SUBCOMMITTEE ON INSURANCE AND LIABILITY

Considerations for Insurance and Liability

Goals and Values

- Preservation of existing consumer protections
- Equity issues between AV and non-AV drivers
- Premium underwriting and increases should reflect risk
- Non-discrimination in insurance
- Insurance standards should be uniform among states + develop organically
- Safety – Prioritize crash prevention before the point of an insurance claim
- Recognize early point in AV development and that insurance/liability framework will continue to evolve

Topics

Insurance:
- Minimum insurance requirements for various kinds of automated vehicles/best possible coverage
- How do autonomous vehicles affect limits of coverage
- Roles and responsibilities for various users of automated vehicles
- Should insurance follow the person or the vehicle? Follow the manufacturer?
- Insurance requirements specific to testing
- Relationship between technology costs and insurance rates
- Software/hardware maintenance + impacts on insurance/liability
- Self-insured (fleet) insurance standards – currently motor carriers self-insure at point of registration. Will this process change?

Liability:
- Product liability and ownership liability
- Assigning fault in incidents
  - Contributory negligence?
- How to determine liability for a crash that occurs while the vehicle is operating in automated mode
- Responsibilities of manufacturers, upfitters, and testing entities to ensure safety of automated vehicles
- Liability implications for non-standard road design?
- Is state liable if it doesn’t install/maintain certain infrastructure?
- Relationship between system decisions (e.g., who to protect in a crash) and liability
- Who is liable when an AV is used for illegal purposes?
• Relationship between driver training + liability -> training now v. future (If manufacturer provides training and a crash still happens, does that affect liability? If state provides training and a crash happens, is state liable for insufficient training?)
• Phase-out of liability insurance

Additional Issues:
• Liability and insurance for cybersecurity breaches
• Relationship between jurisdictions, consistency, infrastructure and liability/insurance
• Sliding scale of insurance coverage/liability on SAE levels

Questions for Insurance and Liability Subcommittee

Insurance:
• What are appropriate minimum levels of coverage for AVs?
  o During testing?
  o During deployment?
  o Is there a basis for setting different levels than for conventional vehicles?
  o Can we make that determination now or do we need more data?
• How does driver’s prior driving record impact insurance underwriting for AVs?
  o How do insurers underwrite risk when driver’s record might not be a primary factor?
  o Does it matter if the driver can take control of the car? Does the rate vary?
• Will there be different rates for different drivers?
  o Personal vehicles, livery drivers, taxi/rideshare, commercial carriers?
• How will motor carriers who now self-insure at point of registration be affected?
• How will vehicles display or transmit insurance information in the event of a crash?
• How will insurance deal with the increased cost of repairing physical damage due to vehicle sensors, cameras, computer systems, etc.?
• Does mileage matter when underwriting AVs?
• How does maintenance of sensors and systems or obsolescence affect underwriting?

Liability:
• Who is liable?
  o During different modes of travel?
  o At different levels of automation?
    • Review AAMVA Guidelines around Level 3 vehicles (p. 39)
    • Is this appropriate even if the vehicle is within its ODD and has not issued a request to intervene?
  o In automated mode, if a human has tampered with software?
  o Do the state or local jurisdictions assume any liability based on installation and maintenance of certain equipment or infrastructure?
• Standard of care
  ○ What is current standard of care as a driver?
  ○ Does standard of care change at different SAE levels?
  ○ Does failing to maintain hardware or update software constitute negligence?
  ○ Do we need a “prudent operator” standard that does not depend on active driving?
• Should manufacturer be considered liable for product defects?
  ○ What if software fails? (e.g., software developer)
  ○ What if hardware fails? (e.g., sensor manufacturer)
  ○ What if infrastructure was insufficient? (e.g., local government)
• Who is liable when an AV is used for illegal purposes? (e.g., transporting controlled substances)
• How does system decision-making (e.g., who to protect in a crash) affect liability?
• What proof is needed to show liability?
  ○ Data from the car itself
  ○ Information collected from road/infrastructure

Additional Issues:
• Who is liable and should there be insurance requirements relating to cybersecurity breaches?
  ○ How is this handled in traditional cybersecurity breaches?
  ○ Is this a state responsibility? Are there national standards to follow?
  ○ Should this topic be moved to Cybersecurity subcommittee?
• Who is liable and should there be insurance requirements relating to cybersecurity breaches?
  ○ How is this handled in traditional cybersecurity breaches?