

E-Slips

Ontario drivers get green light for electronic proof of auto insurance

By Darcy Ammerman



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(September 9, 2019, 11:47 AM EDT) -- As of Sept. 5, Ontario has become the fourth jurisdiction in Canada to approve the use of electronic proof of auto insurance (EPAI), allowing drivers to display their auto insurance card on their mobile devices. The approval, granted by the Financial Services Regulatory Authority of Ontario (FSRA) and announced by Minister of Finance Rod Phillips, gives consumers a convenient alternative to the paper "pink card" version.

Although effective immediately, implementation will occur over a one-year transition period allowing consumers, insurers, law enforcement and regulators to identify and hopefully resolve any foreseeable issues to ensure a smooth provincewide rollout.

During the transition period, insurers who choose to provide electronic insurance cards (eSlips) to their customers must also continue to issue paper versions at no additional cost, allowing consumers the option to continue to use the paper version as their proof of auto insurance if preferred. It is the responsibility of insurers to provide consumers with sufficient information about their options so that they can make an informed decision about what form of insurance they would prefer to receive. The policyholder's consent must be obtained prior to issuing an eSlip, whether during or after the transition period.

Insurers who choose to offer eSlips are required to meet certain privacy, technology and other requirements as set out in the FSRA's guidance bulletin titled *Modernizing Automobile Insurance - Approval of Electronic Insurance Card*, which addresses many of the privacy and technological hurdles identified in our recent article titled "Regulators, auto insurers (slowly) rolling us into more efficient future."

For example, eSlips must contain the same information and overall appearance as the paper versions, including being pink in colour. In addition, the application design and delivery of the EPAI must comply with Ontario's *Electronic Commerce Act, 2000* (ECA) and the *Personal Information Protection and Electronic Documents Act* (PIPEDA).

With respect to the ECA, insurers must meet the specific accessibility and document retention requirements as set out in that Act. To ensure compliance with PIPEDA, the insurer's mobile application, which the eSlip is stored or displayed on, cannot include features that monitor, track location, collect, use or disclose personal information without the policyholder's explicit knowledge and consent.

Eslips must also be:

- a downloadable product;
- able to be stored securely on a mobile device;
- "read only" such that they cannot be edited or altered;
- digitally transferable by the insured to others, such as law enforcement, whether through

- e-mail or otherwise, and;
- able to be “locked” using a lock screen capability to eliminate the accessibility by law enforcement or other persons to anything other than the eSlip.

Insurers have the flexibility to design and include features that go beyond the requirements specifically enumerated in the guidance bulletin in order to increase the security and/or technological sophistication of their application. Although it may require some extra work upfront, EPAI represents a new avenue for competition that may set some insurers apart from others in the eyes of consumers.

In any case, guidance on how to access and use eSlips — including technical requirements and limitations, and instructions on how to activate the lock screen capability on the mobile device — must be provided to all consumers by the insurer. The insurer must also notify policyholders of their deemed assumption of the associated risks of loss or damage when using EPAI.

It is important to highlight that policyholders bear the risk of damage or loss at the hands of law enforcement (or any other party), which may be a significant consideration for consumers when opting in to EPAI.

Regardless of any technological issues, the onus remains on the consumer to produce proof of insurance when requested by law enforcement and to ensure that they know how to enable the lock screen function on their mobile device to protect their personal information.

Other jurisdictions that are considering EPAI will most likely be keenly observing the rollout in Ontario. In the meantime, it might still be a good idea to leave a paper copy in the glove compartment before embarking on a road trip.

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