– JASON FRANSEN, Special to The Sun

They'll put a spell on you

Witches Danielle Anderson, left, and Aimee Boulet might look frightening but they're hoping to scare up some fun tonight on Halloween Alley, on 147 Street between 103 Avenue and 104 Avenue. Halloween Alley provides a safe environment for kids to trick or treat from 5:30 to 8:30. It has been an annual event since 1990 and is set up so that people can show up, get scared and donate food for the food bank.

Insurers back off injury-claim cap

By KEITH BRADFORD
Staff Writer

The auto insurance industry completed a dramatic U-turn on the road to reform yesterday by dropping demands for a cap on injury claims.

"They could have a cap and it could be worthless," said Insurance Bureau of Canada regional vice-president Jim Rivait, after submitting a new proposal to the Alberta government, minus any mention of a cap.

"It's not in the proposal because I don't think the government will be able to do it. If they manage to do it, it will be watered down."

Rivait has repeatedly called on the government to introduce a cap on claims, saying injury-related lawsuits are to blame for skyrocketing premiums. The government's reform implementation team, led by Medicine Hat Tory MLA Rob Renner, proposed a $4,000 cap after heavy lobbying from the industry. But Renner's proposal was voted down by Tory MLAs earlier this week, amid concerns over the cap.

"This is a new proposal," said Alberta Finance spokesman Jerry Bellikka. "I don't know if it's going to change anything or not."

Rivait's call for a cap on soft-tissue injury claims got him into a bitter war of words with Edmonton injury lawyer Mark McCourt over the summer. But yesterday the atmosphere between the duelling sides changed after the IBC proposal, drafted a week ago, was made public.

It includes 10 suggestions for reducing premiums, including a 25% negligence reduction for people who don't wear seatbelts, mandatory mediation after accidents, and freezing the health levy – all of which have been welcomed by McCourt's Accident Victims and Insurance Policyholders Advocate (AVIPA).

"It's a beautiful day in the neighbourhood, isn't it?" quipped McCourt. "I'm delighted, but not surprised. The cap wouldn't work because it violates the Charter of Rights."

Rivait still believes injury claims are "a big part of the problem" of premium increases. But he said a cap would be difficult to implement, because the government would have to define injuries according to very strict criteria. Even if the province is successful in doing that, a cap won't meet the $250-million cost of cutting premiums, he said. Instead, IBC has a set of "interim" suggestions that he said may be introduced immediately. They include a maximum premium for young male drivers.

Meanwhile, Edmonton Highlands MLA Brian Mason said yesterday that Premier Ralph Klein's pledge to freeze the rates at their current levels "comes after a 57% increase in rates over last year."

Mason blamed the Klein government for high premiums and called on the Tories to admit the only way to lower rates is to bring in a public insurance system.

The Opposition Liberals called on the Conservatives to not only freeze rates, but roll them back to March 2002 levels.

"If the premier is serious about protecting consumers from high insurance rates, he'll announce a 15% rollback after his cabinet meeting (Monday)," said Edmonton Gold Bar Grit Hugh MacDonald.

The good and bad: Editorial, Page 10

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INSURANCE BUREAU OF CANADA — BUREAU D'ASSURANCE DU CANADA

INSURANCE BROKERS ASSOCIATION ALBERTA

Date: October 29, 2003

To: Members of the Legislative Assembly

From: Diane Strashok,
Chair, IBC Alberta Committee

Mark Zerup
President, IIBAA

Re: **Alberta Automobile Insurance Reform**

We believe that there are ways to control the costs and stabilize or reduce premiums for young and inexperienced drivers quickly and effectively.

We believe the enclosed proposal meets the objectives of government, insurance consumers, insurers and the legal community. These reforms will resolve problems with young drivers, as well as other underwriting issues that are causing drivers with clean driving records to be moved into the high-risk, higher-cost Facility Association market.

We recognize that there are no quick and easy answers, however our proposal provides solutions that can be implemented quickly, following the required legislative changes.

On an ongoing basis, the resolution which will benefit all consumers will need to include reasonable and fair caps on minor pain and suffering injuries. This will allow the free enterprise system to operate without government involvement in the potentially explosive issue of pricing the automobile insurance product.

This proposal deals only with the problem areas. It does not change those parts of the Alberta auto insurance system that serve the vast majority of insurance consumers well.

The Insurance Bureau of Canada and Independent Insurance Brokers Association of Alberta want to work with government and other stakeholders to create solutions to the automobile insurance problems.

For further information, please contact:

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Automobile Insurance Reform
Industry's Proposal to the Alberta Government
Oct 29, 2003

The Alberta government made it very clear several months ago, that there were four specific changes required in automobile insurance for Albertans:

1) Price stabilization;
2) Allow an insured to pay the outstanding premium in full to avoid cancellation after one or more NSF problems to avoid much higher premiums in the Facility or non-standard markets;
3) Allow an insured the opportunity to produce driving and accident history during a period of Lapse in Insurance coverage; and
4) Improved premiums for young drivers with clean driving and accident records.

The over-arching goal was affordability and accessibility of the legislated, mandatory part of the auto insurance product.

The proposals previously submitted by the Insurance Bureau of Canada on behalf of the insurance industry attempted to address these challenges although at that time we were not in a position to provide complete solutions. Over the past three months we have been able to make significant progress on these issues and can offer the following solutions that will quickly and successfully address each of these concerns.

PHASE ONE :

Underwriting Modifications

IBC members have volunteered to follow the underwriting Memorandum of Understanding that was included in our September 2003 submission to government. In this document the industry successfully solves the first two problems, NSF cancellations and Lapse in Coverage. Albertans will experience the impact immediately once the change is introduced, although many IBC members have already been voluntarily following the MOU.

A second area that the industry can quickly address is the depopulation of the Facility Association. Whereas the current FA market share is significantly less than other provinces, we recognize that it is a problem. The changes regarding NSF and Lapse in Coverage will reduce new business going to FA and we can immediately design a program to review and move existing business back to the standard markets to enable much more favourable pricing for those customers. However, the FA will remain for the insureds with poor driving and accident records.

Young Drivers/Inexperienced Drivers

The government has proposed that insurers eliminate the use of age and gender when setting prices. IBC strongly disagrees with this proposal. Insurance prices should be based on risk – this means that riskier drivers pay more for coverage. This encourages safer driving because it rewards drivers that do not have accidents with lower insurance premiums. Subsidies for higher risk drivers will lead to more injuries and deaths due to accidents. Canadian provinces that subsidize high-risk drivers report more injuries and more deaths resulting from car crashes than those provinces that do not.

Notwithstanding our position on this issue, we understand the government's political concern with the rates currently paid by young male drivers in Alberta, in comparison with other Western Provinces that have adopted a social pricing approach.

Instead of prohibiting the use of age and gender, IBC recommends that maximum rates be set for young male drivers. These rates could be set at a level that is closer to those in other Western Provinces. IBC also recommends that a Risk Sharing Pool, based upon a model that currently successfully serves insurance consumers in Quebec, be created to provide coverage for inexperienced drivers. We recommended that this pool provide coverage for all private passenger coverages. The pool would have the following characteristics:

1) The Risk Sharing Pool (RSP) should be invisible to the policyholder. The policy would be issued by the insurance company. The broker, agent or applicant could choose an insurer. A policy would be issued on that company's paper. This provides a 'one stop shopping' facility to these drivers;
2) The company writing the policy would handle all service and claims functions in the same manner as for non-RSP business;
3) Risks transferred to the RSP must be charged the maximum approved rate; this will ensure that companies will not under-price these risks and thus transfer a larger burden for subsidy across the market than is necessary;
4) The industry would establish a framework that ensures all drivers have access to any non-RSP priced products in the market, that cessions to the RSP are appropriate to market share and not excessive and that proper statistical data is maintained and collated as appropriate;
5) Insurers would have the choice to retain the risk for their own account or to transfer 100% of the risk to the RSP;
6) The RSP be available to inexperienced drivers only: inexperienced drivers are those with less than six years experience;
7) On the understanding that inexperienced drivers will be charged rates lower than those actuarially indicated, losses generated by the RSP are incorporated into rating for regular business on an ongoing basis.

Two jurisdictions in Canada operate a Risk Sharing Pool (RSP), Ontario and Quebec. This mechanism could be implemented by the first quarter of 2004 and would provide immediate price relief for inexperienced drivers in the province. While less risky drivers would still be required to subsidize premiums of higher risk driver, the costs would be fairly shared and disruption minimized.

Price Stabilization

Stabilization of premiums can be accomplished through the following changes to the Tort and Claims environment :

1) **Bill 33 / Wage and income compensation net of tax** – loss income awards be based on the actual gross income lost less income tax with reference to the applicable deductibles and tax credits, if award is not subjected to income tax. The addition of this clause, drafted by ACTLA, protects traditional hard to determine earners like the self-employed and farmers.

2) **Eliminate pre-judgment interest** – Settlements and awards are based on today's costs and should not include the additional over-compensation of pre-judgment interest.

3) **Waive Schedule C costs** (defined in legislation) on claims/files that are settled directly with the adjuster and the plaintiff counsel.

4) **Mandatory mediation** – Mediation will occur at the request of one or both parties, after a minimum period of six months following the date of loss.

5) **Health Levy** – Freeze the levy at the existing level to significantly stabilize premiums. Any reduction in the levy could be immediately translated into premium reductions for all Albertans.

6) **Streamlining of estate claims** – removing costs of administration in a fatality case when the person dies intestate, and has no estate.

7) **Claims protocol** – written notice to the defendant by plaintiff counsel will occur within 30 days of the plaintiff counsel being retained.

8) **Seat belt usage** - Introduce a 25% contributory negligence reduction for not wearing a seat belt.

9) **Regulation of contingency fees** – the rules regarding contingency fees for auto insurance claimants should be harmonized with the rules of the Worker's Compensation system.

10) **Prohibition of advertising by lawyers** -- The practice of promising cash payouts for car accidents should stop along with the practice of providing cash advances from plaintiff lawyers.

While the impact of some of these changes is unknown at this point, the automobile insurance environment will be greatly improved. From the changes that can be measured, we are confident that the cost pressures in the system will be sufficiently reduced to fund the Risk Sharing Pool. It will also relieve upward pressure on rates related to other imminent cost pressures like the new solvency regulations (i.e. minimum capital test). This is not a long term solution, but the will stem the tide of rising premiums in the short term. The claims cost savings noted above are needed to fund the Risk Sharing Pool's reduced pricing model, and any additional savings from measures like reducing, or eliminating, the premium tax can further contribute to reducing costs in the system.

PHASE TWO:

Government Objectives

Over the past two years, auto insurance has emerged as a major political issue across Canada. In response to a dramatic increase in costs consumers have felt the sharp price increases and tough underwriting standards as insurers try to remain solvent while waiting for government action. The problems facing Canada's auto insurance market did not happen over night. Cost pressures have been building for over a decade. IBC believes that it is time to modernize the insurance supervisory framework. Insurance regulators face a difficult task need to be given the tools to ensure the health of the marketplace. There is a need change the Canadian approach to regulation. We need to learn from the past two years to make sure that history is not repeated.

The above changes can be introduced quickly and will very effectively address the government's major concerns. Whereas these changes provide immediate premium cost improvement for many

Albertans, and removes a portion of the claims cost problem from the system, we agree that more specific changes will be needed to address claims costs, and to further stabilize premiums.

We remain convinced of the need to address the driving record and behaviours, especially in light of the privileged premium level that will result. Strengthened graduated licensing and more rigorous testing would be strongly supported by insurers.

Consultation and Industry Engagement

These issues are very complex. IBC's proposals offer solutions that respect the fundamental principles of insurance marketplace, while providing fair claims services for accident victims and minimizing severe price dislocations for insurance consumers.

Industry is more than willing to become part of the solution but to do so we need direct participation in the discussions. We understand the pressure on government from other stakeholders and we expect that government would have to seek input from these stakeholders as well.

The Albertans who purchase auto insurance are our customers. We have a vested interest in looking after the needs in a responsible manner that serves their needs, government expectations and our requirements for solvency and sustainable financial performance.