

Older Drivers Fight To Stay on the Road

**As states clamp down on elderly motorists,
seniors battle to keep their licenses—and independence.**

Paying a toll, with a pedestrian on the windshield.

By MARK FRITZ

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LOS ANGELES—Gordon Haag was an automotive engineer who created software for submarines and flight systems for spaceships. But at age 84, he faced one of his biggest challenges: Getting his license back from a bureaucracy that decided a diagnosis of early-stage Alzheimer's disease meant he was unfit to drive.

“It was quite a blow to me,” the retired rocket scientist said. “But I knew how to get back to it.”

Mr. Haag hired **Rock O. Kendall**, a lawyer who twice recouped the license of a man who had two accidents after his 100th birthday. Mr. Haag got a second opinion and a raft of medical records that refuted the original diagnosis. His son, a dentist, lurked in parking lots of Department of Motor Vehicle offices, cajoling people who had just taken their written tests for copies to give his father.

Mr. Haag is playing to win. He is part of a backlash against a nationwide movement to restrict older drivers, the fastest-growing demographic on the road and increasingly among the most dangerous. The struggle pits safety issues against the rights of seniors to hold on to what many Americans consider their most cherished symbol of independence—their car.

There are roughly 20 million drivers age 70 and older on the nation's roads, double the number two decades ago, and the total is expected to reach 30 million by 2020. “It's approaching critical mass,” notes Robert Hodder, senior policy adviser for AARP, an advocacy group for older Americans. “So many individuals are approaching that point in their lives when they have to give up those keys.”

Motorists 85 and older now surpass 16-year-olds in frequency of fatalities per mile driven, and nearly match teenagers in rates of insurance claims for property damage, according to statistics from the insurance industry and the federal government. Drivers 65 and older are more likely than teens to have fatal multivehicle crashes at intersections, the data show.

There are no national standards for detecting deteriorating driving skills or for taking licenses away from older drivers. State licensing officials have been left to develop their own policies—which are all over the map—and to face off against drivers like Mr. Haag who resent being taken off the road.

License-losing seniors are retaining lawyers, being coached to pass written tests, getting therapy to prepare for road tests and trading information about which motor-vehicle offices are the most lenient with older people. Harold Kocken, senior director of driver licensing for the American Association of Motor Vehicle Administrators, said at a recent conference that old people were even using fake licenses to stay on the road.

Last October, a 93-year-old St. Petersburg, Fla., man drove up to a toll booth, oblivious that the dead body of a pedestrian he had hit down the road was embedded in his windshield. The windshield incident spurred two state lawmakers to propose a bill requiring doctors to report to state licensing authorities people 75 and older who may be unfit to drive. But the Florida chapter of AARP successfully lobbied lawmakers to eliminate the age requirement in the proposed bill. “You can’t make a law based on a person’s age,” says Bentley Lipscomb, head of AARP in Florida.

Eighteen months ago, after a series of near-crashes, 82-year-old Edith Reaves of Roanoke Valley, N.C., nearly drove herself and her husband into a ditch. “We did ultimately implore the doctor to say momma is suffering from dementia,” recalls her daughter-in-law, Jean Reaves, president of the North Carolina Coalition on Aging, a lobbying group. “He looked her in the eye and said ‘You can’t drive anymore.’ ” The doctor reported her to state officials, and her license was revoked.

Yet Jean Reaves says that despite her late mother-in-law’s near accidents, she and her organization remain opposed to any testing laws based on age. “I do not believe it is fair to say just because you reached the age of X-Y-Z,” elderly drivers should be tested, she says.

Questions persist about the best way to identify dangerous drivers. “If we want to remove them from the road, does anybody have a set of tests to determine who are the at-risk drivers?” asks Susan Ferguson, a senior vice president for research of the Insurance Institute for Highway Safety, who says there is “huge variability” in the skills of elderly drivers. “I’m not convinced we have that.”

Mr. Kendall, a 55-year-old solo practitioner, has carved out a career helping seniors such as Mr. Haag push back. “Other attorneys told me that it couldn’t be done,” he says. “ ‘The market was just too small,’ they said. But the demographics are real. Baby boomers are becoming seniors daily now.”

At least 27 states set an age at which people must renew their driver’s license more often, get tested for physical limitations more frequently or stop renewing by mail. Seven states require doctors to report health problems associated with driving risk, and many others permit them to do so. Maine begins requiring vision tests for renewals after a motorist

turns 40. Iowa customizes licenses, limiting certain elderly people, for example, to driving along specified roads in their hometowns.

California's licensing laws bar drivers older than 70 from renewing by mail. The state gives wide latitude to in-office DMV personnel to judge whether aging drivers remain mentally sharp enough to continue driving. In addition, California for years has required doctors to report patients who might be medically unfit to drive. In 1998, the state added an explicit requirement to report Alzheimer's and other forms of age-related dementia.

In 2003, an 86-year-old driver plowed through a Santa Monica, Calif., street market, killing 10 and injuring 63. Some advocates for the elderly say the incident put pressure on California law-enforcement agencies to remove more old drivers from the road. Suspensions for mental and physical limitations—a category that includes senility—rose to 34,869 in 2005 from 25,851 in 1998. The suspension numbers aren't broken down by age, but the rise coincided with an increase in older drivers on California roads.

Mr. Haag, the retired engineer, complained to his doctor last September that he was having memory problems. The doctor referred him to a specialist, who diagnosed early-stage Alzheimer's.

As required by law, Mr. Haag's doctor reported his patient's potential mental impairment to the state three days later, and within weeks, Mr. Haag, who owns a few rental properties that he keeps tabs on, suddenly lost a license that was a key link to his life.

Mr. Haag's loss of a driver's license is a dramatic contrast to his contributions to less-mundane travel. As an engineer with Rockwell International in the 1960s and 1970s, he developed software and hardware systems for vehicles such as the Trident submarine and the Apollo Command Module. He invented calculators and plasma screens for the company, led the design of flight-control systems for spacecraft and evaluated rocket engine components.

Not ready to give up his independence, Mr. Haag consulted a neurologist, who attributed his memory problems to a medication he was taking, according to his lawyer, Mr. Kendall. Mr. Haag stopped taking the drug. A brain scan found that a minor stroke he'd suffered five years earlier had left him with a mild case of dyslexia.

Mr. Haag then hired Mr. Kendall, who charges a flat \$2,000 fee to handle cases like his. Mr. Kendall had worked for years as a journalist at small newspapers and publishing a self-described "junk mail" real-estate newsletter before earning his law degree.

In 1999, he agreed to represent a woman in her 80s who had been ordered to get a license re-examination after she failed to accelerate when a traffic light turned green. Mr. Kendall says he helped prepare her for written and driving tests and got her back on the road. He decided to specialize in such cases.

He says he averages about 200 cases a year. Last year, he logged 30,000 miles visiting clients from one end of the state to the other, he says, and made \$213,000.

Mr. Kendall estimates he turns away one in every 10 would-be clients. “If I ask them what year it is and they start ‘19,’ or who the president is, and they say ‘Clinton,’ that’s not good,” he explains. He says he takes only clients who have a shot at getting their licenses back, and that it is up to the DMV to decide who would be safe to return to the road.

One client, June Heggeness, an 84-year-old from Long Beach, Calif., had fainted while playing bridge with her daughters. Paramedics were called. As required by state law, the paramedics reported the incident to the DMV, and her license was pulled.

Mr. Kendall has spent a year working with Mrs. Heggeness. She flunked one driving test for coming too close to a man crossing a street in a wheelchair, she recalls, and another for making a left turn into the path of an oncoming car. All told, she failed four times.

Mr. Kendall finally referred her to a driver rehabilitation program run by St. Jude Medical Center in Fullerton, Calif. Such programs are cropping up at medical facilities across the country to take referrals from doctors unsure about the driving fitness of patients and to help people worried about aging family members.

St. Jude’s occupational therapists test drivers’ cognitive and spatial abilities. An elaborate computer-simulation program, which makes use of three video screens, gives drivers practice coping with road perils such as sudden forks, stalled cars on the shoulder and vehicles passing through blind spots. Drivers pay \$250 to \$350, depending on how extensive an evaluation is necessary.

Allison Walz, the program’s director, says therapists and trainers are merciless about weeding out drivers who shouldn’t return to the road. “There are some truly dangerous drivers out on the road,” she says.

In December 2003, Richard Witteman, a 72-year-old retired aerospace engineer from Yorba Linda, Calif., was rear-ended and smashed his head into the windshield. California law required the paramedics to notify the DMV about potential head trauma. Mr. Witteman was diagnosed with a brain tumor unrelated to the crash. After the tumor was removed, the DMV demanded all his medical records, then pulled his license due to the head surgery, as well as a heart condition and diabetes, Mr. Witteman says.

Being unable to drive to the golf course or to the store, he says, was “like being a prisoner of the DMV.” He hired Mr. Kendall to appeal. He passed the written test, but flunked his first driving test, he says, because he switched from his regular glasses to his prescription sunglasses while driving. He passed the test on the second try.

Charles Navarro was 100 years old when he smacked into the back of another car while tooling down Wilshire Boulevard in Los Angeles in his cherry-red Cadillac Sedan de Ville. California decided that his driving days were over.

Mr. Navarro, a former session guitarist for Bob Hope's orchestra and Roy Rogers and Los Angeles city controller, and his wife had spent their retirement years cruising to Palm Springs, Santa Barbara and Beverly Hills, dining at their favorite restaurants. Mr. Navarro's wife saw Mr. Kendall's newspaper ad and telephoned him.

Mr. Kendall showed his client a training video he made with tips and pep talks about keeping a positive attitude. He sent him to driving school and guided him through written and road tests. Mr. Navarro regained his license, only to lose it a second time after another fender bender on busy Wilshire. With Mr. Kendall's help, he recouped his license again in 2005.

Mr. Kendall says he isn't putting incompetent drivers on the road, but giving people who feel they've been wronged the legal weapons to get back behind the wheel.

Last September, Mr. Navarro drove his wife to dinner at the Biltmore Hotel in Santa Barbara. One week later, he died at home in his sleep at 101. His license wasn't set to expire until 2009.

On Jan. 27, Mr. Kendall accompanied Mr. Haag, the retired engineer, to a DMV Safety Office in Irvine to take a written test, the first step toward recovering his license. Mr. Haag's dentist son, Gordon "Woody" Haag Jr., used the graded tests he had cajoled from test-takers to help his father prepare. Fiercely protective of a man who worked on the Apollo moon mission, Woody Haag nevertheless expressed uncertainty about the thin, gray line that seniors pass before they are grounded. "That could be me in 30 years," he says. "As a father myself, I don't want my kids endangered by somebody who's not competent to drive."

The junior Mr. Haag paced as his father hunched over a table for more than an hour puzzling over 18 questions. His father got seven questions wrong, four too many to receive a passing grade. Among the questions he got wrong: Mr. Haag answered that if you signal, others have to let you change lanes. The correct answer is you should signal before changing lanes.

"We'll be back in two weeks," Mr. Kendall told a disappointed Mr. Haag as they left. "One week," Mr. Haag shot back.

Some of California's written questions—which relate to such arcane topics as the weight and age requirements for infant car seats—are not easy for longtime drivers. To help clients, Mr. Kendall says, he has distilled the driver's manual to key words and themes. One tricky question, for example, asks drivers what they should do if they spot a blind person starting to cross the road and then stopping. (The correct answer is to go.) Mr. Kendall instructs clients that if they see a question with the word "blind," they should

circle the answer that includes the word “go.” He provides them flash cards to quiz themselves.

One week later, Mr. Haag answered 17 of 18 questions correctly.

To qualify for a road test, Mr. Haag had to appear before a DMV hearing officer, who would judge his mental sharpness. The subjective nature of that process incenses Carrie Teasdale, a lawyer and doctor who volunteers at Orange County’s Legal Services office on behalf of elderly drivers. She contends traffic authorities have ramped up efforts to get seniors off the road, and that the level of subjectivity involved in evaluating a driver is unconstitutional. Steven Haskins, spokesman for the DMV, denies the department discriminates by age.

On Feb. 25, Mr. Kendall accompanied his client to a hearing in Irvine before hearing officer Robert Sammartino. Mr. Kendall informed Mr. Sammartino that Mr. Haag’s doctors, including a neurologist, had amended the diagnosis of Alzheimer’s to memory loss, and had said it shouldn’t affect his driving ability, according to Mr. Kendall. He informed the DMV officer that Mr. Haag had no history of moving violations and had passed his most recent written test.

Mr. Sammartino then asked Mr. Haag a series of questions to gauge his awareness, including the names of the current president and governor. Mr. Kendall says Mr. Haag’s only stumble came when he was asked the name of the vice president. He answered that it was someone “in trouble for shooting somebody,” according to Mr. Kendall. Later, he piped up: “Dick Cheney.”

Mr. Haag was granted a special instructional driving permit. He will have six months to work on his skills with professional instructors and family members before Mr. Kendall schedules the road test.

Mr. Kendall says he’s confident. “I won’t take a case I feel is impossible,” he says.