Traffic Ticket Charges

Defending Driving Offence Charges Within the Greater Toronto Area

Are you charged with a ***Highway Traffic Act***, R.S.O. 1990, c. H.8. offence in the Toronto Area? If so, know that resolving traffic ticket issues is rarely, if ever, simple! Accordingly, for a reliable paralegal in the Greater Toronto Area to assist you with matters relating to traffic tickets, get help from DK Legal Practice. DK Legal Practice has the knowledge and dedication to provide the defence strategy help you need to fight, among many other charges:

- Careless Driving Charges
- Distracted Driving Charges
- Stunt Driving Charges
- Driving Without Insurance Charges
- Driving Without License Charges
- Seatbelt Violation Charges

Thorough and Detailed

When you hire DK Legal Practice, you get the help of a hard-working professional who is dedicated to delivering a thorough and detail-oriented job that serves your best interests. DK Legal Practice is committed to going the extra mile and to exceeding client expectations. With many years of experience in fighting traffic tickets, you can trust Daisy Yordanova to deliver the best effort towards winning your case!

Paralegals are available to fight 'tooth & nail' at trial or to help you negotiate an early resolution with the prosecutor as pleas for a reduced charge, reduced fine, or extra time to pay your fine. Whether you need help navigating confusing court procedures, dealing with intimidating prosecutors, or simply want input and advice on a likely outcome for your matter, paralegal representation may be available to assist.

Reduce the Charges

At the scene of a road stop or accident, the police will often charge a driver with the broadest, yet sometimes most serious, charge possible. Generally, there are many reasons for the police to do so including, among other things:

1. To charge the driver with the offence that is easiest for the Prosecutor to prove; and
2. To provide the Prosecutor with 'room' for negotiation on a plea to a lesser charge.

For example, in a typical and common rear-end accident, the vehicle struck from behind is almost always without fault (generally, unless backing up or purposely slamming the brakes to cause an accident). In these situations, the driver operating the vehicle that rear-ended the vehicle in front is routinely charged with Careless Driving contrary to s.130 of the ***Highway Traffic Act***; however, the offence of Careless Driving is actually a very serious charge for what is often a relatively minor situation such as a slight bumper bump. Unfortunately, in this situation and by definition, careless driving is usually the most fitting offence within the ***Highway Traffic Act*** that the police officer can charge. It is necessary to keep in mind that the police officer has a public duty to ensure that the 'at-fault' driver is subsequently proven 'at-fault' if necessary - and not just by the Crown Prosecutor but also in a civil law court if, for possibilities that the police officer is unable to foresee, liability litigation arises in the future. However, in these situations, the Crown Prosecutor will often 'deal' and allow driver charged with the serious offence of Careless Driving to plea down to the s.158(1) minor offence of Following to Close.

Some people might ask why the police officer charges the Careless Driving in the first place rather than placing a charge for Follow to Close in the beginning. As above, by placing the serious charge at the scene, the Crown Prosecutor is better positioned to obtain a plea to the lesser charge. Additionally, sometimes the police officer will consider the difference in definition between the two charges and will choose the 'careless' in knowing that Careless Driving is defined somewhat vaguely, and is therefore sometime easier to prove in court.

However, it is important to keep in mind that accidents can, and do, happen without the legal definition of 'carelessness' being met. For example, the courts have frequently dealt with the legal question of when does a temporary lack of attention become careless and it is decided that momentary inattention is excusable whereas in ***R. v. Richards***, 2009 ONCJ 651 it was stated that:

[16] In *R. v. Beauchamp (1953)*, 16 C.R. 270, the Ontario Court of Appeal stated the standard for careless driving is a constantly shifting one which depends on the road, visibility, weather and traffic conditions as well as other conditions which an ordinary driver would take into consideration.

In the matter at bar, clearly the visibility was limited by the fog. Nonetheless, Officer Nelson acknowledged that his visibility extended to 50 metres which provided a limited range of view for Ms Richards. While the road was wet from the fog, no evidence suggested Ms Richards could not stop due to road conditions. No evidence was led there were adverse traffic conditions. Officer Nelson testified that he was travelling at 60 kph and Ms Richards at approximately 40 kph. Therefore, Ms Richards' was driving at a reasonable speed for the conditions of limited visibility and wet roads which existed that night. In my view, it cannot be said that she was driving "without due care and attention or without reasonable consideration for other persons using the highway".

[17] In *R. v. Ereddia*, [2006] O.J. No. 3421 (OCJ), Justice Fairgrieve also commented on the standards for a conviction of careless driving. He stated:

> (6) The offence of "driving carelessly", created by s. 130 of the *Highway Traffic Act*, is defined as driving on a highway "without due care and attention or without reasonable consideration for other persons using the highway". The law has been clear for decades that in order to make out the offence under s. 130, the driving must be of such a nature that it amounts to a breach of one's duty to the public and is deserving of punishment: see *R. v. Beauchamp (1953)*, 16 C.R. 270 at p. 278 (Ont. C.A.). A driver is not held to a standard of perfection, and a mere error of judgment is not necessarily sufficient to establish the offence: see *R. v. Wilson (1971)*, 1 C.C.C. (2d) 466 (Ont. C.A.). Careless driving, generally speaking, requires proof of a departure from the standard of care that a reasonably prudent driver would have exercised in the circumstances, and normally involves, I would think, conduct that includes other less serious Highway Traffic Act infractions.

> (7) Mr. Klaiman, counsel for the appellant, also referred in his factum to the pertinent judgment of Killeen Co. Ct. J. in *R. v. Namink*, [1979] O.J. No. 317 (QL), where, at para. 10, the learned County Court judge stated as follows:
>
> It is trite to say that this is a quasi-criminal charge, and that to make out a charge under this section the evidence must bespeak conduct deserving punishment in the way of a conviction under this section of our *Highway Traffic Act*. Mere momentary inattention, or a simple kind of error of judgment, does not bespeak the kind of conduct over which the net of this section is cast."

Fight the Fines (statutory minimums)

Many fines for driving violations are legislated as 'statutory minimums' such as, among others:

1. The $5,000 fine for causing, permitting, or allowing, an automobile to be driven without proper insurance coverage as per s.2(3) of the ***Compulsory Automobile Insurance Act***, R.S.O. 1990, c. C.25; or
2. The $1,000 fine for driving under suspension as per s.53(1) of the ***Highway Traffic Act***.

Accordingly, many laypersons (and even 'law'persons) perceive the 'statutory minimum' as absolute; however, despite certain charges appearing as punishable by a mandatory 'statutory minimum' fine, as per s.59(2) of the ***Provincial Offences Act***, R.S.O. 1990, c. P.33, there does remain some flexibility with ultimate discretion in determining the punishment amount remaining with the Judge or Justice of the Peace.

The apparent inconsistency in the law whereas s.59(2) of the ***Provincial Offences Act*** allows for flexibility yet other statutes such as those referenced above state that fines are mandatory minimums was previously challenged on appeal to the Ontario Court of Appeal by the Crown in the case of ***R. v. Ade-Ajayi***, 2011 ONCA 192 where it was ruled that the flexibility indeed exists.