



Who is liable if a self-driving car crashes? Tesla mishap raises issues

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(Photo: SUSANA BATES, AFP/Getty Images)

PHOENIX -- By collision standards, [last week's incident](https://www.azcentral.com/story/news/local/phoenix/2017/03/27/tesla-self-driving-car-hits-phoenix-police-motorcycle-second-accident-involving-automated-vehicles-days/99710786/) involving a Tesla Model X and a Phoenix police motorcycle officer barely qualified for a police report.

The officer, who was in front of the Tesla, stopped for a traffic signal, police said. After also stopping briefly, the Tesla began creeping forward, prompting the officer to jump off his motorcycle and move away. The officer later estimated the car was moving at about three miles per hour, police said. There were no injuries or no damage.

But the driver's allegation that his Tesla was in self-driving Autopilot mode when it tapped the motorcycle opened the door to questions in the emerging and still-murky legal realm of automated and driver-assisted vehicles.

Here are some of them.

If cars with partial self-driving tech crash, who is responsible?

The National Highway Traffic Safety Administration and Society of Automotive Engineers say there are six levels of driving automation. Zero denotes full human control and five is a fully autonomous vehicle.

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With the level of automation today at level two or below, it's the driver who is responsible if the car crashes, said Bryant Walker Smith, an assistant law professor at the University of South Carolina.

"Anything that's below level three, it's clearly a human that's supposed to be doing part of the driving," Smith said.

Smith, who recently authored a report on automated driving and product liability, said that liability can involve multiple parties at fault in any given collision, and they can sue each other. But it should be noted, he said, that the vast majority of crashes are caused by human error. And many crashes involving driver-assisted cars are caused by the other vehicle.

Automated cars are forecast to reduce the likelihood of human error, making driving much safer than it is today.

But as cars become more and more autonomous, Smith said, it is believed that liability will shift from driver to car.

"Which means that, in the future, if automated driving is, in fact, safer, then manufacturers will bear a greater share," he said. "Manufacturers will have hopefully a bigger slice of a smaller pie of the total crashes."

If an autonomous or driver-assisted car breaks the law, does the driver get a citation?

In the future, automated cars likely will be programmed not to speed, run lights or commit other common traffic offenses.

Kevin Biesty, deputy director for policy for the Arizona Department of Transportation, said in cars with dual modes, it's going to be a matter for law enforcement to investigate whether car or human is in control of the vehicle.

But if it's in autonomous mode, where would the citation go? What does it mean to be in control? Can you still be cited for a DUI?

These are questions that Biesty said are ripe for court consideration.

"These are things that, in my opinion, are going to be decided by case law," he said.

Will autonomous car drivers get special licenses?

Not necessarily, Biesty said. To date, there are no special drivers' licenses for driver-assisted vehicles. Rather, there could be some instructions given to the dealership, just like they would offer for any advanced feature on a new car.

Biesty said more of the driving regulations, however, could shift to from driver to car, and therefore from state to federal government. It's the National Highway Traffic Safety Administration that currently approves new technologies in vehicles, and Biesty said this protocol shift likely could continue as technology advances.

Eventually, Biesty said, this could strip state motor vehicle departments of one of their core functions — licensing drivers.

"There are numerous conversations going on, about, 'At what point does the MVD become a registration of vehicles and an identification agency?'" Biesty said.

Will autonomous cars be specially marked, or get special license plates?

"At this point we don't really see a need for it, specifically for our department," Biesty said.

However, there's a possibility that other agencies may want to distinguish these vehicles from others.

Biesty noted that this was the case when alternative fuel vehicles emerged. It was the first responders who asked for these designations since there would be differences in how to deal with an electric vehicle versus gasoline.

"But for right now," Biesty said, "nobody has asked."

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