

**Comments of TechFreedom, the R Street Institute, Americans for Prosperity and the Center  
for Growth and Opportunity on the October 28, 2019 Request for Feedback from the  
Bipartisan Bicameral Automated Vehicle Working Group**

**November 4, 2019**

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**Introduction**

On behalf of TechFreedom, the R Street Institute, Americans for Prosperity, and the Center for Growth and Opportunity we submit these comments in response to the request for feedback of October 28, 2019 from the bipartisan and bicameral automated vehicle working group of the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science and Transportation.

**1. HAV Exemptions**

FMVSS exemptions will play a vital role in the development, and ultimate deployment, of HAV technologies. For this reason, it is our position that the phased-in exemption cap contained in the shared language represents progress toward that goal. Still, we believe the language may be improved in the following ways:

- P9, L24 - P10, L8 - “The eligibility of a manufacturer to apply for an exemption from any provision, clause, sentence, or paragraph of a Federal motor vehicle safety standard under clause (ii), (iii), (iv), (v) of subsection (b)(3)(B) for a highly automated vehicle ends on the earlier of...”
  - This sunset provision is problematic. By creating a “hard” sunset, the provision effectively undercuts the very purpose of the bill. We believe any expiration date should be removed. Failing that, at the very least, the bill’s sunset provision should *always* extend beyond related rulemaking time horizons so that no gap exists between the two.
- P7, L1 - “...and meets the safety purpose and intent...”
  - As NHTSA attempts to evaluate HAV systems in the process of granting exemptions, nebulous statutory standards will create confusion and confound progress. This language, by virtue of its ambiguity, should be removed.
- P1, L15 - “The Secretary may commence a proceeding under this subsection...”
  - A request for an exemption proceeding, once received by the Secretary, should be compulsory. We believe that “may” should be replaced by “shall”.

**2. HAV Advisory Council**

The mission of the advisory council should be to capture as many relevant perspectives as possible. The proposed language does a good job of this, but can be improved in the following ways:

- P1, L11 - P2, L4 - “Membership...”
  - The existing list of participants is a good start, but should be expanded to explicitly include a representative of the insurance industry.
- P8, L6-8 - “The Council and any sub-committee of the Council shall terminate on the date that is 6 years after the date of enactment of this Act.”
  - The advisory council’s existence should not thwart hasty progress toward the promulgation of rules. For this reason, the Council’s existence should be abbreviated.

### **3. Motor Vehicle Testing or Evaluation**

It is vital that the testing and evaluation of HAVs mirror the conditions of deployment as closely as possible. For this reason, while the bulk of the proposed language is positive, we believe the following sections should be removed:

- P1, L13 **and** P3, L3-11 - “...agrees not to use the motor vehicle to transport goods or passengers for compensation during testing, evaluation, or demonstration...”
  - In each instance, the language forestalls testing opportunities that could result in valuable insights related to traveler and shipper behavior for subsequent deployment. Instead of creating an outright ban on such behavior, we believe that the inclusion of a limit - tied to the amount of compensation received - would represent a balance between the clear desire to forestall premature deployment and development opportunity.

### **Conclusion**

If you have any questions, concerns, or would like further clarification about any of our suggestions, please feel free to reach out to us, Ian Adams ([iadams@techfreedom.org](mailto:iadams@techfreedom.org)), Nick Zaiac ([nzaiac@rstreet.org](mailto:nzaiac@rstreet.org)), Billy Easley ([beasley@afphq.org](mailto:beasley@afphq.org)) and Chris Koopman ([christopher.koopman@growthopportunity.org](mailto:christopher.koopman@growthopportunity.org)) at any time.

Regards,

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