

# Automobile Insurance, Impaired Driving, and You



## A Look at Québec'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 Québec'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 consequences that can result if you, or anyone to whom you lend your car, cause a crash while impaired or unauthorized.

## Québec's Insurance System

Québec has a no-fault automobile insurance system for personal injury losses that is administered by the government through the Société de l'assurance automobile du Québec (SAAQ). Regardless of who was at fault in a crash, SAAQ provides injured parties with very generous no-fault accident benefits for their personal injury losses,<sup>3</sup> including compensation for non-pecuniary losses, such as pain and suffering.<sup>4</sup> However, injured parties cannot sue an at-fault driver, even if their personal injury losses exceed the accident benefits that they have received.<sup>5</sup>

Québec has a fault-based insurance system for property damage that is administered by private companies. Under Québec's direct compensation system, drivers claim from their own insurance company for property damages caused by an insured at-fault party. This minimizes the need to sue and leaves it to the insurance companies to settle the matter among themselves.<sup>6</sup> At-fault drivers can be sued for any property damages in excess of their third-party coverage.

## Driving Without Insurance

A conviction for driving without insurance carries a fine of between \$325 and \$2,800.<sup>7</sup> Moreover, the court may suspend the driver's permit for up to a year.<sup>8</sup>

## How Offences and Crashes Affect Premiums

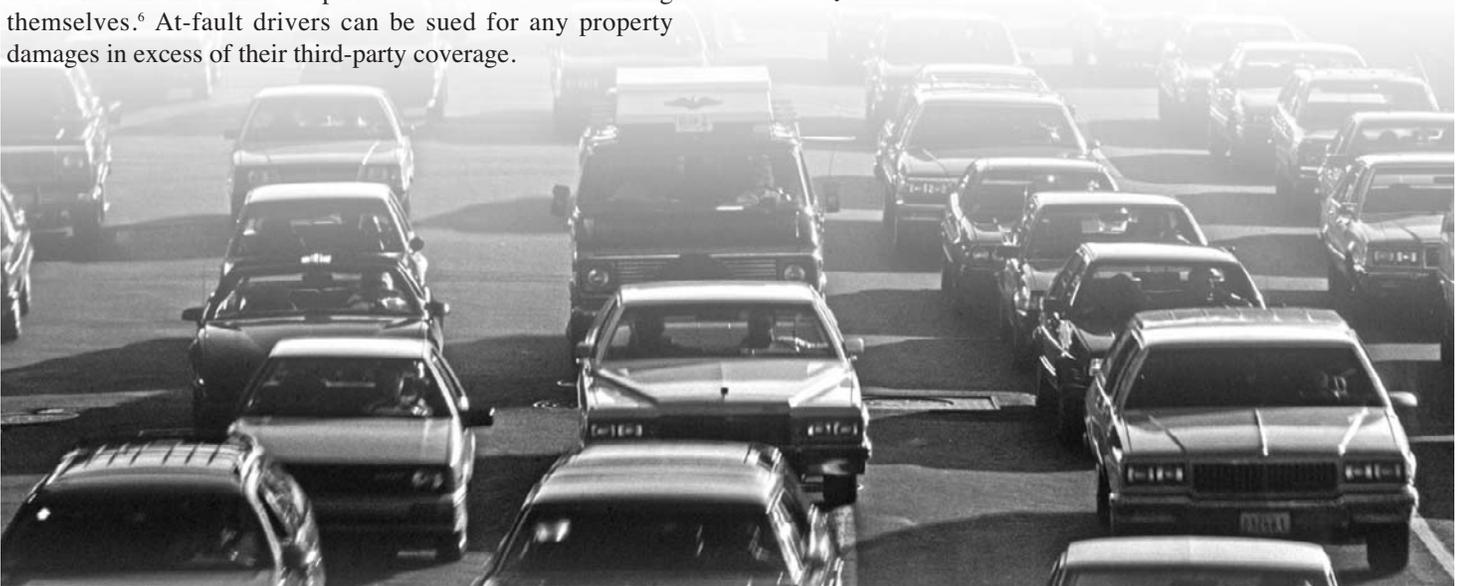
Driving offences affect your insurance premiums in two ways. First, you are assessed a set number of demerit points for committing specified offences under the provincial traffic legislation.<sup>9</sup> Depending on the total, you will be required to pay an additional premium of between \$50 and \$398 per year.<sup>10</sup> Demerit points remain on your record for two years following the date of the conviction or the payment of the fine.<sup>11</sup>

Second, you are required to pay surcharges for committing specified *Criminal Code* offences. If your driver's licence is revoked for a *Criminal Code* offence, a surcharge of between \$300 to \$400 will be applied, depending on whether the conviction is for a first, second or subsequent offence within the past five years.<sup>12</sup>

Québec does not have a system for increasing an at-fault driver's insurance premiums to reflect the crashes that he or she has caused.

## The Insurance Consequences of Driving While Impaired

Québec is the only Canadian jurisdiction in which an at-fault driver's insurance coverage is largely unaffected, if he or she causes a crash and is convicted of driving while impaired or with a blood-alcohol concentration (BAC) above 0.08%. However, if you are imprisoned for one of these offences, your income replacement benefits may be reduced by up to 75% while you remain incarcerated.<sup>13</sup>



## The Insurance Consequences of Driving While Unauthorized

Your insurance coverage is more significantly limited if you drive while unauthorized and are at fault in causing a crash.

**First**, your conduct negates your collision insurance, leaving you personally responsible for the cost of repairing or replacing your vehicle.<sup>14</sup>

**Second**, your insurance company is only liable for third-party property losses up to the \$50,000 provincial minimum, even if you purchased additional coverage. Thus, you lose the financial protection of the extra coverage that you purchased and can be sued personally for any remaining property losses in excess of \$50,000.<sup>15</sup>

## Unpaid Judgments

If you fail to pay a civil judgment arising from a crash, SAAQ must suspend your current driver's licence, and cannot renew it or your vehicle registration.<sup>16</sup>

## Summary

In addition to criminal prosecution, driving while impaired has significant insurance consequences. As demonstrated, your insurance premiums will increase, if and when you regain your licence, and your income replacement benefits may be limited. Unauthorized driving can result in even greater limits on your insurance coverage.

## 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 are subject to deductibles, eligibility thresholds, and caps on certain types of expenses.
  - 4 Those with severe injuries may be awarded up to \$193,719 for their non-pecuniary losses. *Automobile Insurance Act*, R.S.Q., c. A-25, s. 73 [AIA]; and Société de l'assurance automobile du Québec, *Compensation Table* (Québec: Direction des communications, 2003).
  - 5 *AIA*, *Ibid.*, s. 83.57.
  - 6 *Ibid.*, s. 173. The direct compensation system only applies if: the crash occurs in Québec; two or more vehicles are involved; the owners are identified; and the insurers of both vehicles are licensed in Québec or have agreed to be subject to the Direct Compensation Agreement. *Direct Compensation Agreement for the settlement of automobile claims*, c. A-25, r. 2.3, s. 2.
  - 7 *AIA supra* note 4, s. 186(1).
  - 8 *Ibid.*, s. 188.
  - 9 Société de l'assurance automobile du Québec, *Drivers' Licences Demerit Points* (Québec: Direction des communications, 2003).
  - 10 *Ibid.*
  - 11 *Ibid.*
  - 12 Société de l'assurance automobile du Québec, *A Tougher Law to Discourage Repeat Offenders* (Québec: Direction des communications, 2003).
  - 13 *AIA, supra* note 4, s. 83.30. These benefits are not reduced as severely if the offender has dependants. For example, if the offender has three dependants, his or her coverage will only be reduced by 25%.
  - 14 *Ibid.*, s. 149(6).
  - 15 *Ibid.*, s. 119.
  - 16 *Highway Safety Code*, R.S.Q., c. C-24.2, s. 200.



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