

ACCRO Submission.txt
8120 Lawson Road, Unit 2, Milton, Ontario, Canada L9T
5C4

July 11, 2008

Mr. W. Handler, Senior Manager
Automobile Insurance Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street, 15th Floor
Toronto, ON M2N 6L9

VIA EMAIL

Re: Ontario Insurance Act; 5-Year Review

Dear Mr. Handler,

Thank you for the opportunity to provide feedback
regarding the current
Insurance Act in Ontario.

As an interested stakeholder in the Ontario Insurance
system, ACCRO and its
Members are concerned about the ongoing affordability,
availability and
protection afforded by Automobile Insurance System in
the Province of Ontario to
the benefit of all Ontarians.

The opportunity to provide input into the ongoing
improvement of the Ontario
Insurance System is important and we believe that to
maintain the strongest and
most viable automobile insurance system possible,
there is one area that would
benefit from being considered:

Voluntary transfer of physical damage responsibility
between willing
parties:

ACCRO Submission.txt

Background: Liability for Not-At-Fault vehicle physical damages cannot be transferred between contractual parties, other than between an insured and their automobile liability insurer. Section 263.5.a.1 of the Ontario Insurance Act bars the opportunity for willing non-insurance parties to transfer risk between themselves through legal contracts:

Tel: 905-864-8884 -Fax: 905-864-8714 -www.accro.org

1

“Dedicated to the Betterment of the Canadian Car & Truck Rental Industry”

□
“263.5.(a.1) an insured has no right of action against a person under an agreement, other than a contract of automobile insurance, in respect of damages to the insured’s automobile or its contents or loss of use, except to the extent that the person is at fault or negligent in respect of those damages or that loss;”

In our opinion, the best interests of all Ontarians are served by allowing willing participants to transfer liability for Not-At-Fault vehicle physical damages between themselves through legal contracts. Today, the Vehicle Rental Industry receives this request from corporations, public institutions and private institutions, who express their desire to shoulder all the liability and physical damage exposure for their employees for the express purpose of minimizing their vehicle

rental costs.

Today, the Vehicle Rental Industry is unable to deliver on the needs of these parties and as a direct result all Ontarians pay higher vehicle rental rates. It is our opinion that placing the cost of accidents into the hands those best able to promote safe, accident free driving is crucial. Individuals and their employers have the opportunity to create a safer, more accident free Ontario, which benefits all Ontarians.

Facts: The Ontario Insurance Act, Section 263.5.a.1 as it stands today has negative consequences for the Vehicle Rental Industry and all Ontarians as follows:

- o The Ontario Insurance Act, Section 263.5.a.1 has the business effect of increasing the operating cost for all Vehicle Rental companies operating in Ontario;
- o The increase in gross operating costs for Vehicle Rental Companies ranges from an increase of 4.1% to an increase of 7.9%. This is a direct result of vehicle physical damage losses that must be absorbed by the Vehicle Rental Company as a cost of doing business when the driver is Not-At-Fault under the Ontario Insurance Act;
- o The cumulative effect of Section 263.5.a.1 is an increase in the vehicle rental costs paid by ALL Ontarians and an increased cost for all Ontario Insurers. All Vehicle Rental Companies are forced to recoup the not-at-fault vehicle accident damages sustained by the few

ACCRO Submission.txt

(all rental companies are forced to pass on the increased cost of operations through their daily rental rates);
o Additionally, if the driver of the automobile is insured, the driver has paid a premium to provide indemnity for Not-At-Fault Vehicle Property Damages, but to the extent the driver is in a Rental Vehicle; their insurer faces no

2

“Dedicated to the Betterment of the Canadian Car & Truck Rental Industry”

□ exposure for Not-At-Fault claims. As a direct result, Ontarians suffer a doubly increased cost: they are paying an insurance premium for indemnity on Not-At-Fault vehicle accidents AND all Ontarians are paying higher Vehicle Rental rates as a result of Section 263.5.a.1 of the Ontario Insurance Act;

o Without a revision to Section 263.5.a.1, Ontarians will face higher Vehicle Rental costs unless insurers: rebate their insured for the portion of their insurance premium to the extent they are in a Rented vehicle ;OR pass a pro-rata share of the insurance premium to the owner of the Rental vehicle in which their insured is driving.
Conclusion: We recommend that Section 263.5.a.1 of the Ontario Insurance Act be repealed. It is our opinion that the repealing of Section 263.5.a.1 of the

ACCRO Submission.txt

Ontario Insurance Act will create a stronger economy, safer roadways and a more vibrant business environment through lower operating cost.

Most importantly, repealing Section 263.5.a.1 of the Ontario Insurance Act will allow willing and informed public and private institutions to actively manage their operating costs and increase the availability of operating capital that is used to continue to create a vibrant and prosperous Ontario economy.

Providing consumers information and choice in liability coverage

Background: The Ontario government recently changed the antiquated vicarious liability laws so that drivers of rented vehicles are held responsible for their driving behavior in the same way as all other vehicle operators. Ontario Insurance laws have been changed so that the personal auto insurance policy of a renter covers them for liability arising from the use of rental vehicles. Vehicle rental firms provide insurance coverage on vehicles for renters who do not have personal auto insurance in Ontario.

The average level of liability coverage on an Ontario personal auto policy is \$1million. This is the same level at which the liability of vehicle rental firms is capped. Hence the new law has the effect of having vehicles rented in the Province of Ontario covered with at least \$1million of liability protection. This level of liability coverage, while five times the minimum required by Ontario law,

ACCRO Submission.txt
also serves as a ceiling for many renters.

Under current Ontario laws and regulations vehicle rental firms are unable to provide any assistance to renters who would like to get additional insurance to extend liability coverage. Section 267.12 of the Ontario Insurance Act limits the liability of rental firms to \$1million. With accident claims and settlement amounts more frequently running into the multiple millions of dollars the vehicle rental

3

“Dedicated to the Betterment of the Canadian Car & Truck Rental Industry”

□ industry is being asked to provide high levels of insurance protection for their customers. While Ontario residents have the option of approaching their own auto insurance agent to learn about available coverage and choose what is best for them, many vehicle rental customers do not have that opportunity. Due to current Ontario law these rental customers are excluded from information and a process by which they can make choices about their own risk and protection.

Facts: The current Ontario Insurance regime blocks some vehicle renters from having the information and options available to them to make choices about their insurance coverage. This is to the detriment of the renter and all other drivers on Ontario roads.

o Ontario residents who do not have a personal Ontario

ACCRO Submission.txt

Automobile Policy

can not purchase stand alone insurance coverage for rental vehicles as there is no such product on the market. These Ontarians are provided some liability coverage as part of their vehicle rental fee but the rental firm can not provide them with information about risk and potential options to address that risk under current Ontario law;

- o Insured Ontario residents who wish to rent trucks above 4,500 kgs are unable to rely on their personal auto policy because it specifically excludes coverage for vehicles above 4,500 kgs. These renters have coverage options limited by the inability of truck rental firms to provide them the information or method by which they may get the insurance coverage amount they decided is best for them;
- o Out of province renters, be they tourists or business travelers, do not have the benefit of understanding Ontario insurance laws and have only the rental firm as a source of help in providing them with information that allows them the option of making the right insurance choice. The restriction on rental firms providing even basic information to renters means that they have no way to make an informed decision about insurance coverage;
- o More and more frequently rental firms are being asked to provide higher levels of liability coverage by private and public sector clients. Public institutions such as Ontario Universities now specify liability coverage in the amount of \$3 million when issuing tenders for

ACCRO Submission.txt

rental vehicles;
o Ontario has already established a model for providing consumers with information about available insurance products to protect them from risk. This model is used in the travel industry and provides consumers with information and choice about trip cancellation and out of Province medical insurance. We believe a similar model could be introduced in the vehicle
4

“Dedicated to the Betterment of the Canadian Car & Truck Rental Industry”

□ rental industry to protect renters and all other Ontarians who might become victims of automobile accidents.

Conclusion: Introduce a consumer information and option model similar to what is used in the travel industry to the vehicle rental industry. This will provide information and choice to renters of vehicles that they do not and can not currently receive from any other source.

Thank you again for the opportunity to provide you with our thoughts.

Yours truly,

ACCRO
Bill McNeice, President

5

ACCRO Submission.txt

“Dedicated to the Betterment of the Canadian Car &
Truck Rental Industry”

□