

# ConsumersUnion®

## POLICY & ACTION FROM CONSUMER REPORTS

July 26, 2017

The Honorable Greg Walden, Chairman  
The Honorable Frank Pallone, Jr., Ranking Member  
U.S. House Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Walden and Ranking Member Pallone:

Consumers Union, the policy and mobilization arm of Consumer Reports, writes regarding H.R. 3388, legislation to establish a new legal framework for the testing and deployment of highly automated vehicles (HAVs). The Committee will consider this bill, along with a proposed amendment in the nature of a substitute known as the “Safely Ensuring Lives Future Deployment and Research In Vehicle Evolution Act” or the “SELF DRIVE Act,” at a markup tomorrow.

While several portions of the SELF DRIVE Act would benefit consumer safety, we are very concerned about changes to federal law that would open regulatory gaps and fail to adequately protect consumers from vehicle safety hazards. We urge members to strengthen the bill in significant ways before sending it to the House floor for a vote.

As we stated in our testimony at the June 27, 2017, subcommittee 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 urged companies and policymakers to follow a smart, safe path to realize this promise. We called on Congress to embrace both technological ambition and accountability by setting a clear expectation that HAVs should improve safety, and by requiring sensible, enforceable, evidence-based measures to protect consumers against new hazards that may emerge.

Several parts of the legislation are consistent with this path, including requirements for:

- Companies to submit safety assessment certifications for HAVs.
- The National Highway Traffic Safety Administration (NHTSA) to regularly set a safety priority plan to help determine initiatives it should prioritize.
- Companies to develop cybersecurity plans to safeguard occupants and their data from unauthorized intrusions.

- NHTSA to research and implement the most effective method and terminology for informing consumers about fully and partially automated vehicles' capabilities and limitations, helping drivers use those systems more safely.

The bill also includes a critically important provision to prevent child heatstroke in hot cars by requiring new vehicles to come equipped with a rear seat occupant alert. These systems—some of which are in cars today—will save lives. Since just 1998, more than 700 children have died from heatstroke after being left in hot cars.<sup>1</sup>

However, we are very concerned about several ways in which the bill fails to protect consumers or ensure that self-driving cars actually improve safety. We make several recommendations for amending the bill, including:

- First and foremost, cars must protect occupants in the event of a crash, regardless of whether vehicles are self-driving or not. No exemptions should be granted that would undermine impact protection for occupants.
- Exemptions from federal safety standards for HAVs should be limited to equipment required exclusively for the driving task that may be fully replaced by automation, and granted only if backed by evidence that a new feature maintains and enhances safety.
- The overall number of vehicles that can receive safety exemptions should be significantly reduced, and neither the number of exempted vehicles nor the duration of exemptions should be increased without specific safety-related justifications as part of an official, public notice-and-comment process.
- NHTSA should have access to crash data for all automated vehicles, not just those receiving exemptions, so that it can adequately oversee the safety of these cars. Furthermore, the quarterly reporting envisioned by the bill is too infrequent. Cars today already have the ability to quickly send crash data to automakers, and accordingly, there should be a shorter time frame for reporting to NHTSA. A 15-day deadline for reports would be appropriate.

With regard to the legal authority of states and localities, the preemption language in the bill could lead to a safety vacuum that would put consumers at risk. Where strong federal safety standards are absent, Congress should not limit states and localities' ability to keep roads safe and close regulatory gaps that exist. We therefore recommend removal of language in the bill that could undermine traditional state and local roles, including over the safe operation of vehicles on public roads.

Additionally, we are concerned that the bill does not require automakers to notify consumers of updates to a car's cybersecurity protections or system breaches, and we also recommend that the bill's privacy provisions should be strengthened to include more protective privacy requirements, such as limits on commercial use. Finally, the Committee should authorize significantly increased funding so that NHTSA—a chronically underfunded agency—can more

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<sup>1</sup> Null, J., CCM. "Trends and Patterns in Pediatric Vehicular Heatstroke Deaths, 1998-2016," *San Jose State University Department of Meteorology and Climate Science* (June 2017) (online at: [noheatstroke.org/Heatstroke\\_Trends.pdf](http://noheatstroke.org/Heatstroke_Trends.pdf)).

effectively fulfill its existing efforts to address persistent driving hazards as well as the requirements in the bill.

As the legislation moves forward, improving the safety and security of Americans should be members' top priority. We 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 save lives, 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,

David Friedman  
Director, Cars and Product  
Policy and Analysis  
Consumers Union

William Wallace  
Policy Analyst  
Consumers Union

cc: Members of the U.S. House Committee on Energy and Commerce