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HOUSE BILL NO. 339

INTRODUCED BY D. LOGE, D. FERN, R. FITZGERALD, N. DURAM

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MOTOR VEHICLE LAWS TO REGULATE VEHICLES WITH AUTOMATED DRIVING SYSTEMS; ~~PROVIDING FOR PRESUMPTIONS OF LIABILITY;~~ PROVIDING THAT DUI LAWS APPLY TO OPERATING AN AUTONOMOUS VEHICLE; ~~PROHIBITING USE OF FULLY AUTONOMOUS VEHICLES ON HIGHWAYS UNTIL RULEMAKING IS COMPLETE;~~ ~~PROHIBITING PLATOONING ON HIGHWAYS UNTIL RULEMAKING IS COMPLETE~~ REQUIRING THE DEPARTMENT OF TRANSPORTATION TO CONSULT WITH STAKEHOLDERS AND ADOPT RULES REGULATING THE USE OF FULLY AUTONOMOUS VEHICLES AND PLATOONING; DEFINING TERMS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-8-1001, 61-8-1002, 61-8-1016, AND 61-8-1018, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 7], the following definitions

apply:

(1) "Automated driving system" means, unless the context clearly indicates otherwise, the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether the automated driving system is limited to a specific operational design domain.

~~(2) "Developer or manufacturer" means any entity in the chain of manufacture of a vehicle with an automated driving system, including entities in the chain of manufacture of the automated driving system.~~

~~(3)~~(2) (a) "Dynamic driving task" means all of the real-time operational and tactical functions required to operate a motor vehicle in highway traffic, including:

- (i) lateral vehicle motion control through steering;
- (ii) longitudinal motion control through acceleration and deceleration;
- (iii) monitoring the driving environment through object and event detection, recognition,

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1 classification, and response preparation;

2 (iv) object and event response execution;

3 (v) maneuver planning; and

4 (vi) enhancing the conspicuousness of the vehicle with lights, signals, and gestures.

5 (b) The term does not include strategic functions such as trip scheduling and selection of
6 destinations and waypoints.

7 ~~(4)~~(3) "Fallback-ready user" means the user of a vehicle equipped with an engaged level 3 automated
8 driving system who is a human driver who is responsible to operate the vehicle if a system failure occurs or the
9 automated driving system issues a request to intervene.

10 ~~(5)~~(4) "Human driver" means a natural person with a valid driver's license to operate a motor vehicle
11 of the proper class for the motor vehicle being operated and who performs in real time all or part of the dynamic
12 driving task.

13 ~~(6)~~(5) "Level 1 automated driving system" means a system that provides to a driver one of the
14 following:

15 (a) braking and accelerating support; or

16 (b) steering support.

17 ~~(7)~~(6) "Level 2 automated driving system" means a system that provides to a driver both of the
18 following:

19 (a) braking and accelerating support; and

20 (b) steering support.

21 ~~(8)~~(7) "Level 3 automated driving system" means an automated driving system feature that:

22 (a) has the capability to perform on a sustained basis the entire dynamic driving task within its
23 operational design domain; and

24 (b) requires a fallback-ready user to operate the vehicle after receiving a request to intervene or in
25 response to a system failure.

26 ~~(9)~~(8) "Level 4 automated driving system" means an automated driving system feature that, without
27 any expectation a human user will respond to a request to intervene, has the capability to perform:

28 (a) on a sustained basis the entire dynamic driving task within its operational design domain; and

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1 (b) any maneuvers necessary to achieve a minimal risk condition in response to:

2 (i) an exit from the operational design domain of the automated driving system; or

3 (ii) a system failure.

4 ~~(10)(9)~~ "Level 5 automated driving system" means an automated driving system feature that, without
5 any expectation a human user will respond to a request to intervene, has the capability to perform:

6 (a) on a sustained basis the entire dynamic driving task under all conditions that can reasonably
7 be managed by a human driver; and

8 (b) any maneuvers necessary to respond to a system failure.

9 ~~(11)(10)~~ "Minimal risk condition" means a condition to which a user or an automated driving system
10 brings a motor vehicle to reduce the risk of a crash when a trip cannot or should not be completed.

11 ~~(12)(11)~~ "Object and event detection" and "object and event response" mean the subtasks of the
12 dynamic driving tasks that include:

13 (a) monitoring the driving environment; and

14 (b) executing an appropriate response to perform the dynamic driving task.

15 ~~(13)(12)~~ "Operate" means the activities performed in order to perform the entire dynamic driving task for
16 a motor vehicle, including testing of an automated driving system, by:

17 (a) a human driver; or

18 (b) an engaged automated driving system.

19 ~~(14)(13)~~ "Operational design domain" means the operating conditions under which an automated driving
20 system or a feature of an automated driving system is specifically designed to function, including:

21 (a) speed range, environmental, geographical, and time-of-day restrictions; or

22 (b) the requisite presence or absence of certain traffic or roadway characteristics.

23 ~~(15)(14)~~ "Operator" means:

24 (a) a human driver who operates a vehicle; or

25 (b) an automated driving system that operates a vehicle.

26 ~~(16)(15)~~ "Platooning" means operating partially or fully autonomous motor vehicles that are trailers,
27 trucks, or truck tractors, as defined in 61-1-101, to travel on a highway at electronically coordinated speeds in a
28 unified manner at a following distance that is closer than would be reasonable and prudent without the use of

1 the technology.

2 ~~(17)(16)~~"Public highways of this state" has the meaning provided in 60-1-201.

3 ~~(18)(17)~~"Request to intervene" means the notification by an automated driving system to a fallback-
4 ready user indicating that the fallback-ready user should promptly begin or resume operation of the vehicle.

5 ~~(19)(18)~~"System failure" means a malfunction in a vehicle system that prevents the automated driving
6 system from reliably performing the portion of the dynamic driving task on a sustained basis, including the
7 complete dynamic driving task, that the automated driving system would otherwise perform.

8 ~~(20)(19)~~"User" means:

- 9 (a) a human driver;
- 10 (b) a passenger; or
- 11 (c) a fallback-ready user.

12
13 ~~NEW SECTION. Section 2. — Autonomous vehicles and liability. (1) Except for providing rebuttable~~
14 ~~presumptions of liability in [sections 3 through 5], nothing in [sections 1 through 7] may be construed to alter~~
15 ~~generally applicable laws regarding liability, including but not limited to the provisions of Title 27.~~

16 ~~(2) — Nothing in [sections 1 through 7] may be construed to limit the ability of a person or entity in the~~
17 ~~chain of manufacture or sale to seek indemnification or allocation of liability through contract.~~

18 ~~(3) — The rebuttable presumptions established in [sections 3 through 5] may be overcome on a~~
19 ~~showing of:~~

- 20 ~~(a) — failure to properly maintain an automated driving system; or~~
- 21 ~~(b) — other admissible evidence.~~

22
23 ~~NEW SECTION. Section 3. — Presumption of liability --- level 1 and level 2 systems. There is a~~
24 ~~rebuttable presumption that the human driver of a vehicle equipped with a level 1 or level 2 automated driving~~
25 ~~system is liable for damages to persons or property caused by the operation of the vehicle and for penalties~~
26 ~~associated with traffic regulations violated by the operation of the vehicle.~~

27
28 ~~NEW SECTION. Section 4. — Presumptions of liability --- level 3 system. (1) There is a rebuttable~~

1 ~~presumption that the developer or manufacturer of a vehicle using a level 3 automated driving system is liable~~
2 ~~for damages to persons or property caused by the operation of the vehicle and for penalties associated with~~
3 ~~traffic regulations violated by the operation of the vehicle:~~

4 ~~(a) — prior to a request to intervene or a system failure; or~~

5 ~~(b) — resulting immediately from a system failure.~~

6 ~~(2) — There is a rebuttable presumption that the human driver or fallback-ready user of a vehicle~~
7 ~~using a level 3 automated driving system is liable for physical harm caused by the vehicle after:~~

8 ~~(a) — a request to intervene; or~~

9 ~~(b) — failing to respond timely to a system failure.~~

10

11 ~~NEW SECTION. Section 5. Presumption of liability -- level 4 and level 5 systems. There is a~~
12 ~~rebuttable presumption that the developer or manufacturer of a vehicle using a level 4 or level 5 automated~~
13 ~~driving system is liable for damages to persons or property caused by the operation of the vehicle and for~~
14 ~~penalties associated with traffic regulations violated by the operation of the vehicle.~~

15

16 ~~NEW SECTION. Section 2. Level 4 and level 5 automated driving systems prohibited except as~~
17 ~~regulated -- rulemaking authority. (1) Level 1, level 2, and level 3 automated driving systems may be used on~~
18 ~~public highways of this state.~~

19 ~~(1)(2) Level 4 and level 5 automated driving systems may not be used on public highways of this state,~~
20 ~~except as provided but must be regulated by department of transportation rulemaking.~~

21 ~~(3) The department of transportation shall adopt rules regulating the use of vehicles equipped with~~
22 ~~level 4 and level 5 automated driving systems. The department shall consult interested stakeholders prior to~~
23 ~~proposing rules, such as members of the transportation interim committee, and representatives of law~~
24 ~~enforcement, the trucking industry, autonomous vehicle manufacturers, the insurance industry, ranchers,~~
25 ~~pedestrians, drivers, and tribal and local governments. The department shall propose rules no later than~~
26 ~~January 30, 2024.~~

27 ~~(2) — The department of transportation shall adopt rules regarding the use of level 4 and level 5~~
28 ~~automated driving systems on public highways of this state. During the rulemaking process, the department~~

1 shall consider:

2 (a) ~~prohibiting the use of level 4 and level 5 automated driving systems on public highways of this~~
3 ~~state during unsafe atmospheric or road conditions;~~

4 (b) ~~imposing conditions on the use of level 4 and level 5 automated driving systems on public~~
5 ~~highways of this state with high pedestrian use;~~

6 (c) ~~requiring developers or manufacturers of level 4 and level 5 automated driving systems to~~
7 ~~certify that atmospheric, demographic, geographic, pedestrian, road, vehicle, and zoological conditions~~
8 ~~common in the state have been considered in the development of the system as a condition of use of the public~~
9 ~~highways of this state;~~

10 (d) ~~conditions to impose on testing level 4 and level 5 automated driving systems on the public~~
11 ~~highways of this state; and~~

12 (e) ~~conditions to impose generally on the use of level 4 and level 5 automated driving systems on~~
13 ~~the public highways of this state.~~

14

15 **NEW SECTION. Section 3. Vehicle platooning prohibited except as regulated -- rulemaking**

16 **authority.** (1) Vehicle platooning on public highways of this state is allowed, but must be regulated by
17 department of transportation rulemaking.

18 (2) The department shall consult interested stakeholders prior to proposing rules, such as
19 members of the transportation interim committee, and representatives of law enforcement, the trucking industry,
20 autonomous vehicle manufacturers, the insurance industry, ranchers, pedestrians, drivers, and tribal and local
21 governments. The department shall propose rules no later than January 30, 2024, prohibited except under the
22 circumstances allowed by department of transportation rulemaking.

23 (2) ~~The department of transportation shall adopt rules regarding vehicle platooning on public~~
24 ~~highways of this state. During the rulemaking process, the department shall consider:~~

25 (a) ~~prohibiting platooning on public highways of this state during unsafe atmospheric or road~~
26 ~~conditions;~~

27 (b) ~~conditions to impose on platooning on public highways of this state with high pedestrian use;~~

28 (c) ~~requiring developers or manufacturers of platooning vehicles to certify that atmospheric,~~

1 ~~demographic, geographic, pedestrian, road, vehicle, and zoological conditions common in the state have been~~
 2 ~~considered in the development of the platooning vehicles as a condition of use of the public highways of this~~
 3 ~~state;~~
 4 ~~(d) conditions to impose on testing platooning vehicles on the public highways of this state; and~~
 5 ~~(e) conditions to impose generally on platooning vehicles on public highways of this state,~~
 6 ~~including limiting the number of vehicles that may platoon together.~~

7

8 **Section 4.** Section 61-8-1001, MCA, is amended to read:

9 **"61-8-1001. Definitions.** As used in this part, unless the context requires otherwise and unless a
 10 different meaning plainly is required, the following definitions apply:

11 (1) "Aggravated driving under the influence" means a person is in violation of 61-8-1002(1)(a),
 12 (1)(b), (1)(c), or (1)(d) and:

13 (a) the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other
 14 bodily substance, is 0.16 or more;

15 (b) the person is under the order of a court or the department to equip any motor vehicle the
 16 person operates with an approved ignition interlock device;

17 (c) the person's driver's license or privilege to drive is suspended, cancelled, or revoked as a result
 18 of a prior violation of driving under the influence, including a violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d),
 19 an offense that meets the definition of aggravated driving under the influence, or a similar offense under
 20 previous laws of this state or the laws of another state; or

21 (d) the person refuses to give a breath sample as required in 61-8-1016 and the person's driver's
 22 license or privilege to drive was suspended, cancelled, or revoked under the provisions of an implied consent
 23 statute.

24 (2) "Alcoholic beverage" means a compound produced for human consumption as a drink that
 25 contains 0.5% or more of alcohol by volume.

26 (3) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of
 27 alcohol per 210 liters of breath, including as used in 16-6-305, 23-2-535, 45-5-207, 67-1-211, and this title.

28 (4) "Bus" means a motor vehicle with a manufacturer's rated seating capacity of 11 or more

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1 not a sample was subsequently collected for any purpose, proof of refusal is admissible in any criminal action
2 or proceeding arising out of acts alleged to have been committed while the person was driving, conducting, or
3 in actual physical control of a vehicle upon the ways of this state open to the public while under the influence of
4 alcohol, drugs, or a combination of alcohol and drugs. The trier of fact may infer from the refusal that the person
5 was under the influence. The inference is rebuttable.

6 (3) The provisions of this part do not limit the introduction of any other competent evidence bearing
7 on the question of whether the person was under the influence of alcohol, drugs, or a combination of alcohol
8 and drugs."
9

10 NEW SECTION. Section 8. Codification instruction. [Sections 1 through ~~73~~] are intended to be
11 codified as an integral part of Title 61, chapter 8, and the provisions of Title 61, chapter 8, apply to [sections 1
12 through ~~73~~].
13

14 NEW SECTION. Section 9. Effective date. [This act] is effective July 1, 2023.
15

16 NEW SECTION. Section 10. Termination. [Sections ~~6 and 7 2 and 3~~] terminate June 30, 2027.
17

- END -