Policy Rundown

For ITS America Advocacy Trust and Innovation Trust

Administration and Regulatory Affairs

Automated Vehicle Policy Evolves -- USDOT Secretary Suggests Work Needed for Public Acceptance of Automation

Transportation Secretary Elaine Chao released the Automated Driving Systems 2.0, an update to the Federal Automated Vehicle Policy of 2016. According to a USDOT Fact Sheet, the guidance “replaces the 2016 Federal Automated Vehicles Policy, keeping what works; but streamlines, refines, and clarifies areas of concern that may hinder innovation and further a confusing patchwork of regulation.”

Comments to USDOT are due November 14, 2017. See Federal Register Notice to learn how to submit comments. ITS America comments to the 2016 policy linked is linked here. ITS America will submit comments and will vet through its Automated Vehicle Task Force. (Advocacy trust members -- Contact Steven Bayless sbayless@itsa.org for more information.)

Secretary Chao quoted a AAA study in a speech at FHWA’s Fall Business Meeting on September 13, 2017. “And as you may know, a recent survey by the American Automobile Association found that 78 percent of US drivers reported feeling afraid to ride in a self-driving vehicle. Only 19 percent said they would trust the vehicle, and 4 percent said they were unsure. So there is still a lot of work to do to gain public acceptance.”
Legislative News

*Top Senate Aides to Brief ITS America on Senate AV START Act*

On Friday, September 22, Cherilyn Pascoe, Professional Staff Member and Investigator, Chairman John Thune, U.S. Senate Committee on Commerce, Science, and Transportation; and Sydney Paul, Legislative Counsel, U.S. Senator Gary Peters will update ITS America’s Advocacy and Innovation Trust on the Senate Committee on Commerce, Science, and Transportation staff discussion draft of the “American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act” or the “AV START Act.” The call will start at 12:30 p.m. sharp. For more information on this briefing, please email ITS America’s Vice President of Legislative Affairs Ron Thaniel at rthaniel@itsa.org.

*ITS America Provides Comments on Senate AV START Act*

On Monday, September 21, ITS America submitted comments on the Senate Commerce, Science, and Transportation Committee’s staff discussion draft of the "American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act" or the "AV START Act.” Legislation is expected within the coming days and a markup of the legislation likely the first week in October.

Underpinning ITSA’s comments was a strong focus on safety, the most critical function of intelligent transportation. The comments from the Advocacy and Innovation Trust focused on federal and state/local authority for automated vehicles, the Safety Evaluation Report, the Highly Automated Vehicles Technical Safety Committee, and consumer education. The comments also noted that members provided comments on issues where ITSA does not currently have policy/consensus. These issues include data recording, data sharing, cybersecurity, and privacy. ITSA Vice President of Regulatory Affairs and Public Policy Steven Bayless is overseeing a process under the AV Task Force to discuss these issues.
ITSA noted that no comments were received on the draft AV START Act’s approach to exemptions, which supports feedback received from Advocacy and Innovation Trust members and external stakeholders that the AV START Act approach to exemptions is reasonable. The draft expands the number of Federal Motor Vehicle Safety Standard (FMVSS) exemptions for highly automated vehicle systems that NHTSA can grant from 2,500 to 50,000 vehicles in the first year, 75,000 vehicles in the second year, and 100,000 vehicles for any 12-month period following the second year. A manufacturer of a highly automated vehicle may petition the Secretary to expand the exemption to more than 100,000 vehicles in any 12-month period after the exemption has been in place for 5 years. Under Highly Automated Vehicles Testing (Section 5), a comment requested that research institutions be included.

The preemption comments affirmed existing roles and maintain the balance of responsibilities between states, local governments, and the federal government in reference to the operation of Highly Automated Vehicles (HAVs). A state or local government may not enact or enforce a law or regulation relating to any of the nine Safety Evaluation Report (SER) areas. The SER areas include system safety, data recording, cybersecurity, human-machine interface, crashworthiness, capabilities, post-crash behavior, compliance with applicable laws, and automation function. The SER comments focused on roadway assets required for the safe operation of HAV systems; safe operation if roadway assets are obscured or concealed due to adverse weather conditions; adherence to traffic laws; response to unexpected changes to the operational design domain; and affirm the National Highway Traffic Safety Administration’s (NHTSA) post market statutory and regulatory authority. Key comment questions focused on monitoring and regulating software upgrades; state laws that refer to a human driver or require a driver to perform certain task; how the SER treats research institutions; and that the SER doesn’t separate that manufacturers are actually developing hardware and software developers may be developing the technologies for AV that can be added on after market.

ITSA also urged that the Highly Automated Vehicles Technical Safety Committee include researchers and
cybersecurity experts and asked if the Consumer Education Workgroup will be tasked with providing recommendations for potential rulemaking. ITSA asked if the bill will include a definition for “advanced driver assistance systems.” For more information on ITSA’s comments, please email ITSA’s Vice President of Legislative Affairs Ron Thaniel at rthaniel@itsa.org.

**Recapping the AV START Act**

The U.S. Senate Committee on Commerce, Science, and Transportation released on September 8, 2017, a staff discussion draft of self-driving vehicle legislation entitled “American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act” or “AV START Act.”

The staff discussion draft reaffirms the National Highway Traffic Safety Administration’s (NHTSA) authority over the design and construction of highly automated vehicles (SAE J3016 Level 3, 4, or 5 automated driving system) by requiring manufacturers of highly automated vehicles to submit to the Secretary of Transportation a Safety Evaluation Report (SER). A state or local government may not enact or enforce a law or regulation relating to any of the nine SER areas. The SER areas include system safety, data recording, cybersecurity, human-machine interface, crashworthiness, capabilities, post-crash behavior, compliance with applicable laws, and automation function. The Secretary of Transportation may not condition the “manufacture, testing, sale, offer for sale or introduction” into interstate commerce of a highly automated vehicle based on review of the SER.

AV START Act expands the number of Federal Motor Vehicle Safety Standard (FMVSS) exemptions for highly automated vehicle systems that NHTSA can grant from 2,500 to 50,000 vehicles in the first year, 75,000 vehicles in the second year, and 100,000 vehicles for any 12-month period following the second year. A manufacturer of a highly automated vehicle may petition the Secretary to expand the exemption to more than 100,000 vehicles in any 12-month period after the exemption has been in place for 5 years.
AV START Act requires not later than 180 days after the enactment of the Act, the Director of the John A. Volpe National Transportation Systems Center to prepare and submit to the Secretary a report that identifies highly automated vehicle conflicts with current FMVSS.

It establishes a Highly Automated Vehicle Technical Safety Committee that will study system safety, automated steering and braking, crashworthiness, event data recording, accessibility, and potential conflicts with existing FMVSS and provide recommendations on performance standards and harmonization of national highly automated vehicle safety standards.

The staff discussion draft requires manufacturers of highly automated vehicle systems to develop a cybersecurity plan and directs the Secretary of Transportation, in coordination with relevant State and law enforcement entities, to research the traffic safety implications of highly automated vehicles.

**Bill to Promote Innovation in Transportation Systems Introduced in Senate**

On September 14, 2017, U.S. Senators Catherine Cortez Masto (D-NV) and Richard Burr (R-NC) introduced S. 1809, the “Moving and Fostering Innovation to Revolutionize Smarter Transportation (Moving FIRST) Act,” a bill that will enhance the transportation systems of American communities through the use of innovative technology. This legislation will establish and build on the successes of the 2015 Strengthening Mobility and Revolutionizing Transportation (SMART) Cities Challenge administered by the U.S. Department of Transportation by expanding the opportunity for more communities – both urban and rural – to compete for resources that will fund efficient, creative and innovative transportation projects.

“Never before have we seen so many new technologies that can revolutionize transportation to create smart communities and improve safety, mobility, accessibility, economic diversity and our quality of life,” said Tina Quigley, RTC of Southern Nevada General Manager and ITSA Advocacy and Innovation Trust member. “However, to truly be a smart community, we must work together. That’s why I applaud Senator Cortez Masto’s leadership in
introducing this legislation that will enable communities
to partner with the federal government and private
industry to advance data and intelligent transportation
systems. Working together, we are better positioned to
develop innovative solutions that leverage technology for
the benefit of our residents and visitors.”

Eligible applicants include large cities (populations
ranging from 400,000 to 1 million) and mid-sized cities
(populations ranging from 75,000 to 400,000) cities to
our rural communities and regional partnerships
(populations ranging from 10,000 to 75,000).

Allocations under the Moving FIRST Act:

- Large and mid-sized city awards: 2 awards annually,
  up to $50 million for a jurisdiction of each size,
  capped at $80 million total annually
- Rural community and regional partnerships: 2 awards
  annually, totaling up to $20 million total, which a
  requirement that no less than 20% of the available
  funding go to rural projects

ITSA’s smart communities and legislative affairs experts
are working with key aides to the Senators to schedule a
briefing on the bill for ITSA Advocacy and Innovation
Trust members interested in smart communities. For
more information on the ITS America’s activities on smart
communities, please contact ITSA’s Vice President of
External Affairs and Stakeholder Engagement Jason
Goldman at jgoldman@itsa.org.

**Senate Panel Holds Hearing on AV Trucks**

Senate Committee on Commerce, Science, and
Transportation held a hearing entitled “Transportation
Innovation: Automated Trucks and our Nation's
Highways” on Wednesday, September 13, 2017. The
hearing examined the benefits of automated truck safety
technology as well as the potential impacts on jobs and
the economy. Including or excluding trucks, buses, and
other heavy duty vehicles has been a topic of discussion
in ongoing bipartisan efforts to draft self-driving vehicle
legislation. Here are the key takeaways:
“Trucks share our roads, deliver our goods, and keep our economy moving. Including trucks in the conversation about automated vehicles is important as we seek to improve safety; it also puts our economy on a level playing field as other countries around the world deploy automated freight trucks.” –Senate Committee on Commerce, Science, and Transportation Chairman John Thune (R-SD)

“But in our discussions to date, we have not gotten as clear of an understanding on issues related to self-driving trucks as we have during our countless discussions on self-driving cars. As a result, I am of the mind that highly-automated trucks are not ripe for inclusion in this bill.” – Senator Gary Peters (D-MI)

“Our experience in Colorado makes it clear that it’s time to begin planning in earnest for the deployment of semi- and fully-automated commercial motor vehicles. As this Committee moves forward with legislation setting a national framework to guide the deployment of autonomous vehicles, we believe that consideration must be given to the commercial motor vehicle industry.” – Colonel Scott G. Hernandez, Colorado State Patrol

“Trucking plays a critical role in our economy – keeping the shelves of our local supermarkets fully stocked; delivering life-saving medical supplies to hospitals and clinics; and delivering goods at every stage of production from raw materials to the store shelf – and it should not be left out of any legislation that supports innovation in automated vehicle technology.” – Chris Spear, President and CEO, American Trucking Association

“Our roadways were not made for passenger and commercial vehicles to operate independently of each other, and both types of vehicles are being tested at this time. Therefore, the policies outlined in this legislation should apply to all vehicles.” Deborah Hersman, President and Chief Executive Officer, National Safety Council

“The issues facing autonomous commercial trucks are fundamentally different, and potentially more calamitous than those facing passenger cars, and warrant their own careful consideration.” Ken Hall, General Secretary-Treasurer, International Brotherhood of Teamsters
“Autonomous technology is not being created in a vacuum. Our industry is developing Vehicle to Vehicle systems to allow cars and trucks to “talk” to one another.”
Troy Clarke, Chief Executive Officer, Navistar

**Thune Announces Key Committee Staff Changes**

U.S. Sen. John Thune (R-SD), chairman of the Senate Committee on Commerce, Science, and Transportation, announced on September 12, 2017, two promotions and one new addition to the committee staff.

Crystal Tully has been promoted to policy director and counsel for communications and technology. She has worked on the Commerce Committee’s communications and technology policy team as counsel since March of this year, and served previously in the offices of Sen. Roger Wicker (R-Miss.) and Sen. John Sununu (R-N.H.).

Cort Bush has been promoted from professional staff member to senior professional staff member on the communications and technology policy team. Prior to his service on the Commerce Committee, he worked in the offices of Sen. Jerry Moran (R-Kan.), Rep. Eric Cantor (R-Va.), Rep. Mary Bono (R-Calif.), Sen. Gordon Smith (R-Ore.), the U.S. Department of the Treasury, and the private sector.

Brianna Manzelli joined the Commerce Committee staff on July 24 as press secretary and digital director. She previously worked in the press office of the Republican National Committee.

**State and Local Policy Developments**

**San Mateo County, CA Calls on State to Pass Distracted Walking Legislation**

On September 12, 2017, San Mateo County, California unanimously passed a resolution calling on State lawmakers to address the dangers of distracted walking by passing legislation banning the use cellphones in crosswalks or providing localities with the authority to pass this type ordinance. The resolution references a 2015 National Safety Council report finding that
distracted walking incidents involving cellphones accounted for more than 11,000 injuries between 2000 and 2011. Also cited in the resolution is a 2013 Ohio State University study that found that the number of pedestrians (approximately 1,500) who were treated in emergency rooms in 2010 more than doubled since 2005 for injuries due to cellphone-related distracted walking, even though the total number of pedestrian injuries dropped during that time.

Communications

ITS America Interim President and CEO David St. Amant was Guest on Sirius/XM

ITS America’s Interim President and CEO David St. Amant spent one hour on Sirius/XM’s Road Dog News, Channel 146 with host Mark Willis. Listen to the entire interview here.

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