

DISPELLING A FEW COMMON MOTORING LAW MYTHS



We have all heard the stories bandied around about 'easy' ways to avoid the law concerning road traffic offences. Unfortunately, these statements of opinion normally do more harm than good for the person who attempts to put the advice into practice.

Philip Hatvany, head of Motoring Law Defence and a solicitor with over 15 years of experience, addresses some common myths surrounding motoring law.

It is not an offence to use my mobile phone if my vehicle is stationary

Wrong! If you hold your mobile phone whilst making or receiving a call, text or email you are guilty of this offence even if you are stationary in a traffic jam, if your engine is running. This offence carries three penalty points and a discretion to disqualify.

If I am accused of speeding, I can get away with it by refusing to complete the form asking for the identification of the driver

Wrong! If someone is accused of speeding they will usually be sent a form asking them to identify the driver. It used to be argued that the obligation to provide self-incriminating information naming yourself as the driver was a breach of human rights and people would refuse to co-operate. This simply will not now work. If you fail to properly complete the form you will be guilty of a separate, often more serious offence and this carries six penalty points and a discretion to disqualify.

I can only be in trouble with the law if I was driving my car at the time of an allegation

Wrong! If you are the registered keeper of a vehicle then you have all sorts of obligations. If someone else was driving and gets caught on a speed camera you will have to nominate them as the driver within a strict timeframe. It may not be good enough to say that you don't know who was driving. If it is your car, it will probably be up to you to prove that you did everything you could to get the paperwork right, whether you were driving or not.

I can get a friend or family member to take my points without any real risk

Wrong! This is perhaps the most dangerous myth of all. If you tell the authorities that it was someone else speeding when you know it was you, you may well be perverting the course of justice. Chris Huhne, the former energy secretary, is accused of persuading his ex-wife to take points that should have been placed on his licence. Both of them are accused of perverting the course of

justice and may face a prison sentence if found guilty.

I cannot be identified by a fixed speed camera

Wrong! Whilst some speed cameras only take pictures from behind, there are plenty of others that takes pictures from in front or which are operated at the roadside by police officers. Many drivers think that the camera won't be good enough, but they might well be wrong.

If I am asked to give a breath sample, I can refuse to do so until my solicitor arrives at the police station

Wrong! People often attempt to use this excuse to try and delay the process so that their alcohol level will drop before they give their breath sample. This will not work, however, as the police are under no obligation to wait for the arrival of a solicitor at the police station. If you try this approach you are likely to face the charge of 'refusing to give a specimen of breath' which carries a mandatory driving ban of at least 12 months and potentially up to six months in prison.

If I have an accident, I have 24 hours to report it

Wrong! If you are involved in an accident and you do not manage to give your details to the owner of the other vehicle, you must report this to the police. The question is how long have you got to report? The law is often misunderstood. Reporting an accident must be done 'as soon as reasonably practicable and in any case within 24 hours'. In reality, this normally means as soon as possible, and you must do it in person to a police officer – a telephone call may not be good enough and just informing your insurance company won't be. You simply don't have as much time as most people think. The penalty for failing to report an accident carries between five and ten penalty points or a ban and you can even receive up to a six months in prison.

If I get 12 points I will definitely lose my licence

Wrong! One of the biggest myths is that if your penalty points add up to 12 or more then you will

automatically be disqualified. This isn't the case. You might be able to argue that a driving ban will cause you or another exceptional hardship. If the Magistrates' find exceptional hardship then they do not have to ban you at all. At Motoring Law Defence, we specialise in representing clients at such hearings.

In conclusion, if you do find yourself on the wrong side of the law concerning a road traffic matter, please do not rely on popular misconstrued beliefs. Instead, call Motoring Law Defence for free, initial, expert advice from experienced solicitors.

For further information, please contact Philip Hatvany on 01225 442925 or via email at advice@motoringlawdefence.com



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