

# Basic Speeding Ticket Defense



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## Is It Possible to Beat a Legitimate Speeding Ticket?

If you want to learn about an interesting way to beat a speeding ticket – even if you actually **were** speeding – keep reading. This particular strategy will almost always work, but it does depend on one aspect of the circumstances surrounding your ticket. For the strategy to be effective, there must be an issue with the speed limit signs, themselves.

So, let's assume that the police officer who issued the citation followed all of the standard and established procedures. He ...

- legitimately clocked you speeding over the limit
- properly calibrated the speed monitoring device before use
- cited the correct statute on the ticket
- completely filled out the ticket as required by law

Guess what?

None of this matters if the section of your state's motor vehicle code known as Obedience to Traffic Control Devices was not complied with.

Below, I will cite the wording of this statute for several states so you get an idea of what I am talking about, but keep in mind that all of the others have some form of this in their motor vehicle codes also.

### Obedience to Traffic Control Devices – The Statutes

- [Ohio Motor Vehicle Code Section 4511.12\(A\)](#) – *“No pedestrian, driver of a vehicle, or operator of a streetcar or trackless trolley shall disobey the instructions of any traffic control device **placed in accordance** with this chapter.”*
- [New York Section 1110\(a\)](#) – *“Every person shall obey the instructions of any official traffic-control device applicable to him **placed in accordance** with the provisions of this chapter.”*
- [PA Title 75, Section 3111\(a\)](#) – *“... the driver of any vehicle shall obey the instructions of any applicable official traffic-control device **placed or held in accordance** with the provisions of this title.”*
- [Georgia](#) – *“The driver of any vehicle shall obey the instructions of an official traffic-control device applicable thereto, **placed in accordance with this chapter** ...”*
- [Rhode Island](#) – *“The driver of any vehicle shall obey the instructions of any official traffic control device applicable to him or her **placed in accordance with the provisions of chapters 12 – 27 of this title** ...”*

- [Florida](#) – “The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto, ***placed in accordance with the provisions of this chapter ...***”

I could list more, but you should get the picture. A speed limit sign, which is an “official traffic control device,” must be “placed in accordance” with the required law.

### **“Placed or Held in Accordance”**

Do you see how they all state very clearly that drivers shall obey a traffic control device “placed or held in accordance with the provisions of this title/chapter?”

This is your key to beating a speeding ticket. All you have to do is show that the sign was not so placed.

How do you do this?

By referencing the [Federal Manual on Uniform Traffic Control Devices](#) (MUTCD). Because all of the states have adopted this manual in some form or other as part of their motor vehicle codes, all speed signs have requirements that must be followed in order for speed limits to be enforced. As you read through the details below, keep in mind that the more non-conforming a sign is, the more likely it cannot be enforced. So you want to check if your sign fits into more than one category.

### **The Caveat – “Substantial Conformance”**

That is the good news – but there is some bad news here also. You see the [Federal MUTCD, Section 1A.07](#) also says the following:

*“... traffic control devices on all streets, highways, bikeways, and private roads open to public travel in each State ***shall be in substantial conformance*** with standards issued or endorsed by the Federal Highway Administrator.”*

Notice the word “substantial.”

This is the caveat in attempting to fight a traffic ticket based on MUTCD violations. I bring it up because I don’t want you to be blindsided in court. If you show up with only one piece of evidence to prove that your ticket should be dismissed, don’t think you are home free because the judge may still rule against you. To win in court using the MUTCD, you need to find as many problems with your traffic-control device as possible. The more you find, the better chance you will have of winning.

## **Authorized by Public Body**

As indicated earlier, because a speed limit sign is a traffic control device, it has to be properly authorized. Federal [MUTCD Section 1A.08](#) Authority for Placement of Traffic Control Devices states:

*“Traffic control devices ... shall be placed only as authorized by a public body.”*

This is about as straightforward as it gets, and the “shall be” makes it mandatory. This short sentence forbids the placement of a speed limit sign unless it has been properly authorized. While you can be pretty sure that a speed limit sign on a state highway was properly authorized and installed, you might be surprised to find out how many small towns, townships, villages, etc. don’t realize that this is necessary.

My son actually used this requirement along with Pennsylvania’s [PA Title 75, Section 3111\(a\)](#) quoted earlier to win his case. The local authority (Hawley, PA Borough) never authorized the placement of the stop sign that he was accused of rolling through. As a result, it was not enforceable. If you want to read the brief I prepared for this case, you can find it [here](#). If you want more of the specific details about how he won, check out my 23-page EBook [How My Son Beat an Unfair Stop Sign Ticket in Pennsylvania](#).

## **Size and Shape**

### [MUTCD Section 2A.11 Dimensions](#)

*The sign dimensions prescribed in **the sign size tables** in the various Parts and Chapters in this Manual and in the “Standard Highway Signs and Markings” book (see [Section 1A.11](#)) **shall be used unless engineering judgment determines that other sizes are appropriate.***

According to paragraph two, the only way a smaller than required sign will be acceptable is:

- If *“engineering judgment determines that other sizes are appropriate ...”*
- If it is placed *“... on low-speed roadways, alleys, and private roads open to public travel where the reduced legend size would be adequate for the regulation or warning or where physical conditions preclude the use of larger sizes.”*

In all other situations, [MUTCD Section 2B.03](#) governs the standard size of a speed limit sign:

- Expressway: 36” x 48”
- Freeway: 48” x 60”

- Multi-lane Conventional Road: 30" x 36"
- Single-lane Conventional Road: 24" x 30"

There are, however, some exceptions mentioned in Section 2B.03:

- [Paragraph 04](#) indicates that if the "... speed limit is 35 mph or less on a multi-lane highway or street ... the minimum size is ... [24" x 30"]"
- [Paragraph 05](#) indicates that if a sign is placed on both the left and right sides of a multi-lane roadway, a smaller than usual size is acceptable: 24" x 30"

### [Section 2A.14 Sign Borders](#)

*"Unless otherwise provided, **each sign** illustrated in this Manual **shall have a border of the same color as the legend**, at or just inside the edge. **The corners of all sign borders shall be rounded, except for STOP signs.**"*

### Height

#### [MUTCD Section 2A.18 Mounting Height](#)

***"All route signs, warning signs, and regulatory signs on freeways and expressways shall be installed with a minimum height of 7 feet,** measured vertically from the bottom of the sign to the elevation of the near edge of the pavement."*

### Location

#### [MUTCD Section 2A.16 Standardization of Location](#)

***"Signs requiring separate decisions by the road user shall be spaced sufficiently far apart for the appropriate decisions to be made. One of the factors considered when determining the appropriate spacing shall be the posted or 85th-percentile speed."***

For this particular requirement, you want to check out your state motor vehicle code because it may get much more specific. For example, in Pennsylvania's [Title 75, Section 3362](#) there are some very detailed sign spacing rules:

***"No maximum speed limit established under subsection (a)(1), (1.2) or (3) shall be effective unless posted on fixed or variable official traffic-control devices erected in accordance with regulations adopted by the department which regulations shall require posting at the beginning and end of each speed zone and at intervals not greater than one-half mile."***

In other words, if the speed limit signs on some roads are not posted every ½ mile the speed limit stated cannot be enforced.

## **Engineering Studies**

### [MUTCD Section 2B.13 Speed Limit Sign \(R2-1\)](#)

***“Speed zones (other than statutory speed limits) shall only be established on the basis of an engineering study that has been performed in accordance with traffic engineering practices. The engineering study shall include an analysis of the current speed distribution of free-flowing vehicles.”***

State motor vehicle laws may have additional engineering requirements so you will want to research this a bit.

## **Retroreflectivity/Illumination**

### [Section 2A.07 Retroreflectivity and Illumination](#)

***“Regulatory, warning, and guide signs and object markers shall be retroreflective (see [Section 2A.08](#)) or illuminated to show the same shape and similar color by both day and night, unless otherwise provided in the text discussion in this Manual for a particular sign or group of signs. The requirements for sign illumination shall not be considered to be satisfied by street or highway lighting.***

### [Section 2A.08 Maintaining Minimum Retroreflectivity](#)

***“Public agencies or officials having jurisdiction shall use an assessment or management method that is designed to maintain sign retroreflectivity at or above the minimum levels in [Table 2A-3](#).***

If you live in a town that hasn't replaced their old signage (for budget reasons), you can be pretty sure that the retroreflectivity has not been addressed. In fact, I submitted an open public records request to Hawley, PA Borough and they flat-out admitted they were not in conformance.

## **The Bottom Line**

If any of the requirement listed above were not complied with, the sign was, by definition, not “placed in accordance with” the required chapters of the state’s motor vehicle code because

the Federal MUTCD (or a close state copy of it) is part of each state's code. The only logical conclusion is that "every person" does **NOT** have to obey its instructions.

### **What the Courts Say – The MUTCD Matters**

When I say the only logical conclusion is that an improper sign does not have to be obeyed, I am not just giving you my opinion. To prove this, check out some of the court cases that I found where judges ruled this to be so. There are plenty of others out there and you can use the same resource that I did if you want to find some from your particular state. All you have to do is go to [Google Scholar](#) and search using the term MUTCD.

First up is a recent case from New Mexico: [State v. Martinez, NM: Court of Appeals 2019](#). Here, the court referenced the MUTCD in regard to where a speed limit restriction actually starts:

*"The New Mexico Transportation Commission's determination that speed limit changes take effect at the point where a speed limit sign is placed is consistent with the approach taken by the American Association of State Highway Officials in its **2009 Manual on Uniform Traffic Control Devices (MUTCD)**"*

Likewise, a Tennessee court decision ([Church v. Charles Blalock & Sons, Inc., 492 SW 3d 263 – Tenn: Court of Appeals 2015](#)) mentions the MUTCD with regard to speed limits:

*"... that the State **utilized the Manual on Uniform Traffic Control Devices ("MUTCD") to determine the appropriate placement of and necessity for certain signs along the roadway.** As he indicated, the signs located at and along the roadway approaching the intersection at the time of the accident were appropriate in nature and placement, thereby exceeding the requirements of the MUTCD"*

Finally, the Kansas Supreme Court made clear in a 2018 decision that the MUTCD matters ([Patterson v. Cowley County, 307 Kan. 616, 413 P.3d 432, 435](#)):

*"Our holding is founded on the Manual on Uniform Traffic Control Devices (MUTCD), adopted by the Secretary of the Kansas Department of Transportation ... **This manual has the force and effect of law.**"*

### **Other Resources**

If you are looking for other possible ways to beat speeding tickets, I suggest you check out my older blog posts. Not all of the links which follow have specific actionable strategies, but many deal with other technicalities in the motor vehicle statutes which may be of use.

- [A \\$290,000 Speeding Ticket? Be Thankful You Don't Live in Switzerland.](#)
- [A Traffic Citation is a Courtesy – The Cop Could Arrest and Lock You Up on the Spot.](#)
- [A Whole Lot of Tickets ... and a Whole Lot of Money](#)
- [Another Creative Way to Fight a Speeding Ticket – Challenge the Odometer.](#)
- [Beating a Speeding Ticket Based on a Technicality in the Law](#)
- [Beating a Speeding Ticket in PA – You may be able to use this interesting technicality to win your case.](#)
- [Beating a Traffic Ticket in New York – Using the law to defeat the law.](#)
- [Can a Private Citizen Issue a Traffic Ticket? Watch out for the Rats!](#)
- [Don't Count on This Technicality – The Cop Can Amend the Citation](#)
- [Do Laser-Blocking License Plate Covers Really Work?](#)
- [Do Speeding Tickets Really Deter Speeders and Increase Traffic Safety?](#)
- [Flirt with a Cop to Get Out of a Ticket? It Could Backfire.](#)
- [Get Ready for a Speeding Ticket! Holiday Weekend Traffic Enforcement in Pennsylvania.](#)
- [Goldilocks and the 3 Speeding Tickets.](#)
- [Google Trends and Traffic Tickets](#)
- [How to Effectively Challenge a Speeding Ticket.](#)
- [Issuing More Speeding Tickets Doesn't Necessarily Lead to Safer Roads.](#)
- [Looking for a Creative Way to Fight a Speeding Ticket? This One "Takes the Cake."](#)
- [Lower Speed Limits Protect Motorists ... From Climate Change?](#)
- [PA Speeding Tickets – Two More Technicalities You Might Be Able to Use to Beat a Ticket.](#)
- [Police Officer's Opinion About Your Speed – Not Enough to Convict.](#)
- [Police Speed Enforcement from Aircraft in Pennsylvania](#)
- [Size DOES Matter ... At Least When It Comes to Speed Limit Signs ...](#)
- [SPEED ... KILLS?](#)
- [Speeding Ticket on a Bicycle? Police Officer Testimony Wins Out \(Yet Again\).](#)
- [Speeding Tickets in PA – More Reasonable Than Many Other States.](#)
- [Speeding Tickets in PA – Radar vs. Electrical Methods of Timing](#)
- [Statute of Limitations for Traffic Tickets in Pennsylvania](#)
- [The 55 MPH Speed Limit in PA – No Special Signs Required?](#)
- [The "Cowboy" PA State Troopers – 2019 Results are in ...](#)
- [The "Cowboy" PA State Troopers – Revisited ...](#)
- [The "Cowboy" State Troopers Were at it Again ...](#)

- [The “Cowboy” PA State Trooper Speeding Ticket Anomaly](#)
- [The “Cowboy” PA State Troopers – True to Form Yet Again ...](#)
- [The “Traffic Law Nazis” vs. The Reasonable Driver](#)
- [“Unfair” Speeding Tickets?](#)
- [Winning a Speeding Ticket Case on a Technicality – Part Three](#)
- [Yes, Ticket Quotas Do Exist.](#)