



## **NEW JERSEY LAW REVISION COMMISSION**

### **Draft Final Report**

### **Autonomous Motor Vehicles**

**October 05, 2020**

The work of the New Jersey Law Revision Commission is only a recommendation until enacted.  
Please consult the New Jersey statutes in order to determine the law of the State.

Please send comments concerning this Report or direct any related inquiries, to:

Samuel M. Silver, Deputy Director  
New Jersey Law Revision Commission  
153 Halsey Street, 7th Fl., Box 47016  
Newark, New Jersey 07102  
973-648-4575  
(Fax) 973-648-3123  
Email: [sms@njlrc.org](mailto:sms@njlrc.org)  
Web site: <http://www.njlrc.org>

## Executive Summary<sup>1</sup>

On August 20, 2017, Staff was asked by the Commission to review the status of New Jersey's position on autonomous vehicles.

In response to the Commission's request, Staff collected information from the National Highway Traffic Safety Administration ("NHTSA") on this topic.<sup>2</sup> In addition, Staff reviewed each state's statutes and pending legislation in this burgeoning field of law.<sup>3</sup> Finally, Staff reviewed New Jersey's pending legislation and the Uniform Law Commission's work in this area.<sup>4</sup>

On October 18, 2018, the Commission authorized Staff to engage in legislative outreach and the continuous monitoring of this issue to determine whether this subject matter might give rise to a project for the Commission, Staff examined the background and the current state of this area of law. The following pages outline additional developments in this area of law.

## Legislative Update

### • *New Jersey's Autonomous Vehicle Task Force*

On March 28, 2019, Governor Phil Murphy signed into law a Joint Resolution establishing the "New Jersey Advanced Autonomous Vehicle Task Force."<sup>5</sup> The stated purpose of the task force is to "...conduct a study of autonomous vehicles and to make recommendations on laws, rules, and regulations that this State may enact or adopt to safely integrate advanced autonomous vehicles on the State's highways, streets and roads."<sup>6</sup>

The study of this emerging area of law is to be conducted by individuals with knowledge in this field.<sup>7</sup> The eleven member task force established by the Joint Resolution consists of the following members: the Commissioner of Transportation; the Chief Administrator of the New Jersey Motor Vehicle Commission; the Director of the Division of Highway Traffic Safety in the Department of Law; a commissioner of the Board of Public Utilities; five members of the public; a member of the public appointed by the Governor upon the recommendation of the President of the Senate; and, one member of the public appointed by the Governor appointed by the Speaker of the General Assembly.<sup>8</sup>

According to P.L.2019, J.R. 2, the task force's authorized membership is to be appointed

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<sup>1</sup> Assistance with collection of information included in this Report was provided by Julie Darius, Temple University Law School.

<sup>2</sup> See Memorandum from Samuel M. Silver, Counsel, New Jersey Law Rev. Comm'n on Autonomous Motor Vehicles to New Jersey Law Rev. Comm'n (Oct. 08, 2018) (on file with the NJLRC and at njlrc.org).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> J.R. No. 2, 218<sup>th</sup> Leg., 2d Ann. Sess. (N.J. 2019).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at sec. b. (1)-(7).

<sup>8</sup> *Id.*

and the initial meeting held 90 days after the Joint Resolution’s effective date.<sup>9</sup> Thereafter, and not later than 180 days after its initial meeting, the task force is to issue a report to the Governor and to the Legislature.<sup>10</sup> This report is required to include the following:

...an evaluation of existing State laws that may unreasonably impede the testing and operation of autonomous vehicles on public roads in this State; an evaluation of existing state and federal law concerning advanced autonomous vehicles with a focus on licensing, registration, insurance, liability, law enforcement and accident reporting, land use, road and infrastructure design, public transit, and workforce changes; recommendations for implementing advanced autonomous vehicle pilot programs to promote the safe testing and operation of advanced autonomous vehicles on public roads in this State; an evaluation of existing legislation and regulations in other states concerning advanced autonomous vehicles; recommendations on how this State could safely integrate advanced autonomous vehicles on its highways, streets, and roads; any other information relevant to the subject of the report; and any draft legislation the task force deems appropriate to implement the purposes of P.L.2019, J.R. 2, which shall be consistent with federal law, regulations, and policy guidance.<sup>11</sup>

Staff has been unable to obtain information regarding the initial meeting of the task force or its report to the Governor or the Legislature.

- *National Highway and Transportation Safety Administration*

On September 12, 2019, the National Highway and Transportation Safety Administration (NHTSA) released new federal guidelines for Automated Driving Systems (ADS). A Vision for Safety 2.0, the latest guidance for automated driving systems to industry and the states. The latest guidance “focuses on SAE international levels of automation 3-5, clarifies that entities are not required to wait to test or deploy their ADS[;] revises design elements from the safety self-assessment[;] aligns federal guidance with the latest developments and terminology[;] and[,] clarifies the role of federal and state governments.”<sup>12</sup> The guidance, however, remains voluntary and does not establish any compliance requirement or mechanism for enforcement.<sup>13</sup>

- *State-by-State Legislative Update*

As of October 9, 2019, the following twenty-nine states, “have enacted legislation related to autonomous vehicles”: Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Michigan, Mississippi, Nebraska, New York, Nevada, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, Tennessee,

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<sup>9</sup> *Id.* at sec. c.

<sup>10</sup> *Id.* at sec. d.

<sup>11</sup> *Id.*

<sup>12</sup> [www.ncsl.org/research/transportation/autonomous-vehicles-self-driving-vehicles-enacted-legislation.aspx](http://www.ncsl.org/research/transportation/autonomous-vehicles-self-driving-vehicles-enacted-legislation.aspx)

<sup>13</sup> *Id.*

Texas, Utah, Virginia, Vermont, Washington, Wisconsin, and Washington, D.C.<sup>14</sup> Although New Jersey is not among the states that have enacted legislation in this area, the New Jersey Legislature is actively working on this subject.

- *New Jersey Legislative Activity*

On March 05, 2018, Senator Declan J. O’Scanlon, Jr., and Senator Robert M. Gordon introduced, “An Act Concerning the Testing and Use of Autonomous Vehicles.”<sup>15</sup> This bill would have permitted autonomous vehicles to “...be operated on any public highway, road, or street within the State **for testing purposes...**” once certain conditions precedent have been met.<sup>16</sup> If the bill had been enacted, New Jersey would have joined the nine states (Connecticut, Maine, Massachusetts, New York, Ohio, Pennsylvania, Utah, Virginia and Washington) that at the time authorized the testing of autonomous vehicles on the public highways, roads and streets of their states.<sup>17</sup> The bill was not enacted during the 2018 session, but it was pre-filed in the 2020 Session of the General Assembly as A1607 along with three other bills on this subject matter.

On January 14, 2020, three members of the Assembly introduced a bill that would direct the Motor Vehicle Commission to establish a driver’s license endorsement for the operation of autonomous vehicles on the highways, roads, and streets of this State.<sup>18</sup> On the same day, the bill was referred to the Assembly Transportation and Independent Authorities Committee.<sup>19</sup> Also on the same day, A1189 was introduced and proposed a fully autonomous vehicle pilot program and supplementing Title 39 of the Revised Statutes.<sup>20</sup> This bill was also referred to the Assembly Transportation and Independent Authorities Committee.<sup>21</sup> Finally, on February 20, 2020, Assemblywoman Carol A. Murphy, introduced legislation which would require the Division of Law and Public Safety to establish a training program to prepare law enforcement to interact with autonomous vehicles.<sup>22</sup> After its introduction, this bill was referred to the Assembly Law and Public Safety Committee.<sup>23</sup>

### Uniform Law Commission

In 2019, the Uniform Law Commission released the Uniform Automated Operation of Vehicles Act (UAOV).<sup>24</sup> The Act “addresses a narrow but foundational set of the many legal and policy issues raised by automated driving” such as deployment of automated vehicles on roads

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<sup>14</sup> *Id.*

<sup>15</sup> S2149, 218th Leg. (N.J. 2018).

<sup>16</sup> *Id.* at 4. Emphasis added.

<sup>17</sup> *Id.* at 4.

<sup>18</sup> A1187, 219<sup>th</sup> Leg. (N.J. 2020) was introduced by Assemblymen Andrew Zwicker, Daniel R. Benson and Assemblywoman Pamela R. Lampitt. This bill was co-sponsored by Assemblyman Jamel C. Holley and Assemblywoman Annette Quijano.

<sup>19</sup> See <https://www.njleg.state.nj.us/bills/BillView.asp> (last visited Apr. 15, 2020).

<sup>20</sup> A1189, 219<sup>th</sup> Leg. (N.J. 2020).

<sup>21</sup> See <https://www.njleg.state.nj.us/bills/BillView.asp> (last visited Apr. 15, 2020).

<sup>22</sup> A2807, 219<sup>th</sup> Leg. (N.J. 2020).

<sup>23</sup> <https://www.njleg.state.nj.us/bills/BillView.asp> (last visited Apr. 15, 2020).

<sup>24</sup> UNIF. AUTOMATED OPERATION OF VEHICLES ACT, Summary (2019).

held open to the public.<sup>25</sup> The Act does not, however, cover automated vehicle testing, remote driving, or vehicles with features that merely assist the human driver.<sup>26</sup>

### **Additional Considerations**

The use of automated vehicles may have effect on the following: interstate commerce; full faith and credit; land use; road and infrastructure design; public transit; cyber-security; privacy; law enforcement; accident reporting; parking permits; meter revenue; insurance requirements; post-production vehicle modification; traffic safety laws (i.e. tailgating); commercial use of automated vehicles; licensing; registration and vehicle inspections to name a few. The New Jersey Advanced Autonomous Vehicle Task Force is authorized to address these issues.<sup>27</sup>

### **Conclusion**

Crafting revised statutory language in a field where the technological advancements are frequently evolving may result in language that could quickly become antiquated. The Legislature has created an Advanced Autonomous Vehicle Task Force, with ready access to technical expertise, to thoroughly examine this area of law and provided recommendations on laws, rules, and regulations to both the Governor and the Legislature.

In addition to the creation of the Task Force, the bills pending in the New Jersey Legislature, indicate that the Legislature is working in this area of the law and is aware of the issues presented.

Staff recommends that the Commission formally conclude its work in this area.

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *See* J.R. No. 2, 218<sup>th</sup> Leg., 2d Ann. Sess. at d.