

FORMER SENATE STAFFER REVEALS HOW CONGRESS CAN PASS AN AUTONOMOUS VEHICLE BILL

Lawyer Christian Fjeld, the former lead Democratic Senate staffer tasked with shepherding the AV START Act through the Senate, discusses why Congress failed to pass the bill and how it can learn from its mistakes.

BY VICTORIA HUDGINS

Fully autonomous vehicles aren't just the figment of sci-fi enthusiasts' imagination. Lawmakers and staffers are attempting to make them a reality on U.S. roads. Christian Fjeld was part of that push last year as lead Democratic Senate staffer for the American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act (AV START Act).

The autonomous vehicle bill, however, fizzled in the Senate because it failed to meet some senators' safety concerns as the 115th Congress came to a close.

Now, Fjeld serves as vice president of ML Strategies, the government relations and consulting group of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, where he leverages his 10 years of staff leadership experience on the Hill



Christian Tamotsu Fjeld, vice president, ML Strategies.

to assist clients with the federal government.

Legaltech News caught up with Fjeld to discuss why the AV START Act failed, how autonomous vehicles' complexity isn't lawmakers' largest hurdle and why the data privacy debate may factor into the next autonomous vehicle bill. This interview has been edited for clarity and length.

Legaltech News: What were senators' concerns with the AV START Act?

Christian Fjeld: I think the preemption provision proved to be problematic. We were able to get the bill out of committee by voice vote, but after we did that there were some concerns raised that the preemption provision did not sufficiently protect common

law liability or any state law liability.

States didn't believe their traditional authority was properly preserved. ... There was also increased concern that NHTSA [National Highway Traffic Safety Administration] did not have sufficient regulatory authority to regulate these cars because it will take NHTSA quite some time to promulgate standards over these complex vehicles. Given how complicated and time-consuming it would be there were concerns of a vacuum of sorts while NHTSA is developing their safety standards.

How did you work to address those concerns?

Passing anything in the Senate is always tough. Most bills have to pass by unanimous consent—that means every single senator has to approve of the bill in order for the bill to go through. I think there was probably enough votes to get it passed, but because we had to get the bill passed with unanimous consent, if there was any senator that had any objection or concern with the bill those objections had to be addressed. And quite frankly we tried to do

so but we simply ran out of time.

What do you think is stopping Congress from implementing an autonomous vehicles bill?

I think the key issues will likely be what we've seen in the past, which is the preemption provision. I think another big issue will be data sharing. What will the obligations be, if any, on manufacturers to share data these vehicles generate when various stake industry groups, such as insurance companies, rental car companies and states want this information for infrastructure planning purposes?

In March, NHTSA announced it was accepting public comment regarding General Motors' exemptions request for a fully autonomous vehicle. Is that a significant step forward for autonomous vehicles in the U.S.?

I think so. GM is exercising their rights under existing law to seek exemptions from FMVSS under NHTSA, but they are currently capped at what's currently allowed under the law.

I do think if NHTSA does approve that GM request for exemptions, it sets the stage for what future petitions would look like and potentially provide a blueprint for how to successfully seek an exemption.

A federal lawmaker said complexity is one of the factors preventing a national data privacy bill. From your perspective, is autonomous vehicles a complex issue for lawmakers to decipher?

I don't personally think AV policy has as many tentacles that data privacy has. Data privacy is pretty multilayered and there is so much information being collected and used at so many different levels. I think that type of complexity is on a different level [compared to] AV policy, which I think is a little more straightforward. It's really about what is the regulatory structure going to be in place to maximize public safety.

Victoria Hudgins I am a reporter for Legaltech News, where I cover national and international cyber regulations and legal tech innovations and developments.