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# Official Report of Debates (Hansard)

Monday 17 November 2014

# Journal des débats (Hansard)

Lundi 17 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**

Monday 17 November 2014

Lundi 17 novembre 2014

*The committee met at 1403 in committee room 2.*

**ELECTION OF ACTING CHAIR**

**The Clerk of the Committee (Ms. Sylwia Przewdziecki):** Good afternoon, honourable members. Owing to the absence of both the Chair and the Vice-Chair, it is my duty to call upon you to elect an Acting Chair. Are there any nominations? Mr. Colle.

**Mr. Mike Colle:** I'd like to nominate the member from Etobicoke North as the Chair.

**The Clerk of the Committee (Ms. Sylwia Przewdziecki):** Does the member from Etobicoke North accept the nomination?

**Mr. Shafiq Qadri:** I am honoured by the confidence you've bestowed upon me. Yes.

**The Clerk of the Committee (Ms. Sylwia Przewdziecki):** Are there any further nominations? There being none, I declare the nominations closed and Mr. Qadri duly elected Acting Chair of the committee.

**The Acting Chair (Mr. Shafiq Qadri):** J'appelle à l'ordre cette séance du comité du gouvernement général. Chers collègues, bienvenue, et aussi nos visiteurs.

I understand, Ms. Thompson, you have a point of order you would like to raise right off the bat. The floor is yours.

**Ms. Lisa M. Thompson:** Yes, I do. Thank you very much, Chair. When we last met during deputations, I misspoke. While we were hearing from Matthew Poirier, I referenced a deputation from the North American Auto Accident Pictures, Towing Division. He had suggested that the four meetings he attended by KPMG were a smokescreen, and I misspoke by referring to the Fair Value Committee. I would just like the Hansard to reflect this correction: that when I was speaking to Matthew Poirier regarding the smokescreen we had heard about in a previous deputation, we were talking about KPMG and not the Fair Value Committee.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Ms. Thompson. All members are, of course, invited to correct their record at leisure. If I might just respectfully suggest, perhaps you might provide whatever the correction was in writing to ease the burden upon Hansard, who was looking a bit nervous at that.

**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 Acting Chair (Mr. Shafiq Qadri):** Are there any further issues before we begin clause-by-clause consideration? Seeing none, I would invite the members of the PC Party to please present motion 1.

*Interjection.*

**The Acting Chair (Mr. Shafiq Qadri):** As corrected by the Clerk, we have actually three sections for which, so far, no motions have been received. We'd like to go through those first before the presentation of a motion which hits, I believe, section 3.

Are there any general comments with reference to the title of the bill and/or sections 1, 2 or 3? Shall I interpret sections 1, 2 and 3 carried as so far presented?

*Interjection.*

**The Acting Chair (Mr. Shafiq Qadri):** Is it the will of the committee that we can consider all three sections simultaneously? No objections? Shall sections 1, 2 and 3 carry? Carried.

Schedule 1, section 1: so far, no motions received. Shall schedule 1, section 1, carry as written? No objections? Carried.

We now come, finally, to a motion. Schedule 1, section 2, PC motion 1: The floor is yours, Ms. Thompson.

**Ms. Lisa M. Thompson:** I move that section 65.1 of the Consumer Protection Act, 2002, as set out in section 2 of schedule 1 to the bill, be amended by adding the following definitions:

“‘storage services’ has the meaning provided for in the regulations; (‘services d’entreposage’)

“‘tow services’ has the meaning provided for in the regulations; (‘services de remorquage’)”

**The Acting Chair (Mr. Shafiq Qaadri):** Are there any comments before we vote on PC motion 1, as read? Mr. Singh and then Ms. Albanese.

**Mr. Jagmeet Singh:** Just the explanation for that. What would be the purpose of that?

**Ms. Lisa M. Thompson:** To your question, we want to make sure that—in reality, there are different services. There are storage services and towing services, so we want to recognize that they, in some instances, are totally separate entities.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Singh, is that satisfactory, or do you have any other—

**Mr. Jagmeet Singh:** Yes. So the way it’s written now is “tow and storage services” and “tow and storage providers,” so you want to separate that so that it’s “storage services” separate and “tow services” separate?

**Ms. Lisa M. Thompson:** Correct, yes.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. Ms. Albanese.

**Mrs. Laura Albanese:** I think that this would significantly limit the regulation-making authority, to have the two definitions, and in a way that is unnecessary.

**Ms. Lisa M. Thompson:** Do you agree that in some instances there can be different services, like a separate entity for towing and a separate entity for storage?

**Mrs. Laura Albanese:** But I think that those decisions would need to be made by the regulation-making authority, and we shouldn’t limit that at this point in time—

**Interjection:** Not in legislation.

**Mrs. Laura Albanese:** Not in legislation.

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**Ms. Lisa M. Thompson:** Well, that’s our position.

**The Acting Chair (Mr. Shafiq Qaadri):** Any further comments before we proceed to the vote? Mr. Singh.

**Mr. Jagmeet Singh:** Yes, just very briefly: It’s just in the definition component at 65.1. I don’t see how separating the two definitions would in any way affect regulation-making authority. It’s just indicating there are two different services. I mean, there is a difference between “towing” versus “storage.” I don’t really see how that affects us in any way. To me, it’s not a very major change, and it doesn’t change anything, so I have no issue with it. I don’t see how it hurts us in any way or impedes anything. I’m looking at the bill; I don’t see how that would affect us.

**Mrs. Laura Albanese:** I think if you read together the proposed motions from 1 to 11, then they could be interpreted to support a more limited regulation-making authority.

**The Acting Chair (Mr. Shafiq Qaadri):** Any further comments? Proceed to the vote? Fine. All in favour of PC motion 1? All opposed? I declare PC motion 1 to have been lost.

Ms. Thompson, the floor is yours: PC motion 2.

**Ms. Lisa M. Thompson:** I move that section 65.2 of the Consumer Protection Act, 2002, as set out in section

2 of schedule 1 to the bill, be struck out and the following substituted:

“Application

“65.2(1) This part applies to consumer transactions involving one or more of tow and storage services regardless of,

“(a) whether the authorization for the services is made by the owner or driver of a vehicle, a person acting on behalf of the owner or driver or a prescribed person; and

“(b) whether payment for the transaction is made or reimbursed by a third party, including a commercial or governmental entity.

“Non-application

“(2) This part or any provision of this part does not apply,

“(a) in respect of prescribed persons or with respect to prescribed circumstances; or

“(b) to a consumer transaction involving one or more of tow and storage services with respect to a commercial motor vehicle as defined in subsection 1(1) of the Highway Traffic Act.”

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Thompson. Comments before we proceed to the vote, if any? Seeing none, those in favour of PC motion 2? Those opposed? PC motion 2 is lost.

Ms. Thompson, the floor is yours: PC motion 3.

**Ms. Lisa M. Thompson:** I move that subsection 65.4(2) of the Consumer Protection Act, 2002, as set out in section 2 of schedule 1 to the bill, be amended by striking out “10 per cent” and substituting “15 per cent”.

**The Acting Chair (Mr. Shafiq Qaadri):** Questions, comments, irritants? Yes? No. Oh, Mr. Singh.

**Mr. Jagmeet Singh:** Just what the rationale is for that.

**The Acting Chair (Mr. Shafiq Qaadri):** Pardon me?

**Mr. Jagmeet Singh:** What is the rationale for this amendment?

**Ms. Lisa M. Thompson:** Estimates are very tough to nail down specifically, so this just gives them a little bit more wiggle room—some flexibility.

**The Acting Chair (Mr. Shafiq Qaadri):** The honourable Christopher Ballard, our newly minted MPP for Newmarket.

**Mr. Chris Ballard:** Thank you. My concern on the motion is that I fear it would be contradictory to section 10 of the current Consumer Protection Act, resulting in less protection for consumers than they currently enjoy or the bill as proposed would put into play. I can’t support anything that would weaken what we’re trying to put in place here to protect consumers.

**Ms. Lisa M. Thompson:** Do you agree or disagree that targeting a number is tough to estimate, in your experience? We just want to introduce a little bit more flexibility. That’s all.

**Mr. Chris Ballard:** I understand what you’re trying to do. I’m just concerned that it’s going to go against even the current Consumer Protection Act.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. Further comments, questions? Seeing none, we’ll pro-

ceed to the vote. Those in favour of PC motion 3? Those opposed? I declare PC motion 3 to have been lost.

PC motion 4: Ms. Thompson, the floor is yours.

**Ms. Lisa M. Thompson:** I move that subsection 65.10(1) of the Consumer Protection Act, 2002, as set out in section 2 of schedule 1 to the bill, be struck out and the following substituted:

“Disclosure of towing destination

“65.10(1) A tow and storage provider who has a vehicle of a consumer towed to a location for repair, storage, appraisal or similar purposes shall disclose the location to the consumer and to any other persons that may be prescribed and the disclosure shall be done in accordance with the prescribed requirements and in the prescribed form and manner.”

**Le Président suppléant (M. Shafiq Qadri):** Merci, madame Thompson. Y a-t-il des questions ou commentaires sur PC motion 4? Mr. Ballard.

**Mr. Chris Ballard:** Thank you again, and thank you for putting that forward.

The concern I have about the proposed motion revolves around the disclosure of appropriate information to the consumer. I fear that the proposed amendment would reduce the amount of information that the owner of the vehicle—the consumer—would have disclosed to him or her. Instead of disclosing, for example, the indirect relationship between the tow and the storage space operator, that would not be as clear, I believe anyway, with this proposal. The tow and storage provider would only be required to disclose the location to which the vehicle was towed, not the relationship between the towing company and the storage yard. So I can't support it as is.

**Ms. Lisa M. Thompson:** Okay. But this is about the disclosure of the location. Have you ever experienced this?

I can tell you that on Thanksgiving weekend a year ago, my stepdaughter driving to the University of Ottawa was in a fender-bender on Highway 401, and it is difficult. Her dad wasn't home straight away. It's very difficult.

What does “indirect” mean, then? Can you clarify that for us? Because it was difficult, and we pulled a lot of hair trying to get things settled.

**Mr. Chris Ballard:** We're here, and one of the reasons that we're here and moving ahead with this bill is exactly what you're talking about. It's about communicating with consumers. As you know, now, the current legislation gives storage facilities up to 60 days before they have to notify. So the proposed bill is going to address that. I just get worried that, again, if we begin to create potential solutions that are in legislation rather than in regulation, we take away some flexibility in future.

**Ms. Lisa M. Thompson:** Well, can you help us, because it's that indirectness—

**Mrs. Laura Albanese:** If I may.

**Ms. Lisa M. Thompson:** Laura?

**The Acting Chair (Mr. Shafiq Qadri):** Madame Albanese.

**Mrs. Laura Albanese:** You were making an example, and I'd like to make one too. I've been in that situation myself. What happens is, you don't know the relationship between the towing company and the storage company. That's what, I think, “indirect” is meant by the relationship—how to clear that up.

By just disclosing the location, you're not disclosing the relationship. You don't know if it's owned by the same people. So I think that by setting it in regulation, you have an opportunity not to just focus on the location but on a wider range of relationships.

**Ms. Lisa M. Thompson:** Okay.

**The Acting Chair (Mr. Shafiq Qadri):** Mr. Singh.

**Mr. Jagmeet Singh:** Just a quick question to legislative counsel, if I could ask your opinion, sir. Does 65.10, the amendment provided, in any way provide more information in terms of the disclosure of the location than is suggested by the existing 65.10?

**Mr. Ralph Armstrong:** I would say it provides for different information. What is there is about the interest; this provides simply about location. So they seem to be doing something somewhat different—if I'm understanding your question, sir.

**Mr. Jagmeet Singh:** No, you are, absolutely.

*Interjection.*

**Mr. Jagmeet Singh:** Oh, yes, right. That's true. Yes, it's true. It's just disclosure of interest.

Just a quick question to the government, then: Is there another method by which the government is proposing that the disclosure of the location be very clearly made or required by the towing or storage?

**The Acting Chair (Mr. Shafiq Qadri):** Mr. Ballard?

**Mr. Chris Ballard:** My understanding of the proposed bill is that, yes, storage operators will have—right now, they have 60 days to disclose location, and that will be reduced, but the aspect of disclosing where the vehicle is being held remains in force. In fact, the amount of time will be reduced. Reduced by how much, we're not sure yet. There's some discussion. But it will be reduced.

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**Mr. Jagmeet Singh:** Thank you.

**Ms. Lisa M. Thompson:** If I may?

**The Acting Chair (Mr. Shafiq Qadri):** Mr. Singh, did you need—

**Mr. Jagmeet Singh:** That's it. Thank you.

**The Acting Chair (Mr. Shafiq Qadri):** Ms. Thompson.

**Ms. Lisa M. Thompson:** I would just like to share that in proposing this amendment, we're doing so in the spirit of transparency. Our proposed amendment would require that every single time, the location would have to be disclosed. That's what we're going for right here.

**The Acting Chair (Mr. Shafiq Qadri):** Mr. Ballard.

**Mr. Chris Ballard:** And my understanding of the proposed bill is that that's exactly what is going to take place; it's already covered off.

**Mrs. Laura Albanese:** Plus the interest.

**Mr. Chris Ballard:** Yes—plus the disclosed or undisclosed interest between the towing company, and the relationship between the towing company and the storage area.

**Le Président suppléant (M. Shafiq Qaadri):** Plus de commentaires, questions, débats?

Maintenant, le vote : pour PC motion 4? Contre? Motion défaite.

The PC motion is lost.

We'll now proceed to PC motion 5: Ms. Thompson.

**Ms. Lisa M. Thompson:** I move that section 65.11 of the Consumer Protection Act, 2002, as set out in section 2 of schedule 1 to the bill, be amended by adding the following subsection:

“Posting

“(3) A tow and storage provider shall post a copy of the Tow and Storage Consumers Bill of Rights in accordance with the prescribed requirements, if any, at its business office and on its website on the Internet, if any, and shall include a copy of the Tow and Storage Consumers Bill of Rights in accordance with the prescribed requirements, if any, in its current statement of rates described in section 65.8.”

**The Acting Chair (Mr. Shafiq Qaadri):** Comments on PC motion 5? Mrs. Albanese.

**Mrs. Laura Albanese:** If I understand this correctly, you're proposing to post a copy of the Tow and Storage Consumers Bill of Rights at the business office and on the Internet site, if there is one, and to include a copy in the statement of rates. Right?

**Ms. Lisa M. Thompson:** Yes.

**Mrs. Laura Albanese:** But this, in a way, presumes that the tow and storage provider has a business office. This is an undefined term, I think, in the Consumer Protection Act. The bill already proposes the provider to provide the consumer with a copy of the Tow and Storage Consumers Bill of Rights. That basically covers the consumer protection. However, if they don't have an office, and if that's not required by the Consumer Protection Act, it might be a conflict.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Yurek.

**Mr. Jeff Yurek:** Sorry, I don't understand your point. If they don't have a business office, then they simply don't post it; they don't have a business office. You're handing over a piece of paper to the consumer.

**Mrs. Laura Albanese:** Right.

**Mr. Jeff Yurek:** This is covering more than just that. This is blanketing the system so that, as an uninformed person, I can go on their website and go, “Oh, this is my bill of rights. That's good to know”—being proactive in understanding the system as opposed to reactive.

When, in fact, you are in an accident, there's quite a high possibility that you're so shaken up that you don't even read this piece of paper that you're handed. Maybe down the road you might toss it out. If it's on their Internet site or if they do have a business office, they can drop by there and talk to them and notice it posted. This is purely protecting the consumer as opposed to limiting it under your proposal.

**The Acting Chair (Mr. Shafiq Qaadri):** Further comments? Mr. Ballard.

**Mr. Chris Ballard:** I really appreciate the spirit in which you're making these comments. Consumer education is key to consumer protection. I share some of the concerns that “business” isn't necessarily defined, so if we tell people they must post it at their office—they may not have an office.

**Mr. Jeff Yurek:** Then they don't post it.

**Mr. Chris Ballard:** We want to make sure, though, that what we don't lose—and this amendment, I fear, would—the fact that you get a piece of paper handed to you, that you're provided with that piece of paper at the appropriate time. I think the thing to keep in mind and I go back to is: What do we ensconce in legislation and what do we put in regulation? I think this is one of those things that we can work on when it comes time to setting the regulations.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Ballard. Mr. Yurek, then, back.

**Mr. Jeff Yurek:** Just further to that comment: We're not striking out any part of the bill that stops them from receiving handwritten information. We're actually adding to maximize the consumer protection, and I just don't understand why you don't see that as beneficial to the people of Ontario.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Ballard.

**Mr. Chris Ballard:** It very well may come out when we are engaged in consultations with the stakeholders exactly how that communication is made, when it's made, that sort of thing. But, again, do we ensconce this in legislation, or do we debate and discuss through consultations and regulations? My personal preference would be through consultation and regulation. But I certainly agree with both of you that more information is better.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Yurek.

**Mr. Jeff Yurek:** My question then is, if you want to have the spirit of consultation, the time to do it, instead of rushing this through committee, is actually listening at committee and going forward. Now we're going forward with the hopes that you'll have customer protection—hopefully it'll come up in regulations. We could have done this without having to time-allocate this bill to come forward and cover this. We're covering it now, so you don't have to hope it happens down the road. Again, I don't see the common sense other than that you're following your talking points to vote against this motion. But think about it for a second: You're expanding customer protection, you're not touching the bill, and at the end of the day, that's still going to happen. This is an expansion of it. Think a little ahead before you vote against this motion.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Singh has the floor at some point but if you'd just let them finish this perhaps. Madame Albanese.

**Mrs. Laura Albanese:** The only thing I wanted to point out is that I believe that the consumer is protected already by the framework of the bill. The consumer

protection is there; the consumer will be handed a copy at the moment.

I understand where you're coming from; at the same time, the ministry will be consulting with stakeholders, and I think that there's always a value in consulting with the people that are in the front row of what they do. I appreciate what you're saying. I think the consumer is protected because they will be receiving a copy, and we should find additional ways to strengthen that protection through consultation with the stakeholders and through regulation.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Singh is still deferred. Ms. Thompson.

**Ms. Lisa M. Thompson:** Can you expand at this time on the methodology around the consultations that you just referred to?

**Mrs. Laura Albanese:** We don't have the particulars. We just know that the ministry intends to consult with stakeholders. But that is something that I am sure they will be willing to provide.

**The Acting Chair (Mr. Shafiq Qaadri):** Ms. Thompson.

**Ms. Lisa M. Thompson:** I just want to be on record as saying that we've seen previously how, through your time allocations, debate and deputations have been limited, and I'm quite concerned over your consultative reach. It must include all of Ontario, not just folks who can drive into Toronto.

**Le Président suppléant (M. Shafiq Qaadri):** Merci, madame Thompson. Je passe la parole à vous, monsieur Singh.

**M. Jagmeet Singh:** Merci. C'est un grand plaisir de parler avec vous et tous les membres ici.

This amendment is a really straightforward amendment. It's really not that complicated. The way it's worded, it says: "if any," in reference to website or office. So if there's no office or website, then they are precluded. So it's not really onerous. If you have a website or an office, then you would be required to fall within this posting requirement, but otherwise it wouldn't affect you. It doesn't take away from subsection (1), which requires that the storage provider or tower provide a copy to the actual person being towed. So that still remains in subsection (1). And subsection (3) just requires an additional posting requirement. I don't see how that's onerous, and I don't really see that there's a big issue with it. It's not going to impede the bill, or the way that you hope for it to function. It's just an additional posting requirement.

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It's really of negligible impact to the overall bill. It's just basically saying, "Post it on the website or in your office," if you have an office. I don't see how that's difficult. You could just essentially print it off on a printer and tape it on your wall. That's posting it in the office. And the Internet: If you have a website, you just add an extra link on the website. It's not really hard to do.

**Mr. Jeff Yurek:** It's because it's a PC motion.

**Mr. Jagmeet Singh:** I'm not particularly beholden to the motion. I just don't see it being very onerous. I would

support it just because it's not a big deal and it's encouraging a bit more education and awareness, so why not?

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. Further comments before the vote? Seeing none, we will proceed to the vote.

All those in favour of PC motion 5? Those opposed? PC motion 5 is defeated.

Ms. Thompson, you have the floor: PC motion 6.

**Ms. Lisa M. Thompson:** I move that section 65.12 of the Consumer Protection Act, 2002, as set out in section 2 of schedule 1 to the bill, be amended by adding the following subsection:

"Exception

"(1.1) A tow and storage provider that provides tow and storage services in respect of a vehicle of a consumer is not required to provide access under subsection (1) if the consumer has abandoned the vehicle."

**The Acting Chair (Mr. Shafiq Qaadri):** Comments? Questions?

**Mr. Chris Ballard:** The only comment really that leaps out at me—and again, consumer access to a vehicle in storage we well know is one of the irritants, the major irritants, that consumers tell us about. When their vehicle is in storage, they can't access their personal effects.

The problem I have with this is in the defining of "abandoned." It's not defined under the Consumer Protection Act, and my fear is that because it is not clearly defined in legislation or regulation, we are going to have an awful lot of consumer complaints, consumer disputes. For that reason, I have difficulty supporting it.

**The Acting Chair (Mr. Shafiq Qaadri):** Further comments?

**Ms. Lisa M. Thompson:** Well, perhaps "abandoned" could be defined through your consultations.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Thompson.

Mr. Singh, did you have—

**Mr. Jagmeet Singh:** I just have to agree with Mr. Ballard's comments. In this particular case, because the word "abandoned" isn't defined, it does actually open up a potential whole suite of problems where someone can dispute whether they didn't contact the storage provider for a certain amount of time because they just were unable to, they were ill, they were sick, they were just not in a position to be able to contact them or to retrieve the vehicle, and it could be deemed abandoned. It would then be more difficult to have access to it. I can see how this could be a significant problem, so because of "abandoned" not being clear, I would not support it.

**The Acting Chair (Mr. Shafiq Qaadri):** Further comments? Seeing none, we will proceed with the vote.

Those in favour of PC motion 6? Those opposed to PC motion 6? PC motion 6 is lost.

Ms. Thompson, you have the floor with PC motion 7.

**Ms. Lisa M. Thompson:** I move that subsection 65.12, section 3, of the Consumer Protection Act, 2002, as set out in section 2—sorry about that, Chair. Do you want me to reread that?

**The Acting Chair (Mr. Shafiq Qaadri):** If you might.

**Ms. Lisa M. Thompson:** Okay. I move that subsection 65.12(3) of the Consumer Protection Act, 2002, as set out in section 2 of schedule 1 to the bill, be amended by adding “or unless the access takes place outside normal office hours” at the end.

**The Acting Chair (Mr. Shafiq Qaadri):** Ms. Thompson, could you just repeat the numbers there: 65.12(3)? Is that what you said?

**Ms. Lisa M. Thompson:** Yes, 65.12(3) of the Consumer Protection Act.

**The Acting Chair (Mr. Shafiq Qaadri):** That’s 65.12, subsection (3).

**Ms. Lisa M. Thompson:** That’s what I tried to say the first time.

**The Acting Chair (Mr. Shafiq Qaadri):** Please say it now.

**Ms. Lisa M. Thompson:** Okay, 65.12, subsection (3).

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you.

Any comments on PC motion 7?

**Mrs. Laura Albanese:** The comment I have, or I guess the question, is: What constitutes normal business hours?

**Ms. Lisa M. Thompson:** It would be defined by the tow service provider’s website etc. Again, as I said, the providers have a variety of ways to identify their normal office hours, but this just keeps it open-ended so that, you know, if something happens at 1 in the morning, there’s that flexibility tied in there again.

**The Acting Chair (Mr. Shafiq Qaadri):** Further comments before we proceed to the vote? Those in favour of PC motion 7? Those opposed to PC motion 7? PC motion 7 is lost.

Ms. Thompson, you have the floor: PC motion 8.

**Ms. Lisa M. Thompson:** I move that section 65.15 of the Consumer Protection Act, 2002, as set out in section 2 of schedule 1 to the bill, be amended by striking out “cash or any other prescribed payment method” and substituting “or cash”.

**The Acting Chair (Mr. Shafiq Qaadri):** Comments? Mr. Ballard.

**Mr. Chris Ballard:** The concern I have with this one is that obviously, requiring tow and storage providers to accept payment by credit card, cash—

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Ballard, could I just get you a little closer to the mike, there?

**Mr. Chris Ballard:** How’s that?

**The Acting Chair (Mr. Shafiq Qaadri):** You have to speak, and they’ll tell you.

**Mr. Chris Ballard:** Speak into the mike.

The proposed amendment speaks to the requirement for tow and storage providers to accept payment by credit card or cash for tow storage services. My concern is that it removes the flexibility to prescribe other payment methods by regulation. I go back to earlier comments I’ve made: What do we ensconce in legislation? What do we put into regulation? Personally, I would rather keep this in regulation so we can be more flexible.

**The Acting Chair (Mr. Shafiq Qaadri):** Further comments? Ms. Thompson.

**Ms. Lisa M. Thompson:** Well, I find it interesting. We’ve just had a number of motions trying to introduce flexibility, and here, credit cards and cash are still allowed. When it has “or ... prescribed payment method,” what are you talking about: foreign currency, travellers’ cheques? The ambiguity there is jumping out at us.

**The Acting Chair (Mr. Shafiq Qaadri):** Further comments? Ms. Albanese.

**Mrs. Laura Albanese:** I guess the only thing I would say is: I beg to differ; I think they’re all trying to add flexibility, at least in my view.

**The Acting Chair (Mr. Shafiq Qaadri):** I’ll proceed, then, to the vote on PC motion 8. Those in favour? Those opposed? PC motion 8 is lost.

Ms. Thompson, you have the floor: PC motion 9.

**Ms. Lisa M. Thompson:** I move that section 2 of schedule 1 to the bill be amended by striking out section 65.18 of the Consumer Protection Act, 2002.

**The Acting Chair (Mr. Shafiq Qaadri):** Comments? We’ll proceed to the vote. Those in favour of PC motion 9? Those opposed? PC motion 9 is lost.

We will now consider that section. Shall schedule 1, section 2, carry? Carried.

I now invite the committee to do a block consideration of schedule 1, sections 3 to 7, inclusive. May I have that as the will of the committee? There are no amendments or motions or anything so far presented, by the way. Shall schedule 1, sections 3 to 7, inclusive, carry? Carried.

Ms. Thompson, you have the floor for presentation of PC motion 10 for schedule 1, section 8.

**Ms. Lisa M. Thompson:** I move that clause 123(7.1)(a) of the Consumer Protection Act, 2002, as set out in section 2 of schedule 1 to the bill, be struck out and the following substituted:

“(a) respecting any matters that may be prescribed for the purposes of part VI.1 or that are described in that part as provided for in the regulations;”

**The Acting Chair (Mr. Shafiq Qaadri):** Comments? No further comments? We’ll proceed, then, to the vote. Those in favour of PC motion 10? Those opposed? PC motion 10 is lost.

Ms. Thompson, you have the floor: PC motion 11.

**Ms. Lisa M. Thompson:** I move that clause 123(7.1)(c) of the Consumer Protection Act, 2002, as set out in section 2 of schedule 1 to the bill, be struck out.

**The Acting Chair (Mr. Shafiq Qaadri):** Comments? Seeing none, we’ll proceed to the vote. Those in favour of PC motion 11? Those opposed? PC motion 11 is lost.

Ms. Thompson, you have the floor: PC motion 12.

**Ms. Lisa M. Thompson:** I move that clause 123(7.1)(1) of the Consumer Protection Act, 2002, as set out in section 2 of schedule 1 to the bill, be struck out.

**The Acting Chair (Mr. Shafiq Qaadri):** Ms. Thompson, I need you to just repeat that for our collective knowledge. Here. That’s an “L.”



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**Ms. Lisa M. Thompson:** “L”?

**The Acting Chair (Mr. Shafiq Qadri):** Just reread it, if you might, please.

**Ms. Lisa M. Thompson:** Very good. I move that clause 123(7.1)(1) of the Consumer Protection Act, 2002, as set out in section 2 of schedule 1 to the bill, be struck out.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you. Comments on PC motion 12? Seeing none, we’ll proceed to the vote. Those in favour of PC motion 12? Those opposed? I declare PC motion 12 to have been defeated.

We’ll proceed now to the consideration of that section. Shall schedule 1, section 8, carry? Carried.

We’ll now consider schedule 1, section 9, for which no motions have so far been received. Shall schedule 1, section 9, carry? Carried.

Shall schedule 1 carry? Carried. Thank you, colleagues.

We’ll now move to consideration of schedule 2, section 1, PC motion 13. Ms. Thompson, the floor is yours.

**Ms. Lisa M. Thompson:** I move that subsection 1(10) of the Highway Traffic Act, as set out in subsection 1(3) of schedule 2 to the bill, be amended by adding “subject to subsection 16(1)” at the beginning.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you. Comments on PC motion 13? Mr. Ballard.

**Mr. Chris Ballard:** The concern I have with this proposed amendment from my reading of it is that really, in practical terms, it’s going to mean that tow trucks could not be included in the CVOR regime since all tow trucks may at some time carry out consumer transactions. The intent of the bill is to capture tow trucks within the CVOR to improve consumer protection and safety, so my concern, as I said earlier, is that this proposal would remove them. I just can’t support that.

**The Acting Chair (Mr. Shafiq Qadri):** Ms. Thompson, the floor is yours.

**Ms. Lisa M. Thompson:** Again, these amendments are based on the stakeholder consultations that we have had, so our position stays.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you. We’ll proceed, then, to the vote. Those in favour of PC motion 13? Those opposed? PC motion 13 is lost.

Ms. Thompson: PC motion 14. The floor is yours.

**Ms. Lisa M. Thompson:** I move that subsection 3(1) of schedule 2 to the bill be struck out and the following substituted:

“(1) The definition of ‘commercial motor vehicle’ in subsection 16(1) of the act is repealed, and the following substituted:

“‘commercial motor vehicle’ does not include a tow truck as defined in section 65.1 of the Consumer Protection Act, 2002. (‘véhicule utilitaire’)”

“(1.1) The definitions of ‘compensation’, ‘CVOR certificate’, ‘goods’ and ‘safety record’ in subsection 16(1) of the act are repealed.”

**Le Président suppléant (M. Shafiq Qadri):** Merci, madame Thompson. Bien prononcé. Y a-t-il des questions, commentaires, débats ?

On PC motion 14: Mr. Singh.

**Mr. Jagmeet Singh:** Can you just explain the rationale for this?

**Ms. Lisa M. Thompson:** This is just based on consultation with stakeholders.

**Mr. Jagmeet Singh:** What would it achieve?

**Ms. Lisa M. Thompson:** Again, as I said, this is something that has come forward through our consultations.

**Mr. Jagmeet Singh:** Okay.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you. Mr. Ballard? Ms. Albanese?

**Mrs. Laura Albanese:** I just wanted to point out that my concern is the consumer protection.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you. Further comments? Seeing none, I’ll proceed to the vote. Those in favour of PC motion 14? Colleagues, those in favour of PC motion 14, if any? Those against? I declare PC motion 14 to have been lost.

Shall schedule 2, section 1, carry? That section is carried.

May I have the will of the committee that schedule 2, sections 2 to 47, be considered inclusively? Is that the will of the committee? Thank you.

I will now ask: Can schedule 2, sections 2 to 47, inclusive, be carried? Carried. Thank you.

Shall schedule 2 carry? Carried.

I will now ask for the will of the committee: Shall schedule 3, sections 1 to 10, inclusive, be considered as a block? Agreed.

Next question: Shall schedule 3, sections 1 to 10 carry? Carried.

We now proceed to schedule 3, section 11. PC motion 15: Ms. Thompson.

**Ms. Lisa M. Thompson:** I move that section 11 of schedule 3 to the bill be amended by adding the following subsection:

“11(0.1) Subsection 121(1) of the act is amended by adding the following paragraph:

“24.1 exempting any dispute or class of disputes from sections 279 to 283 subject to the terms and conditions set out in the regulations;”

**The Acting Chair (Mr. Shafiq Qadri):** Comments on PC motion 15? Mr. Singh and then Ms. Albanese.

**Mr. Jagmeet Singh:** What’s the purpose of this?

**Ms. Lisa M. Thompson:** Again, it’s based—and Jeff, jump in at any time—on the consultations that we did with our stakeholders.

**Mr. Jagmeet Singh:** Okay, fine. That’s it.

**The Acting Chair (Mr. Shafiq Qadri):** Further comments on PC motion 15? Madame Albanese.

**Mrs. Laura Albanese:** Yes. So this motion would seek to exempt disputes from the new dispute resolution system that we’re proposing. It would bring no cost savings, first of all, and then at the same time I want to point out that the new proposed dispute resolution system

is about providing benefits to the injured person as soon as possible. We want to get the claimant to access benefits sooner. That's what the new dispute resolution system proposes. So this would not achieve that.

**The Acting Chair (Mr. Shafiq Qaadri):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Again, it just comes back to being committed to consultations and making sure that everyone is heard from. That's what it is.

**Mrs. Laura Albanese:** Yes, but we had a dispute resolution system review that was led by the Honourable Douglas Cunningham that was quite extensive and that we are basing the new proposed system on.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Yurek.

**Mr. Jeff Yurek:** This motion is just basically allowing people still to access the courts. I know that Justice Cunningham did as best he could. However, he's comparing this tribunal to the WSIB tribunal system, and that doesn't really accurately portray what occurs out in the real world of auto insurance. The necessity of people to access the court system I think is very vital to our party, and we think they should still have that route to go.

**The Acting Chair (Mr. Shafiq Qaadri):** Madame Albanese and then Mr. Singh.

**Mrs. Laura Albanese:** The new proposed system still provides accident victims with access to the courts by allowing the parties to appeal arbitration decisions to the Divisional Court.

I just want to point out that Honourable Cunningham, on the presentation of his recommendations, explicitly rejected arguments for broader access to courts. In his final report, he stated, "I do not accept the argument that denying access to the courts would deny individuals access to justice." This is only for benefits and it's, again, to get the claimant to access their benefits sooner. There's still an arbitration hearing that will be available and still have access to the courts after a decision is made on the arbitration.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Yurek.

**Mr. Jeff Yurek:** What you're looking at, though, is the possibility of doubling the cost to the claimant with regard to having to pursue two different court cases. You're also looking at the fact that it's coming from this party which implemented changes in 2010 which saw the wait-lists for mediation arbitration shoot to over 30,000. Currently, there are still tons of cases waiting to be heard in arbitration, which increases the cost to our system due to the fact of the uncertainty of how the cases are going to go further. Therefore, giving people access to the opportunity to go to the court system, I think, is not only correct with regard to people's rights to have access to the court system, but also in fact may reduce costs to the system at the end of the day and allow for swifter justice in closing out the entire case, as opposed to dragging it out into numerous parts.

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**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. Mrs. Albanese and then eventually Mr. Singh.

**Mrs. Laura Albanese:** All I want to say is that victims need a system where they can access benefits

faster, and that's what we're trying to do. Under the new system, the accident benefits claim will be dealt with within six months. This helps to lessen the cost and lessen the uncertainty, and the savings would be passed on quicker. I think it's well known that an action in court usually takes years, not months.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. Mr. Yurek.

**Mr. Jeff Yurek:** Thanks for your comments there. However, I find it hard pressed for this government to actually follow through with its time frames. Arbitration-mediation was supposed to be completed within four weeks under the last changes to the legislation; however, we're looking at two to three years alone to get through that process.

I don't believe you guys could actually follow through in achieving six months in getting through this tribunal process. You guys don't have the history to support that, and you haven't made any changes with regard to your governance structure to actually think that there will be any changes going forward.

**Mrs. Laura Albanese:** Again, the changes are based on a review that was conducted by the Honourable Justice Cunningham, and they are based specifically on making the system faster. So it isn't about what we're recommending; it's about what Justice Cunningham is recommending.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Yurek.

**Mr. Jeff Yurek:** So under that train of thought, we will be looking forward for you to fully implement the Drummond report, which was also recommendations from David Dodge. You're taking Justice—what's his last name again?

**Interjections:** Cunningham.

**Mr. Jeff Yurek:** Cunningham. Thank you. You're taking Justice Cunningham's word for gold and transposing his whole report into law, whereas, coming to the Drummond report, you pick and choose. So you do have the ability to look beyond what Justice Cunningham has said and listen to the stakeholders out in the community and give people their just chances to have their day in court and be able to choose that option, if they choose to do so.

**The Acting Chair (Mr. Shafiq Qaadri):** Thanks. Madame Albanese.

**Mrs. Laura Albanese:** I'm just going to conclude by saying that the system will be moved to the Licence Appeal Tribunal, which is under the Ministry of the Attorney General, where there are specialists who will be able to deal with this, and that will streamline the process.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. Mr. Yurek.

**Mr. Jeff Yurek:** I'd like to know what specialists there are in the auto insurance industry to actually process these claims any quicker. What I think you're saying there is that our court system does not have the capability to hear auto insurance claims, nor are the lawyers and judges able to create a case that's fair to society. We, on

the other hand, believe that our judges and lawyers and our legal system have the ability to handle the court case situations. We like the idea of having a choice one way or the other. I'm sorry that you are opposed to freedom of the courts, opposed to the abilities of our judges and opposed to the abilities of our lawyers throughout this province.

**The Acting Chair (Mr. Shafiq Qaadri):** Madame Albanese.

**Mrs. Laura Albanese:** I would like to conclude just again—second conclusion. I have the utmost respect for our lawyers and for our judges. All I'm trying to say is that this would be a more streamlined process, and that's what we're trying to achieve. Please don't put words in my mouth.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Madame Albanese. Mr. Singh?

**Mr. Jagmeet Singh:** I'm going to make it very clear: The Liberal government is clearly taking away access to justice. They're actually removing the right to sue. It's absolutely taking away access to justice. You've left in the ability for a judicial review. Now, let's not conflate the two. A judicial review is not the same as access to justice. A judicial review is very, very narrow. To bring a judicial review, you could be absolutely wrong, you could have made the wrong decision and it's absolutely improper, but if you followed all the due process correctly, if everything was done in a manner that was just, but the decision was still wrong, you couldn't win; you will not win a judicial review. So if I'm bringing a claim and I'm denied my benefits and I bring a judicial review, I won't necessarily get justice in terms of getting a decision because it was a wrong decision if all the steps were properly followed. A judicial review is very, very narrow. It's very rare to win a judicial review. It doesn't equate to the same level or the same access to justice as bringing a lawsuit. So there's a very big difference.

To suggest in any way that there's the same level of access to justice is absolutely wrong. You should accept that you're reducing access to justice, which is fine if that's your decision. I'm against that. I think that's wrong. But that's what you're doing. You're reducing access to justice, which would certainly benefit the insurance industry. Whether it benefits people or not—you may claim it does; I clearly say that it does not benefit people. That's one thing we should make clear.

I'll be supporting this motion, but I'll also be asking you to vote against other sections which take away the right to sue, the right to bring a legal action in court. I want to make sure that's very clear.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Singh. Madame Albanese.

**Mrs. Laura Albanese:** The only thing I would like to add to that is, first of all, you can always sue on the tort side. The dispute resolution system is only for benefits. You can appeal the process. That access is still there through the appeal; if you don't like the decision that has been made, you can appeal.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Madame Albanese.

Further comments on PC motion 15? Seeing none, we'll now proceed to the vote. Those in favour of PC motion 15? Those opposed? The PC motion is defeated.

Shall schedule 3, section 11 carry? Carried.

We'll now move to consideration of schedule 3, section 12. This is a notice provided by the NDP. Mr. Singh, the floor is yours.

**Mr. Jagmeet Singh:** Thank you very much. With respect to section 12, schedule 3—

**The Acting Chair (Mr. Shafiq Qaadri):** This is it, Mr. Singh?

**Mr. Jagmeet Singh:** Yes. There's a particular component that I'd like to raise.

**The Acting Chair (Mr. Shafiq Qaadri):** You need to read the notice, Mr. Singh; that's what I understand.

**Mr. Jagmeet Singh:** I think that for a notice, you just make your argument.

**The Acting Chair (Mr. Shafiq Qaadri):** I think you're right.

**Mr. Jagmeet Singh:** "8.1 Subsection 128(2) of the Courts of Justice Act does not apply in respect of the calculation of prejudgment interest for damages for non-pecuniary loss in an action referred to in subsection (8)." The reason why I'm asking the members of this committee to vote against this is that it removes the current interest that's applied, which was one form of encouragement so that insurance companies would settle. Having 5% prejudgment interest ensured that there was some benefit that insurance companies—if they saw a claim that they should settle, they would settle it earlier because otherwise they would incur 5% interest.

What reducing that to 1.3% does is that insurance companies can essentially say, "Listen, there's no reason for us to settle a claim. We can invest that money in any sort of fund and be at 1.3% interest." There's no incentive for them to settle a case earlier. Having a higher interest rate before, which was the standard, was at least one form of encouragement. If you're going to lose this case or if you're going to settle it anyway, you might as well do it quickly; otherwise, you'll incur additional interest.

It's our position that, in the interest of protecting people, protecting those who are victims in a motor vehicle accident, this would ensure that insurance companies are actually motivated to settle a case. By removing that interest, what's going to happen is that there's no motivation, no incentive, to settle a case early. Instead, we'll see further delays. People who are struggling, people who are injured, people who are vulnerable won't actually get their settlements because there's no incentive to settle. That's why I ask the members of this committee to vote against this section.

**The Acting Chair (Mr. Shafiq Qaadri):** Just to be clear, this is not a votable item. Those remarks were provided for the collective edification of the committee.

Are there any further replies? Madame Albanese.

**Mrs. Laura Albanese:** Yes. The intent to update the prejudgment interest rate is to reduce the cost of the tort claims, the bodily injury claims. The current rate of 5% is not linked to market conditions. Almost all the other damages awarded by the courts are already subject to a prejudgment interest rate that is linked to market conditions.

Other provinces also have lower rates of prejudgment interest for pain and suffering damages than Ontario. For example, New Brunswick has set the rate at zero.

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To your concern about the delay that insurance companies could have in paying out the claims: First of all, I think I pointed out already that the proposed change is only for the pain and suffering damages. The insurance companies would be subject to sanctions, so there could be punitive damages that the courts may award. Also, it's recognized already as an unfair and deceptive act or practice by FSCO. So there are, in our opinion, already enough financial disincentives that would deter insurance companies from delaying the cases.

**Le Président suppléant (M. Shafiq Qadri):** Avant de vous passer la parole, je veux adresser notre traducteur. S'il vous plaît, mon ami, si vous pouvez diminuer un peu votre voix, qui projetait et « engulfait » cette chambre.

Mr. Singh.

**Mr. Jagmeet Singh:** Again, just to be very clear, this is schedule 3, subsection 12. I'm asking again, when we come to vote on this section, to vote against it. I've heard Ms. Albanese's response—thank you for that.

I just want to make it clear, once again, that this was just one tool that was benefiting people and not insurance companies. This is one tool that created some level of fairness where all the steps that we're taking and that this government is taking are putting more and more advantages forward for the insurance companies and not putting any advantages forward for people. There's nothing that ties in, for example, this reduction of interest—which does exist in other areas—to a guaranteed reduction in insurance rates. There's nothing that ties in that by getting rid of this that will automatically result in a 0.2% reduction in rates, or 0.5% or 1%. There's nothing that ties, actually, any of these amendments to a concrete reduction.

There are all these benefits that this government is proposing for the insurance industry to reduce their costs, to benefit them, but there's nothing that actually ties any of those benefits in any sort of legislated way to ensure that there's actually going to be a reduction for drivers. That's one thing that I want to make sure is very clear.

**The Acting Chair (Mr. Shafiq Qadri):** Madame Albanese.

**Mrs. Laura Albanese:** The intent is to reduce the cost in the system so that we can achieve a 15% reduction, so the benefit for the people will be a rate reduction.

At the same time, I want to reiterate that FSCO can penalize the insurance companies. This is not about favouring the insurance companies. It is still making sure

that people get the benefits that they need as soon as possible, bringing down the costs in the entire system so that we can achieve the intent that we all have to reduce the rates.

**The Acting Chair (Mr. Shafiq Qadri):** Mr. Singh?

**Mr. Jagmeet Singh:** I just want to make sure: The insurance industry could reduce their costs by just settling these cases earlier and they wouldn't actually have to pay any prejudgment interest. If they would just settle them, there wouldn't be any prejudgment interest to calculate in the first place. I would suggest that instead of putting more benefits or more advantage in favour of insurance companies, we should look towards making it easier and more accessible for the people, the victims. If you look at the two, the insurance industry is far more powerful than everyday people, and we should be looking to make sure a system is in favour of the people, not in favour of those who already have so much advantage.

That's why I think we need to maintain the current prejudgment interest as it is. It's an incentive to settle earlier, and the insurance companies can avoid the cost by just settling earlier, if it's really their issue that they're concerned about the cost. Otherwise, why are they delaying settlements?

**The Acting Chair (Mr. Shafiq Qadri):** Further comments? Once again, that is not a votable item and we are now considering schedule 3, section 12. Shall that carry?

**Mr. Jagmeet Singh:** No.

**The Acting Chair (Mr. Shafiq Qadri):** Pardon me?

**Mr. Jagmeet Singh:** No.

**The Acting Chair (Mr. Shafiq Qadri):** All right. Those in favour of schedule 3, section 12 carrying?

**Mr. Mike Colle:** Just to make sure, there was an NDP motion before us.

**The Acting Chair (Mr. Shafiq Qadri):** Mr. Colle, that's actually what I was attempting to clarify. NDP item 16 is not a motion. It is for our collective benefit. It is not a votable item. It is delving into the philosophy of the bill.

**Mr. Mike Colle:** So why was it before us as a motion?

**The Acting Chair (Mr. Shafiq Qadri):** As I understand it, it is not a motion. It is clearly labelled "notice."

**Mr. Mike Colle:** Okay. Thank you.

**The Acting Chair (Mr. Shafiq Qadri):** No problem. Once again, we are not voting on that item. We are voting on section 12 of schedule 3 as a whole. I will ask again: Shall schedule 3, section 12 carry? I believe it's carried.

We'll now go to schedule 3, section 13, for which—

**Mr. Jagmeet Singh:** Point of order.

**The Acting Chair (Mr. Shafiq Qadri):** Yes, Mr. Singh.

**Mr. Jagmeet Singh:** Is there supposed to be a vote on that? I thought that you would vote on the section.

**The Acting Chair (Mr. Shafiq Qadri):** Fine. Let's review. We'll now vote—once again, my apologies—on schedule 3, section 12.

**Mr. Jagmeet Singh:** Can we have a recorded vote?

**The Acting Chair (Mr. Shafiq Qadri):** We can have a recorded vote. Schedule 3, section 12, recorded vote.

### Ayes

Albanese, Ballard, Colle, Lalonde, McMahon.

### Nays

Singh.

**The Acting Chair (Mr. Shafiq Qadri):** Schedule 3, section 12 carries.

We will now consider schedule 3, section 13, for which, so far, no amendments or motions have been received. Shall that carry? Carried.

We now proceed to schedule 3, section 14. PC motion 17: Ms. Thompson, the floor is yours.

**Ms. Lisa M. Thompson:** I move that subsection 280(3) of the Insurance Act, as set out in section 14 of schedule 3 to the bill, be amended by adding “Subject to the regulations” at the beginning.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you. Comments? Mr. Singh.

**Mr. Jagmeet Singh:** What would that achieve?

**Ms. Lisa M. Thompson:** Again, it’s just setting out that this particular section is absolutely subject to the regulations. Just clarifying. That’s it.

**Mr. Jagmeet Singh:** Okay.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you. Comments? Mr. Singh.

**Mr. Jagmeet Singh:** What would the government have an issue with, with respect to this?

**Mrs. Laura Albanese:** I think that this is similar to motion 15, I believe it was. It’s an alternative motion to appoint mediation. It basically would achieve the status quo and it wouldn’t allow the new proposed changes under the dispute resolution system to take place. It’s very similar to motion 15.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Madame Albanese. Further comments before the vote on PC motion 17? Seeing none, those in favour of PC motion 17? Those opposed? I declare PC motion 17 to have been lost.

PC motion 18: Ms. Thompson, the floor is yours. Oh, Mr. Yurek.

**Mr. Jeff Yurek:** Mr. Singh.

**The Acting Chair (Mr. Shafiq Qadri):** I’m sorry. You’re quite correct. Mr. Singh: NDP motion 18.

**Mr. Jagmeet Singh:** Thank you. This is in respect to section 14 of schedule 3 to the bill. I move that section 280 of the Insurance Act, as set out in section 14 of schedule 3 to the bill, be amended by adding the following subsection:

“Exception

“(3.1) Subsection (3) does not apply,

“(a) in respect of a dispute the registrar of the Licence Appeal Tribunal has identified as being in the complex stream of applications; or

“(b) to a person who, before the day section 14 of schedule 3 to the Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014 came into force, has commenced a proceeding in tort and who wishes to include the matter of the dispute described in subsection (1) in his or her tort proceeding.”

**The Acting Chair (Mr. Shafiq Qadri):** Thank you. Comments? Questions? Mr. Singh.

**Mr. Jagmeet Singh:** This is a way by which, again, we return some fairness to the actual victims, to the people who are actually impacted by motor vehicle accidents. It allows for two things. It allows an exception that, in cases where someone is catastrophically injured or so seriously injured that they be identified as in the complex stream of applications—in those cases, they not be subject to the limitation on court proceedings. I think that everyone should have a right to sue, and I’ll be voting against subsection 280(3), which takes away that right.

**1510**

I’m proposing an amendment that, if you do think that there should not be the right to sue, then at least in cases where there’s a catastrophically injured individual and that catastrophically injured individual is not receiving the benefits they deserve, then in that case there should be an exception. Because it’s such a serious case, that person is so seriously injured and so vulnerable, they should at least be allowed to bring a lawsuit in court the way they were able to before. Perhaps you’re making a distinction between those who are in the \$3,500 category in the minor injury guideline—perhaps they can’t bring a lawsuit, but at least someone who is fighting a catastrophically impaired case should be allowed to bring a challenge in court, and they should be exempt from subsection (3).

The second sub-exemption that I’m asking you to consider is, if someone is already bringing a tort case, then, as one of our colleagues indicated, instead of having to bring two separate court proceedings in this case, if you’ve already commenced proceedings in tort, you also should be able to tie in your proceeding where your benefits—where you’re challenging that as well.

Those are two exceptions that I’m asking you to consider. That’s that.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Mr. Singh. Madame Albanese.

**Mrs. Laura Albanese:** The first thing I would like to clarify is that people can still go to court if they’re on the tort side, if they are not at fault. The court access is still there.

If the recommendations from Justice Cunningham are implemented, even the most complicated hearings will be resolved in a matter of months and not a matter of years. A longer court process doesn’t help to get immediate help to accident victims, such as medical help, rehabilitation, income replacements. Those are the things that you

need immediately when you have an accident. I know that also because many years ago my husband was the victim of a pretty serious accident. It's all about getting those benefits to the victim sooner.

Also, allowing accident benefits and tort claims to be merged would provide the tort insurer with the opportunity to shift some of the costs to the accident benefits insurer. Our automobile insurance system in Ontario is a closed system, which means that all the costs of all the premiums must pay for all the costs of all the claims. So the fear is that some would be shifted from the benefits to another area of the claim. With this new dispute resolution system, the intent is for the accident benefits to be decided in a short period of time—as we said before, up to six months, hopefully even sooner—and to get those benefits to the victim right away.

At the same time, you can still sue on the tort side. So you're not excluding that right to the victim. You're just trying to get them the benefits that they need much sooner. That's the intent of separating the two.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Madame Albanese. Mr. Singh.

**Mr. Jagmeet Singh:** So let's just clarify: I've never said that the tort side is being removed. It's not being removed. What's being removed here is, there's a limit on court proceedings when it comes to the benefits side. So all of my comments are about the benefits side. Because of course there's nothing in this legislation that denies you the right to bring a tort case. Of course I'm not talking about that.

Obviously, if a case is being settled and you go to arbitration and you're immediately receiving the benefits, you wouldn't need to bring a lawsuit. The lawsuit is only brought when the insurance company says, "No, I'm not giving you....," and if even after arbitration the answer is still no, that's when you bring a lawsuit.

In fact, you know early on—often lawyers have a heads-up that the insurance company says, "No, we're not going to give you these benefits." They know that up front. It's very clear that they're going to fight this in arbitration, and you know that you need to go to court, because the insurance companies are going to say no. When you already know that's going to happen anyway, and the insurance companies are already challenging you on that side, that's when you need to bring a lawsuit.

So it is absolutely impeding access to justice when someone knows very clearly—the lawyer has already found out from the insurance company that they're going to deny this claim, they are not going to pay the benefits that you need, arbitration decides you're not going to get it, and you want to bring a case to court. That's when you are being denied access to justice. This now says you can't actually sue in court if an insurance company says no to your benefits. If the insurance company says no to your benefits. If the insurance company says no, you don't have a recourse in court. Before, you could.

I'm asking at least that, at a minimum, if somebody is catastrophically injured, they should be exempt from this limitation of court proceedings. They should be exempt.

If you're catastrophically injured and you're fighting a catastrophic injury claim—if you're in that category—you should be allowed to sue in court for your benefits—not for tort, because you're always going to sue for tort.

The second issue I want to make very clear is that if you're already bringing a tort case, in those cases where you're bringing a tort case—for those victims who are injured or vulnerable, it is costly. It is difficult. They should be able to bring their tort case and their statutory accident benefit case both at the same time. Why should they bring two separate proceedings? They can appeal that decision in a separate court case, and they can have a tort case separately. Why have two separate court cases, two separate court dates? With the same evidence that's going to be called, it's very inefficient.

So we're saying that, if somebody is already bringing a tort case, they should also be able to simultaneously bring a benefit case to court. That's the issue. Absolutely, as it exists, there is no doubt that it's denying access to the courts. It's limiting your access to the courts. It's limiting it to tort only, and you can't bring a claim for benefits. That's what this is doing, very, very clearly.

It states it very clearly: "No person may bring a proceeding in any court with respect to a dispute described in subsection (1), other than an appeal from a decision of the Licence Appeal Tribunal or an application for judicial review." So you're not allowed to bring a proceeding in court. It's pretty black and white. It says you're denying access to justice. It says it right here. You can't say it's not. You can say you want to do it, that you believe in it or that it's something that you support—denying access to justice. That's fine, but don't say you're not doing it when you're doing it.

**The Acting Chair (Mr. Shafiq Qaadri):** Further comments before we proceed to the vote? Mrs. Albanese.

**Mrs. Laura Albanese:** I would just like to add that that decision can still be appealed, that there is therefore access to the courts in that way, and that the whole intent is to get the accident benefits to the victim sooner. That's why they're not merged. One will take years; one, hopefully only months.

**The Acting Chair (Mr. Shafiq Qaadri):** We will now proceed to the vote on NDP motion 18. Those in favour? Those opposed?

**Mr. Jagmeet Singh:** Recorded vote.

**The Acting Chair (Mr. Shafiq Qaadri):** Is it the will of the committee to allow a recorded vote although it is officially too late? Fair enough.

#### Ayes

Singh, Thompson, Yurek.

#### Nays

Albanese, Ballard, Colle, Lalonde, McMahon.

**The Acting Chair (Mr. Shafiq Qaadri):** NDP motion 18, recorded or otherwise, is defeated.  
PC motion 19: Ms. Thompson.

**Ms. Lisa M. Thompson:** I move that section 14 of schedule 3 to the bill be struck out and the following substituted:

“14. Section 280 of the act is amended by adding the following subsection:

“Same, parties consent

“(3.1) If the parties to the mediation so request the director in writing, the director shall appoint as the mediator a person selected by the parties jointly.”

**The Acting Chair (Mr. Shafiq Qaadri):** Comments before we proceed to vote on PC motion 19? Seeing none, we’ll now proceed to the—Mr. Singh?

**Mr. Jagmeet Singh:** Sorry. Just to clarify, again: the purpose of this?

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Yurek?

**Mr. Jeff Yurek:** I think it’s basically allowing both parties to select the mediator of their choice, which may allow the process to move a little bit quicker if, perhaps, that mediator is not on the selection board of the tribunal or what have you. This might speed up the process and allow for a mediator that both sides of the parties are happy with, which may decrease the chances of a conflict.

**The Acting Chair (Mr. Shafiq Qaadri):** Further comments before we proceed to the vote?

Those in favour of PC motion 19? Those opposed? PC motion 19 is defeated.

Shall schedule 3, section 14 carry?

**Mr. Jagmeet Singh:** Which section, sorry?

**The Acting Chair (Mr. Shafiq Qaadri):** Schedule 3, section 14.

**Mr. Jagmeet Singh:** Recorded vote.

**The Acting Chair (Mr. Shafiq Qaadri):** Those in favour of schedule 3, section 14: Recorded vote. Please vote now.

#### Ayes

Albanese, Ballard, Colle, Lalonde, McMahon.

#### Nays

Singh.

**The Acting Chair (Mr. Shafiq Qaadri):** Schedule 3, section 14 carries.

May I take it as the will of the committee to consider schedule 3, sections 25 to 22, inclusive, as a block?

The next question: Shall schedule 3, sections 15 to 22, inclusive, as a block, carry? Carried.

Shall schedule 3 carry? Carried.

May I take it as the will of the committee that schedule 4, sections 1 to 7, inclusive, be considered as a block? Agreed.

Shall schedule 4, sections 1 to 7, inclusive, as a block, carry? Carried.

Shall schedule 4 carry? Carried.

May I take it as the will of the committee that schedule 5, sections 1 to 8, inclusive, be considered as a block? Agreed.

Next question: Shall schedule 5, sections 1 to 8, inclusive, carry as a block? Carried.

Shall schedule 5 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 15 carry?

**Mr. Mike Colle:** Recorded vote.

**The Acting Chair (Mr. Shafiq Qaadri):** Recorded vote.

#### Ayes

Albanese, Ballard, Colle, Lalonde, McMahon.

#### Nays

Singh.

**The Acting Chair (Mr. Shafiq Qaadri):** Bill 15 carries.

Shall I report the bill to the House? Agreed? Seeing no objections, I shall report the bill to the House.

Is there any further business before this committee, or comments?

Merci, mes collègues.

*The committee adjourned at 1522.*

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