

DRAFT FOR CONSULTATION PURPOSES ONLY

**Regulations Respecting the Alcohol Ignition Interlock Program
made by the Minister of Transportation and Infrastructure Renewal under clause 115(1)
of Chapter 29 of the Acts of 2018,
*the Traffic Safety Act***

1 Citation

These regulations may be cited as the *Alcohol Ignition Interlock Program Regulations*.

2 Definitions

In these regulations,

“2nd suspension” means a suspension as described in items 3, 4, 7 or 8 of the mandatory suspension table in which an individual’s driving privilege is suspended for a 2nd time;

“3rd suspension” means a suspension as described in items 3, 4, 5 or 6 of the mandatory suspension table in which an individual’s driving privilege is suspended for a 3rd time;

“4th or subsequent suspension” means a suspension as described in items 3, 4, 7 or 8 of the mandatory suspension table in which an individual’s driving privilege is suspended for a 4th or subsequent time;

“Act” means the *Traffic Safety Act*;

“Addiction Services” means an addiction services office operated as a health service by the Nova Scotia Health Authority as defined in the *Health Authorities Act*;

“alcohol interlock device” means a breath alcohol screening device installed in a motor vehicle and intended to prevent the starting of the vehicle motor if it detects a blood alcohol concentration over a pre-set limit;

“applicant” means an individual who is applying to participate in the Program or be released from the Program;

“approval sticker” means a sticker attached to an alcohol interlock device by an authorized individual to identify the device as an approved device;

“approved device” means an alcohol interlock device provided by an authorized service provider for use in the Program;

“authorized individual” means an employee or agent of an authorized service provider who is authorized to install, maintain, monitor and remove approved devices;

“authorized service provider” means a person that has an agreement with the Minister to provide approved devices, authorized individuals and Program support;

“Criminal Code” means the *Criminal Code* (Canada);

“Driving While Impaired Program” means the Driving While Impaired Program prescribed in the *Driver Licensing Requirements Regulations* made under the Act for the purpose of a requirement by the Registrar under clause 103(c) or 109(2)(c) of the Act for an individual to attend and successfully complete a prescribed course or program;

“equipped vehicle” means a motor vehicle that is equipped with an approved device;

“high-risk 1st offender” means an individual whose driving privilege has been suspended for the 1st time for an offence described in item 4 of the mandatory suspension table that involved alcohol and who is considered to be a high risk when assessed under the Driving While Impaired Program;

“interlock restriction” means a restriction added to a driver’s licence by the Registrar to limit the holder of the licence to driving a specified equipped vehicle or specified equipped vehicles under the Program;

“mandatory suspension table” means the table in [Section x of the regulations made under Part 7] made under the Act that sets out periods of mandatory suspensions for the purposes of clauses 105(1)(a) and 110(1)(a) of the Act;

“participant” means an individual who has been accepted into or required to participate in the Program;

“Program” means the Alcohol Ignition Interlock Program established under Section 3;

“report of medical fitness” means a report of medical fitness as defined in the *Driver Licensing Requirements Regulations* made under the Act;

“suspension period” means the applicable mandatory suspension period set out in the mandatory suspension table;

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Alcohol Ignition Interlock Program established

The Alcohol Ignition Interlock Program is prescribed as an ignition interlock program for the purposes of clauses 86(2)(c), 103(d) and 109(2)(d) of the Act to

provide for eligible individuals to operate a specified equipped vehicle or specified equipped vehicles under an interlock restriction, the Program and these regulations.

4 Mandatory and voluntary participation in Program

- (1)** An individual whose driving privilege is suspended for the 1st time for a violation of subsection 320.14(1) or 320.15(1) of the *Criminal Code*, if the violation involved alcohol, may apply to the Registrar to participate in the Program.
- (2)** Except as provided in subsection (3), each of the following individuals must apply to the Registrar to participate in the Program before they can apply to have their driving privilege reinstated:
 - (a) a high-risk 1st offender;
 - (b) an individual who has had a 2nd or subsequent suspension of their driving privilege as described in items 3 and 4 of the mandatory suspension table for a violation of any of the following provisions of the *Criminal Code*:
 - (i) subsection 320.14(1), if the violation involved alcohol,
 - (ii) subsection 320.15(1), if the violation involved alcohol,
 - (iii) subsection 320.18(1), if the prohibition was for an alcohol-related offence;
 - (c) an individual whose driving privilege was suspended for a violation of subsection 320.14(2), 320.14(3), 320.15(2) or 320.15(3) of the *Criminal Code*, if the violation involved alcohol;
 - (d) an individual whose driving privilege was suspended for a violation of section 320.14 or 320.15 of the *Criminal Code*, if the violation involved alcohol, and who is subject to an additional period of suspension under Section 314 of the Act;
 - (e) an individual required to participate in the Program under clauses 86(2)(c), 103(d) or 109(2)(d) of the Act.
- (3)** A non-resident of the Province who is resident in another jurisdiction in Canada is exempt from the requirements of subsection (2) if they provide proof to the Registrar of both of the following:
 - (a) they have applied to and been accepted for participation in an alcohol ignition interlock program that is established in another Canadian jurisdiction and is recognized by the Registrar;
 - (b) an alcohol interlock device has been installed in the motor vehicle that they will operate.

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Eligibility for Program

- (1) Subject to Sections 8 and 9 for an applicant with a 4th or subsequent suspension, an applicant is eligible to participate in the Program during or after their suspension period if all of the following conditions are met:
 - (a) the applicable minimum wait period established under subsection 320.24(10) of the *Criminal Code* has elapsed;
 - (b) the following wait period has elapsed, beginning with the date of the individual's most recent suspension under Section 105 for a violation of section 320.14 or 320.15 of the *Criminal Code*, if the violation involved alcohol, or section 320.18 of the *Criminal Code*, if the prohibition referred to in that section involved alcohol:
 - (i) any period fixed by order of the court, for a 1st suspension,
 - (ii) 3 months, for a 2nd suspension,
 - (iii) 6 months, for a 3rd suspension,
 - (iv) 10 years, for a 4th or subsequent suspension;
 - (c) the applicant is not otherwise prohibited or disqualified from driving under the Act or a law of another jurisdiction;
 - (d) the applicant meets all other requirements for issuance of a driver's licence under the Act and the regulations made under the Act.
- (2) An individual whose driving privilege has been suspended for a violation of subsection 320.14(2), 320.14(3), 320.15(2) or 320.15(3) of the *Criminal Code*, if the violation involved alcohol, is not eligible to participate in the Program until after their suspension period has elapsed.
- (3) In addition to the other requirements in this Section, an individual with a 4th or subsequent suspension must meet all of the following conditions to be eligible to be considered for participation in the Program in accordance with Section 8:
 - (a) during the 10-year period immediately before the date of their application to the Program, the individual did not have any moving motor vehicle convictions under either the Act or an equivalent enactment in another jurisdiction;
 - (b) during the period when the individual was prohibited from operating a motor vehicle, the individual did not operate a motor vehicle;
 - (c) the individual's most recent risk rating by a counsellor with Addiction Services is an overall low risk rating.

6 Application other than by individual with 4th or subsequent suspension

An application for participation in the Program, other than by an individual with a 4th or subsequent suspension, must include documentation demonstrating that the applicant is enrolled in the Driving While Impaired Program.

7 Review of application from other than individual with 4th or subsequent suspension

- (1) The Registrar may consider any applicant for participation in the Program, other than an applicant with a 4th or subsequent suspension, who meets the applicable eligibility requirements in Section 5 and who submits an application in accordance with Section 6.
- (2) The Registrar must review each application from an individual described in subsection (1) and must consider the following factors when deciding whether to accept the applicant into the Program:
 - (a) the applicant's driving history, especially in relation to incidents of driving while under the influence of alcohol, whether or not those incidents led to convictions for violations of the *Criminal Code*;
 - (b) any information that has been made available to the Registrar from Addiction Services or through the applicant's participation in the Driving While Impaired Program;
 - (c) any medical information that the Registrar considers relevant to the applicant's ability to operate a motor vehicle and participate in the Program;
 - (d) any factors the Registrar considers relevant to the applicant's ability to operate a motor vehicle and participate in the Program.

8 Program eligibility screening for individual with 4th or subsequent suspension

- (1) In this Section, "risk assessment report" means a risk assessment report prepared by a counsellor with Addiction Services that meets the requirements of subsection (4).
- (2) Before applying for the Program in accordance with Section 9, an individual with a 4th or subsequent suspension must submit all of the following to the Registrar for a Program eligibility screening:
 - (a) a completed Program eligibility screening request;
 - (b) the results of an official criminal record check that was conducted within the year preceding the date of the individual's request for the Program eligibility screening;
 - (c) an official driving abstract, dated within the year preceding the date of the individual's request for the Program eligibility screening, from each

jurisdiction where the individual resided or worked during the previous 10 years;

- (d) a report of medical fitness;
 - (e) supporting information that the Registrar determines is sufficient to allow the Registrar to determine the likelihood of the individual successfully following and completing the Program.
- (3) If, after reviewing the Program eligibility screening submissions provided under subsection (2), the Registrar is satisfied that the individual might be an eligible candidate for acceptance into the Program, the Registrar must notify the individual that they are eligible to apply for the Program and advise the individual that, to continue with their eligibility screening, they must provide the Registrar with a recent risk assessment report dated no later than 6 months after the date of the notice issued by the Registrar under this subsection.
- (4) A risk assessment report must include the counsellor's level of risk rating for the individual who is the subject of the report, and any other information that the counsellor thinks is relevant for the Registrar in considering the individual for participation in the Program.
- (5) If a risk assessment report indicates that the individual who is the subject of the report has an overall low risk rating, and the Registrar is satisfied that the individual meets the eligibility criteria in Section 5 and is likely to be successful in following and completing the Program, the Registrar must notify the individual that they may apply for the Program in accordance with Section 9.
- (6) An individual who requests a Program eligibility screening under this Section but is denied permission to apply to participate in the Program must wait at least 1 year from the date of their request before requesting another Program eligibility screening.

9 Application by individual with 4th or subsequent suspension

- (1) An individual with a 4th or subsequent suspension who wishes to participate in the Program must apply to the Registrar no later than 6 months after the date of the notice issued by the Registrar under subsection 8(5).
- (2) The Registrar must consider all of the following factors in deciding whether to accept a Program participation application from an individual with a 4th or subsequent suspension:
- (a) the eligibility requirements of subsection 5(3);
 - (b) the factors set out in subsection 7(2).

- (3) If the Registrar is satisfied that an applicant with a 4th or subsequent suspension should be accepted into the Program, the Registrar must notify the applicant that they are accepted into the Program.
- (4) The Registrar must provide a letter of acceptance in accordance with subsection 10(1), for use as indicated in subsection 10(2), to an applicant who has been accepted into the Program under subsection (3).
- (5) An applicant with a 4th or subsequent suspension whose Program participation application is denied must wait at least 1 year from the date of their application before reapplying for admittance to the Program under Section 8 and this Section.
- (6) If an applicant accepted into the Program under subsection (3) has not had an approved device installed in a motor vehicle for their use within 1 year of the date of the letter of acceptance, they are required to reapply for admittance into the Program under Section 8 and this Section.

10 Registrar's letter of acceptance into Program

- (1) On accepting an applicant for participation in the Program, the Registrar must issue a letter of acceptance to the applicant that approves the installation of an approved device for use by the applicant and identifies the applicant as having been accepted into the Program.
- (2) An applicant must present the Registrar's letter of acceptance to an authorized individual for installation of an approved device.

11 Having approved device installed

- (1) An applicant who holds a letter of acceptance into the Program from the Registrar may have an approved device installed in a motor vehicle at their expense.
- (2) An applicant who has an approved device installed in a motor vehicle must execute the agreement required by the authorized service provider that carried out the installation.
- (3) An applicant who has an approved device installed in a motor vehicle that is owned by another person must provide an authorized individual with written authorization from the vehicle owner giving the applicant permission to have the approved device installed in the vehicle.
- (4) A motor vehicle owner who authorizes the installation of an approved device in their vehicle under subsection (3) may revoke the authorization at any time for any reason by providing the Registrar with the revocation in writing, and the participant must ensure that the approved device is removed promptly by an authorized individual at the participant's expense.

12 Adding interlock restriction to driver's licence

- (1) An interlock restriction may be added to an individual's driver's licence only after the individual has an approved device installed in accordance with Section 11.
- (2) An interlock restriction must identify the licence holder as a participant on the condition that the participant is restricted to driving a specific equipped vehicle or specified equipped vehicles in accordance with the Program and these regulations.

13 Participant's duties

A participant must do all of the following as a condition of their continued participation:

- (a) have any equipped vehicle and approved device inspected as required by Section 15;
- (b) meet with a counsellor at Addiction Services as required under Section 16;
- (c) pay all expenses associated with participation.

14 Monitoring participants

- (1) All data from an approved device is deemed to be that of the participant assigned to that device.
- (2) The Registrar must either review or direct another individual to review the records submitted by an authorized individual or authorized service provider under Section 30.

15 Inspecting and maintaining approved device

- (1) Except as provided in subsection (2), at least once in every 60 days, a participant must bring their equipped vehicle and the approved device back to the authorized individual that installed the device, or to a facility designated by the authorized individual, for inspection, maintenance and reporting.
- (2) For an approved device in an equipped vehicle that is designed to be inspected and maintained by removing a component from it, a participant must do all of the following at least once every 60 days:
 - (a) ensure that the component is removed in accordance with the instructions of the authorized individual that installed the device, and bring it back to the authorized individual that installed the device, or to a facility designated by the authorized individual, for inspection and maintenance;
 - (b) ensure that the replacement component provided to the participant by the authorized individual is installed back into the approved device in accordance with the instructions of the authorized individual.

16 Counselling by Addiction Services

- (1)** A participant must meet with a counsellor at Addiction Services no later than 10 days after the initial inspection required by Section 15 and, unless otherwise required under subsection (3), once in every 60 days after the initial meeting.
- (2)** A counsellor at Addiction Services may recommend 1 of the following to the Registrar:
 - (a)** that a participant meet with a counsellor less frequently than required by subsection (1), if the counsellor believes that the participant has demonstrated positive and sustained behaviour change in relation to their use of alcohol;
 - (b)** that a participant meet with a counsellor more frequently than required by subsection (1), if the counsellor believes that the participant has not demonstrated an improvement in behaviour.
- (3)** Based on the recommendation of a counsellor under subsection (2), the Registrar may require a participant to meet with a counsellor at Addiction Service at specified intervals.
- (4)** If a participant fails to meet with a counsellor at Addiction Services as required under this Section, Addiction Services must notify the Registrar no later than 10 days after the missed appointment.

17 Dismissal from Program

- (1)** In addition to any dismissal required under these regulations, the Registrar may dismiss an individual from the Program at any time for any reason and must give the individual written notice of any dismissal and the reasons for the dismissal.
- (2)** When the Registrar dismisses an individual from the Program, the individual's driving privilege is automatically suspended.
- (3)** An individual who is dismissed from the Program must ensure that all approved devices are removed at their expense from all equipped vehicles specified on their driver's licence.

18 Readmission into Program

- (1)** An individual who is a mandatory participant in the Program as described in subsection 4(2), for whom participation in the Program is a condition of reinstatement of their driving privilege and who is dismissed from the Program must reapply for admission to the Program in accordance with Section 6 before they can apply to have their driving privilege reinstated.
- (2)** The Registrar must not accept an application for readmission to the Program from an individual described in subsection (1) until after the following applicable period has elapsed following the date of dismissal:

- (a) 90 days, for a 1st dismissal;
 - (b) 180 days for a 2nd dismissal;
 - (c) 1 year for a 3rd or subsequent dismissal.
- (3) An individual who is a voluntary participant in the Program as described in subsection 4(1) who is dismissed from the program is not eligible for readmission to the Program.

19 Temporary leave from Program

- (1) On request, the Registrar may grant a participant a temporary leave from the Program and may specify terms and conditions for the leave.
- (2) A participant's driving privilege is suspended during any temporary leave granted under subsection (1).
- (3) For the purpose of calculating the continuous period of participating under Section 20, the participation time before the beginning of a temporary leave may be added to the participation time following the end of the temporary leave.
- (4) The Registrar must dismiss a participant who drives a motor vehicle on a highway during a temporary leave from the Program.

20 Program duration

- (1) A participant participating in the Program during their suspension period must continue in the Program for the full duration of their suspension period as set out in the mandatory suspension table, and nothing in this Section shortens their suspension period.
- (2) A participant's participation begins on the date that an interlock restriction is added to their driver's licence.
- (3) An individual whose driving privilege has been suspended for a violation of subsection 320.14(1) or 320.15(1) of the *Criminal Code*, if the violation involved alcohol, or subsection 320.18(1) of the *Criminal Code*, if the prohibition referred to in that Section involved alcohol, must participate in the Program for the following applicable minimum period:
 - (a) for a 1st suspension, a minimum continuous period equal to the amount of time remaining in the 1-year suspension period specified in item 4 of the mandatory suspension table;
 - (b) for a high-risk 1st offender, a minimum continuous period of 1 year;
 - (c) for a 2nd suspension, a minimum continuous period of 2 years;

- (d) for a 3rd suspension, a minimum continuous period of 3 years;
 - (e) for a 4th or subsequent suspension, a minimum continuous period of 5 years following the minimum suspension period specified in item 4 of the mandatory suspension table;
- (4) An individual whose driving privilege has been suspended for a violation of subsection 320.14(2), 320.14(3), 320.15(2) or 320.15(3) of the *Criminal Code* must participate in the Program for the following applicable minimum period:
- (a) for a 1st suspension, a minimum continuous period of 2 years after the minimum suspension period specified in item 8 of the mandatory suspension table;
 - (b) for a 2nd suspension, a minimum period of 5 years after the minimum suspension period specified in item 8 of the mandatory suspension table.
- (5) An individual required to participate in the Program under clause 86(2)(c), 103(d) or 109(2)(d) of the Act must participate in the Program for a minimum period set by the Registrar.
- (6) An individual whose driving privilege has been suspended for a violation of section 320.14 or 320.15 of the *Criminal Code* and who is subject to an additional period of revocation under Section 314 of the Act must participate in the Program for a minimum continuous period of 12 months.
- (7) Except as provided in subsection (8), the minimum period of participation in the Program required by subsection (6) must be served following the end of any other period of participation in the Program required by this Section.
- (8) An individual whose driving privilege has been suspended for a violation of section 320.14 or 320.15 of the *Criminal Code* and who is not required to participate in the Program except by subsection (6) may serve the minimum period of participation required by subsection (6) concurrently with the period required by clause (3)(a) for any voluntary participation in the Program.
- (9) If an individual who is dismissed from the Program successfully reapplies to participate in the Program again, unless otherwise directed by the Registrar, the applicable time period in subsection (2), (3), (4) or (5) restarts and no time previously spent in the Program is deducted from the required minimum duration of the Program.

21 Extending duration of Program

- (1) The Registrar may extend a participant's participation in the Program based on consideration of the factors set out in Section 23 or for a violation of these regulations in accordance with Section 27, and must give the participant written notice of any extension.

- (2) The written notice of an extension required by subsection (1) must include
 - (a) a statement of the further continuous period during which the participant must participate before being eligible to apply for release from the Program under Section 22; and
 - (b) the date after which the participant may apply for release from the Program.
- (3) A participant whose participation in the Program is extended must participate in the Program for a further continuous period set by the Registrar before being eligible to apply for release from the Program under Section 22.

22 Application for release from Program

- (1) A participant who has completed the required participation period under Section 20 or 21 must apply to the Registrar to be released from the Program.
- (2) An application for release from the Program must include a recommendation from Addiction Services supporting the application.

23 Factors for determining release from Program

- (1) In this Section, “failed test” means a breath sample taken with an approved device that registers higher than 20 mg of alcohol in 100 ml of blood.
- (2) The Registrar must consider the following factors when deciding whether to release a participant who has applied for release under Section 22 from the Program:
 - (a) the contents of records submitted by an authorized service provider under Section 30 with respect to the participant, including both of the following:
 - (i) the participant’s rate of compliance with required retests;
 - (ii) the number of failed tests recorded for the participant;
 - (b) how often the equipped vehicle was driven by the participant during their participation;
 - (c) any incidents or reports of incidents of driving while under the influence of alcohol or of driving a non-equipped vehicle involving the participant, whether or not those incidents led to convictions for violations of the *Criminal Code* or convictions under the Act or the regulations made under the Act;
 - (d) any relevant information made available to the Registrar by Addiction Services;
 - (e) any factors the Registrar considers relevant to the participant’s readiness to be released from the Program.

24 No application for removal of interlock restriction until released from Program

A participant is not eligible to apply under clause 83(1)(c)(a) of the Act for removal of the interlock restriction from their driver's licence until the Registrar has released them from the Program under Section 25.

25 Registrar's decision on application for release from Program

- (1) The Registrar may approve or deny a participant's application under Section 22 for release from the Program.
- (2) If the Registrar releases a participant from the Program, the participant must at their own expense have the approved device removed from the equipped vehicle or vehicles specified in their interlock restriction.
- (3) If the Registrar rejects an application for release from the Program, the Registrar may extend the applicant's participation in the Program in accordance with Section 21.

26 Peace officer may inspect equipped vehicle

- (1) A peace officer may inspect an equipped vehicle at any time to determine whether the participant and the equipped vehicle are in compliance with the participant's interlock restriction, the Program and these regulations, and to determine whether the approved device is functioning properly.
- (2) A peace officer may order that an equipped vehicle be taken to an authorized individual for an inspection of the vehicle and the approved device.

27 Administrative sanctions by Registrar

- (1) The Registrar may take any of the following actions based on data from an approved device indicating that the participant has committed an offence under these regulations, or the Registrar's reasonable belief that the participant has committed such an offence:
 - (a) dismiss the participant from the Program;
 - (b) require the participant to undergo additional assessment by Addiction Services;
 - (c) extend the duration of the participant's required participation in the Program in accordance with Section 21.
- (2) The Registrar may reverse or alter any action taken under subsection (1) if evidence to the contrary that is satisfactory to the Registrar is provided.

28 **Written authorization to install approved devices**

- (1) The Registrar may authorize any individual to install, maintain and remove approved devices.
- (2) The Registrar's authorization under subsection (1) must be in writing.

29 **Attaching approval sticker when approved device installed**

On request from an individual for installation of an approved device in their motor vehicle, and on being provided with a letter from the Registrar indicating that the individual has been accepted into the Program, an authorized individual must attach an approval sticker to an approved device and install the device in the motor vehicle.

30 **Records**

- (1) An authorized service provider must keep a record that includes all of the following information for each approved device they install, inspect, maintain or remove:
 - (a) the name, residential address, date of birth and driver's licence number of the participant;
 - (b) the make, model, vehicle identification number, and number plate number of the motor vehicle into which the approved device was installed;
 - (c) the results of each inspection of the approved device, including any data or other information obtained from the approved device.
- (2) An authorized service provider must notify the Registrar immediately if an inspection of an approved device shows that the device has been tampered with.
- (3) An authorized service provider must submit the records kept under this Section to the Registrar when requested.
- (4) An authorized service provider must keep a record made under this Section for at least 10 years from the date the record was created.

31 **Offences**

- (1) An individual who holds a driver's licence with an interlock restriction who does any of the following is guilty of an offence and is liable to the applicable penalty set out in [regulations under Part 7]:
 - (a) tampers with an approved device or operates an equipped vehicle that has been tampered with;
 - (b) fails to take an equipped vehicle or approved device for scheduled inspections as required by Section 13;

- (c) solicits a breath sample from another person to assist them to do any of the following while the holder of the driver's licence with an interlock restriction is in control of an equipped vehicle:
 - (i) start the equipped vehicle,
 - (ii) keep the equipped vehicle in motion;
 - (d) drives a motor vehicle that is not an equipped vehicle specified in the interlock restriction on the individual's driver's licence.
- (2) An individual who knowingly assists an individual who holds a driver's licence with an interlock restriction to do any of the following is guilty of an offence and is liable to the applicable penalty set out in [the regulations under Part 7]:
- (a) start an equipped vehicle while the holder of the driver's licence with an interlock restriction is in control of the equipped vehicle;
 - (b) keep an equipped vehicle in motion while the holder of the driver's licence with an interlock restriction is in control of the equipped vehicle;
 - (c) tamper with an approved device.
- (3) An individual who allows an individual who is a holder of a driver's licence with an interlock restriction to operate a motor vehicle other than an equipped vehicle specified in their interlock restriction is guilty of an offence and liable to the applicable penalty in [the regulations under Part 7].

32 Owner of vehicle deemed guilty of offence

If the individual who committed an offence involving a motor vehicle under subsection 31(1), (2) or (3) cannot be determined, the owner of the motor vehicle involved is guilty of the offence.