



Mobility Legal Updates

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LIN's Mobility Team monitors legal and regulatory trends in the auto industry and periodically sends newsletters to our clients.

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Autonomous Vehicle Pilot Zones Available Across Provincial Boundaries, and AV Transport Licensing Shifted from Minister to Local Governors

Autonomous Vehicle Act, Effective July 10, 2024. (Ministry of Land, Infrastructure and Transport)

The Autonomous Vehicle Act includes special provisions that allow (a) the operation of a passenger transport business using autonomous vehicles that are not classified as commercial vehicles (Article 9) in pilot operation zones designated by the Minister of Land, Infrastructure and Transport (the "MOLIT")(Article 7), and (b) the operation of autonomous vehicles that do not meet the safety standards specified in the Motor Vehicle Management Act due to their structural characteristics, under certain conditions (Article 11).

The amended Act, effective from July 10, 2024, establishes the basis for designating pilot operation zones spanning more than one city or province (Article 7, Paragraph 2). The amended Act also transferred the authority for licensing passenger transport businesses within these pilot operation zones from the MOLIT to the relevant provincial governor's office (Article 9, Paragraph 2).

Certification and Reporting of Emission Modifications

Clean Air Conservation Act, Effective July 24, 2024 (Ministry of Environment)

For changes in "important matters" (as specified by the Minister of Environment) related to vehicle emission certifications, the previous Clean Air Conservation Act (the "CAC")

required vehicle manufacturers to obtain ‘modification certification’ (Article 48, Paragraph 2), regardless of whether such changes increase emissions. However, in practice, for modifications that do not increase emissions, vehicle manufacturers were deemed to have obtained the certification when they filed ‘modification reports’ under the Enforcement Rules (Article 67, Paragraph 3). The amended Act clarifies the legal basis for such reporting procedures (Article 48, Proviso in Paragraph 2). In addition, the amended Act introduces new provisions for compensating vehicle owners who have made self-corrections (Article 53-2).

Similarly to previous provisions, a vehicle manufacturer’s production or sale of a vehicle that differs from the certified specifications constitutes grounds for imposing penalty surcharges. However, the amendment excludes cases where vehicles are produced or sold differently from the certified specifications due to changes in matters other than “important matters.” If a vehicle manufacturer fails to report the changes or reports falsely or fraudulently, an administrative fine of five (5) million Korean Won will be imposed.

In the previous Enforcement Rules, the definition of “important matters” was overly broad, leading to unreasonable circumstances where failure to obtain modification certification (*i.e.*, modification reporting under the Enforcement Rules) could result in criminal penalties, even if there were no increase in emission levels. Efforts have been made to amend the above issue, but the provisions for criminal penalties remain unchanged. Nonetheless, with the recent legal amendments establishing a basis for the modification reporting system and explicitly codifying regulatory standards based on emission increases, it is hoped that reasonable amendments to the Enforcement Rules concerning “important matters” and other related provisions will be made in the future.

Introduction of Mandatory Submission of Materials Related to SUA

Enforcement Decree of the Motor Vehicle Management Act, effective August 14, 2024
(Ministry of Land, Infrastructure and Transport)

The Motor Vehicle Management Act requires vehicle manufacturers to submit relevant materials to the performance testing agency during the investigation of defects in motor vehicles and parts (Article 31, Paragraph 5). If a vehicle manufacturer fails to submit the materials under certain conditions provided in the Enforcement Decree (such as repeated occurrences of fires), the vehicle in question will be deemed to have a defect (Article 31, Paragraph 6).

The Enforcement Decree of the Act limited the presumption of vehicle defects due to the non-submission to recurring traffic accidents in vehicles of the same type and structure “causing human casualties.” However, the amended Enforcement Decree, effective August 14, 2024, substituted the human casualties with “accidents due to the vehicle operation contrary to the driver’s intent” (Article 8-3, Paragraph 2).

The above amendment is due to increased traffic accidents where the Sudden Unintended Acceleration (“SUA”) has been cited as the cause. In connection with the Product Liability Act, this amended provision is expected to impact the nature of disputes involving alleged SUA significantly.

There is a view that such accidents are more likely to occur due to driver’s error, specifically the driver’s pedal misapplication, rather than vehicle defects. It has also been pointed out that the widespread use of the term “SUA” to imply vehicle defects may hinder drivers’ appropriate responses during pedal misapplication. Nonetheless, the submission of relevant materials remains an obligation of vehicle manufacturers, as mandated by law. Therefore, vehicle manufacturers need to carefully consider the systematic collection and management of materials related to the above issue, advisably considering the proposed amendment of the Product Liability Act explained below.

For your reference, similarly to the previous provisions, if a motor vehicle manufacturer conceals, understates, makes a false representation of a defect, or fails to correct a defect without delay upon becoming aware, penalty surcharges may be imposed on the vehicle manufacturers (Article 74, Paragraph 1 of the Act). However, the amended Enforcement Decree provides a basis for reducing penalty surcharges if it is “recognized that the vehicle manufacturer has made voluntary efforts to enhance consumer protection and vehicle safety, such as by offering free support for the installation of advanced safety technologies or providing free vehicle inspections” (Annex 1-3 of the Decree).

Proposed Amendments to Product Liability Act to Address SUA

Rep. Chae Hyun-il (Bill No. [1820](#)), Rep. Seo Wang-jin ([1824](#)), Rep. Kwon Sung-dong ([1905](#))

As disputes claiming sudden unintended acceleration (SUA) as the cause of accidents increase, three noteworthy amendments to the Product Liability Act have been proposed.

The amendments to the Product Liability Act, respectively proposed by Rep. Chae Hyun-il and 31 others and by Rep. Seo Wang-jin and 11 others on July 17, 2024, introduce a provision that allows the court to order the submission of materials at a party’s request. If reasons for refusal to submit are claimed, the court can review the reasons *in camera*. If there is a violation of the submission order, the court can accept the opposing party’s claims regarding the content as true.

These two amendments are nearly identical to the material submission order system already under Article 132 of the Patent Act, differing only in the type of disputes they address. Although there is no obligation to submit trade secret documents under the Civil Procedure Act, like the Patent Act, the amendments provide that “when necessary to prove defects, damages, or calculate the amount of damages”, trade secrets cannot be used as grounds for a

refusal to submit. In such cases, the court must specify the scope or persons permitted to view the documents. However, since there are no explicit provisions about penalties for violating the protective order, there is an increased risk of trade secrets being disclosed during the litigation process.

Meanwhile, the amendment proposed by Rep. Kwon Seong-dong and 13 others on July 18, 2024, does not include provisions related to the procedures for submitting materials, leaving them to the Civil Procedure Act. Instead, it stipulates that if materials are submitted indicating that “damage was caused by a defect in a product specified by Presidential Decree, including automobiles,” the existence of the defect and its causation with the damage are presumed, shifting the burden of proof for the contrary to the manufacturer. This aims to relax the current requirements for the presumption of defects under the Product Liability Act (Article 3-2), which could either have no impact compared to current law or be significantly disadvantageous to manufacturers, depending on how the courts apply it in specific cases.

Although all three bills cite the difficulty of proving defects in so-called SUA accidents as the reason for the amendment, the provisions in the bills are not limited to SUA accidents. The amendments proposed by Rep. Chae Hyun-il and Rep. Seo Wang-jin leave the scope of application under the current Product Liability Act unchanged, and the amendment proposed by Rep. Kwon Seong-dong applies to “products specified by Presidential Decree, including automobiles.”

Unification of Fire Extinguisher Installation Regulations

The Motor Vehicle Safety Standards (the “Standards”) require the installation of ABC fire extinguishers in vehicles according to specific standards (Article 57, Paragraph 1). The Firefighting Systems Act also contains similar provisions (Article 11). This overlap of regulations has been criticized for causing confusion among vehicle manufacturers and sellers.

The amendment of Standards is underway, revising Article 57 of the Standard so that Article 11 of the Act applies. The proposed amendment is currently under review by the Regulatory Review Committee. If passed, it is expected to take effect on December 1, 2024, in line with the effective date of other amendments in the Firefighting Systems Act.

Questions are still being raised about the effectiveness of the regulations requiring the installation of fire extinguishers and the customs procedures under the Customs Act for importing vehicles without fire extinguishers. Future developments in this regard will need to be monitored.

LIN has extensive experience in providing advisory and litigation services within the mobility industry, particularly in areas such as administrative regulations and patents and trade secret disputes related to motor vehicles. Our Mobility Team features attorneys and experts with a distinctive interest and passion for motor vehicles.

Should you wish to learn more about this newsletter or have any other inquiries, please do not hesitate to contact our firm's **Mobility Team**:

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