

Transportation Infrastructure Revenue Subcommittee

November 25, 2024, hearing on driverless vehicle safety legislation

What this presentation will address:

1. The dangers of driverless vehicles
 - Public safety impacts—what has happened in other states
 - Absence of federal regulations
 - Status of New Mexico laws and regs
 - Workforce impact—job loss
2. Legislative solutions allowing technology advancements while protecting the public
 - Public safety requirements
 - Job replacement strategies

About the Presenters

Mike Sievers is a partner in the Albuquerque law firm McGinn Montoya Love Curry & Sievers, PA, where he has been an attorney since graduating from the UNM School of Law and passing the bar in 2013. He was born and raised in Gallup, NM, graduated from New Mexico State University, and worked in Silver City and Socorro before starting law school. Mike specializes in representing victims of crashes involving commercial motor vehicles and is an advocate for commercial motor vehicle safety, with a national board certification in truck accident law and as a member of the board of directors of the New Mexico Trial Lawyers Association, a member of the board of regents of the national Academy of Truck Accident Attorneys (“ATAA”), a member of the ATAA’s Safety Committee, and as part of the leadership of the American Association for Justice’s Trucking Litigation Group. He has extensively researched the state of the law on driverless vehicles and current issues with the development of driverless vehicles.

Tracy McCarty has been a resident of the State of New Mexico since 1976. Tracy’s parents were small business owners of a trucking company with 16 tractors and 37 trailers. He spent his teen years changing tires and unloading freight. When Tracy was 18 years old, having never wanted to do anything other than drive long-haul trucks, he went on the road for a small operator out of Mena, Arkansas. After three years on the road, he went to work locally but continued to drive long-haul. In 1987, Tracy went to work for a union company, Yellow Freight, where he stayed until 2015. He then went to work for Arkansas Best Freight until 2017 and then became a Business Agent for the International Brotherhood of Teamsters Local 492. Tracy currently represents all the over-the-road road drivers at ABF and Tforce.

Dangers of driverless vehicles

- Driverless vehicles have not been sufficiently tested.
 - Crashes involving human-driven vehicles kill 1.33 people per 100 million miles. Driverless vehicles **have not been tested** for 100 million miles.
 - Driverless vehicles are **more likely** to be involved in crashes with injuries in work zones and crashes involving vehicles slowing down, going straight and moving into opposite lanes.*
- Driverless vehicles have caused numerous crashes.
 - Driverless vehicles were involved in **130 crashes** during **11-month period** in 2021-22.**
 - Driverless vehicles have run over pedestrians.
 - Driverless Teslas have caused multiple crashes.
 - Driverless semi crashed into a home in Kansas.
- Size and weight of semi-trucks make the risks much higher.
 - 80,000 pounds + 72 feet long vs. 4,100 pounds + 15 feet



Driverless semi crashes into Kansas home

By Dana Guthrie July 30, 2024

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Reading Time: < 1 minute



Uber's Self-Driving Cars Were Struggling Before Arizona Crash



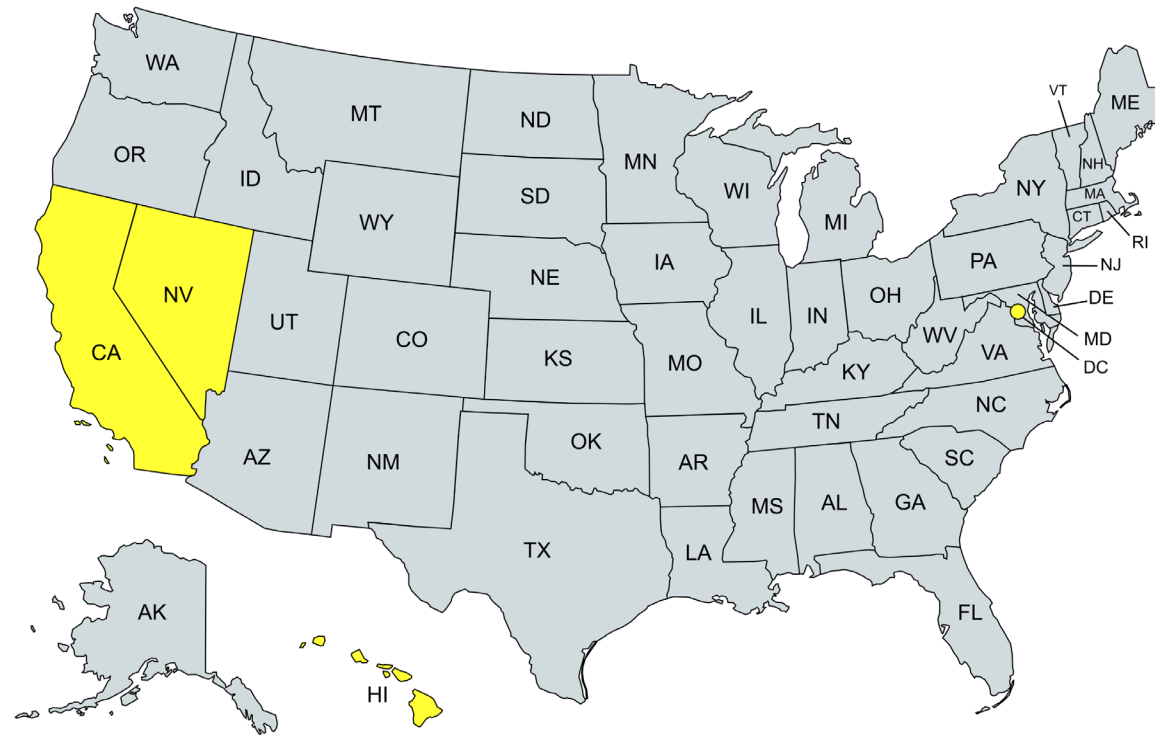
*Abdel-Aty, M. & Ding, S, "A matched case-control analysis of autonomous vs human-driven vehicle accidents," 15 Nat. Commun. 4931 (2024)

**National Highway Traffic Safety Administration, "Summary Report: Standing General Order on Crash Reporting for Automated Driving Systems," DOT HS 813 324, at 2 (June 2022).

Public safety oversight in other states

California: allows testing driverless vehicles on public roads under certain conditions governed by regulation.

Anyone wanting to deploy a driverless vehicle for purposes other than testing must submit an extensive detailed application **demonstrating** the safety of the technology and obtain a **permit** from the state.



The **District of Columbia** requires companies testing driverless vehicles to obtain a **permit** from DC's transportation department.

Nevada allows operation of driverless vehicles by companies that provide passenger transportation (driverless rideshare cars). Those companies must apply for and obtain a **permit** issued by the state's transportation department.

Hawaii prohibits testing driverless vehicles on public roads without a permit issued by the state's transportation department.

Current N.M. **statute** on Driverless Vehicles

The 2021 statute **does** the following:

- Allows driverless vehicle corporations to test on public roads if:
 - They notify the N.M. Department of Transportation a mere **five days** beforehand.
 - The vehicle meets federal safety standards (**there are no federal safety standards** specific to driverless vehicles).
 - The vehicle is **capable** of complying with New Mexico traffic laws.
- Prohibits towns, cities, and counties from imposing restrictions on testing/operation.

The 2021 statute **does not**:

NMSA 1978, §§ 66-7-12, 66-7-13 (2021).

- Require a human to be onboard as a backup—even in a driverless 80,000-pound semi-truck.
- Prohibit the *use* of driverless semi-trucks for purposes other than testing.
- Require driverless vehicle corporations to submit any safety data to the state.
- Require driverless vehicle corporations to demonstrate that the driverless system being tested on public roads has passed any preliminary safety testing.

Current N.M. *regs* on Driverless Vehicles

New Mexico Department of Transportation regulations say:

- “Fully autonomous” driverless vehicles can be tested on public highways **without a human inside** if the driverless vehicle corporation submits a notification form to the department (honor system without consequences).
- Driverless vehicles can be tested **anywhere and under any conditions**—school zones, construction zones, hospital zones, on ice/snow.
- Driverless vehicles must comply with all applicable federal and state laws and regulations.
- Driverless vehicle owners must submit to the department the protocol the vehicle has for interacting with law enforcement.
- “Fully autonomous” vehicles must be insured up to \$5 million.



Impact of driverless vehicles on NM workforce

Heavy Tractor-Trailer Truck Drivers nationwide: 2,044,400 jobs

- Median hourly wage: \$26.92
- Total yearly income without overtime: \$55,993.60

Heavy Tractor-Trailer Truck Drivers based in New Mexico: between 10,460 and 25,830

- New Mexico union over-the-road truck driving jobs: 258
- City, pickup and delivery, package car drivers, etc.: 774
- These jobs pay above average in both hourly rates and benefits.

New Mexico drivers working for companies like ABF and UPS

- \$30.40 per hour (ABF) / \$45.09 per hour (UPS)
- Average yearly rate based on mileage pay in 2023: \$93,750 (ABF) / \$132,500 (UPS)
- Projected yearly rate in 2027: \$103,750 (ABF) / \$143,750 (UPS)
- Pension based on 2,080 hours worked: \$18,283.20 per year (ABF) / \$27,996.80 per year (UPS)
- Health benefits: \$23,580 per year (ABF) / \$31,781.76 (UPS)

Federal safety guidance to state legislatures

- National Highway Traffic Safety Administration (“NHTSA”), part of U.S. Dept. of Transportation, is the agency that would regulate driverless vehicles.
- NHTSA has issued recommendations for state legislatures to enable testing of driverless vehicles while protecting public safety.



specific types of vehicles. NHTSA has considerable concerns however about detailed state regulation on safety of self-driving vehicles, and does not recommend at this time that states permit operation of self-driving vehicles for purposes other than testing. Thus, the below recommendations all assume that the human driver of the vehicle will be employed by, or

Minimize safety risks to public by requiring:

- Successful initial testing somewhere other than public roads
- Submission of testing data to the State
- Submission of plan for how to avoid safety risks
- A properly licensed driver to be in the vehicle

Ensure the human in the vehicle understands how to safely operate it.

Limit conditions of testing in self-driving mode.

Proposed **safety** improvements to N.M. statute

- Testing may continue, but driverless vehicles may not be used for other purposes until the technology is proven to be safe and approved by federal government.
- Driverless vehicle corporations must **demonstrate** how they will minimize risks of crashes and may conduct testing on public roads only if the proposed testing conditions do not present unreasonable risk to public.
- A human with an appropriate license (e.g., Commercial Driver's License for semis) must be in the vehicle and must take control in work zones; school zones; parking lots of sports facilities and playgrounds; and when required to yield to an emergency vehicle.
- Driverless vehicles must **comply** with traffic safety laws.
- Driverless vehicle corporations must submit safety data to the state.
- Driverless passenger vehicles must have \$150,000 in insurance; semi-trucks \$5 million.



Proposed worker support strategies

- **“Workforce Recovery Fund”** – potential separate legislation designed to provide financial support and job training opportunities to drivers and related workers who lose their jobs due to driverless vehicles coming online in volume, essentially helping them find new employment and providing necessary tools and training.
- **“Driver Displacement Severance”** – potential clause requiring companies to provide resources for displaced drivers/workers due to driverless commercial vehicles assuming their jobs. This would ensure 3 months of wages and benefits, allowing workers a paid bridge to identify new employment and/or access training and skills building.

Summary

1. Driverless vehicles pose dangers to public safety and N.M. jobs
 - Driverless vehicles are unproven and have caused numerous crashes.
 - Other states have more rigorous permitting process.
 - There are no federal regulations for driverless vehicles.
 - New Mexico laws and regs leave dangerous gaps.
 - Driverless vehicles could hurt New Mexico's workforce.

2. Proposed bill allows technology advancements while protecting the public
 - Proposed bill adopts recommendations for states by federal safety regulators.
 - Proposed bill incorporates job replacement strategies.