

# Automobile Insurance, Impaired Driving, and You



A Look at British Columbia's  
Automotive Insurance Laws

## 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 British Columbia'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, cause a crash while impaired or unauthorized.

## British Columbia's Insurance System

British Columbia has a modified fault-based automobile insurance system that is administered primarily by the government through the Insurance Corporation of British Columbia (ICBC). Regardless of who was at fault in a crash, ICBC provides the injured parties with relatively generous no-fault accident benefits for their personal injury losses.<sup>3</sup>

When a multi-vehicle collision occurs, an ICBC insurance adjuster will apportion fault between the drivers. Either driver may seek a review of the apportionment. In the alternative, a driver may sue the other party. British Columbia places no 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.

## Driving Without Insurance

If the police have reasonable grounds to believe that you are driving without insurance, they may arrest you without a warrant.<sup>4</sup> If convicted of driving without insurance, you can be fined between \$300 and \$2,000, and imprisoned for up to six months.<sup>5</sup>



## How Offences and Crashes Affect Premiums

Driving offences and at-fault crashes directly affect your insurance costs. First, you are assessed a set number of demerit points for specified provincial and *Criminal Code* driving offences.<sup>6</sup> For example, if you are convicted of a federal impaired driving offence, which carries ten demerit points, you will be required to pay a "driver point premium" of \$905 in addition to your regular premium. A driver who accumulates 20 demerit points in a year must pay a driver point premium of \$3,760.<sup>7</sup>

Second, ICBC has a claims-rated premium scale. New drivers receive a "base rate" premium. You receive a 5% discount off your base rate for each year that you are accident-free. For example, if you have no at-fault crashes (more than 25% at fault) for three years, you are entitled to a 15% discount off the base rate. In contrast, if you have an at-fault crash, you will be subject to a premium increase, the size of which varies depending on your current position on the premium scale.<sup>8</sup> Regardless of your position on the scale, if you have three at-fault crashes within three years you will be subject to an additional multiple-crash premium of \$1,000.<sup>9</sup>

## The Insurance Consequences of Driving While Impaired

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

**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>10</sup>

**Second**, while ICBC remains liable for third-party personal injury losses up to your policy limit, private insurance companies are only liable up to the \$200,000 provincial minimum, regardless of how much additional coverage you purchased.<sup>11</sup> Consequently, if you are insured by a private company, injured third parties can sue you directly for any personal injury losses that they suffered in excess of \$200,000.

**Third**, ICBC can sue you to recover any damages that it has paid to third parties.<sup>12</sup> In effect, you lose the financial protection of the third-party liability coverage that you purchased. In the end result, ICBC can sue you for any claims that it has paid, and injured third parties can sue you for any remaining losses.

## 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 are at fault in causing 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.

**Second**, you will be denied all no-fault accident benefits, including medical and rehabilitation expenses, lost wages and homemaker benefits. If you are killed in the crash, your dependents will be denied no-fault death benefits and your estate will be denied no-fault funeral costs.

**Third**, while ICBC remains liable for third-party personal injury losses up to your policy limit, private insurance companies are only liable up to the \$200,000 provincial minimum, regardless of how much additional coverage you purchased. Consequently, if you are insured by a private company, injured third parties can sue you directly for any personal injury losses that they suffered in excess of \$200,000.<sup>13</sup>

**Fourth**, ICBC can sue you to recover any damages it has paid to third parties.<sup>14</sup> In effect, you lose the financial protection of the third-party liability coverage that you purchased. In the end result, ICBC can sue you for any claims that it has paid, and injured third parties can sue you for any remaining losses.

## Unpaid Judgments

If you fail to pay a civil judgment arising from a crash, ICBC may refuse to renew your licence and vehicle permit.<sup>15</sup>

## Summary

In addition to criminal prosecution, driving while impaired has serious insurance consequences. As demonstrated, not only will your insurance premiums increase, if and when you regain your licence, but your collision and third-party coverage will be severely limited. Unauthorized driving also has significant 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 By the term “relatively generous” benefits, we mean that the maximum no-fault benefits are higher than those in most other provinces. However, some of these benefits may be subject to deductibles, eligibility thresholds, and caps on certain types of expenses.
  - 4 *Motor Vehicle Act*, R.S.B.C. 1996, c. 318, s. 79(b) [*Motor Vehicle Act*].
  - 5 *Ibid.*, s. 24(5)(b).
  - 6 Insurance Corporation of British Columbia, online: <[http://www.icbc.com/Licensing/lic\\_fines\\_pen\\_fine\\_chart.html](http://www.icbc.com/Licensing/lic_fines_pen_fine_chart.html)>.
  - 7 Insurance Corporation of British Columbia, online: <[http://www.icbc.com/Licensing/lic\\_fines\\_pen\\_points\\_chart.html](http://www.icbc.com/Licensing/lic_fines_pen_points_chart.html)>.
  - 8 Insurance Corporation of British Columbia, online: <[http://www.icbc.com/Insurance/insura\\_prmset\\_yurcla.html](http://www.icbc.com/Insurance/insura_prmset_yurcla.html)>.
  - 9 Insurance Corporation of British Columbia, online: <[http://www.icbc.com/Licensing/lic\\_fines\\_pen\\_mcp.html](http://www.icbc.com/Licensing/lic_fines_pen_mcp.html)>.
  - 10 B.C. Reg. 447/83, s. 55(8).
  - 11 If a third-party claim exceeds \$200,000, a private insurance company can raise any defence against the injured party that it is entitled to raise against the insured. *Insurance Act*, R.S.B.C. 1996, c. 226, ss. 159(4) and 160(3). However, it should be noted that third parties will normally be entitled to compensation for personal injury losses under their own underinsured motorist protection coverage.
- Under Bill 93, which has yet to be proclaimed in force, private insurers will be liable for third-party losses up to the impaired or unauthorized driver’s policy limits.
- It should be noted that neither ICBC nor private insurers are liable for any third-party property damage claims in excess of the \$200,000 provincial minimum, regardless of how much additional coverage the impaired driver purchased. *Insurance (Motor Vehicle) Act*, R.S.B.C. 1996, c. 231, s. 21(5); and *Insurance Act*, R.S.B.C. 1996, c. 226, ss. 159(4) and 160(3).
- 12 *Insurance (Motor Vehicle) Act*, R.S.B.C. 1996, c. 231, s. 21(6).
  - 13 See *supra* note 11.
  - 14 *Insurance (Motor Vehicle) Act*, R.S.B.C. 1996, c. 231, s. 21(6).
  - 15 *Motor Vehicle Act*, *supra* note 4, ss. 26(1)(c), 90 and 91(1).



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