



Driving Freedom

NMA Foundation

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Winter 2011

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



Rather Than Upholding It

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Driving Freedoms

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Driving Freedoms

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With Special Thanks to Bill Jordan

Cover

*“Flouting the Law
 Rather Than Upholding It”*



Yet Another Study

by James J. Baxter, President, NMA

A recent report in *The Wall Street Journal* (“New Puzzle: Why Fewer are Killed in Car Crashes,” December 15, 2010) illustrates how public opinion can be misled and manipulated by agenda-driven politics. The *Journal* is justifiably well-respected for its evenhanded reporting of information regardless of its popularity with the establishment. Nevertheless, it got fooled this time.

The article focuses on a report, originally published in *Traffic Injury Prevention*, by research professors Michael Sivak and Brandon Schoettle of the University of Michigan’s Transportation Research Institute. The report itself is little more than a tabulation of road deaths from 2005 through 2009, which declined from 43,510 to 33,963.

Up to this point there isn’t anything to quibble about. The federal statistics of highway fatalities should be reasonably accurate. There aren’t many opportunities for interpretation of what constitutes a traffic fatality. However, when it comes to identifying and quantifying the cause of a traffic fatality it can be “Let the games begin!”

Almost invariably, reports by industry experts support the biases of the funding source. The University of Michigan’s Transportation Research Institute is funded, according to its web site, by “federal and state government agencies, motor vehicle manufacturers and suppliers”

So it is not surprising that Messrs. Sivak and Schoettle’s study interprets the unprecedented 22 percent drop in highway fatalities from 2005 to 2009 as evidence that, among other things, people have slowed down, drunk driving laws are working, and, ironically, distractions such as cell phone use have diminished. Messrs. Sivak and Schoettle’s conclusions are all the more remarkable because the statistics they report are much more likely to demonstrate that folks simply drive less when the economy tanks.

A hot-button topic right now is “distracted driving,” currently the surrogate for talking or texting on a cell phone. The study reports that “inattentive” driving is recorded in 2008 as a “primary” factor in only seven percent of fatalities. However, a DOT spokesman quoted by the *Journal* picked up the *distraction-related* figure of 16 percent, an increase of “60 percent” from the ten *distraction-related* percentage in 2005. (There is no indication of how a police officer is able to determine when a driver is distracted. Perhaps more art than science here. But we’ll get to that.) To the credit of the *Journal* reporter, he juxtaposes DOT Secretary Ray LaHood’s stated intention to eliminate *all* cell phone use in vehicles, even hands-free, suggesting a possible motive

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Vehicle Accident Reconstruction – An Overview, Part 1

by Jerry F. Cuderman II, Ph.D., P.E.

*Editor's Note: Dr. Cuderman has long been a member of the NMA and a contributor to **The Experts Corner**. He has been active in the accident reconstruction field for over 20 years, and he wrote this article specifically for **Driving Freedoms**. Part 2 will be published in the Spring 2011 issue.*

The topic of vehicle accident reconstruction (AR) can be of great interest to motorists involved in a collision, especially if criminal charges or litigation is likely.

There are a number of books that go into great detail on how to reconstruct vehicle collisions. Thousands of articles are published by the Society of Automotive Engineers and others on the subject. For the purposes of this article, I will present merely an overview of AR, providing its definition and how it is generally approached rather than attempting to create a primer on how to actually perform AR.

First, a little background on the two arenas in which AR is typically used: Criminal and Civil litigation. In general, there is little difference between AR in criminal and civil cases. The work, time, and money it takes to perform AR is the same. The big difference between the two venues is the level of detail and the funds available.

In criminal cases, the prosecution usually has little or no budget for AR. Therefore, police officers often serve as AR expert witnesses. Unfortunately, very few police officers have the training and even fewer have the time to do a thorough AR. Individual criminal defendants often fund their defense so there may be little money available for AR. The end result is that good quality reconstruction in criminal cases is probably the exception rather than the rule.



In civil cases, plaintiffs' attorneys are usually willing to spend a reasonable amount of money on quality AR, anticipating reimbursement from a winning verdict. On the defense side, insurance companies usually provide funding; so, again, there is typically sufficient funding for a comprehensive AR to be performed when the stakes are high enough.

AR requires a certain level of work regardless of whether it is for a criminal or civil case and regardless of whether it is a minor fender-bender with low damages or a serious collision with millions of dollars (or serious jail time) at stake.

In fact, minor collisions are often more difficult to reconstruct than major ones because there is typically much less physical evidence produced in the collision. In a minor collision, the police investigation rarely documents physical evidence. Any physical evidence that is produced by the accident is typically long gone by the time an accident reconstructionist is hired.

AR is exactly what its name implies – reconstructing what happened in a collision involving one or more vehicles. My wife likes to tell people that AR is “CSI with cars.” That reference can be somewhat misleading, but, on the whole, it is fairly accurate

– particularly in relation to the CSI rule, often heard on the plethora of procedural television series, to “follow the evidence.”

To properly perform AR, one determines what the physical evidence is and works from there. When appropriate, witness accounts are

incorporated into the analysis, but eyewitness statements and testimony are almost always discounted when the physical evidence tells you something else. One must always keep an open mind to make sure that the physical evidence is fully understood and that no evidence has been overlooked.

The main steps in AR include 1) obtaining physical evidence; 2) analyzing the physical evidence and witness testimony; 3) forming opinions; 4) generating a report; and 5) testifying at depositions and/or trial.

The first two steps are the most critical. Physical evidence usually includes going to the location where the collision took place and using surveying equipment and cameras to document the roadways, visibility restrictions, signage, and most importantly, any physical evidence still remaining from the collision itself, such as tire marks, gouges in the road surface, and fluid stains from the vehicles.

It is important to note that most vehicles will leave tire marks on the road surface under most conditions during emergency braking even if equipped with an antilock braking system (ABS). The marks may be faint at times and may or may not be documented, but they are often there.



Yet Another Study (Continued from Page 2)

behind the spokesman's comment.

The unvarnished truth is that no-one has a clue about how many fatalities are actually caused by distracted driving. There is strong reason to believe that distracted driving is grossly under-reported as a cause of traffic fatalities.

How can anyone really know, when most of the time there are no witnesses and scant evidence? A police officer checking a box at the crash scene does not make it so. It's a collection of those checked boxes from which the federal statistics are created.



Let's look at how this plays out in the real world. Two people go out for dinner. They have a nice meal and perhaps a glass of wine. On the way home they are moving with traffic, at a safe pace consistent with traffic and conditions, which may not be equal to the posted speed limit. The couple is having an intense conversation about a family conflict and just as the driver briefly looks at the passenger to emphasize a point, the car in front stops abruptly to avoid a pedestrian. Our subject hits the

rear of the stopped vehicle.

You can see the problem of identifying a cause of the crash. Perhaps an occupant of one or the other cars or the pedestrian is killed. Speeding, alcohol impairment, following too close, and failure to have car under control are among the boxes that might be checked on the accident report. Of course, the one box not checked, the actual cause of the crash, is "inattentive or distracted driving." All checked boxes enter the federal data base that the U of M researchers subsequently analyze. They assume the data are accurate.

I can see how honest researchers could be misled by dubious government statistics. But, how can Mr. Sivak say, quoting the *Journal's* writer, "alcohol . . . that is the biggie" when looking at the cause of crashes? Mr. Sivak concludes, "Alcohol and speed explain why so many people die on the highway alone, without hitting another car." This is dangerous and inflammatory speculation. What about fatigue, reduced visibility, snow, fog, icy roads? Then there's a myriad of health issues such as heart attacks, stroke, diabetic shock, and the effects of medication. And what about the rarely-mentioned, never-documented cause of many single-vehicle, single-occupant fatal crashes, suicide? I fear this number is much larger than most of us dare to think about.

What the *Journal* missed, though, is – and this is obvious enough to appear intentional – the fatal mistake of not considering vehicle miles traveled (VMT). Raw numbers mean what you want them to mean, as we have seen. That's



exactly what happened when the *Journal's* reporter asks the usual suspects.

A published comment by one meritorious reader of the article sums up this fatal flaw:

The number of road fatalities per VMT in the US from the 1920s to today has followed the same log-linear trend downward, decade in and decade out. Short periods of increase in per-VMT road deaths and a large reduction appear as noise, but are uncorrelated with safety features like speed limits and seat belts. The limit to traffic fatalities is cultural, not technological. It's based on what people find acceptable, and what they adjust to. There's no way to beat the trend line, not per VMT.

So when you read a research report, look at the funding and follow the money. ■

*Rob Talley's "NMA Washington Report" will resume its usual place in the next issue of **Driving Freedoms**.*

NMA History: The First Ten Years, Part 4

by James J. Baxter

Editor's Note: This is the final installment of the early history of the National Motorists Association by the man who founded and led the organization in its quest to have the 55 mph National Maximum Speed Limit (NMSL) repealed. Jim Baxter's firsthand account was originally published in early 1992 to commemorate the NMA's first ten years of existence and its success in lobbying Congress to allow several states to relax the NMSL.

In February 1987, we focused all our energies on the federal highway bill and the options for repealing 55. We hired our first contract lobbyist, attended press conferences and hearings, and personally lobbied Members of Congress. Special alerts were sent out whenever the need arose.

Senate sponsors of the 65 mph proposal made several attempts to compromise with Rep. James Howard, Chairman of the House Committee on Public Works and Transportation. Every time the senators agreed to Rep. Howard's conditions, he would back off and up the ante. Finally, Rep. Howard agreed to a straight up or down vote on the House Floor.

March 18, 1987 was the moment of truth. The following excerpt describing the day's events is from our April 1987 newsletter:

"After a flawless 'Metro' ride to downtown D.C., I met our lobbyist Eric Peterson and joined him in his unfulfilled quest for a good place to eat breakfast. Following a hearty meal of toast and coffee, we headed to Eric's office for a 9:00 a.m. telephone interview with a radio station in some place I've forgotten.

"The interview went OK although it was one of those affairs where the 'call in' audience seemed to be dominated by

nursing home residents. With the drop of the telephone receiver, we headed for the Capitol and the hearing being held that a.m. in the Surface Transportation subcommittee.

"The one testimony I found enjoyable was that of Phil Hazeltine who was representing Elizabeth Dole and the U.S. DOT.

"As special penance, Mr. Hazeltine had to go before this committee and its honored guest, Rep. James Howard, and state, 'the claim that raising the speed limit to 65 mph on rural interstates will cost an additional 500 lives per year cannot be proven or disproven.' Howard was livid and relentless in his grilling of Hazeltine. Ms. Dole was wise not to show up herself.

"With lots of work to do, we left the hearing and headed for the offices of representatives who had been identified as "wafflers" on the speed limit issue. In that the list had 150 names and the vote was that afternoon, we were probably kidding ourselves, but we knew the vote would be close.

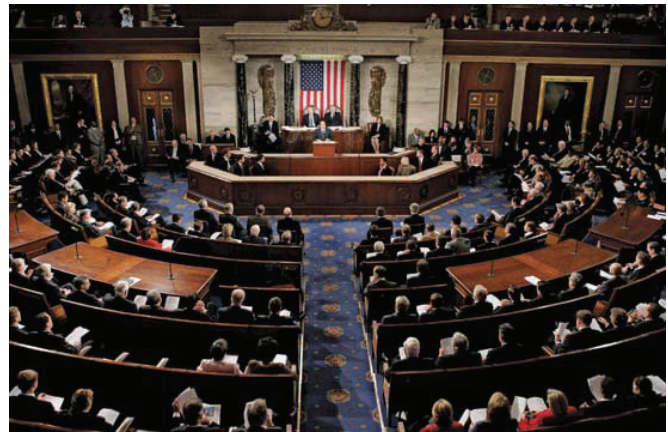
"Most of our stops got the usual 'Thank you for stopping by, I'm sure Congressman So and So will appreciate knowing your views.'

"We stopped at the office of a congressman who was expected to vote against us. To our pleasant surprise, the congressman's aide assured us we had her boss' vote and that he was a rabid supporter of our position. We left the office with a great sense of progress and satisfaction. It was only after we turned and looked at the room number that we

realized we were in the wrong office.

"Later in the afternoon, we decided to watch the floor debate and headed for the House Floor. There she stood in all her shrill presence, looking like a model for a city bus hood ornament: Joan Claybrook and two or three cohorts each giving the impression their family pet had died that morning.

"We went up to the House Floor Gallery, but Eric was uncomfortable with



just sitting there and decided to catch a few Representatives coming onto the House Floor. For me, the realization began to set in that ten second pleas to a passing congressman, last minute visits to offices, or standing in the hallway, as Ms. Claybrook was, holding up signs that said 'vote no' were not going to change the outcome. I had worked five years to reach this point and the frantic antics of an hour or two would not pass or defeat the 65 mph legislation.

"Those thousands of member letters to elected officials, the incessant 'letters to the editor,' the education and conversion of media opinion, the hundreds of TV, radio and newspaper interviews, and the campaigns to persuade other organizations to support our position all melded at this point in time. These were

(Continued top of next page)

the forces that dictated the final outcome.

“Much of the debate took place in a relatively empty House Chamber, but there was a lot of arm twisting going on elsewhere.

“If there was one moment where I felt the success of our efforts, it was during the floor debate. What I heard coming from the House Floor were our arguments, sometimes badly interpreted, but nevertheless *our* arguments. We had always had advocates in Congress, but they had lacked credible arguments to support their position. We filled that gap. Our opponents had to respond to those arguments. They could not just stand there and spout platitudes.

“The vote, from beginning to end, was close, but in the end the 217 to 206 total held and the 65 mph amendment overcame its greatest obstacle: Rep. James Howard and the House of Representatives.”

The following month, after some posturing by President Reagan, the legislation was signed and 18 states promptly raised their rural interstate speed limits. There are now 41 states with 65 mph speed limits, several as a result of our state-level efforts. The total will go higher, and so will the speed limits. ■

Jim Baxter was seemingly prophetic when he typed the final paragraph above, but the writing was already on the wall in 1992 as more and more states raised their highway speed limits. In 1995, Congress fully repealed the 55 mph NMSL.

As of September 2010, one state has a maximum posted speed limit of 60 mph, 16 states have maximum limits of 65 mph, 21 have 70 mph limits, 10 have 75 mph limits, and two allow motorists to drive up to 80 mph. See the adjacent table for state-by-state details.

Maximum Posted Interstate Speed Limits by State (mph) (For passenger cars and commercial-use trucks, unless otherwise noted)		
September 2010		
<u>State</u>	<u>Rural</u>	<u>Urban</u>
Alabama	70	65
Alaska	65	55
Arizona	75	65
Arkansas	70	55
California	trucks@65	
	70	65
	trucks@55	trucks@55
Colorado	75	65
Connecticut	65	55
Delaware	65	55
Washington, D.C.	n/a	55
Florida	70	65
Georgia	70	65
Hawaii	60	50
Idaho	75	75
	trucks@65	
Illinois	65	55
Indiana	70	55
	trucks@65	
Iowa	70	55
Kansas	70	70
Kentucky	70	65
Louisiana	70	70
Maine	65	65
Maryland	65	65
Massachusetts	65	65
Michigan	70	65
	trucks@60	
Minnesota	70	65
Mississippi	70	70
Missouri	70	60
Montana	75	65
	trucks@65	
Nebraska	75	65
Nevada	75	65
New Hampshire	65	65
New Jersey	65	55
New Mexico	75	75
New York	65	65
North Carolina	70	70
North Dakota	75	75
Ohio	65	65

70 mph as of April 2011

<u>State</u>	<u>Rural</u>	<u>Urban</u>
Oklahoma	75	70
Oregon	65	55
	trucks@55	
Pennsylvania	65	55
Rhode Island	65	55
South Carolina	70	70
South Dakota	75	75
Tennessee	70	70
Texas	75 day	70 day
	65 night	65 night
	80 selected segments	
	trucks@70 day	
	trucks@65 night	
Utah	75	65
	80 selected segments	
Vermont	65	55
Virginia	70	70
Washington	70	60
	trucks@60	
West Virginia	70	55
Wisconsin	65	65
Wyoming	75	60

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Flouting the Law Rather Than Upholding It

By Gary Biller, NMA Executive Director

I will admit that I have become a bit jaded about our traffic justice system since joining the NMA a year and a half ago. Stories flow to our office with regularity about the roughshod treatment of motorists by the “system,” all in the effort to maximize ticket revenue for local municipalities and their respective states and provinces.

A few current and more egregious examples of the law being ignored by governments to secure a higher number of paying “customers” follow.

If you need motivation to fight your next traffic ticket, you may want to revisit this article from time to time.

South Carolina

In June 2010, Governor Mark Sanford signed a law that bans the use of automated traffic enforcement – red-light and speed cameras – in the state. Mayor Gary W. Hodges and the town council of Ridgeland are thumbing their collective noses at the governor, two different state attorneys general, and the state law by setting up a speed camera in a recreational vehicle along a seven mile stretch of I-95. This section of interstate falls within the jurisdiction of the town of Ridgeland, which has a population of only 2,600 people.

During a recent month, Ridgeland issued approximately 3,200 automated speeding tickets, with 85 to 90 percent being mailed to out-of-state drivers. Assuming an average penalty of \$125 per citation and a collection rate of 40 percent, annual ticket revenue would approach \$2 million. Even with some of the revenue going to iTraffic (the camera vendor), the tiny town of Ridgeland appears to have found its golden goose. It is no wonder that Mayor Hodges continues to pledge his support to the iTraffic program despite unequivocal opposition at the state level.

Senator Larry Grooms is the Transportation Committee chairman for the South Carolina Senate. His reaction to Ridgeland’s automated traffic enforcement program? “I’m just thinking about the implications of what happens if this cancer spreads across our state, not just on I-95, but everywhere in South Carolina. You go on a trip, and you get something in the mail later, and say, ‘I was going through Lincolnville?’”

South Carolina legislators vow to stop the Ridgeland program.

Florida

From September 1, 2008, when the City of Orlando first installed red-light cameras, until July 1, 2010 when the State of Florida actually approved the use of such cameras, the city issued 48,479 camera-based tickets and collected \$4.3 million in fines. Orange County Circuit Judge Frederick Lauten noted in August 2010 that Orlando was working outside the law by operating red-light cameras almost two years before Governor Crist signed legislation allowing their use.



Regardless, Judge Lauten issued a December 2010 ruling refusing class-action status for those motorists who had received illegal red-light camera tickets from Orlando during the September 2008 to July 2010 period. Lauten determined that the motorists who received and paid those tickets have no right to get their money back, and they

cannot join together in an action against the city. The ruling ostensibly saves Orlando from refunding more than \$4 million in ticket revenue.

The Circuit Court decision is expected to be reviewed by the 5th District Court of Appeal in Daytona Beach, a process that could take more than a year.

Georgia

Eighty-eight speeding tickets were issued illegally by the City of Johns Creek between August 16 and October 12, 2010.

The local police used a laser gun that had not been calibrated for accuracy in accordance with state law, and the technician who maintained the device was not certified by the Georgia Department of Public Safety.

The illegality of the speed measurement device didn’t surface right away. One defendant who prodded the prosecution for the maintenance records of the ProLaser III gun was found “not guilty” because of a legal technicality before the records had to be produced. It was only by way of a later subpoena that the nonconformance of the laser gun, and the illegality of the other eighty-seven speeding tickets, were brought to light.

Johns Creek was established as a municipality in 2006 and is ranked by *BizJournals* as Georgia’s wealthiest city. There is no word yet on what legal action is pending regarding the remaining eighty-seven speeding tickets where the evidence was tainted by the use of the nonconforming laser device.

(Continued top of next page)

Michigan

Michigan enacted a law, known as Public Act 85, in 2006 that other states should consider. Public Act 85 requires cities, villages, and townships in the state to set proper speed limits based on data from current traffic engineering studies that utilize proven principles, such as the 85th percentile speed of free-flowing traffic, to set posted limits. All well and good, except . . .

Over four years later, most Michigan municipalities have not complied with the law. This resulted in a rather extraordinary event last year – the public castigation of noncomplying communities by Lt. Gary Megge of the Michigan State Police Traffic Services, the section responsible for working with communities to set proper speed limits. “I find it reprehensible that communities aren’t following the law,” said Megge. “In many [speeding] cases, the problem is the speed limit,

not the motorist. Communities have to obey the law too.”

Megge added, “I know if I got a ticket on a road where the speed limit wasn’t set properly, I’d fight it.” This is precisely the advice the NMA has given to members. The first order of business in contesting a Michigan speeding ticket is to determine if the posted limit has been set in accordance with the requirements of Public Act 85. If it hasn’t, the citation was issued illegally and a dismissal of the charge should follow, given a proper motion to the court.

In the meantime, the Public Safety Director for Grand Haven, Michigan was summarily placed on unpaid administrative leave and told to clear out of his office for telling his city police officers to stop issuing speeding tickets on roads where posted limits don’t comply with Public Act 85.

In early December 2010, the

Michigan Legislature passed House Bill 5287 which, if signed into law by Governor Jennifer Granholm, would eliminate ticket quotas as a means of evaluating officer performance.

Steve Purdy, NMA Michigan Activist, adds a sobering note, “My guess is that some jurisdictions will ignore the new law. I don’t think they’ll be foolish enough to put quotas into their employee handbooks, but when there’s revenue involved, municipalities will find ways around the laws.”

The antidote for jurisdictions ignoring the law, be it Michigan, South Carolina, Florida, Georgia or any other state or municipality, is for more traffic defendants to challenge the cases against them in court. A great place to start the process is to utilize the strategies and techniques laid out in the NMA’s *Fight That Ticket!* ebook, which is free to members. ■

Driving Freedoms Now A Quarterly Publication

Beginning with this issue, the flagship newsletter of the **NMA Foundation** will be published quarterly. The **NMA** and **NMA Foundation** are now providing more content, with greater timeliness, for motorists’ rights advocates than ever before. The NMA services highlighted below are free. Visit www.motorists.org or contact us by email at nma@motorists.org for details on how some or all of these information channels can be delivered directly to your email inbox or smartphone.

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The features that have made **Driving Freedoms** popular with members – issues-oriented articles, the President’s column, the **NMA Washington Report**, *News From Around The Country*, and member input (opinion pieces, product reviews, ticket-fighting stories, and letters) – will continue as mainstays of the quarterly newsletter.



News From Around The Country

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

United States

According to the Environmental Protection Agency, the average fuel economy of all vehicles sold in the U.S. in 2009 – 22.4 mpg – set a record high.

The U.S. Senate has voted unanimously to approve a measure that would make audible pedestrian warning systems standard on all vehicles that function – even if just momentarily – without the burble of an engine.

The National Highway Traffic Safety Administration is proposing new regulations to mandate back-up cameras by 2014 in all passenger cars, trucks, minivans and buses with a gross vehicle weight rating of 10,000 pounds or less.

California

To compel drivers to obey posted speed limits, traffic authorities generally wield but one stick: penalties. But San Franciscan Kevin Richardson wants to use positive reinforcement, namely a lottery in which non-speeding drivers get automatic entries.

Richardson's plan is to use a speed camera to capture the image of all vehicles passing by. Some of the fines collected from speeders would then be set aside for the lottery prize, with winners drawn from those who were photographed by the camera while traveling at or below the speed limit.

Did we mention that Mr. Richardson is a producer for Nickelodeon's games division?

Georgia

Dozens of speeding tickets issued by Sylvester Police could soon be thrown out. The city likely will have to refund the fines because citing Officer Shawn Carr wasn't properly certified to use radar.

Illinois

Thinking about buying an electric car? If the gas savings isn't enough to convince you, west suburban Oak Park is making it even more affordable by offering free metered parking to electric cars and no-cost city stickers for electric car owners registered in town.

Maryland

People who get traffic tickets in Maryland will have three options under a new law taking effect in January: pay the fine up front; ask for a "waiver hearing" instead of a trial; or request a court date for a trial. Currently, trial dates are automatically scheduled for traffic violation defendants. The new law applies to payable violations such as speeding, but not to more serious charges like DUI or driving with a suspended license.

New Mexico

In November 2010, the Las Cruces City Council agreed once again to continue using a photo enforcement program that has proved to cause a significant increase in accidents. The overall accident rate increased 24 percent at monitored intersections in Las Cruces, the rate of injury accidents increased 29 percent, and the rate of property damage accidents increased 25 percent.

Ohio

A December 9th ruling by 8th Ohio District Court of Appeals increased the chances that the city of Cleveland will have to refund millions of dollars in fines to the drivers of leased cars who received camera-generated tickets.

The appellate court said the city enriched itself unjustly through its controversial automated traffic enforcement program. The city's response? The legal theory of unjust enrichment does not apply to governments.

South Carolina

Representative Todd Rutherford (D) of Richland County has pre-filed the bill to raise the maximum speed limit by 10 miles per hour. If the bill is made law, South Carolina will become the first state east of the Mississippi to have a speed limit above 75 mph.

Tennessee

Tennessee lawmakers may take another look in the upcoming session at the use of traffic cameras by cities in the state. They claim to be trying to make sure camera programs boost safety, not just revenue collection. "We've got to have some standards in place that will be statewide and will prohibit some of these companies from setting up 'legal' speed traps," said Rep. Vince Dean, R-East Ridge, vice chairman of the House Transportation Committee.

Wyoming

Two projects to create new variable-speed-limit zones on Interstate 80 were among the 12 contracts totaling more than \$31.6 million awarded by the Wyoming Transportation Commission. ■

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

Patience Wins Out

by Ryan P. McCormick, NMA Texas Member

I was only pulled over once during my one-year stay in New Jersey. I had been traveling well above the posted speed limit on my normal 45 minute commute to work. There was a considerable amount of 60 mph traffic due to another freeway merging with mine, but plenty of room for me to maneuver through it.

Just as I was almost out of the congestion after moving from the left-most over to the right-most lane, I noticed an officer making the same maneuver a few cars back. I instantly became the perfect law-abiding driver in the right lane, but he worked his way behind me and pulled me over.

The first words out of the officer's mouth were, "Who are you trying to kill?" I politely responded that I was not trying to kill anyone, I was just happily on my way to work. He then asked, "Do you always change lanes without signaling?"

One of my pet peeves is drivers not signaling their intentions. In heavy traffic, I usually drive with my left index finger on the turn signal for that purpose. When I change lanes, I always make sure there is a safe distance to do so, and I always signal before crossing the lane boundary.

My first two rules of driving are never slow down for anyone (if you can safely avoid it), and never make anyone else slow down for you. I told the Springfield, New Jersey officer that I always signal and started to continue with a version of the above statement when he interrupted me saying, "Do you always cut people off too?" I simply said, "No sir, I don't believe I cut anyone off," at which point he asked for my license, registration, and insurance before walking back to his car. The officer was in his car for nearly 20 minutes. When he finally returned

I was surprised to find that rather than write me up for speeding, he wrote one citation for "unsafe lane change" plus a second citation for "unsafe driving."

Over the next couple of months, I received literally hundreds of "advertisements" from lawyers wanting to represent me. Apparently tickets (including the address of the accused) are public record in New Jersey. Well, I wasn't about to give a single dime to a lawyer or the state, so I ignored them all and delayed my arraignment as long as possible.



When I finally went to court for the first time, I was told I had to speak to the prosecutor before the judge would accept my plea of not guilty. To do so, I had to wait in night court for about three hours. When I finally spoke to the prosecutor, he offered to drop the unsafe lane change and lower the unsafe driving to "unsafe operation of a vehicle" which apparently had no points and a cheaper fine, although it was still over \$200. I briefly considered it, then told the prosecutor I'd rather take my chances in court.

After that, they sent me a court date which I continued to delay as long as possible. In the meantime I had lost my job due to mass layoffs and was planning on moving away from New Jersey. When my day in court finally came, I

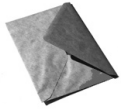
was one week away from moving, but the court decided to cancel my trial due to light snow. I was furious. I explained that I would not be able to return at a later date, but the only option they could give me was a written trial by declaration.

I had already prepared my defense, so I wrote it all up in a statement declaring my innocence and submitted it to Springfield Municipal Court. My basic claim was that my lane change was perfectly safe, though it may have seemed erratic to the officer from a distance due to the uneven road and my quick reaction to avoid flying rocks. (They happened to be repaving the inside lane at the time of my citation, and my window had a crack in it from an earlier rock incident. I included pictures of both the road construction and my cracked windshield.)

What happened next is a case of pure bureaucracy. Over the course of the next year, Springfield Municipal Court sent two letters each month to my mom's California address. One of them simply said that my trial date had been postponed yet another month, and the other one would be some sort of reduced-charge offer if I changed my plea to guilty.

I never once responded after sending in the trial by declaration statement before I left New Jersey. I think in the end they were down to about \$40 and no points, but I was in a new state with an address they didn't know, a new license, and a new license plate. I was determined that they were not going to get a dime out of me, no matter what their verdict was.

Finally, almost 18 months after the original citations, I received a letter stating that my case was heard in front of a judge and I was found NOT GUILTY on both counts! That letter is now framed and on my wall. ■



Members Write

I was really wondering why there wasn't anything on your website about the mandatory insurance problem, because it's costing drivers BILLIONS of \$\$\$\$ every year. In the year of Hurricane Katrina, the greedy insurance industry still made over SIXTY BILLION DOLLARS in profits.

Note: Spend some time at <http://milemeter.com/> and learn all about pay-per-mile car insurance. This has the potential to save millions of people tons of money nationwide, IF states will MANDATE insurance companies to offer insurance by the car-mile WHEN REQUESTED by the customer. The insurance should cost between about 2-5 cents per mile, and no more, with a 6-month minimum purchase.

J.E. Schmidt
Billings, MT

The NMA Response to Mr. Schmidt:

The NMA has a long-standing opposition to mandatory auto insurance. Details are provided at www.motorists.org/insurance/.

Surprisingly, many insurance companies are not huge proponents of mandatory auto insurance either. That kind of coverage drags the states into an ever-increasing evolution of regulations requiring the insurers to cover risks they don't want to be liable for, and it regulates premium prices and maintains policyholder records that the states can tap into.

Generally, mandatory insurance increases the cost of insurance, limits

competition, adds regulatory red tape, and does not significantly increase the percentage of insured vehicles. Also, minimum legal liability limits do not cover catastrophic losses – the very losses that people insure against.

The mandatory auto insurance issue is a tough one; it has been so entrenched at the state level, it is difficult to make a dent in the cause. That said, there is a lot of change afoot, as you are aware, regarding taxation and regulation, so you never know when an issue like this might take hold. Mandating health insurance has created a stir, and some people might begin seeing similarities between that and mandated auto coverage.

One aspect of photo enforcement that has gotten little mention is that of a driver using a rental car or an employer-provided fleet vehicle. In both cases, you can likely expect that your credit card will be charged or your paycheck docked for a photo ticket. This is something that needs to be addressed in the legislatures of states that accept photo-enforcement, as well as with the various car rental companies. If this is somehow legal, they must have twisted the Constitution. A ticketed person does not even have the option to fight a ticket. Regular photo tickets are on shaky legal ground, but this is an outright abomination!

James Sikorski Jr.
Wapwallopen, PA

I just wanted to let you know that your website has been a great help to us in a local campaign against traffic calming in Winnipeg, Manitoba, Canada.

Without proper consultation, traffic "circles" and curb bump-outs were installed in our area for the purpose of creating a bike path. The information on your website and links to other sites were invaluable. The story in our area unfolded just as described in so many of the reference materials – except that traffic calming devices were actually built before residents had a say.

A small group of residents started a campaign against these devices, and now they are THE issue in the local campaign, and a significant issue in the city-wide campaign. It has been front page news in both our main papers, the *Winnipeg Free Press* and the *Winnipeg Sun*, for several days.

We had a flyer campaign, held a rally, and distributed real information to residents. Forced traffic calming is an issue that has galvanized our community, gaining more prominence after an unfortunate accident at one of the traffic circles.

We are still fighting. The city now says that drivers just need more "education" on how to use these traffic control devices in order to accept them. Winnipeg authorities say that residents always get used to these things and start to like them over time. We say no! We say that traffic circles, and not driver ability, are the problem! It is a hard fight, but we will win!

We are a small, unfunded, amateur/informal group that has been able to make a big difference, thanks in part to the information you provided.

Peter Smith
Winnipeg, Manitoba, Canada

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

Great Deals At The NMA Store!

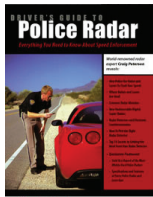
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Beat Your Ticket

State and local governments are increasingly relying on traffic ticket revenue for daily operations. This book gives responsible motorists the means to protect their rights by addressing many types of tickets: speeding, reckless driving, defective equipment, and more.

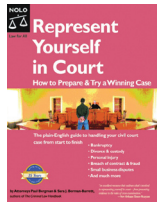
Non-Member Price: \$19.95 **Member Price: \$11.95**



Driver's Guide To Police Radar

Ever wondered just how close that police officer has to be to get you on his radar? Have you heard that lasers can't be aimed through car glass? Are you getting your money's worth from your detector? These are just some of the questions answered in *Driver's Guide To Police Radar*.

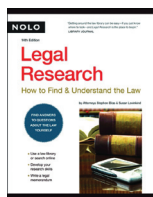
Non-Member Price: \$19.95 **Member Price: \$14.95**



Represent Yourself In Court

Represent Yourself In Court is written for the non-lawyer. This book offers a step-by-step guide to representing yourself in a civil trial, from start to finish. It does double duty in that you can use this information for any civil matter, not just traffic tickets.

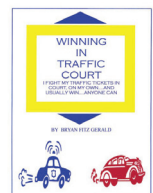
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Legal Research

Many laws and statutes that you need to prepare your case are state specific, which means that you will have to do the research. This book gives you the basic understanding of how to conduct legal research. The book explains everything in easy-to-understand terms.

Non-Member Price: \$29.95 **Member Price: \$22.95**



Winning In Traffic Court

This book is a helpful, enjoyable read on how to fight a traffic ticket. The author not only explains how to fight a traffic ticket, but also offers amusing anecdotes along with his justification for fighting every ticket you receive.

Non-Member Price: \$19.95 **Member Price: \$9.95**

NMA Foundation Legal Defense Kit

Represent yourself in traffic court and win! In addition to covering court procedures and strategy, this ten-pound kit includes technical information on speed enforcement devices, and state-specific information on Discovery and Public Records Laws (this is how you get information from the police on your case!). Remember, this resource is being constantly updated and improved.

Call 800-882-2785 to order the Kit and tailor it specifically to your ticket!

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