

Consultation Document Automobile Insurance Reform

The Department of Government Services is addressing several issues related to automobile insurance reform which are in addition to the Terms of Reference of the current review being conducted by the Public Utilities Board. Before government makes a decision on these issues, we are inviting input from stakeholders.

Responses must be in writing and received by March 4, 2005.

The issues being addressed are as follows:

Public Utilities Board Rate Setting Process

Automobile insurance rates are regulated to ensure consumers are charged a fair price for insurance, especially since government mandates that drivers carry insurance. The Public Utilities Board (PUB) currently has a Benchmark System for rate setting, with a minimum and maximum benchmark. This is unique in Canada. In Nova Scotia, New Brunswick and Ontario insurers have to justify rate increases on an individual filing basis. There are no minimum rates.

Government believes consumers may be better served if companies are required to justify rate increases on an individual basis, and there are no minimum rates. It proposes to require the PUB to adopt such a process effective March 17, 2005 when the current rate freeze expires, through retroactive legislation.

In conjunction with this change, government proposes that any rate reductions related to reforms coming out of the current PUB review process be implemented based on individual company filings with the PUB.

Should the benchmark system be maintained or should companies have to file on an individual basis?

Penalties for giving false information to insurers concerning claims

Insurance fraud is created by individuals making false claims or inflating the value of claims. This adds to the cost of insurance. As a measure to reduce insurance fraud, should government consider introducing penalties for giving false testimony to insurers with respect to insurance claims?

Disclosure by Insurers of Injured Parties Under Surveillance

Injured parties placed under surveillance by insurance companies often get nervous as they feel they are being followed, not being aware they are under surveillance due to an insurance claim. Also, they may believe their privacy is being invaded.

Should government consider introducing legislation requiring insurance companies to disclose to claimants that they could be under surveillance, and provide access to material obtained through surveillance?

Penalties for Impaired Drivers

Penalties are used as a deterrent and must be at a level to be effective. Penalties in this province were increased in 2002. A summary of penalties for impaired driving in Canadian jurisdictions is attached.

Is there a need for more stringent penalties to keep impaired drivers off the road? If so to what level?

Written comments on the above topics are invited and are to be sent to:

Superintendent of Insurance
Department of Government Services
Confederation Building, West Block
P.O. Box 8700
St. John's, NL A1B 4J6
Fax - 709-729-4151
Email - consultation@gov.nl.ca

Yours truly,

Dianne Whalen
Minister

IMPAIRED DRIVING PENALTIES

Canadian Jurisdictions

Note: The provincial penalties for impaired driving, as outlined in the following table, are based on a blood alcohol concentration (BAC) of .08 (i.e. 80 milligrams of alcohol in 100 millilitres of blood) which is the legal limit in Canada. However, it is important to note that, under the *Criminal Code of Canada*, a person can be charged with impaired driving if your BAC is below .08; if a police officer determines that an individual's ability to operate a vehicle is impaired, a charge can be laid. As well, all provinces, except Quebec, have legislation that allows a police officer to suspend a driver's licence immediately for a short period of time (12 or 24 hours) if the driver has a BAC of .05 or greater (.04 in Saskatchewan). The penalties outlined in the following table are levied by the provincial driver licencing authority following a conviction under the *Criminal Code*.

Province	1 st offence	2 nd offence	3 rd offence	4 th Offence / Other Measures
Newfoundland and Labrador	1 year licence suspension	3-year licence suspension (if within 10 years of 1 st offence)	5-year licence suspension (if within 10 years of 1 st offence)	lifetime licence suspension (within 10 years of 1 st offence) for 4 th offence voluntary ignition interlock program
Nova Scotia	1-year licence suspension	3-year licence suspension (if within 10 years of 1 st offence)	indefinite licence suspension (at least 10 years)	lifetime licence suspension (within 10 years of 1 st offence) for 4 th offence immediate 3-month licence suspension (while waiting for court date) if blood alcohol reading is .08 or higher; draft legislation has been prepared in relation to ignition interlock program

New Brunswick	1-year licence suspension	3-year licence suspension	5-year licence suspension (for a third or subsequent offence)	
P.E.I.	1-year licence suspension	3-year licence suspension	5-year licence suspension (for a third or subsequent offence)	
Quebec	<p>on-the-spot licence suspension for 30 days (by police officer at roadside)</p> <p>If convicted:</p> <p>licence suspension for 1 year</p> <p>ignition interlock if court allows mandatory completion of alcohol rehab program session</p> <p>summary assessment of alcohol/drug consumption habits</p> <p>if assessment unfavourable, must undergo a comprehensive assessment and mandatory ignition interlock use for 1 year</p>	<p>on-the-spot licence suspension for 90 days (by police officer at roadside)</p> <p>If convicted:</p> <p>licence suspension for 3 years</p> <p>ignition interlock if court allows obligation to undergo a comprehensive assessment by addiction rehab centre</p> <p>if assessment favourable, licence is reinstated with condition of ignition interlock for 2 years</p>	<p>on-the-spot licence suspension for 90 days (by police officer at roadside)</p> <p>If convicted:</p> <p>licence suspension for 5 years</p> <p>ignition interlock if court allows obligation to undergo a comprehensive assessment by addiction rehab centre</p> <p>if assessment favourable, licence is reinstated with condition of ignition interlock for 2 years</p>	voluntary ignition interlock program

<p>Ontario</p>	<p>licence suspension for 1 year</p> <p>remedial measures requirement (mandatory alcohol education and treatment program)</p> <p>minimum 1 year ignition interlock condition upon reinstatement (mandatory)</p>	<p>licence suspension for 3 years</p> <p>remedial measures requirement</p> <p>minimum 3 years ignition interlock condition upon reinstatement (mandatory)</p>	<p>lifetime licence suspension (reducible to 10 years if remedial measures requirement and other conditions met)</p> <p>ignition interlock condition for life if suspension reduced (mandatory)</p>	<p>lifetime licence suspension for 4th offence - no possibility of reinstatement</p> <p>mandatory ignition interlock</p>
<p>Manitoba</p>	<p>1-year licence suspension</p>	<p>5-year licence suspension (if within 10 years of 1st offence)</p>	<p>10-year licence suspension (if within 10 years of 1st offence)</p>	<p>lifetime licence suspension for 4th offence</p> <p>immediate 3-month licence suspension (while waiting for court date) if blood alcohol reading is .08 or higher</p> <p>vehicle impoundment for 30 days</p> <p>mandatory ignition interlock program</p>
<p>Saskatchewan</p>	<p>1-year licence suspension</p>	<p>3-year licence suspension (if within 10 years of 1st offence)</p>	<p>5-year licence suspension (if within 10 years of 1st offence)</p>	<p>immediate 90-day licence suspension (while waiting for court date)</p> <p>voluntary ignition interlock program</p>

Alberta	1-year licence suspension	3-year licence suspension (if within 10 years of 1 st offence)	5-year licence suspension (if within 10 years of 1 st offence)	automatic 3-month licence suspension (while waiting for court date) if blood alcohol reading is .08 or higher voluntary ignition interlock program
British Columbia	1-year licence suspension	3-year licence suspension	indefinite licence suspension (legislation allows suspension to be reduced to 10 years if driver completes an approved rehab program; province does not yet have an approved program)	

NOTE:

An impaired driving conviction under the federal *Criminal Code* results in a licence suspension under provincial legislation (as outlined above) as well as a driving prohibition under the *Criminal Code*. The following chart shows minimum penalties under the federal legislation:

	Minimum Punishment	Prohibition From Driving
First Offence	A fine of at least \$600	Prohibition from driving for at least one year and up to three years
Second Offence	At least 14 days in prison	Prohibition from driving for at least two years and up to five years
Subsequent Offences	At least 90 days in prison	Prohibition from driving for at least three years and up to a lifetime ban

**Addendum to
Consultation Document
Automobile Insurance Reform
Administrative Suspensions for Impaired Drivers**

In addition to the legislative penalties outlined in the Consultation Document, Newfoundland and Labrador also has the following administrative suspensions:

- 24-hour immediate roadside suspension for alcohol levels over .05
- 90-day automatic suspension for alcohol levels over .08
- Mandatory alcohol dependency assessment and rehabilitation for licence reinstatement.