

# MAINE STATE LEGISLATURE

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## NINETY - EIGHTH LEGISLATURE

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**Legislative Document**

**No. 1411**

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H. P. 987

House of Representatives, March 26, 1957.

Referred to the Committee on Transportation. Sent up for concurrence and 1500 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Stilphen of Rockland.

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### STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-SEVEN

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#### **AN ACT Creating the Maine Motor Vehicle Financial Security Act.**

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

**Sec. 1. R. S., c. 22-A, additional.** The Revised Statutes, as amended, are hereby further amended by adding thereto a new chapter, to be numbered 22-A, to read as follows:

#### **'Chapter 22-A.**

#### **Motor Vehicle Financial Security Act.**

**Sec. 1. Short title and declaration of purpose.** This chapter shall be known and may be cited as the "Motor Vehicle Financial Security Act."

The Legislature is concerned over the rising toll of motor vehicle accidents and the suffering and loss thereby inflicted. The Legislature determines that it is a matter of grave concern that motorists shall be financially able to respond in damages for their negligent acts, so that innocent victims of motor vehicle accidents may be recompensed for the injury and financial loss inflicted upon them. The Legislature finds and declares that the public interest can best be served in satisfying the insurance requirements of this chapter by private enterprise operating in a competitive market to provide proof of financial security through the methods prescribed.

Nothing in this chapter shall be construed to effect any change in the application of the insurance law to automobile liability insurance rate-making or to effect the development of various methods of doing or operating an automobile liability insurance business.

Sec. 2. Definitions. As used in this chapter:

The term "Commissioner" shall mean the Insurance Commissioner of this State.

The term "motor vehicle" shall be defined as in section 1 of chapter 22 and it shall include trailers, semi-trailers, motorcycles and tractors other than tractors used exclusively for agricultural purposes.

The term "proof of financial security" shall mean proof of ability to respond in damages for liability arising out of the ownership, maintenance or use of a motor vehicle as evidenced by an owner's policy of liability insurance, a financial security bond, a financial security deposit or qualification as a self-insurer under section 7 or, in the case of a nonresident, under self-insurance provisions of the laws of the jurisdiction of such nonresident.

The term "owner's policy of liability insurance" shall mean a policy:

I. Affording coverage as defined in the minimum provisions prescribed in a regulation which shall be promulgated by the Commissioner. The Commissioner before promulgating such regulations or any amendment thereof, shall consult with all insurers licensed to write automobile liability insurance in this State and shall not prescribe minimum provisions which fail to reflect the provisions of automobile liability insurance policies, other than motor vehicle liability policies, issued within this State at the date of such regulation or amendment thereof. Nothing contained in such regulation or in this chapter shall prohibit any insurer from affording coverage under an owner's policy of liability insurance more liberal than that required by said minimum provisions. Every such owner's policy of liability insurance shall provide insurance subject to said regulation against loss from the liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the ownership, maintenance, use or operation of a specific motor vehicle or motor vehicles within the State of Maine, or elsewhere in the United States, in North America, exclusive of Mexico, subject to a limit, exclusive of interest and costs, with respect to each such motor vehicle, of \$10,000 because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of \$20,000 because of bodily injury to or death of 2 or more persons in any one accident, and to a limit of \$5,000 because of injury to or destruction of property of others in any one accident, provided such policy need not be for a period coterminous with the registration period of the vehicle insured. Any insurer authorized to issue an owner's policy of liability insurance as provided for in this chapter may, pending the issue of such a policy, make an agreement, to be known as a binder, or may, in lieu of such a policy, issue a renewal endorsement or evidence of renewal of 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 chapter shall apply to such binders, renewal endorsements or evidences of renewal; and

II. In the case of a vehicle registered in this State, a policy issued by an insurer duly authorized to transact business in this State; or

III. In the case of a vehicle registered in another state in the name of a non-resident, either a policy issued by an authorized insurer, or a policy issued by an unauthorized insurer authorized to transact business in the state of his residence if such unauthorized insurer files with the Secretary of State in form to be approved by him a statement consenting to service of process and declaring its policies shall be deemed to be varied to comply with the requirements of this chapter; and

IV. The form of which has been approved by the Commissioner. No such policy shall be issued or delivered in this State until a copy of the form of the policy shall have been on file with the Commissioner for a least 30 days, unless sooner approved in writing by the Commissioner, nor if within said period of 30 days the 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 laws of this State.

The term "certificate of insurance" shall mean any evidence issued by or on behalf of an insurance company duly authorized to transact business in this State, stating in such form as the Secretary of State may prescribe or approve that such company has issued an owner's policy of liability insurance on the motor vehicle or vehicles designated therein. Such certificate shall contain at least the following information:

I. The name and address of the person to whom the policy was issued.

II. The number and effective period of the policy. If all of the motor vehicles owned by one person during a defined period are insured under the same owner's policy of liability insurance the certificate of insurance may so state and it shall then not be necessary to identify the specific vehicle insured. The requirements of this chapter for an owner's policy of liability insurance may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

The term "financial security bond" shall mean for each motor vehicle a bond executed by the owner and by a surety company duly authorized to transact business in this State or by such owner and by 2 individual sureties each owning real estate within the State and having equity therein in the amount of such bond, which real estate shall be scheduled therein. No such real estate bond shall be accepted unless it is first approved by a Justice of the Superior Court or of the Supreme Judicial Court. Such bond shall constitute a lien in favor of the State upon the real estate of any individual surety, which lien shall exist in favor of any holder of any final judgment against the principal under the coverage of such bond upon the recording of notice to that effect in the office of the clerk or register of the county where such real estate shall be located.

The term "financial security deposit" shall mean for each motor vehicle the deposit with the Secretary of State of \$25,000 in cash, or securities, such as may legally be purchased by savings banks or trust funds, of a market value of \$25,000.

The term "self-insurer" shall mean a person who shall have been determined by the Secretary of State in accordance with section 7 to be financially responsible.

The word "state" when used in this chapter shall unless the context clearly indicates otherwise, mean any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada.

Sec. 3. Registration of motor vehicles. No motor vehicle shall be registered in this State unless the application for such registration is accompanied by proof of financial security which shall be evidenced by a certificate of insurance or evidence of a financial security bond, a financial security deposit or qualification as a self-insurer under section 7. Upon renewal of registration with respect to registration years commencing on or after January 1, 1959 an application accompanied by a certificate of registration or renewal stub in force immediately preceding the date of application for renewal, together with a statement by the applicant certifying that there is in effect proof of financial security, shall meet the requirements of this section.

The owner of such motor vehicle shall maintain proof of financial security continuously throughout the registration period. When insurance with respect to any motor vehicle is terminated by cancellation or failure to renew, the owner shall surrender forthwith his registration certificate and number plates of the vehicle to the Secretary of State unless proof of financial security otherwise is maintained in compliance with this chapter.

No financial security bond shall be accepted by the Secretary of State unless it is conditioned for payments in amount and under the same terms and conditions as are required for an owner's policy of liability insurance.

No financial security deposit shall be accepted by the Secretary of State except in accordance with the provisions of section 5.

The Secretary of State is hereby authorized to promulgate reasonable regulations to provide effective administration and enforcement of the provisions of this chapter in accordance with the purposes thereof.

Sec. 4. Notice of termination. No contract of insurance or renewal thereof for which a certificate of insurance has been filed with the Secretary of State shall be terminated by cancellation or failure to renew by the insurer until at least 10 days after mailing to the named insured at the address shown on the policy a notice of termination. Time of the effective date and hour of termination stated in the notice shall become the end of the policy period. Every such notice of termination for any cause whatsoever sent to the insured shall include in type of which the face shall not be smaller than 12 point a statement that proof of financial security is required to be maintained continuously throughout the registration period and that failure to maintain such proof of financial security is a misdemeanor.

Upon the termination of insurance by cancellation or failure to renew, notice of such cancellation or other termination shall be filed by the insurer with the Secretary of State not later than 30 days following the effective date of such cancellation or other termination.

Sec. 5. Acceptance of financial security deposits. All moneys or securities delivered to the Secretary of State as a financial security deposit shall be placed by the Secretary of State in the custody of the Treasurer of State and shall be

subject to execution to satisfy any judgment for damages for bodily injury or death, or injury to or destruction of property, arising out of the ownership, maintenance, use or operation of the motor vehicle with respect to which the deposit has been accepted, and subject to the same limits on amounts required by this chapter for an owner's policy of liability insurance, and if such moneys or securities shall be otherwise subjected to attachment or any execution, the depositor shall immediately furnish such additional moneys or securities, not otherwise subject to attachment or execution, to meet the requirements of this chapter.

The Secretary of State shall not accept such moneys or securities as a financial security deposit unless accompanied by evidence that there are no unsatisfied judgments against such person registered in the office of the clerk of courts of the county where such person resides.

Sec. 6. Release of financial security bonds or deposits. The Secretary of State, upon the surrender of the registration and number plates for a motor vehicle for which a financial security bond or deposit was accepted by the Secretary of State, shall permit the cancellation of any such bond or shall direct that any such deposit be returned by the Treasurer of State. The Secretary of State shall not release such bond or deposit in the event any action for damages upon a liability referred to in this chapter 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 non-existence of such facts shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the Secretary of State.

The Secretary of State, subject to such reasonable regulations as he may establish, shall permit the form of proof of financial security acceptable under this chapter to be substituted for another form of proof of financial security which may already have been accepted by the Secretary of State as complying with the provisions of this chapter.

Sec. 7. Self-insurers. The Secretary of State, in his discretion, may upon the application of a person having registered in his name in this State more than 25 motor vehicles, issue a certificate of self-insurance when he is reasonably satisfied that such person is possessed and will continue to be possessed of financial ability to respond to judgments obtained against such person, arising out of the ownership, maintenance, use or operation of any such person's motor vehicles. Upon due notice and hearing, the Secretary of State may, in his discretion and upon reasonable grounds, cancel a certificate of self-insurance.

Sec. 8. Revocation of registration, drivers' licenses and nonresident privileges.

I. The Secretary of State, upon receipt of evidence that proof of financial security for any motor vehicle registered in this State is no longer in effect shall revoke the registration of such vehicle. Such motor vehicle shall not be registered or reregistered in the name of such person, or in any other name where the Secretary of State has reasonable grounds to believe that such regis-

tration or reregistration will have the effect of defeating the purposes of this chapter, and no other motor vehicle shall be registered in the name of such person, for a period of 30 days from the date of such revocation.

II. The Secretary of State upon receipt of evidence that the owner of a motor vehicle registered in this State has operated, or permitted such motor vehicle to be operated upon the public highways of this or any other state while proof of financial security was not in effect with respect to such vehicle, shall revoke the registration of the vehicle and the driver's license, if any, of such owner.

Such motor vehicle shall not be registered in the name of such person or in any other name where the Secretary of State has reasonable grounds to believe that such registration will have the effect of defeating the purpose of this chapter and no other motor vehicle shall be registered in the name of such person, nor any driver's license issued to such person, for a period of one year from the date of such revocation.

III. The Secretary of State, upon receipt of evidence that a person, other than the owner, has operated upon the public highways of this State a motor vehicle registered in this State with knowledge that proof of financial security was not in effect with respect to such vehicle, shall revoke the driver's license of such person, or if he is a nonresident, the nonresident driving privileges of such person. No new driver's license shall be issued, or nonresident driving privilege restored to such person for a period of one year from the date of such revocation.

This subsection shall not apply to any person who at the time of operation of such motor vehicle had in effect an operator's policy of liability insurance, with respect to his operation of such vehicle.

IV. The Secretary of State, upon receipt of evidence that the owner of a motor vehicle not registered in this State has operated or permitted such motor vehicle to be operated upon the public highways of this State while proof of financial security was not in effect with respect to such vehicle, shall revoke such person's privilege to operate any motor vehicle in this State and the privilege of the operation within this State of any motor vehicle owned by him. Such nonresident privileges shall not be restored for a period of one year from the date of such revocation.

V. The Secretary of State, upon receipt of evidence that a nonresident, other than the owner of the vehicle, has operated upon the public highways of this State a motor vehicle not registered in this State, with knowledge that proof of financial security was not in effect with respect to such vehicle shall revoke such nonresident's privilege to operate any motor vehicle in this State.

Such nonresident privilege shall not be restored for a period of one year from the date of such revocation.

This subsection shall not apply to any person who at the time of operation of such motor vehicle had in effect an operator's policy of liability insurance, with respect to his operation of such motor vehicle.

VI. Notice of revocation pursuant to this section may be given to the owner of a vehicle registered in this State or to a driver licensed in this State, by

mailing the same to such owner or licensee at the address contained in the certificate of registration for the vehicle owned by such person or to the address contained in his driving license.

VII. Failure of such owner or licensee to deliver a certificate of registration, number plates or driver's license to the Secretary of State after revocation thereof or as otherwise provided in section 3 shall constitute a misdemeanor.

VIII. An operator's policy of liability insurance, as used in this section, shall mean a policy issued by an insurance carrier duly authorized to transact business in the State which shall insure the person named therein as insured, against loss from the liability imposed upon him by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the use by him of any motor vehicle not owned by him, subject to the same minimum provisions and approval required by subsection IV of the 4th paragraph of section 2, with respect to an owner's policy of liability insurance. With respect to a nonresident, such policy may also be issued by a non-admitted insurance carrier provided the requirements of this chapter with respect to issuance of an owner's policy of liability insurance by such carrier have been met.

#### IX.

A. If a motor vehicle has been involved in an accident, and its registration or the driver's license of its operator, or both, have been revoked pursuant to this section, then neither such vehicle nor any other motor vehicle shall be registered or reregistered in the name of its owner or of any other person legally responsible for its use, nor shall any driver's license be issued to such owner, person or operator until one year has passed since the date of such revocation and, as the case may be, the Secretary of State has received the evidence required by paragraph C.

B. If a motor vehicle not registered in this State is involved in an accident in this State and the privilege of its operation within this State has been revoked, then neither its owner, any person legally responsible for its use nor its operator shall exercise the privilege of the operation of such vehicle within this State or the privilege of the operation within this State of any motor vehicle, until one year has passed since the date of such revocation and, as the case may be, the Secretary of State has received the evidence as required in paragraph C.

C. The evidence referred to in paragraphs A and B shall be evidence, satisfactory to the Secretary of State;

1. that no cause of action based upon such accident against such owner, person legally responsible or operator has been commenced within a period of one year from the date of the accident or a release thereof has been given to such owner, person or operator or

2. that no judgment arising out of such cause of action for amounts within the limits stated in subsection IV of the 4th paragraph of section 2, against such owner, person or operator remains unsatisfied, except that



such registration and licensing privileges may be restored on compliance with the procedures permitting the payment of a judgment in installments provided in section 5.

Sec. 9. Penalties. Any owner of a motor vehicle registered in this State who shall operate such motor vehicle or permit it to be operated in this State without having in full force and effect the financial security required by the provisions of this chapter and any other person who shall operate in this State any motor vehicle registered in this State with the knowledge that the owner thereof does not have in full force and effect such proof of financial security, except a person who, at the time of operation of such motor vehicle, had in effect an operator's policy of liability insurance, as defined in section 8, with respect to his operation of such vehicle shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment for not more than one year, or by both.

Sec. 10. Notice to other jurisdictions. The Secretary of State shall transmit a certified copy of any record of any conviction under this chapter or of any action taken pursuant to this chapter resulting in revocation of a nonresident's privilege to operate a motor vehicle in this State or the privilege of the operation within this State of any motor vehicle owned by him to the motor vehicle commissioner or officer performing similar functions in the state in which such nonresident resides.

Sec. 11. Exceptions. This chapter shall not apply to any motor vehicle for the operation of which security is required to be furnished under the provisions of section 17 of chapter 22; to any motor vehicle operated under a permit or a certificate of convenience and necessity issued pursuant to the public utilities law, or under a permit or certificate issued by the public utility regulatory agency of another state; nor to any vehicle for which a permit or certificate is in force pursuant to the Interstate Commerce Act nor to any motor vehicle owned by the United States, any state or any political subdivision of any state.

Sec. 12. Assigned risk plans. The Commissioner shall, after consultation with the insurers licensed to write motor vehicle liability insurance in this State, approve a reasonable plan or plans for the equitable apportionment among such insurers of applicants for such insurance who are in good faith entitled to but are unable to procure insurance through ordinary methods and, when such plan has been approved, all such insurers shall subscribe thereto and shall participate therein. Any applicant for such insurance, any person insured under such plan and any insurer affected may appeal to the Commissioner from any ruling or decision of the manager or committee designated to operate such plan. All orders of the Commissioner shall be subject to judicial review.

Sec. 13. Period of issuance. Policies issued under the provisions of this chapter shall not be issued on a coterminous basis with registration of the motor vehicle, but shall be issued for a period of one year from the issuance date of the policy.

Sec. 14. Limitations. A risk shall not be entitled to insurance nor shall any company be required to afford or continue insurance under the following circumstances:

I. When during the immediately preceding 36 months the applicant or any one who usually drives the automobile has been convicted or forfeited bail more than once for any one, or once each for 2 or more of the following offenses:

- A. Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drugs;
- B. Failing to stop and report when involved in an accident;
- C. Homicide or manslaughter or assault arising out of the operation of a motor vehicle;
- D. Driving a motor vehicle at an excessive rate of speed where injury to person or damage to property results therefrom;
- E. Driving a motor vehicle in a reckless manner where injury to person or damage to property results therefrom;
- F. Operating during period of revocation or suspension of registration or license;
- G. Operating a motor vehicle without state or owner's authority;
- H. Loaning operator's license to an unlicensed operator;
- I. Permitting an unlicensed person to drive;
- J. The making of false statements in the application for license or registration;
- K. Impersonating an applicant for license or registration, or procuring a license or registration through impersonation whether for himself or for another.

II. When the applicant or any one who usually drives the automobile has intentionally registered a motor vehicle in the State illegally during the immediately preceding 12 months.

III. When the applicant or any one who usually drives the automobile has failed to meet all obligations to pay automobile bodily injury and property damage liability insurance premiums contracted during the immediately preceding 12 months.

IV. If the applicant or any one who usually drives the automobile is subject to epilepsy.

V. When the applicant has been convicted of a felony or has exhibited his disregard of local or state laws as evidenced by 2 or more non-motor vehicle convictions during the immediately preceding 36 months.'

**Sec. 2. Financial Responsibility Law application.** The provisions of this act shall not nullify or render ineffective the provisions of sections 75 to 82, inclusive, of chapter 22 of the Revised Statutes.

**Sec. 3. Effective date.** The provisions of this act shall be applicable to registration of motor vehicles for registration years commencing with the calendar year 1958.