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Hon. Richard Hanna  
319 Cannon HOB  
Washington, DC 20515

Sir,

On March 16<sup>th</sup> of this year I sent a letter to your office asking you to support HR 904. The response that I got was, in my opinion, unsatisfactory. Your letter correctly states that HR 904 would “prohibit the Secretary of Transportation from providing funds... to be used for any program to check helmet usage or create checkpoints for a motorcycle driver or passenger”. It is this second point that I am most upset about, not the helmet usage provision.

I have been lobbying the NYS Legislature for 12 years, fighting for motorcyclists rights. I too, believe that the helmet issue is a “state’s rights” issue and so have concentrated my efforts in that venue. The imposition of motorcycle only checkpoints is, however, a Federal issue because of the Fourth Amendment Constitutional protections and several Federal Court cases.

The NYS Police have already admitted in court depositions that the checkpoints were not for informational purposes but rather were targeted at finding violations on the part of the motorcyclist being stopped. Courts in NYS have established (citing *City of Indianapolis v. Edmond*, 531 US 32 (2000)) that enforcement checkpoints constitute a seizure under the Fourth Amendment.

The *Edmond* case was primarily focused on checkpoints for drunk driving. The Court emphasized that the “gravity of the drunk driving problem and the magnitude of the State’s interest in getting drunk drivers off the road weighed heavily in our determination that the program was constitutional.” The Court went on to further state that unless the primary programmatic purpose of the checkpoints is the immediate imperative of highway safety as opposed to an attempt to obtain evidence of ordinary criminal wrongdoing, the checkpoint is presumptively unconstitutional. *Edmond* at 39 and 43-47.

The Secretary of Transportation, in providing funds for state programs to establish motorcycle only checkpoints, certainly violates the constitutional interpretation provided by the Court in the above cited case.

If the NYS Police were truly interested in correcting dangers on the roadways that posed an immediate danger to other vehicles, they would be stopping all traffic and not just motorcycles. When looked at in this light, the motorcycle only stops closely resemble police profiling, which has obviously been ruled illegal.

In closing, I am asking you again to support HR 904, not only to protect the rights of motorcyclists, but because it is the right thing to do.

Respectfully submitted,

Stephen Faughnan