



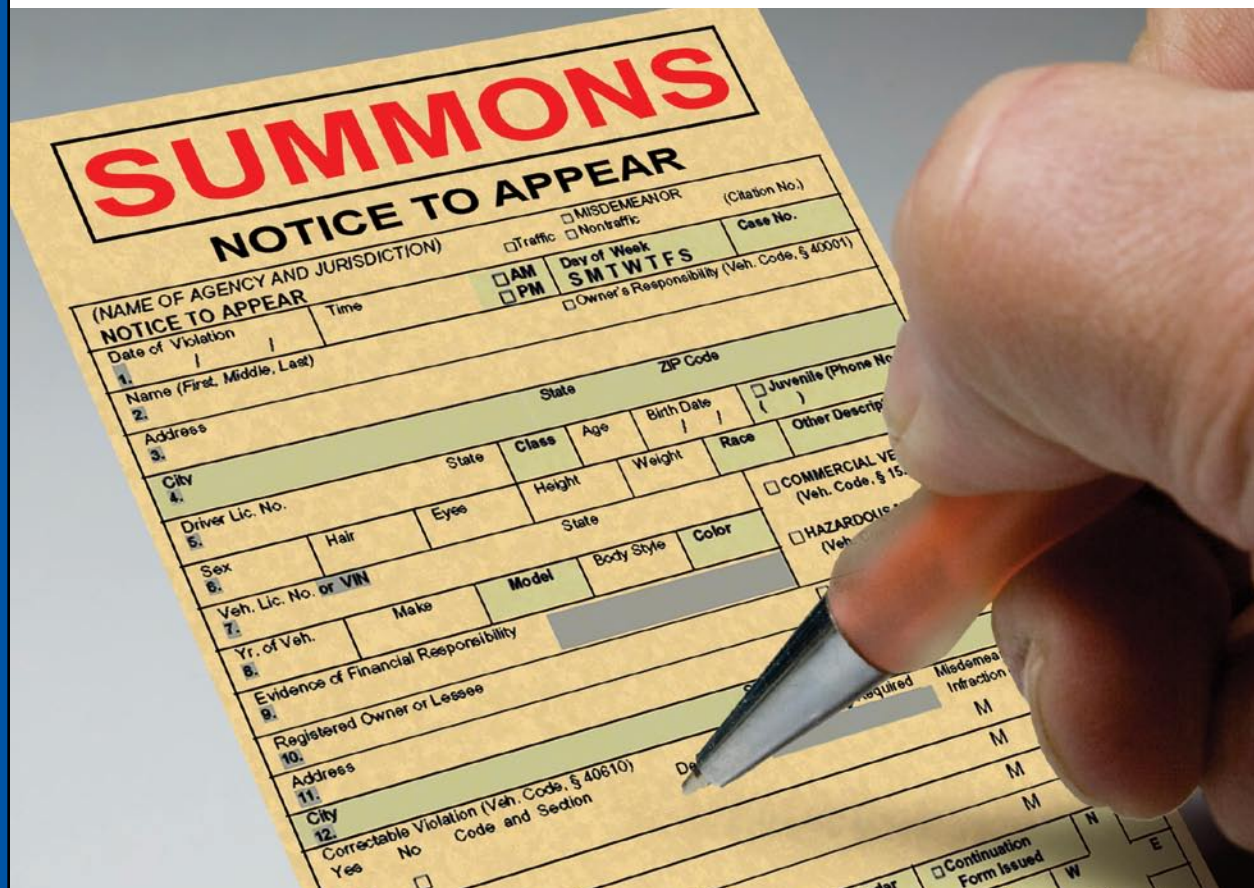
# Driving Freedoms

NMA Foundation

Vol. 21 • Issue 2

March/April 2010

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

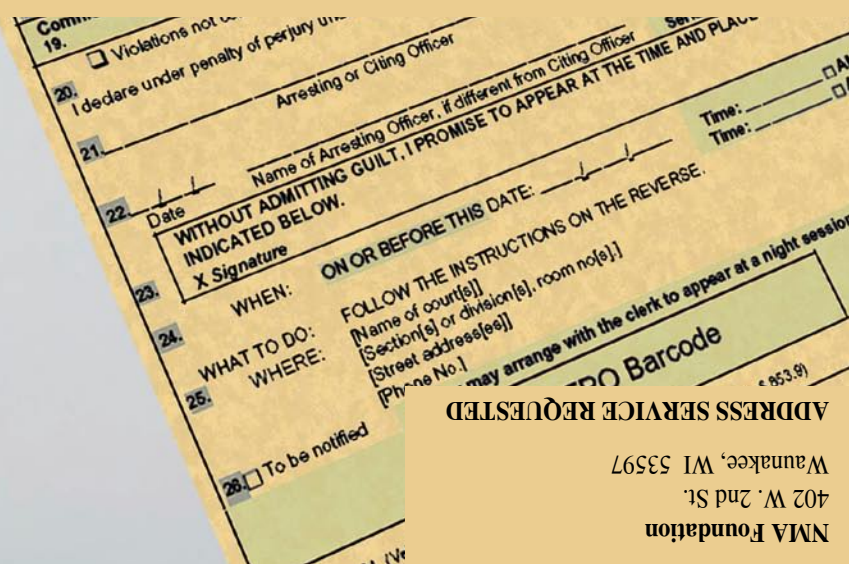


## The Anatomy of a Traffic Ticket

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**Driving Freedoms**

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**Cover**

*"The Anatomy of a Traffic Ticket"*



**Emission Inspections Back in the News**

*by James J. Baxter, President, NMA*

There hasn't been a lot of media attention, of late, focused on auto emissions inspection programs.

A few years back, EPA unleashed regulations that forced several states to institute more aggressive and more expensive emissions inspection programs. Our position was, and is, that centralized emissions inspection programs that force every vehicle through an inspection are a huge waste of money, a waste of time, and they are ineffective when it comes to improving air quality. We also noted that emissions inspections, like safety inspections, promote criminal activities.

By criminal activities we mean those testing and repair facilities that make unneeded repairs, charge for work that wasn't done, or the flip side: letting vehicle owners buy their way through the inspection process.

We did not come upon our negative position by chance or philosophy. We queried state-run inspection programs, and asked for information that would show that the inspection programs were resulting in cleaner air in the regions where the programs were mandated. No such information was forthcoming.

We noted the earlier analyses of safety inspection programs, most of which were abandoned because of expense, and their failure to make any difference in equipment caused accidents. And we reviewed the few studies that attempted to document the benefits of emission inspection programs. One of the more extensive real world studies was done in

Arizona. The short answer is, there was no benefit.

Of course, the EPA is not dissuaded from a course of action just because it is costly, wasteful, and ineffective. More mandatory centralized testing programs were launched, some of which turned into public relations nightmares, especially those involving the operation of the tested vehicles on a dynamometer. Eventually the programs were modified to reduce political opposition and expense. However, their effectiveness remains a deliberate mystery.

Recently the EPA announced new emissions standards to improve air quality, with a wink and a nod toward global warming. One result is that various regions and communities that have escaped more rigorous EPA mandates may be facing the institution of vehicle emissions inspection programs. Consequently, it is timely that two states, California and New York, have raised some telling issues concerning their existing emissions inspection programs.

The New York Department of Environmental Conservation has discovered that certain inspection stations have been issuing inspection certificates for cars and trucks that were never tested. One thing about onerous regulations, they do spark American ingenuity! It seems the guilty shops were using an electronic device that fooled the testing system (which is wired right into the state agency) into thinking it was testing

*(Continued on Page 4)*

## NMA E-Newsletters and E-Mail Alerts are Just a Mouse-Click Away

When the NMA began a free weekly e-newsletter service over a year ago, the goal was:

*"To better serve our members, we will be sending out short e-mails with tips, news or brief commentaries once a week. We hope that you will find this new service informative and entertaining."*

Based on feedback from subscribers, the NMA e-newsletters are an unqualified success. Newsletter topics have run the gamut: traffic enforcement practices, ticket-fighting strategies, legislative developments, and other unique news of interest to the driving public. Our readership has been quick to respond to each newsletter, providing opinions and perspective to the various subjects covered.

An archive of all NMA e-newsletters is now available at:

<http://alerts.motorists.org>

This material is free for the general public. There is bonus material at the archive site: NMA-issued national, state, and community e-mail alerts from July 2009 forward are also posted. These alerts were sent to members to notify them of news affecting drivers in their communities. The issuance date is included with each alert and each e-newsletter at [alerts.motorists.org](http://alerts.motorists.org). This is particularly important when placing time-sensitive topics into proper context.

The archive site has a standard search function, and we have tagged some of the material with keywords to make it easy and efficient to find references. You can not only explore the NMA material at [alerts.motorists.org](http://alerts.motorists.org), but also share it with anyone you know who has an interest in the range of motorist topics covered by the NMA. The **Forward to a Friend** feature at the bottom of each e-newsletter is also a convenient way to distribute that specific

issue to others.

Another great feature of this archive is that you can assemble specific material by keyword into one link that can be forwarded to others. Let's say you live in Minnesota, but have friends in Florida you know would be interested in motorist news for their home state. This link will provide them with the appropriate NMA information (note that the http:// prefix is dropped for the sake of brevity):

[alerts.motorists.org/tag/florida](http://alerts.motorists.org/tag/florida)

Or if you have a colleague who would like to see NMA information on a specific issue. Send him the following link for material on distracted driving:

[alerts.motorists.org/tag/distracteddriving](http://alerts.motorists.org/tag/distracteddriving)

The general format to isolate a specific NMA e-newsletter or alert topic is:

[alerts.motorists.org/tag/keyword](http://alerts.motorists.org/tag/keyword)

where "keyword" is one of those specifically listed at the [alerts.motorists.org](http://alerts.motorists.org)

site. Currently, keywords are tagged to e-mail alerts at the site but not to the e-newsletters. Similar tags will be provided for the newsletters in the coming weeks.

If you forward a link with NMA material, please include encouragement for the receiver to join the National Motorists Association. If they like the linked information, they will almost certainly enjoy the feature articles that appear in the bimonthly *Driving Freedoms*, along with many of the other benefits afforded to NMA members. Interested parties can join the NMA by calling the National Office at 800-882-2785 or by visiting online at:

<https://www.motorists.org/join/>

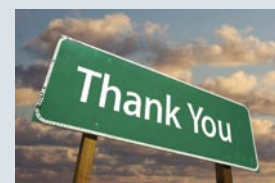
### 2009 NMA Foundation Sweepstakes Winners Announced

Nearly 700 donors contributed to the Foundation in 2009, a very impressive measure of philanthropy by our members. In a very trying economic climate that began nearly two years ago for many, the generosity of Foundation contributors will allow us to continue the fight against short yellow lights, excessive traffic court fees, and to participate in other research, educational and legal projects that will result in protecting and improving the interests of North American motorists.

Our congratulations go to the prize winners of the 2009 Sweepstakes:

<b>Grand Prize, English Estate Vacation:</b>	<b>David Kelly</b>	Tuscon, AZ
<b>Escort SmartMirror:</b>	<b>Al Cavey</b>	San Francisco, CA
<b>American Cellars Wine Club:</b>	<b>Frank Sarwark</b>	Tempe, AZ
	<b>Robert Joyce</b>	Columbia City, IN
<b>Escort Passport 9500ix Detector:</b>	<b>Steve Hamilton</b>	Wentzville, MO
<b>Valentine One Radar Locator:</b>	<b>Russell Jorns</b>	Fairfax, VA

**And to all who participated in the fall 2009 fundraiser and who continue to provide important support to the NMA Foundation:**





## NMA Washington Report

by Robert Talley, NMA Lobbyist



Partisan bickering shut down many federally funded projects on March 1st. There is some speculation that we may see more of this kind of impasse as Washington enters into spring, and turns its attention to fall elections. As the opportunity for substantive legislating recedes, funding the government for next year cannot go unattended.

Federal funding for transportation projects was set to expire at the end of last September, but federal spending has continued as a result of a series of stopgap extensions. Majority Leader Harry Reid (D-NV) had hoped to pass a 30-day extension as part of a package including similar temporary short-term extensions of unemployment benefits. But the effort was blocked by Sen. Jim Bunning (R-KY), who demanded that the extensions funding be offset with cost cutting or tax increases elsewhere. Long term funding for transportation projects remains a serious issue and prospects for a fix this year are waning.

Also of interest to NMA members

is the bipartisan effort to limit the EPA's ability to regulate greenhouse gas emissions before Congress can determine the best way to address climate change. The Obama Administration's Transportation Department has weighed in with opposition to any effort to slow down the EPA. While the proposal to block the EPA from enforcing greenhouse gas regulations doesn't directly affect DOT's ability to set fuel economy rules for the auto industry, the Transportation Department argues it would leave little time to rewrite 2012 standards by an April 2010 deadline.

NHTSA and EPA have until the April deadline to finalize joint rule-making that would kick in for model year 2012 and push nation's fleetwide fuel economy average to 35.5 miles per gallon by 2016, four years ahead of the schedule Congress laid out in a 2007 energy law. The joint rule would also impose the first-ever greenhouse gas standard on the nation's cars and trucks.

According to the agency's new

regulation tracking site, they don't intend to stop with cars. Heavy-duty trucks and buses are next up on EPA's list of greenhouse gas emissions sources to control. The agency intends to propose the first greenhouse gas emissions standards for trucks in June, several months after finalizing regulations for passenger vehicles and light-duty trucks in March.

The NMA is also interested in two new issues that are likely to be debated in the context of funding the federal government for next year. These proposals would limit funding for states that don't take additional steps to fight drunk driving and or curtail cell phone use in vehicles.

Congressman Elliot Engle (D-NY) introduced the Distracted Driving Prevention Act of 2009 which directs the Secretary of Transportation to make grants to states that enact laws that prohibit, with certain exceptions, texting and/or handheld cell phone use while driving. ■

### Emission Inspections

*(Continued from Page 2)*

a vehicle with a good emissions system. Only 40 of the state's 3500 inspection stations were caught in the act. It would be a fair wager that among the 3460 other inspection stations, there might be a sampling of other creative approaches to gaming the system.

California suffers a different dilemma; a study commissioned by the California Air Resources Board to evaluate the effectiveness

of the vehicle emissions testing program has failed to see the light of day, even though a first draft was completed in 2003! There is a meritorious rumor that the study is being sandbagged because it casts an unfavorable light on the inspection program.

The independent research firm that conducted the study, Sierra Research, has released certain of the results from their study and they can't be very comforting to the "public private partnership" that lives off the state Smog Check

program. What was found through the study was that a large percentage (close to 50 percent) of vehicles that had been inspected, repaired, and then passed inspection subsequently, within a short period of time, failed an independent field inspection. This suggests problems with diagnosis, quality and appropriateness of the repairs, or the possibility of no repair and fraudulent inspections. However, at the current pace, the report's release will coincide with the introduction of nuclear-powered vehicles. ■

**Successful Lessons from *Driving Freedoms****by Robin Curtis, NMA California Member*

Thanks to many articles in the *Driving Freedoms* newsletter, and especially for last issue's "Challenging the Visual Estimation of Speed," I beat an "un-winnable" ticket.

I received a speeding ticket on Christmas Eve a year ago for going 85 mph in a 65 mph zone while I was in the high occupancy vehicle (HOV) lane alone. The officer's Christmas present to me was no HOV ticket.

I did a trial by written declaration and was found guilty, then appealed for a "trial de novo" and got a Dec 24th trial date one year to the day later. I contacted the county D.A. by phone to ask for discovery procedures and was told to contact the CHP office or officer directly.

Twenty-three days before my court date, I mailed a return-receipt registered letter requesting: copies of officer's log book for that day or copies of his notes, copies of both sides of original citation, a description of the device used to determine my speed, any calibration records

for said device, and any training records required to use such a device.

No one ever mailed the discovery items to me. The officer showed up in court and as soon as he began to speak, I objected. When the judge asked, "On what basis?", I proffered my discovery letter. The judge asked the officer, "What about this?"

The officer handed me a stack of papers with the lame excuse that he had been made aware of the request only that morning. The judge wouldn't grant a dismissal, only a continuance or "we can proceed right now."

I took a six week continuance, and that saved my case. I wouldn't have been able to overcome my nervousness to notice all the mistakes made by the officer if I had reviewed the documents in court that day.

The officer made numerous typos and other critical mistakes. His written declaration indicated that he was operating police car #14 at the time of

the citation, and that the speedometer calibration date for that vehicle was 1/24/08. On the reverse side of the citation, the officer noted he was in car #18, which had a speedometer calibration date of 10/24/08. The calibration field on the citation was filled in showing no deviations from the actual mph. The calibration document showed: 35=34; 55=54; and 75=74 actual miles per hour.

When I questioned the officer why he stated three times my speed was 86 mph but the citation showed 85 in two places, he replied that he took into account the 1 mph difference of the calibration record. Of course, I asked why his citation showed no such deviation.

The judge took over questioning at that point and asked if the officer had brought in the correct calibration record to which he was forced to reply, "No." This meant that the only evidence remaining against me was his visual estimation of my speed.

I then used what I learned from the article in the Jan/Feb 2010 issue of the NMA Foundation's *Driving Freedoms*, "Challenging the Visual Estimation of Speed." I asked about the officer's accuracy rate and the training records that supported his expertise. The officer indignantly answered that he had taken all the POST lidar/radar training which made him able to visually estimate speed to within 5 mph.

He then bragged that, "This very court had deemed me to be an expert in the visual estimation of speed." I asked for him to produce those documents. The judge asked if my discovery letter warranted my request, and after reviewing it, he asked if the officer had any proof of his visual speed estimation acuity with him. "NO" was the officer's response. The judge said, "Not guilty."

Thank you, NMA, very much. ■

**Very Successful!**

David Estes recounted his adventures in "Challenging the Visual Estimation of Speed" for the Jan/Feb 2010 *Driving Freedoms*. At the time of that publication, the Idaho State Appeals Court had found insufficient evidence to support a finding of guilty in *Idaho v. David M. Estes*.

David was able to have the radar evidence in his initial speeding trial excluded, so the issue at hand was the ticketing officer's ability to determine a vehicle's speed by observation. The Appeals Court found that the remaining evidence was not sufficient to support a finding of guilty beyond a reasonable doubt.

The state attorney general subsequently filed an appeal of that verdict with the Idaho Supreme Court.

David informed us in late January 2010 that the high court refused the AG's request, thereby allowing the Appeals Court decision to stand, and reaffirming a well-deserved victory by NMA Member Estes. ■



## Don't Get Buffaloed in Buffalo Grove, Part 1

by *Barnet Fagel, NMA Illinois State Activist*

Usually when a road is the dividing line between two counties and is named for both, questions of jurisdiction abound. This is exactly the case for Lake-Cook Road near Buffalo Grove, Illinois. Lake-Cook Road is a six-lane limited access expressway, lined by industrial parks and business offices, where cars can easily proceed at 65 to 70 mph but where the posted speed limit is 45 mph up and down both sides of the road.



Along the North side of Lake-Cook Road, stationed appropriately on the down side of each hill, is at least one custodian of the 45 MPH speed limit, a Buffalo Grove Police cruiser. The unusual twist to this otherwise mundane and profitable speed trap is the location of the boundary line between Lake and Cook Counties. One would think the actual county line runs down the middle of the road. Never accept anything at face value. I have learned to question absolutely everything.

In helping a friend and fellow NMA member fight a speeding ticket he received on the road in question, I went to Buffalo Grove's village engineer and asked for a copy of the county survey to clarify the jurisdiction of Lake-Cook Road.

Imagine my surprise when I saw

that the actual county line is 50 feet north of the curb on the north side of the road. Lake County is north of this line and Cook County is south of the line. This means that all vehicles traveling on Lake-Cook Road in this area are legally in the town of Wheeling in Cook County. The Buffalo Grove police do have dual county jurisdiction at some points but not at the area in question.

Compounding this jurisdictional nightmare are the actual printed traffic tickets being issued, which list the Lake County court house address, even though these should be Cook County cases. Traffic citations on Lake-Cook Road should be thrown out for lack of jurisdiction.

There is an illogical madness to all of this however. Buffalo Grove police use LIDAR and

RADAR to monitor vehicle speeds. Judicial notice has just been given for LIDAR in Illinois, meaning such evidence stands on its own. I have read the flawed decision granting judicial notice, and await the opportunity to challenge it.

Further complicating the matter, the officer who ticketed my friend did not check any boxes to indicate what method was used to ascertain vehicle speed. Even though LIDAR is the predominant speed-determining method used by Buffalo Grove police, each printed ticket has boxes for Hand Held Radar, Plain Car, RADAR Aircraft, Marked Car and VASCAR, but not for LIDAR. I found out it is a matter of habit for Buffalo Grove police to check the RADAR box and then write-in LIDAR next to that box. That was not done on the ticket in question, nor was the footage of the

### Traffic Court Stories

In recent issues of *Driving Freedoms*, we have published ticket-fighting accounts from members as a matter of interest and information. But there is another reason. We want to encourage others to practice what the NMA preaches – that more people should challenge their tickets to seek individual justice, and to force the traffic justice system to treat defendants more fairly across the board.

For many people, the most difficult step in taking a traffic violation to trial is the intimidation factor of standing up for oneself before a judge, prosecutor, and, sometimes, a jury in an unfamiliar environment. It is our hope that by sharing stories such as the ones on opposing pages here, more people will expand their ticket-fighting comfort zones.

If you have contested a traffic ticket where a valuable lesson was learned, even if the outcome wasn't entirely successful, please consider forwarding your account to the NMA either via email at [nma@motorists.org](mailto:nma@motorists.org) or by postal service at **402 W. 2nd St., Waunakee, WI 53597**. Submissions should be 650 words or less. Your name will be withheld from publication if requested. ■

reading recorded.

I went to the court house and requested a jury trial for my friend. The court clerk responded "but it's only a \$70 ticket" and I said, "Is that an offer to pay the ticket?" The clerk's head snapped back at that retort. She set a March 10th pre-trial hearing. Stay tuned for Part 2, it should be fun! ■

The Anatomy of a Traffic Ticket

by Gary Biller, NMA Executive Director

I used to be apathetic about my phone bill. Sure, initially I would flip to page 2 (or 3 or 4) of the bill, where a slew of surcharges I really didn't understand would be itemized in cryptic terms. I would get frustrated, but that wore off over time and I simply stopped looking past the front of the bill, where the total amount due was posted.

That obfuscation pales in comparison to today's traffic tickets. The NMA has always encouraged ticket recipients to actively fight those citations to not only defend their individual rights, but to keep the traffic court system honest. Here, we will give you another reason: to contest taxation without representation.

Make no mistake about it, traffic tickets are rife with surcharges, fees, and contributions to various funds. The destinations of these monetary "gotchas" typically have little to do with traffic safety and everything to do with the financial support of the court infrastructure.

Even fair traffic court judges can't help but be influenced to some degree by the knowledge that the collection of more and higher value traffic tickets help support the system they work within. The traffic justice system has built-in conflicts of interest.

I will give credit where credit is due. Cassandra Evanas wrote an excellent piece ("Sneaky Hidden Traffic Fees: How States are Gouging Citizens") for DivineCaroline.com that made me dig deeper into the story. As Ms. Evanas did, I will use examples of California traffic tickets to illustrate the pervasiveness of motorists being hit with extraneous fees unrelated to the traffic violations they've been

charged with.

Most California members are aware of the e-mail alerts sent out by the NMA in recent weeks about revenue-generating schemes being proposed by the governor's office to help the struggling state out of a financial hole. One of the more prominent ideas still being kicked around is to install speed sensors on 500 existing red-light cameras at high volume intersections around the state, with the prediction that by having those ticket cameras do double-duty, the state will be able to rake in an additional \$338 million of traffic fines each year.

While California provides good examples of ticket surcharge abuse, make no mistake that all state governments are scratching for sources of income, and load their traffic tickets with similar fees and penalties.

In addition to a series of fees that get tacked on to each traffic citation, California includes a cost category simply labelled "Penalty Assessment." It is worth drilling down into what that penalty assessment really consists of, since it is a 220% cost assigned over and above the base traffic fine.

The Superior Court of California, County of Sacramento details the Penalty Assessment (ticket overhead) as follows:

- 70% State Trial Court Trust Fund
- 30% County General Fund
- 20% County Courthouse Construction Fund
- 25% County Jail Construction Fund
- 5% County Automated Fingerprint Fund
- 20% Maddy Emergency Medical Fund (State/County split)
- 30% State Court Facilities Construction Fund
- 20% DNA ID Fund

For every \$10 of base traffic fine in California, the Penalty Assessment automatically adds another \$22. Then, of course, there are other fees and surcharges. An additional State Court Facilities Construction fee for immediate and critical needs is charged separately, as is a Night Court Fee, a DMV Fee, a Criminal Surcharge (how is that for an appropriate label?), a Criminal Conviction Assessment, and a Court Security Fee.

Two examples of how these extra costs inflate a simple traffic ticket are provided. The first is for the failure to stop at a red signal, and the second is for the failure to provide evidence of financial responsibility.

In Los Angeles County, the penalty for running a red light has increased from \$271 less than eight years ago to the current \$446. (L.A. County includes an unidentified \$10 cost on top of the "standard" \$436 state fine shown below.) The court may also include additional assessments due to priors or driving record points, and can charge an additional \$56 for traffic school, pushing the total penalty over \$500.

<b>California VC 21453(A)</b>	
<b>Failure to Stop at a Red Signal</b>	
<b>Base Fine.....</b>	<b>\$100</b>
Penalty Assessment.....	220
State Crt Construction (ICNA).	20
Night Court Fee.....	1
DMV Fee.....	10
Criminal Surcharge.....	20
Criminal Conviction Assess.....	35
Court Security Fee.....	30
<b>Total Fine Due.....</b>	<b>\$436</b>

(Continued top of next page)



The second example illustrates the penalty for not being able to produce proof of insurance at the request of an officer. While this penalty can sometimes be reduced by providing an insurance card after-the-fact, there is a basic disconnect when the system quadruples a \$200 fine to cover other costs, especially when many drivers who receive this ticket are struggling to pay for their insurance.

One of the important functions of a healthy democracy is to maintain a robust justice system, and citizens must play a role in financially supporting

<b>California VC 16028(A)</b>	
<b>Failure to Provide Evidence of Financial Responsibility (Insurance)</b>	
<b>Base Fine.....</b>	<b>\$200</b>
Penalty Assessment.....	440
State Crt Construction (ICNA)....	40
Night Court Fee.....	1
DMV Fee.....	10
Criminal Surcharge.....	40
Criminal Conviction Assess.....	35
Court Security Fee.....	30
<b>Total Fine Due.....</b>	<b>\$796</b>

such a system. But the exorbitant charges being placed disproportionately on the backs of a small subset of that citizenship, drivers charged with traffic violations, are out of balance and punitive.

If a motorist has violated a law, then he should pay a fair penalty. One can argue that the base fines for the two offenses used here as examples are reasonable, but jacking up the penalty by a factor of four to cover extraneous overhead expenses of the judicial system is not. ■

### Can You Hear Me Now?

The headline, “Cell Phone Bans Don’t Reduce Accidents,” normally would elicit a quick and furious rebuttal by the insurance industry. Except this time, the headline is the result of a study by that industry.

The Highway Loss Data Institute (HLDI), run by the Insurance Institute for Highway Safety (IIHS), issued a report about cell phone use after analyzing insurance claims and accident statistics from Washington D.C., California, Connecticut, and New York, each of which has laws banning the hand-held use of cell phones by drivers.

There were no fluctuations in accident rates before and after the bans were put into place. In fact, collision rates in the District of Columbia were essentially the same

as in nearby Maryland and Virginia, two states that don’t limit cell phone use while driving.

The Governors Highway Safety Association isn’t quite convinced with the HLDI findings. Said Jonathan Adkins of that group, “Our concern with hand-held bans has been that these laws are encouraging drivers to go hands-free, which is just as risky. We need more research and data to determine whether or not hand-held bans should be implemented across the country.”

Adrian Lund, president of the HDLI, is more cautious after learning the results of his group’s study. “This is surprising, too, given what we know about the growing use of cell phones and the risk of phoning while driving,” he said, adding,

“Whatever the reason, the key finding is that crashes aren’t going down where hand-held phone use has been banned. This finding doesn’t auger well for any safety payoff from all the new laws that ban phone use and texting while driving.”



Perhaps the insurance industry should entertain the notion that the accident statistics are unchanged before and after the bans because cell phone use may not be as much a factor in causing accidents as many have been claiming all along. ■

### The Latest on Texting Bans

Texting while driving has been banned in 19 states, and some members of Congress are pushing to make the ban national. Last July, four U.S. senators introduced legislation that threatened to withhold up to 25 percent of federal highway funds from any state that did not enact a texting ban.

In December 2009, an executive order was issued by the White House asking federal employees not to text while operating government vehicles.

As of early February 2010, drivers of commercial vehicles, such as buses and heavy trucks, are subjected to a federal texting ban. Commercial drivers caught ignoring the ban could be fined up to \$2750.

Which brings a few key questions to mind. How does law enforcement determine who to pull over for violating a texting ban? Would that include anyone who appears to be looking down and away from the road for more than a couple of seconds, whether or not they are in control of their vehicle? To prove the charge, will police officers confiscate cell phones on the spot and will prosecutors later subpoena phone records?

One thing is certain: Lawyers will undoubtedly get richer. ■

## Event Data Recorders, A Primer on Vehicle Black Boxes

Toyota's recent recall of several vehicles with unexplained acceleration problems has sparked sudden interest in the function of vehicle event data recorders (EDRs), aka black boxes.

Most people have heard of black boxes in airplanes, the virtually indestructible data collection devices that store key operating information for analysis to help determine the cause of a crash or less catastrophic event.



EDRs are not required in North American vehicles, but the *National Highway Traffic Safety Administration* (NHTSA) has estimated that by the end of this year, 85 percent of our vehicles will be equipped with a version of a black box. (For a list of vehicles manufactured before October 2009 that have EDRs, go to <http://www.harristechnical.com/downloads/cdrlist.pdf>.) Vehicles with EDRs must be in compliance with NHTSA standards by September 1, 2012.

The NHTSA ruling on EDRs applies to which data are collected, how that information is stored, and how it is retrieved. By the end of 2012, EDRs must collect information on fifteen different operating parameters, including vehicle speed, brake status, safety belt status, and air bag deployment. Additionally, if a vehicle is equipped

with features such as anti-lock brakes and traction/stability control, certain related data must also be gathered by EDRs.

NHTSA's stated goal is to have EDR data play an increasing role in improving emergency medical response, as well as to assist auto crash reconstructionists. The agency envisions the eventual development of an emergency electronic 911 (e-911) service and the enhancement of capabilities to understand crash events and safety system performance through the use of EDR technology.

That is all well and good but where are we today with EDRs? Twelve states currently have laws regarding black boxes: Arkansas, California, Colorado, Connecticut, Maine, New Hampshire, New York, Nevada, North Dakota, Oregon, Texas and Virginia. They are generally pro-privacy, with some laws prohibiting insurance companies from requiring release of black box data as a condition of their policies.

NHTSA has been pressured by several sources to proclaim that the owner of a vehicle with EDR technology is the sole owner of the data collected and stored by that technology. For example, the agency notes specifically that, "National

Motorists Association commented that it is inappropriate for EDR data to be used for criminal prosecutions and by insurance companies. The Association also expressed concern that EDR data is (sic) unreliable, which exacerbates the danger of its use for those purposes."

But the only commitment from NHTSA in this regard is to first obtain consent from the vehicle owner before accessing the EDR data. Their stated interest in obtaining crash data is to gather a snapshot of those data a few seconds before and a few seconds after a crash. The federal agency effectively punts the ball by looking to individual states, in the absence of federal leadership, to set legal standards that would regulate the use of EDR data.

Considering that over three-quarters of the states do not have regulations governing EDRs, and that all it may take is a successful lawsuit by an insurance company, or other plaintiff, to obtain black box data during discovery, the evolution of the use of EDRs, and more specifically the data they contain, bears watching closely. The NMA will keep you apprised of developments. ■

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## News From Around The Country

### California

The city of South San Francisco recently admitted it had issued red light camera tickets under an ordinance that had never been properly ratified. Every ticket, worth \$446 each, that the city allowed American Traffic Solutions to issue since August 2009 was invalid. Over 3000 citations and accompanying license points will be refunded.

### Georgia

A bill, HB1047, was introduced that sets a minimum fine for driving too slow in the passing lane on Georgia interstates and highways. State Rep. Mark Butler, (R) Carrollton, introduced the measure to cut down on traffic congestion and driver frustration. In mid-February, members of the House Transportation Committee voted unanimously to send HB1047 to the House Rules Committee.

### Iowa

Months of discussion on whether Marshalltown should utilize traffic cameras at various intersections has come to a full stop. In a vote of 4-2 with one member absent, the Marshalltown City Council defeated a resolution Monday to enter into an agreement with Arizona-based Redflex Traffic Systems to install ticket cameras.

### Maryland

Frederick County's delegation of state lawmakers did not back a measure to install ticket cameras on school buses. The Frederick County Board of Education requested state legislation to install cameras that take pictures of cars passing stopped school buses with the stop sign out. Those caught in photographs would be issued a ticket with a fine. The delegation deadlocked 4-4 over the proposal,

which resulted in a failed motion.

### Nevada

Gov. Jim Gibbons has proposed a camera network that would capture the license plates of vehicles traveling in the state and send any uninsured drivers a ticket in the mail. The Nevada Highway Patrol is about to start using mounted cameras on patrol cars to run plates on all the cars around them in real time, but the proposed network would also include cameras mounted at intersections.

### New Jersey

Plans to install red light cameras in Glen Ridge came to a standstill after the borough failed to convince the state that the cameras were necessary. To obtain a grant, Glen Ridge had to show that many accidents at the intersection were attributable to red light violations, but it failed to provide the relevant data.

### Ohio

In early February, the Dayton City Commission heard a first reading of an ordinance allowing police to add photo speed enforcement capability to its red light camera system. If approved, a vendor would have to be found to administer the program, after which installation of speed monitoring software on some or all of Dayton's traffic control cameras could be completed within 90 days. Speeding violations caught on camera would trigger an \$85 fine.

### Oregon

Police in Oregon can draw blood from motorists without the need for a warrant following a recent state supreme court decision overturning lower court limitations on the practice. Attorney General

John Kroger led the fight to remove this motorist protection in order to make it easier for the state to prosecute DUI cases.

### South Carolina

A new bill just introduced by State Rep. Todd Rutherford, D-Columbia, would give police and state troopers another option when they pull someone over for speeding. If someone is speeding 10 miles an hour over the limit or less, they could be given a warning ticket with a \$150 fine. Right now, the only options are a warning ticket or a speeding ticket that has a \$75 fine and two points on your license. This new option would have a higher fine but would not add any points to your license.

### Tennessee

Cleveland will not seek a new vendor when Traffipax turns off its five red-light cameras on March 31. Traffipax opted out of their contract with the city because the cameras weren't making them any money. After Traffipax's decision, Councilman Richard Banks said, "We need to get out of the red-light camera business for a while."

### Wisconsin

When approaching a police car parked on the side of the road, a motorist does not need to change lanes to avoid a citation under Wisconsin's "move over" law. The Wisconsin Court of Appeals recently disagreed with the state officials who had insisted that failure to make such a maneuver should result in a traffic ticket. ■

As of this printing, this information is current. For more information on this and other motorist news, visit [www.motorists.org](http://www.motorists.org)



## Members Write

I am writing to commend Ivan Sever, NMA Massachusetts State Chapter Coordinator, for "Getting Rear-Ended in Massachusetts" in the Jan/Feb 2010 issue of *Driving Freedoms*. His article is both informative and solution-oriented, particularly in his discussion of simple engineering solutions to improve traffic safety.

I have been trying to get my mother-in-law to see the (red) light and discontinue her membership with AAA, an organization that supports red-light cameras. If enough people let them know their negative feelings toward RLCs, AAA and other ticket camera supporters will get the message in their pocket books.

Please keep up your great work!

Joe Schuessler  
Aptos, CA

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*Editor's Note: The following is an open letter sent late last year to **The Online NewsHour** (Jim Lehrer/PBS) by an NMA member after the show aired two segments about cell phone use while driving. See also the stories on Page 8 of this *Driving Freedoms*.*

Your two recent segments on telephone use while driving indicate that the NewsHour considers this an important and topical subject. I agree. Consequently I am dismayed by your repeated failure to analyze this issue with the seriousness and balance you bring to numerous other topics every weekday night.

Both segments prominently featured accident victims making emotional pleas to discourage or ban telephone conversation while driving, even conversation where hands-free devices are used. Neither segment presents any

serious and rational counterarguments to these extreme suggestions.

It is, of course, tragic that there are automobile accidents associated with cell phone conversations. But in a nation of 300 million, it is certain that there are paralyzed motorcyclists and bereaved mothers whose losses are attributable to drivers talking to other passengers, adjusting the radio, opening snacks, interpreting engine warning lights, etc.

Essentially, doing or thinking about anything other than driving may increase the odds of an accident. We do not advocate banning the eating of bananas while driving simply because accidents occurred while drivers were opening bananas.

This is not to say that there are no good arguments for banning telephone conversations in the car, but rather that your undeniable bias in favor of policy action was emotional and uncritical.

This brings me to my second point: current data and research provide little support for banning driving and phoning purely on safety grounds. There is no "epidemic," as Transportation Secretary LaHood claims; traffic fatalities per mile driven have decreased over the period since cell phone introduction, so a naive analysis would in fact conclude (incorrectly) that talking on them improves safety.

A Carnegie Mellon University study cited in your segment by Angie Crouch suggests that conversing while driving may be dangerous. However,

with regard to my earlier suggestion that many activities may reduce driving ability, the acknowledgement is that it is not known exactly how much each of these distractions affects driving, and it may indeed be interesting and important to compare the various effects, and try to find ways to decrease their negative impacts.

Surely this should be the first order of business before suggesting outlawing one distraction while permitting another! The study (by A. Just, et al.) makes mostly anecdotal arguments that cell phone conversations are a "bigger problem," all of which are easily disposed of.

The form of their simulated "cell phone conversation" is listening to sentences and classifying them as "true" or "false;" I would point out that playing a game of "I spy" with a child in the back seat would also be equivalent to this simulation. Shall we ban "I spy" while driving?

This is just the tip of the iceberg concerning counterarguments, which range as far as the "risk homeostasis" hypothesis, undermining virtually any safety measure that does not attempt to decrease risk aversion in the population.

In short, please be more balanced in your reporting. Consider whether your interviewees have ulterior motives (traffic citations generate lots of revenue), and interview people who oppose changes in the law.

You might try interviewing someone from the National Motorists Association, for a start.

Steven Baker  
Pittsburgh, PA



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](mailto:nma@motorists.org) or mailed to 402 W 2nd St., Waunakee, WI 53597

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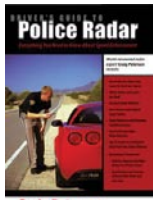
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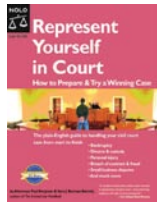
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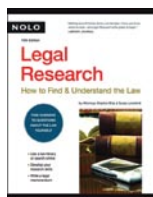
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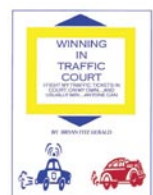
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us.gizmodo.com

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Best Life, quoting Alex Roy, four-time trophy winner of the Gumball Rally

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