

### OAST & HOOK

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Member, National Academy  
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## SENIORS AND DRIVING

A recent *Wall Street Journal* article by Mark Fritz addresses the issue of increased restrictions on older drivers, and a developing backlash against this trend. (“Older Drivers Fight to Stay on the Road,” March 26, 2006). The article addresses public safety concerns and the rights of older Americans to retain their privilege drive, considered by some seniors to be the most important sign of their independence.

There are over 20 million drivers age 70 and older, with that number expected to increase to 30 million by 2030. Unfortunately, drivers age 85 and older now exceed 16-year-olds in the number of fatalities per mile driven, and they almost match teenage drivers in rates of insurance claims for property damage. With no national standards for driver licensing, states have been developing their own policies with respect to licensing of senior drivers. Seniors who have lost their licenses are hiring lawyers, getting therapy to prepare for road tests, and being coached to pass written tests. Harold Kocken, senior director of driver licensing for the American Association of Motor Vehicle Administrators, said that some older drivers are using false licenses in order to stay on the road.

Some incidents have prompted legislatures to enact tougher laws with respect to older drivers. In St. Petersburg, Florida, last October, a 93-year-old man drove up to a toll booth, apparently oblivious to the fact that the dead body of a pedestrian that he had hit down the road was embedded in his windshield. As a result of this incident, two Florida lawmakers proposed legislation that would require physicians to report to the state licensing authorities those people age 75 and older who may be unfit to drive. Advocacy groups for seniors (including AARP in Florida) were successful in removing the age requirement in the proposed bill. Many advocacy groups oppose testing requirements based on age. Questions exist regarding the best way to identify dangerous drivers. Virginia currently requires drivers age 80 and older to submit to a vision test.

Some attorneys have now started specialty practices in assisting seniors retain their driving privileges. Attorney Rock O. Kendall of California says he charges a flat fee of \$2,000 to handle such cases, averaging about 200 cases per year. He turns away one in every ten potential clients, taking only cases in which the driver has a good chance at getting his or her license back. Mr. Kendall acknowledges that it is up to the Department of Motor Vehicles to ultimately decide which drivers are safe to return to the road. He says he isn't putting incompetent drivers back on the road, but that he gives people who feel they have been wronged the legal tools to regain their licenses. Mr. Kendall has referred some clients to a driver rehabilitation program run by a local medical facility. These programs are emerging at medical facilities nationwide to accept referrals from doctors or family members concerned about their aging family members who still drive. Allison Walz, the program director at the rehabilitation center run by St. Jude Medical Center in Fullerton, California, says that "therapists and trainers are merciless about weeding out drivers who shouldn't return to the road." Some of Mr. Kendall's clients are granted special instructional driving permits in order to give them six months with professional instructors and family members prior to scheduling a road test.

There will continue to be conflicts between public safety and the rights of seniors to drive, especially until there are better methods to assess which drivers pose the most risks. This issue will continue to grow in importance as the numbers of senior drivers on the road increases. Oast & Hook will continue to monitor this issue and will report developments in Virginia law as they occur.

### **Announcements**

Oast & Hook is pleased to announce its sponsorship of a series on WHRO-TV entitled "Boomers: Redefining Life After 50." This week's episode is Be Your Own Boss, and it will be aired at 4:30 p.m., Saturday, April 15th.

Oast & Hook is pleased to announce that it is a sponsor for the 17th Annual Alzheimer's Education Conference to be held at Old Dominion University on June 7th and 8th. Oast & Hook will also be presenting two workshops entitled "Legal Issues for Families Facing Alzheimer's Disease" on June 7th and "Current Legal Issues – Competency Issues and the Law" on June 8th. For more information please call the Alzheimer's Association at 757-459-2405 or visit their website at [www.alz.org](http://www.alz.org).

### **Speakers**

If you are interested in having an Elder Law attorney from Oast & Hook speak at an event, then please call Stacy Freer at 757-399-7506.

### **Oast & Hook**

Oast & Hook is an elder law firm. We represent older persons, disabled persons, their families, and their advocates. The practice of elder law includes estate planning, investment and insurance advice, estate and trust administration, powers of attorney, advance medical directives, titling of assets and designations of beneficiaries, guardianships, conservatorships, and public entitlements such as Medicaid, Medicare, Social Security, and SSI, disability planning, income tax planning and preparation, bill paying

and account management and reporting, care management, and fiduciary services. We also handle litigation involving these issues, such as will contests and estate administration disputes. For more information about Oast & Hook, please visit our website at [www.oasthook.com](http://www.oasthook.com).

Oast & Hook is the Virginia member of the Special Needs Alliance, a nationwide network of disability attorneys. As members of this alliance, we assist personal injury attorneys in resolving their cases to enhance the judgments and awards of their disabled clients and to maintain the eligibility of these clients for SSI and Medicaid. We are experienced in protecting the public benefits of persons with special needs and in assisting with the management of their assets. For more information about the Special Needs Alliance, visit its website at [www.specialneedsalliance.com](http://www.specialneedsalliance.com).

### Distribution of This Newsletter

Oast & Hook encourages you to share this newsletter with anyone who is interested in issues pertaining to the elderly, the disabled and their advocates. The information in this newsletter may be copied and distributed, without charge and without permission, but with appropriate citation to Oast & Hook, P.C. If you are interested in a free subscription to the *Elder Law News*, then please e-mail us at [eln@oasthook.com](mailto:eln@oasthook.com), telephone us at 757-399-7506, or fax us at 757-397-1267.

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