

# NISKANEN C E N T E R

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September 25, 2017

Chairman John Thune  
Senate Committee on Commerce, Science, and Transportation  
512 Dirksen Senate Building  
Washington, D.C. 20510

Senator Gary Peters  
Senate Committee on Commerce, Science, and Transportation  
512 Dirksen Senate Building  
Washington, D.C. 20510

*RE: American Vision for Safer Transportation through Advancement of Revolutionary Technologies (AV START) Act*

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Dear Chairman Thune and Senator Peters:

Last year, over 35,000 people lost their lives on American roads due to human error. Our country can do better, and autonomous vehicles can play a pivotal role in realizing a world of massively reduced roadway fatalities.

For that reason, the Niskanen Center wishes to express our support for the American Vision for Safer Transportation through Advancement of Revolutionary Technologies (AV START) Act. This bill, if passed, would help accelerate the testing and ultimate deployment of a technology that is poised to significantly curtail one of the most pressing public safety concerns facing Americans.

We are especially pleased to see that the AV START Act echoes many sentiments similar to those expressed in the recent autonomous vehicle guidelines released by the National Highway Traffic Safety Administration (NHTSA). That guidance repeatedly reiterates the voluntary nature of its provisions, while recognizing the Department of Transportation's preeminent role in regulating safety and supporting industry efforts aimed at deploying this technology safely and effectively.

As the Niskanen Center noted in comments last year, NHTSA's initial draft of these guidelines proposed a significant expansion of regulatory authority. By contrast, the current draft excises the most onerous and unduly burdensome elements of its predecessor and embraces a far more innovation-friendly and

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*The Niskanen Center is a 501(c)3 libertarian issue advocacy organization that works to change public policy through direct engagement in the policymaking process.*

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well-reasoned regulatory approach—an approach mirrored by the AV START Act.<sup>1</sup> Together with the NHTSA guidance, the AV START Act sends a clear and unambiguous signal that there is broad bipartisan consensus from policymakers and regulators on how best to craft the rules of the road for autonomous vehicles.

In particular, we believe the following provisions deserve special mention and praise.

First, the stipulation that safety evaluation reports submitted to the Secretary of Transportation are not to be used as conditions for denying the manufacture, testing, or deployment of autonomous vehicles. Rather, by establishing a multi-year technical advisory committee to provide recommendations for a future rulemaking, the AV START Act recognizes that ongoing developments in autonomous vehicle technology necessitate the need to embrace a flexible, adaptive, and non-reactionary regulatory regime.

We are also wholly supportive of the preemption clause, limiting states from enacting rules that might interfere with the Department of Transportation’s authority to regulate the safety of autonomous vehicles. This will help avoid a patchwork of incongruous state laws that could impede adoption of this technology, as well as inadvertently create market uncertainty for investments in ongoing research and testing.

Finally, we are happy to see that the bill avoids the temptation to wade into the privacy implications of autonomous vehicles. While this is an issue that certainly merits attention, we do not believe it is the place for NHTSA or the Department of Transportation to serve in the role of privacy regulator. These agencies are more appropriately suited to address the safety concerns of autonomous vehicles, and that is where their focus should remain.<sup>2</sup>

Autonomous vehicles, like many emerging technologies, present new and unique challenges for lawmakers and regulators. This new frontier requires that we reconsider rules designed for a non-digital world; twenty-first century technologies require twenty-first century regulations.<sup>3</sup> By recognizing this

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<sup>1</sup> For further details on the evolving nature of NHTSA’s approach to autonomous vehicles, see the following: Ryan Hagemann, *Comments submitted to the National Highway Traffic Safety Administration in the Matter of: Federal Automated Vehicle Policy*, Docket No. NHTSA-2016-0090, submitted November 21, 2016, <https://niskanencenter.org/wp-content/uploads/2016/11/CommentsAutonomousVehicleStandardsNHTSA.pdf>; see also Ryan Hagemann, “New Federal Guidelines Clear the Road Ahead for Autonomous Vehicles,” Niskanen Center, September 13, 2017, <https://niskanencenter.org/blog/new-federal-guidelines-clear-road-ahead-autonomous-vehicles/>.

<sup>2</sup> For a more detailed examination of the many trade-offs associated with the privacy implications of autonomous vehicles, see the following: Adam Thierer and Ryan Hagemann, “Removing Roadblocks to Intelligent Vehicles and Driverless Cars,” *Wake Forest Journal of Law & Policy*, Vol. 5:2, 2015, pp. 380-386, [https://wfulawpolicyjournal.com.files.wordpress.com/2016/05/5-thierer-hagemann\\_final.pdf](https://wfulawpolicyjournal.com.files.wordpress.com/2016/05/5-thierer-hagemann_final.pdf).

<sup>3</sup> (“Governance of new, untried and untested technologies should begin with industry issuing standards and best practices. A multistakeholder review process — facilitated but not dictated by the appropriate federal agency — should follow, with clear process guidelines and objective goals and deliverables. This process should in no way be predicated on a presumption of regulatory action, but merely serve as a forum for discussion. Public comments should be sought throughout the process. During this time, firms should be granted a default approval to continue operating. Regulators should observe-and-respond to ongoing developments, proposing new rules only if a risk-based assessment warrants further action.”) Ryan Hagemann, “New Rules for New Frontiers: A Regulatory

regulatory reality, the AV START Act will help usher in a safer and more autonomous transportation future for all Americans.

On behalf of the Niskanen Center, we thank you for the thoughtful effort that went into this legislation. We applaud this bipartisan undertaking and once again reiterate our support for the AV START Act.

Sincerely,

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The Niskanen Center  
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Manifesto for Emerging Technologies," Niskanen Center, January 30, 2017,  
<https://niskanencenter.org/blog/new-rules-new-frontiers-regulatory-manifesto-emerging-technologies/>