

Opportunities for Mitigation of Motorcycle Insurance Premiums In Saskatchewan

**A Presentation to the Saskatchewan Rate Review Panel
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1. Introduction:

The recent, SGI proposed rate increases for motorcycles have gathered a strong response, and while there has been a subsequent backtrack from doing it all at once, SGI's intent is still to increase rates to the levels originally proposed. This paper intends to analyze how SGI's decisions and implementations have affected motorcyclists disproportionately, and provide recommendations for more equitable treatment (i.e. equitable with other locations, other vehicles) for motorcycles.

2. Issue:

The proposed rate increases will have a severe effect on not just current and future riders, but also the businesses and their employees that sell and support motorcycles and motorcyclists. Motorcycles are a traditional, utilitarian, enjoyable, and legal form of transportation all over the world, but SGI's proposed rate increases would excessively deprive and limit Saskatchewan residents from similarly enjoying their benefits. Specifically, it is the unique way in which SGI chooses to apply their "no-fault" policies, coupled with the lack of options (either in the coverage/premiums or external competition), that is driving these proposed increases.

It must be understood that "no-fault" should not mean that at-fault parties are ignored. While liability takes on a minor role in the adjudication of individual settlements, it still plays a major role in the subsequent behaviors of road users, and thus directly has an effect on total losses. The most common item of agreement among all insurees is that "those at fault should pay". If they don't pay on a per accident basis, then they must be assessed appropriately elsewhere in the system. Failure to maintain this responsibility, contributes to deteriorating driver standards, systemic unfairness and overall disrespect of the system.

3. Analysis:

As a Crown Corporation, SGI, through the Sask Auto Fund (SAF), is the monopoly provider of mandatory vehicle insurance in Saskatchewan. In addition, SGI is also responsible for road safety and regulation of road users. As has become commonplace elsewhere, Saskatchewan (through SGI), has adopted the principle of "no-fault" insurance. In general, no-fault implies that each party in an accident pays their own damages, regardless of who caused the accident, and usually places restrictions on the ability of the not-at-fault party to sue for redress (i.e. tort).

In most cases, no-fault is also synonymous with mandatory Personal Injury Protection (PIP) insurance, given that this area has the greatest potential for litigation and variability (i.e. costs) in any settlement. Each vehicle owner pays for insuring their own injury losses in the event of an accident. The Insurance Institute for Highway Safety (IIHS) estimates that motorcyclists are 4 times more likely to be injured in an accident than car occupants. Additionally, motorcyclists are likely to incur more severe injuries due to their relative lack of protection. Therefore, unless other provisions are made, based on a per accident basis, PIP insurance will be far more expensive for motorcycles than for cars. According to SGI, this is the biggest factor driving the motorcycle rate increases.

It is critical to understand that incurring the costs is nowhere close to the same as being at-fault. Thanks in part to SGI's misguided Motorcycle Classification System and the self-fulfilled prophecy it has created, motorcyclists are demonized as huge costs to the system, subsidized by car drivers because of their supposedly willing propensity to get hurt (inferred: they hurt themselves). While it may be fair to assess the costs of their own negligence against motorcyclists, it is grossly unfair to have motorcyclists unreasonably underwrite the negligence of others, solely because they (motorcyclists) are more vulnerable. It is literally adding insult to injury.

4. Opportunities:

The vast majority of other jurisdictions have realized the disproportionate effect these increased costs have on motorcycling, and understood that mitigation of this effect is justified. To date, SGI has proposed no such mitigation. Possibilities for mitigation may include but not be limited to:

4.1. Removal of motorcycles from no-fault provisions:

Most of the US and major jurisdictions in Canada specifically exclude motorcycles (and a few other specialty vehicles) from no-fault provisions. The actual specifics of each jurisdiction vary considerably both in exact application and results, but at it's core, this means that motorcyclists are not mandated to carry PIP insurance (or any additional insurance beyond minimum liability coverage), but as a result may not be covered or receive any benefits in an accident where there is no other party to sue (i.e. single vehicle, at-fault, etc.). If exclusion is pursued, it is essential that other considerations exist for motorcyclists, and that equivalent insurance (or a facsimile of it) is still available (preferably competitively) for those who want it. In jurisdictions with competitive such insurance, private insurers tend to place greater emphasis (i.e. than SGI) on driver history to calculate discounts and effective premiums.

For motorcyclists however, this approach is a two-edged sword. While most riders accept a greater degree of risk by choosing to ride, and appreciate the freedom to choose, there will be those that will opt out of optional insurance to their conceivable disadvantage. Unrecovered costs may be a problem, and if poorly applied, the potential for greater individual suffering is increased. Properly applied, this option represents the most freedom of choice for motorcyclists.

4.2. Retain motorcycles within no-fault provisions with accommodations:

Even within a mandatory PIP environment there are ways to accommodate motorcycles as a special vehicle and reduce their costs fairly. Approaches could include but not be limited to:

4.2.1. Equitable Allocations of Burden System:

When Hawaii instituted no-fault regulations, it put in an “equitable allocation of burdens” system. This system tries to recognize that larger, heavier vehicles cause more damage, such that in an accident involving a car and a truck, the truck’s insurance would pay 60% of the total cost of the accident, and the car’s, 40%, regardless of who was at fault. Similarly, between a motorcycle and a car, the car would pay 75% and the motorcycle only 25%. As relative disparities in vehicle size continue to increase on Saskatchewan roads (i.e. ever-larger pickups versus ever-smaller sub-compact cars), this type of cost allocation system may have merit, independent of its application to motorcycles.

4.2.2. Cost Transfer System:

SGI claims that since 2011, they use a cost transfer system to allocate not-at-fault motorcycle claims to the at-fault vehicle, thus helping to defray the burden to motorcyclists. However, a motorcycle can incur an accident through aggressive avoidance of an at-fault motorist without contact to the other vehicle. Presently, no cost transfer takes place when the motorcycle is involved in a single-vehicle accident where another vehicle may have been at-fault, unless independent verification of the circumstances is provided. Giving more credence to the motorcyclist’s account in a single-vehicle accident could be possible when there is a likelihood of the motorcyclist not being at-fault. Obviously any claims subsequently found to be fraudulent should be dealt with severely.

4.2.3. Better Safe Driver Discounts:

The argument can be made for all vehicles but especially for motorcycles, that the rider (driver) is more of a factor to overall risk than the vehicle. SGI’s present Safe Driver Recognition (SDR) program is only a maximum of 20%. This implies that on any given machine, a proven safe, experienced rider is only 20% less likely to be in an accident than a untrained novice, when all statistics show the actual percentage is much, much higher. Apart from being a basic fairness issue, this under-evaluation of rider (driver) importance and responsibility for accidents sends a powerful negative message. An across-the-board, 50% maximum SDR discount (80% for motorcyclists) would be more appropriate. Of course, with SDR discounts of this magnitude, named and/or excluded riders (drivers) would need to be enacted, and the time to reach plan maximums could be lengthened.

4.2.4. Changes to Coverage/Regulations:

SGI's no-fault coverage is among the most generous anywhere (with a corresponding reduction of tort alternatives), but could be modified considerably to reduce premiums and be fairer to all. Allowing some individual tailoring of specific provisions up to and including their removal from mandatory status may be of benefit. Examples may include:

4.2.4.1. Within the PIP provisions is Income Replacement Indemnity (IRI). This ensures that a person's wages are maintained (i.e. @90%) in the event of an injury. Retired/elder persons (and a number of others) do not have incomes that are under threat from an accident. It is unfair to make them pay a premium for coverage they cannot use.

4.2.4.2. Motorcycles are generally less expensive vehicles, although some owners may place an inordinately high value on them. Some owners may prefer to self-insure their losses due to an at-fault collision; trust alternate physical protection in place of theft insurance; or provide better coverage for their "special" bike for an additional premium. For these reasons, Collision and Comprehensive insurance should be optional and/or open to greater choice (deductibles, coverage, etc.), especially for motorcycle owners, while maintaining their right to assess other, at-fault parties for their collision losses.

4.2.4.3. At present, any Saskatchewan motorcycle can be ridden by any person with any valid motorcycle endorsement (including a Learner's permit). In actuality, this is rarely the case, and most motorcycles are ridden exclusively by one rider, and a vast majority of them never carry a passenger. The ability to restrict operation to a specifically named rider (or a limited set of) would better reflect the reality, permit a more tailored analysis of risks, and facilitate more targeted discounts such as SDR.

4.2.4.4. SGI's simplistic and wrong-headed Motorcycle Classification System fails to adequately acknowledge relevant factors in its assessment of a motorcycle's risk potential. For example, a study by the IIHS found that motorcycle anti-lock brakes (ABS) reduce the likelihood of a fatal motorcycle accident by 37%, and reduced motorcycle damage claims by 22%. As a result, some private insurance companies now choose to recognize this in their rates (often ahead/instead of motorcycle type). SGI's treatment completely ignores ABS and other potential technological benefits.

4.3. Other Considerations:

The recognition of other incentives that reduce losses is also important. The value of effective rider training is widely acknowledged but not presently rewarded or overtly encouraged in any way by SGI, either by accelerated progression through graduated license regulations, subsidization, or other method. Apart from mandatory helmets and eye protection, no incentives are in place to encourage other protective equipment. Under their mandate of overall road safety (i.e. not specific to SAF motorcycle insurance), SGI could do more to understand and identify road hazards that present a greater hazard to motorcyclists, and develop driver improvement programs that target motorcycle awareness.

5. Recommendations:

5.1. Ultimately, SGI must provide a more thought-out proposal to its customers who are motorcyclists. In an open process, SGI should consult with the various interest groups involved and work out recommendations to reduce the overall impact to motorcyclists and the motorcycling community. In developing their proposal, the following points should be addressed:

5.1.2. The ultimate decision to exclude or retain motorcycles within the no-fault provisions should have wide consensus among motorcyclists. While strong voices may come from other interested parties, it is the individual motorcyclists that have the most to lose or gain with this decision, and during the consensus building process, SGI must do their impartial best to educate these clients on the full effects and options of the proposal.

5.1.3. After the consensus process and enactment of whatever provisions are indicated, SGI should continue to liaise with interest groups to monitor and manage the outcomes accordingly.

5.1.4. Valid alternatives and options to the proposal should be fully explored and evaluated by all parties.

5.2. In an effort to improve overall operator competence and attribute costs more fairly, SGI needs to significantly increase its SDR program and rebalance rates accordingly.

5.3. As a mandatory monopoly, SGI shouldn't expect a one-size-fits-all approach to satisfy everyone. Wherever possible, SGI should entertain more choice in general and allow greater customization of individual policies. In the absence of this choice, the argument for allowing private competition for some or all of Saskatchewan's vehicular insurance needs will continue to build.

5.4. SGI (preferably in a consultive manner) needs to complete its evaluation of the Graduated Driver License Program and provide further recommendations for

its continued improvement. Similarly, SGI in its role of road safety authority, should put a stronger emphasis on motorcycle accident reduction and prevention, including appropriate training, awareness campaigns and the like.

6. Conclusion:

When Saskatchewan adopted no-fault insurance about 10 years ago, its potential effects on motorcycle premiums was widely known. SGI has chosen to ignore those effects and maintain a one-size-fits-all approach which is causing the current fight. Instead of regarding the entire traffic mix in Saskatchewan where motorcycles were/are a legal road user, and design a set of provisions to best accommodate that mix, they have chosen to implement a system that favors the majority and essentially ignores and disenfranchises motorcycles. Left unaddressed, this ultimately changes the traffic mix to what the “system” wants, not the other way around. I think that this approach is wrong-headed and has resulted in the hostility and ill feeling most motorcyclists now feel for SGI. That we have to fight to maintain our place in that traffic mix, shows the disregard is systemic and ongoing.

About the author:

I have been an avid motorcyclist for 47 years with well over a million kilometers experience on all kinds of motorcycles and have ridden a motorcycle in most of North America, Mexico and Europe (incl. UK). I have worked in the industry as a motorcycle mechanic and continue to do 99% of my own motorcycle maintenance. I have collected and restored antique motorcycles, and have built and raced a custom superbike, even though I currently only have one motorcycle.

I am a past Canada Safety Council, Motorcycle Chief Instructor (7 years), and was a qualified Motorcycle License Examiner in Saskatchewan. In addition to my Chief Instructor training in Ottawa, I have attended professional, Advanced Rider Training (track) sessions in Minnesota and California, and still maintain an active interest in motorcycle safety.

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