

Consider this hypothetical scenario: a bride and groom choose an idyllic location in a rural area for their wedding reception. Consider this hypothetical scenario: a bride and groom choose an idyllic location in a rural area for their wedding reception.

They recognize some guests might imbibe a little too liberally at the free bar. They could call taxis to get those guests home safely. But the area's only taxi company has just two vehicles. And the guests would still have to come back the next day to pick up the cars they had left behind.

So the couple has a brilliant idea. They approach, say, the local Rotary club for volunteers to drive the wedding guests home in their own cars. The drivers receive no compensation -- thus avoiding the need for professional insurance coverage -- but the bride and groom offer to make a substantial contribution to a local charity.

It seems like a win/win situation. The inebriated guests get home safely. The owners' insurance covers the use of their cars by another adult driver. Rotary members live up to their motto, "Service above self." And the charity gets a much-needed donation.

Would I volunteer as one of those drivers? Not a chance.

That's because Justice Anthony Saunders of the B.C. Supreme Court has ruled that designated drivers are not protected by third-party insurance.

Here's the background. In 2006, Marnetta Lynn Felix was driving her boyfriend Kevin Hearne home after a soccer tournament. Kevin had celebrated well, but not too wisely. So Marnetta drove his car.

Along the route to their home in Chilliwack, Kevin reached across the car and grabbed the steering wheel. Marnetta lost control. The car left the highway and rolled. The accident killed him, and left her severely injured.

Five years later, she was awarded \$863,000 in damages and compensation. She expected it would come from his auto insurance. ICBC disagreed. The case went to court. And on Monday, Saunders sided with ICBC.

The wording of the law, Saunders ruled, only covers liability for passengers who do something that causes injury to a person outside the vehicle - like popping open a car door as a cyclist passes by. It does not cover injuries to persons inside the car.

Saunders admitted his ruling "could be a powerful disincentive to anyone acting as a designated driver." To deprive such drivers of a means of compensation when injured through the negligence of an inebriated passenger is to shift the risk of loss to them entirely."

Let's put that into less legal terminology. If I were driving some of those wedding guests home, and a grateful rider's effusive kiss caused me to swerve into oncoming traffic, perhaps crippling me for life, that's just my tough luck.

The possibility would make me think twice about driving anyone anywhere. Unless I could confine my guest to a far corner of the back seat, in handcuffs.

Operation Red Nose has supplied designated driver services for over 30 years. Nationally, Red Nose has used more than one million volunteers. In B.C., it serves 13 communities; 4,347 volunteers have provided 7,768 safe rides home.

"This is very disappointing," said Chris Wilson, on behalf of the B.C. branch of Operation Red Nose.

"It's a bit of a wake-up call for people who are doing what they think is a good deed," agreed Andrew Murie, CEO of Mothers Against Drunk Driving in Canada.

Canada does, in fact, have "Good Samaritan" laws that are supposed to protect people doing a good deed. Generally speaking, it's a legal principle that protects a rescuer who has voluntarily

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helped a victim in distress from being sued for wrongdoing.

Laws differ from province to province. In B.C., the Good Samaritan Act (1996) states, "A person who renders emergency medical services is not liable for damages for injury to or death unless that person is grossly negligent."

In other words, if Kevin Hearne had lived, he could not have sued Marletta Felix, because she was performing a Good Samaritan service.

But the law as it stands prevents Good Samaritans from receiving any compensation if they're injured while helping the victim.

To his credit, Saunders recognized this anomaly. The law, he noted, "would potentially leave an injured designated driver without any means of obtaining compensation... The consequence of this interpretation is one that some may find disturbing. This is a matter for consideration by the government."

The province responded a few days later. Transportation Minister Todd Stone said he and Attorney General Suzanne Anton would review Saunders' decision. They didn't say they would change the law. But they should.

Because if Saunders is correct, the law as it stands confirms the opinion of Mr. Bumble, in Charles Dickens' *Oliver Twist*: "The law is an ass."

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