

Leaving a scene of a vehicle accident

July 2013

What do these words mean?

Words that are highlighted in **bold** are explained in our *What do these words mean?* fact sheet.

Is it an offence 'to leave the scene of a vehicle accident'?

If you are in a vehicle accident, the law says that you have to do certain things:

1. you must stop
2. you must help people who might be injured
3. you must exchange names and addresses with the other driver or property owner. For example, if you hit someone's fence
4. if no one is around you must go to the local police station to tell them about the accident.

You have to do these things even if the accident is not your fault.

If I leave, what can the police charge me with?

The police can **charge** you with these **offences**:

- 'fail to stop after an accident'
- 'fail to render assistance'
- 'failure to exchange names and addresses'
- 'fail to report an accident to a police station if no other person is present at the accident'.

Whether you are guilty depends on the exact facts and circumstances of your case. Look at the 'Details of the charge' in your **charge sheet** to see what the police officer wrote about your offence. The magistrate refers to this in the courtroom.

If you caused the accident and left but someone was seriously hurt or died because of the accident, the police could charge you with an **indictable offence**. This is very serious. You could go to jail for up to ten years or get a big fine. The rest of this fact sheet does not apply. Please get legal advice.

What does the prosecution have to prove?

The **prosecution** must prove that:

- you were driving, and
- there was an accident, and
- if there was damage or an injury, you failed to stop, exchange names and address.

What can I do today?

Admit to the charges and ask for diversion

The diversion program means your case is treated differently. It is normally for less serious cases. You must agree to certain conditions. You do not get a **criminal record**.

To get diversion you must admit responsibility for the offence. This includes everything the **informant** says in the **statement of alleged facts**. This means you tell the magistrate that you know you broke the law but you would like diversion. If you not been given a **diversion recommendation**, you can ask to **adjourn** the case.

The police prosecutor and magistrate are more likely to grant diversion if there was little or no property damage.

Plead guilty

If you agree that you did break the law, tell the court staff that you are **pleading** guilty. Go into the courtroom. The police prosecutor reads out the statement of alleged facts. The magistrate finds you guilty and gives you a **penalty**.

If you plead guilty the magistrate treats your **plea** as a sign that you are co-operating and may give you a less severe penalty.

See our *Pleading guilty* fact sheet to help you to work out what to say to the magistrate.

Plead not guilty

If you believe that you did not break the law or you disagree with what the informant says you did, you must tell the police prosecutor that you plan to plead not guilty. They will hold a **summary case conference** with you before your case is heard in court. After the conference, if you still wish to plead not guilty tell the magistrate. The magistrate adjourns your case for another day.

You will come back to court for a **contested hearing**. At this **hearing** the magistrate listens to **evidence** from you and the police before making a decision. You should have a **defence**. Saying that you did not know you were breaking the law will not be a good enough defence.

If you are pleading not guilty, get legal advice before the contested hearing. Also see our *Pleading not guilty* fact sheet.

Possible defences

It is a defence if you did not know that there was an accident.

Can I adjourn today's hearing?

You can ask the magistrate for an adjournment if you want to:

- go in the diversion program
- get a private lawyer.

Adjournments are hard to get for any other reason. The magistrate may say no.

What are the penalties if I am found guilty?

Fines

The magistrate may give you a fine for these offences.

You can get:

- five penalty units – a first offence
- ten penalty units – a second offence.

One penalty unit is about \$145.

Losing your licence

For any one of these offences, magistrates usually **suspend** your licence for one to six months. You should not drive at all during this time. There are no exceptions. For example, you cannot drive to work or to pick up your children. There are no special licences that allow you to drive some of the time.

There are very serious penalties for driving when you are not supposed to.

Jail

The magistrate may order imprisonment:

- 14 days – first offence
- 1 month – subsequent offences.

How does the magistrate decide what penalties to give?

The magistrate looks at:

- how serious your offence is
- if you have been found guilty of similar offences before
- what else is happening in your life.

What else might happen if I am found guilty?

Compensation

The magistrate can make you pay for any damage caused to someone's property.

Criminal record

What happens in court goes into your criminal record.

This includes:

- the finding of guilt
- a **conviction**, if there is one
- penalties.

The court and the police can see your criminal record.

Sometimes they can let other people know what is in your criminal record. For example, a criminal record, especially with

convictions, may make it harder for you to get some jobs or get visas to some countries.

See our *Criminal records* fact sheet.

Can I appeal the magistrate's decision?

Yes. If you do not agree with the decision you can **appeal** to the County Court. You have 28 days to do this. Get legal advice before you decide. You could get a higher penalty.

See our *Appealing a Magistrate's Court decision* fact sheet.

How do I pay a fine?

You can pay the fine at any Magistrates' Court. Go to the court counter and ask the staff for help.

Let the magistrate know if you might have trouble paying the fine. There are options. You can ask the magistrate to:

- make a plan for you to pay bit by bit
- give you community work instead of the fine.

If you do not pay, the court can issue a **warrant** for your arrest.

Where can I get help?

Law Institute of Victoria

Referral to private lawyer

Tel: 9607 9550

Victoria Legal Aid

Legal Help

Free legal help by telephone and information about Victoria Legal Aid services

Tel: 9269 0120 or 1800 677 402 (country callers)

Website

www.legalaid.vic.gov.au