
HOUSE BILL 1731

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By Representatives Kloba and Boehnke

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1 AN ACT Relating to enhancing requirements for autonomous vehicle
2 testing; amending RCW 46.04.370, 46.92.010, and 42.56.270; adding new
3 sections to chapter 46.92 RCW; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.92
6 RCW to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Automated driving system" includes hardware and software
10 that are collectively capable of performing the entire dynamic
11 driving task on a sustained basis, regardless of whether it is
12 limited to a specific operational design domain and regardless of the
13 presence of a safety operator.

14 (2) "Autonomous operation" means the performance of the entire
15 dynamic driving task by an autonomous driving system, beginning upon
16 performance of the entire dynamic driving task by an autonomous
17 driving system and continuing until the autonomous driving system is
18 disengaged.

19 (3) "Autonomous vehicle" means a vehicle with a level 4 or level
20 5 automated driving system as provided in the society of automotive
21 engineering international's standard J3016, as it existed on October

1 1, 2022, or such subsequent date as may be provided by the department
2 by rule, consistent with the purposes of this chapter.

3 (4) "Autonomous vehicle testing entity" means a person conducting
4 autonomous vehicle testing in the state.

5 (5) "Dynamic driving task" means all of the real-time operational
6 and tactical functions collectively required to operate a vehicle in
7 on-road traffic, including controlling lateral and longitudinal
8 vehicle motion, monitoring the driving environment, executing
9 responses to objects and events, planning vehicle maneuvers, and
10 enhancing vehicle conspicuity. "Dynamic driving task" does not
11 include the strategic functions of driving, such as scheduling trips,
12 selecting destinations, and specifying routes.

13 (6) "Minimal risk condition" means a condition to which a test
14 operator or autonomous driving system brings a vehicle to reduce the
15 risk of a collision when a trip cannot or should not be completed,
16 such as bringing the vehicle to a complete stop.

17 (7) "Operate" means the activities performed by a human operator
18 or an autonomous driving system to perform the entire dynamic driving
19 task for an autonomous vehicle.

20 (8) "Operational design domain" means the environmental,
21 geographic, time-of-day, traffic, infrastructure, and other
22 conditions under which an autonomous driving system is specifically
23 designed to function.

24 (9) "Operator" means the autonomous driving system or natural
25 person operating a motor vehicle equipped with an automated driving
26 system.

27 (10) "Testing" means the operation of an autonomous vehicle on
28 public roadways to assess or demonstrate the autonomous vehicle's
29 capabilities.

30 **Sec. 2.** RCW 46.04.370 and 1975 c 62 s 6 are each amended to read
31 as follows:

32 "Operator or driver" means every person who drives or is in
33 actual physical control of a vehicle. "Operator or driver" of an
34 autonomous vehicle has the same meaning as "operator" in section 1 of
35 this act.

36 **Sec. 3.** RCW 46.92.010 and 2021 c 193 s 1 are each amended to
37 read as follows:

1 ~~(1) ((In order to test an autonomous motor vehicle on any public~~
2 ~~roadway under the department's))~~ The department is authorized to
3 administer an autonomous motor vehicle self-certification testing
4 pilot program((, the)) and may adopt rules as necessary to implement
5 this chapter. An autonomous vehicle testing entity conducting testing
6 of an autonomous vehicle on public roadways in Washington state must
7 meet the requirements of this section.

8 (2) The following information must be provided to the department
9 by the ((self-certifying)) autonomous vehicle testing entity testing
10 ((the)) an autonomous motor vehicle:

11 (a) Contact information specified by the department;

12 (b) Local jurisdictions where testing is planned;

13 (c) The vehicle identification numbers of the autonomous vehicles
14 being tested, provided that one is required by state or federal law;
15 ~~((and))~~

16 (d) Proof of an insurance policy that meets the requirements of
17 RCW 46.30.050;

18 (e) The registered agent of the autonomous vehicle testing
19 entity, including the registered agent's name, address, and driver's
20 license number, and any other information the department may require
21 for the enforcement authorized under section 4 of this act; and

22 (f) If the testing entity has submitted a safety self-assessment
23 to the national highway traffic safety administration, the most
24 recent voluntary safety self-assessment transmitted to the national
25 highway traffic safety administration.

26 ~~((2))~~ (3) Any autonomous motor vehicle to which subsection
27 ~~((1))~~ (2) of this section is applicable and that does not have a
28 vehicle identification number and is not otherwise required under
29 state or federal law to have a vehicle identification number assigned
30 to it must be assigned a unique identification number that is
31 provided to the department and that is displayed in the vehicle in a
32 manner similar to the display of vehicle identification numbers in
33 motor vehicles.

34 ~~((3)(a) The self-certifying))~~ (4)(a) To test an autonomous
35 vehicle with a human operator present in the vehicle on a public
36 roadway, the autonomous vehicle testing entity must certify that:

37 (i) Only a trained employee, contractor, or other person
38 authorized by the developer of the automated driving system will
39 operate or monitor the vehicle being tested;

1 (ii) The human operator of the autonomous vehicle being tested
2 must possess a valid United States driver's license;

3 (iii) Vehicles will, at all times, be monitored by the human
4 operator present in the vehicle;

5 (iv) The human operator present in the vehicle will, at all
6 times, have the ability to direct the vehicle's movements if human
7 operator assistance is required; and

8 (v) Vehicle operation will comply with Washington state motor
9 vehicle laws at all times, including during autonomous operation of
10 the vehicle.

11 (b) To test an autonomous motor vehicle without a human operator
12 present in the vehicle on any public roadway, the autonomous vehicle
13 testing entity must certify that:

14 (i) Vehicles being tested will be equipped with an automated
15 driving system that performs all aspects of the dynamic driving task
16 within the vehicle's operational design domain;

17 (ii) Vehicles being tested will be capable of achieving a minimal
18 risk condition without human intervention when necessary to maintain
19 safe operations;

20 (iii) Vehicle operation will comply with Washington state motor
21 vehicle laws, including during autonomous operation of the vehicle;
22 and

23 (iv) In developing the automated driving system and preparing the
24 autonomous vehicle for testing on public roadways, the autonomous
25 vehicle testing entity has:

26 (A) Put in place a comprehensive safety case framework with
27 identifiable safety-related goals and mandatory feedback mechanisms;

28 (B) Conducted driving simulations and closed-course testing in
29 preparation for testing on public roadways;

30 (C) Evaluated the safety record of the autonomous vehicle being
31 tested to determine its readiness for testing on public roadways;

32 (D) Put in place any additional safety measures appropriate to
33 the less predictable driving environment of testing on public
34 roadways based on the evidence collected under (b) (iv) (A) through (C)
35 of this subsection; and

36 (E) Verified that the vehicle meets appropriate and applicable
37 industry standards to help defend against, detect, and respond to
38 cyberattacks, unauthorized intrusions, and false vehicle control
39 commands.

1 (5) (a) (i) To provide information to inform the safe operation of
2 autonomous vehicles during testing on public roadways, the autonomous
3 vehicle testing entity testing ((the)) an autonomous motor vehicle on
4 any public roadway must notify the department of:

5 ~~((i))~~ (A) Any collisions that are required to be reported to
6 law enforcement under ((RCW 46.52.030)) (b) of this subsection,
7 involving an autonomous motor vehicle during testing on any public
8 roadway; and

9 ~~((ii))~~ (B) Any moving violations, as defined in administrative
10 rule as authorized under RCW 46.20.2891, for which a citation or
11 infraction was issued, involving an autonomous motor vehicle during
12 testing on any public roadway.

13 ~~((b))~~ (ii) By February 1st of each year, the self-certifying
14 entity must submit a report to the department covering reportable
15 events from the prior calendar year.

16 ~~((c))~~ (iii) The ((self-certifying)) autonomous vehicle testing
17 entity shall provide the information required by the department under
18 (a)(i) of this subsection. The information provided must include
19 whether the ((autonomous)) automated driving system was operating the
20 vehicle at the time of or immediately prior to the collision or
21 moving violation((, and in the case of a collision, details regarding
22 the collision, including any loss of life, injury, or property damage
23 that resulted from the collision)).

24 ~~((d))~~ (b) (i) The autonomous vehicle testing entity shall also
25 provide the department with the information transmitted to the
26 national highway traffic safety administration under the national
27 highway traffic safety administration's autonomous vehicle incident
28 reporting requirements, or those adopted by the department by rule,
29 as referenced in (b) (ii) of this subsection. The information required
30 under this subsection must be submitted by the same deadlines for
31 information submission set by the national highway traffic safety
32 administration in its reporting requirements referenced in (b) (ii) (A)
33 of this subsection, or those adopted by the department by rule under
34 (b) (ii) (B) of this subsection.

35 (ii) (A) The reporting requirements applicable to (b) (i) of this
36 subsection are those set by the national highway traffic safety
37 administration in first amended standing general order 2021-01 as it
38 existed on the effective date of this section, or under subsequent
39 reporting requirements of the national highway traffic safety

1 administration as may be provided by the department by rule,
2 consistent with the purposes of this chapter.

3 (B) If the national highway traffic safety administration's
4 reporting requirements in first amended standing general order
5 2021-01 as it existed on the effective date of this section are
6 eliminated or reduced, the reporting requirements applicable to
7 (b) (i) and (ii) (A) of this subsection may be supplemented or replaced
8 by rules of the department to ensure reporting of collisions
9 continues to include information on the vehicles involved in a
10 collision, the scene of the collision, crash description, and
11 relevant precrash and postcrash information, including whether the
12 automated driving system was operating the vehicle at the time of or
13 immediately prior to the collision or moving violation, and
14 information on any loss of life, injury, or property damage that
15 resulted from the collision.

16 (c) The provisions of this section are supplemental to all other
17 rights and duties under law applicable in the event of a motor
18 vehicle collision.

19 ~~((4))~~ (6) The autonomous vehicle testing entity shall promptly
20 notify the department of any changes in the information required to
21 be provided under this section.

22 (7) (a) The ~~((self-certifying))~~ autonomous vehicle testing entity
23 testing the autonomous motor vehicle on public roadways ~~((under the~~
24 department's autonomous vehicle self-certification testing pilot
25 program)) must provide written notice in advance of testing to local
26 and state law enforcement agencies and local fire service providers
27 with jurisdiction over any of the public roadways on which testing
28 will occur that includes the expected period of time during which
29 testing will occur in the applicable jurisdictions, including city
30 police departments within city limits where testing will occur,
31 county sheriff departments outside of city limits in counties where
32 testing will occur, and the Washington state patrol when testing will
33 occur on limited access highways, as defined in RCW 47.52.010.

34 (b) However, for testing primarily on limited access highways
35 that travels through multiple local jurisdictions, which may include
36 the limited incidental use of other roadways, the ~~((self-certifying))~~
37 autonomous vehicle testing entity must only provide written notice as
38 specified in this subsection to the Washington state patrol and local
39 fire service providers.

40 (c) Written notice provided under this subsection must: ~~((a))~~

1 (i) Be provided not less than fourteen and not more than sixty
2 days in advance of testing; ~~((b) include))~~

3 (ii) Include contact information where the law enforcement agency
4 and fire service provider can communicate with the ~~((self-~~
5 ~~certifying))~~ autonomous vehicle testing entity testing the autonomous
6 vehicle regarding the testing planned in that jurisdiction; and ~~((e)~~
7 ~~provide))~~

8 (iii) Provide the physical description of the motor vehicle or
9 vehicles being tested, including make, model, color, and license
10 plate number.

11 ~~((5))~~ (d) An autonomous vehicle interaction guide for law
12 enforcement and fire service providers must be provided at the time
13 written notice is provided, which must include instructions for
14 interaction with autonomous vehicles without human operators when
15 these vehicles will be tested.

16 (8) The department may adopt a fee to be charged by the
17 department for self-certification in an amount sufficient to offset
18 administration by the department of the self-certification testing
19 pilot program.

20 ~~((6))~~ (9) The department shall provide public access to the
21 information ~~((self-certifying))~~ autonomous vehicle testing entities
22 provide to it, subject to the limitations in RCW 42.56.270, and shall
23 provide an annual report to the house and senate transportation
24 committees of the legislature, as well as to the autonomous vehicle
25 work group established under RCW 47.01.510 while that section remains
26 in effect, summarizing the information reported by ~~((self-~~
27 ~~certifying))~~ autonomous vehicle testing entities under this section.

28 ~~((7))~~ (10) An autonomous motor vehicle may not be operated on
29 any public roadway for the purposes of testing in Washington state
30 until the department is provided with the information required under
31 ~~((subsection))~~ subsections (1) and (3) of this section.

32 ~~((8) For purposes of this section, "autonomous" means a level~~
33 ~~four or five driving automation system as provided in the society of~~
34 ~~automotive engineering international's standard J3016, as it existed~~
35 ~~on October 1, 2022, or such subsequent date as may be provided by the~~
36 ~~department by rule, consistent with the purposes of this section.))~~

37 NEW SECTION. Sec. 4. A new section is added to chapter 46.92
38 RCW to read as follows:

1 (1) A violation of chapter 46.61 RCW by the operator of an
2 autonomous motor vehicle driven without a human operator present in
3 the vehicle, as authorized under RCW 46.92.010(4)(b), is a traffic
4 infraction. A notice of infraction must be mailed to the registered
5 agent of the autonomous vehicle testing entity conducting testing
6 within 14 days of the violation.

7 (2) The registered agent of the autonomous vehicle testing entity
8 conducting testing is responsible for an infraction under RCW
9 46.63.030(1) when subsection (1) of this section applies.

10 (3) Infractions committed under subsection (1) of this section
11 are not part of the registered agent's driving record under RCW
12 46.52.101 and 46.52.120.

13 **Sec. 5.** RCW 42.56.270 and 2021 c 308 s 4 are each amended to
14 read as follows:

15 The following financial, commercial, and proprietary information
16 is exempt from disclosure under this chapter:

17 (1) Valuable formulae, designs, drawings, computer source code or
18 object code, and research data obtained by any agency within five
19 years of the request for disclosure when disclosure would produce
20 private gain and public loss;

21 (2) Financial information supplied by or on behalf of a person,
22 firm, or corporation for the purpose of qualifying to submit a bid or
23 proposal for (a) a ferry system construction or repair contract as
24 required by RCW 47.60.680 through 47.60.750; (b) highway construction
25 or improvement as required by RCW 47.28.070; or (c) alternative
26 public works contracting procedures as required by RCW 39.10.200
27 through 39.10.905;

28 (3) Financial and commercial information and records supplied by
29 private persons pertaining to export services provided under chapters
30 43.163 and 53.31 RCW, and by persons pertaining to export projects
31 under RCW 43.23.035;

32 (4) Financial and commercial information and records supplied by
33 businesses or individuals during application for loans or program
34 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
35 43.168 RCW, or during application for economic development loans or
36 program services provided by any local agency;

37 (5) Financial information, business plans, examination reports,
38 and any information produced or obtained in evaluating or examining a

1 business and industrial development corporation organized or seeking
2 certification under chapter 31.24 RCW;

3 (6) Financial and commercial information supplied to the state
4 investment board by any person when the information relates to the
5 investment of public trust or retirement funds and when disclosure
6 would result in loss to such funds or in private loss to the
7 providers of this information;

8 (7) Financial and valuable trade information under RCW 51.36.120;

9 (8) Financial, commercial, operations, and technical and research
10 information and data submitted to or obtained by the clean Washington
11 center in applications for, or delivery of, program services under
12 chapter 70.95H RCW;

13 (9) Financial and commercial information requested by the public
14 stadium authority from any person or organization that leases or uses
15 the stadium and exhibition center as defined in RCW 36.102.010;

16 (10)(a) Financial information, including but not limited to
17 account numbers and values, and other identification numbers supplied
18 by or on behalf of a person, firm, corporation, limited liability
19 company, partnership, or other entity related to an application for a
20 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
21 marijuana producer, processor, or retailer license, liquor license,
22 gambling license, or lottery retail license;

23 (b) Internal control documents, independent auditors' reports and
24 financial statements, and supporting documents: (i) Of house-banked
25 social card game licensees required by the gambling commission
26 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
27 by tribes with an approved tribal/state compact for class III gaming;

28 (c) Valuable formulae or financial or proprietary commercial
29 information records received during a consultative visit or while
30 providing consultative services to a licensed marijuana business in
31 accordance with RCW 69.50.561;

32 (11) Proprietary data, trade secrets, or other information that
33 relates to: (a) A vendor's unique methods of conducting business; (b)
34 data unique to the product or services of the vendor; or (c)
35 determining prices or rates to be charged for services, submitted by
36 any vendor to the department of social and health services or the
37 health care authority for purposes of the development, acquisition,
38 or implementation of state purchased health care as defined in RCW
39 41.05.011;

1 (12)(a) When supplied to and in the records of the department of
2 commerce:

3 (i) Financial and proprietary information collected from any
4 person and provided to the department of commerce pursuant to RCW
5 43.330.050(8);

6 (ii) Financial or proprietary information collected from any
7 person and provided to the department of commerce or the office of
8 the governor in connection with the siting, recruitment, expansion,
9 retention, or relocation of that person's business and until a siting
10 decision is made, identifying information of any person supplying
11 information under this subsection and the locations being considered
12 for siting, relocation, or expansion of a business; and

13 (iii) Financial or proprietary information collected from any
14 person and provided to the department of commerce pursuant to RCW
15 43.31.625 (3)(b) and (4);

16 (b) When developed by the department of commerce based on
17 information as described in (a)(i) of this subsection, any work
18 product is not exempt from disclosure;

19 (c) For the purposes of this subsection, "siting decision" means
20 the decision to acquire or not to acquire a site;

21 (d) If there is no written contact for a period of sixty days to
22 the department of commerce from a person connected with siting,
23 recruitment, expansion, retention, or relocation of that person's
24 business, information described in (a)(ii) of this subsection will be
25 available to the public under this chapter;

26 (13) Financial and proprietary information submitted to or
27 obtained by the department of ecology or the authority created under
28 chapter 70A.500 RCW to implement chapter 70A.500 RCW;

29 (14) Financial, commercial, operations, and technical and
30 research information and data submitted to or obtained by the life
31 sciences discovery fund authority in applications for, or delivery
32 of, grants under RCW 43.330.502, to the extent that such information,
33 if revealed, would reasonably be expected to result in private loss
34 to the providers of this information;

35 (15) Financial and commercial information provided as evidence to
36 the department of licensing as required by RCW 19.112.110 or
37 19.112.120, except information disclosed in aggregate form that does
38 not permit the identification of information related to individual
39 fuel licensees;

1 (16) Any production records, mineral assessments, and trade
2 secrets submitted by a permit holder, mine operator, or landowner to
3 the department of natural resources under RCW 78.44.085;

4 (17)(a) Farm plans developed by conservation districts, unless
5 permission to release the farm plan is granted by the landowner or
6 operator who requested the plan, or the farm plan is used for the
7 application or issuance of a permit;

8 (b) Farm plans developed under chapter 90.48 RCW and not under
9 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
10 to RCW 42.56.610 and 90.64.190;

11 (18) Financial, commercial, operations, and technical and
12 research information and data submitted to or obtained by a health
13 sciences and services authority in applications for, or delivery of,
14 grants under RCW 35.104.010 through 35.104.060, to the extent that
15 such information, if revealed, would reasonably be expected to result
16 in private loss to providers of this information;

17 (19) Information gathered under chapter 19.85 RCW or RCW
18 34.05.328 that can be identified to a particular business;

19 (20) Financial and commercial information submitted to or
20 obtained by the University of Washington, other than information the
21 university is required to disclose under RCW 28B.20.150, when the
22 information relates to investments in private funds, to the extent
23 that such information, if revealed, would reasonably be expected to
24 result in loss to the University of Washington consolidated endowment
25 fund or to result in private loss to the providers of this
26 information;

27 (21) Market share data submitted by a manufacturer under RCW
28 70A.500.190(4);

29 (22) Financial information supplied to the department of
30 financial institutions, when filed by or on behalf of an issuer of
31 securities for the purpose of obtaining the exemption from state
32 securities registration for small securities offerings provided under
33 RCW 21.20.880 or when filed by or on behalf of an investor for the
34 purpose of purchasing such securities;

35 (23) Unaggregated or individual notices of a transfer of crude
36 oil that is financial, proprietary, or commercial information,
37 submitted to the department of ecology pursuant to RCW
38 90.56.565(1)(a), and that is in the possession of the department of
39 ecology or any entity with which the department of ecology has shared
40 the notice pursuant to RCW 90.56.565;

1 (24) Financial institution and retirement account information,
2 and building security plan information, supplied to the liquor and
3 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and
4 69.50.345, when filed by or on behalf of a licensee or prospective
5 licensee for the purpose of obtaining, maintaining, or renewing a
6 license to produce, process, transport, or sell marijuana as allowed
7 under chapter 69.50 RCW;

8 (25) Marijuana transport information, vehicle and driver
9 identification data, and account numbers or unique access identifiers
10 issued to private entities for traceability system access, submitted
11 by an individual or business to the liquor and cannabis board under
12 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
13 69.50.345 for the purpose of marijuana product traceability.
14 Disclosure to local, state, and federal officials is not considered
15 public disclosure for purposes of this section;

16 (26) Financial and commercial information submitted to or
17 obtained by the retirement board of any city that is responsible for
18 the management of an employees' retirement system pursuant to the
19 authority of chapter 35.39 RCW, when the information relates to
20 investments in private funds, to the extent that such information, if
21 revealed, would reasonably be expected to result in loss to the
22 retirement fund or to result in private loss to the providers of this
23 information except that (a) the names and commitment amounts of the
24 private funds in which retirement funds are invested and (b) the
25 aggregate quarterly performance results for a retirement fund's
26 portfolio of investments in such funds are subject to disclosure;

27 (27) Proprietary financial, commercial, operations, and technical
28 and research information and data submitted to or obtained by the
29 liquor and cannabis board in applications for marijuana research
30 licenses under RCW 69.50.372, or in reports submitted by marijuana
31 research licensees in accordance with rules adopted by the liquor and
32 cannabis board under RCW 69.50.372;

33 (28) Trade secrets, technology, proprietary information, and
34 financial considerations contained in any agreements or contracts,
35 entered into by a licensed marijuana business under RCW 69.50.395,
36 which may be submitted to or obtained by the state liquor and
37 cannabis board;

38 (29) Financial, commercial, operations, and technical and
39 research information and data submitted to or obtained by the Andy
40 Hill cancer research endowment program in applications for, or

1 delivery of, grants under chapter 43.348 RCW, to the extent that such
2 information, if revealed, would reasonably be expected to result in
3 private loss to providers of this information;

4 (30) Proprietary information filed with the department of health
5 under chapter 69.48 RCW;

6 (31) Records filed with the department of ecology under chapter
7 70A.515 RCW that a court has determined are confidential valuable
8 commercial information under RCW 70A.515.130; (~~and~~)

9 (32) Unaggregated financial, proprietary, or commercial
10 information submitted to or obtained by the liquor and cannabis board
11 in applications for licenses under RCW 66.24.140 or 66.24.145, or in
12 any reports or remittances submitted by a person licensed under RCW
13 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis
14 board under chapter 66.08 RCW; and

15 (33) Commercial or proprietary information submitted to the
16 department of licensing by autonomous vehicle testing entities under
17 RCW 46.92.010(5) to which the national highway transportation safety
18 administration grants confidential status.

19 NEW SECTION. Sec. 6. This act takes effect October 1, 2022.

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