

Is Your License Plate Frame Illegal...or Protected Free Speech? by Steven Getman attorney

WEDNESDAY, NOVEMBER 19, 2008

Most people have frames around their vehicle license plates, advertising their car dealer, a favorite sports team, or a pet slogan. Unfortunately, not all of them are legal.

From Rochester TV station R-News comes a story about Section 402-b of the New York State Vehicle and Traffic Law (“VTL”):

It's not illegal to have a frame around your license plate. That is, unless the frame covers any lettering or numbers on your plate.

Police say it's a violation they do write tickets for.

And ignorance is no excuse.

“There are so many other laws people don't know about,” acknowledged Trooper Mark O’Donnell, New York State Police spokesman. “The fact you don't know about it is not an affirmative defense.”

However, depending on the nature of the plate frame design, enforcement of the law might be unconstitutional.

In the case of *Wooley v. Mayard*, the United States Supreme Court held that a statute very similar to New York’s was unconstitutional. The Court held that the State's claimed interests in requiring display of the state motto on license plates were not sufficiently compelling to justify infringement of a driver’s First Amendment rights to obscure certain portions of a vehicle plate. In *Wooley*, the driver argued that he had a free speech right to cover the portion of the plate that displayed the state motto.

Based on the *Wooley* case, if the only part of the license plate covered by a frame were the motto “the Empire State,” one could argue that enforcement of VTL Sec. 402-b was also unconstitutional.

In most cases, a driver would probably not bother to challenge a ticket for VTL 402-b. They would decide the relatively low fine was not worth the time, effort and attorney fees. Others, however, might decide that defending the principle of free speech would outweigh any cost considerations.

In any case, whenever a person thinks his or her rights might have been violated by the police, even in a

small way, he or she should consider speaking with an attorney to insure that he or she receives all the constitutional protections provided by law.

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