WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4787

By Delegates Capito, Linville, Fast and Pack

[Introduced February 15, 2022; Referred

to the Committee on the Judiciary]

1   A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,

2   designated §17H-1-1, §17H-1-2, §17H-1-3, §17H-1-4, §17H-1-5, §17H-1-6, §17H-1-7,

3   §17H-1-8, §17H-1-9, §17H-1-10, §17H-1-11, §17H-1-12, §17H-1-13, §17H-1-14, §17H-1-

4   15, §17H-1-16, and §17H-1-17, all relating to establishing the Highly Automated Motor

5   Vehicle Act; defining terms; providing purpose; allowing for the operation of highly

6   automated motor vehicles (HAMV) with or without a highly automated driver on board,

7   highly automated motor carrier vehicles, and HAMV transportation network services;

8   establishing licensing and insurance requirements; requiring description of HAMV in title;

9   providing monetary penalties for violations; providing rulemaking authority; setting

10   equipment standards for HAMV; and for the creation of the Highly Automated Vehicle

11   Advisory Committee.

12   *Be it enacted by the Legislature of West Virginia:*

ARTICLE 1. HIGHLY AUTOMATED MOTOR VEHICLES.

§17H-1-1. Short Title.

1   This article may be cited as the "Highly Automated Motor Vehicle Act".

§17H-1-2. Statement of intent and purpose.

1   The Legislature finds that continuing advances in technology have improved and are

2   expected to continue to improve the safety and operation of highly automated motor vehicles such

3   that these vehicles should be legally permitted to be operated in West Virginia pursuant to the

4   provisions of this chapter.

§17H-1-3. Definitions.

1   Subject to any additional definitions contained in subsequent provisions of this act which

2   are applicable to specific provisions of this title, the following words and phrases when used in

3   this title shall have, unless the context clearly indicates otherwise, the meanings given to them in

4   this section.

5   (1) "Automated driving system" or "ADS" means the hardware and software that are

6   collectively capable of performing all aspects of the entire dynamic driving task for a vehicle on a

7   sustained basis, without any supervision by a human operator. The term describes a Level 3, 4

8   or 5 driving automation system under SAE J3016.

9   (2) "Automatic crash notification technology" means a vehicle service that integrates

10   wireless communications and vehicle location technology to determine the need for or to facilitate

11   emergency medical response in the event of a vehicle crash.

12   (3) "Dynamic driving task" or "DDT" means the real-time operational and tactical functions

13   required to operate a motor vehicle on a highway including without limitation:

14   (A) Lateral vehicle motion control via steering.

15   (B) Longitudinal motion control via acceleration and deceleration.

16   (C) Monitoring the driver environment via object and event detection, recognition,

17   classification and response preparation.

18   (D) Object and event response execution.

19   (E) Maneuver planning.

20   (F) Enhanced conspicuity via lighting, signaling and gesturing.

21   Dynamic driving tasks do not include strategic functions such as determining destinations

22   or waypoints.

23   (4) "DDT Fallback" means the response by a highly automated vehicle driver or ADS to

24   either perform the DDT or achieve a minimal risk condition after occurrence of a DDT

25   performance-relevant system failure or upon operational design domain exit.

26   (5) "Highly automated motor vehicle" means a motor vehicle equipped with an automated

27   driving system (ADS) and owned by a firm, copartnership, association, corporation or research

28   institution.

29   (6) "Highly automated motor vehicle driver" means an individual person who performs all

30   or part of the dynamic driving task for a highly automated motor vehicle, whether located on board

31   the vehicle in the driver's position, or in a remote location, and is an authorized affiliate, employee,

32   or contractor of the owner of the highly automated motor vehicle.

33   (7) "Manufacturer of automated driving systems" means a manufacturer or subcomponent

34   system producer recognized by the secretary of state that develops or produces automated

35   driving systems and/or highly automated motor vehicles.

36   (8) "Minimal risk condition" means a stable, stopped condition to which an individual, a

37   highly automated motor vehicle driver or ADS may bring a highly automated motor vehicle after

38   performing the DDT fallback in order to reduce the risk of a crash when a given trip cannot or

39   should not be continued.

40   (9) "Motor vehicle manufacturer" means a person that has manufactured and distributed

41   highly automated motor vehicles in the United States that are certified to comply with all applicable

42   federal motor vehicle safety standards and that has submitted appropriate manufacturer

43   identification information to the National Highway Traffic Safety Administration as provided in 49

44   CFR part 566. As used in this section, a highly automated motor vehicle manufacturer also

45   includes a person that satisfies all of the following: (A) The person has manufactured highly

46   automated motor vehicles in the United States that are certified to comply with all applicable

47   federal motor vehicle safety standards; (B) The person has operated highly automated motor

48   vehicles using a test driver and with an automated driving system engaged on public roads in the

49   United States for at least one million miles; and (C) The person has obtained an instrument of

50   insurance, surety bond, or proof of self-insurance in the amount of at least $10 million, and has

51   provided evidence of that insurance, surety bond, or self-insurance to the department in a form

52   and manner required by the department.

53   (10) "On-demand highly automated motor vehicle network" means a digital network or

54   software application used to connect passengers to automated motor vehicles, not including

55   commercial motor vehicles, in participating fleets for transportation between points chosen by

56   passengers when the highly automated motor vehicle is operated by the ADS.

57   (11) "Operational design domain" or "ODD" means operating conditions under which a

58   given ADS is specifically designed to function, including, but not limited to, environmental,

59   geographical and time-of-day restrictions and the requisite presence or absence of certain traffic

60   or highway characteristics.

61   (12) "Owner" means a person who:

62   (A) Has all the incidents of ownership of a highly automated motor vehicle, including legal

63   title, regardless of whether the person lends, rents, or creates a security interest in the vehicle;

64   (B) Is entitled to possession of a highly automated motor vehicle as a purchaser under a

65   security agreement; or

66   (C) Is entitled to possession of a highly automated motor vehicle as a lessee under a

67   written lease agreement if the agreement is for a period of not less than three months.

68   (13) "Platooning" means a situation when no more than three highly automated motor

69   vehicles are traveling in concert, pursuant to a pre-determined written travel plan that identifies

70   the vehicles and proposed route.

71   (14) "Recording device" means a feature that is installed by the manufacturer in a highly

72   automated motor vehicle and that does any of the following for the purpose of retrieving

73   information from the vehicle after an accident in which the vehicle has been involved:

74   (A) Records the speed and direction the vehicle is traveling;

75   (B) Records vehicle location data;

76   (C) Records steering performance;

77   (D) Records brake performance, including information on whether brakes were applied

78   before an accident;

79   (E) If a highly automated vehicle driver is physically on-board, records the driver's safety

80   belt status; and/or

81   (F) Transmits information concerning the accident to a central communications system

82   when the accident occurs.

83   (15) "Request to intervene" means notification by an ADS to a highly automated motor

84   vehicle driver that the highly automated motor vehicle driver should promptly begin or resume

85   performance of part or all of the DDT, or achieve minimal risk condition.

86   (16) "SAE J3016" means the *Surface Vehicle Recommended Practice Taxonomy and*

87   *Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles*

88   published by the Society of Automotive Engineers (SAE) International in April 2021.

§17H-1-4. Construction.

1   Except for the provisions of §17H-1-2 of this code relating to rules, nothing in this article

2   shall be construed to:

3   (1) Prohibit a highly automated motor vehicle driver from operating a highly automated

4   motor vehicle to control all or part of the DDT; or

5   (2) Prohibit a highly automated motor vehicle from operating without a highly automated

6   motor vehicle driver.

§17H-1-5. Operation of Highly Automated Motor Vehicles Without a Highly Automated Motor Vehicle Driver.

1   (a) A highly automated motor vehicle with an ADS engaged, including a highly automated

2   motor vehicle without a highly automated vehicle driver, may operate on highways if the following

3   apply:

4   (1) The highly automated motor vehicle is capable of operating in compliance with the

5   applicable provisions of and regulations promulgated under this article, unless an exemption has

6   been granted by the department or the National Highway Traffic Safety Administration.

7   (2) If required under federal law, the highly automated motor vehicle bears the required

8   manufacturer's certification label indicating that the highly automated motor vehicle has been

9   certified to be in compliance with all applicable Federal Motor Vehicle Safety Standards, including

10   reference to any exemption granted by the National Highway Traffic Safety Administration.

11   (3) If the failure of an ADS occurs that renders the ADS unable to perform the entire DDT

12   relevant to its intended ODD, the highly automated motor vehicle or the highly automated vehicle

13   driver will be capable of causing the highly automated motor vehicle to achieve a minimal risk

14   condition.

§17H-1-6. Operation of Highly Automated Motor Vehicles with a Highly Automated Vehicle Driver.

1   The highly automated motor vehicle driver on board or in a remote location must be

2   properly licensed under this article to operate the appropriate type and class of motor vehicle on

3   highways.

§17H-1-7. Operation of Highly Automated Motor Carrier Vehicles.

1   A highly automated motor vehicle that is also a motor carrier vehicle requiring a

2   commercial driver's license pursuant to federal or state law may operate on highways with an

3   ADS engaged or without a highly automated motor vehicle driver on board. The highly automated

4   motor vehicle shall operate under federal and state laws governing commercial drivers and the

5   operation of commercial motor vehicles, except any provision which by its nature reasonably

6   applies only to a driver shall not apply to a highly automated motor vehicle. This section shall not

7   apply to a school bus.

§17H-1-8. Operation of Highly Automated Transportation Network Service.

1   If a transportation network service is authorized under the laws of this state, a highly

2   automated motor vehicle with an ADS engaged or without a highly automated vehicle driver on

3   board may operate in a transportation network service or in combination with other authorized

4   vehicles in the transportation network service. Any provision of law which by its nature reasonably

5   applies only to a driver physically located in and operating a vehicle shall not apply to a highly

6   automated motor vehicle with an ADS engaged or without a highly automated vehicle driver on

7   board while logged onto a digital network of a transportation network service.

§17H-1-9. Licensing and Registration.

1   The following shall apply:

2   (1) The ADS is considered the driver of a highly automated motor vehicle when the ADS

3   is engaged for the purpose of assessing compliance under this article and is considered to be a

4   driver licensed to operate the motor vehicle under state law relating to drivers required to be

5   licensed. If a police officer must issue a citation, a police officer shall cite the owner or registrant

6   of the highly automated motor vehicle.

7   (2) The highly automated motor vehicle driver in a remote location is considered the driver

8   of a highly automated vehicle for the purpose of assessing compliance under this title and is

9   considered to be a driver licensed to operate the motor vehicle under state law relating to drivers

10   required to be licensed. If the police officer issues a citation, a police officer shall cite the highly

11   automated motor vehicle driver.

12   (3) The requirements under this article relating to exhibiting a driver's license and

13   registration card are satisfied if the license and vehicle registration card are in the highly

14   automated motor vehicle physically or electronically, and available for inspection by a police

15   officer.

§17H-1-10. Insurance.

1   Before a highly automated motor vehicle with an ADS engaged or without a highly

2   automated motor vehicle driver on board operates on highways, the owner of the highly

3   automated motor vehicle shall submit proof of financial responsibility to the department self-

4   certifying that the highly automated motor vehicle is covered by insurance or proof of self-

5   insurance in the minimum amount of at least $1 million, which shall satisfy the applicable laws of

6   this state.

§17H-1-11. Effect of certificate of title; control.

1   (a) Indication of the special use or condition in the certificate of title for a highly automated

2   motor vehicle shall be deemed part of the description of the vehicle. Any person convicted of

3   violating this subsection shall be sentenced to pay a fine of $200.

4   (b) In accordance with any relevant code sections relating to applicability and uniformity

5   of title, this chapter preempts and supersedes all ordinances relating to highly automated motor

6   vehicles. A political subdivision of this state may not adopt or enforce a policy, rule or ordinance

7   that sets standards or otherwise burdens, prohibits, limits or regulates the operation of a highly

8   automated motor vehicle.

§17H-1-12. Rules.

1   (a) *General rule.--* In order to facilitate the prompt implementation of this article, the

2   department may promulgate rules or publish guidelines which are consistent with this article that

3   include the following:

4   (1) The process for receipt, review, and approval of a request for a highly automated motor

5   vehicle testing authorization with or without a highly automated vehicle driver on board.

6   (2) The process for receipt and review of a self-certification prior to commercial

7   deployments of a highly automated motor vehicle. The department must provide a response within

8   30 days of receipt.

9   (3) The type and amount of information that is necessary for adequate review of and

10   response to each stage of request for testing approval or commercial deployment.

11   (4) The process an emergency service responder must follow when a highly automated

12   motor vehicle without a highly automated motor vehicle driver on board is involved in an

13   emergency response area.

14   (b) *Guidelines.--* The department shall consult with the committee formed by §17H-1-15

15   of this code before publishing guidelines under subsection (a) of this section.

16   (c) *Temporary regulations.--* Notwithstanding any other provision of law, regulations

17   promulgated by the department under this subchapter during the two years following the effective

18   date of this section shall be deemed temporary regulations, which shall expire no later than three

19   years following the effective date of this section or upon promulgation of final regulations.

20   (d) *Publication.--* The department shall publish or cause to be published any temporary

21   regulations promulgated under subsection (c) of this section.

§17H-1-13. Platooning.

1   (a) *General rule.--* The department shall be the lead state agency on highly automated

2   motor vehicle platooning under this section.

3   (b) *Platoon restrictions.--* A platoon shall observe the following restrictions:

4   (1) A maximum of three vehicles shall be in a platoon.

5   (2) Vehicles in a platoon shall travel only on limited access highways or interstate

6   highways, unless otherwise permitted by the department or the West Virginia Division of

7   Highways.

8   (3) The department or the West Virginia Division of Highways, as applicable under

9   paragraph (2), may restrict movement under this section for operational or safety reason,

10   including, but not limited to, emergency conditions; and

11   (4) Consistent with applicable federal and state laws, the lead vehicle in a platoon may

12   operate with a driver and one non-lead vehicle may operate with an ADS engaged, with a highly

13   automated vehicle driver or without a highly automated vehicle driver.

14   (5) If a platoon includes one or more commercial motor vehicles, an appropriately

15   endorsed driver who holds a valid commercial driver license shall be present behind the wheel of

16   each commercial motor vehicle.

17   (c) *Plan for general platoon operations.* -- A person may operate a platoon on a highway

18   of this state if the person files and reviews a plan for general platoon operations with the

19   department. The department shall review the plan in consultation with the West Virginia State

20   Police and the West Virginia Division of Highways, as applicable. If the plan is not rejected by the

21   department within 30 days after receipt of the plan, the person may operate the platoon.

22   (d) *Non-lead vehicles.--* Nonlead vehicles in a platoon shall not be subject to violations of

23   this code relating to following too closely.

24   (e) *Visual identifiers required.--* Each vehicle in a platoon must be marked with a visual

25   identifier. The department, after consultation with the West Virginia State Police and the West

26   Virginia Division of Highways shall establish the criteria and placement of the visual identifier.

§17H-1-14. Highly automated motor vehicles not exempt from state laws pertaining to the ownership and operation of non-highly automated motor vehicles.

1   (a) *General.--* Unless expressly stated in this section, highly automated motor vehicles,

2   whether traveling individually or in a platoon, are not exempt from any other laws or regulations

3   applicable to the ownership and operation of any non-highly automated motor vehicle in this state.

4   (b) *Accidents involving a highly automated motor vehicle.--* If a highly automated motor

5   vehicle operating with an ADS engaged or without a highly automated vehicle driver on board is

6   involved in an accident that results in property damage, or injury or death to any person, the highly

7   automated motor vehicle is required to comply with any provisions in this code pertaining to a

8   motor vehicle being driven or operated by a person involved in such an accident. These duties

9   include but are not limited to:

10   (1) *Stopping and remaining at the accident scene.* The highly automated motor vehicle

11   must stop at the accident scene, or as close thereto as is safely possible, and remain there until

12   dismissed by the responding law-enforcement officer pursuant to subsection (b)(3) of this section.

13   (2) *Immediate notice of accident to police department.* The owner or registrant of the highly

14   automated motor vehicle, or a person on their behalf, must immediately report the accident by

15   calling 911, or by contacting the West Virginia State Police, or by contacting the county sheriff or

16   the police department of the municipality nearest to the accident scene: *Provided,* That if the

17   highly automated motor vehicle without a driver on board is involved in a single-vehicle accident

18   or an accident causing only property damages, the owner or registrant may contact the nearest

19   law-enforcement office to report the accident.

20   (3) *Duty to Provide Information.* The highly automated motor vehicle shall remain at the

21   accident scene or as close thereto as possible, until the owner or registrant is informed by

22   responding law-enforcement officer that all of the owner's or registrant's legal requirements have

23   been fulfilled, including:

24   (A) Reporting the accident.

25   (B) Communicating the license and registration information.

26   (C) Communicating the necessary information regarding insurance and financial

27   responsibility.

28   (4) *Rendering of aid.* If a driver is physically onboard the highly automated motor vehicle,

29   the person should take reasonable steps to render aid to any persons injured in the accident:

30   *Provided,* That the driver is not prevented from rendering aid due to their own injuries.

§17H-1-15. Highly automated motor vehicle equipment standards.

1   (a) A highly automated motor vehicle that is designed to operate exclusively by ADS or a

2   highly automated motor vehicle driver in a remote location for all trips is not subject to motor

3   vehicle equipment laws and regulations of this state that:

4   (1) Relate to or support motor vehicle operation by a driver seated in the vehicle; and

5   (2) Are not relevant for ADS.

6   (b) A highly automated vehicle is required to undergo an annual safety inspection pursuant

7   to the criteria and standards established and promulgated by the department as well as any

8   provisions in this code pertaining to vehicle equipment standards that are consistent with those

9   criteria and standards.

10   (c) If a highly automated motor vehicle operating on the highways of this state with a rear

11   visibility system comprised of a set of devices or components which together perform the function

12   of producing the rearview image, the system shall be considered a mirror or a similar device to a

13   mirror and shall be excluded from the width of the vehicle consistent with applicable federal and

14   state laws.

15   (d) No automated motor vehicle may operate on in this state with the ADS engaged unless

16   the vehicle is:

17   (1) Capable of operating in compliance with applicable traffic and motor vehicle laws of

18   this state consistent with the provisions and exceptions in this article.

19   (2) Equipped with a recording device and with automatic crash notification technology that

20   are installed by the manufacturer of the highly automated motor vehicle.

21   (3) Equipped with an ADS in compliance with applicable federal law and federal motor

22   vehicle safety standards.

23   (4) Registered and titled in accordance with the laws of this state.

§17H-1-16. Creation of the Highly Automated Vehicle Advisory Committee.

1   (a) The Highly Automated Motor Vehicle Advisory Committee is hereby established within

2   the state transportation department. Within 18 months of the passage of this act, and annually

3   thereafter, the committee shall provide a special report to the Governor, Legislature, state

4   transportation department, the West Virginia Insurance Commissioner, the state department of

5   technology, and the West Virginia State Police that includes:

6   (1) The benefits and implications of the act on the state, including, but not limited to, the

7   benefits and implications to the workforce, the accessibility and mobility of persons with

8   disabilities, and the economy;

9   (2) Proposed recommendations for changes in state policy, rules, and regulations; and

10   (3) Any other recommendations identified by the committee.

11   (b) The committee shall consist of all of the following members, who shall serve without

12   compensation:

13   (1) Eleven individuals appointed by the Governor who represent the interests of local

14   government or are business, policy, research, or technological leaders in future mobility. The

15   individuals appointed under this subdivision shall be voting members.

16   (2) One individual appointed by the Governor who is representative of insurance interests.

17   The individual appointed under this subdivision shall be a voting member.

18   (3) Two state senators appointed by the Senate majority leader to serve as nonvoting ex-

19   officio members. One of the senators appointed under this subdivision shall be a member of the

20   majority party, and one of the senators appointed under this subdivision shall be a member of the

21   minority party.

22   (4) Two state delegates appointed by the Speaker of the House of Delegates to serve as

23   nonvoting ex officio members. One of the delegates appointed under this subdivision shall be a

24   member of the majority party, and one of the delegates appointed under this subdivision shall be

25   a member of the minority party;

26   (5) The Secretary of State or his or her designee. The individual appointed under this

27   subdivision shall be a voting member;

28   (6) The Secretary of Transportation or his or her designee. The individual appointed under

29   this subdivision shall be a voting member;

30   (7) The Superintendent of the West Virginia State Police or his or her designee. The

31   individual appointed under this subdivision shall be a voting member;

32   (8) The Insurance Commissioner or his or her designee. The individual appointed under

33   this subdivision shall be a voting member; and

34   (9) The director of the department of technology, management, and budget or his or her

35   designee. The individual appointed under this subdivision shall be a voting member.

36   (10) The Governor shall designate one or more of the members of the committee to serve

37   as chairperson of the committee who shall serve at the Governor's pleasure.

38   (b) All special reports of the committee shall be posted on a page on the department's

39   website dedicated to highly automated motor vehicles.

§17H-1-17 Effective date.

1   This article shall take effect in 90 days.

> NOTE: The purpose of this bill is to create the Highly Automated Motor Vehicle Act permitting vehicles with automated driving systems to operate on West Virginia roadways and highways.
>
> Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.