

# Minutes: Liability Subcommittee Meeting

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**Date** August 30, 2018

**Time** 10:00 am – 11:45 am

**Location** OIC Tumwater Office | 5000 Capitol Blvd., SE Tumwater WA 98501

**Facilitators** Lonnie Johns-Brown, *Legislative Director, OIC, Subcommittee Chair*  
Harris Clarke, *VP of Customer Sales and Service, PEMCO, Subcommittee Co-Chair*

## Meeting minutes

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### How will decision making work for the group?

This was the first meeting of the subcommittee and there is no set structure yet.

- Discussion on how decisions should be made in the group and who should be involved
  - General agreement on consensus based decision making with the inclusion of a minority report.
    - Brenda Weist (Teamsters)
      - Also sits on the subcommittee for licensing and that subcommittee has decided to use a consensus method, with quorum
      - The Licensing Subcommittee has also decided to provide the minority position/concerns on decisions if any are available.
      - The Licensing subcommittee has also decide to allow members to set a proxy
    - Debi Besser, (WA State Transportation Commission)
      - Member of the Safety subcommittee which has also decided to use consensus decision making and report the concerns of voices who do not agree with the consensus
    - Patrick Conner (NFIB)
      - Based on the topics to be covered by the Liability subcommittee the use consensus decision making with the reporting of concerns & descent makes the most sense.
    - Joanie Deutsch (TechNet)
      - Has experienced working with similar work groups in Oregon and the Oregon Autonomous Vehicles Work Group allowed for public comment on official committee recommendations in lieu of a minority report

- Who are the voting members and should a quorum be set?
  - The organizations may decide who their voting member will be.
  - Discussion on the point of requiring a quorum for a vote to take place.
    - Point of interest: It maybe difficult to determine a quorum due to the changing number of member organizations.
    - Suggestion to allow email voting.
    - Point of interest: Allow for a proxy to vote for the organization if the subcommittee member is not able to join.

***Final on decision making for the subcommittee:***

Votes will be taken with a quorum, which will be 2/3 of the total number of members on the subcommittee

- Each organization represented on the subcommittee will have 1 vote
  - A proxy will be allowed if an organization's main voting representative is unable to attend the meeting.
    - Proxies must be identified and notice sent to the subcommittee chair before the next meeting
- The subcommittee will work towards consensus
- In cases where the minority disagrees with the decision of the subcommittee a minority report will be provided

**What other organizations/groups or people should be invited to participate in the subcommittee?**

It was suggested that the Chair & Co-Chair invite the following groups

- Defense bar association – Michael Transue (Assn. of Global Automakers) has a contact
  - Both Civil and Criminal
- Attorney General's Office
- WA Assn. of Prosecuting Attorneys (WAPA)
- Local Sheriffs

Discussion on reaching out to contacts/counterparts in other states for information. These states include;

- Oregon
  - On a tight timeframe and limited to testing only
- Arizona
- Idaho
- Pennsylvania
- Utah
- California

Should the group reach out to the federal government to see what is being done at that level?

- There is currently a bill in the Senate on this topic with a high likelihood of passage

Also suggested to coordinate with the subcommittees on Safety and Licensing because some topics may overlap.

## What is the group's work?

Suggestion made to look into the self-certification requirements and review process as outline in the Governor's Executive Order

- As of this meeting seven (7) companies have self-certified to test AVs in Washington
  - Unclear what the requirements are for a company to self-certify to do testing
  - Unclear what, if any, review process takes place.
  - What about accidents while testing
- How are these companies self-certifying?
  - Executive Order 17-02<sup>1</sup> cites RCW 46.30.020

What about insurance during testing for these companies

- The same benefits of insurance that apply to regular cars should apply to autonomous vehicles, should they not?
  - What about things like lane assist & park assist, etc. Would there be different rates for "safer" vehicles?
  - Currently the problem for insurers with items like lane-assist is that consumers sometimes turn those features off because they are annoyed by them
    - If an accident occurs there is currently no way for the insurer to know if the feature was turned on or not.
    - Also insurers do not always know if the car comes with those features, some can be added aftermarket
- The varied schemes of ownership
  - Single, pool & fleet
    - No matter the ownership model however each driver is different
- What about criminal versus civil liability in the case of an accident?
- Is the subcommittee looking at acceptations to current law where new laws may be needed, or holes in current standing around autonomous vehicles?

## Goals for the subcommittee

### ***SHORT TERM GOALS – Decision on items to pursue for next meeting***

- Look at self-certification process as it relates to insurance
  - Start with whole frame of the process
  - Look at executive Order and referenced RCW
- Does Executive Order 17-02 and the self-certification cover commercial as well as personal vehicles?
- Gather information from other states to see how it will shape future discussions

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<sup>1</sup> Executive Order 17-02 can be found here: [https://www.governor.wa.gov/sites/default/files/exe\\_order/17-02AutonomouVehicles.pdf](https://www.governor.wa.gov/sites/default/files/exe_order/17-02AutonomouVehicles.pdf)

- These states include; Arizona, California, Idaho, Oregon, Pennsylvania, and Utah
- How does data privacy impact liability?

### **MIDTERM GOALS**

- Clear legal and policy structure (mid to long term)
- The different types of owner ship and how those will impact tort, insurance, etc. (mid – long term goal)

### **LONG TERM GOALS**

- Sort out items for state versus federal regulation
- Request – look at personal & commercial
  - Differentiate between personal passenger, commercial passenger, freight & platooning of semis (truck trains with 1 or 0 drivers)
  - Does Executive Order 17-02 delve into self-certification of commercial?
- How does data privacy impact liability?
- The different types of owner ship and how those will impact tort, insurance, etc. (mid – long term goal)

## **What is the group's interest on the topic?**

### ***Individuals/groups in person***

Patrick Conner, *NFIB*

- How is the policy & law going to be different from it is today? (Gap analysis)
- Will insurance be available and affordable

Veronica LAST NAME, *Progressive & USAA*

- Listen, take notes and report to and represent clients

Shannon Walker, Scott Kennedy & Christina Postlewait, *City of Seattle*

- What does it mean when companies are testing?
- Understand where issues will go
- Report back to and gain feedback from, the city of Seattle

Drew Wilder, *University of Washington*–

- The self-certification process as a whole

Jean Leonard, *AWB*

- Look into the self-certification process
- Surprised that the minimum limits are 25,000/50,000

Logan Bahr, *AWC*

- Where civil and criminal liability are currently, and where are they going?
- Tort liability for owning infrastructure
- How many cities have testing?

Melissa Crawford, *Nationwide*

- The data piece (short term and long term)
- The insurance piece (short term and long term)

- The insurance piece for now while testing and in future when these cars are the majority of the cars on the road
- The different types of owner ship and how those will impact tort, insurance, etc. (mid – long term goal)

Melanie Smith, *PCIAA*

- Liability, data access & what it is & what insurers need for writing & investigations
- Financial responsibility limits
- Safety also plays into ins

Jim Justin, *Lyft*

- Want to compile with laws but nervous about over regulation

Brenda Weist, *Teamsters*

- What regulations will drivers have to compile with?
- How much will insurance cost for drivers?

Jake Mayson, *AIA, etc.*

- Currently listening and taking notes for clients

Michael Transue, *Assn. of Global Automakers*

- Interested in not over regulating the autonomous vehicle industry, prevent the stifling of innovation
- Build cars that are compliant with regulations in all 50 states
- Testing in Washington, many manufactures see the state as a hub for testing

Brady Horenstein, *Administrative Office of the Courts*

- Statutory scheme fits in judicial frame work

Joanie Deutsch, *TechNet*

- Keep in mind that technology shouldn't be regulated out fear
- Technology can make us safer
- Keep in mind that current statute regulation

Harris Clarke and Dan McGrady, *PEMCO*

- Fixing liability is something insurers have to do to protect consumers
- How can incentives in rate effect adoption of technology

Kenton Brine, *Northwest Insurance*

- Broad parameters to invite innovation while protecting consumers and insurers
- Interplay between other subcommittees
  - Co-Chair of the subcommittee on Safety

Mark Matteson & Jennifer Harris, *HTC*

- Track and listen to the subcommittee

## **ON THE PHONE**

Luke Simon, *General Motors*

- Encourage innovation

Armmika (Dolly)

- What would the changes be to the statute and regulatory framework be?

- As a moving companies, how will these changes impact businesses, like Dolly, who use vehicles as a key aspect of their business?

## Meeting adjourned at 11:45

### Attendees

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#### ***In person***

Brady Horenstein, *Administrative Office of the Courts*

Brenda Weist, *Teamsters*

Christina Postlewait, *City of Seattle*

Dan McGrady, *PEMCO*

David Forte, *OIC*

Debi Besser, *Washington State Transportation Commission*

Drew Wilder, *University of Washington*

Hailey Hamilton, *OIC*

Harris Clarke, *PEMCO*

Jake Mayson, *Carney, Badley, Spellman*

Jean Leonard, *Association of Washington Business (AWB)*

Jennifer Harris, *House Transportation Committee*

Jim Justin, *Lyft*

Joanie Deutsch, *TechNet*

Kenton Brine, *Northwest Insurance*

Lonnie Johns-Brown, *OIC*

Logan Bahr, *Association of Washington Cities (AWC)*

Mark Matteson, *House Transportation Committee*

Melanie Smith, *PCIAA*

Melissa Crawford, *Nationwide*

Michael Transue, *Global Automaker*

Patrick Conner, *National Federation of Independent Business (NFIB)*

Paul Parker, *Washington State Transportation Commission*

Scott Kennedy, *City of Seattle*

Shannon Walker, *City of Seattle*

Veronica Van Slyke, *Progressive & USAA*

#### ***By phone***

Armikka Bryant, *Dolly*

Joey Aitken, *WSP Consulting*

Katie Pettibone, *AIA*

Luke Simon, *General Motors*

#### ***Unable to attend***

Christian Rataj, *National Association of Mutual Insurance Companies*

Joe Kendo, *Washington State Labor Council*

Katherine Moor, *General Motors*

Larry Shannon, *Washington State Association for Justice*

### Action items

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By the 3<sup>rd</sup> week of September (Week of Sept 17<sup>th</sup> – by Sept 20<sup>th</sup>) the following subcommittee members will pull together information from the following sources. This will help focus the agenda for the next subcommittee meeting

- Katie Pettibone (AIA) – will gather information from California
- Michael Transue (Assn. of Global Automakers) – will gather information from the federal level
  - Michael will also reach out to FHWA
- Melanie Smith (PCIAA) – will gather information from Arizona and Utah
- Brenda Weist (Teamsters) – will gather information from her national counterparts (AFL-CIO)
- Lonnie & David (OIC) – will look into what the NAIC is doing in regards to autonomous vehicles
- Joanie Deutsch (TechNet) – will provide information from AAMVA

- Mark Matteson (Hs. Transportation Committee) – will share a presentation previously presented to the committee from a Professor at UC Santa Clara on the topic.
  - Mark will get us the presentation from him
- Others agreed to provide information from Oregon, Idaho and other states where work around autonomous vehicles is being done.

All items and information gathered by the subcommittee should be sent to subcommittee chair, **Lonnie Johns-Brown**, [LonnieJ@oic.wa.gov](mailto:LonnieJ@oic.wa.gov)

A link to the document repository will be shared with the subcommittee after items have come in.

## **Next Meeting**

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**The next week will be planned for the first week of December.**

Lonnie Johns-Brown and OIC staff will be in touch in regards to scheduling.