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BILL ANALYSIS



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Senate Bill 706 (as introduced 10-27-21)
Sponsor: Senator Ken Horn
Committee: Economic and Small Business Development

Date Completed: 12-2-21

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- **Allow the Michigan Council of Future Mobility to conduct, or contract with a third-party vendor to conduct, a study to analyze the impact that the development, construction, or implementation of an automated vehicle roadway, automated vehicle roadway system, or related infrastructure would have on the State in the location that the roadway, system, or other infrastructure was deployed.**
- **Allow the Michigan Department of Transportation (MDOT) to designate a segment of a roadway under its jurisdiction as an automated vehicle roadway, to require a user fee for the use of the roadway or a lane within it, and to enter into an agreement with an automated vehicle roadway system provider for construction and operation of an automated vehicle roadway system.**
- **Specify that the bill would supersede all local ordinances that regulated automated vehicle roadway systems, automated vehicle roadways, automated vehicle roadway lanes, or automated vehicle roadway system providers, except specified local ordinances.**
- **Specify that certain safety and technological requirements established by MDOT as a condition for use and exclusive use requirements could apply after a roadway had been designated as an automated vehicle roadway.**
- **Specify that a violation of the safety and technological requirements or exclusive use requirements would be a civil infraction and prescribe a fine for a violation.**
- **Allow an automated vehicle roadway system provider to install and use an unmanned traffic monitoring device on an automated vehicle roadway.**
- **Specify that, beginning 31 days after the installation of an unmanned traffic monitoring device, a person would be responsible for a civil infraction if the person violated the requirements of an automated vehicle roadway based on the evidence obtained by the device.**
- **Specify that photographs, microphotographs, videotape, or other recorded images or data indicating a violation on an automated vehicle roadway would be prima facie evidence of a violation.**
- **Specify that an automated vehicle roadway system provider would be immune from liability that arose out of modifications made to its automated vehicle roadway system without its consent.**
- **Delete language providing for the creation of the Michigan Council on Future Mobility.**

Definitions

The bill would define "automated vehicle roadway" as a segment of a roadway that has been designated by MDOT for an automated vehicle roadway system. "Automated vehicle roadway

system" would mean a hardware and software system that is capable of facilitating the deployment and operation of an automated motor vehicle or a vehicle equipped with varying levels of automated technology while traveling through a segment of roadway that has been designated for such a system by MDOT. "Automated vehicle roadway lane" would mean any lane or ramp on an automated vehicle roadway designated for the exclusive use of motor vehicle operating while communicating with an automated vehicle roadway system.

"Automated vehicle roadway system provider" would mean an entity that designs, installs, constructs, operates, or maintains an automated vehicle roadway system.

Automated Vehicle Roadway Study

Under the bill, the Michigan Council of Future Mobility and Electrification could conduct, or contract with a third-party vendor to conduct, a study that analyzed the impact that the development, construction, or implementation of an automated vehicle roadway, automated vehicle roadway system, or related infrastructure would have on labor and employment in areas within the State where an automated vehicle roadway, automated vehicle roadway system, or related infrastructure was developed, constructed, or implemented.

Automated Vehicle Roadway Designation

Under the bill, MDOT could do all the following:

- Designate a segment of a roadway under its jurisdiction as an automated vehicle roadway.
- Designate a lane or ramp of an automated vehicle roadway as an automated vehicle roadway lane.
- Require a user fee for the use of an automated vehicle roadway or automated vehicle roadway lane.

In addition, MDOT could enter in an agreement with an automated vehicle roadway system provider for the design, construction, manufacture, operation, maintenance, or management of an automated vehicle roadway system for a designated automated vehicle roadway or automated vehicle roadway lane. As part of the agreement, MDOT would have to include a provision authorizing the automated vehicle roadway provider to establish and collect user fees for the use of the automated vehicle roadway or automated vehicle roadway lane. An automated vehicle roadway system provider could use the fees to properly design, construct, manage, operate, or maintain its automated vehicle roadway system.

The bill specifies that the provisions above would supersede all local ordinances that regulated automated vehicle roadway systems, automated vehicle roadways, automated vehicle roadway lanes, or automated vehicle roadway system providers, except that a local unit of government could adopt an ordinance or enforce an existing ordinance that did not conflict with these provisions.

The Code specifies that, when engaged, an automated driving system allowing for operation without a human operator is considered the driver or operator of a vehicle for purposes of determining conformance to any applicable traffic or motor vehicle laws and is deemed to satisfy electronically all physical acts required by a driver or operator of the vehicle. The bill specifies that an automated vehicle roadway system provider would not be an operator of a vehicle.

Violations on an Automated Vehicle Roadway

Under the bill, when a roadway had been designated as an automated vehicle roadway or a

lane or ramp as an automated vehicle roadway lane, any of the following could apply:

- The roadway, lane, or ramp could be subject to certain safety and technological requirements established by MDOT as a condition for use.
- The roadway, lane or ramp could be reserved for the exclusive use of motor vehicles operating while communicating with an automated vehicle roadway system.

The Code prescribes certain rules and restrictions depending on the number of lanes on a roadway or certain lane designations. It specifies that a person who violates these rules and restrictions is responsible for a civil infraction. This penalty also would apply to a person who violated the safety and technological requirements or the reservation of a lane for certain exclusive uses as described above. In addition, the bill specifies that a person who violated the rules and restrictions prescribed by the Code, the safety and technological requirements described above, or the reservation of a lane for certain exclusive uses as described above could be fined as provided by the Code.

Unmanned Traffic Monitoring Device

Under the bill, an automated vehicle roadway system provider could install and use an unmanned traffic monitoring device on, over, under, or along an automated vehicle roadway for which the automated vehicle roadway system provider had entered into an agreement with MDOT. Beginning 31 days after the device's installation on, over, under, or along the automated vehicle roadway, a person would be responsible for a civil infraction if the person violated applicable safety and technological requirements or the reservation of a lane for exclusive use as described above based on the evidence obtained by the device. However, for the first 30 days after the device's installation, a person would have to be issued a written warning only.

The bill specifies that, notwithstanding any provision of law to the contrary, a sworn statement of an authorized agent of MDOT, based upon the inspection of photographs, microphotographs, videotape, or other recorded images or data produced by a device, would be prima facie evidence of the facts contained in the sworn statement. Any photographs, microphotographs, videotape, or other recorded images or data indicating a violation would have to be available for inspection in any proceeding of a violation. Recorded images or data of a violation that contained personal identification information would have to be destroyed within 90 days after final disposition of the citation.

In a proceeding for a violation established by an unmanned traffic monitoring device under the bill, prima facie evidence that the vehicle described in the citation issued was operated in that violation, together with proof that the defendant, at the time of the violation, was the registered owner of the vehicle, would be rebuttable presumption that the registered owner of the vehicle was the person who committed the violation. The owner of a leased or rental vehicle, for purposes of the bill, would have to provide the name and address of the person to whom the vehicle was leased or rented at the time of the violation. The presumption described above would be rebutted if any of the following applied:

- The registered owner of the vehicle filed an affidavit with the clerk of the court that he or she was not the operator of the vehicle at the time of the violation.
- The registered owner of the vehicle testified in court, under oath, that he or she was not the operator of the vehicle at the time of the violation.
- A certified copy of a police report showing that the vehicle had been reported to the police as stolen before the time of the violation was presented before the appearance date on the citation.

Under the bill, notwithstanding Section 742 of the Code (which prescribes the process for issuing a citation to a person for a violation of the Code), a citation for a violation proposed by the bill based on evidence obtained from an unmanned traffic monitoring device could be executed by mailing a copy of the citation by first-class mail to the address of the owner of the vehicle as shown on the records of the Secretary of State. If the summoned person failed to appear on the date of return set out in the citation previously mailed by first-class mail, a copy of the citation would have to be sent by certified mail, with return receipt requested. If the summoned person failed to appear on either of the dates of return set out in the copies of the citation, the citation would have to be executed in the manner provided by law for personal service. The court could issue a warrant for the arrest of a person who failed to appear within the time limit established on the citation if a sworn complaint were filed with the court for that purpose.

Liability

Under the Code, a manufacturer of automated driving technology, an automated driving system, or a motor vehicle is immune from liability that arises out of any modifications made to a motor vehicle, an automated motor vehicle, an automated driving system, or automated driving technology by another person without the manufacturer's consent, as provided in the Revised Judicature Act. The Code specifies that this provision does not supersede or otherwise affect the contractual obligations, if any, between a motor vehicle manufacturer and a manufacturer of automated driving systems or a manufacturer of automated driving technology. Under the bill, these provisions also would apply to an automated vehicle roadway system provider and its automated vehicle roadway system.

Operation of a Platoon

The Code allows a person to operate a platoon on a street or highway of the State if the person files a plan for general platoon operations with the Department of State Police and MDOT before beginning operations. The Code specifies that if the platoon includes a commercial motor vehicle, an appropriately endorsed driver who holds a valid commercial driver license must be present behind the wheel of each commercial motor vehicle in the platoon. The bill specifies that this provision would not apply if the commercial motor vehicle were operated on an automated vehicle roadway.

"Minimal Risk Condition"

A manufacturer of automated driving systems or upfitter must ensure that all of a list of circumstances exist when researching or testing the operation, including operation without a human operator, of an automated motor vehicle or any automated technology or automated driving system installed in a motor vehicle upon a highway or street. This includes that a person authorized by the manufacturer can monitor the vehicle's performance while it is being operated on a highway or street in this state and, if necessary, promptly take control of the vehicle's movements. If the individual does not, or is unable to, take control of the vehicle, the vehicle must be capable of achieving a minimal risk condition.

"Minimal risk condition" would mean the ability of an automated motor vehicle, upon experiencing a failure of its automated driving system that renders the automated motor vehicle unable to perform the dynamic driving task, to bring the vehicle to a stop in a reasonably safe location for the vehicle and any human operator.

MCL 257.2b et al.

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill would not mandate a fiscal impact on MDOT because its language is permissive. The Department could incur costs and expenses to designate or create new highway lanes for automated vehicles; however, it would not have to if it took no action.

Otherwise, the bill could have a positive fiscal impact on State and local government. The bill would allow for the imposition of civil fines for various violations. Revenue collected from civil fines is used to support local libraries. Additionally, \$10 of any civil fine would be deposited into the State Justice System Fund. The Fund supports justice-related activities across State government in the Departments of Corrections, Health and Human Services, State Police, and Treasury. The Fund also supports justice-related issues in the Legislative Retirement System and the Judiciary. The amount of revenue to the State or for local libraries is indeterminate and would depend on the actual number of violations (provided the basis for those violations was established).

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.