

Written Testimony of Finch Fulton, Government Affairs Advisor, K&L Gates LLP

House Committee on Energy and Commerce Subcommittee on Commerce, Manufacturing, and Trade: “Examining Legislative Options to Strengthen Motor Vehicle Safety, Ensure Consumer Choice and Affordability, and Cement U.S. Automotive Leadership”

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Introduction

Chairman, Ranking Member, and Members of the Committee:

I am grateful and honored to come before you to testify today. My name is Finch Fulton, and I am a Government Affairs Advisor at K&L Gates where I lead our transportation and infrastructure policy practice. However, I speak on behalf of myself today, and do not necessarily represent the opinions of my firm or my clients.

In addition to my time as a staffer in both the House of Representatives and the Senate, I previously served as a Deputy Assistant Secretary for Policy at the U.S. Department of Transportation and was nominated by President Trump to be Assistant Secretary during the first Administration. I also worked as the Vice President of Policy and Strategy at an autonomous vehicle startup called Locomation.

I have long been a supporter of the benefits that advanced vehicle technologies like automated driving systems can bring to the safety, efficiency, and accessibility of our transportation system. As you are all aware, one of the greatest calamities facing our nation is the number of crashes, injuries, and deaths occurring on our roadways. An average of approximately 40,000 roadway fatalities occur each year. They are more than numbers: they are family members, friends, and loved ones whose deaths leave homes and hearts permanently shattered.

I had the opportunity to focus on the Federal role in the safe integration of Advanced Driving Systems (ADS) technologies while serving at the Department. I engaged directly with innovators, diligent and thoughtful regulators, passionate safety advocates, academics adapting new ways to think about and engage with these new technologies, and organized labor representatives seeking to better understand and address the potential impacts of these technologies.

I supported and, at times, led the development of key policies in the first Trump administration under Secretary Elaine Chao, including:

- *Automated Driving Systems 2.0, A Vision for Safety*, which focused on the key safety areas that should be priorities for companies seeking to develop and introduce automated vehicles onto public roads.
- *Preparing for the Future of Transportation: Automated Vehicles 3.0*, which expanded and built upon this foundation to ensure a clear and consistent federal role throughout the

modes of transportation for the Department, as well as clarified the appropriate roles of State, local, and tribal partners.

- I worked under Secretary Chao and then Chief Technology Officer Michael Kratsios to help shape and develop the first whole-of-government approach to the safe adoption of these technologies through the *Automated Driving Systems 4.0, Ensuring American Leadership in Automated Driving Technologies*. I am pleased that Director Kratsios has returned to service, leading the White House Office of Science and Technology.
- Lastly, we published the first *Automated Vehicle Comprehensive Plan* which explained how research, policy, oversight authorities, and regulation should come together to allow for the commercial adoption of these critical technologies.

During my time at the Department of Transportation, I also worked closely with leaders such as now-Administrator Jonathan Morrison and now-Deputy Secretary Steve Bradbury on critical regulatory updates, including to the “Occupant Protection for Vehicles With Automated Driving Systems” Federal Motor Vehicle Safety Standards (FMVSS).

Advancing Autonomous Vehicle Safety

In addition to updating outdated regulations, I’m proud of the groundbreaking work we did to publish a National Highway Traffic Safety Administration (NHTSA) Advanced Notice of Proposed Rulemaking about how the Department should regulate the safe *operations* of an ADS, the “Framework for Automated Driving System Safety.” A key component of this rulemaking was the prioritization and consideration of requirements for a safety case to be completed for ADS operations. Safety cases are structured arguments, supported by evidence, that help prove vehicle safety before public road operations. Innovators can and should be able to meet these high performance-based standards. I urge this committee to continue supporting this work.

I also served as a member of the Standards Development Committee for UL 4600, which is an important industry standard focused on the development and maintenance of a safety-case approach for automated driving systems. At Locomation, I personally worked on our Voluntary Safety Self-Assessment (VSSAs), another safety tool. Having to produce this report on key safety areas served to focus the company’s efforts in developing our automated driving systems safely: the right development processes, the right safety culture, and the right safety management systems. In my opinion, having to go through this process actually accelerated the development of our technology and improved our overall product. Even if optional, I continue to encourage companies developing automated driving systems to update their safety cases routinely and publish their own VSSAs and approaches to safety.

I am heartened by Secretary Duffy’s leadership in developing a durable set of Federal policies, an AV Framework, to support the development of automated driving systems, including guidance and regulatory actions to remove outdated barriers to automated vehicles that currently impose costs without any safety benefit—and sometimes serve as a vector for safety risks. Congress endorsing and directing the Department to continue this work is important.

There has been debate about just how much the integration of ADS and advanced vehicle technologies into our transportation systems can make our roads safer. NHTSA has found that over 90% of crashes have human error as the final critical factor in roadway fatalities. This, of course, does not mean that human error is the only reason, but, just as we seek to address many of the other causes of crashes, we should not turn a blind eye to the final critical factor in so much carnage, nor the tools that have been developed by American innovators around the country to address these issues.

The simple truth is that while we have seen some progress with behavioral campaigns, judicial punishments and fines, and other intervention efforts including updating infrastructure in line with the Federal Highway Administration's Proven Safety Countermeasures, we have not seen enough. Speeding is still a critical factor in 29% of fatalities, drunk driving is a factor in 30%, and statistics for distracted and drowsy driving are unreliable but also may make up a significant portion. There is overlap in these grim statistics, as drunk drivers may also speed.

We've also seen that while unbelted occupants only make up about 8% of the driving population, they make up about 45% of the fatalities. While some Americans have resisted at Federal efforts to change behavior—as evidenced by the continued unsafe driving behaviors—the introduction of automated driving systems represent a paradigm shift where passengers will not be able to drive unsafely, and vehicle operations can be designed to require belted passengers. We can debate what new issues may arise, but I have no doubt that responsible and thoughtful legislators, regulators, safety advocates, innovators, parents, families, and friends will find new ways to address new issues that *could potentially* arise.

I do believe firmly in a federal AV Data Repository as considered in the bipartisan *Safely Ensuring Lives Future Deployment and Research In Vehicle Evolution (SELF-DRIVE) Act* sponsored by Congressman Latta and Congresswoman Dingell.

I also believe the Standing General Order should be made permanent through legislation and appropriate notice-and-comment rulemaking and should serve as a repository for state officials to access data on crashes that happen in their jurisdiction. This is another key area where it is clear there should be one Federal database, not dozens of State and local databases that introduce confusion, inconsistent measurement standards, and unnecessary burden.

I support the updates being considered to the invaluable New Car Assessment Program. This has been a critical tool in providing information to consumers on the safety of the vehicles they consider for purchase. Consumer education on the capabilities and limitations of these advanced vehicle technologies is a vital component to the safe and full integration of these technologies, whether they be ADS or Automated Driver Assistance Systems (ADAS). That is one reason I am a proud member of the board of the Partnership for Automated Vehicle Education.

We have a generational opportunity to provide a federal framework to propel the safe adoption of these life-saving technologies. Secretary Duffy, Administrator Morrison, and so many other

leaders have taken wise steps in this direction and laid out the path for us. Only Congress can take certain actions to decisively and permanently establish a Federal AV framework. There is extremely high value in the certainty Congressional action provides to the entire community—both in their support of this technology and also the specific direction for how innovators are expected to meet and prove the safety of their operations.

Conclusion

There are many critical provisions being considered by this Committee today.

Most notably, I believe passage of the SELF DRIVE Act will continue to drive the dominance of American leadership in this space, addressing uncertainties and the patchwork of ever-evolving ideas from state and local authorities for how to govern the adoption of these vital technologies.

This patchwork has not developed intentionally. It creates inconsistency, confusion and leads to an inability to plan in a capital-intensive industry. This not only delays adoption in America, but hinders global expansion, leaving the future of this technology and safety and economic promise it offers in the hands of Chinese state-sponsored entities. We must ensure American innovators can succeed globally.

Providing one Federal framework will address and satisfy so many of the well-meaning but inconsistent and problematic efforts to regulate in this space and unleash American innovation.

And as multiple administrations have recognized, NHTSA has robust tools the defect, recall, and enforcement authorities under the Safety Act to continue overseeing the testing, development and adoption of evolving safety technologies.

As with other technologies progressing rapidly, I urge a thoughtful approach that supports the development and integration of these technologies without stifling innovation.

Congress must pass the SELF DRIVE Act, for the benefit of the American people. I hope it can be included, along with so many other important bills being considered by this committee today, as part of the upcoming surface transportation reauthorization. We hold in front of us a generational opportunity to do so much good for so many people in the US and around the world.

We need Congress to act assertively to support the safe and full integration of these life-saving American technologies for the American people, and people around the world.

Thank you, and I look forward to your questions.