



# *Driving Freedom*

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## *The New Fight over Speed Limits*

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# Driving Freedoms

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

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## DETERing Ticket Quotas

By Gary Biller, President, NMA

On February 24, 2021, the U.S. House Subcommittee on Highways and Transit held a hearing titled “Examining Equity in Transportation Safety Enforcement.” Of particular interest was the opportunity the three-hour session presented to further a major NMA legislative initiative—our proposed anti-ticket-quota bill known as the *DETER (Driver Education Through Enforcement Response) Act*.

Highways and Transit is under the powerful House Transportation and Infrastructure Committee, which initiates the all-important transportation bill each year. That sweeping legislation authorizes funding for roads and bridges and other infrastructure programs, including expanding broadband Internet access to more rural areas.

So what does this have to do with ticket quotas, the bane of drivers, and many police officers? The transportation bill’s final language approved by the House, the Senate, and signed by the President carries the force of law. It is that force we want to harness to stop the federal government’s practice of awarding hundreds of millions of dollars in state traffic enforcement grants every year based on ticketing levels.

The award process is simple and corrupting: Make more traffic stops, issue tickets, get more grant money to supplement department budgets and payrolls.

Four years ago, I wrote to then-Secretary of Transportation Elaine Chao, pointing out that the grant award system administered by her National Highway Traffic Safety Administration (NHTSA) agency was patently unfair. I also noted that

it contributes to further erosion of public trust in law enforcement officers.

The response I received was US-DOT’s hands were tied because the United States Code requires NHTSA to use speeding, seat-belt, and impaired driving ticketing levels as performance measures in awarding traffic safety grants to states. That assertion led to our development of the NMA’s *DETER Act*. The law enabling ticket-quota behavior had to be reformed.

The February Highways and Transit hearing provided an opportunity to galvanize support within the committee to prohibit the influence of ticket quotas on funding decisions. During the hearing, members and witnesses expressed sensitivity to racial factors during traffic stops, the most prevalent cause of interaction between the public and police.

My subsequent letter to Chair Eleanor Holmes Norton and members of the Subcommittee was submitted for the hearing record. An excerpt:

*“The Section 402 grant program administered by the National Highway Traffic Safety Administration provides funding to the states for initiatives that reduce highway casualties through education and enforcement. As currently codified, Section 402 requires states to report annually on predefined performance measures so that they can qualify for further traffic safety grants. Included in those measures are the following three ticketing activities: Seat belt citations, speeding citations, and impaired-driving arrests.*

(Continued on Page 3)

# How It All Began...

With much of this issue of *Driving Freedoms* dedicated to speed limit topics, it seems only appropriate to turn back the clock to April 1982 when Jim Baxter was just getting our organization, then called the *Citizens' Coalition for Rational Traffic Laws*, off the ground. The founding issue, the central purpose of the CCRTL, was to repeal the 55 mph National Maximum Speed Limit. It took a sustained, coordinated effort by staff and membership alike. The NMSL was partially repealed in 1987 and altogether stricken from law in 1995.



National Maximum Speed Limit Enacted January 2, 1974

Nearly 40 years later, the improper establishment of speed limits is still the top concern of NMA members. Two likely reasons why: 1) arbitrarily low posted limits, set well below normal traffic speeds, remain widespread, which is something drivers experience firsthand every day, and 2) federal agencies are abdicating their responsibilities to the public by not protecting traffic engineering standards. The latter is evidenced by the Federal Highway Administration's proposed rule-making to strip essential technical requirements from the *Manual on Uniform Traffic Control Devices*, which will give localities the freedom to establish unnaturally low-speed limits with impunity.

In addition to the content in these pages, you can find much more about the concerted effort to lower posted speeds without justification in the cover story, *The Big Lie: Traffic Safety Only at Lower Speeds*, in the Fall 2018 *Driving Freedoms*, which can be found at <https://www.motorists.org/newsletter>.

Back to how it all began. The introductory message to members from the very first CCRTL newsletter (shown at the lower left) established a clear goal for the organization that it doggedly and successfully pursued over the next 13 years.



WELCOME! April, 1982

Welcome to the ranks of those who resent and refuse to accept arbitrary irrational laws. Together we can work toward the elimination of one of the worst excuses for public policy ever to grace a statute book, "Mandatory 55."

This is a law conceived in haste and perpetuated by a bureaucracy that believes we as individuals are unable to make rational decisions on our own behalf.

Through our concerted efforts, we will see "Mandatory 55" repealed and instituted in its place, a rational system of speed regulation. A system that reflects a highway's capabilities and limitations. Not a system that wastes tax payers' dollars, misdirects enforcement resources, aggravates the motoring public, and makes most of us scofflaws. So stick with us and be part of the movement that restores reason to the regulation of America's highways.

Along the way, CCRTL was shortened to CRTL—*Citizens for Rational Traffic Laws*—but even that proved to be a bit cumbersome. In 1990, Baxter and state activists who helped lead the NMSL fight decided to rechristen the organization *National Motorists Association*. With the speed limit battle still going strong at the time, the name change signaled that this was an organization for all drivers. It also anticipated a growing agenda of motorist issues, from improper speed limits, escalating road user fees, and revenue-based enforcement actions to educational programs emphasizing driving skills development and lane courtesy.

The challenges to protect motorists' rights have grown over the past four decades. Indeed, the movement to lower speed limits arbitrarily is well-documented elsewhere in this magazine. While technological advances have ushered in impressive vehicle safety innovations, new modes of surveillance and tracking threaten the basic privacy and due process rights of motorists everywhere. The NMA remains engaged today as it was 40 years ago. 🍷



# NMA WASHINGTON REPORT

BY ROBERT TALLEY, NMA LOBBYIST

## The National Motorists Association's DETER Act

To reinforce the stated purpose of state highway safety programs per Title 23, Section 402 of the United States Code (“to reduce traffic accidents and the resulting deaths, injuries, and property damage”), to eliminate incentives that create traffic ticket and arrest quotas, and to emphasize the driver education role of police-presence campaigns.

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled.*

### SECTION 1. SHORT TITLE

This Act may be cited as the “Driver Education Through Enforcement Response” or DETER Act.

### SECTION 2. FINDINGS

Congress finds that ---

The primary purpose of highway safety grant funding is to improve safety by reducing traffic violations, decreasing the number of traffic collisions, and preventing (detering) serious injury and property damage through the education of drivers.

### SECTION 3. IMPROVING DRIVER SAFETY EDUCATION BY POLICE RESPONSE AND PROHIBITING FUNDING ACTIVITIES BASED ON TRAFFIC TICKET AND ARREST QUOTAS.

Amend Title 23. Highways, Chapter 4. Highway Safety, Section 402. Highway safety programs of the United States Code by replacing subparagraph (k)(5) in its entirety as follows:

#### (5) Performance Measures

For highway safety plans submitted under this subsection, the performance measures required by the Secretary under paragraph (4)(A) shall be limited to casualty and crash-rate improvements. Funded enforcement campaigns may focus on maintaining a visible police presence to influence safe driving behaviors by the public but the Secretary shall ensure that the use of ticketing activity such as the number of traffic stops made, the number of tickets issued, or the number of arrests made shall not be used to determine federal grant fund awards to state or local agencies.

## DETERing Ticket Quotas

(Continued from Page 1)

*“The current federal rules that NHTSA must abide by are explicit: Issue a specific volume of traffic tickets or risk losing federal grant money.*

*“More than 20 states have made ticket quotas illegal. Section 402 rules, however, give them cover: It is mandatory to report on ticketing activity levels to receive federal safety grants. The success in securing future grants is predicated on efficiency in issuing citations, not in showing reductions in traffic accidents and fatalities. In actuality, those grant monies should be awarded based on measurable safety improvements and not on how many tickets are handed out each year.”*

This letter urges members to support the inclusion of DETER in the *Transportation Infrastructure Act of 2021*. (See the NMA Washington Report above for a more complete description of the NMA-proposed legislation.)

We will soon see if our elected representatives have the awareness and courage to reform the misguided federal grant program that awards lucrative grants to wage quota-based ticketing campaigns under the guise of traffic safety programs. ❤️



## Twenty-Eight Years Later

by Gary Biller, NMA President

*Editor's Note: This article first appeared as NMA Weekly E-Newsletter #580 on February 23, 2020.*

Every so often, some spring cleaning is required to tidy up and put one's house in order. We are getting an early start on the seasonal ritual at the NMA offices, and in the process, turned up an interesting opinion piece written by a member who is still very active today. We won't name names because the focus should be on his words, which have a relevancy today as they did in 1992. That is particularly so on the heels of an announcement by the National Highway Traffic Safety Administration that it has awarded \$562 million in highway safety grants to the states for 2020, much of which is earmarked for high-visibility enforcement campaigns that are evaluated by how many tickets are handed out, not strictly by safety improvements.

### ***Please Call Me a Professional Speeder***

*We hear a lot about enforcement schemes aimed at the "professional speeder." The cops are always announcing another ticket-writing blitz*

*against the guy who makes a business of driving fast, on every freeway trip, all the time.*

*But what's wrong with being a professional speeder? Where I come from, professional means skilled, judicious, knowledgeable, and careful. A professional doesn't make mistakes and can be counted on to perform properly, every time, under all circumstances. I'd consider it an honor to be called a professional speeder if only my car would go fast enough, and it didn't attract police attention.*

*On the highway, professional speeders include a lot of people who drive for a living, whose families depend on them, and who take pride in the job they do. Truck drivers, bus drivers, delivery men, messengers, sales representatives, repairmen, and a lot of professional people are also professional speeders as a matter of economic survival. These are the people who make society work. They are not the people who are causing a problem on the highways.*

*Instead, the police need to be chasing the amateur speeder. This is the character driving unpredictably, at speeds he's not used to, in suspect equip-*

*ment, under conditions that call for caution. The amateur speeder is the beginning driver, or a drunk, or someone short on brains and maturity. With a little training, the police could learn to spot these guys and write tickets for real accident-producing behavior. They'd probably welcome the chance to do some real police work, instead of simply sitting by the side of the freeway, reading the numbers on a radar unit.*

*Of course, under our present system of traffic law, there is no legal way for the police to distinguish between one kind of speeder and another. And, it's a lot easier to fulfill a ticket quota by writing up the salesman doing 75 on a wide, straight freeway than the clown doing 45 on main street. The phrase "too fast for conditions" is meaningless when the speed limit is too slow under almost all conditions, and all drivers are speeders, professional or otherwise.*

*So the next time your state legislators or highway patrol proudly announce another campaign against professional speeders, ask them publicly if they know what professional really means. And then ask them why they're chasing the wrong people. 🍷*



## Pandemic Traffic Data Used to Endorse Vision Zero

The National Safety Council (NSC) recently released a preliminary report on 2020 traffic fatality data, estimating an eight percent increase in road deaths over the previous year. Because of restricted travel during 2020 because of coronavirus concerns, the NSC estimated a year-over-year rate (deaths per vehicle miles traveled) increase of 24 percent, the highest the agency has calculated since 1924.

Institute of Transportation Engineers Executive Director Jeffrey Paniati cited the NSC report in a post on the ITE

*"Before coming to any conclusions, I'd like to know which type of fatal collisions increased and on which types of roadways they occurred on, etc.*

*"With regards to the 8 percent increase in overall fatalities, my first question would be whether this is within the range of normal statistical variation. It seems a bit high for one year, but if you look at the chart by the National Security Council here <https://injuryfacts.nsc.org/motor-vehicle/overview/preliminary-estimates/>, you'll see that their 2005 estimate was about a 6.3 percent increase over the previous year. Interestingly, the*

*"Likewise, we know that rural roadways have a higher fatality rate than urban roadways (1.65 vs. 0.85 in 2018), and the fatality rate on interstate highways is lower than the fatality rate on non-interstate highways (0.68 vs. 1.14). During the lockdowns, vehicle travel did not decrease in equal proportions on all types of roadways throughout the US. Over the first four months of the pandemic, April through June, vehicle miles traveled on interstate highways decreased 36 percent but were only down 31 percent on non-interstate roadways. Similarly, urban roadways saw a 34 per-*



Member Forum, noting, "As transportation engineers, we clearly have much work to do to reverse this trend and move the numbers in the direction of Vision Zero." He has not been alone in making this call.

Fortunately, NMA Life Member Jay Beeber is an ITE Member, and he felt a measured response to Paniati's post on the forum was necessary:

*"Let's not get ahead of ourselves and read too much into these alarmist figures. While any increase is concerning, and it is tempting to base our opinions on our anecdotal observations, we really don't know what is happening here until we take a deep dive into the data.*

*actual increase was 0.9 percent. So, is the 8 percent increase accurate, and is the actual increase (if any) statistically significant?*

*"Regarding the 24 percent increase in the fatality rate, this could be due either in part, or in whole, to a shift in driving patterns during the pandemic. With the exception of those 80 years and older, the fatality rate for younger drivers is significantly higher than for middle-aged and older drivers. Since Covid-19 is much more deadly for those more advanced in age, that group, the safer drivers, may have reduced their vehicle miles traveled (VMT) to a greater extent than younger drivers. Such a shift would, on its own, increase the fatality rate absent any change in individual driver behavior.*

*cent decrease in VMT, while rural roadway travel decreased just 28 percent. This shift to a higher percentage of driving occurring on rural roadways and non-interstate roadways, both of which naturally have higher fatality rates, could also be a factor in, or completely account for, the fatality rate increase.*

*"Let's also remember that this one-year increase notwithstanding, we are currently living in a time of historically safe travel. The fatality rate on our nation's roadways has decreased almost 30 percent in the past two decades and is down about 80 percent since 1966. That's not to say we shouldn't keep trying to improve those numbers, but that we should also keep things in their proper perspective." 🇺🇸*

## A Time of Reckoning for Motorists

The reckoning is almost upon us. In the 2018 Fall *Driving Freedoms* cover story, we called it *The Big Lie: Traffic Safety at Lower Speeds*. While “The Big Lie” is a term that has since been appropriated for political use, the warning then has now become even more of a clarion call.

At issue is the protection of traffic engineering standards, such as the 85th percentile rule for establishing safe and efficient speed limits. The Federal Highway Administration (FHWA) is charged with protecting and administering those standards through the *Manual on Uniform Traffic Control Devices* (MUTCD). The reckoning we face in 2021 is the FHWA’s effort to strip away the MUTCD rules that protect motorists and, indeed, all road users.

Why would the FHWA do this, particularly when it is responsible for the most-cited research in support of using the 85th percentile speed limit principle, *The Effects of Raising and Lowering the Speed Limit, Report No. FHWA-RD-92-084*? The report was prepared for the federal agency by Martin R. Parker & Associates, Inc. and published in June 1996.

Researchers collected speed and driver behavior data at 100 nonlimited-access highway locations across 22 states from 1985 to 1992. Posted limits were lowered by 5, 10, 15, or 20 mph and raised 5, 10, or 15 mph to measure driver reactions. Only one change in the posted speed was made at each site during the study.

From the Parker report:

*“There is statistically sufficient evidence in this dataset to reject the hypothesis that driver speeds do not change when posted speed limits are either raised or lowered. However, the differences in speeds, less than 1.5 mph, are not sufficiently large to be of practical significance, and are due primarily to large sample sizes.*

*“Although the changes in vehicle speeds were small, driver violations of the speed limits increased when posted speed limits were lowered.*



*Conversely, violations decreased when speed limits were raised. This does not reflect a change in driver behavior, but a change in how compliance is measured . . .”*

The Parker report was unequivocal in its findings, which have not been refuted in the 25 years since its release. The FHWA is, in effect, trying to cancel its own authority in setting speed limit standards by proposing sweeping changes to the MUTCD. And it offers no scientific or statistical support for reversing course other than apparently being enthralled by the Vision Zero mission.

Other government agencies and engineering authorities such as the Transportation Research Board, the National Transportation Safety Board, the National Safety Council, and the Institute of Transportation Engineers have fallen in line with the FHWA. (See the article, *Pandemic Traffic Data Used to Endorse Vision Zero*, on page 5.)

The Vision Zero goal of eliminating every traffic fatality, while admirable, is neither practical nor feasible. True believers see reducing vehicle speed—or with some, eliminating vehicles altogether—as the primary means to that

end. Never mind that the evidence doesn’t back the conclusion; the goal must be met, and the FHWA is bound and determined to do its part to make that happen.

Vision Zero thus far has been a failure in the United States. Hundreds of millions of dollars have been poured annually into programs to reconfigure roads, eliminating travel lanes to reduce motorized traffic and to arbitrarily lower speed limits to restrict vehicle use. Making driving more expensive by charging traffic congestion fees is another arrow in the Vision Zero quiver.

Portland, Oregon recently dissolved its Vision Zero Task Force. After five years of such efforts, the City saw traffic fatalities trend upward throughout the period, hitting a 25-year high in 2020. Portland hasn’t given up trying to make Vision Zero work, however. The poor results are being blamed on a lack of imagination and, apparently, motorists’ indomitable will to drive as fast as possible, safety be damned. Portland is considering more creative approaches to reach zero traffic fatalities. Taxpayers beware.

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Portland is not an outlier. Other major cities with no improvements or negative safety results after embracing VZ over several years include New York City, San Francisco, Los Angeles, Chicago, the District of Columbia, Austin, San Jose, and Seattle. It is no wonder that when NMA members were asked to rank research project ideas, high on the list was “*True Cost to Taxpayers of Vision Zero Programs and the Effect on Road User Safety.*”

To change the existing standards and guidelines of the MUTCD, the FHWA must follow a strict procedure. Federal regulations typically are a product of laws passed by Congress. Agencies proposing new regulations, or changes to existing regulations, must initiate a rulemaking process. This includes a public comment period during which the sponsoring agency must take into consideration objections to the proposal before issuing a final rule.

Last December, the FHWA submitted a proposed rule to the Federal Register. Docket Number FHWA-2020-0001 is *National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control Devices for Streets and Highways; Revision.*

The proposal includes extensive markups to the nearly 800-page MUTCD, enough to keep an army of reviewers busy for months. In fact, the FHWA initially set a public comment period to close mid-March 2021.

The NMA and many other interested parties objected immediately, and the agency relented by extending the review period to May 14, 2021. While the NMA doesn't have a battalion at its disposal, John Carr, Chad Dornisife, and Chris DiPrima, and others are doing yeoman's work in analyzing the MUTCD mark-up. Their work will enable the NMA to challenge many of the FHWA's proposed changes during the comment period. Depending on the federal agency's response, they will provide the NMA with objections and options for further action.

The MUTCD guidance related to speed limit setting is just one area that the FHWA is trying to overhaul, but for motorists, it has arguably the most impact. If the proposed rule is adopted as currently written, the 85th percentile speed limit rule will be abolished as a federal standard. The FHWA has even asked for comments as to whether it should be legal to consider the speed of traffic when es-

tablishing a speed limit, the very basis of the 85th percentile standard.

Other speed limit factors for consideration would be entirely based on the personal opinion of the local engineer. Rather than a nation of state-based traffic laws that fall under the umbrella of national standards and guidances, the reform of the MUTCD proposed by the FHWA could conceivably create different speed limit criteria in each of the tens of thousands of municipal and county jurisdictions across the country.

Parker found that, in the late 1980s and early 1990s, posted speed limits were set, on average, at the 45th percentile speed of traffic. That meant that typically 55 percent of drivers were technical violators of the posted speed limits. Does anyone doubt that if we were to go back to limits set at those levels, for which the proposed changes to the MUTCD would open the door, ticketing of safe, responsible drivers will grow exponentially?

As we and our team of advisors determine the best course forward for thwarting the FHWA's attempt to abdicate its responsibilities to the nation's motorists, you can be sure that the vocal support of the NMA membership will be a vital component of the strategy. 🇺🇸



# The Thing About Speeding

by NMA Blogger Eric Peters

*Editor's Note: This article first appeared as NMA Weekly E-Newsletter #627 on January 17, 2021.*

The problem with speed limits is they're arbitrary and presumptive.

A velocity maximum is decreed, and you are presumed a threat to others if you exceed it. Almost everyone understands this is silly—else almost everyone would not “speed” routinely. Most of us do not play Russian roulette, for instance, irrespective of any laws forbidding it, because we don't need to be threatened with a ticket to refrain from putting a loaded gun to our heads.

ical axiom that the very last thing intended is the plain meaning of those two words when you hear those two words.

An altogether different meaning is intended, which can be demonstrated by pointing out how useless speed limits are as information about how fast or not it is safe to drive on any given road, especially an unfamiliar one.

This ought to be the purpose of speed limits—advisory rather than arbitrary. Suppose limits convey useful information about speed in relation to the road ahead instead of the set-deliberately-below-the-speed most people drive on that road. More might actually

It is obviously not an objective threshold beyond which danger lies, which is why most people do speed, regardless of any statute. General contempt for speed limits is universal, which undermines “our safety.”

It is not because people “speed,” but because the correlation between the signage and conditions is so tenuous that most of us ignore the signs unless police are in the vicinity. While some drive too slowly relative to the speed, the rest of us are driving to make sure that traffic does not needlessly bunch up when it could be flowing—much more smoothly. This sets up a bizarre and irritating dynamic.



Almost everyone understands that driving 5, 10 mph, or even faster than above whatever the speed limit is isn't like that. That “breaking” the speed limit is like stepping on sidewalk cracks and not likely to break your momma's back. It is why few feel shame or guilt when “caught” going faster than the speed limit. Indeed, the opposite is likely true. Drivers resent being extorted by the courts and insurance mafia over something we know caused no harm and were not likely to cause harm.

Interestingly, this defeats the supposed purpose of speed limits if the purpose isn't to pretextually fleece motorists.

Ostensibly, speed limits are posted—gird yourself—for “our safety.” It is an almost mathemat-

drive the advisory speed limit. Inevitably, most drivers ignore the posted limits and see them as easy pickings for on-the-go tax collection.

Part of the problem is vocabulary. A speed limit sounds like some engineering threshold, like an engine's RPM limit. Exceed the redline, engine damage is probable because the engine's mechanical limits have been exceeded.

Most people take care not to exceed the redline because they know it has objective informational value, and they'd better pay attention to it.

But a speed limit is nothing like that. It is a statutory limit—something illegal to exceed because it has been so decreed but not necessarily harmful in and of itself.

The speed limit obeyers are often taking a kind of righteous delight in their rigid obedience, which in their minds justifies not yielding to the drivers exceeding the speed limit because they are breaking the law! While the “speeders” understandably get exasperated by the “slowpoke” ahead who is preventing them from driving at a speed they know isn't dangerous, even if statutorily unlawful.

If “our safety” rather than our money is desired, the government, perhaps, should post speed advisories with no fines attached.

This would benefit drivers not familiar with a given road by giving them a sound ballpark idea about how fast they ought to enter

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an unfamiliar curve, for instance. They would be given heed for the sake of safety as opposed to fear of a fine.

Because we have speed limits, people tend to either completely ignore them—knowing they can likely take the curve up ahead at ten or even twenty mph faster than the sign says is “safe” (even at the risk of a ticket) because they have been driving that road and taking that curve every day for the past

ten years at ten or even twenty MPH faster than the sign says is “safe.”

If a driver is not familiar with the road and has not taken the curve up ahead every day for the past ten years, they see the sign that says twenty-five MPH and creates a road hazard by driving preposterously slow for the curve. The next time they take that road, they’ll probably ignore the sign, like almost everyone else.

Motorists then habituate a combination of contempt for the signage as well as mindless obedience of signage irrespective of conditions, and neither is of much service to the cause of “our safety.” The entire regime is as counterproductive and cynical as it is profitable.

This explains why probably speed limits as absolute won’t end anytime soon. ❤️





# NMA Joins Coalition of NonProfits in Urging Reform of Civil Asset Forfeiture Laws

The NMA and fifteen other national nonprofit organizations across the political spectrum sent a March 15, 2021 letter to the chairs and ranking members of the U.S. House and Senate Judiciary Committees calling on Congress “to curb law enforcement’s power to use and abuse the practice of civil asset forfeiture by enacting strong reforms.”

As noted in the coalition’s press release about the letter:

*“Under civil forfeiture, law enforcement can permanently confiscate property from innocent owners without ever charging them with a crime, let alone securing conviction. At the federal level, about 80 to 90 percent of all forfeitures are conducted ‘administratively,’ i.e., without any judicial oversight and with the seizing agency acting as judge and jury.”*

Because current law allows government agencies to keep the proceeds from seized property, there can be a substantial financial motive to police for profit. According to the Institute for Justice, more than \$45.7 billion in forfeitures were collected by the U.S. Department of Justice and the Treasury Department over the past 20 years. When property seized by state agencies is included, the total sum of forfeited property exceeded \$68.8 billion during the period. The coalition letter to Congress pointed out:

*“The problems with civil forfeiture begin with the financial incentive, but they do not end there. In the federal system, any innocent person whose property is unjustly seized through*



*this system faces a profoundly difficult, time-consuming, and often prohibitively expensive process to get it back, one in which the property is presumed guilty, the innocent owner has no right to legal representation, and the government has no obligation to meet criminal standards of proof. These procedural deficiencies, where the deck is structurally stacked against the citizen, in favor of the seizing entity, only add insult to injury.”*

The NMA and the other coalition organizations offered a three-part plan for reform:

First, Congress can direct all federal forfeiture proceeds to be returned directly to the General Fund of the U.S. Treasury so that Congress can appropriate those monies as it sees fit, rather than enabling federal law enforcement agencies to shield them from congressional control.


Second, Congress can abolish the “equitable sharing” program that enables state and local law enforcement to evade any restrictions their state legislatures have imposed on civil forfeiture by “partnering”

with federal law enforcement on forfeitures in exchange for a “cut” of the proceeds.

Third, Congress can abolish administrative forfeiture, which typically permits government agencies to decide forfeiture cases themselves without any judicial oversight—not even from an administrative law judge.

Two-thirds of Americans said they would be more likely to vote for a Member of Congress who wants to abolish civil forfeiture, according to a poll conducted last year by *YouGov* on behalf of the *Institute for Justice*.

Motorists are particularly vulnerable targets for stops and property seizures on the open roads, which is why civil asset forfeiture reform is one of the NMA’s two primary legislative issues in Washington.

While as a nonprofit, we no longer conduct legislative fundraising drives each spring, contributions by NMA members have enabled us to continue playing a leading national role in lobbying for the reform of forfeiture laws. Thank you! 





## 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/).

### Arkansas

Circuit Judge Chip Welch ruled recently against the state Department of Transportation. Plaintiffs accused the DOT of illegal spending constitutionally approved sales tax revenue on freeway projects in Little Rock. The money was specifically to be used for four-lane highways only. The state had 60 days to return the \$121.1 million.

### California

The contact information of millions of motorists has been exposed in a hack involving the state DMV. A billing contractor hired to correct and verify vehicle registration addresses was hacked in early February. A DMV spokesperson said that approximately 38 million records have potentially been compromised. Social security numbers, immigration status, and birth dates were not part of the leak.

### District of Columbia

District Judge Dabney Friedrich dismissed a speed camera lawsuit in December. He said the case should be heard in a city court instead of a federal court. The case brought by motorists in March 2020 claimed that a speed camera set up on Interstate 295 violated constitutional rights due to excessive fines. The speed camera was positioned in a work zone where the speed limit quickly transitioned from 50 to 40 mph with only a single easy-to-miss sign on the side of the highway indicating the work zone status. Fines were doubled because of that. Originally, Teresa and Reginald Matthews sued Mayor Muriel Bowser in a DC court, but the mayor moved the case to federal court, hoping to have the suit dismissed.

Instead, Judge Friedrich tossed it back to city court and acknowledged that this was indeed a wrongfully designated construction zone. Nevertheless, he rejected the argument that a \$200 ticket violated due process rights and the constitutional protection against excessive fines.

### Florida

A three-judge appellate court found for the plaintiffs of a \$29 million class action against the use of red-light cameras in North Miami Beach. At issue was a ‘convenience fee’ levied by American Traffic Solutions (now Verra Mobility). The extra fee of \$7.90 was placed on top of the \$158 photo ticket fee for motorists who paid online or over the phone. State law allows traffic tickets up to \$158 and no more. The judges noted this case has significant implications as it heads to the Florida Supreme Court.

### Illinois

Changing lanes in the middle of an intersection is not illegal, so ruled an Illinois appellate court judge earlier this year. In 2018, motorist John Rice executed this maneuver and was promptly stopped by a traffic officer. Rice was then charged with a DUI. At trial, the officer noted that the lane change was safely executed and did not interfere with anyone else on the street. The statute in question contains no prohibition of changing lanes in an intersection. Rice’s DUI conviction was vacated based on the decision.

The city of Chicago is being sued by Lieutenant Franklin Paz, who was reassigned after blowing the whistle on illegal ticket quotas enforced by the newly created Community Safety Team (CST). Paz claims that the team he was assigned

to was specifically designed to focus on violent crimes and improve community relationships. He claims his squad was doing the opposite with required quota-based policing during traffic stops. The use of statistics, particularly for traffic stops, also became the primary evaluation method for officer performance. More than 1,000 police were assigned to the CST.

### Massachusetts

Massachusetts was on track in December to become the first state to ban facial recognition for enforcement under bill SB 2963. The bill was not a blanket ban and would have allowed police to get a warrant to run searches against the state driver’s license database. Also, departments would have been required to publish annual transparency reports regarding the searches and could not use biometric surveillance systems. Governor Charlie Baker refused to sign the law. He explained that it ignored the important role facial recognition could play in solving crimes. American Civil Liberties Union Massachusetts Executive Director Carol Rose said in response, “Unchecked police use of surveillance technology harms everyone’s rights to anonymity, privacy, and free speech.”

### Michigan

The state of Michigan lost on appeal a 2015 drunken driving case. The state Supreme Court let an appeals court decision stand. Motorist Anthony Owen was stopped and accused of drunk driving in Saranac by a sheriff’s deputy, who said that Owen was traveling 43 in a 25 mph zone. In 2019, the appeals court threw out the evidence when the plaintiff’s attorney successfully argued that the speed limit was actually 55 mph by default due to no sign being posted on the road. Before his untimely death, NMA long-time advocate James Walker testified for the plaintiff in the case. The NMA also awarded a grant to Owen to help fund the defense.

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## Minnesota

The Minneapolis City Council unanimously voted in February to ban the use of facial recognition by the police department and other city agencies. The council found that the software introduced had age, ethnic, and racial biases.

## North Carolina

Iredell County District Court Judge Christine Underwood threatened to jail Mooresville town officials if they do not return nearly \$17,000 in cash that police seized from a man's rental car. The day before the judge ruled against the town, officials cut a check for \$16,761 to the US Customs and Border Protection and then told the judge they no longer had the cash. In November 2020, Jermaine Sanders left his hotel room and encountered police searching his rental car. The officers found the cash and a half-ounce of marijuana. He was charged with a misdemeanor drug possession. Town officials plan to appeal.

## North Dakota

For the second year in a row, the North Dakota legislature put the brakes on a bill to raise maximum speed limits to 80 mph and minimum speed limits to 40 mph on the state's Interstate highways.

## New Jersey

During the COVID-19 crisis, officials in Morristown pressured police officers to write more parking and traffic tickets to make up for revenue losses. The Policeman's Benevolent Association Local Number 43 filed a lawsuit on behalf of their rank and file. The suit accused the town administrator of urging the department to implement ticket quotas, and the department's top brass buckled under the pressure. Non-complying officers were punished by having their patrol cars taken away and forced to walk, which impeded emergency response times. NJ prohibits police departments from using the number of tickets written as the sole criteria to punish or promote officers.

## New Mexico

Two Santa Fe city council committees have pumped the brakes on its most recent contract for speed camera vans, a controversial program since it began in 2009. Committee members questioned the contract's timing due to the pandemic's economic impact on citizens and challenged whether the devices make the streets safer.

## New York

After a year-long movement by anti-car and Big Bike advocates to take the NYPD out of accident investigations, it looked like the exact opposite would happen. The department's Collision Investigation Squad will likely now receive more money to do their job. The NYPD and the DOT (which was slated to take over accident investigations) opposed the idea. Those pushing the change wanted accidents to be treated as part of how the DOT fixed dangerous roads more quickly, theoretically implementing policies to decide fault more easily. But in late March, the City Council voted on the bill (with some changes) and passed it as part of a police reform package.

Despite creating the world's largest speed trap with speed cameras in 750 school zones, NYC had a higher incidence of traffic fatalities in 2020 than in the previous year. The City even implemented reduced speed limits, eliminated driving space in favor of bike lanes, and banned traffic on certain streets at the start of the pandemic. Last year, less driving occurred. One can ask then, do the NYC speed cameras make streets safer? In December, Mayor Bill de Blasio announced that speed cameras will now operate 24 hours a day, seven days a week. Before, they only operated during school hours. Up to 2,000 of the automated ticketing devices will soon infest the entire City—indeed, the world's largest speed trap.

## Oregon

The state is the country's frontrunner in experimenting with road user charges (RUCs) and has shifted gears in its testing program to more of a congestion-pricing

model. Recruited motorists will pay time-of-day RUCs in Portland, with a similar RUC test in two overlapping areas between city and county limits. The third experiment will concern congestion pricing on specific highways in the Portland Metro area. Participants will pay online by credit or debit card with the option to pay-as-you-go at 1.8 cents per mile. The testing runs through the end of the summer.

The Vision Zero Task Force has been formally dissolved in Portland. Vision Zero will continue with a new set of community engagement initiatives. The city's VZ goal of eliminating traffic deaths by 2025 had been thwarted, with the number of traffic deaths trending upwards since 2015 when the program began (and started absorbing tens of millions of dollars annually).

## South Carolina

State Supreme Court justices heard testimony in January about South Carolina's civil asset forfeiture law. The justices challenged the state's attorney about whether defendants who had their property seized received due process. They also questioned the legitimacy of civil asset forfeiture practices, the timing of case resolutions, and whether frequent seizures by police constituted an abuse of the system. State law allows police to confiscate property or cash thought to be used in a crime and can wait two years or more to file a case. Defendants have no recourse other than to sue to try to get their property back. A ruling by the court is expected soon.

## Washington

Seattle's Bicycle Master Plan is under review after the city's DOT has begun to prioritize a more multi-modal approach. DOT Director Sam Zimbabwe blamed outdated modal plans that don't play nice with each other. Now, the agency is developing a new framework for resolving conflicts between driving, biking, and walking/running modes. This rethink has occurred due to local businesses opposing bike lanes on 35th Ave NE and being victorious. 