

**TRAFFIC LAW NEWSLETTER  
Winter, 2003**



**"THERE OUGHT TO BE A LAW"**

I recently read a speech given by Pres. Reagan in the 1980s, where he lamented our tendency to turn to the government for answers it has neither the right nor the capacity to provide. The result has been a fourth branch to government in addition to the traditional 3 of executive, legislative, and judicial: the bureaucrat. Bureaucrats now hold enormous power which effect our lives, in many cases more so than elected officials; And bureaucrats cannot be removed from office by our votes.

In Georgia we have 2 such bureaucracies that have enormous power over our lives: the Department of Motor Vehicle Safety, which has power over driver's licenses; and the GBI, which has power over administering the DUI chemical tests. The DMVS can solely determine whether and when someone can get a driver's license, with very little recourse from the judicial system for those who feel their rights have been violated.

Likewise, the GBI has TOTAL authority to make up rules on how and when state chemical tests are run, inspected, and so forth; under a Georgia law passed in 1997, believe it or not, our legislators gave total power to the bureaucrats at the GBI over this issue, so for instance, the State only has to inspect the breath machine once per quarter to make sure it is operating correctly; even then, the "inspector(a State patrol officer) never actually opens the machine to inspect it; the State has chosen not to obtain software from the manufacturer which would enable you to get your breath sample and have it independently inspected; the GBI has deleted certain software from the machine which would so how much breath volume went into each individual test. The GBI can change rules and methods for testing, all WITHOUT LEGISLATIVE APPROVAL. In short, as the director of the Implied Consent section has testified, "If I want to approve a can with some strings attached as "The State breath test device", I have the authority to do it. There ought to be law against our elected officials giving total power to bureaucrats.

**DON'T MODIFY CAR'S STANDARD EQUIPMENT**



Have you seen cars driving around at night with the little blue, red, or green lights coming from the windshield washer on the hood? How about cars with clear taillights and turn signals. DO NOT alter the manufacturer standard equipment on any vehicle. This may give police the right to stop your car. While there is no specific Georgia law prohibiting altering such equipment, many officers, most notably from Duluth, Suwanee, and Lawrenceville, are using this as reason to stop cars, especially ones driven by teenagers. The police will say that they in "good faith" thought the lights violated Georgia law, and this gives the court a reason to uphold the stop.



**2002 PROPOSED LEGISLATION**

Once again, the legislature has several proposed changes to driving laws:

SB 13 Would create the new crime of refusal to submit to state chemical testing. A VERY BAD LAW, since it would sentence the person as seriously as a DUI conviction; remember a "refusal" in Georgia could simply mean the machine(the same one governed by the bureaucrats at GBI) did not register a reading. Don't believe the propaganda you may see in the newspapers. VERY FEW people are found not guilty of DUI simply because they refuse the test; they are found not guilty because they are not guilty. Some prosecutors and legislators don't understand that concept.



Cell Phones Another example of "there ought to be a law." Because we have had some deaths involving drivers talking on their cell phones, we want government to "fix" the problem. We already have 2 laws that would address the problem: Reckless driving, and Careless driving. We do not need another law in Title 40, which is already hundreds of pages long.



**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.  
770-923-4948