

**Property and Casualty -
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Bulletin

No. A-12/92

Property & Casualty

- Auto

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Loss transfer revisited

We have received a number of inquiries concerning our position on loss transfer set out in Commission Bulletin No.

9 / 92 issued July 6, 1992, as it applies to insurers of motorcycles and motorized snow vehicles.

In particular, it appears that some insurers have interpreted the Bulletin to suggest that loss transfer is available to an insurer of a motorcycle or motorized snow vehicle only if motorcycles or motorized snow vehicles are the only types of vehicle insured under the policy. This is in fact not the case.

Section **9** of O. Reg. **275 / 90** provides that an insurer paying no-fault benefits under a policy insuring a motorcycle or motorized snow vehicle (the "first-party insurer") is entitled to claim loss transfer from the insurer of another class of vehicle (not a motorcycle, motorized snow vehicle or off-road vehicle) involved in an incident (the "second-party insurer"), if:

EITHER:

- i. the incident involved the motorcycle or motorized snow vehicle, *whether or not* motorcycles and motorized snow vehicles are the only types of vehicle insured under the policy;

OR:

- ii. the incident did not involve the motorcycle or motorized snow vehicle (for instance where the claimant is injured while a pedestrian or a passenger in another vehicle), but only if motorcycles and motorized snow vehicles are the only types of vehicle insured under the policy.

In either situation the degree of fault of the second-party, determined by the Fault Determination Rules and by Sec. **275** (formerly Sec. **239b**) of the *Insurance Act*, governs the extent of the loss transfer.

Insurers which cover private passenger automobiles and motorcycles/motorized snow vehicles under one policy therefore do not need to "split" those vehicles into separate policies in order to maintain their right to loss transfer in incidents involving the motorcycle or motorized snow vehicle.

We are aware that the concept and mechanism of loss transfer present technical complexities for the industry. If you wish to offer suggestions for improvement, please write to us in the next few weeks.

Donald C. Scott

Commissioner

September 3, 1992

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