



THE QUILL

Issue Seven, Boyne Clarke Personal Injury Newsletter

“Remembering a life snatched away”

PEDESTRIANS

*COURT RULES—
“ROADS FOR
CARS NOT PEOPLE”*

**KNOW
YOUR
RIGHTS!**

*PEDESTRIAN NOT LIABLE
FOR PERSONAL INJURIES*

PEDESTRIAN RUN DOWN AT CROSSWALK

Government commits to improving pedestrian safety

NOVA SCOTIA WOMAN AWARDED \$100,000 DAMAGES

KNOW YOUR RIGHTS

If you are injured by a motor vehicle when you are a pedestrian, you have the following benefits and rights available

Section B Benefits: If you are a pedestrian and injured by a motor vehicle you are entitled to insurance benefits from the insurer of the vehicle that struck you, regardless of fault. Section “B” benefits include payment of medical treatment costs, wage loss benefits, death benefits and funeral costs. There may be \$25,000 to \$50,000 available for such coverage.

Uninsured Drivers: If you are injured by an uninsured driver or in a hit and run, your own motor vehicle insurance would provide you with Section B medical and wage loss benefits. It would also provide you with Section D coverage (uninsured or unidentified driver coverage). There are a number of specific Policy requirements you must complete to ensure you are eligible for this Section D coverage, including notifying the police within 24 hours and providing written notice to the insurer within 30 days. You should immediately contact us to retain legal services if you suspect an uninsured driver is involved or if the driver was unidentified.

Reverse Onus: Section 248 of the Nova Scotia *Motor Vehicle Act* provides that when a pedestrian is injured by a motor vehicle, the onus is on the driver and vehicle owner to show the accident wasn’t the fault of the driver. Insurers will usually allege the pedestrian was careless in failing to look before walking onto the road. If the pedestrian is within a marked crosswalk, the driver has a duty to stop which makes it very difficult for the driver to prove that they were not at fault.

Proposed changes to our Laws:

Clarify the meaning of the “don’t walk” pedestrian signal.

Clarify pedestrian and vehicle rights of way, specifically driver and pedestrian responsibilities in crosswalks.

Double fines for motorists who fail to yield to pedestrians in crosswalks and provide for an automatic seven-day license suspension.

Fines

The new fine levels for motorists who fail to yield to a pedestrian will be:

\$500 for a first offence

\$1,000 for a second offence

\$2,000 for a third offence

Government commits to improving pedestrian safety

Legislative changes that will hopefully improve pedestrian safety are expected to be introduced early this summer.

Amendments to the *Motor Vehicle Act* were passed by the legislature last fall and are expected to be proclaimed in early summer 2008, becoming law at the same time, said Cathy MacIsaac, the Communications Director for Transportation and Infrastructure Renewal.

The amendments were based on interim recommendations of a joint provincial/municipal task force on crosswalk safety.

The new rules will include:

- ✦ Making it an offence for a driver to overtake a car that has stopped at a crosswalk for a pedestrian.



- ✦ Making it an offence for a pedestrian to walk into the path of a vehicle if the vehicle is so close it would be impractical for the driver to stop.

- ✦ If a crossing is pedestrian-activated, it will be an offence for the person to cross unless the beacon has been activated.

- ✦ If a pedestrian is not crossing at a pedestrian crossing they must give way to all vehicles. The new laws also call for both pedestrians and drivers to be careful.

On announcing the proposed changes back in November last year, Transportation and Infrastructure Renewal Minister Murray Scott said the amendments will reduce road injuries and deaths, and help alleviate much unnecessary suffering for families and friends whose loved ones are affected by road crashes.

Disclaimer: The material in this newsletter has been prepared by Boyne Clarke Barristers & Solicitors for information purposes only and should not be construed as legal advice or legal opinion on any specific facts or circumstances. Boyne Clarke cannot promise that the information in this newsletter is applicable to your circumstances, correct, complete, and up-to-date. Readers should not act upon this information without seeking professional counsel.

(Please keep in your vehicle)
**Motor Vehicle Collision
Checklist**

Your Name:

Other Driver's Name:

Other Driver's License #:

Other Vehicle Owner - If NOT driver name:

Other Vehicle Insurance Company Name and Policy #:

Other Vehicle Make:

License Plate:

Year:

Witness and Phone #1:

Witness and Phone #2:

Police Officer's Name:

Badge #:

Station:

Useful Resources

The Brain Injury Association of Nova Scotia

<http://www3.ns.sympatico.ca/bians1/>

A non-profit organization dedicated to providing a framework for self-help within Nova Scotia's brain injury community.

The Canadian Paraplegic Association (Nova Scotia)

<http://www.thespine.ca>

A charitable organization to assist people with spinal cord injuries and other physical disabilities to achieve independence, self-reliance and full community participation.

Nova Scotia Department of Health

<http://www.gov.ns.ca/health/>

This website provides information and links to help visitors better understand Nova Scotia's health system, its programs and services, and its plans for the future.

reachAbility -

<http://www.reachability.org/>

A charitable organization providing access to equality and human rights for people living with disabilities, by providing knowledge, leadership and partnership opportunities.

Lawyer for the Injured

<http://www.lawyerfortheinjured.ca/>

This website provides information and advice for personal injury sufferers. Whether your injury is a result of a car accident, fall, insurance injury or disability claim, or class action, this site can point you in the right direction.

Boyne Clarke is a full service law firm that has the largest personal injury practice in Atlantic Canada.

33 Alderney Drive, Suite 700
Dartmouth, NS B2Y 2N4
P.O. Box 876 Dartmouth Main
Halifax, NS B2Y 3Z5
Ph 902-469-9500
Fax 902-463-7500
info@boyneclarke.ca
www.lawyerfortheinjured.ca