



TRAFFIC LAW NEWSLETTER August, 2006

LABOR DAY CRACKDOWN ON "DRUNK DRIVING"

Just as sure as the Labor Day weekend always brings the return of football season, so too does Labor Day bring the annual crackdown on "drunk driving" from the Governor's Office of Highway Safety.



You may have already heard ads about Operation Zero Tolerance (OZT), or Click It or Ticket.

The GOHS is just another government bureaucracy that receives federal funds to supposedly make our highways safer. A cursory look at all Georgia traffic fatalities from 1998 to 2002, on the GOHS web site, reveals basically the same rate of fatalities, even though the legal blood alcohol limit of .10 in 1998 was later reduced to .08, and even though on an annual basis the State receives more and more Federal (in other words, our) money.

Also, the National Highway Traffic Safety Administration (NHTSA) currently acknowledges on its web site that "alcohol related fatalities have remained nearly unchanged for the past decade." Remember, "alcohol related deaths" does not mean the driver was drunk. It could just as easily mean the passenger had more than .01 grams of alcohol in his system. (See below for the fraudulent use of the term "alcohol" impaired used by the government).

One wonders whether this is another "much ado about nothing" government excuse to fleece taxpayers for more money. While I understand that every life lost is a precious one, realistically if you look at the number of "alcohol related" deaths for 2005 in Georgia (1,317) and you compare that number with the number of drivers who drive on our roads on a daily basis, the actual threat of being killed by a drunk driver pales in comparison to other risks we face every day.

Beginning earlier this summer, the US Department of Transportation spent approximately \$11 million in taxpayers money for advertising its "Drunk driving, Over the Limit, Under Arrest" campaign. The campaign will continue through September 6 and will mainly consist of road checks in high visibility areas. A few years ago the State of Georgia spend millions of dollars on check points. According the GOHS stats then, each checkpoint averaged about ONE DUI per check point!! Based on this outrageous use of our tax dollars, I propose two questions:

1. Are alcohol related fatalities as rampant as NHSTA, MADD, and the GOHS would have us believe?
2. Are sobriety check points really effective in catching drunk drivers?

The 2 following articles were written by my good friend, Allen Trapp, a DUI lawyer who practices in Carrollton, GA

The Government and MADD intentionally mislead us when speaking of alcohol fatalities

For more than two decades NHTSA and MADD have justified the erosion of Constitutional rights and ever more severe punishment for DUI defendants by claiming there is "carnage on our highways caused by drunk drivers." Year after year they claim that there are approximately 18,000 alcohol related deaths on our highways. Have you ever asked yourself how they arrived at their numbers?



Before MADD became a growth industry the statistics on traffic fatalities included a category for "alcohol caused" deaths. In order to build public (and legislative) support for roadblocks, lowered blood alcohol levels, and more severe penalties, NHTSA employed a clever slight of hand that would make a poker cheat blush. Now we have "alcohol-related" traffic fatalities. Note that "alcohol related" does not mean "caused by alcohol."

For example, if a sober driver is unfortunate enough to have a drunk run across the street in front of his car and the drunk pedestrian is killed, NHTSA would categorize the death as "alcohol related." It would certainly be alcohol related, but not in the sense that the average reader would expect. Even if a sober driver's car was struck by another sober designated driver's car carrying an intoxicated friend home, NHTSA would call that an "alcohol related" death. Perhaps more unbelievable is the case where an officer initially believes a driver is intoxicated but a breath or blood test shows he is not. NHTSA still categorizes the fatality as "alcohol related." Last, if a test reveals the presence of any alcohol, the death is still regarded as "alcohol related."

When the General Accounting Office (GAO) reviewed these figures from the National Highway Traffic Safety Administration, the GAO reported that they "raised methodological concerns calling their conclusions into question". NHTSA's numbers, "fall short of providing conclusive evidence that .08% BAC laws were, by themselves, responsible for reductions in alcohol related fatalities." This means that the statistics were not valid when examining alcohol-related fatalities, much less alcohol-caused deaths.

Some independent investigations have come up with numbers much different from those published by NHTSA. The Los Angeles Times found that only about 5,000 deaths per (continued...)

The Government and MADD intentionally mislead us when speaking of alcohol fatalities (continued)

year involved a drunk driver causing the death of a sober driver, passenger or pedestrian. Responsibility in DUI Laws, Inc. put the number at closer to 3,000. Nevertheless, MADD and NHTSA continue to mislead the public to justify the passage of increasingly punitive DUI laws.

Sobriety check points are not effective in lowering alcohol fatalities

"Sobriety checkpoints", better known as roadblocks, might not be reducing the number of "alcohol-related" fatalities on the nation's highways. A recent study found that states that do not have sobriety checkpoints have a lower number of alcohol-related fatalities than states that do have them. States that do not allow roadblocks include Alaska, Idaho, Iowa, Michigan, Minnesota, Oregon, Rhode Island, Texas, Washington, Wisconsin, and Wyoming.

The 11 states that are not using roadblocks experienced a collective drop of 91 fewer alcohol-related fatalities in 2005 compared to 2004. The 39 states, plus the District of Columbia, that operate roadblocks saw a collective increase in alcohol-related deaths, according to the study.

Georgia is one of the states that use sobriety checkpoints. In 2004 in Georgia, there were 461 alcohol-related fatalities in the state, based on blood alcohol content level of .08 or greater, according to the National Highway Traffic Safety Administration. In South Carolina for the same time period, there were 410 deaths. In 2005, those numbers changed to 463 deaths in Georgia and 396 deaths in South Carolina. In 2004 in Iowa, a non-roadblock state, there were 92 alcohol-related deaths based on a blood alcohol content level of .08 or greater. In 2005, there were 102 deaths.

In 2004 in Michigan, another non-roadblock state, there were 368 alcohol-related deaths based on a blood alcohol content level of .08 or greater. In 2005, there were 363 deaths. A reason why states that do not hold sobriety checkpoints might have fewer alcohol-related fatalities is because checkpoints are in many states highly visible by design and publicized in advance. Chronic alcohol abusers can easily avoid roadblocks, according to John Doyle, executive director of the American Beverage Institute.

"Waiting for drunk drivers to find themselves in a highly publicized roadblock is kind of like waiting for a fish to jump in your boat," Mr. Doyle said. "(They) are too aware of where the roadblocks are." Mr. Doyle said it is a waste of time to have 12 or more law enforcement officers standing at a roadblock when they could be out tracking down impaired drivers. Many of the people who are stopped at roadblocks haven't been drinking.

"The people who are told that drunk driving is dangerous probably already know that," he said. "But drunks can avoid roadblocks."

A few years ago, when the GOHS spent huge amounts of money on sobriety checkpoints, their own stats later showed an average of only one DUI arrest per road check!!

The next time the Governor and some of our legislators start "bragging" about OZT, I wish the press would ask those two questions!

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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