

## House Committee on Transportation Policy

March 29, 2017

Chair McKeown and Committee Members:

My name is John Powell, representing State Farm Fire and Casualty Company (State Farm). State Farm offers the following comments concerning HB 3119 relating to automated motor vehicles:

By way of background, the mission of State Farm is to help people manage the risks of everyday life and recover from the unexpected. State Farm and its affiliates are the largest providers of auto, home, and individual life insurance in the United States. Its 18,000 agents and more than 65,000 employees serve more than 83 million policies and accounts – with over 45 million auto policies.

Automated and connected vehicle technologies have the potential to significantly impact the manner in which insurance serves to protect individuals, families, and businesses from financial loss. In discussing the deployment and adoption of these technologies, we believe the property and casualty insurance industry is a critical stakeholder in the conversation to consider a number of potential issues, such as coverage and liability matters and the impact of automated technology to the general public.

In order to advance our understanding of the role of automation in transportation, State Farm has participated in a number of research opportunities across the country. State Farm is a founding partner of the University of Michigan's Mobility Transformation Center, is a key partner in Stanford University's Center for Automotive Research, and most recently was appointed to the U.S. Department of Transportation's Advisory Committee on Automation in Transportation. State Farm is an active participant at the federal and state level in reviewing and commenting on proposed automated vehicle legislation, regulation, and guidance. State Farm also recently worked with Bloomberg Government to conduct research on the public's perception of automated vehicles.

In commenting on HB 3119 State Farm offers the following perspectives:

### **Data Collection and Access**

One of the key issues for the insurance industry as it relates to automated vehicles is data access. Data access is (1) essential to developing proper pricing and underwriting of vehicles; (2) critical for liability determinations; and (3) from the general public's perspective important in determining the safety and reliability of the technology. State Farm believes that any effective autonomous vehicle law must protect insurer access to the data needed to underwrite risks, determine liability, and settle claims. In addition, such data access will enable independent analysis of the effectiveness of the technology. Accordingly, State Farm supports attempts to

address data collection while also recommending changes so as not to limit insurer access to autonomous vehicle data.

Autonomous vehicle data will be critical in determining the facts of a collision and the assessment of liability as we adjust the millions of claims presented to us each year. State Farm supports a permanent data “lock down” after an accident in order to ensure that data is not lost, to avoid spoliation of evidence, and to allow for the retrieval of data by insurers, law enforcement, manufacturers and others—whether provided voluntarily by the vehicle owner or produced in response to legal process (subpoena, court order, discovery, etc.). State Farm maintains that it is critically important to access data from an automated vehicle in the event that such a vehicle is involved in an accident while operated (or claimed to be operated) in automated mode. As opposed to having the manufacturer specify the timeframe for data capture, State Farm suggests that crash related data is captured for at least 30 seconds prior to a collision and at least 5 seconds after a collision, or until the vehicle comes to a complete stop after a collision, whichever is later. This will avoid any confusion over how long the recorder must continue to capture data after the collision occurs.

State Farm further recommend the statutory requirement to retain the captured data go from at least 3 years to 5 – or, at a minimum, one year beyond the longest applicable statute of limitations. As a matter of fundamental fairness, crash-related data must remain available to potential litigants, particularly a defendant who might be sued at the last possible moment before a statute of limitations expires. It is imperative that insurers offering a defense to their policyholders have adequate time to investigate claims and determine liability without having to face the possibility of key evidence disappearing before an investigation can even begin. A 5-year retention period would best meet this objective of fairness. State Farm supports the draft regulation’s requirement that the data stored in a read-only format but recommend that such data also “be capable of being accessed and retrieved by a commercially available tool,” as this should help ensure that parties needing access to this information can get it.

### **Manufacturer Liability Exemption**

State Farm opposes the proposed law’s attempts to exclude manufacturers from liability in the event of a modification to the automated motor vehicle or automated driving system. The auto manufacturers, suppliers, and tech companies are currently in the process of developing cybersecurity standards through associations such as SAE, with the goal of creating a self-certification process. Moreover, at the federal level, the National Highway Traffic Safety Administration is still arguably still in an early stage of addressing cybersecurity standards as it has focused on developing Best Practices and Guidance as opposed to regulations. Accordingly, any attempt to allow for manufacturer liability exemptions when there is a modification to the vehicle or driving system can create an incentive to not develop as robust and secure operating system infrastructure. This is especially concerning in a potential self-certification environment. Moreover, without further clarity around what constitutes a modification and who ultimately would be responsible in such a situation, this section is likely to result in situations where crash victims face limited form of remedy.

State Farm appreciates the opportunity to provide testimony on automated vehicles in Oregon. The insurance industry's input on these issues is critical and we look forward to continuing to be a part of the discussion and solution for protecting insurance consumers in the autonomous space.