

# smart connections



## CALIFORNIA

California permits testing autonomous vehicles on public roads if, among other requirements, a person is in the driver's seat that is capable of taking immediate manual control of the vehicle in the event of a technology failure or other emergency. The operator must be an employee of the testing company, and the testing company must have a \$5 million insurance policy.<sup>[8]</sup>

In January 2016, Assembly Bill 1592 was introduced to expand California's existing law and launch a pilot project to test "autonomous vehicles that do not have an operator and are not equipped with a steering wheel, a brake pedal, or an accelerator if the testing is conducted only at specified locations and the autonomous vehicle operates at speeds of less than 35 miles per hour."<sup>[9]</sup> This bill was approved by the Governor of California on September 29, 2016.<sup>[10]</sup>

After the release of the NHTSA AV Policy, the California Department of Motor Vehicles released a proposal that would require auto manufacturers to submit the 15-point safety assessment before testing or deploying automated vehicles in California.<sup>[11]</sup> Critiques of this approach have asserted that requiring this in California would counter the flexible strategy offered by the federal government with this assessment, while supporters claim that the provision does not go far enough and driverless cars should be prohibited on public California roads until the federal standards are in place. The California proposal would also require driverless cars to have data recorders and an order for manufacturers to release the data captured on these recorders within 24 hours of a request from law enforcement.



## DISTRICT OF COLUMBIA

D.C. Code permits an autonomous vehicle to operate on a public roadway provided that the car: (1) has a manual override feature to allow the driver to assume control at any moment; (2) has a driver seated in the control seat of the car while in operation who is prepared to take control of the car at any moment; and (3) the car is capable of operating in compliance with the District's applicable traffic and motor vehicle laws and traffic control devices.<sup>[12]</sup>

## FLORIDA

In 2012, Florida enacted legislation that allows autonomous vehicle testing on public roads.<sup>[13]</sup> Florida law requires a licensed driver who is affiliated with the company conducting the test; however, Florida does not require any further certifications. Although an operator is otherwise defined to include "someone who causes the autonomous technology to engage, regardless of whether or not that person is present in the vehicle while it operates in autonomous mode,"<sup>[14]</sup> a human operator must be present in the autonomous vehicle during testing on state roads.

The Florida Department of Highway Safety and Motor Vehicles was also required to submit a report to the Senate President and Speaker of the House recommending additional legislative or regulatory action that may be required for the safe testing and operation of autonomous vehicles. In 2014, the Department proposed no changes to existing Florida laws and rules.<sup>[15]</sup>

Florida is viewed as likely the least restrictive state when it comes to autonomous vehicles.<sup>[16]</sup>

## STATE LEADERSHIP ON AUTONOMOUS VEHICLE LAWS

The Center for Internet and Society (CIS) at Stanford Law School tracks and maintains a public website for legislative and regulatory developments related to autonomous vehicles.<sup>[1]</sup> A comprehensive chart of enacted, under consideration, and failed legislation is available [here](#).

Several states have considered legislation or regulation for autonomous vehicles and other states have legislation under development; however, many bills have failed due to a lack of universal acceptance and/or understanding of autonomous vehicles. States that have successfully passed autonomous vehicle legislation have instituted varying requirements related to insurance, safety mechanisms, liability, non-testing/ public use of autonomous vehicles, and the presence of a human operator in the vehicle.<sup>[2]</sup>

On September 20, 2016, the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) released an Automated Vehicle Policy, which offered new standards to expand the federal government's role in developing and deploying autonomous vehicles. The Department of Transportation sought public comment on the Policy through November 22, 2016 and anticipates updating its driverless car regulations annually.

According to the National Highway Traffic Safety Administration Administrator, Dr. Mark Rosekind, "[t]he Policy covers all automated vehicles that are designed to operate on public roads. That includes personal light vehicles, as well as heavy trucks. It even includes vehicles that might be designed to not carry passengers at all."<sup>[3]</sup>

Under the NHTSA Policy, states retain control over traditional transportation components, such as enacting and enforcing traffic laws, insurance, and liability, as well as establishing requirements for autonomous vehicle testing on public roads. The federal government will have primary control over automation software, setting safety standards, enforcement, and recalls.<sup>[4]</sup>

The Policy also offers "Vehicle Performance Guidance for Automated Vehicles," which provides guidance for manufacturers, developers, and other organizations involved in the development of automated vehicles. The Vehicle Performance Guidance section offers a 15-point safety checklist/ assessment for automakers to certify that they are addressing privacy, ethical, and other standards. This approach was "designed to strike a balance between safety and innovation while leaving room for the federal guidance to evolve with the emerging technology."<sup>[5]</sup>

NHTSA's Policy encourages states to coordinate across state lines on infrastructure and uniformity across signage, signals, and more.<sup>[6]</sup> State legislative efforts are outlined to the left. In addition, the Arizona and Massachusetts Governors have issued executive orders related to self-driving vehicles and seven states are considering legislation related to self-driving technologies.<sup>[7]</sup>

Summaries as of December 2016



## MICHIGAN

As will likely be the case in many states, recent legislation in Michigan struggles to reconcile its existing motor vehicle code with automated driving provisions.<sup>[17]</sup> In December 2013, Michigan enacted legislation to allow for autonomous vehicle testing.<sup>[18]</sup> However, as of 2015, Michigan was the only state to specifically ban automated vehicles for non-testing purposes.

In the fall of 2016, Michigan passed Senate Bills 995, 996, 997, and 998. Senate Bill 995 repeals Michigan's prior ban on automated driving for non-testing purposes and expressly authorizes automated vehicles on Michigan streets and highways.<sup>[19]</sup> As a result, companies are now able to test autonomous vehicles without a driver or a steering wheel on Michigan public roads.<sup>[20]</sup> The bill also exempts "groups of closely spaced and tightly coordinated vehicles from certain follow-distance requirements that are incompatible with platooning," as long as a human is in each truck.<sup>[21]</sup> The package of bills also permits auto manufacturers and technology companies to operate automated taxi services. Once the vehicles are tested and certified, Michigan also permits the sale of self-driving cars to public consumers.

The self-driving cars will need to comply with federal safety standards and may have to be certified as roadworthy by NHTSA if the proposed federal guidelines are adopted.<sup>[22]</sup> Among the many outstanding questions regarding widespread adoption of autonomous vehicles is the issue of insurance. According to Michigan's Transportation Director, Kirk Steudle, the vehicles would be governed by Michigan's no-fault insurance laws that require each driver's insurance to pay for damage in the event of an accident and the manufacturers could be sued under product liability laws.<sup>[23]</sup>

## NEVADA

Nevada was the first state to pass legislation related to autonomous vehicles on public roads.<sup>[24]</sup> According to Nevada law, an autonomous vehicle operator must submit proof of insurance for \$5,000,000 or post a surety bond or other form of security for the same amount prior to testing the vehicle on state highways. In addition, the car must be equipped with a means for the operator to easily engage and disengage the autonomous technology, a visual indicator inside the vehicle that signals when the autonomous technology is operating, and a mechanism to alert the operator to take control if the autonomous technology fails. Testing is permitted in specific geographic zones, but the operator may apply to test in additional areas.<sup>[25]</sup>

In February 2012, Nevada adopted its motor vehicle department's proposed regulations for autonomous vehicles, which require a special driver's license certification and license plates, as well as pre-operation certifications by the manufacturer that the vehicle complies with safety regulations. Nevada regulations also require a passenger in the car who is also trained in autonomous vehicles to actively monitor for any abnormality in the vehicle functioning.<sup>[26]</sup>

## NORTH DAKOTA

House Bill 1065 provides for a legislative management study of automated motor vehicles - "[d]uring the 2015-2016 interim, the legislative management shall consider studying what, if any, current laws need to be changed to accommodate the introduction or testing of automated motor vehicles in North Dakota and any automated corridors affecting North Dakota."<sup>[27]</sup>

## PENNSYLVANIA

In 2016, Senate Bill 1268 was introduced in Pennsylvania. If enacted, the legislation would provide for controlled automated vehicle testing and support for in-vehicle and remote-operator testing.<sup>[28]</sup> Pennsylvania also has a newly established Autonomous Vehicles Testing Policy Task Force that is tasked with developing guidance for the Pennsylvania Department of Transportation to use when drafting an autonomous vehicle policy.<sup>[29]</sup>

## TENNESSEE

Legislation enacted in Tennessee in May 2016 creates requirements for operator-required autonomous vehicles (ORAVs) and no-operator-required autonomous vehicles (NORAVs).<sup>[30]</sup>

Tennessee law requires that no political subdivision may prohibit the use of a motor vehicle equipped with autonomous technology if it otherwise complies with all safety regulations.

## UTAH

HB 373 modifies the Motor Vehicles Act to authorize the Utah Department of Transportation to conduct a connected vehicle technology testing program outside of an urbanized boundary.<sup>[31]</sup>

[1] Gabriel Weiner and Bryant Walker Smith, *Automated Driving: Legislative and Regulatory Action*, [cyberlaw.stanford.edu/wiki/index.php/Automated\\_Driving:\\_Legislative\\_and\\_Regulatory\\_Action](http://cyberlaw.stanford.edu/wiki/index.php/Automated_Driving:_Legislative_and_Regulatory_Action). The search encompasses automated driving, automatic driving, autonomous driving, self-driving vehicles, and driverless cars.

[2] William J. Kohler & Alex Colbert-Taylor, *Current Law and Potential Legal Issues Pertaining to Automated, Autonomous and Connected Vehicles*, 31 SANTA CLARA HIGH TECH. L.J. 99, 119 (2015).

[3] *Disrupter Series: Self-Driving Cars Before the H. Comm. on Energy and Commerce*, 114th Cong. 4 (2016) (statement of Dr. Mark Rosekind, Administrator, National Highway Traffic Safety Administration).

[4] Melanie Zanona, *California weighs self-driving car rules*, THE HILL, (Oct. 19, 2016), <http://thehill.com/policy/transportation/301863-california-weighs-self-driving-car-rules>.

[5] *Id.*

[6] *Disrupter Series: Self-Driving Cars Before the H. Comm. on Energy and Commerce*, 114th Cong. 5 (2016) (statement of Gary Shapiro, President and CEO, Consumer Technology Association).

[7] *Id.* at 4.

[8] Kohler, *supra* note 2, at 115.

[9] 2015 California Assembly Bill No. 1592, *California 2015-2016 Regular Session*, available at [http://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201520160AB1592](http://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB1592).

[10] *Id.*

[11] Zanona, *supra* note 4.

[12] D.C. CODE § 50-2352 (2013), available at <https://beta.code.dccouncil.us/dc/council/code/titles/50/chapters/23A/>.

[13] *Vehicles with Autonomous Technology Act*, ch.2012-111, 2012 Fla. Laws 1223.

[14] Kohler, *supra* note 2, at 114.

[15] *Id.* at 115.

[16] Tom Krisher, *Michigan Lets Autonomous Cars on Roads Without Human Driver*, ASSOCIATED PRESS (Dec. 9, 2016), <http://www.foxsports.com/motor/story/michigan-laws-autonomous-cars-no-driver-steering-wheel-121216>.

[17] Bryant Walker Smith, *Michigan's Automated Driving Bills*, THE CENTER FOR INTERNET AND SOCIETY BLOG (Sept. 6, 2016, 7:16 PM), <http://cyberlaw.stanford.edu/blog/2016/09/michigans-automated-driving-bills>.

[18] 2013 Michigan Senate Bill No. 169, *Michigan Ninety-Seventh Legislature - Regular Session of 2013*.

[19] Smith, *supra* note 17.

[20] Krisher, *supra* note 16.

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] Nev. Rev. Stat. Ann. § 482A (West).

[25] Kohler, *supra* note 2, at 112.

[26] *Id.* at 113.

[27] ND LEGIS H.B. 1065 (2015), 2015 North Dakota Laws H.B. 1065 (West's No. 9).

[28] 2015 Pennsylvania Senate Bill No. 1268, *Pennsylvania One Hundred Ninety-Ninth General Assembly - 2015-2016*.

[29] PR Newswire, *Pennsylvania Takes Steps to lead on Autonomous Vehicle Development, Testing with Newly Established Task Force, Legislation*, THE BUSINESS JOURNALS (June 1, 2016), [http://www.bizjournals.com/prnewswire/press\\_releases/2016/06/01/DC13375](http://www.bizjournals.com/prnewswire/press_releases/2016/06/01/DC13375).

[30] AUTONOMOUS VEHICLES—DEFINITIONS, 2016 Tennessee Laws Pub. Ch. 927 (S.B. 1561), available at <http://wapp.capitol.tn.gov/apps/BillInfo/default.aspx?BillNumber=SB1561&GA=109>.

[31] 2015 Utah House Bill No. 373, *Utah Sixty-First Legislature - 2015 General Session*, 2015 Utah House Bill No. 373, *Utah Sixty-First Legislature - 2015 General Session*, available at <http://le.utah.gov/~2015/bills/static/HB0373.html>.

icemiller.com

THE  
INTERNET  
OF THINGS

IceMiller  
LEGAL COUNSEL