

**FROM CALIFORNIA TO ILLINOIS TO
FLORIDA, OH MY!: THE NEED FOR A
MORE UNIFORM DRIVER'S LICENSE
RENEWAL POLICY**

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A great deal of controversy surrounds the area of driver's license renewal reform with regard to the elderly. A variety of solutions have been implemented to address this issue, resulting in inconsistent regulation throughout the country. In this note, David Rosenfield examines this issue and the need for more uniform driver's license renewal policies in which age plays a significant factor. He considers both the various current state approaches to this issue and the obstacles to federal regulation. He concludes that a federal mandate, enforced through federal funding and utilizing a combination of approaches, will best address the various problems inherent in formulating a cohesive driver's license renewal policy.

I. Introduction

California State Senator Tom Hayden (D-Los Angeles) must have had a premonition. Hayden, unlike most of his

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constituents, must have realized the potential dangers that lay ahead. In 1998, a ninety-six-year-old driver, whose last driving test was in 1918, struck and killed a fifteen-year-old girl on her way to the grocery store in Santa Monica, California.¹ Following the crash, Hayden adamantly pushed for a law requiring the California Department of Motor Vehicles (DMV) to issue road tests to motorists aged seventy-five years and older.² The proposal was not groundbreaking by any means.³ Ultimately, however, age was not mentioned in the California law, which imposes a minimum vision requirement, and calls for a road test if the DMV receives concerns about a driver's potential limitations.⁴ Five years later, Santa Monica wishes it had heeded Hayden's advice.⁵

On July 16, 2003, George Russell Weller brought an issue, once thought to have calmly disappeared, back to the national forefront.⁶ Claiming he hit the gas instead of the brake, eighty-six-year-old Weller, who was not required to take a driving test to renew his license, crashed his Buick sedan into an outdoor market in Santa Monica, killing ten people and injuring more than fifty others.⁷ Nine days later, a seventy-nine-year-old man injured six people when he apparently lost control of his automobile at a farmer's market in Flagler Beach, Florida, a state that until recently allowed all of its drivers to renew their driver's license by mail.⁸ Although these two incidents

1. *New Rules for Aged Drivers*, L.A. TIMES, July 18, 2003, pt. 2, at 14.

2. Matt Lait & Sharon Bernstein, *Santa Monica Crash; Stricter Rules for Elderly Drivers Could Be Urged*, L.A. TIMES, July 17, 2003, pt. 1, at 17; see also *New Rules for Aged Drivers*, *supra* note 1.

3. See, e.g., 625 ILL. COMP. STAT. 5/6-115 (2003).

4. CAL. VEH. CODE § 12804.9 (2004); Lait & Bernstein, *supra* note 2 (suggesting the reason for defeat was due to heavy opposition from various senior citizen groups like the American Association of Retired Persons (AARP)).

5. See Henry Weinstein, Doug Smith & Carl Ingram, *Santa Monica Crash*, L.A. TIMES, July 18, 2003, pt. 1, at 30 (suggesting that a vision test would likely have resulted in at least some hesitation in renewing Weller's driver's license, as an inspection of Weller's home showed that his car had hit the wall of the garage on repeated occasions, evidencing his lack of depth perception, a commonly tested characteristic in vision tests).

6. *Id.*

7. John-Thor Dahlburg, *Crash at Florida Market Leaves 6 Injured*, L.A. TIMES, July 26, 2003, pt. 1, at 10; see also Lait & Bernstein, *supra* note 2.

8. Dahlburg, *supra* note 7; see also FLA. STAT. ANN. § 322.18 (West 2003) (amended to restrict availability of license renewal by mail for persons seventy-nine years of age or under); Meredith Coley, *Older Driver Relicensing Laws: The State of the States*, PUB. POL'Y & AGING REP., NAT'L ACAD. ON AN AGING SOC'Y, Summer 2001, at 7.

were certainly not the first of their kind,⁹ each helped propel the issue of elderly driving back onto the political agenda.¹⁰

The issue of elderly driving is not a new one.¹¹ In fact, over the years, numerous law review articles and other scholarly works have addressed the need for driver's license renewal reform, particularly with respect to the elderly.¹² Nevertheless, little has been done to change the present state of driver's license renewal procedures.¹³ This note will examine the reasons commonly offered by those in support of such a change, as well as the many difficulties that confront those seeking to implement this change.

Part II of this note discusses elderly drivers in general, focusing on the characteristics of elderly drivers and the risks they pose to themselves as well as to the general public. Part III of this note analyzes the current state of driver's license renewal procedures, particularly with respect to the elderly. Part III begins by providing an overview of the current federal approach toward driver's license renewal procedures and then moves on to examine the different license renewal procedures across the fifty states. Part III concludes by suggesting the need for a more uniform system of regulation. Part IV of this note addresses the historical and potential future obstacles to federal regulation of state driver's license renewal procedures, both from a constitutional standpoint as well as from a political/socio-demographic perspective. Finally, Part V of this note examines the various current approaches to remedying the elderly driving problem and suggests which approaches have proven to be most effective.

II. Why Elderly Drivers?

Coincidentally, within days of the Santa Monica crash, a lobby group for the country's road engineers in Washington, D.C., released a report concluding that Americans aged seventy and older are driv-

9. Lait & Bernstein, *supra* note 2.

10. *Id.*; Dahlburg, *supra* note 7.

11. See, e.g., John C. Bodnar, Note, *Are Older Americans Dangerously Driving into the Sunset?*, 72 WASH. U. L.Q. 1709 (1994); Jennifer L. Klein, Note, *Elderly Drivers: The Need for Tailored License Renewal Procedures*, 3 ELDER L.J. 309 (1995); Vasiliki L. Tripodis, Note, *Licensing Policies for Older Drivers: Balancing Public Safety with Individual Mobility*, 38 B.C. L. REV. 1051 (1997).

12. See, e.g., Bodnar, *supra* note 11; Klein, *supra* note 11; Tripodis, *supra* note 11.

13. Bodnar, *supra* note 11, at 1712 (“[A] majority of states . . . have not reacted to the increase in the number of older drivers or their decreased driving ability.”).

ing more today than ever before and are involved in more fatal accidents as a result.¹⁴ Although at first this may seem like an obvious correlation, as one might assume that an increase in the number of elderly drivers would necessarily result in more overall fatalities among elderly drivers, a more in-depth analysis reveals there are in fact many other causes for the increased fatalities among elderly drivers.¹⁵ This report, prepared by the Road Information Program, also highlights two key components that are necessary in understanding the elderly driving issue: (1) the increasing age and use of automobiles by the elderly, and (2) the increasing risk posed by elderly drivers.¹⁶

A. Increased Age and Use of Automobiles by the Elderly

Elderly drivers are the fastest growing segment of the driving population.¹⁷ Much of this is due to the increase in population of the elderly in general, primarily as a result of the high birth rate following World War II, which led to the birth of a generation of Americans often referred to as the “baby boomers.”¹⁸ These baby boomers are either just now reaching, or will soon be reaching, elderly status.¹⁹ Another reason for an increasing elderly population can be attributed to the improvements in health care and medicine over the last half-century.²⁰ As a result of a growing elderly population and increased longevity through modern science, elderly issues in general, irrespec-

14. Dahlburg, *supra* note 7 (the report covered the period from 1991 to 2001).

15. See Lait & Bernstein, *supra* note 2 (suggesting that physical frailty makes older drivers less likely to survive accidents than their younger counterparts).

16. See Dahlburg, *supra* note 7.

17. Tripodis, *supra* note 11, at 1052; see also Elizabeth Mehren, *The Nation; Where Older Drivers Are Put to Test*, L.A. TIMES, July 19, 2003, pt. 1, at 12 (stating that a recent U.S. Department of Transportation report shows that drivers aged seventy and older make up nine percent of the country's drivers, or about 18.9 million drivers, and that that figure is expected to jump to more than thirty million within the next twenty years).

18. See Klein, *supra* note 11, at 312; see also Kanoelani M. Kane, Comment, *Driving into the Sunset: A Proposal for Mandatory Reporting to the DMV by Physicians Treating Unsafe Elderly Drivers*, 25 U. HAW. L. REV. 59, 63 (2002) (stating that the U.S. Census Bureau predicts the number of Americans aged sixty-five and older will increase 137% by the year 2050, to a total population of eighty-two million); Dahlburg, *supra* note 7.

19. See Kane, *supra* note 18, at 62 (referring to those sixty-five and older as elderly). *Id.* at 63.

20. *Id.* at 62–63; Klein, *supra* note 11, at 312.

tive of the elderly driving problem, have become more prevalent today than ever before.²¹

A growing elderly population does not, however, necessarily dictate a corresponding increase in driving among the elderly; nevertheless, evidence supports the conclusion that such an increase has indeed been the case.²² It has been suggested that one reason for such a correlation is the growing population in suburban areas, as opposed to the city.²³ With fewer modes of public transportation available, elderly persons residing in suburban areas are often left with no viable transportation alternative to driving.²⁴ Another reason for this correlation might be the increased dependence on the automobile as the primary mode of transportation, a phenomenon that has been realized by no single age group more than it has by the elderly.²⁵

B. Increased Accident Rate Among Elderly Drivers

An increasing elderly population and a growing dependence on the automobile do not, however, tell the whole story. The real problem lies in the connection between an increasing use of automobiles by the elderly and an increase in the number of automobile accidents involving elderly drivers.²⁶ Depending on how the statistics are viewed, the results can be quite misleading.²⁷ For example, by simply looking at the number of accidents involving the various different age groups, the elderly appear, at first glance, to be among the safest drivers.²⁸ But as suggested, such a view can be extremely deceptive because elderly drivers tend to drive fewer miles than other age groups and often avoid driving at night.²⁹ As a result, elderly drivers will

21. Kane, *supra* note 18, at 62–63; Klein, *supra* note 11, at 312.

22. NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., U.S. DEP'T OF TRANSP., TRAFFIC SAFETY FACTS 2000, OLDER POPULATION (2000) (stating that older individuals made up ten percent of all licensed drivers in 1999, compared with eight percent in 1998); Lait & Bernstein, *supra* note 2 (stating that in California, in particular, the aging of the baby boomer generation is expected to increase significantly the number of older drivers on the road in the next ten to fifteen years).

23. Klein, *supra* note 11, at 312.

24. See Joseph F. Coughlin, *Beyond Health and Retirement: Placing Transportation on the Aging Policy Agenda*, PUB. POL'Y & AGING REP., NAT'L ACAD. ON AN AGING SOC'Y, Summer 2001, at 21.

25. Klein, *supra* note 11, at 312.

26. *Id.*

27. See Tripodis, *supra* note 11, at 1054; see also Lait & Bernstein, *supra* note 2.

28. Tripodis, *supra* note 11, at 1054.

29. Klein, *supra* note 11, at 314.