

March 15, 2019

The Office of Governor Gary R. Herbert
350 North State Street, Suite 200
PO Box 142220
Salt Lake City, Utah 84114-2220

Dear Governor Herbert:

On March 18, 2018, Uber killed Elaine Herzberg, 49, with its automated vehicle. Ms. Herzberg was walking her bicycle across the street in the Phoenix suburb of Tempe when she was hit by an Uber operated Volvo XC90 SUV engaged in automated driving tests being performed on public streets. The vehicle was traveling about 38 miles per hour in a 35 mile per hour speed zone. The vehicle did not brake, swerve, or attempt to avoid the collision.

This is a shocking reminder of the dangers we all face with automated driving.

We are safety organizations interested in ensuring that the legislative framework for public testing of automated vehicles, and automated vehicle technology, promotes their safe and responsible operation. While we recognize the tremendous potential this technology has to offer from both a safety and convenience perspective, we believe this potential can only be unlocked by rules that hold the manufacturer accountable for any harm they cause.

We are deeply concerned that UT HB 101 absolves manufacturers of liability for dangerous and criminally reckless automated driving by naming the automated driving system as the driver and operator under state law. Under Utah law, the driver is responsible for operating a vehicle in accordance with the rules of the road. However, the automated driving system is not a person or a business, but merely a pile of sand and metal—it is not an entity that can be held legally and morally accountable for deadly driving. Unfortunately, this framework threatens to absolve the manufacturer from the full consequences of testing unproven technology and undertaking dangerous driving maneuvers on Utah roads. Such a failure to hold the appropriate party responsible for its actions greatly diminishes the deterrent value of any potential criminal or civil liability.

Dangerous driving already takes the lives of close to 40,000 Americans every year. Automated driving cannot reduce car crash fatalities if it is not done according to the rules of the road. To permit testing of automated driving systems without requiring even the same basic minimum qualifications for road worthiness as for a driver's license is unconscionable. To allow an automated driving system to be programmed by a manufacturer and then not hold that manufacturer liable for a failure to follow the law is encouraging bad behavior. Just as with human drivers, the company who manufactured the system and keeps it up to date—the company who warranted that the *automated driving system* was safe enough to use Utah roads and pedestrians as guinea pigs—must be held responsible when that system violates the rules of the road.

We recognize that the car companies and technology industry continue to issue reassurances that automated driving systems are a safety technology which will never fail. If this were true, then the manufacturer of the system should have no problem being identified as the operator of the vehicle and responsible for complying with the rules. Without such accountability, promises of safety and reliability are worthless.

If enacted, UT HB 101 would allow the premature deployment of systems that are not ready or safe, ultimately setting back progress toward making safer vehicles available. There is a significant role for automated driving technology to play in making driving safer in the 21st century. Yet, such positive steps for safety will not be achieved by embracing unproven technology for technology's sake. In order for this technology to save lives it must not only be safer, but people must *trust* that it is safer as well. Public road testing should merit additional safety requirements – not diminished safeguards. Premature deployment of an unready technology may cost more lives than it saves, not only in terms of a body count from crashes, but from creating an even greater public fear of the technology. Manufacturers who truly desire to improve safety should *welcome* accountability as it will protect the industry from dangerously unready deployments by rogue actors that would set the entire industry back – potentially decades.

Crashes caused by automated driving are inevitable — the auto and technology industries admit this, and Ms. Herzberg's death proves it. **When no one is accountable, no one is safe.** Today's automated vehicles have trouble with [bridges](#), [turning left](#), [spotting bicycles](#), driving in heavy rain, fog or snow, or [identifying children or animals in the road](#). Recent analysis has suggested that [human drivers are still 10,000 times safer than automated drivers](#). Only when the manufacturer is identified as the driver will there be accountability for following the rules of the road. Utah's automated vehicle legislation can wait one more year to get it right and ensure the safety of Utah's citizens, who deserve no less.

A license to test or deploy autonomous vehicles should not be a license to kill.

We urge you to veto this legislation and ask the legislature to come back and clearly spell out that the manufacturer will be responsible for following the rules of the road when the automated driving system is engaged.

Sincerely,

Jason Levine
Executive Director
Center for Auto Safety

Jack Gillis
Executive Director
Consumer Federation of America

Rosemary Shahan
President
Consumers for Auto Reliability and Safety