

Hands-Free Cars Take Wheel, and Law Isn't Stopping Them

By AARON M. KESSLER

A General Motors promotional film envisions the future: Drivers enter the highway, put their cars on “autopilot” and sit back as the vehicle takes over and heads for the horizon. The film’s date? 1956.

Sixty years later, automakers are making that dream a reality. But the technology has sprinted ahead so fast that lawmakers and regulators are scrambling to catch up with features like hands-free driving that are now months away, rather than years. This summer, Tesla, the maker of high-end electric cars, is promising to equip its Model S sedan to take over highway driving under certain conditions. In January, Audi will introduce a vehicle that can pilot itself through traffic jams. And next year, Cadillac will offer no-hands highway driving with its “Super Cruise.” Limited forms of hands-free driving have already arrived. Luxury brands like Mercedes-Benz and Infiniti offer “lane keeping” features that allow drivers to take their hands off the wheel for periods of time on straight stretches of road.

But the innovations have prompted the question: Is it legal? The vast majority of states do not have any rules at all. The few that do passed the laws primarily to allow research and testing. Only New York specifically requires that drivers keep one hand on the wheel, but that dates to a law from 1967. As a result, automakers are pushing into a regulatory void. “Where it’s not expressly prohibited, we would argue it’s allowed,” said Anna Schneider, vice president for governmental relations at Volkswagen, which owns Audi. “We don’t need any change in legislation to put Super Cruise on the road,” said Dan Flores, a spokesman for General Motors. Tesla declined to comment on the issue. On a recent afternoon, a Volvo official demonstrated its new XC90 sport utility vehicle along a leafy road in New Jersey. Set for release in June, the XC90 has a semiautonomous feature called “pilot assist” intended for congested traffic. After a driver pressed a button on the steering wheel, sensors scanned the road and locked on to the vehicle a few car lengths ahead. A white icon lit up on the dashboard, and the wheel began moving on its own. As the road curved, the Volvo steered itself through it, automatically adjusting the throttle and steering. The vehicle seamlessly kept on going, though after about five seconds, a subtle dashboard light asked the driver to keep a gentle touch on the wheel. Not that it was needed — the Volvo could keep going hands-free for miles at speeds up to 30 miles per hour on a properly marked road. But for now Volvo has programmed the XC90 to start slowing down if a driver does not heed the warning light, making the vehicle a bridge between “lane keeping” and the truly hands-free technology set to hit the market soon. “This is about making the tedious parts of people’s drives less stressful,” said Jim Nichols, a spokesman for Volvo. “We’re not talking about a driver simply checking out and not paying attention.”

Car manufacturers see hands-free technology as the natural next step in driving — an evolution that has gone from cruise control to anti-lock brakes to electronic stability control. None of those innovations required permission from regulators. And legal experts say the automakers’ positions are most likely correct — that in the absence of specific laws against it, hands-free driving is legal. “Most states don’t expressly prohibit automated vehicles,” said

Bryant Walker Smith, a professor of law and engineering at the University of South Carolina. But that does not necessarily mean drivers will not face scrutiny. “It’s not just what’s on the books; it’s what’s enforced,” Mr. Smith said. “If a police officer sees you driving down the road with no hands, he could determine that’s reckless and still give you a ticket. Individual officers have a tremendous amount of discretion.” No federal rules explicitly bar the practice, either. Part of why federal and state officials have struggled to define autonomous rules is that the issue cuts across traditional legal turf. “The federal government largely regulates vehicle design, such as ‘Does it meet crash safety standards,’ ” Mr. Smith said. The states are the ones that have regulated drivers and their behavior, he said. “Now the car is becoming the driver.”

California, Nevada, Michigan, Florida and the District of Columbia legalized autonomous technology in certain circumstances — primarily to encourage testing. Several others are considering rules. But for consumers, and local officials themselves, the fractured nature of what is allowed, and where, may create uncertainty. “All of the states are concerned, because no one wants to see a patchwork of regulations across the country,” said Bernard Soriano, deputy director of the California Department of Motor Vehicles. “The right way to go would be to have federal standards that the automakers could follow.” The National Highway Traffic Safety Administration says it lacks the authority to pre-empt automakers’ new autonomous features until something goes wrong. “If someone wants to sell a totally automated vehicle today, you could probably get a court to decide there’s nothing N.H.T.S.A. can do about that until it presents an unreasonable risk to safety,” said an agency spokesman, Gordon Trowbridge. Proving such an unreasonable risk to safety under the agency’s mandate, he said, means citing crashes or malfunctions that have already happened.

For now, that leaves a legal vacuum, which states only now are waking up to. A group of state transportation officials recently gathered for the first time to begin developing consumer-focused guidelines for states to share. Mr. Soriano leads the group, which has federal regulators’ support and aims to publish its recommendations by the end of 2016. But with hands-free technology coming to market sooner, California and Nevada are already moving ahead with their own consumer regulations. Mr. Soriano said California was close to finishing draft rules that would apply to normal drivers — though enactment is at least six months away. Until that happens, automakers may not legally be able to sell cars with certain autonomous features to California customers. Manufacturers are aiming to limit the features that would fall into that category. And Nevada has begun working on rules for consumers that could be released by the end of the year, said Jude Hurin, a top official with the state’s department of motor vehicles. In the end, he said, a balance needs to be found. “We need to figure out how to regulate them in a way that doesn’t stifle innovation with too much red tape but also ensures this technology is safe and is used properly,” Mr. Hurin said.

Source:

<http://www.nytimes.com/2015/05/03/business/hands-free-cars-take-wheel-and-law-isnt-stopping-them.html>