



Driving Freedom

NMA Foundation

The Driver License: Is It Necessary?

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The NMA Foundation is a non-profit group dedicated to finding innovative ways to improve and protect the interests of North American motorists.



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Driving Freedom

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Driving Freedoms

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Cover

"The Driver License: Is It Necessary?"



A Convenient Fiction

by James J. Baxter, President, NMA

The Massachusetts law that forces traffic ticket defendants to pay a non-refundable fee for the “privilege” of defending themselves in court is being legally challenged, finally. Two cases – one involving the non-refundable court fees, and another contesting a \$275 filing fee to challenge a parking ticket – are being combined for consideration by the state’s Supreme Court.

In the first instance, the defendant, who happens to be an attorney, went through the first level administrative hearing (first paying the required \$25 fee, only cash accepted), lost and appealed for a trial by a judge (now paying \$50, in advance, no refund). The defendant prevailed at the second trial and then made a motion to have his \$75 returned. The court denied his motion. The defendant appealed and the case was eventually accepted by the MA Supreme Court.

The parking ticket case has its own moments of great irony. State law limits a parking ticket defendant’s due process options to a hearing overseen by the parking authority that issued the ticket. Failing in that fair and impartial venue, the defendant may appeal to the Superior Court for the modest sum of \$275. The imbalance apparent in spending \$275 to overturn an \$8 ticket escaped the attention of the crafters of this law, or perhaps not?

With this background we can

step back and explore the issues at hand. The Fifth Amendment to the U.S. Constitution clearly states “nor shall any person . . . be deprived of life, liberty, or property, without due process of law . . .”

This right to due process is applied to all the states via the 14th Amendment to the U.S. Constitution. Federal and state courts have sliced and diced the right to due process (even overcoming pesky but clear Constitutional language that sets a much higher standard for due process) such that due process now varies depending on the severity of the crime. It can range from mandating a 12-person jury and a government-sponsored defense attorney down to a “fair and impartial hearing” conducted by the same agency that is prosecuting the defendant.

The Attorney General for the state of Massachusetts argues that it is perfectly reasonable, and legal, for a traffic ticket defendant to pay for access to the courts to defend himself. The reasoning is that “justice isn’t free,” and when someone files a civil suit, it is accepted that he pays for the court’s services.

Enter the convenient fiction: Many states, including Massachusetts, invented the rationale that if a conviction for a crime does not involve imprisonment, the crime is no

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Don't Think You Need a Radar Detector?

by Eric Peters, Automotive Columnist (www.ericpetersautos.com)

It's been almost exactly two years since I bought my V1 radar detector. It's also been almost exactly two years since I last got a speeding ticket.

Coincidence? More like a reprieve.

No longer do I have to live with the constant dread that just after the next blind curve sits a doughnut-eater running his Machine – because now I have a machine, too.

My ever-vigilant Little Friend chirps a warning – Slow Down! – and it's that second or two of advance warning



V1 Radar Locator from Valentine Research

that has kept my record “clean” for 24 months now – a feat I had not managed in the previous 12 months.

Some may take umbrage and call me a law-breaker, which is technically true. But then, so are the cops and the system they support.

Speed limits, for instance, are very often not set according to the law. Instead of doing a traffic survey (including measuring the speed of traffic on a given stretch and determining the average, from which the posted limit is supposed to derive its statutory basis) the limit is just posted – at whim.

Typically, it's set well below the 85th percentile speed (basically, the normal pace of everyday traffic) which has the effect of making virtually every driver on the road technically guilty of “speeding.”

A proper speed limit, according to the book – literally the Manual on Uniform Traffic Control Devices, or MUTCD – should be set about 5-10 mph higher than the 85th percentile, so that

only drivers going significantly faster than the normal flow are in violation. Most state and local governments are supposed to abide by the MUTCD and the 85th percentile rule – but they don't. So, who's playing dirty pool here?

There's also the issue of speedometer error. Many people have no idea, but it's a fact that vehicle speedometers in ordinary passenger cars are often not accurate. They can be off as much as 5 mph, either way. This is why cop cars have “calibrated” speedometers that are tested to ensure accuracy.

But your car's speedo may be off, and that means you could be “speeding” and not even know it.

You'll get a ticket just the same.

A radar detector can also be a day-saver when, for example, you're about to try to pass a dawdler doing just slightly under the posted maximum. To execute the pass safely, you will need to briefly accelerate to well over the posted maximum in order to safely get around the dawdler and back into your lane quickly. This is obviously smarter – and safer – than trying to pass a car doing 52 without you yourself driving faster than 55. Cops know it's so, too. But they will ticket you mercilessly if they catch you doing 65 to get around the dawdler, even if it's only for a moment.

The final argument I'll make – and it's addressed to the “good driver” who rarely drives more than a few mph over the posted max – is in the form of a warning. It used to be that most cops in most places would “spot” you 5, even 10 mph – because they knew (but would never admit openly) that most speed limits were bogus and they felt badly about hassling people whom they knew were not driving dangerously.

But enforcement is becoming much more aggressive as a result of declining

tax revenues and increased costs for state and local governments. Traffic tickets are a vast potential source of revenue and all around the country, local governments are leaning on the police department to increase the haul as much as they possibly can. The cushion that used to exist is gone. You can expect to get a ticket, not a warning, for doing 62 in a 55 or 50 in a 45.

Unless you have an electronic ally.

Now, a high-quality radar detector like my Valentine 1 or an Escort Passport 9500ix or an Escort Redline is not inexpensive. But in my case, the unit paid for itself within the first six months. Do the math yourself. A single typical “minor” speeding ticket averages about \$150, fine plus court costs. That's less than the cost of the V1, of course. But don't neglect to take into account the near-certainty that your insurance premium will be “adjusted” upward even after just one speeding ticket is credited to your DMV rap sheet. Get a



Redline Radar Detector from Escort

second ticket within a 2-3 year timeframe and the near-certainty becomes an absolute guarantee. So if the detector saves you from getting even just two minor tickets over a two-year timeframe, you are in the black. Everything after that is gravy.

And it's impossible to calculate the value of escaping the clutches of Johnny Law. Avoiding just one ticket, courtesy of your Little Friend, will absolutely make your day. ■



NMA Washington Report

by Robert Talley, NMA Lobbyist



The 111th Congress appears spent. Projections of any meaningful action in the lame duck session that will wrap up before Christmas are virtually nonexistent. This allows us to contemplate for a minute some of the larger policy issues under discussion and consider them from the perspective of NMA members. This article will focus on the latest proposal to address the funding of our woefully underfunded road system by collecting taxes through a Vehicle Miles Travelled (VMT) system instead of the gas tax.

By all accounts our roads need a massive injection of capital to simply keep up with regular maintenance. Congress has not raised the gas tax, the primary source of federal funds for roads, in decades, and there appears to be little political appetite for the necessary increase to meet the unfunded requirements. Toll roads, toll lanes, and privatizing existing roadways and bridges have all been stopgap measures to meet the driving needs of the public, but they are neither good policy nor are they enough. The bottom line is that any proposal must raise more money from drivers than we are currently paying—no matter what, any solution that reasonably meets our transportation needs will cost you, and me, more.

More recently, a new proposal is gaining traction that is of significant concern. Policy makers, regulators, think tanks, technology vendors, and insurance companies are interested in tracking the movement of every vehicle using a data recorder and installing a new data collection system in every gas pump. This will allow the government

to collect a tax based on the miles driven rather than the gas consumed.



Transponder-based "smart" gas pump from Oregon's VMT pilot program (above) and typical receipt (above right) with itemized taxes/fees

This raises serious issues, and we must ask whether it really makes sense. Is this a technology solution in search of a problem?

No one really likes paying taxes, but a rational assessment concludes that roads have to be paid for – they don't simply appear, or maintain themselves. The gas tax, though politically unpopular like all taxes, is at least understandable and it works.

The NMA objects to Congressional mandates that siphon off gas tax revenues for social programs which do not maintain our infrastructure, photo enforcement systems used for general revenue funding instead of improving the safety of the road, and prioritizing projects based on political favor.

Replacing the gas tax with a costly new VMT tax system smells a lot like Congressional efforts to hide increasing energy prices in a cap and



trade program. Consider for a moment the cost to install or retrofit every car and every gas pump in the US with the technology to compute and collect the VMT.

This would be a massive and costly undertaking that will be paid for by fees collected by the VMT. Once in place, this has the potential to be a massive intrusion in drivers' privacy. Congressional leaders will choose who pays the taxes, enable insurance companies to coerce drivers to release the information, and authorize law enforcement to utilize that information. Sounds controversial.

Why not just stick with what we've got and apply the money we were going to spend on the new VMT system to the improvement of our roads? The American people object to paying for things they don't understand, don't want, or consider wasteful. No one wants to pay for special interest roads like the "bridge to nowhere," nor do we want confusing and disingenuous schemes like cap and trade.

Restore the sanity in road building by eliminating pork barrel projects for Congressmen, by eliminating the expenditure of transportation tax dollars on social programs, and by fixing the gas tax once and for all. Don't try to fool us with a VMT system. ■

NMA History: The First Ten Years, Part 3

by James J. Baxter

Editor's Note: This is Jim Baxter's look back at the first ten years of the National Motorists Association's existence, as written in 1992. Part 2, which appeared in the Sep/Oct 2010 issue, provided a "Mr. Baxter goes to Washington" story line, where Jim was kept at arm's length by an advisory committee and was not allowed to see a copy of a Congress-mandated study of the 55 mph National Maximum Speed Limit (NMSL). That action had the opposite effect of the committee's intent to lock him out. Jim subsequently raised such a firestorm that he received a copy of the study without being restricted as to its use. Part 3, originally published in the Jan/Feb and Mar/Apr 1992 issues of National Motorists Association News, picks up at that point.

The 55 benefit study was primarily a rehash of previously conducted research based on sketchy data, preconceived conclusions, and the interests of the funding agency. At a minimum, the Academy researchers admitted these shortcomings, albeit in couched terms.

A lengthy review and criticism of the preliminary study was circulated far and wide. It accomplished one thing. It created controversy which brought attention to the issue.

Meanwhile, back on the organizational front, our system of state chapters was starting to take shape. What we lacked in consistency and sophistication, we made up for with enthusiasm and energy.

I flew to Washington, D.C. for the release of the 55 benefits study, including the evening dinner function that preceded the official release the following day. My plane was late, someone canceled my room reservation

just before I arrived, and the cab driver couldn't find the National Academy of Science building.

When I finally arrived at the reception, there were two gentlemen handing out old reprints of every magazine that condemned the 55 mph speed limit. Most of the formally-attired guests looked a little uncomfortable clutching their copies of the 1977 *Road and Track* article, "Why 55 Doesn't Save Lives," or some variation thereof.

The leafleteers turned out to be our Oklahoma State Chapter Coordinator (SCC), Anatoly Arutunoff, and his friend Bill Pryor. They were the last friendly faces I would see for the rest of the evening. Actually, that's not quite true. A pleasant young lady sat next to me during dinner. She was responsible for arranging my appearance on the MacNeil/Lehrer program the following evening.

The next day was a three-ring circus including a press conference for the release of the "55 Benefits" study (staged by the National Academy of Science staff). We were poised with embarrassing questions and the authors were prepared with condescending or obfuscating answers.

Meanwhile, two of our past SCCs, Jerry Nowlin, MD and Will Fox, PA, were collaring anyone with a camera or pad and pencil and dragging them over to me, insisting that I be interviewed.

The press conference was a muddled affair with an abundance of oversimplified statements followed with numerous "however's" and "but's" and qualifications. Our presence and knowledge of the study kept the authors on their toes and denied them license to wax on about how the NMSL was a great law, worthy of perpetuation. They had to admit compliance was

poor and declining, the "safety benefit" seemed to be less noticeable, and fuel savings were insignificant.

The MacNeil/Lehrer program was an interesting experience. Just being on it gives you instant credibility (not always deserved). Alan Altshuler, Chairman of the Advisory Committee, defended the study. I pointed out its contradictions, weaknesses, biases, and the admissions it made in our favor. Mr. Altshuler did not enjoy his role as defender of the "55 Benefits" study and I don't think he publicly debated the subject again.

From that day forward, the proponents of 55 were on the defensive, and change became inevitable.



Iconic photo, circa 1977. Actually, Richard Nixon signed the 55 mph National Maximum Speed Limit into law in 1974 with the Emergency Highway Conservation Act. Jimmy Carter just had a knack for being in the wrong place at the wrong time.

The release of the National Academy of Science study *55, A Decade of Experience* had exactly the opposite effect its proponents intended. Instead of giving "55" an unqualified

(Continued top of next page)

endorsement, it opened a Pandora's box of questions, inquiries, and inconsistencies. For the first time, the general driving public began to question the validity of all those "55 saves gas, saves lives" rubber stamps the state DOTs were so fond of using.

It started to show in opinion polls. The public's statements more closely reflected their driving practices.

With all the renewed interest in the national speed limit issue, it was natural for certain members of Congress to consider legislative involvement. One such member was Representative Dan Glickman from Kansas.

Rep. Glickman was Chairman of the Subcommittee on Transportation, Aviation and Materials. His subcommittee did not have jurisdiction over the speed limit issue, but it did have a legitimate claim to research reports. Therefore, he called a hearing on the "55 Benefit" study. We had another platform to rap the 55 mph NMSL and to criticize the study intended to promote its existence.

The hearing, like most Congressional hearings, didn't change anyone's mind, but it did give the anti-55 community a chance to air its concerns and arguments. This was February 1985.

Back in the nitty gritty world of trying to build a larger more effective organization, we started to experiment with direct mail membership recruitment. You haven't really lived until you've spent several evenings collating, folding, stuffing, sorting, banding, and bagging several thousand pieces of mail. That's what my office assistant did for more nights than she probably wants to remember.

The bottom line was that, after several months of testing with small mailings, we determined this approach was cost-effective. Next ensued one



of the most frustrating episodes of my adult life.

As we noisily entered the Fall of 1986, it was apparent to me that Congress was at long last going to take up the speed limit issue. The federal highway bill was up for reauthorization and 55 was destined for a dose of reality. If we ever needed more members (who could apply more grassroots pressure), this was the time.

The issue was hot and our organization was the acknowledged leader of the 55 repeal movement. The planets were aligned for a major membership drive.

With cost estimates and direct mail test results in hand, I went looking for financial help. I could prove that our mailings would pay for themselves, and then some. Bank after bank turned me down. Collateral didn't matter. They didn't grasp what we were doing and when in doubt, did nothing.

Day by day, I watched Congress march closer toward the speed limit debate while we were rendered impotent through a lack of funds. By pure chance, Washington got ensnared in election year quarrels and the highway bill was carried over to 1987.

Just when our options seemed exhausted, a small, locally-owned Wisconsin bank said they would

consider our loan request if we could scale it down to a more modest amount. We did, they did, and out went 300,000 letters. The loan was paid off in 45 days and the Citizens Coalition for Rational Traffic Laws had several thousand new members.

By the way, we still bank at the same local bank that gave us that first loan. ■

In 2010, twenty-eight years after the founding of Citizens Coalition for Rational Traffic Laws, the NMA continues to conduct business with the small town Wisconsin bank that provided the original seed money.

Part 4, the final installment of the 1992 recounting of the National Motorists Association's first ten years of existence, will appear in the Jan/Feb 2011 issue of **Driving Freedoms**.

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The Driver License: Is It Necessary?

Do we really need one?

Opinions vary widely. In recent years, there have been two legislative efforts to convert the ubiquitous state driver license into a national ID card, making it the essential “show us your papers” document in order to navigate in, around, and through our society.

At the other end of the spectrum, a current movement to do away with the driver license altogether may seem impractical, but it is gathering momentum in regions around the U.S.

Which should it be – a federally-mandated document that uniquely identifies its holder and is necessary to provide the right to drive, to fly, and to participate in various governmental programs, or an extraneous card that serves no useful purpose in a society where individuals have the right to travel without restrictions?

Let’s examine these two diametrically opposed positions:

Driver License as National ID

The Real ID Act of 2005 was enacted, but has not gotten off the ground yet. Real ID is premised on a national ID system based on the driver license. One significant administrative problem with this is that the states, not the federal government, control the requirements of driver licenses, and no two state licenses are exactly the same.

Real ID puts forth requirements so that the various state driver licenses would be accepted by the federal government in conjunction with the Department of Homeland Security.

In March 2007, the government announced that the requirements

of Real ID wouldn’t be enacted until 2009, supposedly giving the federal and state governments time to implement a workable system. In early 2008, the implementation deadline was further extended to 2011.

In the meantime, U.S. Senate Bill S.1261 was introduced and subsequently reported by committee in July 2009. Also known as Pass ID, S.1261 was claimed by supporters to solve some of the inherent problems of Real ID. Pass ID has been on the Senate’s calendar of business since December 2009, but has not been brought up for vote. In essence, it has been all but abandoned.



Real ID is a time-delayed national ID law hanging over our heads. Somewhat ominously, it states that after 2011, “a Federal agency may not accept, for any official purpose, a driver’s license or identification card issued by a state to any person unless the state is meeting the [Real ID] requirements.”

States can keep issuing their unique driver licenses, but unless the requirements of Real ID are met, those driver licenses will not be accepted as federal identification. It does not seem likely that all – if any – states will be in compliance by 2011. What a mess!

Ironically, personal security under Real ID is a significant concern. To quote from a January

14, 2008 NMA blog, “The manner in which the driver license is carried and used makes it highly susceptible to theft and physical loss. Under the ‘one national ID number’ concept, the compromise of that number would expose the victim to financial ruin, malicious acts, and the exposure of highly personal information. Having a single national ID card/number is an invitation to fraud, theft and the loss of personal security and individual privacy.”

From the same NMA blog, “Such a [Real ID] system will not deter terrorists and will not make our society safer, but will make our society less free and more authoritarian.”

As the Real ID law is presently configured, people born on or after December 1, 1964, will be required to obtain national ID by December 1, 2014. Those born before that 1964 date will have until December 1, 2017 to obtain their Real ID.

Real ID should be repealed, and the notion dismissed that the driver license be used as a national ID card.

Eliminate the Driver License

Georgia State Representative Bobby Franklin (R-Marietta) introduced House Bill 875 last November. The first two sentences of that proposed legislation, better known as the “Right to Travel Act,” summarize what the bill is about: “Free people have a common law and constitutional right to travel on the roads and highways that are provided by their government for that purpose. Licensing of drivers

(Continued top of next page)

cannot be required of free people because taking on the restrictions of a license requires the surrender of an inalienable right.”

Franklin’s bill is currently with the House Second Readers in Georgia pending further action. Meanwhile, other groups around the country are pushing to introduce similar bills to their state legislatures in order to question the constitutionality of certain laws related to driver licenses.

The NMA View

Much of the anger and concern surrounding this issue is based on the federal government’s attempt to leverage the driver license into a national ID card. The feds are trying to use the driver license as a club to enforce government sanctions, or to use it as a means to circumvent basic rights, such as implied consent that a citizen can be forced to give evidence against him or herself.

The basic (and only legitimate) purpose of the driver license is to certify that the owner of that license has proven that he/she is capable of

operating a motor vehicle on public roads in a safe and responsible manner. The license should not be withheld for any reason other than the fact that the applicant could not pass a fair and objective driving test.

The driver license can be taken away if the holder drives in such a way as to endanger others, but it should not be confiscated for any other reason, and it should not be demanded as a formal means of personal identification.

If shrewder heads prevail in our ruling class, they will understand that defusing the anti-driver license movement will require the federal and state governments to stop using the driver license for purposes other than basic certification of a driver’s competence. ■



NMA Foundation Fundraiser

The 2010 NMA Foundation Drive is in full swing. Each incremental \$30 donation to the Foundation gives you a separate entry into the Sweepstakes where we have three great prizes to be awarded by a random drawing after the contest ends January 1, 2011.

For more information, visit:

<http://motorists.org/fundraiser/>

The contest prizes include:



Valentine One Radar Locator



Escort Redline Radar Detector



Garmin Nuvi 3790T GPS

Contributions to the 501(c)(3) NMA Foundation are tax-deductible to the full extent that the law allows, and will help fund educational programs, research projects, and legal aid grants to benefit important causes for motorists. ■

A Convenient Fiction

(Continued from Page 2)

longer a crime; it is a civil violation or infraction. Just to fussy it up a bit more, defendants are now declared “responsible” (guilty) or “not responsible” (not guilty). In exchange, defendants lose the due process rights of criminal defendants. Goodbye jury trials. Discovery is replaced with scripted incident reports, and rights become privileges.

When forced, higher courts have declared/admitted that when the intent of a law is to punish for specified acts, these are criminal

matters. Punishment can be incarceration, financial penalties, or other punitive sanctions. Disputes between two or more entities over matters of equity (property, money, control, injury etc.) are civil matters.

Creating a fiction that says traffic tickets are civil matters does not make them civil matters. Traffic tickets are intended to punish those who violate traffic laws. Criminal prosecution precedes punishment and therefore should compel criminal due process rights.

Even with the convenient fiction in full play, the Massachusetts A.G. lost sight of the

forest for the trees when she shifted to the civil suit excuse for charging for access to the courts – it is the plaintiff, not the defendant/respondent that pays the filing fees.

In the traffic ticket case, the state/prosecution is the plaintiff and thus, even following the fallacious fiction that this is a civil matter and not a criminal matter, the plaintiff (the state) should be paying the court fees, not the unwitting defendant.

The NMA Foundation is planning to file an amicus brief in this case, raising these and other issues. ■



News From Around The Country

Now featured online, with daily updates,
as "NMA Driving News" at www.motorists.org

Arizona

Tickets are no longer being mailed based on evidence created by freeway speed cameras in the state of Arizona. Photo enforcement advocates insist that taking down the cameras will result in a ten-fold increase in speeding and accidents. In a related story, the director of the Governor's Office of Highway Safety has not seen much of an increase in speeding drivers since the photo radar cameras on the state freeways were turned off in July.

California

The cities of Santa Ana and West Hollywood have petitioned the state supreme court to depublish a red-light camera decision favorable to motorists, in order to avoid setting a precedent for other California courts.

Four Montebello police officers filed a claim against the city saying they were punished for failing to abide by an alleged quota system for arrests and citations, prohibited by the state vehicle code.

Illinois

A new law gives Illinois motorists more leeway in filing an appeal to a red-light citation and requires independent verification of an alleged violation before a ticket is issued. The measure also bans the city of Chicago and suburbs from tacking on a fee to the standard \$100 fine if a ticket is appealed.

Indiana

The Indiana Supreme Court ruled recently that cars in public parking lots can be searched at any time by police with drug sniffing dogs.

Iowa

Statistics from the first seven months of traffic cameras in Cedar Rapids showed the city making a lot more money than expected. But the numbers also show something else. Drivers who look at the data can determine just how much leeway is being given over the speed limit before a citation is issued.

Louisiana

A civil district court judge has ruled that New Orleans' traffic camera program violates the city charter and that tickets issued after her ruling on October 1st are null and void.

Massachusetts

Boston Attorney Ralph Sullivan will argue his case to the Supreme Judicial Court, trying to convince the justices that the fees for appealing traffic tickets are unconstitutional. The NMA Foundation has contacted Atty. Sullivan and may issue a legal aid grant to support his effort.

Michigan

The Michigan state House of Representatives voted unanimously to repeal its so-called driver responsibility fee program, an unpopular tax on traffic citations.

Minnesota

A motorist who avoids a police car is inherently suspicious, according to a ruling handed down by the Minnesota Court of Appeals. A three-judge panel found that even if the officer observed no illegal conduct, a traffic stop and interrogation is justified when a driver seems not to want to be around a patrol car.

Missouri

The St. Louis Board of Aldermen recently approved legislation allowing the city to fine people up to \$500 each for failing to appear in court on summonses for municipal law violations. The law addresses any municipal law infraction, though it seems specifically tailored to red-light camera tickets.

Oklahoma

Plans to use highway traffic cameras to identify motorists without vehicle insurance have come to an abrupt halt. The idea was originally suggested by Governor Brad Henry in his budget proposal.

Tennessee

The Tennessee Court of Criminal Appeals has ruled that a driver cannot be pulled over for failure to signal when that conduct did not affect any other driver.

The police chief in Oak Ridge received an all-expense paid vacation in Arizona, while collecting his on-duty salary, in return for his testimony that helped save Redflex Traffic Systems from paying millions in possible damages.

Texas

Baytown has been caught using an illegally short yellow time at the latest city intersection to be monitored by a red-light camera.

A city official in Baytown threatened a resident with fines of up to \$500 for the "crime" of holding a sign urging passersby to vote against automated enforcement in an upcoming election. ■

As of this printing, this information is current. For more information on this and other motorist news, visit www.motorists.org

Small Town Traffic Court Story

by Christian Stevens, NMA Georgia State Activist

It was in the spring of 2004. I was out of town on business and my wife, Angel, was out riding her Honda CBR 954rr with two of our riding buddies in the Talladega National Forest in the backwoods of Alabama. They were riding the sweepers on the Cheaha Skyway. Our two buddies were leading the way because they knew the road.

Around one turn, she noticed a patrol car going the other way. She checked her speedometer and saw that she was well over the speed limit, with the other two cyclists pulling away from her. They didn't slow down because they knew the patrol car would have a hard time turning around in time to catch up with them.

As they neared Ashland, AL – they probably still don't have cable TV there – she told the others that she was running low on gas. They stopped to do a map check for a few minutes and, sure enough, the patrolman pulled up with his lights flashing. They had their helmets off by then as it had been more than a couple minutes. The officer was extremely agitated.

He told them that they were all going to jail, retrieved their driver licenses and insurance cards, and retreated to his car to start writing tickets. I guess he had an epiphany in his patrol car and decided to write each of them tickets for excessive speed in a 55 mph zone and not take them to jail. Angel asked to see the radar. He scolded, "Stand over there, missy!" as he refused to let her see his evidence.

I got back into town and got the whole story. My wife and I already had a family policy to fight every ticket. The other guys were happy to pay the initial speeding tickets because they knew they were going

well over the speed limit when they saw the patrol car. I insisted that everybody go to court and fight all of their tickets based on the provable notion that no three different vehicles could be going the exact same speed written on the three individual tickets and we were certain, because of the brief observation time of the officer, that he had no idea how fast they were really going. I would coach them, but they needed to all fight the tickets together.



The Honda CBR 954rr

The initial court date came and the city slicker defendants showed up dressed professionally, ties and all, hoping for an immediate dismissal. I think the court assumed every one of us was a lawyer. The judge, wearing jeans and a golf shirt, set a second court date that the police officer could attend. The new date would be a real trial for traffic tickets only because the violation was well above the posted speed limit and it would address three different charges and three different alleged criminals.

We showed up for the second court date and there wasn't even an ATM in town that I could get money out of in case things went badly. The stakes got higher; win the case or go to jail.

The arresting officer was called to the stand. He hadn't done a sit up or

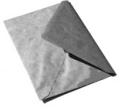
seen his shoes in over a decade and some of the attendees to the court were wearing sleeveless shirts and cutoff jeans. My wife did the talking because I had coached her the most.

She asked the normal rhetorical questions of the cop after everybody was put under oath: "Can you tell the court what prompted you to write the defendants' tickets? How fast were you going in your patrol car? How did you measure their speed? Why didn't you let the defendants see the radar? How do three different motorcycles all get tickets for the exact same speed? Did you get three different radar readings?"

The judge interrupted when he concluded the officer had absolutely no idea how fast the motorcycles were going. The judge also stated that none of the defendants claimed they were not speeding, which they didn't under fear of perjury. I had warned them not to and reminded them repeatedly of the 5th Amendment to the Constitution.

The judge ruled them all guilty of speeding, but since the police could not prove their speed, he reduced the charges to 56 mph in a 55 mph zone and fined each of them \$20 with no points on their driving records. Luckily, I had that much money in my pocket. We thanked the judge and lived happily ever after.

We defend every ticket we get specifically because we know that we will occasionally get pulled over for speeding on our bikes. The police who ticket us and the judicial systems they represent are always much more lenient when they go to check your driving record and it is clean. Additionally, we save more money than the fines would ever add up to in reduced insurance premiums. ■



Members Write

Editor's Note: The following letter was printed by the Decatur (AL) Daily newspaper on September 9, 2010. Mr. Ledbetter is a longtime NMA member.

In reading online comments about the recent fatal accident near Moulton caused by a North Courtland officer, I was struck by how much contempt many people have for the police, seemingly assuming that most policemen hypocritically consider themselves above the law.

I think one cause of this attitude can be attributed to improperly low speed limits. The majority of the driving public (including many policemen) routinely violate speed limits that are set too low because they innately understand the primary reason for such low limits is revenue enhancement, not safety.

Who says they're too low? The traffic engineers who developed the Federal Manual on Uniform Traffic Control Devices have proven that the best method for determining speed limits is the 85th Percentile Rule: measure actual driving speeds and set the limit to the 85th percentile speed. Even though this usually results in higher speed limits, it paradoxically improves safety.

However, few authorities follow this rule because higher limits reduce speeding ticket revenue as well as incite nanny-state crybabies

into reflexively shrieking "speed kills!"

Rather than disrespecting policemen because they have to enforce unreasonable speed limits, citizens should instead focus their scorn on elected officials who, by refusing to follow recommendations, are deliberately sacrificing safety for revenue.

In states that follow federal recommendations, such as Texas, narrow two-lane rural roads are frequently posted at 65 mph, or 70 mph if there is a paved shoulder, and 80 mph on some interstates. Yet in Alabama we have a default rural speed limit of 45 mph. This reduces safety and generates contempt for both the law and those who enforce it.

Do your elected officials put speeding ticket revenue above safety? Encourage them to adopt the 85th Percentile Rule and make our roads both safer and more efficient.

*J. Kennon Ledbetter
Trinity, AL*

Editor's Note: Member Snellings wrote the following letter to truckers on his mailing list, and included a link to an Iowa story of a fatal crash in which a tractor-trailer slammed into four other semis that were stopped in traffic. Mr. Snellings' emphasis on the importance of truckers using flashers, particularly in adverse travel conditions, is helpful

to drivers of other types of vehicles.

I'll bet you anything that the last guy in line did not have his flashers on. It's easy to be lulled into a lower level of attentiveness, distracted, day dreaming, etc., on today's highways, especially interstates.

It can be very easy to run up on someone who is moving slower or stopped, and not fully realize what is really going on until it's too late. Even 10 mph can be an enormous difference in speed, which can easily result in an accident if the trailing driver is not paying careful attention.

Flashers are very useful in keeping those behind from rear-ending you if you are doing anything that is out of sync with what is normally going on in that type of driving environment.

Any time anything unusual may be going on ahead of you, especially on the interstate, put your flashers on even before you apply the brakes to alert those behind you that something unusual may be happening ahead. If it turns out to be nothing, you have only raised the other drivers' alertness behind you. They probably needed an alertness adjustment anyway . . . no harm done.

Flashers are also a must any time you are traveling down a road with ongrade crossings and are looking for something, or are lost. Alert others behind you that you are not sure what driving maneuver you may be performing next, so they need to be paying extra attention so that they don't rear-end you if you should slow, turn, or even stop suddenly.

*Dave Snellings
Crofton, MD*

Your letters are welcomed and should not exceed 300 words. They may be edited for length or clarity. Full-length articles will also be considered for publication and should not exceed 600 words. Submissions may be emailed to nma@motorists.org or mailed to 402 W 2nd St., Waunakee, WI 53597

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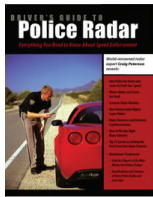
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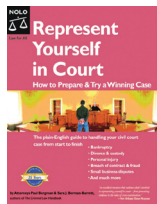
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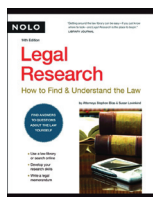
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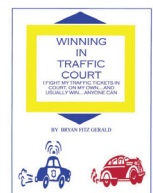
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