

AMENDMENTS TO LB989

Introduced by Transportation and Telecommunications.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 20 of this act shall be known and may be
4 cited as the Automated Vehicle Testing Act.

5 Sec. 2. The purpose of the Automated Vehicle Testing Act is to
6 authorize and enact provisions regarding the testing of automated
7 vehicles. Such provisions may consist of, but are not limited to,
8 provisions regulating automated driving systems, automated vehicles, and
9 on-demand automated vehicle networks.

10 Sec. 3. For purposes of the Automated Vehicle Testing Act:

11 (1) Automated driving system means the hardware and software that
12 are collectively capable of performing the entire dynamic driving task on
13 a sustained basis regardless of whether it is limited to a specific
14 operational design domain. This term applies to levels 3, 4, and 5
15 automation but does not apply to levels 0, 1, and 2 automation. This term
16 does not include the following, individually: (a) Adaptive cruise control
17 systems; (b) blind-spot detection systems; (c) camera systems; (d)
18 collision avoidance or detection systems; (e) emergency braking systems;
19 (f) lane-departure assistance or warning systems; (g) lane-keeping
20 assistance systems; (h) parking assistance systems; or (i) queuing
21 assistance systems;

22 (2) Automated vehicle means a motor vehicle that operates at level
23 3, 4, or 5 automation. Automated vehicle does not include a motor vehicle
24 operating at level 0, 1, or 2 automation;

25 (3) Automated vehicle manufacturer or other entity means a person
26 who manufactures automated vehicles or a person that modifies a motor
27 vehicle after it was manufactured by installing an automated driving

1 system in that motor vehicle to convert it to an automated vehicle;

2 (4) Automated vehicle test driver means a natural person seated in a
3 seat of an automated vehicle, whether the vehicle is in autonomous mode
4 or conventional mode, who possesses the proper class of driver's license
5 for the type of automated vehicle being driven or operated and is capable
6 of taking over active physical control of the automated vehicle at any
7 time;

8 (5) Autonomous mode means the status of automated vehicle operation
9 in which technology that is a combination of hardware and software,
10 remote or on-board, performs the dynamic driving task, with or without an
11 automated vehicle test driver actively supervising the autonomous
12 technology's performance of the dynamic driving task. An automated
13 vehicle is operating or driving in autonomous mode when it is operated or
14 driven with the autonomous technology engaged;

15 (6) Conventional mode means the status of the automated vehicle when
16 it is under the active physical control of an automated vehicle test
17 driver operating or driving the automated vehicle with the automated
18 driving system disengaged;

19 (7) Department means the Department of Motor Vehicles;

20 (8) Dynamic driving task means all of the real-time operational and
21 tactical functions required to operate a vehicle in on-road traffic. The
22 term includes (a) lateral vehicle motion control through steering, (b)
23 longitudinal vehicle motion control through acceleration and
24 deceleration, (c) monitoring of the driving environment through object
25 and event detection, recognition, classification, response preparation,
26 and object and event response execution, (d) maneuver planning, and (e)
27 enhancing conspicuity through lighting, signaling, and gesturing. The
28 term does not include strategic functions such as trip scheduling or
29 selection of destinations or waypoints;

30 (9) Dynamic driving task fallback means a response by the user or
31 the automated driving system to perform the dynamic driving task or

1 achieve a minimal risk condition after occurrence of a dynamic driving
2 task performance relevant system failure or departure from the
3 operational design domain of the automated vehicle;

4 (10) Law enforcement officer has the same meaning as in section
5 81-1401;

6 (11) Level 0 automation means the performance by the driver of the
7 dynamic driving task, even when enhanced by active safety systems;

8 (12) Level 1 automation means the sustained and operational design
9 domain specific execution by a driving automation system of the lateral
10 or the longitudinal vehicle motion control subtask of the dynamic driving
11 task, but not both simultaneously, with the expectation that the driver
12 performs the remainder of the dynamic driving task;

13 (13) Level 2 automation means the sustained and operational design
14 domain specific execution by a driving automation system of both the
15 lateral and longitudinal vehicle motion control subtasks of the dynamic
16 driving task with the expectation that the driver will complete the
17 object and event detection and object and event response execution
18 subtasks and supervise the driving automation system;

19 (14) Level 3 automation means the sustained and operational design
20 domain specific performance by a driving automation system of the entire
21 dynamic driving task with the expectation that the dynamic driving task
22 fallback ready user is receptive to automated driving system issued
23 requests to intervene, as well as to dynamic driving task performance
24 relevant system failures in other vehicle systems, and will respond
25 appropriately;

26 (15) Level 4 automation means the sustained and operational design
27 domain specific performance by an automated driving system of the entire
28 dynamic driving task and dynamic driving task fallback, without any
29 expectation that a user will respond to a request to intervene;

30 (16) Level 5 automation means the sustained and unconditional
31 performance by an automated driving system of the entire dynamic driving

1 task and dynamic driving task fallback without any expectation that a
2 user will respond to a request to intervene;

3 (17) Minimal risk condition means a condition to which a user or
4 automated driving system brings a vehicle after performing the dynamic
5 driving task fallback in order to reduce the risk of a crash when a given
6 trip cannot or should not be completed;

7 (18) On-demand automated vehicle network means a passenger transport
8 network that uses a software application or other digital means to
9 connect passengers to automated vehicles for transportation, including
10 for-hire transportation and transportation for compensation;

11 (19) Operational design domain means the specific conditions under
12 which a given driving automation system or feature is designed to
13 function and includes, but is not limited to, driving modes,
14 environmental conditions, geographic limitations, speed limits, trip
15 ranges, types of roadways, and weather conditions;

16 (20) Public highway means the entire width between the boundary
17 limits of any street, road, avenue, boulevard, or way which is publicly
18 maintained when any part thereof is open to the use of the public for
19 purposes of vehicular travel;

20 (21) State means the State of Nebraska; and

21 (22) Testing of an automated vehicle means operation of a vehicle
22 that has been equipped with technology that is a combination of both
23 hardware and software that, when engaged, performs the dynamic driving
24 task, but requires an automated vehicle test driver to continuously
25 supervise the vehicle's performance of the dynamic driving task. Testing
26 of an automated vehicle does not include a vehicle equipped with one or
27 more systems that provide drive assistance or enhance safety benefits but
28 are not capable of, singularly or in combination, performing the dynamic
29 driving task on a sustained basis with the constant control or active
30 monitoring of a natural person. The presence of a natural person who is
31 an employee, a contractor, or a designee of the automated vehicle

1 manufacturer or other entity in the automated vehicle to monitor an
2 automated vehicle's autonomous performance shall not affect whether an
3 automated vehicle meets the definition of testing of an automated
4 vehicle.

5 Sec. 4. A political subdivision shall not enact an ordinance or
6 adopt a resolution or any rule or regulation which is in conflict with
7 the Automated Vehicle Testing Act.

8 Sec. 5. An automated vehicle shall be in compliance with all
9 Federal Motor Vehicle Safety Standards, Title 49 of the Code of Federal
10 Regulations, as such title existed on January 1, 2018, except for
11 specific standards outlined in a waiver approved by the National Highway
12 Traffic Safety Administration as the waiver existed on January 1, 2018.

13 Sec. 6. The department shall administer the Automated Vehicle
14 Testing Act.

15 Sec. 7. (1) The Automated Vehicle Committee is created. The
16 committee shall consist of the following members:

17 (a) The Director of Motor Vehicles or his or her designee, who shall
18 also serve as chairperson;

19 (b) The Director-State Engineer or his or her designee;

20 (c) The Director of Insurance or his or her designee; and

21 (d) The Superintendent of Law Enforcement and Public Safety or his
22 or her designee.

23 (2) The committee shall review each application for a permit for
24 testing of an automated vehicle and make a recommendation to the
25 department for approval or disapproval within thirty days after the
26 department receives the application. The committee shall also make
27 automated vehicle regulation policy recommendations to the department.

28 Sec. 8. Any testing of an automated vehicle shall require a permit
29 issued by the department under the Automated Vehicle Testing Act.

30 Sec. 9. (1) An automated vehicle manufacturer or other entity, an
31 agency of the state, or any political subdivision of the state may apply

1 for a permit for testing an automated vehicle. An application for a
2 permit shall be on a form prescribed by the department. A permit shall be
3 valid for a minimum of one year. A permit may be renewed for periods of
4 one year by the Director of Motor Vehicles unless there is a material
5 change in the application information, in which case a new permit shall
6 be required. The application shall contain the following information:

7 (a) The name of the applicant;

8 (b) The mailing address and physical location address of the
9 automated vehicle manufacturer or other entity and, if a state agency or
10 a political subdivision is the applicant, the mailing address and
11 physical location address of the state agency or political subdivision;

12 (c) The Nebraska mailing address and physical location address of
13 the automated vehicle manufacturer or other entity, if any, or address of
14 the automated vehicle manufacturer's or other entity's registered agent;

15 (d) The name and contact information of the individual who is the
16 head of the automated vehicle manufacturer's or other entity's automated
17 vehicle program and, if the state agency or a political subdivision is
18 the applicant, the name and contact information of the state agency's or
19 political subdivision's individual who is the head of the automated
20 vehicle program;

21 (e) The vehicle identification number of the automated vehicle;

22 (f) The make, model, and model year of the automated vehicle as
23 assigned by the automated vehicle manufacturer or other entity;

24 (g) The registration plate number and jurisdiction of registration
25 of the automated vehicle;

26 (h) A list of every automated vehicle test driver of an automated
27 vehicle operating at levels 3, 4, and 5 automation to be used in the
28 testing of the automated vehicle, including such driver's full name as it
29 appears on his or her valid driver's license, his or her driver's license
30 number and jurisdiction or country of issuance, and his or her date of
31 birth;

1 (i) A summary of the training received by each automated vehicle
2 test driver for testing of automated vehicles;

3 (j) The name of every jurisdiction where an application by the
4 automated vehicle manufacturer or other entity which manufactured or
5 modified the automated vehicle for testing of automated vehicles has been
6 approved or denied;

7 (k) The results of such automated vehicle manufacturer's or other
8 entity's testing of the automated vehicle under controlled conditions
9 that simulate, as closely as practicable, each operational design domain
10 in which the automated vehicle manufacturer or other entity intends the
11 automated vehicle to operate on public roads and the automated vehicle
12 manufacturer or other entity has reasonably determined that it is safe to
13 operate the automated vehicle in each operational design domain;

14 (l) Proof that the automated vehicle complies with federal standards
15 as required under section 5 of this act;

16 (m) A safety plan for testing of the automated vehicle, including a
17 minimal risk condition component;

18 (n) The routes to be used when testing the automated vehicle
19 operating at levels 3, 4, and 5 automation;

20 (o) Evidence of compliance with section 10 of this act;

21 (p) A plan for notification, including notification of the public,
22 by the automated vehicle manufacturer or other entity, the state agency,
23 or the political subdivision, as applicable, regarding where the testing
24 of the automated vehicle will take place and when the testing will take
25 place; and

26 (q) Any other information deemed relevant by the department.

27 (2) Application information provided under subsection (1) of this
28 section shall be kept current, and the department shall be notified of
29 any change in such information, including after a permit has been issued.

30 (3) The application shall be accompanied by a fee of one thousand
31 dollars per automated vehicle to be tested. The fee shall be remitted to

1 the State Treasurer for credit to the Department of Motor Vehicles Cash
2 Fund. A fee shall not be required for permit renewal.

3 (4) An application shall be considered complete if it provides all
4 of the information required under this section.

5 Sec. 10. (1) Prior to testing of an automated vehicle, proof
6 satisfactory to the Director of Motor Vehicles shall be submitted that
7 the automated vehicle is insured as provided in subsection (2) of this
8 section.

9 (2) With respect to the testing of automated vehicles under the
10 Automated Vehicle Testing Act, a motor vehicle liability policy shall (a)
11 designate by explicit description or by appropriate reference all
12 automated vehicles with respect to which coverage is thereby to be
13 granted and (b) insure the automated vehicle manufacturer or other
14 entity, and, if a state agency or a political subdivision of the state is
15 the applicant, the state agency or political subdivision, named therein
16 against loss from the liability imposed by law for damages arising out of
17 the ownership, maintenance, or use of such automated vehicles within this
18 state, subject to limits exclusive of interest and costs, with respect to
19 each such automated vehicle, as follows: Two million five hundred
20 thousand dollars because of bodily injury to or death of one person in
21 any one accident and, subject to such limit for one person, five million
22 dollars because of bodily injury to or death of two or more persons in
23 any one accident, and two million five hundred thousand dollars because
24 of injury to or destruction of property of others in any one accident.

25 Sec. 11. (1) The department shall have fifteen days after receipt
26 of the Automated Vehicle Committee's recommendations to either approve or
27 deny the application for a permit to test an automated vehicle. If
28 approved, a permit shall be issued. If denied, the department shall
29 provide the reasons for the denial, in writing, to the applicant. The
30 applicant shall have thirty days to resolve the reasons for such denial
31 to the satisfaction of the department. If such reasons are resolved to

1 the satisfaction of the department, a permit shall be issued.

2 (2) The department may, in its discretion, revoke or suspend a
3 permit if (a) any of the items disclosed in the permit application
4 materially change, (b) continued testing of the automated vehicle would
5 be a threat to public safety, or (c) continued testing of the automated
6 vehicle would fail to comply with the Automated Vehicle Testing Act. If
7 any item in the permit application was intentionally and knowingly
8 misrepresented or not disclosed, the permit shall be revoked. The
9 department shall provide written notice to the applicant of the decision
10 to revoke or suspend the permit.

11 (3) Decisions of the department under this section may be appealed.
12 The appeal shall be in accordance with the Administrative Procedure Act,
13 including a hearing before a hearing officer pursuant to section 84-913.
14 Appeals shall be heard in the district court of Lancaster County.

15 Sec. 12. (1) A permit to test an automated vehicle shall be in a
16 form prescribed by the department. The permit shall contain the following
17 information:

18 (a) The name of the permitholder;

19 (b) The mailing address and physical location address of the
20 automated vehicle manufacturer or other entity and, if a state agency or
21 a political subdivision is the permitholder, the name of the state agency
22 or political subdivision;

23 (c) The Nebraska mailing address and physical location address of
24 the automated vehicle manufacturer or other entity, if any, or the
25 address of the manufacturer's or other entity's registered agent;

26 (d) The geographic limitations for testing the automated vehicle;

27 (e) The vehicle identification number of the automated vehicle;

28 (f) The make, model, and model year of the automated vehicle as
29 assigned by the automated vehicle manufacturer or other entity;

30 (g) The registration plate number and jurisdiction of registration
31 of the automated vehicle; and

1 (h) Any other information deemed relevant by the department.

2 (2) The permit shall be kept in the automated vehicle at all times
3 and shall be provided to a law enforcement officer upon request.

4 Sec. 13. During testing of an automated vehicle on the public
5 highways of this state, the vehicle shall be clearly marked as an
6 automated vehicle for the safety and convenience of other drivers.

7 Sec. 14. The titling and registration of an automated vehicle shall
8 comply with the Motor Vehicle Certificate of Title Act and the Motor
9 Vehicle Registration Act.

10 Sec. 15. The operation or driving of an automated vehicle on the
11 public highways of this state shall comply with the Nebraska Rules of the
12 Road.

13 Sec. 16. A permitholder under the Automated Vehicle Testing Act
14 shall report the following information, in a manner prescribed by the
15 department, to the department:

16 (1) Any collision of the automated vehicle, regardless of whether
17 damage or injury occurred. Such information shall be reported within
18 three days after occurrence of the collision unless there is a fatality
19 collision, in which case the incident shall be reported as soon as
20 practicable; and

21 (2) Any unintentional disengagement of the automated vehicle from
22 autonomous mode to conventional mode and the cause of such disengagement.
23 Such information shall be reported quarterly.

24 Sec. 17. A permitholder shall provide a written disclosure to any
25 passenger in an automated vehicle operated on behalf of the permitholder
26 that describes the personal information collected by the automated
27 vehicle technology that is not necessary for the safe operation of the
28 automated vehicle, such as destination information, and how such
29 information will be used.

30 Sec. 18. The department may adopt and promulgate rules and
31 regulations to carry out the Automated Vehicle Testing Act.

1 Sec. 19. Any agency of the state and any political subdivision of
2 the state shall be immune from liability for any damages caused by any
3 automated vehicle as a result of the use or testing of the automated
4 vehicle under the Automated Vehicle Testing Act on any highway, road, or
5 street. If a state agency or political subdivision holds a permit under
6 the act and is engaged in the use or testing of an automated vehicle, the
7 state agency or political subdivision shall not have such immunity with
8 respect to any damages occurring as a result of negligence in the
9 operation of an automated vehicle during the use or testing of the
10 automated vehicle.

11 Sec. 20. The Automated Vehicle Testing Act terminates on January 1,
12 2023.

13 Sec. 21. Section 13-901, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 13-901 Sections 13-901 to 13-928 and section 22 of this act shall be
16 known and may be cited as the Political Subdivisions Tort Claims Act.

17 Sec. 22. (1) If any person suffers personal injury, loss of life,
18 or damage to his or her property occurring as a result of negligence in
19 the operation of an automated vehicle during the use or testing of an
20 automated vehicle by a political subdivision as allowed by a permit for
21 such testing issued under the Automated Vehicle Testing Act, the person
22 sustaining such injury, loss, or damage, or his or her personal
23 representative, may recover in an action against the political
24 subdivision. The procedure for filing such claims and bringing suit shall
25 be the same as for other claims under the Political Subdivisions Tort
26 Claims Act.

27 (2) No political subdivision shall be liable for such injury, loss,
28 or damage occurring as a result of the testing of an automated vehicle
29 within the boundaries of the political subdivision by any automated
30 vehicle manufacturer or other entity as allowed by a permit for such
31 testing issued under the Automated Vehicle Testing Act.

1 Sec. 23. Section 44-6408, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 44-6408 (1) Except as provided in section 10 of this act, no ~~Ne~~
4 policy insuring against liability imposed by law for bodily injury,
5 sickness, disease, or death suffered by a natural person arising out of
6 the ownership, operation, maintenance, or use of a motor vehicle within
7 the United States, its territories or possessions, or Canada shall be
8 delivered, issued for delivery, or renewed with respect to any motor
9 vehicle principally garaged in this state unless coverage is provided for
10 the protection of persons insured who are legally entitled to recover
11 compensatory damages for bodily injury, sickness, disease, or death from
12 (a) the owner or operator of an uninsured motor vehicle in limits of
13 twenty-five thousand dollars because of bodily injury, sickness, disease,
14 or death of one person in any one accident and, subject to such limit for
15 one person, fifty thousand dollars because of bodily injury, sickness,
16 disease, or death of two or more persons in any one accident, and (b) the
17 owner or operator of an underinsured motor vehicle in limits of twenty-
18 five thousand dollars because of bodily injury, sickness, disease, or
19 death of one person in any one accident and, subject to such limit for
20 one person, fifty thousand dollars because of bodily injury, sickness,
21 disease, or death of two or more persons in any one accident.

22 (2) At the written request of the named insured, the insurer shall
23 provide higher limits of uninsured and underinsured motorist coverages in
24 accordance with its rating plan and rules, except that in no event shall
25 the insurer be required to provide limits higher than one hundred
26 thousand dollars per person and three hundred thousand dollars per
27 accident.

28 (3) After purchase of uninsured and underinsured motorist coverages,
29 no insurer or any affiliated insurer shall be required to notify any
30 policyholder in any renewal, reinstatement, substitute, amended, altered,
31 modified, transfer, or replacement policy as to the availability of

1 optional limits of such coverages. The named insured may, subject to the
2 limitations of this section, make a written request for additional
3 coverage or coverage more extensive than that provided in a prior policy.

4 Sec. 24. Section 60-534, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 60-534 Except as provided in section 10 of this act, such Such
7 motor vehicle liability policy shall (1) designate by explicit
8 description or by appropriate reference all motor vehicles with respect
9 to which coverage is thereby to be granted and (2) insure the person
10 named therein and any other person, as insured, using any such motor
11 vehicle or motor vehicles with the express or implied permission of such
12 named insured, against loss from the liability imposed by law for damages
13 arising out of the ownership, maintenance, or use of such motor vehicle
14 or motor vehicles within the United States of America or the Dominion of
15 Canada, subject to limits exclusive of interest and costs, with respect
16 to each such motor vehicle as follows: Twenty-five thousand dollars
17 because of bodily injury to or death of one person in any one accident
18 and, subject to such limit for one person, fifty thousand dollars because
19 of bodily injury to or death of two or more persons in any one accident,
20 and twenty-five thousand dollars because of injury to or destruction of
21 property of others in any one accident.

22 Sec. 25. Section 60-538, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 60-538 Every motor vehicle liability policy shall be subject to the
25 following provisions, which need not be contained therein: (1) The
26 liability of the insurance carrier with respect to the insurance required
27 by the Motor Vehicle Safety Responsibility Act sections 60-501 to 60-569
28 shall become absolute whenever injury or damage covered by the said motor
29 vehicle liability policy occurs; (2) the said policy may not be canceled
30 or annulled as to such liability by any agreement between the insurance
31 carrier and the insured after the occurrence of the injury or damage; (3)

1 no statement made by the insured or on his or her behalf and no violation
2 of the said policy shall defeat or void the said policy; ~~(4)~~ ~~(2)~~ the
3 satisfaction by the insured of a judgment for such injury or damage shall
4 not be a condition precedent to the right or duty of the insurance
5 carrier to make payment on account of such injury or damage; ~~(5)~~ ~~(3)~~ the
6 insurance carrier shall have the right to settle any claim covered by the
7 policy and, if such settlement is made in good faith, the amount thereof
8 shall be deductible from the limits of liability specified in subdivision
9 ~~subsection~~ (2) of section 60-534; and ~~(6)~~ ~~(4)~~ the policy, the written
10 application for the policy therefor, if any, and any rider or endorsement
11 which does not conflict with the act provisions of sections 60-501 to
12 ~~60-569~~ shall constitute the entire contract between the parties.

13 Sec. 26. Section 81-8,235, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 81-8,235 Sections 81-8,209 to 81-8,235 and section 27 of this act
16 shall be known and may be cited as the State Tort Claims Act.

17 Sec. 27. (1) If any person suffers personal injury, loss of life,
18 or damage to his or her property occurring as a result of negligence in
19 the operation of an automated vehicle during the use or testing of the
20 automated vehicle by the state as allowed by a permit for such testing
21 issued under the Automated Vehicle Testing Act, the person sustaining
22 such injury, loss, or damage, or his or her personal representative, may
23 recover in an action against the state. The procedure for filing such
24 claims and bringing suit shall be the same as for other claims under the
25 State Tort Claims Act.

26 (2) The state shall not be liable for such injury, loss, or damage
27 occurring as a result of the testing of an automated vehicle within the
28 boundaries of the state by any automated vehicle manufacturer or other
29 entity as allowed by a permit for such testing issued under the Automated
30 Vehicle Testing Act.

31 Sec. 28. Original sections 13-901, 44-6408, 60-534, 60-538, and

- 1 81-8,235, Reissue Revised Statutes of Nebraska, are repealed.
- 2 Sec. 29. Since an emergency exists, this act takes effect when
- 3 passed and approved according to law.