
HOUSE BILL 2444

State of Washington

68th Legislature

2024 Regular Session

By Representative Kloba

1 AN ACT Relating to automated vehicles; and adding new sections to
2 chapter 46.92 RCW.

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

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

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

8 (1)(a) "Automated vehicle" means a motor vehicle equipped with a
9 computer driver. The presence or use of a driver assistance feature
10 other than automated steering, and momentary control functions that
11 do not provide sustained directional control of the vehicle are not
12 relevant to determining whether a vehicle is an automated vehicle. A
13 vehicle is considered automated regardless of whether the automated
14 steering capability of the computer driver is active at any
15 particular time. A vehicle equipped with a computer driver is
16 considered automated regardless of any need or expectation for human
17 driver supervision, whether in-vehicle or remote.

18 (b) Notwithstanding technical characteristics, any statement by a
19 manufacturer, distributor, or dealer to the effect that a vehicle can
20 drive itself or that it contains self-driving or automated-driving

1 technology shall result in classification of that vehicle as an
2 automated vehicle.

3 (2) "Computer driver" means a set of computer hardware, software,
4 sensors, actuators, and other equipment that is collectively designed
5 for the purpose of, and which is, capable of driving a motor vehicle
6 including, but not limited to, the capability of steering the vehicle
7 while underway on a sustained basis. A computer driver may be
8 physically or remotely present in an automated vehicle that is
9 functioning in any operating mode.

10 (3) "Demand-stop feature" means the capacity for an automated
11 vehicle to accept and respond to an authorized request from a
12 passenger, law enforcement, access control official, or remote
13 operator for an expedited stop of the vehicle as soon as it is safe
14 to do so.

15 (4) "Driver assistance feature" means a motor vehicle automation
16 feature that does not automate steering on a sustained basis. Such
17 features include, but are not limited to, electronic blind spot
18 assistance; automated emergency braking systems; adaptive cruise
19 control; lane keep assist; lane departure warning; traffic jam speed
20 assist; electronic stability control; rear cross traffic warning;
21 driver drowsiness, inebriation, or incapacity warning; or other
22 similar systems that enhance safety or provide driver assistance, but
23 are not capable, collectively or singularly, of sustained automated
24 vehicle directional control.

25 (5) "Driver intervention" means an affirmative human driver
26 action to take responsibility for at least sustained steering control
27 of a vehicle.

28 (6) "Driving" and "drive" mean the comprehensive holistic task of
29 operating a motor vehicle including, but not limited to, operating a
30 motor vehicle's directional controls. Computer driver performance of
31 sustained directional control of a vehicle is the threshold test for
32 whether a computer driver is driving a vehicle.

33 (7) "Duty of care" means, with respect to a computer driver, the
34 operation of an automated vehicle without undue risk to others. The
35 duty of care required of a computer driver is the same as that
36 expected of an attentive and unimpaired human driver in identical
37 circumstances. The scope of a computer driver's required duty of care
38 includes, but is not limited to, protection of vulnerable road users
39 external to the autonomous vehicle.

1 (8) "Human driver" means a natural person who is driving an
2 automated vehicle or who is responsible for supervising a computer
3 driver's control over an automated vehicle and performing a driver
4 intervention as needed. A human driver may be physically present in
5 an automated vehicle or exercise control from a remote location.

6 (9) "Manufacturer" means the last entity in the development and
7 supply chain that has substantive ability to prevent or mitigate the
8 potential for computer driver negligence through technical means
9 including, but not limited to, a developer, manufacturer, upfitter,
10 programmer for, or any developer or supplier of, a computer driver or
11 components of or for computer drivers. "Manufacturer" may include,
12 but is not limited to, the legal entity who is (a) the vehicle
13 manufacturer for a vehicle provided with a computer driver as factory
14 equipment, (b) the system integrator of an aftermarket hardware
15 device primarily intended to provide a computer driver, (c) the
16 software provider for an aftermarket computer driver that does not
17 involve use of an aftermarket hardware device primarily intended to
18 provide a computer driver or create computer driver functionality, or
19 (d) solely for a test vehicle, the supplier performing testing if not
20 otherwise the manufacturer of a computer driver end product. Every
21 computer driver has exactly one manufacturer for the purpose of
22 asserting a case for liability by a claimant who has suffered harm
23 from a negligent computer driver.

24 (10) "Operating mode" means the current operating parameters
25 which determines the human driver's responsibility for controlling an
26 automated vehicle. The four operating modes are:

27 (a) Conventional: A human driver is responsible for driving the
28 vehicle at all times in this mode. The computer driver has no control
29 over or responsibility for the vehicle unless the vehicle's operating
30 mode changes.

31 (b) Supervisory: The computer driver is responsible for driving
32 the vehicle, subject to a human driver's supervision and, when
33 necessary for the safe operation of the vehicle, intervention. A
34 human driver may intervene in the vehicle's control in their own
35 discretion or at the computer driver's request.

36 (c) (i) Autonomous: The computer driver is responsible for driving
37 the vehicle. Any human occupants of the vehicle are not responsible
38 for driving the vehicle or supervising the computer driver. In some
39 vehicles, the human occupants or a human driver may be able to
40 optionally intervene in the vehicle's control at their own

1 discretion. Occupant activation of demand-stop or demand-egress does
2 not terminate autonomous mode.

3 (ii) Notwithstanding technical characteristics, any statement or
4 indicator by an automated vehicle or computer driver, or their
5 manufacturer, that the vehicle is presently automated, autonomous, or
6 self-driving, or which would cause a reasonable person to conclude
7 the vehicle is functioning in an autonomous operating mode, shall
8 result in classification of that vehicle as functioning in an
9 autonomous operating mode.

10 (d) Testing: The computer driver, human driver, or both are
11 responsible for driving the vehicle, subject to the human driver's
12 supervision. The human driver is tasked with mitigating risk from
13 public road testing of a potentially defective or incompletely
14 implemented computer driver that is not yet released for series
15 production or public purchase or use including, but not limited to,
16 so called test, beta, preproduction, or prototype versions of a
17 computer driver.

18 (11) "Steering" and "steer" mean actively providing sustained
19 directional control for a motor vehicle.

20 (12)(a) "Test automated vehicle" means an automated vehicle that:

21 (i) Has a nonseries production computer driver;

22 (ii) Is driven by a computer driver under the immediate
23 supervision of, or at the direction of, a computer driver developer,
24 manufacturer, upfitter, programmer, or any developer or supplier of
25 components for computer drivers;

26 (iii) Is a prototype;

27 (iv) Is being operated for performance evaluation, engineering
28 testing, or beta testing; or

29 (v) Is controlled by a computer driver that has been installed in
30 fewer than 2,500 motor vehicles.

31 (b) Any statement by a manufacturer, dealer, or distributor that
32 a vehicle is a test, beta, preproduction, or prototype vehicle, or
33 the use of other terminology reasonably interpreted as describing a
34 feature related to automated steering not ready for series production
35 or public purchase or use, shall result in classification of that
36 vehicle as a test vehicle.

37 (13) "Undue risk" means an overall risk of harm greater than that
38 presented by attentive and unimpaired human drivers of vehicles
39 equipped with comparable active and passive safety features,

1 operating in similar environments and under otherwise similar
2 conditions.

3 (14) "Urgent-egress feature" means the capacity for an automated
4 vehicle to accept and respond to a passenger request, at the
5 passenger's sole discretion, for an expedited stop of the vehicle as
6 soon as it is safe to do so for the purpose of debarkation for any
7 reason.

8 (15) "Vulnerable road users" means persons or animals external to
9 the vehicle who are potentially endangered by the autonomous
10 vehicle's operation including, but not limited to, other motorists,
11 bystanders, cyclists, pedestrians, domestic animals, and any person
12 who may reasonably be expected to be affected by the computer
13 driver's operation of an automated vehicle.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.92
15 RCW to read as follows:

16 (1) A computer driver owes a duty of care to all automated
17 vehicle occupants, vulnerable road users, and the property of any
18 person who may reasonably be expected to be affected by the computer
19 driver's operation of an automated vehicle.

20 (2) A computer driver breaches its duty of care when it is
21 driving an automated vehicle and fails to match or exceed the level
22 of care the law demands of an attentive and unimpaired human driver
23 in similar circumstances. A breach of the computer driver's duty of
24 care includes, but is not limited to:

25 (a) Operating in a deficient or unsafe manner which operation, if
26 performed by a human driver, would constitute negligence;

27 (b) Failure to operate the vehicle in compliance with applicable
28 motor vehicle laws, rules, and regulations including, but not limited
29 to, prohibitions against speeding, running a red light, failure to
30 yield to a pedestrian, and failure to respond to signals from a
31 traffic officer, unless in exigent circumstances a deviation from
32 compliance is reasonable;

33 (c) Failure to implement defensive driving maneuvers without
34 undue risk that would reasonably be expected of an attentive and
35 unimpaired human driver in similar circumstances; and

36 (d) Instances when a computer driver requests a human driver take
37 control of an automated vehicle under circumstances in which it is
38 unreasonable to expect the human driver to take over control of the
39 vehicle, expeditiously and without creating an additional hazard, and

1 commence to operate it in a safe manner without undue additional
2 hazard.

3 (3) Ordinary or gross negligence may be attributed to a computer
4 driver that breaches its duty of care, subject to allocation of
5 comparative fault to any other party except as provided in this
6 section.

7 (4) A human driver who has taken partial or complete control of
8 an automated vehicle from a computer driver is not responsible for
9 comparative negligence for any loss arising from the human driver's
10 negligent acts or omissions during the first 10 seconds after vehicle
11 control transfer from the computer driver to the human driver.

12 (5)(a) The manufacturer of a computer driver may be held
13 financially responsible for any loss proximately caused by a computer
14 driver's ordinary or gross negligence.

15 (b) The manufacturer of a computer driver must be named as a
16 defendant in any suit alleging a loss arising from a computer
17 driver's ordinary or gross negligence, and such manufacturer may
18 raise defenses and counterclaims in the ordinary course.

19 (c) The courts shall enter and enforce judgments against a
20 defendant manufacturer of a computer driver when the computer driver
21 has been found to have proximately caused a loss arising from its
22 ordinary or gross negligence.

23 (6)(a) It is a defense to liability under this section that a
24 human driver of an automated vehicle functioning in a supervisory
25 operating mode for more than 10 seconds had an opportunity to
26 intervene in control of the vehicle immediately prior to a loss and
27 failed to do so, but only if:

28 (i) The loss was caused by a readily apparent hazard;

29 (ii) The loss could have been avoided or mitigated through
30 reasonable human driver intervention without unduly endangering the
31 human driver or other individuals or property;

32 (iii) The human driver knew or should have known the computer
33 driver would not adequately avoid or mitigate the hazard without
34 human driver intervention; and

35 (iv) The human driver had a reasonable amount of time to
36 perceive, react to, and avoid or mitigate the readily apparent
37 hazard.

38 (b) Establishment of a defense under (a) of this subsection
39 provides a basis for comparative fault in the event of a loss.

40 (c) For purposes of (a) of this subsection:

1 (i) Hazards may arise from both internal and external causes.
2 External hazards include, but are not limited to, structures,
3 vehicles, pedestrians, animate and inanimate objects, weather, and
4 terrain outside the automated vehicle. Internal hazards include, but
5 are not limited to, failures or malfunctions of automated vehicle
6 software, hardware, embedded logic, data networks, and mechanical
7 components or systems.

8 (ii) A hazard is readily apparent if a reasonably attentive human
9 driver would both perceive the hazard and also understand that driver
10 intervention is necessary to avoid or mitigate the hazard.

11 (iii) A reasonable amount of time to detect and react to a
12 readily apparent hazard exists if, considering the perception,
13 cognition, and reaction times of a reasonably competent human driver,
14 and available human driver control devices such as a steering wheel,
15 accelerator controls, windows, mirrors, and brakes, there was enough
16 time for the human driver to effectively assume control of the
17 vehicle to avoid or mitigate the hazard.

18 (d) It is not a defense to liability under this section that a
19 human driver or occupant of an automated vehicle functioning in an
20 autonomous or testing operating mode had an opportunity to intervene
21 in control of the vehicle at the time of, or prior to, a loss and
22 failed to do so.

23 (e) It is not a defense to liability under this section that a
24 third party, whether by direct action, electronic means,
25 cybersecurity breach, or any other means, was the cause, or a
26 material contributing cause, of computer driver failure to control
27 the vehicle.

28 (7) The computer driver of an automated vehicle may take measures
29 to prompt human driver intervention or attentiveness if the
30 implementation of such measures does not create undue risk to the
31 human driver, vehicle occupants, or others.

32 (a) When an automated vehicle is in a supervisory operating mode,
33 the human driver has a duty to respond to a computer driver's request
34 to change the vehicle's operational mode or intervene in the
35 vehicle's control within 10 seconds of the request, but only if it is
36 reasonably safe and possible to do so under the circumstances. A
37 human driver's breach of this duty provides a basis for comparative
38 fault in the event of a loss.

39 (b) When an automated vehicle is in a supervisory operating mode,
40 and if it is equipped with one or more features designed to monitor

1 and prompt driver attentiveness, the human driver has a duty to
2 resume supervision of the vehicle's operation within 10 seconds of an
3 alert that directs them to resume supervision of the vehicle, but
4 only if it is reasonably safe and possible to do so under the
5 circumstances. A human driver's breach of this duty provides a basis
6 for comparative fault in the event of a loss.

7 (c) When an automated vehicle is in an autonomous operating mode,
8 the occupants of the vehicle have no duty to take any action in
9 response to a request from a computer driver for a change in the
10 vehicle's operational mode or driver intervention, or to supervise
11 the computer driver, and the occupants' failure to do so does not
12 provide a basis for comparative fault in the event of a loss.

13 (8) If the computer driver of an automated vehicle operating in a
14 supervisory, autonomous, or testing mode determines it cannot safely
15 continue operation of the vehicle without undue risk, and a human
16 driver is unwilling or unable to intervene in the vehicle's controls
17 or provide adequate supervision, then the computer driver must bring
18 the vehicle to a stop at the first available location where stopping
19 is safe and will not create undue risk to the vehicle's occupants and
20 other individuals and property, and place the vehicle in a power-
21 down, stand-by, or equivalent state until either the conditions
22 making operation by the computer driver unsafe abate or a human
23 driver intervenes in the vehicle's control or resumes providing
24 adequate supervision of the computer driver.

25 (9) An automated vehicle may have urgent-egress or demand-stop
26 features available for use by occupants. No occupant has any civil
27 liability for initiating or failing to initiate an urgent-egress or
28 demand-stop feature when a vehicle is in an autonomous operating
29 mode.

30 (10) It is an affirmative defense to liability under this section
31 that the claimant deliberately engaged in a malicious act intended to
32 cause or result in harm including, but not limited to, malicious
33 activation of an urgent-egress or demand-stop feature, or a malicious
34 driver intervention in vehicle control performed in bad faith or
35 which constitutes malfeasance; provided however, bad faith or
36 malfeasance may not be shown based on the claimant's reasonable
37 failure to comply with a traffic law, rule, regulation, or statute
38 during exigent circumstances or as part of an effort to avoid an
39 accident, collision, or other substantial loss.

1 (11) Nothing in this section is construed or implied to limit any
2 other right, remedy, or cause of action.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.92
4 RCW to read as follows:

5 (1) A manufacturer incurs strict liability for any loss sustained
6 by persons or property caused by a test automated vehicle, or
7 automated vehicle operating in a testing mode, regardless of whether
8 a computer driver or human driver was driving or otherwise
9 controlling the vehicle at or immediately before the time of the
10 loss. A claimant must establish physical causation and damages, but
11 is not required to allege or prove negligence, recklessness, knowing
12 or intentional misconduct, defective design or manufacture, breach of
13 warranty, or any other form of culpability.

14 (2) It is an affirmative defense to strict liability under this
15 section that the claimant deliberately engaged in a malicious act
16 intended to cause or result in harm.

17 (3) It is not a defense to strict liability under this section
18 that a human driver failed to properly perform the duties of a test
19 vehicle safety driver, or that the human driver had an opportunity to
20 intervene in control of the vehicle immediately prior to a loss and
21 failed to do so.

22 (4) Nothing in this section is construed or implied to limit any
23 other right, remedy, or cause of action.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.92
25 RCW to read as follows:

26 (1) Each manufacturer shall cause its identity to be physically
27 marked on automated vehicle equipment or displayed during computer
28 driver operation of an automated vehicle.

29 (2) Each manufacturer shall cause its automated vehicles to
30 display appropriate and effective visual warnings to motorists and
31 vulnerable road users external to the vehicle while the vehicle
32 operates in testing mode.

33 (3) The legislature finds that the acts or practices covered by
34 this section are matters vitally affecting the public interest for
35 the purpose of applying the consumer protection act, chapter 19.86
36 RCW. A violation of this section is not reasonable in relation to the
37 development and preservation of business and is an unfair or
38 deceptive act in trade or commerce and an unfair method of

1 competition for the purpose of applying the consumer protection act,
2 chapter 19.86 RCW.

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

5 Any agreements or terms of use that purport to waive, limit,
6 modify, or abrogate any rights or remedies under section 2 or 3 of
7 this act are contrary to public policy and void.

8 NEW SECTION. **Sec. 6.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

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