Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE
Tasha Boerner, Chair
AB 3061 (Haney) – As Amended April 16, 2024

SUBJECT: Vehicles: autonomous vehicle incident reporting

SUMMARY: Requires, starting July 31, 2025, the manufacturers of autonomous vehicles (AVs) to report to the Department of Motor Vehicles (DMV) on any vehicle collision, traffic violation, disengagement, or barrier to access or incident of discrimination for a passenger with a disability that involves a manufacturer's vehicle in California.

Specifically, **this bill**:

1) Establishes findings and declarations of the Legislature.

2) Establishes definitions:

    a. "Disengagement" means the deactivation of a vehicle's autonomous mode when a failure of the autonomous technology is detected or when the safe operation of the vehicle requires a test driver or remote operator to disengage the autonomous mode and take immediate manual control of the vehicle, or in the case of driverless vehicles, when the safety of the vehicle, the occupants of the vehicle, or the public requires that the autonomous technology be deactivated

    b. "Traffic violation" includes, but is not limited to, a violation of this code and a violation of a local ordinance adopted pursuant to this code.

    c. "Unplanned stop" means a stop in a roadway for a minimum of 90 seconds when the conditions on the road require traffic flow. It does not include a stop intended to pick up or drop off a passenger.

3) Requires, commencing July 31, 2025, a manufacturer of autonomous vehicles shall report to the Department of Motor Vehicles a vehicle collision, traffic violation, or disengagement, or a barrier to access or incident of discrimination for a passenger with a disability, that involves a manufacturer's vehicle in California. Additionally, a manufacturer is required to submit quarterly reports summarizing in tabular format al reports that were submitted.

4) Requires the specific report submitted by the manufacturer to the DMV to use specified forms required to be published by the DMV by no later than July 1, 2025.

5) Specifies 13 specific criteria, at a minimum, that must be reported to the DMV related to a vehicle collision.

6) Specifies 9 criteria, at a minimum, that must be reported to the DMV related to a traffic violation.

7) Specifies 3 criteria, at a minimum, that must be reported to the DMV related to a vehicle disengagement.

8) Specifies 4 criteria, at a minimum, that must be reported to the DMV related to an incident of discrimination or barrier to access for a passenger with a disability.

9) Requires all the reports submitted to the DMV to be submitted on a timeline adopted by the Department, which shall not exceed the reporting deadline required by the federal National Highway Traffic Safety Administration (NHTSA).

10) Requires the DMV to post all reports publicly on the department's website within 30 days of receipt. Requires the report not be redacted, except to remove identifiable personal information of passengers or drivers.

11) Authorizes the DMV to impose a fine of up to $26,315 per day for a violation of this section, and may impose a fine of up to $131,564,183 for a related series of violations. Additionally, requires the department to establish a fine structure with a multiplier for subsequent violations. Authorizes the department to suspend or revoke a manufacturer's permit during an investigation.

12) Authorizes members of the public or public entities with direct evidence of an incident to submit a true and accurate vehicle incident reporting covering an autonomous vehicle. Requires the department to determine if the submission is credible and notify the submitting party of the determination within 30 days of receiving this report. Additionally, requires the manufacturer to investigate and respond within 30 days if the submission is deemed credible by the DMV.

EXISTING LAW:

1) Authorizes the operation of AVs on public roads for testing purposes under certain circumstances specified in DMV regulations (Vehicle Code Section (VEH) 38750).

2) Defines "autonomous vehicle" to mean vehicle equipped with technology that makes it capable of operation that meets the definition of Levels 3, 4, or 5 of the Society of Automotive Engineers (SAE) International's Taxonomy and Testing of Autonomous Vehicles Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles, standard J3016 (APR 2021). (VEH 38750)

3) Defines "autonomous technology" to mean technology that has the capability to drive a vehicle without the active physical control or monitoring by a human operator. (VEH 38750)

4) States that an AV does not include a vehicle that is equipped with one or more collision avoidance systems, including, but not limited to, electronic blind spot assistance, automated emergency braking systems, park assist, adaptive cruise control, lane keep assist, lane departure warning, traffic jam and queuing assist, or other similar systems that enhance safety or provide driver assistance, but are not capable, collectively or singularly, of driving the vehicle without the active control or monitoring of a human operator. (VEH 38750)

5) Prohibits the operation of AVs on public roads for non-testing purposes unless the manufacturer of the vehicles submits an application to DMV that is approved pursuant to DMV regulations. (VEH 38750)

6) Requires DMV to approve an application submitted by a manufacturer for the operation of AVs for non-testing purposes if DMV finds that the applicant has submitted all information and completed testing necessary to satisfy that the AVs are safe to operate on public roads and the applicant has complied with all requirements specified in DMV regulations. (VEH 38750)

7) Authorizes DMV to impose additional requirements it deems necessary to ensure the safe operation of AVs if those vehicles are capable of operating without the presence of a driver inside the vehicle. (VEH 38750)

Existing DMV regulations:

1) Requires AV manufacturers to have a testing or deployment permit to operate an autonomous vehicle in California.

2) Restricts the testing and deployment of autonomous vehicles to vehicles under 10,001 pounds and excludes motorcycles.

3) Authorizes both the testing and deployment of AVs without a human operator inside the vehicle.

4) Requires an AV with a testing permit (but not a deployment permit) to report collisions to DMV within 10 days of the collision if the collision resulted in damage of property or in bodily injury or death if they have a testing permit.

5) Requires AVs with a testing permit (but not a deployment permit) to report disengagements on an annual basis.

Existing federal regulations:

1) Requires AVs or level 2 advanced driver assistance systems to report crashes within five calendar days.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

1) *Author's Statement.* According to the author: "AB 3061, the Self-Driving Cars Safety Act is in response to increased concerns about deployed self-driving cars — also called autonomous vehicles (AVs) — that are currently not required to report data on collisions, accidents, and vehicle malfunctions to the state. This is all about safety. AV companies are preparing to roll out in nearly every city in California, but data on which companies are safe and law-abiding and which aren't is being kept from the public and the state. As families may choose to rely on self-driving cars for daily activities like getting to school, work, and the grocery store, we have a responsibility to make sure they are safe."

2) Committee Jurisdiction. The policy jurisdiction of the Communications & Conveyance Committee includes for-hire passenger transportation, including transportation network companies and autonomous vehicles engaged in the transportation of passengers. When an AV is used on a commercial basis, the passenger safety aspect of AVs passenger service is

regulated by the CPUC, under the authority of the Charter Party Carrier of Passengers Act. Other aspects of autonomous vehicle regulation, including a manufacturer's authority to operate on public roads and highways, are under the authority of the DMV and policy jurisdiction of the Transportation Committee. Accordingly, this analysis will primarily focus on the passenger safety aspect of autonomous vehicle service. Notably, most of the full driverless deployment and testing of AVs has happened under the CPUC's program.

3) *AV Testing and Deployment in California.* In 2012, the Legislature passed SB 1298 (Padilla), Chapter 570 which permitted AVs to operate on public roads for testing by a driver under certain conditions. In 2014, DMV released regulations to allow for testing AVs with a test driver, and in April 2018, DMV finalized regulations for the testing and deployment of AVs on public roads without a driver. About 35 companies currently have a testing permit with a driver and six companies have received a permit for testing without a driver[1]. Only three companies currently have a valid driverless deployment permit. While this bill would apply to all autonomous vehicle manufactures broadly – in testing with a driver, driverless testing, and full driverless deployment - most of the recent public attention has been focused on a limited number of companies that have fully deployed their driverless vehicles for commercial service under CPUC programs.

   In 2018 the CPUC initially authorized[2] two pilot programs for the private prearranged transportation of passengers in test autonomous vehicles (AVs):

   - The "Drivered AV Passenger Service" pilot program allows for the provision of passenger service in test AVs with a driver in the vehicle. Under this pilot program, a safety driver is available to assist with operations if needed.
   - The "Driverless AV Passenger Service" pilot program allows for the provision of passenger service in test AVs without a driver in the vehicle. Under this pilot program, a communication link between passengers and "remote operators" of the vehicle must be available and maintained at all times during passenger service.

   To be eligible to participate in the Commission's AV Passenger Service pilot programs, participants must possess the appropriate corresponding Autonomous Vehicle Tester Program Manufacturer's Testing Permit from the California Department of Motor Vehicles (DMV) for AV testing with a driver or testing without a driver and comply fully with DMV's AV testing regulations (California Code of Regulations, Title 13, Article 3.7). Under the AV Passenger Service pilot programs, monetary compensation may not be charged for any rides in test AVs. Currently, only one company (Waymo LLC), is authorized for full driverless deployment under the CPUC's program. One other company (Zoox, Inc.), is authorized for driverless testing from the CPUC. Again, while there are other companies that currently have DMV testing permits with and without a driver, most of the vehicle miles traveled in AVs in California is happening under the CPUC's passenger service pilot. To the extent that AVs in California will continue to primarily be deployed on a commercial basis, the impact of AV policy in California is almost intractable from its relationship to the CPUC programs and

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[1]A list of Autonomous Vehicle Testing Permit Holders can be found on the DMV website. https://www.dmv.ca.gov/portal/vehicle-industry-services/autonomous-vehicles/autonomous-vehicle-testing-permit-holders/

[2] Decision D. 18-05-043. http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M215/K279/215279920.PDF

jurisdiction. However, this bill primarily focuses on the relationship between a manufacturer and the DMV.

4) *Data collection.* Proponents of this bill, the academic community, local governments, and other members of the public have raised concerns with the state's current data collection for autonomous vehicles. The primary concerns with the state's AV data collection are that it is not comprehensive enough to capture the public safety impact of the technology and that the data is not shared publicly or in a format that is suitable for interested parties (academics, planners, etc;) to analyze. Consumer Watchdog, in their letter of support, points out that "currently the DMV neither collects nor reports data once an autonomous vehicle permit holder shifts from testing to a full deployment permit."

   In addition to the data the DMV collects for permit holders in their testing phases, the CPUC also collects its own data from companies permitted under its programs. The data collection scheme at the CPUC covers a broader field of data than the DMV testing data, which only covers disengagements and collisions[3] in the testing phase. On a quarterly basis, AVs in the CPUC's programs are required to report on a breadth of data that covers information such as trip times, location by zip code, miles traveled, wheelchair accessibility information, the number of passengers per trip, whether the ride was shared, the time a customer waited, complaints, and other incidents that required the attention of the permit holder[4].

   While some of the data that would be required to be reported to the DMV under this bill is similar to the data that is collected by the CPUC, this bill requires information that is much more granular and varied. For example, the CPUC already collects data on the total number of passengers per trip, trip times, and collisions generally (for the companies in their program). This bill would require additional information to be reported to the DMV such as a detailed narrative, a description of the injury and property damage, and other information related specifically to disengagements and incidents of discrimination of access for passengers with disabilities. While proponents of this bill underscore the importance of ensuring a minimum level of data is reported back to the DMV by autonomous vehicle manufactures, the opponents would argue the requirements are "unworkable and duplicative". It is true that the CPUC does collect similar data than what is proposed by this bill, however it is only for the testing phase and there is no indication that the DMV reviews the reports submitted to the CPUC. As a result, there is a data gap of information that ought to be available to the public that this bill may help resolve.

5) *Monetary penalties for violations.* This bill would make manufactures liable for significant monetary fines for violations of this bill's provisions. Specifically, a manufacturer could be fined by the DMV in the amount of $26,315 per day for a violation of this bill's provisions, and a fine of up to $131,564,183 for a related series of violations. The Assembly Transportation Committee analysis points out that the level of fines are severe and significant, and "mirror NHTSA's fine structure."

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[3] §227.48 and §227.50 of Title 13 of the California Code of Regulations. https://www.dmv.ca.gov/portal/file/adopted-regulatory-text-pdf/

[4] The CPUC data reporting requirements were adopted in Decision D. 20-11-046. https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M352/K185/352185092.PDF

In addition to any fines imposed by DMV, under existing law and regulations the CPUC also has significant authority to levy fines or other punishment on AV operators under the commission's jurisdiction. The CPUC's authority to fine or penalize a regulated entity not in compliance with the law or regulatory requirement is set forth in Public Utilities Code §2107 (penalties range from $500 to $100,000) and §2108 (which provides that every violation is a separate offense, and that each day's continuance shall be a separate and distinct offense). Additionally, pursuant to Rule 1.1 of the CPUC's Rules of Practice and Procedure, one need not act with a specific intent to violate Pub. Util. Code § 2107.20. In addition the general fine authority, there are separate fine or penalty ranges for charter-party carriers (TCPs), which would include an AV operator. Pursuant to Pub. Util. Code § 5411, TCPs can be fined between $1,000 and $5,000 each day's continuance thereof is a separate and distinct offense pursuant to Pub. Util. Code § 5415. Finally, Pub. Util. Code § 5378(b) also provides that a TCP can be fined up to $7,500 for a violation of the provisions set forth in Pub. Util. Code § 5378(a).

Notably, the CPUC's regulations require a manufacturer to simultaneously transmit to the CPUC all reports required by DMV regulations. As such, the CPUC has interpreted omissions of information reported to the DMV to be omissions of information reported to the CPUC. For example, after an incident with Cruise, LLC in which a member of the public was killed and Cruise subsequently withheld information, the CPUC initiated an enforcement action[5] against Cruise ordering the company to show cause of why it should not be fined or penalized. The final decision is still pending, but Cruise initially offered a settlement payment of $75,000.

6) *Monitoring accessibility for persons with disabilities.* This bill would require a manufacturer to report to the DMV on incidents related to discrimination or a barrier to access for a passenger with a disability. The accessibility of transportation services for persons with disabilities, especially autonomous vehicles, has consistently been an issue raised by disability rights advocates and regulators. Disability rights advocates have also advocated to secure the privacy of persons with disabilities, and for policies that prevent persons with disabilities from being required to disclose their status or medical history. For example, the evidentiary record for the CPUC's decision to authorize autonomous vehicle deployment included comments from the California Council for the Blind and the Disability Rights Education and Defense Fund. Both organizations underscored the importance ensuring accessibility for persons with disabilities with the need to protect the privacy of those persons.

   Analyzing this bill's requirements pertaining to disabled persons through the lens of safety, this bill does provide some safeguards to ensure privacy and anonymity. For example, reports of barriers to access or discrimination for a passenger with a disability are to be reported anonymously with the passengers name redacted. Nonetheless, in order for a manufacturer to comply with the provisions of this bill related to discrimination or access for a person with a disability, the manufacturer would seemingly need to be made aware of that passenger's disability status. If the manufacturer fails to report those incidents, even unknowingly, this bill would make them liable for significant fines. Given the sensitivity of disclosure of a disability to a private company or a government regulator, this bill's provisions related to

[5] CPUC "Order to Show Cause" - https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M521/K133/521133499.PDF

disability access may put manufacturers in a particularly precarious situation balancing privacy and accurate reporting.

It should be noted that the CPUC already collects data on the availability of wheelchair accessible vehicle (WAV) on AV platforms, which reflected a balance ensuring privacy with accessibility for persons with disabilities. While the CPUC has not established any specific targets or regulations regarding the availability of WAVs on AV platforms, the data is important to collect to understand where gaps exists. Lastly, pursuant to existing law[6], the CPUC also administers the Transportation Network Company (TNC) Access for All Program, which provides accessibility options for riders using TNC platforms. However, because AVs are a distinct regulatory category from TNCs, AVs are not currently covered by the program. In the future, the Legislature may wish to consider whether extending AV participation in the program would be reasonable. Perhaps, when equipped with more data relating to disability access, the evidence may show that an AV-inclusive approach is needed.

7) Similar/related bills:

   a. AB 1777 (Ting) of 2024 places various requirements on AVs, holds AV companies liable for vehicle code infractions and authorizes DMV to take incremental enforcement measures against AVs, including restrictions on their operating domain. That bill is pending in the Assembly Transportation Committee.

   b. AB 2286 (Aguiar-Curry) of 2024 restricts an AV with a gross vehicle weight (GVW) of 10,001 pounds or more from being operated on public roads for testing purposes, transporting goods, or transporting passengers without a human safety operator physically present in the AV at the time of operation. That bill is pending in this committee.

   c. SB 915 (Cortese) of 2024 requires local authorization for an AV commercial passenger service to operate within its limits. That bill is pending before Senate Local Government Committee.

   d. AB 316 (Aguiar-Curry) of 2023 was substantially similar to AB 2286. That bill was vetoed by Governor Newsom.

   e. AB 1141 (Berman) of 2017 would have required DMV to adopt regulations setting standards for AVs operating freight by September 30, 2018. That bill died in Assembly Communications and Conveyance Committee.

   f. SB 1298 (Padilla), Chapter 570, Statutes of 2012 established conditions for the operation of AVs upon public roadways.

REGISTERED SUPPORT / OPPOSITION:

Support

California Low-income Consumer Coalition
California Professional Firefighters

[6] SB 1376 (Hill): TNC Access for All Act. Chapter 701, Statutes of 2018.

California School Employees Association
Consumer Attorneys of California
Consumer Federation of California
Consumer Watchdog
Mission Street Neighbors
Public Law Center
San Francisco County Transportation Authority
San Francisco Taxi Workers Alliance (SFTWA)
Teamsters

Opposition

Autonomous Vehicle Industry Association

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