

Minutes: Liability Subcommittee Meeting

Date December 6, 2018

Time 1:00 pm – 2:30 pm

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

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

Meeting minutes

Review: Information from other AVS Subcommittees

Safety Subcommittee (Debbie Besser)

- Certification recommendations:
 - Educate the Public
 - Health Impact Assessment

Licensing Subcommittee (Brenda Weist & Michael Transue)

- Licensing meets 12/7
- Currently engaged in information gathering
- Current agenda
 - Peleton Presentation/Platooning Presentation
 - [Peleton](#) (Wikipedia) – A main group or pack of riders. Riders in a group save energy by riding close or near other riders. The reduction in drag is dramatic.
 - Needs high level of cooperation
 - Platooning
 - Truck trains where 2 trucks with individual drivers who are electronically but not physically connected.
 - Increased safety and fuel-economy
 - Electronic and physical capability to control
- Brenda: Issue of Certification (Questions to ask?)
 - What data is available?

- Who is actually doing the testing?
 - Ease of registering to be a tester
 - Little information known about who is doing the testing

Infrastructure & Systems Subcommittee

- Nothing to report – next meeting is set for the 14th.

System Technology

- Currently gathering information
- Also saw the Truck platooning presentation
- Basic Discussions on Infrastructure.

Review: Information from other States

- OIC sent out feelers, Lonnie checked in with her counterparts in other states
 - There is not a lot of information out there.
- California has some new guidance.
- Brenda: OIC should do a deeper dive – look at the UW law student presentation (possible contact Prof. Covington at UW)
 - Information is needed regarding differences between states and their laws regarding AVS
 - The UW presentation to the Licensing Committee was preliminary and the students were going to dive deeper for the next presentation. Their research is a developmental process.
- Larry Shannon: Noticed a lack of consistency with the information currently out there
 - Defining who the driver is – is it the owner, manufacturer, person engaging the AV System?
 - Lonnie noticed only a small amount of research or information on the actual liability of AV.
 - Most information has only been seen in states who have authorized testing.
- Brenda: Some states have required a bond to be put up to test, but other states have required nothing.
 - Testing and deployments are likely proficiently self-policed – none of the companies want bad publicity.
- Harris: The UK passed AV legislation, there is a presentation on the matter.
- Lonnie requested that we may look into researching other countries to see what is out there.

Update on Federal Activities in 2019 (David Forte)

- H.R.3388 - The House passed the self-drive act last year
- S. 1885 (AV Start Act) Oct 2017 – the bill passed Senate
 - It was blocked due to Safety regulations/concerns
- Neither address driverless tractor trailers
- The National Highway and Transportation Safety Administration (NHTSA) released new fed guidelines in for AV
 - New guidance
 - New definitions for driver/operator may now include “automated systems”
 - Revoked “proving” grounds, testing areas are as permitted through state regulations.
 - Supporting development of automation-related voluntary standards developed through groups to advance integration of automation technologies
 - NHTSA is working to preserve ability for transportation safety applications to function in 5.9 GHz spectrum.
- The DOT announced with AV 3.0 actions are going to be taken that show the government is considering comprehensive transportation automation.
 - Looking at driverless individual transport and mass transit, autonomous commercial freight by truck and train, and national infrastructure’s growth (needs to be parallel).
- Bills in Committee
 - House – establishes grants for high-definition road-mapping
 - Likely to assist AV Sensors
 - Lonnie asked to clarify – the grants are specifically for HD road-mapping to support AV
 - Senate – AV accident Insurance reporting – the bill is to enhance early warning reporting requirements for motor vehicle manufacturers to include AV manufacturers.
- Larry: Question posed – UNI LAW COM – what are they doing? – ask Jamie
- Brenda: Comments presented at Federal level
 - Segregated the groups: Commercial vs. Personal
 - Likely need different liability regulations – commercial is going to have higher liability

Next Steps

- Lonnie asked about a one-pager → Brenda: Starting to compile collective work – State laws vary quite a bit.
 - Harris: Question posed – Is this potential research that we should explore? (Agreement in audience)
- Next year's schedule:
 - Problem of long-session – AV Workgroup may meet a couple times
 - Timeframe: Research by September to be ready for full AV Workgroup by October.
 - Next meetings need to be April – Sept.
 - Technically we need to meet once a quarter, but possible just a recommendation by AV Workgroup
- Patrick Connor: Conversation last meeting about short-mid-term goals
 - Questions posed: Washington State – where are we sitting currently? Forefront or tail-end?
 - How does liability play into this?
 - Should we talk about whether we want to aid or hinder the evolution of technology for Washington State?
- Harris: Are we looking at our operating principle?
- Dory Nicpon: Recommendation might be that we need to figure out where we (WA ST) are at currently?
- Lonnie: We need to keep pace with technology and current framework.
 - Technology now clearly does not already have the appropriate framework.
 - It's not black and white, it's a grey area from OIC's perspective.
- Patrick: Are there currently barriers to framework?
 - Travelers Pamphlet – intent on adopting Rules and Laws will aide.
 - Are their more requirements?
- Larry: Agrees w/Patrick that this is an important discussion
 - Need to figure out core function and reason of group.
 - Does not agree fully – Are we enhancing Safety inhibition?
 - Long-run enhancing?
 - Disasters caused a decrease in Public Confidence
 - Travelers Pamphlet – Insurance regime not product liability regime, because of the difference, it's likely to increase cost to consumers.

- We need a balancing act
- When a crash happens, how to we allocate responsibility?
- Logan: We need to define Liability
 - Unmask a set of resources
 - We have a premature analysis of the discussion
- Lonnie: Sounds like we need a decision tree or a grid
 - To define terms, and compare.
 - To Identify issues and we need to do
 - What did other states touch on?
- Larry mentions the HT Committee
 - Michael: The prof. from Santa Clarita added foot notes in his presentation
 - Not a lot of details but poses some What-if questions
 - Lonnie agreed that there was not much information, but it was still something to go on.
 - We could do nothing, and leave problems to the courts to decide
 - We could NOT to nothing, then we have a range of options to sort through.
- Harris: Synthesis recommendations to explore:
 - Who is liable in a crash?
 - Intention with Legislation - speed/match/lag?
 - There could be intended or unintended consequences.
- Patrick: We need a set guidance
- Brenda: There are reports from California and Oregon
 - Start looking at work in the west, we should fall somewhere in the middle.
- Lonnie: OIC Interacts with CA and OR – it may be easier to get ahold of information from them.
 - Suggestion to group: Hold meetings with more in-depth discussions
 - Have OR call-in to give information
 - The “why” is not always evident in a report.
- Larry: Large mix of technology on the road until probably 2050-2060 – it will be complicated to sort out the necessary regulations.
 - Lonnie agrees that this is a reality because of stubborn people.

Research

- Personal Airplanes that are AV – look at the different levels of Autonomy?

- Paul: There are different levels of AV and all levels bring questions
 - Current tech – Airplanes and Trains? How are they being controlled?
- Scott: Look into No-fault systems? We need to look at Liability coverage – and how that coverage fared.
 - Proposals may be reconsidered.
 - David: What about Minnesota and Michigan?
 - There are 10 states with no-fault states
 - Maybe a deeper dive into what Michigan is doing?
- Brenda: Technology is currently moving faster than policy
 - By the time we get regulation in place, tech will likely be ahead of it.
 - Governors Executive Order is allowing testing now – immediate research is relative to testing and liability, we should move on those.
 - Lonnie: in response to Brenda
 - Subcommittee framework is liability, thoughts:
 - No bonding to avoid looking bad, vs.
 - High level of bonding to hold liability
 - Brenda: There is a \$5M Umbrella policy for testing in Oregon
 - Kenton: Could we find this out?
 - What are the liability standards for testing?
 - Lonnie: \$5M Umbrella policy regulation
 - What is the umbrella policy
 - Oregon vs other states? What is the difference?
 - Logan: Thoughts weren't focused on testing aspect – question posed: what are we doing when vehicles get on the road?
 - Kenton: Suggestion: There was a large stakeholder group that was asked about thoughts on broad areas, which helped to narrow down to three main categories
 - Long-term, Mid-, and Short-term goals
- Lonnie – anyone with access to information should make it available to all
 - Please send any information to:
 - To: Harris.Clarke@pemco.com
 - To: LonnieJ@oic.wa.gov
 - CC: MalissaE@oic.wa.gov

Next meeting

- When are we meeting again?
 - Kenton – Early May
 - Harris – Quarterly
 - Lonnie – Session-problem
- 4 Meetings between end of May and September, should solve for lack of meetings during quarters, but allows for long-session.
- Send a meeting poll with Survey Monkey
- Meetings should be set before AVS Liability requests to not meet quarterly – request to full workgroup
- We may offset meeting locations, so that it is either equal travel or switch off between Seattle and Olympia – we will be sensitive around timing.
- Kenton, Cliff, and Jean will have a conversation with Insurers to gather information for next meeting
- Develop a work plan
 - Make assignments of research
 - Volunteer to make strong recommendations to work group
 - Survey Monkey with ideas

Recommendations to full AV Work Group

The Liability subcommittee is currently not making any recommendations for the upcoming session.

Decisions

- Subcommittee to make recommendations in the following areas:
 - Self-certification as it relates to liability and insurance
 - Treatment differences between commercial and personal autonomous vehicles
 - Assigning liability in a crash
 - Define liability
 - Criminal
 - Civil
 - Speed of legislation – lag, pace, or in advance of technology and AV advances
- Make a Standard Grid for states that allow AV testing and liability requirements.
- Look into more than just testing, but bonding and other areas as well.

- Research what other countries are doing in regard to AV liability,
- Send out or find better analysis with the UW Students
- Research comparable frameworks – AV in airplane and train travel
- Larry will check in with the Uniform Law Committee activity in the area.

Next meeting

Time and Location: TBD