

## [Does Your State Allow Drunk Driving Checkpoints or Roadblocks?](#)

DUI checkpoints are recognizable by the long line of cars and the group of police officers stopping each car asking questions to each driver.

Drunk driving checkpoints or roadblocks have been found to be a reasonable search and seizure by the United States Supreme Court in *Michigan Police v. Sitz*, 496 U.S. 444 (1990). It found that the public concern about drunk driving outweighed the interference of the individual liberty of the driver who is stopped.

Some of the frustrations by legal motorists have been the fear and surprise of the roadblock, the feeling that they must submit to the check and can't turn around, and the inconvenience of the amount of time for the police officer to reach their car which may be as long as 30 minutes.

Fear and surprise of an unannounced roadblock has been a concern for citizens. In *Sitz*, the Court reasoned that the "other drivers could see the backup of cars and how each car is being detained for a short period. This would inform approaching motorists that the stop was authorized and non-random, thereby lessening the potential for fear and surprise."

Fear and surprise is an element that has been of concern so governments have required police agencies to prepare and follow guidelines for all checkpoints. Some states go further and require public notice of upcoming checkpoints.

What about if officers park outside of bars and wait to pull over cars? This could be considered a roving patrol where the police officers stop cars at other than fixed checkpoints. Here they would need either a warrant or probable cause for a search as ruled in *Almeida-Sanchez v. United States*, 413 U.S. 266 (1973).

There are 38 states, and the District of Columbia that conduct sobriety checkpoints.

Eleven states do not conduct sobriety checkpoints because they are either considered illegal by law or state constitution or the state has no explicit authority to conduct them.

These states are: Alaska, Idaho, Iowa, Michigan, Minnesota, Montana, Oregon, Rhode Island, Washington, Wisconsin, and Wyoming.

Texas prohibits sobriety checkpoints based on their interpretation of the U.S. Constitution.

Interestingly, Michigan which was the State that the U.S. Supreme Court decided in allowing checkpoints, ended up ruling that checkpoints were not permissible under the Michigan State Constitution.

Even with the states that do allow sobriety checkpoints, there are some interesting interpretations on its checkpoint laws. It seems generally that most states allow a motorist to make a legal U-turn or turn off a side road and not need to go through the checkpoint.

Pennsylvania Has been made legal under state and federal Constitution.

Under *Commonwealth v. Pacek*, 691 A.2d 466 (Pa. Super. 1997), "a checkpoint does not have to provide a legal means of avoidance."

"Checkpoints must be located in area where DUI is prevalent." *Commonwealth v. Blee*, 695 A.2d 802 (Pa. Super. 1997).

"Legal U-turn in advance of checkpoint does not justify a stop." *Commonwealth v. Scavello*, 703 A.2d 36 (PA. Super. 1997).

"A checkpoint conducted at a toll booth was held illegal because it was not conducted in accordance with state Supreme Court guidelines." *Commonwealth v. Yashinski*, 723 A.2d 104 (Pa. Super. 1988).

New York Has been upheld under federal Constitution.

"Turning into a parking lot to evade a checkpoint is cause for an investigatory stop." *People v. Chaffee*, 590 N.Y.S.2d 625 (A.D. 4 Dist. 1992); but "turning off a highway before reaching a checkpoint on to another road is not cause for a stop." *People v. Rocket*, 594 N.Y.S.2d 568 (Just. Ct. 1992).

"New York does not require written guidelines for a checkpoint." *People v. Collura*, 610 N.Y.S.2d (N.Y. CityCrim. Ct. 1994).

"Delaware Has been made legal under state law and federal Constitution." Delaware v. Prouse, 440 U.S. 648 (1979).

"A trial court has held that a legally executed U-turn in advance of a checkpoint did not justify a stop." Howard v. Voshell, 621 A.2d 804 (Del. Super. 1992).

"Florida Has been made legal under federal Constitution." State v. Jones, 483 So. 2d 433 (1986). Campbell v. State, 679 So.2d 1168 (Fla. 1996)

Found a checkpoint deficient under Jones because the written guidelines were insufficient, especially with regard to the method for choosing which vehicle(s) to stop.

"A delay of less than five minutes before a driver was asked to exit the vehicle was found to be permissible." Cahill v. State, 595 So.2d 258 (Fla. App. 4 Dist. 1992).

Indiana Has been made legal under state Constitution

Previously, "checkpoints had been conducted in Indiana under Garcia, which held checkpoints legal under the federal constitution." State v. Garcia, 500 N.E.2d 158 (Ind. 1986), cert. den. 481 U.S. 1014 (1987); Snyder v. State, 538 N.E.2d 961 (Ind. App. 4 Dist. 1989). In the Snyder case, the court held that "avoiding a checkpoint was sufficient cause to conduct a stop."

"Massachusetts has been made legal under state and federal Constitution." Commonwealth v. Shields, 521 N.E.2d 987 (Mass. 1988); Commonwealth v. Cameron, 545 N.E.2d 619 (Mass. App. Ct. 1989).

## About the Author

Knowing your [legal and consumer rights](#) is your best defense.

Source: <http://www.onlineearnings.net>