

# COMMON LAW TRAFFIC BINDER

A Common Law Guide to Interpreting and Applying Common Law in Regards to Traffic.

## KNOWING YOUR JURISDICTION AND YOUR RIGHTS IS VERY IMPORTANT

Only by knowing the jurisdiction you are operating in as a sovereign American traveler can you stand your ground and defend your rights by understanding your rights as a free American under the jurisdiction of common law according to the Constitution of the United States of America.



The purpose of this Traffic Binder is to ensure that you are fully prepared and equipped with all the necessary documentation, organized in a manner that allows for quick and easy access when you are stopped while traveling in your automobile. This binder is designed to provide you with everything you need to confidently navigate any encounter with law enforcement.

**ConstitutionalLawCoalition.com**



# **This Traffic Binder Belongs To...**

Date Received: \_\_\_\_\_

Full Name: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Email Address 1: \_\_\_\_\_

Email Address 2: \_\_\_\_\_

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If you happen to come across this Traffic Binder, I would greatly appreciate it if you could reach out to me using the contact information provided above, either by phone or email, so that arrangements can be made for its safe return. Your assistance in this matter is invaluable, and I want to express my sincere gratitude in advance for your help. Thank you for taking the time to ensure that this binder finds its way back to me.





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# **Constitutional Law Coalition - Traffic Binder Introduction**

**It's VERY important to know the law and understand your rights within the jurisdiction of common law regarding traveling in your automobile according to the Constitution of the United States of America.**

The purpose of this Traffic Binder is to ensure that you are fully prepared and equipped with all the necessary documentation, organized in a manner that allows for quick and easy access when you are stopped while traveling in your automobile. This binder is designed to provide you with everything you need to confidently navigate any encounter with law enforcement, ensuring you have all pertinent information at your fingertips and that you know exactly what to say in such situations. It is crucial to familiarize yourself with the contents of these documents, as understanding them empowers you to effectively assert your rights. Knowledge of your rights as a living, breathing individual and as an American is a powerful tool. It is essential that you carry this Traffic Binder with you whenever you are traveling in your automobile, as it serves as your safeguard in ensuring that you are prepared for any situation. Additionally, it's important to be aware that displaying a LICENSE plate on your vehicle signifies that you are engaged in commerce—transporting goods or people from one place to another in exchange for compensation. However, if you are merely traveling for personal reasons, such as going to the grocery store or visiting family, this does not constitute commerce. By removing the LICENSE plate from your automobile, you are effectively placing yourself outside the jurisdiction of maritime/admiralty law, which governs commercial activities involving the movement of cargo. As a living, breathing individual, your actions are governed by common law, as enshrined in the Constitution of the United States of America. Understanding this distinction is vital for maintaining your autonomy and ensuring that your rights are upheld during any encounters with law enforcement while traveling.

## **A Special Thanks to Rick Martin from the Constitutional Law Group**

I would like to give special thanks to Rick Martin from the Constitutional Law Group for his time, hard work, commitment, and dedication to helping people learn the truth about their rights as Americans within the jurisdiction of common law according to the Constitution of the United States of America. I want to thank Rick for sharing the court documentation from when he was arrested for traveling without a LICENSE plate on his automobile and won his case against the Harris County Sheriff's Department. He was able to sue them for violating his rights according to the Constitution of the United States of America and successfully filed a levy against the surety bonds of the Harris County Sheriff's Department for \$250,000. Those court documents are in this traffic binder. I would also like to thank Rick for all the other information and resources in this traffic binder.

Your hard work and dedication are making a huge difference in the lives of many people across this great land, helping them learn the truth so they can free themselves from the chains of bondage and enslavement by a government that is using a jurisdiction of maritime/admiralty law, which only governs the movement of cargo, that is being illegally and unconstitutionally applied to free Americans who are operating in the jurisdiction of common law according to the Constitution of the United States of America. Therefore, you are giving people the tools and resources to help them learn the truth and truly be free by traveling without harassment in their automobiles as they choose.

# TRAFFIC BINDER DISCLAIMER

## PLEASE READ BEFORE YOU CONTINUE

Anyone who has a leased vehicle or taken out a loan from a bank or financial institution to finance their vehicle will not be able to legally drive without a valid **DRIVER'S LICENSE** or a registered **LICENSE PLATE** issued by the **STATE**. This is because leasing companies and lenders mandate that the vehicle must be insured as part of the terms of the agreement, and insurance companies require a valid **DRIVER'S LICENSE** to issue a policy. The obligation to maintain insurance coverage remains in place until the vehicle is fully paid off. The only individuals who can avoid these requirements are those who own their vehicle outright, with no outstanding loans or financial obligations tied to it. These owners are not bound by the insurance stipulations imposed by a bank, lease company, or financial institution, which, by extension, eliminates the need for a **DRIVER'S LICENSE** as a condition for maintaining insurance.

**NOTE: As long as you are under this 'CONTRACT,' you will be required to have a STATE-issued license plate on your vehicle. This means that your STRAWMAN is conducting commerce in the jurisdiction of Maritime/Admiralty Law, so you, as the driver of the vehicle, will have to adhere to their laws and rules.**

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**NOTICE:** Information served herein is for educational purposes only, no liability assumed for use. The information you obtain in this traffic binder is not, nor is it intended to be, legal advice. The author does not consent to unlawful action. The author advocates and encourages one and all to adhere to, support and defend all law which is particularly applicable. By using the information in this traffic binder, you acknowledge and agree that the author is not responsible for any actions taken based on the content herein. The author highly recommends thoroughly studying this entire binder beginning to end so that you can learn and educate yourself on your constitutional right to travel and the proper application of common law. If anything in this presentation is found to be in error a good faith effort will be made to correct it in a timely fashion upon notification.

To contact us please visit **[www.ConstitutionalLawCoalition.com](http://www.ConstitutionalLawCoalition.com)**

## IF YOU GET PULLED OVER: WHAT TO SAY...

**NOTE:** If the officer starts questioning you about not having a license plate on your automobile, you can kindly say, 'Officer, I am sure you already know this, but I don't have a license plate on my automobile because I am not engaged in commerce, nor am I conducting commerce. I am simply traveling freely in my automobile from point A to point B. The laws you are referring to only apply to people who are conducting commerce, meaning they are being compensated for transporting goods from point A to point B. Only those who are engaged in commerce and conducting commerce are required to have a driver's license and a license plate on their vehicle. Since I am not engaged in or conducting commerce, I am outside the jurisdiction of the laws that govern those who are conducting commerce.'

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**If you get pulled over, there are four things you need to ask the officer before you do anything:**

1. "What's your emergency, and how may I assist you?"
2. "What is the emergency that caused you to turn on your emergency lights/flashers?" NOTE: (A routine traffic stop DOES NOT constitute an emergency.)
3. "What is your RAS (Reasonable Articulate Suspicion)?"
4. "What's your SAF (Single Articulate Fact)?"

If the officer can't answer these questions—and in most cases, they won't be able to—then you say the following:

**Officer, can you explain to me what crime I have committed that justifies you stopping me today?**

Have I caused harm or injury to another individual?

Have I stolen or damaged another individual's property?

So, you're basically saying you have no reason to stop me today because you do not have a reasonable articulable suspicion, and you don't have a single articulable fact that would give you probable cause to believe that I have committed a crime. **This means you have no reason to suspect that I have caused harm or injury to another individual or that I have stolen or damaged another individual's property.**

**At this point, you need to hand the officer the MANDATORY QUESTIONNAIRE AND NOTICE TO GOVERNMENT EMPLOYEE/PUBLIC SERVANT** sheet and inform them that the Privacy Act of 1974 (Public Law 93-579) gives you the right to require them to read, complete, and sign this document. Once they have read and signed the **MANDATORY QUESTIONNAIRE AND NOTICE TO GOVERNMENT EMPLOYEE/PUBLIC SERVANT** sheet, hand them the **NOTICE OF INQUIRY**

**AND/OR REPORT OF DETAINMENT** sheet, and have them fill it out and sign it, including the date at the bottom. **BE SURE TO HAVE A FEW EXTRA COPIES OF THESE DOCUMENTS WITH YOU!**

At this point, they will realize that you know your rights and that you aren't playing games. The fact of the matter is, if they can't explain what the emergency is that caused them to turn on their emergency lights/flashers, and if they can't explain to you what their Reasonable Articulate Suspicion is, what their Single Articulate Facts are, and if they can't explain to you what crime you have committed that justifies them stopping you, the bottom line is they have no standing to stop or detain you.

**And if they do arrest and detain you, because of their actions and violating your rights, you now have a reason to take them to court to file a levy on their PUBLIC BONDS of no more than \$100,000.00 USD (one hundred thousand dollars) per 5 minutes that you are detained by ALL present officers.**

## **REASONABLE ARTICULABLE SUSPICION (RAS)**

**1. Reasonable:** The suspicion must be based on specific and concrete facts, not just a vague hunch. It needs to be something that a reasonable individual would agree is suspicious. This standard ensures that actions taken are grounded in objective evidence, rather than subjective feelings or biases, thereby upholding fairness and integrity.

**2. Articulate:** The officer must be able to explain or articulate why they were suspicious. This explanation should be clear and specific, detailing the observations or circumstances that led to their concern. Such clarity is crucial for accountability and helps ensure that any actions taken are justified and transparent.

**3. Suspicion:** The officer must suspect that the individual is involved in criminal activity. This doesn't mean the officer is certain, but there is enough evidence to believe something illegal might be happening. The suspicion should be based on observable facts or behavior that suggest a potential violation of the law, ensuring that any intervention is rooted in a reasonable and objective basis.

## **SINGLE ARTICULABLE FACT (SAF)**

A single articulable fact is a specific, observable detail that a law enforcement officer can use to justify their suspicion that an individual may be involved in criminal activity. This fact must be clear, specific, and based on actual observations or information, rather than a vague feeling or generalized assumption.

Here are key details about what constitutes a single articulable fact:

### **1. Specificity**

The fact must be clear and detailed, not generalized. It should describe a particular behavior, appearance, or circumstance.



## **2. Observability**

The fact must be something that the officer personally observed or was reported with accuracy.

## **3. Connection to Potential Criminal Activity**

The fact must reasonably suggest that criminal activity might be afoot. It doesn't need to prove a crime has been committed, but it should indicate that further investigation is warranted.

## **4. Relevance**

The fact must be relevant to the situation at hand. It must be a detail that logically contributes to the suspicion of criminal activity.

## **5. Ability to Articulate**

The officer must be able to clearly explain why this particular fact raised their suspicion. They should be able to describe it in a way that makes sense to others, including a court.

## **6. Objectivity**

The fact must be based on objective criteria rather than individual bias or assumptions. It should be something that others could observe and interpret similarly.

## **7. Legal Precedent**

The fact must be something that has been recognized in legal contexts as sufficient to establish reasonable suspicion. Courts often look at the totality of circumstances, but a single articulable fact can be enough if it strongly suggests criminal activity.

In summary, a single articulable fact is a specific, observable, and relevant detail that can be clearly explained and justified by law enforcement as a basis for reasonable suspicion. It's an essential component in ensuring that police actions are grounded in reality and are defensible in court.



# MANDATORY QUESTIONNAIRE AND NOTICE TO GOVERNMENT EMPLOYEE/PUBLIC SERVANT

## Privacy Act of 1974 (Public Law 93-579)

For all employees of federal, state, county, municipal and township corporations conducting an investigation.

The Following Notice and **PUBLIC SERVANT QUESTIONNAIRE** is based on the requirements placed upon all employees, agents, and representatives of state and federal government, including city, county, state, and federal law enforcement agencies, Supervisors, administrators, district attorneys, attorney generals, judges, justices, and magistrates, by the Privacy Act of 1974 (Public Law 93-579), an amending law to Title 5, United States Code, and is here included as per the provisions of Section 552a, which in part provides:

*"The purpose of this Act is to provide certain safeguards for an individual against invasion of personal privacy by requiring government agencies... to permit an individual to determine what records (documents) pertaining to him (or her) are collected, maintained, used, or disseminated by such agencies."*

As authorized by federal law and the provisions of this Act, the Citizen may require any Public Servant or Government Employee to provide certain proof of employment, bonding information, including full and complete disclosure as to the cause and purpose of any investigation as a precondition to speaking with any government agent who seeks any information of any kind or may stand upon his Fifth amendment right to refrain from self-incrimination and to remain silent as herewith invoked.

The following Questionnaire, a tool of Discovery in legal proceedings, properly documents the government employee/citizen interaction, and must be filled-out by the public servant/government employee before he can ask the citizen any question. In accordance with this provision of law, the 'prerequisite for the citizen's cooperation with the government is the agent's cooperation with the citizen's reasonable request(s).'

The following questionnaire first provides Notice and informs the government agent that the citizen knows his rights, protections, and immunities, and is aware of limited powers the government agent has been granted or delegated by operation of law, and are based upon that Act and other government prohibitions regarding identity theft and recognition of the corporate statutes that define your employment, but not the rights of the citizen. After acknowledging the following Notice, Please fill out the form completely.

**I, as a BONDED OFFICER, hereby declare that I have thoroughly read, comprehended, and fully understand all information contained within this document. I acknowledge my responsibilities and obligations as outlined, and I affirm my commitment to uphold the duties and standards required of me in my capacity as a BONDED OFFICER.**

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Print Name Signature Date



## NOTICE OF INQUIRY AND/OR REPORT OF DETAINMENT FORM

This questionnaire must be filled-out by any public servant before he/she can ask the citizen any question. This is authorized by federal law, including the Privacy Act, 5 U.S.C. 552a, 88 Stat. 1896, et seq., 1974.

Name of OFFICER/PUBLIC SERVANT \_\_\_\_\_

BADGE # \_\_\_\_\_ JURISDICTION \_\_\_\_\_

PEACE OFFICER YES\* NO (circle one please) ON YOUR OATH TODAY? YES NO

LOCATION OF STOP/ARREST \_\_\_\_\_

Do you believe that this STOP is related to a DRIVER or MOTOR VEHICLE operating in commercial commerce? YES \* NO (circle one please)

Please list any PASSENGERS, GOODS, or MERCHANDISE attached to or inside the above said MOTOR VEHICLE:

1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_

4. \_\_\_\_\_ 5. \_\_\_\_\_ 6. \_\_\_\_\_

Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_

License Plate \_\_\_\_\_ No Plate? YES \* NO (circle one please)

Color \_\_\_\_\_ VIN \_\_\_\_\_

Victim(s) involved \_\_\_\_\_

Address \_\_\_\_\_ Phone Number \_\_\_\_\_

Property Damage? YES \* NO (circle one please) \$ \_\_\_\_\_ est. loss

Physical Harm? YES \* NO (circle one please) \$ \_\_\_\_\_ est. loss

I as the above states BONDED OFFICER state that all information is given under oath, and is true and correct as stated above under penalty of perjury.

\_\_\_\_\_  
Print Name Signature Date

### NOTICE TO PUBLIC SERVANT/ OFFICER

In the event you elect to not fill this form, you will accept or give your unconditional consent for a levy of your PUBLIC BONDS of no more than \$100,000.00 USD (one hundred thousand dollars) per 5 minutes that I am detained by you or ALL other present officers.

NOTICE TO AGENT IS NOTICE TO PRINCIPAL; NOTICE TO PRINCIPAL IS NOTICE TO AGENT  
PUBLIC SERVANT/OFFICER REFUSAL: YES \* NO (circle one please)





# NOTICE TO ALL LAW ENFORCEMENT OFFICERS, SUPERVISORS AND COMMANDERS

I am an **unarmed, non-combatant** and I travel by means of a private conveyance, personal automobile or a personal motorcycle, all of which, being my personal property and private/personal means of conveyance, to get myself and guests **peacefully and peaceably**, from place to place, in the pursuit of life, liberty and the pursuit of happiness. My level of competency and proficiency to do said things, is that I've been doing them since the age of majority, **peacefully and peaceably**.

I do this on public roads and highways that are literally defined in and by State, Foreign State and Federal Statutes, Codes and Case Law as being; "**Every way, lane, road, street, boulevard, and every way or place in the united States of America and elsewhere, open as a matter of right to public vehicular travel both inside and outside the limits of incorporated cities and towns;**".

**Dear Police Officer, Code Enforcement Officer, Government Agent, Sheriff, Law Enforcement Officer, or Peace Officer**, please, read and comprehend fully this Notice before you presume 'Jurisdiction' and attempt to Engage this Common Law Private Sovereign into Statutory Law, i.e.: Public Policy Enforcement/Revenue Generation.

Please be informed that this '**Sovereign Private Traveler**' is **NOT** engaged in **ANY COMMERCIAL Activity** where **MOTOR VEHICLE** Licensing is mandatory. This '**Sovereign Private Traveler**' is a "**Free-Born and Natural (Wo)Man**", "riding a motor bike" or "traveling for pleasure in an Automobile", and this "Conveyance" form of "Locomotion" is **his/her "Private Property" for private use only**. This '**Sovereign Private Traveler**' is **NOT "DRIVING OR OPERATING a Public Property 'MOTOR VEHICLE'** and therefore **NOT Engaged in the 'Activity of Commerce'**, and thereby **NOT** Liable under the "**MOTOR VEHICLE STATUTORY LAW**" or subject to your Jurisdiction.

If a '**Public Official**' 'assumes Jurisdiction' and insists in his/her pursuit in engaging a "**Sovereign Private Traveler**' without a "**Viable Sworn Claim of Liability**", i.e.: '**Affidavit**' or a '**Warrant**', he/she is "trespassing" and is therefore no longer 'immune to prosecution' and will be '**held personally accountable**' in his/her '**Private Capacity**' for acting outside of his/her '**Official Capacity**' and will thereby be 'charged' with a 'Hostile Act of Official Aggression' in an **Article 3 Court**.

The '**Sovereign Private Traveler**' honorably and passively, presenting this knowledge to you in "good faith", is doing so in an attempt to **protect you from yourself**.

I have a great deal of respect for the '**Public Service**' you are committed to, and fully comprehend how difficult it is to seek out and prosecute criminals. However, this Notice is presented at a 'traffic stop', **and therefore is now a mandatory part of the Official Record of any ensuing action, and MUST be introduced as prima facie Discovery Evidence in said action.**

**It will be noted that willful suppression of 'Evidence' is a 'Felony'. Any cause of action will result in a lawsuit under USC Title 18, Title 28, and Title 42, 1983.**

This "**NOTICE**" has been submitted upon **DEMAND** of a '**Driver's License,**' '**Registration,**' '**Proof of Insurance,**' or **ANY other State issued Privilege, Permit or License.**

I am of sound mind and body and reserve all of my unalienable Rights and Liberties. I do not waive **ANY** of my Rights, **EVER**. I do not recognise you. I do not understand your offer. I do not consent & waive all benefits/privileges, and I will not contract with you.

I am not a **'person,' a 'federal US 'citizen,' a 'passenger,' a 'corporation,' or a 'taxpayer.'** I do not **'drive' commercially**. My private conveyance, truck, automobile, motorcycle or bicycle, are my private possessions. The fact the conveyance, truck or automobile I'm traveling in, is not recorded on your States register, exempts STATE jurisdiction. Just as you may choose to not answer my question(s), I am not compelled under law to reply to you either. Officer, I cannot and will not provide you with any information that may later be used against me in a civil or criminal proceeding. This includes producing documents that may or may not be in my possession.

As a **'Private Sovereign traveler, reserving and invoking his/her unalienable Rights** this **Sovereign traveler, has Constitutional protections**.

The most important **Constitutional protection** being the **Fifth Amendment Right: "To Remain Silent"** (Miranda Warning). MIRANDA v. ARIZONA, 86 S.CT. 1602, 384 U.S. 436 (1966).

Do not take offense or be insulted because I choose to Remain Silent and NOT be **compelled** to co-operate with **your 'verbal interrogation'**.

"The Fifth Amendment provides that no person shall be **compelled** in any criminal case to be a witness against himself in a criminal prosecution but also privileges him not to answer **Official** questions put to him in any other proceeding, **civil** or **criminal**, formal or informal, where the answers might incriminate him in future **criminal proceedings**." LEFKOWITZ v. TURLEY, 94 S. CT. 316, 414 U.S. 70 (1973).

"The privilege is not ordinarily dependent upon the nature of the proceeding in which the testimony is sought or is to be used. It applies alike to civil and criminal proceedings, wherever this might tend to subject to criminal responsibility on him who gives it. The privilege protects a mere witness as fully as it does one who is a party defendant." MC CARTHY v. ARNDSTEIN, 266 U.S. 34, 40, 45 S.CT. 16, 17, 69 L.ED. 158 (1924).

"...where the Fifth Amendment privilege against self-incrimination is involved...the court has always construed its protection to ensure that an individual is not compelled to produce evidence which later may be used against him as an accused in a criminal action. ... The protection does not merely encompass evidence which may lead to criminal conviction, but includes information which would furnish a link in the chain of evidence that could lead to prosecution, as well as evidence which an individual reasonably believes could be used against him in a criminal prosecution." HOFFMAN v. UNITED STATES, 341 U.S. 479, 486, 71 S.CT. 814, 95 L.Ed. 1, 18 (1951).

"in KASTIGAR v. UNITED STATES, 406 U.S. 441, 92 S. CT. 1653, 32 L.Ed. 212 (1972), we recently reaffirmed the principle that the privilege against self incrimination can be asserted in any proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory. Id., at 444, 92 S.Ct. AT 1656; LEFKOWITZ v. TURLEY, 414 U.S. 70, 94 S.CT. 316, 322, 38 L.Ed. 274 (1973).

"WE have recently noted that the privilege against self-incrimination - -the essential mainstay of our adversary system -- is founded in a complex of values. ... To maintain a fair state individual balance, to require the government to shoulder the entire load... to protect the inviolability of the human.

personality, our accusatory system of criminal justice demands that the government seeking to punish an individual produce the evidence against him by its own independent labors, rather than by the cruel, simple expedient of compelling it from his own mouth.... In sum, the privilege is fulfilled only when the person is guaranteed the right to remain silent unless he chooses to speak in the unfettered exercise of his own will."

"...there can be no doubt that the Fifth Amendment privilege is available outside of criminal court proceedings and serves to protect persons in all settings in which their freedom of action is curtailed in any significant way from being compelled to incriminate themselves." MIRANDA v. ARIZONA, 86 S.Ct. 1602, 384 U.S. 436 (1966).

Please also NOTE: the above, as stated by the Supreme Court, are rights and privileges as guaranteed by the Constitution, and anyone (including judges) who knowingly violates those rights may be **civilly** and **criminally** liable under several federal statutes. Please see: United States Code, Title 18 Section 241 (**Conspiracy against Rights**), and Section 242 (**Deprivation of Rights under color of Law**); Title 42 Section 1983, 1985, 1986 (Civil Rights).

Where an individual is detained, without a warrant and without having committed a crime (traffic infractions are not crimes), the detention is a false arrest and false imprisonment. Damages awarded. Trezevant v. City of Tampa, 741 F.2d 336 (11th Cir. 1984)

Motorist illegally held for 23 minutes in a traffic charge was awarded \$25,000 in damages. The above case sets the foundation for ~\$65,217 dollars per hour, or ~\$1,800,000 (1.8 M) dollars per day. Hence my warning about protecting you from yourself, However, If you want to make me rich - detain me for as long as you like.

Due to this **Sovereign travelers** past naivety with Statutory Law, this **Traveler** has since learned that one cannot listen oneself into trouble. This **Traveler** now realizes it is a **Public Official's** Intent to lure one into a Verbal, then Written, **CONTRACT**.

Therefore, this **Traveler must** inform/remind **you** of the reservation and invocation of **his/her unalienable Rights** and not help you to coerce him/her into some **Statute** of which **he/she** is **NOT** Liable.

This **Traveler** does not willfully choose to Consent to your "**Offer to Contract**" nor to be '**compelled**' to Incriminate **themselves** by answering **ANY** questions and, thereby, entering into **ANY** sort of Verbal Agreement.

Unless you have a Warrant for this **Sovereign Travelers** Arrest, i.e.: a '**Valid Sworn Claim of Liability**', or have seen this **Sovereign Traveler** Commit a **Felony**, you have **NO Probable Cause** to detain **him/her** as **he/she** has the "**Right to Free and Unencumbered Travel**".

If you are **Arresting** this **Sovereign Traveler** Without A **Warrant**, **you** must **IMMEDIATELY** take him/her before a Judicial Officer of competent jurisdiction to **Demand a Bill of Particulars** to determine whether the Arrest was **lawful** or if there was '**Probable Cause**' for the Arrest, or **you** will be held **personally liable and accountable** for **False Arrest (Kidnapping)** and Sued in your **Official Capacity**. (see above ref to Trezevant v. City of Tampa, 741 F.2d 336 (11th Cir. 1984) The **arrest** shall not be based upon hearsay unless supported by a **Warrant** accompanied by a Bona-Fide **Affidavit**. Said '**Warrant**' and '**Affidavit**' must be based upon first-hand knowledge of the **Affiant** who has a claim against **him/her**, charging **him/her** with a **Felony** or other infamous **crime**. This **Sovereign Traveler** must be allowed the right to face **his/her accuser**.

If you deny this **Sovereign Traveler** that right, it will be a violation of the Sixth Amendment, and if you act unreasonably in your investigation or use excessive force, it will be a violation of the Fourth Amendment. This '**Constitutional Rightful Demand**' must be met prior to booking. If you do not comply with this '**Rightful Demand**', **You may be Sued**.

Hale v. Henkel -the united States supreme Court when speaking on the "Law of the Land," The opinion of the court stated:

"The individual may stand open upon his/her constitutional rights. S/he is entitled to carry on his/her business in his/her own way. His/Her power to contract is unlimited. He/She owes no duty to the state or to his/her neighbors, to divulge his/her business, or to open his/her doors to investigation, so far as it may tend to incriminate him/her. He/She owes no duty to the state since he/she receives nothing therefrom, beyond the protection of his/her life and property."

Thank you for your valuable time and consideration in this instant matter. I value your assistance and respect your obligations.

# **Notice to principal is notice to agent and notice to agent is notice to principal.**

1) **I hereby invoke and refuse to waive all unalienable rights** protected by the United States Constitution and the Constitution of any State or territory in which any incident of law enforcement against me may occur.

2) **I hereby invoke and refuse to waive my right to remain silent** and not be a witness against myself by speech or by action as protected by the **5th Amendment**.

3) **I hereby invoke and refuse to waive my right to have assistance of counsel**. Do not ask me questions without my council present as protected by the **6th Amendment**.

4) **I hereby invoke and refuse to waive my right to be free of unwarranted (non court- ordered) search and seizure**. Your personal suspicions are not legal grounds for search, seizure or arrest unless supported by a court order or tangible evidence of an imminent and known crime (misdemeanor or felony) of which I am a likely perpetrator ("Probable Cause"). As protected by the **4th amendment**.

5) **I hereby deny consent for my detention** and **I hereby request to be immediately released from custody, arrest and detention, free to continue my private travels and business as is my right.**

6) Any failure or refusal by you or your associates to affirmatively, actively and expressly honor any of the above reservations of rights may be criminal violations and/or may cause unjust damage to me and my interests in which case, by your commission of unauthorized actions, you will and do agree to major personal debt and obligation to me for both remedy of, and penalty for, your violations and misconduct and you agree to pay all monetary claims on demand.

7) If you do not release me immediately upon reading this notice I will presume you to be under the ) impression that you have authority and jurisdiction for my arrest for a crime (infractions are not crimes and consent must be obtained from the accused for any detention for an alleged infraction). If it should be shown at any time that you do not have full authority, cause and jurisdiction for my arrest you will be subject to civil and criminal penalty and obligated to major remedy to me. You agree to those terms by committing any unlawful or unauthorized force, command, detention or arrest against me.

8) If you fail to release me upon presentation of this notice you will be required at a time in the future to show cause for any non-consensual detention (arrest). Your failure to show cause and jurisdiction upon demand will cause major debt and obligation of you to me for all damages, losses, harm, injuries and violations of rights, in addition to possible civil and criminal actions, allegations and reports against you personally.

9) Under arrest and threat of violence by you and your armed law enforcement associates I will, under protest, be compliant and not resist any reasonable command you may issue unless I find it necessary to act in defense of my health and safety or the health and safety of others present as is allowed by law. I am competent to determine when acts of self defense are, and are not, necessary and justified. Unless you unjustly and/or unlawfully assault or commit battery upon me I pose no threat or danger to you or your associates.

10) I have **no intention to interfere with any law enforcement activity or objective and I have no intention to become "belligerent" or "agitated" or to cause any difficulty or hindrance to your authorized and legally compliant law enforcement activity.** I will not be "provoked" unless you are provoking me with hostile threats and actions. **I am not in protest or opposition against your office, your profession or any of your lawful actions. I am in protest only of your violations of my rights, if there are any, and of your misconduct, if there is any.**

11) Since I have and do rightfully deny consent for detention (above), by law you must now either release me or place me under arrest with cause, jurisdiction and proper process. In law, there is no such thing as "forced detention". Detention is voluntary, arrest is forced.

**I request that you, at this time, clearly state under the above invocations of rights, one of the following as you are required by law: Am I "free to go" or am I "under arrest". If you seek my lawful detention you must now declare my arrest and show cause and jurisdiction.**

12) If I am under arrest I refer you to the invocations of rights above. My cooperation and compliance may not, in any way, be interpreted as waiver of any rights at any time. My actions, while under threat of force and violence by law enforcement are under duress and, to avoid the violent potential of your armed presence I will comply with your reasonable directives and sustain limited personal disruption in the process to hold you accountable later. In any question of my compliance and cooperation, refer to the declarations and invocations above.

## References and Citations

"Undoubtedly **the Right of locomotion**, the ***Right*** to remove from one place to another according to inclination, **is an attribute of personal liberty**, and the **Right, ordinarily, of free transit from or through the territory of any state is a Right secured by the Fourteenth Amendment and by other provisions of the Constitution.**" ***Williams v. Fears***, 343 U.S. 270, 274.

**A citizen may have, under the Fourteenth Amendment, the right to travel and transport his property upon them by auto vehicle.** But he has no right to make the highways his place of business by using them as a common carrier for hire. Such use is a privilege which may be granted or withheld by the state in its discretion, without violating either the due process clause or the equal protection clause. ***Packard v. Banton***, 264 U.S. 140, 144[.] and ***Buck v. Kuykendall***, 267 U.S. 307, 314 (1925).



"The right to travel is so fundamental that it appears in the Articles of Confederation, which governed our society before the Constitution." Donnolly vs. Union Sewer Pipe Co., 184 US 540; Lafarier vs. Grand Trunk R.R. Co., 24 A. 848; O'Neil vs. Providence Amusement Co., 108 A. 887.

"Personal liberty largely consists of the right of locomotion, to go where and when one pleases. The right of a citizen to travel upon the public highways and to transport his property thereon, by horse-drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty, and the pursuit of happiness. Under this constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's rights, he will be protected, not only in his person, but in his safe conduct." II Am.Jur. (1st) Constitutional Law, § 329, p.1135 (American Juris Prudence)

"Personal liberty - Consists of the power of locomotion, of changing situations, of removing one's person to whatever place one's inclination may direct, without imprisonment or restraint unless by due process of law." Bovier's Law Dictionary, 1914 ed., Black's Law Dictionary 5th ed. Blackstone's Commentary 134; Hare Constitution, Pg. 777.

"Personal liberty, or the right to the enjoyment of life and liberty, is one of the fundamental or natural rights, which has been protected by its inclusion as a guaranty in the various constitutions, which is not derived from, or dependent on, the federal Constitution, and which may not be submitted to a vote and may not depend on the outcome of an election. It is one of the most sacred and valuable rights; as sacred as the right of private property; or as occupying a preferred position as contrasted with property rights; and is regarded as inalienable." 16 C.J.S., Constitutional Law, § 202, p. 987: (Corpus Juris Secundum).

"No state shall convert a liberty into a license, and charge a fee therefore." Murdock v. Pennsylvania, 319 U.S. 105.

"The right to travel is a part of the liberty of which the citizen cannot be deprived without due process of law under the 5th Amendment.' Kent v Dulles, 357 U.S. 116, 125.

"The assertion of federal rights (*Constitutional*), when plainly and reasonably made, is not to be defeated under the name of local practice."- Davis v. Wechsler, 263 U.S. 22, 24.

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda vs. Arizona, 384 US 436, 491

"The claim and exercise of a constitutional Right cannot be converted into a crime." Miller vs. U.S., 230 F. 486, 489

"The State cannot diminish rights of the people." Hertado v. California, 110 U.S. 516.

**"The use of the highways for the purpose of travel and transportation *is not a mere privilege, but a common and fundamental Right*, of which the public and the individual *cannot* be rightfully deprived." 25 Am.Jur. (1st) Highways Sect. 163, *Chicago Motor Coach vs. Chicago*, 169 NE 221; *Ligare vs. Chicago*, 28 NE 934; *Boon vs. Clark*, 214 SSW 607**

**"The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, *is a common right* which he has *under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive...*" *Thompson vs. Smith*, supra.; *Teche Lines vs. Danforth*, Miss., 12 S.2d 784 (1943).**

**"The right to operate a motor vehicle upon the public streets and highways *is not a mere privilege, it is a right or liberty*, the enjoyment of *which is protected by the guarantees of the federal and state constitutions.*" *Adams v City of Pocatello*, 416 P.2d 46, 48.**

**"The *object of a license is to confer a right or power, which does not exist without it.*" *Blatz Brewing Co. v. Collins*, 160 P.2d 37, 39; 69 Cal. A. 2d 639.**

**"A license is a privilege granted by the state" and "*cannot possibly exist with reference to something which is a Right*...to ride and drive over the streets". *City of Chicago v Cullens*, et al, 51 N.E. 907, 910, etc. (1906).**

**"Statutes that *violate the plain and obvious principles of common Right* and common reason *are null and void.*" *Bennett v. Boggs*, 1 Baldw 60.**

**"If [state] officials construe a vague statute unconstitutionally, the citizen may take them at their word, and *act on the assumption that the statute is void.*" *Wingfield v. Fielder* 2d Ca. 3d 213 (1972).**

**"Persons faced with an unconstitutional licensing law which purports to require a license as a prerequisite to exercise of right... *may ignore the law and engage with impunity in exercise of such right.*" *People v. Battle*.**

**"If the State converts a *right* (liberty) into a privilege, the citizen *can ignore the license and fee and engage in the right (liberty) with impunity.*" *Shuttlesworth v. City of Birmingham*, Alabama, 373 U.S. 262 (1963).**

**"There can be *no sanction or penalty imposed* upon one because of this exercise of Constitutional rights."- *Sherar v. Cullen*, 481 F. 2d 945.**

**"The streets of a city belong to the people of the state, *and the use thereof is an inalienable right of every citizen...*" 19 Cal.Jur. 54, § 407.**

"The **right to travel** is a well-established common **right** that **does not owe its existence to the federal government**. It is recognized by the courts as a **natural right**." **Schactman v. Dulles** 96 Appellate DC 287, 225 F2d 938, at 941.

"With regard particularly to the U.S. Constitution, **it is elementary that a Right** secured or protected by that document **cannot be overthrown or impaired by any state police authority**." **Shuttlesworth v. Birmingham** 394 U.S. 147 (1969).

"Those who have the **right** to do something **cannot be licensed for what they already have the right to do** as **such license would be meaningless**." **Bouvier's Law Dictionary**, 1914, p. 2961.

"**RIGHT** - A legal **Right**, a constitutional **Right** means a **Right protected by the law**, by the constitution, but government does not create the idea of **Right** or original **Rights**; it acknowledges them." **Escobedo v. State 35 C2d 870 in 8 Cal Jur 3d p.27**.

"**The use of the automobile as a necessary adjunct to the earning of a livelihood in modern life** requires us in the interest of realism to conclude **that the RIGHT to use an automobile on the public highways partakes of the nature of a Liberty within the meaning of the Constitutional guarantees...**" **Caneisha Mills v. D.C.** 2009.

"The **RIGHT** of the citizen **to DRIVE on the public street with freedom from police interference**, unless he is engaged in suspicious conduct associated in some manner with criminality is a **FUNDAMENTAL CONSTITUTIONAL RIGHT** which must be protected by the courts." **Simeone v. Lindsay**, 65 Atl. 778, 779; **Hannigan v. Wright**, 63 Atl. 234, 236.

"A traveler has an equal right to employ an automobile as a means of transportation and to occupy the public highways with other vehicles in common use." **Adams v. City of Pocatello**, 416 P.2d 46, 48; 91 Idaho 99 (1966).



## KNOWING YOUR JURISDICTION AND YOUR RIGHTS

Only by knowing the jurisdiction you are operating in as a sovereign American traveler can you stand your ground and defend your rights by understanding your rights as a free American under the jurisdiction of common law according to the Constitution of the United States of America. This knowledge has been hidden from us for decades, but that is about to change in a very big way. We have all been misled into believing that all people are **"DRIVERS"** and that all people are conducting commerce, therefore requiring all people to have a **"DRIVER'S LICENSE"** and a **"LICENSE"** plate in order to **"DRIVE"** their automobile. This is due to an illegal act that took place when we were born.

When we were born, there were actually two documents created regarding our birth. One is the real and legitimate record of our birth, and the other is a fraudulent certificate of our birth. The real record of our birth, the **"Record of Live Birth"**, is the official legal record of our birth as a living, breathing sovereign man or woman in America. **The "Record of Live Birth" has my name listed as Trevor Allen Winchell.** The **"Record of Live Birth"** was created under the jurisdiction of common law according to the Constitution of the United States of America. Our **"Record of Live Birth"** signifies the jurisdiction of the law we are operating in, even as infants.

The fraudulent certificate of our birth, known as the **BIRTH CERTIFICATE**, is a fraudulent document of our birth as a fictional being—meaning not living, not breathing. The fraudulent **BIRTH CERTIFICATE** has my name listed as **TREVOR ALLEN WINCHELL**. This fraudulent document, known as the **BIRTH CERTIFICATE**, is actually a bond that was created, making my fictional being, **TREVOR ALLEN WINCHELL**, collateral without my parents even knowing it. This bond was then used to create a corporation that was publicly traded on the stock market. It's called the **STRAWMAN**.

When I was born, my **STRAWMAN**, my fictional being, **TREVOR ALLEN WINCHELL**, was issued a **SOCIAL SECURITY NUMBER** with a card that had my fictional name on it: **TREVOR ALLEN WINCHELL**. The red number on the back of my **SOCIAL SECURITY CARD** is actually connected to the corporation created in my fictional **STRAWMAN** name, **TREVOR ALLEN WINCHELL**. Then, when I turned 16 and passed the **"DRIVER'S"** exam, my fictional **STRAWMAN** was granted the **"PRIVILEGE"** of a **"DRIVER'S LICENSE"** with my fictional **STRAWMAN** name in all caps: **TREVOR ALLEN WINCHELL**.

When I turned 18 and was able to vote, my fictional **STRAWMAN** name was granted a **VOTER REGISTRATION CARD** with my fictional **STRAWMAN** name in all caps: **TREVOR ALLEN WINCHELL**. When I applied for a job and got hired, I had to fill out paperwork for taxes. My check stubs and tax documents had my fictional **STRAWMAN** name in all caps: **TREVOR ALLEN WINCHELL**. When I went to a bank to open an account to deposit my paychecks, the name on my bank statements was my fictional **STRAWMAN** name in all caps: **TREVOR ALLEN WINCHELL**. When I received my ATM debit card, attached to my bank account, it had my fictional **STRAWMAN** name in all caps: **TREVOR ALLEN WINCHELL**.

I actually have a copy of both documents: my **Record of Live Birth**, which has my name listed as **Trevor Allen Winchell**, and the fraudulent certificate of my birth, known as the **BIRTH CERTIFICATE**, which has my name listed as **TREVOR ALLEN WINCHELL**, my **STRAWMAN**.

For a sovereign American traveler, requiring a "**DRIVER'S LICENSE**" is unconstitutional. For a sovereign American traveler, requiring a **LICENSE** plate on our automobile is unconstitutional. For a sovereign American, requiring us to pay taxes on the money we make **INCOME TAX** is unconstitutional. It is literally the difference between knowing what jurisdiction we are operating in as living, breathing men or women who are sovereign Americans, compared to the jurisdiction our fictional **STRAWMAN** is operating in.

For a sovereign American traveler who is traveling in their automobile and gets stopped by the police, when you give them your "**DRIVER'S LICENSE**," registration, and insurance, **YOUR NAME IS JOHN DOE** or **JANE DOE**. Even though you are traveling in your automobile, when you hand these documents to the officer, they see you as your fictional being, your **STRAWMAN**, known as **JOHN DOE** or **JANE DOE**. It's important to know that speeding tickets, not fully stopping at a stop sign, improper use of a turn signal, improper lane change, and even tickets and fines for no driver's license, registration, and insurance are all unconstitutional according to the Constitution in the jurisdiction of common law.

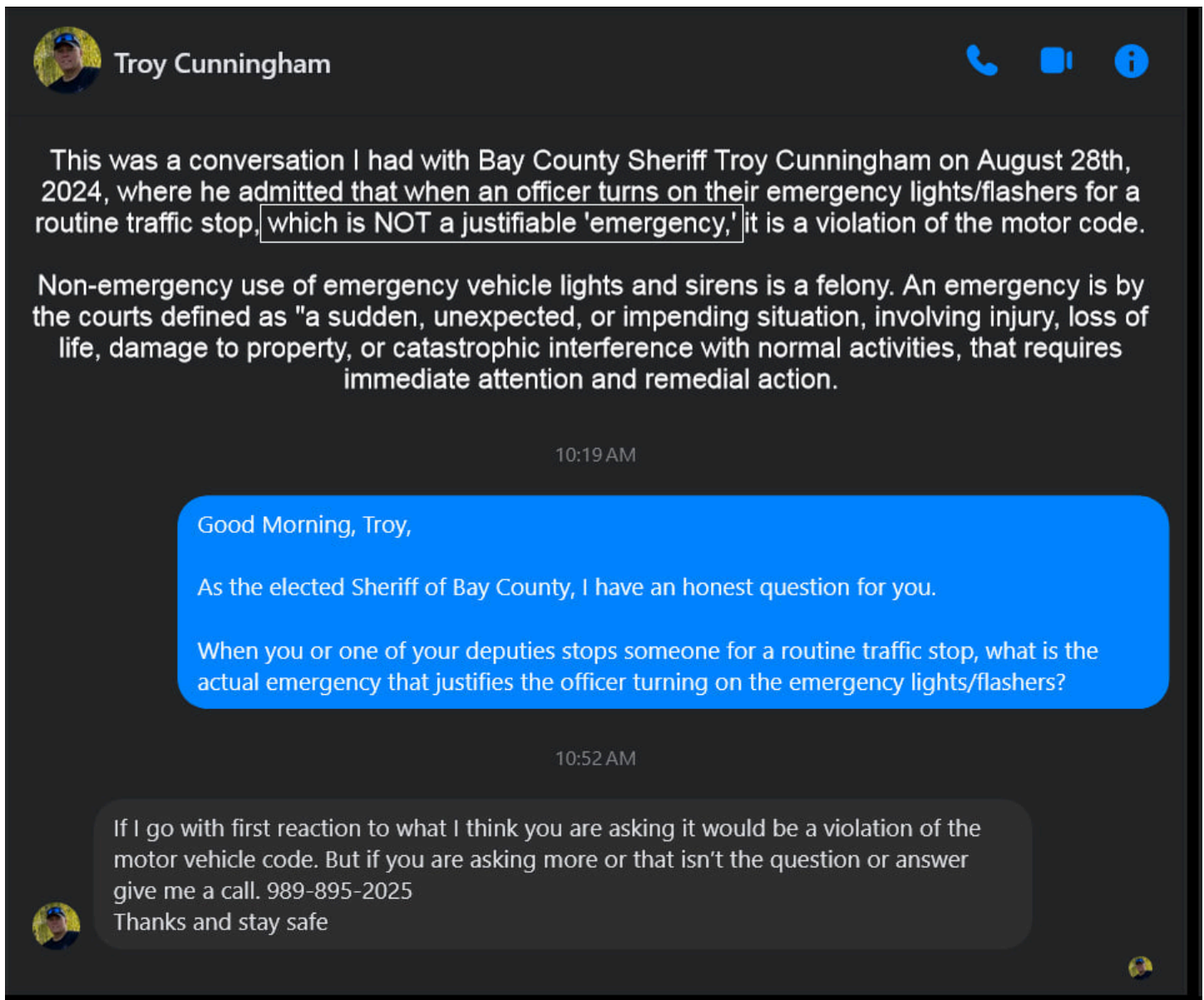
So, this is how they get away with writing tickets: they are actually writing tickets to your fictional **STRAWMAN NAME** because your fictional **STRAWMAN** operates in maritime/admiralty law. That's why your name is in all **CAPS** on your driver's license, registration, insurance, and even the title to your automobile—all in **CAPS** in your fictional **STRAWMAN** name, **TREVOR ALLEN WINCHELL**. The police know this, and they know they can't legally write you a ticket as a living, breathing individual, so they write these tickets out to your fictional **STRAWMAN** operating in the jurisdiction of maritime/admiralty law.

But you, as a living, breathing individual, are held responsible for paying these fines. Why? Two reasons: First, the policeman knows that the fictional **STRAWMAN** cannot work or make money, so therefore it can't pay these fines. The second and more important reason is because we, the people, have been lied to, misled, and deceived into believing that we are responsible for these fines when, in fact, we are not. It comes down to knowing the truth, knowing the law, knowing the jurisdiction you are operating in, and knowing your rights as a living, breathing sovereign American.



## NON-EMERGENCY USE OF EMERGENCY VEHICLE LIGHTS AND SIRENS

Non-emergency use of emergency vehicle lights and sirens is a felony. An emergency is by the courts defined as "a sudden, unexpected, or impending situation, involving injury, loss of life, damage to property, or catastrophic interference with normal activities, that requires immediate attention and remedial action."



## MICHIGAN VEHICLE CODE - Section 257.698

### Use of Lights and Sirens

#### Emergency Use Only:

Police vehicles are authorized to use flashing, oscillating, or rotating red or blue lights and sirens only when responding to an emergency situation. This includes scenarios such as pursuing a suspect, responding to a crime in progress, or other situations that pose an immediate threat to life or property.



## NOTICE OF LAW

**Non-emergency use of emergency vehicle lights and sirens is a felony. An emergency is by the courts defined as "a sudden, unexpected, or impending situation, involving injury, loss of life, damage to property, or catastrophic interference with normal activities, that requires immediate attention and remedial action.**

"State Police Power extends only to immediate threats to public safety, health, welfare, etc.," Michigan v. Duke; "The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution." (Bacahanan vs. Wanley, 245 US 60 (); Panhandle Eastern Pipeline Co. vs. State Highway Commission, 294 US 613 ()). "The Constitution is the supreme law of the land ordained and established by the people. All legislation must conform to the principles it lays down. (United States v. Butler, 297 U.S. 1, 56 S.Ct. 312, 102 A.L.R. 914 (1935))

"Federal Law and Supreme Court Cases apply to State Court Cases." (Griffin v. Mathews, 310 Supp. 341, 423 F. 2d 272; Hagans v. Lavine, 415 U.S. 528; Howlett v. Rose, 496 U.S. 356 (1990)). "Every State law must conform in the first place to the Constitution of the United States, and then to the subordinate constitutions of the particular state; and if it infringes upon the provisions of either, it is so far void." (Houston v. Moore, 18 US 1, 5 L.Ed 19 (1840)).

"Reasonable Cause or Probable Suspicion that a suspect has, or is about to commit a crime involving a victim, injury, or damage to persons or property is required to stop, detain, question, or demand Identification from a motorist. "Pretextual traffic stops are a violation of the 4th Amendment." U.S. v. Eldridge, 984 F2d 943 (1993).

"For a crime to exist, there must be an [actual or intended] injured party (Corpus Delicti).

Sherer v. Cullen 481 F. 945. A Crime is defined as "That act intended to cause injury to a person or property."

The Supreme court has held that "Without Corpus delicti there can be no crime"

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"Traffic infractions are not a crime." People v. Battle, 50 Cal. App. 3,step 1, 123 Cal.Rptr. 636,639.

"[S]peeding & running a red light are NOT a breach of the peace [unless immediate reckless endangerment of another actual person present is witnessed]." Perkins v. Texas, 812 S.W. 2d 326, 329.

An American does not have to speak with a government agent, unless the agent can demonstrate probable cause or reasonable suspicion for the stop. "Officer's questions must relate to the purpose of the stop, or detention of driver is unreasonable." - U.S. v. Barahona, 990 F2d (1993)

"Detention must be based on specific, articulable facts (SAF) and rational inferences [pertaining to the suspected commission of a crime involving a victim or property damage]. Unparticularized suspicion

and inarticulate hunches alone are not good enough. A valid investigative stop must be based on "reasonable articulable suspicion" (RAS) (U.S. v. Briggman, 931 F2d705 (1991)),

**REASONABLE SUSPICION.** This means that police suspect that you are about to commit a crime involving a victim or damage to property. Reasonable suspicion is the standard that permits police to stop you.

**PROBABLE CAUSE.** This means that it is more likely than not that a crime involving a victim or damage to property has already been committed. Police require probable cause to make an arrest. When a Police officer stops you, you are under arrest. At which point you have a right to remain silent. The officer will lie to you and tell you that you are not under arrest, and begin a discovery process not permitted by law.

"An Illegal arrest is assault and battery, and a citizen has the same right to use force in defending themselves as they would if repelling any other assault and battery." (State v. Robinson 72 alt 2d 262 (1950)); "[O]fficer who uses excessive force acts in bad faith and may be resisted. (U.S. v. Span, 970 F2d 573 (1992)) "All persons are bound, without contract, to abstain from injuring the person or property of another, or infringing on any of his or her rights." Cal Civil Code, Sec. 1708.

"If police falsely arrest you without Probable Cause [acting outside their authority as delegated by law], they have no qualified immunity and are liable for damages in their private person." (Malley v. Briggs, 475 US 335 (1986)).

## **RESPONSE TO OFFICERS REQUEST FOR NAME AND IDENTIFICATION**

"The right to privacy includes an "individual interest in avoiding disclosure of personal matters." (Whalen v. Roe, 429 US 589 (1977)); "The makers of the Constitution conferred, as against the government, the Right to be let alone; the most comprehensive of rights, and the right most valued by civilized men."

(United States Supreme Court Justice Brandeis in Olmstead v. United States (1928)) - An American has a right to privacy and to be left alone.

"You may refuse to provide the police I.D. or information." (U.S. V. Brown, 731 F2d 1491 (1984)) 'You may verbally challenge the officer's actions and ask for his ID.' (Gainor v. Roberts, 973 F2d 1379 (1992))

"An information charging the driving of a motor vehicle upon a public highway without a driver's license charges no offense, as there is no such license as a driver's license known to the law." (Keith Brooks v. State, 158 Tex. Crim. 546; 258 S.W. 2D 317).

"information alleging that the defendant operated a motor vehicle upon a highway without a "driver's license" was held insufficient to charge an offense since driver's license is not known to law." (W. Lee Hassell v. The State, 149 Tex. Crim. 333; 194 S.W. 2D 400).

'You may not be arrested solely to ascertain your identity.' (Arrington v. McDonald, 808 F2d 466 (1988))

## SEARCH AND SEIZURE

Even if your vehicle is stopped legitimately, the police may not search it without probable cause (or your consent). (**U.S. v. Wanless**, 882 F2d 1459 (1989))

'Refusing consent for search is not basis for RAS, or Probable Cause to search, or impound vehicle.' (**U.S. v. Manuel**, 992 F2d 272, (1993)); 'Government must prove alleged consent to search, and that consent was given freely and voluntarily.' (**U.S. v. Villareal**, 963 F2d 770 (1992)); Waiver of rights must be knowing and voluntary (not under threat and duress). (**White v. White**, 925 F2d 287 (1991))

"[A] political subdivision of this state may not require an owner of a motor vehicle to register the vehicle..." (Registration By Political Subdivision Prohibited -Texas Trans Code § 502.003); "[A] vehicle for which a certificate of title has been issued but that is not required to be registered, is not subject to inspection." (Vehicles Not Subject To Inspection -Texas Trans Code § 548.052).

Only those motorists in commerce, being the transportation of persons or property for profit [Taxi, Limo, tractor trailer] are required to register, insure, or license.

"The right of a citizen to use the highways, including the streets of the city or town, for travel & to transport his goods is an inherent right which cannot be taken from him."  
(**Davis v. City of Houston** (Tex. Civ. App., 1924), 264 S.W. 625, 629). "The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common right which he has under the right to life, liberty, and the pursuit of happiness."- (**Thompson v Smith** 154 SE 579).

"A state may not impose a charge for the enjoyment of a right granted by Federal constitution."  
(**Murdock vs Pennsylvania** 319 US 105 at 113 (1943)). Requiring licensing or registration of any constitutional right is itself unconstitutional. (**Follett vs. Town of McCormick**, S.C., 321 U.S. 573 (1944)); 'Should any state convert a secured liberty right into a privilege, charge a fee and issue a license for it, one may ignore the license and fee and engage in the exercise of the right with impunity.' (**Shuttlesworth vs City of Birmingham** 373 U.S. 262 (1962))

...Willful violators of constitutional requirements, which have been defined, certainly are in no position to say that they had no adequate advance notice that they would be visited with punishment. When they act willfully in the sense in which we use the word, they act in open defiance or in reckless disregard of a constitutional requirement, which has been made specific & definite. When they are convicted for so acting, they are not punished for violating an unknowable something." **Screws v. U.S.**, 325 U.S. 91 1945; Police supervisors are liable if they authorize or approve unconstitutional conduct of offending officers. -**White v. Farrier**, 849 F2d 322, (1988)

The Fourth Amendment reads: "***The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.***"



**Ignorance of the Law  
DOES NOT EXCUSE  
misconduct  
in anyone,  
least of all a sworn  
officer of the law.**

# IGNORANCE OF THE LAW

**DISCLAIMER:** I fully respect and appreciate law enforcement and their service every day. However, I also expect them to respect my rights and freedoms as an American, particularly my right to travel in my automobile on public roadways without being required to have a "LICENSE" to grant me a privilege that I already have as an American, or to require me to register my automobile with the state to make it "LEGAL," both of which are unconstitutional and a violation of my constitutional rights as an American.

Ignorance of the law is a fundamental principle in legal systems around the world, reflecting the expectation that every individual, regardless of status or profession, should have a basic understanding of the laws governing their conduct. This expectation is amplified when applied to sworn officers of the law, whose very role is predicated on upholding, enforcing, and embodying the law. These officers are not only expected to follow the law meticulously but also to understand the nuances and intricacies of the legal framework within which they operate. The idea that a sworn officer could claim ignorance as a defense for misconduct is antithetical to the very essence of their duty. Law enforcement officers undergo extensive training designed to equip them with the knowledge necessary to perform their duties lawfully and ethically. This training includes, but is not limited to, learning about constitutional rights, criminal statutes, procedural law, and the ethical standards that govern their profession. As such, any misconduct on their part cannot be excused by ignorance, as they are presumed to possess a higher level of legal knowledge and responsibility than the average citizen.

Moreover, the implications of allowing ignorance as a defense for law enforcement officers would be profound and detrimental to the justice system. It would erode public trust, as the community expects officers to be the bastions of legal integrity. The power and authority vested in law enforcement come with a corresponding level of accountability. When officers violate the law, whether through willful misconduct or negligence, it undermines the legitimacy of the legal system and damages the social contract between law enforcement and the



public. Ignorance of the law by those tasked with enforcing it can lead to unjust outcomes, wrongful arrests, and violations of civil liberties. These actions, if left unchecked, can create a culture of impunity within law enforcement agencies, where officers may feel emboldened to act outside the bounds of the law, knowing they can later claim ignorance as a shield against accountability. Therefore, maintaining a strict standard where ignorance of the law does not excuse misconduct is essential in preserving the integrity of the justice system and ensuring that all individuals, especially those in positions of power, are held to the same legal standards.

Furthermore, the notion that ignorance could excuse misconduct among law enforcement officers poses a significant risk to the broader societal order. The law serves as the foundation of society, establishing the rules that govern behavior and interactions. When those who are sworn to uphold these rules fail to do so, it creates a ripple effect, weakening the very fabric of societal trust and order. The public relies on law enforcement officers to act as the first line of defense against criminality, and any deviation from this responsibility, justified by ignorance, can have catastrophic consequences. For instance, an officer's ignorance of laws regarding search and seizure could lead to violations of individuals' Fourth Amendment rights, resulting in evidence being thrown out of court and criminals walking free. Such outcomes not only obstruct justice but also diminish the public's faith in the legal system's ability to protect their rights. This is why it is imperative that law enforcement agencies emphasize continuous education and training, ensuring that officers are always abreast of legal developments and aware of their responsibilities. In the end, the principle that ignorance of the law does not excuse misconduct is a critical safeguard that upholds the rule of law, protects civil liberties, and ensures that those entrusted with enforcing the law are themselves bound by it.



## Declaration of Status and Identity

Date: \_\_\_\_\_

I, \_\_\_\_\_, am a living, breathing American operating in the jurisdiction of common law according to the United States Constitution.

Let it be known, as a living, breathing American, I DO NOT operate in the jurisdiction of maritime/admiralty law as \_\_\_\_\_ in all capital letters.

Therefore, as \_\_\_\_\_, a living, breathing American operating in the jurisdiction of common law according to the United States Constitution, I do not comply with the laws within the jurisdiction of maritime/admiralty law. I,

\_\_\_\_\_, a living, breathing American operating in the jurisdiction of common law according to the United States Constitution, have a right from birth to travel freely in my automobile on public roadways from point A to point B as I freely choose.

I, \_\_\_\_\_, a living, breathing American operating in the jurisdiction of common law according to the United States Constitution, am not conducting commerce, nor am I, \_\_\_\_\_, a living, breathing American, or my automobile for hire. The city police of \_\_\_\_\_ and state police of \_\_\_\_\_ are operating within the jurisdiction of maritime/admiralty law; therefore, any unconstitutional laws and regulations in the jurisdiction of maritime/admiralty law are not only harassment to me as a living, breathing American, but also a direct violation of my Constitutional rights as a living, breathing American.

I, \_\_\_\_\_, a living, breathing American operating in the jurisdiction of common law according to the United States Constitution, am not required to have a DRIVER'S LICENSE that gives me a privilege for a right to travel freely that is given to me by the United States Constitution.

I, \_\_\_\_\_, a living, breathing American operating in the jurisdiction of common law according to the United States Constitution, am not required to register my automobile with the state.

I, \_\_\_\_\_, a living, breathing American operating in the jurisdiction of common law according to the United States Constitution, am not required to have insurance on my automobile.

Therefore, I, \_\_\_\_\_, a living, breathing American operating in the jurisdiction of common law according to the United States Constitution, CANNOT be held in violation of the laws and regulations in the jurisdiction of maritime/admiralty law.

Let it be known that the \_\_\_\_\_ Sheriff, who is elected by we, the people of \_\_\_\_\_, took an oath to uphold my rights as a living, breathing American operating in the jurisdiction of common law according to the United States Constitution. Therefore, any action in the jurisdiction of maritime/admiralty law taken against me as a living, breathing American operating in the jurisdiction of common law according to the United States Constitution by the \_\_\_\_\_ Sheriff or any of his deputies is a direct violation of my rights as a living, breathing American operating in the jurisdiction of common law according to the United States Constitution. If the \_\_\_\_\_ Sheriff or any of his deputies violate my constitutional rights as a living, breathing American operating in the jurisdiction of common law according to the United States Constitution, they will be held accountable. Each violation of my constitutional rights by the \_\_\_\_\_ sheriff or any of his deputies will be handled by submitting a claim against the surety bond of the \_\_\_\_\_ Sheriff for each violation of my constitutional rights with the insurance or bonding company.

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Print Name Signature Date

## **U.S. SUPREME COURT RULES NO LICENSE IS NECESSARY**

### **U.S. SUPREME COURT AND OTHER HIGH COURT CITATIONS PROVING THAT NO LICENSE IS NECESSARY FOR NORMAL USE OF AN AUTOMOBILE ON COMMON WAYS**

“The right of a citizen to travel upon the public highways and to transport his property thereon, by horse drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty and the pursuit of happiness. Under this constitutional guaranty one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another’s rights, he will be protected, not only in his person, but in his safe conduct.”

**Thompson v. Smith**, 154 SE 579, 11 American Jurisprudence, Constitutional Law, section 329, page 1135 “The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business.”

**Thompson vs. Smith**, supra.; Teche Lines vs. Danforth, Miss., 12 S.2d 784 “... the right of the citizen to drive on a public street with freedom from police interference... is a fundamental constitutional right” -White, 97 Cal.App.3d.141, 158 Cal.Rptr. 562, 566-67 (1979) “citizens have a right to drive upon the public streets of the District of Columbia or any other city absent a constitutionally sound reason for limiting their access.”

**Caneisha Mills v. D.C.** 2009 “The use of the automobile as a necessary adjunct to the earning of a livelihood in modern life requires us in the interest of realism to conclude that the RIGHT to use an automobile on the public highways partakes of the nature of a liberty within the meaning of the Constitutional guarantees. . .”

Berberian v. Lussier (1958) 139 A2d 869, 872, See also: Schechter v. Killingsworth, 380 P.2d 136, 140; 93 Ariz. 273 (1963). “The right to operate a motor vehicle [an automobile] upon the public streets and highways is not a mere privilege. It is a right of liberty, the enjoyment of which is protected by the guarantees of the federal and state constitutions.”

**Adams v. City of Pocatello**, 416 P.2d 46, 48; 91 Idaho 99 (1966). “A traveler has an equal right to employ an automobile as a means of transportation and to occupy the public highways with other vehicles in common use.”

**Campbell v. Walker**, 78 Atl. 601, 603, 2 Boyce (Del.) 41. “The owner of an automobile has the same right as the owner of other vehicles to use the highway,\* \* \* A traveler on foot has the same right to the use of the public highways as an automobile or any other vehicle.”

**Simeone v. Lindsay**, 65 Atl. 778, 779; Hannigan v. Wright, 63 Atl. 234, 236. “The RIGHT of the citizen to DRIVE on the public street with freedom from police interference, unless he is engaged in suspicious conduct associated in some manner with criminality is a FUNDAMENTAL CONSTITUTIONAL RIGHT which must be protected by the courts.” People v. Horton 14 Cal. App. 3rd 667 (1971) “The right to make use of an automobile as a vehicle of travel long the highways of the state, is no longer an open question. The owners thereof have the same rights in the roads and streets as the drivers of horses or those riding a bicycle or traveling in some other vehicle.”

**House v. Cramer**, 112 N.W. 3; 134 Iowa 374; Farnsworth v. Tampa Electric Co. 57 So. 233, 237, 62 Fla. 166. “The automobile may be used with safety to others users of the highway, and in its proper use upon the highways there is an equal right with the users of other vehicles properly upon the highways. The law recognizes such right of use upon general principles.

**Brinkman v Pacholike**, 84 N.E. 762, 764, 41 Ind. App. 662, 666. “The law does not denounce motor carriages, as such, on public ways. They have an equal right with other vehicles in common use to occupy the streets and roads. It is improper to say that the driver of the horse has rights in the roads superior to the driver of the automobile. Both have the right to use the easement.”

**Indiana Springs Co. v. Brown**, 165 Ind. 465, 468. U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets No License Is Necessary Copy and Share Freely YHVH.name 2 2 “A highway is a public way open and free to any one who has occasion to pass along it on foot or with any kind of vehicle.” Schlesinger v. City of Atlanta, 129 S.E. 861, 867, 161 Ga. 148, 159;

**Holland v. Shackelford**, 137 S.E. 2d 298, 304, 220 Ga. 104; Stavola v. Palmer, 73 A.2d 831, 838, 136 Conn. 670 “There can be no question of the right of automobile owners to occupy and use the public streets of cities, or highways in the rural districts.” Liebrecht v. Crandall, 126 N.W. 69, 110 Minn. 454, 456 “The word ‘automobile’ connotes a pleasure vehicle designed for the transportation of persons on highways.”

**American Mutual Liability Ins. Co., vs. Chaput**, 60 A.2d 118, 120; 95 NH 200 Motor Vehicle: 18 USC Part 1 Chapter 2 section 31 definitions: “(6) Motor vehicle. – The term “motor vehicle” means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways...” 10) The term “used for commercial purposes” means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit. “A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received.”

**International Motor Transit Co. vs. Seattle**, 251 P. 120 The term ‘motor vehicle’ is different and broader than the word ‘automobile.’”

**City of Dayton vs. DeBrosse**, 23 NE.2d 647, 650; 62 Ohio App. 232 “Thus self-driven vehicles are classified according to the use to which they are put rather than according to the means by which they are propelled” – Ex Parte Hoffert, 148 NW 20 ”

The Supreme Court, in **Arthur v. Morgan**, 112 U.S. 495, 5 S.Ct. 241, 28 L.Ed. 825, held that carriages were properly classified as household effects, and we see no reason that automobiles should not be similarly disposed of.”

**Hillhouse v United States**, 152 F. 163, 164 (2nd Cir. 1907). “...a citizen has the right to travel upon the public highways and to transport his property thereon...” **State vs. Johnson**, 243 P. 1073; **Cummins vs. Homes**, 155 P. 171; **Packard vs. Banton**, 44 S.Ct. 256; **Hadfield vs. Lundin**, 98 Wash 516, **Willis vs. Buck**, 263 P. 1 982;

**Barney vs. Board of Railroad Commissioners**, 17 P.2d 82 “The use of the highways for the purpose of travel and transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived.”

**Chicago Motor Coach vs. Chicago**, 169 NE 22; Ligare vs. Chicago, 28 NE 934; Boon vs. Clark, 214 SSW 607; 25 Am.Jur. (1st) Highways Sect.163 “the right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business... is the usual and ordinary right of the Citizen, a right common to all.” –

Ex Parte Dickey, (**Dickey vs. Davis**), 85 SE 781 “Every Citizen has an unalienable RIGHT to make use of the public highways of the state; every Citizen has full freedom to travel from place to place in the enjoyment of life and liberty.” **People v. Nothaus**, 147 Colo. 210. “No State government entity has the power to allow or deny passage on the highways, byways, nor waterways... transporting his vehicles and personal property for either recreation or business, but by being subject only to local regulation i.e., safety, caution, traffic lights, speed limits, etc. Travel is not a privilege requiring licensing, vehicle registration, or forced insurances.”

**Chicago Coach Co. v. City of Chicago**, 337 Ill. 200, 169 N.E. 22. “Traffic infractions are not a crime.” **People v. Battle** “Persons faced with an unconstitutional licensing law which purports to require a license as a prerequisite to exercise of right... may ignore the law and engage with impunity in exercise of such right.”

**Shuttlesworth v. Birmingham** 394 U.S. 147 (1969). U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets No License Is Necessary Copy and Share Freely YHVH.name 3 “The word ‘operator’ shall not include any person who solely transports his own property and who transports no persons or property for hire or compensation.”

Statutes at Large California Chapter 412 p.83 “Highways are for the use of the traveling public, and all have the right to use them in a reasonable and proper manner; the use thereof is an inalienable right of every citizen.” **Escobedo v. State** 35 C2d 870 in 8 Cal Jur 3d p.27 “RIGHT — A legal RIGHT, a constitutional RIGHT means a RIGHT protected by the law, by the constitution, but government does not create the idea of RIGHT or original RIGHTS; it acknowledges them. . . “Bouvier’s Law

Dictionary, 1914, p. 2961. “Those who have the right to do something cannot be licensed for what they already have right to do as such license would be meaningless.”

**City of Chicago v Collins** 51 NE 907, 910. “A license means leave to do a thing which the licensor could prevent.” **Blatz Brewing Co. v. Collins**, 160 P.2d 37, 39; 69 **City of Chicago v Collins** 51 NE 907, 910. “A license means leave to do a thing which the licensor could prevent.” **Blatz Brewing Co. v. Collins**, 160 P.2d 37, 39; 69 Cal. A. 2d 639. “The object of a license is to confer a right or power, which does not exist without it.”

**Payne v. Massey** (19\_\_ ) 196 SW 2nd 493, 145 Tex 273. “The court makes it clear that a license relates to qualifications to engage in profession, business, trade or calling; thus, when merely traveling without compensation or profit, outside of business enterprise or adventure with the corporate state, no license is required of the natural individual traveling for personal business, pleasure and transportation.”

**Wingfield v. Fielder** 2d Ca. 3d 213 (1972). “If [state] officials construe a vague statute unconstitutionally, the citizen may take them at their word, and act on the assumption that the statute is void.” –

**Shuttlesworth v. Birmingham** 394 U.S. 147 (1969). “With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority.” *Donnolly vs. Union Sewer Pipe Co.*, 184 US 540; *Lafarier vs. Grand Trunk R.R. Co.*, 24 A. 848; *O’Neil vs. Providence Amusement Co.*, 108 A. 887. “The right to travel (called the right of free ingress to other states, and egress from them) is so fundamental that it appears in the Articles of Confederation, which governed our society before the Constitution.”

**(Paul v. Virginia)**. “[T]he right to travel freely from State to State ... is a right broadly assertable against private interference as well as governmental action. Like the right of association, it is a virtually unconditional personal right, guaranteed by the Constitution to us all.” (U.S. Supreme Court,

**Shaprio v. Thompson)**. EDGERTON, Chief Judge: “Iron curtains have no place in a free world. ...’Undoubtedly the right of locomotion, the right to remove from one place to another according to inclination, is an attribute of personal liberty, and the right, ordinarily, of free transit from or through the territory of any State is a right secured by the Constitution.’

**Williams v. Fears**, 179 U.S. 270, 274, 21 S.Ct. 128, 45 L.Ed. 186. “Our nation has thrived on the principle that, outside areas of plainly harmful conduct, every American is left to shape his own life as he thinks best, do what he pleases, go where he pleases.” *Id.*, at 197.

**Kent vs. Dulles** see Vestal, *Freedom of Movement*, 41 Iowa L.Rev. 6, 13—14. “The validity of restrictions on the freedom of movement of particular individuals, both substantively and procedurally, is precisely the sort of matter that is the peculiar domain of the courts.” Comment, 61 Yale L.J. at page 187. “a person detained for an investigatory stop can be questioned but is “not obliged to answer, answers may not be compelled, and refusal to answer furnishes no basis for an arrest.” Justice White, *Hiibel* “Automobiles have the right to use the highways of the State on an equal footing with other vehicles.”



**Cumberland Telephone. & Telegraph Co. v. Yeiser** 141 Kentucky 15. “Each citizen has the absolute right to choose for himself the mode of conveyance he desires, whether it be by wagon or carriage, by horse, motor or electric car, or by bicycle, or astride of a horse, subject to the sole condition that he will observe all those requirements that are known as the law of the road.”

**Swift v. City of Topeka**, 43 U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets No License Is Necessary Copy and Share Freely YHVV.name 4 Kansas 671, 674. The Supreme Court said in U.S. v Mersky (1960) 361 U.S. 431: An administrative regulation, of course, is not a “statute.” A traveler on foot has the same right to use the public highway as an automobile or any other vehicle.

**Cecchi v. Lindsay**, 75 Atl. 376, 377, 1 Boyce (Del.) 185. Automotive vehicles are lawful means of conveyance and have equal rights upon the streets with horses and carriages.

**Chicago Coach Co. v. City of Chicago**, 337 Ill. 200, 205; See also: Christy v. Elliot, 216 Ill. 31; Ward v. Meredith, 202 Ill. 66; Shinkle v. McCullough, 116 Ky. 960; Butler v. Cabe, 116 Ark. 26, 28-29. ...automobiles are lawful vehicles and have equal rights on the highways with horses and carriages. Daily v. Maxwell, 133 S.W. 351, 354.

**Matson v. Dawson**, 178 N.W. 2d 588, 591. A farmer has the same right to the use of the highways of the state, whether on foot or in a motor vehicle, as any other citizen.

**Draffin v. Massey**, 92 S.E.2d 38, 42. Persons may lawfully ride in automobiles, as they may lawfully ride on bicycles. Doherty v. Ayer, 83 N.E. 677, 197 Mass. 241, 246;

**Molway v. City of Chicago**, 88 N.E. 485, 486, 239 Ill. 486; Smiley v. East St. Louis Ry. Co., 100 N.E. 157, 158. “A soldier’s personal automobile is part of his ‘household goods[.]’”

**U.S. v Bomar**, C.A.5(Tex.), 8 F.3d 226, 235” 19A Words and Phrases – Permanent Edition (West) pocket part 94. “[I]t is a jury question whether ... an automobile ... is a motor vehicle[.]”

**United States v Johnson**, 718 F.2d 1317, 1324 (5th Cir. 1983). Other right to use an automobile cases: –

**EDWARDS VS. CALIFORNIA**, 314 U.S. 160 –

**TWINING VS NEW JERSEY**, 211 U.S. 78 – WILLIAMS VS. FEARS, 179 U.S. 270, AT 274 – CRANDALL VS. NEVADA, 6 WALL. 35, AT 43-44 – THE PASSENGER CASES, 7 HOWARD 287, AT 492 – U.S. VS. GUEST, 383 U.S. 745, AT 757-758 (1966) –

**GRIFFIN VS. BRECKENRIDGE**, 403 U.S. 88, AT 105-106 (1971) – CALIFANO VS. TORRES, 435 U.S. 1, AT 4, note 6 –

**SHAPIRO VS. THOMPSON**, 394 U.S. 618 (1969) – CALIFANO VS. AZNAVORIAN, 439 U.S. 170, AT 176 (1978) Look the above citations up in American Jurisprudence. Some citations may be paraphrased.

## **Supreme Court Cases**

**MARBURY V. MADISON**, 5 U.S. 137. "The constitution of the United States is the supreme law of the land. Any in conflict is null and void of law." [emphasis added]

**Miranda vs. Arizona**, 384 US 436, 491 "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

**MURDOCK v. PENNSYLVANIA**, 319 U.S. 105 Can the state arbitrarily convert a secured liberty, [insert your recognized right here], into a privilege, and issue a license and fee for it? NO: "No state may convert a secured liberty into a privilege, and issue a license and fee for it."

**SHUTTLESWORTH V. BIRMINGHAM**, ALABAMA, 373 U.S. 262 If a state does attempt to convert the right into a privilege and attempts to issue a license and fee for the exercise of that privilege; can it be enforced as law? NO: "If the state does convert a right into a privilege and issue a license and charge a fee for it, you can ignore the license and fee and engage in the right with impunity."

**U.S. v. BISHOP**, 412 U.S. 346. Did you willfully and with intent violate the law? NO: "Willfulness is one of the major elements, which is required to be proven in any criminal element. You will have to prove (1) that you are the party (2) that you had a method or opportunity to do the thing, and (3) that you did so with willful intent. Willful is defined as an evil motive or intent to avoid a known duty or task under the law."

**Kent v. Dulles**, 357 U.S. 116, 125. The right to travel is a part of the "liberty" of which the citizen cannot be deprived without due process of law under the Fifth Amendment. So much is conceded by the solicitor general. In Anglo Saxon law that right was emerging at least as early as Magna Carta. Kent v. Dulles, 357 U.S. 116, 125.

**People vs Battle** Traffic infractions are not a crime." People v. Battle, 50 Cal. App. step 1, Super, 123 Cal. Rptr. 636, "Traffic infractions are not a crime." People v. Battle "To this end, the Fourth Amendment requires that a seizure must be based on specific objective facts indicating that society's legitimate interests require the seizure of the particular individual, or that the seizure must be carried out pursuant to a plan embodying explicit, neutral limitations on the conduct of individual officers.

**Hurtado v. California**, 110 U.S. 516. The State cannot diminish the rights of the people.

# **Practicing Law Without A License**

**NAACP vs Button** the Court held that the activities of the NAACP amounted to "modes of expression and association protected by the First and Fourteenth Amendments which Virginia may not prohibit." NAACP-initiated litigation was "a form of political expression" and not "a technique of resolving private differences,"

**Schwabe v. Board** of Examiners, 353 U.S. 232 (1957). There is no such thing as an Attorney License to practice law. The UNITED STATES SUPREME COURT held a long time ago that 'The practice of Law CANNOT be licensed by any state/State.'

"A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection [353 U.S. 232, 239] Clause of the Fourteenth Amendment.

Further, as a CERTIFICATE IS NOT A LICENSE then it also gives no power to anyone to practice Law AS AN OCCUPATION, nor to DO BUSINESS AS A LAW FIRM.

**Sims v. Ahrens**, 271 S.W. 720 (1925) "The practice of Law is an occupation of common right." Further, The state bar association is not a government entity. The state bar ass...is "PROFESSIONAL ASSOCIATION" and their "STATE BAR" CARD IS NOT A LICENSE either. All that card is – is a "UNION DUES CARD" like the Actors Union, Painters Union, Electricians union etc.

## **Travel vs. Driving**

**SHAPIRO v. THOMPSON** 394 US 618 "All citizens must be free to travel throughout the United States uninhibited by statutes, rules, and regulations..."

**THOMPSON v. SMITH**, 155 Va 367 "The RIGHT of the citizen TO TRAVEL UPON THE PUBLIC HIGHWAYS and to transport his property thereon, either by horse-drawn carriage OR BY AUTOMOBILE, IS NOT A MERE PRIVILEGE which the city may prohibit or permit at will, BUT IS A COMMON RIGHT."

**CHICAGO MOTOR COACH v. CHICAGO**, 169 NE 221 Chicago , 337 Ill. 200, 169 NE 22, 66 ALR 834. Ligare v. Chicago , 139 Ill. 46, 28 NE 934. Boone v. Clark JUR (1st) Highways, Sec. 163. , 214 SW 607; 25 A M "The use of the highway for the purpose of travel and transportation is not a mere privilege, but a common fundamental right of which the public and individuals cannot rightfully be deprived."

**SHUTTLESWORTH v. BIRMINGHAM**, ALABAMA, 373 US 262 "If the state does convert your right into a privilege and issue a license and charge a fee for it, you can ignore the license and fee and engage in the right with impunity."

# **My car is NOT a "Motor Vehicle"**

**USC Title 18, § 31 9(6)** - Definition of "**Motor Vehicle**": "The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers and property, or property or cargo."

**USC Title 18, § 31(10)** - Definition of "**Commercial Purposes**": "The term "used for commercial purposes" means the carriage of the persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking for profit."

So your car, SUV, or motorcycle is only a "commercial vehicle" if you are getting paid to "drive" it. If you are only using it to travel around to go to work, school, groceries, or any other private reason then it IS NOT A "MOTOR VEHICLE".

Here is the dilemma, when the government started requiring the commercial vehicles to be registered and licensed it made that a regulable activity for that purpose. They made everyone else believe it was the same for the general public. The police, you and all your friends are taught that you are always 'operating' a 'motor vehicle' which are both commercial regulable activities.

May the state change the definition of a word or term (MOTOR VEHICLE) from the original meaning (USC Title 18, § 31 (6) to another definition to fit their own needs? NO:

**CRAIG v. MISSOURI**, U S 29, 410 The state cannot change the meaning of "motor vehicle" and "driver" to fit their own needs: "Is the proposition to be maintained, that the constitution meant to prohibit names and not things? That a very important act, big with great and ruinous mischief which is expressly forbidden by words most appropriate for its description; may be performed by the substitution of a name? That the constitution, in one of its most important provisions, may be openly evaded by giving a new name to an old thing? We cannot think so." [...The State] cannot change the name of a thing to avoid the mandates of the Constitution.]"

What the United States Supreme Court, the highest court in the land, says here is that the state cannot change the meaning of "person traveling" to "driver", and they cannot change the name or term of "private car," "pickup" or "motorcycle" to "Motor Vehicle".

## ENGAGED IN THE ACT OF COMMERCE?

Where's my state registration as a business? Why haven't I been paid??? I haven't taken anyone's taxes for my own use. You're sadly mistaken and misguided. The license is to use "their" vehicles. The license is to use vehicles that are "registered in commerce"! [First of all, you do not seem to know how the so-called "money system" functions.]

Absent a fully disclosed and actual maritime contract entered in evidence and subjected by the court to examination and open discussion, no valid contract can be presumed to exist and no American ESTATE or other vessel can be prosecuted under any maritime or admiralty jurisdiction. All "statutory law" is maritime law... "statutory law" applies uniquely to statutory entities - legal fictions created by statute.

Commerce cannot be compelled. Therefore, the STATE cannot compel anyone at any time to place any car or truck into commerce. Thus, for someone to place a car or truck into commerce, or at least to render it "commerce ready," is for that someone to act fully voluntarily. A "motor vehicle" is a car owned in trust, by which trust that car is voluntarily made "commerce ready." No car is even "commerce ready" by STATE edict, but only by purely "voluntary" conduct by the "owner." The STATE can never produce any agreement that proves up any trust that justifies calling anything relevant a "motor vehicle." Those elements aren't even alleged in any "Accusations".

### **18 U.S.C. § 31: US Code Section 31:**

(a) (6) Motor vehicle. The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

(a) (10) Used for commercial purposes. - The term "used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

"Personal liberty largely consists of the Right of locomotion to go where and when one pleases -- only so far restrained as the Rights of others may make it necessary for the welfare of all other citizens. The Right of the Citizen to travel upon the public highways and to transport his property thereon, by horse drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but the common Right which he has under his Right to life, liberty, and the pursuit of happiness. Under this Constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's Rights, he will be protected, not only in his person, but in his safe conduct." American Jurisprudence 1st Edition, Constitutional Law, Sect.329, p.1135.

"The Supreme Court has recognized that personal liberty includes 'the right of locomotion, the right to move from one place to another according to inclination.'" Davis v. City of Houston, (Tex. Civ. App., 1924), 264 S.W. 625, 629.

"The term "Motor Vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

The term "used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit." 18 USC § 31.

"Residents, as distinguished from citizens, are aliens who are permitted to take up a permanent abode in the country. Being bound to the society by reason of their dwelling in it, they are subject to its laws so long as they remain there, and, being protected by it, they must defend it, although they do not enjoy all the rights of citizens. They have only certain privileges which the law, or custom, gives them. Permanent residents are those who have been given the right of perpetual residence. They are a sort of citizen of a less privileged character, and are subject to the society without enjoying all its advantages. Their children succeed to their status; for the right of perpetual residence given them by the State passes to their children." The Law of Nations, Vattel, Book 1, Chapter 19, Section 213, p. 87.

"DRIVER. One EMPLOYED in conducting or operating a coach, carriage, wagon, or other vehicle, with horses, mules, or other animals, or a bicycle, tricycle, or motor car, though not a street railroad car. A person actually doing driving, whether employed by owner to drive or driving his own vehicle. Wallace v. Woods, 340 Mo. 452, 102 S.W.2d 91, 97." Black's Law Dictionary 4th Edition, page 585 [emphasis added].

"It will be observed from the language of the ordinance that a distinction is to be drawn between the terms 'operator' and 'driver'; the 'operator' of the service car being the person who is licensed to have the car on the streets in the business of carrying passengers for hire; while the 'driver' is the one who actually drives the car. However, in the actual prosecution of business, it was possible for the same person to be both 'operator' and 'driver.'" Newbill vs. Union Indemnity Co., 60 SE.2d 658.

"Automobiles purchased for the purpose of transporting buyer to and from his place of employment were consumer goods" as defined in UCC §9-109." Mallicoat v Volunteer Finance & Loan Corp., 3 UCC Rep Serv 1035; 415 S.W.2d 347.

By operation of law, U.C.C. ARTICLE 9 PART 1 § 9-109 mirrored by, for example, PA TITLE 13 SUBCHAPTER A § 9102 eliminates any obligation or constraints by commercial regulation.

U.C.C.- ARTICLE 9 (1) "consumer goods"; UCC filings are to give notice on the public side collateral rights-CONSUMER PRODUCT per U.C.C. ARTICLE 9 (1) "consumer goods"; CONSUMER GOODS ARE NOT REQUIRED TO BE REGISTERED.

"All household goods owned by the user thereof and used solely for noncommercial purposes shall be exempt from taxation, and such person to such exemption shall not be required to take any affirmative action to receive the benefit from such exemption."

**IF THERE IS NO BREACH OF THE PEACE, AND NOT CARRYING PASSENGERS OR PROPERTY FOR HIRE, THEN IT IS AN UNLAWFUL ILLEGAL ARREST An illegal arrest is an Assault and Battery.**

- Ask them if there was a breach of the peace - they should answer "NO".
- Ask them if they have a court order - they should say "NO".
- "Since there was no breach of the peace and you do not have a court order, then just so I am aware what is going on here, ...you are not operating in your official capacity but you are operating in your private capacity as a revenue officer under the federal tax lien act of 1966, is that correct?"
- Do you have any evidence that I am carrying passengers or property for hire - he should answer "NO".
- Since you are operating in your private capacity as a revenue officer, and you have that uniform on, then you are impersonating a peace officer (a Felony).
- Tell that everything they are looking for is hearsay evidence and inadmissible as evidence in a court of law.

I choose to remain silent and I want my Constitutional lawyer as protected under the 6th Amendment.

- Am I under arrest?
- You are being detained.
- The courts have ruled that if I am NOT free to go, then I am custodial arrested.
- Am I free to go?

THIS IS WHAT "TRAFFIC" IS: "Traffic: COMMERCE, trade, sale or exchange of merchandise, bills, money and the like." -Bouviere's Law Dictionary.

THIS IS WHAT A "DRIVER" IS: " 'Driver' means any person who drives, operates or is in physical control of a COMMERCIAL motor vehicle, or who is required to hold a COMMERCIAL driver's license" -Conn. Gen. Stats. Title 14 sec. 1 # 20.

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"The right to travel is part of the liberty of which a citizen cannot be deprived without due process of law under the 5th Amendment. (1215 c.e.) Kent v Dules 357 US 116 (1958).

"The right to travel over a street or highway is a primary absolute right of everyone." Foster's, Inc. v. Boise City, 118 P.2d 721, 728.

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"...the reason for the initial detention, speeding & running a red light are not a breach of the peace." Perkins v Texas, 812 S.W. 2d 326.

"...engaged in the act of commerce"??? Where's my state registration as a business? Why haven't I been paid??? I haven't taken anyone's taxes for my own use. Your sadly mistaken and misguided. The license is to use "their" vehicles. The license is to use vehicles that are "registered in commerce"! [First of all, you do not seem to know how the so-called "money system" functions.]

Absent a fully disclosed and actual maritime contract entered in evidence and subjected by the court to examination and open discussion, no valid contract can be presumed to exist and no American ESTATE or other vessel can be prosecuted under any maritime or admiralty jurisdiction. All "statutory law" is maritime law... "statutory law" applies uniquely to statutory entities legal fictions created by statute.

Commerce cannot be compelled. Therefore, the STATE cannot compel anyone at any time to place any car or truck into commerce. Thus, for someone to place a car or truck into commerce, or at least to render it "commerce ready," is for that someone to act fully voluntarily. A "motor vehicle" is a car owned in trust, by which trust that car is voluntarily made "commerce ready." No car is even "commerce ready" by STATE edict, but only by purely "voluntary" conduct by the "owner." The STATE can never produce any agreement that proves up any trust that justifies calling anything relevant a "motor vehicle." Those elements aren't even alleged in any "Accusations".



## 18 U.S.C. § 31: US Code Section 31:

(a) (6) Motor vehicle. The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

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- Tell that everything they are looking for is hearsay evidence and inadmissible as evidence in a court of law

I choose to remain silent and I want my lawyer

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- You are being detained.
- The courts have ruled that if I am NOT free to go, then I am arrested.
- Am I free to go?

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## Right to Travel

### **DESPITE ACTIONS OF POLICE AND LOCAL COURTS, HIGHER COURTS HAVE RULED THAT AMERICAN CITIZENS HAVE A RIGHT TO TRAVEL WITHOUT STATE PERMITS**

By Jack McLamb (from Aid & Abet Newsletter)

For years professionals within the criminal justice system have acted on the belief that traveling by motor vehicle was a privilege that was given to a citizen only after approval by their state government in the form of a permit or license to drive. In other words, the individual must be granted the privilege before his use of the state highways was considered legal. Legislators, police officers, and court officials are becoming aware that there are court decisions that disprove the belief that driving is a privilege and therefore requires government approval in the form of a license. Presented here are some of these cases:

CASE #1: "The use of the highway for the purpose of travel and transportation is not a mere privilege, but a common fundamental right of which the public and individuals cannot rightfully be deprived." *Chicago Motor Coach v. Chicago*, 169 NE 221.

CASE #2: "The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty, and the pursuit of happiness." *Thompson v. Smith*, 154 SE 579.

It could not be stated more directly or conclusively that citizens of the states have a common law right to travel, without approval or restriction (license), and that this right is protected under the U.S Constitution.

CASE #3: "The right to travel is a part of the liberty of which the citizen cannot be deprived without due process of law under the Fifth Amendment." *Kent v. Dulles*, 357 US 116, 125.

CASE #4: "The right to travel is a well-established common right that does not owe its existence to the federal government. It is recognized by the courts as a natural right." *Schactman v. Dulles* 96 App DC 287, 225 F2d 938, at 941.

As hard as it is for those of us in law enforcement to believe, there is no room for speculation in these court decisions. American citizens do indeed have the inalienable right to use the roadways unrestricted in any manner as long as they are not damaging or violating property or rights of others. Government -- in requiring the people to obtain drivers licenses, and accepting vehicle inspections and DUI/DWI roadblocks without question -- is restricting, and therefore violating, the people's common law right to travel.

Is this a new legal interpretation on this subject? Apparently not. This means that the beliefs and opinions our state legislators, the courts, and those in law enforcement have acted upon for years have been in error. Researchers armed with actual facts state that case law is overwhelming in determining that to restrict the movement of the individual in the free exercise of his right to travel is a serious breach of those freedoms secured by the U.S. Constitution and most state constitutions. That means it is unlawful. The revelation that the American citizen has always had the inalienable right to travel raises profound questions for those who are involved in making and enforcing state laws. The first of such questions may very well be this: If the states have been enforcing laws that are unconstitutional on their face, it would seem that there must be some way that a state can legally put restrictions -- such as licensing requirements, mandatory insurance, vehicle registration, vehicle inspections to name just a few -- on a citizen's constitutionally protected rights. Is that so?

For the answer, let us look, once again, to the U.S. courts for a determination of this very issue. In *Hertado v. California*, 110 US 516, the U.S Supreme Court states very plainly:

"The state cannot diminish rights of the people."

And in *Bennett v. Boggs*, 1 Baldw 60,

"Statutes that violate the plain and obvious principles of common right and common reason are null and void."

Would we not say that these judicial decisions are straight to the point -- that there is no lawful method for government to put restrictions or limitations on rights belonging to the people? Other cases are even more straight forward:

"The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice." *Davis v. Wechsler*, 263 US 22, at 24

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." *Miranda v. Arizona*, 384 US 436, 491.

"The claim and exercise of a constitutional right cannot be converted into a crime." *Miller v. US*, 230 F 486, at 489.

There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights." *Sherer v. Cullen*, 481 F 946

We could go on, quoting court decision after court decision; however, the Constitution itself answers our question - Can a government legally put restrictions on the rights of the American people at anytime, for any reason? The answer is found in Article Six of the U.S. Constitution:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof;...shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or laws of any State to the Contrary notwithstanding."

In the same Article, it says just who within our government that is bound by this Supreme Law:

"The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution..."

Here's an interesting question. Is ignorance of these laws an excuse for such acts by officials? If we are to follow the letter of the law, (as we are sworn to do), this places officials who involve themselves in such unlawful acts in an unfavorable legal situation. For it is a felony and federal crime to violate or deprive citizens of their constitutionally protected rights. Our system of law dictates that there are only two ways to legally remove a right belonging to the people. These are:

1. by lawfully amending the constitution, or
2. by a person knowingly waiving a particular right.

Some of the confusion on our present system has arisen because many millions of people have waived their right to travel unrestricted and volunteered into the jurisdiction of the state. Those who have knowingly given up these rights are now legally regulated by state law and must acquire the proper permits and registrations. There are basically two groups of people in this category:

1. Citizens who involve themselves in commerce upon the highways of the state. Here is what the courts have said about this: "...For while a citizen has the right to travel upon the public highways and to transport his property thereon, that right does not extend to the use of the highways...as a place for private gain. For the latter purpose, no person has a vested right to use the highways of this state, but it is a privilege...which the (state) may grant or withhold at its discretion..." *State v. Johnson*, 245 P 1073. There are many court cases that confirm and point out the difference between the right of the citizen to travel and a government privilege and there are numerous other court decisions that spell out the jurisdiction issue in these two distinctly different activities. However, because of space restrictions, we will leave it to officers to research it further for themselves.
2. The second group of citizens that is legally under the jurisdiction of the state are those citizens who have voluntarily and knowingly waived their right to travel unregulated and unrestricted by requesting placement under such jurisdiction through the acquisition of a state driver's license, vehicle registration, mandatory insurance, etc. (In other words, by contract.) We should remember what makes this legal and not a violation of the common law right to travel is that they knowingly volunteer by contract to waive their rights. If they were forced, coerced or unknowingly placed under the state's powers, the courts have said it is a clear violation of their rights. This in itself raises a very interesting question. What percentage of the people in each state have applied for and received licenses, registrations and obtained insurance after erroneously being advised by their government that it was mandatory?

Many of our courts, attorneys and police officials are just becoming informed about this important issue and the difference between privileges and rights. We can assume that the majority of those Americans carrying state licenses and vehicle registrations have no knowledge of the rights they waived in obeying laws such as these that the U.S. Constitution clearly states are unlawful, i.e. laws of no effect - laws that are not laws at all. An area of serious consideration for every police officer is to understand that the most important law in our land which he has taken an oath to protect, defend, and enforce, is not state laws and city or county ordinances, but the law that supersedes all other laws -- the U.S. Constitution. If laws in a particular state or local community conflict with the supreme law of our nation, there is no question that the officer's duty is to uphold the U.S. Constitution.

Every police officer should keep the following U.S. court ruling -- discussed earlier -- in mind before issuing citations concerning licensing, registration, and insurance:

"The claim and exercise of a constitutional right cannot be converted into a crime."  
*Miller v. US, 230 F 486, 489.*

And as we have seen, traveling freely, going about one's daily activities, is the exercise of a most basic right.

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*(Isaiah 33:22) For the Lord is our judge, the Lord is our lawgiver, the Lord is our king; he will save us.*

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County of HARRIS  
OFFICE OF THE CLERK

**FILED**

Chris Daniel  
District Clerk

JAN 23 2017

Houston, Texas

Time: \_\_\_\_\_  
By \_\_\_\_\_  
Deputy

**COMMON LAW VEHICULAR JUDICIAL NOTICE**  
**CONSTITUTIONAL DRIVERS LICENSE**

THE UNDERSIGNED Common Law Citizen [REDACTED]  
house of [REDACTED] hereby Certifies, by Rights Secured under  
provisions of the Constitution of the United States of America,  
the Constitution of the several states, Common Law, Nature and  
Laws of Natures GOD, that these Rights are retained in FEE  
SIMPLE ABSOLUTE, and held and protected with special  
regard to Rights designated and/or set forth as follows: ALSO  
NOTE Rights and Property are ONE AND THE SAME  
THING-by the Honorable Justice LOUIS BRANDIS U.S.  
SUPREME COURT.

NOTICE AND ADVISORY OF RIGHTS CLAIMED  
INVIOATE:

1) The Right to TRAVEL FREELY, UNENCUMBERED, and  
UNFETTERED is guaranteed as a RIGHT and not a mere  
privilege. That the Right to TRAVEL is such a BASIC RIGHT  
it does NOT even need to be mentioned for it is SELF-evident  
by Common Sense that the Right to TRAVEL is a  
BASIC CONCOMMITANT of a FREE Society to come and go  
from length and breath FREELY UNENCUMBERED and  
UNFETTERED distinguishes the characteristic required for a  
FREE PEOPLE TO EXIST IN FACT. Please See SHAPIRO vs.  
THOMSON, 394 U. S. 618 . Further, the Right to TRAVEL by  
private conveyance for private purposes upon the Common way  
can **NOT BE INFRINGED**. No license or permission is

RECORD THIS INSTRUMENT  
This is a true and correct copy  
of the original as filed.

required for TRAVEL when such TRAVEL IS NOT for the purpose of [COMMERCIAL] PROFIT OR GAIN on the open highways operating under license IN COMMERCE. The above named Common Law Citizen listed **IS NOT OPERATING IN COMMERCE** and as such is thereby **EXEMPTED FROM THE REQUIREMENT OF A LICENSE AS SUCH**. Further, the Texas state, is **FORBIDDEN BY LAW** from converting a BASIC RIGHT into a PRIVILEGE and requiring a LICENSE and or a FEE CHARGED for the exercise of the BASIC RIGHT. Please SEE MURDOCK vs. PENNSYLVANIA, 319 U.S. 105, and if Texas, state does **ERRONIOUSLY** convert BASIC RIGHTS into PRIVILEGES and require a License or FEE a Citizen may **IGNORE THE LICENSE OR FEE WITH TOTAL IMMUNITY FOR SUCH EXERCISE OF A BASIC RIGHT**. Please see Schuttlesworth vs. BIRMINGHAM, ALABAMA, 373 U.S. 262. Now if a Citizen exercises a BASIC RIGHT and a Law of ANY state is to the contrary of such exercise of that BASIC RIGHT, the said supposed Law of ANY state is a FICTION OF LAW and 100% **TOTALLY UNCONSTITUTIONAL** and NO COURTS ARE BOUND TO UPHOLD IT AND NO Citizen is REQUIRED TO OBEY SUCH **UNCONSTITUTIONAL LAW OR LICENSE REQUIREMENT**. Please see MARBURY vs. MADISON, 5 U.S. 137 (1803), which has never been overturned in over 194 years, see Shephard's Citations. Now further, if a Citizen relies in good faith on the advice of Counsel and or on the Decisions of the UNITED STATES SUPREME COURT that Citizen has a **PERFECT DEFENSE** to the element of WILLFULNESS and since the burden of proof of said WILLFULNESS is on the Prosecution to prove beyond a REASONABLE DOUBT, said task or burden being totally impossible to specifically perform

there is NO CAUSE OF ACTION FOR WHICH RELIEF MAY BE GRANTED BY A COURT OF LAW. Please see U.S. vs. Bishop 412 U.S. 346 . **OBVIOUSLY THERE IS NO LAWFUL CHARGE AGAINST EXERCISING A BASIC Right to TRAVEL for a regular Common Law Citizen NOT IN COMMERCE on the common way Public HIGHWAY. THAT IS THE LAW!!!The above named Citizen IS IMMUNE FROM ANY CHARGE TO THE CONTRARY AND ANY PARTY MAKING SUCH CHARGE SHOULD BE DULY WARNED OF THE TORT OF TRESPASS!!! YOU ARE TRESPASSING ON THIS Common Law Citizen!!!**

2) The original and Judicial jurisdiction of the United States Supreme Court is ALL actions in which a State may be party, thru subdivision, political or trust. This includes ALL state approved subdivisions and/or INCORPORATED Cities, Townships, Municipalities, and Villages, Et Al . Please see Article 3, Section 2, Para. (1) and (2), U.S. Constitution.

3) The undersigned has NEVER willingly and knowingly entered into ANY Contract or Contractual agreement giving up ANY Constitutional Rights which are secured by the CONSTITUTION, the SUPREME LAW OF THE LAND. This Common Law Citizen has NOT harmed any party, has NOT threatened any party, and that includes has NOT threatened or caused any endangerment to the safety or well being of any party and would leave any claimant otherwise to their strictest proofs otherwise IN A COURT OF LAW. The above named Citizen is merely exercising the BASIC RIGHT TO TRAVEL UNENCUMBERED and UNFETTERED on the Common public way or highway, which is their RIGHT TO SO DO!!!

Please see Zobel vs. Williams, 457 U.S. 55, held the **RIGHT TO TRAVEL is Constitutionally PROTECTED!!**

4) Conversion of the RIGHT TO TRAVEL into a PRIVILEGE and or CRIME is **A FRAUD** and is in clear and direct conflict with the UNITED STATES CONSTITUTION, THE SUPREME LAW OF THE LAND. LAWS made by any state, which are clearly in direct CONFLICT or REPUGNANCY are **UNCONSTITUTIONAL** and are NOT WITH STANDING IN LAW AND ARE BEING CHALLENGED AS SUCH HERE AND THEREBY ARE NULL AND VOID OF LAW ON THEIR FACE. NO COURTS ARE BOUND TO UPHOLD SUCH FICTIONS OF LAW AND NO Citizen is bound to obey such a FICTION OF LAW. SUCH REGULATION OR LAW OPERATES AS A MERE NULLITY OR FICTION OF LAW AS IF IT NEVER EXISTED IN LAW. No CITIZEN IS BOUND TO OBEY SUCH UNCONSTITUTIONAL LAW!!!!!!

5) The payment for a privilege requires a benefit to be received. As the RIGHT TO TRAVEL is already secured it is clearly unlawful to cite any charges without direct damage to the specific party. Nor may a Citizen be charged with an offense for the exercise of a CONSTITUTIONAL RIGHT, in this case the RIGHT TO TRAVEL. Please see Miller vs. UNITED STATES 230 F2d 486. Nor may a Citizen be denied **DUE PROCESS OF LAW or EQUAL PROTECTION UNDER THE LAW.**

6) The undersigned does hereby claim, declare, and certify ANY AND ALL their CONSTITUTIONAL RIGHTS INVIOLEATE from GOD and secured in THE UNITED STATES CONSTITUTION and the CONSTITUTION OF THE state wherein they abode as a SOVEREIGN, COMMON LAW CITIZEN existing and acting entirely AT THE COMMON LAW, and retains ALL BASIC RIGHTS under the

CONSTITUTION OF THE UNITED STATES OF AMERICA,  
NATURE AND NATURE'S GOD AND UNDER THE LAWS  
OF GOD THE SUPREME LAW GIVER.

7) ANY VIOLATOR OF THE ABOVE CONSTRUCTIVE  
NOTICE AND CLAIM IS CRIMINALLY TRESPASSING  
UPON THIS ABOVE NAMED COMMON LAW Citizen  
and WILL BE PROSECUTED TO THE FULLEST  
EXTENT UNDER THE SUPREME LAW OF THE LAND.  
BE WARNED OF THE TRESPASS AND THE  
ATTACHED CAVEATS. ALSO TAKE CONSTRUCTIVE  
NOTICE, IGNORANCE OF THE LAW IS NOT AN  
EXCUSE!!

SIGNATURE OF THE ABOVE NOTED Common Law Citizen  
is signed \_\_\_\_\_

WITNESS / \_\_\_\_\_

Date 01/18/2017

WITNESS \_\_\_\_\_

Date 01-18-17

or

NOTARY PUBLIC \_\_\_\_\_

MY COMMISSION \_\_\_\_\_

EXPIRES \_\_\_\_\_

Form below use for County Clerk

state of Texas

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, CLERK of the  
County of \_\_\_\_\_, thereof do

hereby certify the

Citizen above named has sworn to the contents of this document  
and that

same is TRUE AND CORRECT. IN TESTIMONY  
WHEREOF, I have

hereto set my hand and affixed the SEAL of said CIRCUIT  
COURT, at

the City of Houston, Texas

this

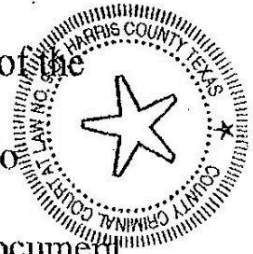
23<sup>rd</sup> day of Jan,

AD. 2017

\_\_\_\_\_  
Deputy County  
Clerk for

\_\_\_\_\_  
COUNTY  
CLERK

JAN 23 2017



HARRIS COUNTY  
**HC SO**  
SHERIFF'S OFFICE

**Oscar A. Cisneros**  
Deputy Investigator

Office of Inspector General 810 N San Jacinto-2<sup>nd</sup> Floor  
Internal Affairs Division Houston, Texas 77002  
oscar.cisneros@sheriff.hctx.net 713.274.5029 office  
www.sheriff.hctx.net 713.274.4823 fax





## NO LAW REQUIRES YOU TO RECORD YOUR PRIVATE AUTOMOBILE

As will be made painfully evident herewithin, a Private automobile is **not required by any law, code or statute to be recorded**. Any recording (**pledge**) of Private automobile to any agency is strictly **voluntary**. Any recordation / contract you or a Dealership has done was a fraudulently conveyed act as the recording agency/automobile Dealer told you that you must record your Private Property. The voluntary pledge that was done without just compensation is usually done through fraud, deceit, coercion and withholding of facts, which can only be construed as fraud and unjust enrichment by agency as well as a willful malicious act to unjustly enrich the recording agency and its public servants.

*If men, through fear, fraud or mistake, should in terms renounce or give up any natural right, the eternal law of reason and the grand end of society would absolutely vacate such renunciation. The right to freedom being the gift of Almighty God, it is not in the power of man to alienate this gift and voluntarily become a slave. Samuel Adams.*

"Men are endowed by their Creator with certain unalienable rights, -'life, liberty, and the pursuit of happiness;' and to '**secure, not grant or create, these rights**, governments are instituted. That **property which a man has honestly acquired he retains full control of**, subject to these limitations: first, that he shall **not use it to his neighbor's injury**, and that does not mean that he must use it for his neighbor's benefit: second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, **the public may take it upon payment of due compensation.**" Budd v. People of State of New York, 143 U.S. 517 (1892).

There should be **no arbitrary deprivation of life or liberty, or arbitrary spoilation of property**. (Police power, Due Process) Barber v. Connolly, 113 U.S. 27, 31; Yick Yo v. Hopkins, 118 U.S. 356.

But whenever the **operation and effect of any general regulation is to extinguish or destroy** that which **by law of the land is the property** of any person, so far as it has that effect, it is unconstitutional and void. Thus, a **law is considered as being a deprivation of property** within the meaning of this constitutional guaranty **if it deprives an owner of one of its essential attributes, destroys its value, restricts or interrupts its common, necessary, or profitable use**, hampers the owner in the application of it to the purposes of trade, **or imposes conditions upon the right to hold or use it and thereby seriously impairs its value**. (Statute) 167 Am. Jur. 2d, Constitutional Law, Section 369.

**Justice Brandeis** eloquently affirmed his condemnation of abuses practiced by Government officials, who were defendants, acting as Government officials. In the case of Olmstead vs. U.S. 277 US 438, 48 S.Ct. 564, 575; 72 L ED 944 (1928) he declared:

"Decency, security, and liberty alike **demand that Government officials shall be subjected to the same rules of conduct that are commands to the Citizen**. In a Government of laws, existence of



the Government will be imperiled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher.

For good or for ill, it teaches the whole people by its example. **Crime is contagious. If the Government becomes a law-breaker, it breeds contempt for law;** it invites every man to become a law unto himself. It invites anarchy. To declare that, in the administration of the law, the end justifies the means would bring a terrible retribution. Against that pernicious doctrine, this Court should resolutely set its face."

## **THE DUTY OF THE LICENSOR / DMV COMMISSIONER**

The information created and surrounding the **stricti juris** doctrine regarding a particular license which may, or may not, be represented by and revealed within the contents and control of a license agreement -- **"but must be revealed upon demand, and failure to do so is concealment, a withholding of material facts (the enducing, contractual consideration) known by those who have a duty and are bound to reveal."** Dolcater v. Manufacturers & Traders Trust Co., D.C.N.Y., 2F.Supp. 637, 641.

## **Is an automobile always a vehicle (or motor vehicle)?**

### **ARGUMENT:**

#### **Federal:**

**"Motor vehicle"** means every description of carriage or other contrivance propelled or drawn by mechanical power and **used for commercial purposes** on the highways in transportation of passengers, passengers and property, or property and cargo; ... **"Used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other consideration or compensation, or directly or indirectly in connection with any business, or other undertaking intended for profit[.]"** 18 U.S.C. 31.

"A **carriage** is peculiarly a family or **household** article. It contributes in a large degree to the health, convenience, comfort, and welfare of the householder or of the family." Arthur v Morgan, 113 U.S. 495, 500, 5 S.Ct. 241, 243 S.D. NY 1884).

"The **Supreme Court**, in Arthur v. Morgan, 112 U.S. 495, 5 S.Ct. 241, 28 L.Ed. 825, held that **carriages were properly classified as household effects**, and we see no reason that automobiles should not be similarly disposed of." Hillhouse v United States, 152 F. 163, 164 (2nd Cir. 1907).

"A soldier's **personal automobile** is part of his **"household goods[.]"** U.S. v Bomar, C.A.5(Tex.), 8 F.3d 226, 235" 19A Words and Phrases - Permanent Edition (West) pocket part 94. "[I]t is a jury

question whether ... an automobile ... is a motor vehicle[.]” United States v Johnson, 718 F.2d 1317, 1324 (5th Cir. 1983).

## **Is an automobile always a vehicle (or motor vehicle)?**

### **State:**

#### **Use determines classification**

"In determining whether or not a motor boat was included in the expression household effects, Matter of Winburn's Will, supra [139 Misc. 5, 247 N.Y.S. 592], stated the test to be ``whether the articles are or are not used in or by the household, or for the benefit or comfort of the family". In re Bloomingdale's Estate, 142 N.Y.S.2d 781, 785 (1955).

"The use to which an item is put, rather than its physical characteristics, determine whether it should be classified as ``consumer goods" under UCC 9- 109(1) or ``equipment" under UCC 9-109(2)." Grimes v Massey Ferguson, Inc., 23 UCC Rep Serv 655; 355 So.2d 338 (Ala., 1978).

"Under **UCC 9-109** there is a real distinction between goods purchased for personal use and those purchased for business use. The two are mutually exclusive and the **principal use to which the property is put should be considered as determinative.**" James Talcott, Inc. v Gee, 5 UCC Rep Serv 1028; 266 Cal.App.2d 384, 72 Cal.Rptr. 168 (1968).

"The **classification of goods in UCC 9-109 are mutually exclusive.**" McFadden v Mercantile-Safe Deposit & Trust Co., 8 UCC Rep Serv 766; 260 Md 601, 273 A.2d 198 (1971).

"The **classification of ``goods"** under [UCC] **9-109 is a question of fact.**" Morgan County Feeders, Inc. v McCormick, 18 UCC Rep Serv 2d 632; 836 P.2d 1051 (Colo. App., 1992).

"The definition of ``goods" **includes an automobile.**" Henson v Government Employees Finance & Industrial Loan Corp., 15 UCC Rep Serv 1137; 257 Ark 273, 516 S.W.2d 1 (1974).

#### **Household goods**

"The term ``household goods" ... **includes everything** about the house that is usually held and enjoyed therewith and that tends to the comfort and accommodation of the household. Lawwill v. Lawwill, 515 P.2d 900, 903, 21 Ariz.App. 75" 19A Words and Phrases – Permanent Edition (West) pocket part 94. Cites Mitchell's Will below.

"Bequest ... of such ``household goods and effects" ... included not only household furniture, but everything else in the house that is usually held and used by the occupants of a house to lead to the

comfort and accommodation of the household. State ex rel. Mueller v Probate Court of Ramsey County, 32 N.W.2d 863, 867, 226 Minn. 346." 19A Words and Phrases - Permanent Edition (West) 514.

**"All household goods owned by the user thereof and used solely for noncommercial purposes shall be exempt from taxation, and such person entitled to such exemption shall not be required to take any affirmative action to receive the benefit from such exemption."** Ariz. Const. Art. 9, 2.

## **Automobiles classified as vehicles**

"`[H]ousehold goods"...did not [include] an automobile...used by the testator, who was a practicing physician, in going from his residence to his office and vice versa, and in making visits to his patients." Mathis v Causey, et al., 159 S.E. 240 (Ga. 1931).

"Debtors could not avoid lien on motor vehicle, as **motor vehicles are not ``household goods**" within the meaning of Bankruptcy Code lien avoidance provision. In re Martinez, Bkrtcy.N.M., 22 B.R. 7, 8." 19A Words and Phrases - Permanent Edition (West) pocket part 94.

## **Automobiles NOT classified as vehicles**

"Automobile purchased for the **purpose of transporting buyer to and from his place of employment was ``consumer goods**" as defined in **UCC 9-109.**" Mallicoat v Volunteer Finance & Loan Corp., 3 UCC Rep Serv 1035; 415 S.W.2d 347 (Tenn. App., 1966).

"The provisions of UCC 2-316 of the Maryland UCC do not apply to sales of consumer goods (a term which includes automobiles, whether new or used, that are bought primarily for personal, family, or household use)." Maryland Independent Automobile Dealers Assoc., Inc. v Administrator, Motor Vehicle Admin., 25 UCC Rep Serv 699; 394 A.2d 820, 41 Md App 7 (1978).

"An automobile was part of testatrix' ``household goods" within codicil. In re Mitchell's Will, 38 N.Y.S.2d 673, 674, 675 [1942]." 19A Words and Phrases – Permanent Edition (West) 512. Cites Arthur v Morgan, supra.

"[T]he expression ``**personal effects**" clearly includes an automobile[.]" In re Burnside's Will, 59 N.Y.S.2d 829, 831 (1945). Cites Hillhouse, Arthur, and Mitchell's Will, supra.

"[A] yacht and six automobiles were ``personal belongings" and ``household effects[.]"" In re Bloomingdale's Estate, 142 N.Y.S.2d 781, 782 (1955).

# CONCLUSION

Is an automobile always a vehicle (or motor vehicle)? No.

This is a question of fact that **turns on the use to which the automobile in question is put** (i.e., either personal or commercial). While the presumption of an automobile being a vehicle (or motor vehicle) is created by the owner of said automobile registering same with the state as a vehicle, **this presumption may be overcome by an affirmative defense to the allegation of the automobile being a vehicle, barring any evidence to the contrary indicating commercial use.**

## Use defines Classification

Private Automobile is NOT required to be registered by Law

The **California Motor Vehicle Code, section 260**: Private cars/vans etc. not in commerce / for profit, are immune to registration fees:

(a) A “**commercial vehicle**” is a vehicle of a type **REQUIRED** to be **REGISTERED** under this code”.

(b) "Passenger vehicles which are **not used** for the transportation of persons **for hire**, compensation or profit, and housecars, **are not commercial vehicles**".

(c) "a vanpool vehicle **is not a commercial vehicle.**" and;

"A vehicle not used for commercial activity is a "**consumer goods**", ...it is **NOT** a type of vehicle **required to be registered** and “**use tax**” paid of which the tab is evidence of receipt of the tax.” **Bank of Boston vs Jones, 4 UCC Rep. Serv. 1021, 236 A2d 484, UCC PP 9-109.14.** And;

"It is held that a tax upon common carriers by motor vehicles is based upon a reasonable classification, and does not involve any unconstitutional discrimination, although **it does NOT apply to private vehicles**, or those used by the owner in his own business, and **not for hire.**" **Desser v. Wichita, (1915) 96 Kan. 820; Iowa Motor Vehicle Asso. v. Railroad Comrs., 75 A.L.R. 22.**

"Thus self-driven vehicles are **classified according to the use** to which they are put **rather than according to the means by which they are propelled.**" **Ex Parte Hoffert, 148 NW 20.** And;

"In view of this rule a statutory provision that the supervising officials "**may**" exempt such persons when the transportation is not on a commercial basis means that they "**must**" exempt them." **State v. Johnson, 243 P. 1073; 60 C.J.S. section 94 page 581.**

See **New Jersey Motor Vehicle Code Chapter 3, Section 39:3-1. Certain vehicles excepted from chapter** which reads: "**Automobile, fire engines and such self propelling vehicles as are used**

**neither for the conveyance of persons for hire, pleasure or business, nor for the transportation of freights, such as steam road rollers and traction engines are excepted from the provisions of this chapter."**

See **Annual Report of the Attorney General of the State of New York issued on July 21, 1909, ALBANY NEW YORK, pages 322-323** which reads: **"There is NO requirement that the owner of a motor vehicle shall procure a license to run the same, nor is there any requirement that any other person shall do so, unless he proposes to become a chauffeur or a person conducting an automobile as an employee for hire or wages.** Yours very truly, EDWARD R. O'MALLEY  
Attorney General.

See **Laws of New York 1901, Chapter 53, page 1316, Section 169a.**

See also **Laws of Wyoming 2002, Motor Vehicle Code, page 142, Section 31-5- 110. See RCW 5.24.010!**

**"Privately owned Buses not engaged in for hire Transportation are outside the jurisdiction of Division of Motor Vehicles enforcement of N.C. G.S. Article 17, Chapter 20\*\*\*\* 58 N.C.A.G. 1 (It follows that those Citizens not engaged in extraordinary use of the highway for profit or gain are likewise outside the jurisdiction of the Division of Motor Vehicles.)**

**"Since a sale of personal property is not required to be evidenced by any written instrument in order to be valid, it has been held in North Carolina that there may be a transfer of title to an automobile without complying with the registration statute which requires a transfer and delivery of a certificate of title." N.C. Law Review Vol. 32 page 545, Carolina Discount Corp. v. Landis Motor Co., 190 N.C. 157.**

**"The following shall be exempt from the requirements of registration and the certificate of title:**  
**1.) Any such vehicle driven or moved upon the highway in conformance with the provisions of this Article relating to manufacturers, dealers, or nonresidents." 2.) Any such vehicle which is driven or moved upon a highway only for the purpose of crossing such highway from one property to another.**  
**\*\*\*\*20-51(1)(2) (comment: not driven or moved upon the highway for transporting persons or property for profit.) (Case note to North Carolina G.S. 12-3 "Statutory Construction")**

The California Constitution in Article I, Section 8 (**and similar statements made in all other state constitutions**), mandates that no one **"be compelled to be a witness against himself,"** is in agreement with the Supreme Court ruling in **Haynes v. U.S.**, 390 U.S. 85, 88 S.Ct. 722, wherein the ruling was that **to force anyone to register anything is communicative, and such communicative and such communicative evidence is precluded by the 5th Amendment.**

**"No State government entity has the power to allow or deny passage on the highways, byways, nor waterways... transporting his vehicles and personal property for either recreation or business, but by being subject only to local regulation i.e., safety, caution, traffic lights, speed limits, etc. Travel is not a privilege requiring, licensing, vehicle registration, or forced insurances. Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22.**

**The fundamental Right to travel is NOT a Privilege, it's a gift granted by your Maker, and restated by our founding fathers as Unalienable and cannot be taken by any Man / Government made Law or color of law known as a private Code (secret) or a Statute, To Wit:**

"As general rule men have natural right to do anything which their inclinations may suggest, if it be not evil in itself, and **in no way impairs the rights of others.**" **In Re Newman** (1858), 9 C. 502.

**"Traveling** is passing from place to place--act of **performing journey**; and a **traveler is person who travels.** **In Re Archy** (1858), 9 C. 47.

"Right of transit through each state, with every species of property known to constitution of United States, and recognized by that paramount law, is secured by that instrument to each citizen, and does not depend upon uncertain and changeable ground of mere comity." **In Re Archy** (1858), 9 C. 47.

"Traffic infractions are not a crime." **People v. Battle**, 50 Cal. App. 3, step 1, Super, 123 Cal. Rptr. 636, 639.

"First, it is **well established law** that the **highways** of the state **are public property**, and **their primary and preferred use is for private purposes**, and that their use for purposes of gain is special and extraordinary which, generally at least, the legislature may prohibit or condition as it sees fit." **Stephenson vs. Rinford**, 287 US 251; **Pachard vs Banton**, 264 US 140, and cases cited; **Frost and F. Trucking Co. vs. Railroad Commission**, 271 US 592; **Railroad commission vs. Inter-City Forwarding Co.**, 57 SW.2d 290; **Parlett Cooperative vs. Tidewater Lines**, 164 A. 313.

Freedom to travel is, indeed, an important aspect of the citizen's "liberty". We are first concerned with the extent, if any, to which Congress has authorized its curtailment. (Road) **Kent v. Dulles**, 357 U.S. 116, 127.

The right to travel is a part of the "liberty" of which the citizen cannot be deprived without due process of law under the Fifth Amendment. So much is conceded by the solicitor general. In Anglo Saxon law that right was emerging at least as early as Magna Carta. **Kent v. Dulles**, 357 U.S. 116, 125.

"The use of the highway for the purpose of travel and transportation is not a mere privilege but a common and fundamental right of which the public and individuals cannot rightfully be deprived." **Chicago Motor Coach v. Chicago**, 337 Ill. 200, 169 NE 22, 66 ALR 834. **Ligare v. Chicago**, 139 Ill. 46, 28 NE 934. **Boone v. Clark**, 214 SW 607; 25 AM JUR (1st) Highways, Sec. 163.

"The right of the citizen to travel upon the public highways and to transport his property thereon, either by a carriage or automobile, is not a mere privilege which a City may prohibit or permit at will, but a common right which he has under the right to Life, Liberty and the Pursuit of Happiness." **Thompson v. Smith** 154 SE 579.

"Even the legislature has no power to deny to a citizen the right to travel upon the highway and transport his property in the ordinary course of his business or pleasure, though this right may be

regulated in accordance with public interest and convenience. Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22, 206.

It is now universally recognized that the state does possess such power [to impose such burdens and limitations upon private carriers when using the public highways for the transaction of their business] with respect to common carriers using the public highways for the transaction of their business in the transportation of persons or property for hire. That rule is stated as follows by the **supreme court of the United States**: 'A citizen may have, under the fourteenth amendment, the right to travel and transport his property upon them (the public highways) by **auto vehicle**, but **he has no right to make the highways his place of business by using them as a common carrier for hire**. Such use is a privilege which may be granted or withheld by the state in its discretion, without violating either the due process clause or the equal protection clause.' (Buck v. Kuykendall, 267 U. S. 307 [38 A. L. R. 286, 69 L. Ed. 623, 45 Sup. Ct. Rep. 324].)

"The right of a citizen to travel upon the highway and transport his property thereon in the ordinary course of life and business **differs radically an obviously from that of one who makes the highway his place of business** and uses it for private gain, in the running of a stage coach or omnibus. The former is the usual and ordinary right of a citizen, a right common to all; while the latter is special, unusual and extraordinary. As to the former, the extent of legislative power is that of regulation; but as to the latter its power is broader; the right may be wholly denied, or it may be permitted to some and denied to others, because of its extraordinary nature. This distinction, elementary and fundamental in character, is recognized by all the authorities."

In Thompson v. Smith, Chief of Police. Supreme Court of Appeals of Virginia. 155 Va. 367, 154 S.E. 579, 71 A.L.R. 604. Sept. 12, 1930 **it states**:

**Constitutional law**: Citizen's right to travel upon public highways and transport his property thereon in ordinary course of life and business is common right. The right of a citizen so to do is that which he has under his right to enjoy life and liberty, to acquire property, and to pursue happiness and safety.

**Automobiles, Highways**: Citizen's right to travel upon public highways includes right to use usual conveyances of time, including horse-drawn carriage, or automobile, for ordinary purposes of life and business.

**Injunction**: Injunction lies against enforcement of **void statute or ordinance**, where **legal remedy is not as complete or adequate as injunction**, or where **threatened or attempted enforcement will do irreparable injury to person in interfering with exercise of common fundamental personal right**. By "irreparable injury" is meant an injury of such a nature that fair and reasonable redress may not be had in a court of law and that to refuse the injunction would be a denial of justice.

**Constitutional Law § 101 – right to travel – 5**. The nature of the Federal Union and constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of the United States uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement. **6**. Although not explicitly mentioned in the Federal Constitution, the right freely to travel from one state to another is a basic right under the constitution.

**Constitutional Law § 101 – law chilling assertion of rights – 7.** If a law has no other purpose than to chill the assertion of constitutional rights by penalizing those who choose to exercise them, then it is patently unconstitutional. Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322.

So with all of that in mind, cite/deliver the cases above and **you have given the agency, etc. knowledge!**

Under USC Title 42 §1986. Action for neglect to prevent ..., it states: **Every person** who, having **knowledge** that any wrongs conspired or to be done... and having power to prevent or aid in preventing ... Neglects or refuses so to do ... **shall be liable** to the **party injured**... and;

The means of "**knowledge**", especially where it consists of public record is deemed in law to be "**knowledge of the facts**". As the means of "knowledge" if it appears that the individual had notice or information of circumstances which would put him on inquiry, which, if followed, would lead to "knowledge", or that the facts were presumptively within his knowledge, he will have deemed to have had actual knowledge of the facts and may be subsequently liable for any damage or injury. You, therefore, have been given "knowledge of the facts" as it pertains to this conspiracy to commit a fraud against me.

I state now that I will **NOT waive any fundamental Rights** as:

"waivers of **fundamental Rights** must be knowing, intentional, and voluntary acts, done with sufficient awareness of the relevant circumstances and likely consequences. U.S. v. Brady, 397 U.S. 742 at 748 (1970); U.S.v. O'Dell, 160 F.2d 304 (6th Cir. 1947)".

And that the **agency committed fraud, deceit, coercion, willful intent to injure another, malicious acts, RICO activity and conspired by;**

Unconscionable "contract" - "***One which no sensible man not under delusion, or duress, or in distress would make, and such as no honest and fair man would accept.***"; Franklin Fire Ins. Co. v. Noll, 115 Ind. App. 289, 58 N.E.2d 947, 949, 950. and;

"Party cannot be bound by contract that he has not made or authorized." Alexander v. Bosworth (1915), 26 C.A. 589, 599, 147 P.607.

**And therefore;**

**"Failure to reveal the material facts of a license or any agreement is immediate grounds for estoppel."** Lo Bue v. Porazzo, 48 Cal.App.2d 82, 119, p.2d 346, 348.

The fraudulently "**presumed**" **quasi-contractus** that binds the Declarant with the CITY/STATE agency, is void for fraud ab initio, since the de facto CITY/STATE **cannot produce the material fact** (consideration inducement) or the jurisdictional clause (who is subject to said statute). (SEE: **Master / Servant [Employee] Relationship -- C.J.S.) -- "Personal, Private, Liberty"**-



Since the “consideration” is the “life blood” of any agreement or quasi-agreement, (contractus) “...**the absence of such from the record is a major manifestation of want of jurisdiction**, since without evidence of consideration there can be no presumption of even a quasi-contractus. Such is the importance of a “consideration.” **Reading R.R. Co. v. Johnson**, 7 W & S (Pa.) 317.

So **without a Contract** (no recording of the M.C.O.) or consideration there is no DMV / government etc. jurisdiction as the property does not “**reside**” in the colorable fictitious territory as evidenced in Supreme Court cite below:

In **Wheeling Steel Corp v. Fox**, 298 U.S. 193 (1936) it **states**: Property taxes can be on tangibles or intangibles. **In order to have a situs for taxation** (a basis for imposing the tax), tangible property (physical property) **must reside within the territorial jurisdiction of the taxing authority**, and intangibles...

Under **USC Title 42 §1982**. Property rights of citizens ..., further evidences the above position that the City or State cannot take land because they DO NOT have Jurisdiction. It states that federal or state governments / agencies **MUST have a monetary or proprietary interest** in your real private property in order to have jurisdiction over it (if your land has no government grant/funding or is not a subsidized government project, then agencies have neither). DEMAND any public servant/said agencies to provide the legal document that allows any federal or state agency to supercede and/or bypass **Title 42 USC §1982 and/or §1441. Title 42 §1983**. Civil action for deprivation of rights ..., further protects Declarant’s private property.

The **State cannot diminish rights of the people**. **Hurtado v. California**, 110 U.S. 516.

**"To say that one may not defend his own property is usurpation of power by legislature."**  
**O'Connell v. Judnich** (1925), 71 C.A.386, 235 P. 664.

"A state MAY NOT impose a charge for the enjoyment of a right granted (sic) by the Federal Constitution." **MURDOCK v PENNSYLVANIA**, 319 US 105.

"... THE POWER TO TAX INVOLVES THE POWER TO DESTROY". **McCULLOUGH v MARYLAND**, 4 Wheat 316.

"All subjects over which the sovereign power of the state extends are objects of taxation, **but those over which it does not extend are exempt from taxation**. This proposition may almost be pronounced as self-evident. The sovereignty of the state extends to everything **which exists by its authority or its permission**." **McCullough v Maryland**, 17 U.S. [4 Wheat] 316 (1819).

U.S. adopted **Common laws** of England with the Constitution. **Caldwell vs. Hill**, 178 SE 383 (1934).

To be that **statutes** which would deprive a citizen of the **rights** of person or property without a regular trial, according to the course and usage of **common law**, **would not be the law of the land**. (Jury)  
**Hoke v. Henderson**, 15, N.C. 15 25 AM Dec 677.

"The phrase '**common law**' found in this clause, is **used in contradistinction** to equity, admiralty, and maritime jurisprudence." **Parsons v. Bedford**, et al, 3 Pet 433, 478-9.

"If the **common law** can try the cause, and give full redress, that alone **takes away** the admiralty jurisdiction." **Ramsey v. Allegrie**, supra, p. 411.

Inferior Courts - The term may denote any court subordinate to the chief tribunal in the particular judicial system; **but it is commonly used as the designation of a court** of special, limited, or statutory jurisdiction, whose ***record must show*** the existence and attaching of jurisdiction in any given case, in order to give presumptive validity to its judgment. ***In re Heard's Guardianship***, 174 Miss. 37, 163, So. 685.

The high Courts have further decreed, that Want of Jurisdiction makes "...***all acts of judges, magistrates, U.S. Marshals, sheriffs, local police, all void and not just voidable.***" **Nestor v. Hershey**, 425 F2d 504.

Void Judgment - "***One which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally.***" **Reynolds v. Volunteer State Life Ins. Co.**, Tex.Civ.App., 80 S.W.2d 1087, 1092.

Voidable Judgment - "***One apparently valid, but in truth wanting in some material respect.***" **City of Lufkin v. McVicker**, Tex.Civ.App., 510 S.W. 2d 141, 144.

**Property MUST be devoted / pledged to the public with your consent and being fully compensated for such**

"... In one of the so-called elevator cases, that of Munn v. Illinois, 94 U. S. 113, [24 L. Ed. 77], it is said: 'When, therefore, one devotes his property to a use in which the public have an interest, he in effect grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created.' **But so long as he uses his property for private use, and in the absence of devoting it to public use, the public has no interest therein which entitles it to a voice in its control.** Other case to the same effect are Budd v. New York, 143 U. S. 517, [36 L. Ed. 247, 12 Sup. Ct. Rep. 468]; Weems Steamboat Co. v. People's Co., 214 U. S. 345, [16 Ann. Cas. 1222, 53 L. Ed. 1024, 29 Sup. Ct. Rep. 661]; Monongahela Nav. Co. v. United States, 148 U. S. 336, [37 L. Ed. 463, 13 Sup. Ct. Rep. 622]; and Del Mar Water Co. v. Eshleman, 167 Cal. 666, [140 Pac. 591, 948]. Indeed, our attention is directed to no authority in this state or elsewhere holding otherwise." Associated etc. Co. v. Railroad Commission (1917) 176 Cal. 518, 526.

"... That subjecting petitioners' property to the use of the public as common carriers constitutes a taking of the same, admits of no controversy. **'Whenever a law deprives the owner of the beneficial use and free enjoyment of his property, or imposes restraints upon such use and enjoyment that materially affect its value, without legal process or compensation, it deprives him of his property within the meaning of the constitution.** ... It is not necessary, in order to render the statute obnoxious to the restraints of the constitution, that it must in terms or effect authorize the actual physical taking of the property or the thing itself, so long as it affects its free use and enjoyment, or the power of disposition at the will of the owner.' (Forster v. Scott, 136 N. Y. 577, [18 L. R. A. 543, 32 N. E. 976]; Monongahela Nav. Co. v. United States, 148 U. S. 312, 336, [37 L. Ed. 463, 13 Sup. Ct. Rep. 622]. ... Mr. Lewis in his work on Eminent Domain, third edition, section 11, says: **'A law which authorizes the taking of private property without compensation, ... cannot be considered as due process of law in a free government.'** (Chicago etc, R. R. Co. v. Chicago, 166 U. S. 226, [41 L. Ed. 979, 17 Sup. Ct. Rep. 581]." Associated etc. Co. v. Railroad Commission (1917) 176 Cal. 518, 528-530.

It is **beyond the power of a State by legislation fiat** to convert property used exclusively in the business of a private carrier, into a public utility, or to make the owner a public carrier, for **that would be taking private property for public use without just compensation which no State can do** consistently with the due process of law clause of the 14th Amendment. (See police power) Producers Transportation Co. v. RR Commission, 251 U.S. 228, 230; Wolff Co. v. Duke, 266 U.S. 570, 578.

## **The binding shackles of Government is the Constitution, to wit:**

The laws of nature are the **laws of God**, whose authority can be **superseded by no power on earth**. A **legislature must not obstruct our obedience to Him** from whose punishments they cannot protect us. **All human constitutions which contradict His cannot protect us**. All human constitutions which contradict His (God's) laws, **we are in conscience bound to disobey**. 1772, **Robin v. Hardaway**, 1 Jefferson 109.

If the **state were to be given the power to destroy rights through taxation**, then the **framers of our constitutions wrote said documents in vain**.

A **republic** is not an easy form of government to live under, and when the responsibility of citizenship is evaded, democracy decays and authoritarianism takes over. **Earl Warren**, "A Republic, If You Can Keep It", p 13.

It is a **fundamental principle** in our institutions, indispensable **to the preservation of public liberty**, that one of the **separate departments of government shall not usurp powers committed by the Constitution to another department**. **Mugler v. Kansas**, 123 U.S. 623, 662.

An unconstitutional law is not a law, it confers no rights, imposes no duties, and affords no protection. **Norton vs. Shelby County**, 118 US 425.

"Primacy of position in our state constitution is accorded the Declaration of Rights; thus emphasizing the importance of those basic and **inalienable rights of personal liberty and private property** which are thereby reserved and guaranteed to the people and **protected from arbitrary invasion** or impairment **from any governmental quarter**. The Declaration of Rights **constitutes a limitation upon the powers of every department of the state government**. **State ex rel. Davis v. Stuart**. 64 A.L.R. 1307, 97 Fla. 69, 120 So. 335.

"**The rights of the individual are not derived from governmental agencies, either municipal, state, or federal, or even from the Constitution**. They exist inherently in every man, **by endowment of the Creator**, and are **merely reaffirmed in the Constitution**, and restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government. The people's rights are not derived from the government, but **the government's authority comes from the people**. The Constitution but states again these rights already existing, and when legislative encroachment by the nation, state, or municipality invade these original and permanent rights, it is the **duty of the courts** to so declare, and **to afford the necessary relief**. **City of Dallas, et al. v. Mitchell**, 245 S. W. 944, 945-46 (1922).

A **constitution** is designated as a supreme enactment, a fundamental act of legislation by the people of the state. **A constitution is legislation direct from the people acting in their sovereign capacity, while a statute is legislation from their representatives, subject to limitations prescribed by the superior authority**. **Ellingham v. Dye**, 178 Ind. 336; NE 1; 231 U.S. 250; 58 L. Ed. 206; 34 S. Ct. 92; **Sage v. New York**, 154 NY 61; 47 NE 1096.

"Owner has constitutional right to use and enjoyment of his property." Simpson v. Los Angeles (1935), 4 C.2d 60, 47 P.2d 474.

"We find it intolerable that one constitutional right should have to be surrendered in order to assert another". SIMMONS v US, supra.

"When rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda vs. Arizona, 384 US 436 p. 491.

"The claim and exercise of a Constitutional right cannot be converted into a crime." Miller v. U.S. 230 F 2d 486, 489.

History is clear that the first ten amendments to the Constitution were adopted to secure certain common law rights of the people, against invasion by the Federal Government." Bell v. Hood, 71 F.Supp., 813, 816 (1947) U.S.D.C. -- So. Dist. CA.

Economic necessity cannot justify a disregard of cardinal constitutional guarantee. Riley v. Certer, 165 Okal. 262; 25 P.2d 666; 79 ALR 1018. When any court violates the clean and unambiguous language of the Constitution, a fraud is perpetrated and no one is bound to obey it. (See 16 Ma. Jur. 2d 177, 178) State v. Sutton, 63 Minn. 147, 65 NW 262, 30 L.R.A. 630 Am. 459.

"The 'liberty' guaranteed by the constitution must be interpreted in the light of the common law, the principles and history of which were familiar and known to the framers of the constitution. This liberty denotes the right of the individual to engage in any of the common occupations of life, to locomote, and generally enjoy those rights long recognized at common law as essential to the orderly pursuit of happiness by free men." Myer v. Nebraska, 262 U .S. 390, 399; United States v. Kim Ark, 169 U.S. 649, 654.

"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed." Norton vs. Shelby County, 118 US 425 p. 442.

"The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it.

"No one is bound to obey an unconstitutional law and no courts are bound to enforce it." 16 Am Jur 2nd, Sec 177 late 2d, Sec 256.

All laws which are repugnant to the Constitution are null and void. Chief Justice Marshall, Marbury vs Madison, 5, U.S. (Cranch) 137, 174, 176 (1803).

It cannot be assumed that the framers of the constitution and the people who adopted it, did not intend that which is the plain import of the language used. When the language of the constitution is positive and free of all ambiguity, all courts are not at liberty, by a resort to the refinements of legal learning, to restrict its obvious meaning to avoid the hardships of particular cases. We must accept

the constitution as it reads when its language is unambiguous, for it is the mandate of the sovereign power. **Cook vs Iverson**, 122, N.M. 251.

**"Right of protecting property**, declared inalienable by constitution, is **not mere right to protect it by individual force, but right to protect it by law of land**, and force of body politic." **Billings v. Hall** (1857), 7 C. 1.

"Constitution of this state declares, **among inalienable rights** of each citizen, that of **acquiring, possessing and protecting property**. This is one of primary objects of government, is guaranteed by constitution, and cannot be impaired by legislation." **Billings v. Hall** (1857), 7 C. 1.

**State Constitution** - "The state constitution is the mandate of a sovereign people to its servants and representatives. Not one of them has a right to ignore or disregard these mandates..." **John F. Jelko Co. vs. Emery**, 193 Wisc. 311; 214 N.W. 369, 53 A.L.R., 463; **Lemon vs. Langlin**, 45 Wash. 2d 82, 273 P.2d 464.

## **The People are the Sovereign!**

**People** are supreme, not the state. **Waring vs. the Mayor of Savannah**, 60 Georgia at 93.

The **people of the State do not yield their sovereignty to the agencies which serve them**. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. (**Added Stats. 1953, c. 1588, p.3270, sec. 1.**)

The **people are the recognized source of all authority**, state or municipal, and to this authority it must come at last, whether immediately or by circuitous route. **Barnes v. District of Columbia**, 91 U.S. 540, 545 [23: 440, 441]. p 234.

"the government is but an agency to the state," -- the state being the sovereign people. **State v. Chase**, 175 Minn, 259, 220 N.W. 951, 953.

**Sovereignty** itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power.

"...The Congress cannot revoke the Sovereign power of the people to override their will as thus declared." **Perry v. United States**, 294 U.S. 330, 353 (1935).

"The Doctrine of Sovereign Immunity is one of the Common-Law immunities and defenses that are available to the Sovereign..." Citizen of Minnesota. **Will v. Michigan Dept. of State Police**, (1988) 491 U.S. 58, 105 L.Ed. 2d. 45, 109 S.Ct. 2304.

"The people of the state, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the king by his own prerogative." **Lansing v. Smith**, (1829) 4 Wendell 9, (NY).

**Private Corporate State / Municipality Policy Enforcement Officer a.k.a Police Officer**  
**Duties and limitations of power**

"Nothing is gained in the argument by calling it 'police power.'" **Henderson v. City of New York**, 92 U.S. 259, 2771 (1875); **Nebbia v. New York**, 291 U.S. 501 (1934).

"An officer who acts in violation of the Constitution ceases to represent the government." **Brookfield Const. Co. v. Stewart**, 284 F.Supp. 94.

**Failure to obey the command of a police officer** constitutes a traditional form of breach of the peace. Obviously, however, **one cannot be punished for failing to obey the command of an officer if that command is itself violative of the constitution.** **Wright v. Georgia**, 373 U.S. 284, 291-2.

That an officer or employee of a state or one of its subdivisions is deemed to be acting under "color of law" as to those deprivations of right committed in the fulfillment of the tasks and obligations assigned to him. **Monroe v. Page**, 1961, 365 U.S. 167. (Civil law)

Actions by state officers and employees, even if unauthorized or in excess of authority, can be actions under "color of law." **Stringer v. Dilger**, 1963, Ca. 10 Colo., 313 F.2d 536. (Civil law)

"The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution." **Bacahanan vs. Wanley**, 245 US 60; **Panhandle Eastern Pipeline Co. vs. State Highway Commission**, 294 US 613.

"With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document **cannot be overthrown or impaired by any state police authority.**" **Donnolly vs. Union Sewer Pipe Co.**, 184 US 540; **Lafarier vs. Grand Trunk R.R. Co.**, 24 A. 848; **O'Neil vs. Providence Amusement Co.**, 108 A. 887.

When **officers detained** appellant for the **purpose of requiring him to identify himself**, they performed a **seizure of his person** subject to the requirements of the Fourth Amendment... The Fourth Amendment, of course, applies to all seizures of the person, including seizures that involve only a brief detention short of traditional arrest... **Whenever a police officer accosts an individual and restrains his freedom to walk away, he has 'seized' that person**, and the Fourth Amendment requires that the seizure be 'reasonable'.

\* "But even **assuming** that **purpose** (prevention of crime) is served to some degree by stopping and demanding identification from an individual without any specific basis for believing he is involved in **criminal activity**, the guarantees of the **Fourth Amendment** do not allow it."

\* "The application of...(a code)...to detain appellant and require him to identify himself violated the **Fourth Amendment** because the officers lacked any reasonable suspicion to believe appellant was engaged, or had engaged, in **criminal conduct**. Accordingly, appellant **may not be punished**



for refusing to identify himself, and the conviction is reversed." (Probable cause) **Brown v. Texas**, 443 U.S. 47, (1979)

\* **"Traffic infractions are not a crime."** **People v. Battle** "To this end, the **Fourth Amendment** requires that a **seizure must be based on specific objective facts indicating that society's legitimate interests require the seizure of the particular individual**, or that the seizure must be carried out pursuant to a plan embodying explicit, neutral limitations on the conduct of individual officers.

"The officers of the law, in the execution of process, are required to know the requirements of the law, and if they mistake them, whether through ignorance or design, and anyone is harmed by their error, they must respond in damages." **Roger v. Marshall** (United States use of Rogers v. Conklin), 1 Wall. (US) 644, 17 Led 714.

"It is a general rule that an officer, executive, administrative, quasi-judicial, ministerial, or otherwise, who acts outside the scope of his jurisdiction, and without authorization of law may thereby render himself amenable to personal liability in a civil suit." **Cooper v. O'Conner**, 69 App DC 100, 99 F (2d)

"Public officials are not immune from suit when they transcend their lawful authority by invading constitutional rights. **AFLCIO v. Woodard**, 406 F 2d 137 t.

## **Government / Public Servants / Officers / Judges Not Immune from suit!**

"Immunity **fosters neglect and breeds irresponsibility** while liability promotes care and caution, which caution and care is owed by the government to its people." (Civil Rights) **Rabon vs Rowen Memorial Hospital, Inc.** 269 N.S. 1, 13, 152 SE 1 d 485, 493.

**Government Immunity** - "In **Land v. Dollar**, 338 US 731 (1947), the court noted, "that when the government entered into a commercial field of activity, it left immunity behind." **Brady v. Roosevelt**, 317 US 575 (1943); **FHA v. Burr**, 309 US 242 (1940); **Kiefer v. RFC**, 306 US 381 (1939).

The high Courts, through their citations of authority, have frequently declared, that "...where any state proceeds against a **private individual** in a judicial forum it is well settled that the state, county, municipality, etc. waives any immunity to counters, cross claims and complaints, by **direct** or **collateral** means regarding the matters involved." **Luckenback v. The Thekla**, 295 F 1020, 226 Us 328; **Lyders v. Lund**, 32 F2d 308;

"When **enforcing mere statutes**, judges of **all** courts **do not act judicially** (and thus are not protected by "qualified" or "limited immunity," - SEE: **Owen v. City**, 445 U.S. 662; **Bothke v. Terry**, 713 F2d 1404) - - "but merely act as an extension as an agent for the involved agency -- but **only in a "ministerial"** and **not a "discretionary capacity..."** **Thompson v. Smith**, 154 S.E. 579, 583; **Keller v. P.E.**, 261 US 428; **F.R.C. v. G.E.**, 281, U.S. 464. Immunity for judges does not extend to acts which are clearly outside of their jurisdiction. **Bauers v. Heisel**, C.A. N.J. 1966, 361 F.2d 581, Cert. Den. 87 S.Ct. 1367, 386 U.S. 1021, 18 L.Ed. 2d 457 (see also **Muller v. Wachtel**, D.C.N.Y. 1972, 345 F.Supp. 160; **Rhodes v. Houston**, D.C. Nebr. 1962, 202 F.Supp. 624 affirmed 309 F.2d 959, Cert. den 83 St. 724, 372 U.S. 909, 9 L.Ed. 719, Cert. Den 83 S.Ct. 1282, 383 U.S. 971, 16 L.Ed. 2nd 311, Motion denied 285 F.Supp. 546).

"Judges not only can be sued over their official acts, but could be held **liable for injunctive and declaratory relief and attorney's fees.**" **Lezama v. Justice Court**, A025829.

"The immunity of judges for acts within their judicial role is beyond cavil." **Pierson v. Ray**, 386 U.S. 547 (1957).

"There is no common law judicial immunity." **Pulliam v. Allen**, 104S.Ct.

1970; cited in **Lezama v. Justice Court**, A025829.

"**Judges**, members of city council, and police **officers** as well as other public officials, may utilize good faith defense of action for damages under 42-1983, but **no public official has absolute immunity from suit** under the 1871 civil rights statute." (**Samuel vs University of Pittsburg**, 375 F.Supp. 1119, 'see also, **White vs Fleming** 374 Supp. 267.)

**TAKE DUE NOTICE ALL GOVERNMENT OFFICIALS, SERVANTS, JUDGES, LAYERS,  
CLERKS, EMPLOYEES:**

"Ignorance of the law does not excuse misconduct in anyone, least of all in a sworn officer of the law."  
**In re McCowan** (1917), 177 C. 93, 170 P. 1100.

"All are presumed to know the law." **San Francisco Gas Co. v. Brickwedel** (1882), 62 C. 641; **Dore v. Southern Pacific Co.** (1912), 163 C. 182, 124 P. 817; **People v. Flanagan** (1924), 65 C.A. 268, 223 P. 1014; **Lincoln v. Superior Court** (1928), 95 C.A. 35, 271 P. 1107; **San Francisco Realty Co. v. Linnard** (1929), 98 C.A. 33, 276 P. 368.

"It is one of the fundamental maxims of the common law that ignorance of the law excuses no one."  
**Daniels v. Dean** (1905), 2 C.A. 421, 84 P. 332.

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**Jurisdiction challenged to all, at any and all times**

"Judge acted in the face of clearly valid statutes or case law expressly depriving him of (personal) jurisdiction would be liable." **Dykes v. Hosemann**, 743 F.2d 1488 (1984).

"In such case the judge has lost his judicial function, has become a mere private person, and is liable as a trespasser for damages resulting from his unauthorized acts."

"Where there is no jurisdiction there is no judge; the proceeding is as nothing. Such has been the law from the days of the Marshalsea, 10 Coke 68; also **Bradley v. Fisher**, 13 Wall 335,351." **Manning v. Ketcham**, 58 F.2d 948.

"A distinction must be here observed between excess of jurisdiction and the clear absence of all jurisdiction over the subject-matter any authority exercised is a usurped authority and for the exercise of such authority, when the **want of jurisdiction is known** to the judge, **no excuse** is permissible."  
**Bradley v. Fisher**, 13 Wall 335, 351, 352.

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**AT LAST**

"But, in fact and in law, such **statutes** are intended **to be applied** to those who are **here as "residents" in this State** under the Interstate Commerce Clause of the Federal Constitution and the so-called Fourteenth Amendment." **United States v United Mine Workers of America**, (1947) 67 S.Ct. 677, 686, 330 U.S. 258.

**I AM A MEMBER OF THE PUBLIC  
I BELIEVE I HAVE THIS RIGHT**

**Florida § 633.021 Definitions:**

(14) "**Highway**" means every way or place of whatever nature within the state ***open to the use of the public, as a matter of right, for purposes of vehicular traffic*** and includes public streets, alleys, roadways, or driveways upon grounds of colleges, universities, and institutions and other ways open to travel by the public...

**Arizona - § 42 5062(A): 5**

"**Public highway**" means any way or place in this state that is constructed or maintained with public monies and that is ***open to use by the public, as a matter of right, for the purpose of vehicular travel***, including a highway under construction.

**Colorado - § 33-14-101. Definitions:**

(12) "**Street**", "**road**", "**freeway**", or "**highway**" means the entire right-of-way between boundary lines of any of such public ways when any part thereof is ***open to the use of the public, as a matter of right, for the purpose of motor vehicle travel***.

**Colorado - § 155-3. Definitions:**

"**Public Right-of-Way**" All streets, roadways, sidewalks, alleys and all other areas reserved for present or future ***use by the public, as a matter of right, for the purpose of vehicular or pedestrian travel***, utility installation and for snow storage by the Town of Frisco. [Amended 5-2-1989 by Ord. No. 89-16]

**Delaware - Title 21, Part I, Ch.1 General Provisions, § 101. Words and phrases.**

(22) "**Highway**" means the entire width between boundary lines of every way or place of whatever nature ***open to the use of the public, as a matter of right, for purposes of vehicular travel***...

**Iowa § 321G.1 Definitions:**

20. "**Street**" or "**highway**" means the entire width between property lines of every way or place of whatever nature when any part thereof is ***open to the use of the public, as a matter of right, for purposes of vehicular travel***, except in public areas in which the boundary shall be thirty-three feet each side of...

**Idaho - § 49.301**

(13) **Street** or **Highway** means the entire width between property lines of every way or place of whatever nature when any part thereof is ***open to the use of the public, as a matter of right, for purposes of vehicular traffic***.

**Idaho - § 63-2401. Definitions**

(12) "**Highways**" means every place of whatever nature ***open to the use of the public, as a matter of right, for the purpose of vehicular travel*** which is maintained by the state of Idaho....

**New Mexico - State v. Roddy Brennan, 1998-NMCA-176, filed 10/22/98 NM Ct. of Appeals:**

"Highways as defined in the Motor Vehicle Code include "every way or place generally open to the use of the public, as a matter of right, for the purpose of vehicular travel."

**Minnesota § 169.01 Definitions.**

"**Street** or **highway**" means the entire width between boundary lines of any way or place when any part thereof is ***open to the use of the public, as a matter of right, for the purposes of vehicular traffic.***

**New York state - Article 21 General Provisions: § 21.05 Definitions.**

9. "**Highway**" shall mean the entire width between the boundary lines of any way or place when any part thereof is ***open to the use of the public, as a matter of right, for the purpose of vehicular traffic.***

**North Carolina § 20-4.01(13)**

"**Highway**" is defined as "the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is ***open to the use of the public, as a matter of right, for the purposes of vehicular traffic.*** The terms "highway" and "street" and their cognates are synonymous.

**Oregon Vehicle Code § 801.305**

"**Highway**" means every public way, road, street, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state, ***open, used or intended for use of the general public, for vehicles or vehicular traffic, as a matter of right.***

**Pennsylvania § 75 Pa.C.S.A. §3101 and 75 Pa.C.S.A. §102.**

"**Trafficway**. The entire width between property lines or other boundary lines of every way or place of which any part is ***open to the public, for purposes of vehicular travel, as a matter of right or custom.***"

**Texas § 114.001. Definitions:**

(5) "**Public highway**" means a way or place of whatever nature ***open to the use of the public, as a matter of right, for the purpose of vehicular travel,*** even if the way or place is temporarily closed for the purpose of construction, maintenance, or repair.

**South Dakota § 32-14-1. Terms used in chapters 32-14 to 32-19 inclusive mean:**

(11) "**Highway**" the entire width between the boundary lines of every way publicly maintained when any part thereof is ***open to the use of the public, as a matter of right, for purposes of vehicular travel;***

**Utah - § 23-13-2 & R657-5-2 & § 41-6a-102. Under Definitions: (20)**

(6) "**Highway**" means the entire width between property lines of every way or place of any nature when any part of it is ***open to the use of the public, as a matter of right, for vehicular travel.***

**Utah - § 16-2-1. Definitions:**

1. "**Roadway**" or "**Street**" means the entire width between property lines of every way or place of any nature when any part of it is ***open to the use of the public, as a matter of right, for vehicular traffic.***

**Washington State- RCW 47.04.010 Definitions.**

"**Highway.**" ***Every way, lane, road, street, boulevard, and every way or place*** in the state of Washington ***open as a matter of right to public vehicular travel*** both inside and outside the limits of incorporated cities and towns;

**Wisconsin 340.01 (22)**

"**Highway**" Means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way ***open to the use of the public as a matter of right for the purposes of vehicular travel.***

**Michigan 257.20 "Highway or street" defined.**

"**Highway**" or "**street**" means the entire width between the boundary lines of every way publicly maintained when any part thereof is ***open to the use of the public for purposes of vehicular travel, as a matter of right.***

**West Virginia §17-1-3. "Road"; "public road"; "highway".**

The words or terms "**road**", "**public road**" or "**highway**" shall be deemed to include, but shall not be limited to, ***the right-of-way***, roadbed and all necessary culverts, sluices, drains, ditches, waterways, embankments, slopes, retaining walls, bridges, tunnels and viaducts ***necessary for the maintenance of travel***, dispatch of freight and ***communication between individuals and communities***; and such ***public road*** or ***highway shall be taken*** to include ***any road*** to which ***the public has access*** and which it is not denied the right to use, or any road or way leading from any other ***public road*** over the ***land of another person***, and which shall have been established pursuant to law.

## Case Law on the term Automobile v.s. Motor Vehicle

### § 31301. Definitions: In this chapter:

(3) *"commercial driver's license" means a license issued by a State to an individual authorizing the individual to operate a class of commercial motor vehicles.*

(6) *"driver's license" means a license issued by a State to an individual authorizing the individual to operate a motor vehicle on highways.*

### 18 USC 31:

(6) **"Motor vehicle"** means every description or other contrivance propelled or drawn by mechanical power AND used for commercial purposes on the highways in the transportation of passengers, or passengers and property.

There is a clear distinction between automobile and motor vehicle. An automobile has been defined as:

**"The word 'automobile' connotes a pleasure vehicle designed for the transportation of persons on highways."** American Mutual Liability Ins. Co., vs. Chaput, 60 A.2d 118, 120; 95 NH 200.

While the distinction is made clear between the two as the courts have stated:

**"A motor vehicle or automobile for hire is a motor vehicle**, other than an automobile stage, used for the transportation of persons for which remuneration is received." International Motor Transit Co. vs. Seattle, 251 P. 120

"The term '**motor vehicle**' is different and broader than the word 'automobile.'" City of Dayton vs. DeBrosse, 23 NE.2d 647, 650; 62 Ohio App. 232.

"The term '**travel**' and **traveler**' are usually construed in their broad and general sense... so as to include all those who rightfully use the highways viatically (when being reimbursed for expenses) and who have occasion to pass over them for the purpose of business, convenience, or pleasure." **25 Am.Jur.** (1st) Highways, Sect.427, Pg. 717.

**"Traveler** -- One who passes from place to place, whether for pleasure, instruction, business, or health." Locket vs. State, 47 Ala. 45; Bovier's Law Dictionary, 1914 ed., Pg. 3309.

**"Travel** -- To journey or to pass through or over; as a country district, road, etc. To go from one place to another, whether on foot, or horseback, or in any conveyance as a train, an automobile, carriage, ship, or aircraft; Make a journey." Century Dictionary, Pg. 2034.

**"Privilege"** 1. A special legal right, exemption, or immunity granted to a person or class of persons, an exception to a duty. - A privilege grants someone the legal freedom to do or not to do a given act. It immunizes conduct that, under ordinary circumstances, would subject the actor to liability. Black's Law Dictionary 9th Edition.

### Definition of "**Definition**"

A description of a thing by its properties; an explanation of the meaning of a word or term. Webster. The process of stating the exact meaning of a word by means of other words. Worcester. See **Warner v. Beers**, 23 Wend., N.Y., 103; **Marvin v. State**, 19 Ind. 181.

Such a description of the thing defined, *including all essential elements and excluding all nonessential*, as to distinguish it from all other things and classes. **Wilson v. Else**, 204 Iowa 857, 216 N.W. 33, 37.

### **"Definition" - Black's Law Dictionary 5th Edition**

A description of a thing by its properties; an explanation of the meaning of a word or term. The process of stating the exact meaning of a word by means of other words. Such a description of the thing defined, including all essential elements and excluding all nonessential, as to distinguish it from all other things and classes.

"There can be no question of the right of automobile owners to occupy and use the public streets of cities, or highways in the rural districts." **Holland v. Shackelford**, 137 S.E. 2d 298, 304, 220 Ga. 104; **Stavola v. Palmer**, 73 A.2d 831, 838, 136 Conn. 670.

"The word 'automobile' connotes a pleasure vehicle designed for the transportation of persons on highways." **Liebrecht v. Crandall**, 126 N.W. 69, 110 Minn. 454, 456.

The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways..."

10) The term "used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

"A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received." **American Mutual Liability Ins. Co., vs. Chaput**, 60 A.2d 118, 120; **95 NH 200 Motor Vehicle: 18 USC Part 1 Chapter 2 section 31 definitions: "(6) Motor vehicle**.

"The term 'motor vehicle' is different and broader than the word 'automobile.'" **International Motor Transit Co. vs. Seattle**, 251 P. 120.

[1] Fundamentally it must be recognized that in this country "Highways are for the use of the traveling public, and all have ... the right to use them in a reasonable and proper manner..."

### **13 Cal.Jur. 371, § 59.**

"Highways are for the use of the traveling public, and all have the right to use them in a reasonable and proper manner; the use thereof is an inalienable right of every citizen."  
Statutes at Large California Chapter 412 p.83.



"Streets and highways are established and maintained primarily for purposes of travel and transportation by the public, and uses incidental thereto. Such travel may be for either business or pleasure... The use of highways for purposes of travel and transportation is not a mere privilege, but a common and fundamental right, of which the public and [35 Cal.2d 876] individuals cannot rightfully be deprived [A]ll persons have an equal right to use them for purposes of travel by proper means, and with due regard for the corresponding rights of others." **25 Am.Jur.** 456-457, § 163; 40 C.J.S. 244-247, § 233.

"The practice of Law is an occupation of common Right" **Sims v. Ahems**, 271 S.W. 720 (1925)

**Other right to use an automobile cases: -**

State vs. Johnson, 243 P. 1073;  
Cummins vs. Homes, 155 P. 171;  
Packard vs. Banton, 44 S.Ct. 256;  
Hadfield vs. Lundin, 98 Wash 516,  
Willis vs. Buck, 263 P. 1982;  
United States v Johnson, 718 F.2d 1317, 1324 (5th Cir. 1983).  
EDWARDS VS. CALIFORNIA, 314 U.S. 160  
TWINING VS NEW JERSEY, 211 U.S. 78  
WILLIAMS VS. FEARS, 179 U.S. 270, AT 274  
U.S. VS. GUEST, 383 U.S. 745, AT 757-758 (1966)  
GRIFFIN VS. BRECKENRIDGE, 403 U.S. 88, AT 105-106 (1971)  
CALIFANO VS. TORRES, 435 U.S. 1, AT 4, note 6 -  
SHAPIRO VS. THOMPSON, 394 U.S. 618 (1969)  
CALIFANO VS. AZNAVORIAN, 439 U.S. 170, AT 176 (1978)  
CRANDALL VS. NEVADA, 6 WALL. 35, AT 43-44  
THE PASSENGER CASES, 7 HOWARD 287, AT 492

**Cause of action.**

The fact or facts which give a person a right to judicial relief.

The legal effect of an occurrence in terms of redress to a party to the occurrence.

A situation or state of facts which would entitle party to sustain action and give him right to seek a judicial remedy in his behalf. **Thompson v. Zurich Ins. Co.**, D.C.Minn., 309 F.Supp. 1 1 78, 1181.

Fact, or a state of facts, to which law sought to be enforced against a person or thing applies.

Facts which give rise to one or more relations of right-duty between two or more persons.

Failure to perform legal obligation to do, or refrain from performance of, some act.

Matter for which action may be maintained. Unlawful violation or invasion of right.

The right which a party has to institute a judicial proceeding. See also Case; Claim;

Failure to state cause of action; Justiciable controversy; Severance of actions; Splitting cause of action; Suit.

## **PUBLIC OFFICERS, BEWARE! NO EXCUSES ACCEPTED**

New York State Bar Journal  
March/April 1997  
See below for footnotes

By Carolyn H. Mann

Vetere v. Ponce, (1) emanating from the jurisdiction of the Town/Village of Harrison, has recently cast significant public opinion on § 30, Public Officers Law. (2) Although surrounded by political mischief, the case ultimately concerns the perceived right of a duly elected public official to retain his elected post, even though not in strict compliance with a qualifying section of Public Officers Law. The New York Law Journal (3) has headlined its piece on this case (and its most curious sequence of political events) with the words, "Technical Omission Costs Official His Post." We question here whether non-compliance with this statute is properly characterized as a "technical" omission. We submit that the failure to timely file an oath of office is an important and justifiable disqualification for holding public office. Those who are hurt by the consequences of failure to strictly comply, must resignedly accept their fate because, as we intend to show, the purpose of the statute is to secure a trust rather than to punish the careless.

### **No Exceptions!**

Briefly, § 30(1)(h) obligates a public official, whether elected or appointed, to file an oath of office, within 30 days of the commencement or notification of his term. The New York Courts have heard several cases pleading relief from a direct reading of this section, yet all pleas have been to no avail. In each and every case, the courts have read the clear and undisputed language of the statute finding no latitude to permit any exceptions. This piece brings to light the cases of the various office holders whose positions were properly declared vacant by operation of law for non-compliance with the mandate to timely file an oath of office. We will probe why this law, with its seemingly harsh results, is set so firmly into New York Law and whether such law and its consequences should continue undisturbed.

Let us first examine the pleas of the various petitioners asking that their particular set of circumstances be judged worthy of exception when the state clearly leaves room for none.

In 1913, in *People v. Keator*, (4) the relator filed his oath 17 days after commencement of his duties and in spite of the fact that the relator received the highest number of votes, the Board passed a resolution reciting the existence of a vacancy and properly proceeded to fill the vacancy by appointing another individual. The relator pleaded relief from the Board's action appointing someone other than himself, the duly elected official. The Court concluded:

Taking the constitutional oath of office being a condition precedent to relator being entitled to enter upon the duties of the office, and hence to his right to maintain an action to oust defendant and to recover possession of the office, we conclude that the relator is not entitled to succeed in this action. It would be unfortunate, if the refusal or neglect of a person elected to such office to qualify, as required by the Constitution of the state, could deprive a town of such an officer, as the position is one of importance, and particularly so in certain contingencies.

### **No exceptions!**

In the Matter of Comins v. County of Delaware, (5) a public officer entered upon his duties and performed them for some time only to find his position declared vacant. He pleaded before the court that his removal must be annulled for surely his service for such an extended period surely conferred rights of legitimacy to his claim to office. The court disagreed, repeated the clear words of § 30 and continued:

The fact that the Board did not earlier move to dismiss petitioner, does not, in our view, constitute an appointment of petitioner to his position. When a person appointed to office fails to timely file his oath of office, neither notice nor judicial procedure is necessary, the office is automatically vacant and may be filled by the proper appointive power. Consequently, no hearing on charges was required in order to dismiss him from office.

### **No exceptions!**

Perhaps the circumstances set forth in McDonough v. Murphy (6) would lead one to expect the court to annul the declaration of a vacancy. Here, two appointed members of the College Board entered upon their official duties and subsequently were officially notified of the appointments. Both filed the oath within 30 days of that official notification, but the Court allowed the vacancy to stand, stating:

...when by one's own actions it is clear that a person knows of his appointment, he should not be allowed to wait indefinitely before filing an oath of office. This interpretation is -mandated by the necessity to file an oath of office, which is intended to be part of the requirements making an officer fully qualified to carry out the duties of his office. Thus, once plaintiffs have taken actions as official members of the board, as has been done here, they cannot be heard to claim that they had no notice of their appointments, for without a doubt the contrary is true. [Emphasis added.]

### **No exceptions!**

Neither is ignorance of the law an excuse for non-compliance with the requirement for a timely filing, as the Court declared in Boisvert v. County of Ontario, (7) where petitioner pleaded he was unaware of § 30 Public Officers Law. The court ruled:

The obligation imposed by the Public Officers Law statute is personal to plaintiff, it is an act he is required to do and the office became vacant by the mere failure to file the oath, whether or not the defendants knew or were chargeable with notice that plaintiff had failed to file his oath, and they are not required to make any declaration or give any notice. On his default in filing his official oath "the appointment was vitiated and the office \*\*\* became vacant" [citing Ginsberg v. City of Long Beach, 286 N.Y. 400, 36 N.E.2d 637; and also People ex rel. Walton v. Hicks, *infra*].

## **No exceptions!**

That the statute leads to an unambiguous reading is probably nowhere better stated than in *Walton v. Hicks*, (8) where the Court ruled:

This statute is emphatic and unequivocal. It does not seem possible that it can be misunderstood. In case a person appointed to office neglects to file his official oath within 15 [now 30] days after notice of appointment or within 15 [now 30] days after the commencement of the term of office, the office becomes vacant ipso facto. That is all there is to it. No judicial procedure is necessary; no notice is necessary; nothing is necessary. The office is vacant, as much so as though the appointee were dead; there is no incumbent, and the vacancy may be filled by the proper appointive power.

Certainly, no further explanations of § 30 were necessary. Yet, in 1990 in response to a request, the State Board of Equalization and Assessment (9) clarified the "emphatic and unequivocal" words of the statute:

Both the Attorney General (1976, Op. Atty. Gen. (Inf.) 336) and the State Comptroller (10 Op. State Compt. 332) have issued opinions that the failure of a public officer to file an oath is not correctable, because the statute specifically creates the vacancy without providing a remedy. The provisions of Public Officers Law § 30 creates a vacancy which the appointing authority (e.g., town board, county executive, county legislature) may fill at any time (Public Officers Law, § 38).

The appointive assessor or county director who fails to file the oath of office within 30 days is in the same position as any de facto officer; his or her actions are valid, but employment is subject to immediate termination (*Williamson v. Fermaile*, 31 A.D. 438, 298 N.Y.S. 2d 557 (4th Dept. 1969), *affd* 26 N.Y. 2d 731, 257 N.E. 2d 285, 309 N.Y.S. 2d 35 (1970); *Vescio v. City Manager, City, of Yonkers*, 69 Misc. 2d 68, 389 N.Y.S. 2d 357 (Sup. Ct. Westchester Co. 1972), *affd* 41 A.D. 2d 833, 342 N.Y.S. 2d 376 (2d Dept. 1973); 1979, Op. Atty. Gen. 198). Although the failure to file the oath cannot be remedied, the Attorney General has concluded that there is no bar to the appointment of the same individual to the same office (1978, Op. Atty. Gen. (Inf.) 833). Presumably, such reappointed official would be sure to timely file the oath the second time.

It is important to note that nowhere in the opinion is any mention or reference made to any exceptions to strict compliance with § 30; clearly the legislature intended none.

The administrative explanation of § 30 has been exhaustive and the reiteration of the statute's words frequent. Nevertheless, additional cases managed to find their way into New York courtrooms. In *Lombino v. Town Board of the Town of Rye* (10) petitioner claimed compliance with § 30 pleading his filing was only one day late. The Court was unimpressed and the Appellate Division stated:

The Supreme Court denied the defendants' motion for summary judgment on the ground that there is a factual issue of whether the plaintiff filed his oath of office on January 3, 1991. However, contrary to plaintiffs contention, even if he filed his oath of office on January 3, 1991, the filing was still untimely. Public Officers Law § 30 provides that an appointive office shall become vacant for failure to file an official oath "within thirty days after [the] [sic] appointment, or within thirty days after the commencement of such term." Here, the plaintiff was notified of his appointment as Assessor in

November 1990, and began working on December 3, 1990. Thus, even if he filed his oath of office on January 3, 1991, the filing was more than 30 days after the notification and commencement of his term. Thus, the Town Board properly declared the Office of Assessor vacant.

### **No exceptions!**

#### **Proper Judicial Role: Declaring What the Law is, Not What it Should Be**

In the most recent case, *Vetere v. Ponce*, supra, the case which catapulted § 30 onto a red-hot front burner, petitioner sought to be excused from strict compliance with the statute by arguing first, that petitioner was not notified by the Town Village Clerk to timely file, as required by Law, (11) claiming, in effect, ignorance of a legal duty and second, that petitioner was justifiably distracted from his duty because of the concurrent illness and death of his spouse.

Politics takes center stage here. As set forth in the decision, the Town Village Clerk of Harrison arranged to have all the Republican elected officials report to Town Hall to sign and file the official oaths. Curiously, however, no one reminded or told petitioner, the sole Democrat on the Board, to be in attendance. On February 16, seventeen days after the expiration of the 30-day period, the Town Clerk issued a Certificate of Vacancy and declared Mr. Vetere's position vacant because of the failure to timely file his oath. The Board then proceeded, as is its right under law, to appoint another (Republican) to fill the vacancy. This action caused great public outcry, however, urging the appointee to resign. Mr. Vetere was promptly thereafter appointed to fill his own vacancy until the next annual election, at which time he would have to run to fulfill the balance of his term.

Mr. Vetere sought to be reinstated and reclaim his original position and term and pleaded with the Court to be excused from strict compliance with § 30 due to these particular circumstances. The Court, however, found itself compelled by a clear reading of the statute and appropriate case law to find petitioner's elected position vacant indeed, stating:

Notwithstanding equitable considerations and respondent's consent to reinstatement, the court can only direct reinstatement in the event it finds petitioner was improperly removed as a matter of law. Whether respondents acted unfairly or took advantage of petitioner during a period of personal crisis, therefore, is irrelevant. If this result is harsh, as it is in this case, the remedy lies with the Legislature. In this case, since petitioner, did not file within 30 days of commencement of his term, the office became vacant on Feb. 1, 1996. The Town Board and Village Trustees were entitled, in turn, to declare a vacancy and to fill it. (12)

The situation presented in *Vetere* is illustrative of the problems faced when considering how to avoid equity considerations, and is instructive. Both the Election Law and the Village Law seek to minimize potentially harsh results imposed by § 30 by requiring the Village Clerk to notify officials of the § 30 mandate. The difficulty here lies with enforcement, however. If meeting one's official duty is paramount, enforcement of a law requiring a clerk to notify others of their duty might result in the removal of said clerk for non-performance or non-feasance. This produces a harsh result in itself, and neither does it eliminate, ameliorate or excuse the duty of the official to timely file. There are simply too many possible equity considerations to statutorily exempt some and not others. No excuses, therefore, can be deemed worthy as exceptions.

Finally, Supreme Court Justice Nicholas Colabella, who delivered the opinion in *Vetere*, made a truly correct observation. If § 30 can produce a popularly perceived harsh result by not permitting any exceptions to its mandate, the remedy lies not with the Court but with the Legislature. Members of the New York Bar must agree, for it is surely the proper role of the judiciary to declare what the law is, and not what it ought to be.

Since no exceptions can be accepted by the courts to relieve the demands of the "emphatic and unequivocal" language of the statute, (13) Public Officer, Beware! No excuses under New York Law can remedy your unenviable situation.

### **Non-Compliance is Not a "Technical Omission"**

Is the law acceptable? If not, what ought it to be? Is the law too harsh in its result by not permitting exceptions to the 30-day limit for filing the qualifying oath? We know that the limit was already extended from 15 to 30 days. Should the limit be two months? Is a limit necessary at all? Why should the office become vacant by operation of law "so much so as though the appointee were dead"? (14) What is all this fuss about an oath of office not being timely filed? Is it merely a "technical" bugaboo that should be significantly eased? Or, is the demand for strict compliance rational and wise? This author believes the latter.

The New York Legislature apparently believes the taking of the oath of office to be a critical qualification for those in public office accepting the public trust. An oath, we are all aware, is a solemn promise the taking of which is described as "burdening the conscience" where something is present to distinguish between an oath and a bare assertion. (15)

An oath, and its required accompanying and distinguishing act, is what can hopefully establish trust between people. Through this device in a public setting, the people are offered some assurance that the words and actions of public officers are possibly being carefully guided by something other than the official's own set of self serving principles. The swearing-in ceremony is visual and psychologically binding; the filing is written and legally binding. Is there another act which could as simply convey a solemn promise to behave with a full measure of integrity? How else might the public accept the offer of honest public service if not with a solemn, believable offer being made, by way of oath, to create a contract with all the rights and responsibilities we assume are contained in it?

The public must be offered something which fosters confidence in the official's moral responsibility. The official's conscience must be seen to be sufficiently burdened by something to help assure that the desired devotion to the public's trust might reach broadly into the official's public relations and daily decision-making. It is this promise, this oath of office, which helps to hold a civil society together.

Certainly, it is an easy task to file an oath of office within 30 days of the commencement or notification of one's term, and no one in public administration should be statutorily charged with informing another official of his or her duties. This is more properly the job of the official and his legal counsel. The purpose of the requirement reflects wise reasoning and speaks to the act being most critical for the

health of the compact among the governed and the governors and, therefore, can permit no exception.

The "emphatic and unequivocal" language of § 30, Public Officers Law represents one of the important links in the web of our representative democracy and is on the far other side of a mere "technical" nuisance. To reiterate, Public Officer, Beware! The law as it is presently set forth is there to protect, not to punish. No excuses will save a public term of office without taking and timely filing a solemn promise to the people served.

I New York Law Journal, April 23, 1996, p. 29, col 6.

2 Section 30, entitled Creation of vacancies, provides, in part:

1. Every office shall be vacant upon the happening of one of the following events before the expiration of the term thereof:...

h. His refusal or neglect to file his official oath or undertaking, if one is required, before or within thirty days after the commencement of the term of office for which he is chosen, if an elective office, or if an appointive office, within thirty days after notice of his appointment or within thirty days after the commencement of such term...

Personnel on Active Duty with the Armed Forces have a 90 day limit imposed for filing, after which time a vacancy may be declared by operation of law.

3 Cerisse Anderson, "Technical Omission Costs Official His Post," New York Law JourT1-1, April 22, 1996, p. 1.

4 People v. Keator, 166 App. Div. 368, 154 N.Y.S. 1007, 566 A.D. 2d 966,412 N.Y.S. 2d 428.

692 A.D. 2d 1022, 461 N.Y.S. 2d 439.

789 Misc. 2d 183, 391 N.Y.S. 2d 49, affd 57 A.D. 2d 1051, 395 N.Y.S. 2d 617. 8173 App. Div. 338,158 N.Y.S. 757, affd 221 N.Y. 503, 116 N.E. 1069. 9 Opinion, November 19, 1990.

101994; 206 A.D. 2d 462, 614 N.Y.S. 2d 564, leave to appeal denied 84 N.Y. 2d 807, 621

N.Y.S. 2d 516, 645N.E. 2d 1216.

11 Section 15-128 Election Law: "The clerk of the village shall, within three days after the election of a village officer, notify each person elected of his election, and of the date thereof, and that, in order to qualify: he is required to file his oath of office... and that upon his failure so to do he will be deemed to have declined the office."

12 The Court, citing the Lombino case and others, observed that the failure to file constitutes an automatic vacancy and is not subject to a cure nunc pro tunc by a belated filing..

13 Walton v. Hicks, supra. 14 Walton v. Hicks, supra. 15 O'Reilly v. People of the State of New York, 86 N.Y. 154, 1881. Judge Finch of the Court of Appeals further stated:

Some form of an oath has always been required, for the double reason that only by unequivocal form could the sworn be distinguished from the un-sworn averment, a sanctions of religion add their solemn and binding force to the act. (Pandects, xii, 2; 3 Inst. 165; 1 Phil. on Ev. 15; 1 Starkie on Ev. 23; Lord HARDWICKE, in Omychund Barker, 1 Atkyns, 21; Tyler on Oaths, 15; 1 Greenleaf on Ev., §§ 328, 371; 1 Alison's Crim. Law, 474;.3 Wharton's Am. Crim. Law, § 2205; 2 Arch. Crim. Pl., 1723.)...

[T]hese sanctions have grown elastic, and gradually accommodated themselves to differences of creed, and varieties of belief, so that, as the Christian is sworn upon the Gospels, and invokes the Divine help to the truth of his testimony, the Jew also may be sworn upon the Pentateuch, the Quaker solemnly affirm without invoking the anger or aid of Deity, and the Gentoo kneel before his Brahmin priest with peculiar ceremonies... The changes of form incident to the growth of nations and of commerce have been serious, but have not dispensed with a form entirely; ....A wide scope, a large liberty, is thus given to the form of the oath, but some form remains "essential. Something must be present to distinguish between the oath and the bare assertion. An act must be done, and clothed in such form as to characterize and evidence it...

**\* Carolyn H. Mann was admitted to the NYS Bar in 1994, and is partner with Mann & Mann of Port Chester. She holds a BA in Art History and went on to NYU and received a Master of Urban Planning degree.**



HB 507-FN-A-LOCAL - AS INTRODUCED

2019 SESSION

19-0184

11/10

HOUSE BILL            ***507-FN-A-LOCAL***

AN ACT                    relative to registration of commercial motor vehicles and operator's/drivers' licenses.

SPONSORS:                Rep. Marple, Merr. 24; Rep. Sylvia, Belk. 6; Rep. Burt, Hills. 39; Rep. Howard, Belk. 8; Rep. Aldrich, Belk. 2; Rep. Comeau, Carr. 5

COMMITTEE:                Transportation

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ANALYSIS

This bill restates the "right to travel" and requires the department of safety to provide at no cost to all noncommercial automobile and noncommercial conveyance owners a decal and identification card that state the holder is exempt from registering his or her automobile or other private conveyance under the superior authority of RSA 382-A:9-109 of the Uniform Commercial Code which provides exemption for non-taxable "Consumer Goods" and "Household Goods". The bill also repeals requirements for certain travelers or drivers to acquire noncommercial drivers' licenses.

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Explanation:            Matter added to current law appears in *bold italics*.  
                              Matter removed from current law appears ~~[in brackets and struck through]~~  
                              Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT                   relative to registration of commercial motor vehicles and operator's/drivers' licenses.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 Statement of Purpose. The general court finds that the jurisdiction and authority of the  
2 department of safety is limited to only the commercial users of the public ways and that the  
3 corporate state employees have, by their silence, failed to fully inform the sovereign people of this  
4 state that an automobile has been confirmed by Chief Justice Grimes, in 108 N.H. 386, to be  
5 "private property" defined by current RSA 382-A:9-109, as "household goods" and "consumer goods"  
6 not for commercial use or for profit or gain. Further, the courts have found that corporate public  
7 servants who ignore their accountability as mandated in Article 8, N.H. Bill of Rights have by their  
8 silence and failure to fully inform the sovereign people of the consequences arising from the  
9 corporate "offer to contract," is deemed silent deception and inducement by fraud as well as  
10 committing the tort of conversion when taking or seizing the certificate of origin in violation of the  
11 Fifth Amendment.

12           2 Right to Travel RSA 261:40 is repealed and reenacted to read as follows:

13           I. For the purposes of this section:

14               (a) "Automobile" and "motorcycle" means any self-propelled conveyance used for  
15 noncommercial travel upon the public ways.

16               (b) "Motor vehicle" means any self-propelled conveyance designed and used upon the  
17 public ways for profit or gain in business or commerce.

18               (c) "Household goods" or "consumer goods" has the same meaning as the Uniform  
19 Commercial Code found at RSA 382-A:9-102 and RSA 382-A:9-109 and shall include an automobile.  
20 Automobiles and all noncommercial conveyances shall be exempt from the license and registration  
21 required of commercial motor vehicles.

22               (d) "Operator" or "driver" means and defines one who controls the movement of a  
23 conveyance upon the public way for commercial or business purposes.

24               (e) "Traveler" means one who controls the automobile or other noncommercial  
25 conveyance.

26               (f) "Common law" means and defines the sole remedy, requiring an injured party and  
27 not an ens legis or non-human corporate creation for any controversy arising from or by the public  
28 use of household goods or consumer goods such as an automobile or other noncommercial  
29 conveyance.

30           II. The department of safety shall provide, at no cost, every noncommercial automobile

HB 507-FN-A-LOCAL - AS INTRODUCED

- Page 2 -

1 owner or owner of any other noncommercial conveyance with an appropriate decal imprinted with  
2 the words "RSA 382-A:9-109 TAX EXEMPT." The division of motor vehicles shall use their current  
3 photo equipment, now in use for drivers licenses and identification cards for legislators, to issue all  
4 noncommercial travelers a photo identification card, at no cost, with the words "RSA 382-A:9-109  
5 Exempt" printed on such identification card. This identification card is not a contract, license, or  
6 instrument that would require compelled performance by the holder. The front of the photo  
7 identification card will have, in addition to the photo, the name and address of the Sovereign  
8 American and the language, "State of New Hampshire" across the top, and beneath, "None  
9 Commercial Traveler", "NOTICE", and "Pursuant to Article 4 Section, 1 & 2 of the Constitution for  
10 the United States of America, the Sovereign who is identified in this photo ID Card is Guaranteed  
11 SAFE CONDUCT and SAFE PASSAGE in all foreign States and immunity from any commercial  
12 levies or other charges." There shall be imprinted in GOLD copy, the Seal of this Republic with the  
13 signature of the Secretary of State as the issuer of the Photo ID. The Department of Safety will  
14 notify every law enforcement agency in this State of the limited Commercial JURISDICTION  
15 concerning the RIGHT to TRAVEL and will and include in the curriculum of the Police Standards  
16 Training Academy, a course specifically and distinctly providing the fact that it is the use of the non  
17 taxable "Consumer Goods" that determines their status or classification.

18 III. The automobile and all noncommercial conveyances are exempt from registration and  
19 taxation and the owner of such automobile or noncommercial conveyance are exempt from the  
20 requirement of a license that is necessary for commercial use of the public ways. The deed showing  
21 ownership of the automobile, also known as the Certificate of Origin, shall be delivered by the  
22 automobile dealer to the purchaser at time of sale, and shall preempt and make unnecessary any  
23 duplication of process by corporate government. This mandate shall ensure that the purchaser  
24 shall be considered to be exercising the common unalienable "Right to Travel on the public right-of-  
25 way in the ordinary and lawful pursuit of life, liberty, and the pursuit of happiness."

26 3 Vanity Plate Fees. Amend RSA 263:52, I to read as follows:

27 I. The proceeds from ~~[original license fees as provided in RSA 263:42 and]~~ the vanity plate  
28 service fee collected in accordance with RSA 261:89, plus the fee for the renewal of the use of such  
29 plates, after any refunding authorized by law and costs of such plates or designation of effective  
30 periods thereof and issuance of same have been appropriated and deducted, shall be expended for  
31 course materials, licensing of schools, and certification of instructors in connection with safe motor  
32 vehicle driving conducted in or under the supervision of secondary schools. Such balance shall be  
33 kept in a separate fund. The commissioner of safety shall adopt, pursuant to RSA 541-A, and  
34 publish, rules governing the courses of instruction and training.

35 4 Original and Youth Operators Commercial Licenses; Cross Reference Removed. Amend RSA  
36 263:14, III(a) to read as follows:

37 (a) The director is authorized to revoke or suspend any original license held by a person  
38 under 20 years of age after a hearing upon a showing by its records or other sufficient evidence that

1 the driver has committed an offense, excluding the offenses of ~~[RSA 261:40,]~~ RSA 261:59<sup>[5]</sup> and RSA  
2 266:5, following the issuance of an original *commercial* license for which the original *commercial*  
3 license holder has been convicted.

4 5 Drivers' Licenses; Rules. Amend RSA 21-P:14, IV to read as follows:

5 IV. The commissioner of safety shall adopt rules, under RSA 541-A ~~[and RSA 260:6]~~,  
6 relative *solely* to licensing *commercial* drivers as follows:

7 (a) ~~[Procedures for and information required on driver's license applications, including~~  
8 ~~all necessary forms, as authorized by RSA 263:5.~~

9 ~~(b) Driver's license examination and reexamination requirements, as authorized by RSA~~  
10 ~~263:6 and 263:7.~~

11 ~~(c)~~ Restricted *commercial* licenses, as authorized by RSA 263:13.

12 ~~[(d)]~~ (b) Conditions and requirements for a *commercial* driver's license, as authorized  
13 by RSA 263:14-263:33-b.

14 ~~[(e)]~~ (c) Intrastate *commercial* licenses for nonresidents, as authorized by RSA 263:39-

15 a.

16 ~~[(f)]~~ (d) Access to information regarding anatomical gifts, as authorized by RSA 263:41.

17 ~~[(g)]~~ Collection of drivers' license fees, as authorized by RSA 263:42.

18 ~~[(h)]~~ (e) Petitions for refund of fees, as authorized by RSA 263:43.

19 ~~[(i)]~~ (f) Application and requirements for issuance of *commercial* motor vehicle drivers'  
20 school licenses, as authorized by RSA 263:44-47 and 263:49-51.

21 ~~[(j)]~~ (g) Suspension or revocation of a *commercial* driver's license or driving privilege,  
22 as authorized by RSA 263:53 through RSA 263:65, RSA 263:73, RSA 265-A:26, and RSA 265-A:29.

23 ~~[(k)]~~ (h) Appeals of *commercial* driver's license denial, suspension, or revocation, as  
24 authorized by RSA 263:75, RSA 265-A:34, and RSA 263:76.

25 ~~[(l)]~~ (i) Application for and issuance of a *commercial* vanpooler's permit, as authorized  
26 by RSA 376:2, XII.

27 ~~[(m)]~~ (j) Commercial driver license requirements, as authorized by RSA 263:98.

28 ~~[(n)]~~ Temporary driver's licenses, including procedures for the issuance, revocation,  
29 form, and other related matters, as authorized by RSA 263:5-a.

30 ~~(e)]~~ (k) Format, content and procedures for the display of the notice required under  
31 RSA 260:10-a, II.

32 ~~[(p)]~~ (l) Criteria for waiver of the default fee required under RSA 263:56-a, I-a.

33 ~~[(q)]~~ (m) Approval of driver attitude programs and fee as provided in RSA 263:56-e.

34 ~~[(r)]~~ (n) Administrative suspension of motor vehicle *commercial* licenses pursuant to  
35 RSA 265:91-b and RSA 265:91-c and RSA 265-A:30 through RSA 265-A:32, including notices, forms,  
36 temporary driving permits, hearing procedures, and procedures for restoration after the suspension  
37 period.

38 ~~(e)]~~ (o) Establishment of administrative procedures to aid in the collection of protested

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1 checks relating to *commercial* drivers' licenses, vehicle registrations, titles, permits or fees,  
2 including provisions for suspension of *commercial* license, registration, title, or permit.

3       ~~[(t)]~~ (p) Procedures for conducting the problem *commercial* driver pointer system  
4 search, including forms and procedures to be used in conducting a problem *commercial* driver  
5 pointer search as initiated by an employer.

6       6 Commercial License Expiration. Amend RSA 263:10 to read as follows:

7       263:10 *Commercial* License Expiration.

8       I. ~~[Except as provided in RSA 263:5-f, I, RSA 263:14, and RSA 263:39-a, III, all]~~ All  
9 *commercial* licenses shall expire on the fifth anniversary of the *commercial* license holder's date  
10 of birth following the date of issuance. The department shall notify each holder of a *commercial*  
11 license by mail addressed to the holder's last known address, or, if the *commercial* license holder  
12 has so elected, by electronic, telephonic, or other means, 30 days prior to the expiration date thereof  
13 of a place and time when he or she shall appear for the issuance of a new *commercial* license and  
14 any availability of electronic *commercial* license renewal.

15       II. Notwithstanding paragraph I, the director may adopt rules pursuant to RSA 541-A  
16 providing for the renewal of ~~[driver]~~ *commercial* licenses by applicants on-line rather than by  
17 appearing in person; provided that the applicant is otherwise eligible for *commercial* license  
18 renewal, ~~[is not required to submit to a road test under the provisions of RSA 263:7,]~~ has submitted  
19 proof sufficient to the director that he or she meets the visual acuity requirements for *commercial*  
20 licensing, and has a computerized image on file with the division. A *commercial* license may be  
21 renewed on-line only once in every other license renewal cycle and the next cycle shall require  
22 appearance in person at a *commercial* licensing facility.

23       7 Selective Service Registration. Amend RSA 187-A:39 to read as follows:

24       187-A:39 Application.

25       ~~[-]~~ No person who is not in compliance with the Military Selective Service Act as provided  
26 in 50 U.S.C. app. section 451 et seq. shall:

27       ~~[(a)]~~ I. Be permitted to enroll in a state-supported institution of postsecondary or higher  
28 education.

29       ~~[(b)]~~ II. Be eligible to receive a loan, grant, scholarship, or other financial assistance for  
30 postsecondary higher education supported by state revenue, including federal funds, gifts, or grants  
31 accepted by the state, or to receive a student loan guaranteed by the state.

32       ~~[(c)]~~ III. Having attained the age of 18 years, be eligible for employment by or service to  
33 the state or any political subdivision of the state, including all state boards, commissions,  
34 departments, agencies, and institutions.

35       ~~[II. A person who has authorized the department of safety to submit information to the~~  
36 ~~Selective Service System pursuant to RSA 263:5-c shall be considered to be in compliance with the~~  
37 ~~Selective Service Act for purposes of this section.]~~

38       8 License Required. Amend RSA 263:1, I to read as follows:

1 I. No person, except those expressly exempted under RSA 263:25 or other provisions of this  
2 title, shall drive any motor vehicle upon any way in this state *for commercial purposes* unless  
3 such person has a valid driver's license, as required under the provisions of this chapter, for the  
4 class or type of vehicle being driven.

5 9 Possession of License. Amend RSA 263:2 to read as follows:

6 263:2 Possession of License Required. Every person driving a motor vehicle *for commercial*  
7 *purposes* shall have his *or her* driver's license upon his *or her* person or in the vehicle in some  
8 easily accessible place and shall display the same on demand of and manually surrender the same  
9 into the hands of the demanding officer for the inspection thereof. No person charged with a  
10 violation of this section shall be convicted if, within a period of 48 hours, he *or she* produces in the  
11 office of the arresting officer evidence that he *or she* held a valid driver's license which was in effect  
12 at the time of his *or her* arrest.

13 10 Repeal. The following are repealed:

14 I. RSA 263:1-a, relative to allowing an unlicensed driver to drive a car.

15 II. RSA 263:1-b, relative to offenses committed by an unlicensed driver.

16 III. RSA 263:1-c, relative to the effect of a drivers' license.

17 IV. RSA 263:1-d, relative to enhanced drivers' licenses and identification cards.

18 V. RSA 263:4, relative to limiting a driver to one license.

19 VI. RSA 263:5, relative to an application for a driver's license.

20 VII. RSA 263:5-a, relative to an application by a new resident.

21 VIII. RSA 263:5-b, relative to drivers' licenses for members of the armed forces.

22 IX. RSA 263:5-c, relative to compliance with federal selective service requirements.

23 X. RSA 263:5-d, relative to acceptable forms of identification in order to receive a drivers'  
24 license.

25 XI. RSA 263:5-e, relative to proof of residence in order to receive a drivers' license.

26 XII. RSA 263:5-f, relative to application for a driver's license by residents without a  
27 permanent street address.

28 XIII. RSA 263:6, relative to requiring the completion of an examination in order to receive a  
29 driver's license.

30 XIV. RSA 263:6-a, relative to informing first-time applicants of the DWI and controlled  
31 drug laws.

32 XV. RSA 263:6-b, relative to the medical/vision advisory board.

33 XVI. RSA 263:6-c, relative to blind pedestrian information and examination.

34 XVII. RSA 263:6-d, relative to reporting medically unfit persons.

35 XVIII. RSA 263:7, relative to reexamination for a driver's license.

36 XIX. RSA 261:52-a, relative to notice that interest and dividends tax may be due.

37 XX. RSA 263:42, I, relative to fees for drivers' licenses.

38 XXI. RSA 261:59-a, relative to proof of valid registration.

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1 11 Effective Date. This act shall take effect 60 days after its passage.

HB 507-FN-A-LOCAL- FISCAL NOTE  
AS INTRODUCED

AN ACT relative to registration of commercial motor vehicles and operator's/drivers' licenses.

FISCAL IMPACT: ☒ State ☐ County ☒ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	Indeterminable	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input checked="" type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Restricted Cost of Collections* and Others (See Methodology)			

\*Pursuant to Part II, article 6-a of the New Hampshire constitution, any costs associated with the collection and administration of Highway Funds by the Department of Safety shall be deducted by the Department before such funds are credited to the Highway Fund as unrestricted revenue.

LOCAL:

Revenue	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill repeals laws requiring a driver's license for all non-commercial drivers and the registration requirement for all non-commercial vehicles and conveyances, as well as requires the Department of Safety to issue non-commercial automobile owners a vehicle decal stating the vehicle is exempt from registration and a photo identification card, both at no cost. Vehicles will also no longer require an annual inspection. Lastly, this bill removes the compliance aspect with the Selective Service Act for those who have authorized the Department to submit information to the Selective Service System.

The changes proposed in this bill would result in revenue reduction due to the elimination of licensing, registration, and inspection requirements, both to the state and local governments.

If this bill was effective during fiscal year 2018, the following funds would be impacted by the reduction in revenue:

State Revenue FY 2018		Local Revenue FY 2018	
Registration	\$86,914,267	Local Registration	\$267,418,400
Licensing	\$13,259,703	Local Highway Aid*	\$12,478,734



Inspection	\$3,815,477	Total to Locals	\$279,897,134
Total Highway Fund/Cost of Collection	\$103,989,447		
Conservation Plate	\$1,755,810		
Reflectorized Plate	\$2,289,350		
Driver- Safety Education	\$1,521,289		
Motor Cycle Rider Education	\$675,508		
Total Restricted Dedicated Funds	\$6,241,956		
Inspection Stickers	\$336,207		
Title Fines	\$71,200		
Initial Plate	\$4,854,430		
Total General Funds	\$5,261,837		
Total State Revenue	\$115,493,240		

\*Pursuant to RSA 235:35 ("Apportionment A"), 12 percent of total road toll revenue and motor vehicle fees are distributed from the state highway fund to cities and towns pursuant to the specified formula in the following year (12% of \$103,989,447 — \$12,478,734 in local highway aid).

The above state revenue reductions would impact the state general fund, highway fund, and several other restricted revenue funds including: the motorcycle rider safety fund; driver training fund; reflectorized plate fund; and the conservation number plate fund which allocates funds to Department of Transportation, Department of Natural and Cultural Resources, Fish and Game Department, the State Conservation Committee, and the Land and Community Heritage Investment Authority.

*NOT SO*

The Division of Motor Vehicles' (DMV) driver license software would need to be modified to allow for the issuance of the new type of identification card required by this bill. The vendor has estimated a cost of approximately \$300,000 to reprogram the system to issue this identification card. The above cost does not include the cost of design and production of the new identification card. A new card type would need to be designed and produced and the driver license production system would need to be reprogrammed to accommodate production of the new card. The cost associated with this system change is indeterminable at this time. Municipalities may also incur system programming costs to reflect the changes in this bill, the overall impact to local expenditures cannot be determined.

#### AGENCIES CONTACTED:

Department of Safety

**A LETTER TO THE MOTGOMERY COUNTY SHERIFF**  
**FROM RICHARD TRAVIS A PRIVATE MAN**

Dear MOTGOMERY COUNTY SHERIFF,

This message is meant to be routed to the MOTGOMERY COUNTY SHERIFF, and/or any senior officer with command over the person who identified himself to me yesterday as an "Officer W. Mack" with a badge number of "267". Near Davis St. in downtown Conroe around 9pm yesterday (July Twenty-First, Two Thousand and Sixteen), here is a link to a video of the incident.

18 USC § 241 - Conspiracy against rights "If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured- They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death."

18 USC § 242 - Deprivation of rights under color of law "Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death."

18 USC § 242 - Deprivation of rights under color of law "Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap,

aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death."

I would recommend advising your officers of the ramifications of these CONSPIRACY AGAINST RIGHTS and DEPRIVATION OF RIGHTS UNDER COLOR OF LAW violations, remedy will be sought in the form of civil lawsuits in both PUBLIC and PRIVATE capacities of each offending individual.

Also, I would like to take this opportunity to advise you that you or your officers may see myself or others traveling in my car with tags that read "DON'T TREAD ON ME", "NOT FOR HIRE", "FOR NON-COMMERCIAL USE ONLY". This is formal notice that you may not violate UNITED STATES CODE when I am traveling in my car either, ESPECIALLY if I am displaying private tags. Or countless Supreme Court decisions on the right to travel. For more information, refer to -

<http://freedomfromgovernment.org/driver-licensing-vs-right-to-travel/>

If you disagree with this assertion of my duty to be honorable, to honor all my contractual obligations made without fraud, and to be honorable means that I must do the right and moral thing, without causing harm or using unnecessary force when required regardless of what I am told; I will offer that it is your duty to honor my wish as a peaceful inhabitant of this land.

If you dispute anything in this message or do not provide witnesses with first- hand knowledge and/or evidence that any code, statute, policy, or constitution is applicable to my body without my first having sworn a binding oath, you need to provide this feedback, testimony, or evidence within TEN (10) days of receipt of this message or acquiesce to this notice.

In the matter of SURETY for the LEGAL NAME, I believe that there has been a MISTAKE as the SOLE BENEFICIARY has been INCORRECTLY IDENTIFIED as a party in this matter. If I, AND/ OR PERSONS AND/OR FRIENDS OF THE COURT AND/OR SUCH OTHER PARTIES ACTING IN MY INTERESTS, have led the COURT or anyone acting as a MOTGOMERY COUNTY officer/agent in their private capacity or the TEXAS DEPARTMENT OF JUSTICE to believe by responding to "You" and or "RICHARD", and or "RICHARD TRAVIS MARTIN" and/or SUCH OTHER IDENTIFICATION THIS OFFICER HAS ADDRESSED ME AS, that I am the PARTY WITH SURETY in this matter, then that would be a MISTAKE and please forgive me. As I have no knowledge of who "You" and/or "RICHARD" and/or "RICHARD TRAVIS MARTIN" and/or SUCH OTHER IDENTIFICATION THESE OFFICERS OR AGENTS HAVE ADDRESSED ME AS, I RESPECTFULLY ASK; by WHAT AUTHORITY is the COURT/DEPARTMENT ADDRESSING me as such?

As the SURETY BOND (BIRTH CERTIFICATE) has been deposited into the COURT/DEPARTMENT, WHAT EVIDENCE does the COURT/DEPARTMENT have that I, as the SOLE BENEFICIARY of the TRUST have any SURETY in this matter? As the GOVERNMENT is the SOLE SIGNATORY PARTY on the SURETY BOND (BIRTH CERTIFICATE), with SOLE AND FULL SURETY as TRUSTEE for the LEGAL NAME, WHAT EVIDENCE does the COURT/DEPARTMENT have that I am a TRUSTEE for the LEGAL NAME.

WHAT EVIDENCE does the SHERIFF DEPARTMENT / COURT have that I am a TRUSTEE and have ANY SURETY with respect to the LEGAL NAME? WHAT EVIDENCE does the COURT/DEPARTMENT have that I am an OFFICER, an AGENT, a TRUSTEE or an EMPLOYEE of the United States of America corporation? WHAT EVIDENCE does the COURT have of any WARRANT OF AGENCY for the principal? WHAT EVIDENCE does the COURT have that there has been any meeting of the minds, any PROPER NOTICE given, any considerable CONSIDERATION offered, or that I have ANY INTENT to contract? Notice: Failure by the SHERIFF, COUNTY OF MONTGOMERY in their private capacity to respond within ten days from receipt of this correspondence shall constitute legal accord and satisfaction of all claims.

Sincerely,

Richard Travis house of Martin

Private Man

## **Driver Licensing vs. Right to Travel**

**"The right to travel is a part of the liberty of which the citizen cannot be deprived without due process of law under the 5th Amendment"**

**Kent v. Dulles, 357 US 116, 125. (1958)**

The following argument has been used in at least three states (Pennsylvania, Ohio, and West Virginia) as a legal brief to support a demand for dismissal of charges of "driving without a license." It is the argument that was the reason for the charges to be dropped, or for a "win" in court against the argument that free people can have their right to travel regulated by their servants. The forgotten legal maxim is that free people have a right to travel on the roads which are provided by their servants for that purpose, using ordinary transportation of the day. Licensing cannot be required of free people, because taking on the restrictions of a license requires the surrender of a right. The driver's license can be required of people who use the highways for trade, commerce, or hire; that is, if they earn their living on the road, and if they use extraordinary machines on the roads. If you are not using the highways for profit, you cannot be required to have a driver's license.

### **BRIEF IN SUPPORT OF NOTICE FOR DISMISSAL FOR LACK OF JURISDICTION**

NOW, comes the Accused, appearing specially and not generally or voluntarily, but under threat of arrest if he failed to do so, with this "BRIEF IN SUPPORT OF NOTICE FOR DISMISSAL FOR LACK OF JURISDICTION," stating as follows:

### **ARGUMENT**

If ever a judge understood the public's right to use the public roads, it was Justice Tolman of the Supreme Court of the State of Washington. Justice Tolman stated:

*"Complete freedom of the highways is so old and well established a blessing that we have forgotten the days of the Robber Barons and toll roads, and yet, under an act like this, arbitrarily administered, the highways may be completely monopolized, if, through lack of interest, the people submit, then they may look to see the most sacred of their liberties taken from them one by one, by more or less rapid encroachment."*

**Robertson vs. Department of Public Works, 180 Wash 133, 147.**

The words of Justice Tolman ring most prophetically in the ears of Citizens throughout the country today as the use of the public roads has been monopolized by the very entity which has been empowered to stand guard over our freedoms, i.e., that of state government.

## RIGHTS

The “most sacred of liberties” of which Justice Tolman spoke was personal liberty. The definition of personal liberty is:

*“Personal liberty, or the Right to enjoyment of life and liberty, is one of the fundamental or natural Rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from, or dependent on, the U.S. Constitution, which may not be submitted to a vote and may not depend on the outcome of an election. It is one of the most sacred and valuable Rights, as sacred as the Right to private property ... and is regarded as inalienable.”*

**16 C.J.S., Constitutional Law**, Sect.202, p.987

This concept is further amplified by the definition of personal liberty:

*“Personal liberty largely consists of the Right of locomotion — to go where and when one pleases — only so far restrained as the Rights of others may make it necessary for the welfare of all other citizens. The Right of the Citizen to travel upon the public highways and to transport his property thereon, by horse drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but the common Right which he has under his Right to life, liberty, and the pursuit of happiness. Under this Constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another’s Rights, he will be protected, not only in his person, but in his safe conduct.”*

**II Am.Jur. (1st) Constitutional Law**, Sect.329, p.1135

and further...

*“Personal liberty — consists of the power of locomotion, of changing situations, of removing one’s person to whatever place one’s inclination may direct, without imprisonment or restraint unless by due process of law.”*

**Bovier’s Law Dictionary, 1914 ed., Black’s Law Dictionary, 5th ed.; Blackstone’s Commentary 134; Hare, Constitution**, Pg. 777



**KNOW YOUR RIGHT TO TRAVEL**  
**UNCONSTITUTIONAL TRAVEL LICENSING FOR PROFIT**

**CASE LAW**

**CHICAGO MOTOR COACH V. CHICAGO**  
 "The use of the highway for the purpose of travel and transportation is not a mere privilege, but a common fundamental right of which the public and individuals cannot rightfully be deprived."

**SCHACTMAN V. DULLES**  
 "The right to travel is a well-established common right that does not owe its existence to the federal government. It is recognized by the courts as a natural right."

**THOMPSON V. SMITH**  
 "The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty, and the pursuit of happiness."

**"Licensing of drivers cannot be required of free people, because taking on the restrictions of a license requires the surrender of an inalienable right."**

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**AAO-0001**  
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Justice Tolman was concerned about the State prohibiting the Citizen from the "most sacred of his liberties," the Right of movement, the Right of moving one's self from place to place without threat of imprisonment, the Right to use the public roads in the ordinary course of life.

When the State allows the formation of a corporation it may control its creation by establishing guidelines (statutes) for its operation (charters). Corporations who use the roads in the course of business do not use the roads in the ordinary course of life. There is a difference between a corporation and an individual. The United States Supreme Court has stated:

*"...We are of the opinion that there is a clear distinction in this particular between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for examination on the suit of the State. The individual may stand upon his Constitutional Rights as a Citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to investigation, so far as it may tend to incriminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life, liberty, and property. His Rights are such as the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his Rights are the refusal to incriminate himself, and the immunity of*

*himself and his property from arrest or seizure except under warrant of law. He owes nothing to the public so long as he does not trespass upon their rights.”*

*“Upon the other hand, the corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its rights to act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that the State, having chartered a corporation to make use of certain franchises, could not in exercise of its sovereignty inquire how those franchises had been employed, and whether they had been abused, and demand the production of corporate books and papers for that purpose.”*

**Hale vs. Hinkel**, 201 US 43, 74-75

Corporations engaged in mercantile equity fall under the purview of the State's admiralty jurisdiction, and the public at large must be protected from their activities, as they (the corporations) are engaged in business for profit.

*“...Based upon the fundamental ground that the sovereign state has the plenary control of the streets and highways in the exercise of its police power (see police power, infra.), may absolutely prohibit the use of the streets as a place for the prosecution of a private business for gain. They all recognize the fundamental distinction between the ordinary Right of the Citizen to use the streets in the usual way and the use of the streets as a place of business or a main instrumentality of business for private gain. The former is a common Right, the latter is an extraordinary use. As to the former, the legislative power is confined to regulation, as to the latter, it is plenary and extends even to absolute prohibition. Since the use of the streets by a common carrier in the prosecution of its business as such is not a right but a mere license of privilege.”*

**Hadfield vs. Lundin**, 98 Wash 516

It will be necessary to review early cases and legal authority in order to reach a lawfully correct theory dealing with this Right or “privilege.” We will attempt to reach a sound conclusion as to what is a “Right to use the road” and what is a “privilege to use the road”. Once reaching this determination, we shall then apply those positions to modern case decision.

*“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.”*

**Miranda vs. Arizona**, 384 US 436, 491

and ...

*“The claim and exercise of a constitutional Right cannot be converted into a crime.”*



**Miller vs. U.S.**, 230 F. 486, 489

and ...

*“There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights.”*

**Snerer vs. Cullen**, 481 F. 946

Streets and highways are established and maintained for the purpose of travel and transportation by the public. Such travel may be for business or pleasure.

*“The use of the highways for the purpose of travel and transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived.”*

**Chicago Motor Coach vs. Chicago**, 169 NE 2271; **Ligare vs. Chicago**, 28 NE 934; **Boon vs. Clark**, 214 SSW 607; **25 Am.Jur. (1st)** Highways Sect.163

and ...

*“The Right of the Citizen to travel upon the public highways and to transport his property thereon, either by horse drawn carriage or by automobile, is not a mere privilege which a city can prohibit or permit at will, but a common Right which he has under the right to life, liberty, and the pursuit of happiness.”*

Thompson vs. Smith, 154 SE 579

So we can see that a Citizen has a Right to travel upon the public highways by automobile and the Citizen cannot be rightfully deprived of his Liberty. So where does the misconception that the use of the public road is always and only a privilege come from?

*“... For while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place for private gain. For the latter purpose, no person has a vested right to use the highways of the state, but is a privilege or a license which the legislature may grant or withhold at its discretion.”*

**State vs. Johnson**, 243 P. 1073; **Cummins vs. Homes**, 155 P. 171; **Packard vs. Banton**, 44 S.Ct. 256; **Hadfield vs. Lundin**, 98 Wash 516

Here the court held that a Citizen has the Right to travel upon the public highways, but that he did not have the right to conduct business upon the highways. On this point of law all authorities are unanimous.

*“Heretofore the court has held, and we think correctly, that while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place of business for private gain.”*

**Willis vs. Buck**, 263 P. 1 982; **Barney vs. Board of Railroad Commissioners**, 17 P.2d 82

and ...

*“The right of the citizen to travel upon the highway and to transport his property thereon, in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business for private gain in the running of a stagecoach or omnibus.”*

**State vs. City of Spokane**, 186 P. 864

What is this Right of the Citizen which differs so “radically and obviously” from one who uses the highway as a place of business? Who better to enlighten us than Justice Tolman of the Supreme Court of Washington State? In *State vs. City of Spokane*, supra, the Court also noted a very “radical and obvious” difference, but went on to explain just what the difference is:

*“The former is the usual and ordinary right of the Citizen, a common right to all, while the latter is special, unusual, and extraordinary.”*

and ...

*“This distinction, elementary and fundamental in character, is recognized by all the authorities.”*

**State vs. City of Spokane**, supra.

This position does not hang precariously upon only a few cases, but has been proclaimed by an impressive array of cases ranging from the state courts to the federal courts.

*“the right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business and uses it for private gain in the running of a stagecoach or omnibus. The former is the usual and ordinary right of the Citizen, a right common to all, while the latter is special, unusual, and extraordinary.”*

**Ex Parte Dickey, (Dickey vs. Davis)**, 85 SE 781

and ...

“The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business.”

**Thompson vs. Smith**, supra.; **Teche Lines vs. Danforth**, Miss., 12 S.2d 784

There is no dissent among various authorities as to this position. (See **Am. Jur. [1st] Const. Law**, 329 and corresponding **Am. Jur. [2nd]**.)

*“Personal liberty — or the right to enjoyment of life and liberty — is one of the fundamental or natural rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from nor dependent on the U.S. Constitution. ... It is one of the most sacred and valuable rights [remember the words of Justice Tolman, supra.] as sacred as the right to private property ... and is regarded as inalienable.”*

**16 C.J.S. Const. Law**, Sect.202, Pg. 987

As we can see, the distinction between a “Right” to use the public roads and a “privilege” to use the public roads is drawn upon the line of “using the road as a place of business” and the various state courts have held so. But what have the U.S. Courts held on this point?

*“First, it is well established law that the highways of the state are public property, and their primary and preferred use is for private purposes, and that their use for purposes of gain is special and extraordinary which, generally at least, the legislature may prohibit or condition as it sees fit.”*

**Stephenson vs. Rinford**, 287 US 251; **Pachard vs Banton**, 264 US 140, and cases cited; **Frost and F. Trucking Co. vs. Railroad Commission**, 271 US 592; **Railroad commission vs. Inter-City Forwarding Co.**, 57 SW.2d 290; **Parlett Cooperative vs. Tidewater Lines**, 164 A. 313

So what is a privilege to use the roads? By now it should be apparent even to the “learned” that an attempt to use the road as a place of business is a privilege. The distinction must be drawn between ...

1. Travelling upon and transporting one’s property upon the public roads, which is our Right; and ...
2. Using the public roads as a place of business or a main instrumentality of business, which is a privilege.

*"[The roads] ... are constructed and maintained at public expense, and no person therefore, can insist that he has, or may acquire, a vested right to their use in carrying on a commercial business."*

**Ex Parte Sterling**, 53 SW.2d 294; **Barney vs. Railroad Commissioners**, 17 P.2d 82; **Stephenson vs. Binford**, supra.

*"When the public highways are made the place of business the state has a right to regulate their use in the interest of safety and convenience of the public as well as the preservation of the highways."*

**Thompson vs. Smith**, supra.

*"[The state's] right to regulate such use is based upon the nature of the business and the use of the highways in connection therewith."*

Ibid.

*"We know of no inherent right in one to use the highways for commercial purposes. The highways are primarily for the use of the public, and in the interest of the public, the state may prohibit or regulate ... the use of the highways for gain."*

**Robertson vs. Dept.** of Public Works, supra.

There should be considerable authority on a subject as important as this deprivation of the liberty of the individual "using the roads in the ordinary course of life and business." However, it should be noted that extensive research has not turned up one case or authority acknowledging the state's power to convert the individual's right to travel upon the public roads into a "privilege." Therefore, it is concluded that the Citizen does have a "Right" to travel and transport his property upon the public highways and roads and the exercise of this Right is not a "privilege."

## DEFINITIONS

In order to understand the correct application of the statute in question, we must first define the terms used in connection with this point of law. As will be shown, many terms used today do not, in their legal context, mean what we assume they mean, thus resulting in the misapplication of statutes in the instant case.

## AUTOMOBILE AND MOTOR VEHICLE

There is a clear distinction between an automobile and a motor vehicle. An automobile has been defined as:

*"The word 'automobile' connotes a pleasure vehicle designed for the transportation of persons on highways."*

While the distinction is made clear between the two as the courts have stated:

*“A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received.”*

**International Motor Transit Co. vs. Seattle**, 251 P. 120

*“The term ‘motor vehicle’ is different and broader than the word ‘automobile.’”*

**City of Dayton vs. DeBrosse**, 23 NE.2d 647, 650; 62 Ohio App. 232

The distinction is made very clear in **Title 18 USC 31**:

*“Motor vehicle” means every description or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, or passengers and property.*

*“Used for commercial purposes” means the carriage of persons or property for any fare, fee, rate, charge or other considerations, or directly or indirectly in connection with any business, or other undertaking intended for profit.*

Clearly, an automobile is private property in use for private purposes, while a motor vehicle is a machine which may be used upon the highways for trade, commerce, or hire.

## **TRAVEL**

The term “travel” is a significant term and is defined as:

*“The term ‘travel’ and ‘traveler’ are usually construed in their broad and general sense ... so as to include all those who rightfully use the highways viatically (when being reimbursed for expenses) and who have occasion to pass over them for the purpose of business, convenience, or pleasure.”*

**25 Am.Jur. (1st) Highways**, Sect.427, Pg. 717

*“Traveler — One who passes from place to place, whether for pleasure, instruction, business, or health.”*

**Locket vs. State**, 47 Ala. 45; **Bovier’s Law Dictionary**, 1914 ed., Pg. 3309

*“Travel — To journey or to pass through or over; as a country district, road, etc. To go from one place to another, whether on foot, or horseback, or in any conveyance as a train, an automobile, carriage, ship, or aircraft; Make a journey.”*

**Century Dictionary**, Pg. 2034

Therefore, the term “travel” or “traveler” refers to one who uses a conveyance to go from one place to another, and included all those who use the highways as a matter of Right. Notice that in all these definitions, the phrase “for hire” never occurs. This term “travel” or “traveler” implies, by definition, one who uses the road as a means to move from one place to another. Therefore, one who uses the road in the ordinary course of life and business for the purpose of travel and transportation is a traveler.

## **DRIVER**

The term “driver” in contradistinction to “traveler,” is defined as:

*“Driver — One employed in conducting a coach, carriage, wagon, or other vehicle ...”*

**Bovier’s Law Dictionary**, 1914 ed., Pg. 940

Notice that this definition includes one who is “employed” in conducting a vehicle. It should be self-evident that this individual could not be “traveling” on a journey, but is using the road as a place of business.

## **OPERATOR**

Today we assume that a “traveler” is a “driver,” and a “driver” is an “operator.” However, this is not the case.

*“It will be observed from the language of the ordinance that a distinction is to be drawn between the terms ‘operator’ and ‘driver’; the ‘operator’ of the service car being the person who is licensed to have the car on the streets in the business of carrying passengers for hire; while the ‘driver’ is the one who actually drives the car. However, in the actual prosecution of business, it was possible for the same person to be both “operator” and “driver.”*

**Newbill vs. Union Indemnity Co.**, 60 SE.2d 658

To further clarify the definition of an “operator” the court observed that this was a vehicle “for hire” and that it was in the business of carrying passengers. This definition would seem to describe a person who is using the road as a place of business, or in other words, a person engaged in the “privilege” of using the road for gain. This definition, then, is a further clarification of the distinction mentioned earlier, and therefore:

1. Travelling upon and transporting one’s property upon the public roads as a matter of Right meets the definition of a traveler.

2. Using the road as a place of business as a matter of privilege meets the definition of a driver or an operator or both.

## TRAFFIC

Having defined the terms “automobile,” “motor vehicle,” “traveler,” “driver,” and “operator,” the next term to define is “traffic”:

*“... Traffic thereon is to some extent destructive, therefore, the prevention of unnecessary duplication of auto transportation service will lengthen the life of the highways or reduce the cost of maintenance, the revenue derived by the state ... will also tend toward the public welfare by producing at the expense of those operating for private gain, some small part of the cost of repairing the wear ...”*

### **Northern Pacific R.R. Co. vs. Schoenfeldt**, 213 P. 26

Note: In the above, Justice Tolman expounded upon the key of raising revenue by taxing the “*privilege*” to use the public roads “*at the expense of those operating for gain.*” In this case, the word “*traffic*” is used in conjunction with the unnecessary Auto Transportation Service, or in other words, “*vehicles for hire.*” The word “*traffic*” is another word which is to be strictly construed to the conducting of business.

*“Traffic — Commerce, trade, sale or exchange of merchandise, bills, money, or the like. The passing of goods and commodities from one person to another for an equivalent in goods or money ...”*

### **Bovier's Law Dictionary**, 1914 ed., Pg. 3307

Here again, notice that this definition refers to one “*conducting business.*” No mention is made of one who is traveling in his automobile. This definition is of one who is engaged in the passing of a commodity or goods in exchange for money, i.e. .., vehicles for hire. Furthermore, the words “*traffic*” and “*travel*” must have different meanings which the courts recognize. The difference is recognized in **Ex Parte Dickey**, supra:

*“...in addition to this, cabs, hackney coaches, omnibuses, taxicabs, and hacks, when unnecessarily numerous, interfere with the ordinary traffic and travel and obstruct them.”*

The court, by using both terms, signified its recognition of a distinction between the two. But, what was the distinction? We have already defined both terms, but to clear up any doubt:

*“The word ‘traffic’ is manifestly used here in secondary sense, and has reference to the business of transportation rather than to its primary meaning of interchange of commodities.”*

### **Allen vs. City of Bellingham**, 163 P. 18

Here the Supreme Court of the State of Washington has defined the word “traffic” (in either its primary or secondary sense) in reference to business, and not to mere travel! So it is clear that the term “traffic” is business related and therefore, it is a “privilege.” The net result being that “traffic” is brought under the (police) power of the legislature. The term has no application to one who is not using the roads as a place of business.

## LICENSE

It seems only proper to define the word “license,” as the definition of this word will be extremely important in understanding the statutes as they are properly applied:

*“The permission, by competent authority to do an act which without permission, would be illegal, a trespass, or a tort.”*

**People vs. Henderson**, 218 NW.2d 2, 4

“Leave to do a thing which licensor could prevent.”

**Western Electric Co. vs. Pacent Reproducer Corp.**, 42 F.2d 116, 118

In order for these two definitions to apply in this case, the state would have to take up the position that the exercise of a Constitutional Right to use the public roads in the ordinary course of life and business is illegal, a trespass, or a tort, which the state could then regulate or prevent. This position, however, would raise magnitudinous Constitutional questions as this position would be diametrically opposed to fundamental Constitutional Law. (See “Conversion of a Right to a Crime,” infra.) In the instant case, the proper definition of a “license” is:

*“a permit, granted by an appropriate governmental body, generally for consideration, to a person, firm, or corporation, to pursue some occupation or to carry on some business which is subject to regulation under the police power.”*

**Rosenblatt vs. California State Board of Pharmacy**, 158 P.2d 199, 203

This definition would fall more in line with the “privilege” of carrying on business on the streets. Most people tend to think that “licensing” is imposed by the state for the purpose of raising revenue, yet there may well be more subtle reasons contemplated; for when one seeks permission from someone to do something he invokes the jurisdiction of the licensor which, in this case, is the state. In essence, the licensee may well be seeking to be regulated by the licensor.

*“A license fee is a charge made primarily for regulation, with the fee to cover costs and expenses of supervision or regulation.”*

State vs. Jackson, 60 Wisc.2d 700; 211 NW.2d 480, 487



The fee is the price; the regulation or control of the licensee is the real aim of the legislation. Are these licenses really used to fund legitimate government, or are they nothing more than a subtle introduction of police power into every facet of our lives? Have our “enforcement agencies” been diverted from crime prevention, perhaps through no fault of their own, instead now busying themselves as they “check” our papers to see that all are properly endorsed by the state? How much longer will it be before we are forced to get a license for our lawn mowers, or before our wives will need a license for her blender or mixer? They all have motors on them and the state can always use the revenue.

## POLICE POWER

The confusion of the police power with the power of taxation usually arises in cases where the police power has affixed a penalty to a certain act, or where it requires licenses to be obtained and a certain sum be paid for certain occupations. The power used in the instant case cannot, however, be the power of taxation since an attempt to levy a tax upon a Right would be open to Constitutional objection. (See “taxing power,” *infra.*) Each law relating to the use of police power must ask three questions:

1. Is there threatened danger?
2. Does a regulation involve a Constitutional Right?
3. Is this regulation reasonable?

**People vs. Smith**, 108 Am.St.Rep. 715; **Bovier’s Law Dictionary, 1914 ed.**, under “Police Power”

When applying these three questions to the statute in question, some very important issues emerge. First, “is there a threatened danger” in the individual using his automobile on the public highways, in the ordinary course of life and business? The answer is No! There is nothing inherently dangerous in the use of an automobile when it is carefully managed. Their guidance, speed, and noise are subject to a quick and easy control, under a competent and considerate manager, it is as harmless on the road as a horse and buggy. It is the manner of managing the automobile, and that alone, which threatens the safety of the public. The ability to stop quickly and to respond quickly to guidance would seem to make the automobile one of the least dangerous conveyances. (See Yale Law Journal, December, 1905.)

*“The automobile is not inherently dangerous.”*

**Cohens vs. Meadow**, 89 SE 876; **Blair vs. Broadmore**, 93 SE 532

To deprive all persons of the Right to use the road in the ordinary course of life and business, because one might, in the future, become dangerous, would be a deprivation not only of the Right to travel, but also the Right to due process. (See “*Due Process*,” *infra.*) Next; *does the regulation involve a Constitutional Right?* This question has already been addressed and answered in this brief, and need not be reinforced other than to remind this Court that this Citizen does have the Right to travel upon the public highway by automobile in the ordinary course of life and business. It can therefore be concluded that this regulation does involve a Constitutional Right. The third question is the most

important in this case. *“Is this regulation reasonable?”* The answer is **No!** It will be shown later in “Regulation,” infra., that this licensing statute is oppressive and could be effectively administered by less oppressive means. Although the Fourteenth Amendment does not interfere with the proper exercise of the police power, in accordance with the general principle that the power must be exercised so as not to invade unreasonably the rights guaranteed by the United States Constitution, it is established beyond question that every state power, including the police power, is limited by the Fourteenth Amendment (and others) and by the inhibitions there imposed. Moreover, the ultimate test of the propriety of police power regulations must be found in the Fourteenth Amendment, since it operates to limit the field of the police power to the extent of preventing the enforcement of statutes in denial of Rights that the Amendment protects. (See Parks vs. State, 64 NE 682.)

*“With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority.”*

**Connolly vs. Union Sewer Pipe Co.**, 184 US 540; **Lafarier vs. Grand Trunk R.R. Co.**, 24 A. 848; **O’Neil vs. Providence Amusement Co.**, 108 A. 887

*“The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution.”*

**Bacahanan vs. Wanley**, 245 US 60; **Panhandle Eastern Pipeline Co. vs. State Highway Commission**, 294 US 613

*“It is well settled that the Constitutional Rights protected from invasion by the police power, include Rights safeguarded both by express and implied prohibitions in the Constitutions.”*

**Tiche vs. Osborne**, 131 A. 60

*“As a rule, fundamental limitations of regulations under the police power are found in the spirit of the Constitutions, not in the letter, although they are just as efficient as if expressed in the clearest language.”*

**Mehlos vs. Milwaukee**, 146 NW 882

As it applies in the instant case, the language of the Fifth Amendment is clear:

*“No person shall be ... deprived of Life, Liberty, or Property without due process of law.”*

As has been shown, the courts at all levels have firmly established an absolute Right to travel. In the instant case, the state, by applying commercial statutes to all entities, natural and artificial persons alike, has deprived this free and natural person of the Right of Liberty, without cause and without due process of law.

## DUE PROCESS

*"The essential elements of due process of law are ... Notice and The Opportunity to defend."*

**Simon vs. Craft**, 182 US 427

Yet, not one individual has been given notice of the loss of his/her Right, let alone before signing the license (contract). Nor was the Citizen given any opportunity to defend against the loss of his/her right to travel, by automobile, on the highways, in the ordinary course of life and business. This amounts to an arbitrary deprivation of Liberty.

*"There should be no arbitrary deprivation of Life or Liberty ..."*

**Barbour vs. Connolly**, 113 US 27, 31; **Yick Wo vs. Hopkins**, 118 US 356

and ...

*"The right to travel is part of the Liberty of which a citizen cannot be deprived without due process of law under the Fifth Amendment. This Right was emerging as early as the Magna Carta."*

**Kent vs. Dulles**, 357 US 116 (1958)

The focal point of this question of police power and due process must balance upon the point of making the public highways a safe place for the public to travel. If a man travels in a manner that creates actual damage, an action would lie (civilly) for recovery of damages. The state could then also proceed against the individual to deprive him of his Right to use the public highways, for cause. This process would fulfill the due process requirements of the Fifth Amendment while at the same time insuring that Rights guaranteed by the U.S. Constitution and the state constitutions would be protected. But unless or until harm or damage (a crime) is committed, there is no cause for interference in the private affairs or actions of a Citizen. One of the most famous and perhaps the most quoted definitions of due process of law, is that of **Daniel Webster** in his Dartmouth College Case (4 Wheat 518), in which he declared that by due process is meant:

*"a law which hears before it condemns, which proceeds upon inquiry, and renders judgment only after trial."*

See also **State vs. Strasburg**, 110 P. 1020; **Dennis vs. Moses**, 52 P. 333

Somewhat similar is the statement that is a rule as old as the law that:

*"no one shall be personally bound (restricted) until he has had his day in court,"*

by which is meant, until he has been duly cited to appear and has been afforded an opportunity to be heard. Judgment without such citation and opportunity lacks all the attributes of a judicial determination; it is judicial usurpation and it is oppressive and can never be upheld where it is fairly administered. (**12 Am.Jur. [1st] Const. Law**, Sect. 573, Pg. 269) Note: This sounds like the process

used to deprive one of the “privilege” of operating a motor vehicle “for hire.” It should be kept in mind, however, that we are discussing the arbitrary deprivation of the Right to use the road that all citizens have “in common.” The futility of the state’s position can be most easily observed in the 1959 Washington Attorney General’s opinion on a similar issue:

*“The distinction between the Right of the Citizen to use the public highways for private, rather than commercial purposes is recognized ...”*

and ...

*“Under its power to regulate private uses of our highways, our legislature has required that motor vehicle operators be licensed (I.C. 49-307). Undoubtedly, the primary purpose of this requirement is to insure, as far as possible, that all motor vehicle operators will be competent and qualified, thereby reducing the potential hazard or risk of harm, to which other users of the highways might otherwise be subject. But once having complied with this regulatory provision, by obtaining the required license, a motorist enjoys the privilege of traveling freely upon the highways ...”*

**Washington A.G.O. 59-60 No. 88**, Pg. 11

This alarming opinion appears to be saying that every person using an automobile as a matter of Right, must give up the Right and convert the Right into a privilege. This is accomplished under the guise of regulation. This statement is indicative of the insensitivity, even the ignorance, of the government to the limits placed upon governments by and through the several constitutions. This legal theory may have been able to stand in 1959; however, as of 1966, in the United States Supreme Court decision in *Miranda*, even this weak defense of the state’s actions must fall.

*“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.”*

**Miranda vs. Arizona**, 384 US 436, 491

Thus the legislature does not have the power to abrogate the Citizen’s Right to travel upon the public roads, by passing legislation forcing the citizen to waive his Right and convert that Right into a privilege. Furthermore, we have previously established that this “privilege” has been defined as applying only to those who are “conducting business in the streets” or “operating for-hire vehicles.” The legislature has attempted (by legislative fiat) to deprive the Citizen of his Right to use the roads in the ordinary course of life and business, without affording the Citizen the safeguard of due process of law. This has been accomplished under supposed powers of regulation.

## REGULATION

*“In addition to the requirement that regulations governing the use of the highways must not be violative of constitutional guarantees, the prime essentials of such regulation are reasonableness, impartiality, and definiteness or certainty.”*

and ...

*“Moreover, a distinction must be observed between the regulation of an activity which may be engaged in as a matter of right and one carried on by government sufferance of permission.”*

**Davis vs. Massachusetts**, 167 US 43; **Pachard vs. Banton**, supra.

One can say for certain that these regulations are impartial since they are being applied to all, even though they are clearly beyond the limits of the legislative powers. However, we must consider whether such regulations are reasonable and non-violative of constitutional guarantees. First, let us consider the reasonableness of this statute requiring all persons to be licensed (presuming that we are applying this statute to all persons using the public roads). In determining the reasonableness of the statute we need only ask two questions:

1. Does the statute accomplish its stated goal? The answer is **No!** The attempted explanation for this regulation *“to insure the safety of the public by insuring, as much as possible, that all are competent and qualified.”* However, one can keep his license without retesting, from the time he/she is first licensed until the day he/she dies, without regard to the competency of the person, by merely renewing said license before it expires. It is therefore possible to completely skirt the goal of this attempted regulation, thus proving that this regulation does not accomplish its goal. Furthermore, by testing and licensing, the state gives the appearance of underwriting the competence of the licensees, and could therefore be held liable for failures, accidents, etc. caused by licensees.

2. Is the statute reasonable? The answer is **No!** This statute cannot be determined to be reasonable since it requires to the Citizen to give up his or her natural Right to travel unrestricted in order to accept the privilege. The purported goal of this statute could be met by much less oppressive regulations, i.e., competency tests and certificates of competency before using an automobile upon the public roads. (This is exactly the situation in the aviation sector.)

But isn't this what we have now? The answer is **No!** The real purpose of this license is much more insidious. When one signs the license, he/she gives up his/her Constitutional Right to travel in order to accept and exercise a privilege. After signing the license, a quasi-contract, the Citizen has to give the state his/her consent to be prosecuted for constructive crimes and quasi-criminal actions where there is no harm done and no damaged property. These prosecutions take place without affording the Citizen of their Constitutional Rights and guarantees such as the Right to a trial by jury of twelve persons and the Right to counsel, as well as the normal safeguards such as proof of intent and a corpus delicti and a grand jury indictment. These unconstitutional prosecutions take place because the Citizen is exercising a privilege and has given his/her *“implied consent”* to legislative enactments designed to control interstate commerce, a regulatable enterprise under the police power of the state. We must now conclude that the Citizen is forced to give up Constitutional guarantees of “Right” in order to exercise his state “privilege” to travel upon the public highways in the ordinary course of life and business.

## SURRENDER OF RIGHTS

A Citizen cannot be forced to give up his/her Rights in the name of regulation.

*“... the only limitations found restricting the right of the state to condition the use of the public highways as a means of vehicular transportation for compensation are (1) that the state must not exact of those it permits to use the highways for hauling for gain that they surrender any of their inherent U.S. Constitutional Rights as a condition precedent to obtaining permission for such use ...”*

**Riley vs. Laeson**, 142 So. 619; **Stephenson vs. Binford**, supra.

If one cannot be placed in a position of being forced to surrender Rights in order to exercise a privilege, how much more must this maxim of law, then, apply when one is simply exercising (putting into use) a Right?

**Hoke vs. Henderson**, 15 NC 15

and ...

*“We find it intolerable that one Constitutional Right should have to be surrendered in order to assert another.”*

**Simons vs. United States**, 390 US 389

Since the state requires that one give up Rights in order to exercise the privilege of driving, the regulation cannot stand under the police power, due process, or regulation, but must be exposed as a statute which is oppressive and one which has been misapplied to deprive the Citizen of Rights guaranteed by the United States Constitution and the state constitutions.

## TAXING POWER

*“Any claim that this statute is a taxing statute would be immediately open to severe Constitutional objections. If it could be said that the state had the power to tax a Right, this would enable the state to destroy Rights guaranteed by the constitution through the use of oppressive taxation. The question herein, is one of the state taxing the Right to travel by the ordinary modes of the day, and whether this is a legislative object of the state taxation. The views advanced herein are neither novel nor unsupported by authority. The question of taxing power of the states has been repeatedly considered by the Supreme Court. The Right of the state to impede or embarrass the Constitutional operation of the U.S. Government or the Rights which the Citizen holds under it, has been uniformly denied.”*

**McCulloch vs. Maryland**, 4 Wheat 316

The power to tax is the power to destroy, and if the state is given the power to destroy Rights through taxation, the framers of the Constitution wrote that document in vain.

*“... It may be said that a tax of one dollar for passing through the state cannot sensibly affect any function of government or deprive a Citizen of any valuable Right. But if a state can tax ... a passenger of one dollar, it can tax him a thousand dollars.”*

**Crandall vs. Nevada**, 6 Wall 35, 46

and ...

*“If the Right of passing through a state by a Citizen of the United States is one guaranteed by the Constitution, it must be sacred from state taxation.”*

**Ibid.**, Pg. 47

Therefore, the Right of travel must be kept sacred from all forms of state taxation and if this argument is used by the state as a defense of the enforcement of this statute, then this argument also must fail.

### CONVERSION OF A RIGHT TO A CRIME

As previously demonstrated, the Citizen has the Right to travel and to transport his property upon the public highways in the ordinary course of life and business. However, if one exercises this Right to travel (without first giving up the Right and converting that Right into a privilege) the Citizen is by statute, guilty of a crime. This amounts to converting the exercise of a Constitutional Right into a crime. Recall the **Miller vs. U.S.** and **Snerer vs. Cullen** quotes from Pg. 5, and:

*“The state cannot diminish Rights of the people.”*

**Hurtado vs. California**, 110 US 516

and ...

*“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.”*

**Miranda**, supra.

Indeed, the very purpose for creating the state under the limitations of the constitution was to protect the rights of the people from intrusion, particularly by the forces of government. So we can see that any attempt by the legislature to make the act of using the public highways as a matter of Right into a crime, is void upon its face. Any person who claims his Right to travel upon the highways, and so exercises that Right, cannot be tried for a crime of doing so. And yet, this Freeman stands before this court today to answer charges for the “crime” of exercising his Right to Liberty. As we have already shown, the term “drive” can only apply to those who are employed in the business of transportation

for hire. It has been shown that freedom includes the Citizen's Right to use the public highways in the ordinary course of life and business without license or regulation by the police powers of the state.

## CONCLUSION

It is the duty of the court to recognize the substance of things and not the mere form.

*"The courts are not bound by mere form, nor are they to be misled by mere pretenses. They are at liberty — indeed they are under a solemn duty — to look at the substance of things, whenever they enter upon the inquiry whether the legislature has transcended the limits of its authority. If, therefore, a statute purported to have been enacted to protect ... the public safety, has no real or substantial relation to those objects or is a palpable invasion of Rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution."*

**Mulger vs. Kansas**, 123 US 623, 661

and ...

*"It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon."*

**Boyd vs. United States**, 116 US 616

The courts are duty bound to recognize and stop the stealthy encroachments which have been made upon the Citizen's Right to travel and to use the roads to transport his property in the "ordinary course of life and business." (**Hadfield**, supra.) Further, the court must recognize that the Right to travel is part of the Liberty of which a Citizen cannot be deprived without specific cause and without the due process of law guaranteed in the Fifth Amendment. (**Kent**, supra.) The history of this invasion of the Citizen's Right to use the public highways shows clearly that the legislature simply found a heretofore untapped source of revenue, got greedy, and attempted to enforce a statute in an unconstitutional manner upon those free and natural individuals who have a Right to travel upon the highways. This was not attempted in an outright action, but in a slow, meticulous, calculated encroachment upon the Citizen's Right to travel. This position must be accepted unless the prosecutor can show his authority for the position that the "use of the road in the ordinary course of life and business" is a privilege. To rule in any other manner, without clear authority for an adverse ruling, will infringe upon fundamental and basic concepts of Constitutional law. This position, that a Right cannot be regulated under any guise, must be accepted without concern for the monetary loss of the state.

*"Disobedience or evasion of a Constitutional Mandate cannot be tolerated, even though such disobedience may, at least temporarily, promote in some respects the best interests of the public."*

**Slote vs. Examination**, 112 ALR 660



and ...

*“Economic necessity cannot justify a disregard of Constitutional guarantee.”*

Riley vs. Carter, 79 ALR 1018; 16 Am.Jur. (2nd), Const. Law, Sect. 81

and ...

*“Constitutional Rights cannot be denied simply because of hostility to their assertions and exercise; vindication of conceded Constitutional Rights cannot be made dependent upon any theory that it is less expensive to deny them than to afford them.”*

**Watson vs. Memphis**, 375 US 526

Therefore, the Court's decision in the instant case must be made without the issue of cost to the state being taken into consideration, as that issue is irrelevant. The state cannot lose money that it never had a right to demand from the Sovereign People. Finally, we come to the issue of public policy. It could be argued that the licensing scheme of all persons is a matter of public policy. However, if this argument is used, it too must fail, as:

*“No public policy of a state can be allowed to override the positive guarantees of the U.S. Constitution.”*

**16 Am.Jur. (2nd)**, Const. Law, Sect. 70

So even public policy cannot abrogate this Citizen's Right to travel and to use the public highways in the ordinary course of life and business. Therefore, it must be concluded that:

*“We have repeatedly held that the legislature may regulate the use of the highways for carrying on business for private gain and that such regulation is a valid exercise of the police power.”*

**Northern Pacific R.R. Co.**, supra.

and ...

*“The act in question is a valid regulation, and as such is binding upon all who use the highway for the purpose of private gain.”*

**Ibid.**

Any other construction of this statute would render it unconstitutional as applied to this Citizen or any Citizen. The Accused therefore moves this court to dismiss the charge against him, with prejudice. June 10, 1986. This ends the legal brief. In addition: Since no notice is given to people applying for driver's (or other) licenses that they have a perfect right to use the roads without any permission, and that they surrender valuable rights by taking on the regulation system of licensure, the state has committed a massive construction fraud. This occurs when any person is told that they must have a

license in order to use the public roads and highways. The license, being a legal contract under which the state is empowered with policing powers, is only valid when the licensee takes on the burdens of the contract and bargains away his or her rights knowingly, intentionally, and voluntarily. Few know that the driver's license is a contract without which the police are powerless to regulate the people's actions or activities. Few (if any) licensees intentionally surrender valuable rights. They are told that they must have the license. As we have seen, this is not the case. No one in their right mind voluntarily surrenders complete liberty and accepts in its place a set of regulations.

*"The people never give up their liberties but under some delusion."*

**Edmund Burke**, (1784)