Statement of Intent:
Incorporating Automated Vehicles into Oregon’s Vehicle Code

The Subcommittee on Vehicle Code Amendments and Public Safety recognizes that Oregon’s existing statutes and case law for conventional vehicles were developed long before the advent of highly automated vehicles (HAVs), and that this new technology creates new concepts and roles never anticipated. The Subcommittee recommends that new statutes be included in the Vehicle Code to address roles and definitions that are unique to HAVs. It is important to ensure that these new concepts do not undermine the established statutes and case law designed for conventional vehicles. It is equally important to ensure that existing law continues to apply to automated vehicles wherever appropriate.

Currently, the Vehicle Code does not contemplate a situation in which an automated driving system (ADS), rather than a human driver, is in control of a vehicle. The deployment of HAVs will necessitate the incorporation of new concepts and language into the Vehicle Code. For example, Oregon may want to create a definition for a "fallback-ready user," a human being seated in the driver's seat of a Level 3 automated vehicle; the fallback-ready user may not be in control of the vehicle but must be prepared at all times to retake control if alerted by the ADS. Existing terminology, such as "driver," "operator," or "passenger," does not clearly encapsulate the role and responsibilities of a "fallback-ready user." The Vehicle Code needs to include new language that clearly delineates the distribution of responsibilities between human users and HAVs with different levels of automation.

However, the Subcommittee is concerned that it may not be possible to smoothly integrate HAV-specific language into our existing laws and conventional definitions. For example, in Oregon the act of "driving" arguably requires a person to exercise "actual physical control" over a vehicle. It is unclear how this requirement would apply to an automated driving system or a remote operator, both of which control a vehicle's movement without operating the physical mechanisms, such as a steering wheel or pedals, that a conventional driver would use.

Integrating new HAV-specific definitions into the current Vehicle Code will require caution and precision. If certain new definitions created for HAVs could be applied to conventional vehicles, this may undermine the strength of existing definitions or create a conflict between statute and case law. The terms "drive" and "driver" are not defined in the Vehicle Code, but decades of case law have clarified the meaning of "driver" for specific purposes. **State v. Cruz (1993)** established the meaning of "driver" for the purposes of DUII violations, and other case law has clarified the meaning of "driver" for the purposes of insurance. Creating a definition of "driver" that incorporates HAV considerations or amending other existing definitions to address HAVs could interfere with established case law around issues such as DUIIs and insurance. This could have unintended consequences for cases pertaining to conventional vehicles.
The Subcommittee also recognizes that many existing statutes and related case law will be applicable to HAVs and should therefore pertain to both HAVs and conventional vehicles. For example, HAVs will need to follow the rules of the road, stop at stop signs, and obey speed limits, just as drivers of conventional vehicles are required to do. While some laws may need to be amended to accommodate ADS operation, many laws should continue to be enforced for both automated and conventional vehicles.

The Subcommittee has also considered how personal liability principles should apply to HAV deployment. Recognizing the ability of Oregon’s tort law to adapt to new technologies, there is no clear need, at this time, to define duties, causes of action, or remedies beyond existing concepts. Oregon has historically accomplished this through the organic common law process. The Subcommittee believes that existing laws defining obligations to maintain insurance, minimum coverages and how and when coverages apply are currently adequate and should apply to automated vehicles. As the relationships between the various entities—owners, operators, manufacturers, insurers—develop, the insurance industry will need to create new products to accommodate those relationships and meet existing financial liability requirements to protect the general public.

Therefore, the Subcommittee believes the Legislature should exercise extreme caution when deciding how to incorporate new definitions and other statutes related to HAV technology and user roles into the Vehicle Code. The Subcommittee recommends creating new terms and definitions tailored for HAV operation, ensuring the new HAV-specific language does not adversely affect the governance of conventional vehicles, and applying existing laws to HAVs wherever appropriate.
Statement of Intent: Definitions for Automated Vehicles

Oregon’s existing statutes governing conventional vehicles were established long before the advent of highly automated vehicles. This new technology creates new concepts and roles never anticipated. Oregon law will need to incorporate new definitions or amend existing definitions to address the changes brought about by automated vehicles.

The Task Force on Autonomous Vehicles has relied on definitions established by the International Society of Automotive Engineers (SAE). SAE published and later revised “Surface Transportation Recommended Practice J3016: Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles,” which provides common terms and definitions used across the automated vehicle industry. The document was designed to serve several purposes, including “answering questions of scope when it comes to developing laws, policies, regulations, and technical requirements.”

However, the terms and definitions in J3016 were not designed with the Oregon Vehicle Code or other Oregon laws in mind. The Subcommittee recognizes that any new or amended definitions must align with Oregon’s existing statutory language. It is also vital that any definitions created or amended to accommodate automated vehicle operation do not undermine the existing definitions that apply to conventional vehicles.

Therefore, the Subcommittee makes the following recommendations:

1) As Oregon crafts definitions for automated vehicles, look to recommended practice from the International Society of Automotive Engineers for concepts related to driving automation systems.

2) Special consideration should be given when defining terms, such as “driver,” which have different meanings under Oregon law, depending on the context.

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1 Society of Automotive Engineers. 2018. “Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles.” Available at: [https://www.sae.org/standards/content/j3016_201806/](https://www.sae.org/standards/content/j3016_201806/)
Statement of Intent:

Acknowledgement That Insurance Minimum Coverage May Change In Some Situations

The Subcommittee believes that existing laws defining the obligations to maintain insurance and how and when coverages apply are currently adequate for the deployment of highly automated vehicles (HAVs). However, as the relationships between the various entities—owners, operators, manufacturers, insurers—develop, policy makers will need to adjust the minimum insurance policy coverage limits to protect the general public and ensure there are ample financial resources to compensate individuals in the event of an adverse incident with an HAV that results in death, injury, and/or property damage.

The Subcommittee believes current minimum insurance policy coverage limits may be inadequate in the following scenarios in which an HAV is deployed:

- Transportation Network Companies and ride share companies operating HAVs;
- Commercial Carriers such as trucking companies that are “platooning”\(^1\) HAVs;
- HAVs that have the ability to “platoon” with other HAVs;
- Commercial Carriers transporting Hazardous materials as classified by the U.S. Environmental Protection Agency;
- Common Carriers such as bus companies operating HAVs.

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\(^1\) **Platooning** is the linking of two or more vehicles in convoy, using connectivity technology and automated driving support systems.