

## **Analysis and Safety Recommendations to Staff Draft of AV START Act**

**September 26, 2017**

In advance of the Senate Commerce, Science and Transportation Committee's consideration of the American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act or the **AV START Act**, the National Consumers League wishes to offer our comments and concerns about this critically important legislation. While NCL shares the excitement of many about the potential for automated vehicles (AVs) to deliver safety, convenience, and mobility to many who don't have it today, we also are concerned that this fast-moving bill – and its long-term consequences – is not getting proper review and scrutiny.

We understand the conventional wisdom is that driver error contributes heavily to accidents and injuries, and that AVs hold the potential, therefore, to prevent many accidents and save lives. Let us be clear, however: driver error alone is not the only cause of injury and death. The vacuum of regulatory oversight by either DOT and National Highway Traffic Safety Administration (NHTSA) envisioned in this legislation, in combination with the bill's preemption of the states' role in overseeing the safety of their citizens, is a recipe for disaster, and, we believe, will put the safety of vehicle occupants in jeopardy.

We would be remiss if we didn't note the automotive industry's long and unfortunate history of introducing dangerous automotive vehicle designs into the marketplace with defects that have caused injury and death to untold numbers of drivers and passengers, including in recent cases highlighted below:

The 1960s **Chevrolet Corvair's** swing axle suspension that caused tires to "tuck in" in turns in the 1960s, killing and maiming occupants <http://www.curbsideclassic.com/automotive-histories/automotive-history-1960-1963chevrolet-corvair-gms-deadliest-sin/>; the 1970s **Ford Pinto's** fuel tank design that

exploded in rear end collisions, killing and maiming occupants

<http://www.popularmechanics.com/cars/a6700/top-automotive-engineering-failures-ford-pinto-fuel-tanks/>; the 1980s **Ford Explorers outfitted with tires** that de-treaded at high speeds and rolled over,

killing and maiming occupants

<http://content.time.com/time/business/article/0,8599,128198,00.html?artId=128198?contType=article?chn=business>; SUVs and pickup trucks sold by the millions in the 1980s and 1990s with high centers of

gravity, leading many **deadly rollover accidents**, killing and maiming occupants (and after consumer organizations lobbied Congress to require testing for stability, industry engineers developed Electronic Stability Control in response, which helps prevent vehicle rollover and has saved thousands of

lives)[https://www.autoinsurancecenter.com/the-nhtsa-finds-electronic-stability-control-saves-](https://www.autoinsurancecenter.com/the-nhtsa-finds-electronic-stability-control-saves-lives.htm)

[lives.htm](https://www.autoinsurancecenter.com/the-nhtsa-finds-electronic-stability-control-saves-lives.htm); vehicles designed with **huge blind zones** that offer no ability to see even dozens of children behind it, leading to untold deaths and injuries of

toddlers <http://abcnews.go.com/GMA/story?id=128111>. (Because of consumer advocacy, NHTSA now

requires rearview cameras in all vehicle models, starting in 2018;) the 2013 recall of 42 million

vehicles after a series of deaths and injuries associated with defective Takata airbag

inflators [https://www.nytimes.com/2014/09/12/business/air-bag-flaw-long-known-led-to-](https://www.nytimes.com/2014/09/12/business/air-bag-flaw-long-known-led-to-recalls.html?mcubz=0)

[recalls.html?mcubz=0](https://www.nytimes.com/2014/09/12/business/air-bag-flaw-long-known-led-to-recalls.html?mcubz=0); faulty ignition switch designs in GM cars killing and maiming occupants, which

the company acknowledged it had known about for over a decade and leading to a 2015 settlement

<http://fortune.com/2015/08/24/feinberg-gm-faulty-ignition-switch/>.

This link to the NHTSA database below details recalls caused by faulty designs for just one month of 2017: <https://www-odi.nhtsa.dot.gov/downloads/monthlyReports/rcl/RCLMTY-072017-1234.pdf>

Given this history, it is imperative that oversight and regulation of the rollout of the automotive

industry's Autonomous Vehicles not be whittled away, that NHTSA oversight continues, and that

industry remains fully accountable for defective and dangerous designs. Removing the authority of state

and federal regulators to oversee this process is unwise. Yet the AV START Act, now speeding through

Congress, fails to address many of the critical issues that the deployment of AVs raises. For example, the bill doesn't include oversight of Level 2 AVs, like the Tesla Model S involved in the fatal collision recently the subject of an NTSB investigation. Worse still, the Senate bill and the House-passed bill, the Safely Ensuring Lives Future Deployment and Research in Vehicle Evolution Act (SELF DRIVE Act, H.R. 3388), allow for possibly millions of AVs in the near future to be on the road that are **exempted** from federal motor vehicle safety standards. Additionally, neither bill requires any type of database to collect AV information so that any problems could be quickly identified and remedied.

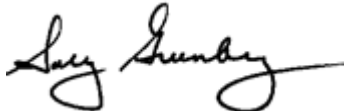
To ensure safe deployment of AVs, we ask that Congress address the following issues:

- NHTSA must be allowed to oversee the deployment autonomous systems to ensure that they operate as intended and that all foreseeable problems be engineered out of the vehicle before it is deployed.
- Exemptions must be strictly limited in scope and any increases must be controlled based on real-world safety performance.
- NHTSA must be given imminent hazard authority to protect against potentially catastrophic AV defects and the ability to institute recalls quickly.
- NHTSA must be required to establish and maintain a current public database containing essential data for all AVs. Further, all communications and responses about AVs between NHTSA and manufacturers must be made available for public review.
- States must not be precluded from fulfilling their role to protect their citizens, especially in the absence of federal regulatory action.
- NHTSA must be given adequate and sufficient resources to properly regulate AV technology and should establish an office dedicated to ensuring oversight and accountability.
- NHTSA needs to be able to hire experts in automotive software technology who are independent from the industry to oversee the safe deployment of AVs

- With regard to the information available to consumers about AVs, manufacturers must be required to provide such information at the point of sale and in the owner’s manual for all new AVs without delay. The implications of the language in the **AV START Act** draft are that consumers will not be given appropriate safety information until the designated committee has completed its work, which could take up to two years. Even then, the adoption of the recommendations is voluntary. During the NTSB hearing on the Tesla fatality, Chairman Sumwalt correctly criticized the lack of adequate consumer information about the capabilities, limitations, and any exemptions granted for AV systems.

The advent of AVs hold tremendous promise for preventing crashes, saving lives, reducing injuries, and containing costs. However, the automotive industry’s history of putting on the road vehicles with dangerous designs has been a perennial problem. Failing to provide proper oversight, regulation, rulemaking, study, public access to safety information, and the right checks and balances on the introduction of this revolutionary technology is bad policy and could endanger lives. As promising as AVs are, it’s critical that we roll them out with care and foresight, and ensure that safety and transparency are the paramount considerations. When the **AV START Act** is considered, we ask that you support the measures outlined above. Thank you for your consideration of our views.

Sally Greenberg

A handwritten signature in black ink, appearing to read 'Sally Greenberg', with a stylized, cursive script.

Executive Director  
National Consumers League