



ROAD TO SAVING LIVES



**Enforcement
Proposals & Analysis**

**VZC
Enforcement
Subcommittee**

4 Proposals:

1. Enact a Helmet Law for ALL Motorcycle Riders
2. Establish a Fatal Collision Reduction Team to Engage in High Visibility Enforcement Blitzen
3. Implement Automated Speed Enforcement Cameras
4. Enact an Open Container Statute and Enforce the Statute

Process: Received a number of suggestions, which were discussed at subcommittee meetings. Chair consolidated and circulated e-mail to subcommittee members for voting/ranking. These were the proposals that received the highest rankings across members.



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Enact a Helmet Law for ALL Motorcycle Riders

Proposal #1

VZC Enforcement
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Motorcycle fatalities – no helmet



- 2021: 41 Fatalities
 - 2020: 41 Fatalities
 - 2019: 36 Fatalities
 - 2018: 32 Fatalities
 - 2017: 40 Fatalities
-
- In summary, 190 **unhelmeted** motorcycle operators or passengers were fatally injured over the past 5 years.

Helmet requirement for all motorcycle operators and passengers

- Nineteen states require that all riders wear a helmet. Eighteen states require riders 17 and younger to wear helmets, and nine states require riders 20 and younger to wear helmets.

- **Massachusetts**

- All Riders**

- Maine

- Age Requirement

All passengers under 18 required to wear a helmet.

- New Hampshire

- Age Requirement

Riders under the age of 18 are required to wear helmets.

- **New York**

- All Riders**

- Rhode Island

- Age Requirement

Rhode Island law requires motorcycle operators under 21 to wear a helmet. All new operators, regardless of age, must wear a helmet for one year after the date that their motorcycle operator's license is issued

- **Vermont**

- All Riders**

Motorcycle Helmet Law for all Riders

- Would require legislative change.**
- Currently Connecticut requires helmets for riders:
 1. under age 18 (C.G.S. 14-289g); and
 2. who have a motorcycle instruction permit only. (C.G.S. 14-40a)



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Brief History of Full Helmet Laws

- 1966 National Highway Safety Act withheld federal funding from any state that had not enacted a full helmet law. Between 1967 and 1975, all states, except California had enacted such a law.
- Connecticut had such a law until 1976, when it was repealed.
- By 1970, the highest State court in 15 States, plus lower courts in New York, and a federal district court in Massachusetts rejected claims that the laws infringed on their rights.
- Only the Michigan and Illinois Supreme Courts agreed with the motorcyclists that the helmet laws violated their constitutional rights. Both Courts later reversed their decisions, finding that the State had a rational basis for the laws and states overwhelmingly determined such laws were constitutional.



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Arguments Against Helmet Requirement

The constitutional challenges focused principally on 2 arguments:

- 1) helmet statutes violated the equal protection clause of the Fourteenth Amendment or state constitutional equivalents by discriminating against motorcycle riders as a class, and
- 2) helmet statutes constituted an infringement on the motorcyclist's liberty and an excessive use of the state's police power under the due process clause of the Fourteenth Amendment or similar state provisions.



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Rationale Highlights

- Economic impact
 - To State, rider, rider's family & employer, cost of clearing crash
- Safety of others
 - Framing issue as a matter of personal safety ignores the threat to other riders on the road
 - "[a] flying object could easily strike the bareheaded cyclist and cause him to lose control of his vehicle," and "the wind or an insect flying into the cyclist's eyes could create a hazard to others on the highway." *Bogue v. Faircloth*, 316 F. Supp. 486 (1970) at 489.
- Overall health of citizens
 - Note: concept of "unlimited paternalism" and helmets for automobile drivers and riders



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Fatal Collision Reduction Team and High Visibility Enforcement Blitzes

Proposal #2

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Premise

- Gather traffic officers from State Police and/or Municipal Departments, including specially-trained officers (DRE, ARIDE)
- Identify traffic violations that correlate with crashes
- Identify high frequency crash locations
- Engage in high visibility enforcement efforts targeting those identified traffic violations in the identified areas, using the special team



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Overview/Considerations

- Legislation Required? No
- Legal Considerations: Comparison to Sobriety Checkpoints?
 - Notice
 - Standardized procedures
 - Basis for selection of locations
- Discretionary use of agency resources/assignments of duties
- Mutual Aid Agreements between agencies



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Implement Automated Speed Enforcement Cameras

Proposal #3

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Legislation needed?

- Unclear, but likely *some* legislative changes
- Speeding prohibited by C.G.S. § § 14-218a and 14-219.
 - Text of the statutes does not explicitly limit enforcement to in person police action or prohibit use of camera enforcement.
 - Though, we do have “prima facie presumption[s] of accuracy” codified regarding certain equipment police use to detect speed currently (i.e. radar, laser). See C.G.S. § 14-219(c).
 - Note: presumption can be extended to “any other speed monitoring device approved by the Commissioner of Emergency Services and Public Protection...”
- Speed Enforcement Camera Pilot Program for Work Zones



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Nationwide Use

As of September 2022:

- 18 states have active speed enforcement cameras in place.
 - Some are limited to certain areas like work zones or school zones
 - +2 that have pilot programs for work zones (DE and CT)
 - +3 have laws that permit or do not ban the use, but have no cameras in place
- 22 states have active red light cameras in place
- 6 states ban the use of speed enforcement cameras pursuant to state law

<https://www.iihs.org/topics/red-light-running/automated-enforcement-laws>



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Unsuccessful Challenges:

- Lack Rational Basis
- Violate Substantive Due Process
- Violate Procedural Due Process
- Violate Equal Protection
- Violate Right to Inter/Intra State Travel
- Violate Privileges and Immunities Clause
- Violate Fourth Amendment (because issuance of the ticket is a seizure)
- Violate state law by punishing owner rather than operator*



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Open Questions

What about Privacy rights?

- Vehicle and its occupants are in public view and cannot escape public scrutiny. *Cardwell v. Lewis*, 417 U.S. 583 (1974)
- Defendant has no reasonable expectation of privacy in using public streets and surveillance by police OK. *United States v. Knotts*, 460 U.S. 276 (1983)
- Police search for VIN does not violate individual privacy rights. *NY v. Class*, 475 U.S. 106 (1986)
- No expectation of privacy in license plate. *California v. Carney*, 471 U.S. 386 (1985)
- BUT courts wary of developing technologies. See *Carpenter v. U.S.*, 138 S. Ct. 2206 (2018) (concerning cell site data)

Evidentiary concerns?

- ATE digital photos not hearsay and admission does not violate confrontation clause. See *People v. Goldsmith*, 59 Cal.4th 258, 273-75 (2014)
- Confrontation clause not applicable because not criminal proceeding; no heightened due process for red light violation. See *Krieger v. Rochester*, 978 N.Y.S.2d 588, 768 n.6 (Sup. Ct. 2013)
- Rebuttable presumption that owner was the operator unconstitutional. See *Tupper v. City of St. Louis*, 468 S.W.3d 360 (2015)



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Work Zone Pilot, C.G.S. § 13a-263

- (a) No person operating a motor vehicle shall exceed the posted speed limit by fifteen or more miles per hour, as detected by a work zone speed control system, within a highway work zone where a work zone speed control system is operational.
- (b) The owner of a motor vehicle identified by a work zone speed camera control system as violating the provisions of subsection (a) of this section shall, (1) for a first violation, receive a written warning, (2) for a second violation, be fined seventy-five dollars, (3) for a subsequent violation, be fined one hundred fifty dollars. ***The owner shall be liable for any such fine imposed unless the driver of the motor vehicle received a citation from a law enforcement officer at the time of the violation.***



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C.G.S. § 13a-264(i)- Defenses for Owner

(i) The following defenses shall be available to the owner of a motor vehicle identified by a work zone speed camera control system as allegedly violating section 13a-263: (1) The violation took place during a period of time in which the motor vehicle had been reported as being stolen to a law enforcement unit, as defined in section 7-294a, and had not been recovered prior to the time of the violation, and (2) the work zone speed control system used to determine speed was not in compliance with the provisions of this section relating to tests for accuracy, certification or calibration.

NOTE: Not a defense that the owner was NOT the operator at the time of the violation.



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Enact an Open Alcohol Container Statute and Enforce the Statute

Proposal #4

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Legislation Needed!

- Currently, Connecticut has legislation that prohibits drinking alcohol while operating a vehicle. See C.G.S. § 53a-213.
 - Drinking while driving is a class C misdemeanor, punishable by up to 3 months in jail and a fine of up to \$500.
- There are no statutes that prohibit simply having an open container of alcohol in the vehicle or a passenger's consumption of alcohol while a vehicle is in operation.



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Transportation Equity Act for the 21st Century

- 23 USC § 154 (1998)
- encouraged states to adopt laws prohibiting the possession and consumption of alcohol in the passenger compartment of motor vehicles generally
- Penalizes states by diverting funds if no open container law



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To comply with federal program, open container law must:

1. prohibit both possession of any open alcoholic beverage container and consumption of any alcoholic beverage;
2. cover the passenger area of any motor vehicle, including unlocked glove compartments and any other areas of the vehicle that are readily accessible to the driver or passengers while in their seats;
3. apply to all open alcoholic beverage containers and all alcoholic beverages, including beer, wine, and spirits that contain 0.5% or more of alcohol by volume (including 3.2% beer);
4. apply to all vehicle occupants except for passengers of vehicles designed, maintained, or used primarily for the transportation of people for compensation (such as buses, taxi cabs, and limousines), or the living quarters of motor homes;
5. apply to all vehicles on a public highway or the right-of-way (i.e. on the shoulder) of a public highway;
6. ***require primary enforcement of the law, rather than requiring probable cause that another violation had been committed before allowing enforcement of the open container law.***

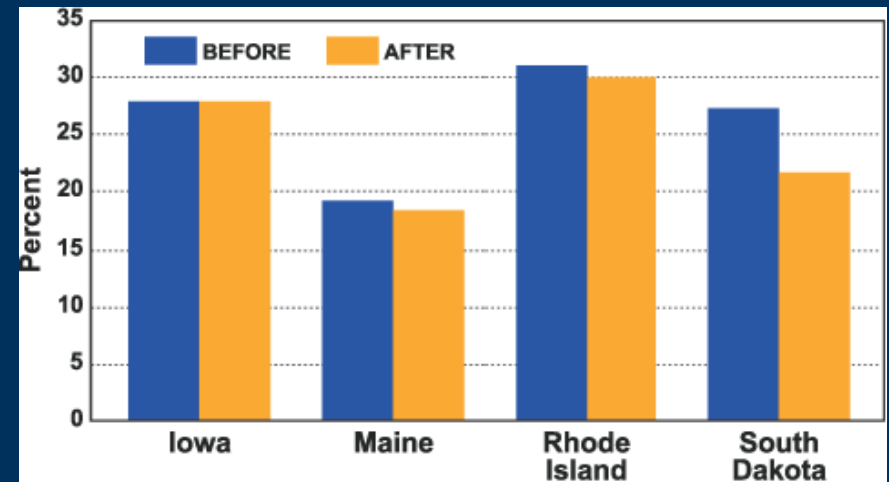


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Legal Considerations

- Rational basis:
 - ***What is the government's goal?***
 - ***Will open container laws have an impact on roadway safety?***
- Inconsistency with other laws and application of other laws (i.e. smoking cannabis in a motor vehicle as secondary offense only)

Figure 1.
Percent of All Fatal Crashes That Were Alcohol Involved:
Six-Month Period After Enforcement Began
Compared to the Same Period in the Previous Year



[NHTSA Open Container- 4 State Study](#)



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