Subcommittee on Insurance and Liability - Meeting 1
June 6, 2018
Salem, OR

Members in attendance – Richard Blackwell (subcommittee chair), Chris Hagerbaumer, Eliot Rose, Jeremiah Ross, Michael Rose (proxy for subcommittee member Neil Jackson), Robert Nash (by phone), Rep. Susan McLain (non-voting), Lt. Tim Tannenbaum (Chair of Task Force, non-voting for this subcommittee)

ODOT staff in attendance – Jenna Adams-Kalloch, Paul Duncan, Amy Joyce, Eryca Dinsdale, Andrew Dick, Ali Lohman

Public attendance count – Lori-Anne Sills, Evan Manvel, John Powell, Laura Tocheny, Patrick Brennan, Paul Cosgrove (by phone)

Welcome and Introduction (Richard Blackwell)
Meeting Start 1:05 PM
Chair Blackwell set a goal for the meeting to take a significant review of insurance issues and get a start on liability issues.

Review of Workshop Responses
No clarifications or revisions brought up to goals and values.

Issue 1: Insurance
Chair Blackwell tasked the group with considering a figure for an appropriate minimum coverage value for manufacturers testing in Oregon. He mentioned a value of 5 million dollars as a starting point.

The subcommittee decided it would be helpful to look at the minimum insurance policy requirements in other states that allow Automated Vehicle ("AV") testing.

The committee identified the need to consider what parts of insurance, such as uninsured motorist coverage and personal injury coverage, need to be included and how they should be weighted.

The committee discussed the possibility of having different standards for privately-owned vehicles, fleet vehicles owned by private companies, and fleets for public entities.
Michael Rose clarified Oregon’s existing minimum liability standards.

Lt. Tannenbaum wanted information about what is included in ORS 803.

Rep. McLain then asked the subcommittee to address who would be responsible for maintaining coverage of autonomous vehicles.

The subcommittee agreed that manufactures would have the responsibility for insuring their vehicles during testing.

Eliot Rose suggested differing requirements for testing, deployment, fleet ownership and level of automation.

Jeremiah Ross noted that manufacturers may be testing continuously and thought there could be risks to covering test and deployment vehicles differently, especially if they end up on the roads at the same time. He agreed that handling fleets and individually owned vehicles differently could be helpful.

Bob Nash said that insurance follows vehicles in the current system. It was generally agreed that this still makes sense for autonomous vehicles.

Lt. Tannenbaum expressed confidence that the current system of determining fault in crashes can still work for autonomous vehicles.

Lt. Tannenbaum gave a background on relevant discussions from the other subcommittees. He mentioned the disengagements over miles driven standard as something that could be useful in this area.

Chris Hagerbaumer made the case that manufactures should be held responsible for incidents. She said data to show when a vehicle is at fault should be easily available.

Lt. Tannenbaum noted that a lot of these issues will be worked out in courts.

Chair Blackwell said the court determining liability is fine as long as consumers are protected.

Michael Rose noted that the insurance market will work out prices quickly based on data and experience of each manufacturer. He said the most impact from AVs will come from what data can be gathered for crash reconstruction.

**Underwriting Issues**

Chair Blackwell asked the subcommittee to consider how insurance underwriting will and should change in regard to driving records. Are records less relevant? Is any form of the driver’s strategic decision-making relevant to the insurance calculation?

What does self-insurance look like for fleets?

Lt. Tannenbaum noted possible social justice issues relating to the cost of insurance for those who cannot afford safer autonomous vehicles.
The subcommittee thought about how an autonomous and possibly unoccupied vehicle could demonstrate insurance information. Lt. Tannenbaum informed that group that insurance information can already be looked up by law enforcement based on the license plate of vehicles. Michael Rose mentioned that commercial vehicles already have a way to automatically transmit their information.

The subcommittee discussed the relationship between insurance providers and data from AVs.

Robert Nash said consumers will gradually become used to relinquishing some privacy in order to use these vehicles.

**Issue 2: Liability**

Chair Blackwell said that manufactures should have liability during testing. He questioned if there should be differences for deployed vehicles of different SAE levels.

Lt. Tannenbaum suggested that vehicles will have to be considered on a case-by-case basis based on level of automation and features, such as whether or not a level 5 vehicle has a steering wheel at all.

Rep. McLain spoke about her desire for a flexible system that can ensure safety even as technology moves rapidly.

Chair Blackwell and Michael Rose discussed if prudent operator standards would be applicable to autonomous vehicles.

Robert Nash noted that the tort law system is designed to adapt to changes and said he expects to see a norm of operator liability with the possibility to shift liability to manufactures in case of malfunctions.

Michael Rose said that situations like the above are covered under existing consumer protection law. He shared the concern that the complexity of possible liability disputes could hold up proceedings and suggested that there should be no preemption of local laws so people can be adequately protected.

Michael Rose and Eliot Rose spoke about the concept of strict liability and if it could be applicable to autonomous vehicles.

Michael Rose said that, although the tort system does move, it moves slowly. It may be the charge of the task force to make sure gaps are covered as it moves.

Chris Hagerbaumer raised her concern about an imbalance of power between consumers and OEMS in the case of legal proceedings resulting from possible vehicle malfunctions. Lt. Tannebaum responded that such an imbalance would be nothing new.

Jeremiah Ross spoke about his concern that the cost to ligate accidents could become much higher. He suggested the creation of a system to make crash data accessible and readable.
Rep. McLain said she would like to tweak the current system to cover gaps, protect people, and avoid social issues – instead of making hefty changes to anything.

End 2:31 PM

Recap and Next Steps

Subcommittee members to read and discuss law review article.

ODOT staff to provide more information on the following:

- Insurance policies in other states
- Fleet standards under OR 803
- Clarification about the statutory differences between heavy-duty commercial vehicles and TNC fleet vehicles or taxis

Refer question about deployment timeframe to Subcommittee on Licensing and Registration.

Reach out to Subcommittee on Cybersecurity and Long-Term policy about what data it could be possible to obtain for insurance and liability uses and whether it would be possible to create a standardized format for reporting data that would protect intellectual property.

Areas of Consensus and Areas for Further Discussion

Insurance

The subcommittee agreed that manufactures should have to meet a minimum insurance requirement for testing.

The subcommittee agreed in principle that insurance should follow the vehicle and be covered by the manufacturer.

Areas for further discussion

- Defining minimum coverage needed for AVs

Liability

The subcommittee generally agreed that current law is likely to adequately address AVs, and that the task of the subcommittee would be to identify any gaps in liability law that may need to be changed for either AV testing or deployment.

Areas for further discussion

- Commercial liability for fleets