworthy if it has parts that are no longer functioning, defects that have not been remedied, or modifications that create new hazards. And even a roadworthy vehicle can be operated irresponsibly. Motor vehicle agencies, law enforcement, and courts at the state and local levels must routinely address these unfortunate operational realities. For all these reasons, states play critical roles in motor vehicle safety.

This act is likewise about safety—encouraging the responsible deployment of automated vehicles in a way that seeks to balance concerns about the current safety of conventional driving with concerns about the potential safety of automated driving. As existing automated driving laws and policies demonstrate, states approach this balancing act in different ways. The Automated Operation of Vehicles Act draws from and builds on these approaches.

UNIFORM AUTOMATED OPERATION OF VEHICLES ACT

Legislative Note: *This act should be codified in accordance with state practice into the state’s vehicle code or the equivalent law of the state. The codification could amend provisions of the state’s vehicle code, insert provisions in the state’s vehicle code, or add new provisions to the state’s vehicle code. The act should be codified so that, in relation to automated vehicles, it supplements, modifies, and clarifies but does not wholly displace generally applicable state vehicle law.*

Comment

As stated in the legislative note, the Automated Operation of Vehicles Act is intended to supplement, modify, and clarify—but not wholly displace—generally applicable state motor vehicle law. This law, which is referred to in this act as the “vehicle code,” typically addresses vehicle titling, vehicle registration, driver licensing, rules of the road, and similar topics. However, states are not consistent in the substance or the structure of their vehicle law. For example, many states use the term “vehicle code” to refer to motor vehicle law generally (as does this act), but others use the term to refer to only a subset of this law, and others do not use the term at all. The Uniform Vehicle Code and Model Traffic Ordinance, last published in 2000 by an organization that is now defunct, is as helpful in illustrating divergence as commonality.

It is against this backdrop that some states have enacted legislation specific to automated driving. This legislation has been codified in various ways, including as a standalone chapter, see, e.g., NRS Chapter 482A, as new sections within the state’s vehicle code or its equivalent, see, e.g., Cal. Veh. Code div. 16.6, as new provisions within existing sections of the state’s vehicle code, see, e.g., M.C.L.A. 257.36, and as amendments to existing provisions of the state’s vehicle code, see, e.g., T.C.A. § 55-8-101. Some states have taken multiple approaches. Compare, e.g., Col. Rev. Stat. Ann. § 42-1-102 with § 42-4-110 with § 42-4-242.

Regardless of how this legislation has been codified, state motor vehicle law still generally applies with respect to automated driving. In some cases, legislation expressly excludes the application of specified provisions of the state’s vehicle code, see, e.g., Fla. Stat. Ann. § 316.305, expressly excludes the application of unspecified inconsistent provisions, see, e.g., Col. Revised Stat. Ann. § 42-4-242, or would seem to implicitly exclude the application of inconsistent provisions, see, e.g., Cal. Vehicle Code § 38755. In no case, however, does legislation wholly or even largely remove automated driving from the state’s vehicle code.

This act takes a similar approach. Early in the process, the Committee considered whether to (1) create a new legal framework for automated vehicles to wholly supplant existing vehicle codes, (2) adopt a model vehicle code applicable to all motor vehicles and then amend it to explicitly address automated vehicles, or (3) draft a hybrid act to map an existing vehicle code onto automated vehicles. After determining the first two options to be impractical if not undesirable, the Committee concluded that only a hybrid act could effectively address the complexity and diversity of existing motor vehicle law.

UNIFORM AUTOMATED OPERATION OF VEHICLES ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Automated Operation of Vehicles Act.

Comment

This act uses the term “automated vehicle” to describe a motor vehicle that can—under at least some circumstances—steer, brake, and accelerate by itself while monitoring the road so that the human driver need not do so. This definition excludes a vehicle that has only a driver assistance system, because such a system is designed with the expectation that a human driver will still monitor the road even as the system steers, brakes, and accelerates. A vehicle is an automated vehicle even if it is not currently under “automated operation”—that is, even if a human driver rather than the vehicle itself is currently steering, braking, accelerating, or simply monitoring the road.

This ambiguity is one of the reasons why the leading definitional document for automated driving, SAE J3016 (2018), eschews the term “automated vehicle” in favor of lengthier and more specific alternatives. See SAE J3016 (2018), sae.org/standards/content/j3016_201806. However, the U.S. National Highway Traffic Safety Administration, many U.S. states, and even the United Nations use “automated vehicle” or a similar term. See, e.g., US Department of Transportation, Automated Vehicles, transportation.gov/AV; Global Forum for Road Traffic Safety (WP.1) resolution on the deployment of highly and fully automated vehicles in road traffic, unece.org/fileadmin/DAM/trans/doc/2018/wp1/ECE-TRANS-WP1-165e.pdf. Accordingly, this act likewise refers to automated vehicles as well as to the automated driving systems equipped on these vehicles and to the automated operation of these vehicles. These terms and others are explained in the next section.

SECTION 2. DEFINITIONS. In this [act]:

(1) “Associated automated vehicle” means an automated vehicle that an automated-driving provider designates under Section 7.

(2) “Automated-driving provider” means a person that makes a declaration recognized by [the relevant state agency] under Section 6.

(3) “Automated-driving system” means the hardware and software collectively capable of performing the entire dynamic driving task on a sustained basis.

(4) “Automated operation” means the performance of the entire dynamic driving task by an automated-driving system. Automated operation begins on the performance of the entire

dynamic driving task by the automated-driving system and continues until a human driver or human operator other than the automated-driving provider terminates the automated operation.

(5) “Automated vehicle” means a motor vehicle with an automated-driving system.

(6) “Completely automated trip” means travel in an automated vehicle that, from the point of departure until the point of arrival, is under automated operation by means of an automated-driving system designed to achieve a minimal-risk condition.

(7) “Dedicated automated vehicle” means an automated vehicle designed for exclusively automated operation when used for transportation on a [road open to the public].

(8) “Drive” has the meaning in [the state’s vehicle code], except that an automated-driving provider that designates an associated automated vehicle under Section 7 exclusively drives the vehicle under automated operation.

(9) “Driver” has the meaning in [the state’s vehicle code], except that an automated-driving provider that designates an associated automated vehicle under Section 7 is the exclusive driver of the vehicle under automated operation.

(10) “Dynamic driving task” means controlling lateral and longitudinal vehicle motion, monitoring the driving environment, executing responses to objects and events, planning vehicle maneuvers, and enhancing vehicle conspicuity, as required to operate a vehicle in on-road traffic.

(11) “Minimal-risk condition” means a condition to which a vehicle user or an automated-driving system may bring a vehicle to reduce the risk of a crash when a trip cannot or should not be continued.

(12) “Operate” has the meaning in [the state’s vehicle code], except that an automated-driving provider that designates an associated automated vehicle under Section 7 exclusively operates the vehicle under automated operation.

(13) “Operator” has the meaning in [the state’s vehicle code], except that an automated-driving provider that designates an associated automated vehicle under Section 7 is the exclusive operator of the vehicle under automated operation.

(14) “Person” [has the meaning in the state’s vehicle code] [means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity].

Legislative Note: *If the state merges this act with the state’s vehicle code, these definitions should be merged with the general definitions.*

The “relevant state agency” referred to in paragraph (2) may be a department or division of motor vehicles or another state agency responsible for the registration of motor vehicles or the licensing of drivers.

States use a variety of terms to describe a “road open to the public” as used in paragraph (7), including road, roadway, and highway. The term also may encompass some privately or publicly operated parking facilities. If the state uses a term to refer to such a road, the state should use that term here.

“The state’s vehicle code” as used in paragraphs (8), (9), (12), (13), and (14) refers to a state’s laws on, inter alia, the licensing of drivers and the titling, registration, and operation of motor vehicles. These laws generally are statutory but may be regulatory. They generally include and are broader than the rules of the road.

Paragraphs (8), (9), (12), and (13) provide definitions for terms that already may be used in state vehicle law and, if so, may or may not already be defined statutorily. If a term is not used in statute or case law, it may be omitted, although a state may wish to retain all four terms to reduce future interpretive ambiguity and increase interstate consistency. If a term already is defined statutorily, that definition may be amended directly rather than by reference.

In paragraph (14), the second bracketed definition for “person” should be used only if the term is not already defined statutorily for the purpose of state vehicle law or is defined statutorily to mean only a natural person.

Comment

Although the 14 terms defined in this section are best understood in context, some points of introduction and clarification may be helpful.

First, consistent with the practice of the U.S. National Highway Traffic Safety Administration and several U.S. states, this section adapts some terms and definitions from the leading definitional document for automated driving, SAE J3016 (2018), sae.org/standards/content/j3016_201806. In particular, paragraphs (3), (7), (10), (11), and (12)

borrow from SAE J3016 but incorporate changes for legal or functional clarity. These are essential definitions, and J3016 may be helpful in their interpretation. For example, as J3016 explains, an “automated driving system” is defined by its asserted capabilities rather than by its successful realization of those capabilities: An automated driving system that fails is still an automated driving system. The five elements of “dynamic driving task” listed in paragraph (10) come from J3016 and are finite under this act. Consistent with J3016, an automated driving system or automated driving provider might also perform “strategic functions of driving” even though these functions are not part of the “dynamic driving task.” As in J3016, the definition of “minimal risk condition” is necessarily open; it is often illustrated by a vehicle parked on the shoulder with its hazard signals activated, but circumstances may demand more or less.

Second, this section references some terms that may already be used in state motor vehicle law, including those in paragraphs (8), (9), (12), (13), and (14). These terms are used inconsistently across and even within states. See generally Bryant Walker Smith, *Automated Vehicles Are Probably Legal in the United States*, 1 *Tex. A&M L. Rev.* 411, 463-74 (2014), newlypossible.org. Because interpretation of these terms can have dramatic consequences under state vehicle law—even if they are not defined statutorily—these paragraphs clarify the definitions in the context of automated driving without disrupting the more general definitions.

Third, the “automated driving provider” concept referenced in paragraph (2) is foundational to the Automated Operation of Vehicles Act. As explained in the comments accompanying sections 5 through 7, this act permits the owner (or lessee) of an automated vehicle to register it only if some qualified entity vouches for that vehicle by designating it as an “associated automated vehicle.” This entity may be the same as or different than the entity that registers the vehicle. For example, the developer of an automated driving system might be the automated driving provider for an automated vehicle that is owned and accordingly registered by an individual consumer. The definitions of automated driving provider and associated automated vehicle should also be read in conjunction with subsection 3(e), which contemplates interstate comity.

Fourth, under paragraph (4), “automated operation” can be terminated only by a human driver or human operator. This natural person initiates this termination through a command or other deliberate act that is inconsistent with the continued performance of the entire dynamic driving task by the automated driving system. This means that a vehicle with an automated driving system that has stopped functioning—whether by or despite its design—can still be under automated operation for the purposes of this act even if it is not under automated operation in a technical sense. Remote driving is outside the scope of this act, but this definition does contemplate that in some scenarios a remote human driver—even one who is working as an agent of the automated driving provider—might terminate automated operation. And, upon the successful completion of a trip, a vehicle may no longer have any operator because it is no longer being operated. As a technical and conceptual matter, a transition from automated driving can be complex, and this definition does not explicitly address certain edge cases that are left to the courts for development. For example, if a human reasonably terminates automated operation to avoid a risk of imminent harm proximately caused by the automated driving system, then automated operation may be deemed to continue until the risk is avoided, realized, or enhanced.

Fifth, several definitions contain other nuances that may not be immediately obvious. A vehicle equipped with an automated driving system is considered an “automated vehicle” under

paragraph (5) regardless of whether the vehicle is under automated operation. A “completely automated trip” under paragraph (6) requires an automated vehicle that can achieve a minimal risk condition without intervention by a human. Finally, a vehicle is still a “dedicated automated vehicle” under paragraph (7) even if it can or must be driven by a human in certain terminal situations such as those involving maintenance, storage, inspection, and post-incident removal.

SECTION 3. SCOPE; CONSTRUCTION; GOVERNING LAW.

(a) This [act] applies to the ownership, registration, and operation of an automated vehicle, even if the ownership, registration, and operation of the vehicle complied with law of [this state] other than this [act] before [the effective date of this [act]].

(b) Except as otherwise provided in this [act], [the state’s vehicle code] applies with respect to an automated vehicle.

(c) [The state’s vehicle code] must be interpreted to accommodate the development and deployment of automated vehicles in a way that maintains or improves traffic safety.

[(d) The [relevant state agency or agencies] may [make rules, issue interpretations, conduct investigations, and take other actions to] administer and enforce this [act] in accordance with [[this state’s] administrative law].]

(e) If the applicable law of a jurisdiction other than [this state] is substantially similar to this [act], then with respect to an automated vehicle that is registered in that jurisdiction:

(1) an automated-driving provider in that jurisdiction is an automated-driving provider under this [act]; and

(2) an associated automated vehicle in that jurisdiction is an associated automated vehicle under this [act].

(f) This [act] does not preclude remedies under law other than this [act].

Legislative Note: *If the state merges this act with the state’s vehicle code, this section should be inserted into a new provision on automated driving generally.*

Subsection (b) clarifies that state vehicle law, including rules for vehicle ownership, registration, insurance, and operation, still applies with respect to automated vehicles. This act should be

merged accordingly.

The agencies in subsection (d) may include those responsible for registration of motor vehicles, licensing of drivers, and enforcement of rules of the road. Because this subsection is intended to confer the authority that the adopting state typically confers on its agencies to administer its statutes, the subsection may be omitted or modified if it is unnecessary or inconsistent with state practice.

In enacting this act, a state may wish to identify, review, and consider modifying or repealing statutes that address automated driving.

The state should adhere to its requirements and conventions for codifying violations and punishments to ensure that they are legally enforceable.

Comment

The Automated Operation of Vehicles Act is intended to clarify, modify, and supplement—but not replace—a state’s existing vehicle code in relation to automated vehicles.

Accordingly, this section clarifies that the state’s vehicle code continues to apply with respect to automated vehicles. For example, an automated vehicle must still be insured in accordance with the state’s requirements for vehicle insurance: If it is unlawful to register or drive a motor vehicle without proper insurance, then so too is it unlawful to register or drive an automated vehicle without proper insurance. Other legal provisions—such as rules for commercial passenger services—may also apply even if they are not in the state’s vehicle code. These are just two examples of the many legal and policy topics that fall outside the scope of this act and that may be appropriate for further study by states.

At the same time, this section clarifies that the state’s vehicle code must be interpreted in a way that is not necessarily inconsistent with automated operation of automated vehicles. This act specifically addresses provisions common to many vehicle codes, such as a prohibition on unattended vehicles, that might otherwise be construed in a way that is incompatible with automated driving. However, the general instruction of subsection (c) (as well as its companions in later sections of this act) is intended to account for unique aspects of a state’s law that may not be specifically addressed by this act and that may not be identified in conjunction with the state’s adoption of this act.

This section also explicitly empowers relevant state agencies to administer and enforce this act. As in other sections of this act, this authorization is intended to give these agencies the authority and flexibility to effectively address unexpected developments in automated driving. If a state determines that this authorization is unnecessary, duplicative, or undesirable, it may adapt or omit subsection (d).

The interstate nature of motor vehicle travel motivates subsection (e). An automated vehicle under automated operation in state X might be lawfully registered in state Y. If state Y has also adopted this act, then in both states the driver of the vehicle while under automated operation is the automated driving provider that has made a declaration in state Y. (These states may therefore wish to develop a process to share this information.) However, if state Y has not

adopted this act, then the vehicle is not an associated automated vehicle and does not have an automated driving provider in either state. In that case, state X identifies the driver(s) or operator(s) using the general definitions of drive, driver, operate, and operator that it has developed over decades. Because these definitions tend to be written and interpreted broadly, see Bryant Walker Smith, *Automated Vehicles Are Probably Legal in the United States*, 1 Tex. A&M L. Rev. 411, 463-74 (2014), newlypossible.org, many natural or legal persons—an occupant, the owner, or the manufacturer, among others—might be subject to enforcement action. By adopting this act, a state could accordingly provide more certainty for its residents when they or their automated vehicles travel out of state.

Finally, as the legislative note recognizes, many states have already enacted legislation explicitly addressing automated driving. In some of these states, the legislation relates exclusively or primarily to testing for the purposes of research and development, which is not specifically addressed by this act. In others, the legislation may address or implicate topics within the scope of this act. For example, some states have defined the driver or operator of an automated vehicle in a way that may be inconsistent with this act’s treatment of that question. In such a case, the state may wish to clarify the status of this prior legislation in conjunction with its adoption of this act.

SECTION 4. [DRIVER] LICENSING.

(a) An individual is not required to hold a [driving license] to take a completely automated trip.

(b) An automated-driving provider is not required to hold a [driving license] to drive or operate an automated vehicle under automated operation.

Legislative Note: If the state merges this act with the state’s vehicle code, this section should be merged into the driver licensing provisions.

The particular term used by the state should be substituted for “driving license” in this section.

Comment

Under existing state law, an individual who drives generally needs to hold a valid driving license. Conversely, an individual who does not drive generally does not need to hold such a license. The Automated Operation of Vehicles Act does not change these existing rules. However, its definitions of drive, driver, operate, and operator do remove automated driving from this existing framework.

This section clarifies that an individual who takes a completely automated trip (in which an automated driving system capable of achieving a minimal risk condition performs the dynamic driving task from the beginning through the end of the trip) does not need a driving license, even if the individual sits in the conventional driving position, turns on the vehicle, or performs other actions that may constitute driving in more conventional contexts. (Indeed, a vehicle may even

be wholly unoccupied during a completely automated trip.) Conversely, because a state's existing vehicle code continues to apply, an individual who drives or may need to drive for part of a trip does need a driving license, even if the individual relies on an automated driving system for part of the trip.

This act does not define a trip, which is generally understood to be a journey from an origin to a destination. The driveway of a house, the curb outside an office building, and a space in a parking garage are possible destinations. A freeway shoulder generally is not. This means that, for example, an automated vehicle capable of automated operation only on freeways needs a licensed driver, because pulling off to the side of the road before the freeway ends does not complete the trip. However, an automated vehicle does not need a licensed driver solely because its automated driving system achieves a minimal risk condition in response to a hardware failure, a severe blizzard, or another condition that unforeseeably delays the trip's completion.

Finally, even though an automated driving provider is the driver of an automated vehicle under automated operation for the purpose of the state's vehicle code, the provider is not required to hold a conventional license. However, the state may investigate and decline to recognize an automated driving provider under Section 6 (and may decline to register associated automated vehicles under Section 5). Individually or in concert, states may also wish to develop a system to track and sanction automated driving providers that is comparable to the one for human drivers.

SECTION 5. VEHICLE REGISTRATION.

(a) The [owner] of an automated vehicle shall comply with [the state's requirements for registration of motor vehicles].

(b) If a motor vehicle that is not registered as an automated vehicle becomes an automated vehicle, the [owner] shall obtain a new registration for the vehicle, under the requirements for an automated vehicle, before automated operation.

(c) At registration of a motor vehicle, the [owner] shall indicate to [the relevant state agency] whether the vehicle is an automated vehicle. This indication does not bind [the relevant state agency] to register the vehicle as an automated vehicle.

(d) [The relevant state agency] may grant, maintain, or renew the registration of an automated vehicle only if an automated-driving provider designates the vehicle under Section 6 as an associated automated vehicle.

(e) [The relevant state agency] may decline, suspend, revoke, or decline to renew the

registration of an automated vehicle that is not:

- (1) an associated automated vehicle;
- (2) associated with an automated-driving provider recognized by [the relevant state agency];
- (3) properly maintained;
- (4) lawfully insured;
- (5) compliant with a registration requirement; or
- (6) fit to be operated.

(f) If [the relevant state agency] declines, suspends, revokes, or declines to renew the registration of an automated vehicle under subsection (e), [the relevant state agency] may grant a temporary registration that applies to the vehicle only when it is not under automated operation.

(g) [The relevant state agency] may grant, maintain, or renew the registration of a motor vehicle that is no longer an automated vehicle only if the registrant represents under penalty of perjury to [the relevant state agency] that the vehicle cannot presently and will not be used under automated operation on a [road open to the public].

(h) Registration of an automated vehicle does not create a presumption as to the safety of the vehicle or its equipment.

Legislative Note: *If the state merges this act with the state’s vehicle code, this section should be merged into the vehicle registration provisions.*

This section applies to each person required to register a vehicle under state law. If the state requires or allows a motor vehicle to be registered by a person other than the owner of the vehicle, such as the lessee of the vehicle, references to “owner” should be modified accordingly. Existing rules for determining whether a motor vehicle must be registered in the state also apply to an automated vehicle.

The state may wish to modify language in this section to be consistent with existing usage of “registration”, which, depending on the state, could refer to a request by a person to register a vehicle or to the issuance of that registration by the relevant state agency.

The state may wish to compare and reconcile the language in subsection (e) with similar language used in the state's vehicle code.

Comment

Sections 5, 6, and 7 of the Automated Operation of Vehicles Act complement each other and a state's generally applicable rules for motor vehicle registration.

Under existing law, the owner (or lessee) of a motor vehicle must generally register that vehicle with a state in accordance with that state's place of registration rules. This act retains this same obligation for the owner (or lessee) of an automated vehicle, who must likewise register the vehicle with the state.

This act also adds a new condition of registration: Under Section 5, an automated vehicle may be registered only if some entity has both declared itself to be an automated driving provider under Section 6 and designated the particular automated vehicle as one of its associated automated vehicles under Section 7. The vehicle owner and the automated driving provider may or may not be the same legal person. Consider two examples:

- Company X is an automaker that manufactures automated vehicles and sells them to individual consumers. Company X declares itself to be the automated driving provider for these vehicles. However, these vehicles are owned and therefore registered by their individual buyers.
- Company Y is a startup that buys conventional vehicles, converts them into automated vehicles, and provides rides to the public in a downtown area. Company Y declares itself to be the automated driving provider for these vehicles. It also owns and therefore registers these vehicles.

As long as the automated vehicle is associated with an automated driving provider recognized by the state motor vehicle agency, the automated vehicle's owner may register it just as that person would register a conventional motor vehicle. This is consistent with the primary purpose of this new condition: ensuring that every automated vehicle is associated with a credible entity against which the state can enforce relevant portions of the vehicle code.

Accordingly, if an automated vehicle is not—or is no longer—associated with an automated driving provider, then the owner may not register it and therefore may not use it on public roads. This significant restriction under Section 5 incentivizes entities to act as automated driving providers under Section 6 and to designate associated automated vehicles under Section 7. In short: A person is unlikely to buy an automated vehicle that they are not allowed to actually use.

This act provides some flexibility to the state motor vehicle agency in applying this rule to address situations where automated operation is temporarily or permanently imprudent or impossible. If the agency suspends the registration of an automated vehicle, it may nonetheless authorize the non-automated operation of that vehicle through a temporary license. If the owner ensures and represents that automated operation is no longer possible, then the vehicle is no longer an automated vehicle and may be registered consistent with generally applicable registration requirements.

Conversely, a motor vehicle might become an automated vehicle through modifications to its hardware or software, in which case the vehicle's owner must obtain a new registration for the vehicle. But the vehicle is not an automated vehicle if modifications merely add or enhance driver assistance features that still require human supervision, an automated driving provider is unlikely to designate that vehicle as an associated automated vehicle, and the motor vehicle agency would neither require nor permit reregistration as an automated vehicle.

SECTION 6. AUTOMATED-DRIVING PROVIDER.

(a) To qualify as an automated-driving provider, a person must:

(1) have participated in a substantial manner in the development of an automated-driving system;

(2) have submitted to the United States National Highway Traffic Safety Administration a safety self-assessment or equivalent report for the automated-driving system as required or permitted by the United States National Highway Traffic Safety Administration; or

(3) be registered as a manufacturer of motor vehicles or motor-vehicle equipment under the requirements of the United States National Highway Traffic Safety Administration.

(b) A person is an automated-driving provider only if the person makes a declaration recognized by [the relevant state agency] that the person is an automated-driving provider and pays a fee specified by [the relevant state agency] for processing the declaration.

(c) To make a declaration under subsection (b), a person must in a manner acceptable to [the relevant state agency]:

(1) represent under penalty of perjury that the person qualifies as an automated-driving provider under this [act];

(2) represent under penalty of perjury that the person is capable of undertaking the responsibilities of an automated-driving provider;

(3) represent under penalty of perjury that sufficient evidence demonstrates that the automated-driving system of each associated automated vehicle is capable of complying with

[the state's rules of the road]; and

(4) irrevocably appoint [the relevant state agency] as a lawful agent for service of process in an action arising from the automated operation of an associated automated vehicle.

(d) A person that makes a declaration under subsection (b):

(1) has the burden of proving the qualifications and representations made under subsection (c) to the satisfaction of [the relevant state agency];

(2) shall submit to an investigation under subsection (e);

(3) shall provide the information requested by [the relevant state agency];

(4) shall pay the actual costs incurred by [the relevant state agency] in the investigation; and

(5) does not have a vested right in the recognition of the declaration.

(e) [The relevant state agency] at any time may:

(1) decline, delay, or rescind recognition of a declaration made under subsection (b); or

(2) investigate the qualifications or representations of a person that makes a declaration under subsection (b).

Legislative Note: *If the state merges this act into the state's vehicle code, this section should be inserted into a new provision on automated-driving providers.*

Comment

Section 5 of the Automated Operation of Vehicles Act provides that a person may register an automated vehicle only if that vehicle is associated with an automated driving provider. This Section 6 specifies how an entity declares itself to be an automated driving provider. Section 7 specifies how that entity then designates an automated vehicle to be an associated automated vehicle.

The potential diversity of automated driving compels a flexible definition of automated driving provider. An automated vehicle's automated driving system may be installed by the developer of the system, the manufacturer of the vehicle, or another entity altogether. The vehicle may be owned by a sophisticated technology company, by a fleet operator with some familiarity with

automation, or by an individual with no technical knowledge whatsoever. Regardless of ownership, the continued safety of automated operation is likely to require the ongoing involvement of a technically competent entity that facilitates data transfers, software updates, and technical support. The automated driving provider concept recognizes that automated vehicles will be driven not by individuals or even computers but by companies involved in the development and deployment of these vehicles.

To become an automated driving provider, an entity must make an affirmative declaration that includes specific representations. This means that, first, an entity does not become an automated driving provider against its will and, second, not every entity can become an automated driving provider. Subsection (a) identifies three basic qualifications, at least one of which a provider must satisfy, and subsection (c) identifies four key requirements, all of which the provider must satisfy.

Among these, the automated driving provider must represent that sufficient evidence demonstrates that the automated driving system of each associated automated vehicle is capable of complying with the rules of the road. The phrase “sufficient evidence” is intended to provide flexibility to those automated driving providers that act in good faith and consequences to those providers that act in bad faith. It may be informed by other legal standards of proof and review that are familiar to courts and agencies.

Although the automated driving provider may not need to provide this evidence in its initial declaration, the state motor vehicle agency may investigate the entity, may decline to recognize the entity’s declaration (even if the agency has previously recognized the declaration), and may revoke the registrations of associated automated vehicles. (However, the state may still consider the entity to be the driver or operator of an associated automated vehicle for the purpose of enforcing the rules of the road.) Moreover, other laws may provide a basis for the state to prosecute an entity that misrepresents the existence or sufficiency of this evidence.

The state motor vehicle agency may flexibly administer automated driving provider declarations. For example, it may charge fees to fund investigations, renewals, and other administrative activities associated with declarations.

SECTION 7. ASSOCIATED AUTOMATED VEHICLE.

(a) An automated vehicle is an associated automated vehicle only if an automated-driving provider designates the automated vehicle under subsection (b).

(b) To designate an associated automated vehicle, an automated-driving provider must provide notice in a form acceptable to [the relevant state agency].

(c) Once designated under subsection (b), an automated vehicle remains an associated automated vehicle unless:

(1) under Section 6(e), [the relevant state agency] declines, delays, or rescinds recognition of the declaration of the automated-driving provider;

(2) the automated-driving provider dissolves its business; or

(3) the automated-driving provider disassociates the automated vehicle.

(d) To disassociate an associated automated vehicle, an automated-driving provider must provide notice in a manner acceptable to [the relevant state agency].

Legislative Note: *If the state merges this act with the state's vehicle code, this section should be inserted into a new provision on associated automated vehicles.*

Comment

Section 5 of the Automated Operation of Vehicles Act provides that a person may register an automated vehicle only if that vehicle is associated with an automated driving provider. Section 6 specifies how an entity declares itself to be an automated driving provider. This Section 7 specifies how that entity then designates an automated vehicle to be an associated automated vehicle.

An automated driving provider designates its associated automated vehicles by giving acceptable notice to the relevant state motor vehicle agency. The language of subsection (b) was chosen over more precise formulations to provide flexibility to this agency, to avoid financial, technical, or procedural burdens, and to facilitate without requiring cooperation among states and with the federal government. A state might require notice directly from a provider, indirectly through the vehicle registrant, or collectively through a public or private database, among other possibilities.

Once an automated driving provider has designated an associated automated vehicle, the association remains until the provider is not recognized by the state agency, ceases to exist under principles of corporate law, or affirmatively withdraws the designation. The language of subsection (d) was chosen to provide flexibility to the relevant state agency. For example, the agency might require the automated driving provider to give advance notice both to the agency and to the owner of the automated vehicle.

This comment concludes by reiterating the relationship among motor vehicle registrations (Section 5), associated automated vehicle designations (Section 6), and automated driving provider declarations (Section 7): Existing state law generally requires the registration of a motor vehicle that is operated on a public road. If an automated vehicle qualifies as such a motor vehicle, it too must be registered. The person seeking that registration—typically the vehicle owner—must comply with all conditions of registration under existing law. Section 5 of this act adds a further condition: For the owner of an automated vehicle to register the vehicle, an automated driving provider must have designated that vehicle as an associated automated vehicle. Section 6 specifies how an entity declares that it is an automated driving provider, and Section 7 specifies how that entity then designates its associated automated vehicles. These three

sections work together with existing law to ensure that a properly registered automated vehicle has a legal driver when it is under automated operation. In general, only if an automated vehicle is associated with an automated driving provider may it be registered and operated on public roads.

The following table illustrates this process by comparing it to processes for conventional driver licensing and vehicle registration:

Automated vehicle	<i>Declaration by an automated driving provider (Section 6):</i> A company or other entity declares that it is an automated driving provider	<i>Designation by the automated driving provider (Section 7):</i> An automated driving provider designates its associated automated vehicles	<i>Registration by the vehicle owner (Section 5):</i> The owner of an associated automated vehicles registers the vehicle
Conventional vehicle	A person obtains a driving license	A person drives a vehicle	The owner of a vehicle registers the vehicle

In other words: A human driver must obtain a license, whereas an automated driving provider must make a declaration. A human becomes a driver by driving a vehicle, whereas an automated driving provider becomes a driver by designating an associated automated vehicle that is then used under automated operation. Both conventional and automated vehicles are typically registered by their owners. The owner (or lessee) of a conventional vehicle may or may not be its driver, and the owner (or lessee) of an automated vehicle may or may not be its automated driving provider.

SECTION 8. EQUIPMENT.

[(a) [The state’s vehicle equipment requirements] must be interpreted to accommodate the development and deployment of automated vehicles in a way that maintains or improves traffic safety.]

(b) An automated vehicle must be properly maintained. A violation of this subsection is a violation [as specified in the state’s vehicle code].

(c) A provision of [the state’s vehicle equipment requirements] requiring equipment that is necessary only for the performance of the dynamic driving task by a human driver or human operator does not apply to a dedicated automated vehicle.

(d) A provision of [the state’s vehicle equipment requirements] prohibiting an electronic device in a vehicle, other than a device used to evade law enforcement, does not apply with respect to a dedicated automated vehicle.

(e) A provision of [this state’s vehicle equipment requirements] prohibiting an electronic device in a vehicle, other than a device used to evade law enforcement, may not be enforced with respect to an automated vehicle under automated operation.

Legislative Note: *Because of Section 3(c), subsection (a) should be included only if the state’s vehicle equipment requirements are not codified in the state’s vehicle code.*

If the state merges this act with the state’s vehicle code, this section should be merged into the provisions pertaining to the condition of and equipment on vehicles.

The state may wish to compare and reconcile the language in subsection (b) with similar language used in the state’s vehicle code.

If the state merges this act with the state’s vehicle code, the existing vehicle code provisions addressed in subsections (c), (d), and (e) can be directly amended.

Comment

Many state vehicle codes include provisions related to the equipment on motor vehicles. Most of these provisions primarily contemplate the continued roadworthiness of individual motor vehicles rather than the design of new motor vehicles. This Section 8 of the Automated Operation of Vehicles Act is intended in part to clarify the application of these provisions to automated vehicles. In contrast, the next section is intended in part to clarify the application of similar provisions to the operation of these vehicles.

For example, under this section, a prohibition on the installation of a television screen visible from the driver’s seat would not apply in the case of a dedicated automated vehicle (i.e., one that cannot be operated by a conventional human driver) and would otherwise not apply in the case of an automated vehicle under automated operation. Under the next section, a related but distinct prohibition on actually using such a screen would not apply during automated operation. However, prohibitions on installing and using products intended to evade law enforcement (such as radar detectors) would continue to apply.

Subsection (b) requires that an automated vehicle be properly maintained but does not identify the legal subject to which this obligation applies. This passive provision may nonetheless be used to deny or revoke a vehicle’s registration, to remove a vehicle from the road, to impound a vehicle, or to cite a driver or operator. The violation language can be adapted for the enacting state, which might identify an appropriate violation provision in its existing law, reference a residual violation provision, or create a new violation provision applicable to automated vehicles.

SECTION 9. RULES OF THE ROAD.

[(a) [The state's rules of the road] must be interpreted to accommodate the development and deployment of automated vehicles in a way that maintains or improves traffic safety.]

(b) An automated-driving provider shall take reasonable steps to comply with [the state's rules of the road] during automated operation of an associated automated vehicle.

(c) An automated-driving provider is responsible for a violation of [the state's rules of the road] during automated operation of an associated automated vehicle.

(d) A violation of this subsection is a violation under [cite to the state's vehicle code]. A person may not operate an automated vehicle on a [road open to the public] if the vehicle is not:

- (1) properly maintained;
- (2) lawfully insured;
- (3) compliant with a registration requirement; or
- (4) fit to be operated.

(e) A provision of [the state's vehicle code] prohibiting unattended or abandoned vehicles does not apply to an automated vehicle under automated operation solely because an individual is not in or near the vehicle, unless the vehicle is not lawfully registered, poses a risk to public safety, or unreasonably obstructs other road users.

[(f) A child, individual who is incapacitated, or animal in an automated vehicle is not considered attended solely because the automated vehicle is under automated operation.]

(g) A provision of [the state's vehicle code] restricting the use of an electronic device in a vehicle, other than a device used to evade law enforcement, does not apply to an automated vehicle under automated operation.

[(h) A provision of [the state's vehicle code] imposing a minimum following distance

other than a reasonable and prudent distance does not apply to the automated operation of an automated vehicle.]

Legislative Note: *Because of Section 3(c), subsection (a) should be included only if the state’s vehicle equipment requirements are not codified in the state’s vehicle code.*

If the state merges this act with the state’s vehicle code, this section should be merged into the provisions containing the rules of the road.

The phrase “the state’s rules of the road” refers to state laws on the operation of motor vehicles.

The state may wish to compare and reconcile the language in subsection (d) with similar language already used in the state’s vehicle code.

The state may wish to reconsider the laws referred to in subsection (f) in light of automated driving. States use different terms to describe duties and prohibitions relating to leaving a child, an individual who is incapacitated, or an animal unattended in a vehicle. The state should conform subsection (f) to the state’s terms.

If the state merges this act with the state’s vehicle code, the existing vehicle provisions addressed in subsections (e), (f), (g), and (h) can be directly amended.

If the state’s vehicle code does not specify numerical minimums for following distance or following time, subsection (h) may be omitted.

Comment

This section of the Automated Operation of Vehicles Act clarifies how a state’s rules of the road apply in the context of automated driving. With respect to automated driving providers, it establishes two important and complementary principles.

First, an automated driving provider must take reasonable steps to comply with the rules of the road during automated operation of an associated automated vehicle. This prospective principle requires an automated driving provider to act reasonably rather than to ensure absolute compliance with the rules of the road, particularly when absolute compliance may not be definable, achievable, or even desirable. It means, for example, that an automated driving provider does not necessarily violate the state’s vehicle code merely by deploying an automated vehicle that is capable of crossing a double-yellow centerline or of momentarily exceeding a speed limit in the interest of safety. This is important because some rules of the road as written can be contradictory, inconsistent with expected practice, and tempered through enforcement discretion. An automated driving provider does not intend to violate these rules merely by declining to unequivocally foreclose the possibility of violation.

Second, notwithstanding the first principle, an automated driving provider is responsible for a violation of the rules of the road by an associated automated vehicle under automated operation. This retrospective principle merely recognizes that the automated driving provider is the legal driver in these circumstances and is therefore subject to corresponding sanctions under the state’s

vehicle code. In other words, the automated driving provider should receive the speeding ticket when an associated automated vehicle under automated operation is caught speeding. At the same time, this section does not address the appropriate level of enforcement. It is expected that federal, state, and local authorities will continue to evaluate the role of various forms of automated enforcement (including self-reporting obligations) in improving road traffic safety.

Under this act, all of the rules of the road that apply to the human driver or operator of a conventional vehicle also apply to the automated driving provider of an associated automated vehicle under automated operation. In contrast, some approaches attempt a more granular application of these rules. For example, the Law Commission of England and Wales tentatively proposed that certain rules, including those related to roadworthiness, the use of child restraints, and post-crash conduct, should apply to a new category of “user-in-charge.” See Law Commission, Automated Vehicles: A joint preliminary consultation paper, lawcom.gov.uk/project/automated-vehicles. This thoughtful approach, however, could complicate a clean division between the established obligations of a human driver during conventional operation and the equivalent obligations of an automated driving provider during automated operation.

Subsection (d) makes explicit the power of road authorities to remove automated vehicles that may pose unreasonable risks to road safety. The language of this subsection is similar to more general language already included in the vehicle codes of some states.

Like the previous section, this section also clarifies how specific rules should be understood in the context of automated driving. Under subsection (e), an automated vehicle is not unattended or abandoned merely because it is unoccupied. Conversely, under bracketed subsection (f), a young child left alone in a vehicle is unattended even though that vehicle is under automated operation. However, each state may wish to resolve the policy questions of whether a child, incapacitated person, or pet should be able to use an automated vehicle without in-vehicle human supervision.

Finally, this section provides that a numerical minimal following-distance requirement does not apply to the automated operation of automated vehicles. These numerical minimums may be unnecessarily large for automated vehicles that react faster than human drivers. However, the common “reasonable and prudent” following-distance requirement continues to apply. This bracketed subsection (h) differs in scope from following-distance legislation enacted in some states to facilitate the platooning of vehicles, particularly commercial trucks, that use advanced technologies but may not necessarily qualify as automated vehicles.

SECTION 10. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In

applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Legislative Note: If the state merges this act with the state’s vehicle code, this section should be inserted into a new provision on automated driving generally.

[SECTION 11. SEVERABILITY. If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]

***Legislative Note:** Include this section only if this state lacks a general severability statute or a decision by the highest court of this state stating a general rule of severability.*

If the state merges this act with the state's vehicle code, this section should be inserted into a new provision on automated driving generally.

SECTION 12. EFFECTIVE DATE. This [act] takes effect