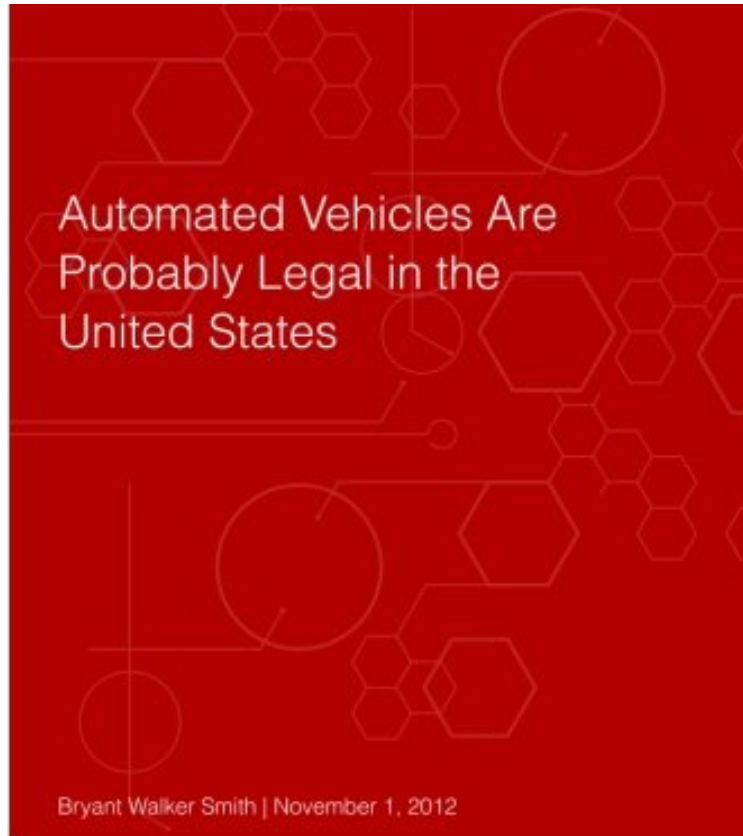


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Note: This is the original 2012 report. An updated 2014 law review article is available as 1 Tex. AM. L. Rev. 411.

This report provides the most comprehensive discussion to date of whether so-called automated, autonomous, self-driving, or driverless vehicles can be lawfully sold and used on public roads in the United States. The short answer is that the computer direction of a motor vehicles steering, braking, and accelerating without real-time human input is probably legal. The long answer, contained in the report, provides a foundation for tailoring regulations and understanding liability issues related to these vehicles. The report's largely descriptive analysis, which begins with the principle that everything is permitted unless prohibited, covers three key legal regimes: the 1949 Geneva Convention on Road Traffic, regulations enacted by the National Highway Traffic Safety Administration (NHTSA), and the vehicle codes of all fifty US states. The Geneva Convention, to which the United States is a party, probably does not prohibit automated driving. The treaty promotes road safety by establishing uniform rules, one of which requires every vehicle or combination thereof to have a driver who is at all times ... able to control it. However, this requirement is likely satisfied if a human is able to intervene in the automated vehicles operation. NHTSA's regulations, which include the Federal Motor Vehicle Safety Standards to which new vehicles must be certified, do not generally prohibit or uniquely burden automated vehicles, with the possible exception of one rule regarding emergency flashers. State vehicle codes probably do not prohibit but may complicate automated driving. These codes assume the presence of licensed human drivers who are able to exercise human judgment, and particular rules may functionally require that presence. New York somewhat uniquely directs a driver to keep one hand on the wheel at all times. In addition, far more common rules mandating reasonable, prudent, practicable, and safe driving have uncertain application to automated vehicles and their users. Following distance requirements may also restrict the lawful operation of tightly spaced vehicle platoons. Many of these issues arise even in the three states that expressly regulate automated vehicles. The primary purpose of this report is to assess the current legal status of automated vehicles. However, the report includes draft language for US states that wish to clarify this status. It also recommends five near-term measures that may help increase legal certainty without producing premature regulation. First, regulators and standards organizations should develop common vocabularies and definitions that are useful in the legal, technical, and public realms. Second, the United States should closely monitor efforts to amend or interpret the 1969 Vienna Convention, which contains language similar to the Geneva Convention but does not bind the United States. Third, NHTSA should indicate the likely scope and schedule of potential regulatory action. Fourth, US states should analyze how their vehicle codes would or should apply to automated vehicles, including those that have an identifiable human operator and those that do not. Finally, additional research on laws applicable to trucks, buses, taxis, low-speed vehicles, and other specialty vehicles may be useful. This is in addition to ongoing research into the other legal aspects of vehicle automation.