



February 4, 2016

Secretary Brian Kelly
California State Transportation Agency
915 Capitol Mall Suite 350 B
Sacramento, CA 95814

Dear Secretary Kelly:

The undersigned are strong supporters of California's global leadership position on innovation in business, social interaction, environmental stewardship and revolutionary technological advancements.

We write today to express significant concern with the most recently released regulatory guidance from your Department of Motor Vehicles. Clearly, this is a challenging issue, and we commend the Department for its hard work on a groundbreaking issue, but strongly feel that the fundamental conclusion contained in the draft regulations would eliminate the vast majority of benefits associated with autonomous vehicle development.

This most recent turn of events is unfortunate, given the initial vigor with which the state embraced this transformative technology, and the large number of companies and research institutions that are developing the technology in California. As you are aware, SB 1298 (Padilla, 2012) charged the California DMV with writing regulations to govern the testing and operation of autonomous vehicles by January 1, 2015. In it, your office and the Legislature:

- Underscored the major safety, mobility, and commercial benefits of autonomous vehicles.
- Affirmed that autonomous vehicles have been safely operated in California in recent years.
- Affirmed that the state currently doesn't prohibit or regulate the operation of autonomous vehicles.
- Encouraged the development, testing, and operation of this technology on CA's public roads.

Specifically, the law stated "The State of California, which presently does not prohibit or specifically regulate the operation of autonomous vehicles, desires to encourage the current and future development, testing, and operation of autonomous vehicles on the public roads of the state. The state seeks to avoid interrupting these activities while at the same time creating appropriate rules intended to ensure that the testing and operation of autonomous vehicles in the state are conducted in a safe manner."

The bill gave the DMV the task of quickly developing regulations to ensure the testing and operation of autonomous vehicles continues to flourish, safely, throughout California. It charted a clear path for the DMV's regulations by specifying that manufacturers certify that key safety functionalities are built-in to their vehicles and comply with the broad performance requirements set forth in the bill.

On Wednesday, December 16, 2015, nearly one year after regulations to govern the operation of self-driving cars were supposed to be complete, the California DMV released draft regulations that explicitly prohibit the operation of fully autonomous vehicles in California. More specifically the draft regulations require a licensed and specially trained driver to be in the vehicle at all times. They require, for each designated vehicle, that an occupying individual must possess a valid license and an "autonomous vehicle operator certificate" issued by the DMV after the completion of a training program. Moreover, citing "potential risks," the regulations explicitly and indefinitely prohibit the testing and operation of fully autonomous (unmanned) vehicles.

To say this position misses the point of SB 1298, the potential benefits of autonomous vehicles, and the innovative spirit of California would be an understatement. The enacted legislation specifically envisioned and repeatedly referenced testing and operational rules for autonomous vehicles capable of operating without the presence of a driver. It did this because the transformative social and environmental benefits of AV's are primarily dependent on fully autonomous operation, and the direction the DMV has chosen cuts directly against these advancements - at a time when the U.S. Department of Transportation has stated that "fully automated vehicles are nearing the point at which widespread deployment is feasible"¹

Most importantly, the current regulations, if not amended, will miss a critical opportunity to increase safety and reduce accidents. The statistics around vehicle safety are clear. Driver error is the number one factor in car accident related injuries and leads to more than 94% of vehicle crashes per year, according to data collected by the National Highway Traffic Safety Administration.² Truly autonomous vehicles can reduce moving violations, drunk driving, pedal error³, and other dangerous behaviors. California should be a leader in the future of automotive safety, not an obstacle.

It is also important to realize that the current draft regulation would ultimately mean that the transformative social and environmental benefits of fully autonomous technology would be precluded from being realized in California. Clearly and indisputably, it will mean that disabled and elderly citizens in California will not have new mobility options opened up to them because they cannot obtain a driver's license. Less intuitively, it will also result in a failure to achieve the environmental and traffic benefits that are present in fully autonomous systems. Missed exits, poor planning, stop and go traffic and fewer carpool opportunities exist in the current transportation system built around drivers. The efficiencies and reductions in vehicle miles traveled can exponentially reduce energy consumption and greenhouse gas emissions and will only be fully realized when the vehicle sharing enabled by fully autonomous cars is in place⁴.

¹ <http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Autonomous-Vehicles-Policy-Update-2016.pdf>

² <http://www-nrd.nhtsa.dot.gov/pubs/812115.pdf>

³ <http://www.nhtsa.gov/About+NHTSA/Press+Releases/2015/nhtsa-pedal-error-safety-advisory>

⁴ http://www.cae.utexas.edu/prof/kockelman/public_html/TRB15SAVsinAustin.pdf

In addition to these fundamental problems, the draft regulations create more issues than they solve. In addition to a duplicative 3rd party verification requirement that should stay within the DMV, there are ongoing reporting requirements, a provisional deployment status, and a prohibition on the sale of autonomous vehicles that do not appear to add much safety value. We would encourage the Department to focus on how to safely facilitate deployment of autonomous vehicles backed by federally, well-established self-certification methods, rather than the proposed certification process in the draft rules.

We are also concerned with the implications associated with the regulation's privacy-and-security-related disclosures. The disclosures required for a wide variety of data go far beyond personally-identifiable information subject to notice and consent according to established federal privacy regulations and principles. Also, it is unclear why the DMV would want or need, or how they would handle data sent on any information collected that isn't necessary for the safe operation of the vehicle. Finally, the security requirements for detection, response and notice may conflict with industry standards emerging from the auto industry's information-sharing and assurance center, and with the U.S. Department of Transportation's safety agreement with auto manufacturers to share cybersecurity best practices and learnings.

Given all these concerns, the undersigned respectfully request the Department recommit their efforts to the important task of developing and issuing practical, viable, clear and effective regulations that support, rather than prohibit the deployment of fully autonomous vehicles.

Thanks in advance for your time and consideration.

Sincerely,

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