

MPP puts brakes on top cop's driving legislation

OPP Commissioner Julian Fantino wants to amend Highway Traffic Act, not insurance policy

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JULIAN FANTINO: OPP Commissioner wants legislation to combat careless winter drivers.

Traffic laws already on the books — not new legislation — should be used to deal with drivers who do not pay attention to deteriorating weather and road conditions, provincial politician Frank Klees said.

Mr. Klees made the comments while responding to a call by Ontario Provincial Police Commissioner Julian Fantino earlier this week for politicians to draft new legislation that would see motorists, who crash after not heeding poor driving situations, punished with fines and demerit points.

Commissioner Fantino plans to draft a document to persuade Queen's Park to change the rules.

"I find this quite bizarre," Mr. Klees said. "We can't solve every problem with additional laws and additional fines. I don't know how much thought he has given to this."

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Julian Fantino
OPP Commissioner

During a news conference at OPP Toronto detachment, Commissioner Fantino decried the 3,036 crashes the provincial force responded to between 5 a.m. last Friday and Monday morning as mostly preventable, a massive workload and detrimental to the economy.

Of those crashes, the southbound lanes of Hwy. 400 were closed at Aurora Road Friday morning after 15 vehicles, including a jack-knifed transport truck, piled up on the heavily travelled highway.

In York Region, the 400-series highways as well as a portion of Hwy. 48 are patrolled by OPP.

However, the type of amendment to provincial traffic legislation proposed by Commissioner Fantino would apply to every highway, street and neighbourhood road in Ontario.

Police would decide if the new charges would be laid, he said.

"All of these (collisions) are preventable but for the way people behave," Commissioner Fantino said.

Mr. Klees said he would vote against a law written to include what he called a "purely

subjective assessment" at the roadside by an officer.

"I'm not prepared to allow for that kind of subjectivity to creep into the Highway Traffic Act," he added.

Commissioner Fantino brushed off reports published earlier this week indicating the proposed law would put the onus on drivers and not insurance companies to pay in cases of crashes caused by motorists not adjusting to the weather and road conditions.

"Some people have made it into an insurance issue," he said. "It's not. It's a public safety issue. I never once spoke about insurance. I never once spoke about who pays for what."

Commissioner Fantino said it would be "irresponsible" for him not to address the issue.

"What do you think my job is all about?" Commissioner Fantino asked rhetorically, while addressing the issue of a non-elected civil servant proposing law.

"It's all about public safety. If those who are responsible for configuring the laws of the land don't want to listen, that's their prerogative."

Many jurisdictions in the United States have similar laws, he said.

Early this year, Commissioner Fantino floated the idea of police laying a charge — albeit not as serious careless driving — against motorists who drive too fast in bad weather and get into a collision.

Some critics — including prominent defence lawyer Peter Lindsay — argued the

proposal would be at odds with the presumption of innocence afforded under the Canadian Charter of Rights and Freedoms.

Commissioner Fantino said he was met with "no real resistance" about the proposed changes.

The charge of careless driving, is a catch-all that could apply to driving too fast for weather and road conditions, York Regional Police Staff Sgt. Brad Bulmer, the commander of the traffic bureau, said.

British Columbia, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and the city of St. John's Newfoundland and Labrador either have laws or subsections of careless driving laws that deal with driving too fast for conditions, Staff Sgt. Bulmer said.

"If you are going to have such a section, it should be included in careless driving," Staff Sgt. Brad Bulmer said.

Any new infraction created under the provincial Highway Traffic Act would be considered by automobile insurers when they are formulating rates, according to Insurance Bureau of Canada spokesperson James Geuzebroek.

"Generally speaking, auto insurers classify infractions as minor, major or serious and surcharge accordingly," he said. "Surcharges vary by insurer and they are not applied until the driver has been convicted of the charge. With the

latest proposal, it is too soon to say how insurers would classify the charge, if such legislation were implemented."

A call for comment to the office of Transport Minister Jim Bradley was not returned by press time.

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