

CLIENT ALERT

Humanless Self-Driving Cars to be Tested for the First Time on California's Public Roads

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On February 26, 2018, California's Office of Administrative Law approved final rules for the testing and deployment of fully autonomous vehicles. This will allow self-driving car companies to test self-driving cars—with no human driver—on California's public roads. These final rules are effective April 2, 2018.

Many autonomous vehicle companies already have permits to test their self-driving vehicles in California, but the law requires that they have an actual human operator in the vehicle. California's new rules are a game changer. The rules allow these companies to deploy self-driving vehicles without a human present in the vehicle. Under the new rules, autonomous vehicle companies seeking to take advantage of California's public roads for testing self-driving cars must:

- Meet all of the DMV's application requirements and secure a testing permit from the DMV.
- Certify that the autonomous test vehicle complies with all Federal Motor Vehicle Safety Standards or demonstrate to the DMV that the company has received an exemption from the United States Department of Transportation's National Highway Traffic Safety Administration.
- Provide written notification to local authorities of details on where the vehicles will be tested.
- Certify that there is a communication link between the vehicle and a remote operator, which enables communication between the vehicle and law enforcement.
- Provide an explanation of how they will monitor test vehicles.
- Maintain a training program for remote operations and certify that all operators have completed training.
- Submit an annual disengagement report, tracking every incident where the car's self-driving technology may have failed.
- Provide collision reports to the DMV within 10 days of the collision.
- Certify that the self-driving car contains a data recorder which detects and responds to roadway situations in compliance with California's Vehicle Code and the Federal Motor Vehicle Standards (or evidence of an exemption from NHTSA).
- Certify that the vehicles comply with data and cybersecurity industry standards, including defense against hacking, unauthorized intrusions, or false vehicle control commands.
- Remember that companies still owe a duty to report any safety defects with their self-driving cars.

Some key takeaways for autonomous vehicle companies from California's new rules are that the testing vehicles should comply with not only California's local laws, but also applicable federal laws. To that end, makers of self-driving cars must take seriously any data or cybersecurity breaches and take every step possible to ensure against any breaches during testing on California's public roads. Companies should develop comprehensive solutions and plan for the exigency of breaches during testing, especially if there is no human operator in their vehicle.

It is an exciting time for autonomous vehicle makers as California's new rules pave the way for driverless cars to hit the road.

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