

Amendment to SB 216-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing an autonomous vehicle advisory commission, establishing an
4 autonomous vehicle testing pilot program, and providing requirements for
5 automated vehicle deployment.
6

7 Amend the bill by replacing all after the enacting clause with the following:

8

9 1 New Paragraph; New Hampshire Transportation Council; Duties. Amend RSA 238-A:3 by
10 inserting after paragraph III the following new paragraph:

11 IV. Solicit input from representatives of:

12 (a) Disability communities.

13 (b) Elder communities.

14 (c) The trucking industry.

15 (d) Attorneys with expertise in transportation liability.

16 2 New Subparagraphs; New Hampshire Transportation Council; Membership. Amend RSA
17 238-A:4, I by inserting after subparagraph (i) the following new subparagraphs:

18 (j) The director of the office of strategic initiatives, or designee.

19 (k) The commissioner of the department of insurance, or designee.

20 3 New Chapter; Autonomous Vehicle Advisory Commission. Amend RSA by inserting after
21 chapter 240 the following new chapter:

22 CHAPTER 241

23 AUTONOMOUS VEHICLE ADVISORY COMMISSION

24 241:1 Commission Established. There is established a commission to study autonomous
25 vehicles.

26 241:2 Membership and Compensation.

27 I. The members of the commission shall be as follows:

28 (a) The commissioner of the department of safety, or designee.

29 (b) The commissioner of the department of transportation, or designee.

30 (c) The commissioner of the department of information technology, or designee.

31 (d) The director of the department of safety, division of motor vehicles, or designee.

32 (e) The director of the department of safety, division of fire standards and training and
33 emergency medical services, or designee.

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1 (f) Two members of the house of representatives, including one member from the
2 majority party and one member from the minority party, appointed by the speaker of the house of
3 representatives.

4 (g) One member of the senate, appointed by the president of the senate.

5 II. Legislative members of the commission shall receive mileage at the legislative rate when
6 attending to the duties of the commission.

7 241:3 Duties. The commission shall:

8 I. Advise relevant state agencies and the general court on autonomous vehicle
9 administration.

10 II. Develop training curriculum for law enforcement and first responders.

11 III. Review National Transportation Safety Board reports on automated vehicle incidents
12 and action recommendations.

13 IV. Propose modifications to the automated vehicle testing and development pilot program
14 established in RSA 242 when necessary.

15 V. Maintain up-to-date information on automated vehicle technology, statutes, and
16 regulations, and exchange information regarding unique challenges posed by roads in New
17 Hampshire through interaction with the United States Department of Transportation and the
18 National Highway and Traffic Safety Administration.

19 241:4 Chairperson; Quorum. The members of the commission shall elect a chairperson from
20 among the members. The first meeting of the commission shall be called by the commissioner of the
21 department of safety. The first meeting of the commission shall be held within 30 days of the
22 effective date of this section. The commission shall meet as often as necessary to accomplish its
23 goals, provided that at least 3 meetings per year shall be open to the public. Meetings may be held
24 by conference call. Five members of the commission shall constitute a quorum.

25 241:5 Report. The commission shall report its findings and any recommendations for proposed
26 legislation to the speaker of the house of representatives, the president of the senate, the house
27 clerk, the senate clerk, the governor, the state library, and the New Hampshire transportation
28 council on or before November 1 of each year and annually thereafter. The commission shall also
29 provide a report to the speaker of the house of representatives, the president of the senate, and the
30 governor as needed when it receives information from any source that a review the autonomous
31 vehicle testing and development pilot program, statutes, or rules is warranted.

32 4 New Chapter; Automated Vehicle Testing and Deployment Pilot Program. Amend RSA by
33 inserting after chapter 241 the following new chapter:

34 CHAPTER 242

35 AUTOMATED VEHICLE TESTING AND DEPLOYMENT PILOT PROGRAM

36 242:1 Automated Vehicle Testing Pilot Program and Deployment Requirements.

37 I. The department of safety, division of motor vehicles, shall establish a pilot program to

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1 test automated vehicle technologies on public roads within the state. The pilot program shall
2 commence 90 days following the effective date of this section.

3 II. The following words and phrases, when used in this chapter, shall have the following
4 meanings unless the context clearly indicates otherwise:

5 (a) "Automated driving system" means the hardware and software that are collectively
6 capable of performing all aspects of the dynamic driving task within its operational design domain,
7 if any, including achieving a minimal risk condition, without any intervention or supervision by a
8 conventional human driver.

9 (b) "ADS-equipped vehicle" means a vehicle equipped with an automated driving
10 system.

11 (c) "Conventional human driver" means a natural person who manually engages in-
12 vehicle braking, accelerating, steering, and transmission gear selection input devices in order to
13 operate a vehicle.

14 (d) "Driverless capable vehicle" means a vehicle equipped with an automated driving
15 system capable of performing all aspects of the dynamic driving task within its operational design
16 domain, if any, including achieving a minimal risk condition, without any intervention or
17 supervision by a conventional human driver.

18 (e) "Driverless operation" means a mode of ADS-equipped vehicle operation in which
19 either no on-board user is present, or in which on-board users who are present are not conventional
20 human drivers.

21 (f) "Dynamic driving task" means all of the real-time operational and tactical functions
22 required to operate a vehicle in on-road traffic within its specific operational design domain, if any,
23 excluding the strategic functions such as trip scheduling and selection of destinations and
24 waypoints.

25 (g) "Minimal risk condition" means a reasonably safe state to which an automated
26 driving system brings an ADS-equipped vehicle upon experiencing a performance-relevant failure of
27 the vehicle's automated driving system that renders the automated driving system unable to
28 perform the entire dynamic driving task, such as bringing the vehicle to a complete stop and
29 activating the hazard lamps.

30 (h) "On-demand driverless capable vehicle network" means a transportation service
31 network that uses a software application or other digital means to dispatch driverless capable
32 vehicles for purposes of transporting persons or goods, including for-hire transportation,
33 transportation for compensation, and public transportation.

34 (i) "Operational design domain" means a description of the specific operating domain in
35 which an automated driving system is designed to properly operate, including but not limited to
36 roadway types, speed range, environmental conditions such as weather or time of day, and other
37 domain constraints.

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1 (j) "Test driver" means a trained employee, contractor, or other person who is acting as
2 an agent of the testing entity while operating the testing entity's ADS-equipped vehicles that are
3 part of the automated vehicle testing pilot program.

4 (k) "Testing entity" means an individual, company, college or university, nonprofit, or
5 other organization involved with the design or testing of automated vehicle technologies.

6 III.(a) A testing entity may test ADS-equipped vehicles on public roadways of this state only
7 if the testing entity has been approved for testing by the department after submitting the
8 information required pursuant to this section.

9 (b) A testing entity seeking to test ADS-equipped vehicles in this state shall provide
10 notice to the department, upon forms furnished by the department for that purpose, of its intent to
11 participate in the automated vehicle testing pilot program. Such forms shall be accompanied by the
12 following information:

13 (1) The name and business address of the testing entity intending to test ADS-
14 equipped vehicles on state roadways.

15 (2) The name, phone number, email address, and physical address in state, if
16 present, of lead staff contact for the testing entity with oversight of the testing project.

17 (3) Identification information about the vehicles to be used in testing, including the
18 make, model, and license plate numbers.

19 (4) A description of the operating design domain in which the ADS-equipped vehicle
20 has been designed to operate, including limitations on the types of roadways, weather, time of day,
21 or geographic locations, if any.

22 (5) The geographic areas within the state in which the entity plans to test ADS-
23 equipped vehicles.

24 (6) A copy of the testing entity's Voluntary Safety Self-Assessment as defined by the
25 United States Department of Transportation's Federal Automated Vehicles Policy or a detailed
26 summary of the types of safety training given to test drivers, including copies of any documentation
27 or illustration provided.

28 (7) Proof of the testing entity's financial ability to satisfy judgment for damages for
29 personal injury or property damage of at least \$5 million, which may be in the form of an issued
30 insurance policy, a bond, or other financial instrument.

31 (8) Acknowledgment, via official form furnished by the department, that:

32 (A) The ADS-equipped vehicle is in compliance with all applicable federal laws
33 and regulations, or has an exemption under federal law.

34 (B) The ADS-equipped vehicle is designed to comply with all traffic and motor
35 vehicle safety laws and regulations of this state that govern the performance of the dynamic driving
36 task, unless an exemption has been granted by the department.

37 (C) The automated driving system has been tested in controlled conditions and

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1 has demonstrated functionality ready to test on public roads.

2 (D) The ADS-equipped vehicle shall only be operated or monitored by trained
3 employees, or other authorized persons as agents of the testing entity who have received instruction
4 on the safe operation of vehicle systems.

5 (E) The ADS-equipped vehicle test driver holds a valid driver's license that is
6 recognized by the state as affording the individual the privilege of legally operating a motor vehicle
7 on state roadways.

8 IV. Upon receipt of the information detailed in paragraph III, the department shall:

9 (a) Review the materials as submitted and, if necessary, request in writing any further
10 information needed to support the application. A testing entity shall not be required to release
11 information that may be proprietary or confidential business information. If the department
12 requests further information, the petitioner shall submit such information or provide a satisfactory
13 explanation of any omission from the materials within 15 business days of the request. Within 15
14 business days of receipt of the additional information, the department shall review and respond,
15 either with an additional request for information or with the acknowledgment that all questions
16 have been satisfactorily answered.

17 (b) Collect an annual fee of \$500 from each testing entity participating in the automated
18 vehicle testing pilot program.

19 V. A testing entity in the automated vehicle testing pilot program may operate an ADS-
20 equipped vehicle without a test driver or conventional human driver in the vehicle, provided that:

21 (a) A testing entity that wishes to test an ADS-equipped vehicle without a test driver or
22 conventional human driver in the vehicle shall first provide notice to the department of its intention
23 to proceed with such testing. Such notice shall include:

24 (1) An acknowledgment by the testing entity that the ADS-equipped vehicles in the
25 automated vehicle testing pilot program are capable of achieving a minimal risk condition if a
26 malfunction of the automated driving system occurs that renders that system unable to perform the
27 entire dynamic driving task within its intended operational design domain, if any.

28 (2) A copy of the testing entity's emergency response guide, including information
29 on how to instruct law enforcement, fire, and emergency medical personnel on safe interaction with
30 the vehicle in emergency and traffic enforcement situations.

31 (b) The department shall distribute any emergency response guide received pursuant to
32 subparagraph (a)(2) to all law enforcement, fire, and emergency response personnel with
33 jurisdiction over the geographic area in the vicinity of the test entity's stated testing area.

34 VI.(a) The department may suspend or refuse a testing entity's ability to participate in the
35 pilot program if it finds that:

36 (1) The testing entity's ADS-equipped vehicle had a significant or recurring failure
37 to comply with the rules of the road of this state or any other state that presented an undue risk to

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1 public safety.

2 (2) The testing company submitted a material misstatement on the materials
3 submitted to the department.

4 (b) If the department suspends or refuses to renew a testing entity's ability to test, the
5 department shall provide written notice to the testing entity within 48 hours, detailing the grounds
6 that led to the department's actions, as well as specific actions available to the testing entity to cure.

7 VII. The department shall provide regular updates on the automated vehicle testing pilot
8 program to the New Hampshire transportation council established under RSA 238-A:2.

9 VIII.(a) Operation on the public roads of this state of an ADS-equipped vehicle capable of
10 performing the entire dynamic driving task within its operational design domain while a
11 conventional human driver is present is lawful under RSA 263, RSA 264, RSA 265, and RSA 266.

12 (b) The automated driving system, while engaged, shall be designed to operate within
13 its operational design domain in compliance with all applicable traffic and motor vehicle safety laws
14 and regulations of this state that specifically govern the performance of the dynamic driving task,
15 unless an exemption has been granted by the department. Any such operation shall comply as well
16 with the applicable traffic and motor vehicle safety laws and regulations of this state.

17 IX. A driverless capable vehicle may operate on the public roads of this state without a
18 conventional human driver, provided that the vehicle meets the following conditions:

19 (a) The vehicle is capable of achieving a minimal risk condition if a malfunction of the
20 automated driving system occurs that renders that system unable to perform the entire dynamic
21 driving task within its intended operational design domain, if any;

22 (b) While in driverless operation, the vehicle is capable of operating in compliance with
23 all applicable traffic and motor vehicle safety laws and regulations of this state that govern the
24 performance of the dynamic driving task, unless an exemption has been granted by the department.
25 Any such operation shall comply as well with the applicable traffic and motor vehicle safety laws
26 and regulations of this state;

27 (c) The vehicle is in compliance with all federal laws and regulations or has an
28 exemption under federal law; and

29 (d) Prior to such operation, the owner or the manufacturer of such a vehicle shall have
30 submitted proof of financial responsibility satisfactory to the department that the driverless vehicle
31 is covered by insurance or proof of self-insurance that satisfies the requirements of RSA 264.

32 X.(a) A person may operate an on-demand driverless capable vehicle network, provided that
33 driverless vehicles utilized in such a network comply with the requirements of paragraph IX. Such
34 a network may provide transportation of persons or goods, including:

35 (1) For-hire transportation;

36 (2) Public transportation; and

37 (3) Transportation for multiple passengers who agree to share the ride in whole or

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1 in part.

2 (b) An on-demand driverless capable vehicle network may connect passengers to
3 driverless capable vehicles either exclusively or as part of a digital network that also connects
4 passengers to human drivers who provide transportation services, consistent with applicable law, in
5 vehicles that are not driverless capable vehicles.

6 XI. In the event of an accident in which a vehicle under driverless operation is involved the
7 vehicle shall comply with RSA 264:25 where applicable and to the extent possible, and the vehicle's
8 owner or a person on behalf of the vehicle's owner shall promptly report the accident to law
9 enforcement authorities. If a vehicle under driverless operation fails to remain at the scene of an
10 accident or the operation of the vehicle fails to otherwise comply with RSA 264:25 where applicable
11 and to the extent possible as required by this section, the vehicle's failure shall be imputed to the
12 vehicle's owner, and the vehicle's owner may be charged and convicted of a violation of RSA 264:25
13 as applicable. However, if the vehicle's failure is due to an error or malfunction in the automated
14 driving system, the vehicle's failure shall instead be imputed to the vehicle's manufacturer, and the
15 vehicle's manufacturer may be charged and convicted for a violation of RSA 264:25 as applicable.

16 XII. Before an ADS-equipped vehicle may operate on public roads in this state, an owner of
17 such a vehicle shall submit proof of financial responsibility satisfactory to the department that the
18 ADS-equipped vehicle is covered by insurance or proof of self-insurance that satisfies the
19 requirements of RSA 264.

20 XIII.(a) The automated vehicle testing pilot program, ADS-equipped vehicles, and
21 automated driving systems generally, shall be governed exclusively by this chapter. The
22 department is the sole and exclusive state agency that may implement the provisions of this
23 chapter.

24 (b) No state or local entity may impose any additional requirements specific to the
25 operation of the automated vehicle testing pilot program, ADS-equipped vehicles, on-demand
26 driverless capable vehicle network, or automated driving systems generally.

27 (c) No state or local entity may impose a tax, fee, or other requirement on the operation
28 of the automated vehicle testing pilot program, ADS-equipped vehicles, on-demand driverless
29 capable vehicle network, or automated driving systems generally, where such tax, fee, or other
30 requirement relates specifically to the operation of ADS-equipped vehicles.

31 XIV. Subject to paragraph VIII, no motor vehicle laws of this state shall be construed so as
32 to require a conventional human driver to operate an ADS-equipped vehicle, and the automated
33 driving system, when engaged, shall be deemed to fulfill any physical acts required of a
34 conventional human driver to perform the dynamic driving task.

35 5 Commission to Review the Structure of Motor Vehicle Laws. Amend RSA 260:77, IV to read
36 as follows:

37 IV. The commission shall:

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1 **(a)** Review the structure of motor vehicle laws.

2 **(b)** *Review existing state statutes and administrative rules to identify existing*
3 *statutes or rules that may affect or impede the testing and deployment of automated*
4 *vehicles, including but not limited to existing laws pertaining to vehicle registration and*
5 *titling, vehicle insurance requirements, the use of arbitration requirements including pre-*
6 *dispute arbitration requirements in contracts in the transportation sector, drivers'*
7 *licenses, and general rules of the road.*

8 6 Commission to Review the Structure of Motor Vehicle Laws. Amend RSA 260:77, VI to read
9 as follows:

10 VI. The commission shall report its findings and any recommendations for proposed
11 legislation to the speaker of the house of representatives, the president of the senate, the house
12 clerk, the senate clerk, the governor, and the state library on or before August 1, [2019] **2020**.

13 7 Commission to Review the Structure of Motor Vehicle Laws; Repeal. Amend 2018, 7:3, I, to
14 read as follows:

15 I. Section 2 of this act shall take effect August 1, [2019] **2020**.

16 8 Effective Date.

17 I. RSA 242:1, I-VIII, XIII, and XIV, as inserted by section 4 of this act shall take effect
18 September 1, 2019.

19 II. RSA 242:1, IX through XII, as inserted by section 4 of this act shall take effect July 1,
20 2021.

21 III. The remainder of this act shall take effect upon its passage.

2019-1604h

AMENDED ANALYSIS

This bill establishes an autonomous vehicle advisory commission and an automated vehicle testing pilot program.