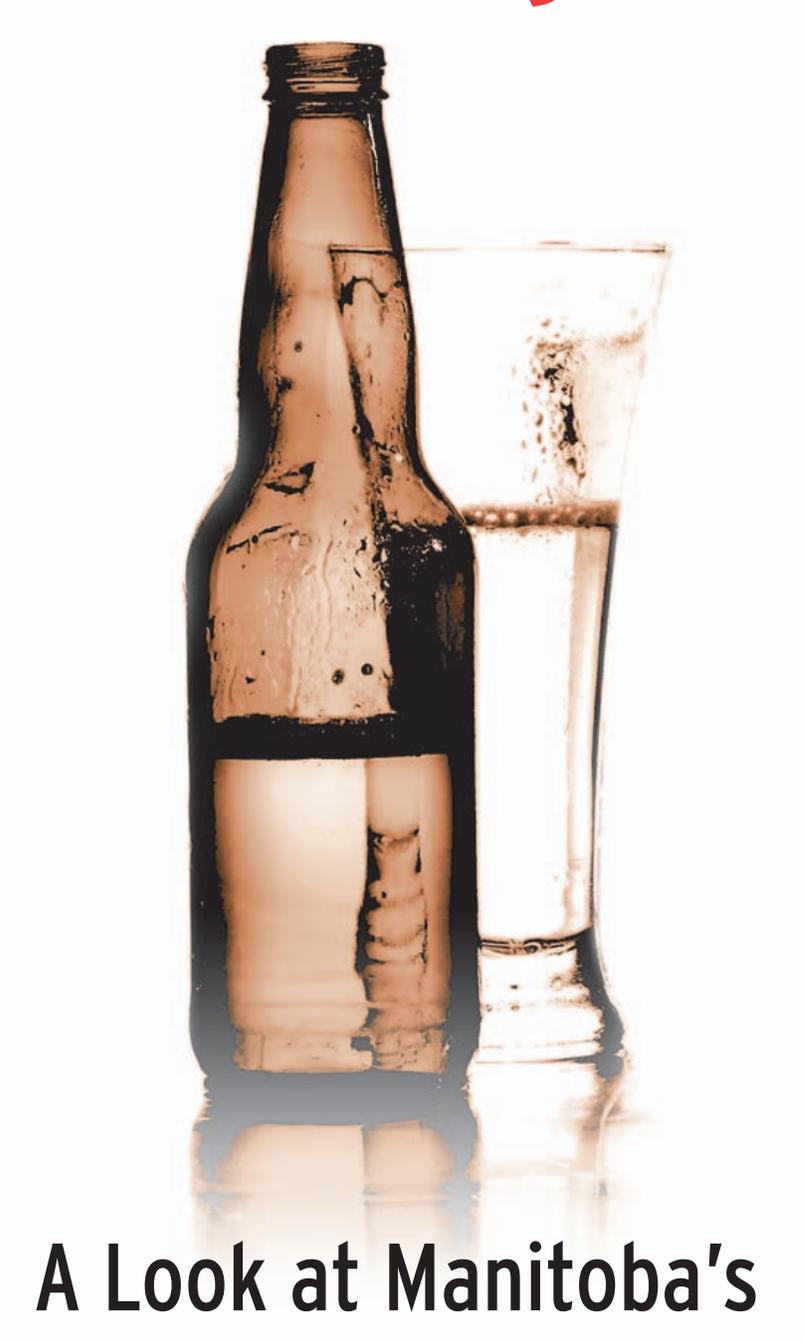


Automobile Insurance, Impaired Driving, and You



A Look at Manitoba'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.¹ Research suggests that a majority of impaired driving offenders continue to drive, at least occasionally, while suspended or otherwise unauthorized.²

We begin with a brief overview of Manitoba'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.

Manitoba's Insurance System

Manitoba has a no-fault automobile insurance system for personal injury losses that is administered by the government through the Manitoba Public Insurance Corporation (MPIC). Regardless of who was at fault in a crash, MPIC provides injured parties with very generous no-fault accident benefits for personal injury losses,³ including compensation for non-pecuniary losses, such as permanent impairment or disfigurement.⁴

However, injured parties cannot sue an at-fault driver, even if their personal injury losses exceed the accident benefits that they have received.⁵

Manitoba has a fault-based insurance system for property damage. Under the mandatory insurance plan, drivers are provided with \$50,000 in "all perils" collision coverage for damages to their own vehicle. Nevertheless, when a collision occurs, fault is assessed to determine which driver is responsible for paying the deductible.⁶ If your property losses exceed the amount that you recover through all-perils coverage, you can sue the at-fault driver for your remaining property losses.

The basic insurance plan also provides you with up to \$200,000 in third-party coverage, if you are held liable for causing an at-fault crash.⁷ This coverage will be most relevant if you injure a driver from outside of Manitoba or have a collision out of the province.



Driving Without Insurance

A conviction for driving without insurance carries a fine of up to \$2,000, and the judge may suspend the offender's licence for up to one year.⁸

How Offences and Crashes Affect Premiums

At-fault crashes and driving-related offences directly affect your insurance costs. First, you are assessed a set number of demerit points for specified federal and provincial traffic offences.⁹ Depending on the total, you will be required to pay an additional premium of between \$200 and \$999 per year.¹⁰

Second, you are required to pay surcharges for crashes in which you are 50% or more at fault. The surcharge is \$200 for a first "at-fault" crash, \$400 for a second, \$800 for a third, and \$1,200 for a fourth or subsequent crash.¹¹ For the purpose of calculating premiums, at-fault crashes remain on a driver's record for three years.¹²

Manitoba also has a program of merit discounts for drivers who maintain a good driving record. Merit discounts are awarded to drivers that have at least one claims-free year of driving and one merit point on his or her Manitoba licence, and no convictions for a major traffic offence within the last two years.¹³ Vehicle owners who qualify for merit discounts receive a 5% to 25% reduction on their insurance premiums, depending on their merit point total.

The Insurance Consequences of Driving While Impaired

Your insurance coverage will be 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 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, even if you purchased additional collision coverage.¹⁴

Second, you will be denied some no-fault accident benefits, including income replacement and permanent impairment benefits.¹⁵

The Insurance Consequences of Driving While Unauthorized

Your insurance coverage is more 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 additional collision coverage you purchased.¹⁶

Second, the MPIC can sue you to recover any third-party claim that it has paid. Furthermore, it is only liable for third-party property losses up to the \$200,000 provincial minimum, even if you purchased additional third-party coverage. Consequently, injured third-parties can sue you personally for any property losses in excess of \$200,000, and the MPIC can sue you for any award that it has paid up to this amount.¹⁷

Unpaid Judgments

If you fail to pay a civil judgment arising from a crash, the Registrar of Motor Vehicles must suspend your current driver's licence and vehicle registration, and cannot renew them.¹⁸

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 accident benefits will be limited. Unauthorized driving has even more serious insurance consequences.

Your conduct, and that of anyone to whom you lend your car, can negate some of your insurance coverage and leave you personally responsible for many of the losses that arise from a crash. 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 "very generous" benefits, we mean that the maximum no-fault benefits are much higher than those in almost any other province. However, some of these benefits may be subject to deductibles, eligibility thresholds, and caps on certain types of expenses.
 - 4 The maximum award under this heading is \$122,224. See Manitoba Public Insurance Corporation, online: <<http://www.mpi.mb.ca/english/claims/PIPP/Impairment%20overview.html>>.
 - 5 *Manitoba Public Insurance Corporation Act (MPICA)*, C.C.S.M. c. P215, ss. 72 and 73 [MPICA].
 - 6 Manitoba Public Insurance Corporation, online: <http://www.mpi.mb.ca/english/insurance/basic/ap_deductibles.html>.
 - 7 *Insurance Act*, R.S.M. 1987, c. I40, s. 249(1).
 - 8 *Highway Traffic Act*, C.C.S.M. c. H60, ss. 226(1), and 239(1) and (2)(a) [*Highway Traffic Act*].
 - 9 *Ibid.*, s. 334(8).
 - 10 Manitoba Public Insurance Corporation, online: <http://www.mpi.ca/english/insurance/ABCs/working_together.html>.
 - 11 Man. Reg. 289/88R, s. 20(1).
 - 12 *Ibid.*, s. 19.
 - 13 Manitoba Public Insurance Corporation, online: <http://www.mpi.mb.ca/english/insurance/ABCs/rf_merit_premiums_discounts.html>
 - 14 Man. Reg. 290/88R, s. 56(1).
 - 15 *MPICA supra* note 5, s. 161(f).
 - 16 Man. Reg. 290/88R, s. 56(1).
 - 17 *Ibid.*, ss. 85 and 87.
 - 18 *Highway Traffic Act, supra* note 8, s. 270(1).



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