

# Five Strategies for Fighting a Traffic Ticket

Here's how to fight your speeding or traffic ticket.

Just because you got a speeding or other traffic ticket, doesn't mean you deserved it. It can be tricky to successfully fight your ticket, but in some circumstances the effort can really pay off. If you plan to contest a traffic ticket, here are five approaches to consider:

## 1. Challenge the Officer's Subjective Conclusion

In many states, with many tickets, it's possible -- and sometimes even fairly easy - - to challenge the police officer's view of what happened. This is particularly likely in situations where a cop must make a subjective judgment as to whether you violated the law. For example, when an officer gives you a ticket for making an unsafe left, you may argue that your actions were "safe and responsible" considering the prevailing traffic conditions. It will always help your case if you can point to facts that tend to show that the cop was not in a good location to accurately view what happened or was busy doing other tasks -- for example, driving 50 mph in heavy traffic.

In about 20 states, deciding whether it is safe to exceed the speed limit is a circumstance where a subjective judgment must be made. That's because in these states the posted speed limit is not an absolute limit but only creates a legal presumption as to the safe speed for that road. This raises the possibility of challenging the officer's judgment by proving it was safe to slightly exceed the posted limit. For more information, see Nolo's article [Speeding Tickets: How to Defend Yourself](#).

## 2. Challenge the Officer's Observations

In cases where your state law requires an objective observation by the officer (not a judgment call about whether your action was safe), it often boils down to an argument about whose version of the facts is correct. For instance, if you were cited for failing to come to a stop at a red light or for making a prohibited turn, who wins the case will depend on who the judge believes. Unfortunately, the guy wearing the badge usually wins, unless you can cast real doubt on his ability to accurately perceive what happened. However, there are a number of techniques that may work to raise at least a reasonable doubt as to your guilt.

Here are the types of evidence most likely to help you convince the judge that you - - not the officer -- are in the right:

- Statements of witnesses, such as passengers or bystanders, who testify to your version of events.
- A clear, easy-to-understand diagram showing where your vehicle and the officer's vehicle were in relation to key locations and objects, such as an

intersection, traffic signal, or other vehicle. Diagrams are especially important for tickets given at intersections, such as right-of-way, traffic light, or stop sign violations.

- Photographs of intersections, stop signs, and road conditions. These can be used to show conditions like obscured stop signs or other physical evidence that backs up your case.
- Any other evidence that would cast doubt on the officer's ability to accurately observe your alleged violation. A classic way to do this is to prove his view was obscured -- or that his angle of observation made it impossible to accurately see what happened.

### **3. Prove Your Conduct Was a "Mistake of Fact"**

Judges are allowed some leeway in considering circumstances beyond your control. If you can show that you made an honest and reasonable error, a judge might find you made a "mistake of fact," meaning your ticket should be dismissed.

Here are several examples:

- You failed to stop before coming to the pedestrian crosswalk markers because they were old and faded and could not be clearly seen.
- You failed to stop at a stop sign after a major storm because the sign was hidden by a broken branch. If possible, you should take pictures of the obscured sign and show them to the judge to support your argument.

Often this argument comes down to your claim that you weren't given fair notice as to the conduct that was expected of you. For example, a judge might dismiss a ticket for running a stop sign if it was brand new. However, the judge would probably not buy this defense if:

- the sign had been up for more than a few weeks
- you had never stopped at that intersection before (and therefore shouldn't have been fooled by its sudden presence), or
- you were speeding.

### **4. Prove Your Conduct Was "Legally Justified"**

You may also successfully argue that your actions were "legally justified" considering the circumstances of your alleged violation. For example, if you were charged with driving too slowly in the left lane, it is a legal defense in all states that you had to slow down to make a lawful left turn. In this situation you do not have to deny that you were driving significantly below the speed limit and causing vehicles behind you to slow down, but you can offer the additional fact that legally justifies your otherwise unlawful action. Such defenses can be very successful because they raise an additional fact or legal point, rather than simply contradicting the officer's testimony.

Here are a couple of examples of situations in which this defense might work:

- You are forced to stop on a freeway because your car has begun to make a loud and dangerous-sounding noise and you fear you would put other drivers in danger if you continued to drive without checking it out.
- You swerved into the right lane without signaling a lane change to pull over because a hornet flew into your car through your open window.
- You had sudden and severe chest pain and safely exceeded the posted speed limit to get to the doctor, whose office was only one half-mile away.

## **5. Prove Your Conduct Was Necessary to Avoid Harm**

Emergencies not of your own making are often another legal "necessity" defense, recognized in all 50 states. To take an extreme example, you should be able to beat a charge of speeding if you can prove you sped up to avoid an out-of-control truck. The key here is to convincingly argue that you were forced to violate the exact wording of a traffic law in order to avoid a serious and immediate danger to yourself or others. Here are some examples:

- Driving in the right, or slow, lane, you are boxed in from the back and the left side by speeding cars. To avoid colliding with a car entering the highway from the right, you accelerate well beyond the posted limit.
- Because there is a car just to your right, you briefly speed up to avoid being rear-ended by a super-aggressive big rig that is tailgating you. Once you are in the clear, you move to the right and resume a legal speed.
- You swerve across a double yellow line to avoid hitting another vehicle, pedestrian, animal, or other unexpected obstacle. If you had failed to take an evasive action, you would have been at high risk of being involved in an accident.

But it's important to realize that there is a big difference between presenting a necessity defense based on road conditions and coming up with an excuse for breaking the law based on your own inattention or personal need. Excuses that are born to lose include:

- My mind wandered and I didn't realize I was speeding.
- I was arguing on my cell phone and I didn't see the stop sign.
- I couldn't fasten my seatbelt because my stomach was uncomfortably full from lunch.