

FAIR Association of Victims for Accident Insurance Reform
579A Lakeshore Rd. E., Box 39522, Mississauga, ON, L5G 4S6
fairautoinsurance@gmail.com

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FAIR submission to: **Proposed amendments to Regulation 664 (Automobile Insurance) under the Insurance Act regarding an insured's election not to recover damages from their insurer under the Direct Compensation - Property Damage (DCPD) coverage.**

FAIR (Fair Association of Victims for Accident Insurance Reform) is a grassroots not-for-profit organization of Ontario's MVA (Motor Vehicle Accident) survivors who have struggled with access to recovery resources under the current auto insurance system.

Thank you for the opportunity to speak to the proposed draft amendment of regulation 664 in regards to direct compensation DCPD coverage.

It's concerning to see this effort has gone toward decreasing coverage for Ontarians. For years many Ontario drivers have had to pay for Statutory Accident Benefits (SABs) that they are unable to collect on such as income replacement. This is coverage they must pay for but it is available only to those who have a taxable income. It has been an unfair system for many consumers and successive governments have failed to correct the inherently unfair insurer practice of charging their customers for something they cannot access.

Now we enter a new phase of decreased coverage that bizarrely expects consumers to pay for auto insurance that allows them to opt out of coverage on their car. This is a departure from the expectations one would normally associate with auto insurance given it doesn't include vehicle coverage.

It's unlikely the average consumer would pick up on the fact that this isn't the same as the opting out of collision coverage they are familiar with. Current legislation provides that if the car crash is another driver's fault the innocent driver will be compensated and that opting out of collision coverage will only matter or cost them if the MVA is their fault. The new proposed legislation we are looking at today, as outlined, does not make this distinction or make clear that they will have zero coverage whether it is the other drivers fault or not. Nor does it obligate insurers to inform the car owner how much they will be saving by opting out of the coverage or what that could potentially mean for them. This needs correcting. Insurers will have to find a way to explain this through their brokers because it is almost impossible to believe this can be something our government legislates Ontario drivers must purchase.

Does this new amendment mean the driver, who picks the option to not recover damages from their insurer and whose car is written off, will be responsible for the disposal of that car or the towing of that car post accident? What about a hit-and-run accident? As written this amendment is unclear and poses new questions so this has the potential to lead to more legal challenges for consumers.

This amendment appears to be designed to take advantage of less affluent drivers who would be the ones most likely to pick this option. Lower income earners are also the ones most likely to be financially affected by the Covid19 pandemic and this appears to be insurers taking advantage of that fact. We fail to see how this is in any way associated with a common interpretation of “Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020” given that insurers have made substantially greater profits and are dealing with far fewer accident claims during the pandemic. This is not ‘more choice’ but it is a less coverage option.

For an older driver who cannot collect on many of the SABs and who may now opt out of the currently required coverage on their car will, in effect, be buying insurance for nothing. Car insurance that doesn’t cover cars certainly sounds like a scam operation and can hardly live up to the promise that Ontario’s auto insurance legislation is Consumer Protection. It should be called a road user fee and perhaps be paid directly to the government rather than private insurers who won’t be paying out anything at all for the premium dollars they are paid.

The government might also consider that this may be the cut to coverage that consumers might see as the moment of realization that they have no coverage they can count on and no reason to buy it or comply with regulation that requires they pay money for nothing. There has been steadily increasing dissatisfaction with the insurance product and delivery that has been exacerbated by the empty promise of some insurers to rebate premium dollars during Covid19.

Perhaps this latest offering of insurers to cut coverage to cars out of auto insurance coverage is the moment to consider either public auto insurance or just simply saying no to this proposal that neither protects, supports and assists Ontario drivers’ recovery from Covid19.

We are happy to have provided feedback with respect to the proposed amendments to Regulation 664 (Automobile Insurance) under the Insurance Act regarding an insured's election not to recover damages from their insurer under DCPD coverage and are available to discuss this further.

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