



Open Government Impact Statement

80th Oregon Legislative Assembly
2019 Regular Session

Measure: HB 2770

Only impacts on Original or Engrossed
Versions are Considered Official

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Date: 1/29/2019

SUMMARY

Permits testing of highly automated vehicles on highways of this state under certain circumstances. Prescribes testing permit application requirements. Directs automated vehicle manufacturers to obtain additional umbrella liability insurance policies prior to testing. Directs Department of Transportation to adopt rules for testing of highly automated vehicles on highways of this state. Imposes civil penalty for testing highly automated vehicles without testing permit.

Creates offense of testing a highly automated vehicle without a testing permit or sticker. Punishes by maximum fine of \$500.

Defines "testing operator" to include both onboard operator and remote operator of highly automated vehicle. Requires testing operator to monitor operation of test vehicle at all times and be prepared to take control of test vehicle if necessary. Identifies testing operator as operator or driver of highly automated vehicle for purposes of certain provisions.

Exempts persons testing highly automated vehicles without onboard operator on highways of this state from certain provisions of Oregon Vehicle Code if manufacturer has valid testing permit.

Declares emergency, effective on passage.

OPEN GOVERNMENT IMPACT

Legislative Counsel has not adopted standards for drafting measures that establish exemptions from disclosure of public records.

This measure exempts from public disclosure personal information of highly automated vehicle testing operators contained in an application for a highly automated vehicle testing permit. However, it is unclear as to what extent this new exemption from public disclosure will alter existing standards of disclosure.

ORS 802.175 (1) defines a motor vehicle record as "any record that pertains to a grant of driving privileges, an identification card issued by the Department of Transportation, a vehicle title or a vehicle registration." It is likely, but not certain, that an application for a highly automated vehicle testing permit would be interpreted as a motor vehicle record. ORS 802.177 prohibits the Department of Transportation from disclosing personal information contained in motor vehicle records except as otherwise provided in ORS 802.179. Some of the exemptions in ORS 802.179 require personal information contained in motor vehicle records to be released pursuant to a public records request under certain circumstances. Finally, ORS 802.181 restricts the redisclosure of personal information received from the Department of Transportation pursuant to ORS 802.179.



If an application for a highly automated vehicle testing permit were a motor vehicle record, then the disclosure requirements of ORS 802.179 would apply to the permit application. Although, the new public records request exemption contained in this measure is an unconditional exemption from public disclosure, it is likely that a court would find that the mandatory disclosure requirements of ORS 802.179 would prohibit the department from claiming the new public records request exemption under the limited circumstances listed in that section.

Conversely, if an application for a highly automated vehicle testing permit were not a motor vehicle record, the disclosure regulations contained in ORS 802.177 through 802.181 would not apply to the permit application. Only the new unconditional public records exemption would apply to those records. Thus, the department would have sole discretion in deciding whether to release the personal information to a third party.

Based on the preceding discussion, it is indeterminate as to how this measure would impact public interests in disclosure that would be served if the public records were subject to mandatory disclosure.