



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 2398

PRINTERS NO. 3563

PRIME SPONSOR: Oberlander

COST / (SAVINGS)

FUND	FY 2022/23	FY 2022/23
General Fund	See "Fiscal Impact"	See "Fiscal Impact"
Motor License Fund	See "Fiscal Impact"	See "Fiscal Impact"
Municipal Funds	\$0	\$0

SUMMARY: Provides for the regulation and operation of highly automated vehicles with or without a human driver create a penalty for theft of catalytic converters. Section 8510.2 (relating to regulations and guidelines) would take effect immediately; Section 3723 (relating to theft of catalytic converter) takes effect in 60 days; Section 1106(b) (relating to content and effect of certificate of title) would take effect in one year and the remainder of the legislation would take effect in 240 days.

ANALYSIS: This legislation amends several sections of Title 75 (Vehicles) to regulate the operation of highly automated vehicles (HAVs) and platoons with or without a human driver.

Platooning: Section 3317 (relating to platooning) is repealed and moved to section 8532. The current language is amended to allow the lead vehicle of a platoon to operate with a driver and one nonlead vehicle to operate with an ADS engaged, with or without a driver. As it relates to the plan for general platoon operations, a person may operate a platoon on a highway of this Commonwealth if the person files a plan for general platoon operations with PennDOT, in consultation with the Pennsylvania State Police and the Pennsylvania Turnpike Commission, as applicable. If the plan is not approved, rejected or additional information requested by PennDOT within 30 days after the receipt of the plan, the plan shall be deemed approved and the person may operate the platoon.

Operation of HAVs: This legislation amends Chapter 85 (relating to Highly Automated Vehicles).

Section 8501 (relating to definitions) is amended to include the definitions of highly automated work zone vehicle and platoon from section 102 and adds other terms and definitions.

Section 8502 (relating to highly automated vehicles) designates PennDOT as the lead Commonwealth agency on HAVs and the language relating to highly automated work zone vehicles is moved to a new section 8531.

Section 8503 (relating to Highly Automated Vehicle Advisory Committee) is amended to require the Highly Automated Vehicle Advisory Committee to provide special reports to the General Assembly and post the reports on PennDOT's publicly accessible Internet website that evaluates the impact of

HAVs on the Commonwealth's workforce, the economic benefits and implications, improvements to accessibility and mobility for persons with disabilities and the general public. The report is due no later than 18 months after the effective date of this section.

Section 8504 (relating to certificate of compliance) prohibits the operation of a HAV on a highway in this Commonwealth, unless:

1. the person is a certificate holder or is an automated vehicle driver approved by a certificate holder to operate a highly automated vehicle on behalf of the certificate holder; and
2. the highly automated vehicle is operated in accordance with this subchapter.

This does not apply to:

1. A highly automated work zone vehicle operated in accordance with section 8531 (relating to highly automated work zone vehicles),
2. A platoon operated in accordance with section 8532 (relating to platooning),
3. A vehicle that is also a HAV and is approved for noncommercial use on public highways under Federal law or regulation.
4. A HAV registered in another state operating in this Commonwealth under an interstate agreement in accordance with section 8510.5 (relating to interstate agreements).

Under section 8505 (relating to powers of department), PennDOT has sole regulatory authority over the operation of HAVs on highways within this Commonwealth consistent with this title and Federal law or regulation. Their powers include:

1. By order of the secretary, to prohibit the use of a HAV on a highway where the secretary determines that the operation of the highly automated vehicle would constitute a hazard.
2. Require a certificate holder to self-report to PennDOT an accident in this Commonwealth involving the certificate holder's HAV if the accident resulted in bodily injury, serious bodily injury, death or damage to property. The timeframe to report established by PennDOT can be no less than 6hrs from the occurrence of the accident.
3. Display on their publicly accessible Internet website, a list of certificate holders, orders issued by the secretary, policies, regulations or guidelines they have issued under this subchapter.
4. By order of the secretary to collect the following:
 - a. The process an emergency service responder should follow when an HAV without an HAV driver is disabled or in an accident.
 - b. HAV driver information (name, driver's license information, any training), if applicable.
 - c. Description of whether HAV goods or passengers will be transported, or the service or function being provided by the HAV.
 - d. Location information, including a list of municipalities where HAVs are expected to operate.
5. Establish policies, guidelines and regulations reasonably necessary to implement this subchapter.

As it relates to PennDOT's authority to establish a policy, guideline or regulation under this subchapter PennDOT is prohibited from:

1. Requiring a HAV driver from having to obtain another additional license, approval or similar authorization, other than the appropriate driver's license and endorsement, according to the type and class of motor vehicle equipped with an ADS that the HAV driver operates;

2. Adding requirements that are inconsistent with Federal law or regulation relating to HAVs;
3. Restricting a HAV driver from operating a certificate holder's highly automated vehicle to control all or part of the DDT; or
4. Restricting a certificate holder's HAV from operating without a HAV driver.

Section 8506 (relating to self-certification) requires a self-certification for a certificate of compliance to be submitted to PennDOT. The form submitted must include information necessary certifying that the applicant's HAV or the ADS installed in the HAV meets the requirements of this title.

Under section 8507 (relating to self-certification review), PennDOT must review a self-certification form submitted and, unless the self-certification form is rejected by PennDOT within 10 business days of the date of receipt, the self-certification form will be considered complete, and a certificate of compliance shall be issued to the applicant. PennDOT may only reject a self-certification form for either of the following reasons:

1. The form is incomplete.
2. The information contained in the form does not certify that the applicant's HAV or the ADS installed in the HAV meets the requirements of this title.
3. The form contains materially inaccurate information, and the applicant is not responsive to clarifying questions.

No renewal is required. An applicant for a certificate of compliance who, prior to the effective date of this section, operated a HAV in accordance with automated vehicle testing guidance established by PennDOT prior to the effective date of this section, may continue to operate the HAV without a certificate of compliance on highways pending the review of a self-certification form if:

- The applicant has submitted a self-certification form for a certificate of compliance.
- PennDOT has not denied the self-certification form.
- PennDOT has not issued a notice, in writing, to the applicant prohibiting continued HAV operation while PennDOT reviews the self-certification form.
- The HAV is operated in accordance with this subchapter.

A certificate holder is required to provide information or records on a continuing basis that may be required by PennDOT and reasonably necessary for the administration and enforcement of this title.

Section 8508 (relating to operational requirements) a certificate holder may operate a HAV vehicle with or without a HAV driver on a highway in this Commonwealth. A HAV may not operate on a highway in the Commonwealth unless it has been titled as a HAV. A HAV driver shall be properly licensed under this title to operate the appropriate type and class of motor vehicle.

A HAV may operate on a highway without a HAV driver, subject to the following:

1. The ADS is engaged.
2. The HAV must be capable of operating in compliance with applicable traffic and motor vehicle safety provisions of this title unless the exemption has been granted by the PennDOT.
3. If a failure of an ADS occurs which renders the ADS unable to perform the entire DDT within the intended ODD, the highly automated vehicle must achieve a minimal risk condition.

A HAV may operate on highway with a HAV driver, subject to the following:

1. A HAV driver may control all or part of a highly automated vehicle's DDT.

2. If a failure of an ADS renders the ADS unable to perform the entire DDT within the intended ODD, the HAV or the HAV driver must achieve a minimal risk condition.

A HAV must bear any required manufacturer's certification labels indicating that the highly automated vehicle has been certified to be in compliance with all applicable Federal motor vehicle safety standards, including reference to any exemption granted by the National Highway Traffic Safety Administration, if required by Federal law or regulations.

As it related to the required insurance, a HAV with an ADS engaged with or without a highly automated vehicle driver may not operate on a highway in this Commonwealth unless the vehicle is covered by insurance or self-insurance in the minimum amount of \$1,000,000 per incident for death, bodily injury or property damage, which shall satisfy the financial responsibility requirements of this title.

A "low-speed HAV" is a HAV that is in compliance with the Federal safety standards established in 49 CFR 571.500 (relating to standard number 500; low-speed vehicles), including any exemptions by the National Highway Traffic Safety Administration, and designed to be operated without an occupant and used to transport goods. The term does not include a neighborhood electric vehicle and shall be considered by the department as a passenger car or truck for the purposes of title and registration, in accordance with section 1106 (relating to content and effect of certificate of title). Low-speed HAVs may not be operated on a freeway and may not be operated on a highway with a posted speed limit greater than 35 miles-per-hour, except when:

- the low-speed HAV is engaged in a legal crossing of the highway; or
- the low-speed HAV is permitted, by order of the secretary, to be operated on the highway.

Under section 8509 (relating to commercial operations), a HAV that is also a motor carrier vehicle that requires a CDL may operate on highways as a motor carrier with or without a HAV driver. A HAV operated without a HAV driver shall operate under Federal and State law or regulation governing the operation of commercial vehicles and drivers, except provisions that by their nature reasonably apply only to a driver shall not apply to a HAV. A HAV may not be operated as a school bus or school vehicle or carry hazardous materials except when transporting articles and substances prepared in accordance with federal regulations or do not require placarding pursuant to the Federal Hazardous Material Regulations.

As it relates to regulation of vehicles by the PA Public Utility Commission (PUC), the provisions 66 Pa.C.S. (relating to public utilities) apply to a certificate holder and the certificate holder's HAVs, except for provisions that by their nature reasonably apply only to a driver shall not apply HAV. Nothing in this subchapter shall be construed to prohibit the PUC from requiring an authorization, license or approval from a certificate holder for the operation of a HAV if the authorization, license or approval requirement is consistent with utility code and does not discriminate against a highly automated vehicle. However, the PUC may not require an authorization, license or approval from a certificate holder if the certificate holder:

1. is not directly providing a commercial service regulated by the PUC; and
2. is only providing a HAV to another person that holds an authorization, license or approval from the PUC for use in a commercial service regulated by the PUC.

A transportation network company (TNC) licensed by the PUC may utilize a certificate holder's HAV to provide transportation network services under 66 Pa.C.S. Ch. 26 (relating to transportation network service).

As it relates to cities of the first class (Philadelphia), a TNC licensed by the Philadelphia Parking Authority (PPA) may utilize a certificate holder's HAV to provide transportation network services under 53 Pa.C.S. Ch. 57A (relating to transportation network companies). The provisions of 53 Pa.C.S. Ch. 57A shall apply to a HAV, except for provisions that by their nature do not apply to a driver of a highly automated vehicle when the highly automated vehicle is operated without a highly automated vehicle driver.

The PUC and the PPA may not require, including as a requirement of an authorization, license or approval:

1. A HAV to be operated with a HAV driver.
2. Additional testing requirements for a highly automated vehicle.
3. Operational standards for a HAV that are substantially dissimilar to operational standards for a motor vehicle operating without an ADS.
4. Compliance with additional standards related to a HAV's ADS, ODD, DDT or DDT fallback.

Section 8510 (relating to preemption) states this subchapter preempts and supersedes all ordinances relating to HAVs. A local authority may not adopt or enforce a policy, rule or ordinance that sets standards or otherwise burdens, prohibits, limits or regulates the operation of HAVs. If a local authority enforces or enacts an ordinance in violation of this subsection, the local authority is considered to be in violation of section 6101 (relating to applicability and uniformity of title). This section does not prohibit local authorities on streets or highways within their physical boundaries from the reasonable exercise of their police powers specified in section 6109 (relating to specific powers of department and local authorities), provided that the exercise of the police powers does not specifically target or discriminate against highly automated vehicles.

Section 8510.1 (relating to enforcement and penalties) addresses enforcement by law enforcement and PennDOT. As it relates to enforcement by law enforcement, the certificate holder is considered a driver of a HAV for the purposes of assessing compliance under this title relating to a driver of a vehicle or motor vehicle subject to the following:

1. A police officer shall charge the certificate holder for any applicable offense.
2. If there is no HAV driver on board, the requirement to show a driver's license and registration card are satisfied if the vehicle registration card is in the HAV and physically or electronically available for inspection by a police officer.

As it relates to enforcement by PennDOT:

1. PennDOT may only suspend or limit a certificate of compliance for the following reasons:
 - i. The certificate holder's HAV or ADS does not meet the applicable requirements of this subchapter.
 - ii. The certificate holder submitted materially false information on the self-certification form submitted to the PennDOT under section 8506 (relating to self-certification).
2. PennDOT may only revoke a certificate of compliance for the following reasons:
 - i. The certificate holder knowingly operated a HAV during a time period when the certificate holder's certificate of compliance was suspended.
 - ii. The certificate holder knowingly operated a HAV in a manner that violated a

- certificate of compliance limitation established by PennDOT.
- iii. The certificate holder was convicted of any of the following violations with respect to a violation of this title by the certificate holder's HAV when the ADS was engaged and no HAV driver was on board or in a remote location:
 - a. Section 3732 (relating to homicide by vehicle).
 - b. Section 3732.1 (relating to aggravated assault by vehicle).

PennDOT must provide a notice and an opportunity for an administrative hearing to a certificate holder whose certificate of compliance is suspended, limited or revoked.

As it relates to penalties, a certificate holder that violates a provision of this subchapter shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$25 and not more than \$1,000. A violation of this subchapter by a HAV driver shall be considered a violation by the certificate holder. A person that violates section 8504 (relating to certificate of compliance required) shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$500. A person that knowingly violates section 8504 and whose certificate of compliance was suspended or revoked by PennDOT shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$1,000.

Section 8510.2 (relating to regulations and guidelines) authorizes PennDOT to promulgate regulations, including temporary regulations valid for two years, and publish guidelines that are consistent to facilitate implementation. The temporary regulations are required to be transmitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin. PennDOT must consult with the HAV advisory committee prior to promulgating regulations or publishing guidelines and policies.

Under section 8510.3 (relating to confidential records) information, data or records obtained by PennDOT under this chapter shall not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, if the information, data or records constitute or reveal a trade secret or confidential proprietary information or disclosure of the information, data or records could affect the safe operation of HAVs.

Section 8510.4 (relating to appeals) provides a certificate holder the ability to appeal an action taken by PennDOT under this subchapter.

Section 8510.5 (relating to interstate agreements) provides PennDOT with the ability to negotiate one or more interstate agreements on behalf of the Commonwealth with regulatory agencies of other states for the interstate operation of HAVs and platoons approved for operation in the Commonwealth and for HAVS and platoons approved for operation in states that are parties to the agreement. The Governor is required to approve the agreements before they can become effective. An interstate agreement shall only be approved by the Governor if permitted under Federal law or regulation and shall be consistent with Federal law or regulation.

Other Provisions: Section 1106 (relating to content and effect of certificate of title) is amended to require the certificate of title to show whether or not the vehicle is or has been a HAV.

This legislation amends several sections of Title 75 to address accidents involving HAVs. If the vehicle is a HAV operating with an ADS engaged or without a HAV driver on board the following apply:

1. The requirements of section 3742 (relating to accidents involving death or personal injury) are satisfied if the HAV stops at the scene of an accident or as close thereto as possible and remains at the scene of the accident.
2. The requirements of section 3743 (relating to accidents involving damage to unattended vehicle or property) are satisfied if the HAV stops and remains at the scene of an accident or as close thereto as possible and the certificate holder for the HAV, a person on behalf of the certificate holder promptly contacts the nearest office of a duly authorized police department to report the accident.
3. The requirements of section 3744 (relating to duty to give information or render aid) are satisfied if the certificate holder or a person on behalf of the certificate holder for the HAV, or the HAV remains at the scene and promptly contacts the nearest office of a duly authorized police department to report the accident and communicates the registration and financial responsibility information for the HAV to the police department.
4. The requirements of section 3745 (relating to accidents involving damage to unattended vehicle or property) are satisfied if the HAV immediately stops and remains at the scene of the accident or as close thereto as possible and the certificate holder for the HAV, a person on behalf of the certificate holder, or the HAV immediately contacts the nearest office of a duly authorized police department to report the accident and communicates the registration and financial responsibility information for the HAV to the police department.
5. The requirements of section 3746 (relating to notice of accident to police department) are satisfied if the certificate holder for the HAV, a person on behalf of the certificate holder, or the HAV immediately contacts the nearest office of a duly authorized police department to report the accident. The heading of section 3746 is also changed which results in several sections of Title 75 having to be amended to reflect the heading change (Sections 1503, 1785, 3745.1, 3747).

The legislation amends section 4103 (relating to promulgation of vehicle equipment standards) to exclude a HAV designed to operate exclusively by the ADS or a HAV driver in a remote location for all trips from motor vehicle equipment laws or regulations which relate to or support motor vehicle operation by a driver seated in the vehicle and are not relevant for an ADS. The annual safety inspection requirements established by PennDOT under section 4702 (relating to requirement for periodic inspection of vehicles) only apply to an HAV consistent with the equipment requirements under section 4103.

Section 4921 (relating to width of vehicles) is amended to exclude a rear visibility system comprised of a set of devices or components which are considered a mirror and is excluded from the measurement of the width of the highly automated vehicle consistent with applicable Federal and State laws.

Section 6109 (relating to specific powers of the department and local authorities) is amended to provide that a prohibition or regulation of the use of designated streets by any class or kind of traffic by a local authority may not be specific to or discriminate against HAVs.

Theft of Catalytic Converter: This legislation also creates a new section 3723 (relating to the theft of catalytic converter) to establish the offense and penalty for the theft of a catalytic converter. A person commits the offense of theft of a catalytic converter if the person unlawfully takes or attempts to take possession of, carries away or exercises unlawful control over a catalytic converter with intent to deprive the rightful owner of the catalytic converter. The grading of an offense is as follows:

- An offense constitutes a misdemeanor of the third degree if the value of the catalytic converter is less than \$50.

- An offense constitutes a misdemeanor of the second degree if the value of the catalytic converter is \$50 or more but less than \$200.
- An offense constitutes a misdemeanor of the first degree if the value of the catalytic converter is \$200 or more but less than \$1000.
- An offense constitutes a felony of the third degree if the value of the catalytic converter \$1,000 or more.
- An offense constitutes a felony of the third degree if the offense is a third or subsequent offense, regardless of the value of the catalytic converter. A first and second offense include a conviction, acceptance of or other form of preliminary disposition before sentencing on the present violation for an offense.

FISCAL IMPACT: According to PennDOT, this legislation would result in one-time costs of roughly \$400,000. Those costs include system upgrades and consultant fees. They anticipate being able to fulfill the remaining provisions of this legislation utilizing existing staff.

Violations of Section 3723 (relating to theft of catalytic converter) are graded as a misdemeanor of the third degree up to and including a felony of the third degree. Thefts involving catalytic converters are generally charged as a violation of 18 Pa.C.S. § 3921 (a) (relating to theft by unlawful taking or disposition). The grading for offenses under this section are generally misdemeanors (M1, M2 and M3) and felonies (F1, F2, and F3) depending upon the value involved.

2018 data obtained from the Pennsylvania Commission on Sentencing indicates that there were 6,314 convictions of 18 Pa.C.S. § 3921 (a) (relating to theft by unlawful taking or disposition). Of those convictions, 636 resulted in a sentence of incarceration in a state correctional institution, with the majority being graded as a misdemeanor of the first degree. A misdemeanor of the first degree is punishable by a sentence to a term of imprisonment, the maximum of which is not more than five years or a fine of \$10,000 or both.

According to the Pennsylvania Department of Corrections, the marginal cost per inmate per day for less than 300 inmates is approximately \$35.39. Assuming 100 individuals are charged, convicted, and sentenced to term of imprisonment for an average of three years as a result of this legislation, this would result in the department incurring an additional cost of approximately \$1,291,735 annually, or \$3,875,205 over the full term of imprisonment.

The remainder of this legislation would have no adverse fiscal impact on Commonwealth or municipal funds.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: October 26, 2022

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.