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What Should NMA Work On?

by James J. Baxter, President, NMA

In this issue of the *NMAF NEWS*, you will find a special and important questionnaire that I hope you will immediately complete and return to our office. This questionnaire serves two very valuable purposes. First, we want to know what issues are important to you. This is your chance to tell us what you would like us to be working on. Second, if we know what issues you, as an individual member of NMA, are interested and concerned about, we can target that information to you and eliminate the waste of sending you materials that you do not care to receive. For example, most of our members are interested in speed limit issues and we can't go too far wrong doing a mailing to all of our members on this subject. But, a smaller portion of our members may be interested in "traffic calming," airbag standards, or red light cameras. If we know who you are, we can make sure that you are kept abreast of events that affect these issues, without incurring the costs of contacting others who have no interest in these subjects. So, when filling out the enclosed survey, you will have two boxes to check. The first tells us that you want NMA to work on this issue. The second box tells us you would like to receive alerts and messages on this specific issue. These preferences will be recorded and

with a little luck you will only receive the special mailings and e-mails that you have an interest in receiving.

This system will allow us to do more "alerts" and special messages on specific subjects of interest to individual members. In the past, we have refrained from sending out notices on many issues and legislative changes because we knew only five or ten percent of our members had an interest in a specific issue. Sending out thousands of pieces of mail when only a small percentage of members really care about the subject issue didn't make a lot of sense. However, those members who did care were left without the information they would have liked to have had. We hope our new system corrects this problem.

I want to thank you in advance for completing this form and helping us make the NMA a better and more effective organization. ☺

SEMA Honors Legislator

The SEMA Action Network (SAN) honored Virginia Delegate James Dillard (R-Fairfax) as a "friend to the motor vehicle hobby" for his leadership in enacting legislation (HB 1522) to exempt motor vehicles 25 years old and older from mandatory emissions inspections. Governor Jim Gilmore signed the bill into law earlier this year. The new law provides for a rolling 25-year exemption that exempts pre-1975 vehicles upon enactment and picks up an additional model year for each year the law is in effect.

Source: SEMA

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COVER

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Supreme Court Debates Traffic Stops

In December, the Supreme Court heard arguments on a case that could affect everyone who drives. The basic argument was whether people can be arrested for traffic violations punishable only by a fine, not jail time.

The case stems from the arrest of Gail Atwater of Lago Vista, Texas, who was handcuffed and jailed because she and her children weren't wearing seatbelts. A toy had fallen out of their truck, and Atwater says she'd instructed both her son and daughter (ages 6) to undo their belts so they could crane their heads out the window, searching for the missing item as their mother drove the truck at 15 mph down an otherwise abandoned dirt road. Officer Bart Turek pulled her over. When she was unable to produce her driver's license and registration for the officer—telling him her purse had been stolen, Officer Turek proceeded with the arrest. Atwater was arrested, handcuffed, and locked in a jail cell for about an hour, until she could post \$310 bail. Atwater later pleaded "no contest" to three seat belt violations, paying \$50 for each. She was also charged \$110 in towing fees.

Atwater and her husband sued the city, arguing that police had no reason to arrest her, but a federal appeals court ruled in the city's favor, holding that police can arrest anyone who breaks any law, even one punishable only by a fine.

This case is now being heard by the Supreme Court.

"You've got the perfect case," Justice Sandra Day O'Connor told the attorney for Gail Atwater. Later, O'Connor told the city's lawyer, "Even knowing it was a mother with two small children in a small town ... This is kind of an amazing case. But you think that's fine."

But several justices also questioned whether the Supreme Court should try

to set a rule governing such situations.

"How bad is the problem out there?" asked Justice David H. Souter, who said he wondered if the justices should base a constitutional rule on a rare case.

"It is not a constitutional violation for a police officer to be a jerk," added Justice Anthony M. Kennedy.

But Atwater is fighting the city's decision. Her lawyer, Robert DeCarli, says "If the city's practice is upheld, drivers will fear the police even more. Every driver, if they get caught committing a traffic violation, expects to get a ticket. Nobody expects to be handcuffed and taken to jail."

The justices are expected to issue a ruling by July of 2001.

NE Meeting Report

The Northeast region of the NMA held their fourth annual meeting on October 21 in Wallingford, CT. The weather and the attendance exceeded everyone's expectations. This beautiful fall day brought out NMA chapter coordinators, activists, members and guests from Rhode Island, New York, Massachusetts and Connecticut.

A welcome letter from Jim Baxter was read to the group and then the NMA presenters covered news updates in each state and some unique ticket fighting experiences. Rounding out the agenda was the raffle. NMA headquarters was good enough to provide enough shirts, medallions etc. to keep everyone happy. For many of the members in attendance, this was their first live contact with the NMA. It proved to be a rewarding experience for all concerned.

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Spike Goes To Court, Part II

By Spike (Last name withheld by request)

Before the officer finished writing my ticket, I had already decided to fight it. In fact, it is my standing policy to fight every moving violation because to do otherwise is to volunteer to pay fines and higher auto insurance premiums. My first step was to visit the court clerk and set up a date for my "informal hearing." In Michigan, the informal hearing exists to informally take your money without benefit of the legal requirements and protections of a real court of law. The upside is that your informal hearing can be easily appealed to a real trial if you don't like the result. While the intent of the informal hearing is to take your money, it nonetheless provides you with an additional opportunity to keep it.

The structure of informal hearings vary throughout Michigan, with some maintaining the appearance of impartiality, and others an unconcealed money-grab. In some such hearings, there is no expectation that the police officer will show up to testify and the judge merely reads the citation and finds you guilty. Sometimes the judge may not even be a judge, but merely a lawyer on contract to the district to conduct a kangaroo court and collect fines. But most often, the police officer *is* expected to be there—and if he is not, you can get the charge dismissed. If the police officer *does* show up, you may have the opportunity to approach him or the judge with the idea of changing your charge to a non-moving violation like blocking traffic, an equipment violation, or even a parking ticket. In essence, the informal hearing is your chance to play **"Let's Make A Deal"** with your traffic ticket, and should be approached more with the enthusiasm of a game-show contestant than the vocabulary of a lawyer.

Court clerk "Debbie" was not at all pleasant, but nonetheless set my hearing date for August 3rd and informed me that the date could be

changed once with a 3-day notice. I considered changing the date on the theory that any delay increases the likelihood that the police officer who wrote the ticket wouldn't appear, but decided the first date fit into my own schedule best.

When the day came, I found myself in a courtroom with 15 or 20 other defendants and about 4 police officers. A list posted on the wall informed me that nearly all of the charges were speeding violations. The first three defendants did not fare well. The police officers who ticketed them were on hand, provided a rote recitation of the charge and circumstances, and the judge found each defendant guilty after they stumbled through lame denials of their speeding. Still, they were only convicted of speeding and could appeal if they chose.

I spent most of this time looking at the back of the room with the growing realization that most of the police officers that had ticketed these other people were not there—including mine. Then, about 20 minutes and three convictions into the morning, the judge began calling names and dismissing cases. At least two-thirds of the defendants in court that day had their tickets dismissed because their police officer didn't show. I walked out a winner without ever having to utter a word in defense or explanation.

This was my second appearance in Michigan traffic court. While I had to pay the fine on my first visit, I was not convicted—and I have no Michigan moving violations on my record for the 11 years that I've lived in this state. I've been lucky to be sure, but for the most part, my success stems from a layered strategy. If you drive through a heavily patrolled area, electronics and a sharp eye will help—but won't save you from every ticket. If you prepare yourself for the inevitable traffic stop and create the image of someone the police officer would prefer not to

ticket, you will avoid a ticket most of the time. Finally, traffic court provides you with several more opportunities to avoid conviction. Nobody wins at every level all the time, but you can still make speeding convictions a rare event.

Spike is a Life member of the NMA. 

New Login Procedures

The NMA web site recently changed the process for entering the "Members Only" areas of our site (www.motorists.org). When you click on a "Members Only" area, the site will prompt you for a username and a password. Your username is your six-digit membership number (which should start with a 2). If you don't know your membership number, check the mailing label on this issue. It is the six-digit number to the left above your name.

Your password is the two letter abbreviation of the state you live in. Please note that this must be in UPPERCASE. If you do have problems with this, please email the site administrator at nma@motorists.org and he will do his best to help you.

With just the click of a button, renew your NMA membership online!

www.motorists.org

Drug Roadblocks, Begone!

At the very end of 2000, motorists finally received some good news. Drug Roadblocks were deemed unconstitutional by the Supreme Court by a vote of 6-3.

The majority, in an opinion written by Justice Sandra Day O'Connor, said that the ruling does not affect other kinds of police roadblocks such as border checks and drunk driving checkpoints. Those have already been found constitutional by a previous ruling.

But the reasoning behind those kinds of roadblocks—chiefly that the benefit to the public outweighs the inconvenience—cannot be applied broadly, O'Connor wrote.

"If this case were to rest on such a high level of generality, there would be little check on the authorities' ability to construct roadblocks for almost any conceivable law enforcement purpose," the opinion said.

Chief Justice William Rehnquist and Justices Antonin Scalia and

Clarence Thomas were the dissenting opinion. There are a couple of interesting points to ponder on their dissensions.

Chief Justice Rehnquist dissension is based on the fact that the Supreme Court has ruled that roadblocks are constitutional. His main complaint seems to be over the supposed hair-splitting that is occurring. Adding dogs to the mix to search for drugs doesn't seem onerous if you believe in the validity of roadblocks.

"Because these seizures serve the state's accepted and significant interests of preventing drunken driving, and checking for driver's licenses and vehicle registrations, and because there is nothing in the record to indicate that the addition of the drug sniff lengthens these otherwise legitimate seizures, I dissent," the chief justice wrote.

In a separate dissent, Justice Thomas seemed to agree with Chief Justice Rehnquist that if you believe

that roadblocks in general are constitutional, then drug roadblocks should be as well. However, Justice Thomas also implied that he didn't agree with the original decision for roadblocks by saying that he doubted that the Constitution's framers would have regarded any roadblocks as acceptable but that since the court's precedents were not open for re-examination in this case, "I believe that those cases compel upholding the program at issue here."

This is a positive note in itself as it suggests that if roadblocks were to be questioned in the future, Justice Thomas would most probably vote against them.

One last note that really proves the ineffectiveness of this type of enforcement. During hearings on this case, lawyers for Indianapolis conceded that the drug roadblocks in question, detained far more innocent motorists than criminals. ☺

Roadblock Reversal

Roadblocks have received a double blow to their validity.

On the same day that drug roadblocks were deemed illegal, an Indiana appellate court ruled that all roadblocks or checkpoints violated the Indiana State Constitution. The court's ruling declared that, although roadblocks might be legal under federal law, they violate Indiana's equivalent of the Fourth Amendment to the U.S. Constitution. Indiana primarily uses these checkpoints for the apprehension of intoxicated drivers.

"A suspicious roadblock seizure is inherently random, arbitrary, and capricious," Judge Edward Najam Jr. wrote for the Indiana Court of Appeals. "Our judiciary has no license to authorize the systematic violation of

individual rights in the name of 'great public concern.'"

Deputy Attorney General Timothy Beam argued that roadblocks are reasonable since they comply with the rules supplied by the US Supreme Court.

But Najam wrote that he and two other judges came to the conclusion that the Indiana Constitution calls for probable cause, a valid warrant, or at least reasonable suspicion of criminal activity before drivers can lawfully be stopped. The sobriety roadblocks are illegal as they have been determined to lack any of these criteria.

Because of this ruling, Indiana State Police will suspend their roadblock activities and will wait to see whether this case will be appealed to the Indiana Supreme Court. At this time,

the state hasn't appealed the case although they are expected to do so in the future. ☺

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NMA Leadership Profile

Terry Campbell: Nebraska

When and why did you become a State Chapter Coordinator?

I became a member and almost immediately a State Chapter Coordinator almost a year ago in January 2000. I was becoming upset with abusive traffic enforcement, roadblocks, and the attempts to set aside the legal safeguards that have prevented Intersection Cameras (also known as Red Light Cameras).

What are your proudest accomplishments as a State Chapter Coordinator?

I became State Chapter Coordinator the same day the Nebraska Unicameral was gavelled into session. I wrote letters and testified in opposition to numerous bills that subsequently failed to receive committee support.

What projects are you currently working on?

We are trying to expand our membership. We are also working

with Chad Dornsife (Nevada Activist) in assisting members who want to fight improperly established speed limits. We have also proposed legislation to allow "Discovery of Information" in traffic infractions, to require officers to have "Reasonable Grounds" (intended to stop roadblocks) to make a traffic stop, and to change Nebraska's Construction Zone law.

What are the most important issues affecting members in your state?

I think that the most important thing for us is to keep the law from allowing Intersection Cameras. I have obtained a great amount of information from Greg Mauz (Florida Activist) and from the national NMA office to help bring the truth to our legislators.

Summarize your ticket-fighting experience.

For years, I was in charge of a group of police officers who issued traffic citations. However, at that time,

we gave a great deal of tolerance (about 9 mph) and we purchased only quality electronic speed measuring devices (Radar). We had the equipment hard wired to the marked cruiser and insisted our officers be well trained. Today, officers hide in the weeds, drive unmarked cruisers, and write citations for 5 miles over the limit. I suggested that traffic signals be re-timed to ease traffic problems on selected roads and this is still not being done today. I am very upset with these new officers and the manner in which they are engaged in traffic enforcement. 🗨️

No activists or state chapter coordinator in your state? Interested in becoming one? Contact us for more information.

The Real Danger of Aggressive Driving

By Eric Skrum, Executive Editor

Arlington County, Virginia has a new solution for "aggressive driving"—send them to anger management classes. The program began in December as judges referred motorists that were identified as aggressive drivers to anger management counselors. This is the latest stage of the slippery slope for "aggressive driving" and "road rage."

When the term "road rage" was first used, it referred to the unusual occurrence of someone inflicting harm on a fellow driver. Shots exchanged, people run off the road, motorists "duking" it out. Relatively rare, but juicy to media looking for that next bit of sensationalistic news. Thus was

borne a catchy new phrase, "road rage." It turns out to be too catchy because everyone began using it to describe any anti-social behavior such as a driver using the one-fingered salute. The phrase became so popular, that now we have all kinds of "rage" (air rage, pedestrian rage, voting rage, etc.)

Sometime, and I'm not exactly sure when, road rage became synonymous with aggressive driving. Or vice versa. With the repeated debunking of the "Speed kills" myth, police and safety officials have needed a new issue to justify their existence and aggressive driving seems to be the ticket. The media and safety organizations have

done a great job with propaganda and misinformation. A recent, unscientific AAA survey (as they all are) showed that aggressive driving was the number one concern for Washington DC AAA members.

The real problem with aggressive driving and road rage is that no one can give them a meaningful and practical definition. Depending on who you ask, aggressive driving ranges from tailgating, speeding, abrupt lane changes, running a red light, or rude gestures. And, there's usually a phrase such as "and all other forms of aggressive driving" thrown in for good

Continued on next page

Insurance From Space

By Aarne Frobom

Would it be a good deal to have a device in your car that records your travels, analyzes your driving behavior, and phones a summary of your behavior into a central office once a month?

Some customers of the Progressive Insurance Company think so, and have signed up for "actual use" auto insurance in which their premium is based on the amount and kind of driving they do, as recorded by a computer attached to a GPS satellite receiver installed in their cars. While many drivers may resist being monitored in detail, other drivers might find the satellite insurance scheme economically appealing.

NMA members know that getting a ticket (or several) doesn't mean you're a bad insurance risk. Yet most insurers increase premiums with each speeding ticket, and use point totals to move accident-free drivers into "high-risk" pools at huge premiums. Some firms lobby for ever-stricter traffic enforcement to make sure drivers get lots of points. It has always seemed to us that safe, high-point drivers were a business opportunity waiting to be exploited and, the Progressive company is the first to spot it. This company matches insurance premiums to real risk, not the imagined risk associated with traffic tickets. You may remember this company from a mention in Patrick Bedard's column in *Car and Driver Magazine* of a few years ago, when it made news by refusing to increase the premiums of drivers just because they got a few speeding tickets.

In the Houston area, Progressive offers to install a GPS location receiver in customers' cars. The device monitors the car's travels, and subscribers' premiums are based on actual use. When the car is moving, the device records its location every six minutes, and accumulates a charge based on the riskiness of the territory the car is

moving through, and the time of day. High-traffic places have higher insurance charges, as do the late nighttime hours.

Periodically, the device phones home to the insurance company with a report on the vehicle's use. Customers receive a statement of their vehicle use and the insurance charges incurred. This scheme can yield savings for some drivers. Low-mileage drivers can save a lot. So can drivers who drive in relatively-uncongested areas, or at low-risk times. Of course, high-mileage drivers might pay more than under an ordinary policy. High-mileage drivers or commuters through dangerous territory are offered conventional insurance. However, even a high-mileage driver can save a little if all those miles are low-risk ones.

A driver who makes a lot of miles on daytime, rural freeways, and doesn't object to constant surveillance might want to pay attention to satellite insurance. Wide-open freeway miles are the safest on the road system, but are prime ticket-writing territory. Progressive is emphatic about not using speeding tickets as a factor in setting premiums. "Speed doesn't matter," say company representatives, "when it comes to predicting a driver's accident exposure." But speed change does, and the device also contains an accelerometer that records "critical events." These are the sudden brake applications that indicate that a driver is sloppy, inattentive, or a tailgater. In other words, it doesn't matter how fast you go, but how fast you stop.

So far the system is available only in Houston, where Progressive is testing it. It may appear in other places eventually. Other companies are looking at the idea, and it may spread faster than you expect: at least one auto manufacturer may make cars with the satellite receiver built in as soon as 2002. All that will be required to activate (or de-activate) satellite

coverage will be a phone call.

The interesting part will be the effect on the auto insurance market. In the near term, safe or low-mileage drivers can realize savings, and high-risk or high-mileage drivers can still switch to conventional firms. Ultimately, satellite insurance may mean an end to cross-subsidy in auto insurance.

Of course, any technology can be misused. What today is a private transaction between an auto owner and his insurer might tomorrow become a government mandate, a basis for taxation, or evidence in a trial. This insurance plan is probably only the opening act of a much bigger story. ☞

Road Rage

continued from previous page

measure. In states with aggressive driving laws, there usually must be a combination of three different actions within a small time frame to be considered an act of aggressive driving.

So where does this leave us? No conclusive definition. No real statistics on the pervasiveness of this behavior. No proof of the cause and effect.

And, now, the propaganda, misleading terms, and vague definitions surrounding aggressive driving has lead to court ordered anger management classes. And, the sponsors of this program have already stated their intention to take this approach to a national level. How much longer before speeding, by itself, will be considered aggressive driving?

Judging by the hype, vague laws, and general misinformation on aggressive driving/road rage combined with these anger management classes, it might not be that long at all. ☞

News From Around The Country

Colorado

The Denver police department has launched a new program called "Speedwatch." In this program, citizen volunteers will be trained to use radar guns, and after the training, the citizens will be able to monitor traffic in their neighborhoods. The volunteers will work in teams of three: One will operate the radar unit, one will be a spotter, looking out for possible speeders, and one will record the license plate numbers of the automobiles. A list of speeding cars will be sent to the Denver Police Department, and the owners of the cars will receive warning letters. They will not be cited.

Illinois

Chicago motorists may not be able to use cell phones in their vehicles. A new ordinance that is being introduced would give motorists three years to get used to this idea. The ordinance is patterned after the 1988 law that requires Illinois motorists to wear seat belts. Instead of charging drivers for cell phone use while driving as a primary offense, Chicago police would spend the first three years issuing citations only when a motorist is pulled over for another offense.

Missouri

The Missouri Highway Patrol and 20 local law enforcement agencies will be on the lookout for aggressive and careless drivers. Among other things, police will look for motorists who accelerate through yellow lights, fail to use turn signals, follow too closely, pass on the right, change lanes unsafely or drive in the passing lane. Officers will use decoy vehicles, spotters, aircraft and marked police cars.

Montana

The Montana State Supreme Court made a ruling on November 16, 2000 that clarified motorist protection from

illegal searches. "While the nature of vehicles affords little privacy for items left in plain view, people do have an expectation of privacy for belongings they place out of sight in their vehicles," the unanimous court said. "A law officer needs more than probable cause to believe an auto contains evidence of a crime before he can conduct a warrantless search of hidden areas, such as under seats and in trunks," the court held.

New York

Suffolk County has banned people from using hand-held phones while behind the wheel. County Executive Robert Gaffney has signed the bill into law. Violators will receive a \$150 fine.

Rockland County has also banned hand-held cellular phones. This will be enforced starting April 15, 2001. Until then, county officials intend to educate motorists about the ban. The law prohibits drivers from holding phones, but allows the use of headsets or other hands-free devices.

Ohio

The president of the Ohio Senate intends to fight a federal law requiring states to lower the legal limit for drunken driving or risk losing federal highway money. Senator Richard Finan said yesterday that the legislature should refuse to lower Ohio's limit to 0.08 percent from 0.10—possibly forfeiting about \$30 million next year. He said other states should do the same because the law infringes on their rights. "I think it's time to stand up to say we're not going to be blackmailed," Finan said. "If the states that don't have the 0.08 limit stand up and say, 'You can keep your money,' they would have to rethink how they do things in Washington, DC"

Pennsylvania

Pennsylvania Turnpike officials would like to lower the speed limit to 55 mph for trucks and 65 mph for cars.

A commission has been put together to look at this issue.

Texas

Plano police are attempting new measures to prevent accidents. They have begun the following initiatives:

- Pledge cards sent to residents asking them to approach intersections carefully, stop at all red lights and follow speed limits.
- Signs posted at major intersections announcing the number of speeding tickets issued in the city this year.
- Signs posted at several entry points to the city announcing the number of red-light tickets written last year.
- A hotline (972-941-7615) for drivers to report license plates of cars they see running red lights. Those drivers, 74 of whom have been reported so far, are then sent a letter and a pledge card.
- Warning posters sent to major businesses, high schools and driving schools.

Virginia

Manassas City staff will recommend that all roads with widths 30 feet or less have 15 mph speed limits, and all roads 34 feet or wider have 25 mph speed limits. There would be two city roads exempt from the measure: Manassas Drive east of the railroad tracks and Centreville Road, both of which have 35 mph speed limits. The city is also considering altering its minimum requirement for imposing an additional \$200 fine for speeding on residential streets. Homeowners who want the added deterrent now must submit a petition containing the signatures of at least two-thirds of the street's residents. 🏠

What Would You Like The NMA To Do?

This questionnaire is your chance to give real direction to NMA efforts. We want to know which issues are important to you. We also want to know which issues you take a special interest in, to the extent you would like

to receive special alerts and personal notices.

After checking the boxes, fill out the address information so we know where to send the issue-related materials you prefer. We have made

this into a self-mailer. All you need to do is cut this page out, stamp it, and send it. You can also fax this page to 608/849-8697.

<i>The Issues</i>	<i>I want the NMA to work on these issues.</i>	<i>I would like to receive alerts and messages on these issues.</i>
Establish rational speed limits	<input type="checkbox"/>	<input type="checkbox"/>
Support access to jury trials for traffic tickets	<input type="checkbox"/>	<input type="checkbox"/>
Outlaw speed traps (revenue generation)	<input type="checkbox"/>	<input type="checkbox"/>
Reduce/eliminate traffic congestion	<input type="checkbox"/>	<input type="checkbox"/>
Support improved driver training	<input type="checkbox"/>	<input type="checkbox"/>
Support improved lane discipline	<input type="checkbox"/>	<input type="checkbox"/>
Oppose photo radar	<input type="checkbox"/>	<input type="checkbox"/>
Oppose red light cameras	<input type="checkbox"/>	<input type="checkbox"/>
Oppose roadblocks	<input type="checkbox"/>	<input type="checkbox"/>
Oppose .08 BAC laws	<input type="checkbox"/>	<input type="checkbox"/>
Support OPTIONAL air bags	<input type="checkbox"/>	<input type="checkbox"/>
Oppose daytime running lights	<input type="checkbox"/>	<input type="checkbox"/>
Oppose establishment of primary seatbelt laws	<input type="checkbox"/>	<input type="checkbox"/>
Eliminate toll roads	<input type="checkbox"/>	<input type="checkbox"/>
Open HOV lanes to all vehicles	<input type="checkbox"/>	<input type="checkbox"/>
Protect motorist privacy	<input type="checkbox"/>	<input type="checkbox"/>
Segregate motorist taxes for highway projects	<input type="checkbox"/>	<input type="checkbox"/>
Eliminate mandated scheduled vehicle safety inspections	<input type="checkbox"/>	<input type="checkbox"/>
Eliminate mandated scheduled vehicle emission inspections	<input type="checkbox"/>	<input type="checkbox"/>
Oppose pre-mature scrappage ("clunker") programs	<input type="checkbox"/>	<input type="checkbox"/>
Prevent "traffic calming" campaigns (speed bumps, flow restrictors, unnecessary stop signs)	<input type="checkbox"/>	<input type="checkbox"/>
Support enforcement of MUTCD (Manual on Uniform Traffic Control Devices) engineering standards	<input type="checkbox"/>	<input type="checkbox"/>
Apply "inattentive driving" laws to in-vehicle distractions (cell phones, GPS, laptops etc.)	<input type="checkbox"/>	<input type="checkbox"/>

Additions/Comments _____

MEMBER # _____ (See six digit number on your mailing label for this)	
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ADDRESS _____	
CITY _____	STATE _____ ZIP _____
DAYTIME PHONE (_____) _____	E-MAIL _____

GM Sued Over Black Boxes

Since the 1990s, General Motors (GM) has been installing black boxes with diagnostic and recording abilities in their vehicles. These devices are known as sensing diagnostic modules (SDM). Now GM is in a law suit alleging that it violates their customer's privacy by installing SDMs to record data such as speed, braking, and seat belt use moments before a crash.

The lawsuit claims that drivers never learned that "it would be possible for GM (or anyone else to whom GM provided the data surreptitiously recorded by the SDM) to invade the driver's privacy and monitor the particular driver's driving characteristics and seatbelt use habits at a particular point in time," the lawsuit alleges. The lawsuit is taking place in Middlesex County and alleges that GM violated New Jersey's Consumer Fraud Act, invaded the privacy of drivers, and failed to get their consent for the devices. The lawsuit is also alleging that GM has used the data against at least one car owner to defend a product liability suit.

GM claims that the SDMs are part of their air-bag systems and help their

company to design safer cars and aid accident reconstructionists on the scenes of accidents. GM also maintains that the owners' manuals indicate that some vehicles are equipped with devices that record data about the integrity of the airbag system.

GM spokeswoman Kelly Cusinato says, "Our policy is that we have to get the vehicle owner or leasee's permission. If the owner requests it, they can get a copy of downloaded data. But we're not in the business of providing this information to third parties."

However, attorney Roy A. Katriel, who represents plaintiff Sherry Valan, said that despite the sentence in the owner's manual, GM never adequately disclosed what data was collected and how it may be used. "In most instances, the recording has been taking place without the owners ever knowing about it," said Katriel. "It raises very troubling questions about informed consent."

Katriel said that GM employees also may have access to the data without a driver's consent if a car is totaled in an accident and an insurance company takes ownership of the car.

But Cusinato said that GM would only gather the data from an insurance company if the driver gave his consent. She also said that the company may seek to subpoena data in some instances to defend against a lawsuit.

We will be keeping our members informed on the progress of this case. The most vital part of this case, and any future case involving this issue, centers around the question, "Who owns the information in the black box?". Common sense would dictate that it is the owner of the vehicle. But when it comes to lawsuits, tickets, and revenue; common sense isn't always the first thing used. ☹

Visit one of the NMA web sites for more motorist information.

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The Experts' Corner

Do you have a question that only an expert can answer? If so, look no further. We have many NMA members with special fields of expertise. This feature was created to assist members with answers to both practical and technical questions.

This sharing of knowledge is another benefit of belonging to the NMA. Please indicate that you are an NMA member when calling a listed "expert."

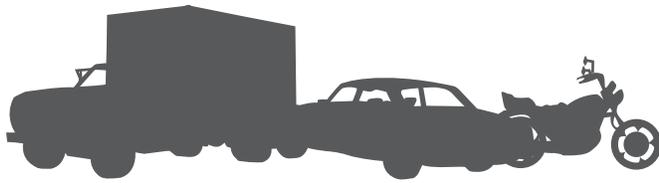
Can you help? Please contact us with your field of expertise and provide us with a contact address.

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PLEASE NOTE: This is not intended for listing of commercial business services.

As an NMA member, the Experts' Corner is available to you online at

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MEMBERS WRITE

Your letters are welcomed and appreciated. This is a forum for diverse opinions, different perspectives, and personal experiences. Letters may be edited for length or clarity. Letters should not exceed 300 words in length. Full-length articles will also be considered for publication in the NMAF NEWS. Articles should not exceed 600 words in length. Positions and opinions expressed in letters and member-authored articles are those of the author and do not necessarily reflect NMA policies or objectives. To submit, you can email us at nma@motorists.org or mail to our NMAF Office.

Jim Baxter, in his "Voting and Representation" column (November/December) asks: "Was there a party platform out there that said, 'we're going to put an end to extortion through traffic tickets?'" From the Libertarian Party platform: "Government interference in transportation is characterized by monopolistic restriction, corruption and gross inefficiency.

For confirmation of Libertarian Party principles, the article, "Drug Roadblocks Heard By Supreme Court," in the same issue of *NMAF NEWS*, refers to two individuals who refused to be searched at a police roadblock (your papers!!). One of those individuals is Joell Palmer, Libertarian Party candidate for the Indiana House of Representatives (District 91), who has pursued this case with the support of the ACLU.

Rather than hoping for a new political party to aid NMA causes, it should be recognized that such a party currently exists.

**Bill Hickman
Granville, OH**

On April 27, I was issued a RADAR citation by a San Jose officer for 47 mph in a residential 25mph zone, under California's 22350 basic speed law. My trial was November 7th.

It all came down to an esoteric point of law—the legal definition of a "local street or road."

Section 40802 of the California

Vehicle Code requires that when RADAR is used, a recent traffic engineering survey must have been conducted, except on "local streets or roads" where no survey is required.

The definition of a local street, and thus the definition of where an engineering survey is required, rests on the designation of that road on road use maps submitted to the Federal Highway Administration.

If those maps have NOT been submitted, then a local road can be defined as "primarily provides access to abutting residential property," and is not more than A) 40' in width, B) 1/2 mile of uninterrupted length, and C) one lane in each direction. [CVC 40802(b)(1)]

But San Jose HAS been submitting these maps for years, meaning that the width/length/lane definition CAN'T be used to prove a "local street or road." The city has been "screwing up" (to quote the judge) this type of RADAR case for years, by using the width/length/lane definition instead of the federal map definition.

And that's what they did in my case. When I began to move for dismissal, the judge stopped me before I said ten words, and essentially made my motion for me while scolding the DA's office for ignoring his previous warnings on this issue.

Since they didn't present proper evidence showing that the road was "local," they could not prove that a

survey was not required, and since there was no survey, their case crumbled.

Another court victory, thanks to the NMA! The documentation of this case will be available at <http://www.aidonn.com/>

**Michael Pelletier
San Jose, CA**

I strongly believe the NMA should spend much more attention on the auto industry's future plans to turn vehicles into mobile offices and entertainment centers. We should take a stand on the dangers of this. I applaud but question the success of GM's effort to have this cake and eat it too.

Driving is a full time job!

**Bob Jackman
Detroit, MI**

The article "NHTSA Wants More Power" in the November/December 2000 edition raises some interesting questions.

Dr. Sue Bailey, head of NHTSA, is quoted as claiming "... that for the NHTSA to act on safety problems sooner, manufacturers must be required to turn over data on customer claims, legal settlements, and foreign safety actions."

In response to the idea that some (of the public) may not approve of more government regulations, Bailey said, "I, for one, think when it

continued on next page

Members Write

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comes to safety, you can't have too much control."

On that point, she is actually right, but not about *government* control. The fact is, when it comes to a person's safety, a person cannot have too much control.

William J. Holdorf
Chicago, IL

On certain multi-lane divided controlled access highways, I have observed that when traffic is very light, the few cars that are traveling feel constrained to adhere closely to the speed limit lest they stand out and attract the attention of the police.

Let us now consider an increase in traffic flow. This level of traffic flow encourages the formation of small groups of cars (typically 3 or 4 vehicles) travelling together without coordination or pre-arrangement, but at a speed considerably in excess of the speed limit. They are able to do this with impunity because the traffic density is sufficiently low that they can easily pass slower cars, yet sufficiently high that it is difficult for the police to identify and isolate a single law "breaker."

Is it also contrary to the intuitive concept that safety demands lowering speed as traffic congestion increases? In my opinion, it's the logical response by the motoring public to the illogical and artificially low speed limits, and safety would actually be better served if the speed limits were increased to reflect reality.

Theos D. McKinney Jr.
Pomona, NJ

The letter from Bob in Santa Barbara (November/December 2000 *NMAF NEWS*) prompted me to write and ask if any other California drivers have experienced the same thing I have and how prevalent it is.

I'm rolling down the freeway dead on the legal limit in the number 3 lane when a CHP car approaches me from behind at high speed. I assume since there is no other traffic in my immediate vicinity, and I, to the best of my knowledge, am doing nothing illegal, he will simply go around me if he's in such a hurry. Instead, the officer tailgates me (close) for about half a mile.

I keep watching the officer in my mirror, waiting for the flashing lights, my cue to pull over or get out of the way. No lights flash. The officer then changes lanes to the right and aggressively follows another vehicle, then another, and another.

I've seen this scenario played out several times recently both on freeways and surface streets. A police vehicle (It's not just the CHP, city police do it too.) will dart in and out of traffic, tailgate a vehicle for 20 to 30 seconds, then make a quick lane change—usually without signaling—and tailgate another.

Is there a reason for this activity? It appears as if these officers are trying to intimidate drivers into speeding or some other illegal maneuver so they can hand out another ticket or at least gain "probable cause" for a stop.

Steve Trunk
San Diego, CA

Editor's Note: The police officer is reading plate numbers into the radio/computer and waiting for a "history" on the probable operator, the owner. If the report lists a litany of previous violations, DWI convictions, or outstanding warrant; the officer will concoct a reason to pull the vehicle over.

Here's a perfect example why the NMA needs our support. Did you know you can lose your driver's license in Wisconsin for not having your cat spayed or neutered?

This past summer while on an internet site that lists court

convictions, my co-worker's 23-year-old daughter discovered a judgement against herself from La Crosse County in February 1999. La Crosse Family Services had charged her with "failure to complete an adoption agreement." A phone call to the La Crosse courthouse revealed that the Humane Society there requires that adopted animals be fixed and that proof be sent back to the Humane Society. By the time the cat was old enough, the woman had moved and had the procedure done there. The clerk at the courthouse said that a letter to the judge would straighten things out.

Then in late November 2000 she received a notice from the Wisconsin Department of Transportation saying that because she didn't show up to the February 1999 court proceedings, her driver's license had been suspended *retroactively* to November 1st, 1998. This was the first time she was ever notified in writing about the judgement, even though she had her mail forwarded and had changed her address with DOT in early 1999.

In another call to La Crosse she was told that the only way to get her license back would be to pay the \$209 fine and pay the \$50 license reinstatement fee. She recently complied in order to avoid driving without a valid license—since she was lucky enough not to get a fine when she had unwittingly been driving without it for two years!

Dennis Dissmore
Madison, WI 🐾

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