



## RESOLUTION 2023-02

### Exceptions to the *Insurance Act* of Ontario

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#### **Preamble:**

Over the past several years, the annual number of instances of auto theft in Canada has been steadily increasing, reaching new heights. In 2022, 37,504 insured vehicles were stolen for a combined loss of over \$1 billion. In Ontario alone, in 2022, there were 18,803 insured vehicles stolen for a combined loss of over \$649 million. For comparison, in 2020, there were 10,975 insured vehicles stolen in Ontario for a combined loss of \$237 million. In addition to the staggering monetary losses for victims and insurance companies, the issue of auto theft is also one of public safety.

Limited policing resources that could otherwise be directed to proactively address issues such as gun and gang violence, mental health, gender-based violence, and substance abuse are being focused on the increasingly impactful aspects of auto theft. Those who perpetrate auto theft also place the public at large when they fail to stop for police, drive in a reckless and dangerous manner, and physically assault vehicle owners who interrupt thefts in progress. Many of the vehicle thefts in Ontario are being committed by sophisticated criminals using technology to steal vehicles. However, not all criminals have access to technology, and some are resorting to violence which is evidenced by the significant increase in carjackings. This fear of violence is also having a risk on Ontarians physical security and mental state.

There have recently been a significant number of successful single and multi-agency investigations and projects that have disrupted organized auto theft crime groups operating in Ontario. In the majority of the investigations, the organized crime groups have been based in Quebec. The analysis of these projects and the available intelligence points to the fact that one of the reasons that criminal groups operating in Quebec target Ontario vehicles is the lack of after-market tracking technology as compared to Quebec.

**WHEREAS** currently, residents of Quebec who install a recognized after-market tracking system on their vehicles are entitled to a discount on their auto insurance premiums. This incentive has directly led to an increase in the number of after-market tracking systems installed in Quebec. The primary vendor offering after-market tracking technology in Quebec is TAG. As part of the installation, the car owner has the option of having visible anti-theft stickers placed on the windows of the vehicle alerting would-be thieves of the presence of the tracking technology on the vehicles. Since 2019, TAG has led to the recovery of over 1200 vehicles in Quebec worth \$69,652,172.00. TAG Tracking will etch a discrete logo on the vehicle's two front side windows for prevention. This very discrete theft deterrent is believed to reduce the rate of theft by 99.82%, and

**WHEREAS** it has been recognized that in order to tackle and reduce the frequency of auto theft in Ontario, a multi-faceted approach is necessary involving; timely intelligence sharing and investigative coordination, support and participation from both public and private sector agencies, and effective crime prevention strategies. The ability for a vehicle owner to install after-market tracking devices and/or anti-theft devices (such as

immobilizers and onboard diagnostic port locks) on their vehicle and receive a corresponding insurance premium discount empowers them to take action to reduce the likelihood of them falling victim to auto theft. If, by chance, their vehicle is stolen, the likelihood of recovery increases significantly if they have an effective tracking device installed. The more vehicles that are recovered, the lower the monetary loss and the impact on insurance costs as well as a disruption to organized crime. A further benefit is that an increase in recovered vehicles presents clear and effective evidence to criminals that success will be mitigated, deterring a continuance of this crime and thus resulting in a tangible degree of crime prevention, and

**WHEREAS**, unfortunately, there is no broad adoption of the use of services such as TAG in Ontario because there are restrictions in Ontario that prevent auto insurers from being able to offer incentives. However, there is an exception that, if granted, could result in similar broad adoption of aftermarket vehicle tracking in Ontario as in Quebec, and

**WHEREAS** the *Financial Services Regulatory Authority of Ontario* (FSRA) is the agency that has regulatory oversight of the Auto Insurance Industry in Ontario. The *Unfair or Deceptive Acts or Practices*(UDAP) Rule in the *Insurance Act of Ontario* allows insurers to offer their customers incentives, including rebates, provided certain criteria are met. The regulatory prohibition of the *Unfair or Deceptive Acts or Practices* Rule is against, among other things:

- 7(1) Payment, rebate, consideration, allowance, gift, or thing of value being offered or provided, directly or indirectly, to an insured or person applying for insurance,
  1. as an incentive or inducement for a person to take an action or make a decision relating to an insurance product which would not, considering the options generally available in the marketplace, be recommended as a suitable action or decision by a reasonable person licensed to sell such an insurance product,
  2. which is otherwise prohibited by law,
  3. in a manner which a reasonable person licensed to sell such a product would not consider to be clearly and transparently communicated to intended recipients or applied consistently,
  4. in a manner which involves unfair discrimination or contributes to an anticompetitive practice, including but not limited to tied selling or predatory pricing,
  5. as an incentive or inducement to purchase, renew or retain an insurance product, which provides coverages within the classes of life or accident and sickness insurance, or
  6. if related to automobile insurance, which is based, in whole or in part, on, or is calculated by reference to, prohibited factors.
- 7(2) For greater clarity, s. 7(1)(i) to 7(1)(v) of this Rule also apply to any payment, rebate, consideration, allowance, gift, or thing of value being offered or provided, directly or indirectly, as an incentive or inducement to purchase, renew or retain automobile insurance.
- 7(3) An agreement being made or offered to be made, directly or indirectly, for a premium to be paid that is different from the premium set out in the contract of insurance.

- 7(4) For the purposes of this section, clear and transparent communication includes but is not limited to providing an explanation of how the amount or value of any payment, rebate, consideration, allowance, gift, or thing of value is calculated.
- 7(5) For the purposes of this section, a gift or thing of value will not be considered an incentive or inducement if that gift or thing of value is a good or service reasonably related to reducing the risk insured by the contract of insurance to which it is related.

It is believed that a good or service reasonably related to the prevention or detection of auto theft would satisfy the exception described in Section 7(5) of the UDAP Rule by reducing the risk insured by the contract of insurance to which it is related.

**THEREFORE BE IT RESOLVED** that the Ontario Association of Chiefs of Police calls on the Government of Ontario to introduce an exception in the *Insurance Act of Ontario* to allow for the issuance of rebates for vehicle owners who install an approved aftermarket tracking device and/or anti-theft devices, and

**BE IT FURTHER RESOLVED** that the Ontario Association of Chiefs of Police will work with other Provincial Associations of Chiefs of Police on issues related to insurance rebates for anti-theft and tracking devices to ensure there is a national approach to organized auto theft. This will prevent organized crime from being able to exploit gaps in provincial legislation and crime from being displaced from one area of the country to another.