



FLORIDA'S AUTONOMOUS VEHICLE LAW-2016:

First State to Legalize Fully Self-Driving Cars

by Adam J. Langino, Leslie M. Kroeger and Theodore J. Leopold

On March 11, 2016, Florida legislators voted unanimously to approve House Bill 7027. When that bill was signed on April 4, 2016, and went into effect on July 1, 2016, Florida became the nation's first state to legalize fully autonomous vehicles on public roads without a driver behind the wheel.

If the vehicle can drive itself without input from a driver, then Florida statute 316.003(2) considers it to be an autonomous vehicle:

Any vehicle equipped with autonomous technology [is an autonomous vehicle]. The term "autonomous technology" means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including,

without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

Florida law also allows any person that possesses a valid driver's license to operate an autonomous vehicle in autonomous mode.¹ No specialized safety education is required before a person is legally permitted to operate an autonomous vehicle on Florida's roadways. Furthermore, the person operating the autonomous vehicle does not even have to be in the vehicle when it is driving in Florida autonomously.²



Under the law, it appears to follow that an operator and/or owner of an autonomous vehicle could be liable for a crash despite not being in or near his or her vehicle at the time it occurred.

Florida statute 319.145 requires autonomous vehicles registered in the state of Florida to meet federal standards and regulations for a motor vehicle.⁵ However, it does not require vehicle inspections to ensure that operators of autonomous vehicles keep their automobiles updated with the latest, best, self-driving software, nor with federal standards that are still in flux.

The statute does require the following:⁴

- autonomous vehicles must have a means to engage and disengage the autonomous technology, and the means must be easily accessible to the operator;
- they must have a means, inside the vehicle, to visually indicate when it is operating in autonomous mode;
- they must have a means of alerting the operator of a technology failure; and
- they must be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.

Florida Statute 316.303 was also amended as part of House Bill 7027. While prior versions of the law made it illegal for Floridians to operate motor vehicles with entertainment displays that were visible from the driver's seat, self-driving vehicles are now exempt from this provision while being operated in an autonomous mode.⁵

Prior to House Bill 7027, Florida Statute 316.86 required an entity, such as Google, if testing autonomous vehicles in Florida, to have at least \$5 million in insurance coverage.⁶ The 2016 amendments deleted that provision. In addition, Florida Statute 316.86 now provides the manufacturer of a vehicle the following exemption from liability:

"The original manufacturer of a vehicle converted by a third party into an autonomous vehicle is not liable in, and shall have a defense to and be dismissed from, any legal action brought against the original manufacturer by any person injured due to an alleged vehicle defect caused by the conversion of the vehicle, or by equipment installed by the converter, unless the alleged defect was present in the vehicle as originally manufactured."⁷

It is of no surprise, then, that when California stopped Uber from operating its self-driving cars in San Francisco, Florida was eager to court its business. State Senator Jeff Brandes, R-St. Petersburg, who has been an advocate for self-driving cars in Florida, went so far as to tweet at the company:

Florida has been ahead of the self-driving curve for some time now. In 2014, the Tampa Hillsborough Expressway Authority ("THEA") announced that the Lee Roy Selmon Expressway was approved by the U.S. Department of Transportation to become a connected vehicle test bed. According to the THEA, the test bed allows researchers to "test the safety, mobility, environmental, and efficiency advantages, services, standards and components of autonomous vehicle technologies in partnership with the Tampa Hillsborough Expressway Authority and the University of South Florida's Center for Urban Transportation Research Automated Vehicle Institute."⁸



Jeff Brandes @JeffreyBrandes · 22 Dec 2016

Hey @Uber, unlike California we in Florida welcome driverless cars - no permit required. #OpenForBusiness #FlaPol



Uber Removes Its Self-Driving Cars From San Francisco Roads

Regulators say they need a permit. Uber says it's not obligated to get one
time.com

To put it another way, you could have been driving next to self-driving cars for years without even knowing it.

From an industry safety perspective, the enthusiasm for automated vehicles may be warranted. In September 2016, the United States Department of Transportation published its Federal Automated Vehicles Policy.⁹ In its report, the U.S. D.O.T. noted that 35,092 people died on U.S. roadways in 2015, and that 94 percent of crashes can be tied to human choice or error. The DOT wrote that its “excitement around highly automated vehicles starts with safety,” particularly with the possibility that self-driving cars could “dramatically decrease the number of crashes tied to human choices and behavior.”¹⁰ The Insurance Institute of Highway Safety found that “vehicles equipped with front crash prevention are much less likely to rear-end other vehicles” and that vehicles with “automatic braking reduce rear-end crashes by about 40 percent on average, while forward collision warning alone cuts them by 23 percent.”¹¹ After evaluating crash data involving Volvo’s City Safety standard low-speed auto brake system, the IIHS noted that “autobrake reduces injuries.”¹² The IIHS also found that the “rate of rear-end crashes with injuries decreases by 42 percent with forward collision warning with autobrake and 47 percent with City Safety,” and that “forward collision warning alone is associated with a 6 percent decrease in rear-end injury crashes.”¹³

Autonomous vehicles are coming sooner than you think. Ford’s CEO announced that the company plans to offer fully self-driving vehicles by 2021. Volkswagen expects its first self-driving cars to go to market by 2019. General Motors’ head of foresight and trends thinks that self-driving cars will be on the road by 2020. BMW intends to launch a self-driving vehicle in 2021. Toyota plans to bring its first autonomous vehicles to the market by 2020. Audi intends to sell a fully autonomous A8 in 2017 and Nissan intends to provide fully autonomous vehicles by 2020.¹⁴

Our jobs as Florida practitioners is not only to understand new laws and how they affect the citizens of our state, but to stay mindful of the legislative process, maintaining our vigilance to insure accountability and access to justice. With this in mind, as consumer advocates following the new “fully self-driving car” technology, it is critical that we understand Florida’s automated vehicle statutes, follow the trends in self-driving vehicles, and grasp the speed at which this technology is evolving to help shape developing laws. We must be vigilant that the push for technological innovation is not at the expense of the safety of our communities. ■

¹ Fla. Stat. 316.85(1)

² Fla. Stat. 316.85(2)

³ Fla. Stat. 319.145(1)

⁴ Fla. Stat. 319.145(1)(a) - (d)

⁵ Fla. Stat. 316.303

⁶ Fla. Stat. 316.86(1) (2012) (repealed)

⁷ Fla. Stat. 316.86 Exemption from liability for manufacturer when third party converts vehicle.

⁸ “Driving Innovation and Opportunity - Tampa Bay is ready to connect to Autonomous Vehicle Technology” Tampa Hillsborough Expressway Authority, <http://www.tampa-xway.com/wp-content/uploads/2016/06/THEA-autonomous-vehicle-bro-and-facilities-map-final.pdf>

⁹ “Federal Automated Vehicles Policy - Accelerating the Next Revolution in Roadway Safety” by U.S. Department of Transportation, September 2016, <https://www.transportation.gov/sites/dot.gov/files/docs/AV%20policy%20guidance%20PDE.pdf>

¹⁰ *Id.*

¹¹ “Crashes Avoided - Front crash prevention slashes police-reported rear-end crashes”, Insurance Institute for Highway Safety, Status Report, Vol. 51, No. 1, January 28, 2016, <http://www.iihs.org/iihs/news/desktopnews/crashes-avoided-front-crash-prevention-slashes-police-reported-rear-end-crashes>

¹² *Id.*

¹³ *Id.*

¹⁴ Information compiled from “Driverless car market watch” http://www.driverless-future.com/?page_id=384

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