

Cops pushed around on move-over law

Ticketed drivers winning in court

By Laura Crimaldi | Tuesday, July 6, 2010 | <http://www.bostonherald.com> | Local Coverage

More than 1,600 Bay State motorists cited for breaking the highly touted move-over law - and jeopardizing the lives of state and local cops - have beat the reckless driving rap in court despite aggressive ticketing efforts by cops, a Herald review has found.

The shocking new numbers come after two troopers were struck by holiday motorists over the weekend and two weeks after state police Sgt. Douglas Weddleton was killed by an alleged drunken driver.

"It's not taken seriously by the courts and maybe it's not being respected by the public and it's my troopers and emergency workers who are at risk," said Rick Brown, president of the State Police Association of Massachusetts.

"I just don't want the courts to treat it like it's an expired inspection sticker."

State courts have broomed 43 percent of all move-over law citations since the measure went into effect in March 2009, figures show.



Weddleton was killed June 18 after being struck by an alleged drunken driver during a detail on Interstate 95.

On Sunday, an unidentified hit-and-run driver slammed into Trooper Sean McGarry in Peabody on Route 128 South as he assisted a fellow cop. Yesterday, Capt. Frank Hughes was hit by an alleged drunken driver while directing traffic in Cambridge. Both were treated and released at local hospitals.

"It's getting to the point of frustration and then anger that people aren't learning," said state Trooper Dana Cresta, whose 2008 near-death experience on the Mass Pike prompted lawmakers to pass the move-over law.

Officers have handed out 3,792 citations as of March, RMV figures show. Of those citations, 40 percent or 1,509 drivers have been found responsible and paid the \$100 fine, while 1,613 drivers beat the ticket, figures show. The remaining 680 citations were entered as defaults or are still pending before the court, the RMV said.

By comparison, the California Highway Patrol has only issued 824 move-over citations since 2008, figures show. Three CHP officers have been fatally struck on highways since June 22.

New Jersey cops have handed out 542 move-over citations since 2009, a Motor Vehicles Commission spokesman said. The courts closed 440 of those cases, issuing guilty findings 65 percent of the time.

"That's troubling to me that many people would be exonerated," said state Sen. James E. Timilty (D-Walpole), who sponsored the legislation. "I see a great deal of people still not complying."

The law requires motorists to slow down and, if possible, move to the left when approaching stationary emergency vehicles. State transportation figures show there have been 46 fatalities near or in work sites from 2002 to 2008.

"What happened to Sgt. Weddleton was a painful reminder to us and everybody that this isn't just another rule of the road. This can have fatal consequences," said Luisa Paiewonsky, administrator of the state's Highway Division. Framingham attorney Brian Simoneau, who defends clients with RMV troubles, said the not guilty rate could be tied to identification issues given that officers must scramble to catch up with move-over violators just to write a ticket.

"It's somewhat of a difficult position to put a police officer in to testify to that," Simoneau said.

Daniel Hogan, president of the Association of Magistrates and Assistant Clerks, said clerks hearing traffic citations make decisions on a case-by-case basis.

“A lot of people are confused and saying, ‘Oh the court’s just giving away the store.’ That’s not the case,” Hogan said.

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