Welcome and Review of Minutes (Richard Blackwell)

Meeting Start 1:04 PM

Review ODOT Research Memo

The subcommittee reviewed the research memo provided by ODOT.

Ali Lohman clarified that the Subcommittee on Licensing and Registration will be recommending the creation of a testing permit process.

Richard Blackwell called the members’ attention to Colorado’s insurance requirements listed in the research memo.

Eliot Rose sought more information about service fees for fleet vehicles. Ali Lohman said that the Subcommittee on Licensing and Registration will be addressing permitting fees.

Jeremiah Ross flagged for future discussion insurance and liability requirements for public fleets, for example city buses.

Insurance Recap and Recommendations

Richard Blackwell tasked the subcommittee with focusing on recommending insurance requirements for a testing permit system.

The subcommittee discussed the Colorado requirements.
Richard Black noted the Colorado requirements were a good starting point since they would include PIP, UM, and UIM.

Robert Nash noted some coverages might not be covered in a flat $5 million minimum.

**Liability Considerations**

Richard Blackwell said that addressing liability in a testing scheme would influence how liability will look when automated vehicles are deployed.

The subcommittee discussed whether or not setting safety standards would be beneficial to liability issues with automated vehicles and if they were within the scope of this subcommittee and task force.

Eliot Rose asked how data to determine a safety standard might be collected. He suggested that automated vehicles be rated on safety by comparing their performance to that of human drivers.

Richard Blackwell suggested some safety standard could help determine liability, especially related to software and hacking vulnerabilities.

Ali Lohman reminded the subcommittee that the federal government is primarily responsible for setting safety standards for the design and performance of a vehicle.

**Insurance**

The subcommittee returned to the topic of insurance. He suggested considering requiring coverage including an umbrella policy and business auto insurance.

Neil Jackson noted that comprehensive coverage exists in Oregon already. He raised a specific concern with testing of automated commercial vehicles and platooning technology and suggested a $5 million per vehicle requirement.

Robert Nash said that manufacturers may have liability beyond their coverage in catastrophic incidents.

The subcommittee discussed the state’s role in determining commercial vehicle liability.

Ali Lohman clarified that platooning technology is not considered to be level 3 or higher and that the subcommittee on licensing and registration decided not to include specific commercial vehicle recommendations at this time.

Richard Blackwell suggested including a recommendation to preserve the standards already present in commercial liability requirements.

The subcommittee decided that the coverage requirement should be per-event.

The subcommittee decided to recommend a $5 million umbrella minimum coverage requirement in addition to preserving existing minimum requirements.


**Liability**

Neil Jackson spoke about the expense required to access vehicle black box data and wanted to ensure similar data from automated vehicles would be available to law enforcement and insured consumers, since such data may be especially crucial in incidents involving AVs.

Robert Nash noted that data from an event data recorder, as opposed to vehicle ADS software data, would be sufficient in most crashes and could raise red flags about other information that might be important to gather.

Ali Lohman asked the subcommittee if they felt there was anything specific they would like to recommend the Subcommittee on Law Enforcement and Crash Reporting include as part of their recommendation about crash reporting requirements.

Richard Blackwell said it may be important for liability purposes to know if a vehicle issued a request for intervention before or during an incident.

Jeremiah Ross said it would be valuable to know when vehicle software was last updated and by whom. He raised a concern about the usability and format of data. He wondered if some standardized format could be created to combat that problem.

Robert Nash said the subcommittee’s main concern should be making sure important data from incidents is preserved.

Neil Jackson said that he believed incident data should be preserved for at least the statute of limitations around a case.

Ali Lohman mentioned that data from 30 seconds before and after a crash is the standard requirement.

The subcommittee generally agreed current process for discovering data from vehicles should be able to address automated vehicles.

The subcommittee decided it would be helpful to hear from the Subcommittee on Cybersecurity and Long-Term Policy about how data will be able to be accessed and what it could be used for.

**Public Comment**

Nicole Stoenner, Chief of Staff for Rep. Susan McLain, questioned the viability of using the safety of human drivers as a benchmark for automated vehicles.

Richard Blackwell said that testing to some benchmark could help with liability issues, but did not believe it was something this subcommittee should discuss in detail.

Nicole Stoenner suggested combining the human driver test with benchmarking of automated vehicles.
Ali Lohman reminded the subcommittee that “testing” refers to a phase of development where a manufacturer’s employees test their vehicles as opposed to the state verifying the capabilities of those vehicles.

**Other Areas for Consideration**

The subcommittee turned its attention to any potential gaps in the current system.

Eliot Rose asked if there should be different standards for testing and deployment.

The subcommittee discussed different standards of liability that could apply to automated vehicle manufactures.

Jeremiah Ross and Neil Jackson suggested the consumer expectation test could be applicable to deployed vehicles.

Jeremiah Ross also raised his concern about transportation network companies absolving themselves of liability by requiring waivers from consumers and about how liability for municipalities that may operate automated vehicles will work.

The subcommittee discussed that some of these may be relevant in testing if there are situations when consumers interface with testing environments.

Robert Nash said the task force should avoid putting anything in the way of the tort system’s evolution because it will change in ways that cannot be foreseen.

The previous meeting minutes were approved.

Meeting End 2:25 p.m.

**Subcommittee Recommendations - DRAFT**

Include a note in the report that when the automated technology for commercial vehicles is more developed, the subcommittee recommends setting insurance minimums specifically for commercial vehicles equipped with automated technology levels 3 and above.

For automated vehicle testing, require $5 million umbrella insurance per event with a caveat to maintain existing coverages. Such coverage should include accommodation for business auto policies to cover less-than-catastrophic events. Coverage should not, however, be designed to roll back consumer protections in the Insurance Code or the Vehicle Code (e.g., personal injury protection, underinsured/uninsured motorist coverage).

For automated vehicle testing, preserve some form of standardized, non-proprietary recorded data from a crash or incident involving an automated vehicle for the duration of the statute of limitations.

Include a note that encourages a testing environment in Oregon for autonomous vehicles in order to preserve the current legal liability framework.
Questions for Other Subcommittees

Recommend that when the Law Enforcement and Crash Reporting Subcommittee addresses crash reporting requirements, they consider information about a vehicle’s software update history and any requests for intervention during the time leading up to a crash. Additionally, recommend that the Law Enforcement and Crash Reporting consider requiring crash report data to be in an accessible format.

Request information from the Subcommittee on Cybersecurity and Long-Term Policy about how AV data will be accessible, what it could be used for, and what concerns with consumer privacy need to be considered.

Next Steps

Subcommittee to hold a short meeting with call-in option to confirm language of recommendations.

Areas for Further Discussion

Subcommittee to continue discussion of “gaps” identified in this conversation and others:

How to address testing situations where consumers may be involved – such as automated test vehicle offering limited free rides.

Liability for municipalities operating automated vehicles.