



**NMA Foundation**

# *Driving Freedom*

**Vol. 30 • Issue 4 • Fall 2019**



**Are  
You  
Protected  
From  
the  
Little  
Black  
Box?**

***James C. Walker, 1944-2019  
The Passing of an Advocate, Champion, and Friend***



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# Driving Freedoms

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

Renew your NMA membership now to avoid any lapse.

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## It Takes A Coalition

By Gary Biller, President, NMA

To borrow a delightful phrase from a member who is an analyst in the transportation industry, the NMA took full advantage of “rubbing shoulders with the principal lights of the contrarian transit research world.”

That past tense is my future tense. Out of necessity to meet the publication deadline for **Driving Freedoms**, I’m writing this column in advance of an October 5th conference in Los Angeles sponsored by the NMA. Despite the time-warp complications, I could not pass up this opportunity to tell you about the national forum on the future of mobility, and the aggressive efforts to reduce people’s reliance on cars by government mandate.

Event organizers attracted some of the country’s leading experts on transportation, economics, and safety to participate in panel discussions about programs like Vision Zero and Complete Streets, and the harm those projects are doing to communities and local merchants. The fallout has already included worsening traffic congestion, increased emissions, lost business, and delayed emergency response times.

One of those experts is our very own Shelia Dunn, who is a panelist in the “Streets to Courtrooms: How communities can fight back and are” session. Among her esteemed colleagues at the conference are:

- ▶ Randal O’Toole, Senior Fellow at the Cato Institute
- ▶ Jay Beeber, Executive Director of Safer Streets L.A.
- ▶ Kathleen Calongne, whose 400-page report, “Problems Associated with Traffic Calming De-

vices,” has become required reading by emergency response teams and concerned citizens

- ▶ Wendell Cox, a three-term member on the Los Angeles County Transportation Commission
- ▶ Baruch Feigenbaum, Assistant Director of Transportation Policy at Reason Foundation
- ▶ Thomas A. Rubin, a past senior executive with major transit agencies, and auditor, consultant, and author on transit operations
- ▶ James Elliott Moore II, Director of the Transportation Engineering program in the Department of Civil and Environmental Engineering at the University of Southern California
- ▶ Matthew Schneider, co-founder of Keep The U.S. Moving
- ▶ Lydia Grant, former Los Angeles City Commissioner, and veteran community advocate
- ▶ John Russo, Director of Keep L.A. Moving and co-founder of Keep the U.S. Moving

I am also attending the conference, not only to participate in panel discussions but also to forge a national alliance with key participants who, like the NMA, are deeply concerned about a future of government-restricted individual transportation options. Nothing less than a concerted, coordinated effort will stop the headlong rush toward an urban landscape where cars will be considered trespassers.

That point is best made by a chief executive officer who expects to profit from the full adoption of Vision Zero measures. The Wall Street Journal recently published a story about the decline of bus ridership in Los Angeles over the past several years. The article cited a drop of

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# NMA WASHINGTON REPORT

BY ROBERT TALLEY, NMA LOBBYIST

In July, a new front was opened on the battleground for access to the nation's roadways with the introduction of the Complete Streets Act in both the House and the Senate. The idea of a complete street is presented as one that accommodates all modes of transit but is actually a policy intent on embedding non-vehicular travel into federal, state and local highway and transit design and construction.

The official definition is defined as "a public road that provides safe and accessible options for multiple travel modes for people of all ages and abilities, including modes such as walking, cycling, transit, automobiles, and freight." A complete streets program diverts limited resources for current roadway maintenance and expansion programs, and adds provisions for cycling and walking. Why would communities care about this? Because its advocates propose to link enhanced funding for highway programs as a teaser. States or localities that commit to Complete Streets get more state

and federal resources, more specifically, more money.

The Senate Environment and Public Works Committee's proposal includes a requirement that develops metrics for assessing multiple uses of the roadways. The committee, which has authority over highway and transit programs in the Senate, contends that there is insufficient data on roadway usage to preordain multiple uses. Why build a dedicated bike lane in the center of town if the data suggest it won't get used? Nevertheless, advocates for Complete Streets, like advocates for Vision Zero, are hard at work to achieve their goals despite the absence of benefits justifying such expenditures.

While the Senate may have it right about assessing the realities of road usage by multiple modes of transportation, an area that is sure to raise eyebrows is the interest in developing new road usage fees to pay for maintaining and expanding the existing system. Readers of my column will know that the primary mechanism to pay for our highways, the Highway Trust Fund, is woefully underfunded, and raising

the gas tax remains a politically unpopular move. Instead, the Senate proposes to establish a program to test the "feasibility of a road usage fee and other user-based alternative revenue mechanisms to maintain the long-term solvency of the Highway Trust Fund, through pilot projects at the State, regional, and national level."

Establishing a mechanism to pay for our roads, bridges and mass transit remains a key sticking point. In September, the House Transportation and Infrastructure Committee's Subcommittee on Highways and Transit held a hearing on "Pricing and Technology Strategies to Address Congestion on and Financing of America's Roads." Legislators know that a solution is needed, but transitioning to vehicle-miles-travelled taxes, congestion pricing, and increased gas taxes have all faced opposition. Congress appears interested in easing into a new funding mechanism rather than instituting abrupt changes. ❤️

## It Takes a Coalition

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24 percent in bus rides since 2013. It also noted that some bus routes take three times longer to travel than by individual automobile. Faced with this reality, Phil Washington, the chief executive of the LA Metro system, said, "We want to reach the riders that left and get to the new ones as well. And part of that has to do with actually making driving harder."

His strategy to lift a struggling public transit service is not to promote the benefits of using its bus system or improve its customer service, but rather to attack the more efficient and popular alternative. This mentality has seeped into the thinking of many city administrators and agency bureaucrats, which is why congestion pricing and similar anti-car programs are gaining traction.

It is also why marshaling allies and resources at the national conference about Vision Zero, road diets, and the future of transportation in early October is critical. ❤️

# James C. Walker, 1944 – 2019

by Gary Biller, NMA President

Jim Walker, who lost his battle with bladder cancer on August 13, was a well-respected, nationally known advocate for motorists. As gifted as he was at educating the public through media interviews and online commentary, and informing lawmakers through detailed testimony as a highway safety expert, Jim was first and foremost a gentleman and a friend.

I recall first meeting Jim Walker in 2010 at a gathering of NMA Foundation directors in Wisconsin. (He served as the nonprofit Foundation's volunteer executive director, a role he held until his death.) Jim leaned over to me at dinner and said, "You know, I don't agree with all of the NMA's posi-



tions." My first thought was, "Hmm, this is interesting," and the second was, "This is a guy who speaks his mind and someone I want as an adviser." Jim also held the role of trusted adviser until the very end.

At that 2010 dinner, Jim went on to explain that he was wholeheartedly in favor of the NMA support of 85th percentile speed limits and our opposition to photo enforcement, but wasn't so sure about distracted driving issues like cell phone use. He explained his views carefully and respectfully, the exact qualities (along with a relentless desire to make sure that people understood his point of view) that made him such an effective advocate.

Jim led a fascinating life. He was a nationally recognized SCCA Pro Rally driver, events where drivers raced one car at a time on closed roads in the woods of Michigan and other states. He finished second in the national standings in 1974 and fourth in 1975.

The highlight of Jim's car career was as manager of the first Chevrolet-Cadillac car dealership in Moscow from 1992 to 1994. He had a first-hand view of the cultural revolution in Russia as capitalism replaced communism. He found observing and participating in that historic series of events genuinely fulfilling.

Jim and wife Molly were world travelers. Together they toured countries such as Albania, Australia, Austria, Bulgaria, Canada, various Caribbean ports, Chile, Costa Rica, Croatia, Cuba, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Mexico, Montenegro, Morocco, the Netherlands, New Zealand, Norway, Romania, Russia, Serbia, Slovenia, Spain, Sweden, Switzerland, and Tanzania.



Jim and Molly recently returned from Portugal, where he shared his thoughts about some unique traffic control methods employed in that country. That was Jim—always viewing things from the perspective of a driver's advocate.

His involvement in drivers' rights resulted in the development of strong bonds with the Michigan State Police, allies in our continuing battle to set proper speed limit and safety standards, and with transportation experts at many key agencies, including the Federal Highway Administration. Jim was also a well-known presence in Lansing, where he regularly provided testimony to Michigan legislators on behalf of motorists.

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Jim had the opportunity to write his thoughts about the NMA in his last days, writing in the third person for his obituary:

*“For the last 25 years, Jim was an active member of the National Motorists Association, the grassroots group that fights for sound traffic laws based on traffic safety engineering and enforcement based on safety, not revenue. The NMA was the lead group that got the counter-productive 55 mph speed limit repealed in 1995. He often traveled to Lansing, and sometimes to other state capitals for legislative hearings to support or oppose legislation regarding motorists.*

*“Two particular successes in concert with other groups were to keep the for-profit racket of red-light cameras out of Michigan, and enact two major revisions in our speed limit laws, supported by the Michigan State Police, to reduce the ability of governments to run for-profit speed traps with artificially low posted speed limits. Such speed traps deliberately ticket safe drivers for revenue—making them vulnerable for unjustified insurance premium surcharges for “the crime of driving safely for the actual conditions.” It is a vicious predatory racket, and the NMA reduced the ability of authorities to run such rackets.*

*“In lieu of flowers or any other types of memorials, Jim asks that people consider making tax-deductible donations to the non-profit National Motorists Association Foundation. He also asks people to consider joining the NMA. It was his passion for 25 years. Jim believes that every driver in America owes the NMA a debt of gratitude for reducing their chances of becoming revenue victims of for-profit enforcement rackets. Every supporter helps.”*

The NMA began the **Community Support Grant Program** six years ago to make “financial resources available for local or regional projects that protect or enhance drivers’ rights through the reform of traffic law and public policy. The program is designed to encourage more people to get involved in grassroots projects designed to benefit motorists at the local and state levels.”

The NMA has handed out thousands of dollars in grants since the inception of the program, offsetting travel costs for members to testify before legislative committees and allowing many more to participate in key industry conferences held by organizations like the Institute of Transportation Engineers and the National Committee

on Uniform Traffic Control Devices. Community Support grants also paid for traffic speed surveys to check the legitimacy of posted limits and traffic signal timing, and reimbursed members for the fees charged for processing state and federal open records requests designed to uncover government information vital to motorists.

Those grassroots advocacies capture the essence of what Jim Walker meant to the NMA and its membership over the past 25 years. For that reason, I am pleased to announce that the **Community Support Grant Program** has been renamed the **James C. Walker Motorist Grant Program**, an honor befitting the contributions Jim made to drivers and driving throughout his life. ❤️



Jim Walker (in the white shirt) surveying traffic speed at an intersection with Joe Bahen (Virginia Member in red) and NJ Politician Declan O’Scanlan (in blue).

*Editor’s Note: Several donors have contributed to the NMA Foundation in Jim Walker’s memory, including our Canadian friends and fellow motorist advocates at stop100.ca, signifying that Jim’s impact on driving and drivers extended beyond U.S. borders. If you would like to contribute in Jim’s honor, please contact us at [nmaf@motorists.org](mailto:nmaf@motorists.org).*

## Are You Protected from the Little Black Box?

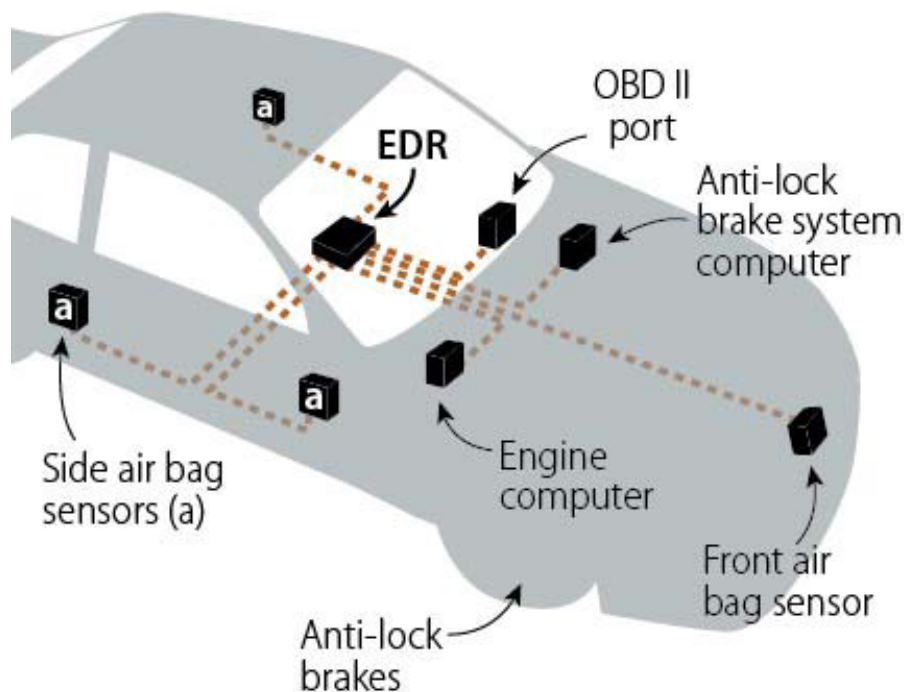
The Georgia Supreme Court heard arguments in June about a man who was found guilty of vehicular homicide after causing a collision that killed two occupants of the other car. He appealed his conviction by arguing that the data obtained from his car's black box were seized by police without a warrant, violating his Fourth Amendment rights.

Even though there are an estimated six million car accidents a year in the US, every crash is unique, and often it is not obvious to investigators why a crash occurred. The vehicle's black box or Electronic Data Recorder (EDR) can be an important tool for police, but privacy issues and constitutional protections are not always a given in practice.

Every traffic death is a tragedy, and EDR crash data can sometimes speak for those victims who cannot. The big question, though, is who gets to tell the crash story?

The Driver's Privacy Act of 2015 states that any data stored on an EDR are the property of the owner or lessee of the vehicle in which the device is installed, regardless of when the vehicle was manufactured. The US Department of Transportation has set regulations concerning the collection, storage, and retrieval of EDR information after a crash. Seventeen states—Arkansas, California, Colorado, Connecticut, Delaware, Maine, Montana, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oregon, Texas, Utah, Virginia, and Washington—have enacted statutes relating to event data recorders and privacy. The Institute of Electrical and Electronic Engineers Standard Association (IEEE/SA) even created a global standard (IEEE-1616a) to safeguard access to crash data.

With all this protection in place, why do police, such as in Georgia's *Mobley v. the State*, download data without a warrant? Legally, EDR data could be invalidated if specific



### How Does an EDR Function?

The electronic data recorder connects to the driver's airbag in nearly every vehicle manufactured in the past ten years. EDRs generally trigger during impact accelerations caused by crash-like events. The devices register the status of a predetermined list of vehicle operating systems to create a multi-dimensional story of what the vehicle, and thus the driver, were doing up to 15 seconds before, during, and after a crash. Sometimes in large diesel trucks, EDRs are triggered by electronically sensing problems with the engine (called faults) or a sudden change in the wheel speed.

All U.S. EDRs must meet federal standards and are generally simple, tamper-proof memory devices that are used by crash investigators. Black boxes record up to 45 types of crash data including airbag information, brake use, the driver's seat belt use, engine throttle, speed before the crash, and measured changes in forward velocity.

By connecting a scanning tool to the diagnostic link connector found under the vehicle dashboard, car owners and court-appointed authorities can download the information. Data downloaded from older EDR's generally contain about six to eight pages of information. Newer black boxes might include a larger volume of data points for download.

Formula One race cars started using EDRs in the 1993 season to improve safety and design factors. The National Highway Transportation Safety Administration estimated that by 2010 automakers had voluntarily installed black boxes in over 85 percent of all new vehicles. The percentage rate is much higher today.

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questions do not hold up in court:

- Are the crash data actually from the vehicle or vehicles in question?
- Has the chain of custody (CoC) of evidence been compromised? (The CoC is the chronological documentation that records the sequence of custody, control, transfer, analysis, and disposition of physical or electronic evidence.)
- Technically, have the EDR data been “locked” or “frozen” after the crash? (This is especially an issue if an airbag does not deploy during an accident.)
- Have the EDR data been accidentally or even deliberately overwritten? (Sometimes data can be erased or tampered with, which is challenging to prove because automakers use re-writable media in EDRs.)

Longtime NMA member Thomas Kowalick has been working for 22 years to make sure that the little black box in your car has a standard operating procedure and stringent consumer protections.

Featured in the Summer 2012 issue of **Driving Freedoms**, Kowalick said he started his work on EDR privacy protection after his father died in a car accident and he was unable to find out the real reason for the crash. He has served as the Chair of the IEEE/SA Global Standards for Motor Vehicle Event Data Recorders. Tom has testified about EDRs and driver privacy before legislative committees and assisted in court cases such as *Mobley*. He also wrote **Fatal Exit: The Automotive Black Box Debate**, initially published in 2004.

Kowalick has stated for years that most motorists have no idea of the risks associated with their vehicles’ black boxes. He feels it is still “the wild west era” when it comes to EDR data, with a real need for adequate nationwide consumer protection. Tom sells a device called AUTOCYB that provides vehicle owners with a keyed mechanical lock that secures the EDR download port, permitting owner access only. Kowalick says that a secure data port at the time of any crash establishes a chain of custody and prevents corruption of evidence.



Crash reconstructionists acknowledge that the “window of opportunity” to tamper with EDR crash data is from the time of the crash until an entity trusted by the court downloads the data. Kowalick has established, via **TAP-O.com**, a next-generation online cybersecurity vehicle crash service. With the owner’s permission, law enforcement, first responders, fire and rescue, insurance providers, roadside services, impound lots, and tow-truck companies can lock-down post-crash EDR access.

He recently wrote the following on the website **Medium.com** about a 2017 State Appellate Court case *Florida vs. Charles Wiley Worsham, Jr.* that considered whether a warrant is required to search an impounded vehicle’s black box:

*The court analogized the EDR to other electronic storage devices, such as cell phones. The court noted that because modern technology allows the storage of large quantities on small, portable devices, it has become an emerging trend to require a warrant to search these devices.*

*The court (citing other cases) referred to the type of information that is stored on cell phones as “private and secret personal information” and having a “very personal and vast nature.” The court stated that although EDRs don’t currently store the same quantity of information as cell phones, nor of the same personal nature, the devices contain more than what owner-drivers voluntarily convey to the public.*

*The judges also stated that extracting and interpreting the information is not the same as looking at the tires and brakes of a car while on a lift. They wrote, “Just as cell phones evolved to contain more and more personal information, as the electronic systems in cars have gotten more complex, data recorders are able to record more information. The difficulty in extracting such information buttresses an expectation of privacy.”*

Even though, supposedly, the data issue has previously been resolved in courts, Kowalick contends that vehicle owner implementation is still a sore point and that is why the Georgia Supreme Court judges are pondering the question once again.

As cars become more connected, automakers will continue to have better protection over consumers. EDR data might even be harder to use by those hurt in a vehicular accident. Kowalick stated in 2012—still applicable today—that with the proliferation of vehicle electronics and the advent of autonomous configurations, data logging is more important than ever for the manufacturer and not necessarily the consumer. Many problems in current and future car software may leave no physical trace behind in the EDR.

Individual owners need to read their driver’s manuals to understand their car’s black box technology. They should also keep up with the latest laws on EDR data privacy, particularly in states where they drive. 🇺🇸

## The Lowly Street Curb



Until recently, street curbs were pretty boring. City workers or private contractors construct them, maybe paint them to create a zone of some kind, and then forget about them. Motorists recognize and avoid them driving or parking on the street.

Now, street curbs have become hot urban real estate in America. Many city planners even equate these mundane, concrete impediments as the new ground zero for transportation. With the explosion of home delivery, rideshare, bikeshare, and scootershare, motorists are shocked to find they can no longer park in their customary spots on the streets.

Transportation company disruptors and profiteers are now helping cities to monetize the curb as a means of restricting motor vehicles.

This summer, curbFlow, a company that identifies itself as “Bringing order to the chaos of city streets,” partnered with the District of Columbia’s Department of Transportation to gather data on nine different streets. During a three-month pilot program, commercial drivers delivering parcels and small freight, as well as on-demand delivery drivers and private vehicles used for commercial purposes will be able to reserve specific delivery zones at particular times of the day. Booking a spot, for now, is free to these drivers. The company says this

is similar to an “air traffic control system” for the curb.

Commercialization of the curb is exacerbated by the shift from bricks-and-mortar to on-line shopping. Buyers expect timely delivery. In the next 25 years, the NYC Department of Transportation expects cargo tonnage inside the five boroughs to increase by 68 percent. Minimizing the adverse effects of truck traffic and street delivery is no easy task; the movement of goods is integral to any city’s economy.


The NYC DOT, though, is not waiting for a private company like curbFlow to figure out how to reserve and monetize the curb. DOT chief Polly Trottenberg announced in July that the city plans to “reduce the dangerous scourge of double-parked vehicles” by eliminating “car storage” in twelve locations with narrow one or two-way streets further restricted by bike lanes and bus routes.

Several NYC neighborhood and business groups have sued to stop the loss of street access given over to bike lanes, bus lanes, and now, delivery zones. Some actions have been successful; others are still in process. The city, however, is losing patience with organized groups opposed to its master plan and is moving forward with its war-on-cars agenda at break neck speed.

City Council Speaker Corey Johnson (also running for mayor) recently advocated for passage of his “Streets Master Plan,” which would create 50 miles of protected bike lanes and 30 miles of bus lanes every year with the possibility of converting many areas to car-free blocks. He has publically declared that he intends to eliminate NYC’s car culture. If his plan is adopted, drivers would indeed lose curb space on most streets.

The politics of mobility or transportation as a service (MaaS and TaaS) seems to dominate the discussion. Lyft, Uber, and nearly 20 other MaaS and TaaS companies have formed a coalition with the primary purpose of pushing individuals out of their personal cars.

Many anti-car advocates and city planners express openly that free parking on city streets will soon be a thing of the past. They hope that motorists will give up driving if street parking is hyperpriced or eliminated altogether.

The curb is no longer just a demarcation between street and median or sidewalk. Instead, it is at the center of the road-users’ debate that requires active motorist involvement to protect street parking and ultimately driving itself. The war on cars is not mere hyperbole. It is being waged from curb-to-curb. 



## An Appropriate Balance for Whom?: NMA E-Newsletter #552

Eight members of the U.S. House of Representatives introduced House Bill 3663 in mid-July. The proposed piece of legislation is titled, “**Complete Streets Act of 2019.**” It is no less than a mandate that all states implement policies to address “critical gaps in pedestrian, bicycle, and public transit infrastructure.”

The Complete Streets protocol would prioritize modes of transportation for new road construction and improvement projects this way:

- Pedestrian mobility
- Bicycle mobility
- Public transit
- Vehicular operations
- Freight operations

Interestingly, the Brookings Institute found through an analysis of U.S. 2016 Census data that commuter use of transportation modes is nearly the opposite of the Complete Streets agenda:

- Drove alone--76.3%
- Carpooled--9.0%
- Used public transit--5.1%
- Worked from home--5.0%
- Walked--2.7%
- Took a taxi or rode a motorcycle--1.2%
- Bicycled--0.6%

Ominously, HB 3663 includes this passage:

*“The benchmark and guidance [of Complete Street projects] shall . . . focus on modifying scoping, design, and construction procedures to more effectively combine modes of transportation into integrated facilities that meet the needs of each of those modes of transportation in an appropriate balance.”*

It is that last phrase, “in an appropriate balance,” that catches the eye. What does that mean? If the goal is to convert even more urban street pavement from car and truck to bicycle use, at what point will transportation planners be required to explain how demand will catch up

to supply by transforming roads into more bike lane and sidewalk space? And while they are at it, the planners should also address how restricting vehicular traffic to provide comparable road access to seriously underused modes of transportation won’t lead to unintended negative consequences for the free and efficient movement of people, goods, and services, and therefore to the nation’s economy.

Yes, streets need to be safer for all road users. We discussed that from a pedestrian standpoint in “**Problem Solving Ain’t What It Used To Be**” (NMA E-Newsletter #496). We followed that with, **The Not-So-Hidden Cost of Vision Zero**” (NMA E-Newsletter #500), which provides information about the staggering sums of taxpayer money being spent to attain a goal of zero road fatalities and shares some Zero experiences from NMA members. Complete Streets and Vision Zero are two peas in a pod, with both casting a boney grim reaper finger of blame at motorists.

Some of the supporters of HB 3663 in the House are also the legislators we are courting to sponsor the **NMA DETER Act** which would stop the federal funding of state traffic enforcement campaigns based on ticket quotas. Both are critical issues for motorists that shouldn’t be mutually exclusive: Stopping the authorization of hundreds of millions of dollars worth of street conversion projects across the country without evidence that pedestrian and bicyclist road use will increase appreciably, while also contesting a similar funding each year by the National Highway Traffic Safety Administration for forced, by-the-numbers ticketing campaigns.

It will require political finesse to defeat HB 3663 (and similar Complete Streets legislation) while also encouraging many of the same House members to incorporate our ticket quota ban into their transportation bill. That is the true appropriate balance we must strike. 🇺🇸



## Civil Asset Forfeiture Reform Update

Alabama, Michigan, and North Dakota governors signed civil asset forfeiture reform into state law in 2019. Even though the Hawaii House and Senate both unanimously passed a reform bill, the state’s governor vetoed it due to opposition from law enforcement.

President Trump recently signed the Taxpayer First Act that was passed unanimously by both the US House and Senate. The Act contains a sensible enforcement section which regulates property seizures that have been structured to be valued at less than federal bank secrecy requirements. Prosecutors are now required to demonstrate probable cause that seized property valued at less than \$10,000 was used or gotten illegally.

In June, the House of Representatives unanimously approved a bipartisan amendment to the Omnibus Appropriations Bill HB3055 that reins

in the federal government’s power to seize property without due process. Amendment 396 prohibits funding for a practice known as adoptive seizures by the Department of Justice, closing a loophole that allowed local law enforcement to circumvent state forfeiture laws.

Earlier in the year, the **Fifth Amendment Integrity Restoration Act (FAIR Act) HB1895** was introduced in Congress. The FAIR Act would bring sweeping reforms to the federal asset forfeiture laws by raising the level of proof necessary for the federal government to seize property.

Maryland Representative and **FAIR ACT** cosponsor Jamie Raskin said, “Due process means the government can’t take your body, your rights, or your property without a fair process, the presumption of innocence, and the opportunity to be heard.”



## Who is Watching You Now?



Busybody neighbors now have technology on their side. At the dawn of the internet of things, porch security cameras connected with automated license plate readers (ALPRs) located on street poles are creating neighborhood surveillance networks around the country. That is if enough neighbors in a community are willing to pay for a two-year service contract from a private company called Flock Security.

By using the service, residents can track every car that passes through the neighborhood. If a crime occurs, they can retrieve the license plate information of the vehicles that were on the street at the time and send the videos to the police. Supposedly, the people who pay for the service own the ALRP data, but Flock Security still stores the data in the cloud.

Is this the natural progression of the surveillance state?

ALPRs are high-speed, computer-controlled camera systems that capture all license plate information that comes into view along with the

location, date and time. Some cameras also capture images of the driver and passengers. The information is uploaded and stored on a central server. Duration of the data storage is based on state laws.

Many police departments large and small already capture license plate data. In Chandler, Arizona, police now “grid” neighborhoods when not pursuing other enforcement duties. Driving up and down every street in an area, officers with ALPRs on their vehicles, scoop up license plate images, gathering intelligence as if everyone is suspected of a crime.

Recently, the private company Rekor Systems announced the launch of the Rekor Public Safety Network (RSPN) which gives law enforcement real-time access to gathered license plate data—for free. The RSPN is currently operational in 30 states where more than 150 million people live.

Police, private companies, stores, and now neighbors can see where you come and go. That’s who is watching you now!



## DRIVING NEWS

This information is current at time of printing. Get daily driving news updates from across the country through the “NMA Driving News” area of our website. For even more in-depth coverage of motorists’ issues from some of the country’s leading commentators, visit the NMA Blog at [www.motorists.org/blog/](http://www.motorists.org/blog/).

### Alabama

Governor Kay Ivey declared that the planned toll road for a new I-10 Mobile Bridge and Bayway is dead. The Department of Transportation had proposed a \$6 one-way toll or a \$90 monthly pass for unlimited trips on the proposed \$2.1 billion bridge. Residents and local leaders strongly objected to the toll plan in various public meetings and the media. The DOT has now been asked to propose a scaled-down plan that will relieve congestion but not require a toll.

### Arizona

The Court of Appeals ruled that a Mesa officer should not have pulled someone over just because they drove away from a bar. On December 17, 2017, the driver, James Flynn, drove two miles at or under the speed limit before the officer stopped him on a hunch he might be drunk driving.

### California

Jokes about the DMV are no longer funny in California. In little over a year from now, the department will need to issue a total of 28 million REAL IDs to meet the federal deadline. So far, Governor Gavin Newsom has had to hire a third director in a year to push the agency into modern times. Long lines of two to eight hours, ongoing computer hardware/software glitches, extended waits for Real IDs in the mail and a failed Motor Voter program are just some of the issues residents have been dealing with in the past two years. Many offices in the state are now open at 7:00 AM with some Saturday service. The governor has also budgeted an additional \$240 million for the department and approved the hiring of 1800 temporary workers to try to stem the crisis.

### Colorado

An audit released in June stated that the state’s DOT has significant budgeting issues. Auditors found the CDOT’s budget, which totaled \$1.56 billion for the 2017 fiscal year, had problems with completeness and transparency. Lack of a process to detect employee fraud prevention, incomplete project expense reporting, and the closing out of projects in a timely fashion were three items cited in the audit.

Denver voters will decide in November whether the city should reorganize several related departments into a new agency called the Department of Transportation and Infrastructure. If approved, Denver would join other major cities like Chicago, Los Angeles, New York, and Seattle, which have dedicated transportation departments.

### Iowa

Cedar Rapids turned on its speed cameras July 1st, ticketing over 5,000 speeders in the first week and close to 24,500 in the first two months. Drivers received automated tickets from speed cameras along Interstate 380, various green light cameras (red-light cameras with built-in speed cameras), and an unmarked speed camera car. Each ticket is \$75, with \$55 of the total earmarked for the police department. Over the first 60-day period of camera activity, the city’s program averaged 406 tickets for a daily intake of \$22,355. At that pace, the city could easily rake in over \$8 million in the first year of operation if all tickets are paid. Policing for profit is alive and well in Iowa.

### Illinois

Governor J.B. Prizker signed House Bill 2276 over the summer which prohibits smoking in a vehicle with anyone under

the age of 18. The first fine is upwards of \$100 and a second offense is punishable with another \$250 penalty.

### Kansas

Since July 1, law enforcement can no longer charge drivers with a crime for refusing a roadside sobriety test. Refusal to comply, however, comes with an automatic one-year license suspension which is the maximum time for failing a breathalyzer or blood test. The decision to strike down the law comes as state appellate courts and the US Supreme Court have reversed course on whether motorists give implied consent to sobriety tests by virtue of holding a state-authorized driver’s license.

### Louisiana

New Orleans has been ordered to refund \$26 million in illegally issued red-light cameras tickets from the year 2008. The state’s Court of Appeals found the city broke the law due to a technicality. American Traffic Solutions (ATS), now called Verra Mobility, issued tickets under an ordinance that improperly placed adjudication authority under a different department other than the police.

### Maine

Over the summer, Maine became the 19th state to allow automated stop-arm cameras on school buses. The new law states footage gathered may be retained for no more than 30 days unless an infraction has taken place, and then footage can only be released to law enforcement officials.

### Maryland

The Montgomery County Inspector General has raised the alarm on a deal struck with Force Multiplier Solutions (FMS) for the installation and operation of the school districts school bus stop-arm camera systems. FMS CEO Robert Carl Leonard Jr. (under the company name BusPatrol) was caught bribing Dallas, TX officials which ultimately cost taxpayers \$70 million and bankrupted the school

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district. Montgomery has not yet turned a profit on the school bus cameras while FMS has already pocketed \$10 million.

## Michigan

Driver Anthony Owen was arrested for drunk driving in the village of Saranac in September 2015. Owen was stopped by police originally for speeding. Recently, the state's Appeals Court said that the deputy who stopped Owen knew that the speed limit was not posted and should not have stopped him in the first place since the default limit was 55, not 25 mph. The court stated that Owen's Fourth Amendment rights were violated because the evidence against him for the DUI must, therefore, be suppressed due to lack of a reasonable suspicion to justify the stop. Owen's Fourth Amendment defense was aided by an NMA Foundation legal aid grant.

## Minnesota

The Minneapolis City Council has passed an ordinance that would ban drive-thru windows in new buildings. As the first city to ban this symbol of Americana, proponents stated they hoped this would cut down on vehicle noise and idling, while making sidewalks safer.

## Missouri

On August 20th, truckers held a rally at the state capitol to raise awareness of the potential dangers of driverless trucks. They lobbied for legislation that would help save their jobs by banning autonomous fleets.

## Montana

Judges can no longer suspend driver's licenses solely based on unpaid traffic fines and court costs. Now, courts must first mail an appearance notice, and if motorists do not appear in court or attempt to set up a payment plan, then their licenses could still be revoked. Ninety percent of Montanans drive to work, and last year 25,500 had their driver's license suspended by a court.

## Nevada

Beginning October 1, state drivers must report their odometer reading to the DMV when they sell, register, or renew a registration for a vehicle. Lawmakers passed this law to collect data to understand more fully how a vehicle-miles-traveled tax could be set up in the state. The VMT pilot program runs through the end of 2026.

## New York

Over five years, the NYPD received 2,495 reports of police bias from the public. None were deemed valid according to a report released this summer by the department's inspector general. The IG office was created by the City Council in 2013 to investigate racial profiling and the overuse of stop-and-frisk.

## Pennsylvania

The U.S. Court of Appeals for the Third Circuit affirmed the District Court's dismissal of a lawsuit filed by the Owner-Operator Independent Drivers Association and the NMA against the Pennsylvania Turnpike and state officials for overcharging tolls and using the proceeds to fund non-turnpike activities. OOIDA and the NMA subsequently filed a Petition for Rehearing En Banc with the Third Circuit, which if accepted will require all 23 judges with the court, not just the panel of three that decided the original appeal, to rehear the case. A date for disposition of the petition has not been set.

## South Carolina

All 61-year-old Gerald Clinkscales wanted when he went to the Greenwood DMV office over a year ago was to obtain a new REAL ID driver's license. He brought with him all the required documentation, but his application was quickly rejected. His birth certificate did not state his name but instead said "Unnamed Clinkscales." He was born premature, and his parents were not sure if he would survive. They never had his name placed on the certificate afterward. In order to receive a REAL ID, Clinkscales needed

to hire legal aid and go through a lengthy court process to have his actual name placed on his certificate before he could reapply. DMV officials say birth certificate irregularities have been a problem all over the country for people who want to obtain a new REAL ID driver's license.

## Tennessee

The state's chapter of the American Civil Liberties Union wants to change the No Pass, No Drive Law for teen drivers. If a high school student drops out of school or fails to make good grades, schools are required to notify the Department of Safety, which then suspends the student's driving privileges. If the student fails a second time, he/she must wait until the age of 18 before applying for a license again. From July 2018 to June 2019, 61,591 Tennessee teens received licenses, 1,930 had licenses suspended, and of those, 640 were reinstated. The ACLU wants to see the 1990s-era law changed because of the potential for discouraging school participation.

## Wisconsin

More county sheriff offices will utilize automated breathalyzers to regularly test convicted DUI offenders involved in work-release or probation programs. Currently, offenders go through a convoluted process to be tested by deputies on a daily or random basis. The automated breathalyzers can be used without direct supervision and can test up to 40 individuals per hour, 24 hours a day, seven days a week. Lafayette and Waupaca counties join five other counties which have autonomously conducted more than 50,000 tests since the beginning of 2018, achieving a claimed alcohol-free compliance rate of 99.5 percent.

## Wyoming

Lawmakers plan to introduce a bill in the next legislative session to propose tolling Interstate 80, an important transportation corridor through the state, to help pay for the highway's maintenance. 