



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **INSURANCE ACT AUTOMOBILE INSURANCE FAULT DETERMINATION REGULATIONS**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to October 1, 2015. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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**INSURANCE ACT**  
**Chapter I-4**

**AUTOMOBILE INSURANCE FAULT DETERMINATION REGULATIONS**

Pursuant to section 254.4 of the *Insurance Act* R.S.P.E.I. 1988, Cap. I-4, Council made the following regulations:

**INTERPRETATION AND APPLICATION**

**1. Definitions**

In these regulations

- (a) “**Act**” means the *Insurance Act* R.S.P.E.I. 1988, Cap. I-4;
- (b) “**centre line**” means any of the following:
  - (i) a single or double, solid or broken line marked in the middle of the roadway,
  - (ii) for a roadway without a line marked in the middle,
    - (A) if the roadway is unobstructed, the middle of the roadway measured from the curbs, or in the absence of curbs, from the edges of the roadway,
    - (B) if a portion of the roadway is obstructed by parked automobiles, snowbanks or other objects blocking traffic along the edge or edges of the roadway and two-way traffic past the obstructions is still possible without difficulty, the middle of the unobstructed portion of the roadway,
  - (iii) for a roadway with more lanes available for traffic in one direction than the other direction, the line dividing the lanes for traffic in different directions;
- (c) “**chain reaction**” means a series of successive impacts among three or more automobiles travelling in the same direction one behind the other in the same lane;
- (d) “**collision**” means
  - (i) impact between two or more automobiles or parts of automobiles being detached without the involvement of the insured, or
  - (ii) impact between an automobile and the load of another automobile;
- (e) “**controlled access highway**” means a highway designated as a controlled access highway under the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5;
- (f) “**damage**” means any of the following:
  - (i) damage caused to an insured automobile,

- (ii) loss of use of an insured automobile,
- (iii) loss of or damage to property owned by an insured while being transported in an insured automobile;
- (g) “**highway**” means highway as defined in the *Highway Traffic Act*;
- (h) “**intersection**” means the area enclosed within the lateral boundary lines of two or more roadways, or two or more lanes in a parking lot, that join one another at an angle, and lines drawn at right angles across each of the roadways, or lanes in the parking lot, from the points where the lateral boundary lines intersect;
- (i) “**private road or driveway**” means a road or driveway not open to the use of the public for purposes of vehicular traffic;
- (j) “**roadway**” means that portion of a highway ordinarily used for vehicular travel, exclusive of the shoulder unless the shoulder is paved;
- (k) “**traffic signal**” means a manually, electrically or mechanically operated device by which traffic is alternately directed to stop and to proceed. (EC41/15)

## 2. Application of regulations

- (1) Except as provided in subsection (2), these regulations apply to all automobiles.

### *Idem*

- (2) These regulations do not apply to an automobile exempted from registration under the *Highway Traffic Act*, unless the automobile is insured by a motor vehicle liability policy.

### Interpretation

- (3) References in these regulations to “automobile A”, “automobile B” and “automobile C” are for ease of reference to the automobiles that may be involved in an incident and have no meaning other than as labels applied to distinguish between the automobiles.

### Diagrams illustrative

- (4) The diagrams in these regulations are merely illustrative of the situations described. (EC41/15)

## 3. Degree of fault determined in accordance with regulations

An insurer shall determine the degree of fault of an insured for loss or damage arising directly or indirectly from the use or operation of an automobile in accordance with these regulations. (EC41/15)

## 4. Factors not included in degree of fault

The degree to which an insured is at fault in an incident shall be determined without reference to any of the following:

- (a) the circumstances in which the incident occurs, including weather conditions, road conditions, visibility or the actions of pedestrians;
- (b) where the point of contact between the insured’s automobile and any other automobile involved in the incident is located on the insured’s automobile. (EC41/15)

## 5. If more than one provision of these regulations applies

- (1) Except as provided in subsection (2), if more than one provision of these regulations applies to an insured, the provision that attributes the least degree of fault to the insured is the one that shall apply.



**Exception**

- (2) If two provisions of these regulations apply to an incident involving two automobiles and an insured would be 100 per cent at fault under one provision and not at fault under the other, the insured shall be determined to be 50 per cent at fault for the incident. (EC41/15)

**6. Ordinary rules of law**

- (1) If an incident is not described in any of the provisions of these regulations, the degree to which an insured is at fault shall be determined in accordance with the ordinary rules of law.

**Idem**

- (2) If there is not enough information about an incident to determine the degree to which an insured is at fault, the degree of fault shall be determined in accordance with the ordinary rules of law unless these regulations require otherwise. (EC41/15)

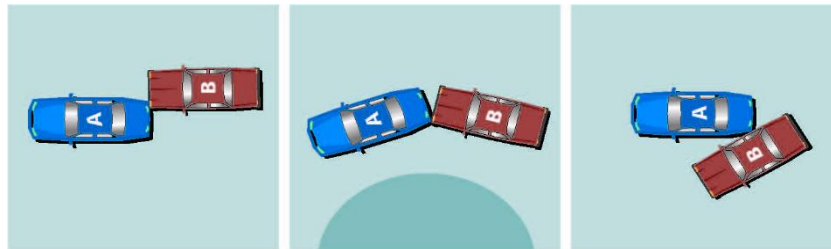
**FAULT DETERMINATION****7. Automobiles travelling in the same direction and lane**

- (1) This section applies to an incident in which automobile A is struck from the rear by automobile B, and both automobiles are travelling in the same direction and in the same lane.

**Automobile stopped or moving forward**

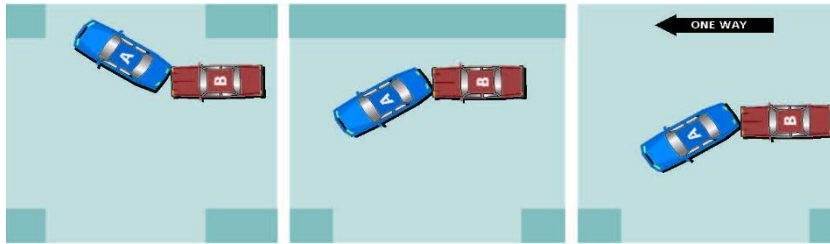
- (2) If automobile A is stopped or is in forward motion when the incident occurs, then:
- (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

Diagram 7.2

**Automobile turning**

- (3) If the incident occurs when automobile A is turning, either to the right or to the left, in order to enter a side road, private road or driveway, then:
- (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

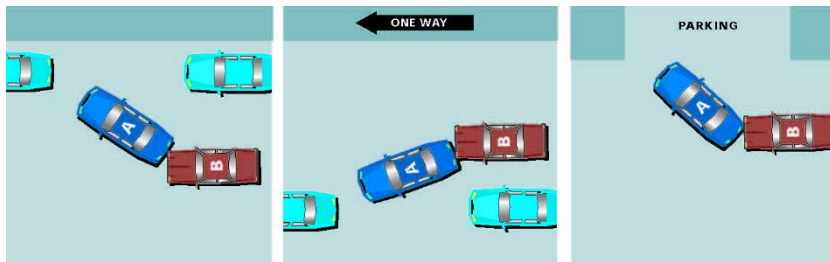
Diagram 7.3



**Automobile moving into parking place**

- (4) If the incident occurs when automobile A is in forward motion and is entering a parking place on either the right or the left side of the road, then:
  - (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

Diagram 7.4



(EC41/15)

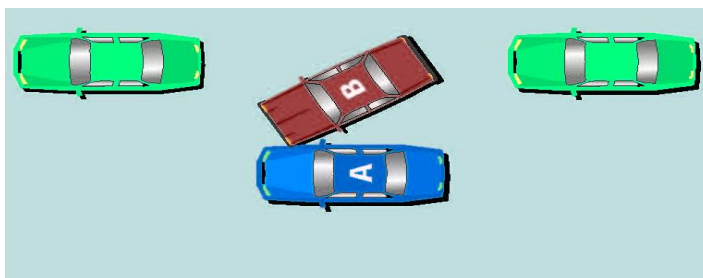
**8. Automobiles entering road from parking place, private road or driveway**

- (1) This section applies when automobile A collides with automobile B while automobile B is entering a road from a parking place, private road or driveway.

**Idem**

- (2) If the incident occurs when automobile B is leaving a parking place and automobile A is passing the parking place, then:
  - (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

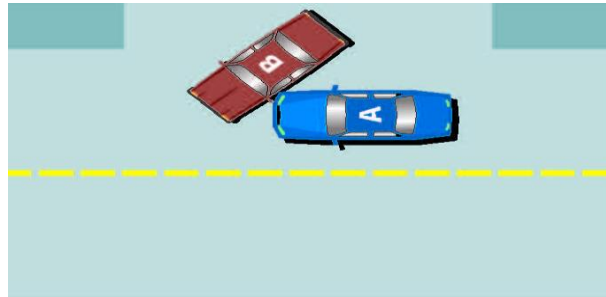
Diagram 8.2



**Idem**

- (3) If the incident occurs when automobile B is entering a road from a private road or a driveway and automobile A is passing the private road or driveway, and there are no traffic signals or signs, then:
- (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

Diagram 8.3



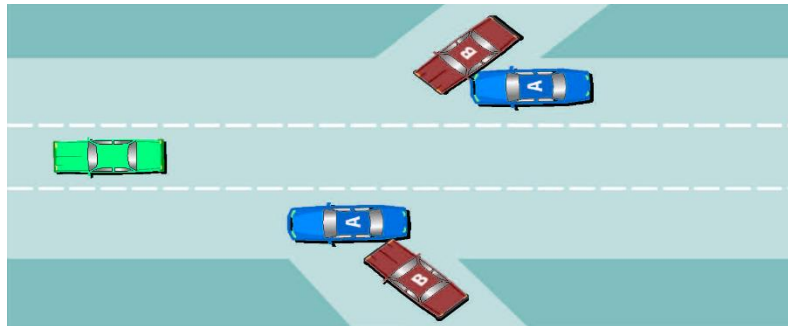
(EC41/15)

**9. Automobile entering controlled access highway**

If automobile A collides with automobile B on a controlled access highway while automobile B is entering the highway from an entrance lane, then:

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

Diagram 9.1



(EC41/15)

**10. Chain reactions**

- (1) This section applies to chain reactions.

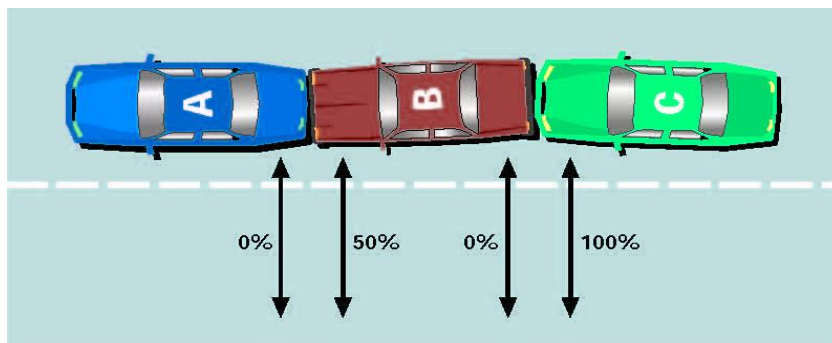
**Determination of fault, rule**

- (2) The degree of fault for each collision between two automobiles involved in a chain reaction is determined without reference to any related collisions involving either of the automobiles and another automobile.

**All automobiles in motion**

- (3) If all automobiles involved in a chain reaction are in motion and automobile A is the leading automobile, automobile B is second and automobile C is the third automobile, then:
- (a) in the collision between automobiles A and B,
    - (i) the driver of automobile A is not at fault for the incident,
    - (ii) the driver of automobile B is 50% at fault for the incident; and
  - (b) in the collision between automobiles B and C,
    - (i) the driver of automobile B is not at fault for the incident,
    - (ii) the driver of automobile C is 100% at fault for the incident.

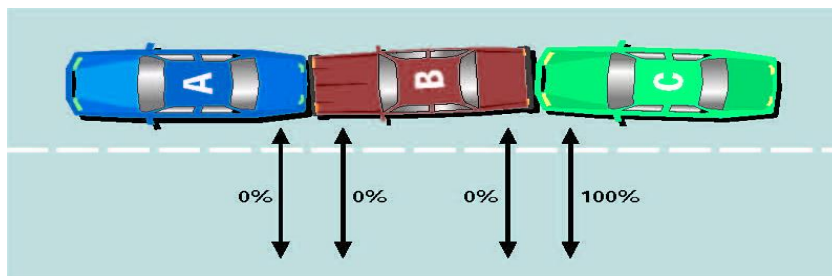
Diagram 10.3



**One automobile in motion**

- (4) If only automobile C in a chain reaction is in motion when the incident occurs, then:
- (a) in the collision between automobiles A and B, neither driver is at fault for the incident; and
  - (b) in the collision between automobiles B and C,
    - (i) the driver of automobile B is not at fault for the incident,
    - (ii) the driver of automobile C is 100% at fault for the incident.

Diagram 10.4



(EC41/15)





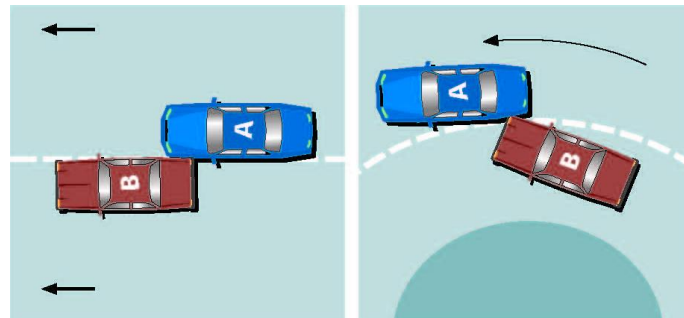
**11. Rules for automobiles travelling in the same direction in adjacent lane**

- (1) This section applies to an incident in which automobile A collides with automobile B, and both automobiles are travelling in the same direction and in adjacent lanes.

**No change of lane**

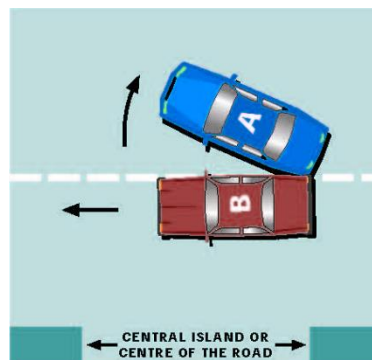
- (2) If neither automobile A nor automobile B changes lanes, and both automobiles are on or over the centre line when the incident occurs, then the driver of each automobile is 50% at fault for the incident.

Diagram 11.2 (sideswipe)

**Location not determined**

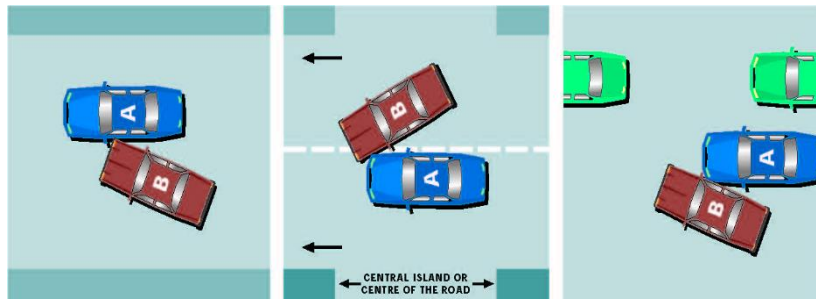
- (3) If the location on the road of automobiles A and B when the incident occurs cannot be determined, then the driver of each automobile is 50% at fault for the incident.

Diagram 11.3 (sideswipe)

**Changing lanes**

- (4) If the incident occurs when automobile B is changing lanes, then:
- the driver of automobile A is not at fault for the incident;
  - the driver of automobile B is 100% at fault for the incident.

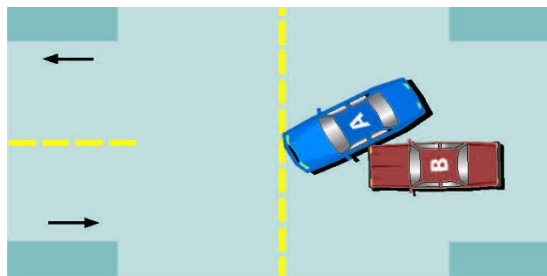
Diagram 11.4 (sideswipe)



**Left turn, intersection**

- (5) If the incident occurs when automobile A is turning left at an intersection and automobile B is overtaking automobile A to pass it, then:
- (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

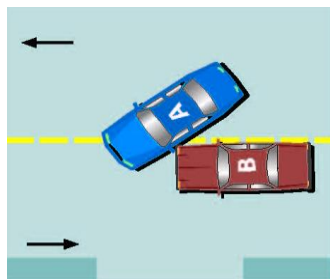
Diagram 11.5



**Left turn, driveway**

- (6) If the incident occurs when automobile A is turning left at a private road or a driveway and automobile B is overtaking automobile A to pass it, then:
- (a) the driver of automobile A is 75% at fault for the incident;
  - (b) the driver of automobile B is 25% at fault for the incident.

Diagram 11.6



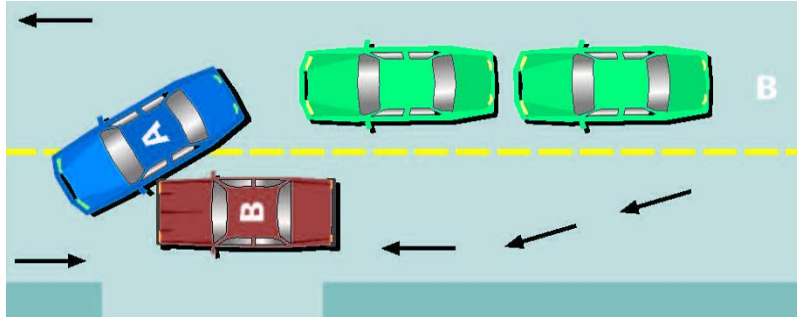
**Idem**

- (7) If the incident occurs when automobile A is turning left at a private road or a driveway and automobile B is passing one or more automobiles stopped behind automobile A, then:



- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

Diagram 11.7



(EC41/15)

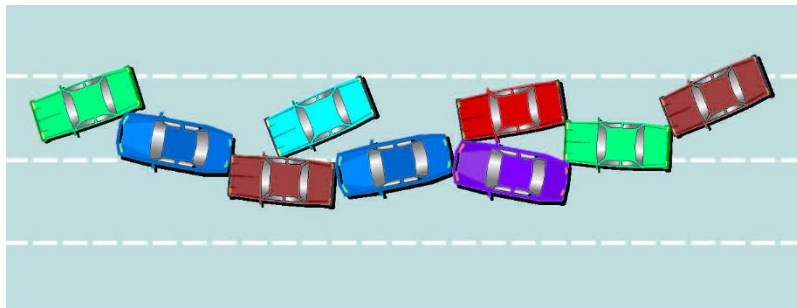
**12. Pile-ups**

- (1) This section applies to pile-ups; that is, incidents involving a series of impacts among three or more automobiles travelling in the same direction and in adjacent lanes.

**Each driver at fault**

- (2) For each collision between two automobiles involved in a pile-up, the driver of each automobile is 50% at fault for the incident.

Diagram 12.2



(EC41/15)

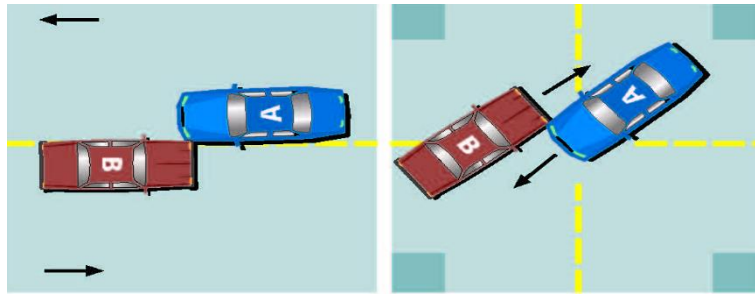
**13. Automobiles travelling in opposite directions**

- (1) This section applies to an incident in which automobile A collides with automobile B, and the automobiles are travelling in opposite directions and in adjacent lanes.

**Over centre line**

- (2) If neither automobile A nor automobile B changes lanes and both automobiles are on or over the centre line when the incident occurs, then the driver of each automobile is 50% at fault for the incident.

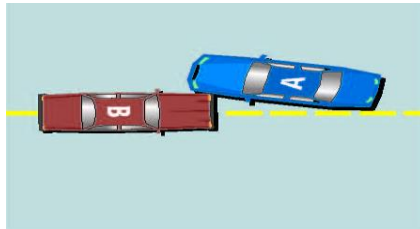
Diagram 13.2 (sideswipe)



**Location not determined**

- (3) If the location on the road of automobiles A and B when the incident occurs cannot be determined, then the driver of each automobile is 50% at fault for the incident.

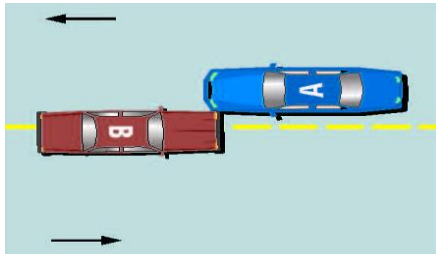
Diagram 13.3 (sideswipe)



**One automobile over centre line**

- (4) If only automobile B is over the centre line of the road when the incident occurs, then:
- (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

Diagram 13.4

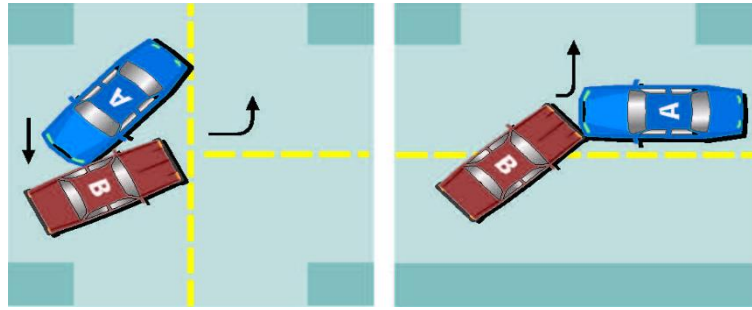


**One automobile turning left**

- (5) If the incident occurs when automobile B turns left into the path of automobile A, then:
- (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

Diagram 13.5

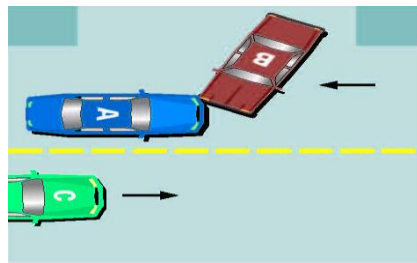


**Entering traffic**

- (6) If automobile B is leaving a parking place or is entering the road from a private road or driveway and automobile A is overtaking to pass another automobile when the incident occurs, then:

- (a) the driver of automobile A is not at fault for the incident;  
 (b) the driver of automobile B is 100% at fault for the incident.

Diagram 13.6



(EC41/15)

**14. Automobiles in intersection without traffic signals or signs**

- (1) This section applies to an incident in which automobile A collides with automobile B at an intersection that does not have traffic signals or traffic signs.

**Idem**

- (2) If automobile A enters the intersection before automobile B, then:  
 (a) the driver of automobile A is not at fault for the incident;  
 (b) the driver of automobile B is 100% at fault for the incident.

**Automobile at right not at fault**

- (3) If automobiles A and B enter the intersection at the same time and automobile A is to the right of automobile B when in the intersection, then:  
 (a) the driver of automobile A is not at fault for the incident;  
 (b) the driver of automobile B is 100% at fault for the incident.

**Determination not possible**

- (4) If it cannot be determined whether automobile A or B entered the intersection first, then the driver of each automobile is 50% at fault for the incident. (EC41/15)

**15. Automobiles at intersection with traffic signs**

- (1) This section applies to an incident in which automobile A collides with automobile B at an intersection with traffic signs.

**Failure to obey sign**

- (2) If the incident occurs when the driver of automobile B fails to obey a stop sign, yield sign or a similar sign or flares or other signals on the ground, then:
- (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

**Both drivers fail to obey sign**

- (3) If the driver of each automobile fails to obey a stop sign, the driver of each automobile is 50% at fault for the incident.

**Determination not possible**

- (4) If it cannot be determined who failed to obey a stop sign, then the driver of each automobile is 50% at fault for the incident.

**Collision after stop**

- (5) If automobile A arrives at an all-way stop intersection first and stops, then:
- (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

**Idem**

- (6) If both automobiles arrive at an all-way stop intersection at the same time and stop, with automobile A to the right of automobile B, then:
- (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

**Determination not possible**

- (7) If it cannot be determined who arrived at an all-way stop intersection first, then the driver of each automobile is 50% at fault for the incident. *(EC41/15)*

**16. Automobiles at intersection with traffic signals**

- (1) This section applies to an incident in which automobile A collides with automobile B at an intersection with traffic signals.

**Failure to obey traffic signal**

- (2) If the driver of automobile B fails to obey a traffic signal, then:
- (a) the driver of automobile A is not at fault for the incident;
  - (b) the driver of automobile B is 100% at fault for the incident.

**Determination not possible**

- (3) If it cannot be determined whether the driver of either automobile failed to obey a traffic signal, then the driver of each automobile is 50% at fault for the incident.



**Inoperative signal**

- (4) If the traffic signals at an intersection are inoperative, then the degree to which each of the drivers is at fault is determined in accordance with these regulations as if the intersection were an all-way stop intersection. (EC41/15)

**17. Definitions**

- (1) The following definitions apply in this section:

- (a) “**feeder lane**” means a road in a parking lot other than a thoroughfare;  
(b) “**thoroughfare**” means a main road for passage into, through or out of a parking lot.

**Collisions in parking lots**

- (2) This section applies to an incident in which automobile A collides with automobile B in a parking lot.

**Rules for thoroughfare**

- (3) The degree to which a driver is at fault in an incident that occurs on a thoroughfare is determined in accordance with these regulations as if the thoroughfare were a roadway.

**Driver fails to yield, feeder lane**

- (4) If the incident occurs when automobile A is leaving a feeder lane and fails to yield the right of way to automobile B on a thoroughfare, then:
- (a) the driver of automobile A is 100% at fault for the incident;  
(b) the driver of automobile B is not at fault for the incident.

**Idem, parking space**

- (5) If the incident occurs when automobile A is leaving a parking space and fails to yield the right of way to automobile B on a feeder lane or a thoroughfare, then:
- (a) the driver of automobile A is 100% at fault for the incident;  
(b) the driver of automobile B is not at fault for the incident. (EC41/15)

**18. Automobiles that are parked**

- (1) Except as provided in subsection (2), if automobile A is parked when automobile B collides with it, then:
- (a) the driver of automobile A is not at fault for the incident;  
(b) the driver of automobile B is 100% at fault for the incident.

**Exception**

- (2) If automobile A is illegally parked, stopped or standing when automobile B collides with it and the incident occurs outside a city, town, village or rural community, then:
- (a) the driver of automobile A is 100% at fault for the incident;  
(b) the driver of automobile B is not at fault for the incident. (EC41/15)

**19. Driver fails to obey specified sign or direction**

The driver of automobile A is 100% at fault and the driver of automobile B is not at fault for an incident in which automobile A collides with automobile B when the driver of automobile A fails to obey any of the following:

- (a) a peace officer's direction;
- (b) a "do not enter" sign;
- (c) a prohibited passing sign;
- (d) a prohibited turn sign. (EC41/15)

**20. Backing up, making U-turn or opening door**

The driver of automobile A is 100% at fault and the driver of automobile B is not at fault for an incident that occurs when:

- (a) automobile A is backing up;
- (b) automobile A is making a U-turn; or
- (c) the driver of, or a passenger in, automobile A opens the automobile door or leaves the door open. (EC41/15)

**21. Driver charged with a driving offence**

- (1) For the purposes of these regulations, any one of the following that occurs as a result of an incident constitutes a driving offence:
  - (a) a driver is charged with operating an automobile while the driver's ability to operate the automobile was impaired by alcohol or a drug;
  - (b) a driver is charged with driving while the driver's blood alcohol level exceeded the limits permitted by law;
  - (c) a driver is charged with an indictable offence related to the operation of an automobile;
  - (d) a driver is asked to provide a breath sample and the driver is charged with failing or refusing to provide the sample;
  - (e) a driver is charged with exceeding the speed limit by 25 or more kilometres per hour.

**Exception to these rules**

- (2) The degree to which an insured is at fault in an incident is determined in accordance with the ordinary rules of law and not in accordance with these regulations if both of the following apply:
  - (a) the driver of automobile A involved in the incident is charged with a driving offence;
  - (b) the driver of automobile B is wholly or partly at fault, as otherwise determined under these regulations, for the incident. (EC41/15)

