

MAINE STATE LEGISLATURE

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October 1, 1956

yes

To Paul A. MacDonald, Deputy Secretary of State
Re: Financial Responsibility Law

In your memo of September 24th you relate that a son, while driving a car borrowed from his mother for his own use, was involved in an accident, as a result of which he was eventually convicted. The vehicle was not insured, and under the provisions of Section 77 of Chapter 22, R. S. 1954 (Financial Responsibility Law), both mother and son are required to furnish security to satisfy judgment and a proof of financial responsibility for three years (Section 77-II-B):

"B. Upon receipt by him of the report of an accident other than as provided for in paragraph C of this subsection, which has resulted in death, bodily injury or property damage to an apparent extent of \$100 or more, the secretary shall, 30 days following the date of request for compliance with the 2 following requirements, suspend the license or revoke the right to operate of any person operating, and the registration certificates and registration plates of any person owning a motor vehicle, trailer or semi-trailer in any manner involved in such accident, unless such operator or owner or both:

1. shall have secured a written release, duly authenticated, from the other party or parties involved in such accident, or shall have previously furnished or immediately furnishes sufficient security to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against such owner or operator by or on behalf of the aggrieved person or his legal representative, and

2. shall immediately give and thereafter maintain proof of financial responsibility for 3 years next following the date of filing the proof as provided under the provisions of subsection II of section 81."

You state that under such circumstances as above described, where a gratuitous bailment is involved, you have been requiring proof of financial responsibility on the part of the owner, which actually is proof of insurance coverage from the owner, in accordance with an oral opinion in a similar case given by Abraham Breitbard when he was Deputy Attorney General. You then ask if in our opinion the Secretary of State has any authority under the law to require that proof of insurance coverage be filed by the owner in the instant case.

Answer. Yes. In our opinion the Secretary not only has authority to require proof of insurance coverage, to be filed by the owner of such vehicle, but under the express wording of the statute we do not see how he could avoid requiring such proof.

Reading the entire section as a whole it can be seen that the legislature clearly intended such proof to apply to the owner who consented to his car being used by another person. If there be any doubt in reading paragraph B of Section 77 that the legislature meant to require proof of financial responsibility of the owner of the car, it should be resolved in reading subsection V, which sets forth those instances in which the owner or operator is excluded from the operation of the law.

Paragraph A of subsection V provides that such proof (as required by subsection II) shall not apply

"to the owner of a motor vehicle
operated by one having obtained possession
or control thereof without his express or
implied consent."

From a reading of these laws we gather that the owner of a motor vehicle driven by another person shall, in the event of an accident involving that motor vehicle as set forth in Section 77-II-B, give proof of financial responsibility, unless such other person was using the vehicle without the express or implied consent of the owner.

James Glynn Frost
Deputy Attorney General

jgf/c

See Gillespie v. Department of Public Safety
259 S. W. 2d 177