

## PROPOSED AMENDMENTS TO THE HIGHWAY TRAFFIC ACT



### THE PROBLEM:

There currently exists an injustice in Ontario. A driver stopped at a RIDE program and found to be over the limit, loses their license for an immediate 60 days, without a trial or conviction, and then upon a conviction, loses their license for a further year, pays a minimum of a \$500 fine and after reinstatement of licence must pay to have a breathalyser device installed and maintained in their vehicle for a further year.

Compare those penalties to a driver who makes an unsafe turn in front of a motorcycle and kills both riders. That driver will receive a \$500 fine only. The first person pays a comparatively large penalty because they have the potential to do harm, but a person who actually kills cannot receive anything more substantial than a \$500 fine.

This is wrong.

In July of 2002, William James Duff turned left in between three motorcycles on Highway 17 near Batchewana, Ontario. The resultant collision immediately claimed the lives of David and Wanda Harrison. Mr Duff was convicted of unsafe turn and received the maximum penalty allowed under the Highway Traffic Act, that is, a \$500 fine.

We feel this was unjust, but it was all that was permitted under law. There are some who believe the highway traffic act is just fine the way it is, including current and previous Ministers of Transportation. When viewed in the above light, however, this is obviously not the case.

Many of the charges under the HTA do not have a specific penalty applied. This is true for left turn charges among others. Instead, the HTA has section 214, which is referred to as general penalties. It is the catchall clause for the penalty for any charge under the act that does not already have a specific penalty applied.

### THE PROPOSED SOLUTION:

We wish to change the Highway Traffic Act in a couple of ways. First, we wish to separate the act of unsafe turn to make it a separate section and penalty for unsafe turns involving the vulnerable segments of traffic. Second, we wish to amend section 214, which is the general penalty clause to provide for a more stringent penalty when a death occurs.

First we need to add a separate offence to identify the left turn contravention, which violates the right of way for the most vulnerable segment of the motoring public.

We need to add the following:

#### Safe turns

141.1 The driver or operator of a vehicle upon a highway who makes or attempts a turn at an intersection, into a private road or driveway, from one lane of traffic to another, or to leave the roadway, is subject to the following rules:

1. The driver or operator shall, before attempting to turn, check to see that the turn shall not interfere with the movement of any pedestrian, motorcycle, bicycle, motor assisted bicycle or wheelchair.
2. The driver or operator shall not attempt or make the turn if to do so will interfere with the movement of a pedestrian, motorcycle, bicycle, motor assisted bicycle or wheelchair.
3. The driver or operator shall make a signal of his or her intention to turn that is clearly visible to all pedestrians and operators of motorcycles, bicycles, motor assisted bicycles or wheelchairs whose movement may be affected by the making of the turn.

We then need to add a specific penalty for the above clause:

Every person who contravenes section 141.1 of this Act is guilty of an offence and on conviction, is liable to a fine of not less than \$500 and not more than \$5000.

We finally need to amend section 214, which is the general penalty clause.

It now reads, 214. (1) Every person who contravenes this Act or any regulation is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$60 and not more than \$500. R.S.O. 1990, c. H.8, s. 214 (1).

We wish to amend that clause to read:

214. (1) Every person who contravenes this Act or any regulation is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided for herein,

(a) is liable to a fine of not less than \$60 and not more than \$500 or,

(b) is liable to a fine of not less than \$500 and not more than \$5000, and incarceration not less than 3 months and not more than 12 months, and suspension of drivers license for 12 months, said suspension to start upon release from incarceration and not be concurrent with incarceration, where it has been determined that the contravention resulted in a fatality either immediate or within 6 months of the contravention.

With these amendments in place, there should be a more just penalty for those who violate the right of way of the more vulnerable segments of the motoring public, and for those who by their actions, cause accidents which claim lives. Note that the amendment to section 214 does not just apply to motorcyclists being killed but anyone!