

## **On the “Driving” Concept of Autonomous Vehicles:Focusing on the Offenses of Driving Under the Influence and Hit-and-Run**

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### **Abstract**

This paper aims at interpreting the “driving” concept in the era of autonomous vehicles (AV). The current unified interpretation of driving fails to solve the dilemma between the benefit for drunken drivers to use AV and the requirement for AV users to stay at the scene after accidents. Hence, it is necessary to rethink and reinterpret the driving concept for AVs.

By decoupling the driving concept under DUI laws and hit-and-run laws, such bifurcation allows us to reconstruct the meaning of driving according to the goal of each offense. This paper claims that driving under DUI law predicates the enhanced risk due to the diminished capacity of maneuvering the vehicle. However, in the context of AVs, it is the automated driving system that takes charge of driving tasks. The diminished capacity can never make driving dangerous when the automated driving system is engaged. On the contrary, the driving concept under hit-and-run law links to the anonymity of traffic, driver’s potential liability, and information advantage. While AV users do not operate the vehicle anymore, she could still be held liable for her negligence and have more information regarding the accident, including the software and the hardware of the vehicle owned by her.

In sum, this paper concludes that the AV user shall not be convicted of driving under the influence even the user is intoxicated. The only exception is the teleoperator, who should not operate the vehicle remotely when she is intoxicated, and the user of level-4 vehicle, who is responsible for activating the automated driving system only when conditions permit. The user, however, is

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normally liable for failing to stop the vehicle and to disclose her identity if she is liable for the accident, except for the case where she is not in the AV. If the user leaves the scene without fulfilling the statutory requirements, she can be held criminally liable. Lacking superior knowledge of vehicles, passengers of dedicated autonomous vehicles and minors are therefore exempted.

**Keywords: autonomous vehicle, driving, driving under the influence (driving while intoxicated), hit-and-run, traffic offenses, duty to stop**