

# MAINE STATE LEGISLATURE

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# E I G H T Y - N I N T H   L E G I S L A T U R E

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**Legislative Document**

**No. 227**

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H. P. 556

House of Representatives, January 31, 1939.

Referred to Committee on Judiciary. Sent up for concurrence and 500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Thorne of Madison.

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## S T A T E   O F   M A I N E

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
THIRTY-NINE

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### **AN ACT Relating to Liability for Damage Caused by Motor Vehicles.**

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

**Sec. 1. Security necessary before registration of motor vehicle.** No motor vehicle or trailer shall be registered under the motor vehicle laws of this state, until the owner thereof, at the time of registration of such motor vehicle or trailers;

(a) Files with the secretary of state the written certificate or certificates of an 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, and designating therein by explicit description or by other appropriate reference all motor vehicles with respect to which coverage is granted by the policy, or

(b) Provides a bond with 2 or more sureties which bond shall run to the secretary of state and which bond and sureties shall meet the approval of the secretary of state, or

(c) Supplies proof satisfactory to the secretary of state of sufficient financial responsibility to satisfy any claim for damages in the amounts and under the conditions provided in this act for the issuance of a bond or policy of insurance.

**Sec. 2. Approval of rates and policies of insurance.** Each insurer shall file a schedule of rates and a sample insurance policy with the insurance commissioner and no rates shall be effective or form of policy issued, until approved, by the insurance commissioner. The rates may provide for the payment of premiums monthly, quarterly, semi-annually or annually, as the insured may elect. The insurance commissioner may approve different rates for the same kind of coverage in different sections of the state but all rates shall be based on actuarial experience. The insurance commissioner shall permit to be included in the premium rate the cost of inspections of the motor vehicle covered by insurance. The insurance commissioner may on his own motion, or on the request of any insurer, or on the complaint of 25 persons owning registered motor vehicles and residing in any territory for which a rate has been approved conduct an investigation to determine if the premium rates charged by insurance carriers in such territory should be increased or diminished. After a hearing or hearings held upon notice of not less than 20 days to all parties in interest, if the insurance commissioner finds that actuarial experience shows that the rate charged by insurers is excessive or insufficient to provide an adequate reserve to pay losses, he may issue an order directing the insurers to file a new schedule of rates in accordance with the terms of his decision.

The bond or liability policy, as used in this act shall be taken to mean a bond as hereinbefore provided, or policy of liability insurance issued by an insurance carrier authorized to transact business in this state to the person therein named as insured, which bond or policy shall designate, by explicit description or appropriate reference, all motor vehicles or trailers with respect to which coverage is intended to be granted by said policy or bond and shall insure the insured named therein, and any other person using or responsible for the use of any such motor vehicle or trailer with the consent, expressed or implied, of such insured, against loss from the liability imposed upon such insured or upon such other person by law for injury to or death of any person, and judgments rendered as aforesaid, growing out of the negligent maintenance, use or operation of any such motor vehicle or trailer upon the public streets or highways of the state of Maine, 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 one 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 up to the limit of \$1000 for property damage, exclusive of interest; and in case of injury to a person or persons or damage to property, the insured shall be obliged to pay or to contribute, as the case may be, the first \$50 of any settlement made or judgment recovered provided that this

section shall not be construed as preventing such insurance carrier from granting any lawful coverage in excess of or in addition to the coverage herein provided for.

Every bond or policy of insurance issued under authority of this article shall contain a clause stating that the motor vehicle or trailer covered by it was inspected before issuance of such bond or policy and was found to conform to the standards of safety and equipment established by the secretary of state and by law or rule or regulation made in accordance therewith, and giving to the insurer the right to cancel the policy at any time during the term thereof on 20 days' notice to the insured and a copy thereof to the secretary of state, if on a subsequent inspection of the motor vehicle covered thereby such motor vehicle is found not to conform to standards of safety and equipment established by the secretary of state and by law or rule or regulation made in accordance therewith. Such bond or policy of insurance shall contain a clause therein permitting the secretary of state to require the motor vehicle covered thereby to be inspected at least once in each 6 months during the term of the policy and at such other times and places as the secretary of state may specify to ascertain if such motor vehicle or trailer conforms to the safety and equipment standards established by him and by law, rule or regulation, and that the bond or policy may be cancelled unless such insured shall promptly cause such motor vehicle to be repaired so it will conform to safety standards established by the secretary of state and by law, rule or regulation.

Such bond or insurance policy shall be subject to the following provisions which need not be contained therein.

(a) The liability of any company under a motor vehicle liability policy shall become absolute whenever loss or damage covered by said policy occurs, and the satisfaction by the insured of a final judgment for such loss or damage shall not be a condition precedent to the right or duty of the carrier to make payment on account of such loss or damage. 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. Upon the recovery of a final judgment against any person for any such loss or damage, if the judgment debtor was at the accrual of the cause of action insured against liability therefor under a motor vehicle liability policy, the judgment creditor shall be entitled to have the insurance money applied to the satisfaction of the judgment.

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

unsatisfied judgment against the principal on said bond on account of injuries or damages suffered within the terms of said bond may sue on said bond in an action of covenant in the name of the secretary of state.

Any carrier authorized to issue motor vehicle liability policies as provided for in this act 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; each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. The provisions of this section shall apply to such binders and endorsements.

**Sec. 3. Hearing by secretary of state on complaint.** The secretary of state upon the complaint of any person whose application for an insurance policy has been rejected by the insurance carrier, or in the event the surety or sureties or insurance carrier desires to cancel the bond or the policy of insurance, the secretary of state shall conduct a public hearing at a time and place to be designated by him after a notice of not less than 7 days to the insurance carrier, or the surety or sureties, and the person who has been refused a policy of insurance, or against whom an application has been filed for cancellation or his bond or policy of insurance. If the insurance carrier or the surety or sureties establish by competent evidence at such hearing or at any adjournment thereof that the person who has made application for a policy of insurance upon any motor vehicle or trailer, or on whose bond or policy an application has been made for cancellation, is engaged in any unlawful trade, business or calling, or is engaged in a business, trade or calling of an extra hazardous nature, or is physically or mentally handicapped to such a degree as to render the operation by him of a motor vehicle or trailer unsafe, or has had an accident record in the operation of motor vehicles or trailers that make the applicant an undesirable risk, the secretary of state may affirm the decision of the carrier in refusing to issue a policy of insurance, or may affirm the decision of the carrier to cancel the bond or policy of insurance, or he may fix and determine a special rate over and above the regular published rate, for the writing of an insurance policy or bond for the applicant whose application has been rejected or against whom an application has been filed for cancellation and who has made complaint to the secretary of state; or if none of such facts are so established he may issue an order requiring the insurance carrier to write the policy of insurance at its regular published rate; or he may order the insurance carrier, or surety or sureties to continue in force the insurance policy or the bond at its regular published rate. The action of the secretary of state shall be subject to review by certiorari.

Any owner of a motor vehicle subject to the provisions of this act whose bond or policy of insurance has been cancelled by order of the secretary of state and whose registration has been suspended, shall immediately return to the secretary of state his certificate of registration and the number plates issued thereunder. If any such person shall fail to return to the secretary of state certificate of registration and number plates issued thereunder as provided herein, the secretary of state shall forthwith direct any state policeman, motor vehicle license examiner or other police officer to secure possession thereof and return same to the secretary of state. Any person failing to return such certificate and number plates shall be guilty of a misdemeanor and shall be fined not more than \$500, or by imprisonment for not more than 90 days.

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

**Sec. 4. Reporting of accidents.** Every person insured, who is involved in any accident, shall forthwith report to his insurer the time, place and cause thereof in writing, and shall forward to his insurer forthwith any letters, claims or summons which come into his possession.

**Sec. 5. Limitation.** Nothing in this act shall be construed as to extend to or infringe upon the coverage of chapter 55 of the revised statutes.

**Sec. 6. Penalty.** Whoever operates or permits to be operated a motor vehicle or trailer with knowledge that the motor vehicle or trailer liability policy, or bond, or proof of financial responsibility required by the provisions of this act has not been provided and maintained in accordance therewith, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 90 days.

**Sec. 7. Constitutionality.** If any part, subdivision, or section of this act shall be declared unconstitutional, the validity of its remaining provisions shall not be affected thereby.