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Wednesday 5 November 2014

**Journal
des débats
(Hansard)**

Mercredi 5 novembre 2014

**Standing Committee on
General Government**

Fighting Fraud
and Reducing Automobile
Insurance Rates Act, 2014

**Comité permanent des
affaires gouvernementales**

Loi de 2014 de lutte contre
la fraude et de réduction
des taux d'assurance-automobile

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Wednesday 5 November 2014

Mercredi 5 novembre 2014

The committee met at 1304 in committee room 2.

**FIGHTING FRAUD
AND REDUCING AUTOMOBILE
INSURANCE RATES ACT, 2014
LOI DE 2014 DE LUTTE CONTRE
LA FRAUDE ET DE RÉDUCTION
DES TAUX D'ASSURANCE-AUTOMOBILE**

Consideration of the following bill:

Bill 15, An Act to amend various statutes in the interest of reducing insurance fraud, enhancing tow and storage service and providing for other matters regarding vehicles and highways / *Projet de loi 15, Loi visant à modifier diverses lois dans le but de réduire la fraude à l'assurance, d'améliorer les services de remorquage et d'entreposage et de traiter d'autres questions touchant aux véhicules et aux voies publiques.*

The Chair (Mr. Grant Crack): I'd like to call the Standing Committee on General Government to order. I'd like to welcome all members of the committee and stakeholders who are here before us. Today we're going to be dealing with the public hearings regarding Bill 15, An Act to amend various statutes in the interest of reducing insurance fraud, enhancing tow and storage service and providing for other matters regarding vehicles and highways.

The format that we will use today will be a five-minute presentation from the presenter, followed by three minutes each from each of the three recognized parties of questioning and/or comments. We will begin with the official opposition, then the third party and then the government. That will be the first rotation, and I will mix things up after that.

ONTARIO TRIAL LAWYERS ASSOCIATION

The Chair (Mr. Grant Crack): It is my pleasure to welcome the Ontario Trial Lawyers Association. I'll let you introduce yourself in order to save some time. So, welcome. You have five minutes for your presentation.

Mr. Steve Rastin: Thank you, Mr. Crack. My name is Steve Rastin. I'm president of the Ontario Trial Lawyers Association. With me today are Claire Wilkinson from my board of directors and John Karapita, my director of government relations. We would like to thank you for the

opportunity to speak today and we would like to congratulate all of you on your recent election wins.

With respect to this legislation, we want to make a few simple points.

We, as OTLA, as trial lawyers, represent accident victims throughout the province of Ontario. We are the voice here today for those accident victims. We support the goals of this legislation. We believe that every dollar paid to fraud and stolen away from legitimate accident victims and from reasonable insurer profits is a dollar that needs to be accounted for in the system. We support and pledge our support for any anti-fraud initiatives going forward and we generally like the legislation.

We would, however, like to submit to this group that there are two serious problems, and we strongly urge you to reconsider those problems with the proposed legislation to benefit accident victims and in the name of fairness.

The first is the right to sue. In this legislation, the right of an accident victim to sue his or her insurance company for non-payment of benefits is being taken away. Prior to 1990, we had a one-payer system: He hits me, I sue him, and the person who's at fault sues for the benefits. Today, after no-fault has been introduced, we have a two-payer system: You get some benefits from your own insurer and some benefits from the other side. Every dollar paid by the AB is deductible from the tort side.

For reasons I don't have time to get into today, it is very, very hard to settle one piece of this puzzle without the other. These are like two hands joined together or like two oars in a rowboat. They have to be dealt with together.

The thing to remember is that in most of these cases there is already a tort action going. So the question is not whether we should proceed by way of a tort action in the courts or by way of an arbitration at the LAT. The question that we need to deal with is whether we should have one hearing or two hearings, because we already have a lawsuit going.

Justice Cunningham argued that tribunals have the expertise to deal with this issue, and he's correct, but the difference in this system is that we already have a Superior Court action anyway. We're already dealing with these issues, and we're going to have a duplication of efforts. The same arguments are going to be made at two different places, the same experts are going to be called, the same doctors are going to be called and the

same witnesses are going to be called. We're going to move from having one hearing to have two hearings. This is going to be more expensive, less efficient, and is going to make it more difficult for accident victims to get a cost-effective solution to their problems.

It's also worth pointing out that the lawyers who represent the insurance industry—you're going to hear from them today. The Canadian Defence Lawyers and the Advocates' Society agree with us that there are fundamental problems with respect to proceeding along these bases, from a systemic point of view.

The second point I want to turn to is the interest rate deduction. The legislation proposes that interest rates for pain and suffering be reduced from their current level of 5% to 1.3%. We ask why. Justice Cunningham didn't talk about that in his report. This legislation is supposed to deal with accident benefits. Why is it changing the rate with respect to tort actions? It's not in the report anywhere. We support the concept of profitability for insurance companies within reasonable bounds, but we do not believe that further cuts should be made on the backs of accident victims. Why is it right to reduce the interest rate from 5% to 1.3%?

Some individuals would say, "Well, who's getting 5% on their money today? It's a boon to the accident victim." I guess the answer we would have to that is this: The insurance companies' own data says that they are making 3% to 4% or more per year, if you look at the data on the money they're investing. That money is not their money; that money is the accident victims' money. If you're making 4% on your money but you're paying out at 1.3%, we would argue that that's a disincentive to settle.

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The other thing that we would point out is that FSCO—as long as FSCO continues to exist—FSCO rules today say that you are allowed to put an 11% profitability analysis into your rate number. If 11% is fine for the industry, why are we asking accident victims to take 1.3%?

I thank you for your time at about four minutes and 58 seconds.

The Chair (Mr. Grant Crack): You did marvelously. Thank you very much.

Mr. Barrett, are you going to—

Mr. Toby Barrett: Yes. Thank you, Chair.

You mentioned that you wrapped it up in four minutes and 58 seconds. I have actually never seen anyone at the witness table with only five minutes to present.

I know you made mention earlier on: "For reasons I don't have time to get into today." I'd like to hand my time back to you, if you would like to take another—what would it be, another three minutes?

The Chair (Mr. Grant Crack): About two and a half, yes.

Mr. Toby Barrett: Sure.

Mr. Steve Rastin: Sure. I'm going to spend about two minutes talking about it.

The thing to remember is that we have a system where you get income loss from the person who hits you and

you get income loss from your own insurance company. It's called an income replacement benefit. You get medical rehabilitation benefits from your own insurance company and you get medical rehabilitation benefits from the person who hit you.

There is a constant overlap of the benefits, so as accident victim representatives, we have to go to two different places to get paid. What do we do right now in these cases? We bring the two actions together. We have both insurance companies inside the same lawsuit, we have the same doctors present evidence once and we deal with it together as a group. If I act for you, sir, and you're in an accident, and I settle your accident benefits case and I settle for too much, the insurance company is going to say, "Well, you got all your money from your own accident benefits company. We don't want to pay you for anything." If I settle for too little, the insurance company is going to say, "Well, you settled the case for too little money. It must not be a big case, and we don't want to pay you."

So for tactical reasons, it is very difficult for us to settle one piece without the other. Like I said, it's like having a rowboat with one oar. The insurance lawyers are going to tell you it's difficult from their perspective, too. The question is, can we settle the cases separately? Yes, we can, but it's a lot harder. Right now we have one proceeding, and under the proposed legislation that you're looking at, we're going to have to start two separate lawsuits. We cannot understand how that is going to save the industry money and we cannot understand how it's going to save us money.

Mr. Toby Barrett: Thank you.

The Chair (Mr. Grant Crack): Thank you. We'll move to the government side: Mr. Colle.

Mr. Mike Colle: Thank you very much. It was a very insightful presentation, really, considering the time restraint. I think you made your points very clear and forceful.

I've gone through this with Justice Coulter Osborne. Now I've got Justice Cunningham. Some of these same arguments that you're making today have been brought to our attention over and over again. And I respect your opinion on the prejudgment interest. That is a contentious issue; I certainly agree with you on that.

I guess what I'm asking you is, in general, if this bill gets passed and goes forward and it reduces—and we know we're never going to reduce everything, all the fraud and all the manipulators in the insurance industries—will it make it more reasonable for your clients, the accident victims, to get perhaps a speedier, fairer judgment or treatment than they are right now when they have to go through so many hoops imposed by government or imposed by insurance companies? Will it generally at least bring down some of the level of confrontation and abuse that is in the system?

Mr. Steve Rastin: I'm going to make these comments. First of all, I think if you were to ask Justice Cunningham or Justice Osborne whether they agreed with some of our positions, they would be very supportive.

Justice Cunningham has said to us—and you'll hear from the defence lawyer who is going to speak later—that he actually supports putting exemptions like we're talking about in the legislation.

In terms of cutting down the cost, the fact of the matter is that the insurers today are spending 60 to 70 cents doing assessments for every dollar they pay to our clients in benefits. I'm not sure that this legislation is going to change that. I don't know why it's permissible or why it's a good idea to spend as much money fighting a claim as it is paying a claim.

With respect to the efficiency argument, I cannot see—anybody who owns a house and a cottage knows that two cost more than one. This legislation is going to move from having two matters tied together to having two matters separate. That's going to cost more money.

Having said that, we support a lot of what Justice Cunningham is doing in this legislation. We think there are a lot of good ideas out there. We're only raising two concerns. The vast majority of the legislation we support—the ideas we support. We would like to be partners with the government in battling fraud because we think there may be problems out there and we want to be part of the solution for that.

So there is some good in the legislation—in smaller issues, like smaller treatment issues, like who's going to pay for a mattress or whether it's going to be paid or not. The legislation's got a lot of pluses on that side of the equation, and we support it, but these other pieces that are missing we just don't think we can lose in the interim.

Mr. Mike Colle: Yes, and I couldn't agree with you more. This battle of assessors makes a very lucrative living for the assessors assessing the assessors assessing the assessors. We try to do it by dealing with the DACs, which are in the assessment business, and it seems the assessors have crept back into it. That's one area where I totally agree with you: We have to eliminate all these so-called medical professionals who are making big money in insurance out of assessing the assessor of the assessors.

The other thing I want to just ask you about is in terms of accident claims. As you know, compared to Alberta, the average claim for an accident in Ontario is way out of whack to an average claim in Alberta, for instance. I can't remember the exact numbers. Do you have any thoughts on why that's the case?

The Chair (Mr. Grant Crack): Quickly. Final response.

Mr. Steve Rastin: Sure, and I'll be quick. I think we need to do some further research into that. Let me say this: In 2010, coverage for 73% of claimants in Ontario was reduced from \$100,000 to \$3,500. How we can be spending some 20-thousand-odd dollars per claimant when most people are getting \$3,500 in medical coverage is something that we, frankly, don't understand. People today think they're covered. They have auto insurance and they think they're covered. Then they get in an accident; they get no medical treatment. The treatment's

been delisted from OHIP now. They don't get enough money to pay their mortgage and they lose their house. That money is going somewhere, but it's not going to the accident victims.

The Chair (Mr. Grant Crack): Okay. Thank you very much for coming forward. We really appreciate your insight and comments. Thank you very much.

Mr. Steve Rastin: Thank you for your time.

The Chair (Mr. Grant Crack): Thank you.

INSURANCE BUREAU OF CANADA

The Chair (Mr. Grant Crack): We have the Insurance Bureau of Canada coming forward. I shall again let all delegations introduce themselves. We welcome you to the committee this afternoon.

Mr. Ralph Palumbo: Thank you. Good afternoon. My name is Ralph Palumbo, and I'm the Ontario vice-president of the Insurance Bureau of Canada. With me today, on my left, is Ryan Stein, IBC's director of policy, and on my right, Peter Karageorgos, who's our director of consumer and industry relations.

I want to say thanks for having us here today and for this opportunity to present to the committee on Bill 15. I think it's fair to say that Bill 15 is an attempt to appropriately reduce unnecessary costs when it's right to do so, with the ultimate objective always of reducing premiums. An important element of the bill's objective is to reduce fraud and abuse, and that arises out of the recommendations of the anti-fraud task force. In that regard, the bill amends the Repair and Storage Liens Act to reduce unreasonable storage costs for vehicles damaged in motor vehicle collisions.

Equally important, the bill deals with a broken-down, ineffective, inefficient process for resolving disputes: the FSCO mediation arbitration system. That system was originally designed to provide a low-cost, effective way to resolve accident benefit disputes. It was supposed to be, frankly, an alternative to the courts—a quick and effective alternative, but that can't happen today because the system is dysfunctional.

We support the removal of the jurisdiction from the Financial Services Commission of Ontario to a new body with a new mandate: the Licence Appeal Tribunal, under the auspices of the Ministry of Attorney General. What's important here is that tribunal members would be appointed by order in council, which means there would be accountability and tenure under a fixed, renewable term. It's also important to remember—because I think there's some confusion about this—that that system would be funded by assessments against insurance companies. So there's no new cost to taxpayers—and that's found in section 282(1) of the bill.

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I'm sorry. I'm rushing because I only have a few minutes.

On prejudgment interest, all the bill does, frankly, is align prejudgment interest that's paid on pecuniary damages—that is, economic damages—which is at 1.3%,

with the rate that's paid on non-pecuniary damages for pain and suffering, which is now at 5%. The idea here, I think, is that whatever the interest rate is, it should reflect the cost of money so that the claimant receives the full value of the award that that person would have received on the day that that person filed the notice of claim. That 5% was set in 1989, when we know that interest rates were in excess of 12%. That just isn't the case today.

I know that there was some concern—and it was expressed—that if we lower the interest rate, insurance companies are simply going to take that money, save money, drag it on, save money, invest and make money. Actually there just isn't any incentive to do that. Insurers don't want claim files open. They don't make money by delaying litigation proceedings. They lose it through protracted legal proceedings that involve all kinds of legal and administrative expenses. It's almost always in the interest of insurance companies to settle merit-based claims quickly.

One last issue that I'd like to deal with is the issue of the courts. First of all, it's not required that you start two actions. You have the new tribunal process. That's quick. It gets you quick justice. That's the point of it. Frankly, I think there was an exaggerated claim about the number of claims that actually get to court. I'm not sure that OTLA is correct on that. But never mind listening to me; why don't we just listen to what Justice Cunningham said? What he said was, "I do not accept the argument that denying access to the courts would deny individuals access to justice. The ... model outlined in the interim report would provide dispute resolution services that will be more timely and cost-effective than the courts. No one suggested that parties have better outcomes respecting SABS disputes through the courts."

I know that there are some other parties who have come forward to talk a little bit about what they see as the problems with retaining any kind of court action at first instance for SABS.

I just want to conclude by saying that the public needs Bill 15. They need it passed so that regulations can be made that can revitalize a lot of the important aspects of the auto insurance system. We're asking that this committee refer the bill to the Legislature for third reading, and then it needs to be passed there.

With that, we're happy to answer any questions.

The Chair (Mr. Grant Crack): Thank you, Mr. Palumbo.

We'll start with the government: Ms. Hoggarth.

Ms. Ann Hoggarth: Good afternoon. Thank you for your presentation. I'd just like to know: Since there should be savings here, is the Insurance Bureau of Canada willing to pass those savings on to the people who pay the premiums?

Mr. Ralph Palumbo: First of all, we're the trade association for insurance companies. So if the question is whether insurance companies, if they find savings, will pass on those savings to their policyholders—premiums are based on costs. It's as simple and as difficult as that. If the cost of claims goes down, then premiums go down. It's really—

Ms. Ann Hoggarth: And you believe they will go down?

Mr. Ralph Palumbo: Once this bill is passed—and let's not forget that these aren't the only issues in the auto product business that are problematic. The government is looking at other issues as well. Once that's in place, it will take some time for those changes to get through the system to bring down those costs and allow premiums to go down.

We should also remember that, in the past year, rates have come down—obviously not for everybody. That's not going to happen, but you know that the government has committed to 15%. They're not there yet—but at least 6% over the market. If you look at individual companies, so many of them—for example, one company took a rate decrease of 14%; another one, 8%; another one, 6%. So I think it behooves everyone in the system to shop around. You will see that rates have come down—again, not for everyone, but they have.

Ms. Ann Hoggarth: Thank you very much.

The Chair (Mr. Grant Crack): Mr. Colle.

Mr. Mike Colle: Just briefly, I'm just going to ask you the same question. You represent insurance companies that operate in all provinces?

Mr. Ralph Palumbo: Yes.

Mr. Mike Colle: Have you come to any kind of conclusion on why an accident benefit claim in Ontario is so much higher than an accident benefit anywhere else in Canada—public, private, mixed?

Mr. Ralph Palumbo: Sure. I will defer to Ryan.

Mr. Ryan Stein: Speaking with insurers in the different markets and studying the data, there just seem to be more disputes in certain areas of Ontario. We believe with the way the legislation and regulations are structured, there are more loopholes in them, and there are more opportunities to take advantage of them. It's not like it has built up over the last couple of years; this is something that has been building probably since the early 1990s. It has taken that long to get to this point; whereas in the other jurisdictions, I would say the rules are clearer, and all stakeholders know, "This is the type of injury. Here's the type of benefit you get." That's not to say that there are no disputes there, but there are just less. When there are less disputes, there's less assessments, there's less legal fees—

Mr. Mike Colle: Is there less fraud in Alberta and other provinces? I know you had this national task force. Is the fraud level much higher here in Ontario, or about the same?

Mr. Ryan Stein: It's much higher, and it has historically been much higher in certain pockets of Ontario, yes, than in the other jurisdictions. There just don't seem to be those types of problems.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that.

We'll move to the official opposition. Mr. Barrett.

Mr. Toby Barrett: Thank you for the presentation. I'll keep my question short because you only had five minutes to make your deputation.

You made reference to the towing industry. In my experience, by and large, the tow truck operators and the garages are reputable, and they provide an efficient service and an honest service, certainly down my way. However, we do know about what goes on on the 401 and the QEW. It's known as the Somali coast: The pirates sit there, and they patrol. You make reference yourself in your brief to fraudulent activity, organized crime and referral to storage, repair, health care clinics and legal service providers. Obviously, that has an impact in the end on our insurance rates.

I wonder if you could just expand on that a little bit more in that context. I feel that the towing industry is being tarred with a brush because of a few of the ugly ones in the business.

Mr. Pete Karageorgos: I think part of the challenge that the towing industry has is the fact that the regulations are not there, and in those places where they are there, in certain municipalities with bylaws, they're not enforced. We've conducted a study with Ernst and Young that showed that in municipalities—specifically, when we looked at Brampton and Vaughan, which have set rates for tows, the average costs or payouts are still well above what those set rates are. The problem is there is no oversight and no protection for consumers.

Mr. Toby Barrett: The bill actually advocates disclosing rates, conflict of interest, written authorization before towing, but there's more than that in the legislation. From what I understand, it would require driver certification, training for drivers. There are penalties in here as well.

In many of the small garages, the fellow has a tow truck that sits there most of the time, and he uses it to haul his own vehicle, or maybe his son will pick up a vehicle. Any comment on that? Is that going to help insurance rates if we have to tar everybody with the same brush, and everybody has to be certified or get the training to turn the key in the tow truck?

Mr. Pete Karageorgos: From the consumers' perspective, it makes sense that you know that the individual who you're dealing with is properly trained and accountable to someone, so it may provide some comfort there.

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Overall, when you're looking at some of the practices that insurance companies have experienced with towers directing individuals to specific shops, rehab clinics and a whole host of things that seem to be beyond the scope of towing, that is one of the problems that drives up the costs that we're seeing in terms of insurance. For the small operators, just as we've identified the fact that fraud is not prevalent across the whole province—there are certain pockets—it's the same type of thing in terms of those who are reputable.

In many places, those individuals operating those tow trucks are very reputable; in other situations—and part of it is the chasing mentality. You highlighted the highways, and that's a problem that has to be fixed, because it's first-come, first-served. Everyone is racing to the scene in the hopes that they will hit the jackpot. So there needs

to be some thought given to how you fix the system overall for the safety of the motoring public, but as well in terms of the costs and to minimize the impact on people's wallets.

Mr. Toby Barrett: Maybe this—

The Chair (Mr. Grant Crack): Okay. Thank you very much. I really appreciate it.

Mr. Toby Barrett: Okay, thank you.

The Chair (Mr. Grant Crack): I wish we had more time, but I have to follow the strict agenda.

So thank you very much, Insurance Bureau of Canada, for coming forward. It's much appreciated.

Mr. Pete Karageorgos: Thank you.

AVIVA CANADA

The Chair (Mr. Grant Crack): We also have with us this afternoon Aviva Canada. Welcome. Are you alone this afternoon, Ms. Ots?

Ms. Karen Ots: I am. I am alone.

The Chair (Mr. Grant Crack): Okay. Well, thank you very much for coming. The floor is yours. You have five minutes.

Ms. Karen Ots: Thank you. I'm Karen Ots. I'm the senior vice-president of regulatory and government relations for Aviva Canada. Thank you for the opportunity to speak to you today about auto insurance and Bill 15.

Aviva Canada agrees that premiums in Ontario are too high. That was a view shared by 96% of our customers. The government of Ontario has committed to reduce rates by an average of 15% by August 2015.

In January of this year, Aviva was ordered by FSCO to take an 8% rate reduction. Our actuarial department felt that a 2% reduction was justified, but nonetheless we took the 8% reduction. However, now we need some cost reductions in order to make the 8% reduction justifiable, and also to get to the 15%. Without significant cost reductions, we simply won't get to a 15% reduction target.

Bill 15 is a step in the right direction, but we need much more. The reduction of the prejudgment interest rate will produce savings. The rest of the bill will not produce immediate savings, but it will lay the groundwork for future savings. We anticipate that today you will hear many reasons why there should be amendments to Bill 15; we urge you to pass Bill 15 as it is tabled, and then let's get on with looking for more significant reforms.

Let me address prejudgment interest for a moment. We estimate that reducing the prejudgment interest rate will generate savings that will justify a 1% premium reduction. It's been suggested that lowering the interest rate will cause insurers to delay settlements. I suppose the opposite argument can be made today—that a 5% interest rate incentivizes plaintiffs not to settle. I don't know that that's the case; I suspect it's not. I can tell you that reducing the interest rate certainly will not delay settlements on our behalf.

If you turn to the second-last page of our submission, you'll see that I've given you some stats on where we

invest our money. Aviva has close to \$860 million invested in government of Ontario and municipal bonds. These are not high-yield bonds. PJI is out of step with the current market and needs to be reduced.

In addition to PJI, however, Bill 15 will also start the transformation of the dispute resolution system by moving dispute resolution out of FSCO and to the Attorney General. Bill 15 will also start the implementation of Justice Cunningham's recommendations. When those recommendations are implemented, there will be cost savings.

It's important to put the legal disputes into perspective. I want to make it clear that neither the defence lawyers nor the plaintiff lawyers speak on behalf of Aviva Canada, or probably any of our other companion insurance companies. Legal expenses are a huge cost driver and they benefit very few people. In 2013, Aviva paid \$44 million to its own lawyers to handle claims in dispute—that means either in litigation in the court system or in dispute through the FSCO DRS system. That is less than 0.1% of all of our customers. We have 570,000 customers. Only 0.1% of customers have disputes that generate \$44 million just on our payment. That's leaving out the costs that are generated by the plaintiff—so lawyers and experts.

The legal profession will urge you to allow court access to some AB claimants. Don't do it. Exceptions add costs. We're one of the parties to the disputes. We don't mind being in two venues, because one of the venues, the FSCO DRS system, with all of its flaws right now, is still much quicker and cheaper than the Ontario court system. It costs us right now at least five times more to take a dispute through the Ontario court system than it does through the FSCO DRS system, and that differential should get even bigger once Justice Cunningham's recommendations are implemented.

Lastly, let me turn now to towing and storage: 33% of our claims costs are paid for cars—to fix cars, to tow cars, to repair them, for rentals and to store them. For our customers, this should be a really simple process: get your car fixed and get back on with your life. Often, however, the process is stressful, complicated and dragged out. In our submission we've listed a number of the common issues that we have to deal with on behalf of our customers. We've also included two emails from our customers that outline their experiences. There is no question that there are many reputable tow operators, repair shops and storage facilities, but there are also a few bad apples that are making this a really bad experience for everybody. Bill 15 will start to address these abuses and provide enhanced consumer protection. In our view, these reforms are long overdue.

In conclusion, we need Bill 15 to be passed, and then we need to get on to bigger cost reductions. Aviva has many ideas on how we can achieve cost reductions, and we'd be happy to share those with the committee. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. I appreciate it.

Ms. Karen Ots: I wasn't making eye contact with you on purpose.

The Chair (Mr. Grant Crack): We'll move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Thank you very much. Actually, I'm curious. In your last statement, you mentioned you'd be happy to share ideas with regard to cost reductions. Could you expand on that, please?

Ms. Karen Ots: Sure. There are a number of issues that we need to deal with. I think one of them has already been talked about, which is the cost of assessments. We spend a tremendous amount of time disputing what is reasonable and necessary treatment. In this day of medical science, it should be fairly clear how to treat a broken bone or how to treat a sprain or a strain. I think if we were to move the system towards more programs of care, that would take a huge amount of savings out.

If we look at trying to bring the Ontario product in line with some of the other provinces, where the other provinces have brought down costs, they've imposed some stricter timelines. For example, we pay out medical rehab benefits up to \$50,000. Currently, it's a 10-year period. In Alberta, you only get two years of med rehab benefits. In the Atlantic, it's four years. So if we were to reduce that, it brings out certainty and it also brings down costs.

Ms. Lisa M. Thompson: Thank you.

The Chair (Mr. Grant Crack): Thank you, Ms. Thompson.

We'll move to the government. Ms. Hoggarth.

Ms. Ann Hoggarth: Good afternoon. Thank you for your presentation and your graph here. I like it when there's a graph.

My concern is, if we are able to cut down on fraud and make savings, that those savings are passed on to the people who pay the premiums. I'm hoping that you will tell us whether that will happen.

Ms. Karen Ots: Absolutely. Our rates are regulated. We have to pass our rates through FSCO, our regulator. I don't want to speak for FSCO about how they look at our rates, but one of the things that they consider is the cost of the claims. That's a big driver of rates right now. The cost of claims comes down, rates should come down.

Ms. Ann Hoggarth: Should come down, not "will come down"?

Ms. Karen Ots: Well, they should.

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Ms. Ann Hoggarth: Okay. Thank you.

Ms. Karen Ots: We'd love to bring rates down. We've introduced—and I think so have a number of the other companies—different ways to try to get rates down. Usage-based insurance is one way, which tracks your insurance based on how you drive, not what the median population may do in terms of claims costs.

Ms. Ann Hoggarth: Thank you very much.

Ms. Karen Ots: You're welcome.

Mr. Mike Colle: Thank you—

The Chair (Mr. Grant Crack): Mr. Colle.

Mr. Mike Colle: You have clients in Alberta, too, and other provinces?

Ms. Karen Ots: Yes.

Mr. Mike Colle: I was just looking at the graph from the accident benefits claims cost per insured vehicle out of the insurance fraud task force report. I'm just wondering, how do you at Aviva account for this difference? The average cost benefit claim for an insured vehicle in Ontario is about \$313; in Alberta, it's \$40; in New Brunswick, \$61; \$53 in Nova Scotia; \$53 in Newfoundland; and PEI, \$35. So how can we go from 35 bucks up to \$313?

Ms. Karen Ots: We need to look at the product. The accident benefit product in Ontario is head and shoulders the richest accident benefit product that you'll find in the country, if not North America. The other jurisdictions, for example, don't have coverage for catastrophic impairment. Ontario has a fairly lucrative catastrophic impairment cover. That adds a tremendous amount of costs.

There are some other differences—

Mr. Mike Colle: Alberta doesn't have the catastrophic impairment?

Ms. Karen Ots: No. Alberta limits medical rehab expenses to \$50,000 or two years. In Ontario, it's \$50,000 or 10 years. Alberta limits income replacement benefits to two years. Ontario—it can be a lifelong income replacement.

The other jurisdictions also have a much tighter list of health care providers that can bill in the system. Ontario has a fairly expansive list.

All of those factors drive up the costs.

Mr. Mike Colle: Okay. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. You have an extra minute. If you just wanted to wrap up, I would be lenient.

Ms. Karen Ots: I was hoping that our CEO, Greg Somerville, would be here, but he got called away on some urgent business. What he would tell you is that the amount of scrutiny that Ontario auto gets from our parent company, who's UK-based—we're part of the Aviva global group. Aviva globally is the sixth-largest insurer in the world and we've been deemed too big to fail.

This file gets a tremendous amount of attention from our parent. Our parent is extremely worried about the amount of political intervention in the Ontario auto file and the current regulatory system. It's sophisticated capital that has choices on where to invest its capital, and there are many places around the world where it's a lot easier to do business than Ontario is perceived as being right now.

Mr. Mike Colle: But it is profitable in Ontario, though, isn't it?

Ms. Karen Ots: We have a COR right now of 101.

Mr. Mike Colle: What?

Ms. Karen Ots: Our combined operating ratio is 101.

Mr. Mike Colle: I'm not sure what you mean by that.

Ms. Karen Ots: Okay. That means we have more expenses than we do income. Right now, we're not profitable in Ontario auto.

Ms. Lisa M. Thompson: It's 100 to 200.

Ms. Karen Ots: You want to be under 100.

The Chair (Mr. Grant Crack): Right. Well, thank you very much, Ms. Ots. It's a pleasure having you here, sharing your views.

Ms. Karen Ots: Thanks.

THE ADVOCATES' SOCIETY

The Chair (Mr. Grant Crack): We have The Advocates' Society with us this afternoon. I believe we have Mr. Grossman with us.

Welcome, sir. You have five minutes. The floor is yours.

Mr. Eric Grossman: Thank you for the opportunity to speak before you.

The Advocates' Society represents over 5,000 lawyers throughout Ontario and the rest of Canada. Almost a third of our members practise in the area of personal injury and insurance law, representing both plaintiffs and defendants in personal injury cases. As such, the society reflects the diverse views of the personal injury bar. Today, I also represent the Canadian Defence Lawyers organization, which is the organization opposite OTLA, whom you just heard from.

While I speak as a lawyer who has acted, and continues to act, for insurers for 25 years, my comments shouldn't be viewed as representing any of my insurer clients. I understand that some are in favour of the bill as is, and some are in favour of the changes I am advocating. Despite Mr. Palumbo's comments, I don't believe that insurers speak with one voice on this issue, yet the plaintiff and defence bar do really speak with one voice today about its concerns about removing the right to bring court proceedings.

Just to take a step back, I believe, and our organization believes, that Bill 15 is generally a very good, excellent improvement on what we currently have. Its addressing of issues regarding towing, storage, fraud generally and most especially the move from FSCO to a new dispute-resolution process at the Licence Appeal Tribunal—as largely recommended by Justice Cunningham and following Justice Cunningham's overall report recommendations—are all excellent steps in the right direction to assist in combatting fraud and bringing rate reductions.

But I want to dispel one fallacy about this bill: The abolition of the right to sue, as contemplated by Bill 15, is absolute. While there is a right of appeal to court, there will be no re-hearings of cases on appeal from the LAT, so to say that the right to sue has been maintained because you can still appeal to court is simply incorrect.

Sometimes—and with respect—insurers don't realize the implications of what they seek. At its simplest, where insurers currently have and always have had the recourse to sue fraudulent claimants for repayment of ill-gotten accident payments, Bill 15 will actually remove that right. So, ironically, the fighting-fraud component of the act will perhaps inadvertently do the opposite, and insurers can't really support that.

The LAT process was created to avoid getting bogged down in a lengthy and expensive dispute over simple

items, and that is to its ultimate benefit. But I can give you a good example of how the simplified LAT system will expedite the system but may cause some problems, using the example of a simple mattress claim for someone who has a bad back from an MVA.

We have a system which provides in excess of \$2.5 million in benefits to every accident victim who has a serious injury, a catastrophic injury. That big dollar amount can't be ignored, even in the \$800 mattress claim. What if the disposition of the mattress claim comes down to causation? What if the evidence is that there was no damage to either car in the impact, that it was caused by a slipped clutch in stop-and-go traffic and that, at the time, the claimant was being driven to hospital for a previously scheduled back fusion?

A finding that the mattress is or isn't payable in a perfunctory LAT hearing will have broad implications to both the insurer and the claimant on a host of other claims. It will also have broad implications to someone who is not even a party to the LAT proceeding: the driver of the car that hits him.

So a simple decision on the mattress will impact the way causation is dealt with in the tort claim. If causation is found to exist, the tort defendant will say that he didn't take part in the LAT proceeding, and the decision isn't binding on him, and he would be right.

If causation is found not to exist, the claimant will say that despite that finding, causation is still live with the tort claim, and he too would be right, so the causation claim would need to be re-litigated in the tort case, and the same witnesses would be called. A system where the exact same issues would need to be re-litigated in different places at different times can't create efficiencies leading to reduced rates.

A point that needs to be made is that a dollar saved in accident benefits often doesn't actually get saved ultimately, since it gets added to the tort claim. So if the mattress isn't allowed in the accident benefits claim, that doesn't mean that the same mattress—or attendant care, or income relief—isn't going to be advanced as part of the tort claim. On that basis, I don't understand how having the proceedings run separately makes any sense or creates any savings.

I expect that Justice Cunningham, in his current role as a mediator for hire, would agree that the presence of tort and accident benefit insurers under one roof is the best recipe for a successful and fair settlement of both claims. Yet the walling-off of one system from the other by the barring of lawsuits for accident benefits means that the issues aren't joined and the insurers aren't together.

Interruption.

The Chair (Mr. Grant Crack): That was right on, sir. If you want to make a wrap-up comment, that would be fine.

Mr. Eric Grossman: Thank you.

The expense of the two systems isn't even fully understood, because the overlap of these claims alluded to above somehow finds a way to magically and mysteriously disappear when one insurer settles one component

of the case, and the other insurer is left holding the bag on the rest. Whether the torts settle first or the accident benefits settle first, the overlap in credits disappears. The costs to the industry when one is dealt with separate from the other are enormous and unmeasured.

As a lawyer on the streets dealing with these cases day in and day out, I appreciate and understand how much more significant the loss of that coalescence of the two together really is.

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The Chair (Mr. Grant Crack): Thank you very much.

We'll move to the government side, and we'll start with Mr. Ballard.

Mr. Chris Ballard: Thank you very much, Mr. Chair.

I believe I heard you not speak in favour of a change to prejudgment interest?

Mr. Eric Grossman: I haven't addressed prejudgment interest because in my capacity dealing with the Advocates' Society, acting for both plaintiff and defence, that is an issue where there isn't a commonality of interest.

Mr. Chris Ballard: Okay. I guess my question—you can answer in more of a general way. Prejudgment interest is added on top of the pain and suffering damages calculated by the court to reflect the time value of money, so I'm struggling with the issue of 5% versus the Bank of Canada rate, a fluctuating rate. I'm struggling with that.

Mr. Eric Grossman: I can speak to it historically, which may give you the basis for the change. The 5% was implemented when interest rates were historically at a high of 18% and 20%, and so there was some view—and by the time the implementation was made, rates were already coming down and I believe they were somewhere around 8% or 9%. We didn't know—no one knew—that they were going to come down as low as they have. The goal was to not create as much pull on premiums as the 10%, 12%, 15% and 20% was doing to insurers at the time.

I understand why there's now a re-linking to the bank rate so as to create some more semblance of reality in what the actual cost of money is. Arguably, if and when rates go back up, they will not be capped at 5% any longer, so there is a give-back from that perspective.

Mr. Chris Ballard: Okay. Thank you.

The Chair (Mr. Grant Crack): Mr. Colle.

Mr. Mike Colle: Mr. Grossman, there are a lot of complex things you related, but the one thing I want to get clear is about the right to sue. How does it work right now, in terms of the right to sue? The insurance company can sue the person who maybe filed a fraudulent claim and the claimant can also sue the insurance company as it stands right now; right?

Mr. Eric Grossman: Correct.

Mr. Mike Colle: How is it going to change with this legislation?

Mr. Eric Grossman: Well, this legislation will remove any right of action for anything relating to accident benefits, either entitlement or quantum.

Mr. Mike Colle: You can't go to Divisional Court.

Mr. Eric Grossman: You can't go to any court.

Mr. Mike Colle: Any court. So that's removed as of this legislation?

Mr. Eric Grossman: Yes.

Mr. Mike Colle: But you can still go through the dispute mechanisms that are being established here through FSCO?

Mr. Eric Grossman: Through the Licence Appeal Tribunal, yes.

Mr. Mike Colle: Yes. Okay.

Mr. Eric Grossman: What it removes is the link between the two disputes. What I've tried to make you appreciate—and I don't know if I've succeeded—is there's a tension on the rope. If it's going to get pulled in one way, then the other way can't be pulled as well. The tort and the accident benefits are inextricably linked. What you're really doing with this legislation is removing that link.

The best example I can give you is in a real-life case where we're acting for a tort defendant who has a \$1-million policy limit. That policy limit is in jeopardy because the claims of the injured person are in excess of that. With the accident benefit in tow, they can combine the two and the accident benefits will help increase the limits effectively because the payments made in the accident benefits will reduce the overall claim of the tort.

With the LAT proceeding being expedited as quickly as it's intended to do, accident benefit carriers will end up resolving their cases potentially much quicker and they won't be there to help insulate the tort. Now individuals who have policy limits of \$1 million may be exposed to over-limits claims and invariably the overall system payment will be higher because the two insurers won't be working in tandem to give proper compensation to a plaintiff. There will likely be overlap between the two.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that.

We'll move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Thanks very much. We'll continue to focus on the dispute resolution. I'm just wondering: Would you agree or not, moving the administrative costs from FSCO over to the Attorney General is essentially a shell game? There's really no overall reduction of costs.

Mr. Eric Grossman: I don't think I can agree with that proposition. I think that the FSCO system was not an efficient one, and certainly by ridding ourselves of mediation entirely, there will be huge savings to be had. You're going to have a much more expedited system, which will be of benefit, and I advocate in favour of the change. I just think that it's going too far by removing completely the right to sue as an option in certain limited, conscribed circumstances.

Let's remember that when I'm connecting these things to the tort, not everyone has a tort claim. You have to have a serious and permanent injury and you have to not be at fault for the accident. So that, by definition,

removes a large component—probably two thirds to three quarters if not more—of the people who are injured in accidents.

Ms. Lisa M. Thompson: Okay. And then one last thing?

The Chair (Mr. Grant Crack): Absolutely. Go ahead.

Ms. Lisa M. Thompson: Okay. Thanks, Chair.

This bill doesn't address the issue of why so many cases are going to dispute in the first place. We've recommended using existing medical assessment guidelines with independent third parties. How do you feel about that?

Mr. Eric Grossman: Well, we used to do that. It was called a DAC system. Before the DAC system, there was a medical advisory review panel that was almost never used. There aren't very many people in this room who will actually remember that.

At the end of the day, the perception is that there's no one who is truly independent as a third party. Everyone has a bias of some sort, and how that bias plays out is always the challenge. Certainly this competing expert approach is not efficient, and we struggle to find better ways.

The Chair (Mr. Grant Crack): Thank you very much.

Mr. Singh, would you be interested in asking any questions to Mr. Grossman from The Advocates' Society?

Mr. Jagmeet Singh: No, thank you.

The Chair (Mr. Grant Crack): Thank you very much.

I could give you an extra 30 seconds to wrap up, if you'd like.

Mr. Eric Grossman: Thank you. Just the two quick points I wanted to make that I didn't get a chance to: One is that bad faith claims are also a huge problem with this new construct, because insurers who are sued in bad faith will now have an underlying decision from the LAT that—their hands are tied by it. It will be used in a new proceeding brought before a judge who won't have heard all of the evidence that led to the adverse finding in the first place. The judge may not agree with that finding, and it's problematic. So we think that that was not well conceived and needs to be excluded.

Lastly, on the current system, 97% of the cases that are in dispute resolve before you have a decision. That leaves 3% that we're fighting about, or that are being fought through to hearing.

I caution you to not get caught up in that number, because with the LAT that Justice Cunningham proposes, it will be expedited to the point where many more cases will necessarily be heard. There won't be a time. There won't be adjournments. There won't be delays. It will be expedited, so you'll have many more hearings. Many more hearings mean more legal fees. More hearings lead to more decisions, some of which—well, all of which—will make 50% of the litigants unhappy. So if you can

have a compromise, you will have better results and likely savings.

The Chair (Mr. Grant Crack): Thank you very much for your insight—we really appreciate it—and thanks for coming this afternoon.

FAIR, ASSOCIATION OF VICTIMS
FOR ACCIDENT INSURANCE REFORM

The Chair (Mr. Grant Crack): We have with us FAIR, the Association of Victims for Accident Insurance Reform. I believe we have the board chair, the vice-chair and the board member. I will allow you to introduce yourselves. Welcome to the committee.

Interjections.

The Chair (Mr. Grant Crack): Welcome. Thank you, and the floor is yours.

Ms. Rhona DesRoches: Okay. Good afternoon. My name is Rhona DesRoches and I am the board chair of FAIR, Association of Victims for Accident Insurance Reform. We are a not-for-profit, and our members are accident victims and their supporters.

I am here with Tammy Kirkwood, our vice-chair, and Pamela Scarborough, a FAIR board member, both of whom can speak to the MVA experience.

Our members want to know why our legislators, you, are enabling insurance companies who are addicted to charging Ontarians the highest premiums in the country and offering the poorest coverage. You should be asking, “Why do we have such a high rate of disputed claims?” and “Why isn’t the system working?” Why is slashing benefits called “fighting fraud”? Why are you, our elected MPPs, willing to reduce the one penalty, which is the prejudgment interest, that in some way holds insurers accountable? It will encourage insurers to deny even more claims, and it will make things worse while insurers get rich investing money that should go to accident victims.

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Insurers will continue to spend more money on the bogus IMEs, or medical examinations, and their lawyers to delay and deny claims than they do to pay out to accident victims. There will be even more unpaid claims in the system waiting for hearings.

We hope that you will take the time to consider what these changes in Bill 15 will do to accident victims. It will deny access to our courts and will make insurers even less accountable, and it will punish victims.

I want to pass the floor to Ms. Kirkwood now.

Ms. Tammy Kirkwood: Hello, I am Tammy Kirkwood. I am the vice-chair of FAIR Association. I was in a car accident in 2008. I had access to more benefits than people do today. I was very seriously injured. I expected that the premiums I had paid for many years would be available to me. I was lucky that my insurer did the right thing. Others are not so fortunate.

Victims see Bill 15 not as a fraud-fighting measure but as a template for again reducing benefits paid to injured

drivers. You’re using legislation to increase the profits of the insurance industry by ignoring the needs of victims.

Survivors are forced to access the already overburdened social services system that this government has made cuts to. As a government employee who worked for Ontario’s community and social services and corrections, I am very aware of what effect these stresses have on our system. The taxpayer essentially foots the bill while the insurance companies make the large profits on the backs of us.

It’s time to stop taking actions that have made Ontario’s accident victims third-class citizens—please—and in the bargain allowed Ontario’s insurers to walk away from their responsibilities by downloading their costs to us, the taxpayers.

Ensuring that Ontario has a working insurance system that provides good coverage and an honest system of justice for accident victims is the responsibility of the government. There is also a responsibility that accident victims are not harmed in the process.

In Canada, bullying is abusive and harmful, yet insurers are ultimately bullying legitimate survivors of MVAs by delaying and denying their claims with endless medical assessments.

Why is our government making decisions without adequate consultation with all? The government should have the best interests and the well-being of the people who actually put them in their political seats.

I’m going to pass the floor now to Ms. Scarborough.

Ms. Pamela Scarborough: Hi, I’m Pamela. In 2008, my husband, Michael, was in an automobile accident. There are three things I want from my insurance company.

Firstly, I want adjusters, assessors and doctors who are certified, unbiased, informed and competent. I’m going to give you an example. Michael requested from the insurance company a shower seat and grab bars. He was denied this. He had to wait three weeks for a 90-minute assessment before he was given these items. The assessment cost more than the actual items. This kind of denial happened more often than not in Michael’s recovery.

The extreme was, Michael needed a scooter because he wasn’t mobile. They gave him a scooter that didn’t support his back, so he was sent to a couple of doctors and a couple of assessors, and he got another scooter that supported his back. One would have thought that the adjuster, the assessor and the doctor should have known the complications of Michael’s injury and ordered the correct scooter up front.

Secondly, I want my insurance company to be accountable. Michael’s injuries consisted of three fractures of the spine, the T5, the T4 and the T12. Through the course of Michael’s recovery, he saw 52 different doctors and assessors, only five of which we initiated. Each one was given a copy of Michael’s X-rays so that they could see the fractures in his back. All but one of these doctors agreed that Michael would never be able to work again and would have limited ability to walk, stand or sit. My question is, why would we have to see 42

doctors to find out that he wouldn't be able to work again? It's ridiculous.

The Chair (Mr. Grant Crack): Thank you. Can you wrap up, please? I'm sorry to cut you off.

Ms. Pamela Scarborough: Yes—no, that's cool. I can stop.

The Chair (Mr. Grant Crack): Maybe we can get another question so that we can continue.

I think we started there. Ms. Thompson, are you—

Ms. Lisa M. Thompson: No, I'm fine—

The Chair (Mr. Grant Crack): Okay. So we'll go to Mr. Singh.

Mr. Jagmeet Singh: You can take my time to continue what you were going to say.

Ms. Lisa M. Thompson: Yes, that's what I said.

Ms. Pamela Scarborough: Oh. All I was going to say was that thirdly, I want my insurance rates to be judged on my driving and not where I live. When I ask for quotes, depending on my Toronto address, the amount of insurance can be as much as \$500 difference.

Mr. Jagmeet Singh: How much time do I have?

The Chair (Mr. Grant Crack): You have three minutes.

Mr. Jagmeet Singh: Okay, sure. You indicated before that Ontario is the province where you pay the highest premiums for the lowest coverage. Explain what you mean by the lowest coverage.

Ms. Rhona DesRoches: Well, with the amount of injury classification, and 80% or more of claims being capped at that \$3,500, less the cost of assessments, it's really \$2,000. It may be fine that it may cover a lot of those expenses for a lot of people, but we're not cookie cutters; we're not all the same. That sort of legislation strives to put us all into the same box.

So we do have very low coverage and we are paying way too much for what we're getting, because what you get for your money is a roll of the dice if you get hurt. You've got a 50-50 chance of collecting what you paid for, and that doesn't strike me as correct.

Mr. Jagmeet Singh: And in terms of your organization, what is the experience of folks who are injured in a motor vehicle accident in terms of their ability to get coverage, their ability to get payments from insurance companies when they file for certain treatment programs? What has been their experience in terms of getting that coverage?

Ms. Rhona DesRoches: Well, I think there's a problem with the forms. There are too many forms. They're too difficult. You pretty much have to have a lawyer. One of the things that drove home what's wrong with this is that we were contacted yesterday by a person who was injured in 1996, so we're talking 18 years ago, and that lady wasn't able to find a copy of the legislation that applied to the time of her accident.

What we have in the system are a lot of really old cases, up to 20 years old, that have never been settled with. There has been no accommodation for these people. You can't find that. I spent a lot of time looking for that lady. I thought I should be able to find it; I couldn't.

There have been so many amendments since this first came out—you know, it started with Bill 164; it keeps going through Bill 59—all of these things. When I was coming today I thought, "I'd better print that out. Someone is going to ask me something hard."

If you get in a car accident today, what you'll be passed is 60 pages of legalese, and no matter how many times I've read it, I don't understand it. It's clear that even the legal profession has some difficulty. It's constantly changing, and it's changing because of what you do here.

It's one thing for the insurer to ask for changes; they're always looking to make money. We expect that. But we don't expect that you just give it to them each and every time. In this instance, we're going to have something new at the end of this.

Mr. Jagmeet Singh: And can I ask you another quick question? What's your perspective on behalf of FAIR with regards to not allowing a claim to be brought in court for—I already see your heads nodding, but what's your response to that, then?

Ms. Rhona DesRoches: I think it's grossly unfair. I think that you've made us—we're already third-class citizens. The physician assessors who see us don't have to treat us the same way as they would another ordinary citizen who fell in their kitchen. I think this again puts us in a different slot: We can't sue, but everybody else can. It's disrespectful, it's unfair, and it lets insurers off the hook.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that. We'll move to the government side: Ms. Hoggarth.

Ms. Ann Hoggarth: Good afternoon. I can tell you're very passionate about this and I understand.

A previous presenter said that one of the reasons our costs seem to be higher is because we have more benefits. For instance, Alberta does not cover catastrophic impairment and has a tighter list of which health care professionals you can use. Do you have any information about that? Have you looked into that?

Ms. Rhona DesRoches: I do know that Alberta has—I don't think it's called a minor injury cap, but it is \$7,500, so it's higher than our \$3,500 cap. As far as catastrophic injury is concerned, I'm sorry; I simply don't know enough to respond to that.

1410

Ms. Ann Hoggarth: Okay. And just a supplementary: The nice lady there said that she didn't understand why you pay \$500 here and a different amount somewhere else. Do you think that that's not because there is far more chance of you being in an accident in Toronto than in—

Ms. Pamela Scarborough: No, no, no. I live in the west end, and my insurance a year is \$1,300. If I lived in Forest Hill, it'd be \$729. Why?

Ms. Ann Hoggarth: Okay. I didn't understand what you were comparing.

Ms. Pamela Scarborough: Sorry. It was all in Toronto that I did this—

Ms. Ann Hoggarth: Okay. Thank you very much for your answer.

Ms. Pamela Scarborough: No problem.

The Chair (Mr. Grant Crack): Okay, thank you. Mr. Ballard? Oh, sorry. Mr. Colle?

Mr. Mike Colle: Yes; interesting. Did you say 52 assessors or 42?

Ms. Pamela Scarborough: Michael saw 52, only five of which we initiated, and then the rest were between the insurance companies.

Mr. Mike Colle: So don't you think, if we can somehow reduce the number of assessments so there isn't the constant war of assessor versus assessor, and all these lawyers involved in everything, and all these fraud artists who are holding cars hostage and charging people \$2,000 for picking up a car—if we can get rid of those costs for assessments and all of these legal battles—that we'd have more money for people like yourselves who have serious injuries or are basically incapacitated, and that they would get the help that they need, rather than all the money going to these mysterious assessors and all the middlemen and -women who profit big-time on insurance?

Ms. Tammy Kirkwood: The one thing that we have learned is that, if you were able to take the amount of money that is spent on assessors and provide the victims with the refunds and the recovery they need, you would cut down big-time on the costs. When a victim has to hire a lawyer to understand all of the legalese—

Mr. Mike Colle: Yes, too many lawyers.

Ms. Tammy Kirkwood:—whose fault is that? Is that our fault, or is that your fault, or is that the insurer?

Mr. Mike Colle: Yes, you're so right. I think it's all of our faults. We've made the system so complicated that a lot of lawyers get very wealthy on this and a lot of mysterious medical assessors get very wealthy. We tried to eliminate this group of assessors back in 2000—we called them DACs—that were making a lot of money. Maybe there were some good people in the DACs. But basically every time there's an attempt to try to get rid of the assessors—maybe what we should do is an amendment to say “only one assessment per each side,” and that's it.

Ms. Tammy Kirkwood: Kind of like the Colorado model has.

Mr. Mike Colle: The what?

Ms. Tammy Kirkwood: The Colorado model.

Mr. Mike Colle: Oh.

Ms. Tammy Kirkwood: They actually have a team of assessors, and you get to pick. The victim and the insurer get to pick. They get three choices; that's it. After that, there are no more.

Mr. Mike Colle: Yes, you save time and money.

Ms. Tammy Kirkwood: That's right.

Ms. Rhona DesRoches: That was very cost-effective for Colorado.

The Chair (Mr. Grant Crack): Okay. Well, thank you very much. I really appreciate you coming before the committee, and I wish you all the best. We're going to do the best we can in order to improve upon the insurance system that we have here in Ontario. So, thank you again. We appreciate you coming.

Ms. Rhona DesRoches: Thank you very much.

Ms. Tammy Kirkwood: Thank you.

Ms. Pamela Scarborough: Thank you.

CAA SOUTH CENTRAL ONTARIO

The Chair (Mr. Grant Crack): Next we have the CAA from south-central Ontario. I believe we have Mr. Elliott Silverstein here, manager of government relations. Welcome, Mr. Silverstein. You have five minutes to make your presentation.

Mr. Elliott Silverstein: Thank you very much, Mr. Chair and members of the committee. My name is Elliott Silverstein. I'm the manager of government relations with CAA South Central Ontario. CAA is a national not-for-profit auto club, one of Canada's largest consumer-based organizations, and has been advocating for our members since 1903. In Ontario we currently have over 2.3 million members.

Advocacy is at the origin of our existence. While there are numerous organizations appearing today, we are uniquely positioned to talk about both consumers and the roadside-assistance business, two critical elements of the discussion around Bill 15.

Today I intend to focus on portions of Bill 15 focusing on towing and the regulation of the industry. CAA has been supportive of Bill 15 and its predecessors, and the contents within the bill. My comments will highlight how, if left unedited, Bill 15 could have an adverse effect on CAA, its members and the industry at large.

CAA has actively pursued the concept of provincial regulation of towing for several years. We have long advocated to government for greater consumer protection measures and efforts to enhance training for tow truck drivers.

The current legislation, which amalgamates Bills 171 and 189, has commonalities; however, the components related to towing extend far beyond auto insurance and fraud. CAA is concerned that the long-standing attempts to regulate towing are being integrated with the immediate efforts to address issues around auto insurance, and causes towing regulation to potentially be lost in the shuffle.

Around CVOR, through Bill 15, the current exemption for tow trucks would be lifted. While the removal of CVOR's exemption for tow trucks would enable greater enforcement of tow trucks to address safety, a straight removal of the exemption could have the opposite effect on the industry.

CVOR, by its nature, is designed for commercial trucking operations. Tow trucks provide a vastly different service. They are not hauling commercial goods; rather they are transporting vehicles and often motorists from a breakdown or a collision. Comparing tow trucks and tow operators to commercial trucking and commercial truck drivers does not recognize the type of service that tow trucks provide motorists across Ontario, through all weather conditions, every day of the year.

Having tow trucks subject to CVOR's hours of work requirement would drastically and negatively change

how the towing industry functions. Unlike trucking, there are often significant gaps of time between calls for a tow operator. By following CVOR requirements in full, tow truck operators would not be able to provide the same levels of service they currently do for Ontario motorists. Furthermore, the hours of service would not curb any issues connected to chasing or tow operators who are engaged in fraudulent activities. The impact of CVOR's hours of service requirements being imposed on law-abiding tow operators would be significant.

At CAA, we respond to over one million calls annually. Should CVOR be instituted, it would impact all towing operators, and counter the consumer protection efforts of the bill by drastically increasing wait times when motorists are most in need.

Bill 15 also references the establishment of qualifications for tow and storage providers. Again, this is a component that CAA is strongly supportive of, and an area that we have been engaged in for many years. For training, CAA takes pride in our training standards for our network of towing providers, and through other areas of our network, like beginning driver education. It is imperative that organizations that have a rich history in training and training standards are able to help develop and implement any curriculum or program for towing operators.

CAA has also participated in the towing and storage advisory panel that took place earlier this year. Currently, a handful of municipalities have some form of towing by-law, where processes and in some cases rates are regulated. Through Bill 15 and the intention for greater training for the industry, we believe that a provincial licence would address the issues and require tow operators to be compliant with one set of rules across Ontario.

For consumers and towing operators alike, if Bill 15 is intended to address issues of fraud and promote consumer protection, enabling an environment of inconsistent towing regulations in select markets is counterproductive to the overall discussion.

Many tow operators possess licences in many municipalities right now. Requiring tow operators to hold multiple licences, and potentially a provincial licence as well is not only punitive, but could create a two-tiered system that would add greater confusion to the system we have today.

While CAA recognizes that the provincial government does not regulate rates, this subject requires further discussion, as a scenario where the industry pays licence fees at the province and potentially at a growing number of municipalities where they provide service—we feel that having a two-tiered system is not the solution to the problems we face today.

CAA supports the contents and intentions of Bill 15. We believe that a simple amendment to provide a partial exemption to towing operators within CVOR—the removal of the hours of service requirement—is necessary to ensure the vitality of the towing industry. This amendment would have no financial impact on the intentions of

the bill, but would prevent unintentional consequences of what Bill 15 sets out to do.

CAA also believes that a provincial licence, potentially administered or managed by municipalities, is a strong option to consider to address issues of fraud, as it provides a seamless process and system across Ontario regardless of the market size for training, safety and compliance. An environment that enables a two-tiered system, or a continuation of the current ad hoc system of municipal licencing, could have a long-term negative effect on the industry.

The regulation of the towing industry has been immersed within the efforts to reduce auto insurance rates. However, if these and other issues are not carefully examined, the intentions of Bill 15 could inadvertently impact an industry that is already struggling to address a number of challenges. As an auto club and an advocate for motorists, we look forward to future conversations to help advocate on issues affecting the towing industry.

Thank you.

The Chair (Mr. Grant Crack): Thank you very much, sir. That was a lot to get through in just over five minutes.

Mr. Elliott Silverstein: I tried.

The Chair (Mr. Grant Crack): Thank you very much. So I guess we'll go back into a rotation. We'll start with Mr. Ballard from the government side.

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Mr. Chris Ballard: I think I understand. You touched on it briefly in terms of municipal regulation, but from your perspective, what's the impact on an organization that tows across the province? What's the impact of municipal regulations on costs?

Mr. Elliott Silverstein: There are two parts to it. The first part is that when you have the municipal licensing, CAA, much like any other organization, would have to have licences in each municipality in which they operate. Each truck would have to be licensed in each area. Having up to 444 licences across all 444 municipalities could become costly, as well as the fact that the processes, the requirements and the standards vary from municipality to municipality. Having a driver have to understand, when they cross the street to a particular jurisdiction, what the rules are there versus the other side of the street, is overly complicated when all the consumer wants is to be taken to a final destination that they have, to be home and safe.

For us, it's trying to simplify the process and keep costs down so it doesn't become overly expensive for anybody, because the whole discussion on auto insurance is trying to keep rates down. With this situation, there's a potential for costs to increase, which wouldn't benefit anybody in the end, either.

Mr. Chris Ballard: In your discussions with municipalities—I think there are 17 right now that currently license—is there any sense if any of those are interested in backing out of licensing if we move ahead with Bill 15 as it stands?

Mr. Elliott Silverstein: I think you have a situation where some would say yes and some would say no. I

think it really depends on the size of the jurisdiction and the success of what they're doing. I think it's also the perception of how they feel that their program is working.

The reality is that we're looking at it from the position of both the consumer and the operator. From the consumer, whether they have an accident in one municipality versus another shouldn't matter to them. At the end of the day for the operators, it should also be the ability to do their business seamlessly so that if we're looking at it from a regional perspective or from a provincial perspective—there are various ways to look at it. But having up to 10 or 12 municipal licences in the GTA, depending on where you work, could become punitive because it ends up being \$3,000 or \$4,000 or \$5,000 before they even set foot one day into work.

Mr. Chris Ballard: Thank you.

The Chair (Mr. Grant Crack): One minute, Mr. Colle.

Mr. Mike Colle: Just briefly, you're recommending, therefore, that there be a provincial licence that would be obtained at the local municipality, and they would issue it.

Mr. Elliott Silverstein: It's something to consider because having a provincial licence, which would create the standards and the safety training and all the requirements that CVOR would actually require to have certain criteria—it's not done ad hoc by municipalities, but there is some standardization. Having it potentially implemented through the municipalities could keep that relationship together—

Mr. Mike Colle: Sorry to interrupt, but then the other thing is, the key point you're making is that tow truck drivers should be exempt from the CVOR.

Mr. Elliott Silverstein: We're saying that there should be an exemption from a portion of the CVOR, not the entire CVOR.

Mr. Mike Colle: Not the entire—

Mr. Elliott Silverstein: Right.

Mr. Mike Colle: —but in terms of hours of operations.

Mr. Elliott Silverstein: Correct.

Mr. Mike Colle: That's the most significant part.

Mr. Elliott Silverstein: Right. We understand the intentions of putting CVOR into the towing area. We actually understand about safety for motorists and for drivers themselves.

Mr. Mike Colle: But the hours of operation don't make sense for tow truck realities.

Mr. Elliott Silverstein: The reality is that if you were to implement the hours of service, it would reduce the ability to get to a destination on time.

Mr. Mike Colle: Because they're sitting around waiting.

Mr. Elliott Silverstein: Absolutely, and the cost could potentially increase, and the service to members would be down. It has a trickle-down effect that really doesn't benefit anybody involved in those situations.

Mr. Mike Colle: Thank you.

The Chair (Mr. Grant Crack): Ms. Thompson.

Ms. Lisa M. Thompson: Thank you for being here. I know you've had a busy day. I was going to touch on the CVOR as well. Just so you know, in my past life I was general manager of an agricultural co-operative in which I grew a transportation division, so I'm very familiar with CVOR. What hit me was the removal of hours of service. My question for you is, do tow truck operators already have a logbook? On average, how many hours do they log a day?

Mr. Elliott Silverstein: I think it's really tough to say because of the nature of the business and the type of operation they are. If they're a large organization or a one- or two-truck operation, I think it really varies.

The challenge is in the nature of towing. You could have days where it's high volume, like a snowstorm, or you could have days where you could get a call at 8:30 in the morning and not get another call until 3 in the afternoon. But the hours of service could impact that, and you couldn't do that second call, potentially, because of the hours that you're technically on the job. We're looking at it from a different perspective from commercial trucking, understanding what goes into that and how they're driving for a considerable number of hours—very different. Towing does not have that same type of model.

We understand the CVOR and what the benefits can be; however, this is the one particular area where we say that that could be doing more harm than good.

Ms. Lisa M. Thompson: Okay, and then just my supplemental here: You mentioned that removing the amendment would have no financial impact. Conversely, what would be the financial impact of this particular piece on tow truck operators?

Mr. Elliott Silverstein: Hypothetically, it could be a situation that if you have less trucks available to go to provide service, they could be requiring to charge more for the fact that they're going to need to hire more employees, more trucks to have those types of effects, which eventually would be trickling down to the consumer.

There's no specific number that I can tell you, but just from looking at it from a perspective of how would it impact, in terms of the hours of working, one could imagine that wait times would be longer, people will be stuck in the cold for longer, and it would be very hard to try to find the service support to get this industry up and running.

Ms. Lisa M. Thompson: Okay. Thanks very much. We appreciate it.

The Chair (Mr. Grant Crack): Thank you.

Mr. Singh.

Mr. Jagmeet Singh: Thank you very much.

I just want to walk you through what your suggestion was. Right now, the way the system currently works, there are a number of municipalities, and each of the municipalities has a separate standard that they apply for a tow truck operator to become licensed. For example, if you're on the 400 or 401—any 400 series—and you're being towed from one location to another, you might pass

through a number of municipalities on the way. So for someone to be legally able to do that, they would actually have to carry a number of licences. Am I understanding you correctly so far?

Mr. Elliott Silverstein: Correct. For example, if there was an organization that was holding licences in Toronto, or wanted to get from Toronto to do service in Toronto, Mississauga, Brampton and Vaughan, you'd have to have four particular licences, which the operators choose to participate in, but that would also—it's costly; it's an annual renewal. At the same time, if we're looking at adding in more municipalities through Bill 15, there's the potential that other jurisdictions in the GTA could do exactly the same—which is, if you're already providing service in unregulated areas, it's going to be more costly at the beginning of every year.

Mr. Jagmeet Singh: Right. One of your suggestions, which I think actually has a lot of merit, is a standardized licensing process, which is something that could be implemented province-wide. That would create less guesswork in terms of what are the criteria to be licensed in one jurisdiction versus another. There would be some control over it in terms of making sure there's a high level of quality across the entire province. Then the mechanism to distribute that—one of the ones you suggested was to have it perhaps licensed through the municipality still, but be a provincial standard. Is that one of your suggestions?

Mr. Elliott Silverstein: It is something to consider. I mean, given the fact that I think there is an appetite from some municipalities to stay involved in the process, and for them to want to have operators that are meeting their standards in those particular communities, I think it's a way to try to find a bit of a bridge in this discussion.

I don't think we necessarily have all the answers, but I certainly wanted to bring some ideas to bear, because not doing anything would be much worse than what we're looking at.

Mr. Jagmeet Singh: Okay. Your comments have been focused essentially on the towing side. For today, that's the extent of your—

Mr. Elliott Silverstein: We've been supportive of the auto insurance process. CAA has an insurance arm, and we've been working towards a 15% reduction.

I came today more on the towing issues because I think they were more salient for today's discussion, but certainly we have been supportive of the 15% and are working towards that as an organization.

Mr. Jagmeet Singh: Wonderful, good to hear. And that's something that's doable, that your organization sees as feasible?

Mr. Elliott Silverstein: From our organization's perspective, through items like telematics, we certainly believe that we can do that and have been working towards it thus far.

Mr. Jagmeet Singh: Okay. Just on the CVOR, that's your only major—if you could spell out your exemption. Would you be able to also provide us with maybe a template of what your exemption would look like?

Mr. Elliott Silverstein: I could be able to provide that. Just to give a bit of a summary of it, right now, if we were to take out the portion—or to not require a tow truck to be subject to hours of service, that would allow them to continue providing the level of service that they provide today, while also being compliant in requiring to go through other processes that are found through CVOR for safety purposes.

Mr. Jagmeet Singh: Okay. Is there any advantage to the current system having multiple licences in multiple jurisdictions or municipalities?

Mr. Elliott Silverstein: It's tough to say, because certainly it prohibits some towing companies from working in different markets. Some are choosing to work in smaller areas. But for groups that are working multiple jurisdictions, it is an additional cost. So I think it depends on the business model that a particular company is working from.

Hopefully, in an ideal world, it should be a revenue-neutral situation for municipalities. There shouldn't be a profit from these licences. But we certainly want to try to make sure that whatever does happen and what is happening now should be seamless for the consumer so that they're able to get to their home safely after being involved in a collision or a breakdown.

The Chair (Mr. Grant Crack): Thank you very much, sir, for coming forward. We appreciate your input.

Thank you to all the members for their questions and comments.

NORTH AMERICAN AUTO ACCIDENT PICTURES, TOWING DIVISION

The Chair (Mr. Grant Crack): We shall move to North American Auto Accident Pictures, Towing Division, NAAAPTD. We have Mr. Marinos, who is a director, with us today. We welcome you, sir. You have five minutes. Welcome again.

Mr. Aris Marinos: Good afternoon.

The Chair (Mr. Grant Crack): Good afternoon.
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Mr. Aris Marinos: I am one of the directors of NAAAPTD. We're an association mostly of independent tow operators, and run our association on a volunteer basis. We currently have over 1,000 members in Ontario. Our members sign a contract and agree to a set of rules and regulations, including tow rates and storage rates. We self-regulate our members with 100% success, which in turn stops fraud. We will also try to help in situations with towers who are not members. We also have a picture program that will assist in fraud and help resolve issues arising from accident scenes.

In 1992 we introduced a system—first-come, first-available—which is used all over Ontario now. This gives a response time of zero to five minutes on scene. This system saves about \$30,000 a minute per lane in rush hour and saves lives on secondary accidents.

In June 2005 we were given letters of protocol from the OPP to break bylaws covering tow trucks in the

greater Toronto area so traffic can move freely. This system keeps streets and major arteries of Ontario moving at their peak.

Our association feels that we are being used as political pawns to help the government achieve its agenda on reduction of insurance rates.

In 2009 and 2010, the government allowed the insurance companies to increase rates up to 18% in some areas and allowed reduction in coverages to their policies. This in turn allowed the insurance companies to save millions of dollars, without any relief to the policyholders of Ontario.

Today we are lucky to have a 10% reduction in rates, which still doesn't bring us back to 2009 rates, where we started, but gives us a watered-down policy to look forward to in case of an accident.

Earlier this year I participated in the towing and storage advisory meetings that were supposed to set the scope of Bill 15 before us. The professional opinions of the towers present at these meetings were not considered at all, which makes me believe it was just a smokescreen and we were there to fill in space. We were made to believe that the CVOR was not to be utilized—for it had a lot of problems in making it work for towers and there aren't enough tow operators to make changes to the CVOR program.

Tow operators do a lot of short tows, with a lot of time in between. There are no scheduled calls, so it's all emergency towing, which will not leave enough time off consistently or consecutively to satisfy the requirements of the program.

Bill 15 makes suggestions to amend the notice time a storage facility has in reporting vehicle impoundment. This will not make much difference for the owners of vehicles that have any significant value. All owners who call looking for their vehicles will notify their insurance companies if they are involved in an accident, which do not leave vehicles around to accumulate storage fees. If they do accumulate fees, the insurance places the funds in the courts.

If they don't report to their insurance company, then they are in default of their policies. Why should this be the responsibility of the storage facilities? Will the government compensate the compounds for the abandoned vehicles? Almost all the vehicles left behind are not worth the tow bill, never mind the fees that are required to dispose of them.

We agree that there are tow operators with no ethics, and that's why we have our members sign contracts that we can use against them if something arises. Our members work in all elements of weather and are given no credit for the good they do. We are already working for rates that workers in sweatshops get in Bangladesh, thanks to the abuse of the legal system by the insurance companies.

This bill needs more dialogue from the tow operators, who are the main players, so it can be fair to the towing industry and have transparency for the consumer. The last meetings were just a waste of taxpayers' money to KPMG. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, sir.

We will start with the official opposition: Ms. Thompson.

Ms. Lisa M. Thompson: Thank you, Chair.

Thanks for being here today. I'm interested in the picture program you described at the outset. You mentioned that you also have a picture program that will assist in fraud. Can you describe that program for me?

Mr. Aris Marinos: What we had originally—this was set back about 10 years ago. We had a program where tow operators, who would probably be the first responders there before everybody got there, take pictures of everything around them—accidents, the position the cars were in, and who was involved; if they could get pictures of somebody in the car and everything—and we would upload it into a system and make it available to anybody that needed it. So if the insurance companies were fighting, or a discrepancy—how many people were in a car, or whoever was this or whoever was driving, which does arise; I've seen people switch drivers over my career—it was all there, it was all there.

We tried to present this to the insurance companies and the government years ago. This will stop all the fraud. It'll stop all the headaches and people saying that there was only one person in the car and then five of his cousins showed up or whatever and they all claim medical injuries and all that stuff. This was a good idea. We still have it available to us. We haven't utilized it fully and we're trying to. It is still currently available, ma'am.

Ms. Lisa M. Thompson: Okay. Thank you for that.

Then you talked about the consultations being a smokescreen. How many advisory meetings were scheduled? Do you recall?

Mr. Aris Marinos: It was four days of meetings and they were already pre-set. Our input there was just a waste of time. KPMG had an agenda to do already, and I bet you they had printed that report before we even finished.

Ms. Lisa M. Thompson: That's a shame.

Mr. Aris Marinos: Well, it's a shame to the taxpayers who paid for it.

Ms. Lisa M. Thompson: Absolutely. Are you willing to share the information that you took to those advisory meetings with my caucus, as well as the third party?

Mr. Aris Marinos: Absolutely, ma'am.

Ms. Lisa M. Thompson: Thank you. And your contact information is on the letter?

Mr. Aris Marinos: It's on the bottom of the sheet, ma'am. Thank you.

Ms. Lisa M. Thompson: Okay. I appreciate that very much. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. Based on the fact that we're in committee, if you could share with the entire committee—

Ms. Lisa M. Thompson: Oops. Of course.

The Chair (Mr. Grant Crack): —that would be quite appropriate, thank you very much, and thank you, as well. We'll just move on to Mr. Singh.

Mr. Jagmeet Singh: Thank you very much, sir.

We've heard a lot, and we heard previously from CAA, about the CVOR program and how it would cause some difficulty for tow truck drivers. The exemption that was talked about was to make an exemption because of the type of work and the type of hours that normally a tow truck driver has—that that wouldn't apply. Is that something that you're looking for as well?

Mr. Aris Marinos: We are also looking for that, Mr. Singh. Basically we are an emergency situation. Yes, you could be moving around all day, but the majority of the time, you're just sitting, waiting for the next call. You could be sitting for three or four hours. As I think somebody earlier mentioned, you can get a call in the morning and you might never get one until the afternoon. It depends how busy it is; right?

So this would not satisfy the CVOR requirements on successive hours of downtime. No, we're not in favour of that, but we are in favour of one provincial licence because it does cross into certain—we tow from one end to the other end, and you've got to cross about six different municipalities and six different licences with different requirements.

Now, one thing that was brought up in the advisory group—there was somebody there from the city of Toronto bylaw enforcement and they said that if the provincial plate did come in, the city would abolish their tow bylaws and go to a rate. Now, I can speak for hours about this, if you like. You're complaining about chasing, and I would like to say that the gentleman previous, before me, speaking for the CAA—I would like to say that if he's not aware of it, most CAA drivers chase. He should have another look into the way they run their business; right?

Mr. Jagmeet Singh: Thank you so much. A last question: You mentioned that thanks to the abuse of the legal system by the insurance companies, what type of—I mean, you're in the industry, you're on the ground. Do you see any sort of abuse by the insurance companies and what types?

Mr. Aris Marinos: Oh, absolutely. There's total abuse every day.

Mr. Jagmeet Singh: What is it?

Mr. Aris Marinos: If there's something they don't like, they don't pay you—and money into the court. You might wait two or three years. Or what they do is they beat you down eventually. If they don't like your tow rates: court.

I'll give you a current example: Intact. Intact will pay according to what they suggest is fair: \$125 to do a tow for the first 50 kilometres, but they will pay their own tow truck that picks it up \$200. How does that make sense; right? I have invoices of that. If you don't like it, they say, "We'll put the money in the court." Now, how many times can you go to court, sir? They will spend not \$2 to \$1 to somebody else, but they'll spend probably \$10 to \$1 to beat you down in court eventually. I'm pretty sure you'll hear that from every towing company or every person who is in this industry.

The Chair (Mr. Grant Crack): Okay. Thank you very much.

We'll move to the government, Mr. Ballard.

Mr. Chris Ballard: I think I heard you talk about impound fees and the fact that—or for tow truck drivers, the cost of removing abandoned vehicles and it not being fair to them. I don't have a problem with that, but in terms of the 60-day notification in impounds: What's your position on that?

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Mr. Aris Marinos: As I said earlier, I don't think it's our responsibility to notify anywhere. We've been directed by somebody on scene there to take the car. So whether it's the officers who are on scene—isn't it their responsibility to tell them where the vehicle is?—or whether it is the owner who was involved in an accident or an impoundment of some sort, they've got to know where their vehicle went. We weren't driving the vehicle; we were just ordered to take it, or made arrangements to take the car.

Mr. Chris Ballard: How about if an owner of a vehicle figures out where their vehicle is and they need to remove personal property from it?

Mr. Aris Marinos: I don't know how the other operations work, but we won't keep their personal property. Most of the stuff in the car isn't worth anything anyway. As I said before, vehicles that are mostly abandoned don't even cover the tow bill and our expenses to get rid of them.

Mr. Chris Ballard: I'm not disputing that with you. I was just interested in your reiteration about the 60-day tow and whose responsibility you believe it is. I think I'll leave it there now.

The Chair (Mr. Grant Crack): Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you for your presentation. I have a question; it's something you just touched on. I had an incident years ago, with my daughter and her husband having their car towed. Will this bill allow people to have their car towed to where they want it to go?

Mr. Aris Marinos: This bill has never—before that, it never stopped them. You should speak to the insurance companies about that. They won't allow you to take your car where you want it to go. They have a program set—

Ms. Ann Hoggarth: So do the police tell you where to take it?

Mr. Aris Marinos: Whoever's on scene. If you were involved in an accident and you had no other place to go, we'd take you to an impound yard. If you wanted to go to your house, we'd take it to your house, as long as we get paid for what we're doing for our job. That's all we get. We can't hold a car hostage.

There has been some bad publicity over the years, especially on the 401, I believe. Were you on the 401 when it happened?

Ms. Ann Hoggarth: I live in Barrie, and I can tell you, on the 400 and 401, I thank God that they're sitting there waiting, because it's going to happen.

Mr. Aris Marinos: There you go. Like I said before: When you need us, we're a knight in shining armour; when you don't need us, we're everything in the book. So the fact is that—

Ms. Ann Hoggarth: If it's any comfort, you're a knight in shining armour to me.

Mr. Aris Marinos: A lot of the blame in Toronto, particularly the area I work in—we are regulated, so all this nonsense that goes on in the other areas, we don't see in the city of Toronto. The 401, especially the Downsview area—that's our area. Up to about three years ago, we were all supposed to register up there—register our impound yards, our proof of insurance and everything. It was run so tight back in those days. What happened is that they let it go lax. The sergeant who was running it took a leave and then ended up retiring. So nobody's running this thing. That's where you get the complaints. This gentleman was so tough that if he caught you on the side of the shoulder, he'd charge you with careless driving. We went from having meetings once a month to every two weeks minimum. When we first started, they had a hundred complaints; when he left, they had no complaints. They let it go lax.

The Chair (Mr. Grant Crack): We'll move to the official opposition. Ms. Thompson—did you already go?

Ms. Lisa M. Thompson: I already went.

The Chair (Mr. Grant Crack): Okay, so we're done.

Thank you very much, sir. It was very informative. We appreciated you coming before the committee.

ASSOCIATED TOWERS GUILD OF ONTARIO

The Chair (Mr. Grant Crack): We have one more delegation prior to a recess. It's a great pleasure to welcome the Associated Towers Guild of Ontario. We have Mr. Rainey with us.

Welcome, sir. You have five minutes.

Mr. Steve Rainey: My name is Steve Rainey. I am the chair of the Associated Towers Guild of Ontario. We are an industry steering committee, and our mission is to establish trade certification as the baseline for the towing market. I sit before you today under the pretense of fraud, as a member of the towing industry proper—categorically accused as a co-creator of the gateway to auto insurance fraud. This was the conclusion presented by the Auto Insurance Anti-Fraud Task Force. I am here to categorically refute this pretense, and to clarify the information that led to this conclusion, so that, moving forward, Bill 15 can be amended to incorporate trade-certified tow truck operators and result in regulations that embody a voluntary code and balance the towing market naturally in the public interest. This will address the bad apples in the barrel.

This information is consistent with the Towing and Storage Advisory Group's recommendations that licensing and minimum standards be established under government's ministry in phase 1 and looks ahead to an industry-run governance model being attainable at phase 2.

The Ministry of Training, Colleges and Universities is the appropriate cornerstone for this model. Their environ-

mental scan is the tool required to lay out an accurate baseline for the towing market.

The pretense for this model is the origin of the tow truck, which was invented in 1916 by a mechanic. Now, almost 100 years later, the public can no longer rely on the credibility of mechanics and their apprentices to ensure the quality of towing services.

Current legislation fails to balance the towing market at all levels. It has the effect of deregulation, which can cause overproduction and market failure, all because it doesn't respect the true origin of the tow truck operator but rather borrows from other established pillars of legislation that don't accurately capture what a tow truck operator is or does.

Bill 15 suggests that we build a new pillar of legislation rather than simply using the laws we have. This will be very expensive. Who will pay for it? Ultimately, the consumer.

The best way to identify fraud is to have a clear and solid baseline for comparative analysis. Without a baseline, fair value is not readily discernible. It remains arbitrary, in a highly questionable light. This is where fraud hides in our economy: in the questionable light among the shadows.

In the towing market, a very large shadow is cast by the asymmetry of agencies' natural attitude towards the market. This is where I work as a tow truck operator: in the shadow of enforcement agencies, directly in that questionable light.

The tow truck operator is mission-critical to the motor vehicle collision scene. They are the fourth responder, backing up agencies in the protection of life and property every day. They have been a constant in the motor vehicle collision equation, and remain so.

Agencies, however, have made changes to their approach over the last 20 years. Police have undertaken the practice of issuing reports without actually investigating the scenes of reportable incidents. Since the accident report is the trigger for any automobile insurance event, it is clear that variations in policing, most notably the introduction of self-reporting and CRCs, have simply left the front door unattended and wide open to crime. The savings in police costs in the GTA now appear on people's insurance bills in the GTA.

The very same shadow is cast over the insurance market as the towing market: by the same agency from the same point. The tow truck operator only projects there when insurance is handed the tow bill. Not all agency tows are insurance events.

The root cause of the automobile insurance problem lies in the trigger, but towing is simply not the root factor. The towing industry is not the finance sector's to solve. So I must ask: By what right have I been summoned, along with my industry, to be sanctioned at the foot of the pillars of finance? I provide an automotive service, not a financial one. I am passed a financial instrument, a lien created and given to me in the form of an implied promise, with the consumer barely aware of me, if at all.

Estoppel suggests that an implied promise can be used as a shield but never a sword, yet I find myself at your mercy, held here by points fashioned from that very promise, held by those that it implicates, but without the support of its creator or the shield of the giver.

In fact, agencies are in touch with those they implicate with their promises and stand behind their points. They are completely absent from my fair-value considerations, so I am systematically outnumbered.

If it pleases this government, I wish to call your attention to regulating this financial instrument so that it is properly supported and not fashionable into such points. Clarity with regard to this instrument will remove the shadows of doubt from the towing market and clear up our negative apparition in the insurance market for good.

Corrective approaches, while transparent, are by nature untrue. Any true solution must respect the origin. The attitude of agencies in our markets must clearly be taken into account so we can work out how to better guard the front door of our insurance trust, together, as trusted partners. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, sir.

We shall start with Mr. Singh. You have three minutes, Mr. Singh.

Mr. Jagmeet Singh: Sure. Thank you very much.

We've heard a lot of discussion around some of the problems with the current system when it comes to tow truck driver licensing. Currently we've heard, depending on the model of the particular company, that if you're towing between a number of municipalities, you might need to carry a number of licences based in each of those municipalities. In addition, each of those municipalities might have different standards, so that a driver might have to go through certain requirements to get a licence in one and a different set of requirements in another.

One of the suggestions has been to implement perhaps a provincial standard licence that would be administered by the municipalities, but it would be a standardized licence, basically, across the province. The model you're suggesting is different from that. It's to go through the Ontario College of Trades and to use that as a model to license tow truck drivers. Can you talk about why it's better to go one way or the other? I'm open-minded; I don't really have an opinion.

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Mr. Steve Rainey: Basically, the municipalities aren't qualified to determine what my skill set is at all. They can give me a criminal record check, but that's about all they can do. Right? The municipalities aren't experts in towing. They don't educate the tower. They don't do any such things, so they really don't establish any standard for the tower.

Mr. Jagmeet Singh: That's a good point.

Mr. Steve Rainey: What they do is, they establish a business licence and control pricing, which is an economic sanction. The next thing, when the market gets too full, to control overproduction, is a quota system. It's

a top-down, enforcement-type model, and we know costs rise over time in an enforcement-type model.

What we're suggesting is that we use education as the baseline and determine the standard for the tow truck operator. But what that allows is a whole host of other regulations. It opens the door, basically, for the Ministry of Transportation.

I'm also a licensed automotive service technician. I'll use a motor vehicle inspection station system as an example. It's the entry point for cars onto our roadway. We determine if they're safe—the mechanics do, in a public-private partnership—and then the cars go on the road. But the baseline for that whole system is the trade-certified technician. There are two signatures on the certificate. My licence number goes on their certificate and then the facility. The facility has to apply to MTO. They come and make sure the facilities meet the standards, they're given a sign, and they're approved by the ministry.

Similarly, if tow truck operators were trade-certified as a subset, because we are an automotive service, then the same type of system could be applied with the Ministry of Transportation. They could essentially just mirror motor vehicle inspection stations, but instead you just call them motor vehicle impound stations.

Mr. Jagmeet Singh: Okay. Do you have any input or opinion on the CVOR requirement that was brought up?

Mr. Steve Rainey: The CVOR, absolutely. In terms of cause and effect, the reason why we're not in CVOR is because we're exempt from commercial motor vehicle status, much like an ambulance or a fire truck. It's funny: We all respond to the same scene. The only problem is that we're in the private sector; that ambulance and that fire truck are regulated to the nines.

If you create regulation then use a silhouette which is effectively exempting the tow truck, in terms of cause and effect, you have a whole host of other problems. CVOR, as far as hours of service go—because of the way the towing industry works, it's the tow truck operator that needs to be exempt from hours of service, not the truck exempt from the whole regime of safety. You want the truck to be part of CVOR. It's the tow truck operator that you need to be exempt from hours of service so that he can function properly as a tow truck operator—but only in emergency situations. You don't want to give that tow truck operator licence to use his tow truck to circumvent regulations in the trucking industry, which is kind of what you have now because you have no distinction between what a tow truck operator is and what an operator with just a G-, D- or A-class licence is.

The Chair (Mr. Grant Crack): Okay. Thank you very much—appreciate that.

We'll move to the government side. Ms. Hoggarth.

Ms. Ann Hoggarth: I take it that you think it would be a good idea if the College of Trades licensed tow truck drivers?

Mr. Steve Rainey: I don't know too much about the College of Trades. I understand it's a non-government agency that was added on to the front of the apprentice-

ship acts. My main concern is with the apprenticeship acts and the history of towing and the fact that its origin comes from the automotive trade. If the College of Trades is a factor in that, then so be it. If they guard the front doors to the College of Trades, then obviously we have to go through to the College of Trades.

Ms. Ann Hoggarth: So you don't think your members would be upset that they would have to pay to belong to the College of Trades?

Mr. Steve Rainey: Yes. People are always upset about things that sometimes happen for their own good that they don't like. Mechanics are upset because they have to pay \$120 a year now where they used to have to pay \$60. But the fact is that times are changing. If you want something for your industry, you have to invest in it. I think the College of Trades would be a good investment for the towing industry.

Ms. Ann Hoggarth: Thank you very much for your presentation.

Mr. Steve Rainey: You're welcome.

The Chair (Mr. Grant Crack): Mr. Colle.

Mr. Mike Colle: Yes, thank you, Mr. Rainey, for your very articulate and prosaic presentation. Were you an English major in school?

Mr. Steve Rainey: No. Actually, I got 23 out of the 27 required credits in high school, sir.

Mr. Mike Colle: Okay. Anyway, impressive presentation.

I'm just sort of trying to find a midpoint. The College of Trades opens up almost a whole new can of worms. On the other hand, I agree with you that we have to do something to ensure that the municipalities or whoever issues the provincial licence isn't just looking at the criminal record and saying, "Here's your licence."

Is there something maybe halfway in between where we could say, "Well, you've had so many years' experience in towing already, you've got your licensing as a mechanic etc. that you could qualify for a licence," rather than having to go back to school and qualifying? Is there sort of a halfway point?

Mr. Steve Rainey: I don't think there's a halfway point because we're talking about the barrier to entry and the barrier to exit to the industry. That's only going to happen one of two ways: Either we're going to elevate existing standards through education or the government is going to sanction us economically, which is what Bill 15 proposes to do: sanction us economically.

Mr. Mike Colle: But what about all these experienced and very good tow truck drivers and operators who exist?

Mr. Steve Rainey: Yes?

Mr. Mike Colle: You know, they're pros.

Mr. Steve Rainey: Absolutely. That's what trade certification does.

Mr. Mike Colle: So why should they go back to school?

Mr. Steve Rainey: Trade certification won't send them back to school. When I said the environmental scan was the tool to lay out the effective baseline for the towing industry—what happens is, when we do the environmental scan, they take the benefit of all that know-

ledge, all those years of experience, and they put that into a program. We're not going to send these people back to school; we're going to take what they know and we're going to put it inside a government ministry and establish a standard so that the whole industry coming up and coming forward is bound to that standard. But we have to extract that information from the industry and develop what the standard is.

Mr. Mike Colle: Yes, and if they meet the standard, they wouldn't necessarily have to go back to school, I'm saying.

Mr. Steve Rainey: Absolutely. I mean, there are a lot of people who would be grandfathered in there, right? That's part of the process with trade certification. It's not a thing where we drop the hammer and we go tell all these people—

Mr. Mike Colle: That's what I was worried about. Thanks for that clarification.

The Chair (Mr. Grant Crack): Thank you very much. We'll move to the official opposition: Ms. Thompson.

Ms. Lisa M. Thompson: Thanks very much. I have questions around the CVOR as well. Do members of your guild keep logbooks?

Mr. Steve Rainey: There's a line between trucking and towing there. What happens is we keep what's usually called a pre-trip inspection—it's what I keep—where you inspect the truck once a day. I don't keep a log, but if I travel over 160 kilometres outside of where my home base is, then I have to keep a log of my trip and what I'm doing on that trip.

Ms. Lisa M. Thompson: Okay. What's the average-hour workday for members of your guild?

Mr. Steve Rainey: It depends. Like the gentleman from CAA says, tow calls are something where we can just get loads and log miles, and log miles with our loads. It's not something we can produce and put on a shelf and stockpile. We're essentially at the mercy of the day. In rural Ontario, I may get no tow calls one day, but I have to keep myself busy doing other things during the day, so I still have to work.

If we get into hours of service, it's going to get to a point where if companies have to meet hours of service and follow them the same way that trucking companies do, drivers who log lots of hours—you're going to get into a problem where costs are going to rise because you're going to have staffing cost issues—

Ms. Lisa M. Thompson: Yes, I get that.

Mr. Steve Rainey: The whole thing is going to snowball out of control.

Ms. Lisa M. Thompson: Very good. I appreciate that. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, and thank you to all who presented in the first half of the public hearings.

Because of the way the House works, we will take a one-hour recess. We will recommence at 4 p.m.

Thanks again for everyone coming and sharing your input.

The committee recessed from 1458 to 1600.

The Chair (Mr. Grant Crack): Good afternoon, everyone: members of the committee, members of the public and support staff here. I call the meeting back to order.

Just to review the format of how things will proceed this afternoon: Each presenter will have five minutes for their presentation, followed by nine minutes of questioning, which will be approximately three minutes for each of the three parties.

FAIR VALUE COMMITTEE

The Chair (Mr. Grant Crack): At this time, we have the Fair Value Committee and its facilitator and co-chair, Mr. Gold. Welcome, sir. The floor is yours for five minutes.

Mr. Lawrence Gold: Thank you. Thank you for this opportunity to address this committee. I'll just give you a bit of background in terms of my professional background: I'm a non-practising member of the bar, I'm an Ontario bailiff, I'm a personal property appraiser and I'm a problem-solver.

What I'd like to do is address Bill 15 in terms of its total context, but I'm not going to speak about any of the fringe issues relating to rehab or any of that. I'm going to concentrate primarily on the issues relating to the RSLA. You have in front of you a package which is referenced as the "RSLA repair kit."

Effectively, the issue that I want to talk about is the impact of storage-related issues and the concept of fair value, which you're going to hear about, on the basic issue of the reduction of insurance rate costs. In five minutes, I can do not much more than basically go through the table of contents with you, and that's what I'd like to do, with a concentration specifically on the area of fair value.

You have one little piece of paper in front of you, and that's kind of like the foreword. Basically what that is giving you is the basic inception of the problem legislatively. Right now the Repair and Storage Liens Act says—and I'm referring to the little piece of paper—that when I contract with you, the appropriate amount to be charged is the amount that we agree upon. Failing agreement, we go to part (b) of section 4; it's the fair value.

The problem that we have in this province at this point in time is that, when these matters go to court, the judge looks at the plaintiff, the plaintiff looks at the defendant—everyone looks at everyone else and says, "Does anybody in this room know what fair value is?", and nobody knows what fair value is, because there is no industry-wide accepted concept of what fair value is.

Again, I would bring to your attention the fact that, in the appraisal world, we distinguish between situations in which you have fair market value and something called distress value. The difference between distress value and fair market value is that, in a fair-market-value situation, we have two parties who are contracting with one another. Both have knowledge of the facts and nobody is under duress to buy or sell.

The problem in this current situation is the fact that, because of the current construct of the RSLA, the possessory lien claimant has a possessory lien against the asset, and that asset, which is called an "article" in the act, shall not be released until the possessory lien amount that has been claimed is paid. That is the problem, and that's why we needed to create some type of methodology to determine fair value.

I'm just going to run through the table of contents with you, which is this little picture. It's called the "six-step fix." Effectively, the problem that we have within the industry is composed of five or six different problems, and I have no time but to just go over what the problems are. Number one is the issue of what fair value is. Number two is the issue that, because we don't know what fair value is, we have a situation where rates have been set by municipalities, for example, and what we have is what has been referred to as a patchwork of rates all over the map. Similar situations have occurred in regard to the police authorities. The police have stepped in in terms of police contracting, and again, rates are established with no particular regard to fair value.

At the bottom left, you'll see the issue of abandoned vehicles. You can't solve this problem unless you solve for the towers the issue of abandoned vehicles.

In the last one, you can see incident management. You heard a lot of information today in regard to the whole issue of chasing on the highways etc. I don't like the word "chasers." The fact of the matter is that the problem is that under the current methodology of incident management, we have the chase that's going on, and everybody must chase because of the methodology.

I want to very quickly take you to the fair value quantification model. The bottom line is that what had happened, as a result of the need to create a model—what we created is something called the fair value quantification model. This model can be utilized in any facility anywhere in Ontario. Effectively, what it does is follow what's called the cost-plus approach, which is enshrined in legislation in terms of quantum meruit, and you plug in your costs and then you add a profit margin and, wowie zowie, you have something called fair value.

The way it's set up, it is interactive, so for example the top number where the cursor is is 125. That represents how many vehicles are in the facility. If somebody says, "I have a 125-car facility but I'm only half full," what we do is take the 125 down to 40 and you can see the way it automatically changes the rates. Down the side, you have all of the fixed land costs and the varied business expenses. You change any one of those—so for example, I'll do something silly here and put property taxes up to \$1 million and you can see what it does to the end rate: \$811.

The Chair (Mr. Grant Crack): Sorry to interrupt. I have to do my job. Perhaps maybe someone in the committee would ask you to continue for the explanation there. We're going to move to the third party: Mr. Singh.

Mr. Jagmeet Singh: Thanks very much. I noticed that you had a six-pack in terms of the solution. Does that match up with the six-step fix for you?

Mr. Lawrence Gold: Yes.

Mr. Jagmeet Singh: Okay. And so you're suggesting that, to address the issues around the towing industry but also specifically storage as well, the six components—you mentioned fair value—

Mr. Lawrence Gold: I did mention notice, but notice must be addressed. That's a 60- to 15-day issue.

Mr. Jagmeet Singh: Right, so maybe you could just take me through some of the fixes—

Mr. Lawrence Gold: Go ahead.

Mr. Jagmeet Singh: —and tell me what you mean about—what's your position on the fix? What could we do with the notice component? And then I'll ask you some other questions.

Mr. Lawrence Gold: Immediately change the section of the act, which is section 4. Bring it down from 60 to 15 now. Forget about the regulation consulting. It has been consulted to death. It had been referenced specifically by the anti-insurance fraud task force. That which was a non-issue became recommendation number 7. It was dealt with by the Ontario Bar Association, who said, "Bring it down to 15." In fact, the task force said, "We don't even need 15 because of today's day and age." It was then reviewed again by KPMG in consulting. There's no one else to consult. Everybody knows what the issues are, and we know that the people who are on one side of the coin say there's no problem and the other people who would be paying say there is a problem. There's no one else to consult.

Mr. Jagmeet Singh: Sure. It makes sense.

On the non-compliant towers, the chase, what's the fix for that?

Mr. Lawrence Gold: The bottom line is that what's missing out of this program is the fact that where a lot of the problems emanate is from the fact that the police use a first-available call system, which means that it makes sense for people to sit at the side of the highway waiting for the catch. When you sit at the highway side for 11 hours waiting for the catch, somebody has to pay for it. Currently, it's being paid for—and I use the example of the pizza pie. When you have a six-slice pizza and you have to give away one slice of the pizza as commission, you can no longer sell a full pizza pie; you only have five slices left. What's happening now is that the amounts that are being charged don't include the commission paid out; it is basically added on to it, and that's why you effectively have a storage rate which is out of sight. When you look at these numbers, and I've been running facilities, travelling across Ontario looking at facilities, running these numbers, and you're getting huge, huge returns on investment—huge.

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Mr. Jagmeet Singh: Okay. And abandoned vehicles—what's the solution around that?

Mr. Lawrence Gold: I have a lot of sensitivity for the towing sector, because what has happened is that, as you may know—not just under the Highway Traffic Act, but under a number of pieces of legislation—there are about 20 different situations in which the police can order a car

to be impounded. It can be drunk driving. It can be street racing. It can be 100 different things. To the extent that it is a low-value vehicle, it's dumped on the towers—and forget about charging for abuse of storage; they're not even getting enough money out of it to pay for the pickup of the vehicle.

The government has to address it, and it's a multi-government issue to address it, because it involves the Ministry of the Environment, Ministry of Transportation, the towers, the auto manufacturers, and that risk has got to be spread amongst all the players. It is not appropriate to use the towing industry as your garbage disposal.

The Chair (Mr. Grant Crack): We'll move to the government: Mr. Colle.

Mr. Mike Colle: Could you just continue? What's the solution? You're a problem-solver.

Mr. Lawrence Gold: Yes, sir.

Mr. Mike Colle: What's the solution?

Mr. Lawrence Gold: Well, I had taken the opportunity to review six and a half hours of debate, and I'm trying to figure out a politically correct way to say this: I don't get a warm, fuzzy feeling that there's a total appreciation of the inter-relatedness of the various issues, and you cannot fix something unless you totally understand how it works. To fix it, you have to address all of these issues, not at once, but there are certain issues that have to be immediately addressed. If, in fact, you want to achieve the reduction of insurance premiums, we all know—and I guess the public should know—that to the extent that you decide to go to regulation in order to fix it, and by the time you get from regulation to the point where it's published etc. etc., you then have a fair period of time.

Mr. Mike Colle: Time lapse.

Mr. Lawrence Gold: A time lapse.

Mr. Mike Colle: So what would be the first step, as legislators, that you think we should do in terms of the towing?

Mr. Lawrence Gold: Immediately?

Mr. Mike Colle: Yes.

Mr. Lawrence Gold: Immediately reduce the notice period. Immediately set forth the consulting necessary to deal with the issue of proclaiming the fair value regime. Then immediately start the necessary discussions with all of the stakeholders in order to deal with the abandoned vehicle issue, and have the discussions with the police and with the Ministry of Transportation.

You have a superimposed issue, by the way, because now the Competition Bureau has stepped in and they are putting their piece on the table in terms of the issue of price-fixing and territorial fixing.

That's a hard question to answer in 30 seconds, but—

Mr. Mike Colle: But at least there's a systematic investigation that's needed because of unintended consequences and in terms of the variables that are there in the field.

So, therefore, the first step is, again, reduce it to 15 and get that determination of the fair market value. And then, the third thing I heard loud and clear: We've got to

do something about the abandoned vehicles, which are a direct impact on the costs to the towers and then, ultimately, to the driving public, who has to—

Mr. Lawrence Gold: Realistically, what I believe the tow sector would like to hear—we know it can't be solved immediately, but let the government say, "We understand that it's an issue, and we will put the steps in place in order to deal with it."

And I never read the word "abandoned" when I read the debates. It just wasn't there, and I think it should be there and must be there.

Mr. Mike Colle: It's a significant thing we should look at in consultation—

Mr. Lawrence Gold: Extremely significant.

Mr. Mike Colle: It's a cost driver.

Mr. Lawrence Gold: Based upon the report that I read produced by certain individuals in the towing profession, 36.6% of their expenses relate specifically to losses and expenses relating to dealing with abandoned vehicles. That amounts, by the way, to approximately \$20 to \$23 per day on every day of storage. That's significant.

The Chair (Mr. Grant Crack): We'll move to the official opposition: Mr. Yurek.

Mr. Jeff Yurek: Thanks very much for coming in today. I find it interesting that you brought up the towing with police contracts. I had a constituent in my riding whose trailer was stolen, taken to another county and impounded by the police. Thank goodness they found it—but for him to get the trailer back, the constituent had to pay the fees associated with that. He thought it was quite outrageous, the amount he had to pay.

I'd be interested if we could somehow make it competitive but also fair to the people out in the community, who, due to their unfortunate luck, end up having to pay these fees.

Mr. Lawrence Gold: The difficulty is that the police contract rates were established on something other than consideration of fair value. It was based upon a putting out of public tender. What I always say to people is, "If you want me to pay for dinner, you'd better tell me before you have dinner; don't tell me two weeks later, 'By the way, you're paying for dinner.' I never asked you how much it's going to cost me." That's what is happening to the consumer.

I have some real issues—by the way, I didn't get down to the nitty-gritty—

Mr. Jeff Yurek: Go ahead.

Mr. Lawrence Gold: —of the bill. There are a lot of disclosure mechanisms for the consumer. The consumer doesn't have a clue whether \$100 is right, \$200, \$300 or \$1,000, so what's the sense—there's no tie-in to the RSLA. The tie-in has to be the fair value. Then your job is done.

"Notwithstanding disclosure, the rates shall not exceed fair value." What's fair value? Go to the RSLA and then do a quantification; you'll figure it out relatively quickly.

Mr. Jeff Yurek: Have you spoken to anybody in the ministry, the bureaucratic side, about this process?

Mr. Lawrence Gold: We've spoken hours and hours and hours to the ministry. I've spoken to the police association, the chiefs of police. I've met with the municipalities. I've met with every single stakeholder, and there is consensus there. The only problem is, what you need to do is to bring them together.

Mr. Jeff Yurek: Would you have proposed amendments prepared that could be—

Mr. Lawrence Gold: You have in your package an amendment, which is basically the regulation, which is ready to be passed, which is basically the wording as to how you put that into language. Run it down the hall to your accountants at the Legislature and they'll pretty well tell you that this is nothing more than generally accepted accounting principles used by every single business in every single country anywhere in the world. It's simply cost-plus. That's what everybody works on. It doesn't benefit one side or the other. It is what it is. You have your costs and then you have your ultimate profit—10%, 15%, whatever it is. It's a fully transparent process where everybody has the opportunity to give their input and you calculate that which is "fair."

The Chair (Mr. Grant Crack): Thank you very much, Mr. Gold. Very informative, and we thank you very much for coming before the committee this afternoon. We appreciate it.

ONTARIO REHAB ALLIANCE

The Chair (Mr. Grant Crack): We have the Ontario Rehab Alliance with us. I believe we have Laurie Davis, executive director, and Nick Gurevich is past president. Welcome. The floor is yours. You have five minutes. Again, welcome.

Ms. Laurie Davis: Thank you for this opportunity.

We represent the Ontario Rehab Alliance, a non-profit association representing over 100 companies that employ more than 4,500 health care professionals. These are the primary providers of rehabilitation services to the 65,000 Ontarians injured each year in auto accidents. We share an adherence to ethical and effective business practices and strive to keep services reasonably priced and of the highest quality.

We take every opportunity to offer constructive input into policy and regulatory change. We made presentations to the dispute resolution system review panel, the pre-budget hearings, the Minister of Finance's pre-budget consultation, and made a thorough submission to FSCO's three-year review of auto insurance. We're really proud of our work on fraud prevention. We are on record supporting service provider licensing since the concept was first proposed by the anti-fraud task force, and are proud to be a participant in FSCO's ongoing service providers licensing forum.

We support this government's commitment to anti-fraud. It's essential that we deter fraudulent players and focus resources on legitimate claimants. Too many of the changes made to auto insurance have been across-the-board cuts that improved insurer profitability at the expense of accident benefits coverage for all.

We appreciate that this government is looking for savings to support reducing the cost of premiums by 15%. The two-year expedited timing of this must not be used as an excuse for more changes that will disadvantage victims. We see first-hand the heartbreaking consequences of the cuts made in 2010 and subsequent regulatory changes. Many of our seriously injured patients are running out of coverage before they get better.

We applaud the components of Bill 15 that expedite dispute resolution and extend anti-fraud measures to towing and storage. We note the proposed towing and storage bill of rights, with its obligation to disclose information to consumers, and suggest this might be a model for the accident benefits side of the equation.

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When it comes to auto insurance, consumers do not know what they are buying, and they are not getting what they think they paid for. Tragically, most don't find this out until they are injured. Most drivers assume that they are covered by the basic package and the shortfall will be picked up by our public health care system, but they're wrong. The public system cannot and does not address the gaps. The current cap of \$50,000 in med rehab benefits for serious, non-catastrophic injuries is all too often insufficient.

When changes to the statutory accident benefits schedule were made in 2010, there was much talk of improved consumer choice, with insured drivers having the option to buy up to access the \$100,000 in med rehab benefits that pre-dated 2010. But only 1.4% of drivers have done this. Even when they do buy up—and we think we probably know personally all the people who have—their benefit limits are subject to the \$3,500 minor injury guideline intended to capture up to 80% of claimants. How many drivers have any idea about this?

Many of those injured will never return to their pre-accident health and function levels. Many will find themselves fighting a losing battle with their own insurer to get the benefits they paid for. Many will lose their employment, homes and, most tragically, families.

Consumers must be better informed. Brokers too must be better informed and held accountable for providing this information to consumers at time of purchase and renewal. Policy language must be clearer. The thing about insurance is that we really only find out what we've bought when we've been in an accident.

The accountability and transparency that anti-fraud measures demand of service providers must be extended to insurers. Changes to the dispute resolution system to streamline the process will remove the right of claimants to pursue court action. Disputes will be determined by arbitrators without the power to award punitive damages, as do the courts, eliminating an important tool to keep insurer misbehaviour in check.

Experience has demonstrated that the current system does not effectively respond to insurer misbehaviour and bad faith. The system requires more, not fewer, mechanisms by which insurers can be held accountable.

We are very concerned by the latest attempt to save even more money for insurers with the proposed regula-

tion change to drastically decrease the interest required of insurers on all disputed benefits. This will eliminate one of the few mechanisms that reflects the reality that insurers exploit their financial strength at the expense of claimants. The proposed change will reduce the penalty interest rate insurers pay below the rate of return from their investments, creating an incentive for insurers to deny benefits.

Though this change impacts claims in the dispute system, we experience daily the negative side effects from the lack of accountability for misbehaving insurers. Some insurers do behave responsibly, but many do not.

Savings achieved must be passed on to consumers and insurer misbehaviour must be addressed if auto insurance is to do what it is intended for: to protect us in the event that we need it. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the government side. Mr. Colle.

Mr. Mike Colle: Yes. Anyway, thank you for your valued presentation. Just in terms of the group that you represent—the Ontario Rehab Alliance, right?

Ms. Laurie Davis: Yes.

The Chair (Mr. Grant Crack): Could you break it down in terms of who are these people, what do they do, and what titles do they have? Are they the physiotherapists? Are they massage therapists? Are they—

Ms. Laurie Davis: Certainly. We have upwards of about 100 companies. We've just had our membership renewal year, so the number is still a little bit soft. Some of those companies are sole providers, so that might be Laurie Davis, occupational therapist. Others are groups of associates, so large organizations and some larger. Altogether, we probably represent upwards of 11 different disciplines: physiotherapy, occupational therapy, speech language pathology, psychology, case management and nursing—so quite a wide range.

Mr. Mike Colle: You mentioned at the beginning that you favour the licensing or registration. What happens now in terms of people who may claim to have a certain expertise and provide rehabilitation services to accident victims? Why do we need licensing?

Ms. Laurie Davis: I think there are two levels, perhaps, to the question. One concerns that of the regulated health professionals. For instance, all the regulated health professionals—many of our members are or have regulated health professionals working with them—are subject to their own college guidelines and requirements throughout all those 12 or 15 different regulated health professions. It's through that: If you have a regulated health professional in good standing, you have a licence number—

Mr. Mike Colle: And you've got some kind of confidence there.

Ms. Laurie Davis: Right. That licenses, we might say, the clinicians. The service provider licensing regime, which is coming into place now and which we've supported, because we support a focus on fraudulent actors rather than all accident victims as a group, is essentially business licensing. It's that licensing regime

which will enable providers to bill insurers directly through HCAL, so that's two distinct levels of regulation.

Mr. Mike Colle: Some of these business people who operate these clinics bring in licensed occupational therapists, or certainly regulated ones. But then the question, I know at one time, was whether or not the owner would have to have some kind of qualifications because sometimes it wasn't the people working in the clinic who were the problem. It was the direction they were getting from an owner who was in the business for a quick profit and, therefore, not only exploiting the accident victim but also exploiting the clinicians who work for him or her.

Mr. Nick Gurevich: True, and that's exactly the intent of licensing. It's to know who you're dealing with. From a FSCO perspective, where FSCO is our regulator going forward—

The Chair (Mr. Grant Crack): Okay, thank you very much. You just started speaking, but they're way over their time already, so I apologize.

Official opposition: Ms. Thompson.

Ms. Lisa M. Thompson: Okay. It was interesting: You made in your presentation a remark that said the system requires more, not fewer, mechanisms. I was wondering if you could expand your perspective on that and share. Usually, you want less, but in this instance, you're looking for more. What types of mechanisms do you see being expanded?

Ms. Laurie Davis: Specifically, we're asking for a balance of sanctions and accountability mechanisms to be applied to insurers as well as to providers. We believe that there are too often times when insurers' practices are not in keeping with the SABS, and we don't see those being addressed as we would like to see.

Mr. Nick Gurevich: If I can just expand. The way we see the Statutory Accident Benefits Schedule is as a consumer protection piece of legislation. In the last round of reform in 2010, a number of items were taken off the table that did, in the past, protect consumers; for example, a mandatory insurer examination, whereby adjusters can't willy-nilly just deny a request for treatment or a request for assessment, but rather would have to go and get it vetted by another health care practitioner who would advise them. There were a number of other items taken off the table.

Right now we're looking at another major item, a piece of regulation that has been proposed, which is this reduction of the interest rate that we referred to in the paper. Under the proposed language, for all treatment plans, or for all services that are in dispute, the interest rate would be reduced to an equivalent of 1.3% per year. Right now it's 1% per month, and it's there by design in order to take away the incentive to deny plans. But the second you decrease the interest rate to such a low level—the proposal right now is 1.3%; it is actually below the rate of return that insurers yield on their book of investment—it creates an incentive, as a matter of fact, for them to deny it, if that would be the case. We feel that that's another way in which the victims get even more disadvantaged.

Ms. Lisa M. Thompson: Okay, thank you. Jeff?

Mr. Jeff Yurek: Is there time?

The Chair (Mr. Grant Crack): Thirty seconds, quickly.

Mr. Jeff Yurek: I haven't seen anything about peer-to-peer review, which I think would decrease the amount of rejected claims. Can you just speak to that, please?

1630

Ms. Laurie Davis: We have been in support of peer-to-peer review wherever that's possible. We think it would be a good practice, specifically with respect to the IE practices.

Mr. Jeff Yurek: So if a chiropractor says a patient needs back rehab, a chiropractor in the insurance industry also has to review that, not a neurosurgeon.

Ms. Laurie Davis: Ideally.

Mr. Nick Gurevich: Yes. It would simply lead to less—

Mr. Jeff Yurek: Less disputes?

Mr. Nick Gurevich: Less disputes, because then you can't say, "We're going to dispute it because"—

Ms. Laurie Davis: "He didn't understand the scope of practice."

Mr. Nick Gurevich: Exactly.

Mr. Jeff Yurek: Sounds like an easy fix.

Mr. Nick Gurevich: You'd think so.

Ms. Laurie Davis: It's one of them.

The Chair (Mr. Grant Crack): Okay. Thank you very much. We'll move to Mr. Singh from the third party.

Mr. Jagmeet Singh: Sure. Thank you. I'm just going to start off—I understand you started off with this; I just want to reiterate: I know that you absolutely support initiatives that would deal with fraud and fraud reduction. You obviously support that, but the way this bill is currently written—which, I suggest, has very little to do with fraud reduction and a lot to do with putting more profits in the pockets of insurance companies—but putting my editorializing aside, as the bill is written, do you support Bill 15?

Mr. Nick Gurevich: There is one major problem that we see, and that's with the removal of the right to sue. We feel that that's going to be a major problem for the claimants, for the victims, because it simply takes away a major recourse avenue from them.

Mr. Jagmeet Singh: Absolutely. What about the concerns around the transferring from a tribunal which had experience to dealing with these types of claims within FSCO, and those arbitrators who had experience with the case law on the manner in which these cases should be dealt with—versus now transferring it to the Licence Appeal Tribunal, with folks who don't have the same wealth of knowledge and experience with this legislative framework and this type of cases? Do you have an opinion on that?

Mr. Nick Gurevich: Again, it depends on how it's handled. If it's just a matter of letting people go out one door and then bringing them in from the other door, then that intelligence gets to be maintained, but to the extent

that they're just let go and we have to start from zero, I think that that's going to create huge inefficiency in a system that has gained traction and experience over time.

Mr. Jagmeet Singh: Can you quickly just comment on—you said that there should be more onus placed on the insurers. What do you mean by that?

Ms. Laurie Davis: We would like to see FSCO hold insurers more accountable for their behaviour, as we are.

Mr. Jagmeet Singh: Yes. In what way?

Ms. Laurie Davis: In various ways. We think that FSCO could issue superintendent's bulletins and UDAPs. We regularly bring forward to FSCO our concerns and things that we see on the front lines—everything from administrative things to late payment to inappropriate requests for personal health information. We think there are a number of ways in which the kind of scrutiny that we're seeing placed on service providers could be equally applied to insurers.

Mr. Nick Gurevich: One easy item that comes to mind was reported in the lead-up to 2010, when many headlines in newspapers were about assessment costs: Treatment and assessment costs are at 60 cents out of every treatment dollar. Well, guess what? If you look at HCAI data now, insurer examinations are at 50 cents out of every treatment dollar, so why are insurers spending 50 cents out of every treatment dollar to deny those services?

Mr. Jagmeet Singh: And just building on that point: Assessment costs have gone way down.

Mr. Nick Gurevich: Assessment costs are way down, yes.

The Chair (Mr. Grant Crack): Okay, thank you.

Thank you very much for coming before the committee. We really appreciate it.

Ms. Laurie Davis: Thank you. Thank you for your time.

The Chair (Mr. Grant Crack): You're quite welcome.

ASSOCIATED CANADIAN CAR RENTAL OPERATORS

The Chair (Mr. Grant Crack): We have with us the Associated Canadian Car Rental Operators, ACCRO. We have Mr. Craig Hirota here with us this afternoon—members' services manager. Welcome, sir. You have five minutes.

Mr. Craig Hirota: Great. Thank you for the opportunity to speak in front of the committee.

The Chair (Mr. Grant Crack): You're welcome.

Mr. Craig Hirota: Dear members of the Standing Committee on General Government, my name is Craig Hirota. I am the members' services manager for Associated Canadian Car Rental Operators, or ACCRO. ACCRO speaks on behalf of the vehicle daily rental industry in Canada.

The vehicle rental industry in Ontario operates approximately 50,000 vehicles, composed of Avis Budget Group, Inc.; Discount Canada; Enterprise Holdings, Inc.,

which is Enterprise, National and Alamo; Hertz Canada, which is Hertz, Dollar and Thrifty; U-Haul Canada; and over 160 independently operated car and truck rental businesses.

ACCRO was fortunate to be involved in the towing and storage advisory group, which discussed provincial oversight of the towing and storage industry. We were pleased to see many of the recommendations implemented in Bill 15. One of the concerns voiced by our members is the extremely high cost associated with tow and storage invoices arising from vehicle accidents or mechanical breakdowns. The collective experiences of our members support the need for consistent, province-wide regulation in order to establish predictable costs and end consumer abuse.

In April of this year, I was able to give a deputation in support of Bill 171. After presenting a real-world and unfortunately typical example of the treatment our industry receives at the hands of the types of tow and storage operators targeted by the consumer protection reforms in Bill 15, I was contacted by members within the automobile insurance industry. They had been made aware of the example that I read into the committee transcription—deliberate delays in providing an invoice of costs and a per-day storage rate in excess of \$400 a day—and contacted me to let me know that the vehicle rental industry was clearly being targeted for abuse.

I was advised that because the automobile insurers had utilized their administrative resources and contested many tow and storage bills by using a pay into court process, they did not see billing abuses to the extreme degree faced by our industry. The tow and storage operators who abuse the system instead target those who have less capacity to fight back. This revelation made me angry. Even our largest members do not have dedicated legal staff or personnel available to utilize the existing court system to fight tow and storage abuses. The challenge for our over 160 Ontario-based independently owned and operated small business owners is even more insurmountable.

In February 2014, ACCRO participated in towing and storage consultations organized by the Ministry of Consumer Services. Those consultations were also attended by representatives from the towing and storage industry. I presented some examples of questionable invoices to the attendees, but they were largely ignored or dismissed with flippant remarks. With respect to example invoices with anywhere from a \$50 to a \$250 charge for administrative fees, including one invoice with a \$157 administrative fee, none of which included any explanations for administrative fees sometimes in excess of the cost of a tow. One answer I received included the following: "Is there a specific complaint about these invoices? Administration fees are a common line item on all kinds of invoices in life like freight charges or debt retirement charges, so I'm not sure what the point is." Maybe their executives got big raises.

Considering none of the attendees from the towing and storage industry claimed to represent tow companies

typically classified as chasers, this kind of tacit approval by those one would think should be motivated to clean up the bad operators was troubling. It certainly doesn't give our members confidence that, if left to their own governance, any of the types of consumer abuse our members face would end.

Our members support the comprehensive tow and storage reforms in Bill 15. We appreciate the consolidation of items formerly contained in Bill 171 and Bill 189 because we strongly believe they are necessary to protect consumers from those operators who currently abuse the system. Disclosure of rates, provision of itemized invoices, minimal deviation from estimated payment amounts, insurance requirements, authorization of service requirements, acceptance of multiple forms of payment and establishment of qualifications and licensing are common expectations placed upon any business. None of these should be considered onerous in implementation, because if the consumer had a choice they would demand all of the above and would vote with their pocketbooks to avoid those providers who didn't meet expectations. Unfortunately, none of this has become an industry standard because services are almost always rendered when the consumer is in distress, unable to negotiate or choose an alternative service provider. In the absence of competition, the consumer protection and highway safety provisions of Bill 15 are essential to protect the rights and safety of consumers who suffer an accident or vehicle breakdown.

Thank you for your time.

The Chair (Mr. Grant Crack): Thank you, Mr. Hirota. I didn't think you'd get through that, but you beat the five minutes, so congratulations; you're the first.

We will start with the official opposition: Ms. Thompson.

Ms. Lisa M. Thompson: I found it interesting, because this afternoon we heard people advocating for exemptions from the CVOR component, and you said very explicitly, "Our members support the comprehensive tow and storage reforms in Bill 15." As you sat here this afternoon, how did you react and what were you thinking when you heard people advocating for a CVOR exemption?

Mr. Craig Hirota: I think the towing industry is unique in that certain exemptions under the CVOR program are probably appropriate for them, certainly in times of recognized highway emergencies, weather conditions etc. We would all hope that there would be an adequate number of responders available to service the scene, but what I would also like to see is the limitation on service times so that we don't see the chasers parked on the side of the road, waiting for the smell of the blood in the water to race to the next accident to be there first.

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Ms. Lisa M. Thompson: Okay. I appreciate that. That's it.

The Chair (Mr. Grant Crack): Any other questions?

Ms. Lisa M. Thompson: No.

The Chair (Mr. Grant Crack): Well, thank you very much. We'll move to Mr. Singh.

Mr. Jagmeet Singh: Thank you, sir, for your presentation. Your major concern, if I'm not mistaken, is essentially, from the automobile rental perspective, the storage fees. Is that essentially the primary concern?

Mr. Craig Hirota: It's the whole process: the storage fees, the towing fees, the associated fees that come with the service. We would just like to see some consistency and, to borrow Larry Gold's term, some fair market value. And some notice.

For example, in the invoices that I had presented that had the administrative fees, I can almost guarantee you that that particular tower did not address our customer at the time and say, "By the way, when we tow your car, we're going to charge a \$250 administrative charge." For what, I don't know, because it was handwritten, so it's not like they've got a computer system to do their invoicing for them.

It's things like that. I think those things need to be controlled, because if they're just slush funds to make up for profit shortfalls, that needs to be addressed in other ways than just tacking it on to the customer on an ad hoc basis.

Mr. Jagmeet Singh: In terms of when you deal with these types of situations, is it through the insurance company that your claims are made or is it something that the company, the rental agency itself, deals with directly?

Mr. Craig Hirota: The vast, vast majority of those end up going through the company itself. Some of them can be passed on to the customer's insurance company if they were renting a vehicle in a situation where their insurance coverage transferred over, but many of them are borne by the car companies themselves.

One thing about car rental is getting auto insurance to be a car rental company is even more challenging than getting auto insurance as a private individual.

Mr. Jagmeet Singh: Right. In terms of the components of Bill 15 outside of the tow truck and the storage, looking at the other components, you're not in a position to speak on those.

Mr. Craig Hirota: No. Those items—the accident benefits dispute etc.—are handled by our insurers, yes. So we're not involved with that.

Mr. Jagmeet Singh: Okay.

The Chair (Mr. Grant Crack): Any other—

Mr. Jagmeet Singh: Sorry?

The Chair (Mr. Grant Crack): Go ahead.

Mr. Jagmeet Singh: How much time do I have left?

The Chair (Mr. Grant Crack): Oh, sorry—about 40 seconds.

Mr. Jagmeet Singh: Okay. Have you brought any of your concerns forward to the ministry before, and in what manner did you bring them forward?

Mr. Craig Hirota: When we were involved in the consultations, we also met with various members in the government: yourself, Mr. Yurek as well as members at the Ministry of Consumer Services and the Ministry of Finance in support of the anti-fraud task force and their recommendations.

Mr. Jagmeet Singh: Okay. Thank you very much.

The Chair (Mr. Grant Crack): Thank you, Mr. Singh. We shall move to the government side: Mr. Dickson.

Mr. Joe Dickson: Thank you, Chair.

Craig, I wonder if you could give me an independent overview, because you're not in the middle of the industry. You're a service provided to those who have gotten embedded in the industry and have a serious problem. You provide a service to them; you rent them cars.

I just have a feeling, after listening to this all day long—people are making reasonable presentations, but to me, it's kind of like a dog chasing its tail: We're not getting anywhere. Some of the items that are coming forth I would agree with to some extent, but I wonder, What would you say to a legislated, mandated committee to improve insurance and to reduce insurance costs, all encompassed into one, and it had to be done, and everyone would have to make a particular comment or statement on it, or something that they see as positive or something that they see as negative?

There are probably people here who can give us better advice than people around the table, with all due respect to all of my colleagues. But when you've got two sides of lawyers, when you've got tow truck drivers, you've got tow truck owners, you've got tow truck services—everyone provides a separate service. You've got doctors, all medical staff, clinic owners—you can go on forever. There are probably 500 categories you could list them in.

What would happen if there was a mandated committee that would perhaps even be led or directed through the insurance companies in conjunction with police? Police see these things all the time. We talk about insurance rates in Ontario and why it's higher in one area than another. I can show you the areas where it's higher. If I lived there I guess I'd move, because I've got 10 or 12 vehicles and I'd want to save that money. Would that make any sense to you? We're going to come out with something, but we're not going to come out with something strong enough. The one lady today who was a 20-year victim and doesn't have her case resolved at this point in time—that's absolutely insane. The payouts to victims, when they're dropping from 5% to 1.5%—the victims are the ones who are getting hurt.

The Chair (Mr. Grant Crack): Mr. Dickson, thank you. You used the whole three minutes, so I'm just going to allow—

Mr. Joe Dickson: You understand what I'm saying, Chair. I really want an answer.

The Chair (Mr. Grant Crack): Well, I'm going to allow an answer, briefly.

Mr. Craig Hirota: I think the stakeholder consultation process is valuable. My observation, being involved in the towing and storage consultations: Some stakeholders—it can depend on what side of the issue you're on and what has been decided. I think that sometimes they don't get involved to the degree they ought to until something is really going to happen.

I think the consultation process is such that sometimes it seems like it's just work and you don't see a timetable to a resolution. But if there's a hard deadline, I think everyone will come to the table and they will work to make a workable solution or at least the best possible compromise. It's always going to be a negotiation. I don't think you're going to find the best win-win solution that's going to make everybody completely happy. But they all need to come to the table knowing that this is the last opportunity to make your presence known.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Hirota, for coming forward. We appreciate it.

ONTARIO SAFETY LEAGUE

The Chair (Mr. Grant Crack): Next we have the Ontario Safety League. We have Mr. Brian Patterson, president and chief executive officer. Welcome, sir.

Mr. Brian Patterson: Thank you.

The Chair (Mr. Grant Crack): You have, of course, five minutes followed by about nine minutes of questioning and comments from members.

Mr. Brian Patterson: It's my pleasure to appear before the committee today on a topic that I believe is important to all Ontarians and, as the last speaker indicated, somewhat misunderstood by many parties.

I come today with two hats on. I am not only the president and CEO of the Ontario Safety League—many of you know us as significant public safety advocates—but I'm also a 20-year certified fraud examiner and expert witness in the Superior Court of Ontario with relation to civil fraud. So I want to cover those two topics as best I can within that five-minute period.

We believe that Bill 15 is going in the right direction and that there could be some additional benefit derived by the regulations becoming clear as it goes forward. Right now, we can see where the act wants us to go and I think we fully support that, but we have some regulatory issues that I think are in play.

Number one: We emphatically support the commercial vehicle operator record for commercial tow truck drivers in the province of Ontario. We believe it will take a period of consultation within the MTO to come up with a working guideline that is effective. I don't want to bore you today with how exciting it is to go through commercial vehicle operator records, rules, regulations, weights etc., but I can tell you that as a safety advocate, one of the reasons we have the safest roads in North America is because we have invested significantly in how we administer the CVOR in this province specifically. It is the best tool available, in our opinion, to deal with commercial vehicles on public roadways.

The other area that I think we want to see, and we were part of the consultation—is we believe that we need to have recognized training for towing providers and that that should be reflected on the licence they carry while operating. As driving instructors have a clear designation, as people who have an air brake endorsement on their vehicle have a clear designation, it makes it far easier to

confirm that an operator is within that trained guideline. In fact, in working with a number of the towing partners in this province, we have developed a program at the initial G level that we believe could be implemented under another piece of legislation that is exciting to talk about: the driver licence certification program. The DCP could allow that to be brought into play in fairly short order and address those two issues.

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The other area that I'd like to speak to you on is the one which I think is in here and may not get as much clear play, and that's the area of fraud. With fire, you need fuel, heat and oxygen. With fraud, you need a belief that you're entitled, an opportunity to collect it and the belief that you're not going to be caught. Whether you accept the KPMG number of \$1 billion or even if we cut that in half, it's unfortunate that we have a situation where we could have \$400 million worth of fraud taking place in this province, much of it organized and not prosecuted under the Criminal Code. I think, unfortunately, we have accepted that insurance fraud should not be treated the same as other criminal fraud that takes place and, as a result, organized crime has taken a very significant role in that, unknown to many of the providers of service and unknown to the members of the public.

York Regional Police is probably the best example: Two very active police officers shut down a couple of million dollars' worth of organized fraud through good observation and the application of regular policing duties.

Training of tow truck operators, the certification of them to deliver services: Municipalities have asked us, as an independent third party, to consider that we should be able to come up with a group of requirements for any tow truck operator that could be acceptable across a number of municipalities. Currently, a lot of them regulate the industry for reasons that are not related to public safety and are related to business practice etc.

I'll happily take any questions, and I look forward to this bill going forward and the regulations being improved. Thank you very much.

The Chair (Mr. Grant Crack): Thank you very much. We will move to Mr. Singh from the third party.

Mr. Jagmeet Singh: Sure. Thank you very much, sir. Can you just speak a little bit about the—this is something that's come up before and I've read it before. First, I want to thank you for the great work you do. The statistics and the evidence show that Ontario has some of the safest roads. What do you point to when you say that?

Mr. Brian Patterson: I think, in fairness, there are a lot of stakeholders who have played an active role in getting good legislation—and we've worked with this Legislature for 100 years, so we like to take some credit for it, but not all of it. When I look at this process right now, I think we have to be able to balance enforcement and education, and less so on engineering. If we could do more training, it would be better.

Mr. Jagmeet Singh: What I meant by that question is, what evidence do you point to in terms of the safety stats?

Mr. Brian Patterson: If I take CVOR alone, for example, the enforcement of the commercial vehicle record, pulling vehicles over that are unsafe—you don't have to be on the 400 for every one of those long weekends to know how bad some of the vehicles are on the roadway. You don't have to have been trapped, as I was, coming down from Newmarket just a few days ago, with somebody who was untrained in an unsafe vehicle taking out the overhead signage on the 400. I think Ontario has done that well.

When we compare our crash rate and our miles driven in this province, we're in very, very good shape. Across the world—in fact, we're consulted both here in Canada and in Iran, Iraq, Jamaica to help them adopt policies that are similar to Ontario's going forward.

Mr. Jagmeet Singh: So based on accident rate, where do we fall in Canada?

Mr. Brian Patterson: I think we are—I can check that for you. I think we're second as far as—

Mr. Jagmeet Singh: Second as in second-least?

Mr. Brian Patterson: Yes, I think we're second—it's an obscure one. There are less crashes in PEI in one year and there are less crashes in Nunavut one year, but none of them have the traffic of the GTA, so I think we're in that category.

Mr. Jagmeet Singh: Do you have a way of measuring traffic and population density, and combining all those factors to figure out where we fall in terms of our safety?

Mr. Brian Patterson: I've been the head of the Ontario Safety League for 10 years, and for eight of those years, we were the safest in North America. The other two years, we were number two—and that's all states, all conditions. I suspect driving conditions in Nebraska are going to be as bad as here.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the government side: Ms. McMahon.

Ms. Eleanor McMahon: Thank you, Mr. Chair. Hi, Brian. Nice to see you. Thank you for your presentation.

A couple of things: Given your expertise in the arena of safety and understanding of that and given that the legislation is hoping to improve safety, as you've pointed out—I also like to think that we're focused on transparency in terms of making the towing costs clear and so on and so forth.

We've had a few speakers today talk about training for the towing industry. We'd like your thoughts on options for that, and more specifically, something that hasn't been talked about very much, but what about an idea where we would look at a ministry-approved curriculum for tow truck drivers that they would then be required to pass? That curriculum might be developed in consultation with the industry so that we could create some kind of standard that would make it safe and make consumers aware of what they were buying into.

Mr. Brian Patterson: I think the Ministry of Transportation is on that road. I've been in those consultations. We have a proposed curriculum that covers four days of training that would take that introductory level. As with

most commercial driving, it is tied to a qualification supported by the Ministry of Transportation and then effectively covered under the Driver Certification Program. We look forward to working with the ministry. I think it's going to happen, and it could happen as soon as this January.

Ms. Eleanor McMahon: Great. A supplementary, if I have time, unless one of my colleagues wants to jump in—

The Chair (Mr. Grant Crack): Yes, you have a minute and a half.

Ms. Eleanor McMahon: Would it be possible, in that regard, do you think, for companies then who submit to the training, whose operators take that training—because I know that some organizations—take the CAA, for example—already train their operators already. They would obviously be involved in some kind of consultation. They've been here today. Then consumers could know that certain operators are certified and they could be made aware. It's like an ISO 9000. You see where I'm getting at here? It's a marking certification so that consumers can understand that this company has submitted to the training, it has taken the training, it is registered and is safe.

Mr. Brian Patterson: Yes, we believe that's critical. There are excellent examples right now within MTO. The school bus driver improvement course is mandatory for all school bus drivers. It was implemented under that model. We delivered, along with quite a number of others, the air brake training model for commercial vehicles—again, strong support. We do 8,000 students there. So I think, at the end of the day, as the previous speaker said, as long as we could get it done by January, I can confidently say to you right now that it's completely doable. If it's allowed to go back into the second, third or fourth tier of consideration, it will die before the regulation can be as strong and as effective for the citizens of Ontario.

The Chair (Mr. Grant Crack): Thank you very much. Moving to the official opposition: Mr. Yurek.

Mr. Jeff Yurek: Thanks very much. Thanks for coming out, Brian. I found it great, the way you spoke about fraud occurring, the sense of entitlement and the means to do so.

It's interesting because I'm small-town rural Ontario, and people always say, "Tow truck issues aren't that big a detail," but just last winter, a girl went off the road in front of me, so I stopped to assist. Out of the blue, this guy pulls up in a car and says, "I'll tow it for 75 bucks." The girl says, "I've got CAA"—a plug for Elliott behind you. The guy goes, "Oh, I'm out of here." But who knows where he would have taken that truck and how much the other fees would have compounded upon that? I'm assuming this Bill 15 will cover issues such as that going forward.

Mr. Brian Patterson: I think the regulation, as I identified in this bill, will allow that to happen, and I think that level of confidence is important for the public. At the end of the day, if you want to say the "rogue

element"—the people who make the headlines in the papers—is not a significant part of the towing industry. There are many there who are looking forward to adopting the transparency of training and regulation going forward.

1700

Mr. Jeff Yurek: Yes. I just wanted to point that out: that, as mentioned earlier, you can point out where the high cost of auto insurance is throughout this province. But in effect, you ask anybody in this province where their auto insurance is higher, and the quicker we can get on in tackling fraud—that we've been waiting for for a few years now—the quicker everyone's rates will go down throughout the province. People in my area of the province whose rates aren't as high as, say, Brampton's rates—however, a reduction in their rates would be just as welcome here as it would be in Brampton.

Mr. Brian Patterson: We would very much like to see a task force on insurance that isn't government relations-led, and is led in a practical component. I can tell you, we'd love to see a provincial fraud hotline. I can tell you, anybody who has implemented it—whether it's the city of Toronto, corporations—it has paid off in spades. Lots of people out there seem to know whether somebody's jamming the insurance industry for their own personal benefit, and it would be nice to be able to tell that.

I have my own story: I got really, really scammed up when I was hit from behind on the 404. Had I not been the president of the Ontario Safety League and had not had the access to the industry that I have, and the fact that people would respond to my calls, my insurer could have paid out \$25,000 on my behalf to a rogue operator. It had nothing to do with towing because I wasn't towed. When I arrived there, I even got a swag bag with a backpack full of seat stuff.

I think, at the end of the day, less GR advice and more practical advice. If you listen to the SIU investigative teams that are out there, just invite this detective from York region to tell you their \$2-million case and how straightforward it was for them to prosecute it. I think members of the Legislature would have a better understanding from a certified fraud examiner's perspective as to why we really have a legit problem in this province that ought to be addressed.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate you coming before the committee. It's very helpful.

Mr. Brian Patterson: Thanks very much.

The Chair (Mr. Grant Crack): You're welcome, Mr. Patterson.

TOWING AND RECOVERY PROFESSIONALS OF ONTARIO

The Chair (Mr. Grant Crack): We have next the Towing and Recovery Professionals of Ontario. I believe we have Mr. Michael Gasmann here, who is the director. We welcome you, sir, and look forward to your comments. The floor is yours.

Mr. Michael Gasmann: I know I'm going to run dry.

The Chair (Mr. Grant Crack): It's okay. Go ahead.

Mr. Michael Gasmann: Thank you for making this time available. My name is Michael Gasmann. I've operated towing and recovery operations from bases along the Trans-Canada Highway for the past 30 years. I represent the Towing and Recovery Professionals of Ontario.

This is an eleventh-hour plea from dozens of family businesses and independent tow and recovery operators from across the province of Ontario and indeed the GTA for the government to re-examine the process, findings and recommendations of the Ministry of Consumer Services Towing Advisory and Storage Advisory groups. These groups were born from the pressures of the insurance industry rubbing up against the willing leg of government, both with legitimate desires to curb fraud in the insurance industry.

Yes, there is fraud in the insurance industry and indeed in the automotive sector. The results are very finely defined geographically, as expressed in the Duncan report. Mr. Duncan spoke: We will "take strong steps to crack down on fraud by making changes that will" reduce insurance rates.

The failure, I see, was to direct the aim and focus of these efforts on the unethical, fraudulent, business and criminal elements in the very small geographical area that was driving the results of his report pertaining to fraud in towing, storage, body shop, and indeed, collision centres. Indeed, it was no surprise to find ground zero to be the intersection of Highways 400 and 401 and a 60-kilometre radius around the GTA.

When we have a brain tumour, we treat it with a target-specific remedy. When we have leukemia, we have an infection of the whole body, and we utilize remedies, indeed, to involve the whole body and being.

We urge the government—right now, with all due respect—which is like a greyhound chasing a rabbit, to slow down, re-engage your vast resources, the bounty of a Liberal majority government, from one border to the other. The whole towing being is not infected. Examine how your Ministry of Consumer Services has failed to screen some key stakeholders invited to the Towing and Storage Advisory Group. Their actions and opinions have tainted some of the results.

Who, you ask? Put yourself and a few members of a group called the PTAO, the Provincial Towing Association of Ontario—in itself a misnomer. To the public that would bring a connotation that this must be the body that represents all of the towing industry in the province of Ontario. So wrong: That group is indeed about 125 members, roughly 5% of the towing industry. Doug Nelson, their executive director, made a tell-tale prejudicial statement to Mr. Cheney of the Globe and Mail in December 2013 when he said, "I think the towing industry is worse than" Somalian pirates. "At least the pirates let you know what they're up to ... you don't even know you're getting robbed until you see the bill."

Did that man speak for all of the towing industry in Ontario and his membership? I would suggest the nega-

tive. Yet immediately after, the Ministry of Consumer Services asked this man to their panel—and quite justly, with a full career and a wealth of knowledge. But I would suggest, in light of his position with the Provincial Towing Association of Ontario, his obviously slanted viewpoint indicates a man who is singing pretty, looking for a treat and not representing his industry. Certainly, he misled your advisory group.

Speaking of malintentioned and borderline criminal: Dara Carpenter, manager of the towing and storage unit for Intact Insurance. Intact Insurance itself, corporate, and their legal counsel, Lisa Carr, were the subject of a scathing letter from the Ministry of the Attorney General. The chief counsel for the OPP, Mr. Norman Feaver, wrote, in regard directly to Intact corporately, that, "Dara Carpenter, as the lead of towing and storage, and Lisa Carr have fabricated with the intent to use in court." Norm Feaver: "I've been advised that these documents were not authored by the OPP, that no such documents exist. Can you please confirm that you will not use these documents in the course of this matter nor any matters further? Mr. Gasmann has my consent to file a copy of this letter with the court."

These are the people who will fabricate evidence and misrepresent a crown agency such as the OPP in an effort to reduce towing rates in Ontario, and fraud, apparently. The Ministry of Consumer Services had two of these people on their panel.

The judge in this particular matter, Justice Howe, went on to write in his decision: "I find the evidence given by Ms. Carpenter of Intact Insurance to be less than reliable." This person is also an ad hoc member, I believe, of the Fair Value Committee that presented to us earlier. You may have heard from them today. Again, I suggest: highly conflicted.

There are people who are dragging this rabbit that the government is chasing. I would suggest: Be the hawks, slow down, alight on a branch, take a look over the land and gain some objectivity in this matter from your constituents before you legislate and impose rules and regulations that may prove so onerous and laden with costs in compliance that it will certainly mean reduction of services and closure of family businesses.

Do we need to get fraud controlled in the GTA? Absolutely. We propose in our group to help with the majority of the industry who indeed are professionals, with lifetimes and generations invested in our industry. Our group of professionals has the vision, business acumen and the support necessary to, hand-in-hand with the government and the stakeholder agencies—the MTO, OPP, the Ministry of Consumer Services, the Ministry of Finance—self-govern our industry. "Where were we?" I know you're going to ask. Well, we're not engaged because the highest diligence befell the government, which would be to identify the people you wish to legislate.

The Chair (Mr. Grant Crack): Okay, thank you very much, Mr. Gasmann. We went over a minute there so I appreciate it. Maybe one of the other parties will allow you to finish. I apologize, but we'll move to the government side. Ms. Hoggarth?

Ms. Ann Hoggarth: Hi, how are you?

Mr. Michael Gasmann: I'm well, thank you.

Ms. Ann Hoggarth: It was very nice of you to come all that distance to make a representation. You must feel very strongly.

Mr. Michael Gasmann: I do.

Ms. Ann Hoggarth: I'm glad to hear from you. The fact that you think there would be closure of family businesses: Is that to do with the length of time that people can be out? What is it that you think will cause the small tow businesses to close?

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Mr. Michael Gasmann: Well, it will be two things. It'll be compression of the rates, as is the active engagement of the insurance industry currently, and there are going to be costs—and I would suggest that we're going to embrace some of these costs with open arms, such as the CVOR, if we can modify certain things such as the number of hours driven and hours of service.

Training—from around the table and presentations, it sounds like it's nonexistent. Well, our board of directors is populated with Mr. Justin Cruse, who owns WreckMaster of Canada, a continental provider of training and certification services embraced by 14 states in the United States as the benchmark trainer for the industry.

We have that in St. Catharines. He is on our board. Any of the rural towers who I have canvassed, and certainly urban towers as well, from Ottawa, right through the Ottawa Valley, up our Trans-Canada Highway—which, again, is an artery for the economy of Ontario—right through to the Manitoba border—I have taken the WreckMaster training. My son has taken it, my daughter has taken it and, indeed, virtually every tow company that I know of is WreckMaster-certified.

I've engaged a friend, the president of Canadore College, and another friend, Mr. Bramburger, program director of Algonquin College in Pembroke, with the idea of laying out a curriculum and a program. Indeed, that's very easy to facilitate. Some of it should be done in our high schools. We should be graduating students with CPR. St. John's first aid, WHMIS—workplace hazardous materials. There's a host of good background certifications and training that could indeed take place at the public-school level.

Just to finish: You asked what was going to cause the loss of business. We need to step back. We don't need accountants to brief us on this; we need an economist. There's a difference between a business model and a business plan. In grade 9 economics, when I opened the book, it was written by an economist, and the first page was supply and demand. The second page was supply and demand over market. Then you need to take a look at your market. The GTA is extraordinary. It's as extraordinary as our markets on the Trans-Canada Highway.

My friend from the Ontario Safety Council spoke to the declining accident rates on the Trans-Canada Highway. He is correct. The accident rates are down 23% in the upper Ottawa Valley, Mr. Yakabuski. Part of that is because people are afraid to drive on the roads in the

wintertime and, in all sincerity, there are people who are gauging it: "Do we need to go to Pembroke for groceries? No, we're going to wait till the snowstorm is over."

What we're having, though, are multi-commercial-vehicle, serious crashes that you wish to address with your Bill 30 on incident management. I'm going to suggest again—

The Chair (Mr. Grant Crack): Okay. Sorry, sir. Hopefully one of the other parties will let you finish.

Mr. Michael Gasmann: That's fine.

The Chair (Mr. Grant Crack): We're over by another minute. We're being quite lenient here, so thank you.

Mr. Yakabuski?

Mr. John Yakabuski: Thank you very much, Michael, for coming down today. I know what a hardship that is for you. I know how busy you are up on the Highway 17 corridor. If we'd had hearings travel the province, you could've had them much closer to home, so I appreciate you making that trip here. I drive not quite as far as you live, but I drive that route all the time, and it's a long drive.

You mentioned in your presentation about slowing this down. You've been an advocate for tow truck operators and the towing and recovery professionals. In the submissions that you've made to the ministry—because I know this bill was up before; I think it was Bill 175 or whatever—you and I, with many of your colleagues, met in my office. Were there any changes in this bill that represent any of the points that you have made in the past about how this bill has to be changed to be more representative of the needs of all parts of Ontario?

Mr. Michael Gasmann: No. To answer your question, the only thing that developed with that stretch of time was an aggressive action on the part of the insurance companies to go out and, indeed, reset the rates themselves to pay legitimate invoices into court, completely and totally circumventing the process of the Ministry of Consumer Services, who have the parameters well set to define and comply with the rules of economics. The next thing was competition that indeed defines fair value.

So the only thing that happened in that stretch of time is the insurance industry ran away, ran to court, misrepresented government agencies in an aggressive plan to financially damage the towing industry, and hammered us into compliance.

Mr. John Yakabuski: So none of the suggestions that you've made to the ministry were acted upon whatsoever.

Mr. Michael Gasmann: I'm not sure. There's nothing definitive in—

Mr. John Yakabuski: It's not reflected in the new legislation.

Mr. Michael Gasmann: Reading the new legislation, no. There are parts of it that are possibly more onerous with respect to the CVOR.

Mr. John Yakabuski: One of the things you spoke about to me in the past, Michael, was how they're implementing changes in here that are specifically designed to

deal with the problem, specifically in the GTA, that simply don't apply in our area, and some of the flat rates that they're talking about bear no relation to the kinds of difficult towing jobs we have along—

Mr. Michael Gasmann: That would be true. If you pick any multi-lane element in the GTA, it's hazardous. It has its own hazards. It has its own variables in terms of time.

On the 2nd of February, at 3 in the morning—minus 30; 20 centimetres of snow on the ground—the OPP called, from Smiths Falls communications centre: “Can you expedite to kilometre 67, Bissett Creek, in advance of our cruisers? The EMS are tied up. Cruisers, EMS and MTO will be behind you.” When we got there, they advised us—the report had come in—two people in the vehicle and a baby, 30 metres down the embankment.

So we don't have a big element of fraud there. What we have is an element of goodwill. I would suggest to everybody, in everybody's riding—not to be excluded in the GTA—the vast majority of towers are selfless.

The Chair (Mr. Grant Crack): We'll move to the third party: Mr. Singh.

Mr. Jagmeet Singh: You've covered most of the areas. In closing, if you could just summarize what would make this bill more feasible for—what would you need to see done to make this not have such a devastating impact on—

Mr. Michael Gasmann: Well, I had a long conversation today with a friend, Cam Woolley, a former traffic sergeant with the OPP and now with Bell Media. He grabbed the towing issues in the GTA, grabbed hold of the wheel, 15 years ago, and scared it out of the ditch, so to speak.

It was based on oversight. It was based on pulling the problems in and sitting them around the table and telling them, “We're going to have some criteria here now. We're going to examine your equipment. We're going to make sure that your drivers are licensed. We're going to make sure you're insured. We're going to make sure that you've got the support that's required in your area,” which is vehicles for lane closures, sublet companies set up to remediate environmental so that we can expedite things. The funny thing is, we're driven by expectations. The OPP want it fast—we need to open up the highways. Auto clubs and insurance want it cheap. Clients want quality, and they deserve quality. One way or another, they're paying for it.

That's a business model. You cannot have it fast and good without it being expensive, and that indeed is the way it is in the GTA. You have to ramp these procedures up. You need to have your traffic people, environmental people, your medium-duty towing, your heavy towing. Everybody has to be there on scene to remediate these things quickly. That's not going to be cheap. If you want it cheap, then it's going to cost you in terms of time. Your highways will be blocked.

We've got the same thing on the Trans-Canada Highway. The 401 is an artery, but if you check with the OPP, their criteria for notifying government agencies such as

the Ministry of Energy when there's a plutonium shipment or when there's something hot going on the highway—Brink's, for instance—20 minutes; that's it. If the road is closed any more than 20 minutes, there are telephones going off in Toronto and then there are people engaging their various ministries to expedite this.

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We don't understand what the problem is. Some of the fastest service comes from Grant Transport, which hauls our liquor across the province. You don't want to slow the tax dollar down either.

The Chair (Mr. Grant Crack): That's for sure. Thank you very much, Mr. Gasmann. We appreciate your input. Thanks for coming.

CANADIAN FINANCE AND LEASING ASSOCIATION

The Chair (Mr. Grant Crack): Next we have, from the Canadian Finance and Leasing Association, Matthew Poirier, director of policy. Before we start, I'd just like to tell you that Matthew is from my home county of Glengarry county, right near my hometown of Alexandria. I'm very proud of him, as a director of policy. I know his father very well, having played hockey and golf and baseball and worked with him as well. It's great to see a familiar face.

Mr. Joe Dickson: Does that mean that the Chair is in conflict?

The Chair (Mr. Grant Crack): There's no conflict of interest, but I still will be hard on you as far as time goes, sir.

Mr. Matthew Poirier: That's fine.

The Chair (Mr. Grant Crack): Welcome, Mr. Poirier. It's great to have you here. The floor is yours.

Mr. Matthew Poirier: Thank you. Good afternoon, everyone. My name is Matthew Poirier and I'm the director of policy at the Canadian Finance and Leasing Association. Thank you for the opportunity to speak to you today.

The Canadian Finance and Leasing Association, or CFLA for short, represents the asset-based financing, equipment and vehicle leasing industry in Canada. With over \$300 billion of financing in place with Canadian businesses and consumers, the asset-based financing industry is the largest provider of debt financing in this country after the traditional lenders: banks and credit unions. The three major business sectors of our industry are equipment finance, commercial automotive finance and consumer automotive finance, which includes all the auto manufacturer finance companies, such as Ford, GM, Toyota and Honda, based here in Ontario.

Our association has been working with the Ontario government on this file for many months. We are pleased with the progress that has been made. Our common objective is to eliminate unnecessary costs from the system—unnecessary costs that all Ontarians end up paying for. Our industry is seriously affected by abuses of the Repair and Storage Liens Act, the RSLA, specific-

ally the problems of excessive vehicle storage and towing charges and unauthorized vehicle repairs.

We support Bill 15. Our industry is encouraged by the actions taken by the government to address the serious problems plaguing the towing and storage sectors in Ontario. We believe that the practical solutions contained within Bill 15 will benefit both business and consumers alike.

I want to raise three matters for this committee to consider.

Number one, reducing the notice period that storers have to advise vehicle owners: Subsection 4(4) of the act currently allows storers up to 60 days to notify owners or secured creditors that their vehicle is being stored. Typically, storers will wait the full 60 days before sending any notice. This allows storers to take advantage of the act and impose substantial daily storage charges. This extended delay is unnecessary and costly. With today's easy communications technologies, a much shorter turnaround is possible. Many consultations over the last three years have confirmed that this delay period should be reduced from 60 to no more than 15 days.

The government has conducted exhaustive consultations on this question. All stakeholders have been heard. The Ontario Bar Association supports the change. Recommendation 7 of the province's own Auto Insurance Anti-Fraud Task Force said that the RSLA should be amended to reduce unreasonable storage costs. The Ministry of Consumer Services' industry consultation this past winter supported a reduction. No further consultation on this issue is needed.

The simplest fix is to replace the words "60 days" in subsection 4(4) of the act with the words "15 days." This change can be made now to say that a storer has 15 days instead of 60 to give notice.

Number two, addressing unauthorized repair costs: To further reduce unfair and unnecessary costs to the system, the CFLA supports the idea that repairers be required to obtain prior permission from owners and lienholders before proceeding with costly vehicle repair work. Too often, priority liens under the RSLA are used to impose excessive invoices for unneeded and unauthorized vehicle repair. Repairers should have to seek written consent before proceeding with any work in excess of a certain dollar amount, say \$5,000, and on a specific class of larger vehicles. This would help reduce expensive unauthorized repair costs that our members are often stuck with.

Number three: We support the work of the Fair Value Committee. The CFLA is working closely with the Fair Value Committee for storage, towing, and repair rates. We support this initiative. We feel it is important for industry to find solutions to the problems of excessive storage, towing, and repair charges, solutions that involve all interested parties working toward fair and reasonable province-wide standards. If everyone can rely on recognized formulas enshrined in law to determine fair value, it will go a long way to reaching our common objective: to eliminate unnecessary costs from the system, unnecessary costs that we all end up paying for.

To sum up, the Canadian Finance and Leasing Association supports Bill 15. We urge the government to reduce the notification period for advising owners and lien holders of stored vehicles to 15 days now. We ask that this change be made in the act. We don't see the need to wait for a further 18 to 24 months to take action. We also encourage the government to take measures to reduce the problem of costly and unauthorized vehicle repairs. And lastly, we ask that the government move quickly to implement Bill 15. Any delay in this bill becoming law only prolongs the negative impact on business, consumers and the Ontario economy.

On behalf of the Canadian Finance and Leasing Association, I'd like to thank you for your time.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Poirier.

We'll move to the official opposition: Ms. Thompson.

Ms. Lisa M. Thompson: It's interesting. The last person who just shared his deputation was suggesting the whole process needs to slow down and you're recommending that we need to continue moving quickly. You also reflected on being involved with this file for many months. How many times did you have an opportunity to consult on this particular bill?

Mr. Matthew Poirier: Would that be on behalf of the CFLA or the Fair Value Committee?

Ms. Lisa M. Thompson: Both.

Mr. Matthew Poirier: The CFLA has been part of the ministry's stakeholder outreach that took place last February.

In terms of the Fair Value Committee, we've had four big formal meetings since that time, in addition to smaller meetings with all individual stakeholders, including towers.

So we feel, especially from the point of view of the Fair Value Committee, that we've really reached out to everyone involved and included everyone in the process.

Ms. Lisa M. Thompson: Were you involved in managing the stakeholder relations—those meetings? Did you help facilitate the—

Mr. Matthew Poirier: We aided in the facilitation. The Fair Value Committee—I believe you heard from Larry Gold earlier. He is more or less the chairperson of that, and we facilitated.

Ms. Lisa M. Thompson: Were you here for the entire deputation today?

Mr. Matthew Poirier: No. I just heard the last four.

Ms. Lisa M. Thompson: Okay. At 2:30, we had a deputation from the North American Auto Accident Pictures, Towing Division, and he suggested that those four meetings for the Fair Value Committee was nothing but a smokescreen. How do you react to that?

Mr. Matthew Poirier: I don't think that's a fair characterization. Initially, for practical reasons, the Fair Value Committee had a small group, but it was eventually expanded to include all stakeholders at the table.

Ms. Lisa M. Thompson: He felt it was a canned process: that the recommendation was already in the can and it was a waste of his time.

Mr. Matthew Poirier: The formula that we came up with was the process of all these meetings' work, of running the formula that we came up with by these people and getting input and changing it. So I don't think that's fair.

The Chair (Mr. Grant Crack): We'll move to Mr. Singh. I know that the government is very energetic to move forward here, but Mr. Singh, you have the floor.

1730

Mr. Jagmeet Singh: Thank you. I have no questions.

The Chair (Mr. Grant Crack): No questions?

Mr. Jagmeet Singh: No, thanks.

The Chair (Mr. Grant Crack): Okay. We'll move to the government: Ms. Hoggarth.

Interjection.

The Chair (Mr. Grant Crack): I'm sorry, Mr. Ballard. He keeps putting up his hand, and I haven't acknowledged him.

Ms. Ann Hoggarth: I won't take a long time.

Mr. Chris Ballard: I'm on his blind side.

Ms. Ann Hoggarth: I just want to make sure that what's going to happen is that this money your group is going to save is going to be passed on to the consumers. Is that what's going to happen?

Mr. Matthew Poirier: I think that our industry is sufficiently competitive that any advantage that they can take to beat out their competition and offer it to consumers, they'll take it, certainly.

Ms. Ann Hoggarth: So that's a "yes."

Mr. Matthew Poirier: I would think it's safe to say yes.

Ms. Ann Hoggarth: Thank you.

The Chair (Mr. Grant Crack): Mr. Ballard.

Mr. Chris Ballard: I don't have any—no, just kidding.

Just a very simple question: One of the things that I picked up from the group the MPP just referred to that made a deputation earlier was around notification. Obviously you want to move from 60 days to 15 days immediately. The process of notification, though: Any thoughts on who should undertake that notification? It was their view that the police who authorized the tow truck to take the car away, the vehicle away, should be informing the consumer. Currently, it's the compound. Any thoughts on that?

Mr. Matthew Poirier: I think it would be incumbent on the person filing the possessory lien to do that. That would be the storer, or the tower, in that instance. At the end of the day, it should be their responsibility to advise the owner.

Mr. Chris Ballard: That one got me a little bit confused, but I just wanted to run it by at least one other organization.

Really, that was the key question. My other question had been answered. I'm not sure if anyone else has anything.

Mr. Mike Colle: I know leasing is becoming a larger and larger proportion of the automobile market. Right? I think it's about 43%, in the back of my mind, somehow.

Mr. Matthew Poirier: It's around that number.

Mr. Mike Colle: I think we own one car and lease the other.

I know that people from the car rental agencies were here. Mr. Hirota, who was here, was saying that there seems to be a pattern of kind of targeting cars that have been rented because I guess the person in the accident doesn't feel it's their vehicle, and so they sort of feel, "I don't have any skin in the game," maybe, as much. Do you find that same type of thing happening with people who have leased vehicles in the leasing industry?

Mr. Matthew Poirier: I would say that there is incentive within the current system of the RSLA for abuse—not incentive, but there's room for it, not to judge the motives of storers or towers. I would say that having that long period of 60 days without having to provide any notice, the lienholder—in the instance, our members—could rack up a pretty big bill during that time.

Mr. Mike Colle: How much would it be a day?

Mr. Matthew Poirier: It depends on the rates, but we have seen rates as high as \$100 a day.

Mr. Mike Colle: It's 60 days that it could be sitting, so that time is big money.

The other thing that happens—

Mr. Matthew Poirier: Also, the problem is that the lienholder can't know that the vehicle is being stored until that notice is issued by the storer.

Mr. Mike Colle: So he wouldn't even know where it is.

Mr. Matthew Poirier: Right.

Mr. Mike Colle: And then the other thing that's peculiar in this is that—

The Chair (Mr. Grant Crack): Very quickly, Mr. Colle, please.

Mr. Mike Colle: —the police don't seem to be in any hurry to notify someone who has had their car stolen, for instance, or something. I know of one case where the person had been in contact with the police: "They stole my car. Let me know what you find out about the car." Then they got a registered letter in the mail from the big impounder here in Toronto, up there on Keele and whatever. It said, "We have your car in the shop. If you don't pick it up, it's so many dollars per day."

The person phoned the cops and said, "Listen, the car was in the pound for over a week." He said to the police officer, "Why wouldn't you call me and tell me that you recovered the vehicle a week ago?" So there's no incentive for the police even to inform the person. They would have saved all kinds of money. For the person who runs the pound, it's money in the bank for him every day, so there's no incentive for him or her to notify the person. The police don't seem to have an incentive, and they're saying, "Oh, well, the rule is that we have to notify you by registered mail within so many days," so—

The Chair (Mr. Grant Crack): Thank you very much, Mr. Colle. No response?

Mr. Matthew Poirier: Just to say that, if we can reduce the amount of time that it spends there from 60 to 15, it would make a world of difference.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Poirier, for coming forward and addressing the committee this afternoon.

Mr. Matthew Poirier: Thank you.

The Chair (Mr. Grant Crack): We appreciate it.

CODE YELLOW TOWING

The Chair (Mr. Grant Crack): Last, but certainly equally important, we have Code Yellow Towing. Mr. Behrendt, I believe, is with us this afternoon.

Mr. Ron Behrendt: Hi. Yes, thank you. I'm Ron Behrendt from Code Yellow Towing.

The Chair (Mr. Grant Crack): Welcome.

Mr. Ron Behrendt: In 2008, I fell by accident into the towing industry. My expertise was long-haul trucking, so I can compare CVOR and towing issues.

There are three problems in this issue. I wasn't prepared to do this; I prepared this in three hours. Last night I downloaded a package for you, and it's got the New Brunswick annual towing thing in it. Highlighted on that page is page 1 and page 2 and page 13, but if we go to those real quickly, what you'll see on page 1 is that \$701 is the average cost for everybody to be insured in New Brunswick, which is government-run. These are 2013 financials that I pulled off the Internet that were responsible there.

Page 2 is very interesting. Did you know that auto insurance rates in New Brunswick have declined every year since 2004? Since 2004, every year, they've gone down. Isn't that amazing?

Today I got served by Intact Insurance, and I have two lawsuits for \$250 for my towing bills. I'll leave that out of the picture. That's not why I'm here, but that's what brought me here.

If we go to this—I'm part of the PTAO, but I'm not. Excuse me. What it is is that the PTAO came to the table, and they were looking for a clear distinction of towing and recovery. I agree with the towing and recovery; they're two totally different things: whether a car is upside-down, training level, if you need more than one truck etc.

There has to be a definition with light- and medium-duty towing, but what they left out was unlock service. Somewhere in your folder is a small one-page thing that in Alberta a tow truck cannot unlock a baby in a car because he needs a locksmith licence. He cannot get your money out of the car because he needs a locksmith licence. I don't know if it's a federal law or what it is, but they're providing a service to you people, and that has been missed.

If we go to OMVIC: I didn't understand, but I do see that that should be exempt. On 65.7, the time of licence application and renewal named as a third party: I agree with that. They have 65.8, the development of pricing purposes combined for incident management service, and I agree that there should be a formula.

If I can touch base with that—you can go on the Internet—my proposal is that Texas has a great system

for towing, and so does California. They already have all these laws enacted. They have price rate controls. They have insurance regulations on how it all works.

My preference is Texas for your issue there. In 65.10: "... shall disclose to the consumer whose vehicle is being towed ... the nature and extent of the interest." The location is not the operator. What I have found is that, in order to get ahead in this industry in five years, I had to be the tow truck driver, not the owner, so I befriended a lot of tow trucks in the industry to get marketing opinions and so forth—"Hey, I'm just a tower. What are you guys doing?", etc. It's amazing how body shops give \$400 to a tower to bring it in there, and 10 points. I said, "What is 10 points?" It's 10% of the bill. I've heard as high as 18% of the bill, and this was five days ago.

Is there fraud? Yes, but in one way I'm seeing that the issue also is that our government of Canada has allowed Intact to be the largest in the country. If I take their financial reports here in 2008, they have \$127 million in profit, \$147 million in the following year, then \$600 million, \$700 million and \$800 million.

Ms. Ann Hoggarth: Sorry, who makes that?

Mr. Ron Behrendt: That goes to your stockholders. They are driven by the stockholders to make money, and what I'm seeing in the insurance industry—the chairman of the board here, Claude Dussault of Intact, in his annual report, says, "We are committed to operating our home insurance business"—and other insurance—"at a combined ratio of 95% or better, even if catastrophic losses remain at elevated levels, as observed in recent years. To attain this objective, we are taking actions that will generate gradual benefits over the next 24 ... months. These actions include continued tailoring of our offering by type of peril with differentiation in pricing, coverage, claims management incentives and intensified prevention"—which is me, \$250 in towing—"and loss mitigation incentives."

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We've driven to where the province of New Brunswick and the same insurance companies that are in here, that are listed in that—I think it was page 16—have to apply for rate changes. Every insurance company since 2004 has gone down, and this year they are asking for a 19.58% lower rate to 1% or 2%—every one—just to get the New Brunswick money. But here, we, in Ontario, are paying for it.

My answer to this is, it starts with the old boys' club.

The Chair (Mr. Grant Crack): Okay, thank you very much. We're just a bit over the five minutes. We'll start with the NDP.

Mr. Jagmeet Singh: Sure, thank you very much. So as it stands, would you support Bill 15?

Mr. Ron Behrendt: A hundred per cent; it must go through.

Mr. Jagmeet Singh: Okay. Are there any specific amendments that you would like to see come through?

Mr. Ron Behrendt: There have to be police guidelines. It's all over the board; it's an old boys' club, a cabal—drivers and officers who are on the force. Drivers

of the tow truck companies—it's an old boys' club. If you can't give the government guidelines for the police on how to behave and act at the front line—that has to be the first place.

Mr. Jagmeet Singh: Okay, thank you. Those are all my questions. Thanks.

The Chair (Mr. Grant Crack): Thank you very much. We'll move to the government side. Mr. Colle.

Mr. Mike Colle: I thank you for your very candid presentation; it's very refreshing. You sort of hit the nail on the head in that there is no control. The tow truck driver picks up a vehicle, brings it into the shop, and then there is some kind of arrangement with the shop. It's an incentive, it's a commission, whatever you want to call it.

Mr. Ron Behrendt: I'm out in the Kitchener area. The black line is Highway 6 and 401. Anything east of Highway 6 and 401, it's a unique billing practice. Anything the other way, it's controlled and there are 16 towing companies.

It's a business model that we're very proud of. It's called the Waterloo Regional Towing Association. We're called out on rotation—16 business partners—and anyone can join that has two trucks, the proper equipment, workers' compensation and safety criteria to work hand in hand with the EMS, police and so forth. We go out one after one, one after another.

Mr. Mike Colle: Which police forces do you deal with then—Kitchener-Waterloo regional?

Mr. Ron Behrendt: The Ontario Provincial Police, the Waterloo regional police, and we touch base with the Wellington county OPP.

Mr. Mike Colle: How is that arrangement or that—

Mr. Ron Behrendt: It's a verbal agreement in which the OPP and the Waterloo regional police sit at our tables once a month and we have meetings. We go with suggested maximum guidelines, work time, quality of trucks, safety inspections, proper insurance, and a proper secured pound so there's no theft and pilferage while it's there for three days for the insurance company.

We have \$50, \$45, \$35 and \$25 rates in our area, depending on which vendor decides to make a contractual agreement. The insurance companies tend, at a \$7 rate, not to pick up their cars, and people are stuck with objects and everything, so the common denominator seems to be between \$35 and \$50 for storage.

Mr. Mike Colle: Whereas inside the GTA, here especially, it's basically like the Wild West.

Mr. Ron Behrendt: Yes.

Mr. Mike Colle: I know. I've mentioned this in a hearing before, where I've got my local auto shop repair guy, Rocky, and he—

Mr. Ron Behrendt: I agree with you. One of the things is, lose every insurance adjuster out there to look at a vehicle. If you had a government adjuster in place and everything is on a repair book—Mitchell Repair, ALLDATA, whatever it is—a body, a light, \$10, \$20, 15 minutes. If you had a government adjuster that billed the insurance company and/or whoever or whatever happens, they would be the mediator between the tow truck driver bringing it to the facility and the mediator to the repairer,

and back to the consumer. But it would be government-controlled because someone's right there saying, "This is \$5, that's \$6 and this is how it is."

Mr. Mike Colle: Because right now, it's totally out of line. I was given the example—

Mr. Ron Behrendt: The adjusters I've seen send 20 vehicles to a body shop and they get a three-week vacation on the beach.

Mr. Mike Colle: We don't know what those arrangements are.

The other example I was going to give is where the vehicle is brought in to the car dealership across the street from the auto body shop, right on Dufferin. So Rocky gets on the phone, phones the car dealership across the street and says, "You have my client's car over there. He wants me to fix it." The guy at the car dealership tells Rocky, "You ain't getting the car unless you pay the \$2,000 administration fee."

Mr. Ron Behrendt: That wouldn't happen if you had a government adjuster regulating it. He's the one who controls who gets it, and he's doing the appraisal. All that person would get is a \$50 storage date until the day he appraised it. That adjuster would have the right to move it to your facility of confidence.

The other thing is, all the towing trucks should be GPS-tracked. That gives billing accountability. I agree with the 15-day storage notice for the primary person. Sometimes, as the gentleman before me said, there's a leasing company and the owner—we're obligated through ARRIS, and this is important. Everybody has a chance for ARRIS to find out who owns a vehicle within 10 minutes of it in their pound. It's a legal entity from the Ministry of Transport, and then the second one can be noticed in 30 days. If insurance companies had joint ventures with towing, they wouldn't be at the retail level and be at this table. And if all authorized repairs were not verbal, as they can be in the Repair and Storage Liens Act—if they are faxed or lettered, you wouldn't have that complaint.

We started a release system. If the children smash up Mom and Dad's car—I don't care if they're in Cuba. Fax their driver's licence so they know what's going on and find out where they want their car to go. We have the technology—

The Chair (Mr. Grant Crack): We'll move to the official opposition and Ms. Thompson.

Ms. Lisa M. Thompson: You mentioned at the outset that you were a long-haul driver.

Mr. Ron Behrendt: Right.

Ms. Lisa M. Thompson: I'd appreciate your perspective on the CVOR application to tow truck drivers.

Mr. Ron Behrendt: In your package, I think the very last page is what—

Ms. Lisa M. Thompson: The log sheet?

Mr. Ron Behrendt: Yes, the log sheet. That's what the people have to put up with.

Ms. Lisa M. Thompson: Yes, I'm familiar with it.

Mr. Ron Behrendt: I drew just one example in there. The way the CVOR is set up now—and most people start at 7 o'clock. At the eight-hour period, which is 3 o'clock

rush hour, it is a mandatory two-hour “go home to bed, eat, sleep and drink” period. Congratulations to gridlock in Toronto.

Yes, I’m for CVOR, but it must have emergency measures in there.

Also in there is the labour board. Who has power—the labour board or the Ministry of Transport? The labour board says—that section is also attached in your file—that under emergency conditions, I can put the man to work, but who’s going to fine and penalize me—including if he’s a kitchen cook to supply a hospital, but we’re not deemed emergency vehicles? You left us out.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Behrendt, for your very informative presentation. We appreciate you being here, and we appreciate all those who came today to participate in the public hearing component of our committee work.

There’s no further business. This meeting will be adjourned. Thanks to the members of the committee and the Clerk.

We will be meeting on Monday, November 17 to do clause-by-clause consideration of the bill. This meeting is adjourned.

The committee adjourned at 1748.

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