



RESTORE FAIR AUTO INSURANCE

A FREEDOM PARTY OF ONTARIO 2011 ELECTION PLANK

The “no-fault” auto insurance system that we have had in Ontario since 1990 was originally conceived of in the USA in the 1930s. It was modelled upon Workers’ Compensation schemes. The no-fault scheme is an attempt to reduce insurance pay-outs by preventing injured people, in most cases, from suing the drivers who caused their injuries. In short, “no-fault insurance” is actually “no-lawsuit insurance”.

History of the No-Fault System in Ontario

By the time no-fault was introduced to Ontario, the pros and cons of it were becoming well known. In 1989, before Ontario adopted no-fault, a report of the Ontario Automobile Insurance Board (OAIB) stated:

“It is extremely important that the government be aware that any cost savings forecast by this report arise almost entirely from a reduction in benefits payable to injured claimants, rather than to any increase in efficiency”

and

“Any percentage savings due to the introduction of no-fault are one time savings only. In short, the potential no-fault associated price reductions will not be permanent.” (emphasis added).

In other words, in 1989, the Liberal government of Ontario already knew that no-fault would only give temporary relief to drivers, and that the relief would be achieved only by cutting benefits to injured persons. In 1990, the Liberals forced Ontario drivers into the no fault system despite what they knew.

Under the no-fault system, injured persons in Ontario have received less compensation than they would have had they been allowed simply to sue the at-fault driver. Between 1990 and 1994, benefits under Ontario’s no-fault system were reduced by 47.7% on average.

In 1991, the Insurance Bureau of Canada reported that, during the first year following the implementation of the no-fault scheme in Ontario, cuts to benefits gave the insurance industry an increase in profits of \$750,000,000.00. Cutting benefits did not result in an appreciable decrease in premiums: insurance companies did not pass the \$750,000,000.00 along to drivers in the form of lower premiums.

No-fault has not stopped premiums from climbing dramatically. In September of 2010, Ontario drivers were again facing skyrocketing premiums. In response, the Liberal government of Dalton McGuinty attempted to minimize premium increases by cutting several key statutory accident benefits to injured people in half: from \$100,000 down to \$50,000. The Liberals also changed the system so that the thousands of dollars in assessments costs associated with proving an entitlement to benefits are now to be paid for out of the injured person’s accident benefits (prior to the September 2010 changes, insurance companies paid for those assessments). That means that, after the paying for assessments, an injured person’s maximum benefit is substantially less than \$50,000.

The McGuinty government’s changes have been great for insurance companies who want to increase their profits. However, they have dealt a blow to injured drivers. We are now in a situation where Ontario drivers are forced to pay much more money for much less insurance coverage than ever before.

Other Cons of the No-Fault System

Under the no-fault scheme, compensation for pain and suffering has been, for the most part, eliminated. Unlike in the tort-based system that we had prior to 1990, nobody except the most severely injured now receives pain and suffering compensation under the no-fault system.

Prior to the introduction of the no-fault system, only the person who was at fault would make a claim, so

only the at-fault driver's insurance premiums were increased as a result of the accident. However, under Ontario's no-fault scheme, both drivers are required to make a claim even if the accident is entirely the fault of only one of the drivers. The result: under the no-fault scheme, the insurance premiums of both drivers are typically increased.

The Experience in Other Jurisdictions

The experience with no-fault auto insurance has been equally bad in the other jurisdictions in which it has been tried. Manitobans suffered a 6.1% increase in their insurance premiums in 1996 after switching to no fault: previously, they had been told that an overall decrease of \$50 million was anticipated. Having imposed no fault in 1995, Saskatchewan drivers were finally permitted to opt-out of no fault starting January 1, 2003.

The experience of drivers in no-fault states of the USA has been similar. At the peak of the no fault trend in the USA, approximately 24 states had moved to a no fault system. Only 12 states remain on the no-fault system today. In 1997, the National Association of Insurance Commissioners (NAIC) found that:

- no-fault states had the highest average automobile liability insurance premiums;
- for each year between 1989 and 1995, a majority of the 10 states with the highest average auto insurance premium were no-fault states;
- between 1989 and 1995, premiums in mandatory no-fault states rose nearly 25% greater than in non-no-fault states;
- average 1996 profits on auto liability insurance were 7.3% in no-fault states and 5.4% in tort law states (NAIC data).

The no-fault system failed to create fair prices for auto insurance in the United States. As in Ontario, premiums increased even though benefits were reduced.

Ontario's government must learn not only from the failed no-fault experiments in Manitoba, Saskatchewan and the USA, but also from the current

and obvious failure of the Ontario experiment with no-fault insurance. Every person who is injured should have the right to access the justice system so as to receive compensation, pursuant to the common law, for those losses that can be proven to have been caused by a driver. Only a person who has caused an accident should suffer an increase in his or her auto insurance premiums. Whether, and under what circumstances, pain and suffering benefits will be covered is a decision that is properly made between insurers and their clients when clients decide whether or not to buy an insurer's policy.

The Right Solution: Restore the Full-tort System

A Freedom government will repeal the no-fault system and return Ontario to a tort-based system, in which only the at-fault driver pays.

For more information, contact:

FREEDOM PARTY OF ONTARIO
240 Commissioners Road West
London, Ontario
CANADA N6J 1Y1

Telephone: 519-681-3999

Toll free: 1-800-830-3301

FAX: 519-681-2857