

### House Hands SELF DRIVE Act to Senate

Mark T. Cramer, Eric Kennedy, and Daniel Arkof

On September 6, 2017, the House unanimously passed the Safely Ensuring Lives Future Deployment and Research In Vehicle Evolution Act (the SELF DRIVE Act), bringing the nation one step closer to an autonomous vehicle reality. If enacted, the SELF DRIVE Act ("The Act") would become the first federal law on autonomous vehicles.

The Act accomplishes two principal functions. First, it centralizes autonomous vehicle rulemaking authority in the federal government. Traditionally, the federal government has regulated vehicles while states have regulated the drivers. Self-driving cars thus posed a new problem to an old legal model: which law applies when the driver is a computer?

In the absence of federal oversight, over 20 states have attempted to answer this question by creating their own laws and guidelines. The resulting inconsistency and instability has created a legal quagmire hindering the development, testing, and deployment of self-driving cars. Attempting a solution, the Act institutes a uniform body of federal law on vehicle design while allowing states to maintain authority over licensing, insurance, liability, education, training, and traffic laws.

Second, the Act facilitates innovation and development by authorizing manufacturers to put more test vehicles on public roads. Currently, the National Highway Traffic Safety Administration may only grant 2,500 Federal Motor Vehicle Safety Standards exemptions annually to autonomous vehicle makers that want to test their vehicles on the road. The Act increases the number of test vehicles to 25,000 in the first year; 50,000 in the second year; and 100,000 by the third and fourth years. More testing likely means faster development and adoption.

For some, this seems too fast. Professor Raj Rajkumar of Carnegie Mellon University has expressed concern that having more autonomous vehicles on the road increases the chances of human injury, which could induce a backlash against autonomous vehicle technology. The Alliance of Automobile Manufacturers had a different take: "Automakers have been developing these technologies for years and this legislation helps address a variety of barriers that otherwise block the ability to safely test and deploy these vehicles."

During the testing phase, autonomous vehicle makers cannot simply release cars onto public roads without any oversight. Obtaining an exemption requires submitting a detailed analysis showing that the test vehicle is at least as safe as existing vehicles. Other requirements include reporting crashes involving test vehicles and listing these vehicles in a public database. The Act also requires manufacturers to have a written cybersecurity plan as

well as published privacy policies explaining what they will do with collected data.

The Act comes at a time when there is no clear leader in the global autonomous vehicle market and China, Japan, and the EU are racing to develop self-driving cars. "If we're going to stay at the forefront of innovation and technology in this country, we have to be driving the technology for autonomous vehicles," said U.S. Rep. Debbie Dingell, D-Michigan. "With this legislation, innovation can flourish without the heavy hand of government," added U.S. Rep. Bob Latta, R-Ohio, who drafted the Act.

Now that the Act has passed the House, it moves to the Senate, which is drafting its own autonomous vehicles bill. By finalizing its bill, hopefully the Senate will work with the House to create compromise legislation for President Trump's signature.

If you have any questions, please contact any of the Buchalter attorneys listed below.



*Mark T. Cramer is a Shareholder in the Firm's Los Angeles office. He can be reached at 213.891.5067 or [mcramer@buchalter.com](mailto:mcramer@buchalter.com).*



*Eric Kennedy is a Shareholder in the Firm's Los Angeles office. He can be reached at 213.891.5051 or [ekennedy@buchalter.com](mailto:ekennedy@buchalter.com).*



*Daniel Arkof is an Attorney in the Firm's Los Angeles office. He can be reached at 213.891.5208 or [darkof@buchalter.com](mailto:darkof@buchalter.com).*