MEMORANDUM

To: Insurance and Liability Subcommittee, Oregon Task Force on Autonomous Vehicles
From: ODOT Staff
Date: June 14, 2018
Re: Response to Subcommittee Research Request

Introduction

At the first Insurance and Liability Subcommittee meeting on June 6, 2018, the Subcommittee requested more information on insurance requirements for automated vehicle (AV) testing in other jurisdictions, details on fleet requirements, and the statutory definition of commercial vehicles.

Insurance Requirements for AV Testing Permit Programs

Below is a comparison of jurisdictional insurance requirements AV testing permits by the American Association of Motor Vehicle Administrators (AAMVA) and those in effect in other states.

<table>
<thead>
<tr>
<th>States with AV Testing Permitting Programs</th>
<th>AAMVA</th>
<th>California</th>
<th>Nevada</th>
<th>New York</th>
<th>Massachusetts</th>
<th>Connecticut</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evidence of manufacturer’s ability to respond to judgements for damages for personal injury, death, or property damage caused by a vehicle during testing. Evidence may be in the form of an instrument of insurance, a surety bond, or proof of self-insurance.</td>
<td>✔</td>
<td>$5,000,000 Minimum</td>
<td>$5,000,000 Minimum $1,500,000 minimum for TNCs</td>
<td>$5,000,000 Minimum</td>
<td>$5,000,000 Minimum</td>
<td>$5,000,000 Minimum</td>
</tr>
</tbody>
</table>

1. Nevada requires certification of understanding that each autonomous testing vehicle listed is covered by an insurance company licensed to do business in the state and certification of understanding that a testing entity must maintain coverage that meets or exceeds Nevada’s minimum liability requirements.
### Self-Certification/Notification Required States

<table>
<thead>
<tr>
<th></th>
<th>Arizona</th>
<th>Michigan</th>
<th>Tennessee</th>
<th>Washington</th>
<th>Nebraska</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evidence of manufacturer’s ability to respond to judgements for damages for personal injury, death, or property damage caused by a vehicle during testing. Evidence may be in the form of an instrument of insurance, a surety bond, or proof of self-insurance.</td>
<td>Nothing mentioned</td>
<td>$10,000,000 Minimum³</td>
<td>$5,000,000 Minimum (for a vehicle without a human driver physically present)</td>
<td>Does not differ from a conventional vehicle</td>
<td>Does not differ from a conventional vehicle</td>
</tr>
</tbody>
</table>

2. Arizona requires notification for testing AVs without a driver present. It does not for testing with a driver. Insurance requirements are not specified for either case.

3. Michigan requires a minimum of $10 million in coverage for an entity to be considered a “motor vehicle manufacturer.” Michigan’s AV laws mandate that only motor vehicle manufacturers can operate autonomous vehicles.

### States with No AV Testing Permit Program or Notification Requirement

<table>
<thead>
<tr>
<th></th>
<th>Colorado</th>
<th>Texas</th>
<th>Florida</th>
<th>Georgia</th>
<th>North Carolina</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evidence of manufacturer’s ability to respond to judgements for damages for personal injury, death, or property damage caused by a vehicle during testing. Evidence may be in the form of an instrument of insurance, a surety bond, or proof of self-insurance.</td>
<td>$ 5,000,000 minimum⁴</td>
<td>Does not differ from a conventional vehicle</td>
<td>Nothing specifically mentioned</td>
<td>250 percent what is required for limousines or self-insurance until 2020. Starting in 2020, equivalent to what is required for limousines or self-insurance.⁵</td>
<td>Does not differ from a conventional vehicle</td>
</tr>
</tbody>
</table>

4. No less than $5 million umbrella insurance, commercial general liability insurance of no less than $1 million, and vehicle insurance of no less than $1 million. And / or a surety bond of no less than $5 million if they have no umbrella insurance or their limits are less than what was outlined above.

5. Only applies to vehicles without human drivers.
Insurance Requirements for Fleet/Self Insurance in Oregon

In Oregon, fleet vehicle registration is separate and distinct from the self-insurance process. Fleet vehicles are subject to the same insurance requirements as other vehicles of the same vehicle type (passenger, etc). Certification of insurance coverage is required each time the registration for a fleet vehicle is renewed (OAR 735-042-0020).

The self-insurance certificate requirements are described under ORS 806.130. If the applicant indicates they are self-insured, they must provide their self-insurance certificate number when renewing the vehicle registration.

If the applicant wants to apply for self-insurance, DMV establishes whether the applicant has more than 25 motor vehicles, including commercial buses, registered in Oregon (required under ORS 806.130).

ODOT has businesses and public entities that are self-insured, but not in the fleet program; and fleets that are not self-insured. There is crossover but the two can be mutually exclusive.

References

OAR 735-042-0020: Application for and Issuance of Fleet Registration

(1) An applicant for fleet vehicle registration must submit the following to DMV for each fleet vehicle to be registered:

   (a) A completed and signed DMV application list for fleet vehicle registration and applicable fees;

   (b) The name and address of the fleet operator, the billing address and the name and phone number for the person in charge of fleet registration;

   (c) If applicable, the current registration plate number, registration expiration date, vehicle identification number (VIN) and title number;

   (d) If the applicant requests to have the entire fleet’s registration expire at the same time, the requested month of expiration;

   (e) A service fee of $2 for each vehicle registered or added to an existing fleet and a $1 fee for each registration renewal; and

   (f) Any other requirements for vehicle registration including applicable fees, proof of insurance and proof of emissions compliance.

(2) Registration expiration dates for fleet vehicles will be recorded on DMV records. Expiration dates are not included on registration plates or registration cards.

(3) DMV will assign a unique registration account number to each vehicle fleet registered in Oregon.
(4) Fleet plates are issued with a "PF" prefix, and may not be transferred to another vehicle.

(5) Except as provided in OAR 735-042-0030, fleet vehicles eligible for quarterly registration will be registered on an annual basis. Vehicles subject to biennial registration will be registered for a two-year period.

(6) Approximately 60 days before the registration on a fleet vehicle is due to expire, DMV will provide a billing list for each vehicle that needs its registration renewed to the person in charge of fleet registration. Renewal will be issued upon return receipt of a completed signed billing list that includes applicable fees, proof of insurance and proof of emissions compliance, if required.

2017 ORS 806.130: Self-insurance

(1) To qualify as a self-insurer for purposes of financial responsibility requirements under ORS 806.060 (Methods of compliance), a person must do all of the following:

   (a) Apply to the Department of Transportation and be issued by the department a certificate of self-insurance under ORS 806.140 (Certificate).

   (b) Either:

      (A) Establish to the satisfaction of the department that the person possesses and will continue to possess the ability to pay and discharge judgments described under ORS 806.040 (Judgments for which financial responsibility requirements established) that might be obtained against the applicant; or

      (B) Be qualified under the laws of the State of Oregon or under an ordinance of a city of this state to act as a self-insurer and be acting as a self-insurer.

   (c) Agree to provide the same coverage and to pay the same amounts with respect to an accident occurring while the certificate is in force that an insurer would be obligated to provide and to pay under a motor vehicle liability insurance policy, including providing the coverage required under ORS 806.080 (Insurance) (1)(b) and uninsured motorist coverage and liability coverage to at least the limits specified in ORS 806.070 (Minimum payment schedule).

   (d) Have more than 25 motor vehicles including commercial buses registered in the person’s name.

(2)

   (a) If an accident occurs while a certificate of self-insurance issued under ORS 806.140 (Certificate) is in force, the liability protection provided and the amounts paid under
subsection (1)(c) of this section are secondary to any motor vehicle liability insurance or
uninsured motorist coverage available to a customer of the self-insurer, an operator of the
self-insured vehicle or an occupant of the self-insured vehicle unless otherwise agreed to
by the self-insurer. A self-insurer is required to provide the minimum payments established
under ORS 742.502 (Uninsured motorist coverage) and 806.070 (Minimum payment
schedule) only when the motor vehicle liability insurance policy of a customer of the self-
insurer or an operator of the self-insured vehicle does not provide the minimum required
payments established in ORS 742.502 (Uninsured motorist coverage) and 806.070
(Minimum payment schedule).

(b) A self-insurer may recover from a customer of the self-insurer or an operator of the self-
insured vehicle the amounts paid under subsection (1)(c) of this section.

(3) Nothing in this section requires a self-insurer to provide liability coverage when a person is
operating the vehicle without permission of the self-insurer. [1983 c.338 §849; 1985 c.16 §430;
2007 c.287 §1]

Definitions for Commercial Motor Vehicle

There are two primary definitions for commercial motor vehicle (CMV) established at the federal
level in 49 CFR §383 and §390. Both definitions apply to medium- or heavy-duty vehicles, and
generally not to light-duty vehicles involved in a commercial operation, such as a ride-hailing
service. One federal definition for CMV applies to vehicles weighing 10,001 lbs. or more (a Class 3
or above heavy-duty vehicle), but not requiring a commercial driver’s license (CDL) for operation.
The other federal definition for CMV applies to vehicles or combinations of vehicles weighing
26,001 lbs. or more, a vehicle of any weight designed to transport more than 15 passengers, or
any vehicle which is used to transport hazardous materials. This class of CMV does require
operation by a driver holding a CDL.

Other states and the federal government have typically used “transportation network company”
(TNC) to refer to ride-hailing services such as Lyft and Uber. In 41 CFR §300-3, the General Services
Administration establishes a definition for transportation network companies that is similar to
definitions found in other jurisdictions:

“Transportation network company (TNC)—A corporation, partnership, sole proprietorship,
or other entity, that uses a digital network to connect riders to drivers affiliated with the
entity in order for the driver to transport the rider using a vehicle owned, leased, or
otherwise authorized for use by the driver to a point chosen by the rider; and does not
include a shared-expense carpool or vanpool arrangement that is not intended to generate
profit for the driver.”
References
Title 41 CFR §300-3 can be found here: https://ecfr.io/Title-41/pt41.4.300_63
Title 49 CFR §383 can be found here: https://ecfr.io/Title-49/pt49.5.383
Title 49 CFR §390 can be found here: https://ecfr.io/Title-49/pt49.5.390