

STREET LAW SMARTS #15

PANHANDLING

There are two main offences under the *Safe Streets Act (SSA)*: solicitation in an “aggressive manner” and solicitation of a “captive audience”. Soliciting means to request money or anything else of value from someone, whether or not you provide any services in return. You can request by asking, putting up a sign, making a gesture --- anything, and it can be considered soliciting. Panhandling and squeegeeing are examples of solicitation.

Aggressive solicitation

In general, panhandling is not illegal. Examples of this include holding out your hand or requesting spare change. Aggressive panhandling, however, is illegal.

Soliciting in an aggressive manner includes anything that is likely to cause a person to be concerned for his or her safety or security. Examples of behaviours that are considered aggressive include:

- threatening a person with physical harm, by word, gesture or other means;
- obstructing the path of the person;
- using abusive language;
- following the person;
- soliciting while intoxicated by alcohol or drugs; and
- continuing to solicit in a persistent manner after the person has responded negatively to the solicitation.

These types of behaviour are prohibited not only during any solicitation but also after the person solicited responds or fails to respond. Soliciting while intoxicated by alcohol could also result in a ticket under the *Liquor Licence Act* for being intoxicated in a public place. It is a defence to these offences to show the court that the person was not actually being aggressive.

Soliciting a captive audience

It is also illegal to solicit “a captive audience”, that is, people who are preoccupied. It doesn’t matter whether the soliciting is done in an aggressive manner. This ban on “soliciting a captive audience” makes it illegal to solicit a person that is:

- using, waiting for, or leaving an ATM;
- using or waiting to use a pay phone or public toilet;
- waiting at a taxi stand or public transit stop;
- in or on a public transit vehicle;
- is in a parking lot or in the process of getting in or out of a vehicle; or
- is in a stopped, standing or parked vehicle on a roadway.

The last example makes it illegal for a person to squeegee. There is a complete ban on squeegeeing on a public roadway under the *Highway Traffic Act*.

Getting arrested?

You can only be arrested under the SSA if the police reasonably believe that you have contravened the SSA and (a) the police officer warned you prior to the incident not to engage in that activity or (b) the officer reasonably thinks that the arrest is necessary to establish your identity or to prevent more violations of the SSA.

If arrested, you should immediately ask to speak to a lawyer or duty counsel. You should not make any statement before you have had the opportunity to speak with a lawyer. For more information, see:

Street Law Smarts #12: Stops and searches by police

Street Law Smarts #22: Appearing in criminal court

Penalties

Tickets for *SSA violations* usually attract a penalty of about \$65. These tickets can be taken to the Court Services Office at the address on the back of the ticket if you want to fight the ticket or have the fine reduced. For more information, see: **Street Law Smarts #14: Tickets**

If you have been ticketed before, then the police may instead give you a summons to appear in court on a specific day. If you do not go to court, a warrant could be issued for your arrest to bring you to court.

Confiscation of Your Property by Police

The police can take your possessions as evidence if you are suspected of using them to commit a crime. For example, the police may take your squeegee if they believe it is stolen or has been used as a weapon.

Officers should not take your property just because you have used it to squeegee for money. If taken from you, your possessions must generally be returned to you within **three months** unless a justice of the peace orders that they be kept for a longer period. You should write down the badge number of the officer who takes your stuff, so that it will be easier to get your things back.

You will probably have to ask for your possessions back (the police may not do it automatically).

Contact: Toronto Police Service - Property and Evidence Management- (416) 808-3750