



## H.R. 3388 — SELF DRIVE Act (Rep. Latta, R-OH)

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### FLOOR SCHEDULE:

Expected to be considered September 6, 2017, under suspension of the rules, which requires a 2/3 majority for passage.

### TOPLINE SUMMARY:

[H.R. 3388](#) would establish regulations related to the development and production of highly automated vehicles. The bill would also require all new passenger vehicles to alert the driver to check the back-seat of the vehicle after the ignition is turned off.

### COST:

The Congressional Budget Office (CBO) has [estimated](#) that implementing H.R. 3388 would cost \$10 million over the 2018-2022, subject to appropriation. Pay-as-you-go procedures would apply, since the bill would increase civil penalty revenues. CBO estimates revenues would be increased by less than \$500,000 over the 2018-2027 periods.

H.R. 3388 would impose an intergovernmental mandate, but would not result in additional spending or loss of revenues. It would also impose a private-sector mandate. Compliance with the mandate would exceed \$156 million for at least some of the first five years after the mandates are enacted.

### CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** Some conservatives may be concerned that this bill would require automobile manufacturers to: (1) install an alarm system to prompt the driver to check the rear seat; (2) submit certifications to describe how safety issues are being addressed; and, (3) create cybersecurity and privacy plans. CBO estimates that implementing these mandates would cost the private sector over \$156 million for a least some of the first five years after the mandates are enacted.
- **Encroach into State or Local Authority?** Some conservatives may be concerned that this bill would preempt state and local authority to regulate the development and construction of highly automated vehicles.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

H.R. 3388 would establish regulations related to the development and production of highly automated vehicles.

This bill amends [49 U.S.C. 30103](#) to prohibit states from enforcing laws related to highly automated vehicles unless the law is identical to the standards established under [49 U.S.C. Ch. 301](#). States are still allowed to enforce laws related to registration, licensing, driver's education, insurance, sales and repair of highly automated vehicles. States are also allowed to establish higher performance requirements.

This bill adds a new section requiring the Secretary of Transportation to issue a rule regarding safety assessment certifications by entities that are developing highly automated vehicles. The rule must be submitted within 24 months of enactment and include: (1) which entities must submit a certification; (2) the test results and data that must be submitted to demonstrate safety and function; and, (3) situations in which the certifications must be resubmitted. This rule must be updated every 5 years.

The secretary, within 18 months, must review federal motor vehicle safety standards to ensure the safety of highly automated vehicles and other vehicles sharing the road.

The secretary must also submit to congress a rule-making and safety priority plan to update the motor vehicle safety standards and must include priorities related to highly automated vehicles of the National Highway Traffic Safety Administration for 5 years following the issuance of the plan. The plan must be updated every 5 years. The secretary must initiate the first rule-making proceeding within 18 months of enactment.

The bill also adds a new section related to the cyber-security of automated driving systems. The section requires manufacturers to develop a cyber-security plan prior to selling a highly automated vehicle. The plan must include: (1) a process to assess and mitigate cyber-attacks; (2) a process to take preventative and corrective action to mitigate against vulnerabilities; a process to limit access to automated driving systems; and, (4) a process for employee training and access to automated driving systems.

The bill would amend [49 U.S.C. 30113](#) to allow the secretary to provide an exemption for highly automated vehicles from a motor vehicle safety standard if the exemption would make it easier to develop or evaluate highly automated vehicle features that would provide a safety level equal to the standard for which the exemption is requested, or develop or evaluate vehicles that provide a safety level equal to the safety level of nonexempt vehicles. Applications for these exemptions must include developing, testing and other data to show the vehicle is highly automated and that the safety levels have been met.

The bill establishes that manufacturers of automated driving systems are only eligible for the exemption if the exemption is for less than 100,000 vehicles within 12-month period. In addition, the bill establishes limits on the number of vehicles that can be limited and time-limits on exemptions and renewals.

The bill does not allow highly automated vehicles to be exempted from crashworthiness standards until the safety assessment certification rule and the safety priority plan have been in effect for one year unless the exemption is from the steering control system standard for vehicles that do not have steering control systems.

Manufacturers must report crash information involving exempted vehicles.

The bill makes changes to the prohibition of manufacturing and selling of vehicles that contain defects related to motor vehicle safety under [49 U.S.C. 30112](#) and allows the manufacture of highly automated vehicles that will not be sold.

The secretary is required to initiate a rulemaking proceeding to require manufacturers of highly automated vehicles to inform consumers of the limitations and capabilities of the system.

The bill also establishes a Highly Automated Vehicle Advisory Council of 15-30 members appointed by the secretary. The council will present recommendations to the secretary and to Congress in regards to (1)

access and impediments to the use of highly automated vehicles by the disabled community; (2) mobility access for senior citizens and those underserved by public transportation; (3) cybersecurity for testing and development; (4) development of a framework to share testing and deployment information; (5) labor issues; (6) environmental impacts; (7) consumer privacy concerns; (8) cabin safety; (9) testing of vehicles in rural, mountainous, and other areas that could provide navigation limitations; and, (10) independent verification and validation procedures.

The bill adds a new section requiring the secretary to issue a rule that requires all new passenger vehicles to alert the driver to check the back-seat of the vehicle after the ignition is turned off.

A new section is added to require research into improving the performance of headlamps. The secretary is further required to initiate a rulemaking proceeding to revise the motor vehicle safety standards in regards to headlamps or submit a report to congress if the secretary decided not to do so.

The bill prohibits highly automated vehicle to be sold unless the manufacturer has developed a privacy plan. The privacy plan must include: (1) the manufacturer's practices and the owners' choices in regards to the collection, storage and sharing of owner information; (2) the manufacturer's practices in regards to de-identification of owner information; and, (3) the manufacturer's practices in regards to extending the privacy plan to everyone who has access to owner information. Failure to comply would make the manufacturer subject to civil penalties under [15 U.S.C. 45\(a\)\(1\)](#). The Federal Trade Commission is also required to conduct a study and submit a report to congress that addresses privacy plans of highly automated vehicles.

#### **COMMITTEE ACTION:**

This bill was introduced on July 25, 2017. The bill was referred to the House Committee on Energy and Commerce. A mark-up was held on [July 27, 2017](#), and the bill was reported by a vote of 54-0.

#### **ADMINISTRATION POSITION:**

No Statement of Administration Policy is available at this time.

#### **CONSTITUTIONAL AUTHORITY:**

According to the sponsor: "Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8 of the United States Constitution." No specific enumerating clause was cited.