NATIONAL CONSUMERS LEAGUE
1701 K Street, NW, Suite 1200 Washington, DC 20006
Main: (202) 835-3323 Fax: (202) 835-0747 www.nclnet.org

The SELF DRIVE Act seeks to "ensure continued United States leadership in the global automotive and autonomous driving sector, improve road safety, mobility, and accessibility, and create American jobs" by supporting the deployment of autonomous vehicles (AVs), which are vehicles capable of performing the entire driving task without human intervention. In its current form, the SELF DRIVE Act does not ensure that the deployment of AVs is consistent with fundamental American values, including safety, accessibility, justice, and economic opportunity. The areas of greatest concern include:

- **Compliance** — SELF DRIVE prohibits safety standards from being applied to require manual controls (i.e., steering wheels, brakes, shifters, etc.) on AVs. Dozens of safety standards directly regulate manual controls, reference manual controls in test procedures, or reference a human driver. As such, NHTSA may not be able to use its test procedures to determine that such vehicles are in compliance, potentially allowing manufacturers to skirt safety standards. Dozens of safety standards may be implicated, including those that regulate braking performance, vehicle rollover prevention, unintended acceleration, and EV electrolyte spillage and electrical shock prevention.

- **Deployment** — SELF DRIVE permits noncompliant AVs to be commercially deployed under the pretense of testing and demonstration. The National Highway Traffic Safety Administration (NHTSA) is not directed to determine whether participating vehicles are safe. Unlike prior autonomous vehicle bills and proposed pilot programs, there are fewer explicit safeguards for commercial deployment (e.g., independent safety assessments, permitted uses of participating vehicles, etc.), and no additional monitoring by NHTSA.

- **Safety standards** — SELF DRIVE requires manufacturers to produce a safety case supporting the manufacturer's conclusion that the AV is safe. Requirements for a safety case are weaker than voluntary industry standards and NHTSA's voluntary safety self-assessments.

- **Access to the courts** — Historically, aggrieved parties have had the right to seek legal recourse in the courts for harm caused by a manufacturer or an operator of a vehicle. As AVs are deployed as rideshare or delivery vehicles, forced arbitration clauses–binding agreements in terms of services that require users to enter arbitration–may become more common, preventing Americans from seeking justice in the courts. SELF DRIVE does not prohibit forced arbitration clauses related to AVs.

- **Workforce protections** — Approximately 3.4 million Americans are employed in the driving profession. While SELF DRIVE applies to commercial motor vehicles, the legislation does not establish workforce protections or retraining for those who may become unemployed due to the deployment of AVs.

- **Preemption** — SELF DRIVE's preemption provision is broad and vague and could implicate traffic law, dealer franchise law, insurance law, registration, licensing, crash investigations, safety and emissions inspections, congestion management, environmental laws, and consumer protections traditionally left to the State and local governments.

- **Accessibility** — The preemption provision may supersede state and local policies (e.g., California and Texas) encouraging rideshare platforms to provide accessible services to people with disabilities. Furthermore, without a prohibition on forced arbitration, claims for injunctive relief under the Americans with Disabilities Act may be subject to binding arbitration.

- **Reporting** — SELF DRIVE requires less expansive and thorough crash reporting than NHTSA currently mandates. Manufacturers are permitted to claim that any category of crash information constitutes confidential business information, which would be shielded from public availability.

The National Consumers League has prepared a chart comparing core provisions of the SELF DRIVE Act with the Dingell staff draft, a discussion draft released in the 118th Congress that seeks to support the safe and responsible deployment of AVs. The chart provides additional analysis of the various provisions included in both discussion drafts.

119th SELF DRIVE vs Dingell Staff Draft				
Provision		119th SELF DRIVE	Dingell Staff Draft	**Analysis**
Deployment	**Noncompliance**	Sec. 30130(c)(2), as modified by Sec. 3, states that safety standards "may not be applied" to require a manufacturer to equip ADS-dedicated vehicles with manual controls intended only to support a human driver.	Sec. 30130(a)(5) requires NHTSA, not later than 3 years after the date of enactment, to update safety standards to apply to ADS-equipped vehicles, permitting manufacturers to commercially deploy ADS-equipped vehicles. Such rulemakings permit NHTSA to establish performance requirements and test protocols that do not reference or require humans or human controls, thus ensuring ADS-equipped vehicles meet applicable baseline safety standards that currently apply to human-operated vehicles.	SELF DRIVE prohibits safety standards from being applied to require manual controls (i.e., steering wheels, brakes, shifters, etc.) on AVs. Dozens of safety standards directly regulate manual controls, reference manual controls in test procedures, or reference a human driver. As such, NHTSA may not be able to use its test procedures to determine that such vehicles are in compliance, potentially allowing manufacturers to skirt safety standards. Upon the date of enactment, manufacturers may be exempt, in whole or in part, with the following FMVSS (NHTSA has already updated the series 200 FMVSS): 101, 102, 103, 104, 105, 106, 108, 109, 110, 111, 113, 114, 116, 117, 118, 119, 121, 124, 125, 126, 129, 135, 136, 138, 139, 141, 202a, 210, 222, 305, 401, 500. Several of these standards regulate braking performance (106, 121, and 135), vehicle rollover prevention (126), unintended accelerations (124), and EV electrolyte spillage and electrical shock prevention (305). There appear to be no limitations on this carveout and no requirement that NHTSA prescribe how it will work in practice (therefore, manufacturers and the courts may determine its scope).
	Make Inoperative	Sec. 5 permits manufacturers to make manual controls of an ADS-equipped vehicle in compliance with an FMVSS temporarily inoperative while the ADS is engaged.	No comparable provision.	This provision effectively empowers manufacturers to skirt compliance with FMVSS, for which the standard references or test protocols require equipment for the operation of a motor vehicle by a human driver (please see the analysis in the noncompliance row for a list of potential implicated FMVSS). Dozens of safety standards directly regulate human controls, reference human controls in test procedures, or reference a human driver. If such human controls can be made inoperative when the ADS is performing the dynamic driving task, NHTSA cannot use its test procedures to determine compliance with these standards when the ADS is engaged and human controls are made inoperative.

				Therefore, manufacturers could skirt safety standards.
	Testing	Sec. 4 permits manufacturers to deploy ADS-equipped vehicles that do not comply with FMVSS solely for purposes of testing or evaluation, provided that the manufacturer agrees not to sell or lease that vehicle at the conclusion of testing. The Secretary may permit "limited commercial operations, including the carrying of members of the public as passengers and transporting freight." The Secretary may establish limitation to ensure testing or evaluation does not constitute de facto deployment, including reasonable limitations on a jurisdiction-by-jurisdiction basis, on the number of participating vehicles, mileage, revenue generation, or duration of deployment.	Sec. 6 permits manufacturers, contracted partners, and research institutions to deploy ADS-equipped vehicles solely for testing or evaluation, provided that: • the tester agrees not to sell or lease that vehicle at the conclusion of testing; • the tester agrees not to use the vehicles to transport goods or occupants for compensation; • the tester has the appropriate manufacturer identification information; and • foreign testers have designated an agent in the United States on whom service of administrative or judicial notices or processes may be made.	SELF DRIVE's testing does not restrict the deployment of ADS-equipped vehicles to strictly testing or evaluation purposes, but permits such vehicles to be deployed for commercial activities such as rideshare and delivery services. Unlike prior autonomous vehicle bills or proposed pilot programs, there are fewer explicit limitations on commercial deployment (e.g., independent safety assessments, permitted uses of participating vehicles, etc.), and no additional monitoring by NHTSA.
Safety Case		Sec. 30130(b)(1) requires manufacturers to develop a safety case, which must include claims, arguments, and evidence that support the conclusion of the manufacturer that the design, construction, and performance of the automated driving system or ADS-equipped vehicle meet the need for motor vehicle safety. The safety case must: • describe the hardware and software of the ADS; • explain the performance of the dynamic driving task;	Sec. 30130(a)(2) commissions NHTSA to promulgate a final rule requiring manufacturers of ADS and ADS-equipped vehicles to submit a safety assessment detailing a robust design and validation process based on a systems-engineering approach by which manufacturers will achieve the goal of designing ADS and ADS-equipped vehicles free of unreasonable safety risks. The assessment has to address: • system safety; • the operational design domain;	SELF DRIVE omits some aspects of safety addressed in the Dingell staff draft, including post-crash behavior and consumer education and training. SELF DRIVE does not require the safety case to be made publicly available. NHTSA must conduct an inspection or launch an investigation to obtain the safety case involuntarily.

	• describe the operational design domain; • explain engineering methodologies used to design and assess performance and safety; • explain how the ADS anticipates and responds to potential crashes; • describe alerts provided to road users; • explain how vehicles meet behavioral competencies (i.e., perform basic functions of the dynamic driving task); and • include a description of a cybersecurity plan.	• object and event detection and response; • behavioral competencies; • crash avoidance capability • fall back and minimal risk condition • post-crash behavior • compliance with Federal, state, and local law; • consumer education and training; • Ethical considerations; • Human machine interface; and • Cybersecurity.	
Functional Safety Standard	Sec. 30130(b)(2) directs NHTSA to issue a final rule not later than September 30, 2027, requiring manufacturers of ADS and ADS-equipped vehicles to complete a safety case. The safety case must include claims, arguments, and evidence that support the conclusion of the manufacturer that the design, construction, and performance of the ADS or ADS-equipped vehicle meet the need for motor vehicle safety. The safety case must: • describe the hardware and software of the ADS; • explain the performance of the dynamic driving task;	Sec. 30130(a)(1) requires NHTSA, not later than 8 years after the date of enactment, to issue a final rule mitigating unreasonable risks to motor vehicle safety related to the design, construction, and performance of ADS and ADS-equipped vehicles. Such a rule must address: • the performance of the dynamic driving task, including object event detection and response; • defining and operating within the operational design domain; • transitioning to a minimal risk condition; • cybersecurity;	Both the 119th SELF DRIVE Act and the Dingell discussion draft commission NHTSA to establish process measures, which are practices for analyzing, classifying by severity level and frequency, and reducing potential sources of risks during the vehicle design process. The Dingell draft also permits the establishment of engineering measures, which are performance metrics, thresholds, and test procedures that would seek to provide ways of demonstrating that ADS perform their sensing, perception, planning, and control of intended functions with a high level of proficiency. Please see the ANPRM on a Framework for Automated Driving System Safety for more. SELF DRIVE omits several key aspects of safety addressed in the Dingell staff draft, including post-crash behavior and consumer education and training. SELF DRIVE does not require the safety case to be made publicly available. NHTSA must conduct an

	• describe the operational design domain; • explain engineering methodologies used to design and assess performance and safety; • explain how the ADS anticipates and responds to potential crashes; • describe alerts provided to road users; • explain how vehicles meet behavioral competencies (i.e., perform basic functions of the dynamic driving task); and • include a description of a cybersecurity plan.	• human machine interface; and • post-crash safety.	inspection or launch an investigation to obtain the safety case involuntary.
Crash Reporting	Sec. 30131(b)(2) requires NHTSA to establish a National Automated Vehicle Safety Data Repository to receive and store data from ADS-related crashes that involve death or bodily injury, airbag deployment, strike of a road user, police report, or towing of the vehicle. ADS manufacturers are required to submit the following information related to covered crashes if known to the manufacturer: • Date, time, and location of the incident; • Vehicles involved; • Whether vulnerable road users were involved; • Each injury that resulted from the crash;	Manufacturers are required to adhere to the requirements of the SGO. A crash is any physical impact between a subject vehicle and another road user or property that results or allegedly results in any property damage, injury, or fatality. A subject vehicle is involved in a crash if it physically impacts another road user or if it contributes or is alleged to contribute to another vehicle's physical impact with another road user or property involved in that crash. The SGO requires reporting on the following (non-exhaustive list): • Date, time, and location of the incident; • Vehicle information;	The scope of reportable crashes in SELF DRIVE is narrower than the scope of reportable crashes in the Dingell staff draft. SELF DRIVE requires reporting for serious incidents (with the exception of certain vehicle tow-aways or air bag deployments), for which the SGO requires reporting. The SGO also required reporting of any crashes involving property damage. SELF DRIVE permits manufacturers to claim any category of crash information, including categories of information NHTSA deemed not to be CBI in the SGO, to be CBI and thus shielded from public availability.

	• Whether the vehicle had engaged its fallback procedures; • Whether local authorities investigated the crash; • A summary of the circumstances surrounding the crash; and • Whether the vehicle was operating outside of the operational design domain. Sec. 30131(b)(4) requires the Secretary to establish "a process for a relevant State or local transportation regulatory agency to access data from a covered crash..." Sec. 30131(b)(5) requires the Secretary to establish a requirement that any information shared with a relevant State transportation regulatory agency is considered confidential business information. The State transportation regulatory agencies receiving such information must adhere to federal restrictions on sharing confidential business information. Sec. 30131(b)(6) requires the Secretary to establish a system to publicly share the data collected for the repository, subject to confidential business information protections.	• Description of vehicles, persons, or other objects involved; • Nature and severity of injuries alleged; • Whether local authorities investigated the crash; • Written narrative of the pre-crash, crash, and post-crash details, and other information; • Information about whether the vehicle was operating within its ODD; • Pre-crash movements of involved vehicles; • Sources of available data or other information (including videos) about the incident. Manufacturers can only claim the following information constitutes confidential business information (CBI) and shield such information from public disclosure: 1. The version of the ADS; 2. Whether the vehicle was in its ODD; and 3. The narrative describing the crash.	
Preemption	Sec. 3(d) prohibits states and subdivisions of states from maintaining, enforcing, prescribing, or continuing in effect any law or similar requirements that:	Sec. 3(a) prohibits states and subdivisions of states from maintaining, enforcing, prescribing, or continuing in effect any law or regulation that specifically regulates or prescribes the design,	SELF DRIVES preemption standard is broad and vague. This preemption provision could implicate traffic law, dealer franchise law, insurance law, registration, licensing, safety and emissions inspections, environmental law, congestion management, and consumer protections within a State or political

	1. "prohibits in whole or in part a manufacturer from manufacturing for sale, selling, offering for sale, introducing or delivering for introduction into interstate commerce, or importing" an ADS or ADS-equipped vehicle if the manufacturer develops a safety case; or 2. requires ADS or ADS-equipped vehicle manufacturers to report crash data to states or political subdivisions of a state.	construction, or performance of ADS and ADS-equipped vehicles. This preemption provision sunsets on either the effective date of the functional safety rule or 12 years after the date of enactment (whichever comes first).	subdivision of a State, environmental laws, insurance, and consumer protections traditionally left to the state and local governments. Further, Sec. 3(d) preempts any law or standard requiring manufacturers to report covered crash data, even if such laws do not conflict with the federal data collection requirement. State and local crash investigations could be impeded.
Arbitration	No comparable provision.	Sec. 4 applies a strict prohibition on pre-dispute arbitration agreements related to the use of ADS-equipped vehicles.	Historically, aggrieved parties have had the right to seek legal recourse in the courts for harm caused by a manufacturer or vehicle operator. Access to the courts has allowed consumers to hold bad actors accountable for manufacturing defective and unsafe vehicles, cheating emission standards, and creating unsafe environments for the transport of passengers. As ADS-equipped vehicles are deployed as rideshare or delivery vehicles, forced arbitration clauses–binding agreements in terms of services that require users to enter arbitration–may become more common. Several claims could be implicated: • Death or bodily injury; • Property damage; • Unfair or deceptive acts or practices (e.g., Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation); • Breach of warranty (e.g., Toyota unintended accelerations); • Fraud (e.g., GM ignition switch);

			• Americans with Disabilities Act (e.g., National Federation of the Blind of California v. Uber Technologies, Inc.)
Operator obligations	Sec. 30130(a)(1)(C), as amended by Sec. 3, specifies that the ADS shall be considered the driver of a vehicle when the ADS is engaged.	Sec. 5 requires that manufacturers of ADS be considered the driver under applicable state and local traffic law when the ADS is operating.	The ADS is not a legal entity, but a technology. The manufacturer of the ADS should be held accountable when its systems fail to perform the dynamic driving task safely.
Protecting the security of connected vehicles	Sec. 6 commissions the Department of Commerce to review the implementation of rules prohibiting the importation and deployment of Chinese- or Russian-connected vehicles and connected vehicle components.	No comparable provision.	This provision does not materially affect the prohibition on certain connected vehicles and connected vehicle components.
Covered vehicles	Sec. 30130(a)(1)(B), as amended by Sec. 3, specifies that any motor vehicle equipped with an ADS is an ADS-equipped vehicle.	Sec. 30102, as amended by Sec. 16, states that motor vehicles, excluding commercial motor vehicles (as defined in Sec. 31101), equipped with an ADS are highly automated vehicles.	SELF DRIVE applies to commercial motor vehicles, potentially presenting workforce concerns. Approximately 3.4 million Americans are employed in the driving profession, including 2,235,100 heavy and tractor-trailer truck drivers, 546,100 bus drivers, 118,700 delivery truck drivers, and 447,900 taxi and shuttle drivers. Most of these drivers operate commercial vehicles, yet the legislation does not establish workforce protections or retraining for those who may become unemployed due to the deployment of ADS.