

NOTICE OF INQUIRY AND/OR REPORT OF DETAINMENT

This questionnaire must be filled-out by any public servant before he 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. _____

*****If you need additional space please use the back*****

Year _____ Make _____ Model _____

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

Color _____ VIN _____

Victim(s) involved _____

Address _____ Phone Number _____

***** if you need additional space please use the back*****

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)

**Ignorance of the Law
does not excuse
misconduct in anyone,
least of all a sworn
officer of the law.**

County of HARRIS
OFFICE OF THE CLERIC

FILED

Chris Daniel
District Clerk

JAN 23 2017

Houston, Texas

Time: _____
Harris County, Texas

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
INVIOULATE:

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

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 _____

1, _____, 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

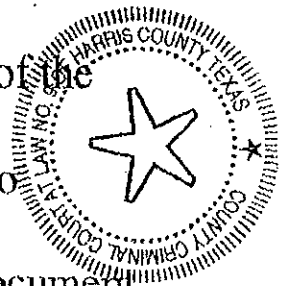
the City of Houston, Texas
this

23rd day of Jan,
AD. 2017

Deputy County
Clerk for

COUNTY
CLERK

JAN 23 2017



Oscar A. Cisneros
Deputy Investigator

Office of Inspector General 810 N San Jacinto-2nd Floor
Internal Affairs Division Houston, Texas 77002
oscar.cisneros@sheriff.hctx.net 713.274.5029 office
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U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets



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 horsedrawn 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: Schecter 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. 1982;

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 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." *Donnelly 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,

Shapiro 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 YHVH.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 of 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.

Road Side Notice & Initial Appearance Questionnaire

***/ predicated on 'Public Servant Questionnaire'
- by Federal Judge Richard Dale***

FILED

Chris Daniel
District Clerk

JAN 10 2017

Time: _____
Harris County, Texas

By _____
Deputy

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.

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 provisos 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"

ATX Sui Juris Legal Aid Group 1 | P a g e

"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 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)

CORPORATE GOVERNMENT EMPLOYEE AND PUBLIC SERVANT INFORMATION REQUIRED FOR INTERACTION WITH CITIZEN

Privacy Act of 1974 (Public Law 93-579)

1. Full Legal Name: _____
2. Residence Address: _____
CITY _____ STATE _____ ZIP _____
3. Public Servant/Employee ID or Badge #: _____
4. Public Servant/Employee job title or rank: _____
5. Public Servant/Employee phone number: _____
6. Bonding agency and account number (all government employees are required to provide a bond for insurance purposes against damages to the rights or property of the public): _____
7. Name of corporation that employs you (please use the legal all caps name as listed on Dun and Bradstreet): _____

8. Name of department, bureau or agency of that corporation that employs you: _____
9. Name of supervisor: _____
10. Supervisor's mailing address: _____
CITY _____ STATE _____ ZIP _____
11. Supervisor's phone number: _____
12. Name of department head: _____
15. Department head's mailing address if different from supervisors: _____

CITY _____ STATE _____ ZIP _____

13. Department head's phone number: _____

Statutory Identification

14. Name and number of the corporate statute (rule or regulation) that generated or authorizes this investigation or encounter:

15. Is this investigation General or Special?

Note: by 'general,' it means any kind of blanket investigations in which a number of persons are involved because of geography, type of business income, etc. By 'special,' it means any investigation of an individual nature in which others are not involved.

16. Are the questions being asked authorized by a specific law or regulation, or are they a discovery process?

17. Please provide the law or regulation that authorizes the action being taken or information requested in this case:

18. Are answers voluntary or mandatory?

19. What will be the effect upon the citizen should he not choose to answer any or all of these questions?

20. Are you aware of a document (with my original signature) that obligates Issuer to adhere to this policy or corporate statute of your employer? Yes No

21. The name of this document: _____

22. Name of person in government requesting this information:

23. Have you consulted, questioned, interviewed, or received information from any third party relating to this matter? Yes No

24. If yes, give identity of all such third parties:

25. Will the public servant guarantee that the information in these files will not be used by any other department other than the one by which he is employed? Yes No

26. Do you reasonably anticipate either a civil or criminal action to be initiated or pursued based upon any of the information which you seek?

Notice: If any request for information relating to citizen is received by any person or agency, recipient must advise citizen in writing before releasing such information. Failure to do so may subject you to possible civil or criminal action as provided by this act or other law(s).

ATTESTATION AND VERIFICATION

The Undersigned acknowledges receipt of the foregoing notice and hereby swears or affirms under

*penalty of perjury that answers
provided to the foregoing questions are true and correct except where based on belief and as to
these things believes them to be true
and will testify to these under oath in the court of law.*

Signature of public servant/corporate government employee

_____ Date _____

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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.

(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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BREACH OF TRUST AFFIDAVIT OF OBLIGATION FEE SCHEDULE

International Registered Mail Number:

BREACH OF TRUST AFFIDAVIT OF OBLIGATION (FEE SCHEDULE)

Remedy; Trustee(s), agent(s) Fee Schedule and Invoice (Billing) Statement; including but not limited to this schedule:

(1) Trespass on Cestui Que Trust matter(s) and trust property, including any trust property impaired as a result of any action taken without consent. 10,000 in silver dollar coin convertible at the legal and lawful ratio prescribed by law of 24: 1 of Federal reserve notes to silver dollars per trespass per person.

(2) Trustee(s), agent(s) Correspondence not signed in affidavit form (under penalties of perjury, commercial liability). 10,000 in silver dollar coin convertible at the legal and lawful ratio prescribed by law of 24: 1 of Federal reserve notes to silver dollars per communication not in compliance.

(3) Trustee(s), agent(s) Foreclosure, Repossession, Court Matters against Cestui Que Trust 10,000 in silver dollar coin convertible at the legal and lawful ratio prescribed by law of 24: 1 of Federal reserve notes to silver dollars.

(4) Trustee(s), agent(s) Taking of any Cestui Que Trust property thru force, duress, coercion, conversion (including but not limited to arrest/kidnapping) 10,000 in silver dollar coin convertible at the legal and lawful ratio prescribed by law of 24: 1 of Federal reserve notes to silver dollars per occurrence.

(5) Self-Executing Lease Agreement (contract) created upon the taking thru force, duress, coercion, conversion of any Cestui Que Trust property 10,000 in silver dollar coin convertible at the legal and lawful ratio prescribed by law of 24: 1 of Federal reserve notes to silver dollars lease/per day out of possession of beneficiary.

(6) Trustee(s), agent(s) Harassment after notice \$10,000 in silver dollar coin convertible at the legal and lawful ratio prescribed by law of 24: 1 of Federal reserve notes to silver dollars per occurrence.

940 F.2d 392

UNITED STATES of America, Plaintiff-Appellee,

v.

Inez Ramon **SALINAS**, Defendant-Appellant.

No. 89-10350. United States Court of Appeals, Ninth Circuit.

Submitted April 4, 1991.*

Memorandum Filed May 24, 1991.

Opinion Aug. 5, 1991.

Jose H. Robles,

Asst. Federal Public Defender, Tucson, Ariz., for defendant-appellant.

Milan D. Tesanovich,

Asst. U.S. Atty., Tucson, Ariz., for plaintiff-appellee.

Appeal from the United States District Court for the District of Arizona.

Before WRIGHT, GOODWIN and SKOPIL, Circuit Judges.

ORDER

The memorandum disposition filed May 24, 1991
is redesignated as an authored opinion by Judge Goodwin.

OPINION

GOODWIN, Circuit Judge:

1

Salinas contends that the district court erred by denying his motion to suppress evidence because the officer who stopped his vehicle lacked founded suspicion of criminal conduct. We agree and reverse.

6

The fourth amendment forbids stopping a vehicle even for the limited purpose of questioning its occupants unless police officers have a founded suspicion of criminal conduct.

--*United States v. Ramirez-Sandoval*, 872 F.2d 1392, 1395 (9th Cir.1989). "Founded suspicion must exist at the time the officer initiates the stop." *United States v. Thomas*, 863 F.2d 622, 625 (9th Cir.1988).

7

Founded suspicion exists when an officer is aware of specific articulable facts, that, together with rational inferences drawn from them, reasonably warrant a suspicion that the person to be detained has committed or is about to commit a crime.

--*United States v. Cortez*, 449 U.S. 411, 416-18, 101 S.Ct. 690, 694-95, 66 L.Ed.2d 621 (1981); *United States v. Robert L.*, 874 F.2d 701, 703 (9th Cir.1989).

10

REVERSED.

*The panel finds this case appropriate for submission without oral argument pursuant to Ninth Circuit Rule 34-4 and Fed.R.App.P. 34(a)

"...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.

(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 horsedrawn 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,

"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

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 costodial arrested

- Am I free to go?

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

"Qualified immunity defense fails if public officer violates clearly established right because a reasonably competent official should know the law governing his conduct" Jones vs Counce 7-F3d-1359-8th Cir 1993; Benitez v Wolff 985-F3d 662 2nd Cir 1993

"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.

"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.

"TRAFFIC. Commerce, trade, sale or exchange of merchandise, bills, money and the like." Bouvier's Law Dictionary 1856 Edition

A "person" is;

- "a variety of entities other than human beings." 612 F2d 417 (1979) at pg 418

- "...foreigners, not citizens...." United States v Otherson, 480 F. Supp. 1369 (1979) at pg 1373.

"DRIVER. One employed in conducting a coach, carriage, wagon, or other vehicle, with horses, mules, or other animals, or a bicycle, tricycle, or motor other motor car, though not a street, railroad car. See Davis v. Petrinovich, 112 Ala. 654, 21 South 344. 36 L. R. A. 615, Gen. St. Conn. 1902, § 2038; Isaacs v. Railroad Co., 47 N. Y. 122. 7 Am. Rep. 418." Black's Law Dictionary 2nd Edition, page 398

"...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.

(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 horsedrawn 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,

"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

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 understand 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 lawyer

- Am I under arrest?

- 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?

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

"Qualified immunity defense fails if public officer violates clearly established right because a reasonably competent official should know the law governing his conduct" Jones vs Counce 7-F3d-1359-8th Cir 1993; Benitez v Wolff 985-F3d 662 2nd Cir 1993

"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.

"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.

"TRAFFIC. Commerce, trade, sale or exchange of merchandise, bills, money and the like."
Bouvier's Law Dictionary 1856 Edition

A "person" is;

- "a variety of entities other than human beings." 612 F.2d 417 (1979) at pg 418
- "...foreigners, not citizens...." United States v Otherson, 480 F. Supp. 1369 (1979) at pg 1373.

"DRIVER. One employed in conducting a coach, carriage, wagon, or other vehicle, with horses, mules, or other animals, or a bicycle, tricycle, or motor other motor car, though not a street, railroad car. See Davis v. Petrinovich, 112 Ala. 654, 21 South 344. 36 L. R. A. 615, Gen. St. Conn. 1902, § 2038; Isaacs v. Railroad Co., 47 N. Y. 122. 7 Am. Rep. 418." Black's Law Dictionary 2nd Edition, page 398

"...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

File a Federal RICO charge against District Court and all it's Actors, not just a Motion to Discharge.

File a Federal Criminal Complaint, a violation of Title 18 U.S.C. 1961-1968 by State Actors.

File at Federal Level with U.S. Attorney General's Office and The F.B.I.

File a Motion to Discharge at the State Level Trial Court and attach an Affidavit of Joinder to Motion to Discharge.

Add all Actors on Federal Criminal Complaint

File in Trial Court.

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 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 as I am a son and brother of a retired "Peace Officer" and know where you stand. 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 benefit/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 cooperate 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 **them self** 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 maybe 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."

Donnelly 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 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).

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.

U.S. Supreme Court decisions:

"The claim and exercise of a constitutional Right cannot be converted into a crime."

Miller vs. U.S., 230 F. 486, 489

"It cannot be gainsaid that 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."

Elrod v. Burns, 427 U.S. 347, 373, 96 S.Ct. 2673, 49 L.Ed.2d 547 (1976)

40.01 (22) of the [Wisconsin] Vehicle Code which, in its definitions of words and phrases, states:

"'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....*"

Weiss v. Holman, 207 NW 2d 660 - Wis: Supreme Court 1973

Sec. 12-465. Definitions

"'Public highways' includes every way or place generally open to the use of the public as a matter of right for the purposes of vehicular travel....

Wamphassuc Pt. Prop. Owners Assn. v. Public Utilities Commission, 154 Conn. 674 - Conn: Supreme Court 1967

Sec 75-1102, subd. C is a portion of the Motor Fuel Tax Law, public highways are defined as:

"The term 'public highways' shall mean and include every way or place of whatever nature, generally open to the use of the public as a matter of right, for the purposes of vehicular travel, and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance or repair." Identical provision also appears in Section 75-1201(c).

Camden v. Harris, 109 F. Supp. 311 - U.S. Dist. Court, WD Arkansas 1953

"Although "highway" has a broad meaning (basically including any street, city or rural), the purposes of a highway, as used in the statutory definition, are limited. In defining highway, the statute refers to "every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads ... opened to the use of the public for the purpose of vehicular travel." Wis.Stat. § 340.01(22)

Schultz v. Frisby, 807 F. 2d 1339 - U.S. Court of Appeals, 7th Circuit 1986

"We hold, therefore, that a random stop of a motorist in the absence of specific articulable facts which justify the stop by indicating a reasonable suspicion that a violation of the law has occurred is constitutionally impermissible and violative of the Fourth and Fourteenth Amendments to the United States Constitution. It follows that a random stop solely for the purpose of a documents check is an unreasonable and unconstitutional detention of those in the stopped vehicle...."

STATE v. PROUSE 382 A.2d 1359, 1364 (Del. 1978)

The right to travel means, of course, the right to go from one place to another. It includes the right (1) to start, (2) to go forward on the way, and (3) to stop when the traveler's destination has been reached. To speak to the first two of these as fundamental rights without including the third would be to descend again to the absurd, and so far as the instant case is concerned that is what we have here. But we do not so limit the right. We affirm that it includes the right to stop on the way, temporarily, for a legitimate or necessary purpose when that purpose is an immediate incident to travel. So it is that the texts and authorities declare that the right to stop when the occasion demands is an incident to the right to travel, a proposition so completely self-evident that no authority is

necessary to sustain it, and which we would pronounce irrefutable, had it never heretofore been mentioned.

2 *Blashfield Automobile Law*, Perm. Ed., sec. 1191, p. 321; *Fulton v. Chouteau County Farmers' Co.*, 98 Mont. 48, 37 P.2d 1025; *Morton v. Mooney*, 97 Mont. 1, 33 P.2d 262, 263; *Albrecht v. Waterloo Const. Co.*, 218 Iowa, 1205, 257 N.W. 183.

The RIGHTS aforesaid, being fundamental, are constitutional rights, and while the exercise thereof may be reasonably regulated by legislative act in pursuance of the police power of the state, and although those powers are broad, they do not rise above those privileges which are imbedded in the constitutional structure. The police power cannot justify the enactment of any law which amounts to an arbitrary and unwarranted interference with, or unreasonable restriction on, those rights of the citizen which are fundamental.

State v. Armstead, 103 Miss. 790, 799, 60 So. 778, Ann. Cas. 1915B, 495.

An administrative regulation, of course, is not a "statute." A traveler on foot has the same right to use of the public highway as an automobile or any other vehicle.

U.S. v. Mersky (1960) 361 U.S. 431

"The 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."

Paul v. Virginia U.S. Supreme Court

- Other Courts -

"The appellant points out that § 39-741(5), 1960 Reissue of Volume 3, Revised Statutes of Nebraska of 1943, defines the term "highway" to mean " * * * every way or place of whatever nature open to the use of the public, as a matter of right, for the purposes of vehicular travel... and that the Nebraska court has adopted this definition in connection with automobile litigation"

Solomon Dehydrating Company v. Guyton, 294 F. 2d 439 - Court of Appeals, 8th Circuit 1961

"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 14th Amendment and by other provisions of the Constitution.

Schactman v Dulles, 96 Appellate D.C. 287, 293.

"There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights."

Snerer vs. Cullen, 481 F. 946

"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

"... 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**

"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**

"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**

"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 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 coach or omnibus. The former is the usual and ordinary right of a citizen, a common right, a right common to all, while the latter is special, unusual and extraordinary...."

***Ex parte Dickey (Dickey v. Davis)* 76 W.Va. 576, L.R.A. 1915 F, 840, P.U.R. 1915 E, 93, 85 S.E. 781**

"The distinction between the right of a citizen to use the public highways for private, rather than commercial purposes is recognized."

***Barbour v. Walker*, 126 Okla. 227, 259 Pac. 552, 56 A.L.R. 1049, 1053**

"However, a right as precious as the freedom of an individual who has not violated any law to travel wherever he pleases without interruption should not be denied construction not impairing such right is possible."

***People v. Utsman*, 166 N.Y.S. (2d) 358 (1957))**

"It will be observed that . . . a highway, within the contemplation of the act, is, "Every way or place of whatever nature open as a matter of right, to the use of the public, for the purposes of vehicular travel. There can be no question but that this definition is broad enough to include streets in incorporated cities, because they are open as a matter of right, to the use of the public for the purposes of vehicular travel."

***Neeley v. Bock*, 184 Wash. 135, 140, 50 P.2d 524 (1935).**

{13} We recognize that the term "traffic" is limited to travel on a "highway," which is defined as "every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction."

City of Las Cruces v. Lauren Rogers

"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... The former is the usual and ordinary right of the Citizen, a right common to all, while the latter is special, unusual, and extraordinary."

State vs. City of Spokane, supra; Ex Parte Dickey, (Dickey vs. Davis), 85 SE 781

"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**

"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."

***Berberian v. Lussier* (1958) 139 A2d 869, 872 | *Schechter v. Killingsworth*, 380 P.2d 136, 140; 93 Ariz. 273 (1963).**

"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."

***Campbell v. Walker*, 78 Atl. 601, 603, 2 Boyce (Del.) 41.**

"The right to make use of an automobile as a vehicle of travel along 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."

***People v. Horton* 14 Cal. App. 3rd 667 (1971)**

"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."

***House v. Cramer*, 112 N.W. 3; 134 Iowa 374; *Farnsworth v. Tampa Electric Co.* 57 So. 233, 237, 62 Fla. 166.**

"A highway is a public way open and free to anyone 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;**

"...a citizen has the right to travel upon the public highways and to transport his property thereon..."

***Hillhouse v United States*, 152 F. 163, 164 (2nd Cir. 1907).**

"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."

***Barney vs. Board of Railroad Commissioners*, 17 P.2d 82**

"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."

***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**

"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."

***Ex Parte Dickey*, (*Dickey vs. Davis*), 85 SE 781**

"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."

People v. Nothaus, 147 Colo. 210; | Chicago Coach Co. v. City of Chicago. 337 Ill. 200, 169 N.E. 22.

"Traffic infractions are not a crime."

Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22.

"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

"A license means leave to do a thing which the licensor could prevent."

City of Chicago v Collins 51 NE 907, 910.

"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."

Payne v. Massey 196 SW 2nd 493, 145 Tex 273.

"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."

Kent vs. Dulles see Vestal, Freedom of Movement, 41 Iowa L.Rev. 6, 13—14.

"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."

Comment, 61 Yale L.J. at page 187.

"Automobiles have the right to use the highways of the State on an equal footing with other vehicles."

Justice Hiibel White

"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."

Cumberland Telephone. & Telegraph Co. v Yeiser 141 Kentucky 15.

"A soldier's personal automobile is part of his 'household goods.'"

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 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 v. Jones 4 UCC Rep. Serv. 1021, 236, A2d 484, UCC PP 9-109.14

"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 (1925) 96 Kan. 820; Iowa Motor Vehicle Asso. v. Railroad Comrs, 148 N.W. 20

"Since the 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 pg 545, Carolina Discount Corp. v. Landis Motor Co., 190 N.C. 157

"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 the 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. 337 111. 200, 169 N.E. 22.

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."

Lockett 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. 1 982;

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, 1 1 8 1.***

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.

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.

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.

Government is established to "PROTECT AND MAINTAIN INDIVIDUAL RIGHTS"

"All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights." Washington constitution article 1 § 1.

If government does not have the duty to protect then there is no longer any real government, just those acting as, posing as, pretending to be said public servants who are instead being the violators of those rights they claim to be there to protect.

Under § 5 of the Act of March 3, 1875, Jud.Code, § 37, 28 U.S.C. 80, a plaintiff in the District Court must plead the essential jurisdictional facts and must carry throughout the litigation the burden of showing that he is properly in court; if his allegations of jurisdictional facts are challenged by his adversary in any appropriate manner, he must support them by competent evidence, and, even where they are not so challenged, the court may insist that the jurisdictional facts be established by a preponderance of evidence, or the case be dismissed. Pp. 298 U. S. 182, 298 U. S. 189.

[McNutt v. General Motors Acceptance Corp., 298 U.S. 178 (1936)]

Cohens v. Virginia, (1821), U.S. Supreme Court case in which the court reaffirmed its right to review all state court judgments in cases arising under the federal Constitution or a law of the United States. The Judiciary Act of 1789 provided for mandatory Supreme Court review of the final judgments of the highest court of any state in cases "where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity" or "where is drawn in question the validity of a statute of any state on the ground of its being repugnant to Cohens v. Virginia, (1821), U.S. Supreme Court case in which the court reaffirmed its right to review all state court judgments in cases arising under the federal Constitution or a law of the United States.

The Judiciary Act of 1789 provided for mandatory Supreme Court review of the final judgments of the highest court of any state in cases "where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity" or "where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity." the Constitution, treaties or laws of the United States, and the decision is in favor of its validity."

New York State Bar Journal

March/April 1997

See below for footnotes

Public Officers, Beware! No Excuses Accepted

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. Fermaille*, 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.

1 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 Journal, 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, 645 N.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.**

[Return to State Bar Journal Index](#) [Return to the NYSBA Home Page](#)

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

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.

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

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

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

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

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

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

(a) The director is authorized to revoke or suspend any original license held by a person 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[,] 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 260:5]~~,
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 ~~(o)~~ (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 ~~(s)~~ (o) Establishment of administrative procedures to aid in the collection of protested

HB 507-FN-A-LOCAL - AS INTRODUCED

- Page 4 -

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

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

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

263:10 *Commercial* License Expiration.

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

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

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

187-A:39 Application.

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

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

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

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

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

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

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

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

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

10 Repeal. The following are repealed:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HB 507-FN-A-LOCAL - AS INTRODUCED

- Page 6 -

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
<i>Funding Source:</i>	<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.

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

NET 50

Dear MOTGOMERY COUTY 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."

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.

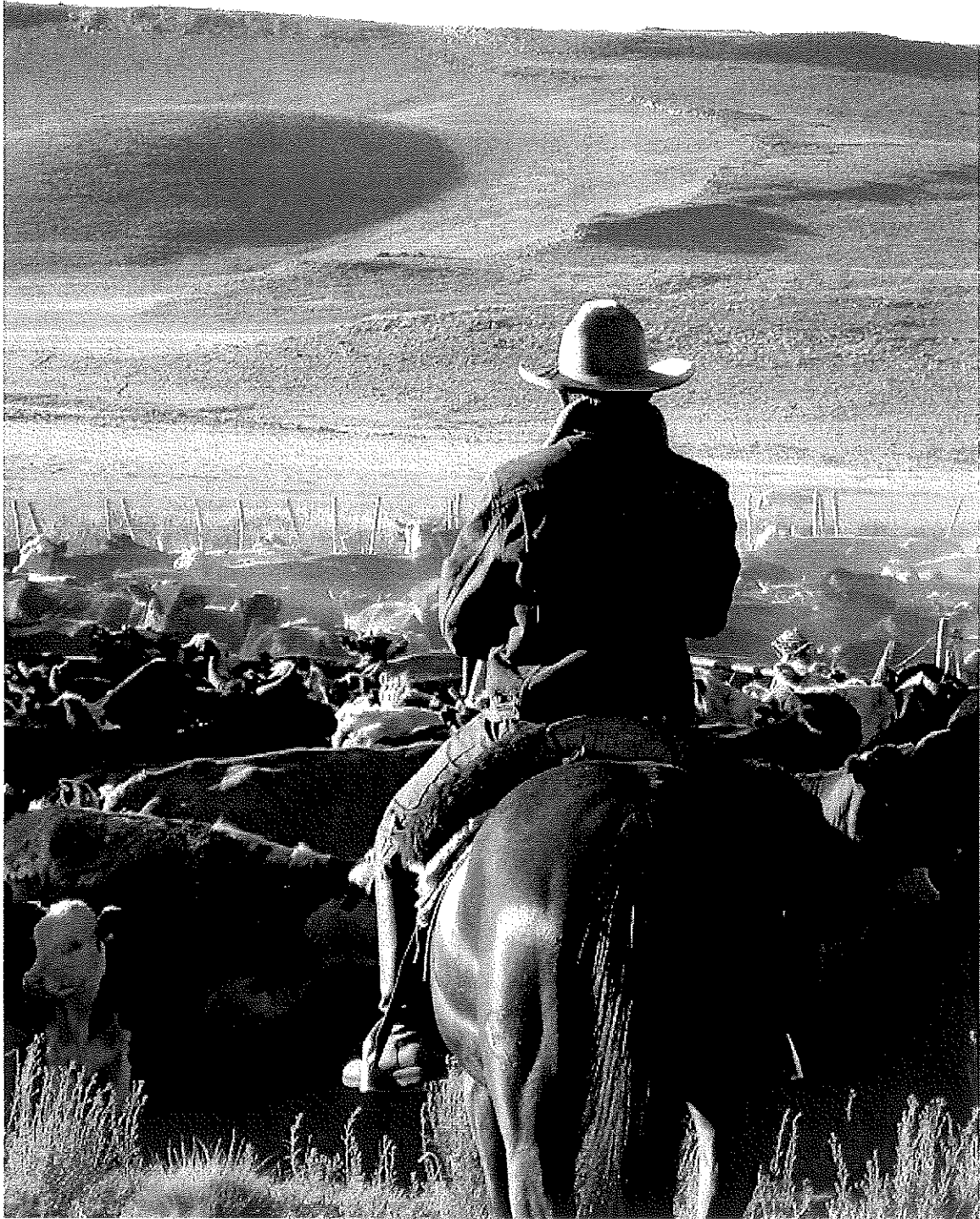
WHAT EVIDENCE does the SHERIFF DEPARTMENT / COURT have that I am a TRUSTEE and have ANY SURETY with respect to the LEGAL NAME? WHAT EVIDENCE does the COURT/DEPARTMENT have that I am an OFFICER, an AGENT, a TRUSTEE or an EMPLOYEE of the United States of America corporation? WHAT EVIDENCE does the COURT 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, COUTY OF MOTGOMERY 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

Are you a DRIVER? Do you DRIVE?



Do you DRIVE?
Are you a DRIVER?
Is your car a MOTOR VEHICLE?
Have you BAILED your property to the DMV?
Take the test by answering the following
12 questions and determine for yourself:
Are you a "driver"? Do you "drive"? How can you tell? The **Vehicle Code** of 1935.
*"An act to establish a Vehicle Code, thereby consolidating and revising the law
relating to vehicles and vehicular traffic, and to repeal certain acts and parts of
acts specified herein." (Stats. 1935, Ch.27, p. 93, in effect September 15, 1935).*

The activity **licensed** by state DMVs and in connection with which individuals
must submit personal information to the DMV- the **operation of motor
vehicles**-is itself integrally related to interstate **commerce**.

...state activities integrally related to **commerce**, and acted within its sphere of
power to afford "security * * * to the rights of the people" by preventing the States
from releasing personal information that they require individuals to submit as a
condition of engaging in activity – **owning and operating a motor vehicle** –
that is integrally **related to commerce** generally...

JANET RENO, ATTORNEY GENERAL OF THE UNITED STATES, ET AL.,
PETITIONERS v. CHARLIE CONDON, ATTORNEY GENERAL FOR THE STATE
OF SOUTH CAROLINA, ET AL.,

In the Supreme Court of the United States, (Jan. 12, 2000)

No. 98-1464

[Emphasis added]

1. Is "driving" an activity that is commercial in nature? Yes
_____ No _____

CALIFORNIA COMMERCIAL CODE

§9109. Classification of Goods: "Consumer goods"; "Equipment"; "Farm
Products"; "Inventory"

Goods are

- (1) "Consumer goods" if they are used or bought for use primarily for personal, family or household purposes;
- (2) "**Equipment**" if they are used or bought for the use primarily in **business** (including farming or a **profession**) or by a debtor who is a nonprofit organization or a government subdivision or agency or if the goods are not included in the definitions of inventory, farm products, or consumer goods.

California Code Comment
By John A. Bohn and Charles J. Williams

Prior California Law

1. The classification of goods in this section is new statutory law. The significance of this classification is described in Official Comment 1. Although goods cannot belong to more than one category at any time, they may change their classification depending upon who holds them and for what reason. Each classification is mutually exclusive but the four classifications described are intended to include all goods.

Official Comment 2.

"The term '**automobile**' is the generic name which has been adopted by popular approval for all forms of **self-propelled vehicles** for **use** upon the highways and streets for general **freight** and **passenger** service."

Vol.1-2, Huddy, Cyclopedia of Automobile Law (1932), p. 140.

Title 18, United States Code, Sec. 31

PART I – CRIMES

CHAPTER 2 – AIRCRAFT AND MOTOR VEHICLES

Sec. 31. Definitions

When used in this chapter 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;

CALIFORNIA VEHICLE CODE

SECTION 15210(i)(4)

In the absence of a federal definition, existing definitions under this code shall apply.

"Section 465.4 Classification as Pleasure Cars or Commercial Vehicles

"A classification of motor vehicles, based on whether they are used for business

or commercial purposes, or merely kept for pleasure or family use, a license being imposed in one case and not in the other, is a proper one. [27. La.—*Gulf States Utilities v. Traigle*, 1975, 310 So.2d. 78. Ohio.—*Fisher Bros. Co. v. Brown*, 146 N.E. 100, 111 Ohio St. 602. Or.—*Kellaher v. City of Portland*, 110 P. 492, 112 P. 1076, 57 Or. 575. Tenn.—*Ogilvie v. Hailey*, 210 S.W. 645, 141 Tenn. 392. Vt.—*State v. Caplan*, 135 A. 705, 100 Vt. 140.] “Thus a county ordinance levying a tax for the privilege of using the county roads, and fixing no license tax on an automobile used by the owner or his family for other than commercial purposes is not unreasonable and arbitrary in the imposition of the tax on vehicles used for commercial purposes. [28 Ala.—*Hill v. Moody*, 93 So. 422, 207 Ala. 325.]” *Blashfield, AUTOMOBILE LAW AND PRACTICE 3d Ed (1998):*
Ch. 465 CLASSIFICATION OF MOTOR VEHICLES

2. Is the term “motor vehicle” a term used to describe a device or thing used in commercial activity?

Yes _____ No _____

DRIVER. One **employed...**

Bouvier's Law Dictionary, 1856

DRIVER— one **employed** in conducting a coach, carriage, wagon, or other vehicle...”

BOUVIER'S LAW DICTIONARY, (1914)p. 940.

DRIVER. One **employed...**

Black's Law Dictionary, 4th Ed, 1951

Corpus Juris Secundum §151. — **Chauffeur** or **Operator**

A **distinction** is recognized between an **operator** and a **chauffeur** under some **licensing** regulations, “chauffeur” referring to one who is **paid** for **driving** an **automobile**.

60 C.J.S. MOTOR VEHICLES §§ 150 – 151, p. 797 (also see “Tests”(1) and (2))

The California Appellate Court in 1948 defined what types of licensing is required to operate a “motor vehicle:

“Section 250 . . . “(a) It is a misdemeanor for any person to drive a motor vehicle upon a highway unless he then holds a valid operator's or chauffeur's license” . . . driving privileges—of which the license is but evidence (*People*

v. Noggle (1935), 7 Cal.App.2d 14, 17, [45 P.2d 430, 432]) People v. Higgins (1948) 97 Cal.App.2d Supp. 938, 939, 941; 197 P.2d 417.

The foregoing court citation clearly shows that the "operator's license" permits engagement in commercial activity.

Section 1. (b) The word "operator" shall include all persons, firms, associations and corporations who operate motor vehicles upon any public highway in this state and thereby engage in the transportation of persons or property for hire or compensation, but shall not include any person, firm, association or corporation who solely transports by motor vehicle persons to and from or to and from attendance upon any public school or who solely transports his or its own property, or employees, or both, and who transports no persons or property for hire or compensation... Section 2. Each operator of a motor vehicle within this state who transports or desires to transport for compensation or hire persons or property upon or over any public highway within this state shall apply to and secure from the board of equalization of the State of California a license to operate each and all of the motor vehicles which such operator desires to operate or which such operator from time to time may operate."

Stats. 1925, ch 412, p. 833. Approved by the Governor May 23, 1925.

CARRIERS, contracts. There are two kinds of carriers, namely, common carriers, (q.v.) who have been considered under another head; and private carriers. These latter are persons who, although they do not undertake to **transport** the goods of such as choose to **employ** them, yet agree to carry the goods of some particular person for **hire**, from one place to another.

2. In such case the carrier incurs no responsibility beyond that of any other ordinary **bailee** for **hire**, that is to say, the responsibility of ordinary diligence. 2 Bos. & Pull. 417; 4 Taunt. 787; Selw. N. P. 382 n.; 1 Wend. R. 272; 1 Hayw. R. 14; 2 Dana, R. 430; 6 Taunt. 577; Jones, Bailm. 121; Story on Bailm, Sec. 495. But in *Gordon v. Hutchinson*, 1 Watts & Serg. 285, it was holden that a Wagoner Who carries goods for **hire, contracts**, the responsibility of a common carrier, whether **transportation** be his principal and direct **business**, or only an occasional and incidental **employment**.

3. To bring a person within the description of a common carrier, he must exercise his **business** as a **public employment**; he must undertake to carry goods for persons generally; and he must hold himself out as ready to engage in the transportation of goods for **hire**, as a **business**; not as a casual **occupation** pro hac vice. 1 Salk. 249; 1 Bell's Com. 467; 1 Hayw. R. 14; 1 Wend. 272; 2, Dana, R. 430. See Bouv. Inst. Index, b. t.

3. Are you a “driver”, “operator, or “carrier”?

Yes _____ No _____

The **activity licensed** by state **DMVs** and in connection with which individuals must submit personal information to the DMV- the **operation of motor vehicles**-is itself integrally related to **interstate commerce**.

...state activities integrally related to **commerce**, and acted within its sphere of power to afford “security * * * to the rights of the people” by preventing the States from releasing personal information that they require individuals to submit as a condition of engaging in activity-owning and **operating a motor vehicle**-that is integrally related to **commerce** generally...

JANET RENO, ATTORNEY GENERAL OF THE UNITED STATES, ET AL.,
PETITIONERS v. CHARLIE CONDON, ATTORNEY GENERAL FOR THE STATE
OF SOUTH CAROLINA, ET AL.,

In the Supreme Court of the United States, (Jan. 12, 2000)

No. 98-1464

[Emphasis added]

4. When you use your car, are you engaged in the activity the DMV regulates?

Yes _____ No _____

Vehicle Code (1935),

“Section 4.: Pending Proceedings and Accrued Rights. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.”

CALIFORNIA VEHICLE CODE (1998)

Pending Proceeding and Accrued Rights

4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as

possible.

Constitution of the State of California, 1849 **Sec. 1.**

All men are by nature free and independent, and have certain unalienable rights, among which are those of enjoying and defending life and liberty: acquiring, possessing and protecting property: and pursuing and obtaining safety and happiness.

Sec. 10.

The people shall have the right freely to assemble together,

Sec. 21.

This enumeration of rights shall not be construed to impair or deny others, retained by the people.

CALIFORNIA VEHICLE CODE

17451. The acceptance by a nonresident of the rights and privileges conferred upon him by this code... 17453. The acceptance of rights and privileges under this code...

5. Are the “rights and privileges” offered by the DMV “accrued” rights?

Yes _____ **No** _____

DEFINITIONS AND SOURCES OF LAW. 22 – 22.2

CIVIL CODE

SECTION 22-22.2

22. Law is a solemn expression of the will of the supreme power of the State. 22.1. The will of the supreme power is expressed:

(a) By the Constitution.

(b) By statutes.

22.2. The common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States, or the Constitution or laws of this State, is the rule of decision in all the courts of this State.

6. Is the VEHICLE "CODE" the law?

Yes _____ No _____ If, so, why didn't the Legislature avoid any confusion or question by authorizing CIVIL CODE SECTION 22.1, to read in the following way?:

22.1 The will of the supreme power is expressed:

- (a) By the Constitution.*
- (b) By statutes.*
- (c) By the codes.*

Constitution of the State of California, 1849

Article III: Distribution of Powers.

The powers of Government of the state of California shall be divided into three separate departments: the Legislative, the Executive, and Judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

7. Do judges have discretion to expand the meaning of ANY code section by adding words the Legislature elected to leave out?

Yes _____ No _____

"[T]he Legislature, either by amending (section 1382) or otherwise, may not nullify a constitutional provision."

*Rost v. Municipal Court of Southern Judicial Dist., County of San Mateo(1960)
85 A.L.R.2d 974, 979 Headnote 5.*

"A state cannot impose restrictions on the acceptance of a license that will deprive the licensee of his constitutional rights".

Ruckenbrod v. Mullins, 102 Utah 548, 133 P.2d. 325, 144 ALR 839

8. Does the Legislature have the authority to enact legislation

compelling the waiver of constitutionally secured rights in favor of acceptance of inferior government granted taxable and revocable privileges?

Yes _____ No _____

“A license is in the general nature of a special privilege, entitling the licensee to do something that he would not be entitled to do without the license”.

51 Am. Jur.2d., LICENSES AND PERMITS, PART ONE, GENERAL PRINCIPLES, I. GENERAL, §1. Generally, p. 7.

9. Are the unalienable rights and immunities secured by the Constitution “special privileges”?

Yes _____ No _____

10. Predicated on the foregoing authorities, are you engaged in the activity the DMV regulates?

Yes _____ No _____

11. Does the Legislature possess the authority to compel you to apply for and pay and annual fee for a license when you don't do what the license permits?

Yes _____ No _____

12. Does the Legislature possess the authority to compel you to transfer an interest in your private property to any agency of State government?

Yes _____ No _____

Terms found in the **CALIFORNIA VEHICLE CODE** and associated with the

DMV and applied to those persons who do what the DMV regulates:

COMMERCIAL. Relating to or connected with trade and **traffic** or **commerce** in general. "Zante Currents", C.C.Cal., 73 F. 189. Occupied with **commerce**. Bowles v. Co-Operative G. L. F. Farm Products, D.C.N.Y., 53 F. Supp. 413, 415.
Black's Law Dictionary, 4th Ed., p. 337

INTERSTATE COMMERCE. **Traffic**, intercourse, **commercial** trading, or the **transportation** of persons or property between or among the several states of the Union, or from between points in one state and points in another state; **commerce** between the states, or between places in different states. It comprehends all the component parts of **commercial intercourse** between different states.

[Cites omitted]

Black's Law Dictionary, 4th Ed., p. 955

TRAFFIC. Commerce; trade; **sale** or exchange of merchandise, bills, money, and the like. The passing of goods or commodities from one person to another for an equivalent in goods or money. Senior v. Ratterman, 44 Ohio St. 673, 11 N.E. 321; Fine v. Moran, 74 Fla. 417, 77 So. 533, 538; Bruno v. U.S., C.C.A.Mass., 289 F. 649, 655; Kroger Grocery and Baking Co. V. Schwer, 36 Ohio App. 512, 173 N.E. 633. The subjects of **transportation** on a route, as persons or goods; the passing to and fro of persons, animals, vehicles, or vessels, along a route of **transportation**, as a long a street, canal etc. United States v. Golden Gate Bridge and Highway Dist. of California, D.C.Cal., 37 F. Supp. 505, 512.
Black's Law Dictionary. 4th Ed., p. 1667

TRANSPORTATION. The removal of goods or persons from one place to another, by a **carrier**. Railroad Co. v. Pratt, 22 Wall. 133, 22 L.Ed. 827; **Interstate Commerce Com'n** v. Brimson, 14 S.Ct. 1125, 154 U.S. 447, 38 L.Ed. 1047; Gloucester Ferry Co. v. Pennsylvania, 5 S.Ct. 826, 114 U.S. 196, 29 L.Ed. 158
Black's Law Dictionary, 4th Ed., p. 1670

BAILEE, contracts. One to whom goods are bailed.

2. His duties are to act in good faith he is bound to use extraordinary diligence in those contracts or bailments, where he alone receives the benefit, as in loans; he must observe ordinary diligence of those bailments, which are beneficial to both parties, as hiring; and he will be responsible for gross negligence in those bailments which are only for the benefit of the bailor, is deposit and mandate. Story's Bailm. Sec. 17, 18, 19. He is bound to return the property as soon as the purpose for which it was bailed shall have been accomplished.

3. He has generally a right to retain and use the thing bailed, according to the contract, until the object of the bailment shall have been accomplished.

4. A bailee with a mere naked authority, having a right to remuneration for his trouble, but coupled with no other interest, may support trespass for any injury, amounting to a trespass, done while he was in the actual possession of the thing. 4 Bouv. Inst. n. 3608.

The “number plates” and or “emblems” are the EVIDENCE that the “license” has been acquired.

The License Tax Act of 1933 was enacted as a step in the second line, that of certain acts and constitutional provisions which were primarily **revenue measures**, designed to secure for the state a **fair return** for the use of the public highways of the state in **transporting** persons or property for **compensation**. (Stats. 1923, p. 706; Stats. 1925, p. 833; Stats. 1927, p. 1708; Stats. 1927, p. 1742; California Const., art. XIII, sec. 15; Pol. Code, sec. 3664aa; Stats. 1933, p. 928.) These enactments have been before the courts of this state in the following cases: Bacon Service Corp. v. Huss, 199 Cal. 21 [248 Pac. 235]; In re Schmolke, 199 Cal. 42 [248 Pac. 244]; Los Angeles etc. Transp. Co. v. Superior Court, 211 Cal. 411 [295 Pac. 837]; Alward v. Johnson, 208 Cal. 359 [281 Pac. 389]; People v. Duntley, 217 Cal. 150 [17 Pac. (2d) 715]; People v. Lang Transp. Co., 217 Cal. 166 [17 Pac. (2d) 721]. An analysis of the legislative history discloses the fact that **all the statutes dealing with the regulation of transportation agencies refer to persons in the business of transportation of persons or property upon the public highways for hire or compensation....**

We are satisfied that **the purpose of the enactment of the License Tax Act of 1933 was to secure a fair return to the state for the use of its public highways not only from carriers, both common carriers and private contract carriers, but also from the larger class of persons who fairly answer to the description of “operator” therein defined as taxable and who receive compensation, either directly or indirectly, from the use of the public highways.**

[Empahsis and italics added]

CALIFORNIA COMMERCIAL CODE

(former section) §9109. Classification of Goods: “Consumer goods”; “Equipment”; “Farm Products”; “Inventory” Goods are

(1) “Consumer goods” if they are used or bought for use primarily

for personal, family or household purposes;
(2) "Equipment" if they are used or bought for the use primarily in business (including farming or a profession) or by a debtor who is a nonprofit organization or a government subdivision or agency or if the goods are not included in the definitions of inventory, farm products, or consumer goods.

California Code Comment

By John A. Bohn and Charles J. Williams Prior California Law

1. The classification of goods in this section is new statutory law. The significance of this classification is described in Official Comment 1. Although goods cannot belong to more than one category at any time, they may change their classification depending upon who holds them and for what reason. Each classification is mutually exclusive but the four classifications described are intended to include all goods.

Official Comment 2.

Do you use your car in the way "Equipment" is defined, or do you use your car as the term "Consumer goods" is defined?

The license permits activity that would be illegal without the license. Licenses authorizes the exercise of privileged activity. The privilege to be exercised is inferior to unalienable or fundamental rights secured by both State and federal Constitutions.

"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 or permission."

Packard v Banton, 264 US 140, 145.

"...(its object) is to confer right or power which does not exist without it and exercise of which, without license would be illegal."

Inter-City Coach Lines v Harrison, 157 SE 673,676.

"A permit, granted by an appropriate governmental body, generally for consideration, to a person, firm, or a corporation, to pursue some occupation or to carry on some business which is subject to regulation under the police power."

Rosenblatt v California State Bd. of Pharmacy, 158 P. 2d 199, 203.

The term "**license**" implies a **divestiture** of right or title, by the licensee, to

the property which is subject to the "license." A **"license" is a mere revokable "privilege"** to do An act (or series of acts) upon land, and excludes the right or Title thereto.

Eastman v Piper, 229 P. 1002, 1003;

Gravelly Ford Canal Co. v Pope and Talbot Land Co., 178 P. 155, 163;

Howes v Barmon, 81 P. 48, 49, *Rodefer v Pittsburgh*, 74 NE 183, 186.

"A **license...** is no more than a **temporary permit** to do that which would otherwise be unlawful..."

Rawson v Dept of Licenses, 15 Wn.2d 364, 371 (1942).

"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 shall surrender any of their inherent U.S. constitutional Rights as a condition precedent to obtaining permission for such use..."

Riley v Lawson, 143 SO. 619; *Stephenson v Binford*, 287 US 251, 87 ALR 721, 736.

Predicated on the foregoing, the following terms represent "commercial activity", which is a privilege to engage in and regulated by the DMV:

Transportation
Transport
Carrier
Motor Vehicle
Vehicle
Automobile
License
Driver
Operator
Passenger
Driving Privilege

If you do not engage the commercial activity that the word "driving" represents, can you be required to apply for a "driver license" and declare that you engage in commercial activity?

If you're not a "General Contractor" can you be forced to get a license permitting "general contracting"?

If you're not an attorney, can you be forced to get a license to practice law?

If you do not hunt or fish can you be forced to get a hunting or fishing license?

Is it possible you mis-classified your car?
Did you use the proper definition to describe your car?

The word "car" merely describes an amalgam of different components. The words "motor vehicle" also describes an amalgam of different components. There is a distinction in "USE" the amalgam of different components the words "car" and "motor vehicle" describe, this is reasonably deduced from the foregoing court citations and codes. One term is a designation of the amalgamated components being for commercial use or application. The other term is a colloquial definition of amalgamated components used to merely travel from point A to point B for private personal reasons of a non- commercial nature.

It can be reasonably argued the terms "covered wagon" and "car" mean the same thing, a device used to go from point A to point B. And it can be further argued that like the covered wagon, the private car is not an item the Legislature has any authority to compel the owner to register unless it was used for purposes which the Legislature had legitimate authority to regulate under the police powers of State government.

Does the Legislature have authority to compel the people to convey an interest in their private property to any government institution?

Government is instituted for the protection, security and benefit of the people;...
Article I, Section 2, Constitution of the State of California, 1849

If the Legislature does not have absolute authority to compel the owner of a car to register it, then there must necessarily be CONDITIONS and the TERMS used and published somewhere so that one can come to an accurate determination that the REGISTRATION REQUIREMENTS apply or not to their property which they use to travel from point A to point B.

The following Attorney General Opinion will shed light on the issue of you car as "bail" and who is the bailor and bailee and the relationship thereof.

TO BE PUBLISHED IN THE OFFICIAL REPORTS
OFFICE OF THE ATTORNEY GENERAL
State of California
DANIEL E. LUNGREN
Attorney General

OPINION

No. 97-202

of June 9, 1997

DANIEL E. LUNGREN
Attorney General

CLAYTON P. ROCHE
Deputy Attorney General

THE HONORABLE DICK MONTEITH, MEMBER OF THE CALIFORNIA STATE SENATE, has requested an opinion on the following question:

When the owner of a vehicle has been arrested for driving without a valid license and the vehicle has been impounded, may the owner be found guilty of grand theft for removing the vehicle from the impounding agency's custody without permission or authority prior to the expiration of the 30-day impoundment period?

CONCLUSION

When the owner of a vehicle has been arrested for driving without a valid license and the vehicle has been impounded, the owner may be found guilty of grand theft for removing the vehicle from the impounding agency's custody without permission or authority prior to the expiration of the 30-day impoundment period.

ANALYSIS

Vehicle Code section 14602.6 Footnote No. 1 provides:

“(a) Whenever a peace officer determines that a person was driving a vehicle while his or her driving privilege was suspended or revoked or without ever having been issued a license, the peace officer may either immediately arrest that person and cause the removal and seizure of that vehicle or, if the vehicle is involved in a traffic collision,

cause the removal and seizure of the vehicle, without the necessity of arresting the person A vehicle so impounded shall be impounded for 30 days. The impounding agency, within two working days of impoundment, shall send a notice by certified mail, return receipt requested, to the legal owner of the vehicle, at the address obtained from the department, informing the owner that the vehicle has been impounded. Failure to notify the legal owner within two working days shall prohibit the impounding agency from charging for more than 15 days' impoundment when the legal owner redeems the impounded vehicle.

“(b) The registered and legal owner of a vehicle that is removed and seized under subdivision (a) or their agents shall be provided the opportunity for a storage hearing to determine the validity of, or consider any mitigating circumstances attendant to, the storage

“.....”

We are asked whether the owner of a vehicle that has been impounded pursuant to section 14602.6 may be found guilty of grand theft if he or she removes the vehicle without permission or authority from the custody of the impounding agency before the expiration of the impoundment period. We conclude that a person may be found guilty of grand theft in such circumstances.

Penal Code section 487 defines “grand theft” as follows:

“Grand theft is theft committed in any of the following cases:

“.....”

“(d) When the property taken is an automobile, firearm, . . .

“.....”

Penal Code section 489 prescribes the punishment for grand theft:

“Grand theft is punishable as follows:

“(a) When the grand theft involves the theft of a firearm, by

imprisonment in the state prison for 16 months, 2, or 3 years.

“(b) In all other cases, by imprisonment in a county jail not exceeding one year or in the state prison.”

The key statute requiring our analysis is Penal Code section 484, which defines “theft” as follows:

“(a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. . . .

“.....”

In the circumstances presented for consideration, the owner of a vehicle has removed the vehicle from an impounding agency’s custody without permission or authority prior to the expiration of the statutory impoundment period. The owner has not contested the seizure or impoundment of the vehicle through the storage hearing procedure established by the Legislature. (§14602.6, subd. (b).) Rather, the owner has taken the vehicle at a time when he or she has no right to possession.

While the taking of a vehicle may ordinarily be considered grand theft (Pen. Code, § 487, subd. (d)), is the vehicle in these circumstances “the personal property of another” (Pen.Code, § 484, subd. (a)) so as to constitute “theft”? In other words, may a person be found guilty of stealing his or her own automobile?

The answer to that question has been settled in California for well over 100 years. In the early case of *People v. Stone* (1860) 16 Cal. 369, the possession of certain personal property was given by the owner to his creditor until his debt was paid. The Supreme Court ruled that the owner could be found guilty of larceny (“feloniously go away with the personal property of another”) if he took back the property without the consent of the creditor prior to the time the debt was paid. (*Id.*, at p.372.) The Supreme Court ruled similarly in the cases of *People v. Thompson* (1868) 34 Cal. 671, 672 (“If a man takes his own goods from the possession of his bailee, without his knowledge and consent, the taking may . . .

be larceny”) and *Jones v. Jones* (1886) 71 Cal. 89, 92 (“A man may steal his own property”). In *People v. Cain* (1907) 7 Cal.App. 163, 167, the court declared:

“... The phrase, ‘personal property of another,’ as used in section 484 of the Penal Code, correctly interpreted, means property in the possession of another who is entitled as bailee, or otherwise, to retain possession thereof for some benefit or profit to himself to the exclusion of all others, rather than the absolute ownership defined by section 679 of the Civil Code. Our conclusion is that the taking of property by the general owner thereof from the possession of one who rightfully holds it as bailee or otherwise for benefit to himself, with the intent to charge such bailee with the value thereof, or deprive him of such benefit, constitutes larceny.” Footnote No. 2

In *People v. Photo* (1941) 45 Cal.App.2d 345, 351, the court reaffirmed that the phrase “personal property of another” may refer to someone who has rightful custody of the property but not absolute ownership:

“The allegation in the information that appellants ‘took the personal property of another,’ as that term is used in section 484 of the Penal Code, means property in the possession of another who is entitled as bailee, lien claimant, or otherwise, to retain possession thereof for some benefit or profit to himself to the exclusion of all others, rather than the absolute ownership, defined in section 679, Civil Code. ...”

Here, we are given that the owner of the vehicle has no right of possession at the time of the taking of the vehicle from the custody of the impounding agency. We believe that the foregoing cases support the conclusion that one may be prosecuted for taking his or her own property from another’s lawful possession. A charge of grand theft may thus be proved under the limited facts we have been given. (See *People v. Stone*, *supra*, 16 Cal. at 373; *People v. Photo*, *supra*, 45 Cal.App.2d at 353.)

We realize that the taking of a vehicle from the lawful possession of another may constitute different crimes depending upon the circumstances, especially upon the intent of the person taking the vehicle. (See § 10851; Pen. Code, § 459; Civ. Code, § 3070, subd. (b); *People v. Morales* (1993) 19 Cal.App.4th 1383, 1392-1393; *People v. Pater* (1968) 267 Cal.App.2d 921, 923-924.) Also, “[a] settled rule of statutory construction precludes prosecution under a general statute when a more specific one describes the conduct involved. [Citations.]” (*Finn v. Superior Court* (1984) 156 Cal.App.3d 268, 271; see *In re Joiner* (1959) 180 Cal.App.2d 250, 253.) Footnote No.3 However, we do not have facts establishing an offense under any other criminal statute. (See, e.g., *People v. Curtin* (1996) 22 Cal.App.4th 528, 531 [discussion of crimes of larceny by trick and device and

obtaining property by false pretenses].) Accordingly, the general statute making grand theft a crime (Pen. Code, § 487) would be applicable here. Footnote No. 4

We thus conclude that when the owner of a vehicle has been arrested for driving without a valid license and the vehicle has been impounded, the owner may be found guilty of grand theft for removing the vehicle from the impounding agency's custody without permission or authority prior to the expiration of the 30-day impoundment period.

* * * * *

Footnote No. 1

All references hereafter to the Vehicle Code are by section number only. Return to text

Footnote No. 2

Civil Code section 679 provides:

"The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws."

Footnote No. 3

If inconsistencies exist in the punishment for similar offenses under different statutes, it is for the Legislature to consider and address. (Finn v. Superior Court, supra, 156 Cal.App.3d at 271.)

Footnote No. 4

In In re Joiner, supra, 180 Cal.App.2d 250, the court found that the grand theft statute was inapplicable on facts somewhat similar to those present here, since a specific statute covered the actions of the defendant. The Legislature has changed the statutory language examined in Joiner, and it would no longer cover the limited circumstances we have been given. Hence, sections 484 and 487 remain applicable to our situation.

Can one of the sovereign people be compelled to divest themselves of absolute dominion of their unalienable rights and immunities by a municipal government employee without a court order? Can one of the sovereign people be compelled to waive their unalienable rights and immunities suffering under the auspices of metus? Can one be compelled to divulge information that may be used to incriminate themselves as a condition of due process of law?

Once the accused exercises their right to remain silent and notifies the arresting officer of the exercise of secured rights at **Section 8** of the Constitution of the State of California, 1849, can the arresting officer compel an admission or

confession?

"We begin with the fundamental premise that the objective of statutory interpretation is to ascertain and effectuate legislative intent." In determining the Legislature's intent, we are to "look first to the language of the statute, giving effect to its 'plain meaning.'" (Kimmel v. Goland (1990) 51 Cal.3d 202, 208-209.) "The words of the statute must be construed in context, keeping in mind the statutory purpose, and statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible." (Dyna-Med, Inc. v. Fair Employment & Housing Com. (1987) 43 Cal.3d 1379, 1387.) Finally, "reports of legislative committees and commissioners are part of a statute's legislative history and may be considered when the meaning of a statute is unclear." (Hutnick v. U.S. Fidelity & Guaranty Co. (1988) 47 Cal.3d 456, 465, fn. 7.)

"...the well-established principle that "[t]he courts must give statutes a reasonable construction which conforms to the apparent purpose and intention of the lawmakers." (Clean Air Constituency v. California Air Resources Bd. (1974) 11 Cal.3d 801, 813.)

93- 418 – TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL

State of California

DANIEL E. LUNGREN

Attorney General

Vehicle Code (1935),

"Section 81. "Street" or "Highway." "Street" or "highway" is a way or place of whatever nature open to the use of the public as a matter of right for purposes of vehicular travel."

"As a matter of right", not "sufferance" which = "government permission". The exercise of constitutionally secured inalienable rights DOES NOT REQUIRE the party wishing to exercise such rights to ASK for government permission which permission is evidenced by the "driver license". The "driver license" is merely EVIDENCE you ASKED for and are in POSSESSION of something belonging to the State and CONSENTED to be regulated by the terms and conditions found within the VEHICLE CODE.

Even as late as 1950, the California Supreme Court said:

"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, and subject to proper regulations as to the manner of use." (13

Cal.Jur. 371, sec. 59) **"The streets of a city belong to the people of the state, and the use thereof is an inalienable right of every citizen,** subject to legislative control or such reasonable regulations as to the traffic thereon or the manner of using them as the legislature may deem wise or proper to adopt and impose." (19 Cal.Jur. 54, sec. 407)
 "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 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, sec. 163; see, also, 40 C.J.S. 244-247, sec. 233.)"
Escobedo v. State of California (1950), 35 Cal.2d. 870, 875-876.

If you do not engage in commercial activity that the word "driving" represents, can you be required to apply for a "driver license" and declare that you do engage in the commercial activity the term "driving" represents?

When you signed your name on the application for privileges at the DMV, you did so under penalty of perjury that the foregoing information you placed on the application and other documents was true and correct. Predicated on the foregoing, have you committed perjury? Predicated on the foregoing have you declared to be true that which isn't true?

"A contract may be rescinded by the act of a party entitled and desiring to rescind."

McNeese v. McNeese, (1923) 190 Cal. 402, 213 P. 36.

A contract obtained under any element of fraud such as non-disclosure, misrepresentation, withholding of pertinent facts can be rescinded by serving a notice of rescission.

Prewitt v. Sunnymead Orchard Corp., 189 Cal. 723. [Emphasis mine]

"A writing is 'void ab initio' in the case of fraud in the inception, and it need not be formally rescinded as a

prerequisite to right of avoidance”.

Bonacci v. Massachusetts Bonding Ins. Co., (1943) 58 CA 2d 657,664.

CIVIL CODE

SECTION 1619-1633

1619. A contract is either express or implied. 1620. An express contract is one, the terms of which are stated in words.

1621. An implied contract is one, the existence and terms of which are manifested by conduct.

1622. All contracts may be oral, except such as are specially required by statute to be in writing.

VEHICLE CODE

17453. The acceptance of rights and privileges under this code or any operation of a motor vehicle anywhere within this state as specified in Section 17451 shall be a signification of the irrevocable agreement of the nonresident, binding as well upon his executor or administrator, that process against him which is served in the manner provided in this article shall be of the same legal force and validity as if served on him personally in this state.
[Emphasis added]

CIVIL CODE

SECTION 1688-1693

1688. A contract is extinguished by its rescission. 1689. (a) A contract may be rescinded if all the parties thereto consent.

(b) A party to a contract may rescind the contract in the following cases:

(1) If the consent of the party rescinding, or of any party jointly contracting with him, was given by mistake, or obtained through duress, menace, fraud, or undue influence, exercised by or with the connivance of the party as to whom he rescinds, or of any other party to the contract jointly interested with such party.

(2) If the consideration for the obligation of the rescinding party fails, in whole or in part, through the fault of the party as to whom he rescinds.

(3) If the consideration for the obligation of the rescinding party becomes entirely void from any cause.

(4) If the consideration for the obligation of the rescinding party, before it is rendered to him, fails in a material respect from any cause.

(5) If the contract is unlawful for causes which do not appear in its terms or conditions, and the parties are not equally at fault.

(6) If the public interest will be prejudiced by permitting the contract to stand.

(7) Under the circumstances provided for in Sections 39, 1533, 1566, 1785, 1789, 1930 and 2314 of this code, Section 2470 of the Corporations Code, Sections 331, 338, 359, 447, 1904 and 2030 of the Insurance Code or any other statute providing for rescission.

IF you have determined that you erred by declaring true that which isn't true, you have an obligation to NOTIFY the other party to the contract so that steps can be taken to correct the fraud. There is no statute of limitations on fraud and an agreement does not become valid over the course of time when there are elements of fraud found in the inception of the agreement.

It can be easily demonstrated that fraud existed at the time the contracting parties first met. **1.** The party wanting the benefits/privileges offered by the DMV was unaware that the DMV participated in the regulation of interstate commerce. **2.** The party wanting benefits/privileges from the DMV was unaware that the term "driver" represented one engaged in government regulated commercial/traffic activity. **3.** The party wanting benefits/privileges from the DMV was unaware that the term "motor vehicle" described a device used for commercial purposes. **4.** The party wanting benefits/privileges from the DMV was unaware that the license issued by the DMV authorizes engagement in privileged government regulated commercial activity. **5.** The party wanting benefits/privileges from the DMV was unaware that in order to receive such benefits/privileges, they would have to waive their constitutionally secured inalienable rights. **6.** The party wanting benefits/privileges from the DMV was unaware that in order to get the benefits/privileges offered by the DMV they must first alter their primary citizenship acquired at birth to that of a second class citizen without access to their fundamental rights. **7.** The party wanting benefits/privileges from the DMV must first enter a federal government welfare program, social security. **8.** The party wanting benefits/privileges from the DMV was unaware that they were about to enter an "irrevocable agreement". **9.** The party wanting benefits/privileges from the DMV THOUGHT they were required to get a license before they could LAWFULLY use their property on the streets and highways they pay for in legitimate taxes. **10.** The party wanting benefits/privileges from the DMV was unaware they could not be compelled to transfer an interest in their private property to the DMV

ELEMENTS OF A CONTRACT

When a party files a suit claiming a breach of contract, the first question the judge must answer is whether a contract existed between the parties. The complaining party must prove four elements to show that a contract existed:

1. Offer - One of the parties made a promise to do or refrain from doing some specified action in the future.

2. Consideration - Something of value was promised in exchange for the specified action or nonaction. This can take the form of a significant expenditure of money or effort, a promise to perform some service, an agreement not to do something, or reliance on the promise. Consideration is the value that induces the parties to enter into the contract.

The existence of consideration distinguishes a contract from a gift. A gift is a voluntary and gratuitous transfer of property from one person to another, without something of value promised in return. Failure to follow through on a promise to make a gift is not enforceable as a breach of contract because there is no consideration for the promise.

3. Acceptance - The offer was accepted unambiguously. Acceptance may be expressed through words, deeds or performance as called for in the contract. Generally, the acceptance must mirror the terms of the offer. If not, the acceptance is viewed as a rejection and counteroffer.

If the contract involves a sale of goods (i.e. items that are movable) between merchants, then the acceptance does not have to mirror the terms of the offer for a valid contract to exist, unless:

(a) the terms of the acceptance significantly alter the original contract; or

(b) the offeror objects within a reasonable time.

4. Mutuality - The contracting parties had "a meeting of the minds" regarding the agreement. This means the parties understood and agreed to the basic substance and terms of the contract.

When the complaining party provides proof that all of these elements occurred, that party meets its burden of making a prima facie case that a contract existed. For a defending party to challenge the existence of the contract, that party must provide evidence undermining one or more elements.

Does a Contract Have to be Written?

In general, there is no requirement that a contract be in writing. Although the Statute of Frauds requires certain types of contracts to be in writing, New Mexico recognizes and enforces oral contracts in some situations where the Statute of Frauds does not apply.

One important difference between oral and written contracts is the statute of limitations that creates deadlines for filing lawsuits concerning the contract. For oral contracts, the statute of limitations is four years. NMSA §37-1-4. For written contracts, the general statute of limitations is six years. NMSA §37-1-3. However, if the written contract is for the sale of goods, the statute of limitations is four years unless the parties contract for a shorter period. NMSA §55-2-725. The shorter period cannot be less than one year.

How Is a Contract Interpreted?

The court reads the contract as a whole and according to the ordinary meaning of the words. Generally, the meaning of a contract is determined by looking at the intentions of the parties at the time of the contract's creation. When the intention of the parties is unclear, courts look to any custom and usage in a particular business and in a particular locale that might help determine the intention.

For oral contracts, courts may determine the intention of the parties by considering the circumstances of the contract's formation, as well as the course of dealing between the parties.

**Private Conveyance
Not for Hire or Reward
Not engaged in
Transportation
or Commerce**



Missouri State Republic) NOTICE TO AGENT IS NOTICE TO PRINCIPAL;
) NOTICE TO PRINCIPAL IS NOTICE TO AGENT.
 Taney County / Parish) *(Full Faith and Credit and Clean Hands Doctrines Apply)*

1. On April 03, 2014 a notice was sent to WASHINGTON DC which contained an International Environmental Court (NSEA International) Notice and Instructions, copies of which were sent to the secretaries of all 50 franchised [E]STATES of the United States Corporation.
2. Also included were sample copies of the American national Diplomatic ID Cards for travel and Diplomat Car Tags. To date no rebuttal or reply from the Massachusetts Secretary of State to the International Environmental Court has been obtained. On April 03, 2014 a notice was also sent to the U.S. Department of Justice in Washington DC Registered Mail RE 056 784 587 US; no rebuttal has been obtained.
3. Other copies have been sent to various sheriffs and police department as well as various Patrols around each state. To date no rebuttal or reply from any of these agencies or individuals has been received. Your failure to rebut is your acceptance of the Notices.
4. The following is the list of [E]STATES registered mail receipts:
Jim Bennett, SOS, Alabama, certified mail # 7013 1710 0000 9193 5472
Don Hoberger, SOS, Alaska, certified mail # 7013 1710 0000 9193 5465
Mark Marlin, SOS, Arkansas, certified # 7013 1710 0000 9193 5441
Ken Bennett, SOS, Arizona, certified # 7013 1710 0000 9193 5458
Debra Brown, SOS, California, certified mail # 7013 1710 0000 9193 5434
Scott Gessler, SOS, Colorado, certified mail # 7013 1710 0000 9193 5427
Denise Merrill, SOS, Connecticut, certified mail # 7013 1710 0000 9193 5410
Jeffrey Bullock, SOS, Delaware, certified mail # 7013 1710 0000 9193 5403
Ken Detzer, SOS, Florida, certified mail # 7013 1710 0000 9193 5397
Brian Kemp, SOS, Georgia, certified mail # 7013 1710 0000 9193 5380
Shao Tsutsui, SOS, Hawaii, certified mail # 7013 1710 0000 9193 5373
Ben Yesuvsy, SOS, Idaho, certified mail # 7013 1710 0000 9193 5366
Jesse White, SOS, Illinois, certified mail # 7013 1710 0000 9193 5359
Connie Lawson, SOS, Indiana, certified mail # 7013 1710 0000 9193 5342
Matt Schultz, SOS, Iowa, certified mail # 7013 1710 0000 9193 5335

Mark Ritchie, SOS, Minnesota, certified mail # 7013 1710 0000 9193 5250
 Linda McCulloch, SOS, Montana, certified mail # 7013 1710 0000 9193 5229
 John Gale, SOS, Nebraska, certified mail # 7013 1710 0000 9193 5212
 Ross Miller, SOS, Nevada, certified mail # 7013 1710 0000 9193 5202
 William Gardner, SOS, New Hampshire, certified mail # 7013 1710 0000 9193 5199
 Kim Guadag, SOS, New Jersey, certified mail # 7013 1710 0000 9193 5144
 Diana Duran, SOS, New Mexico, certified mail # 7013 1710 0000 9193 5182
 Ceasar Perales, SOS, New York, certified mail # 7013 1710 0000 9193 5175
 Ceasar Perales, SOS, New York, certified mail # 7013 1710 0000 9193 5168
 Elaine Marshall, SOS, North Carolina, certified mail # 7013 1710 0000 9193 5151
 Al Jaeger, SOS, North Dakota, certified mail # 7013 1710 0000 9193 5137
 John Husted, SOS, Ohio, certified mail # 7013 1710 0000 9193 5120
 Glenn Coffee, SOS, Oklahoma, certified mail # 7013 1710 0000 9193 5113
 Kate Brown, SOS, Oregon, certified mail # 7013 1710 0000 9193 5069
 Carol Alehele, SOS, Pennsylvania, certified mail # 7013 1710 0000 9193 5045
 Ralph Mollis, SOS, Rhode Island, certified mail # 7008 1830 0001 7426 9860
 Mark Hammond, SOS, South Carolina, certified mail # 7008 1830 0001 7426 9846
 Jason Grant, SOS, South Dakota, certified mail # 7013 1710 0000 9193 5014
 Tre Harguet, SOS, Tennessee, certified mail # 7013 1710 0000 9193 5021
 John Steen, SOS, Texas, certified mail # 7013 1710 0000 9193 5038
 Nanette Rolfe, Dept of Public Safety, Utah, certified mail # 7011 2970 0002 1597 2399
 Brad Simpson, UT St. Tax Commission, Utah, certified mail # 7011 2970 0002 1597 2375
 James C. Condos, SOS, Vermont, certified mail # 7013 1710 0000 9193 5052
 Janet Vestal Kelly, SOS, Virginia, certified mail # 7012 1010 0001 2863 5007
 Kim Wyman, SOS, Washington, certified mail # 7013 1710 0000 9193 5076
 Natalie Tennant, SOS, West Virginia, certified mail # 7013 1710 0000 9193 5083
 Doug LaFollete, SOS, Wisconsin, certified mail # 7013 1710 0000 9193 5090
 Max Maxfield, SOS, Wyoming, certified mail # 7013 1710 0000 9193 5106

A copy of these documents is attached and was sent via Certified Mail and Registered Mail. For the record, your silence and lack of any rebuttal or response on these notices duly served is hereby taken and your full acquiescence and agreement with all the terms, conditions, and information contained within these notices. So that there can be no further confusion or misunderstanding regarding your responsibilities for the action of you and your Agencies / Departments, a copy of this **Notice of Acquiescence** is being served upon each of you in the manner of a **nihil-dicit judgment** as to the responsible corporate officers :

As ordered, adjudicated and decreed by an independent non-US citizen 25 member grand jury of American nationals on September 24th, 2013, three times in three separate cases found conclusively that members of all citizenships on the American Continent, to include the responsible corporate officers as defined under Public Law 92-500 Federal Water Pollution Control Act Amendment of 1972 (FWPCA), Sec. 2, Sec. 309(e)(3), also hereinafter FEDERAL "persons," and all nation-state citizens and American nationals, the "*real parties in interest*" foreign to said persons, are suffering from severe bodily harm (and death) directly resulting from said persons trespassing upon the American people's God-given unalienable right to clean water; and that above defined persons are continually/daily committing overt acts of trespass in the nature of **domestic environmental terrorism** operating **chemical and biological weapons of mass destruction** as defined under Pub. L. No. 107-56, 115 Stat. 272, enacted October 26, 2001 (18 USC Chapter 10 BIOLOGICAL WEAPONS); and that said persons are continually committing criminal acts of trespass to affect the conduct of a [national] government by mass destruction through negligently causing unlawful discharges of pollutants in violation of a "**strict liability statute**," Pub. L. No. 92-500, Sec. 2, 86 Stat. 816, enacted October 18, 1972, Federal Water Pollution Control Act Amendment of 1972 (codified 33 USC 1251 et seq.); and the person is a responsible corporate officer, a "US Citizen" subject to the UNITED STATES [CORPORATION] and laws of the United States; and in collusion with each other are jointly committing unlawful acts of "criminal negligence," *crimes of violence* against humanity in the nature of genocide; and that under "environmental law," harm to one is harm to all; and each person in the capacity of "operator," as defined under section 306(4) of the FWPCA, is unlawfully discharging "toxic pollutants" as defined under section 502(13) of the FWPCA, into a "point source" as defined under section 309(1) of the FWPCA, such being defined as a

again, criminal acts that confirm said persons' lack of standing to be before the court for "unclean hands"; and that said persons are each a "federal" person that is operating in violation of the non-voluntary national "standards of performance" meaning a standard for the control of the discharge of pollutant which reflects the greatest degree of effluent reduction, through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants to achieve the mandated standards of section 306 of the FWPCA, criminal acts that confirm said persons' lack of standing to be before the court for "unclean hands"; and said persons are unlawfully discharging "prohibited" toxic pollutants listed on the US EPA Toxic Pollutant List, such as #50 Nitrosamines (nitrate/nitrite and compounds) *et al.*, subject to toxic and pretreatment (control technology) effluent standards under 307 of the FWPCA; and which after July 1, 1977, such effluent standard or prohibition or pretreatment standard promulgated under section 307 is an unlawful act for any owner or operator of any point source to operate said source in violation of any such effluent limitation or prohibition, or pretreatment standard as confirmed under 307(d) of the FWPCA, and by said persons committing said violation(s) constitutes criminal acts of violence that confirms said persons' lack of standing to be before the court; or "**WITNESS IN ERROR**" against any other man or woman due to said persons' own "*dirty hands*"; and said persons are each, in their individual capacity, an owner and or operator who is discharging prohibited toxins in violation of a condition for a National Pollution Discharge Elimination System (NPDES) permit issued under section 402 of the FWPCA, *absent* possession of a permit lawfully issued under section 402(a), resulting in said persons' point source unlawfully discharging prohibited toxins, pollutants such as but not limited to Chloroform, Chromium and compounds, Copper and compounds, Lead and compounds, and Nitrosamines (nitrate/nitrite) into the nations (of America) waters and into the navigable waters of the United States; and despite the fact that the UNITED STATES, the USEPA, the STATE GOVERNOR(s) and all their political subdivisions are operating in collusion with each another, members of the Roman Curia, declared to be a continuing "criminal enterprise" by the SUPREME PONTIFF FRANCIS in his Apostolic Letter of July 11, 2013, that stripped said persons of their "governmental" immunity as of September 1st, 2013; and that said persons are employees of a secret society known as the UNITED STATES WASTEWATER INDUSTRY which consists of municipal corporations and employees (of chemical and biological weapons of mass destruction at their home and workplaces) dba FEDERAL, STATE, COUNTY, MUNICIPAL and DISTRICT governments and their citizens of the United States subject thereto; and, as agents of the United States corporate governments, have unanimously and collectively operated in violation of the FWPCA **daily now for over 40 years**; and warrants a claim for damage as remedy for the harm; and goes toward the said persons' lack of standing to be before the court or testify against any other man or woman due to said persons' own "unclean hands," a **WITNESS IN ERROR**; as Jesus said in the Bible, "*He that is without sin among you, let him first cast a stone at her.*" John 8:7.

Accordingly, Qui non negat fateatur' applies, he who does not deny, admits [cf. Blacks Law, 4th Addition]; Silence in the face of evil is itself evil; God will not hold us guiltless. Not to speak is to speak, and not to act is to act (Dietrich Bonhoeffer). Therefore, overt acts committed against a *real party in interest*, absent bodily injury or damage of property, will be construed as an act of ENVIRONMENTAL TERRORISM; and pursuant to the ZERO TOLERANCE Policy and duty (of care) of the International Environmental Court under section 310 of the FWPCA, a Counter-Claim for damages as statutorily provided for under section 309(d) of the FWPCA (as amended under 33USC1319(d)) shall be immediately executed and authenticated by the notaries as state commissioned officers of the Environmental Court against the liable federal person for set-off.

DECLARATION AND OFFER FOR DOMESTIC & ENVIRONMENTAL PEACE!

There is a congressional report by the Environmental Congress that has concluded that the above defined government enforcement agencies and their employees are persons:

1. Who are responsible corporate officers (as defined under Pub. L. 92-500 Sec. 2, Sec. 309(c)(3)) of the UNITED STATES CORPORATION and or its FRANCHISED [E] and its "parishes" dba counties of the [E]STATE, owned by the VATICAN, a "church," not a state, and who are *foreign, inferior* and *subject* to the superior "independent" non-US citizen American national nation-state sovereign authority of the people of the nation

of the United States, can enjoy rights under Article II of the Bill of Rights (having only XIII Articles, the 13th receiving final ratification by Virginia State on December 9th, 1812), that belong only to American nationals; and

4. Who, as such persons, are committing crimes of violence daily, acts of intimidation against the private non-military *civilian* American nationals by unlawfully carrying a gun absent state commissioned authority, but a license by a private corporation absent authority to license; and
5. Who, by ignoring the above referenced notices, are committing flagrant acts of trespass upon the constitutionally guaranteed "Bill of" rights of the American nationals to travel freely and to be left alone; and to trespass upon those guaranteed unalienable rights are in fact knowingly and wilfully overt acts committed with intent to harm in violation of [trespass upon] the non-federal American national's rights (property); specifically Article I, effecting the Right to peaceable assemble, i.e. "freely travel," Article III, trespassing into the home of the people, i.e. "car, truck, etc.," Article IV, effecting the Right to be secure in our persons and houses, i.e. "right to be left alone," Article V, depriving the people of life and property, i.e. "acts of intimidation with a gun," Article V, by taking private property from the people for public use without just compensation, i.e. "any rights of the private civilian national," Article VIII, by inflicting cruel and unusual punishment by contributing to the poisoning of the drinking water supplies and the food, i.e. "murder by poison," Article IX and X, denying rights retained by the people, i.e. "rights to travel freely unencumbered, as is our same right to clean water, clean food, clean air and clean government," and Article XI that guarantees the American nationals their foreign sovereign-state immunity from any and all acts of trespass by US federal citizens of *inferior* standing, such would be treasonous acts in the nature of domestic and or international terrorism (Patriot Act of 2002) in the nature of "environmental"; and
6. Who, of a fictitious federal "status" of *inferior* "standing" of any at all, are subject to Federal Laws and statutes, aka Codes, Rules, Regulations and Ordinances of their private corporate non-government organizations having "Duns numbers," and State laws; and
7. Who understands that the people, once harmed, have a right to redress of their grievance pursuant to Article I of the Bill of Rights Amendment for remedy via a Claim for damage due resulting from said harm by acidification exposures to toxic waters; and
8. Who understands and recognizes that the state environmental court has an unlimited authority and duty as codified in 33USC1370 State authority, to administer enforcement as codified in 33USC1319(a) State enforcement and compliance orders; and
9. Who, at their homes and workplaces, are unanimously committing daily violations that are defined as "criminal" acts in the Federal Water Pollution Control Act (Pub. L. 92-500, Sec. 2 *et seq.*, codified as United States Code Title 33, Chapter 26 Water Pollution Control and Elimination, Sec. 1251 *et seq.*), aka "Federal Water Pollution Control Act," and more specifically described under 33USC1319(c) Criminal penalties; and
10. Who is either the owner or the operator of at least one class or category of a point source as stated in codification 33USC1317(a)(2) that is subject to a effluent standard or limitation (prohibition) that as of July 1, 1973, would be unlawful acts as declared and codified in 33USC1365(f); and
11. Who is personally and daily committing at least 6 (six) criminal acts of unlawful discharge of [toxic] pollutants causing serious bodily harm, injury to all members of all citizenships of America, including the "who" of the subject persons above defined; and
12. Who may not be aware they are employees of a *continuing criminal enterprise* committing acts of criminal negligence of the FWPCA, specifically:

[X] Criminal violation for unlawful discharge of pollutants [Pub. L. 92-500, Sec. 2, 301(a)/33USC1311(a); Pub. L. 92-500, Sec. 309(c)/33USC1319(c)]

[X] Criminal violation of water quality effluent limitation [Pub. L. 92-500, Sec. 2, 301/33USC1311 and Pub. L. 92-500, Sec. 302/33USC1312; 33USC1319(c)]

[X] Criminal violation of national standard of performance [Pub. L. 92-500, Sec. 2, 306/33USC1316; 33USC1319(c)]

[X] Criminal violation of prohibition, effluent standard and pretreatment standards [Pub. L. 92-500, Sec. 2, 307/33USC1317; 33USC1319(c)]

[X] Criminal violation for failing to establish and maintain records [Pub. L. 92-500, Sec. 2, 308/33USC1318; 33USC1319(c)]

[X] Criminal violation for failing to meet NPDES permit pretreatment condition [Pub. L. 92-500, Sec. 2, 301(a)/33USC1342(a); 33USC1319(c)]

All above violation(s) are "criminal" [Pub. L. 92-500, Sec. 2, 309(c)(2)(A)]

- Reconstruction Project for clean water, clean food, clean air and clean government, aka the "National Contingency Plan" as defined in Pub. L. 92-500, Sec. 2, 311(c)(2); and*
14. Who, upon acceptance of the American national environmental commission of authority under the Bill of Rights Amendment, Article II, to act in the interest of the Common Good regarding the National Contingency Plan and shall additionally be entitled to:
(environmental commission package at www.nsea.us/environmental_commission/)
- a. \$5 Billion Indemnity and Surety and identification as exempt from claim – All American nationals and commissioned environmental officials are protected from prosecution under the Federal Water Pollution Control Act. Further, there is a ZERO TOLERANCE POLICY for trespass upon the rights of any indemnified. Accordingly, upon any trespass committed against an American national or citizen by any of the above defined, the state Environmental Court [Pub. L. 92-500, Sec. 9] will bring an Environmental Claim against the ENVIRONMENTAL TERRORISTS on behalf of the harmed and indemnified *real party(s) in interest*.
 - b. John F. Kennedy (JFK) \$1 Million Dollar American National Security Bond – The remedy for your 40-PLUS years of harm by toxic waters/unlawful discharges caused by the "failure" of the UNITED STATES and its organizations and their political subdivisions to "administer and enforce" the Federal Water Pollution Control Act, and has caused sever bodily harm to all persons, and death to many of the civilizations living on the American continent. **The JFK Bond pays:**
 - i. 5.75% interest per annum payable monthly (approximately \$4,167.00 tax-free)
 - ii. (see www.nsea.us/in-god-we-trust-2/)
 - iii. Qualify for equal share of "bounty" for capture of terrorists

DEMAND FOR SPECIFIC PERFORMANCE

All Licensing and Government Agencies; Law Enforcement Agencies; State Police; County Sheriffs; and Municipal Police are **ORDERED** by the state environmental court tribunal to:

STAND DOWN!

If you have previously trespassed upon the rights of an American national since the NOTICE of November 13th, 2013, the date of the first above referenced NOTICE, you shall "rescind" all charge(s) brought against *real party in interest* as a **WITNESS IN ERROR** within 72 hours of receiving this final notice and demand. Your failure to immediately rescind the *false charges* brought *absent standing* within 72 hours will warrant an Environmental Counter-Claim action in the state Environmental Court, a separate court and court system of nation-state lawfully commissioned officers operating under the supreme commissioned sovereign authority retained by the American nationals. The Environmental Counter-Claim will be for civil damage for the above defined criminal acts committed against the Common Good of the peoples' health and welfare each and every day for the last 40 PLUS years; and continuing to commit crimes of violence contributing to heinous acts of genocide against all American people and citizens alike, causing serious bodily harm to same through state-wide, county-wide and city-wide **employment of chemical and biological weapons of mass destruction** at your homes and workplaces, discharging prohibited poisons either directly and or indirectly into our nations' drinking water resources in violation of Public Law 92-500 Federal Water Pollution Control Act, *et seq.* The Claim will be for \$2,244,750,000.00 USD per person per point source.

Environmental Claims are bonded for \$5,000,000,000.00 USD, Bond No. SKB-02011950-2, UCC File No. 2014-189-7321-8, of which a copy of the original is filed with the United States Treasury. A Private Subrogation and Surety Bond No. RE05678.456015 is posted to set-off all costs incurred during the course of administering enforcement of the Federal Water Pollution Control Act for the prevention and elimination of criminal acts of "environmental terrorism."

County of HARRIS
OFFICE OF THE CLERIC

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 **Richard Travis house of Martin**: 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

RECORDED FOR INFORMATION
This is a true and correct copy
of the original filed for record

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 Richard T. Martin Richard Travis Martin
WITNESS Richard T. Martin

Date 01/18/2017

WITNESS [Signature]

Date 01-18-17

or

NOTARY PUBLIC _____

MY COMMISSION _____

EXPIRES _____

The court.

It is hereby Ordered on this 23rd day, October month, 2014.

1st Jurat (I am a State Commissioned Officer of above defined State in Good Standing):

Subscribed and affirmed before me Chancy A. Pinson, on this 23rd day of October 2014, by Sandra Karen who proved to me on the basis of satisfactory evidence to be the living man/woman, the American national Diplomat and Clerk of the International Environmental Court who appeared before me.



CHANCY A. PINSON
My Commission Expires
November 26, 2017
Taney County
Commission #13552178

WITNESS my hand and official seal.

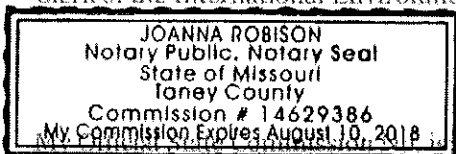
My Official State Commission No. is:

13552178

Chancy A. Pinson
Notary

2nd Jurat (I am a State Commissioned Officer of above defined State in Good Standing):

Subscribed and affirmed before me JoAnna Robison, on this 23rd day of October 2014, by Sandra Karen who proved to me on the basis of satisfactory evidence to be the living man/woman, the American national Diplomat and Clerk of the International Environmental Court who appeared before me.



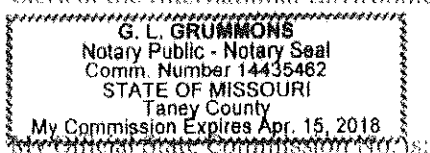
WITNESS my hand and official seal.

14629386

JoAnna Robison
Notary

3rd Jurat (I am a State Commissioned Officer of above defined State in Good Standing):

Subscribed and affirmed before me G. L. Grummons, on this 23rd day of October 2014, by Sandra Karen who proved to me on the basis of satisfactory evidence to be the living man/woman, the American national Diplomat and Clerk of the International Environmental Court who appeared before me.



WITNESS my hand and official seal.

14435462

G. L. Grummons
Notary

Seal of the Court

Competent Judicial Officers

Seal of the Clerk

Sandra Karen

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you.
 # Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

U.S. Dept of Justice
 Eric Holder
 950 Pennsylvania Ave NW.
 Washington, D.C.
 20530-0000

2. Article Number
 (Transfer from service label)

PS Form 3811, July 2013

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail® ☐ Priority Mail Express™
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

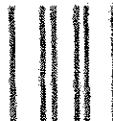
4. Restricted Delivery? (Extra Fee)

☐ Yes

7013 2630 0000 2157 3622

Domestic Return Receipt

UNITED STATES POSTAL SERVICE



First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

* Sender: Please print your name, address, and ZIP+4® in this box*

~~IEC~~ IEC
 c/o 1440 State Hwy 248
 Suite Q-418
 On Branson Missouri
 near [65616]