

Liability of driverless cars

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Agenda

- Current liabilities
- Liability of the possessor
- Liability of the manufacturer



Current liabilities for car crashes

Currently we have three parties who can be made liable

- The driver
- The possessor
- The manufacturer (OEM) in case of a product defect

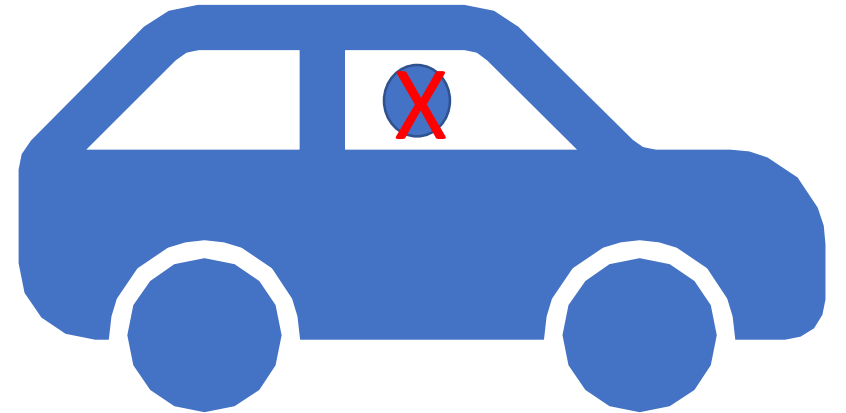


Liability of the driver

- For current systems the law states, that the one activating the system is the driver.

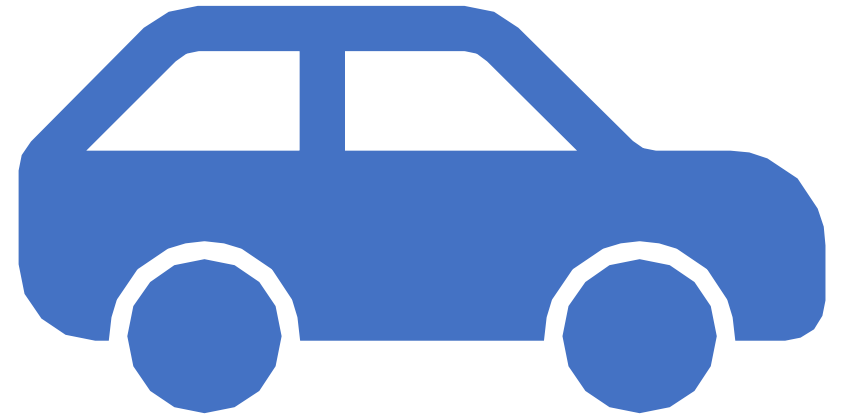
This does not make any sense for driverless cars

- The driver does no longer exist



Liability of the possessor

In Germany the possessor of a car is strictly liable for all damage the car does to third parties!



Liability of the possessor

Who is the possessor?

Definition by German High Court:

The one who pays for the maintenance

and

who has the ability to decide the start and end of each ride and the location of the car



Liability of the possessor

Problems with the term of possessor:

- Rental cars
- Leasing
- Carsharing
- Employer cars
- Mobilityprovider
- Manufacturer?



Liability of the manufacturer

There are two possible laws for the manufacturer liability

- ProdHaftG
- Tort law



Liability of the manufacturer

ProdHaftG

The producer is strictly liable for losses to other things than the product itself and personal injuries but limited

- Only if the defect was technically detectable at the time of release
- Up to € 85.000.000
- Not for losses on goods that are commercially used



Liability of the manufacturer

ProdHaftG

Hardware as is today

Is software a product?

- Only tangible goods
- Electricity is explicitly named
- There are no court decisions yet
- At least the software-system of a driverless car will be considered to be a product



Liability of the manufacturer

ProdHaftG

A product is defective, if it is not as safe, as would be expected by the public, considering the time of release, the presentation and the to be expected usage



BIG QUESTION:

What is the expected safety of software?

Liability of the manufacturer

Tort law

The producer is also liable by tort for losses to other things than the product itself and personal injuries but limited

- No pure financial losses
- Only if he is culpable
- Duty to observe
- Also for goods which are commercially used



Summary

- Software will be considered to be a product
- Back to the roots of strict liability: no possessor but the person that maintains the hard- and software
- Also important for ProdHaftG: no liability for commercial used products AND more accidents because of product defects



Thank you!

Contact

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