

# ConsumersUnion®

## POLICY & ACTION FROM CONSUMER REPORTS

July 18, 2017

The Honorable Bob Latta, Chairman  
The Honorable Jan Schakowsky, Ranking Member  
U.S. House Committee on Energy and Commerce  
Subcommittee on Digital Commerce and Consumer Protection  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Latta and Ranking Member Schakowsky:

Consumers Union, the policy and mobilization arm of Consumer Reports, writes regarding the staff draft on self-driving vehicles, which will be considered by the Subcommittee at a markup tomorrow. As we stated in our testimony at the June 27, 2017, hearing, self-driving cars have enormous potential to make our roads safer by significantly reducing crashes attributable to driver error, and to improve mobility for millions of older Americans, individuals with disabilities, and other consumers nationwide.

We appreciate you and your staff's work on the proposed bill and your intent to make driving safer and more accessible for all Americans. There are portions of the draft that include important measures to educate consumers and promote safety, and there are other portions in which we are very concerned that the draft fails to adequately protect consumers.

Areas of progress on automated vehicle safety in the current staff draft include:

- Making safety assessment certification submissions mandatory, which would help ensure that the National Highway Traffic Safety Administration (NHTSA) receives critical information from entities developing highly automated vehicles.
- Instructing the agency to set a safety priority plan, which would help NHTSA determine—based on safety evidence—what initiatives it should prioritize as it protects consumers through new safety standards.
- Requiring companies to develop cybersecurity plans, a step toward safeguarding vehicle occupants and their data from cyberattacks and all kinds of unauthorized intrusions.
- Directing NHTSA to “research and implement the most effective method and terminology for informing consumers” about vehicles’ capabilities and limitations, which would help drivers use automated systems more safely.

Additionally, the staff draft includes critically important provisions to prevent child heatstroke in hot cars by requiring new vehicles to come equipped with a rear seat occupant alert system. The bill also would direct NHTSA to research the development of updated standards or

other requirements for headlamps to enhance their performance and improve overall safety.

Although this draft has some promising elements, we are very concerned by several areas in which the draft fails to adequately protect consumers and does not do enough to ensure that self-driving cars actually improve safety, including:

- First and foremost, cars must protect occupants in the event of a crash, regardless of whether vehicles are self-driving or not. To that end, no exemptions should be granted for crashworthiness or occupant protection aspects of safety standards under these proposals.
- Exemptions from federal safety standards for highly automated vehicles should be limited to equipment required exclusively for the driving task which may be fully replaced by automation, and granted only if backed by evidence that a new feature maintains and enhances safety.
- Furthermore, the bill should require that NHTSA provide safety-related justifications, involving an official notice-and-comment process, before the agency can increase the maximum number of a manufacturer's exempted vehicles or increase the time period of exemptions.

It also is unclear what exactly the draft will do with regard to the legal authority of states and localities. We do not support legislation to preempt the states without strong federal safety standards in place. However, if the Subcommittee pursues such an approach, we would at the very least urge members to limit preemption so that it does not infringe on key state and local functions, such as enforcement of traffic laws and a car's roadworthiness, police and first responder activity, and crash investigations.

Additionally, we are concerned that the staff draft does not have requirements for consumers to be notified of updates to a car's cybersecurity protections or system breaches, nor does it have meaningful privacy protections like data anonymization and minimization requirements or limitations on commercial use of personal data. Finally, the Subcommittee should authorize significantly increased funding so that NHTSA can more effectively fulfill its existing efforts to address chronic driving hazards as well as the requirements in the staff draft.

As the legislation moves forward, we strongly urge members to ensure that any accelerated deployment of automated vehicles is evidence-based—requiring manufacturers to demonstrate how automated systems improve safety—and includes sensible, binding measures to protect consumers against new hazards that may emerge. Taking these steps would help companies and the government take a smart, safe path to automated vehicles that would promote consumer trust in the technology and help to realize the promise of self-driving cars. Thank you for your time and attention to this important subject.

Sincerely,

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