



October 14, 2024

SUBMITTED ELECTRONICALLY via AutonomousVehicles@dmv.ca.gov

Director Steve Gordon
Department of Motor Vehicles
Autonomous Vehicles Branch
2415 1st Ave, MS D405
Sacramento, CA 95818

Subject: California DMV Draft Regulations for Autonomous Vehicles

Dear Director Gordon:

The Alliance for Automotive Innovation (Auto Innovators) appreciates the opportunity to submit informal comments regarding the California Department of Motor Vehicles (DMV) draft regulations for autonomous vehicles (AVs). These comments are offered to enhance the safety outcomes of California's regulatory regime and to minimize potential unintended consequences for the Department and the AV industry.

Auto Innovators represents the full auto industry, including the manufacturers producing most vehicles sold in the U.S., equipment suppliers, battery producers, semiconductor makers, technology companies, and autonomous vehicle developers. Our mission is to work with policymakers to realize a cleaner, safer, and smarter transportation future and to maintain U.S. competitiveness in cutting-edge automotive technology. Representing approximately 5 percent of the country's GDP, responsible for supporting nearly 10 million jobs, and driving \$1 trillion in annual economic activity, the automotive industry is the nation's largest manufacturing sector.

We share the Department's commitment to maintaining a regulatory environment that prioritizes roadway safety for all users. However, we are concerned that the draft regulations may introduce regulatory complexities and uncertainty that could undermine California's leadership in the AV industry, hamper innovation, and have the unintended consequence of reducing safety. Specifically, Auto Innovators and its members believe that, if finalized as written, the draft regulations may: (1) create impracticable and subjective reporting and compliance requirements; (2) require vehicle equipment modifications that may not align with existing standards; (3) create procedures for engaging with first responders that may not be efficient; (4) pose inadvertent risks to AV manufacturers and developers' confidential business information (CBI); and (5) lead to potential misalignment with consensus standards promulgated by the federal government and industry. Lastly, we are concerned that the proposed regulatory framework does not align with Level 3 technologies or other privately owned AVs, as the reporting requirements and the privacy implications of such reporting are likely untenable. We recommend that privately-owned AVs be excluded from the regulations.

We support the Department's efforts to update California's AV regulations. To assist with the Department's rulemaking process, we have summarized our high-level concerns below and are also attaching a detailed redline of both draft regulatory documents (Articles 3.7 and 3.8). To that end, we are available as a resource should you wish to meet with us or our members. We also encourage the Department to hold a workshop to fully account for feedback relating to the proposed light-duty vehicle provisions. Thank you again for the opportunity to provide comments. Please do not hesitate to reach out with any questions or concerns.

Sincerely,



Sarah Puro
Vice President, Safety and Technology Policy
Alliance for Automotive Innovation

Overview of Concerns

The expanded reporting and compliance requirements are impracticable and overly burdensome for AV companies.

The draft regulations dramatically expand the reporting and compliance responsibilities of AV manufacturers and developers. While we agree that the DMV should have access to all data necessary to assess and enforce AV safety and compliance, the expanded scope of data required as part of the Department's testing and deployment programs is overly broad, burdensome, and in some cases, open to multiple interpretations. Specifically, the following aspects of the draft regulations require revision:

- ***Application process:*** The process to apply for a testing or deployment permit requires an amount of data that would be burdensome for manufacturers, particularly those relating to disengagement history. In addition, the regulations do not specify the time needed for the DMV to approve applications. Additional clarity with respect to the DMV's approval timeline would be helpful.
- ***Expanded data reporting and timing:*** The Department would like to dramatically expand the scope of data collected relating to disengagements, collisions within and outside of California, software development, safety governance, and staffing. We are concerned about the validity of some data elements, such as disengagements, for assessing safety and program compliance and about the implicit reach of California's regulations. For example:

- The Department specifically requests information about milestones for companies regarding time and distance on the roadways. However, there is not a one-size fits all answer to this question as it depends on system complexity and characteristics. Some types of automated driving systems and operational design domains (ODD) may require more testing time and mileage to demonstrate safety, while other systems and ODDs may need less testing time and mileage. For instance, it may be appropriate for an AV that operates throughout a large, highly populated urban area to be subject to more rigorous requirements than an AV that operates on a closed loop course in a suburban setting.
- The proposed requirement for updating a deployment application does not accurately reflect companies' processes for implementing software updates and system improvements. Software is being updated on a rolling basis during testing (sometimes multiple times a day), making it impractical to require that all software versions be reported to the DMV.
- Some information required by the regulation would be nearly impossible to obtain within the timelines proposed. For example, responding to Preliminary Information Notices within 24 hours would be extremely difficult for manufacturers, as it would require analysis and coordination from dozens of staff around the globe who may be working on vehicle safety at any one time.
- ***Safety case submission and modifications:*** We are concerned about the Department's proposal to require the submission of manufacturer and developer safety cases, some of which would be considered confidential business information. The content of these safety cases is not fully defined and requires significant clarification. Without additional personnel with specific expertise, the ability of the Department to assess the adequacy of safety cases is in question. The draft regulations also lack clarity as to which safety case modifications would need to be reported to the Department for a manufacturer and developer to remain in compliance with the regulations.
- ***In-state remote staffing requirements:*** We oppose the proposal to require all remote assistants and remote operators to be physically located within the state of California. This requirement does not appear to have any safety benefits and could deter non-California-based AV companies from operating in the state. If each state were to adopt such a requirement, it would be impossible for AV companies to scale their operations nationally. This could seriously undermine American competitiveness. Importantly, we do not believe that being located out of state would raise latency or other safety concerns. In addition, we believe that this provision could be in violation of the Commerce Clause.
- ***Vehicle retrieval requirements:*** Auto Innovators members share the Department's goals relating to the disruption of traffic, safety, and first responders' ability to do their jobs. However, the requirements dictating the amount of time in which manufacturers must retrieve a vehicle may be too short to realistically and consistently implement. Further, in addition to

Level 3 vehicles and privately-owned vehicles, any AV in which a human driver is present should be explicitly excluded from these retrieval requirements. Manufacturers also require additional clarity on how the Department will measure compliance with respect to the percentage-based retrieval metrics.

We urge the Department to align vehicle equipment requirements with industry standards.

Auto Innovators supports national or international standards for vehicle equipment. Instead, the DMV is proposing multiple state level requirements for vehicle equipment, namely a two-way microphone and an autonomous mode indicator. It is infeasible for the industry to manufacture vehicles with different equipment requirements for every state in which they operate. While Auto Innovators acknowledges the potential benefit of equipping vehicles with a microphone to enable direct communication with remote operations staff and an indicator to help first responders identify the vehicle's operating status, we believe that safety and efficiency benefits will not be realized unless this equipment is standardized.

First responder education and documentation requirements are duplicative and burdensome for first responders.

Auto Innovators members proactively engage with, and educate, first responders, and recognize the importance of such engagement. Our members support maintaining first responder interaction plans and believe that first responders must be able to engage with AVs in a safe, supportive, and efficient manner.

- ***Current proposals may be duplicative without enhancing safety.*** For example, requiring both physical and virtual copies of permit documents may be redundant for companies without optimizing the first responder experience. Auto Innovators recommends instead making permit documents available to first responders via license plate search capabilities. This approach has been used successfully in Texas.
- ***First responder training regime requires clarity.*** The currently proposed approach for first responder training lacks clarity for companies about required content and frequency, and may be overly burdensome for first responders because they would need to attend multiple trainings for each company offering services within their jurisdiction. Rather than requiring each company to create their own training program and requiring first responders to spend valuable time training with each company that operates in California, we recommend that the Department, California Highway Patrol (CHP), or another central authority create and operate a universal training program that first responders can attend either in person or online in an asynchronous manner. Companies currently provide significant training to first responders, and AV companies operating in California could be active partners in curriculum and course development. For situations in which a company's vehicle has unique characteristics, supplemental training materials could be required.

The expanded scope of data collection will dramatically increase confidential business information (CBI) disclosure risks.

The draft regulations would expand the scope of data required of manufacturers and developers. With dramatically expanded data reporting requirements, comes an increased risk that AV companies' confidential business information will be inadvertently disclosed. In particular, the requirements for safety case, software, and incident reporting would pose particularly high disclosure risks. While some data will serve safety objectives, these benefits are not clear for every category of information requested. With additional data, the "signal to noise ratio" may increase, making it harder to determine when there is a real safety concern. This could lead to less safe outcomes.

It is also unclear whether the Department has adequate resources to analyze, retain, act upon, and protect all the data it is proposing to collect. We urge the Department to carefully examine all data elements being requested, and limit collection to only what is necessary in order to protect program participants' CBI, data required to be kept confidential under the NHTSA Standing General Order, and other privacy considerations.

We urge the Department to embrace and align its regulations with federal and industry standards.

As suggested above, Auto Innovators and its members are broadly concerned that these draft regulations would lead to potential misalignment with federal standards and reporting requirements, as well as consensus standards in the industry. While we acknowledge California's authority to ensure the safety of its citizens and roadways, we are deeply concerned that a regulatory patchwork is emerging across and within states. To the extent feasible, we urge the Department to align its regulatory approach (definitions, reporting requirements, and if necessary, equipment standards), with those of the federal government and SAE International.