

MAINE STATE LEGISLATURE

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N I N E T I E T H L E G I S L A T U R E

Legislative Document

No. 1094

S. P. 531

In Senate, April 3, 1941.

Reported by Senator Harvey of York from Committee on Judiciary and laid on table to be printed under Joint Rules.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

AN ACT Amending the Financial Responsibility Law.

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

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 Sections 91 to 98, inclusive, of chapter 29 of the revised statutes, as amended, are hereby repealed, and the following sections are substituted therefor:

‘Sec. 91. Definitions. (a) Terms defined. As used in the following sections the following words shall have the following meanings:

- I. “Secretary” shall mean the secretary of state or any of his deputies.
- II. “Person,” every person, firm, copartnership, association or corporation, but not the state or any political subdivision thereof.
- III. “Owner,” a person who holds the legal title to a motor vehicle, trailer or semi-trailer, or in the event a motor vehicle, trailer or semi-trailer is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a motor vehicle, trailer or semi-trailer is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this act.

IV. "State," any state of the United States, the District of Columbia or any province of the Dominion of Canada.

V. "Judgment," any judgment which shall have become final by expiration without appeal of the time within which appeal might have been perfected, or by final affirmance on appeal, rendered by a court of competent jurisdiction of any state, or of the United States.

VI. "Certificate," the certificate of an insurance company authorized to transact the business specified in chapter 60 of the revised statutes, that it has issued to or for the benefit of any person a motor vehicle liability policy covering the motor vehicle, trailer or semi-trailer involved in the accident as a result of which the action at law to recover damages referred to in section 93 (b) was commenced as respects such accident; or the certificate of a surety company authorized to transact business under chapter 60 of the revised statutes that it has issued to or for the benefit of any person a motor vehicle liability bond covering the motor vehicle, trailer or semi-trailer involved in the accident as a result of which the action at law to recover damages referred to in section 93 (b) was commenced as respects such accident.

VII. "Motor Vehicle Liability Policy," a policy of liability insurance which provides indemnity for or protection to the insured and any person responsible to him for the operation of the insured's motor vehicle, trailer or semi-trailer who has obtained possession or control thereof with his express or implied consent, against loss by reason of the liability to pay damages to others for damage to property, except property of others in charge of the insured or his employees, or bodily injuries, including death at any time resulting therefrom, accidentally sustained during the term of said policy by any person other than the insured, or employees of the insured actually operating the motor vehicle or of such other person responsible as aforesaid who are entitled to payments or benefits under the provisions of any workmen's compensation act, arising out of the ownership, operation, maintenance, control or use within the limits of the United States of America or the Dominion of Canada of such motor vehicle, trailer or semi-trailer, to the amount or limit of at least \$5,000 on account of injury to or death of any one person, and subject to such limits as respects injury to or death of one person, of at least \$10,000 on account of any one accident resulting in injury to or death of more than one person, and of at least \$1,000 for damage to property of others, as herein provided, or a binder pending the issue of such a policy, or an indorsement to an existing policy, as defined in sections 96 (a), 96 (b) and 96 (d).

VIII. "Motor Vehicle Liability Bond," a bond conforming to the provisions of section 96 (c) and conditioned that the obligor shall within 30 days after the rendition thereof satisfy all judgments rendered against him or against any person responsible to him for the operation of the obligor's motor vehicle, trailer or semi-trailer who has obtained possession or control thereof with his express or implied consent, in actions to recover damages for damage to property of others or bodily injuries, including death at any time resulting therefrom, accidentally sustained during the term of said bond by any person other than the insured employees of the obligor actually operating the motor vehicle or of such other person responsible as aforesaid who are entitled to payments or benefits under the provisions of any workmen's compensation act, arising out of the ownership, operation, maintenance, control, or use within the limits of the United States of America or the Dominion of Canada of such motor vehicle, trailer or semi-trailer, to the amount or limit of at least \$1,000 on account of damage to property and at least \$5,000, on account of injury to or death of any one person, and, subject to such limits as respects injury to or death of one person, at least \$10,000 on account of any one accident resulting in injury to or death of more than one person.

(b) Secretary to administer act; court review. The secretary shall administer and enforce the provisions of this act and he is hereby authorized to adopt and enforce such regulations as may be necessary for its administration. Any person aggrieved by an order or act of the secretary under the provisions of this act may, within 10 days after notice thereof, file a petition for a review thereof in the superior court of the county in which one of the parties resides, and if both plaintiff and defendant are non-residents, then in the county where the accident occurred; but the filing of such petition shall not suspend the order or act unless a stay thereof shall be allowed by a judge of said court pending final determination of the review. The court shall summarily hear the petition and may make any appropriate order or decree.'

'Sec. 92. Proof required upon conviction for motor vehicle law violations. (a) Suspension of licenses. Upon receipt of an abstract of the record in case of conviction of any person for a violation of such of the provisions of any state law relative to motor vehicles as the secretary shall determine the secretary may forthwith suspend the license of the person so convicted and the registration certificates and registration plates issued for any motor vehicle, trailer or semi-trailer registered in the name of such person unless and until such person gives and thereafter maintains for a period of 3 years proof of his financial responsibility. The

secretary shall take action as required in this section upon receiving proper evidence of any such conviction of any person in another state.

(b) Definition of term "conviction". For purposes of this act the term "conviction" shall include a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, upon a charge of violating any motor vehicle law.'

'Sec. 93. Reports. (a) Duty of chief of state police. Immediately after receipt of any accident report required by section 128 of this chapter, the chief of the state police shall forward said report to the secretary.

(b) Security and proof of financial responsibility required following accident.

I. Upon receipt by the secretary of the report of an accident which has resulted in death, the secretary shall forthwith suspend the license of any person operating, and the registration certificates and registration plates if said person be the owner of the motor vehicle, trailer or semi-trailer involved in such accident, unless and until such operator shall have previously furnished or immediately furnishes sufficient security and thereafter maintains proof of financial responsibility in the future, as specified in the following paragraph.

II. Upon receipt by him of the report of an accident other than as provided for in paragraphs I and III of this subsection, which has resulted in bodily injury, or property damage to an apparent extent of \$50 or more, the secretary shall, 10 days following the date of said accident, 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 in the future.

III. Upon receipt by him of the report that a person, while operating a motor vehicle, trailer or semi-trailer, had no license to operate, and was in any manner involved in an accident resulting in death, bodily injury, or in damage to property in any amount, the secretary shall forthwith

enter an order prohibiting the issuance of an operator's license to said person, or the issuance of any registration certificate and registration plates to any motor vehicle, trailer or semi-trailer owned, or controlled by said person, unless and until said person shall furnish sufficient security and thereafter maintain proof of financial responsibility in the future as hereinbefore provided.

(c) Form of security. Such security, when ordered, shall be in such form and in such amount as the secretary may require, but in no case in excess of the amount of proof required under this act. Proof of responsibility as prescribed in section 97 (a) shall in all cases be deemed sufficient security hereunder.

(d) Application of security. Security furnished in compliance with the requirements hereof shall be applicable only to the payment of a judgment against the depositor for damages arising out of the accident in question in an action at law in a court of this state begun not later than one year after the date of such accident; and such deposit, or any balance thereof, shall be returned to the depositor or his personal representative whenever, after the expiration of such year, the secretary shall be given reasonable evidence to believe that there is no such action pending and no such judgment unsatisfied.

(e) Limitation. The provisions of section 93 (b) shall not apply:

I. To the owner of a motor vehicle, trailer or semi-trailer operated by one having obtained possession or control thereof without his express or implied consent;

II. To either the owner or licensed operator of a motor vehicle, trailer or semi-trailer involved in an accident when the secretary shall be satisfied beyond a reasonable doubt that neither such owner or operator caused or contributed to cause the accident;

III. To either the owner or operator of a motor vehicle, trailer or semi-trailer involved in an accident that was caused by the criminal act of a third party, for which criminal act such third party has been convicted.

IV. To either the owner or operator of a motor vehicle, trailer or semi-trailer involved in an accident where no damage or injury was caused to other than the person or property of such owner or operator, unless at the time of said accident such owner or operator was violating some provision of the state laws relative to motor vehicles.

(f) Suspension; duration. The suspension required in section 93 (b) shall remain in effect, the motor vehicle, trailer or semi-trailer in any

manner involved in such accident shall not be registered in the name of the person whose license or registration was so suspended, and no other motor vehicle, trailer or semi-trailer shall be registered in the name of such person nor any new licenses issued to such person unless and until he has obtained a release or a judgment in his favor in an action at law to recover damages for damage to property or the death of or bodily injury to any person resulting from such accident or unless he shall have satisfied in the manner hereinafter provided any judgment rendered against him in such an action, and at all events gives and thereafter maintains proof of his financial responsibility. If the aggrieved or injured person or his legal representative shall not have brought suit within one year from the date of the accident then the secretary, upon receiving reasonable evidence of the fact, may, subject to the other requirements of the law, issue to such person a new license to operate and new registration certificates and registration plates provided he shall give and thereafter maintain proof of financial responsibility. A discharge in bankruptcy shall not relieve the judgment debtor from any of the requirements of this act.'

'Sec. 94. Payments sufficient to satisfy requirements. Every judgment herein referred to shall for the purpose of this act be deemed satisfied:

I. When \$5,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or

II. When, subject to such limit of \$5,000 because of bodily injury to or death of one person, the sum of \$10,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

III. When \$1,000 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

Credit for such amounts shall be deemed a satisfaction of any such judgment or judgments in excess of said amounts only for the purpose of this act.

Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.'

'Sec. 95. Action against nonresident. All of the provisions of this act shall apply to any person who is not a resident of this state, and if such

nonresident has failed to furnish security or to give proof of his financial responsibility in the future as required hereunder, then and in such event such nonresident shall not operate any motor vehicle, trailer or semi-trailer in this state nor shall any motor vehicle, trailer or semi-trailer owned by him be operated within this state by any person, and the secretary shall not issue to such nonresident any operator's or chauffeur's license or register any motor vehicle, trailer or semi-trailer owned by such nonresident in the same manner as required with respect to a resident of this state. The operation by a nonresident, or with his express or implied consent if an owner, of a motor vehicle, trailer or semi-trailer on a public way of the state shall be deemed equivalent to an appointment by such nonresident of the secretary or his successor in office, to be his true and lawful attorney upon whom may be served all lawful processes in any action against him, growing out of any accident in which said nonresident may be involved while so operating or so permitting to be operated a motor vehicle on such a way.'

'Sec. 96. Bonds. (a) Policy, form; liability, bond. No motor vehicle liability policy, as defined in section 91, shall be issued or delivered in the state until a copy of the form of the policy has been on file with the insurance commissioner for at least 30 days, unless, before the expiration of said period, said insurance commissioner shall have approved the form of the policy in writing, nor if said insurance commissioner notifies the company in writing that, in his opinion, the form of said policy does not comply with the laws of the state, provided that he shall notify the company in writing within said period of his approval or disapproval thereof. Said insurance commissioner shall approve a form of policy which contains the name, address and business of the insured, a description of the motor vehicles and trailers or semi-trailers covered, with the premium charges therefor, the policy period, the limits of liability, and an agreement that insurance is provided in accordance with and subject to the provisions of this act.

(b) Required provisions. A motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

I. 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 company to make payment on account of said loss or damage. No such contract of insurance shall be cancelled or annulled by any agreement between the company and the insured after the said insured has become re-

sponsible 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 loss or damage specified in this section, 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.

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

III. No statement made by the insured or on his behalf, and no violation of the terms of the policy, shall operate to defeat or avoid the policy so as to bar recovery within the limit provided in the policy.

IV. If the death, insolvency or bankruptcy of the insured shall occur within the policy period, the policy during the unexpired portion of such period shall cover the legal representatives of the insured. Such policy shall contain such provisions, as are not inconsistent with this act, as shall be required by the insurance commissioner.

V. Damages shall not be assessed except by special order of the court in an action of tort, payment of the judgment wherein is secured by a motor vehicle liability policy or a motor vehicle liability bond, as defined in section 91, and wherein the defendant has been defaulted for failure to enter an appearance until the expiration of 30 days after the plaintiff has given notice of such default to the company issuing or executing such policy or bond and has filed an affidavit thereof. Such notice may be given by mailing the same, postage prepaid, to the said company or to its agent who issued or executed such policy or bond. Upon receipt of information and having become satisfied that the insured has failed to comply with the terms of his policy in regard to notice to the company of an accident, the secretary shall revoke his license and registration for such period as the secretary shall determine.

(c) Liability bonds. The provisions of sections 96 (a) and 96 (b), except paragraphs I, II and III, shall apply to motor vehicle liability bonds, as defined in section 91, and every such bond shall be subject to, although it need not be contained therein, the provision that no statement made by the principal on such bond or on his behalf, and no violation of the terms of such bond, shall operate to defeat or avoid such bond as against the judgment creditor of such principal.

(d) Prohibition. No motor vehicle liability policy other than that de-

fined in section 91 shall be issued or delivered in this state by any authorized insurance company, except that such an authorized insurance company may issue and deliver what is known as a Standard Automobile Liability Policy by having attached thereto an indorsement meeting the requirements of this act, such indorsement to be in such form as the insurance commissioner shall prescribe and to be known as the Maine Statutory Motor Vehicle Liability Policy Indorsement. The insurance commissioner shall approve only such policy, indorsements and binders as shall meet the requirements of this act.

‘Sec. 97. Proof of financial responsibility. (a) Amount of proof required. Proof of financial responsibility shall mean proof of ability to respond in damages for any liability thereafter incurred, arising out of the ownership, maintenance, control or use of a motor vehicle, trailer or semi-trailer in the amount of \$5,000 because of bodily injury or death to any one person, and subject to said limit respecting one person, in the amount of \$10,000 because of bodily injury to or death to 2 or more persons in any one accident, and in the amount of \$1,000 because of injury to and destruction of property in any one accident. Whenever required under this act such proof in such amounts shall be furnished for each motor vehicle, trailer or semi-trailer registered by such person.

(b) Methods of giving proof. Proof of financial responsibility when required under this act may be given by either of the following methods:

I. By filing with the secretary a certificate, as defined in section 91, of an insurance company or of a surety company; or

II. By the deposit of money or securities as provided in the following section; or

III. By satisfying the secretary that any corporation has financial ability to comply with the requirements of this act.

(c) Money or securities deposited as proof. A person may give proof of financial responsibility by delivering to the secretary a receipt of the treasurer of this state showing the deposit with said treasurer of money in an amount, or securities approved by said treasurer and of a market value in a total amount, as would be required for coverage in a motor vehicle liability policy furnished by the person giving such proof under this act. Such securities shall be of a type which may legally be purchased by savings banks or for trust funds. All money or securities so deposited shall be subject to execution to satisfy any judgment mentioned in this act but shall not otherwise be subject to attachment or execution.

(d) **Limitation.** The treasurer of state shall not accept any such deposit or issue a certificate therefor, and the secretary shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments against the depositor registered in the office of the clerk of the superior court for the county where the depositor resides.

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

(f) **Operating without giving proof.** Any person whose operator's or chauffeur's license or registration certificates or other privilege to operate a motor vehicle, trailer or semi-trailer has been suspended or revoked, restoration thereof or the issuance of a new license or registration being contingent upon the furnishing of security of proof of financial responsibility, and who during such suspension or revocation or in the absence of full authorization from the secretary shall drive any motor vehicle, trailer or semi-trailer upon any highway or knowingly permits any motor vehicle, trailer or semi-trailer owned by such person to be operated by another upon any highway, except as permitted hereunder, shall be punished by imprisonment for not more than 6 months or by a fine of not more than \$500, or by both such fine and imprisonment.

'Sec. 98. **Limitation, saving, and validating clauses.** (a) **Limitation.** This act shall not be construed to prevent the plaintiff in any action at law from relying upon the other processes provided by law.

(b) **Saving clause.** Nothing in this act shall affect any right or remedy accrued or liability to penalty incurred before the effective date of this act under the provisions of the sections of this chapter hereby repealed.

(c) **Validating clause.** If any provision or provisions of this act shall be adjudged to be unconstitutional, the validity of the remaining provisions shall not be affected thereby.'