

TRAFFIC LAW NEWSLETTER
April - May 2007

THE U.S. CONSTITUTION:

THE Basics
(continued from previous
Newsletter)



The Rule of Law

One of the basic ideas in our Constitution is the "Rule of Law." During the Clinton Presidency, we heard many talk radio hosts use the phrase constantly to apparently make the point that ours is a "nation of laws."

The Framers of the Constitution considered the rule of law essential to the safekeeping of social order and civil liberties. The rule of law holds that if our relationships with each other and with the state are governed by a set of rules, rather than by a group of individuals, we are less likely to fall prey to authoritarian rule. The rule of law calls for both the individual and the government to submit to the law's supremacy. By precluding both the person and the state from being above the law, the Framers constructed yet another protective layer of individual rights and liberties.

FEDERALISM

Federalism refers to the apportionment of power between the United States and those of the States. By the time of the Revolution, state governments were fully entrenched, and it was unlikely they would agree to the creation of a powerful central government. Granting the State's certain self governing powers served the Framers' intent to limit central government's authority.

According to Article VI of the U.S. Constitution, the "Constitution and laws of the United States are the supreme law of the land." Both State and Federal officials, including judges, must take an oath to support the U.S. Constitution, even if State law contradicts it. By the way, Article VI also guarantees religious freedom by banning religious tests as a qualification for holding office!

The Articles of Confederation had expressly limited the national government to the powers expressly listed, and some members of Congress wanted the Tenth Amendment to say so as well. However, James Madison resisted, and the 10th Amendment reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

Hence, the debate over Federalism was there from the beginning. Some argued for a very powerful central government, and others argued for State's rights. Some U.S. Supreme Court decisions gave the Federal government broad powers, while others limited the federal's power. Recent Supreme Court decisions have curtailed federal authority, but that may change now that John Roberts is Chief Justice.

FOR PARENTS WITH TEENAGE DRIVERS

Georgia has a complex set of laws governing teenage driving; in a nutshell they are:



1. Instruction permits are granted to 15 yr olds upon passage of a written exam; while driving the permit holder must be accompanied by a licensed (Class C) adult 21 years or older
2. Class D permits are granted to drivers between 16 and 18 who have held the Instruction permit for 12 months and have passed a road test; they must also have completed an approved drivers ed course and 20 hours of supervised driving(6 hours of which were at night), or a cumulative total of 40 hours supervised driving(6 at night); Class D holders have the following restrictions: No driving between 12 midnight and 6am; First 6 months, only passengers may be family members; afterwards may only have 3 passengers who are not family members
3. Class C permits are granted to drivers 18 or older who hold Class D licenses, if there has been no major traffic violation for previous 12 months; The license **MUST** be upgraded to Class C or the Class D restrictions still apply
4. Persons under age 18 will suffer license suspension upon receipt of 4 or more points for traffic violations accumulated in a 12 month period
5. School attendance is required for persons under 18; if a student under 18 drops out, or has more than 10 days of unexcused absence, then person's license is suspended for one year or until they are 18
6. Certain school suspensions will result in student's driver's license being suspended for one year or until age 18

PROPOSED NEW DUI LAWS FAIL

HB 336 which had proposed sweeping changes in DUI laws failed to make it out of the Committee, and therefore never came up for a vote in the House.



MY 4 SIMPLE RULES IF YOU ARE STOPPED BY POLICE

1. DON'T ADMIT DRINKING (OR ANYTHING ELSE)
2. DON'T DO ANYTHING ON SIDE OF ROAD
3. DO TAKE BREATH TEST IF YOU'VE REALLY HAD 2 DRINKS
4. DON'T TAKE TEST IF MORE THAN 2 DRINKS*



* Refusing to take the State test (at jail or hospital) could result in losing your license for a full year; the only way of getting the license back earlier is to win the DUI; on the other hand, if the officer does not try to suspend the license because of a refusal, the State does not have a blood alcohol level to use against you!

MY 1 SIMPLE RULE FOR PARENTS OF CHILDREN UNDER AGE 21

If your child gets a traffic ticket, regardless of how minor you may think it is, DO NOT PAY TICKET WITHOUT CALLING ME!!!

WHAT DO I DO IF STOPPED BY THE POLICE??

For the answer, [see my page on "your legal rights"](#) and [print out a copy](#) to keep in your car!



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Practice dedicated exclusively to defense of those accused of
DUI, serious traffic offenses, and drug offenses.
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