

OFFICE OF THE DIRECTOR
DEPARTMENT OF MOTOR VEHICLES
P.O. BOX 932328
SACRAMENTO, CA 94232-3280



TITLE 13: DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (department) proposes to amend Sections 227.00, 227.02, 227.04, 227.12, 227.14, 227.16, 227.18, 227.20, 227.22, 227.24, 227.26, 227.28, 227.30, 227.32, 227.34, 227.36, 227.38, 227.42, 227.44, 227.46, 227.48, 227.50, and 227.52 in Article 3.7 and adopt Sections 228.00, 228.02, 228.04, 228.06, 228.08, 228.10, 228.12, 228.14, 228.16, 228.18, 228.20, 228.22, 228.24, 228.26, 228.28, and 228.30, in Article 3.8, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to Autonomous Vehicles.

PUBLIC HEARING

A public hearing has been scheduled to provide interested parties an opportunity to provide statements, both oral and in writing, on this proposed regulatory action. The department will hold the hearing beginning at 10:00 A.M. on Tuesday, April 25, 2017, at the Department of Water Resources, 1416 9th Street, Sacramento, California.

The hearing will be held in the Auditorium, which is accessible to persons with disabilities. Parking near the hearing venue is limited, so please plan accordingly.

The public hearing will conclude when all attendees who wish to comment have provided their comment. If necessary, the department reserves the right to limit the length of time each participant has to comment.

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., **April 24, 2017**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code sections 38750.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law requires the department, upon application and payment of fees, to register vehicles that are being operated in the state. The department's registration activities are administered by the Registration Operations Division. The department's Licensing Operations Division is responsible for establishing occupational license application requirements and issuing occupational licenses or permits to applicants.

Senate Bill 1298 (Chapter 570; Statutes of 2012) enacted Vehicle Code section 38750 which requires the DMV to adopt regulations necessary to ensure the safe operation of autonomous

vehicles on public roads, with or without the presence of a driver inside the vehicle. The department initially adopted regulations for the testing of autonomous vehicles that require the presence of a driver inside the vehicle in 2014. Currently there are 21 manufacturers testing autonomous vehicles with test drivers behind the wheel on public streets in California. Senate Bill 1298 contemplated that the technology being developed would include vehicles that do not require the presence of a driver inside the vehicles. Since the adoption of the current testing regulations, the capabilities of autonomous technology has proceeded to the point where manufacturers have developed systems that are capable of operating without the presence of a driver inside the vehicle.

The department is amending Article 3.7 to include the testing of vehicles that do not require the presence of a driver inside the vehicle and ensure the testing of such vehicles is conducted on California public roads in a safe manner. In Article 3.7 the department has set forth all of the requirements for a Manufacturer's Testing Permit, which is the permit issued to manufacturer's testing vehicles that require a driver inside the vehicle, and a Manufacturer's Testing Permit – Driverless Vehicles. The proposed regulations promote the development of autonomous technology that has the potential to increase safety and enhance mobility, while focusing on issues related to roadway safety, compliance with California laws, driver licensing, and vehicle registration.

Vehicle Code §38750 requires the DMV to adopt regulations setting forth the requirements for the submission and approval of an application by autonomous vehicle manufacturers, as defined by subdivision (a) of that section, for the operation of autonomous vehicles by the public on public roads. For ease of reference, the department refers to the operation of autonomous vehicles by members of the public as "deployment." Vehicle Code §38750 also requires that the regulations include requirements that the DMV concludes are necessary for the safe operation of autonomous vehicles on public roads. The department is adding Article 3.8 to specify the requirements to deploy autonomous vehicles, including vehicles that do not require the presence of a driver inside the vehicle.

The department has conducted several workshops that were attended by vehicle manufacturers, technology companies, members of academia, insurance representatives, and privacy advocates. The most recent workshop was held in October 2016 in Sacramento. As a result of those discussions, the department has created a regulatory action that allows for the testing and public deployment of autonomous vehicles that do not require a driver.

Following are some key aspects of the department's proposed regulatory approach:

Section 227.38 – Manufacturer's Permit to Test Autonomous Vehicles that do not Require a Driver.

This section adopts requirements that a manufacturer must fulfill in order for the department to grant access to test vehicles that do not require a driver. Specifically, the manufacturer is required to submit an application form, provide written support from the jurisdiction in which the vehicles will be tested, certify that there is a communication link in the vehicles, provide the department with information related to the intended operational design domain, provide a copy

of the law enforcement interaction plan, maintain a training program for remote operators, provide certain disclosures to vehicle passengers, submit a copy of the safety assessment letter submitted to NHTSA as specified in the Vehicle Performance Guidance in the NHTSA Federal Automated Vehicles Policy, and payment of the required fee.

Section 227.42 – Suspension or Revocation of Autonomous Vehicle Testing Permit.

This section establishes the department’s authority to suspend or revoke a testing permit and the reasons for which a permit would be suspended or revoked.

Article 3.8 – Deployment of Autonomous Vehicles

The department is adopting Article 3.8 to establish rules related to the deployment of autonomous vehicles. To avoid confusion, Article 3.7 solely governs the testing portion of autonomous vehicles while Article 3.8 governs the public deployment of autonomous vehicles.

Section 228.04 – Financial Requirements for a Permit to Deploy Autonomous Vehicle on Public Roads.

This section identifies the financial requirements for the public deployment of autonomous vehicles. While similar to those requirements in testing, this section adopts form that are specific to deployment.

Section 228.06 – Application for a Permit for Post-Testing Deployment of Autonomous Vehicles on Public Roadways.

This section identifies the application process for a manufacturer seeking to deploy vehicles on public roadways. The application requirements include submission of the specified application form, certification that the vehicles have a communication link with the ability to transfer vehicle owner information, submission of a NHTSA exemption if the vehicle is not equipped with manual controls but complies with all other Federal Motor Vehicle Safety Standards, certification of registration with the NHTSA, and submission of a consumer education plan, a copy of the law enforcement interaction plan, a copy of specified written disclosures, a copy of the safety assessment letter submitted to NHTSA as specified in the Vehicle Performance Guidance in the NHTSA Federal Automated Vehicles Policy, and test data demonstrating the vehicle has been tested in its intended operational design domain. This section also adopts additional requirements for vehicles that are capable of operating without a driver.

Section 228.08 – Review of Application

This section identifies the department’s timelines related to the review of applications, as well as the department’s communications when an application is deemed incomplete or in need of correction.

Section 228.12 – Reporting Safety Defects

This section requires a manufacturer that has identified a safety-related defect in its autonomous technology to submit to the department a copy of report prepared in compliance with Part 573 of Title 49, Code of Federal Regulations.

Section 228.22 – Administrative Procedures for a Suspension or Revocation of a Permit.

This section identifies the administrative procedures available to a manufacturer whose permit was suspended or revoked. This section describes the department's administrative hearing process and timeframes.

Section 228.24 – Information Privacy

This section requires the manufacturer to provide a written disclosure to the driver describing the information collected by the autonomous technology that is not necessary for the safe operation of the vehicle or anonymize the information that is not necessary.

Section 228.30 – Statements About Autonomous Technology

This section prohibits manufacturers from advertising a vehicle as being autonomous unless it meets certain requirements and prohibits the use of terms to describe the performance of a vehicle in a manner that would induce a person to believe a vehicle is autonomous.

PROBLEMS THIS DEPARTMENT INTENDS TO ADDRESS AND BENEFITS ANTICIPATED FROM THE REGULATORY ACTION:

To make specific the requirements that must be satisfied for issuance of a permit to test and deploy autonomous vehicles with or without a driver inside the vehicle on the public roadways of the State of California. These regulations are expanded to implement application and other requirements for driverless vehicles, provisions related to the suspension of an autonomous vehicles testing permit, implement application and other requirements for the deployment of autonomous vehicles, and provide clarification to existing autonomous vehicle regulations. These regulations will allow autonomous vehicle manufacturers, as defined in Vehicle Code §38750, to develop and test autonomous vehicles, including vehicles that can operate without a driver inside the vehicle, on public roadways and to deploy those vehicles in a way that provides the assurance of safety to the public in general.

COMPARABLE FEDERAL AND STATE REGULATIONS:

The National Highway Traffic Safety Administration (NHTSA) establishes motor vehicle safety standards on the federal level. On May 30, 2013, NHTSA issued a "Preliminary Statement of Policy Concerning Automated Vehicles" to "help states implement this technology safely so that its full benefits can be realized." The NHTSA policy statement affirmed that "NHTSA is responsible for developing, setting, and enforcing Federal motor vehicle safety standards (FMVSSs) and regulations for motor vehicles and motor vehicle equipment." NHTSA indicated that the U.S Department of Transportation was researching the introduction of automated cars onto public roadways and advised states to leave safety standards up to federal regulators.

On September 20, 2016, NHTSA released the Federal Automated Vehicles Policy ("Policy") to establish a national framework for the safe testing and deployment of highly automated and autonomous vehicles. NHTSA's Policy includes a "Vehicle Performance Guidance for Automated Vehicles" that specifies a reporting process consisting of a 15-point safety assessment letter that outlines how a vehicle manufacturer is meeting the Guidance; however, NHTSA has not finalized the safety assessment submission process. NHTSA has not adopted any regulations governing the testing or operation of automated, or self-driving, vehicles on public roads, streets, and highways. Additionally, the department conducted a review of other

agencies and found that no other state agency currently has regulations governing autonomous vehicles, therefore, there are no comparable federal or state regulations concerning the testing or deployment of autonomous vehicles on public roads.

The department conducted a review of state regulations and has determined that this regulatory action is not incompatible with existing state regulations.

CONSISTENCY AND COMPATIBILITY WITH OTHER STATE REGULATIONS

During the process of developing these regulations, the department has conducted a search of any similar regulations on the topic of autonomous vehicles and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DOCUMENTS INCORPORATED BY REFERENCE

The following documents are incorporated by reference:

- Autonomous Vehicle Tester (AVT) Program Application for Manufacturer's Testing Permit, form OL 311
- Autonomous Vehicle Testing (AVT) Program Test Vehicle Permit, form OL 313
- Autonomous Vehicle Testing (AVT) Program Manufacturer Permit-Driverless Vehicles, form OL 315A
- Report of Traffic Collision Involving an Autonomous Vehicle, form OL 316
- Autonomous Vehicles Manufacturer Deployment Program Surety Bond, form OL 317A
- Autonomous Vehicle Tester (AVT) Program Application for Manufacturer's Testing Permit Driverless Vehicles, form OL 318
- Autonomous Vehicle Tester (AVT) Program Application for Certificate of Self-Insurance, form OL 319
- Autonomous Vehicle Manufacturer's Deployment Program Application for Certificate of Self-Insurance, form OL 319A
- Application for a Permit to Deploy Autonomous Vehicles on Public Streets, form OL 321

These documents will not be published in the California Code of Regulations because it would be impractical and cumbersome to do so; however, the documents are readily available to interested parties on the department's website or by contacting the department representative identified below.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.

- **Cost Impact on Representative Private Persons or Businesses:** This action contains application fees. The fees are in an amount to offset the cost of the autonomous vehicle program. While the application fees are costly, the department does not anticipate any vehicle manufacturers that would find the fee prohibitive.
- **Effects on Housing Costs:** None.
- **Local Agency/School District Mandates:** The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- **Small Business Impact:** None.
- **Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states:** None.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has conducted an economic impact assessment on this proposed action and has determined that this action will not create or eliminate jobs, create or eliminate existing businesses, or expand businesses currently doing business within the State of California.

The department has also determined that the proposed regulatory action is not likely to impact the health and worker safety or the environment, however, the proposed regulation intends to provide assurance of safety to the general public when technology manufacturers and researchers are developing, testing and deploying automated vehicle driving systems on public roadways.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

As described in the Informative Digest, the department has conducted several workshops that were attended by vehicle manufacturers, technology companies, members of academia, insurance representatives, and privacy advocates. The most recent workshop was held in October 2016 in Sacramento.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

CONTACT PERSON

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Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Brian G. Soublet, Deputy Director/Chief Counsel
Department of Motor Vehicles
Legal Affairs Division
P.O. Box 932382, MS C-244
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 657-6469
Facsimile: (916) 657-6243
E-Mail: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Randi Calkins, Regulations Analyst
Telephone: (916) 657-8898

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and Express Terms) may be accessed at <http://www.dmv.ca.gov/portal/dmv/dmv/dmvhomes/regulatoryactions>.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.