

# TEN FACTS ABOUT NO-FAULT

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## **Fault (Tort) vs. No-Fault**

In a fault auto insurance system, the reckless driver who negligently injures others is responsible for the harm he or she causes to innocent victims. In a no-fault system, the reckless driver is not responsible for the harm he or she causes. There is no personal responsibility in a no-fault system and no deterrence factor.

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## **Good Drivers Cannot Sue Bad Drivers Under No-Fault**

In a fault auto insurance system, innocent victims of reckless drivers can, where necessary, resort to the protection of the court to sue for the measure of their true damages. In a no-fault system both innocent victims and reckless drivers receive equal benefits. In a no-fault system, innocent victims are stuck with dealing with the insurance company, and have no recourse to the courts for help when treated unfairly. A good comparison of the no-fault system can be made with the Workers' Compensation system in British Columbia, which generally prohibits an injured worker from bringing his claim to a court of law.

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## **No-Fault Insurance Costs More**

Despite the claims by insurance companies that no-fault insurance will result in lower auto insurance premiums, the history of no-fault schemes in other jurisdictions, including Ontario, has shown that this is untrue. Along with the fact that no-fault does not save consumers money, no-fault rewards reckless drivers with not only medical benefits, but also economic benefits including compensation for lost income and rewards reckless drivers with the very same benefits made available to their innocent victims.

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## **Other Jurisdictions are Dropping No-Fault**

Of the two provinces and 17 states which adopted no-fault in the past, six states and one province have either repealed or limited no-fault or returned to a fault system, since no-fault simply resulted in higher premiums, while greatly restricting remedies for innocent victims. In the past 20 years, no state in the US has adopted no-fault.

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## **No-Fault Encourages Bad Driving**

No-fault encourages bad driving since reckless drivers have no personal responsibility to the victims that they injure. Studies show that accident and death rates increase by about 10% in countries which adopt no-fault.

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## **No-Fault Discourages Personal Responsibility**

No-fault supporters argue that in a fault system, the reckless driver doesn't pay, the insurance company does, and therefore the reckless driver is not responsible anyway. This argument defies the common knowledge that if you cause an accident that results in property damage or injury to others, your premiums are significantly raised for a substantial period of time. Hence, the reckless driver does suffer a direct personal monetary consequence and has personal responsibility. The fear of increased insurance premiums serves as a deterrent to reckless driving.

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## **No-Fault Penalizes Good Drivers and Helps Bad Drivers**

Fault systems give innocent victims the right to seek fair compensation in court. No-fault gives benefits to reckless drivers as well. To offset the cost to provide benefits to reckless drivers, without increasing premiums to cover the extra cost, no-fault systems must take away benefits from good drivers. No-fault systems therefore eliminate or limit the rights of innocent victims from holding bad drivers responsible for injuries and losses. Good drivers pay for bad drivers under no-fault.

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## **No-Fault Increases Premiums**

No-fault in fact causes premiums to go up, not down. This is because with no-fault, negligent and at-fault drivers receive benefits, not just innocent victims. Ontario premium increases averaged 11.5% in 1994, the first year of that province's threshold no-fault scheme. In the US, those states with add-on no-fault systems (like BC's) experienced a 7.7% average annual increase in premiums between 1989 and 1993. Tort states, on the other hand, had annual increases of only 3.6%.

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## **The Fault (Tort) System Can Incorporate Benefits of No-Fault**

In British Columbia's system we have preserved the fault system which provides benefits to innocent victims while preserving recourse to the courts. In addition, our system provides a scheme of no-fault benefits which provide medical and rehabilitation benefits even to injured reckless drivers. This system ensures that all victims of auto accidents receive required medical benefits, but does not reward reckless drivers by giving them the same rights as injured victims to claim for damages and for pain and suffering and loss of income in court.

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## **Only Insurance Companies Want No-Fault**

Insurance companies want no-fault systems because no-fault takes away an injured victim's right to have his claim assessed by a judge or jury in court. Insurance companies do not like the prospect of going to court because they know that court creates an even playing field for injured victims, despite the great wealth of resources brought to bear against injured victims by the insurance companies. In all no-fault schemes injured victims lose their rights to go to court. Consumers are thereby deprived of the equality and fairness which the tort system gives them.