

# Check lanes are illegal, court says

BY TIM RICHARD  
STAFF WRITER

Vehicle check lanes — a police tool to screen roads for drunken drivers — violate the Michigan Constitution, the state Supreme Court said.

Its 6 to 2 decision ends seven years of litigation that went all the way to the U.S. Supreme Court and back again.

It began in 1986 when then Gov. James Blanchard ordered State Police to start a sobriety checkpoint pilot program.

Michigan justices ruled the state constitution and case law have stronger protections against "unreasonable searches and seizures" than the U.S. Constitution. "The United States Supreme

Court held that the checkpoint scheme does not constitute a violation of the Fourth Amendment of the U.S. Constitution," wrote Justice Patricia Boyle, adding: "Because there is no support in the constitutional history of Michigan for the proposition that the police may engage in warrantless and suspicionless seizures for the purpose of enforcing the criminal law, we hold that sobriety checkpoints violate Art. I Sec. 11 of the Michigan Constitution."

Under Blanchard's program, all motorists were to be stopped at a checkpoint and examined for signs of drunkenness. Suspect drivers would be given a Breathalyzer test. In the first field test on Dixie Highway in Saginaw County in

May of 1986, only two drivers of 125 vehicles were arrested.

A day earlier six lawmakers from both parties asked Wayne Circuit Court for an injunction. They were Reps. Rick Sitz, D-Taylor, Joseph F. Young Sr., D-Detroit, Dominic Jacobetti, D-Negaunee, Dick Allen, R-Shiawassee County, Keith Murlow, R-Brown City, and Sen. Jack Welborn, R-Kalamazoo. Only Jacobetti and Welborn still are legislators. Young died in office this year.

Joining the legal fray were Mothers Against Drunk Drivers, 19 insurance companies and their associations and the Criminal Defense Attorneys of Michigan.

"No allegations are before us of unreasonable treatment of any

person after an actual detention at a particular checkpoint," wrote Boyle. Rather the question was the constitutionality of stopping all passing motorists.

U.S. Justice William J. Brennan, who retired from the court last year, had encouraged state activism in interpreting state law. Noting court weakening of the U.S. Bill of Rights, Brennan said, "our liberties cannot survive if the states betray the trust the (Supreme) Court has put in them."

Said Boyle: "By the same token, we may not disregard the guarantees that our constitution confers on Michigan citizens merely because the U.S. Supreme Court has withdrawn or not extended such protection."

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Some clients, Teper added, have been letting their

newborns sleep in bed with them, running the risk of suffocating the baby or having it roll off the bed. It has been suggested that the clients that don't have a crib keep their newborn in an open box or drawer.

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