

ALBERTA REPORT RECOMMENDS SWITCH TO NO-FAULT AUTO INSURANCE

On Thursday, October 29th, the Alberta government announced some changes to its current hybrid tort auto insurance liability model, and released the report of a special advisory committee which recommended a shift to a full no-fault model.

In the early 2000's Alberta moved from a tort model to a hybrid system, where the payment for pain and suffering was capped (it is currently \$5,200). The proposed legislative changes will broaden the definition of a minor injury to match the definition currently used more closely in this province. The insurance providers¹ have been lobbying the government for several years to expand the definition, as injury claims and costs have increased as claims not covered in the current definition have increased. This has been a major reason for significant premium increases.

In 2018, the new NDP government in BC announced that ICBC would adopt a hybrid tort system, like the Alberta model, but with a broader definition of a minor injury and a slightly higher cap (\$5,500). This new system came into effect on 1 April 2019, and has resulted in a significant reduction in claims and costs.²

In February 2019, the BC government announced that auto insurance would move to a no-fault system, effective 1 May 2021. This new plan would be modelled on the system in place in Manitoba.

Expert Committee Recommends No-Fault Model

In December 2019, in response to severe criticism of the auto insurance system in Alberta, the government appointed a three person committee to review the hybrid model and recommend changes (within a private sector delivery model). The committee delivered its 536 page report in September, and it was released on Thursday.³

The committee recommended that the Alberta government legislate a no-fault model as soon as possible.

¹ The Alberta model relies on private insurers to provide auto coverage.

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http://www.bcpolicy Perspectives.com/media/attachments/view/doc/commentary_icbc_recent_claims_data_22_october_2020/pdf/commentary_icbc_recent_claims_data_22_october_2020.pdf

³ <https://open.alberta.ca/publications/report-on-fundamental-reform-of-alberta-automobile-insurance-compensation-system>

The Committee concluded from its analysis that there should be a transformation from the current model and its primary tort principle of money compensation for non-pecuniary damages to a pure no-fault model based on better, more timely rehabilitation and health outcomes and the replacement of court determination of the measure of traffic accident pecuniary losses through a collaborative administrative panel-based process.

The Committee concluded that to attain both optimal health treatment for all of its traffic injured and predictable, stable insurance premiums for road users, the Alberta motoring public would be best served in the medium and long term by the implementation of a pure no-fault system of automobile insurance designed with evidence-informed medical diagnostic and treatment protocols, and non-adversarial claims processes and assessments.⁴

Chris Daniel, the chair of the committee, said the adoption of a no-fault system and a “continuum of care” approach, was critical if auto insurance was to remain sustainable while providing timely and fair compensation to those injured in crashes.⁵ The committee estimated that the adoption of a no-fault model and enhanced care for the injured would reduce premiums by 9.4% to 10% from the current level. The government said that it will undertake a 6 to 8-month public consultation process to review the committee’s recommendations, with a decision by the summer of 2021.

The NDP Opposes Broadening Definition of Minor Injury

The NDP opposes the broadening of the definition of a minor injury saying that chronic problems such as concussions are not minor. Jon Carson, the opposition critic, stated; “The insurance industry has been lobbying this for years and today, with the help of Jason Kenney and the UCP, they are getting their wish.”⁶

The Alberta NDP’s position on a more expansive definition of a minor injury is similar to that of the opposition Liberal party’s here in BC when the NDP government introduced legislation to cap pain and suffering claims for minor injuries. This may suggest that the Alberta NDP does not have a well developed policy respecting auto

⁴ Ibid. p. 23-24.

⁵ <https://www.theglobeandmail.com/canada/alberta/article-alberta-panel-recommends-collaborative-no-fault-auto-insurance-model/>

⁶ https://www.insurancebusinessmag.com/ca/business-news/alberta-panel-recommends-nofault-insurance-237710.aspx?utm_source=GA&utm_medium=20201030&utm_campaign=IBCW-MorningBriefing-20201030&utm_content=D983809D-3C18-4C3F-B2CB-4900E2C97173&tu=D983809D-3C18-4C3F-B2CB-4900E2C97173

insurance. Instead of reducing the pain and suffering payment for some claims, it proposes another rate freeze.

The 5% rate increase cap that the NDP imposed when it was in power resulted in many insurance companies tightening their underwriting standards and limiting optional insurance to only low risk drivers. The United Conservative Party eliminated the cap on rates, which resulted in significant increases in rates in 2019 and 2020.

The review committee was opposed to such short-term attempts to promote affordable rates: “The Committee is concerned to ensure that Albertans understand that asking or demanding government to “freeze rate increases” is a process that does not address at the same time the cause of rate increases, such as expenses or claims costs, and as a result artificially suppresses rates and leads to unexpected rate increases in the longer term which does not achieve either premium stability or consumer protection.”⁷

Will the Alberta Government Adopt No-Fault?

It is possible that the Kenny government will allow the committee’s report to gather dust. This was the fate of the 2017 report prepared David Marshall for the Ontario government.⁸ However, Alberta drivers will soon appreciate that the no-fault systems in BC on one side, and Saskatchewan and Manitoba of the other, will offer lower rates and better coverage limits than the hybrid tort system.⁹

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The writer is a retired senior BC government public servant whose paper describing the BC government’s manipulation of the finances of BC Hydro from 2008 to 2014 was published by *BC Studies* in November 2016. *BC Studies* published his paper on the 40-year financial history of ICBC in 2013. He was an intervener in the BC Utilities Commission’s recent reviews of ICBC’s and B.C. Hydro’s rate requests.

⁷ <https://open.alberta.ca/publications/report-on-fundamental-reform-of-alberta-automobile-insurance-compensation-system> p. 175.

⁸ <https://www.fin.gov.on.ca/en/autoinsurance/fair-benefits.pdf>

⁹ While the premiums are increasing in Alberta, drivers in Saskatchewan have not had a general Basic rate increase in six years, while the Manitoba program plans an 8.8% rate reduction for 2021.

