

PUBLICATION

Autonomous Vehicles (AVs)

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Congress is working in a bipartisan and bicameral fashion to build upon last year's stalled legislation (SELF DRIVE Act (H.R.3388) and its companion bill, AV START Act (S.1885)). The legislation would establish standards and lay the foundation for a federal framework regulating AVs, making it easier to test AVs on public roads. Despite considerable bipartisan and industry support, AV START never made it to the Senate floor due to holds concerning cybersecurity, data privacy, and arbitration. Notably, the bills last year were silent on arbitration, but trial lawyers wanted (and still want) language prohibiting pre-dispute arbitration agreements to be included in the bill. Congressional staff has begun drafting additional sections for the revamped legislation, but the past roadblocks keep resurfacing. Passage this calendar year is conceivable but far from certain.

Meanwhile, the industry is growing tired of waiting. Last week the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) granted its first driverless exemption to Nuro's low-speed electric model that will deliver goods to local restaurants, grocery stores and other businesses. This is one way to bypass Congress's inaction; however, standards for passenger vehicles will likely be much higher.

State and municipal governments have been moving forward as well. According to the National Conference of State Legislatures (NCSL), 29 states and the District of Columbia have enacted AV legislation and governors from 11 states have issued AV-related executive orders. Perhaps further complicating matters for Congress, the NCSL, the National Governors Association, the American Association of Motor Vehicle Administrators, and other state and highway associations are insisting that any proposed federal legislation allow state and local governments to enforce existing laws and originate new statutes and regulations.