Driving into the future: U.K. announces regulatory scheme for the use of automated vehicles

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Introduction

On Nov. 8, 2023, a U.K. Parliamentary bill aimed at facilitating and regulating the safe implementation of self-driving vehicles was introduced. The proposed framework will apply to vehicle systems that are capable of driving with no human input and will identify the legal entities responsible for the safety of these self-driving systems. The Automatic Vehicles Bill (the Bill) is scheduled to begin its second reading in the House of Lords on Nov. 28, 2023. The U.K. Bill provides helpful insights for Canadian regulators to ready our legal framework for the deployment of automated vehicles.

Establishing a regulatory scheme for automated vehicles

A “self-driving test” is set out early in the Bill to legally identify vehicle features that are sufficiently adapted to allow a vehicle to travel autonomously for some or all of a journey, without the need for human monitoring. The Bill gives the Secretary of State for Transport broad powers within the regulatory scheme to design an authorization process for determining whether a vehicle meets the self-driving test. Such authorization also involves other regulatory requirements including the reporting of relevant safety data. In general, the authorization process is required to consider whether a vehicle can legally and safely drive itself without human monitoring or intervention. All authorized vehicles must have an “authorized self-driving entity” who will be accountable for the safety of the vehicle and maintaining compliance with any regulatory obligations.

Additionally, “no-user-in-charge” (NUiC) vehicles that do not require an individual to be in the vehicle at all, are to be overseen by a licensed NUiC operator. Oversight by the operator will involve knowing where the vehicles are and maintaining the vehicles for safe operation.

Crucially, the Bill mandates the establishment of a “Statement of Safety Principles,” serving as a benchmark for evaluating the safety of self-driving vehicles. The Secretary of State must adhere to these safety principles during both the authorization process and ongoing monitoring of self-driving vehicles. The proper functioning of this safety framework relies heavily on extensive access to information and investigation rights given to the Secretary of State.

Authorized self-driving entities and NUiC operators may be subject to regulatory sanctions should they fail to meet regulatory requirements or if a vehicle under their control commits a traffic infraction. Ultimately, this scheme shifts the legal responsibility for self-driving vehicles away from the human user and toward the companies developing and operating such vehicles.

Liability for vehicle use

Where the self-driving feature of a vehicle requires a responsible human to be in the vehicle and in a position to operate the driving controls, the Bill defines that human as a “user-in-charge.” The Bill strictly outlines circumstances where the user-in-charge cannot be held legally liable for offences arising from the way the vehicle is driven. While a vehicle’s self-driving feature is engaged, a user-in-charge is not responsible for controlling the vehicle through steering, accelerating, braking, signalling, or monitoring the driving environment. The Bills grants Users-in-charge immunity from serious road traffic offences and cannot be held liable for criminal offences which arise from self-driving activities. Liability for road traffic offences will fall on the authorized self-driving entities and NUiC operators where a self-driving feature is engaged at the time of the offence. However, users-in-Charge will maintain liability for responsibilities unrelated to the manner of driving, such as ensuring the roadworthiness of the vehicle or that proper insurance is held.

Accountability for offences and policing

The Bill outlines specific sanctions and penalties for non-compliance, most prominently related to the vehicle safety information requirements of authorized self-driving entities and NUiC operators. Additional sanctions or penalties are outlined to manage the dangerous use of vehicles by end users or the tampering with vehicles by third parties. Fines, corrective actions, suspension of operations, and criminal charges in serious cases may apply to offences under this Bill. Further, provisions in the Bill enable existing policing powers to be exercised against automated vehicles and allow for the appointment of inspectors in relation to automated vehicle incidents. Inspectors are appointed for the purpose of carrying out safety investigations to increase the understanding of such incidents and reduce risks of harm from the use of automated vehicles.

Marketing restrictions and consumer protection

To ensure the proper understanding and use by drivers and users-in-charge, the Bill introduces new offences related to the marketing of self-driving vehicles. The Secretary of State is given the power to designate the use of certain words, expressions, symbols, or marks for use only in connection with marketing “authorized” self-driving vehicles.

Therefore, only vehicles that meet the safety threshold outlined by the Secretary of State may be marketed as self-driving. These marketing restrictions will also assist consumers in differentiating between vehicles that are “self-driving” and vehicles that simply provide driver assistance.

Conclusion and takeaways

The Automated Vehicles Bill presents a comprehensive and forward-thinking legal framework designed to navigate the integration of self-driving vehicles onto the roads of the United Kingdom. This legislation addresses crucial aspects of automated vehicle regulation, emphasizing safety and accountability while still considering the economic growth potential of this industry.

Ultimately, this legislation not only paves the way for the integration of automated vehicles, it also sets a precedent for proactive, adaptable regulatory frameworks that can effectively govern technological advancements in the future. It remains to be seen what regulatory approach Canada will adopt to ready its regulatory framework for the deployment of automated vehicles.

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