

# Automobile Insurance, Impaired Driving, and You



## A Look at Alberta's Automotive Insurance Laws



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## Why This Pamphlet?

Most Canadians have some understanding that impaired driving is a criminal offence and that it carries significant penalties. It is probably safe to say that far fewer Canadians appreciate the insurance consequences of impaired driving. This is hardly surprising, considering the complexity of the provincial and territorial automobile insurance laws.

While the primary purpose of this pamphlet is to explain the insurance consequences of impaired driving, we also discuss the related problem of unauthorized driving.<sup>1</sup> Research suggests that a majority of impaired driving offenders continue to drive, at least occasionally, while suspended or otherwise unauthorized.<sup>2</sup>

We begin with a brief overview of Alberta's automobile insurance system. This is followed by a discussion of driving without insurance, which is all too common among impaired driving offenders. The impact of a driver's offence and crash record on his or her insurance premiums is then outlined. Finally, we explain the potentially devastating financial consequences that can result if you, or anyone to whom you lend your car, crash while impaired or unauthorized.

## Alberta's Insurance System

Except for some limited no-fault accident benefits, Alberta has a fault-based automobile insurance system that is administered by private companies. At-fault drivers are liable for the injuries and damages that they cause. If the parties cannot settle the matter themselves, either party can sue the other.<sup>3</sup> Alberta places few restrictions on an injured party's right to sue at-fault drivers for losses in excess of the no-fault accident benefits that he or she has received.<sup>4</sup>

## Driving Without Insurance

If the police have reasonable grounds to believe that you are driving without insurance, they may seize your vehicle until the matter is resolved in court.<sup>5</sup>

The offence of driving without insurance carries a fine of between \$2,500 and \$10,000. Failure to pay the fine results in imprisonment for between 30 days and 6 months. A second conviction within a year is subject to imprisonment for between 60 days and 6 months.<sup>6</sup> Moreover, the registration for every vehicle the offender owns may be cancelled.<sup>7</sup>



## How Offences and Crashes Affect Premiums

In Alberta, the impact of crashes and offences on insurance premiums is determined by a complex legislative formula.<sup>8</sup> First, drivers are assigned a "base premium", determined by where they live and the amount of third-party liability coverage that they purchase.<sup>9</sup>

Second, a driver's base premium is multiplied by a percentage corresponding to his or her position on the "Premium Grid". In turn, a driver's position on the Premium Grid is based on his or her years of driving experience,<sup>10</sup> and "at-fault claims"<sup>11</sup> within the past six years. A driver at -15 on the Premium Grid, with no traffic-related convictions in the past three years, pays only 50% of his or her base premium.<sup>12</sup> Conversely, the same driver at +15 on the Premium Grid would pay 338% of his or her base premium.<sup>13</sup>

Third, drivers are subject to surcharges for each driving-related *Criminal Code* conviction, and specified provincial traffic offence within the past three years.<sup>14</sup> A first *Criminal Code* conviction carries a 300% surcharge, while a second conviction within three years results in a 750% surcharge.<sup>15</sup> The exact impact of these surcharges on a driver's base premium will vary depending on where he or she is on the Premium Grid.<sup>16</sup> For example, a single *Criminal Code* conviction for impaired driving will increase a driver's base premium by 200% if he or she is at -10 on the Premium Grid, but by 600% if he or she is at +5.

## The Insurance Consequences of Driving While Impaired

Your insurance coverage will be severely limited if you, or anyone to whom you lend your car, cause a crash and are convicted of driving while impaired or with a blood-alcohol concentration (BAC) above 0.08%.

**First**, your insurance company is not required to compensate you for the cost of repairing or replacing your vehicle, no matter how much collision insurance you purchased.<sup>17</sup>

**Second**, offenders will be denied some no-fault accident benefits, including income replacement and homemaker benefits.<sup>18</sup>

**Third**, while your insurance company remains liable for third-party losses up to your policy limit, it can sue you to recover any damages that it has paid.<sup>19</sup> In effect, you lose the financial protection of the third-party liability coverage that you purchased. In the end result, your own insurance company can sue you for any claims that it has paid up to your policy limit, and injured third parties can sue you for any remaining losses in excess of your policy limit.

## The Insurance Consequences of Driving While Unauthorized

Your insurance coverage is also severely limited if you, or anyone to whom you lend your car, drive while unauthorized and cause a crash.

**First**, your insurance company is not required to compensate you for the cost of repairing or replacing your vehicle, no matter how much collision insurance you purchased.<sup>20</sup>

**Second**, these drivers will be denied some no-fault accident benefits, including income replacement and homemaker benefits.<sup>21</sup>

**Third**, while your insurance company remains liable for third-party losses up to your policy limit, it can sue you to recover any damages that it has paid.<sup>22</sup> In effect, you lose the financial protection of the third-party liability coverage that you purchased. In the end result, your own insurance company can sue you for any claims that it has paid out up to your policy limit, and injured third parties can sue you for any remaining losses in excess of your policy limit.

## Unpaid Judgments

If you fail to pay a judgment arising from a crash, the Registrar of Motor Vehicles may suspend your current driver's licence and vehicle registration, and cannot renew them.<sup>23</sup>

## Summary

In addition to criminal prosecution, driving while impaired has serious insurance consequences. As demonstrated, not only will your insurance premiums skyrocket, if and when you regain your licence, but your collision, no-fault accident benefits and third-party coverage will be severely limited. Unauthorized driving has similar insurance consequences.

Your conduct, and that of anyone to whom you lend your car, can largely negate your insurance coverage and expose all of your personal assets to open-ended liability. Thus, criminal prosecution may be the least of your problems.

## Endnotes

- \* This pamphlet was prepared by R. Solomon, K. Hanc, R. Swart, and L. Visser. The authors would like to thank the provincial and territorial officials who reviewed the background document and patiently answered our questions. Given that automobile insurance law is exceedingly complex and frequently amended, readers with specific legal questions are advised to contact their local insurance authorities or a lawyer. (Faculty of Law, University of Western Ontario, Dec. 2004)
- 1 We have used the term "unauthorized" driving to include driving while unlicensed, disqualified, suspended, or prohibited.
  - 2 American studies indicate that as many as 75% of suspended and revoked drivers continue to drive, at least occasionally. A recent Canadian study suggests that the rate in Canada is likely similar. See T. Newman *et al.*, *National Cooperative Highway Research Program Report 500, Volume 2: A Guide for Addressing Collisions Involving Unlicensed Drivers and Drivers with Suspended or Revoked Licenses* (Washington: Transportation Research Board, 2003) at III-1; and J. Malenfant, R. Van Houten and B. Jonah, "A Study to Measure the Incidence of Driving Under Suspension in the Greater Moncton Area" (2002), 34 *Accid. Anal. and Prev.* 439 at 441.
  - 3 *Traffic Safety Act*, R.S.A. 2000, c. T-6, s. 184 [*Traffic Safety Act*].
  - 4 In accident claims arising after October 1, 2004, a plaintiff who suffers only "minor injuries" can only recover a maximum of \$4,000 for non-pecuniary losses. *Insurance Act*, R.S.A. 2000, c. I-3, s. 650.1(2) [*Insurance Act*]; and *Minor Injury Regulation*, Alta. Reg. 123/2004, s. 6.
  - 5 *Traffic Safety Act*, *supra* note 3, s. 171.
  - 6 *Ibid.*, s. 54(4).
  - 7 *Ibid.*, s. 54(7).
  - 8 *Automobile Insurance Premiums Regulation*, Alta. Reg. 124/2004 [*Premiums Regulation*].
  - 9 *Ibid.*, Schedule 3, s. 2(1).
  - 10 New drivers start at 0 and move down one step on the Premium Grid for each year that they have no at-fault claims (maximum of -15). *Premiums Regulation*, *supra* note 8, Schedule 1, s. 5(5)(b).
  - 11 Drivers move up 5 steps on the Premium Grid for each at-fault claim in the previous six years (no maximum). *Ibid.*, s. 5(5)(a).  
An at-fault claim is defined as a claim paid by the insurer to a third party, where the driver was at fault or partially at fault. However, if the policyholder reimburses the insurer within 90 days of the claim being paid, it will not be considered an at-fault claim. *Ibid.*, s. 1(1)(a).
  - 12 *Premiums Regulation*, *supra* note 8, Schedule 2.
  - 13 *Ibid.*
  - 14 *Premiums Regulation*, *supra* note 8, Schedule 4.
  - 15 *Premiums Regulation*, *supra* note 8, Schedule 4, s. 1(4) and Table 1.
  - 16 *Premiums Regulation*, *supra* note 8, Schedule 1, s. 6(1).
  - 17 Insurance companies are permitted to deny collision coverage to both impaired and unauthorized drivers, and invariably appear to do so. *Insurance Act*, *supra* note 4, s. 638.
  - 18 *Automobile Accident Insurance Benefits Regulation*, A.R. 352/72, Schedule A, Special Provisions, Definitions and Exclusions of Section B, s. 2(b).
  - 19 *Insurance Act*, *supra* note 4, s. 635(13).
  - 20 See *supra* note 17.
  - 21 *Automobile Accident Insurance Benefits Regulation*, A.R. 352/72, Schedule A, Special Provisions, Definitions and Exclusions of Section B, s. 2(b).
  - 22 *Insurance Act*, *supra* note 4, s. 635(13).
  - 23 *Traffic Safety Act*, *supra* note 3, s. 102(1).



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