

OHIO GOVERNOR KASICH SIGNS EXECUTIVE ORDER ALLOWING AUTONOMOUS VEHICLE TESTING

MAY 2018

On May 9, Ohio became the most recent state to allow the testing of autonomous vehicles when Governor John Kasich signed [Executive Order 2018-04K](#) (the Order). With it, Governor Kasich looks for Ohio to maintain a leadership role as a premier testing ground for autonomous vehicles, as well as promote economic development in the state.

The Order begins by discussing the need for innovation in this space, both generally and unique to Ohio. Citing research by the National Highway Traffic Safety Administration (NHTSA) that 94 percent of serious crashes result from driver error and up to 80 percent of accidents involving impaired drivers could be avoided or mitigated with new technologies, the Order lists the many advantages that Ohio offers for autonomous vehicle testing. These include:

- The Transportation Research Center located in East Liberty, Ohio, that “houses NHTSA’s only test lab which performs crash avoidance and crashworthiness testing and research, automobile defects testing and analysis, and identifies cyber security issues to help regulators define national standards;”
- Ohio’s 33 Smart Mobility Corridor, a 35-mile stretch of U.S. Route 33 with high-capacity fiber optic cable and embedded, wireless sensors; and
- The infrastructure necessary to test autonomous vehicles in a wide range of weather conditions throughout the state.

The Order authorizes testing and pilot programs for autonomous vehicles (defined as any vehicle with level 3 through 5 automated driving systems) on any public road or highway in Ohio, provided certain conditions are met.

For all companies testing autonomous vehicles on Ohio roads, companies must first register with DriveOhio, an Ohio government office self-described as a “one-stop shop for researchers, developers and manufacturers to collaborate on autonomous and connected vehicle initiatives in Ohio.” In registering, the companies must provide DriveOhio with:

- The name and business address of the company intending to test the autonomous vehicle in Ohio;
- Identifying information about the vehicle(s), including make(s), model(s) and license plate number(s);
- The name(s) and contact information of any designated operator(s) authorized to monitor the vehicle remotely;
- Proof of insurance or other financial responsibility under Ohio law covering each vehicle and operator;
- The municipalities and other areas of the state where the company plans to test the vehicle;
- The conditions under which the vehicle can operate with full autonomy;
- Information that the vehicle being tested has been “certified to be in compliance with all applicable Federal Motor Vehicle Safety Standards or with the Federal Motor Carrier Safety Administration regulations, except to the extent exempted under applicable federal laws, and are capable of complying with all state traffic and safety laws;” and
- Either a summary report describing the company’s approach for the safe testing of its autonomous system and how the company intends to assure public safety or a Voluntary Safety Self-Assessment as established by NHTSA in the Voluntary Guidance for Automated Driving Systems, Section I.

For companies seeking to test a level 4 or 5 autonomous vehicle, each company must also provide DriveOhio with “assurances, in a form acceptable to DriveOhio,” that the vehicle will:

- Achieve a minimal risk condition if a malfunction occurs that makes the vehicle unable to perform the entire dynamic driving task;
- Have a designated operator;
- Be capable of complying with all Ohio motor vehicle laws; and
- In the event of a collision or violation of Ohio laws or regulations, cooperate with any appropriate law enforcement agency request for information about the accident. This includes sharing any non-proprietary data recorded and preserved by the vehicle or company concerning the accident and maintaining a record of all other information until any law enforcement investigation concludes.

Although all autonomous vehicles tested in Ohio must have a designated operator, that operator is not required to be in the vehicle. Designated operators must:

- Be responsible for the safe operation of the vehicle while it is in use;
- Ensure that the vehicle reasonably complies with all Ohio traffic laws and regulations;
- Actively monitor the vehicle at all times while the autonomous system is engaged;
- Be able to detect whether the vehicle is not operating safely and, if so, be able to bring the vehicle to a minimal risk condition;
- Have a valid driver’s license recognized by the State of Ohio;
- Be an employee, contractor, or agent of the company testing the vehicle or be faculty, staff, or a student of a college or university and actively involved in a partnership with that entity; and
- Report to DriveOhio any collision resulting from the operation of the vehicle while the autonomous technology is engaged on a public road.

If any company plans to test its vehicles without an operator in the vehicle, the company must first inform DriveOhio of: 1) the routes or areas where the testing will be performed; and 2) the designated operators monitoring each vehicle. If the testing takes place within a municipality’s jurisdiction, the company and DriveOhio will coordinate notice to the relevant municipalities, but Governor Kasich has separately voiced his intent to prevent any communities from blocking such testing.

The Order also creates the Ohio Autonomous Vehicle Pilot Program to link municipalities interested in promoting autonomous vehicle testing with DriveOhio and companies looking to test such vehicles. Participation is completely voluntary, but those that enter into the program will work to create an inventory of testing attributes unique to their areas. This inventory will then be published to industry partners that have met the above requirements to connect them with the ideal municipalities in which to test their vehicles.

Last, Governor Kasich reserved the authority to pause any testing of autonomous vehicles “if there is clear evidence that the technology that a particular vehicle is using or that a particular company is testing is not safe.” Before resuming testing, the company must demonstrate to DriveOhio that the technology complies with the Order’s requirements.

ADDITIONAL INFORMATION

For additional information, please contact:

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