

Notice relating to the use by insurers of electronic proof of automobile insurance

The purpose of this notice is to remind insurers of their legal obligations with respect to the use of electronic proof of automobile insurance (“EPAI”).

Background

Under the *Automobile Insurance Act*¹ (“AIA”) and the *Highway Safety Code*² (“HSC”), anyone driving a motor vehicle must have a certificate of insurance with them so that they can, among other things, show it to police when asked, share information in the event of an accident, and present it when renewing their vehicle’s registration. It should be noted that no provision in the AIA or the HSC stipulates that the certificate of automobile insurance must be only in paper form.

The paper form certificate of automobile insurance has been used in Québec for many years, and continues to be an effective tool. However, electronic documentation is becoming more prevalent in our society, and many consumers would like the certificate to also be made available in electronic form.

Reminder of insurers’ legal obligations with respect to the use of electronic proof of automobile insurance

To ensure the appropriate use of EPAI, the *Autorité des marchés financiers* (“AMF”) expects insurers to take the following into consideration:

- EPAI does not replace the paper form of the certificate of automobile insurance; it is an additional medium. In this regard, the AMF reminds insurers that under the *Act to establish a legal framework for information technology*³ (the “IT Act”), the choice of the medium belongs to the insured. Therefore, without the express consent of the insured, the insurer cannot require that the insured use an information technology-based medium. Furthermore, insureds may have both a paper and an electronic form of their certificates of insurance.
- Insurers that will use EPAI must ensure that the applications and procedures they establish comply with the provisions of the various personal information protection and privacy laws of Québec and Canada. They will therefore have to develop secure applications in order to ensure that law enforcement officials (e.g., police) have access to the information required to carry out their duties but not to any other information or content on the electronic devices used to provide EPAI. For example, insurers could consider an access control mechanism, such as a lock screen function.
- The information required in EPAI must be the same, and be in the same format, as that currently used in the paper form. Therefore, insurers who will use EPAI must comply with the provisions of the AIA that apply to the certificate of insurance.

To facilitate the use of EPAI by consumers, here is a list of questions and answers explaining the various EPAI-related implications.

¹ CQLR, c. A-25

² CQLR, c. C-24.2

³ CQLR, c. C-1.1

Questions and answers

1. Is EPAI accepted by officials responsible for enforcing the AIA and the HSC?

Yes. EPAI will be accepted by officials responsible for enforcing the AIA and the HSC and its presentation will not constitute an offence under the HSC.

2. Will the use of EPAI be mandatory?

No. The IT Act allows for any document to be transmitted electronically, provided the parties consent to it. The IT Act therefore protects the right of consumers to continue receiving the certificate of insurance in paper form if they so wish.

3. Can someone have a paper and an electronic version of their certificate of insurance?

Yes. Under the IT Act, consumers may choose the medium (electronic/paper) of their certificates of automobile insurance. Therefore, they can ask to have their certificate of automobile insurance in both paper and electronic forms.

4. Is EPAI accepted everywhere in Canada and the U.S.?

To date, four other Canadian provinces permit the use of EPAI: Alberta, Nova Scotia, Ontario and Newfoundland and Labrador. In the U.S., EPAI can be used in some – but not all – states. Consumers are responsible for knowing the minimum automobile insurance requirements when travelling from one jurisdiction or country to another. Anyone travelling outside Québec is advised to keep a paper copy of their certificate of automobile insurance, at least until EPAI is accepted everywhere in Canada and the U.S.

5. What will EPAI look like in terms of format and content?

The format and content of EPAI must be the same as those currently prescribed for the certificate of automobile insurance under the applicable provisions of the AIA.

6. Will law enforcement officials be authorized to access other information or content on electronic devices used to provide EPAI?

No. Under Québec and Canadian privacy laws, law enforcement officials will only have access to the information needed to carry out their duties. Consequently, officials responsible for enforcing the AIA and the HSC may, in carrying out their duties, require that you produce your certificate of insurance or EPAI, as well as your driver's licence, but they may not obtain any of your other personal information.

Insurers who will use EPAI will therefore have to ensure that the procedures established comply with the provisions under the various personal information protection and privacy laws of Québec and Canada. They will have need to put in place all necessary measures so that law enforcement officials, including police, have access only to the information they need to carry out their duties, and not to any other information or content on the electronic devices used to provide EPAI.

7. If I decide to use EPAI and a law enforcement official asks me for it, what do I have to do and what does this involve?

In such circumstances, you will be required to present your EPAI to the official. You will have to launch the insurer's application and show your EPAI. The law enforcement official could simply check the screen of your electronic device to confirm that you or the owner of the vehicle is covered by valid insurance. They may ask to handle the device. Whether that is the case or not, your privacy rights will be safeguarded, in particular by the security measures set up by your insurer.

8. What happens if a consumer cannot provide EPAI, for example, in the event the electronic device malfunctions or a cellular network is unavailable?

Under the AIA and the HSC, all drivers of a motor vehicle must have proof of insurance in their possession. Consequently, drivers remain responsible at all times for providing proof of insurance, whether in paper or electronic form.

9. What happens if the vehicle is driven by a third party?

All drivers of a motor vehicle are required to have proof of insurance at hand, regardless of the medium. If the person driving the vehicle is not the owner, he or she must be able to demonstrate that the owner of the vehicle holds the compulsory insurance stipulated by the AIA.

Additional information

Additional information is available from the AMF Information Centre at:

Québec City: 418-525-0337

Montréal: 514-395-0337

Toll-free: 1-877-395-0337

www.lautorite.qc.ca

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