

Drivers Must-Know: Legal Defense vs. Excuse

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Post-accident, drivers feel the human need to give a reason the accident happened. However, the reason can often be a confession ... and can lead to civil liability or even criminal charges.

Why It Matters

Civil fault and criminal charges are often based on what a driver says to the officer immediately post-accident. Too many drivers believe that they will be absolved if they come up with a reason for the accident. They are very wrong.

The Specifics

A reason rarely, if ever, gets a driver out of fault for an accident. Instead, it can result in their (and your) legal liability for the accident. In the worst of cases, it can create a basis for criminal charges.

Drivers should always limit what they say after the accident. They are not going to talk themselves out of trouble. More often (always?), they are going to talk themselves into trouble because there is a crucial difference between a “defense” and “an excuse.”

A defense is a legally recognized reason why they are not at fault. These are usually things that are sudden, unexpected and could not be prevented with reasonable

care.

A sudden snow white out. A sudden blinding by glare or sun. A sudden mechanical failure such as blown tire or failed brakes without any prior indication. An excuse is something they shouldn't have done or should have anticipated. "In my blind spot" is generally an excuse, not a defense.

Momentary inadvertence is generally an excuse, rather than a defense. As a commercial driver, they are responsible for vigilant observation as they drive on the highways.

I drive the point home by telling them of the driver who, after a rear-end, fatal accident, told the police that he didn't see the stoppage ahead because he was reaching for a candy bar. That excuse got him charged with homicide by vehicle.

Similarly, tired or fatigued is an excuse, not a "defense". Another driver who ran into a line of stopped vehicles resulting in multiple deaths told the police that he must have fallen asleep. An excuse. Three years for homicide by vehicle. It is better to say nothing but the barest of facts rather than a reason that is a culpable excuse.

The Bottom Line

Make sure your drivers know the difference between an excuse and a defense. For their sake. And yours.