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MINOR TRAFFIC OFFENCES - Infringement Notices

When you borrow someone else's car, or you drive that car even with the owner in it, and you are stopped by the Police, you can be held responsible for any lack of Warrant of Fitness, Registration, or even if the exhaust is too noisy.

One night B and his friends decided on a night out in Wellington. B was not a drinker and volunteered to be the group's sober driver. Instead of travelling to town in B's car, the group decided to go in B's friend's vehicle.

This car had recently passed a Warrant of Fitness test, which now includes a check of any noisy exhaust due to recent changes brought on by noisy vehicle complaints re boy racers etc.

B didn't think to check any of the warrant or registration stickers—he trusted his friend as many people do. As it turned out the car was legal in terms of the warrant and registration.

However, as they pulled away from a traffic light in Wellington, a Police patrol car pulled B over. The Policeman told B that his exhaust was too noisy. B told the Policeman the car was owned by his mate who was sitting in the front passenger's seat and who admitted that it was his car. The Policeman still gave B an Infringement Notice for \$50.00 for operating a noisy vehicle.

That doesn't sound so bad I hear you say, \$50.00 doesn't sound much to pay. The problem is that an Infringement Notice for that offence also brings with it 25 demerit points, enough to push B over the limit and have his licence suspended for three months if he admitted it and paid the fine.

B's friend offered to pay the fine but it still meant that B would lose his licence.

After many letters to the Police, a letter to the Court asking for a hearing date and negotiating with the Prosecutor on the day (and a corresponding legal bill), the Police withdrew the charge against B and his licence is now safe (as long as no more demerit points are obtained).

The Police withdrew the charge not because B should not have been given the Infringement Notice, but because they agreed that the loss of his licence was, in the circumstances, too much to pay for doing the right thing in being the sober driver that night, even though at the end of the day B was responsible, as driver, for the car and its condition.

The Police accepted that on this occasion, B did not know that the exhaust was too loud.

The lessons to be learnt from B's experience are:

1. You are responsible for the car when you are driving it even if you don't own it—so make sure before driving away, that it has the necessary warrant and registration (and the exhaust is not noisy);
 2. The Police do not have to give the owner the Infringement Notice even if he/she is present; the car and its condition is the driver's responsibility at that time; and
 3. Even if the fine on the Infringement Notice seems small, it can hide a big fish hook. The tendency now is towards lower fines, but increased demerit points meaning minor infringements can lead to you losing your licence.
- **The next newsletter will cover the topic of *Is My Driveway Okay—Checking with a Lawyer before drastically changing access to your property*— by Davina Rowan**