

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 601

H. P. 1234

House of Representatives, February 12, 1935.

Referred to Committee on Judiciary and 1,000 copies ordered printed.

Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Jacobson of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

**AN ACT Requiring Owners of Certain Motor Vehicles and Trailers to
Furnish Security For Their Civil Liability on Account of Personal In-
juries and Property Damage Caused by Their Motor Vehicles and
Trailers.**

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

Sec. 1. Financial responsibility. No motor vehicle shall be registered under the motor vehicle laws of this state until the owner thereof shall provide for financial responsibility in one of the following forms.

1. By an insurance policy conditioned as hereinafter provided and issued by an insurance company authorized to do business in this state.

2. By providing a bond with two or more sureties which shall meet the approval of the insurance commissioner.

3. By a deposit of cash in the amount of \$10,000 with the commissioner of insurance.

Sec. 2. Conditions on bonds, etc. Each of the foregoing shall be conditioned as follows :

1. To pay any final judgment or judgments against the owner of the vehicle, tractor, trailer or motorcycle, or any person operating or in control of the said vehicle with the actual or implied consent of the owner, and

costs of defense and interest on such judgment, obtained by reason of a claim for personal injuries, death or property damage, occasioned by the negligent use, maintenance, or operation of such vehicle during the term of the policy or bond, and within the limits as provided herein.

The policy of insurance shall provide for a minimum amount for injuries or death to 1 person in 1 accident, not less than \$5,000; and for injuries or death to more than 1 person in 1 accident, not less than \$10,000; for property damage, not less than \$1,000.

All bonds and insurance policies herein mentioned shall be conditioned upon the recovery of a final judgment against the owner or operator who is operating or in control of the said vehicle with the actual or implied consent of the owner.

No recovery shall be had by any person against the insurance policy or bond provided by this section unless such person or his representative present such claim or notice of claim in writing to the insurer or the commissioner of insurance within 6 months of the date that the claimant knew, or should have known, that he or she was injured by the accident claimed; 2. If the said claimant unreasonably refuses to submit to a physical examination by a qualified representative of the insurer; 3. Unless such suit is instituted within 2 years from the time required for filing a claim or notice thereof.

Bankruptcy, death, or insolvency of the principal of a bond, required under this act, shall not effect the liability of the sureties thereunder.

Sec. 3. Alternative insurance. The insurer may, at his discretion, offer a policy subject to the terms and conditions of this act save and except that it may contain a clause as follows: The insured shall contribute the 1st \$50 of any settlement or judgment made or obtained under this policy, discretion as to settlement being vested in the insuring company. If the insured fails to repay the said insuring company the sum hereinbefore specified within 30 days after written notice given to said assured by said insuring company, the policy shall be cancelled as herein provided and his plates forfeited.

Sec. 4. Certificate. Upon the acceptance of a bond or a policy of insurance, the insurance commissioner shall issue to the owner of the said motor vehicle, trailer, tractor or motorcycle, a certificate describing such vehicle, the name of the owner, and the name of the insurer or sureties on the bond.

Sec. 5. Cancellation. Any insurer or surety upon any bond may cancel the same by filing with the commissioner of insurance notice of such

intended cancellation stating the cause thereof, at least 10 days before its effective date, and mailing to the insured or principle, as the case may be, a copy of such notice, and such insurer or surety shall cease to be liable on such bond or policy after the date contained in the notice; provided, however, that if the insured or principle, as the case may be, shall deem himself aggrieved by such cancellation, he may file with the commissioner of insurance a protest in writing before the effective date of the notice, setting forth the nature of his defense.

If such protest is filed, the insurance commissioner shall hold or order a hearing thereon and after such hearing shall decide whether it is fair and reasonable that the insurer or principle be released from liability.

The insurance commissioner may at his discretion suspend the liability or order the same continued in full force and effect pending the outcome of the hearing hereinbefore provided.

The insurance commissioner shall thereupon notify the owner of such motor vehicle of the filing of such notice and unless such owner shall file a new bond or policy of an insurance company as provided herein by section 1, on or upon such date as shall be specified by the insurance commissioner (or commission), or shall place the number plates belonging to the vehicle in the custody of the insurance commissioner (or commission) or agent, within such time, to remain in such custody until a new bond or policy is filed. The registration of such motor vehicle shall be automatically suspended as of the date expressed in said notice of the insurance commissioner (or commission). Forthwith after his registration has been so suspended such owner shall return the number plates issued for such vehicle to the insurance commissioner (or commission). Failure to so return the same shall constitute a misdemeanor. Any policeman, state trooper or other peace officer may, and when so directed seize any number plates retained in violation of this section. Power is hereby conferred upon the secretary of state to deputize 1 or more of the employees of said office or to appoint without pay and deputize another on recommendation of the surety or insurer to recover number plates previously issued for motor vehicles, in case a notice of complaint is received as herein provided. Any persons so deputized shall have full power and right to seize, take and remove the number plates from any such motor vehicles as the secretary of state has suspended.

Sec. 6. Any person refused insurance may petition the insurance commissioner for an order against the insurance company which rejected him that a hearing be had on the merits of his application, and if the commissioner of insurance finds it a fact that such policy was improperly denied,

the commission may order such insurer to issue a policy to the petitioner.

The insured may cancel his policy at any time by giving the insurer notice in writing thereof, and surrendering his plates to the secretary of state. The policy shall be deemed cancelled as of the time the plates are received by the secretary of state or his authorized representative.

Sec. 7. Reporting of accidents. Every person insured, who is involved in any accident, shall forthwith report to the insurer the time, place and cause thereof in writing, and shall forward to the insurer forthwith any letters, claims or summons which come into his possession. Any person or corporation failing to report such accident in a reasonable length of time from the happening thereof, shall be deemed in collusion with the claimant, and the insurer may recover from him or it, the loss in an action of contract, and such person shall be considered unworthy of insurance.

Sec. 8. Limitation. Nothing in this act shall be construed as to extend or infringe upon the coverage of chapter 55 of the revised statutes.

Sec. 9. Penalty. Whoever operates or permits to be operated a motor vehicle or trailer with knowledge that the motor vehicle liability policy, or bond, or deposit required by the provisions of section 1, have not been provided and maintained in accordance, shall be punished by a fine of not less than \$100, nor more than \$500 and by imprisonment for not more than 90 days.

Sec. 10. The commissioner shall make a finding as to whether the cancellation or refusal to issue a policy or act as surety on a bond under this act is proper and reasonable and whether the complainant is a proper risk to whom to issue such policy or on behalf of whom to act as surety on such bond, which decision shall be final and binding upon the parties and shall be filed in the office of the insurance commissioner (or commission) as a public record. Notice in writing of such decision shall be given to the parties within 3 days after the rendition thereof. If a company fails to comply with the decision in favor of a complainant within 5 days after receipt of such notice, he may present a certified copy of the decision of the commissioner to the superior court or any justice thereof in any county who shall enter a decree in accordance therewith and notify the parties. Such decree shall be final. If a company fails to abide by such decree the commissioner shall, in the case of a foreign company, revoke or suspend its license until it shall comply with such decree and, in case of a domestic company, he shall enjoin it from further transaction of its business until it shall comply with such decree.

Sec. 11. Constitutionality. If any part, subdivision, or section of this act shall be declared unconstitutional, the validity of its remaining provisions shall not be effected thereby. This act shall not apply to any motor vehicle or trailer owned by the state or by a corporation subject to the supervision and control of the public utilities commission or by a street railway commission under public control.