



THE LAWRENCES[®] LETTER

News and information for clients and friends of Lawrence, Lawrence, Stevenson LLP

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PLEADING GUILTY TO A MINOR OFFENCE? Get Legal Advice First

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You have recently been charged with a provincial offence, such as careless driving, and have been summoned to appear in court. A few minutes before court begins, you approach the prosecutor and identify yourself. He looks at the ticket and says, "Don't worry, it's not a criminal offence; we'll agree to a \$200 fine on a guilty plea to an improper lane change, which is fewer demerit points. You'll be out of here in five minutes". That's a relief, right? Maybe not.

There are numerous considerations to be made before accepting what appears to be a quick and inexpensive solution to a legal problem. Failure to do so may cause you significant future problems.

First, if you plead guilty to an improper turn causing a motor vehicle collision, will that render you liable to pay any injured party's damages? This is particularly important if there is insufficient or no insurance coverage in place in the event of a successful lawsuit against you. Just the fact that you pled guilty may result in increased insurance premiums in the future, depending upon the type of offence and the risk assumed by your insurer.

Second, what will be the effect of your guilty plea if you are charged again in the future? Fines on subsequent convictions invariably escalate. The previous fine becomes the low watermark in assessing the new fine. A conviction under, for example, the Occupational Health and Safety Act carries with it a maximum fine of \$500,000, so subsequent convictions can be financially ruinous. In an attempt to promote workplace safety, the Ministry of Labour is intensifying its inspection and prosecution efforts, especially in the case of previous offenders. The Ministry has identified 30,000 businesses for inspection. More inspections will inevitably lead to more charges being laid. So, for example, if you are a builder and are charged with having a stairway without a railing during construction, your fine on conviction will be in the \$10,000 to \$25,000 range—even if no one was hurt.

But there's more. If you are a member of an industry that requires licensing in the province of Ontario, such as architecture, engineering, medicine, dentistry, and even real estate, bailiffs, car sales and funeral



directors, the government regulator may revoke your licence and livelihood on the basis of a conviction, even if the offence is not industry-related.

Surely you can simply request a hearing and explain to the tribunal about to take away your licence that you pled guilty simply to expedite matters? In fact, you really didn't do anything wrong, did you?

It's not that simple. When you enter a guilty plea to any charge, whether in a provincial offence court or in criminal court, the prosecutor reads in the facts warranting a conviction. Once you acknowledge those facts as being correct, you will be precluded from arguing to the contrary at a future point in time, in front of another civil or criminal court or licensing tribunal.

Ontario has many statutes regulating dozens of professions in which a seemingly minor conviction may have devastating consequences. These professions include automobile dealers and salespersons, travel agents, funeral directors, collection agencies, mortgage brokers, insurance brokers and certain investment advisers—to name only a few.

Do not expect the prosecutor to explain any of this to you or warn you of the possible future repercussions your plea may have. Protecting your rights is neither the prosecutor's mandate nor his job—but it *is* ours. Seek legal advice before taking a step that may have serious consequences.



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