

# Direct Compensation Agreement

*for the  
Settlement  
of Automobile  
Claims*



# Direct Compensation Agreement for the Settlement of Automobile Claims

Automobile Insurance Act (R.S.Q., chapter A-25, sections 116 and 173)  
(10<sup>th</sup> edition)

This brochure represents the Direct Compensation Agreement updated as of June 2, 2001, as published and modified in the following regulations:  
(1978) 110 G.O. 2; (1980) 112 G.O. 2; (1981) 113 G.O. 2;  
(1984) 116 G.O. 2; (1986) 118 G.O. 2; (1986) 118 G.O. 2;  
(1987) 119 G.O. 2; (1990) 122 G.O. 2; (1991) 123 G.O. 2;  
(1994) 126 G.O. 2; (2001) 133 G.O. 2 in accordance with the Automobile Insurance Act (R.S.Q., chapter A-25, sections 116 and 173).

## Introduction

As provided in section 173 of the Automobile Insurance Act, the Groupement des assureurs automobiles must establish a Direct Compensation Agreement. Section 116 also provides that:

"The recourse of the owner of an automobile by reason of property damage sustained in an automobile accident shall not be exercised except against the insurer with whom he subscribed his automobile liability insurance, to the extent that the Direct Compensation Agreement contemplated in section 173 applies.

However, the owner may, if he is not satisfied with the settlement made in accordance with the Agreement, exercise such recourse against the insurer in accordance with the ordinary rules of law to the extent that sections 108 to 114 do not derogate therefrom."



## Section I

### Definitions

1. In this Agreement, unless otherwise provided

**"Act"** means the Automobile Insurance Act (R.S.Q., chapter A-25);

**"collision"** means

- a) contact (including any type of impact) between two or more vehicles or parts of vehicles being detached without the involvement of the insured;
- b) contact (including any type of impact) between the vehicle and the load of another vehicle while being transported by, falling from or fallen from such vehicle;
- c) contact (including any type of impact) between two or more vehicles attached to each other and caused by a jack-knife;

**"damage"** means

- a) any damage caused to the insured vehicle;
- b) loss of use;
- c) loss of or damage to property owned by the insured while being transported in the vehicle;

**"owner"** means the owner of the vehicle and any lessee for at least one year or under a contract of leasing (section 2, Highway Safety Code);

**"vehicle"** means an automobile as defined in section 1 of the Act.

## Section II

### Application

#### Parties

2. This Agreement applies
  - a) to all authorized insurers, to parties referred to in section 175 of the Act and all parties having voluntarily subscribed to this Agreement. However, it does not apply to insurers of owners of automobiles exempted from section 84 of the Act (see section 196c) except if such vehicles are insured by a motor vehicle liability policy;
  - b) to insurers of a motor vehicle dealer as defined in the Highway Safety Code (R.S.Q., chapter C-24.2) with respect to owned vehicles whether or not they are operated on a public highway.

#### Accidents

3. This Agreement applies to all property damage resulting from a collision occurring in the province of Québec involving two or more vehicles or a vehicle and the load of another vehicle, if the owners have been identified.

However, it does not apply to any property damage to an owned vehicle caused by the owner while operating another vehicle, or collisions involving only vehicles owned by the same persons or corporations.

## Section III

### Indemnity rules

#### Application provisions

4. The insured is indemnified by his own insurer to the extent of the liability of the operator of the other vehicle subject to the following:
  - a) the liability of the operators is determined in accordance with the Driver's Fault Chart appended hereto;
  - b) where the following operators are driving customers' automobiles in their care, custody or control:
    - i) any garage operator or his employees;
    - ii) any parking lot operator or his employees;
    - iii) any motor vehicle dealer referred to in the Highway Safety Code (R.S.Q., chapter C-24.2) or his employees;
    - iv) any towing business operator.

The insured shall be fully indemnified by his automobile liability insurer if at the time of the accident he had no control over the automobile, and the accident did not result from the condition of the automobile or from the way it was secured. This rule also applies whenever the insured's vehicle is being towed by a third party.

#### Payments (automobile liability and collision coverages)

5. When an insured has automobile liability and collision coverage, the following rules apply:
  - a) if both coverages are provided by the same insurer:

the insurer must first indemnify its own insured in accordance with its contract and then shall apply the Direct Compensation Agreement with respect to any sum payable under such Direct Compensation Agreement;
  - b) if the coverages are provided by different insurers:

damage to the automobile shall be covered by the collision insurer, which shall then recover from the automobile liability insurer any sum payable by the latter on the basis of the apportionment of liability shown in the appended Driver's Fault Chart.



## Limitations

### 6. a) Property transported

The insured shall be indemnified by the liability insurer for loss of or damage to property being transported in the vehicle and owned by the named insured or the operator to a maximum amount of \$2,000 per vehicle. The indemnity to the named insured is primary.

### b) Loss of use

Indemnity for loss of use is limited to all necessary and reasonable expenses normally recoverable under ordinary rules of law and for which proof satisfactory to the insurer has been provided.

## Deductible

### 7. Payments by the automobile liability insurer shall be made regardless of any deductible.

The collision deductible is equal to the proportion of damage to the vehicle for which the insured is responsible in relation to all damage, multiplied by the deductible.

## Apportionment of liability

### 8. Whenever the total of the apportionment of liability between the motorists, when considered separately, is more than 100%, the degree of liability determined in the attached Driver's Fault Chart shall be reduced accordingly.

## Combination of vehicles

### 9. In any collision caused by two or more vehicles attached to each other involving automobiles, each of such vehicles shall be an automobile within the meaning of the Agreement and the insurers of each vehicle shall settle their respective insured's damages in accordance with the Agreement.

## Appraisal

### 10. Damage to the vehicle shall be appraised by the collision insurer. In the absence of collision coverage, the automobile liability insurer shall appraise the damage.



## Section IV

### Subrogation

11. Automobile liability insurers are subrogated in the rights of their own insureds against all third parties at fault, whether insured or not, to the extent of the payments made by them.

However insurers waive subrogation against each other except in the following situations:

- a) any settlements made with the owners of vehicles in the care, custody and control of the following persons:
  - i) any garage operator or his employees;
  - ii) any parking lot operator or his employees;
  - iii) any motor vehicle dealer referred to in the Highway Safety Code (R.S.Q., chapter C-24.2) or his employees;
  - iv) any towing business operator;
- b) any settlement with the owner of a towed vehicle;
- c) any settlement with the owner of an automobile exempted, other than those provided for in section 11b), except if such automobile is insured under an automobile liability policy.

In subparagraphs a) and b), subrogation can be exercised only against the insurer of the operator of a customer's vehicle under his care, custody and control or of the operator of a tractor towing such a vehicle.

## Section V

### Arbitration

12. Any dispute between the parties bound by this Agreement and resulting from its application shall be determined by the Arbitration Board of the Groupement des assureurs automobiles.

The Arbitration Board shall comprise seven members appointed every year by the Board of Directors of the Groupement des assureurs automobiles. The Board of Directors shall designate the chairman and the two vice-chairmen of the Arbitration Board. The Arbitration Board shall meet within thirty days after a request for arbitration has been received.

Three members of the Arbitration Board shall constitute a quorum, including the chairman or one vice-chairman, said chairman or vice-chairman having a casting vote in case of a tie.

Decisions rendered by the Arbitration Board are final.

## Section VI

### Effective date

13. This Agreement shall come into force on June 2, 2001 and shall apply to all accidents occurring on or after that date.

# Appendix



## Driver's Fault Chart

### Chart

1. Liability shall be apportioned as shown in the Driver's Fault Chart. Any admission of liability or prior agreement in this respect shall be null and void.

Collisions subject to the Agreement but not provided for in the Chart shall be settled in accordance with ordinary rules of law.

### Note

2. Except as otherwise provided in the Chart, liability shall be apportioned regardless of the point of contact of the vehicles and of the following circumstances:
  - actions of pedestrian;
  - speed;
  - weather conditions;
  - visibility;
  - road conditions;
  - light, sound or hand signals;
  - marked or unmarked road lines.

### Definitions

3. As used in this agreement:

**"Centerline"** means:

- a single or double, full or broken line in the middle of the **roadway**; or
- the middle of the **roadway** or of that portion of the **roadway** that is left unobstructed by parked vehicles, a snowbank, or other object blocking traffic on an extended portion of the **roadway**, insofar as two-way traffic in that portion of the **roadway** is still possible without any difficulty.

**"Chain reaction"**

means a series of successive contacts (including any type of impact) between three or more vehicles travelling in the same direction one behind the other in the same lane.

## "Intersection"

means a place where several public roads, alleys, streets, avenues, boulevards lanes between buildings intersect, including lanes in parking lots. The dotted lines in the diagram indicate the limits of such intersection.

## "Lane change"

means any move whereby a vehicle leaves its own lane to enter another lane.

## "Limited access highway"

means a public highway that may be entered or left only at the specially provided entrances or exits (sections 288 and 319, Highway Safety Code, R.S.Q., chapter C-24.2).

## "Line of vehicles"

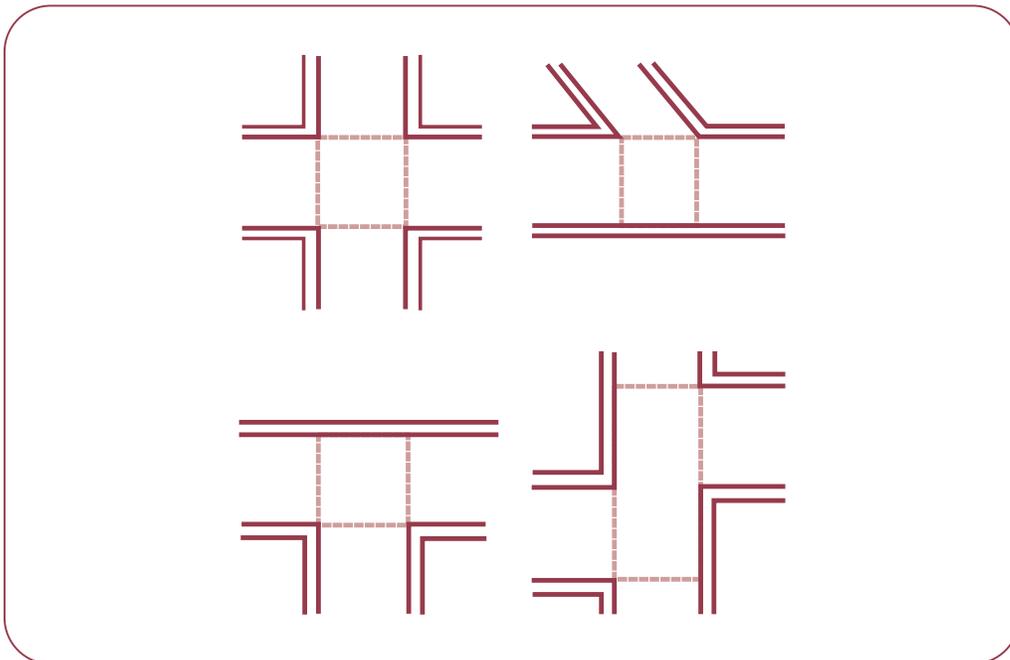
means two or more vehicles, one behind the other. Vehicles partly behind one another shall be deemed to be in the same line of vehicles.

## "Pile-up"

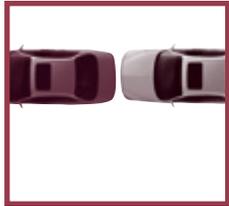
means a series of contacts (including any type of impact) between several vehicles travelling in different lanes or lines.

## "Roadway"

means that part of a public highway ordinarily used for vehicular traffic (R.S.Q., chapter C-24.2, section 4).



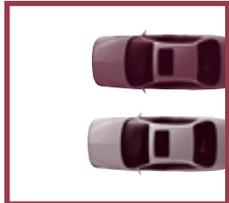
## Driver's Fault Chart



Vehicles travelling in the same direction on the same roadway (Cases 1 to 3)



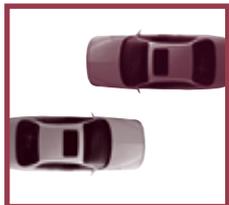
Vehicles entering from side roadways or crossroads (Case 8)



Vehicles travelling in the same direction in two different lanes of traffic (Cases 4 to 6)

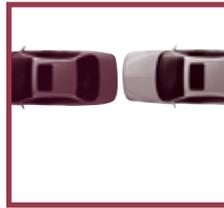


Other cases (Cases 9 to 15)



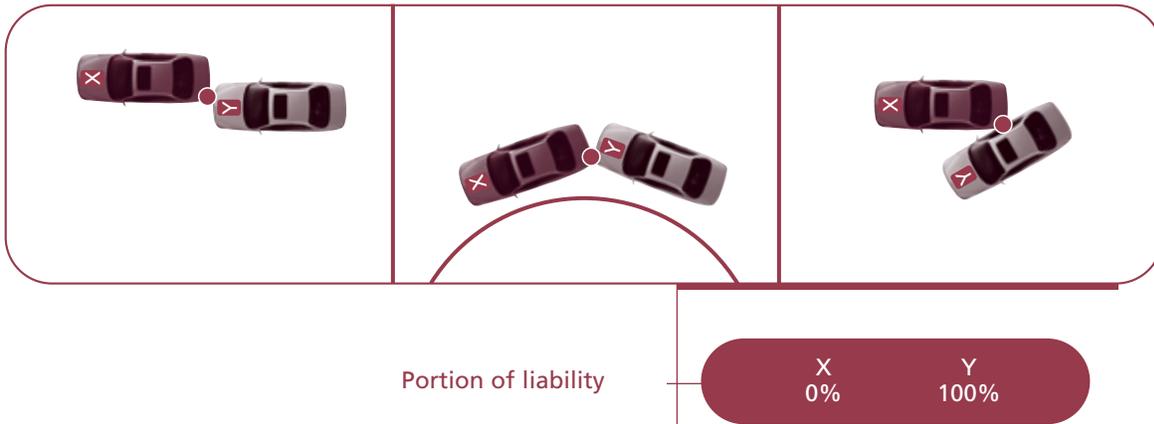
Vehicles travelling in opposite directions (Case 7)

# Driver's Fault Chart



Vehicles travelling in the same direction on the same roadway (Cases 1 to 3)

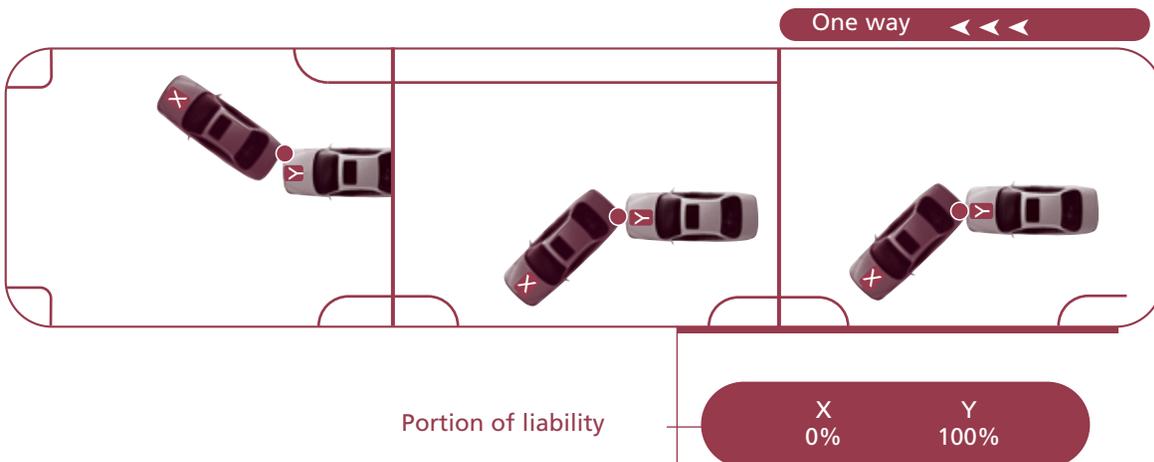
## 1 Collision between vehicles in the same lane of traffic



In this case, the liability of "Y", which strikes preceding "X" from the rear, is total, because of lack of proper control of vehicle.

When vehicle "X" is backing, this shall be used against "X" under CASE 11.

## 2 Vehicle turning into a side roadway or driveway

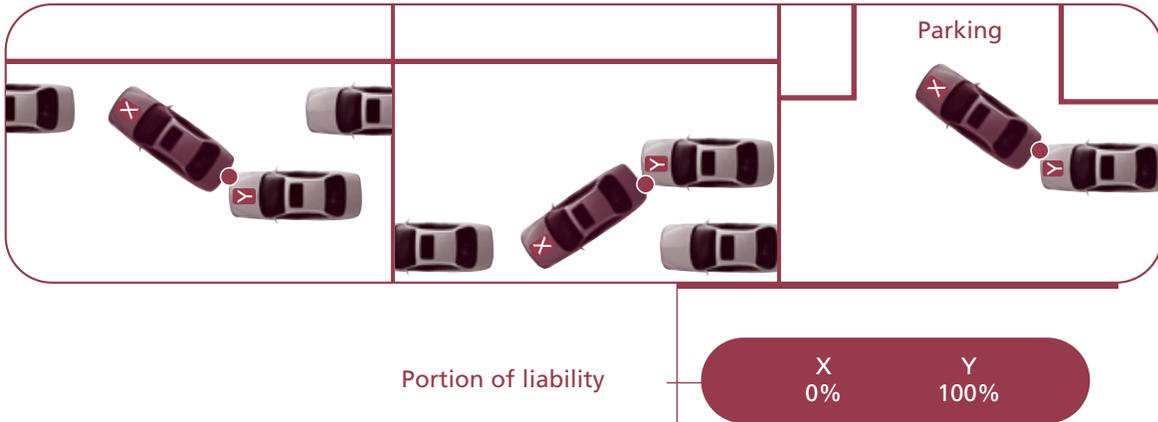


This case applies when "X" swerves to the left or to the right to enter a side roadway or driveway and is struck from the rear by "Y".



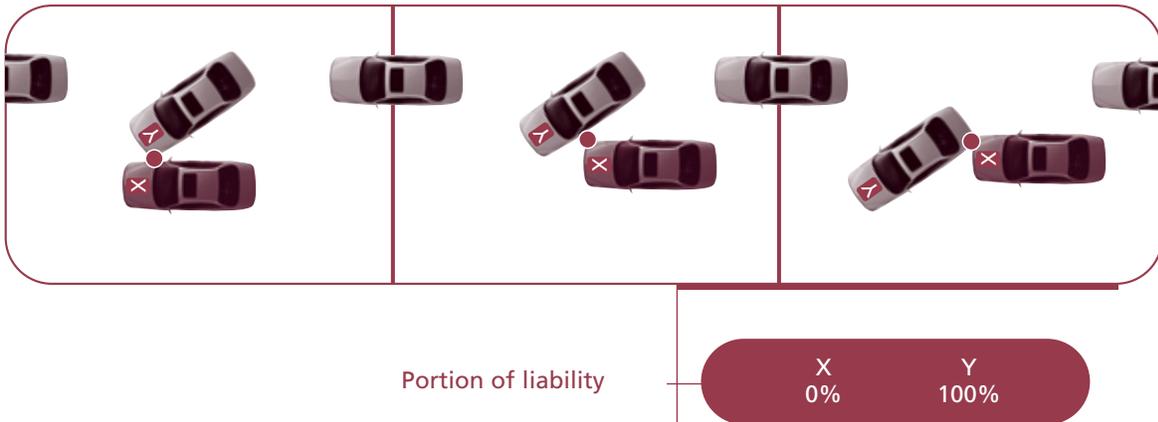
### 3 Parking situations

#### a) Vehicle moving to park



This case applies when "X", in forward motion, enters a parking space on either the left or right side of the roadway, or a parking lot on either side.

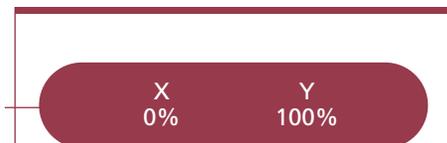
#### b) Vehicle leaving a parking space



In this case, the action of "Y" leaving the parking space is the determinant cause of the accident.

#### c) Vehicle X parked (except as provided under Case 3 d)

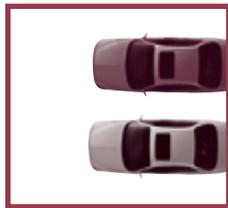
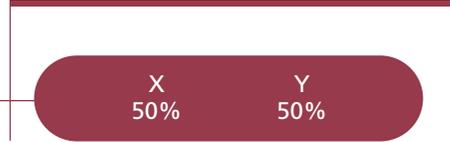
Portion of liability



### 3

d) **Vehicle illegally parked at night and without lights outside cities, towns or villages**  
(section 385 of the Highway Safety Code, R.S.Q., chapter C-24.2)

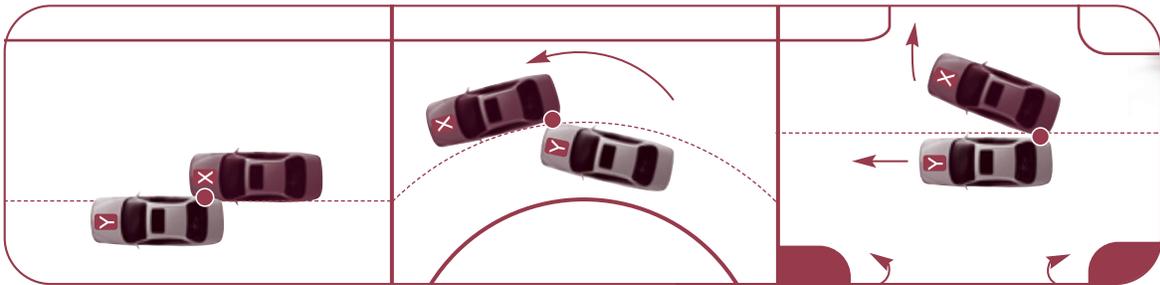
Portion of liability



**Vehicles travelling in the same direction in two different lanes of traffic (Cases 4 to 6)**

### 4

**Side collision**



Central island or center of the road

Portion of liability



"X" and "Y" travelling in different lanes sideswipe without changing lanes.

This case applies particularly in cases of passing without changing lanes or in cases where **roadway narrows**, unless one of the drivers has violated a no passing sign or solid line, in which case, CASE 9 applies against such driver.

## 5 Lane change



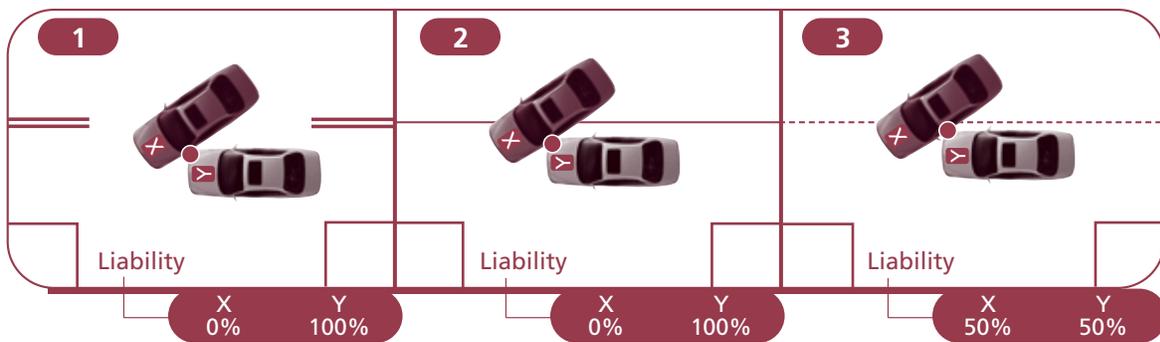
This case applies when "Y" changes lanes for whatever reason.

### EXCEPTION

On a public highway where the maximum speed allowed is less than 70 km/h, the driver of a road vehicle must yield the right of way to a bus when the driver of the bus is flashing his turn-signal lights for re-entering the lane in which he was moving before he stopped (section 407 of the Highway Safety Code, R.S.Q., chapter C-24.2).

## 6 Passing a vehicle

### a) Passing in different lanes of traffic



Liability is determined in accordance with the diagrams.

### Diagram 1

"X" making a proper left turn into an entranceway while "Y" is attempting to pass despite a solid single or double line.

### Diagram 2

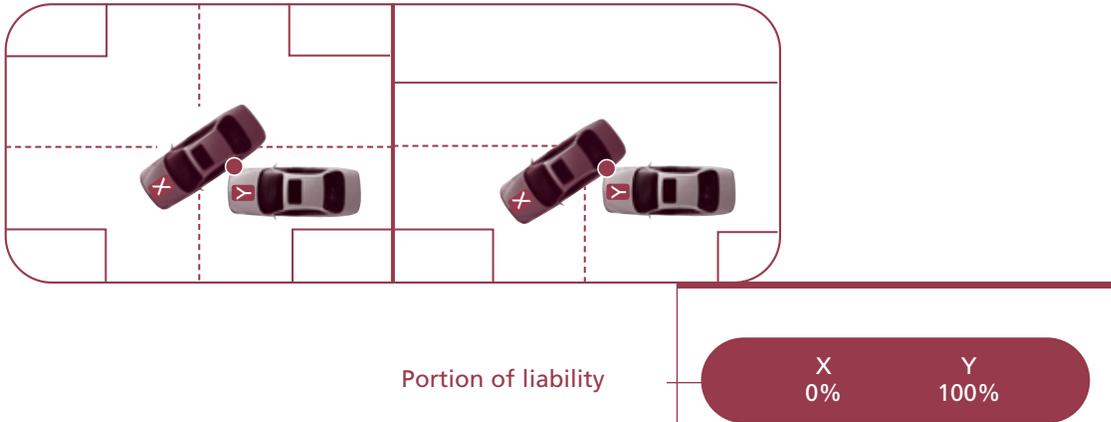
"X" turning left into an entranceway, over a solid single or double line or a double line consisting of a broken line and a solid line, the latter being adjacent to the lane in which "X" is moving (section 326.1 of the Highway Safety Code, R.S.Q., chapter C-24.2), while "Y" is attempting to pass.

### Diagram 3

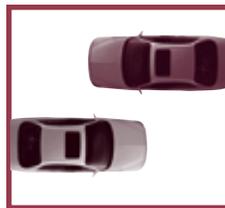
"X" travelling on a roadway having no determined centerline or having a broken line, and turning left into an entranceway while "Y" is attempting to pass.

# 6

## b) Passing in different lanes of traffic at an intersection



"Y" going over the centerline in an intersection, while "X" is turning left, is fully responsible.

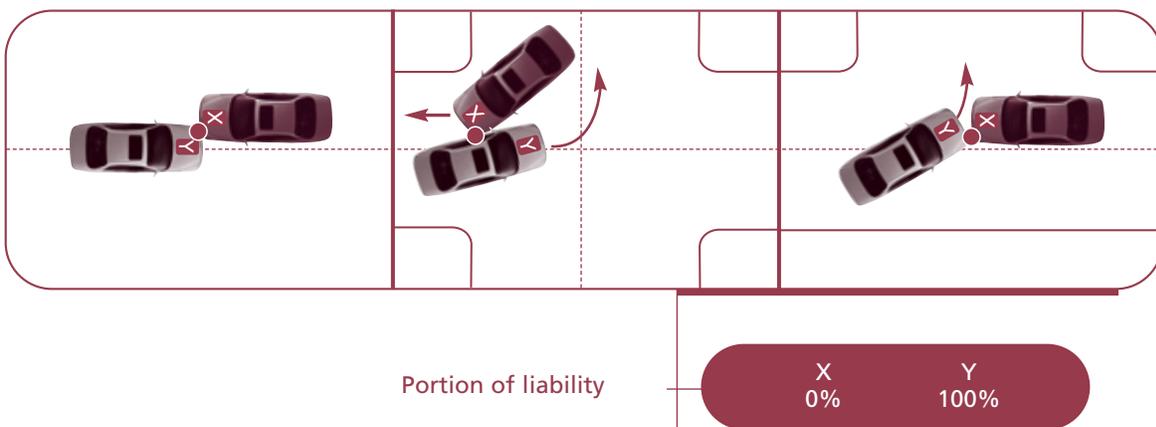


Vehicles travelling in opposite directions (Case 7)

# 7

## Encroachment on the centerline of the roadway

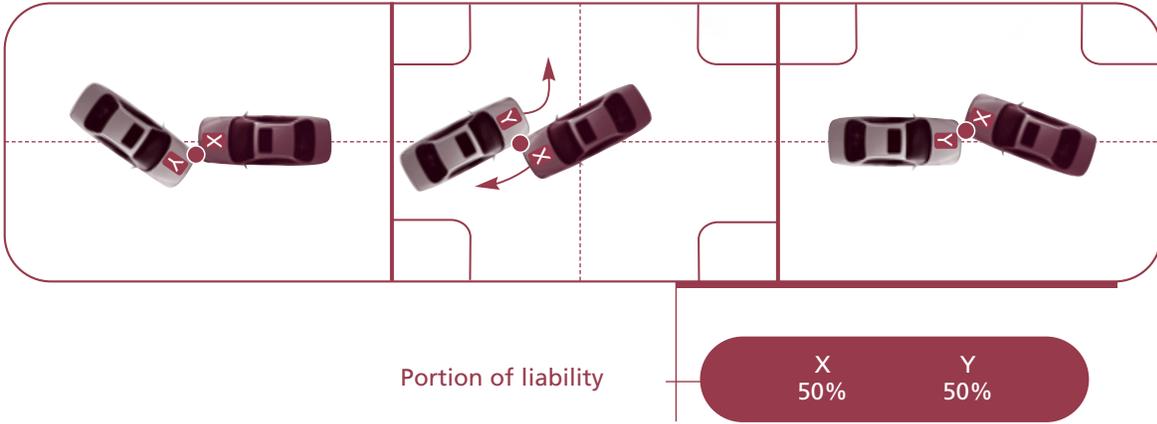
### a) Vehicle encroaching on the centerline



This case applies when "X" is travelling in its own lane and "Y" encroaches on the centerline of the roadway, whether to turn left or not.

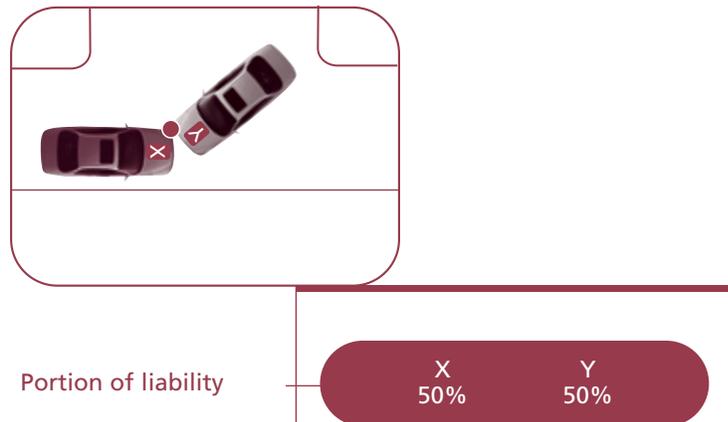


## 7 b) Position of vehicles undetermined



This case must apply wherever the position on the **roadway** in respect to the **centerline** is undetermined or if it cannot be established that a specific vehicle was travelling to its left of the **centerline**. The mere fact of skidding, when other precise information is lacking, is not sufficient to establish that a vehicle was encroaching on the **centerline**.

## c) Vehicle encroaching on solid line



This case applies when "Y" leaves a **roadway** (a parking lot, an alley or a place not open to public traffic) and "X", travelling in the opposite direction, encroaches on or crosses a solid line. Settlement is based on an equal division of liability in view of equal fault of both.

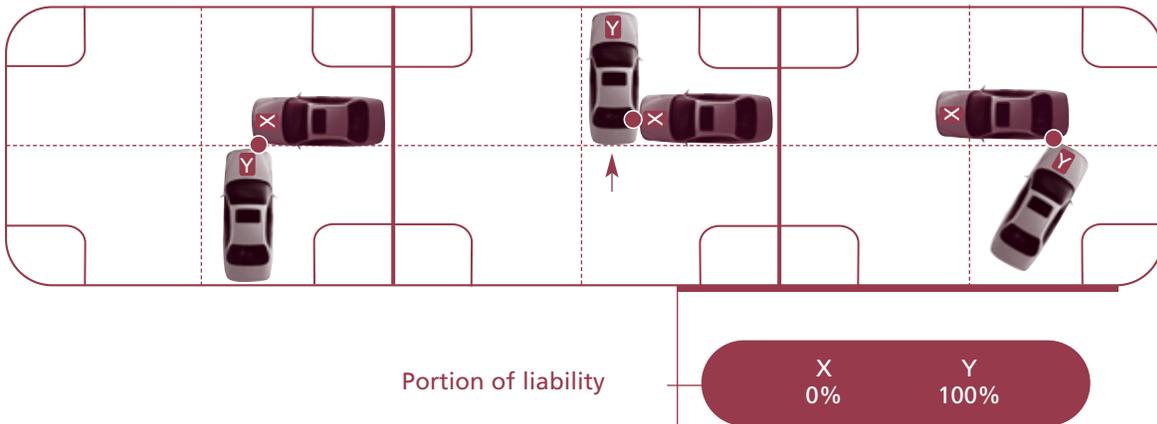


Vehicles entering from side roadways or crossroads (Case 8)

# 8

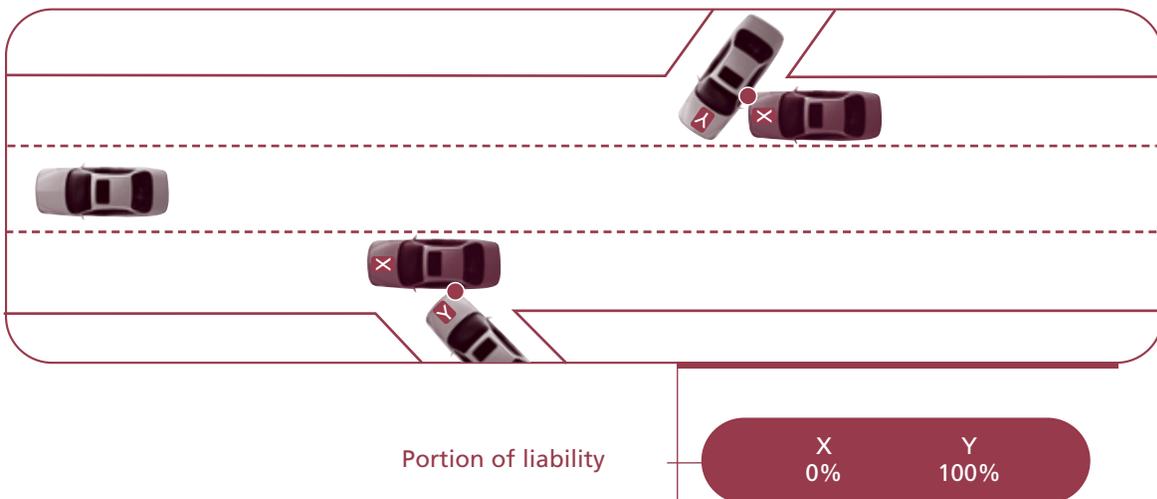
## Intersections

### a) Right of way in own lane



At an **intersection** where there are no traffic signs, "X" has the right of way in own lane (if remaining within its own lane), and "Y" is therefore fully responsible.

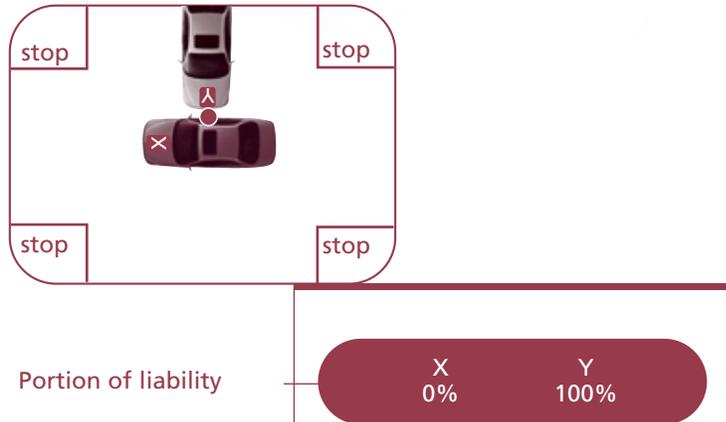
### b) Right of way



The driver entering a **roadway** or leaving a **limited access highway** must yield to other vehicles.

# 8

## c) Stop sign and defective or inoperative traffic lights

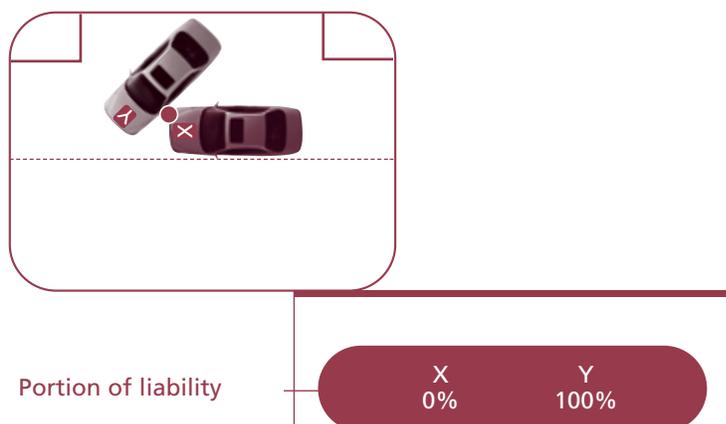


In case of an accident occurring at an **intersection** equipped with a stop sign on each corner, defective or inoperative traffic lights, the driver of the vehicle first in the **intersection** has the right of way unless it is proven:

- a) that "X" failed to stop ("X" to be held fully liable); or
- b) that both "X" and "Y" failed to stop (both to be held equally liable);

(sections 367 and 368 of the Highway Safety Code, R.S.Q., chapter C-24.2).

## d) Vehicle leaving a side roadway



This case applies when "Y" leaves a **roadway** with no traffic signs or lights (a parking lot, an alley or a place not open to public traffic) and "X" is travelling in its own lane. "Y" is fully responsible.



Other cases  
(Cases 9 to 15)

# 9 Failure to obey signs or signals

"Y" neglects or leaves:

- a) a police officer's signal .....
- b) a stop sign, a yield sign, a flashing red light or other similar sign, particularly flares and other signals on the ground .....
- c) a traffic light (where there is lack of proof, liability is equally divided) .....
- d) a do not enter sign (one way) .....
- e) a no passing sign .....
- f) a no turn sign, either left or right .....
- g) a turn-signal light of a bus in accordance with section 407 of the Highway Safety Code (R.S.Q., chapter C-24.2) .....
- h) a reserved lane sign indicating that the lane is reserved for use by specific classes of vehicles and prohibiting other vehicles from using it, where applicable, in accordance with sections 17 and 36 of the Regulation respecting road signs .....
- i) a sign or control signals displaying a downward green arrow to indicate lanes open to traffic and an X to indicate lanes, where traffic is prohibited, in accordance with section 365 of the Highway Safety Code (R.S.Q., chapter C-24.2) .....

Portion of liability	
X	Y
0%	100%
0%	100%
0%	100%
0%	100%
0%	100%
0%	100%
0%	100%
0%	100%
0%	100%

# 10 a) Vehicle turning on a green arrow

Portion of liability

X	Y
0%	100%

This case applies when "Y" is turning on a non-flashing green arrow while "X" is proceeding on green light (section 364 of the Highway Safety Code, R.S.Q., chapter C-24.2).



## 10 b) Right turn on red light

Portion of liability

X	Y
0%	100%

This case applies when "Y" is turning right on red light in a municipality or administrative area designated by an order-in-council published in the *Gazette officielle du Québec* while "X" is proceeding on green light (section 359.1 of the Highway Safety Code, R.S.Q., chapter C-24.2).

## 11 Backing or making a U turn

Portion of liability

X	Y
0%	100%

This case applies when "Y" is backing or making a U turn.

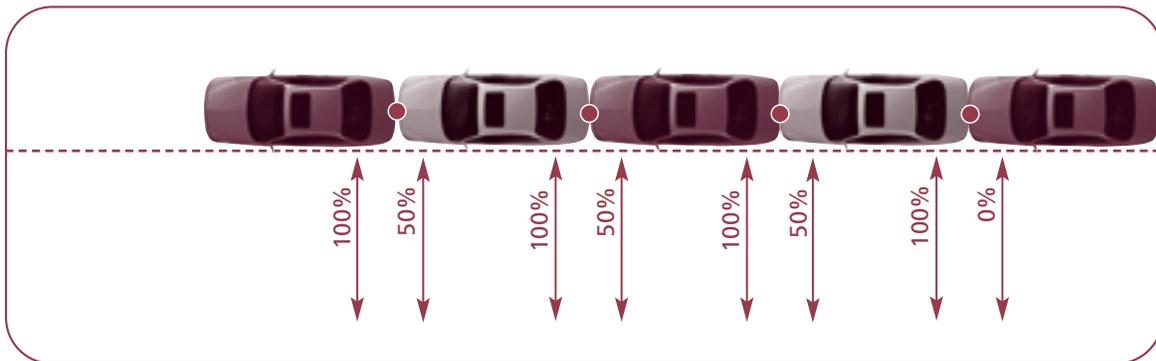
## 12 Opening a door

Portion of liability

X	Y
0%	100%

This applies when the door is in motion or when the action has just been completed, unless it is proven that the door was left open to let a person enter into or alight from the vehicle or to place or remove an item after having ascertained that this could be done safely (sections 430 and 431 of the Highway Safety Code, R.S.Q., chapter C-24.2).

## 13 Chain reaction

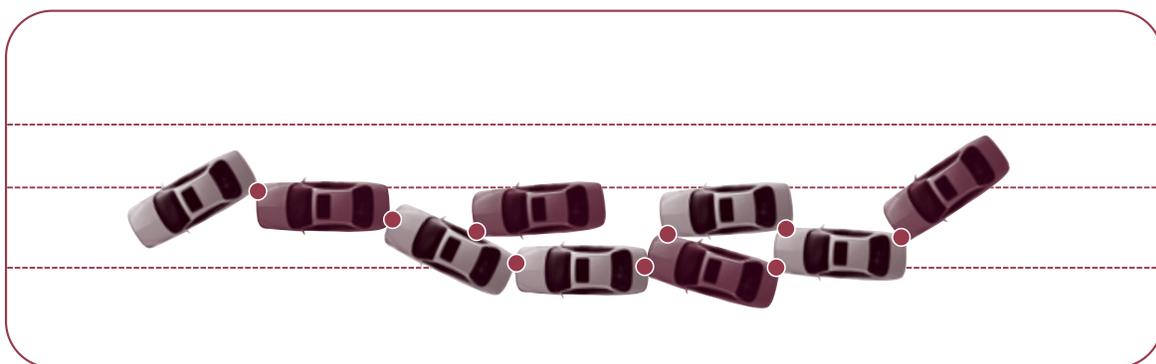


In **chain reaction** accidents, the owner of the leading vehicle not having had prior contact with another vehicle or object, is completely indemnified for the physical damage sustained by his vehicle.

Owners of all other vehicles following are indemnified for 50% of the front and 100% of the rear end damage, except however the last vehicle for which no indemnity is payable.

Note: A series of successive contacts between parked or stopped vehicles occurring when a moving vehicle strikes the last vehicle in the line, causing the vehicles to smash into each other, is not considered a **chain reaction**.

## 14 Pile-up



In all **pile-ups** where liability is undetermined, the owner of each vehicle is indemnified for 50% of his damage.



## 15 Collision in a parking lot with no traffic signs

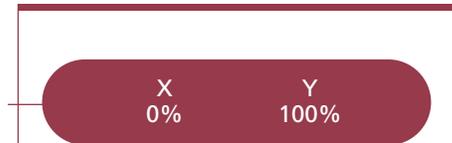
"Main alley" means a main thoroughfare used in a parking lot with no traffic signs.

"Side alley" means a cross lane feeding another cross lane or a main alley.

Liability for each driver involved in a collision on a main or side alley shall be determined as follows:

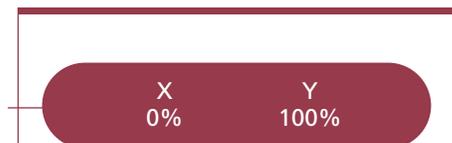
1. Vehicle "Y" leaving a side alley must yield to vehicle "X" travelling on a main alley.

Portion of liability

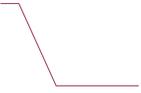


2. Vehicle "Y" leaving a parking space must yield to vehicle "X" travelling on a side or main alley.

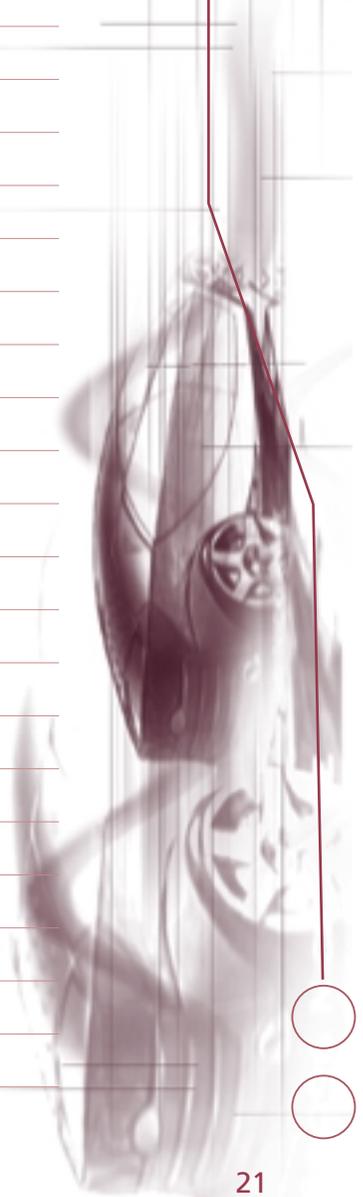
Portion of liability



# Notes



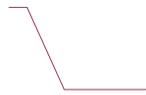
Lined area for taking notes, consisting of 25 horizontal lines.



# Notes



A series of horizontal red lines for writing notes, spanning most of the page width.









groupement  
des assureurs  
automobiles

500 Sherbrooke Street West  
Suite 600  
Montréal (Québec)  
H3A 3C6

Tel.: (514) 288-1537  
Fax: (514) 288-0753

[www.gaa.qc.ca](http://www.gaa.qc.ca)

