

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 395

H. P. 1186

House of Representatives, February 6, 1935.

Referred to Committee on Judiciary and 1,000 copies ordered printed.
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Philbrick of Cape Elizabeth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

**AN ACT to Eliminate the Reckless and Irresponsible Driver from the
Highways.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 29, §§ 86, 87, amended. Sections 86 and 87 of chapter 29 of the revised statutes are hereby repealed and the following sections enacted in place thereof:

'Sec. 86. Reckless driving; penalty. Whoever upon any way, or in any place to which the public has a right of access, operates any vehicle recklessly or in a manner so as to endanger any person or property, shall be guilty of reckless driving and upon conviction shall be punished by a fine of not more than \$200 or by imprisonment for a term of not more than 3 months, or by both fine and imprisonment; and whoever is convicted the 2nd time for a violation of this section shall be punished by a fine of not less than \$200 and not more than \$500 or by imprisonment for not more than 11 months, or by both fine and imprisonment. The license of any person convicted of violating the provisions of this section shall be revoked immediately by the secretary of state upon receipt of an attested copy of the court records without further hearing.'

‘Sec. 87. Penalty for going away without stopping after accident; using motor vehicle without authority. Whoever goes away without stopping and making himself known after causing injury to any person or property or uses a motor vehicle without authority from its owner upon conviction shall be punished by a fine of not more than \$200, or by imprisonment for a term of not more than 3 months, or by both fine and imprisonment; and whoever is convicted the 2nd time for a violation of this section shall be punished by a fine of not less than \$200 and not more than \$500, or by imprisonment for not more than 11 months, or by both fine and imprisonment. The license of any person convicted of violating the provisions of this section shall be revoked immediately by the secretary of state upon receipt of an attested copy of the court records without further hearing.

If any person drives a motor vehicle in a reckless manner or goes away without stopping and making himself known after causing injury to any other person or property, or operates a motor vehicle while apparently under the influence of intoxicating liquor or drugs, it shall be the duty of every officer who is charged with the enforcement of law and of every citizen to forthwith report the same to the secretary of state, giving the register number of the vehicle, the state registering the same, and the name and residence of the operator, occupant, or owner if known. Upon receipt of such complaint the secretary of state shall forthwith investigate the case and may suspend or revoke the license of such operator, or, if a non-resident, his right to operate in this state, and annul the registration of any vehicle so operated for such time as he shall deem advisable.’

Sec. 2. R. S., c. 29, §§ 91-98, amended. Sections 91 to 98, inclusive, of the motor vehicle law, chapter 29 of the revised statutes, are hereby repealed and the following sections substituted therefor:

‘Sec. 91. Suspension of operator’s license and registration certificate for certain offenses. The motor vehicle operator’s license, chauffeur’s license, and all of the registration certificates of any person shall be suspended forthwith without notice or hearing by the secretary of state whenever such person shall by a final order or judgment have been convicted of or shall have pleaded guilty to or shall have forfeited any bail or collateral deposited to secure his appearance for trial as defendant (where such forfeiture shall not have been vacated) for any offense hereafter committed which requires suspension or revocation of the licenses of such person in this state or for any other offense hereafter committed for which the secretary of state shall have suspended or revoked the license of such person or any offense in any other state or in the District of Columbia or in any

province which, if committed in this state, would require suspension or revocation of the licenses of such person in this state.

Proof of ability to respond in damages condition precedent to future licensing or registration. Such operator's license, chauffeur's license and registration certificates shall remain suspended and shall not at any time thereafter be renewed, nor shall any such license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person until he shall have given proof of his ability to respond in damages for any liability thereafter incurred, resulting from the ownership, maintenance, use or operation thereafter of a motor vehicle, for personal injury to or death of any one person in the amount of at least \$5,000, and, subject to the aforesaid limit for any 1 person injured or killed, of at least \$10,000 for personal injury to or death of 2 or more persons in any one accident, and for damage to property in the amount of at least \$1,000 resulting from any one accident. Such proof in said amounts shall be furnished for each motor vehicle registered by such person.

Applicable to non-residents. If such person shall not be a resident of this state, he shall not operate any motor vehicle in this state nor shall any motor vehicle owned by him be operated within this state by any person, and no operator's or chauffeur's license shall be issued to such person and no motor vehicle shall be registered in his name until he shall have given proof herein required.

Certified copies of court records to be furnished. It shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment or order is rendered or other such action taken to forward immediately to the secretary of state a certified copy of such judgment, order or record or other action of the court which shall be prima facie evidence of the conviction, plea or other action therein stated. In the event that the person so shown to have been convicted, pleaded guilty or forfeited bail or collateral appears to be a non-resident of this state, the secretary of state shall transmit a copy of such certified copy, certified to by him, to the official in charge of the issuance of motor vehicle operators' licenses, chauffeurs' licenses and registration certificates of the state or province of such non-resident.

Operator or chauffeur relieved of necessity of giving proof in own behalf, under certain conditions. If it shall be duly established to the satisfaction of the secretary of state (a) that any person, whether a resident or non-resident of this state, who shall have been convicted, pleaded guilty or forfeited bail or collateral, as aforesaid, was, upon the occasion of the offense upon which such conviction, plea or forfeiture was based, a chauffeur or

motor vehicle operator, however designated, in the employ of an owner of a motor vehicle or a member of the immediate family or household of an owner of a motor vehicle, and (b) that there was not, at the time of such offense or subsequent thereto, up to the date of such finding, any motor vehicle registered in this state (or if a non-resident, in the state or province of his residence) in the name of the person who has been convicted, pleaded guilty or forfeited bail or collateral, as aforesaid, then and in that event, if the person in whose name such motor vehicle is registered shall give proof of ability to respond in damages according to the provisions of this act, which proof the secretary of state shall accept, such chauffeur or other person, as aforesaid, shall be relieved of the necessity of giving such proof in his own behalf, so long as such chauffeur or other person is operating a motor vehicle for which the owner has a certificate of financial responsibility on file.

'Sec. 92. Suspension of operator's license and registration certificate upon failure to satisfy judgment. The operator's license, chauffeur's license, and all of the registration certificates of any person shall be forthwith suspended by the secretary of state upon receiving from the court in which the judgment was rendered a certificate, in the form prescribed by the secretary of state, showing that such person failed to satisfy within 30 days any judgment which shall have become final by expiration without appeal within the time in which appeal might have been perfected or by final affirmance on appeal, rendered against him by a court of competent jurisdiction in this state or in any other state or the District of Columbia, or in any district court of the United States, or by a court of competent jurisdiction in any province, for damages on account of personal injury, including death, or damage to property in excess of \$100, resulting from the ownership, maintenance, use or operation hereafter of a motor vehicle.

Satisfaction of judgment and proof of ability to respond in damages condition precedent to future licensing or registration. Such operator's license, chauffeur's license, and registration certificates shall remain so suspended and shall not be renewed, nor shall any such license be issued to such person nor shall any motor vehicle be thereafter registered in the name of such person while any such judgment remains unstayed, unsatisfied and subsisting or until every such judgment is satisfied or discharged, except by a discharge in bankruptcy, and until the said person gives proof of his ability to respond in damages as required in section 91 of this act, for future accidents. If, after such proof has been given, any other such judgment shall be recovered against such person resulting from an event occurring before such proof as given but after this act shall take effect,

such licenses and certificates shall again be and remain suspended, and no other such license or certificate shall be issued to such person while any such judgment remains unsatisfied and subsisting, as aforesaid.

Applicable to non-residents. If such person who has failed to satisfy within 30 days any final judgment, as aforesaid, shall not be a resident of this state, he shall not operate any motor vehicle in this state, nor shall any motor vehicle owned by him be operated in this state by any person, nor shall any operator's or chauffeur's license be issued to such person or any motor vehicle registered in his name, until every such judgment shall be stayed, satisfied or discharged as herein provided, and until such person shall have given proof of his ability to respond in damages for future accidents as required in section 91 of this act.

Certified copies of judgment to be furnished. It shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered, to forward to the secretary of state immediately after the expiration of said 30 days, a certified copy of such judgment. If the defendant is a non-resident, it shall be the duty of the secretary of state to transmit a certified copy of the judgment to the official in charge of the issuance of operators' licenses and registration certificates of the state or province of which the defendant is a resident.

Payment sufficient to satisfy requirements of act. Provided, however, anything in this act to the contrary notwithstanding, that

(1) When \$5,000 has been credited upon any judgment or judgments rendered in excess of that amount for personal injury to or the death of one person as the result of any one accident; or

(2) When, subject to the limit of \$5,000 for any one person so injured or killed, the sum of \$10,000 has been credited upon any judgment or judgments rendered in excess of that amount for personal injury to or the death of more than one person as the result of any one accident; or

(3) When \$1,000 has been credited upon any judgment or judgments rendered in excess of that amount for damage to property as the result of any one accident; resulting from the ownership, maintenance, use or operation of a motor vehicle, credit for such amounts shall be deemed a satisfaction of such judgment or judgments for the purposes of this section only.'

'Sec. 92-A. License or registration may be restored upon payment of judgment in installments. A judgment debtor to whom this act applies may, for the sole purpose of giving authority to the secretary of state to authorize the judgment debtor to operate a motor vehicle thereafter, on

due notice to the judgment creditor, apply to the court in which the trial judgment was obtained for the privilege of paying such judgment in installments, and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order, fixing the amounts and times of payment of the installments. While the judgment debtor is not in default in payment of such installments, the secretary of state, upon his giving proof of ability to respond in damages for future accidents, as hereinbefore provided, may, in his discretion, restore or refrain from suspending his license and registration certificates; but such license and certificates shall be suspended as hereinbefore provided if and when the secretary of state is satisfied that the judgment debtor has failed to comply with the terms of the court order.'

'Sec. 92-B. Establishment of proof of ability to respond in damages.

Proof of ability to respond in damages, when required under this act, may be evidenced by any of the following:

Certificate of insurance carrier as proof. (a) The written certificate or certificates of any insurance carrier duly authorized to do business within the state, that it has issued to or for the benefit of the person named therein a motor vehicle liability policy or policies in the form hereinafter prescribed, which, at the date of the certificate or certificates, is or are in full force and effect, and designating therein by explicit description or by other adequate reference, all motor vehicles to which the policy or policies apply. The secretary of state shall not accept any certificate or certificates unless the same shall cover all motor vehicles then registered in this state in the name of the person furnishing such proof. Additional certificates, as aforesaid, shall be required as a condition precedent to the registration of any additional motor vehicle or motor vehicles in the name of such person required to furnish proof as aforesaid. Said certificate or certificates shall certify that the motor vehicle liability policies therein cited shall not be cancelled except as hereinafter provided, and that every motor vehicle liability policy therein cited complies with the requirements of this act. The issuance of a certificate to serve as proof of ability to respond in damages under this act shall be conclusive evidence that every motor vehicle liability policy therein cited fully conforms to all the requirements of this act.

How a non-resident can establish proof of ability to respond in damages.

If such person be a non-resident, a certificate as aforesaid of any insurance carrier authorized to transact business in the state or province in which the motor vehicle or motor vehicles described in such certificate is registered, or if none be described, then in the state or province in which the insured

resides, shall be accepted if such carrier shall (1) execute a power of attorney authorizing the secretary of state to accept service of notice or process in any action arising out of a motor vehicle accident in this state, and (2) duly adopt a resolution providing that its policies shall be deemed to be varied to comply with the law of this state relating to the terms of motor vehicle liability policies issued therein, and (3) agree to accept as final and binding any final judgment duly rendered in any action arising out of a motor vehicle accident in any court of competent jurisdiction in this state. If any foreign insurance carrier which has qualified to furnish proof of financial responsibility as hereinbefore required defaults in any said undertakings or agreements, the secretary of state shall not thereafter accept any certificate of said carrier, whether theretofore filed or thereafter tendered, as proof of financial responsibility so long as such default continues.

Secretary of state to be notified of cancellation. When an insurance carrier has certified a motor vehicle liability policy under this act, it shall give 10 days' written notice to the secretary of state before cancellation of such policy and the policy shall continue in full force and effect until the date of cancellation specified in such notice or until its expiration.

Bond as proof. (b) The bond of a surety company, duly authorized to transact business within the state, or a bond, with at least 2 individual sureties, each owning real estate within this state, which real estate shall be scheduled in the bond approved by a judge of a court of record which said bond shall be conditioned for payment of the amounts specified in section 91 of this act; and such bond shall be filed with the secretary of state and shall not be cancellable except after 10 days' written notice to the secretary of state. Such bond shall constitute a lien in favor of the state upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such proof on account of damage to property or injury to, including death of, a person or persons resulting from the ownership, maintenance, use or operation hereafter of a motor vehicle, upon the filing of notice to that effect by the secretary of state in the office of the proper clerk or court of the county or city where such real estate shall be located.

Money or securities as proof. (c) The certificate of the state treasurer that the person named therein has deposited with him a sum of money or securities approved by him in the amounts as specified in section 91 of this act. The state treasurer shall accept any such deposits and issue a certificate therefor, and the secretary of state shall accept such certificate if ac-

complicated by evidence that there are no unsatisfied judgments against the depositor registered in the office of the county clerk of the county where the depositor resides.

When the secretary of state may require other evidence. Whenever any evidence of proof of ability to respond in damages filed under the provisions of this act no longer fulfils the purposes for which required, the secretary of state shall, for the purpose of this act, require other evidence of ability to respond in damages as required by this act, and shall suspend the operator's license, chauffeur's license, and registration certificates, pending such proof.'

'Sec. 92-C. Rights of a judgment creditor against bond, money or securities deposited with the treasurer. A bond, money or securities filed or deposited by or on behalf of any person under the provisions of the preceding section, shall be held by the secretary of state or said treasurer to satisfy, in accordance with the provisions of this act, any execution issued against such person on a judgment for damages as aforesaid arising out of the ownership, maintenance, use or operation of a motor vehicle as aforesaid. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid. If such a judgment rendered against the principal on the surety company or real estate individual bond given under the provisions of this act shall not be satisfied within 30 days after it has become final as hereinbefore provided, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the state against the company or persons executing such bond, including as action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond.'

'Sec. 93. Furnishing of operators' records by the secretary of state. The secretary of state shall upon request furnish any insurance carrier or any person or surety a certified abstract of the operating record of any person subject to the provisions of this act, which abstract shall fully designate the motor vehicles, if any, registered in the name of such person, and if there is no record of any conviction of such person of a violation of any provision of any statute relating to the operation of a motor vehicle or of any injury or damage caused by such person as herein provided, the secretary of state shall so certify. The secretary of state shall collect for each such certificate the sum of \$1. Such record shall not be admissible as evidence in any action for damages or criminal proceeding arising out of a motor vehicle accident.'

‘Sec. 93-A. License, registration certificate and number plates to be returned to secretary of state. Any operator or any owner, whose operator’s or chauffeur’s license or certificate of registration shall have been suspended as herein provided, or whose policy of insurance or surety bond when same is required under this act shall have been cancelled or terminated, or who shall neglect to furnish other evidence of ability to respond in damages upon request of the secretary of state, shall immediately return to the secretary of state his operator’s or chauffeur’s license, certificate of registration and the number plates issued thereunder. If any person shall wilfully fail to return to the secretary of state the operator’s or chauffeur’s license, certificate or certificates of registration and the number plates issued thereunder as provided herein, the secretary of state shall forthwith direct any peace officer to secure possession thereof and to return the same to the office of the secretary of state. Any person wilfully failing to return such operator’s or chauffeur’s license or such certificate or certificates and number plates shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$100, nor more than \$1,000, or imprisoned in the county jail for not to exceed 90 days, and such penalty shall be in addition to any penalty imposed for any violation of the motor vehicle laws of this state.’

‘Sec. 93-B. Period during which proof of ability to respond in damages must be maintained. The secretary of state shall upon request cancel any bond or return any certificate of insurance, or the secretary of state shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this act as proof of financial responsibility, or waive the requirement of filing proof of financial responsibility in any of the following events:

1. At any time after 3 years from the date such proof was required when, during the 3-year period preceding the request, the person furnishing such proof has not been convicted of any offense referred to in section 91 of this act; or

2. In the event of the death of the person on whose behalf such proof was filed, or the permanent incapacity of such person to operate a motor vehicle; or

3. In the event the person who has given proof of financial responsibility surrenders his operator’s or chauffeur’s license, registration certificates, and registration plates to the secretary of state, but the secretary of state shall not release such proof in the event any action for damages upon a liability referred to in this act is then pending or any judgment upon any such liability then outstanding and unsatisfied or in the event the secretary of

state has received notice that such person has within the period of 3 months immediately preceding been involved as a driver in any motor vehicle accident. An affidavit of the applicant of the non-existence of such facts shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

Whenever any person to whom proof has been surrendered, as provided in the foregoing paragraph, applies for an operator's or chauffeur's license or the registration of a motor vehicle within a period of 3 years from the date proof of financial responsibility was originally required, any such application shall be refused unless the applicant shall reestablish such proof for the remainder of such period.

The secretary of state shall cancel any bond or return any certificate of insurance, or the secretary of state shall direct and the said treasurer shall return any money or securities to the person entitled thereto, upon the acceptance and substitution of other adequate proof of financial responsibility pursuant to this act.'

'Sec. 93-C. Prohibiting transfer of registration to defeat purpose of this act. If an owner's certificate of registration has been suspended under the provisions of this act, such certificate shall not be transferred, nor the motor vehicle in respect of which such certificate was issued registered in another name, where the secretary of state has reasonable grounds to believe that such transfer or registration is proposed for the purpose or will have the effect of defeating the purpose of this act. Provided, however, that such transfer of registration shall be permitted upon the furnishing of proof of financial responsibility to the secretary of state by such transferee whenever the secretary of state shall deem it necessary in furtherance of the purposes of this section.'

'Sec. 94. Act not applicable to certain policies of automobile insurance. Nothing in this act contained shall be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if endorsed to conform to the requirements of this act, shall be accepted as proof of financial responsibility when required under this act; nor shall anything in this act contained be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance, operation or use by other persons in the insured's employ or in his behalf of motor vehicles not owned by the insured.'

'Sec. 95. Penalties. Any person who shall forge, or without authority sign, any evidence of ability to respond in damages as required by the

secretary of state in the administration of this act, and any person who shall violate any provisions of this act for which no penalty is otherwise provided, shall be fined not less than \$100 nor more than \$1,000, or imprisoned not more than 90 days, or both.

Any person whose operator's or chauffeur's license or registration certificate or other privilege to operate a motor vehicle has been suspended or revoked and restoration thereof or issuance of a new license or registration is contingent upon the furnishing of proof of financial responsibility and who during such suspension or revocation or in the absence of full authorization from the secretary of state drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway except as permitted hereunder shall be punished by imprisonment for not less than 2 days nor more than 6 months and there may be imposed in addition thereto a fine of not more than \$500.'

'Sec. 96. Petitions. Any person, personally or by his legally qualified representative, who has suffered damages on account of personal injury, including death, or damages to property in excess of \$100, by reason of an automobile accident in which the motor vehicle of another person is involved and who is not satisfied that the owner or operator of said motor vehicle is financially responsible for the damages caused by said accident may, by petition, apply to the secretary of state for an investigation to determine the question of financial responsibility.

Investigation. The secretary of state upon his own motion may, and upon petition as above set forth shall, investigate the circumstances of any accident in which one or more motor vehicles is involved, with a view of determining the questions (1) whether such accident was due, in whole or in part, to the negligence of the owner or operator against whom the petition was brought, and not due, in whole or in part, to the negligence of the petitioner or the petitioner's intestate, and (2) whether the motor vehicle was operated by the owner thereof, and (3) whether, if not operated by the owner thereof, the motor vehicle was being operated with the express or implied consent of the owner, and (4) whether the party probably liable is financially responsible for any damages caused by said accident.

Financial responsibility. If, as a result of said investigation, the secretary of state is not satisfied that the party or parties who he finds may be liable and required to pay a judgment in an action at law is financially responsible, he shall require such party or parties to deposit with him forthwith either a certificate or bond as defined in section 92-B of this act, or security in an amount which the secretary of state may deem sufficient to

satisfy any judgment which may be recovered against said operator or owner, but not exceeding \$5,000 in the case of injury to or death of 1 person, or \$10,000 in the case of injury to or death of more than 1 person or \$1,000 in the case of damage to property, provided that the bond referred to in said section shall, in this case, cover the motor vehicle with reference to any action at law to recover damages which may not at the time of filing the foregoing petition have been instituted.

Petition dismissed when. If, after a petition is filed in accordance with the provisions of this section, the owner or operator against whom the petition is brought files with the secretary of state a certificate or bond as provided in section 92-B of this act, the secretary of state shall dismiss the petition without a hearing thereon.

Investigation, not evidence. Neither the findings of the secretary of state upon questions upon which he makes an investigation, the action taken by the secretary of state upon the petition, nor a certificate, bond or security filed by the owner or operator as provided herein, shall be referred to in any way, and shall not be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages.

Suspension of license and registration. If the person required to furnish security under the provisions of this section neglects or refuses to comply within 30 days with the requirements of the secretary of state, the secretary of state shall suspend the operator's license, chauffeur's license and all of the registration certificates of such person. In case such person has no license to operate in the state which license is subject to suspension, the secretary of state shall enter an order prohibiting such person from further operating motor vehicles ~~or trailers~~ in the state and prohibiting the operation in the state of any motor vehicles owned by such person if the registration thereof is not subject to suspension.

Proof of ability to respond in damages condition precedent to future licensing or registration. Such operator's license, chauffeur's license and registration certificates shall remain so suspended and shall not be renewed nor shall any such license be issued to such person nor shall any motor vehicle be thereafter registered in the name of such person, until the said person furnishes the security required by the secretary of state under this section and gives proof of his ability to respond in damages as required in section 91 of this act, for future accidents.'

'Sec. 97. Requirements of "motor vehicle liability policy". "Motor vehicle liability policy", as used in this act, shall be taken to mean a policy of liability insurance issued by an insurance company authorized to trans-

act business in this state or issued by an insurance company authorized to transact business in the state or province in which the motor vehicle or motor vehicles therein described is or are registered, or if none be described, then in the state in which the insured resides to the person therein named as insured, which policy shall either (1) designate, by explicit description or other adequate reference, all motor vehicles with respect to which coverage is intended to be granted by said policy, and shall insure the insured named therein and any other person using or responsible for the use of any such motor vehicle with the consent, express or implied, of such insured, against loss from the liability imposed by law, other than a workmen's compensation law, upon such insured or upon such other person for injury to or death of any person, other than such insured, or for damage to property, except property of others in charge of the insured or of his employees or other agents growing out of the ownership, maintenance, use or operation of any such motor vehicle within the continental limits of the United States of America or the Dominion of Canada; or which policy shall, in the alternative, (2) insure the person therein named as insured against loss from the liability imposed by law, other than a workmen's compensation law, upon such insured for injury to or death of any person, other than such insured, or for damage to property, except property of others in charge of the insured or of his employees or other agents growing out of the maintenance, operation or use by such insured of any motor vehicle, except a motor vehicle registered in the name of such insured, and occurring while such insured is personally in control, as driver or occupant, of such motor vehicle within the continental limits of the United States of America or the Dominion of Canada, in either case to the amount or limit of \$5,000, exclusive of interest and costs, on account of injury to or death of any one person, and, subject to the same limit as respects injury to or death of any 1 person, of \$10,000, exclusive of interest and costs, on account of any one accident resulting in injury to or death of more than 1 person; and of \$1,000 for damage to property of others, as herein provided, resulting from any one accident; or a binder pending the issuance of any such policy, or an endorsement to an existing policy, both as hereinafter provided: provided, however, that this section shall not be construed as preventing an insurance carrier from granting in a "motor vehicle liability policy" any lawful coverage in excess of or in addition to the coverage herein provided for or from embodying in such policy any agreements, provisions or stipulations not contrary to the provisions of this act and not otherwise contrary to law. And provided, further, that separate concurrent policies, whether issued by one or several carriers, covering, respectively, (a) personal injury or death, as aforesaid, and (b) property damage, as aforesaid, shall

be termed "a motor vehicle liability policy", within the meaning of this act.

When a certificate is filed showing that a policy or policies have been issued covering all motor vehicles owned by the insured but not insuring such person when operating any motor vehicle not owned by him, it shall be unlawful for such person to operate any motor vehicle not owned by him or not covered by such certificate. In such event the secretary of state shall designate the above restriction upon the operator's or chauffeur's license of such person. In the event the owner of a motor vehicle or motor vehicles desires to be relieved of the foregoing restriction and to be permitted to drive any other motor vehicle, he may have such restrictions removed upon filing a certificate showing that there has been issued to him a policy of insurance insuring him as insured against liability imposed by law upon such insured for personal injury to or death of any person or damage to property to the amounts and limits as provided by this section with respect to any motor vehicle operated by him and which otherwise complies with the requirements of this act with respect to such type of policy. Such policy is hereinafter referred to as an operator's policy. When the person required to give proof of financial responsibility is not the owner of a motor vehicle, then an operator's policy of the type and coverage described hereinbefore shall be sufficient under this act.

Except as in section 94 of this act provided, no motor vehicle liability policy shall be issued or delivered in this state until a copy of the form of policy shall have been on file with the commissioner of insurance for at least 30 days, unless sooner approved in writing by such commissioner, nor if within said period of 30 days such commissioner shall have notified the carrier in writing that in his opinion, specifying the reasons therefor, the form of policy does not comply with the provisions of this act. The commissioner of insurance shall approve any form of policy which specifies the name, address and business, if any, of the insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability, and contains an agreement that the insurance thereunder is provided in accordance with the coverage defined in this section, as respects personal injury and death or property damage or both, and is subject to all the provisions of this act.

Every such motor vehicle liability policy shall be subject to the following provisions, whether or not contained therein:

(a) The liability of the insurance company under a motor vehicle liability policy shall become absolute whenever loss or damage covered by such policy occurs. If any person shall secure final judgment against the insured for loss or damage covered by any such policy and if such judgment is not satisfied within 30 days after it shall have become final, then

such judgment creditor shall be entitled to recover under the terms of such policy, in the same manner and to the same extent as the insured, except as hereinafter provided; and, except as hereinafter provided, no fraud, misrepresentation, assumption of liability or other act of the insured in obtaining or retaining such policy, or in adjusting a claim under such policy, and no failure of the insured to give any notice, forward any paper or otherwise cooperate with the insurance company, shall constitute a defense as against such judgment creditor; provided, however, that the insurance company shall not be liable on any such judgment if it has not had prompt notice of and reasonable opportunity to appear in and defend the action in which such judgment was rendered, or if the judgment has been obtained through collusion between the judgment creditor and the insured.

Provided, always, that the insurance company shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in the policy.

No such policy shall be cancelled or annulled as respects any loss or damage, by any agreement between the carrier and the insured after the said insured has become responsible for such loss or damage, and any such cancellation or annulment shall be void.

The policy may provide that the insured, or any other person covered by the policy shall reimburse the insurance carrier for payment made on account of any loss or damage claim or suit involving a breach of the terms, provisions or conditions of the policy; and further, if the policy shall provide for limits in excess of the limits specified in this section, the insurance carrier may plead against any plaintiff, with respect to the amount of such excess limits of liability, any defenses which it may be entitled to plead against the insured, and any such policy may further provide for the prorating of the insurance thereunder with other applicable valid and collectible insurance.

(b) The policy, the written application therefor, if any, and any rider or endorsement which shall not conflict with the provisions of this act shall constitute the entire contract between the parties.

(c) The insurance company shall, upon the request of the insured, deliver to the insured for filing, or at the request of the insured shall file direct, with the secretary of state an appropriate certificate in conformity with the provisions of section 92-B of this act.

(d) Any company authorized to issue motor vehicle liability policies may, pending the issue of such a policy, execute an agreement, to be known as a "binder"; or may, in lieu of such a policy, issue an endorsement to

an existing policy. Every such binder or endorsement shall be subject to the provisions of this section and shall be construed to provide indemnity or insurance in like manner and to the same extent as a motor vehicle liability policy.'

'Sec. 97-A. When policy not to issue. No policy of automobile insurance against liability for personal injury and death and/or property damage shall be hereafter issued in this state unless the same shall conform to the requirements of section 97.'

'Sec. 98. Definitions. The following words, as used in this act, shall have the following meanings:

(a) The "secretary of state" shall mean the secretary of state, his deputy or any other officer whom he may appoint or who is in charge of the issuance of motor vehicle operators' licenses, chauffeurs' licenses and registration certificates.

(b) The singular shall include the plural and the plural shall include the singular; the masculine shall include the feminine and neuter, as requisite.

(c) "Person" shall include individuals, partnerships, corporations, receivers, referees, trustees, executors, and administrators; and shall also include the owner of any motor vehicle as requisite; but shall not include the state or any political subdivision thereof, or any municipality therein.

(d) "Motor vehicle" shall include trailers, motorcycles and tractors.

(e) "Province" shall mean any province of the Dominion of Canada.'

'Sec. 98-A. Secretary of state to make rules. The secretary of state shall make rules and regulations necessary for the administration of this act.'

'Sec. 98-B. Remedy elective. Nothing herein shall be construed as preventing the plaintiff in any action at law from relying for security upon the other processes provided by law.'

'Sec. 98-C. Validity of act. If any part, subdivision or section of the act shall be deemed unconstitutional, the validity of its remaining provisions shall not be affected thereby.'