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## Self-Driving Vehicle Legislation Must Preserve a State's Right to License and Regulate Vehicle Commerce

### ISSUE

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Last Congress, self-driving vehicle legislation (H.R. 3388/S. 1885), which would have preempted certain state laws that regulate vehicle commerce, was considered but not enacted. Historically, the federal government has preempted only state laws that impact vehicle design, construction and vehicle safety. NADA agrees that state laws related to vehicle design should be regulated at the federal level to ensure uniformity, while also strongly urging Congress to preserve the states' traditional role to license and regulate vehicle commerce as applied to self-driving vehicles. If Congress reconsiders self-driving vehicle legislation, **Congress must ensure that a state's traditional role to provide consumer protections and license and regulate vehicle commerce within its borders is preserved.**

### BACKGROUND

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In considering self-driving vehicle legislation, ensuring the correct federal/state relationship is critical. Based on the states' desire to protect consumers and businesses that provide price competition, local jobs, and significant local and state tax revenue, states have traditionally had the right to license and regulate the distribution, sale and service of vehicles within their borders. These rights are reserved to states under the 10th Amendment to the Constitution.

For decades, state vehicle franchise laws have included important consumer protections and regulated the disparity in size and power between local dealers and multinational automakers to help level the economic playing field. Such protections for state residents are especially important, as there are new risks and opportunities associated with self-driving technologies, particularly regarding safety, and as new and less-established entrants from overseas seek to enter the U.S. auto market.

Traditionally, and to ensure uniform rules across all 50 states, the federal government has only preempted state laws that impact vehicle design, construction and safety. Auto dealers support this defined and well-established federal role regarding self-driving vehicles.

In 2017, Congress, the Senate Commerce, Science, and Transportation Committee approved S. 1885. While the bill clarified that state laws regarding the sale, distribution, repair or service of self-driving vehicles were not preempted, the bill lacked a technical amendment to ensure that state vehicle licensing/franchise laws protecting the rights of dealers and consumers were not nullified. Had S. 1885 been considered by the full Senate, NADA expected this technical issue would have been favorably addressed. The House passed similar legislation, H.R. 3388, which included bipartisan language to clarify that state vehicle licensing/franchise laws as applied to self-driving vehicles were not preempted.

### KEY POINTS

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- Any self-driving vehicle legislation Congress considers should include federal preemption that enables states to continue exercising their right to license and regulate the distribution of vehicles within their borders as incorporated in self-driving vehicle legislation (H.R. 3388/S. 1885) last Congress.
- A balanced preemption, which was agreed to last Congress on a bipartisan basis in H.R. 3388/S. 1885, does not hinder Congress from preempting any state law that interferes with the design and construction of self-driving vehicles.
- Congress should ensure that self-driving vehicle legislation explicitly clarifies that state laws regarding the sale, distribution, repair or service of self-driving vehicles are not preempted and preserves state vehicle franchise laws defending the rights of small business dealers and providing important consumer protections.

### STATUS

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In the 115<sup>th</sup> Congress, legislation to advance self-driving vehicles (H.R. 3388/S. 1885) was passed by the House of Representatives and the Senate Commerce, Transportation and Science Committee, but was not enacted. Self-driving vehicle legislation will likely be reintroduced this year. **Congress must ensure that self-driving vehicle legislation fully and explicitly preserves state vehicle licensing/franchise laws.**

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