



# *Driving Freedom*

NMA Foundation

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## Streets That Work!

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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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## MOTORIST ISSUES MATTER

BY GARY BILLER, PRESIDENT, NMA

Several dozen members weighed in recently on an NMA survey question; their responses will help guide the current and future direction of our grass-roots organization. The question: **Which motorist issues matter the most to you?**

We provided an alphabetical list of 18 different issues to rate on a scale of 1 (most important) to 5 (least important). The issues were chosen based on the frequency that they have been mentioned in regular correspondence with members. Inquiries from the motoring public and the media were also factored.

The five issues at the top of the importance list each involved enforcement actions along with their average scores on that 1 to 5 scale:

Policing for profit (e.g., ticket quotas)	1.41
Photo enforcement (red-light, speed cameras)	1.60
Speed traps	1.61
Fourth Amendment rights (search and seizure, asset forfeiture)	1.72
Speed limits	1.80

No surprises here. All could easily be classified under the policing-for-profit category, but the differentiation helped us fine tune the topics of most interest.

The next group of topics are a more varied lot:

Personal transportation options/freedom of mobility	2.09
Vehicle black boxes, other means of collecting vehicle data	2.12
Lane courtesy	2.20
Maintenance of transportation infrastructure	2.25
Distracted driving	2.28

The direction of personal transportation is probably murkier now than at any time since the introduction of the Model T: exciting but uncertain. More cities are instituting Vision Zero policies designed to restrict and even eliminate vehicular movement. As I write this, Uber's on-demand ride service is experimenting with driverless car technology in Pittsburgh. (Although to be fair, the Uber cars have a test engineer behind the wheel ready to take control of the vehicle when needed. The cars are driverless in name only at this point.)

Some predict that we will eventually become a predominantly ride-on-demand society. It will be interesting to see how member sentiment on the personal transportation issue changes over time as technology advances and the economics of car ownership vs. personal car service become better defined. At the least, we expect to see expanded mobility options for seniors and the disabled, which is long overdue.

The remaining survey issues by importance rating:

(Continued on Page 3)

## 2016 NMA Visionary Club

Many thanks to members of the Visionary Club who have demonstrated a commitment to furthering the rights of motorists through their gifts to the NMA and to the NMA Foundation over the years. We are very pleased to recognize their contributions.

You too have an opportunity to become a Visionary Club member. Also consider building your legacy for motorists' rights with a gift through our Planned Giving Program. Please contact the NMA for more information. All gifts are applied toward improving and protecting the interests of motorists throughout North America.

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Eight Visionary donors requested anonymity



# NMA WASHINGTON REPORT

BY ROBERT TALLEY, NMA LOBBYIST

Congress appears to be ending this year without taking much action on motorists' issues but leaving an interesting issue in the queue for next year. Notably, there is increased interest in the use by law enforcement of civil asset forfeiture laws during traffic stops to seize drivers' vehicles and other personal property even when the driver is not charged with a crime.

Police have an incentive to consider asset seizure because all or part of the value of the property seized can flow to the law enforcement agency depending on the reasons the assets are seized. Such seizures can be tied to drunk driving but motorists do not have to be doing anything illegal. In the majority of states that have civil asset seizure laws, all law enforcement authorities need to seize property is a "preponderance of evidence" or even just "probable cause" that the property is tied to or being used in an illegal activity.

Stopped at a DUI checkpoint with too much cash? If the police suspect that cash is to be used to purchase drugs, the cash can be seized. In some jurisdictions the car can be seized as

well, even if the driver is never charged with a crime.

The statistics are striking. According to an investigation by the Washington Post, federal revenues from asset forfeitures resulted in over \$5 billion in revenue for the departments of Justice and Treasury in 2014. This is a number that has been growing and allegations of abuse of the system are causing Congress to take note. Six different bills were introduced this session attempting to place some restrictions on various federal agencies and law enforcement and to provide citizens a fair opportunity to secure the return of property seized inappropriately.

Related to illegal seizure of property by motorists, the Due Process Act HR 5283 of 2016, a bipartisan bill made the most progress. The Due Process Act would reform federal civil asset forfeiture laws by offering key protections to innocent people whose property is seized by the government. Notably, the bill would raise the evidentiary standard in federal forfeiture cases to "clear and convincing," which means that the claim is highly probable and places the burden of proof

on the government. In addition the law provides reforms that will benefit innocent citizens seeking to reclaim their seized property.

The bill does not reform the Department of Justice's Equitable Sharing Program, which is an underlying cause of some of the abuse of the system. Under this program, state and local law enforcement can work with federal authorities to circumvent proscriptive state laws and keep up to 80 percent of the gains associated with seizures. This asset seizure revenue arrangement gives law enforcement an incentive to seize property and has been derisively referred to as policing for profit—an age old strategy most commonly used at the local level for law enforcement to become a revenue center.

Although it appears that Congress will adjourn this session without taking final action on the bill, the favorable consideration in the House and bipartisan nature suggests the outlook for next year may be favorable. The NMA will continue to support this effort and will keep you abreast of developments. 

## Motorist Issues Matter

(Continued from Page 1)

Driver's education and licensing (2.33); Traffic calming (2.35); Automated license plate readers and other tracking/monitoring (2.37); Future of driving (connected and/or autonomous vehicles) (2.38); Vision Zero / Smart City initiatives (2.58); DUI/DWI regulations and penalties (2.70); Cost of driving (taxes, tolls, surcharges) (2.80); and Seat belt laws and enforcement (2.80).

I'm somewhat surprised that seat belts are rated as the least important issue of the 18 on our list. When we have written in the past about primary and secondary enforcement, the response from members has been sharply divided between those who support the mandatory requirement to buckle up and those who want the freedom of choice. Click It Or Ticket campaigns are still popular enforcement tactics in most states, particularly because NHTSA requires states to provide annual statistics—ticket quotas in reality—on seat belt violations in order to qualify for federal highway funds.

Write-in issues from members included opposition to funding of light rail, the need for gas tax reform, the waste of time and money for annual vehicle inspections and emissions testing, fuel economy mandates, and police profiling.

The NMA has never had a shortage of topics to deal with. And judging from the results of our survey on the motorist issues that matter, we won't any time soon. 

## A Traffic Fine Should not Ruin Your Life!

When motorists pass their driver's test and receive their license, they basically agree to the written and unwritten rules of the road. If drivers are caught speeding, they receive a fine and perhaps points on their license which may increase their auto insurance premium. Not a good experience for anyone, especially those with low income or who are unemployed. For those trying to work their way out of poverty, receiving a fine can become a full blown crisis. If the fine cannot be paid, their driver's license may be suspended. One study found that 42 percent of people with suspended licenses lose their jobs.

Black and Latino Americans often seem to be caught in this spiraling black hole. In Los Angeles, for example, 32 percent of motorists driving with a suspended license were African American, even though they make up only 9 percent of the population.

Individuals trapped in escalating debt may face repeated and unnecessary jail time for nonpayment despite posing no danger to the community. Further, they may lose their cars, their housing, their jobs, or even their kids and become trapped in cycles of poverty that can be almost impossible to escape.

For the poor, driving may be the only means of transportation if public transportation is not available. Many jobs and job-training programs require that employees have driver's licenses to obtain full-time, steady employment. In fact, many private employers screen out applicants who do not have driver's licenses.

A class action lawsuit in Virginia alleges that revoking a person's driver's license is a violation of protections of the Due Process and Equal Protection clause of the Constitution. The Legal Aid Justice Center (LAJC), which filed the suit, hopes to prove that these fines are

one of many injustices that come from being poor in America.

The LAJC wants to change the policy to take into account a person's income level before revoking or suspending a license. According to the suit, 64 percent of all outstanding license suspensions and revocation orders are for failure to pay a court debt rather than for driving violations. Astonishingly, 1 in 6 Virginians have suffered the sanction for failing to pay court-ordered fines and



fees, often for misdemeanors.

California is another state where a class action lawsuit has been filed. State Senator Bob Hertzberg says more than 600,000 Californians have suspended driver's licenses due to failure to appear or failure to pay a traffic fine. If a state motorist is caught and convicted of driving with a suspended license (a misdemeanor), he/she could see jail time of up to six months, several years of probation, and exorbitant fees.

According to a report by the civil legal aid group Lawyer's Committee for Civil Rights of the San Francisco Bay Area (LCCR), "Of zip codes with suspension rates higher than the average, 92 percent have household income levels lower than average. Moreover, most zip codes with black populations above 20 percent have a license suspension rate above the average."

One of the most notorious examples of a traffic fine black hole is in the vicinity of St. Louis, Missouri. In July, a federal judge preliminarily approved a settlement for a class action suit that would compel the City of Jennings (near Ferguson) to pay \$4.7 million to an estimated 2000 mostly poor black residents

who were jailed due to unpaid court debts, many of them for traffic violations.

Thomas B. Harvey, of the ArchCity Defenders of St. Louis, adds that "There are 90 cities surrounding Jennings and Ferguson. Until all of them change their practices either voluntarily or as a result of litigation, this is still a region that over polices for revenue and criminalizes the poor." About 81 of the 90 small cities near St. Louis run their own courts. A 2014 study found that these towns, along with St. Louis County, collected nearly half of the \$132 million in fines paid by Missouri residents that year, despite the area holding only 25 percent of the state's residents.

A notorious Louisiana judge who has been accused of running a modern-day debtors prison, agreed in late June to temporarily stop (for 75 days only) the jailing of defendants for nonpayment of fees and assessing additional court costs. The Southern Poverty Law Center filed the lawsuit against Judge Robert Black of Bogalusa. The lawsuit also contends that the Bogalusa court system uses court costs and fees to cover the city's budget shortfalls of 20 to 30 percent.

Not all the news is dire. This summer, Iowa Governor Terry Branstad signed legislation that helps motorists who cannot pay a traffic fine all at once and who don't pose a threat to public safety. The law allows an installment plan to be set up before their licenses are suspended. Mark Lowe, Director of Driver Services for the Iowa DOT, says Iowa suspends or revokes between 140,000 to 160,000 driver's licenses per year and about half of those suspensions are due to non-payment of court debts.

More cities and states need to work harder to make sure fines are appropriate for the violation and that non-payment of fines do not result in the most vulnerable falling even further through society's cracks. 

## Civil Asset Forfeiture - One State at a Time

Civil asset forfeiture or CAF started out as a practice to help law enforcement's war on drugs. Now, law enforcement uses CAF as an excuse to seize cash, cars and property for any crime at any time and anywhere regardless of whether one is even charged or convicted of a crime. Basically the property and cash of suspects can become ill-gotten gains for the government even when no charges have been filed. If you are innocent, you will not get your property back without going to court and proving that your property was not part of any criminal activity. This costs both time and money when none of it should have happened in the first place.

The Department of Justice, U.S. Marshals Service and the IRS oversee and implement CAF laws around the country. Within the guidelines of those laws, federal law enforcement along with local and state police seize cash and property along with local and state police often seizing cash and property with impunity. In 2015, the U.S. Department of Justice oversaw the collection of more than \$1.6 billion in forfeitures that ultimately made it back to the states in a kind of perverse equitable sharing program

Lawmakers in Maryland, Nebraska, New Mexico and Washington, D.C. have taken strong steps to rein in CAF and a number of other states have also tightened their guidelines. Groups working towards CAF reform include both sides of the aisle: labor and civil rights groups as well as conservative and liberal organizations concerned with privacy and property rights.

In late September, California Governor Jerry Brown signed a CAF Reform Law that took two years to push through the legislature. Last year, law enforcement agencies were explicitly opposed to any legislation but now support the current law after some changes. They have

a vested interest. In 2015, California police departments received \$86 million in CAF dollars from the federal government. Eighty percent of proceeds from joint task forces involving federal agents, state and local police were funneled back to local law enforcement.

The new law will close the equitable-sharing loophole. State agencies would be banned from receiving payments unless a defendant is convicted in an underlying or related criminal action. Also, the cash threshold was increased to \$40,000 instead of the current \$25,000. The \$40,000 would be forfeitable without a criminal conviction; the corresponding evidentiary standard in such cases would be clear and convincing evidence. Also, to increase transparency, the California Attorney General would be required to publish a report detailing the number of CAF cases undertaken by state and local law enforcement.

A CAF watchdog group, Institute of Justice, has given 31 states a rating of 'D' or lower when it comes to how they handle civil asset forfeiture. Oklahoma is one of those states with well-documented abuses. Oklahoma State Senator Kyle Loveless, who opposes CAF, says that too often money is seized from the wrong people and used for the wrong purposes. A Forbes Magazine report revealed that one Oklahoma prosecutor was able to pay his student loans from seized cash and another prosecutor lived rent free in a home seized in a drug raid.

According to ThinkProgress, the state of Oklahoma allows law enforcement agencies to use 100 percent of the cash and property it seizes to pad their



departments. From 2000 to 2014, \$99 million of the proceeds from civil asset seizures made its way back to Oklahoma law enforcement.

This summer, Oklahoma state police wanted to begin seizing pre-paid debit card assets curbside. The agency had planned to use 16 ERAD (Electronic Recovery and Access to Data) devices that would allow the state highway patrol to seize assets on pre-paid debit cards and look at motorists' bank card accounts. After a national storm of controversy, Oklahoma Governor Mary Fallin temporarily rescinded the use of ERAD by the state police.

Despite the governor's action, the Oklahoma State Police continues to evaluate the use of ERAD devices. Furthermore, that has not stopped the Central Oklahoma Metro Interdiction Team (COMIT) from using ERADs. COMIT has employed the devices since January and have no plans to stop according to Oklahoma City District Attorney David Prater. He defends the practice by stating that the ERAD is a legitimate law enforcement tool that helps find drug traffickers and identify thieves. It is regrettable that ERADs are used by law enforcement agencies around the country.

See Rob Talley's Washington Report on page 3 to find out how CAF Reform fares at the Congressional level. 

# Streets that Work!

by Shelia Dunn, NMA Communications Director

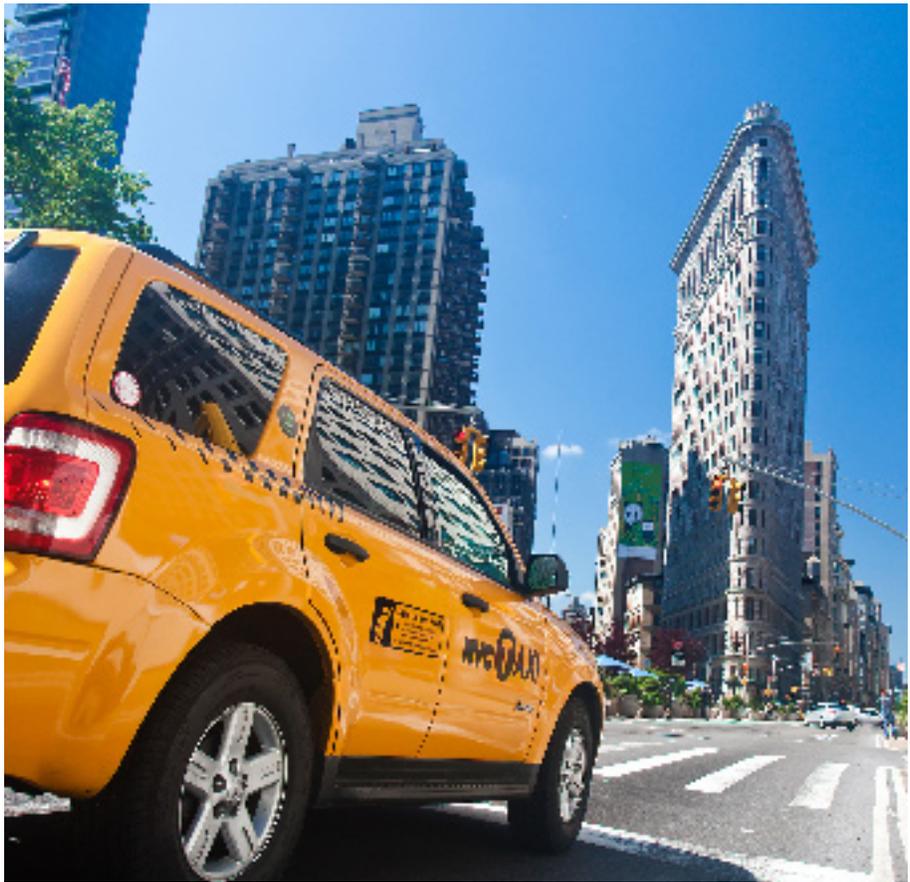
The “peak car” theory currently in vogue maintains that the individual use of the automobile has reached a pinnacle and is nearing the beginning of a long decline. The theory conflicts with evidence that motorists are driving more than ever before due to lower gasoline prices, and low interest rates for car loans. Owning and driving a car are still the dream of many but what many of us did not foresee is the creation of a strong and growing anti-car movement.

This summer, the NMA started a new initiative called STREETS THAT WORK. To expand the conversation about reshaping urban streets, we are promoting the following principles to bring some rationality back into the equation.

- Improved road safety that is realistic, fiscally sustainable, and doesn't feel like a government-mandated social experiment.
- An end to arbitrary mobility restrictions on urban streets that will decrease personal transportation options while increasing travel times.
- One set of “rules of the road” for all users so that individual and shared responsibilities are clear to all.
- Intelligent placement of bicycle paths that complement rather than displace motorized traffic. If bike paths are needed, place them on secondary streets that are parallel to main arteries.

AAA recently announced survey results that indicate nearly 88 percent of all U.S. residents who are sixteen years and older report that they drive. Obviously, the biggest users of the streets by far, motorists take for granted collective priorities and even with majority status may find themselves getting the short end of the priority stick.

Susan Shaheen, Co-Director of the



Transportation Sustainability Research Center at UC-Berkeley, recently spoke before a conference in San Francisco. She provided this message, “We’re still waiting for the revolution, but there are some very interesting changes in the wind.” She continued describing her belief that transportation behavior has not changed that much according to information from the American Community Survey conducted from 1990 to 2009. Measuring person-miles traveled (which captures all modes of personal transportation) as opposed to vehicle miles traveled (VMT), private vehicles accounted for 88 percent of transportation in 2009. That’s exactly the same rate as 1990. It would appear that Ms. Shaheen is correct except that:

- Road infrastructure continues to decline at an accelerated rate;
- There is more traffic congestion in

American cities than ever before;

- Road rage has increased among all road user groups;
- Parking in cities is often difficult to find and expensive; and
- Trains, buses, and subways are still crowded during rush hour.

If Shaheen is talking about the connected car/driverless car revolution, the question then becomes how do these potentially significant technological advances complicate the problems listed above?

The irony of the “driverless car revolution” is that even more cars are likely to be on the road. The city of Columbus Ohio, which was recently awarded a \$50 million Smart City grant from the DOT, is the largest city in America that does not have light rail. Columbus city officials have already announced they want to bypass light

rail entirely and build an infrastructure for driverless and connected cars, carsharing and ridesharing.

Meanwhile, our elected officials continue to raise taxes (gas, sales, wheel, VMT) with the understanding that all taxes raised would go towards improving road infrastructure. Of course they do not.

Last year, the Utah legislature convinced voters to vote “Yes” on a statewide ballot to raise the gas tax after 19 years. They touted the need for additional revenue to fund critical road infrastructure improvements. Within months, the legislature diverted one-half of the additional revenue to water projects and education. This is classic bait-and-switch trickery by politicians. Why aren’t resident taxpayers outraged by such behavior?

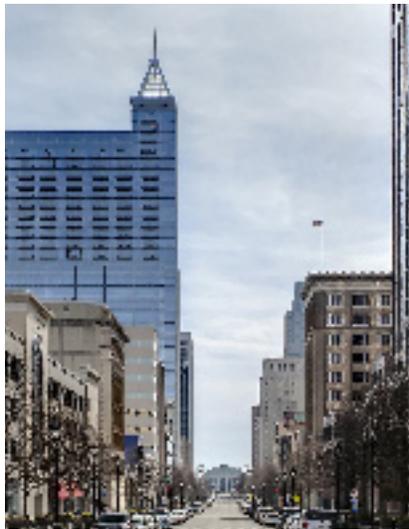
To create more “livable” cities, many elected officials and government bureaucrats are pushing anti-car legislation. No one can deny that the goal of Vision Zero (no loss of life on the streets is acceptable) feels good to most people. But that isn’t practical or sustainable either as an infrastructure experiment or as a law enforcement solution.

New York City, one of the biggest Vision Zero proponents under the de Blasio administration, has \$115 million budgeted for Vision Zero projects when others estimate that \$1 billion is required to do all that needs to be done. On top of that, NYC law enforcement cannot fund enough hours to enforce Vision Zero laws that are already on the books. Vision Zero is not a fiscally sustainable program in NYC or anywhere else. As a government mandated social engineering program, Vision

Zero promotes street restrictions for the majority of users and vilifies motorists.

Programs like Vision Zero target the personal autonomy and responsibility of motorists while excluding other road users from the same scrutiny. Personal responsibility needs to be on everyone’s agenda whether they drive, ride or walk.

Even though bicyclists make up less than two percent of all commuters on a daily basis in our larger cities, they are asking for and getting a bigger piece of the pie from the motorists’ tax pocket. Some federal gas tax funding is tied to how many bike lanes will be created which often means encroachment on vehicle lanes and rights of way. Intelligent placement of bicycle lanes and paths that complement rather than restrict the motoring public would be a better safety solution for all involved.



When a city like Raleigh, North Carolina plans to double its bike lanes while encroaching on existing vehicle lanes, this despite the fact that fewer than one percent of workers bike to work, the other 99 percent of road users will be negatively impacted as

will local merchants whose businesses rely on robust traffic of all kinds.

Vision Zero proponents and many urban planners are going after the tried-and-true 85th percentile traffic engineering principle for establishing speed limits that result in the safest, most efficient flow of traffic. Seattle and Portland, Oregon city officials recently announced they want to do away with the 85th percentile rule in favor of lower fixed speed limits wherever bike lanes and pedestrian sidewalks exist.

Similarly, Massachusetts Governor Charlie Baker recently signed into a law a municipal modernization bill that includes a provision authorizing cities and towns to establish a 25 mph speed limit on local roadways that go through densely-populated areas or business districts. This is an automatic law that does not provide for any sort of traffic engineering analysis.

Pressure from the safety and bike lobbies to bring down the speed limits without any traffic engineering will continue. The Strong Towns website recently ran an article that asked the question, “If there’s enough will in a particular city to make streets safer and get cars driving slower, why should a traffic study be required by the state?”

Americans need sanity on their streets. Motorists need to join this conversation more often and at a higher level. America’s transportation challenges in the future are going to be much different than those in the past. Motorists need to be a significant factor in those discussions. The National Motorists Association’s STREETS THAT WORK initiative is just the beginning. 🇺🇸

*A new  
NMA  
initiative*

**Streets That Work**

**FREEDOM of Mobility**

[www.motorists.org/streets-that-work/](http://www.motorists.org/streets-that-work/)

## 85th Percentile Challenged by Vision Zero

Default city speed limits might be decreasing soon in a number of American and Canadian cities. Due to Vision Zero planning, many cities will be unilaterally setting statutory speed limits without traffic engineers utilizing the 85th percentile speed principle.

Boston, Calgary, Cambridge (MA), Edmonton, Portland (OR), and Toronto have already decided or are now discussing lowering city-center speed limits to 25 mph. Seattle plans to take that a step further and lower many of its speed limits to 20 mph. These cities join Los Angeles, New York City and Washington, D.C. which have already dropped their speed limits to facilitate Vision Zero goals. Vision Zero bestows an absolute priority to road safety over mobility, economics and many other practical considerations.

No longer will these cities (with more expected to join them) measure speed limits with the efficient flow of car and truck traffic in mind but will look toward impeding it by artificially reducing vehicle speed. City officials have said they want more flexibility to change speed limits unilaterally without expending time and money for traffic studies. However, many states still require that cities receive approval from state departments of transportation before changing any speed limits.

Nevertheless, Massachusetts changed that dynamic this summer when its governor signed a bill that allows greater overall autonomy for cities on traffic matters including setting speed limits. Almost immediately, Boston and Cambridge started a process of lowering their default speed limits.

For now, limited-access highways that cut through city centers and arterial streets will still be governed by federal and state regulations. For example, Boston officials report that their limited access highways and arterial streets will still have speed limits set at 30 mph. The



85th percentile method of setting speed limits could fall out of favor if Vision Zero becomes a national program.

Don't believe this can happen?

Here is an excerpt from the recently released first draft of the Portland Vision Zero Plan.

*“Streets should discourage dangerous driving by design. In areas of Portland where streets were built to move cars efficiently, they must be redesigned to move people safely.”*

All the actions in Portland's plan regarding safer designs focus on the big and fast streets (the high crash corridor network) that have higher-than-average rates of traffic deaths and injuries. When it comes

to specific actions, the Portland Bureau of Transportation said they'll begin capital projects, which probably includes significant traffic calming measures, on two sections and five intersections on high-crash streets every year. The action plan includes no budget or funding commitment. The Portland Vision Zero Plan will be up for discussion and possible passage by the city council sometime this fall.

Even though the idea of Vision Zero is a lofty goal for traffic safety, the overall program is unsustainable. Paying for comprehensive street redesign, draconian traffic calming measures and increased enforcement of artificially low speed limits will ultimately be a drag on city economies and on individual motorists. 

# Why we need your help to modernize the Speedtrap.org and Roadblock.org sites



*A responsive site design automatically adjusts screen content to accommodate the access device while retaining site functionality*

- \* **31,000 of the 47,000+ monthly visitors to the sites do so with mobile devices. The current site design is not responsive to this traffic, making it difficult for them to find or report questionable enforcement actions in their areas.**
- \* **Google's search-engine algorithm penalizes sites that aren't responsive to mobile devices. An upgrade of the sites will not only help more people find and contribute to Speedtrap and Roadblock; it will also help them discover the National Motorists Association.**

**Please help fund the NMA Speedtrap/Roadblock responsive-design project by sending a tax-deductible donation to the nonprofit NMA Foundation today!**

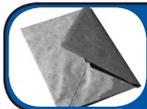
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## MEMBERS WRITE

The views expressed below do not necessarily represent those of the NMA. Letters are welcomed and should not exceed 300 words. They may be edited for length or clarity. Full-length articles will also be considered and should not exceed 600 words. Send to [nma@motorists.org](mailto:nma@motorists.org) or mail to NMA, 402 W 2<sup>nd</sup> St., Waunakee, WI 53597

*Editor's Note: We published "Easing Congestion With Tolling?" by NMA Member Fred Foldvary in the Summer 2016 issue of Driving Freedoms and asked for reader comments. That spurred the following friendly exchange between Ted Giovanis (TG) and Fred (FF).*

**TG:** Taxes (sales and/or excise taxes) on gasoline and tolls are set politically, not economically. This means that there is no real economic rationale for taxes (prices) and their influence on fuel prices or tolls. Government actions are never rational – they are inherently political by nature.

Fifty percent or more of the economic policy studies that are performed (including those commissioned or performed by government) are wrong. The American Statistical Association has recently made a pronouncement about this. In healthcare research, the National Institutes of Health believes that as much as 65% are wrong. This is generally attributable to the fact that economists are not skilled in the needed mathematics. They also engage in "p" score fishing to get the right scores from their regression analyses to prove a point, or are subject to funding bias as much of such analyses are paid for by someone seeking a desired outcome or answer. We know this because studies are not replicable.

Congestion tolling creates funding that results in duplicate payments for the same thing or service. Roads and their maintenance are paid for through federal and state transportation funds, and the levying of excise and sales taxes on fuels. Many of these funding

streams are required to be placed into transportation trust funds but such funds have been redirected for other non-roadway related purposes.

A problem is that if road tolling is broadly implemented then the simultaneous repeal of excise taxes may not occur. The result is a discriminatory and regressive pricing scheme that could be duplicative – doubly regressive for some on the lower economic spectrum.

In Maryland, the Route 200 road was paid for by revenue bonds and the toll monies are used to pay the bonds and interest – unless there is not enough. In that case, the citizens of the state are on the hook. Duplicate payments?

**FF:** I agree that taxes are political. An economist can analyze the optimal policy for congestion and highway funding, while recognizing that politicians will craft legislation in response to special interests, voter desires, and economic misunderstanding.

At least, motorists should be able to understand the economics.

The optimal policy is charges for both congestion and emissions, plus a levy on the increase in land value caused by roads and transit. The excise and sales taxes on gasoline can then be eliminated.

The initiative or legislation for congestion tolling should specify that if excise taxes are not repealed, tolling will not take place.

Sales taxes are also regressive. If public transit is made free to users during non-rush hours, that makes the overall system less regressive. Lower-income people also would have a greater incentive to carpool.

**TG:** Two points of clarification:

#1 - Economists are the ones that are doing the analytics. Many are using the incorrect analytic tools to do their analyses and so are coming to the wrong conclusions. Several months ago, the severity of this problem—much of healthcare reform was based on skewed analytics—led the American Statistical Association to announce a new policy statement alerting researchers to this fact and to require a targeted review of the analytics in their peer review process. These effects are on top of the inherent funding bias implicit in research.

We find errors in the analytics all the time of even the great folks at Harvard. A Harvard error was recently caught in the pre-analysis process. If we would not have found it and formulas were used as proposed, it would have had the direct opposite result of what they were attempting to prove.

The point is while economists use statics, the breadth of their understanding is not as comprehensive as it should be. In turn, their results or conclusions can often be wrong. But the government latches on to those results and runs with them, right or wrong. The result: Incorrect policies that don't work. Economic policies need to be objectively vetted which does not fit well within the context of the political process (see below).

#2 - All these decisions are made in a political environment and so are inherently political. They are not part of a rational thought process. Therefore, to assume any new system including roadway tolling would be implemented and in place of the current system is not realistic. It will always merely be layered on top of the existing system because of special interests (including government entities). How often does any legislative body ever repeal a law?

Utopia does not exist. Therefore, to propose anything and to ignore this fact is very short-sighted.



## 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/).

### National

In June, the US Supreme Court affirmed a Minnesota Supreme Court decision that law enforcement can require a person to submit to a breathalyzer test without a warrant by criminalizing their refusal to do so. SCOTUS also struck down part of a Minnesota law that forces people suspected of driving under the influence to submit to blood tests without a warrant or risk potentially more severe penalties.

### Alaska

Alaska DOT conducted a split speed limit experiment this summer on five miles of the Seward Highway. The right lane was set at its regular 55 mph while the left lane or passing lane was set at 65 mph. Motorist activity doubles on the Seward Highway in the summer. If the experiment is successful, the DOT plans to implement the split speed limit seasonally.

### California

In Los Angeles, law enforcement officers are unable to use radar to enforce speed limits in many areas of the city. The California Department of Transportation requires a traffic survey of streets every 10 years to determine the correct speed limit. No current survey, no radar. In 2010, LA traffic enforcement wrote 99,400 citations for unsafe speeding citywide. Last year, police only wrote 16,000 citations. Police officials say that 75 percent of speed limits have now expired. The reason—in 2008, the city’s DOT laid

off five of the seven employees who were responsible for the surveys.

### Connecticut

Legislators plan to put up a fight against any attempt to impose a Vehicles Miles Traveled (VMT) tax on state drivers. Governor Dan Malloy wants to explore this option since Connecticut sorely needs \$100 billion for infrastructure. According to a 2016 Highway System Report released by the national transportation research group TRIP, 60 percent of Connecticut’s urban interstates experience congestion during peak hours with the third highest rate in the nation of vehicle travel per interstate lane mile each day.

### Florida

Florida leads the nation in toll roads with 719 miles crisscrossing the state. According to Toll Road News, Orlando has a more fully developed, elaborate set of toll roads than any other metropolitan area in the U.S. The average state has about 100 miles of toll roads. Some states have none. Now, the Florida DOT plans to double-down on tolling—by building new, higher-toll lanes on existing toll roads.

### Georgia

A highway ramp near the new Atlanta Braves stadium in Cumberland (Cobb County), Georgia may cost five times more than the original estimate. The ramp would provide safer and more direct access to nearly 30 miles of reversible toll lanes in the I-575 and

I-75 corridors. In 2014, the ramp was estimated to cost \$9 million. In 2015, the revised estimate was \$23 million. Now, due to a design flaw, the estimate is \$51 million. The Cumberland Community Improvement District has raised a total of \$15.7 million so far.

### Kansas

Wichita Police alerted the public this summer that thieves were snatching up license plates twice as much as in 2015. By June, license plate theft had already surpassed the 2015 figures with nearly 700 plates taken. Officials in Denver, Colorado and Fargo, North Dakota recently reported their cities also have a similar problem.

### Louisiana

Governor John Bel Edwards signed two important laws for motorists. Drivers with lapsed auto insurance can now find some relief. Also, if a municipality uses red-light cameras, a street sign has to be placed before the intersection indicating that an RLC is ahead.

### Massachusetts

The state DOT has been preparing all summer for toll roads to go electronic. Motorists are expected to place a transponder on their vehicles. Massachusetts also plans to use automatic license plate readers or ALPRs on toll gantries to catch toll scofflaws, clock speeds and check for stolen vehicles. Electronic tolling begins in late October.

### Minnesota

Traffic stops are down in St. Paul and Minneapolis since motorist Philando Castile was shot and killed by a St. Anthony police officer in June. Minneapolis police have made nearly 40 percent fewer traffic stops and St. Paul has had an 80 percent

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decline. In the two weeks before Castile was killed, St. Paul police made 1091 traffic stops. In the following two weeks the number of traffic stops dropped to 239. A department spokesperson said the reason for the drop in traffic stops is complex. Officers have been dealing with protestors in the aftermath of the police killing. Departments have also doubled up each squad which means less availability for traffic stops.

### Montana

Speed limits will increase in Billings school zones because the city had never adjusted to a state law passed in the 1990s. The law sets school zone limits at 80 percent of regular traffic speed, rounded down to the nearest increment of five but no lower than 15 mph. Billings has many school zones set at 15 mph which is too slow according to state law. Billings traffic engineer Terry Smith said, "Historically, we just said, 'eh, signs were there, they're grandfathered.'"

### New Hampshire

Local law enforcement now has blanket authority to use surveillance cameras and automatic license plate readers (ALPRs) to record the movements of motorists. The legislation however, does not authorize the use of red-light cameras or speed cameras.

### New Mexico

Even though millions of dollars are owed Rio Rancho for unpaid automatic enforcement camera citations, the city plans to extend the program. According to a police report, since the city's STOP program started in 2011, the city is owed \$3.7 million from a total of 35,050 violators as of March. The pay rate wavers between 56 to 60 percent of the total 90,848 citations. The majority of citations were sent to ZIP codes outside of Rio Rancho.

### New York

Residents say Vision Zero is not working in the Bronx. If anything, traffic congestion is now worse for residents. Bernadette Ferrara, president of the Van Nest Neighborhood Alliance says "This Vision Zero street calming plan has been anything but calming and has nearly doubled the daily commute." Vision Zero measures reduced traffic from four lanes down to two on White Plains Road, one of the major thoroughfares in the Bronx. During rush hour, the street has now become a "moving parking lot" which causes delayed commutes, blocked intersections, road rage, and less business for local stores.

In the meantime, a Queens Supreme Court Justice ruled that part of the NYC Vision Zero law was unconstitutional. The law states that if a motorist hits a pedestrian or bicyclist, the motorist failed to exercise due care and is at fault regardless of circumstances. This violates a defendant's right to due process and is protected by the U.S. Constitution. The law put the burden of proof on drivers to show they weren't driving negligently, which violates their presumption of innocence under the Fifth and Fourteenth amendments. The city plans to continue to enforce the law anyway.

### Ohio

In July, in a 2 to 1 decision, the Ohio Court of Appeals overruled the state legislature on the issue of photo enforcement cameras. The majority of judges insisted that no regulation of any kind could be imposed on cities that outsource traffic tickets to private companies such as American Traffic Solutions and Redflex.

### Oregon

Portland mounted its first speed cameras which become operational at the end of September.

### Pennsylvania

The PA DOT is spending \$1 billion more on the state's roads and bridges than it has in recent years. This is despite the fact that the Pennsylvania Turnpike system is mired in debt. Since 2007, the Legislature has required the turnpike to turn over \$450 million a year for public transportation, racking up massive debt as a result. Almost two-thirds of its annual \$980 million budget goes to service debt. To go from one end of the state to the other using toll roads now costs over \$50.00.

### Texas

The State Legislature is hot under the collar about all the toll roads planned in the state. Members have been discussing eliminating tolls altogether. Urban/suburban Texans are increasingly opposing tolls but rural Texans are worried that if toll funding for roads is eliminated, what would happen to funding for rural roads?

The Texas Appeals Court restored the right to vote on red-light cameras by referendum which had been shut down in 2014 as part of the on-going court shenanigans by RLC companies.

### Utah

Cities and towns say their communities have been shortchanged by last year's nickel increase in the gas tax. Cities and towns were promised the gas tax increase would boost their share of revenue by 17.5 percent. The distribution formula however favors 11 rural counties and one town that will see an 82 percent increase.

### Wisconsin

Wisconsin needs nearly \$1 billion to fix and maintain current roads. Governor Scott Walker does not appear to be interested in finding a solution. Counties are implementing further sales, property or wheel taxes to make up the difference. Legislators are threatening to also put tolls on highways to make up the difference. 