



Illinois State Police
Legal Office Bulletin – 10/10/14
Roadside Safety Checks

Illinois State Police Directive ENF-023 provides that “roadside safety checks will be used specifically to enforce:” 625 ILCS 5/6-101, 625 ILCS 5/11-501, and 625 ILCS 5/12.

While stopping a car at a roadside safety check constitutes a seizure for purposes of the 4th Amendment [*United States v. Martinez-Fuerte*, 428 U.S. 543, 96 S.Ct. 3074, 49 L.Ed.2d 1116 (1976)], the Supreme Court has held that brief stops by police at established checkpoints to confirm the validity of drivers’ licenses and identify persons “driving under the influence” do not violate the 4th Amendment. *Michigan Department of State Police v. Sitz*, 496 U.S. 444, 110 S.Ct. 2481 (1990).

625 ILCS 5/6-101 – Drivers must have licenses or permits.

Drivers may be temporarily detained for purposes of determining that they have a valid DL. *City of Indianapolis v. Edmond*, 531 U.S. 32, 37–38, 121 S.Ct. 447, 148 L.Ed.2d 333 (2000). Upon request, drivers must produce a valid DL. **625 ILCS 5/6-112**. Failure to produce a valid DL upon request constitutes probable cause to arrest. *United States v. Covarrubias*, 65 F.3d 1362, 1368 (7th Cir.1995).

625 ILCS 5/11-501 – Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

No probable cause or individualized suspicion is required to establish a roadside safety check designed to identify drivers who are under the influence so long as the roadside safety check is established in accordance with constitutionally acceptable procedures including but not limited to the existence of guidelines for the operation of the roadside safety check that limit officer discretion. *People v. Bartley*, 109 Ill.2d 273, 486 N.E.2d 880, 93 Ill.Dec. 347, 54 USLW 2314 (Ill. 1985).

625 ILCS 5/12 – Equipment of Vehicles.

When a car is stopped pursuant to a proper roadside safety check and an officer observes equipment or safety violations in plain view, including but not limited to seat belt violations, the car may be relocated for further investigation based upon the officer’s articulable suspicion. *People v. Edwards*, 673 N.E.2d 752 (Ill. App. Ct. 1996).

Case Examples:

Wos v. Sheahan, 57 Fed.Appx. 694, (7th Cir., Dec. 17, 2002)

Cook County sheriff’s deputies stopped Richard Wos during a roadside safety check and asked him for his driver’s license. Mr. Wos refused and instead asked whether his license would be used in any way against him. He was then arrested for driving without a license and obstruction of justice. At no point did Mr. Wos produce a valid Illinois driver’s license, but rather told the deputies that he preferred to remain silent. Mr. Wos alleges that the deputies were angered by his request to remain silent and told him that he would “sit in jail forever.” He was then taken to a county jail and booked. He was convicted of driving without a license and later filed a 13–count complaint in federal court alleging violations of his constitutional rights and state law.

The court held that a proper roadside safety check does not violate the 4th amendment insofar as it is reasonably brief and limited to promoting the state's interest in public safety and that a request to produce a valid driver's license does not violate the 5th amendment since such a request is not pursuant to a custodial interrogation.

Future Guidance:

The critical points of law for ISP officers moving forward is as follows:

- Roadside Safety Checks, when conducted consistent with ENF-023, are lawful and do not violate the constitution.
- Drivers stopped pursuant to a proper roadside safety check are temporarily detained. Although the detention is a seizure, it is not prohibited by the 4th Amendment.
- Drivers must produce a valid Driver's License upon demand and such request does not violate the 5th Amendment.
- Drivers who do not comply with the request to produce a valid DL or proof of insurance are subject to arrest or citation (as appropriate).
- If reasonably articulable suspicion exists that a driver is under the influence or if an officer detects an equipment or safety violation in plain view, the driver's detention may be extended for further reasonable investigation.

If you have any questions regarding the Legal Guidance given herein, please contact the Illinois State Police Legal Office at (217) 782-7658.