

ALBERTA ADOPTS NO-FAULT INSURANCE FOR VEHICLE DAMAGE AND OTHER CHANGES DESIGNED TO REDUCE COSTS

The Alberta government just enacted legislation and regulation changes designed to reduce the cost of auto insurance in that province. Of particular interest is the move to a no-fault scheme for vehicle/property damage.

During the debate on the legislation the minister responsible stated that “Alberta’s current automobile insurance system is neither stable nor sustainable. This is nothing new. It’s been a reality for nearly a decade now....” The changes are designed to “stabilize costs, enhance medical benefits, and modernize automobile insurance for Albertans.”¹

No-Fault for Vehicle Damage

Starting in 2021, drivers in Alberta will be covered by first party insurance for damage to their own vehicle. Under new legislation (Bill 41) recently passed by the Legislative Assembly, insurers will be required to pay the insured for damage to their vehicle regardless of fault. This no-fault approach should reduce the costs and time involved in determining fault for the damage, and is in keeping with the recent recommendations of the Automobile Insurance Advisory Committee (AIAC) which called for a switch to a no-fault liability model for both injury and property damage.²

Limits on Expert Witnesses

The legislation also limits the number of experts that can be used in justifying or defending vehicle injury claims. If the claim is over \$100,000 the parties are limited to three expert witnesses who can only submit one report each. Where the claim is for \$100,000 or less, the parties are limited to one expert witness and one report.³

In 2019, the BC government attempted to limit expert witnesses by cabinet order, but this method of limiting the number of expert reports was rejected by the Supreme Court. Alberta is limiting the number of experts by legislation, which is the proper way to change the rules of the court.

¹

https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_30/session_2/20201102_1930_01_han.pdf#page=5 p. 2915.

²

http://www.bcpolicy Perspectives.com/media/attachments/view/doc/commentary_alberta_30_october_2020/pdf/commentary_alberta_30_october_2020.pdf

³ There are certain exceptions, see https://www.millerthomson.com/en/blog/mt-personal-injury-blog/overview-of-bill-41-and-the-changes-to-the-alberta-insurance-act/?utm_source=Mondaq&utm_medium=syndication&utm_campaign=LinkedIn-integration

Definition of Minor Injury Expanded

By regulation, the government has expanded the definition of a minor injury for concussions and neck injuries.⁴ This will result in a greater proportion of pain and suffering claims being capped at approximately \$5,400. This should ultimately result in slowing the rate of increase for auto insurance premiums.

Expansion of Usage-Based Insurance

The legislation also allows insurance companies to monitor drivers' behaviour by collecting detailed data through devices attached to their vehicles or software installed on their smartphones. This expansion of the ability of insurance companies to tack individual behaviour has raised the concern of privacy advocates who are concerned that the Alberta legislation will provide the impetus for the expansion of these tacking devices in Canada.

Insurance companies say the expansion of technology in monitoring driving behaviour is long overdue, and mirrors practices that have been in use in the United States for some years.⁵ It is unclear how the insurance companies will set the standards for determining low, medium or high risk driving behaviour. Will exceeding the speed limit by 10%, or consistently braking hard constitute risky behaviour?

Summary

These changes are designed to lower the cost of injury claims, and thereby premiums, in Alberta. The AIAC recommended that the injury liability model shift to a no-fault model, and public consultations are planned for the next six months on this issue. Meanwhile, these changes are designed to control costs in the short term.

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⁴ Ibid. The financial limit on no-fault accident benefits was also increased.

⁵<https://www.cbc.ca/news/canada/calgary/alberta-bill-41-usage-based-insurance-driver-tracking-1.5810597>