

Arkansas' New Driverless-Vehicle Bill Makes Important Products Liability Distinction



Benjamin Jackson
bjackson@mwlaw.com
(501) 688.8887



Devin Bates
dbates@mwlaw.com
(501) 688.8864

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All that remains for an updated driverless-vehicle bill in Arkansas is the signature of Governor Asa Hutchinson. House Bill 1562, which amends Arkansas' 2019 pilot program for autonomous vehicles was approved by a unanimous vote of the Arkansas House of Representatives in March, and was approved by a unanimous vote of the Arkansas Senate earlier this month.

The bill, entitled "An Act to Amend the Law Concerning Autonomous Vehicles; and for Other Purposes" is expected to soon become law. It will transition from the previous "pilot program" to a formalized law allowing autonomous trucks and cars to travel Arkansas roads. The Arkansas Highway Commission will regulate those vehicles.

Under the new law, autonomous vehicles must be operated by an individual with a valid driver's license, and they must serve a documented commercial purpose. The law specifically allows for vehicles which do not have seat belts, a steering wheel, or a rearview mirror. The vehicle can be operated in Arkansas by remote operator, assuming that the vehicle is "capable of complying with all applicable traffic and motor vehicle safety laws" of Arkansas.

Significantly, the "Liability" subsection of this law gives clear guidance on potential exposure in the event of an accident involving an autonomous vehicle in Arkansas. First, subsection (a) provides that "[t]he liability for an accident involving an autonomous vehicle or fully autonomous vehicle is determined in accordance with applicable state or federal law." Second, subsection (b) provides that "the original manufacturer of a vehicle converted by a third party into autonomous vehicle or fully autonomous vehicle is not liable in any legal action."

As autonomous vehicles hit Arkansas roads and highways in greater volume, we now have a little more guidance as to how liability, and lawsuits, will be governed when accidents occur. In general, it appears that tort liability will primarily mirror current motor vehicle civil litigation. The requirement for a licensed "driver", and the requirement for a commercial purpose to be registered by the vehicle's owner, will allow litigants to identify potential parties following accidents. It will also create legal issues around how to define the parameters of an autonomous vehicle's "commercial purpose" and whether that registered purpose was violated. Additionally, the Arkansas legislature specifically protected truck and automobile manufacturers from any liability involving vehicles that were not autonomous at the time of manufacture. It will be interesting to see not only how that subsection impacts litigation related to autonomous vehicles, but also the contractual and business relationship between vehicle manufacturers and the companies who seek to use those vehicles autonomously in this State.

For more information, contact [Attorney Ben Jackson](#) at 501-688-8887 or [Attorney Devin Bates](#) at 501-688-8864.