



Driving Freedom

National Motorists Association

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Who Pays for What How?

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Driving Freedoms

Vol. 32 Issue 1



THE DIRECTORS

BY GARY BILLER, PRESIDENT, NMA

President's Report.....	1
Washington Report.....	2
NMA Bill Tracker	3
Proposed NMA Research Projects.....	4
Who Pays for What How?.....	6
DOT Nominee Pete Buttigieg.....	8
Solar Grids on Highways.....	9
USDOT Tribal Program.....	9
If You Bought it, Do you Own it?.....	10
Driving News	11
State Activist List	13
Member Website Log-in Information.....	13

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

Renew your NMA membership now to avoid any lapse.

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The 2020 merger of the NMA and NMA Foundation into a single nonprofit organization under the National Motorists Association banner also means a coming together of the two sets of directors into one managing Board. No doubt you have heard the names of many previously, but these short bios may provide some surprises for you.

I would be remiss for not thanking Steve Carrellas for his tenure as chair of the NMA Foundation Board for many years. Shortly after the current NMA Board was formed, Steve stepped aside from his formal duties. He continues as our active New Jersey Government and Public Affairs Director. The Board recognized Steve's contributions with a lifetime achievement award.

The serving directors of the National Motorists Association Board:

Gary Biller, Chair of the Board, President/CEO

I joined the staff of the NMA in July 2009 as executive director and succeeded founder Jim Baxter as president in January 2012. I have a B.S. in Electrical Engineering from Columbia University and spent 25 years as an engineer in the power generation industry. When the opportunity presented itself to switch gears and take on an advocacy role for drivers with the Waunakee-based NMA, I jumped at the challenge.

Josh McKay, Vice Chair of the Board

Josh lives in Suwanee, Georgia, and has been with the NMA since

2000. Josh earned an M.B.A. from Georgia State University and a B.S. in Electrical Engineering from Auburn University. He is the founder of The Test Experts, a preparatory consultant for students taking the ACT/SAT/GMAT/GRE tests.

Eric Berg, M.D., Treasurer

Eric has been a member of NMA and its predecessor organization since April 1982. He is a 31-year retired Army officer and a two-war veteran. As a federal forensic pathologist medical examiner, he investigates blunt force trauma deaths resulting from all means of transportation (spacecraft, aircraft, motor vehicles, boats, and cycles) along with pedestrian fatalities. Among his recreational activities is track racing Porsches. Eric lives in Clarksville, Tennessee.

Aarne Frobom, Secretary

Aarne is a life member of NMA and has worked in highway planning for 45 years. He is a policy analyst specializing in road user fees, transportation funding and economics, and traffic law. He has a master's degree in Public Administration from Michigan State University and lives in Haslett, Michigan. Aarne's garage holds eight bicycles and a 1961 Lincoln. He was attracted to NMA out of outrage over the 55-mph speed limit in the 1980s, feeling that it marked the point where the government started trying to slow down the economy rather than improve it.

(continued on Page 3)



NMA WASHINGTON REPORT

BY ROBERT TALLEY, NMA LOBBYIST

A new administration and a new Congress always bring fresh hope for opportunities and a concern for different challenges. For the membership of the National Motorists Association, we see both on the horizon.

Prospectively, there are indications the Biden administration will be more receptive to addressing long-standing concerns with federal and state civil asset forfeiture policies. While Biden was the original sponsor of the law that enabled civil forfeiture in 1984, he has publicly renounced numerous law enforcement initiatives he supported in the past. Civil asset forfeiture seems like a great candidate for action.

Over the past four years, the Trump administration's Department of Justice has strongly supported asset forfeiture as a powerful law enforcement tool for disrupting and dismantling criminal enterprises. An incoming Biden administration may view this issue differently, empowering the NMA to join with others to secure legislation to successfully reform this policy.

Of more concern, we anticipate that the incoming Biden administration will focus federal transportation spending on priorities that de-emphasize the driving public's needs and desires. Mass-transit, biking, and pedestrian spending will receive outsized funding relative to the needs of motorists. We have seen these priorities in programs like Vision Zero, Complete Streets Programs, and federal traffic calming measures.

We also anticipate that the House

of Representatives will continue to focus on problematic transportation issues. In 2020, the House passed partisan legislation to authorize highway and transit programs for five years. Significant differences between House and Senate proposals required Congressional leaders to punt the issues to 2021.

For NMA supporters, there are several issues we expect the House will pursue in 2021 that will require our attention. Notably, the House has endorsed requiring states and local governments to use a "safe systems approach" to set speed limits instead of the current 85th percentile speed limit policy. The safe system approach is a holistic assessment of speed limits based on subjective criteria, which can have the consequence of arbitrarily reducing speed limits. As speed limit manipulation becomes increasingly arbitrary, predatory revenue opportunities through speed trap ticketing are enhanced.

We also expect the House will pursue enhanced federal support for police enforcement, including creating new grant programs for highway enforcement campaigns focused on distracted driving and violations of 'move over laws.' We anticipate efforts to double the number of federally funded enforcement campaigns from three to six a year and to require drunk driving campaigns like sobriety checkpoints to occur twice per year.

President Biden has signaled his interest in early action on infrastructure investment to stimulate the economy. Transportation infrastructure is expected to be at the center of this

initiative. This debate will allow the NMA the opportunity to not only push back on proposed policies inimical to the driving public but also to seek proactive practices that will improve federal transportation policy.

Among the NMA's proactive agenda items is the DETER Act's passage, a bill to eliminate the use of ticket quotas in federal traffic enforcement grant programs. Nearly half of the states have recognized that law enforcement ticket quotas are flawed and have banned the use. Despite this, the US Department of Transportation issues grants to law enforcement based in part on a performance metric—the number of tickets per work hour funded by the grant. Having the federal government use taxpayer money to incentivize the police to write tickets rather than promoting safety through education is an insult to motorists. Reform is needed to prohibit this performance measure. 🇺🇸



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Luke Ball

Luke joined the NMA after reading about the organization in *Car and Driver* magazine in the 1980s when it was Citizens for Rational Traffic Laws (CRTL) targeting the repeal of the 55 mph national maximum speed limit. He was the NMA's Texas State Chapter Coordinator for many years and now serves as a volunteer activist in the state. Luke is a retired air traffic controller and was a union rep for most of his career.

John Carr

John, a resident of Lincoln, Massachusetts, is an NMA life member, having joined the organization in 1995. He is a software engineer interested in laws and policies related to motor vehicles and traffic control and how they fail when they serve real drivers and real government officials. He also likes to debunk anti-driver propaganda.

Chris DiPrima

Chris is an NMA member living in San Francisco, California. He holds a B.A. in Political Science from American University and a Master of City Planning with a transportation concentration from the University of Pennsylvania. As a motorist and a trained transportation planner, Chris is passionate about ensuring a balance between transportation and its surrounding land uses, ensuring equitable access to automobility for all those who seek it, and viable options for those who do not.

Steve Donaldson

Steve Donaldson of Trilby, Florida, has been an NMA member for over 30 years. Although his job as a transportation logistics specialist takes up much of his free time, Steve is an active director engaged in many critical issues such as photo enforcement and speed limit policies. Steve previously served as treasurer of the NMA Foundation Board.

Casey Raskob

Casey Raskob, a traffic attorney in the New York City metro area, has been a member of the NMA since the mid-1980s. Casey is an original member of the NMA Foundation Board, serving as its inaugural chairman. His knowledge of traffic law and experience with the courts provides valuable guidance to the NMA. 🍷

NMA's Bill Tracker for 2021

The National Office launched the **NMA Bill/Regulation Tracker** in 2018 with your cash gifts. Following federal and state legislation affecting motorists with this NMA-specific tool has been informative for us, and we trust for you too. We encourage you to check it out at <https://www.motorists.org/bill-regulation-tracker/>, particularly with many states starting new 2021 legislative sessions and introducing bills of importance for motorists.

The **Bill Tracker** table can be sorted by any column and filtered by state or by particular motorist issues. If you click on a row in the table, an information page will appear for that particular bill. We also have a link marked in red on each individual page that goes straight to the content of the bill along with all the details such as bill sponsors and the legislative timeline.

If you hear of a motorist-related bill in your own state, please send the details to nma@motorists.org so that we can evaluate it for the **NMA Bill Tracker**. Thank you for your support of motorists' rights in your state! 🍷

Do You Follow the NMA on Social Media?

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 Follow us on Facebook: <http://www.facebook.com/motorists/> and
 LinkedIn: <https://www.linkedin.com/company/national-motorists-association/>
 and definitely take a look at our Pinterest Boards: <https://www.pinterest.com/drivingfreedoms/>. Thank you for your support! 🍷



Proposed NMA Research Projects – Survey Results

There is a shortage of accurate and meaningful studies specific to driving. Look no further than reports from the Insurance Institute for Highway Safety (IIHS). Among its publications are such titles as, “Speed limit increases are tied to 37,000 deaths over 25 years,” and “Lowering the speed limit from 30 to 25 mph in Boston.” These studies are examples of questionable methods, interpretation, and extrapolation to promote preconceived notions such as “speed kills.” The IIHS’s bias is in favor of its funding partners, all of which are auto insurers.

Motorists are better served by transparent research that gets to the heart of issues faced every day on the nation’s roads. True to its nonprofit charter, the NMA is developing a data-driven research and analysis capability to fill that void.

We asked Fall 2020 campaign respondents to rank four research ideas in order of importance, and to offer additional project ideas where the findings could better inform policymakers from the driver’s perspective. Dozens provided input, and we are pleased to share the results with you.

Each of the projects was ranked 1 (most important) to 4 (least important). There was little surprise when the project with “speed limits,” the founding issue of the NMA, in its title was the top choice. The project ideas here include the average ranking by voters.

While prioritization is important, our goal is to tackle each of these projects and more over time. We are already considering amending the top-ranked project to include the influence of photo enforcement along with restrictive speed limits on drivers.

Effect of Arbitrarily Lowered Speed Limits on Driver Behavior and Traffic Safety -- Average Ranking Score of 1.56



Gather speed distribution data before and after city speed limits have been lowered by fiat, rather than by engineered safety standards. Do the same with accident/fatality information. Case in point: Boston dropped limits from 30 to 25 mph a couple of years ago. Although the data showed the average and 85th percentile speeds changed nary an iota, the IIHS falsely claimed drivers slowed down simply because the speed limit changed

True Cost to Taxpayers of Vision Zero Programs and the Effect on Road User Safety -- Average Ranking Score of 2.17



Perform a cost-benefit analysis of Vision Zero implementation. Determine the cost to taxpayers (and drivers) and compare it to the safety gains for cities that have annual VZ budgets of \$10 million or more.

(continued on Page 5)

(continued from Page 4)

Statistical Accuracy of Traffic Accident Reports

-- Average Ranking Score of 2.95



Investigate whether accident data are collected in a manner that leads to misleading or disingenuous inferences. Accident reports (and citations) at the scene generally have a check-off list of issues that may have contributed to an accident, like weather conditions and speed. Because this method—the choices and limitation of associated factors—can result in doubtful, disingenuous, and simplistic interpretations. Assigning causality requires a careful and complete forensic analysis of numerous relevant elements, particularly when the reporting to NHTSA directly affects national traffic safety policy decisions.

Environmental Impact of the Use of Stop Signs Rather than Yield Signs

-- Average Ranking Score of 3.17



Determine the cost of fuel wasted resulting from full stops in comparison to yield-slowdowns at intersections without visibility limitations. Think of how many times each day drivers stop or slow down and speed back up at a lightly traveled intersection. Multiply that by millions of drivers daily and you get a sense of wasted resources. An added bonus: While environmentalists often see motorists as the enemy, this project could convert them into allies for alleviating some driving restrictions.

We received several excellent write-in research ideas with the ballots. Among the many intriguing suggestions:

- Explore the effect on traffic accidents of the lack of lane discipline/courtesy
- Develop an NMA report card on motorist issues for members of Congress
- Are Battery Electric Vehicles (BEV) better environmentally than those with internal combustion engines? What will we do with the used batteries?
- Determine the effect of auto manufacturer ads that demonstrate safety technology such as out-of-lane warnings and automatic braking, in addition to other technology-based distractions that keep drivers' eyes off the road.
- Investigate the leading causes of distracted-driver accidents, e.g., alcohol, texting, other phone use, anger, in-cabin control systems.
- Determine the statistical safety impact of the 0.08 BAC (blood alcohol content) standard vs. the previous limit of 0.10. Also determine the accuracy of roadside BAC checks.

As expected, research ideas outnumber the resources of the NMA's growing capabilities. Thanks to contributions received from supporters during the Fall 2020 fundraising campaign, plans are underway to fund the top ranked project, *Effect of arbitrarily lowered speed limits on driver behavior and traffic safety*.

The critical motorist issues of the time will most often dictate which projects we will take on. Keep sending us your recommendations—by email at NMA@motorists.org or by postal service to 1001 Arboretum Dr, Suite 120, Waunakee, WI 53597. An ever-expanding to-do list is a great motivator.

Your cash gifts, which can provide you with tangible tax benefits because of the NMA's 501(c)(3) nonprofit status, directed toward our research efforts are also welcome. There is much work to counteract misleading, if not downright false, claims in other industry studies. Leaving such information unchallenged can only encourage the continued mistreatment of drivers and their rights. ❤️

Who Pays for What How?

A reckoning is coming to America, and it has nothing to do with politics. Okay, maybe it does, but not in the way you think. A bridge or a street or a highway could not care less how it's maintained or fixed. They will tumble and crumble whether we like it or not if no one has the political will to fix them.

Behind the ongoing issues with the pandemic, the slow-moving crisis of crumbling infrastructure is upon us. Washington doesn't want to pay to maintain roads, and no one understands why it costs so much to do so. The pandemic is a public health crisis, but since fewer people are traveling and contributing to the Highway Trust Fund through the gas tax, the situation extends to infrastructure funding. The statistics are alarming.

According to USA Today, before COVID-19, motorists drove 8.8 billion miles every day; the railroad system carried 85,000 passengers and 5 million tons of freight. According to the Federal Highway Administration,

as the pandemic emerged full force in April, driving decreased by 40 percent. The number of miles traveled continues to be much lower than last year. Less road travel means fewer taxes paid at the pump.

Federal highway expenditures have exceeded revenues for over a decade, according to the Congressional Budget Office. From 2008 through 2019, the Highway Trust Fund (HTF) exceeded its revenues by a total of \$127 million. The HTF comprises two accounts: the highway account, which funds construction of highways and highway safety programs, and mass transit. According to current CBO baseline objections projections, the HTF will expire and be exhausted in 2021. The pandemic crisis has accelerated the problem, and future federal highway funding is in jeopardy.

Transportation infrastructure remains vital to the health of the US economy. It is the engine that keeps us productive, moving, and our goods flowing. America's network of roads

has always been thought of as a singular achievement. Still, due to years of neglect and rising construction costs, that accomplishment has seen better days.

Nationwide, 21.8 percent of roads are in poor condition. Many of us know where all the bumps and potholes are where we live. In many states, though, roads and bridges are downright terrible. The country's rail system might even be worse. For every 100 miles of train track, there have been 4.8 derailments from 2015 to 2019. The most common causes are broken rails or welds.

Due to harsh winters, states in the Midwest and the Northeast have a freezing cycle that accelerates deterioration. Major truck routes and traffic congestion in urban cores contribute to significant roadway wear and tear.

For example, according to a recent 24/7 Wall Street index, the state of New Jersey has the distinction of having the worst transportation infrastructure in the country with:

(continued on Page 7)



(continued from Page 6)



- 37.2 percent of its roadways are in poor condition, sixth-worst in the country.
- 8.1 percent of its bridges are structurally deficient, second worst.
- 104 train derailments—10.9 per 100 miles of track—which is the highest from 2015 to 2019.
- \$614 of state highway spending per licensed driver, twenty-eighth lowest.

New Jersey is also considered one of the most traffic-congested states, with a mean commuting time of 32.4 minutes, the third-longest in the country.

Data from the American Transport Research Institute indicate that New Jersey's congestion and poor roads cost the trucking industry \$3.4 billion in 2016, which is the most of any state when adjusted for total highway miles.

Gathering the data is just one aspect of knowing what is going on out there, but a more important aspect is who pays for what and how?

The National Motorists Association maintains that the gas tax is the most efficient and equitable method of charging users to maintain and improve roadways. The effectiveness of gas-tax revenue to maintain and improve highways and bridges has, as reported in the Fall 2020 *Driving Freedoms* (Page 5), diminished significantly. Many states divert the funds for other purposes such as transit, pedestrian/bicycle programs, environmental projects, law enforcement activities, educational programs, tourism projects, and high administrative costs. New York has the highest diversion rate at 38 percent. New Jersey is tied

with Michigan for third at 34 percent.

Because states and municipalities want to fund transit projects, which rarely pay for themselves, they rely on motorists as cash machines to support the otherwise unsustainable projects. Gas-tax diversions, along with increased annual vehicle registration fees, wheel/sales taxes, and new tolls on existing highways, hurt motorists' pocketbooks, and roads are still not fixed.

With more cities implementing road diets, bike lanes, and bus-only lanes and fulfilling public transit needs, the transportation dollar is growing smaller for even just regular road maintenance.

Many might say that if we give transit more money, it makes the roads less congested. That might be good

(continued on Page 8)

2020 ARTBA Bridge Report

The American Road and Transportation Builders Association released its 2020 Bridge Report, and the information is startling.

- 1 in 3 bridges needs repair or replacement. That's nearly 231,000 spans. This figure includes one-third of all interstate highway bridges (18,177 spans) that have identified repairs.
- Forty-six thousand bridges are rated in poor condition and ranked as "structurally deficient." These bridges would cover 1,115 miles, which is the distance between Las Vegas and Seattle. Data shows that motorists cross these structures 178 million times per day.
- Structurally deficient bridges are 69 years old on average compared to 44 years old for non-deficient bridges.
- At the current rate, it would take 50 years to fix all of the structurally deficient bridges.
- ARTBA estimates that the cost to repair all 231,000 bridges would be nearly \$164 billion (based on data published by the Federal Highway Administration).

(continued from Page 7)

for motorists overall, but in the end, funding for transit, road diets, and bike lanes seems to fall on the backs of motorists when perhaps it should be something where everyone shares the costs.

The economic fallout from the COVID-19 crisis has undoubtedly not helped and has thrown a wrench in most states' gas tax funding.

The Virginia Department of Transportation, for example, will ask the 2021 General Assembly to reallocate funding for some of the state's most significant infrastructure projects. The COVID-19 crisis has decimated the DOT's budget even after commonwealth lawmakers raised the gas tax in the last session before the pandemic. DOT Secretary Shannon Valentine projects a reduction of \$870 million in funding over the next two years due to the virus's impact. Priorities for current funding are projects already in the pipeline so that they can be completed on time. The Long Bridge rail expansion, for example, will cost \$1.9 billion to add another set of tracks to the 116-year old crossing between Virginia and DC. Nearly every state is having similar funding dilemmas. Infrastructure funding will likely dominate 2021 state legislative sessions.



Some states are finding controversial ways to fund infrastructure.

Arizona passed Proposition 207, which legalizes adult-use recreational marijuana. State transportation agencies will receive 25.4 percent of the sales-tax revenue generated by such purchases. That total is expected to reach \$41 million annually.

Arkansas voters permanently extended a 0.5 percent sales tax for transportation by approving Issue 1 during the November 2020 election. The extension of the tax is projected to generate approximately \$294 million annually. Recently, casino tax money also became a transportation funding mechanism in the state.

During July 2020 balloting, Maine residents voted for another round of transportation bonds to provide

\$105 million to match an additional \$275 million in federal and other transportation funds. Nearly \$90 million will be allocated for highway-and-bridge improvements.

In December 2020, US House members who belong to the Future of Transportation Caucus introduced a bill that would change the federal funding directed toward transportation projects. Currently, the ratio is 80 percent for roads and 20 percent for transit. The Caucus wants to make the split 50-50.

The road ahead looks rather bleak for infrastructure. Ironically, even more will need to be invested in new road configurations to adapt to connected autonomous vehicles. Something has to give. Let's hope it's neither our wallets nor the roads and bridges we'll be driving on anytime soon. ❤️

Pete Buttigieg named Biden's Transportation Secretary Nominee

The 38-year old Pete Buttigieg seems an unlikely pick for the Biden Administration Secretary of Transportation. As a mayor, he oversaw a budget of \$358 million in a city of about 102,000. If the Senate confirms him, he'll manage a staff of about 55,000, a budget of about \$90 billion with \$22 billion in discretionary dollars.

As a presidential nominee, Buttigieg endorsed converting funding for the Highway Trust Fund from the

gas tax to a vehicle-miles-traveled alternative that would tax drivers based on road mileage. Also, he proposed a fix-it-first approach to highway funding, a national Vision Zero strategy, and measures to organize the DOT around improving access to jobs and essential services for drivers and nondrivers. During an election panel, he said, "The reality is we are going to graduate from the gas tax, not a viable long-term funding mechanism for our highways." ❤️



Solar Grids on Highways and Right-of-Ways

As more electric vehicles come online, the world will need more charging stations. Investigations into how best to integrate energy-collecting solar panels with the public road system are ramping up worldwide.

Peachtree Corners, Georgia, recently embedded solar panels in one of its roads to generate electricity for a nearby public charging station. The city has a driverless car demonstration area, and the panels have been placed in the autonomous vehicle-only lane, limiting the traffic load. The French company Wattway, responsible for this experiment, tests solar panels on roads worldwide. It has developed solar panels durable enough to collect the sun's energy while also being driven over by vehicles. If the experiment is successful, Peachtree Corners will consider embedding these panels in sidewalks, bike lanes,

and other road conveyances.

In a recent report by the University of Texas at Austin, researchers identified more than 127,000 acres of right-of-way areas at interstate exits around the US for possible solar energy collection and storage sites. These sites could generate up to 36 terawatts per year, equal to about one percent of all electricity consumption in the United States. Sites in Georgia, Maryland, Massachusetts, and Oregon are already producing power from solar panels planted on right-of-ways.

The Oregon DOT, for example, partnered with Portland General Electric to construct two solar sites. The project currently utilizes 7,600 solar panels to generate over 1.75 megawatts.

Germany has a plan to cover the Autobahn with solar panels. Researchers have embarked on a three-year project to assess whether



canopies covering stretches of the famed highway could be fitted with solar power systems. They believe that the canopy concept could generate almost 10 percent of the country's electricity demand. Development work is continuing with a traffic engineering company to see whether the canopies could provide the additional benefit of protecting the tarmac from sun and weather degradation. A demonstration project for a short stretch of the Autobahn in southern Germany will begin soon.

US DOT Tribal Program now in Effect



On October 1, 2020, the US Department of Transportation's Tribal Transportation Self-Governance Program became official. Building a framework for the federal government and Indian tribes to work together and streamline DOT's distribution of transportation funding to participating tribes are the two primary objectives.

Tribal governments will have greater autonomy to manage their transportation programs and reallocate resources to meet the needs of the tribes' roadways. Savings will likely come from increased efficiencies due to streamlined contract negotiations, simplified fund transfers, and greater autonomy in managing the funds. Tribes will also receive greater legal certainty and timelier delivery of funds.

To participate, tribal governments must demonstrate financial stability and capability in managing transportation programs. Transportation Secretary Elaine Chao noted that facilitating this project is part of the Rural Opportunities to Use Transportation for Economic Success or ROUTES, established by

the DOT in October 2019.

According to the DOT, seventy-one percent (2.9 million miles) of all roads in the US are rural. Indian reservation roads consist of nearly 40,000 miles of public roads and 940 bridges owned by the Bureau of Indian Affairs and tribal governments. Tribal roads intersect with more than 61,000 miles of public roads owned by state and local governments and other entities. Sometimes, multiple road owners might be involved concurrently in road decisions. Tribal governments must deal with competing laws and government requirements, which complicates tribal transportation programs. This new DOT program is expected to help alleviate some of those complications for tribal governments.

If You Bought It, Do You Own It?

Massachusetts' voters, by nearly 75 percent, demanded their right-to-repair on November 3, 2020. Voters were under the impression that casting their ballots for Question 1 would allow independent repair shops and do-it-yourselfers to access critical information about their cars to fix them. After all, this was just an update to the 2012 law that allowed mechanics and DIYs to access data through the vehicle's on-board diagnostics port. That legislation even became the national standard. The 2020 update would enable wireless access to the data portals that many new cars now have.

Why is right-to-repair so important?

If your regular mechanic cannot make the repair without access to the diagnostics port of the vehicle, you will have no choice but to take it to the dealership, which will likely cost more.

Ultimately, what this means is that you do not own your entire vehicle. You also lose the choice of who repairs it. Farmers have the same issue with current model tractors. Manufacturers control your choices, and there is also a question about auto security.

Both sides spent a total of nearly \$63 million on the Question 1 ballot initiative. According to Ballotpedia, the Massachusetts Right to Repair Coalition, which also sponsored the 2012 initiative, raised \$24.9 million in contributions. Top donors included the Coalition for Automotive Repair Equality, the Auto Car Association, and some big-box auto parts retailers. The Coalition for Safe and Secure Data, part of the Alliance for Automotive Innovation, raised \$26.6 million in contributions. The Coalition is funded by all the world's automakers such as Ford, General Motorists, Honda, Toyota, and Volkswagen.

Another troubling aspect during



the November 3rd election cycle--The Coalition for Safe and Secure Data used advertising scare tactics that implied that you were a criminal if you or your mechanic accessed data.

SecuRepairs, a company that advocated for Question 1, states on its website that the auto industry's ability to keep wireless data secure is in doubt.

“Rather than trying to frighten consumers, carmakers should make owner access to data easy, while also being transparent about what data they are collecting from smart vehicles and how they use it. Facts and transparency, not fear, are the antidote for the public's anxiety about data privacy and security.”

Ballot initiatives are meant for citizens to put forward important issues to voters. With all the special interest money involved in Question 1, the quaint concept of letting the citizens decide has been thrown out the window.

Automakers are now turning to the courts to make sure right-to-repair never happens. In late November, the Alliance for Automotive Innovation filed a lawsuit in US District Court for the District of Massachusetts, stating that the “right-to-repair” law violated federal law and raises safety and privacy concerns for vehicle owners.

Massachusetts Attorney General Maura Healey announced in mid-December that her office would not enforce the revised law until the federal courts decide

on the automakers' claim. This was after the Alliance asked for a temporary order that would bar implementation. When (or if) the amended right-to-repair law, passed overwhelmingly by voters, will go into effect is an open question.

The Electronic Frontier Foundation also stated recently that the Alliance would likely reach out to the 2021 state legislature and ask that the law be delayed since the next model year, 2022, is only nine months away. Manufacturers claim they cannot make the required technical changes that quickly.

The idea to postpone implementation of wireless access to vehicle data ports has origins in the 2012 right-to-repair law, which the legislature later amended to commence with 2015 models. Later, an additional compromise pushed back the implementation to 2018 models. Automakers claimed that they could better equip vehicles with a standardized interface to make diagnostic information available in all 50 states by that model year.

Whatever happens with the new wireless access requirements, owners will become increasingly frustrated that they cannot repair their own vehicles or entrust the work to a mechanic of their choice. The question remains: Will the automakers ever let you own your car, really own your car, after you buy it?



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 www.motorists.org/news/. 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/.

California

San Diego Mayor Kevin Faulconer announced in September that the city would turn off its smart streetlights. The announcement came days after the City suggested that the police department manage the program. That idea received immediate pushback from local activists concerned about civil liberties and the lack of transparency. A pending ordinance governing surveillance technology is on the table for the city council. Several years ago, community members formed the Transparent and Responsible Use of Surveillance Technology San Diego (TRUST SD) Coalition and exerted pressure on the City to bring transparency to the process.

Florida

The Pensacola Bay Bridge (or Three-Mile Bridge) that runs between Pensacola and Gulf Breeze had its grand reopening February 2020, with the pedestrian portion of the bridge opening in mid-August. However, after Hurricane Sally hit the area a month later, the bridge had to close. Several barges and a crane came loose during the storm and caused structural damage so significant that entire sections had to be replaced causing detour headaches for regular bridge commuters. The state’s DOT expects a March 2021 reopening date.

Illinois

In October, the US Supreme Court heard arguments in the Chicago v. Fulton case. Three bankruptcies resulting from Chicago’s predatory fines and fees, driver’s license suspension, and vehicle

seizure were featured as the case’s cornerstones. Officials seized the cars of Timothy Shannon and George Peake for unpaid tickets. Robbin Fulton’s car was also towed after she was caught driving on a suspended license for unpaid tickets. The City then charged each party thousands of dollars to get their cars back. They couldn’t pay and then struggled to get to work, in some cases resulting in a lost job. All three plaintiffs filed for Chapter 13 bankruptcy. The bankruptcy courts and the Seventh Circuit all ruled that the City violated the law. The decision in the Supreme Court case will have critical implications nationwide.

The Illinois State Supreme Court ruled recently against the city of Sparta’s ticket quota program. To get around the state law, which prohibits the police from using quotas, the City used the “activity point” label instead. Day-shift officers had to rack up 82 “points,” and night-shift officers needed 65. Traffic tickets counted for two points while a warning earned only one. Failure to reach the minimum monthly points would result in discipline. The local police union filed and won the lawsuit to protect officers from quota-based disciplinary actions.

Indiana

Indianapolis blocked curbs on three major streets (Mass Avenue, Broad Ripple Avenue, and Illinois Street) so that popular restaurants in the area could expand outdoors due to COVID-19 restrictions. Many owners and residents enjoyed dining al fresco. The City announced this could not be a permanent arrangement, thought, due to a parking

meter contract with a private company. By mid-September, Indianapolis already had to pay more than \$315,000 in fees to ParkIndy for blocking 500 parking meters. Mayor Joe Hogsett said the 2010 contract leaves no feasible way to permanently close streets.

Iowa

On August 10th, a derecho (an intense windstorm) caused widespread damage and power outages affecting all Cedar Rapids’ automated traffic cameras. City officials said that the intense windstorm caused more havoc to its program than the ongoing pandemic. All the cameras had to be turned off through September 4th due to the lingering power outage, sign replacements, and camera equipment checks.

Louisiana

US District Judge Susie Morgan rejected the city of New Orleans’ attempt to throw out a speed camera class action judgment of \$25 million. Between 2008 and 2010, the City’s Department of Public Works allowed American Traffic Solutions (now Verra Mobility) to issue tickets directly to drivers. According to the City’s home rule charter, however, the authority to issue tickets should have been the domain of the police, which is why motorists should be receiving the ticket refunds. New Orleans will likely try to find another strategy to not pay this money back to drivers.

Maine

On November 3rd, Portland voters passed a ballot initiative that bans the use of facial recognition by police and other city agencies. The city council had already voted for the ban in August. That vote replaced the previous ordinance with a stronger measure, which cannot be revoked for five years. Private citizens will also be entitled to a minimum of \$1,000 in civil fees if Portland violates

(Continued on Page 12)

(Continued from Page 11)

the new regulation. Thirty US cities already have facial recognition surveillance bans, but this is the first approved by voters rather than just the city council.

Massachusetts

The Cambridge City Council will be the first in the world to mandate that all gas station fuel pumps have warning labels. The warnings will be similar to those on cigarette packets. They will clarify that burning fossil fuels has major consequences for climate, the environment, and public health. This messaging falls in line with a similar initiative in Sweden and was inspired by a group called *Think Beyond the Pump*.

Michigan

Detroit announced that it plans to spend \$11.5 million in 2021 to install 4,500 speed bumps in neighborhoods with 25 mph or less speed limits. This year, 1,200 of the traffic calming devices have already been added. The program started two years ago when Detroit only had 32 speed bumps.

North Dakota

In September, the Cass County (Fargo) Highway Department launched an online survey to ask motorists their thoughts on increasing speed limits on 134 miles of its paved highways. Nearly 1,700 people responded, with 97 percent favoring the increase. In October, county commissioners approved raising the speed limit from 55 to 65 mph on all but 11 miles of those highways.

New York

Manhattan congestion pricing will now likely be delayed until 2023. The cash grab to benefit NYC mass transit systems was initially set to begin in January 2021. A recent document to bondholders stated that the two-year delay resulted from not receiving a clear answer from the Trump Administration's Federal Highway Administration on what type of

environmental review was required to institute new fees. The City expects to net \$1 billion annually for subway and bus systems.

Cashless tolling began in mid-November. Shortly after, the New York State Thruway voted to increase the toll for non-E-ZPass users by 30 percent beginning January 1st, 2021. Rates have not increased on the tolled-portion of the 570 miles of the state's super-highway system since 2010. Toll rates will also increase on the Governor Mario M. Cuomo Bridge, which spans the Hudson River between Tarrytown and Nyack.

Oregon

Portland adopted the nation's most restrictive laws on facial recognition usage. It became the first major US city to restrict government agencies and private businesses from using the technology.

Texas

State lawmakers have filed two civil asset forfeiture (CAF) reform bills before the start of the bicameral legislative session in January. House Bill 251 would prohibit the State from taking a person's property without a criminal conviction. It would also opt Texas out of the federal CAF program that allows police to bypass stricter state laws. House Bill 132 would raise the legal standard required to forfeit property from a "preponderance of evidence" to "clear and convincing evidence" but would allow the current forfeiture system to remain in place. Hopefully, CAF reform can be achieved in the Lone Star State during the 2021 session.

Virginia

In a special September legislative session, lawmakers passed a bill that would no longer allow police to pull over motorists with minor equipment violations. These include loud mufflers, dark window tint, a dim license plate

light, or air fresheners hanging from the rear-view mirror. Converting these four infractions into secondary offenses would eliminate some excuses for pretextual stops. Also, under the new law, officers would no longer be allowed to search a vehicle without permission of the driver if they smelled marijuana.

In the same special session, legislators passed HB5049 that would prohibit a state or local law enforcement agency from acquiring, purchasing, or accepting on any terms military equipment. The banned equipment list includes tracked armored tanks, weaponized aircraft and vehicles, .50-caliber or higher-grade weapons and ammunition, grenade launchers, and bayonets.

Washington State

The city of Seattle has approved the use of cameras for automated enforcement of alleged traffic violations beyond red-light and speed cameras. The pilot program that extends through June 2023 will use cameras to detect vehicles blocking the box (stopping in an intersection or crosswalk), driving in bus-only lanes, and stopping or driving in restricted lanes. Ticket citations will be limited to \$75 under state law. The City expects each camera to cost \$4,000 per month to operate. Officials are not worried, though, because they believe the cameras will more than pay for themselves by creating new revenue streams.

Wyoming

Recently, state lawmakers advanced a bill for the 2021 legislature to establish a regulatory framework for testing automated vehicles on Wyoming roadways. This bill was inspired by the National Park Service plans to roll out driverless shuttles in Yellowstone National Park this summer. If enacted, Wyoming becomes the 30th state to legislate autonomous vehicle regulations. Florida enacted the first set of laws nearly a decade ago. 