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Autonomous Vehicles: Emerging Technology, Emerging Risks

Update of the Law CLE June 14, 2018

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An Introduction to Autonomous Vehicle Technology

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AUTOMATION LEVELS OF AUTONOMOUS CARS

LEVEL 0  There are no autonomous features.	LEVEL 1  These cars can handle one task at a time, like automatic braking.	LEVEL 2  These cars would have at least two automated functions.
LEVEL 3  These cars handle "dynamic driving tasks" but might still need intervention.	LEVEL 4  These cars are officially driverless in certain environments.	LEVEL 5  These cars can operate entirely on their own without any driver presence.

SOURCE: SAE International BUSINESS INSIDER

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Are We at Level 2 or Level 3?

- New vehicles are being developed with the goal of reaching Level 3 autonomy.
- There is disagreement as to what actually constitutes “Level 3” technology.

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Where are we now?

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Where are we going?

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Audi A8: SAE Level 3?



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- The AI Traffic Jam Pilot system of the [new A8](#) is the market's first SAE Level 3 autonomous system and will initially be offered in European A8 models

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Legal Challenges Ahead

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Volume, Volume, Volume

- Waymo
 - 62,000 Pacifica minivans from Fiat Chrysler
 - 20,000 I Pace SUVs from Jaguar
- The industry
 - 10 million self-driving cars by 2020

<https://www.forbes.com/sites/alanahornhamer/2018/05/31/waymo-adding-up-to-62000-minivans-to-robot-fleet-may-supply-tech-for-fiat-models/#4ead6214598>
<https://www.reuters.com/article/us-volvocars-uber/volvo-cars-to-supply-uber-with-up-to-24000-self-driving-cars-idUSKBN1DK1NH>
<https://www.forbes.com/sites/olivergarnet/2017/03/03/10-million-self-driving-cars-will-hit-the-road-by-2020-heres-how-to-profit/>

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Who Gets the Ticket?



"Does your car have any idea why my car pulled it over?"

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Who Foots the Bill?

- Nameplate manufacturer
- Supplier
- Owner (with right of indemnity)
- Operator (with right of indemnity)
- No fault ?
- Punitive damages

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Practical Litigation Issues

- How will auto litigation change?
 - Defendants: Who will be named?
 - Theories: Negligence or product liability?
 - Risk Benefit v. Consumer Expectations
 - Evidence: How does “black box” data impact discovery and potential for settlement?

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Impact on Insurance

- Declining crash rates
- Declining crash severity
- Skyrocketing repair costs
- Shift from Owner to Manufacturer?
- Manufacturer indemnity

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Public Policy Implications

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Snapshot: The Regulatory Landscape

- Traditional State v. Federal Roles
- State Regulation of AVs
 - How many states have acted?
 - What have they done?
- Federal Activity
 - What has NHTSA done?
 - What how does the pending federal legislation impact liability?

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The Road Forward: Concerns

- Will every car accident become a complex product liability lawsuit?
- Will excessive liability delay or discourage innovation and safer products?
- Will constraints on liability become necessary? Is a new system needed?

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The Road Forward: Solutions?

- Challenge: Lack of consensus on how the liability system should evolve
- Danger: The wait-and-see approach
- Next step: Developing a path forward

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