



July 26, 2023

The Honorable Gus Bilirakis
Subcommittee on Innovation, Data and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jan Schakowsky
Subcommittee on Innovation, Data and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Cathy McMorris Rodgers
House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone
House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

RE: Hearing on “Self-Driving Vehicle Legislation Framework: Enhancing Safety, Improving Lives and Mobility, and Beating China”

Dear Chairs Bilirakis and Rodgers and Ranking Members Schakowsky and Pallone:

The undersigned members of the Consortium for Constituents with Disabilities (CCD) Transportation Task Force and fellow advocates thank you for holding today’s hearing on autonomous vehicle (AV) legislation. CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of people with disabilities. The hearing is being held on July 26th which marks the 33rd Anniversary of the Americans with Disabilities Act (ADA) which sought to “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” Today Congress has the opportunity to lead, to uphold the ADA’s mandate, enhance safety, and improve lives and mobility for all.

The CCD Transportation Task Force has adopted cross-disability Autonomous Vehicle Principles¹ and provided feedback on past AV legislative drafts.² Signatories to the Principles included 20 national organizations. Many of our members also participated in 3 days of AV accessibility workshops in 2019 hosted by the Alliance of Automobile Manufacturers (an organization preceding the Alliance for Automotive Innovation) with government, industry and disability stakeholders,³ and U.S. Department of Transportation (USDOT) and U.S. Department of Labor (USDOL) listening sessions.⁴ As you discuss an AV legislative framework we urge you to consider our comments below on the proposed legislative drafts and provisions. AVs can improve mobility and quality of life for the disability community, including for those with physical, sensory, intellectual and developmental disabilities and neurological conditions such as epilepsy. For the full potential of AVs to be realized any AV legislative framework must: explicitly include consideration of accessibility and the needs of disabled travelers of all disability types in each

rulemaking, including federal motor vehicle safety standards (FMVSS) updates; ensure exemptions granted based on improved access address the biggest challenges to accessibility; ensure preemptions do not prohibit state or local accessibility requirements or performance metrics; ensure AV-related ADA or other civil rights claims can be filed in court; ensure AVs complement and improve public transit; and ensure USDOT and the US Access Board have the resources and staffing to adopt and implement necessary research, rulemaking and standard setting.

Background

Nearly 1 in 5 people in the U.S. has a disability (more than 57 million). As a result of the passage of the ADA, 99% of public buses are equipped with ramps, curb ramps benefit the public, and there is improved provision of accessible transit to people with sensory disabilities. Yet, significant barriers to accessible, affordable transportation remain across modes.

Many people with disabilities cannot drive because of their specific disability, are currently unable to obtain a driver's license, or cannot afford to purchase a vehicle that would be accessible with the installation of a wheelchair ramp or other modifications. It's critical that ride-share and on-demand services provide disability access yet there are not adequate wheelchair accessible vehicles and trip denials for service animal users and other people with disabilities are rampant. A Bureau of Transportation Statistics (BTS) study of adults with disabilities found that roughly half of respondents 18 to 64 reported living in a household with income under \$25,000.⁵ In addition, there are no purpose-built wheelchair accessible passenger vehicles on the market today. Currently wheelchair users who travel in their wheelchair often pay nearly double the price of the vehicle for necessary aftermarket accessibility modifications, including to have a ramp installed or other features that require exemptions from the FMVSS.⁶

Without affordable, accessible transportation people with disabilities are unable to travel to work, to school, to contribute to and participate in their communities, to support and spend time with family and friends, and live their lives to the fullest. A recent report by the National Disability Institute found that a critical barrier to competitive integrated employment and entrepreneurship is a lack of accessible transportation options. Accessible, affordable, and sustainable AVs could lead to an additional 4.4 million jobs for people with disabilities, an additional \$867 billion in U.S. GDP and \$1.6 trillion in U.S. output.⁷

Manufacturers and transportation providers are developing, testing and deploying autonomous shuttles and passenger vehicles. The present and future of mobility is changing. AVs have the potential to drastically improve access for people with disabilities, including members of the blind and low vision, intellectual and developmental disability communities, people with physical disabilities, including wheelchair users, and people with neurological conditions such as epilepsy and seizure disorders. However, **the promise and safety of AVs will only be realized if the vehicles and the surrounding infrastructure are fully accessible, and the safety elements consider the needs of all people with disabilities.**

Regarding any AV legislative framework we urge you to:

Retain the Following Provisions

Licensing and Insurance - Legislation should prohibit discrimination on the basis of disability by states and any other governmental authorities in licensing and insurance. We strongly support the provision in Congressman Latta's SELF DRIVE Act and Congresswoman Dingell's text that prohibit discriminatory licensing laws nationwide.

Highly Automated Vehicles Advisory Council – An Advisory Council comprised of industry, consumer, safety, labor, civil rights and other stakeholders is necessary to continue discussions and identify barriers, unintended impacts and solutions. Disability representation is critical and should be included within any advisory council and such council should also be required to consider accessibility needs.

Include Accessibility in and Strengthen the Following

Safety Framework Rulemaking – Any safety framework rulemaking must also include a requirement for USDOT to consider the needs of disabled travelers, including people with physical, sensory (those that are blind or low vision or Deaf or hard of hearing) and intellectual and developmental disabilities. USDOT is not precluded from including accessibility in their rulemaking. However, a mandate from Congress for all AV-related rulemakings would ensure its inclusion. Object detection outside the vehicle and the vehicle's human machine interface (HMI) are critical in any safety framework. HMI must be accessible to people with sensory and cognitive disabilities for AVs to reach their full potential. A Disability Rights Education & Defense Fund brief on ableism in AV AI and algorithms recommends standards be set to ensure AVs can detect all people with disabilities and other members of marginalized communities outside the vehicle.⁸ Current research suggests that not all AVs are being taught to detect people seated in their wheelchairs or people with darker skin tones, among others.

Safety Self-Assessment Rulemaking – Proposed manufacturer self-assessment rulemaking requires USDOT to identify risks to motor vehicle safety and steps taken to mitigate such risks during the design, development and introduction into interstate commerce. Accessibility and how the needs of disabled travelers, including non-visual access and access for wheelchair users, are being met must be included in safety self-assessments provided by manufacturers and in any publicly available database. In order for an AV to be safe it must also be accessible for people with a variety of disabilities and include wheelchair securement solutions and object detection of people with disabilities, older adults, cyclists and other vulnerable road users.

Updating Existing FMVSS Standards – Existing FMVSS will be updated to ensure the safety of AVs, including level 4 and 5. We strongly encourage Congress to require USDOT to include a review of how updated FMVSS will ensure the safety of fully accessible AVs, including those that are both electric and autonomous, and are built with wheelchair ramps and will require testing

and deployment of automatic securement systems.⁹ The federal safety framework must assume deployment of and advance progress toward fully accessible passenger vehicles (both large and small) as well as accessibility standards. These standards will provide not only peace of mind for the public, but also a roadmap for those in the industry seeking to develop and deploy the safest, most accessible vehicle.

Of note, we strongly believe the AV safety framework must lead toward a fully accessible vehicle that is safe for all, including wheelchair users and all people with disabilities. Yet, any updates to the FMVSS must maintain the current exemptions to crashworthiness for modified vehicles to install a ramp until vehicles are fully accessible and such modification is no longer required for access.

Exemptions for Vehicles that Benefit People with Disabilities – We note the provision allowing AV manufacturers to apply for exemptions from FMVSS if the vehicle would promote transportation access for individuals with disabilities. We urge you to strengthen the existing language to incentivize manufacturers to address the more difficult accessibility challenges such as a vehicle that can effectively communicate with people who are blind or Deaf, is accessible for wheelchair users who remain in their wheelchair, and provides automatic wheelchair securement. Please consider requiring vehicles eligible for this exemption to be accessible for all people with disabilities and for the exemption to entail a minimum level of accessibility that advances true access.¹⁰

Exemption Database – A public database of exempted vehicles has been proposed. We urge you to include in the database whether the vehicle was granted an exemption because it would promote access for individuals with disabilities and how it promotes such access.

Public Transportation – We encourage any bill to allow use of and permit exemptions of vehicles used in public transportation. We note the ADA requires transportation provider’s personnel to assist with the use of securement systems, lifts and ramps.¹¹ We recommend legislation require research into whether a transit employee should be on every transit vehicle to also focus on additional customer service including emergency response. AV use in public transportation ensures AV rideshare providers are under clear civil rights law obligations, including the ADA. Without transit and paratransit providers adopting accessible AVs, a significant market for AVs is lost. It is worth noting that assisting people with disabilities is a universal value consistently expressed by the AV industry.

In addition, permitting AVs to be used in public transit could create opportunities for AV rideshare and transit to work together to ensure on demand service is complementing rather than replacing transit. Studies have shown that when rideshare service enters a market and provides what some view as a more convenient alternative to public transit, transit ridership can decrease.¹² Transit agencies are already struggling.¹³ Additional decreased ridership could lead to cuts in fixed bus routes and service hours which also leads to potential cuts in required paratransit service provided for people with disabilities that cannot access traditional transit because of access barriers within the system or their disability. Additionally, even rideshare

services can benefit from partnerships with public transit systems as pairing the two services can improve scale, affordability, and efficiency across the whole system.¹⁴ Finally, many AVs are likely to be electric vehicles. We must ensure that transit and paratransit riders can fully realize the health benefits of zero-emission, all-electric vehicles. Prohibitions on the use of certain electric vehicle types by transit agencies may create an additional barrier to electrification of paratransit and transit fleets, leaving people with disabilities behind.

Preemption – There is currently a provision that preempts state or political subdivisions of a state to maintain, enforce, prescribe or continue in any effect any law or regulation regarding the design, construction or performance of AVs. We are concerned this provision may unintentionally preempt AV accessibility or equity performance measures or requirements at the state or local level, including state laws that would mandate vehicle environmental standards to mitigate harm. While we understand the need for federal standards of vehicle design and construction, we also encourage allowing states and local jurisdictions to seek higher performance requirements that also ensure the greatest access and benefits for disabled and other historically underserved travelers.

Forced Arbitration – We strongly encourage inclusion of a prohibition on forced arbitration clauses in any AV framework. AV providers must be held accountable for injuries and property damage, and remedies available under applicable civil rights must be made available.¹⁵ Disabled passengers repeatedly face discrimination from rideshare services today. The rights of travelers with disabilities should be protected to ensure a safe and quality experience. In order to fully protect their rights, all passengers must have the option to take their claims to court.

USDOT Personnel and Staffing, Resources for Development – Congresswoman Dingell’s draft requires a report on the staffing and resource needs for USDOT including additional personnel or resources needed in the 10-year period following the bill’s passage. The Secretary is to consider the staffing of the Highly Automated Systems Safety Center of Excellence. We strongly encourage including in the report the staffing and resource needs required to ensure accessibility and safety are prioritized in the development of AVs, as well as creating a department within the Center for Excellence, or a separate center focused on accessibility of AVs. We also encourage the hiring of experts with disabilities who bring their own lived experience and informed perspective.

Add the Following

US Access Board AV Standards Mandate – There are currently no federal accessibility standards for fully accessible AV passenger vehicles. USDOT has on their Inclusive Design Challenge webpage a list of existing standards, e.g. wheelchair securement, that may be used as a guide for the time being.¹⁶ There is also a summary report from the Alliance of Automobile Manufacturers-hosted AVs and Increased Accessibility workshops that identifies accessibility needs in detail.¹⁷ However, these do not hold the same weight nor are they enforceable. Accessibility standards must be developed by the US Access Board which has also developed standards for public buildings and public rights-of-way among others.¹⁸ A mandate for the US

Access Board to draft AV standards is critical in any legislative framework. In addition, including a deadline within which the Department of Justice and USDOT must adopt the standards and providing sufficient funding for the Access Board to develop the standards is necessary.

Thank you for your consideration and for all you do on behalf of people with disabilities. Please contact Carol Tyson at ctyson@dredf.org and the CCD Transportation Task Force Co-Chairs with questions. We are eager to support your efforts to enhance safety and mobility for all.

Sincerely,

CCD Transportation Task Force Co-Chairs

Danica Gonzalves, Paralyzed Veterans of America, danicag@pva.org
Sarah Malaier, American Foundation for the Blind, smalaier@afb.org
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Signatory Organizations

Access Ready
American Association of People with Disabilities
American Council of the Blind
American Foundation for the Blind
American Printing House for the Blind
Autistic Women & Nonbinary Network
Christopher & Dana Reeve Foundation
Disability Rights Education & Defense Fund
Epilepsy Foundation
National Disability Institute
National Disability Rights Network
New York Lawyers for the Public Interest
Paralyzed Veterans of America
Perkins School for the Blind
United Spinal Association

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The Consortium for Constituents with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society free from racism, ableism, sexism, and xenophobia, as well as LGBTQI+ based discrimination and religious intolerance.

¹ Consortium for Constituents with Disabilities Transportation Task Force Autonomous Vehicle Principles, updated May 2022. Available at <https://www.c-c-d.org/fichiers/CCD-Transpo-TF-AV-Principles-May-2022.pdf>.

² CCD Transportation Task Force August 23, 2019 feedback on AV Bill Issues, including disability access, advisory committees, rulemakings, exemptions, privacy, safety evaluation reports and accessibility features, crash data, resources for NHTSA, consumer education, studies examining potential impacts, and infrastructure available at <https://www.c-c-d.org/fichiers/CCD-Transpo-TF-Feedback-on-AV-Bill-Issues-082319.pdf>. November 4, 2019 Feedback on AV Legislation Sections, including on a HAV advisory council, and disability exemptions available at: <https://www.c-c-d.org/fichiers/CCD-Transp-TF-Feedback-on-AV-Sections-110419.pdf>. December 9, 2019 Feedback on AV Legislation Sections, including on new FMVSS and licensing and insurance available at <https://www.c-c-d.org/fichiers/CCD-Transp-TF-Feedback-on-AV-Sections-120919.pdf>. February 21, 2020 Feedback on AV Legislation Sections, including on consumer education, cybersecurity, personnel and staffing, and additional considerations available at: <https://www.c-c-d.org/fichiers/CCD-AV-Sections-Response-02-21-20.pdf>.

³ Autonomous Vehicles and Increased Accessibility Workshops (May 3, July 19, September 10, 2019). Hosted by the Alliance of Automobile Manufacturers (an organization preceding the Alliance for Automotive Innovation). Washington, D.C. Summary Report, agendas and presentations available at <https://www.autosinnovate.org/avaccessibility>.

⁴ U.S. Department of Labor (October 2019). Autonomous Vehicles: Driving Employment for People with Disabilities. Available at <https://www.dol.gov/odep/topics/AV-Info-Guide-Revised.doc>.

⁵ Bureau of Transportation Statistics (2018). Travel Patterns of American Adults with Disabilities. Available at <https://www.bts.gov/travel-patterns-with-disabilities>.

⁶ The aftermarket modifications for wheelchair accessibility are vitally important for the ability of wheelchair users to travel outside their homes. However, wheelchair users face an uncomfortable tradeoff between that access and their safety since the modifications may decrease the overall crashworthiness of the vehicle. People with disabilities regularly choose access over safety. This tradeoff exists because neither manufacturers nor NHTSA have obligations to make today's passenger vehicles both safe and accessible to all people with disabilities and fail to do so voluntarily. As long as this tension exists, nothing in the proposed legislation should diminish access to aftermarket modifications of vehicles to provide vehicle access to people with disabilities.

⁷ National Disability Institute (December 30, 2022). Economic Impacts of Removing Transportation Barriers to Employment for Individuals with Disabilities Through Autonomous Vehicle Adoption. Available at <https://www.nationaldisabilityinstitute.org/reports/autonomous-vehicle-adoption/>.

⁸ Ian Moura for the Disability Rights Education and Defense Fund (November 2022). Addressing Disability & Ableist Bias in Autonomous Vehicles: Ensuring Safety, Equity & Accessibility in Detection, Collision Algorithms & Data Collection. Available at <https://dredf.org/wp-content/uploads/2023/03/DREDF-Moura-AV-AI-Brief-Nov-2022-UPDATE.pdf>.

⁹ The industry's safety standards for independent wheelchair securement and passenger restraint should be adopted by NHTSA and integrated into the FMVSS.

¹⁰ The Republican SELF DRIVE Act being considered in the hearing today includes the exemption for vehicles that would improve access for individuals with disabilities (subsection (vii)). The draft does not reflect how many vehicles could be exempted under this subsection.

¹¹ 49 CFR 37.165(f)

¹² UrbanismNext, University of Oregon (2021). Do Transportation Network Companies Increase or Decrease Transit Ridership? Empirical Evidence from San Francisco. Available at <https://www.urbanismnext.org/resources/do-transportation-network-companies-increase-or-decrease-transit-ridership-empirical-evidence-from-san-francisco-2>.

¹³ Congressional Research Service (November 2022). Public Transportation Ridership: Implications of Recent Trends for Federal Policy. Available at <https://crsreports.congress.gov/product/pdf/R/R47302>.

¹⁴ The Upshot (2018). Pave Over the Subway? Cities Face Tough Bets on Driverless Cars. New York Times. Available at <https://www.nytimes.com/2018/07/20/upshot/driverless-cars-vs-transit-spending-cities.html>

¹⁵ We support the provision in Congresswoman Dingell's draft prohibiting some predispute arbitration claims. We also encourage remedies available under applicable civil rights laws be included.

¹⁶ US Department of Transportation Inclusive Design Challenge Resources. Available at <https://www.transportation.gov/inclusive-design-challenge/resources>.

¹⁷ Autonomous Vehicles and Increased Accessibility Workshops (2019). Available at <https://www.autosinnovate.org/avaccessibility>.

¹⁸ The US Access Board is an independent federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards. Learn more and review the standards they have developed at <https://www.access-board.gov/>.