



RESOLUTION 2023-03

Careless Driving in a Private Place, Including Parking Lots

WHEREAS there has been a high volume of incidents, high risk, and dangerous driving behaviors on private properties, including parking lots where the facts do not meet a criminal threshold, and there are currently no enforcement methods available within the Highway Traffic Act (HTA), and

WHEREAS pursuant to ss. 130(1) and (3) of the HTA, the offences of Careless Driving and Careless Driving Causing Bodily Harm or Death only apply to driving that takes place on a "highway", and:

WHEREAS when collisions are the result of a driver's failure to exercise due care and attention, the narrow definition of "highway" precludes charges for Careless Driving or Careless Driving Causing Bodily Harm or Death when occurring in a private place, including parking lots, and

WHEREAS in circumstances where the driving behavior does not meet a criminal threshold, this leads to a significant gap in enforcement and a corresponding loss of public confidence in the administration of justice, and

WHEREAS all provinces, with the exception of Manitoba and Ontario, have amended their respective Provincial Acts and the languages so they are inclusive of parking lots in regards to Careless Driving (or equivalent), and

WHEREAS a similar amendment was recently made to the HTA Ontario Regulation 455/07 to expand Races, Contests, and Stunts to private places including parking lots, and

WHEREAS the Supreme Court of Canada in *R. v. McColman, 2023 SCC 8*, the accused was observed by police driving an all-terrain vehicle in a parking lot and onto a highway. The accused was stopped in a private driveway, where signs of impairment were observed. The accused was charged with a blood alcohol concentration over the legal limit. The SCC ruled that even though the accused was observed in a parking lot and stopped on private property, the Court concluded that the evidence gained on private property not be excluded, and the conviction was restored, and

WHEREAS by amending ss. 130(1) and (3) of the HTA to include private places and parking lots, a police officer would have the ability to hold drivers accountable then, enhancing public trust in the justice system, and

WHEREAS pursuant to ss. 76(1) of the *Provincial Offences Act*, a proceeding shall not be commenced after the expiration of any limitation period prescribed by or under any Act for the offence or, where no limitation period is prescribed, after six months after the date on which the offence was, or is alleged to have been, committed, and

WHEREAS investigations surrounding incidents of careless driving causing death or bodily harm are becoming increasingly complex in nature, therefore, requiring extensive amounts of time to investigate, and

WHEREAS the need to increase the limitation to 2 years for offences under ss. 130(3) of the HTA was previously established in 2016 under Bill 213. Bill 213 underwent three readings in the Legislative Assembly when it was ultimately referred to the standing committee.

THEREFORE BE IT RESOLVED that the Ontario Association of Chiefs of Police (OACP) calls on the Government of Ontario to conduct a review of the *Highway Traffic Act* application of "highway" as a place where the offences of Careless Driving can occur.

BE IT FURTHER RESOLVED that the OACP calls on the Government of Ontario to amend the *Highway Traffic Act* to include private places, including parking lots, as applicable to ss. 130(1) and (3) of the HTA Careless Driving, and

BE IT FURTHER RESOLVED that the OACP calls on the Government of Ontario to amend the *Highway Traffic Act* to increase the statute of limitations to 2 years as applicable to ss. 130 (3) of the HTA Careless Driving.