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## Usage-based insurance has 'huge' legal implications



PERSONAL INJURY

Usage-based auto insurance (UBI) was recently launched in Ontario, and raises important questions over what constitutes "safe" versus "poor" driving practices based on the collected data, Toronto personal injury lawyer **Leonard Kunka** writes in *Lawyers Weekly*.

Desjardins General Insurance Group now offers usage-based insurance to its automobile policyholders in Ontario, the article says.

"By attaching a wireless monitoring device to an automobile, insurance companies will be able to obtain information about an insured's driving habits, including acceleration, braking, speed, distance travelled, and the times when the vehicle is being operated," writes Kunka, partner with **Thomson Rogers**.

"In return for agreeing to opt into this program, Desjardins says that data from these recorders will be reviewed, and 'safe' or 'less risky' drivers could potentially receive a lower annual automobile insurance premium."

While insurance companies argue that the information collected from such devices allows them to more accurately match insurance rates, deductibles and perhaps other coverage to actual driving practices, Kunka says the practice also raises concerns.

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The UBI technology does not differentiate between sudden braking or acceleration which is due to "aggressive driving," versus the same actions which are actually good defensive driving strategies in response to the dangerous actions of another driver, the article says.

"My concern is that insurers will simply count up the number of instances of sudden acceleration or braking, and treat them all as an indication of poor driving practices," writes Kunka.

From a legal perspective, Kunka says usage-based data has "huge" implications for accident investigations/reconstruction and litigation.

While he says the jury is still out on whether this technology will prove beneficial to consumers, he notes: "It is incumbent on the Superintendent of Insurance to review the practices of insurers employing this technology to ensure that it is being used to actually pass along premium savings to good drivers, rather than being used as a covert way to impose higher insurance premiums upon all drivers."

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