

US DEPARTMENT OF TRANSPORTATION ISSUES UPDATED GUIDANCE ON AUTOMATED VEHICLES

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Legal Briefings - By **Joseph Falcone, Philip Pfeffer and James Allsop**

The US Department of Transportation (DOT) has issued a new federal guidance for automated vehicles intended to support the safe and cost-effective integration of automated technologies across all modes of the US surface transport system, including cars, trucks and mass transit, and which offers the possibility of changing current motor vehicle safety standards to permit fully driverless cars.

The guidance, "Preparing for the Future of Transportation: Automated Vehicles 3.0" (AV 3.0) (available [here](#)) builds on a prior DOT guidance, "Automated Driving Systems 2.0: A Vision for Safety," issued in September 2017 to assist industry and regulators in crafting approaches for the safe development, testing and deployment of automated vehicle technology. In announcing the AV 3.0 guidance, US Transportation Secretary Elaine Chao remarked that "the integration of automation across our transportation system has the potential to increase productivity and facilitate freight movement. But most importantly, automation has the potential to impact safety significantly—by reducing crashes caused by human error, including crashes involving impaired or distracted drivers, and saving lives."

To advance DOT's goal of realizing the commercial and economic benefits of automated vehicle technology while simultaneously promoting transportation safety, AV 3.0 provides several key updates and clarifications to US autonomous vehicle initiatives and policies, which include:

Adapting (via regulation) the definitions of "driver" and "operator" in federal motor vehicle safety standards to clarify that such terms "do not refer exclusively to a human, but may in fact include an automated system."

Working with industry and stakeholders to address potential changes to motor carrier safety regulations to accommodate the integration of commercial vehicles, including trucks, equipped with automated vehicle technology.

Affirming DOT's authority to establish motor vehicle safety standards that allow for innovative automated vehicle designs (e.g., vehicles without steering wheels, pedals, or mirrors).

Urging US states and municipalities to remove barriers (including "unnecessary and incompatible regulations") to automated vehicle technologies.

Encouraging the auto industry, wireless technology companies and others to continue developing technologies to preserve and leverage the 5.9 GHz spectrum for transportation safety benefits.

Reaffirming DOT's reliance on a "self-certification approach, rather than type approval, as the way to balance and promote safety and innovation," which approach DOT advocates to the wider international community.

Establishing voluntary standards (including those being developed through standards development organizations) for vehicle and infrastructure safety, mobility and operations.

To support AV 3.0, the National Highway Traffic Safety Administration (NHTSA), the federal agency principally responsible for US road safety, has opened a public consultation seeking comments on potential factors to be considered in designing a national pilot program for the safe on-road testing and deployment of vehicles equipped with automated driving systems. The consultation is available [here](#) and will remain open through 26 November 2018.

In contrast to the flurry of regulatory activities, US legislative efforts (on which we previously [reported](#)), that are intended to provide uniform standards for the nationwide testing and deployment of autonomous vehicles, remain stalled in the US Senate, due to concerns raised by several senators regarding safety and cybersecurity issues. It remains to be seen whether the issuance of AV 3.0 will spur Senate action, though any substantive movement on federal legislation seems unlikely to occur until after the November 2018 mid-term elections.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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