NINTH REVISION

REVISED STATUTES

OF THE

STATE OF MAINE

1954

FIRST ANNOTATED REVISION

Effective December 31, 1954

IN FIVE VOLUMES

VOLUME 1

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA

Chapter 22.

Motor Vehicles. Financial Responsibility Law.

Cross Reference.—See c. 48, § 4, re motor vehicles carrying passengers for hire.

Definitions.

Sec. 1. Definitions.—As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

"Curb" shall mean the outer edge of a defined sidewalk or either edge of the wrought or usually traveled part of a way;

"Farm tractor" shall mean any motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

"Motorcycle" shall mean all motor operated vehicles of the bicycle or tricycle type, whether the motive power be a part thereof, or attached thereto, and having pedals and saddle with driver sitting astride or a platform on which said driver stands;

"Motor driven cycle" shall mean every motorcycle, including every motor scooter, with a motor which produces not to exceed 5 horsepower and every bicycle with motor attached;

"Motor truck" shall mean any motor vehicle designed or used for the conveyance of property;

"Motor vehicle" shall mean any self-propelled vehicle not operated exclusively on tracks, including motorcycles;

"Owner" shall mean any person, firm, corporation or association owning a vehicle or the mortgagor or the vendee in a conditional sales contract;

"Pneumatic tire" shall mean every tire in which confined air is designed to support the load;

"Road tractor" shall mean any motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn;

"Section" shall refer to this chapter unless otherwise indicated;

"Semi-trailer" shall mean any vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so designed that some part of its weight and of its load rests upon or is carried by such motor vehicle, and shall include pole dollies, pole dickeys, so called, and wheels commonly used as a support for the ends of logs or other long articles;

"Solid tires" shall include tires of rubber or other material that do not depend on confined air for the support of the load;

"Team" shall include all kinds of conveyances on ways for persons and for property, except those propelled or drawn by human power or used exclusively on tracks;

"Tractor" shall include any motor truck designed or used for the sole purpose of hauling or partially carrying trailers or semi-trailers;

"Trailer" shall mean any vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, not operated on tracks, and so constructed that no part of its weight rests upon the towing vehicle;

"Truck tractor" shall mean any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and the load so drawn (trucks used as truck tractors shall be rated as truck tractors);

"Vehicle" shall include all kinds of conveyances on ways for persons and for property, except those propelled or drawn by human power or used exclusively on tracks;

"Way" shall include all kinds of public ways.

The words in the context indicating operation or use of a vehicle refer to its operation or use upon any way or bridge in this state, including public parks or parkways. (R. S. c. 19, § 1. 1949, c. 38, § 1; c. 349, § 19.)

Cross reference.—See c. 10, § 22, re rules of construction; c. 96, § 96, re "highway" defined.

"Motor vehicles."—See State v. Cormier, 141 Me. 307, 43 A. (2d) 819.

"Team."—See Brown v. Sanborn, 131 Me. 53, 158 A. 855.

Sled not a "vehicle".—In the absence of a clear statutory mandate, it is not generally held that sleds are vehicles within the meaning of that term as used in regulatory statutes. Illingworth v. Madden, 135 Me. 159, 192 A. 273.

"Way."—See State v. Conant, 124 Me. 198, 126 A. 838; State v. Peterson, 136 Me. 165, 4 A. (2d) 835; State v. Cormier, 141 Me. 307, 43 A. (2d) 819.

Registration and Licensing. Suspension and Revocation.

Sec. 2. Registration of motor vehicles.—The secretary of state shall collect all fees required for licensing and registering all motor vehicles and operators thereof and shall forthwith transmit the same to the treasurer of state. He shall, from time to time as required by the governor and council, make report of his doings and of the fees received from motor vehicle registrations, licenses issued and from other sources, with such recommendations as he may consider appropriate. (R. S. c. 19, § 2.)

Quoted in Gass v. Robie, 138 Me. 348, 25 A. (2d) 487.

Sec. 3. Deputies.—The secretary of state may appoint and deputize agents, examiners and inspectors, stationed at convenient places in the state, to receive applications for registration and licenses for the operation of motor vehicles and to conduct examinations when ordered by the secretary of state. (R. S. c. 19, § 3.)

Sec. 4. Hearings; fees of witnesses; summary process.—In the administration of the laws relative to motor vehicles and to the operators and the operation thereof, the secretary of state or his deputy may conduct hearings, subpoena witnesses, administer oaths, take testimony and order the production of books and papers, and for the purposes mentioned in this chapter may issue all processes necessary for the performance of his duties. The fees for travel and attendance of witnesses shall be the same as for witnesses before the superior court and shall be paid by the state out of motor vehicle registration fees upon certificates of the secretary of state filed with the controller. Any justice of the superior court, on the petition of the secretary of state, may issue summary process to enforce the lawful orders of the secretary of state in any matter. (R. S. c. 19, § 4. 1947, c. 93.)

Sec. 5. Records open to public inspection; complaint confidential.—All records of the secretary of state pertaining to the applications and registration of motor vehicles and to operators' licenses shall be open to public inspection during office hours. Complaints in writing may be regarded as confidential. (R. S. c. 19, § 5.)

Sec. 6. Suspension or revocation of operators' license or certificate of registration.—The secretary of state may suspend or revoke any certificate of registration or any license issued to any person to operate a motor vehicle after hearing for any cause which he deems sufficient. Pending a speedy hearing, he may also summarily suspend a license of any motor vehicle operator in his discretion and may order the license or registration certificate to be surrendered to him whenever he has reason to believe that the holder thereof is an improper person or incompetent to operate a motor vehicle, or is operating so as to endanger the public; and neither the certificate nor the license shall be reissued unless upon examination or investigation the said secretary or the appellate court determines that the operator shall again be permitted to operate. (R. S. c. 19, § 6.)

Sec. 7. Appeal.—If any person is aggrieved by the decision of the secretary of state in revoking or suspending a license or certificate of registration or by the refusal of the secretary of state to issue a license or certificate of registration, he may within 10 days thereafter appeal to any justice of the superior court, by presenting to him a petition therefor, in term time or vacation. Such justice shall fix a time and place for hearing, which may be in vacation, and cause notice thereof to be given to the secretary of state; and after hearing such justice may affirm or reverse the decision of the secretary of state and the decision of such justice shall be final. Pending judgment of the court, the decision of the secretary of state in revoking or suspending any license or certificate of registration shall remain in full force and effect. (R. S. c. 19, § 7.)

Method of appeal provided in this section is exclusive.—The legislature intended by this section to provide to the applicant who may feel himself aggrieved by the decision of the secretary of state, a method of obtaining judicial determination of the correctness of that decision, and further intended that this method should be exclusive. This was within the province of the legislature. The method provided was one well suited for the purpose and not in any way disadvantageous to the applicant. Steves v. Robie, 139 Me. 359, 31 A. (2d) 797.

And mandamus will not lie to compel the secretary of state to register a motor vehicle. Steves v. Robie, 139 Me. 359, 31 A. (2d) 797.

Cited in In re Hadlock, 142 Me. 116, 48 A. (2d) 628.

Certain Duties of Secretary of State. Report of Thefts.

Sec. 8. Rules and regulations; evidence.—The secretary of state may also make rules and regulations, not inconsistent with this chapter or other laws of the state, found needful to administer the provisions of this chapter. The rules and regulations of the secretary of state and any changes therein shall take effect when approved by the governor and council and published at least once in each daily newspaper in the state. The certificate of the secretary of state shall be received as prima facie evidence in any court of law to prove that such rules and regulations have been enacted as provided in this chapter. (R. S. c. 19, § 8.)

Sec. 9. Hearings.—Notice of any hearing held by the secretary of state or by his authority, under the provisions of this chapter shall state the place, day and hour thereof, and warn the licensee or registrant that he may then and there appear, in person or through counsel, to show cause why his license should not be suspended or revoked, or why the registration of the vehicle should not be annulled; and service of such notice shall be sufficient if sent by registered mail

to the address given by the licensee or registrant, 5 days at least before the day set for the hearing. (R. S. c. 19, § 9.)

Sec. 10. Abstract of laws published.—The secretary of state shall publish an abstract of statutes pertaining to motor vehicles and the law of the road and rules and regulations made by the secretary of state and by the state highway commission pertaining to the administration of the duties of the secretary of state and the highway commission under the provisions of this chapter, together with such other information as he deems helpful to public safety and the better regulation of traffic. (R. S. c. 19, § 10.)

Sec. 11. Records more than 2 years old may be destroyed. — The secretary of state is authorized to remove and destroy all records and papers in his office pertaining to the registration of motor vehicles and the issuance of operators' licenses which are more than 2 years old and are not in use, and which in his judgment are no longer of value. (R. S. c. 19, § 11.)

See c. 1, § 35, re destruction of records.

Sec. 12. Reports of thefts; recorded; report to other states; owner to report recovery.—Whenever the chief of the state police shall receive report of the theft of a motor vehicle, whether the same be registered or not, and whether owned in this or any other state, together with a description of the same, he shall make a distinctive record thereof and cause the same to be properly filed, and shall promptly report by mail or otherwise the theft of said vehicle to the secretary of state and to the motor vehicle commissioners or departments of such other states of the United States and provinces of the Dominion of Canada as he deems needful, giving a complete description of the vehicle, including the name and post-office address of the person reporting the theft. Whenever the owner of a vehicle so reported as stolen shall recover it, he shall notify the chief of the state police that the vehicle has been recovered, and the said chief shall remove or cancel his record of the theft and notify the secretary of state and each of said foreign motor vehicle commissioners or departments of such recovery. (R. S. c. 19, § 12. 1945, c. 257.)

Registration. Fees. Conditions. Transfers. Reserved Plates. Temporary Plates. Manufacture of Plates. Equipment. Inspection.

Sec. 13. Registration; application; certificates. — Every resident of the state, owning a motor vehicle or trailer, shall register the same in this state if such vehicle or trailer is to be operated on or remain upon any way.

No motor vehicle or trailer shall be operated, or remain upon any way, unless the same is registered and equipped in accordance with the provisions of this chapter, excepting that the chief of the state police may, when in his opinion the same is necessary and not detrimental to the public safety, grant a permit in writing for an unregistered vehicle to be towed either by a regular service wrecker or by the use of a towbar. Application for such registration may be made by mail or otherwise to the secretary of state upon blanks prepared under his authority. The application shall be signed by the owner and shall contain such particulars as may be required by the secretary of state, including the name, residence and address of the owner, with a brief description of the vehicle, the name of its maker, the motor and serial numbers or identification number, the amount of motive power, stated in figures of horsepower, the type of motor fuel if other than gasoline as defined in section 159 of chapter 16 under the phrase "internal combustion engine fuel" and the actual gross weight of the vehicle if intended for commercial use.

The secretary of state shall maintain a file of said applications arranged alphabetically according to the name of the applicant and numerically according to registration number. In case said applicant has not given satisfactory answers,

the secretary of state shall refuse to register such vehicle, or to issue a license for its operation.

Vehicles legally owned by the federal government which are used by persons in this state under lease with right of purchase agreement or otherwise shall be registered.

No registration or license shall be required to permit the use of a truck, trailer or tractor on that part of a way adjoining the premises of the owner of such truck, trailer or tractor.

No registration or license shall be required for a farm tractor when the same is used solely for farming purposes, and such farm tractors may be operated, without registration or license, from or to the premises where the same are kept, to or from a farm lot and between farm lots, used for farm purposes by the owner of the farm tractor; and such farm tractors may be operated, without registration or license, from or to a filling station or garage for gas, oil or repairs.

Upon the presentation of an application for registration of a motor vehicle or trailer, the engine or serial number or identification number of which has been omitted, altered, removed or defaced, the secretary of state shall assign a special number. Said secretary of state shall also issue a return card to be filled in by the operator of an inspection station, that the number has been embossed, stamped or entered on said motor vehicle. A record of the special number shall be maintained by the secretary of state.

Every operator of combinations of truck tractor and semi-trailer may make application upon a blank supplied by the secretary of state. The secretary of state shall furnish said operator with 1 number plate to be displayed on the rear of each semi-trailer so operated.

The fee for each number plate shall be $5.

Extra number plates shall be furnished to replace lost or mutilated plates for 75¢ each.

All motor vehicles owned and used by the state, any municipal corporation therein and all vehicles owned by an organized volunteer fire department and used exclusively for fire fighting purposes shall be registered, but shall be exempt from the provisions of this chapter as to payment of registration fees; but all such vehicles shall display registration plates as required by this chapter or approved by the secretary of state. Provided, however, that all motor vehicles and trailers owned by the state and under the supervision of the state highway commission shall be exempt from the provisions of this chapter as to registration and payment of registration fees. Such motor vehicles and trailers shall display a marker or insignia approved by the secretary of state.

The secretary of state is authorized to issue registration certificates and registration plates without fee to federal and state governmental agencies, not otherwise required to be registered under the provisions of this chapter.

Provided, however, that on application to the secretary of state for registration of any motor vehicle of any amputee veteran who has been the recipient of an automobile from the United States government under authority of P. L. 663, 79th congress, as amended, or P. L. 187, 82nd congress, as amended, or of any amputee veteran receiving compensation from the Veterans Administration for service connected disability who shall have a specially designed motor vehicle, such veteran shall be entitled to have said automobile duly registered and a registration certificate delivered to him without the requirement of the payment of any fee.

All registrations of vehicles, all certificates of registrations and number plates shall terminate and become void at midnight on the 31st day of December of each year, except as provided for in section 18.

Any veteran who has lost both legs or the use of both legs and who has registered his motor vehicle without the payment of a fee as provided in this section shall be issued special designating plates to be used in addition to the

regular registration plates. Such designating plates shall be issued by the secretary of state upon certification by the Veterans Administration. (R. S. c. 19, § 13. 1945, cc. 162, 191. 1947, c. 35. 1949, c. 56, §§ 1, 2; c. 65, § 1; c. 77, § 1; c. 104, § 1; c. 349, § 20. 1951, cc. 21, 82, 108; c. 235, § 1. 1953, cc. 131, 236; c. 385, § 2.)

The legislature had the power and the right to enact this prohibitive legislation for the protection of its citizens. The registration of a car and the display of its number-plate serve to identify the owner in case of injuries caused by negligent conduct in its operation. McCarthy v. Leeds, 116 Me. 275, 101 A. 448.

The purpose of the requirement of registration is two-fold,—to obtain revenue, and to make it possible to trace the identity of a car if it should be necessary. Skene v. Graham, 116 Me. 202, 100 A. 938.

Registration in trade name of corporation is sufficient.—Registration of an automobile in the trade name of a corporation, which differed from its corporate name, was a sufficient compliance with this section. Skene v. Graham, 116 Me. 202, 100 A. 938.

But the license and plates issued to a partnership doing business under a trade name are not available to a member of the partnership who takes over the business upon the dissolution of the partnership and continues to do business under the same trade name; he must register the automobile in his own name and procure new plates. Gass v. Robie, 138 Me. 348, 25 A. (2d) 487.

Municipality not liable to driver of unregistered automobile for defect in highway.—Since, in addition to the penalty provided by law, this section prohibits the use upon the highway of an unregistered automobile, the operation of an automobile upon the prohibited streets and highways is such an unlawful act that, by reason of the prohibition, its operation is a trespass, and cities or towns are not obliged to keep their ways safe for trespassers to travel upon in violation of law. The rights of the driver of an unregistered automobile are only the rights of a trespasser upon the land of another. McCarthy v. Leeds, 115 Me. 134, 98 A. 72.

The decision does not rest upon the common law principle of causal connection. The true theory is that an unregistered car is expressly forbidden by statute to pass along the highway, and the municipality is not obliged to furnish it protection. McCarthy v. Leeds, 116 Me. 275, 101 A. 448.

And the non-liability of the municipality applies as well to passengers as to the owner. The question of contributory negligence is not involved. All the occupants of the car are under the same disability. McCarthy v. Leeds, 116 Me. 275, 101 A. 448.

The highways of the state are closed alike to unregistered motor vehicles and to unlicensed operators. In actions against towns to enforce a statutory liability for defects in the highways, it is not a question of causal connection in either case between the violation of the statute and the happening of the accident; the unregistered car and the unlicensed operator are alike expressly forbidden by the statute to pass along the highway. Blanchard v. Portland, 120 Me. 142, 113 A. 18; Davis v. Simpson, 138 Me. 137, 23 A. (2d) 320.

But the fact that a car is unregistered in violation of this section, does not constitute negligence per se, and does not preclude a plaintiff from recovering in a common law action of negligence, unless such violation is the direct and proximate cause contributing to the act. Cobb v. Cumberland County Power & Light Co., 117 Me. 455, 104 A. 844, distinguishing the cases of McCarthy v. Leeds, 115 Me. 134, 98 A. 72, and McCarthy v. Leeds, 116 Me. 275, 101 A. 448.

Cited in Lyons v. Jordan, 117 Me. 117, 102 A. 976.

Sec. 14. Registration by minors under 18; conditions.—The secretary of state shall not grant the application of any minor under the age of 18 years for registration of a motor vehicle unless such application is signed by the father of the applicant, if the father is living and has custody of the applicant, otherwise by the mother or guardian having the custody of such minor, or in the event a minor under the age of 18 years has no father, mother or guardian, then registration of a motor vehicle shall not be granted to the minor unless his application therefor is signed by his employer. (1949, c. 23. 1951, c. 266, § 14.)

Sec. 15. Payment of poll tax before registration. — No person required by law to pay a poll tax in this state shall be granted a registration for

a motor vehicle until he shall present a receipt or certificate that he has paid his poll tax in the town where he resided for the year preceding that for which the license is applied for, or written evidence from the taxing authority of that town that he was legally exempted therefrom or that the tax has been abated. (R. S. c. 19, § 14.)

See c. 92, § 1, re poll taxes.

Sec. 16. Fees for registration; ½ regular fee after September 1st. —The annual fees for the registration and licensing of vehicles shall be in accordance with the following schedule and shall accompany the application for registration:

I. Motor vehicles.

A. Used for the conveyance of passengers,

0 horsepower to and including 17 horsepower	$10
18 horsepower to and including 24 horsepower	12
25 horsepower to and including 30 horsepower	14
31 horsepower and over	16.

B. Used for livery or hire, double the above fees; provided, however, that private automobiles occasionally employed for use at funerals by a duly registered or licensed undertaker and not otherwise used for hire shall not be subject to such double fees; provided also that funeral coaches and funeral hearses used by a duly registered or licensed undertaker incident to the business of a mortician shall pay in accordance with the above fees, but shall not be required to pay double. All funeral coaches or funeral hearses used for hire for any other purpose than that incident to the business of a mortician shall pay the same registration fees as required for motor vehicles used for livery or hire; and provided further, that motor vehicles used for no other passenger service or hire than for the transportation of school children to and from school are not subject to the double registration fee.

C. Used for the carrying of passengers for hire and

1. Operating under the provisions of chapter 48, or

2. Operating, regularly or seasonally, in interstate commerce, over regular routes between any point or points in this state and any point or points in any other state or between any point or points in any adjacent foreign country and any point or points in this state more than 15 miles from the place of entry into this state, shall pay registration fees as follows: motor vehicles of not over 7 persons seating capacity shall pay the fees as provided in the foregoing part of this section; motor vehicles of over 7 persons seating capacity shall pay in addition to the above fees an additional sum of $2.50 for each seat in addition to seven. Provided also that motor vehicles owned by residents of any state, province or foreign country, where residents of this state registering motor vehicles are required to pay double the fees charged against resident owners, shall pay double the fees indicated above, whether for private use or for livery or hire.

D. Any person engaged in a business requiring the limited operation of motor vehicles in order to facilitate the movement of such vehicles from a place where they are engaged in the off-the-highway operations to some other place within the state not more than once each year; or the foreclosure or repossession thereof; or the installation of manufactured equipment thereon such as special bodies, tanks, plows, etc., may make application to the secretary of state upon a blank provided for that purpose for a permit to operate such vehicle without registration. The secretary, if satisfied that such limited operation is authorized by the provisions of this

paragraph, may issue a permit for the operation of such vehicle over a specified route or routes and for such length of time as he may deem necessary. A fee of $2 for each vehicle to be moved shall accompany the application. The secretary may waive the provisions of section 45 with respect to vehicles operated in accordance with this paragraph. (1951, c. 75.)

E. Used interchangeably for conveyance of passengers or property shall pay either the fee provided by paragraph A of this subsection or by section 19, whichever is the greater. Such vehicles shall be designated as "convertibles." (1951, c. 235, § 2. 1953, c. 308, § 15.)

II. Tractors or road tractors.

Equipped with	Per H. P.	Per 100 lbs. weight
Pneumatic tires	25 cents	25 cents
Solid rubber tires	25 cents	50 cents
Iron, steel or other hard tires	25 cents	80 cents

The minimum fee shall never be less than $2.

Farm tractors used for agricultural purposes or not customarily used on public ways shall pay 1/10 of the above rates; caterpillar tractors, so called, except as above provided, shall pay a registration fee of $15, except that, when so constructed as to carry a load, they shall be rated as trucks.

III. Trailers.

Equipped with	Per 100 lbs. gross weight of vehicle and load	
Pneumatic tires	15 cents	up to 2,000 lbs. gross weight
Solid rubber tires	40 cents	
Iron, steel or hard tires	75 cents	

The minimum fee shall never be less than $2. Provided, however, that the maximum fee for all trailers, whether semi-trailers or four-wheeled type, equipped with pneumatic tires and drawn at all times exclusively by farm tractors, shall be $2 for each trailer when the said trailers are used and to be used by farmers for the sole and exclusive purpose of transporting their own farm products, crops, fertilizers and farm tools and utensils and subject to the further conditions and limitations that

A. no such load so transported shall at any time exceed 4 tons;

B. no such load shall be transported a distance greater than 20 miles from the point of origin to the point of destination; and

C. no such load shall be transported on the public highways of this state at a speed in excess of 15 miles an hour.

A violation of any of the terms and conditions of this subsection shall automatically disqualify the violator from the benefits hereof.

Trailers having a gross weight of 2,000 pounds or more shall be classified and rated as trucks. All boat trailers registered for a gross weight in excess of 2,000 pounds but not more than 4,000 pounds shall pay a registration fee of $5. House trailers and camp trailers of the covered wagon type shall be registered and pay a fee of $5 for such registration.

Not more than 1 trailer shall be drawn by a motor vehicle.

No motor vehicle, or combination of motor vehicle and trailer or semi-trailer, shall exceed in length 45 feet over all including all structural parts thereof, permanent or temporary; provided, however, that the load on any motor vehicle, including trucks, combination of tractor and semi-trailer, passenger buses and passenger cars, and the load on any trailer, may extend not exceeding 1

foot 6 inches beyond the rear of the maximum permissible structural length of such motor vehicle or tractor, exclusive of tailboard.

Stone-crushers, air compressors, power shovels, earth movers, cranes, graders, rollers, well-drillers, wood-sawing equipment and other machinery or equipment, any of which are permanently mounted on a traction unit or motor chassis, shall be registered and a fee of $10 shall be paid for such registration in lieu of all other registration fees. Registration under the provisions of this paragraph shall not include any vehicle which may be used for the conveyance of property except hand tools or parts which are used in connection with the operation of such equipment, except that earth movers, so called, may be used for the transportation of earth on that portion of the highway actually under construction. Such earth moving vehicles may be operated unloaded over the highway between construction projects and to or from the place where such vehicles are customarily kept, if a permit for such movement is first obtained in accordance with section 98.

It is further provided that the movement over the highways of any of the above described equipment, the weight of which is in excess of 10 tons, shall be subject to the provisions of section 98, and permits to move said equipment shall be obtained accordingly.

No registration or license shall be granted to the owner of a house trailer or camp trailer of the covered wagon type until he shall present a receipt or certificate that the personal property tax assessed on said trailer has been paid for the year preceding that for which the registration or license is applied for, or written evidence from the taxing authority of that city or town that he was legally exempted therefrom or that the tax has been abated.

Circus and carnival trailers or semi-trailers unloaded from railroad cars and hauled to and from the midway on circus or carnival grounds shall be exempt from the provisions of this section as to fees for the registration and licensing of such trailers or semi-trailers. The provisions of this paragraph shall apply only to circus and carnival trailers or semi-trailers moved to or from railroad stations or railroad sidings nearest the grounds where the circus or carnival show is held. (1947, cc. 166, 183; c. 348, § 3. 1949, c. 104, §§ 2, 3, 4, 5. 1953, c. 139; c. 346, §§ 1, 2)

IV. Motorcycles ..... $5 each.

V. Motorcycle side-cars ..... $5 each.

VI. Computation of fees. In computations under the provisions of this section minor fractions of horsepower shall carry the lower rating, and major fractions shall carry the next higher rating.

Horsepower specified in this chapter shall be based on the "A.L.A.M." standard, so called.

"Steam vehicles." In the computation of fees for all vehicles propelled by steam, the horsepower rating shall be based on the system of rating adopted by the United States government.

"Electric vehicles." For vehicles propelled by electricity the rating shall be the normal horsepower designated by the manufacturers of the electric motor or motors in the vehicle.

In computation of fees for a combination of truck tractor and semi-trailer, the vehicle to be registered for gross weight shall be the truck tractor which shall take the same rating as a truck of similar gross weight.

On any application for registration applied for by an owner of a motor vehicle or trailer, not including a log hauler or traction engine, during the period between the 1st day of September and the 31st day of December, ½ the registration fee shall be charged. The secretary of state upon granting the application shall register in a book or upon suitable index cards to be kept for the purpose, the vehicle described in the application, giving to its owner a distinguishing

number or other mark and shall thereupon issue a certificate of registration which shall contain the name, place of residence and address of the owner. [1947, c. 348, § 2; c. 352, §§ 1, 2. 1949, c. 104, §§ 6, 7; c. 349, § 21]. (R. S. c. 19, § 15. 1947, cc. 166, 183; c. 348, §§ 2, 3; c. 352, §§ 1, 2. 1949, c. 104, §§ 2, 3, 4, 5, 6, 7; c. 349, § 21. 1951, c. 75; c. 235, § 2. 1953, c. 139; c. 346, §§ 1, 2; c. 308, § 15.)

See § 20, re definition of "gross weight."

Sec. 17. Insurance for motor vehicles carrying passengers for hire. —The secretary of state shall not register any motor vehicle used for livery or hire, except as provided in section 10 of chapter 48, or as a school bus, and no person, firm or corporation shall operate or cause to be operated upon any public highway in this state any such motor vehicle, until the owner or owners thereof shall have procured insurance or a bond, having a surety company authorized to transact business in this state or two individuals as sureties thereon, in the amount of $10,000 because of bodily injury or death to any one person, and subject to said limit respecting 1 person, in the amount of $20,000 because of bodily injury to or death to 2 or more persons in any one accident, and in the amount of $5,000 because of injury to and destruction of property in any one accident, which insurance or bond shall be approved by the secretary of state and shall indemnify the insured against any legal liability for personal injury, the death of any person or property damage, which injury, death or damage may result from or have been caused by the operation of the motor vehicle described in the contract of insurance or such bond. (R. S. c. 19, § 16. 1949, c. 40. 1951, c. 37. 1953, c. 308, § 16.)

Sec. 18. Registration number plates; valid until March of next calendar year; certificate of registration to be carried by operator or about the vehicle; emergency and reregistration number plates; special plates.—The secretary of state shall furnish suitable number plates, seals and other distinguishing marks, without charge, to every person whose vehicle is registered under the provisions of this chapter. Such plates shall be of a distinctly different color or shade each year and shall be in such form as the secretary of state may determine; and shall bear the numerals of the year of issue or the last 2 numerals of said year, the word "Maine" or the abbreviation "Me." in letters not less than ¾ inch in height, and on plates issued for passenger vehicles for private use, hire cars and trucks, there shall be placed at the bottom thereof in letters not less than ¾ inch in height the word "Vacationland." The numerals of the register number thereon, except on motorcycle number plates, shall be substantially not less than 3 inches high. The secretary of state may select and issue a special distinguishing letter, mark or design for number plates issued to manufacturers and dealers; also for any temporary or other special classes of registration and for use on motorcycles, trucks, trailers, tractors and side-cars which are required to be registered under the provisions of this chapter.

Number plates so furnished shall be valid only for the calendar year for which they are issued, except that on and after December 25th of such calendar year, it shall be lawful to use and display on motor vehicles, the number plates issued for the next succeeding year; provided further, that motor vehicle registrations and license tags issued thereon in any calendar year shall be valid for use and display until March 1st of the next calendar year. Each number plate displayed shall be horizontal and shall be so fastened as not to swing and its lower edges shall be at least 12 inches from the ground. Not more than 1 set of number plates shall be displayed upon any vehicle, except as may be otherwise permitted by law.

The owner who returns number plates with an affidavit that they have never been used shall be refunded the registration fee paid.

In the case of all motor vehicles and tractors, 1 number plate shall be attached to the front and the other to the rear of said vehicle, so that the plates and the registered number thereon shall always be plainly visible. In the case of trailers, semi-trailers and side-cars, one such plate shall be attached to the rear thereof and shall be always plainly visible. All plates shall be kept reasonably clean and the numbers legible.

The certificate of registration shall always be carried on the person of the operator or occupant, or in some easily accessible place in or about the vehicle therein described, except that certificates of registration of dealers need not be so carried.

If any number plate is lost or the register number thereon becomes mutilated or illegible, the owner or person in control of the vehicle for which said number plate was furnished shall immediately place a temporary number plate bearing his register number upon said vehicle. Such temporary number plate shall conform to the register number plate and shall be displayed as nearly as possible as provided in this chapter for said regular number plate, and such person shall within 24 hours after such loss or mutilation give notice thereof to the secretary of state and apply for new number plates; and thereupon the secretary of state, if satisfied of the truth of the facts stated in the application, shall supply a new set of number plates upon payment of a fee of 75¢ for each plate.

If the secretary of state is unable to furnish immediately to any person entitled thereto any plate or marker provided in this chapter, he may issue a temporary certificate with temporary number plates, which certificate shall be carried and said plates shall be displayed upon said vehicle in the same manner as required for regular certificates and number plates. Whenever one of a set of number plates is lost and a new set is issued, as provided in this section, the remaining plate shall forthwith be returned to the secretary of state. In case plates are lost in transportation, and the applicant shall certify in the affidavit that the plates have not been received by him and agrees that if they shall be received at some later date to return them forthwith, the secretary of state, after a thorough investigation, may furnish the applicant with a second set of plates without additional charge.

Notwithstanding the preceding provisions of this section, the secretary of state may provide and issue a suitable device in lieu of new registration number plates for any calendar year. Such device shall clearly indicate the year or period for which issued and shall be furnished only upon application and payment of registration fees required by statute, and when such device is so attached to the appropriate vehicle or to the plate thereon, such vehicle shall be deemed properly registered for the period specified; subject, however, to suspension or revocation of registration as provided by statute.

The secretary of state may issue permanent registration plates so designed and equipped as to provide for the reregistration thereof by changing the expiration date on such plates without the issuance of new plates.

The secretary of state shall, upon application therefor by members of the executive council, members of the legislature, president of the senate, speaker of the house, secretary of the senate and the clerk of the house, issue 1 pair of specially designed number plates and a certificate of registration for 1 designated motor vehicle owned or controlled by each of the officials named herein. The color, shape, size, lettering and numbering of such special plates shall be determined by the secretary of state, except that plates issued to members of the legislature, other than the president of the senate and speaker of the house, shall bear the number of the seat assigned to such member. Plates issued to members of the executive council shall bear a numeral designating the councillor district they represent. Such plates shall be issued for and attached to only such motor vehicle as is currently registered in accordance with the provisions of section 13. Such special plates may be displayed in lieu of the regular number

plates issued for such vehicles. A fee of $2 shall be paid to the secretary of state upon application. Such special number plates shall be valid only during the term of office for which the registrant is elected. In case the office is for any cause vacated during said term, such special number plates and registration certificate shall be immediately surrendered to the secretary of state. (R. S. c. 19, § 17. 1947, c. 108. 1951, c. 248.)

Sec. 19. Fees for trucks.—With each application for registration of a motor truck shall be paid an annual registration fee graduated as follows when equipped with pneumatic tires:

From	0	pounds gross weight to	6,000	pounds gross weight	..	$ 15
From	6,001	pounds gross weight to	9,000	pounds gross weight	..	$ 20
From	9,001	pounds gross weight to	11,000	pounds gross weight	..	$ 35
From	11,001	pounds gross weight to	14,000	pounds gross weight	..	$ 60
From	14,001	pounds gross weight to	16,000	pounds gross weight	..	$ 80
From	16,001	pounds gross weight to	18,000	pounds gross weight	..	$100
From	18,001	pounds gross weight to	20,000	pounds gross weight	..	$125
From	20,001	pounds gross weight to	23,000	pounds gross weight	..	$150
From	23,001	pounds gross weight to	26,000	pounds gross weight	..	$175
From	26,001	pounds gross weight to	29,000	pounds gross weight	..	$200
From	29,001	pounds gross weight to	32,000	pounds gross weight	..	$225
From	32,001	pounds gross weight to	35,000	pounds gross weight	..	$250
From	35,001	pounds gross weight to	38,000	pounds gross weight	..	$275
From	38,001	pounds gross weight to	42,000	pounds gross weight	..	$300
From	42,001	pounds gross weight to	46,000	pounds gross weight	..	$325
From	46,001	pounds gross weight to	50,000	pounds gross weight	..	$350.

Provided, however, that trucks, for the registration of which a fee of $100 or more has been paid, may be operated on the highways during the months of December, January and February with any overload; providing it is not in excess of the requirements of section 109.

Provided, however, that every such vehicle equipped with 2 or more solid tires shall pay an additional fee of 33-1/3% more than any such vehicle would be required to pay if equipped with pneumatic tires. But no vehicle shall be operated on ways or bridges, either loaded or without load, that exceeds the limits prescribed in section 109 or is contrary to the provisions of any other section of this chapter, or any other statute pertaining thereto.

Provided further, that when a truck is already registered, the owner, by paying an additional fee, may receive a short-term permit allowing him to haul loads of larger tonnage for a limited period of less than 1 year. No such permit shall be issued for less than 1 month and no permit shall extend beyond the expiration of the regular license. The fee shall be a percentage of the difference between the owner's present annual registration fee and the annual fee for the desired tonnage and shall be computed according to the following table:

1-month permit	20%
2-month permit	30%
3-month permit	40%
4-month permit	50%
5-month permit	60%
6-month permit	70%
7-month permit	75%
8-month permit	80%
9-month permit	85%
10-month permit	90%
11-month permit	95%

(R. S. c. 19, § 18. 1947, c. 352, §§ 3, 4. 1951, c. 235, § 3; c. 329.)

See § 20, re definition of "gross weight."

Sec. 20. "Gross weight" defined.—"Gross weight" as used in sections 16, 19 and 36 shall mean the actual empty weight in pounds of the vehicle to be registered plus the maximum weight of the load to be carried by such vehicle. (1947, c. 352, § 5.)

Sec. 21. Motor vehicle dealer registration board.—The Maine motor vehicle dealer registration board, as heretofore established, shall consist of 5 members, 2 of whom shall be new motor vehicle dealers, 2 of whom shall be used motor vehicle dealers and 1 of whom shall be a person other than a motor vehicle dealer. The members of the board shall be appointed by the governor with the advice and consent of the council for terms of 3 years. The members of the board may be removed for cause, by the governor, with the advice and consent of the council. Any vacancy shall be filled by appointment for the unexpired term. The members shall serve until their successors are appointed and qualified. (1953, c. 70, § 1.)

Sec. 22. Organization.—The governor, with the advice and consent of the council, shall appoint one of the members to be chairman of the board and the members shall elect one of the board to serve as secretary. Three of the members shall constitute a quorum to do business. It shall be the duty of the secretary to keep a record of all proceedings of the board and to preserve all books, documents, papers and records entrusted to its care. The board will hold meetings in Augusta at the call of the chairman or whenever 3 members of the board request the chairman to call a meeting. (1953, c. 70, § 2.)

Sec. 23. Expenses of the board.—The members of the board shall serve without compensation; but each member of the board shall receive his necessary expenses incurred in the discharge of his duties. All requisitions for the payment of money shall be signed by the chairman and secretary of the board. Said expenses shall be paid out of the general highway fund. (1953, c. 70, § 2.)

Sec. 24. Report of the board.—The board shall make an annual report to the secretary of state on or before the 15th day of January in each year, including therein an account of its actions and any recommendations which the board deems advisable. (1953, c. 70, § 2.)

Sec. 25. Duties and powers.—It shall be the duty of the board to examine all applications for motor vehicle dealer registration plates presented to the secretary of state and, in accordance with the provisions of sections 21 to 29, inclusive, order the secretary of state to issue or to refuse to issue such motor vehicle dealer registration plates. The board is further empowered to order the secretary of state to suspend or revoke, in accordance with the provisions of sections 21 to 29, inclusive, any motor vehicle dealer registration plates already issued. (1953, c. 70, § 2.)

Sec. 26. Dealer registration plates; application; fees.—Every manufacturer or dealer in new or used motor vehicles or trailers may, instead of registering each motor vehicle owned or controlled by him, make application upon a blank provided by the secretary of state for a general distinguishing number, color or mark. The secretary of state shall forthwith present said application to the board. The board, if satisfied that the applicant maintains a permanent place of business in the state where said applicant will be principally engaged in the business of buying and selling of motor vehicles, and is also satisfied with the other facts stated in the application, shall order the secretary of state to issue a certificate of registration. Such certificate of registration shall contain the name, place of residence and business of the applicant and the general distinguishing number, color or mark assigned to him and made in such form as the secretary of state may determine, and all vehicles owned or controlled by such applicant shall be regarded as registered under such general distinguishing

number, color or mark until sold, exchanged or operated for hire. To be eligible for the renewal of such motor vehicle dealer registration plates, the applicant must maintain in said state a permanent place of business where said applicant is principally engaged in the business of buying and selling motor vehicles. The annual fee for every such certificate of registration shall be $65. The secretary of state shall furnish the applicant with 4 pairs of registration number plates free of cost; and there may be issued to any such applicant 2 similar pairs of plates, in addition to the 4 pairs so issued, upon payment of $10 for each such additional pair; and upon payment of $5 per pair, additional plates shall be furnished. Extra registration plates shall be furnished to replace lost or mutilated plates for 75¢ each. Single plates shall be furnished for trailers. On applications for registration, or for additional plates applied for during the period between the 1st day of September and 31st day of December in any year, ½ of the registration fee shall be charged. (R. S. c. 19, § 19. 1949, c. 222. 1953, c. 70, § 2.)

Applied in Gass v. Robie, 138 Me. 348, 25 A. (2d) 487.

Sec. 27. Denial, suspension or revocation of plates. — When the board, after examining an application for dealer registration plates, decides to order the secretary of state not to issue same, it shall notify said applicant in writing of its decision and of a time and place for hearing when said applicant may appear and show cause why such dealer registration plates should not be denied. The board may review any dealer registration granted and, after hearing as provided for in this section, may order the secretary of state to suspend or revoke any such dealer registration plates for any of the following reasons:

I. On proof that dealer no longer maintains a permanent place of business for buying and selling motor vehicles.

II. On proof that dealer is no longer principally engaged in the business of buying and selling motor vehicles.

III. On proof that dealer has failed to keep and submit any records provided for by law.

IV. On proof that dealer has been convicted of a violation of any of the provisions of sections 21 to 29, inclusive.

No dealer registration plates shall be suspended or revoked except after hearing by the board. The board shall notify the dealer of its intention to order the secretary of state to suspend or revoke said dealer registration plates in writing and give at least 7 days' notice of the time and place for hearing thereon, at which time said dealer may appear and show cause why such dealer registration plates should not be suspended or revoked. The board may request the assistance of the attorney general or his authorized representative to assist in conducting any hearing. (1953, c. 70, § 2.)

Sec. 28. Appeal from board's decision to deny, suspend or revoke dealer registration plates.—Any dealer whose application for motor vehicle dealer registration plates has been denied by the secretary of state by order of the board, or whose dealer registration plates have been suspended or revoked by the secretary of state by order of the board, may, within 30 days thereafter, secure judicial review by presenting a petition addressed to any justice of the superior court, in term time or vacation, stating therein the grounds upon which a review is sought. Such justice shall fix a time and place for hearing, which may be in vacation, and cause notice thereof to be given to the board; and after hearing, such justice may affirm, modify or reverse the decision of the board and the decision of such justice shall be final. Pending judgment of the court, such motor vehicle dealer registration plates shall remain in full force and effect. (1953, c. 70, § 2.)

Sec. 29. Motor vehicle dealer registration plates; limitation of use.—

I. No motor truck, tractor or trailer registered under the provisions of sections 21 to 29, inclusive, shall be used for other than demonstration, service or emergency purposes. Provided, however, that when trucks, tractors or trailers bearing dealer registration plates are used for service purposes, such use shall be limited to the transportation of articles and materials directly connected with the purchase and sale of motor vehicles and the maintenance of the properties connected and used with such business.

II. A vehicle loaned by a dealer to a customer for demonstration or emergency purposes may be operated on the dealer's registration plates for not more than 7 consecutive days.

III. A dealer, to demonstrate a loaded truck bearing dealer registration plates, must first obtain a written permit from the secretary of state and either the dealer or one of his employees must accompany the vehicle.

IV. Whenever a manufacturer or dealer sells or exchanges a motor vehicle or trailer, he shall immediately notify the secretary of state that the vehicle has been sold or exchanged, giving the name of the previous owner if a second-hand car, a description of the vehicle, name of maker, motor and serial number and the name and address of the vendee. Provided, however, that the secretary of state shall not issue such registration until the applicant shall have procured and filed with the secretary of state a certificate showing that the applicant is covered by a standard automobile garage liability policy, approved by the insurance commissioner, insuring against any legal liability in accordance with the terms of said policy for personal injury or death of any one person in the sum of $10,000 and for any number of persons in the sum of $20,000 and against property damage in the sum of $5,000, which injury, death or damage may result from or have been caused by the operation of any motor vehicle bearing such dealer's registration. In lieu of such insurance, the applicant may file with said secretary of state a bond or bonds issued by a surety company authorized to do business in the state in the amount of $20,000 guaranteeing the payment of any judgments secured against such applicant on account of any such injuries, damage or death.

V. The secretary of state shall suspend, without hearing, such registration within 10 days of receipt of written notice from the company that the insurance policy or bond herein required has been canceled. He shall likewise suspend said registration upon the expiration of the policy and shall not restore same until new certification of coverage is filed by the company. (R. S. c. 19, § 19. 1947, c. 123. 1949, c. 41, §§ 1, 2; c. 222. 1951, c. 235, §§ 4, 5. 1953, c. 70, § 2.)

Sec. 30. Motorcycle dealer's registration; fee.—Every manufacturer or dealer in motorcycles shall annually pay a fee of $15 for a registration certificate to handle, demonstrate, sell and exchange motorcycles. The secretary of state shall furnish the manufacturer of, or dealer in, motorcycles with 3 sets of distinguishing plates free of cost and additional sets for $5 per set. For every plate in addition to the 3 originally furnished to the manufacturer or dealer in motorcycles, to replace lost or mutilated plates, 50¢ shall be charged. (R. S. c. 19, § 20.)

Sec. 31. Dealer's registration fee to be paid before December 31 of preceding year.—Every manufacturer or dealer in new or used motor vehicles or trailers shall pay to the secretary of state the required registration fee for the succeeding year on or before the 31st day of December annually; provided that any manufacturer or dealer in new or used motor vehicles or trailers com-

mencing business after the 1st day of January of any year shall pay the fee at the time of commencing business. The word "dealer" as used in this chapter shall mean any person, firm or corporation which is a recognized agent of a motor vehicle manufacturer, or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the sale of secondhand motor vehicles being incidental thereto. The words "used car dealer" as used in this chapter shall mean any person, firm or corporation whose principal business is the buying and selling of secondhand motor vehicles. (R. S. c. 19, § 21.)

Sec. 32. Registration certificate not transferable; notification of transfer.—Upon the transfer of ownership of any motor vehicle or trailer, its registration shall expire and the person in whose name such vehicle or trailer is registered shall forthwith return the certificate of registration to the secretary of state with a written notice containing the date of the transfer of ownership and the name, place of residence and address of the vendee and a description of the vehicle, including its motor and serial number. (R. S. c. 19, § 23.)

Sec. 33. Registration in same calendar year; fees and procedure. —Whoever transfers the ownership or discontinues the use of a registered motor vehicle or trailer and applies to the secretary of state for registration of another motor vehicle or trailer in the same calendar year shall be entitled to a certificate of registration permitting the use of number plates of the proper class of registration thereon upon payment of a transfer fee of $2, provided the fee is the same as that of the former vehicle; but if the fee for the vehicle to be registered is greater, he shall pay in addition to the transfer fee of $2 the difference between the fee paid by him for the vehicle first registered and the fee for the vehicle to which the transfer is to be made. Whoever transfers the ownership or discontinues the use of a motorcycle and applies for the registration of another motorcycle within the same calendar year shall pay for the registration certificate thereof a fee of $1, which fee shall include the number plate. The certificate issued for the registration of the former vehicle shall be returned to the said secretary, showing that the ownership of such vehicle has been transferred or its use discontinued and that the registration has been canceled.

No portion of any fee once paid in any calendar year shall be repaid to any person, but from January 1 to September 1 in the same calendar year any amount paid for registration of a vehicle shall remain as full credit toward the registration of another vehicle in place of the one represented by the surrendered registration, and from September 1 to December 31 in the same calendar year such credit shall not exceed ½ of the amount of the original fee. (R. S. c. 19, § 24.)

Sec. 34. Number plates reserved.—The secretary of state shall reserve until the November 1st preceding the year for which plates are issued the same registration number for the succeeding year for persons who shall, previous to said 1st day of November, pay for the registration of his vehicle for the succeeding year and otherwise comply with the provisions of the motor vehicle law. If a person wishes to retain his registration number and does not have a car to register on said November 1st, he may hold his registration number by depositing with the secretary of state the sum of $10 to be applied as part payment of the registration fee when plates are issued.

All numbers other than those reserved as herein provided shall be released and issued in rotation after said November 1st, except that a person wishing to select a number out of rotation may do so by paying his registration fee and a reserved number fee of $1.

The amount received from the fee charged for reserved numbers shall go into the general highway fund of the state. (R. S. c. 19, § 25. 1947, c. 107.)

Sec. 35. Application for registration of motor vehicle reported stolen.—Whenever the secretary of state shall receive an application for registration of a vehicle previously reported as stolen, he shall notify the owner of such vehicle as shown by the records of his office; and unless registration has already been issued, he may withhold registration until further investigation. (R. S. c. 19, § 26.)

Sec. 36. Truck, tractor, trailer or semi-trailer, with a load greater than that specified on registration certificate not to be operated on highway.—No person shall operate, or cause to be operated, any truck, tractor, trailer or combination of truck tractor and semi-trailer, with a load that is more than 10% above that specified in the registration certificate for such vehicle for trucks of gross weight of not over 15,000 pounds and 5% for trucks of gross weight of over 15,000 pounds; provided, however, that no motor vehicle of either a single unit or combined unit shall be operated on the highway with a load that exceeds 50,000 pounds, gross weight of vehicle and load.

Any penalty for the violation of this section may be imposed on either the operator or whoever causes said operation, or may be imposed on both, except that those operators employed by carriers holding permits or certificates from the Maine public utilities commission, who have not participated in loading the vehicle, shall not be subject to penalty. The operation of the vehicle shall be prima facie evidence that said operation was caused by the person, firm or corporation holding the permit or certificate for said vehicle from the public utilities commission.

Each carrier holding a permit or certificate from the public utilities commission shall file with the secretary of state and the Maine state police in writing an appointment of a resident of this state to be its true and lawful agent, representative or attorney upon whom all lawful processes regarding any violation of this section may be served, and who may be required to appear in court on behalf of the carrier with the same legal force and validity as if the carrier were itself in court with regard to said violation.

Should such carrier fail to file any appointment of a resident agent, representative or attorney as required aforesaid, the secretary of state shall notify the public utilities commission, which shall immediately suspend the permit or certificate from the public utilities commission held by such carrier until such time as the carrier shall file an appointment of resident agent, representative or attorney in compliance with the provisions of this section.

If any such carrier holding a permit or certificate from the public utilities commission has been required to appear in any court, through its appointed lawful agent or attorney, under the provisions of this section in regard to a violation of this section, and shall fail to comply with and satisfy any penalty imposed by the court for a violation of this section, the court shall so notify the public utilities commission, which shall immediately suspend the permit or certificate from the public utilities commission held by such carrier, until such time as the carrier shall have satisfied the said penalty. (R. S. c. 19, § 27. 1947, c. 352, § 6. 1949, c. 349, § 22. 1953, c. 309, § 1.)

See § 20, re definition of "gross weight";
§ 111, re weight violations.

Sec. 37. Temporary number plates; notification; cost.—A manufacturer or dealer may, upon the sale or exchange of a motor vehicle, attach to such motor vehicle a set of temporary number plates, and the purchaser of such motor vehicle may operate the same for a period not to exceed 7 consecutive days thereafter without payment of a regular fee. Temporary number plates may not be used on loaded trucks without a written permit from the secretary of state.

A manufacturer or dealer shall, upon attaching a set of temporary number plates to a motor vehicle sold or exchanged by him, mark thereon the date when said license expires and immediately notify the secretary of state of said sale or exchange, giving the name and address of the purchaser, the number of the temporary plate and such further information as the secretary of state may require. The markings required by this paragraph to be placed on temporary number plates shall be made not less than 1 inch in height, with indelible or waterproof ink.

The secretary of state may issue temporary number plates to bona fide dealers who request them under such rules and regulations as he shall deem necessary; and shall receive for them 50¢ per pair. (R. S. c. 19, § 28. 1951, c. 235, §§ 6, 7.)

Sec. 38. Motor vehicle plates to be manufactured at state prison. —The secretary of state or the duly designated official in charge of motor vehicle registration shall purchase and cause to be installed at the state prison the necessary equipment and materials for the production of all motor vehicle registration plates used in the state; and thereafter no such plates shall be purchased for state use except such as cannot be produced at the prison.

The warden of the state prison shall have charge of operations at the state prison relative to the manufacture of all plates made for the state. He may, with the consent of the secretary of state, employ for limited periods of time a supervisor for the purpose of instructing inmates in the operation of making such plates. (R. S. c. 19, § 29.)

Sec. 39. Safety glass, required; definition; replacements; reports. —Except as hereinafter otherwise provided, it shall be unlawful to operate on any highway any motor vehicle which is registered in the state and which shall have been manufactured or assembled after December 31, 1937, unless such motor vehicle be equipped with safety glass wherever glass is used in partitions, doors, windows or windshields.

The term "safety glass" as used in this section shall be construed to mean any product composed of glass or of other materials, so manufactured, fabricated or treated as substantially to prevent shattering and flying of the glass when broken. The secretary of state shall approve and maintain a list of the approved types of glass, as herein defined, and shall not register or reregister any motor vehicle manufactured or assembled after December 31, 1937, unless such motor vehicle be equipped as herein provided with such approved type of glass. The secretary of state may accept and approve any such type of glass which conforms to the requirements of the Bureau of Standards of the United States Department of Commerce.

All replacements of glass partitions, doors, windows or windshields of any motor vehicle shall be made with "safety glass" as defined in this section.

It shall be unlawful to operate on any highway any motor vehicle which is registered in this state if the front windshield or the window at either end of the driver's seat is composed of any opaque substance so as to obscure in any way the operator's vision of the highway or any intersecting highway; provided, however, that when the glass in either window is broken, the operator may make temporary repairs by placing an opaque substance therein temporarily until a reasonable opportunity is afforded for the replacement in accordance with the provisions of this section. Whoever shall make any material misstatement of fact upon an application for registration or notice required under the provisions of this section shall be subject to the penalty provided in section 159. (R. S. c. 19, § 30. 1951, c. 39; c. 235, §§ 8, 9.)

Sec. 40. Rules and regulations concerning lights and brakes; sale and use of certain lighting devices forbidden.—The secretary of state shall prepare rules and regulations from time to time governing the adjustment, use

and operation of lights on vehicles and governing the sufficiency and adjustment of brakes; and may from time to time alter, rescind or add to any rules and regulations previously made.

No person shall equip his vehicle with, use or sell, any lens, reflector or lighting device designed for use on vehicles on public ways contrary to the provisions of this chapter or contrary to the rules and regulations of the secretary of state. (R. S. c. 19, § 31.)

See § 153, re police may examine equipment.

Sec. 41. Adequate brakes; signaling device; unnecessary noise to be avoided; bell or siren forbidden, exception.—Every motor vehicle and every motor driven cycle shall be provided with adequate brakes in good working order and sufficient to control such vehicle at all times when the same is in use, and a suitable and adequate horn or other device for signaling. Every such motor vehicle shall have brakes adjusted so as to stop 2-wheel brake vehicles at a speed of 20 miles per hour within a distance of 45 feet and 4-wheel brake vehicles within 30 feet and, in addition thereto, shall have a hand brake sufficient to hold the vehicle while out of gear on a 10% grade. No signaling device shall be unnecessarily sounded so as to make a harsh, objectionable or unreasonable noise, and no bell or siren shall be installed or used on any motor vehicle except that fire and police department vehicles and ambulances, and vehicles operated by state, city and town fire inspectors and city and town fire chiefs may be so equipped for use only when responding to emergency calls, and such motor vehicles used by deputy sheriffs, and such motor vehicles used by inland fisheries and game wardens as may be designated by the department of inland fisheries and game. All motor vehicles shall be equipped with a muffler of such construction and device as to prevent excessive noise. No person operating a motor vehicle shall at any time open the muffler cut out or permit the exhaust to make any unnecessary noise. (R. S. c. 19, § 32. 1947, c. 34. 1949, c. 38, § 2; cc. 42, 130, 231. 1951, c. 20; c. 235, § 10; c. 266, § 15. 1953, c. 308, § 17.)

Sec. 42. Television in motor vehicles excluded.—No person shall drive any motor vehicle equipped with any television viewer, screen or other means of visually receiving a television broadcast which is visible to the driver while operating the motor vehicle. (1949, c. 12.)

Sec. 43. Lights conforming to rules; lighted during certain periods; specifications; fire trucks excepted.—Every motor vehicle and tractor on wheels shall be equipped with lamps and lights as provided in this chapter, of sufficient power and so adjusted and operated as to enable its operator to proceed with safety to himself and to other users of the ways under all ordinary conditions of highway and weather.

Every headlamp, upon every motor vehicle, including every motorcycle and motor driven cycle, shall be located at a height measured from the center of the headlamp of not more than 54 inches nor less than 26 inches above the level surface upon which said vehicle stands; provided, however, that headlamps on snow plows may be located at a height greater than 54 inches above said level surface. All such headlamps shall be equipped with lenses or reflectors that emit only a white beam of light. Said lamps and lights shall conform to and operate in accordance with the rules and regulations promulgated from time to time by the secretary of state, as provided in this chapter, and shall be lighted during the period from ½ hour after sunset to ½ hour before sunrise; except as provided in section 141.

Every motor vehicle and tractor on wheels, other than a motorcycle or motor driven cycle, shall have mounted on the front thereof a pair of lamps, one on the right side and one on the left side, each of approximately equal candle power; and every motorcycle and every motor driven cycle shall have mounted on the

front thereof 1 lamp. If any such vehicle is so mechanically constructed, governed or controlled that it cannot exceed a speed of 15 miles per hour, it shall have front lamps capable of furnishing light of sufficient candle power to render any substantial object clearly discernible on a level way at least 50 feet directly ahead and at the same time at least 7 feet to the right of the axis of such vehicle for a distance of at least 25 feet. If said vehicles can exceed a speed of 15 miles per hour, then they shall have front lamps capable of furnishing light of sufficient candle power to render any substantial object clearly discernible on a level way at least 200 feet directly ahead and at the same time at least 7 feet to the right of the axis of such vehicle for a distance of at least 100 feet; provided that no front lamp capable of furnishing more than 4 candle power light shall be used if equipped with a reflector, unless so designed, equipped or mounted that no portion of the beam of light when projected 75 feet or more ahead of the lamps shall rise above a plane of 42 inches higher than and parallel with the level surface on which the vehicle stands; and provided further, that, at no time, shall the top of any main beam of light be higher than the headlight centers; and provided further, that no electric bulb or other lighting device of a greater capacity than 32 candle power shall be used, no matter how the same may be shaded, covered or obscured, except the seal beam unit, so called, which is standard headlight equipment for motor vehicles. For the purpose of enforcing the provisions of this section, it shall be deemed to be a violation of its provisions if a front light or front lights of a motor vehicle projects the top of any main beam, at a distance of 25 feet ahead of the motor vehicle, on an approximately level stretch of highway, onto the body of a person or on a motor vehicle or any object, at a height greater than the distance of the centers of the front lights from the highway.

Every such motor vehicle, motor driven cycle, tractor and trailer shall have on the rear thereof, in the center or to the left of the axis thereof, 1 lamp capable of displaying a red light visible for a distance of at least 100 feet behind such vehicle; provided that when a vehicle is used in conjunction with another vehicle or vehicles, only the last of such vehicles shall be required to carry such lamp. Every such motor vehicle, motor driven cycle, tractor and trailer shall carry a lamp illuminating with white light the rear registration plate of such vehicle so that the characters thereon shall be visible for a distance of at least 50 feet.

All motor vehicles, trailers and semi-trailers of 7 feet or over in width shall have thereon, in addition to the lights required by law for vehicles of less width, a green or amber light attached to the extreme left of the front of such vehicle, so attached and adjusted as to indicate the extreme left lateral extension of the vehicle or load which shall in all cases aforesaid be visible not less than 200 feet in the direction towards which the vehicle is proceeding or facing; provided, however, that any such vehicle having a closed body 8 feet or more in height shall display 2 such green or amber lights attached to the extreme left of the front of its body as above provided, one at the top and the other at the bottom of said body; and every such motor vehicle, trailer and semi-trailer shall display at least 1 red light on the extreme left lateral extension of the vehicle or load on the rear of said vehicle; provided, however, that any such vehicle having a closed body 8 feet or more in height shall display a red light on the extreme upper left lateral extension of its body. Motor vehicles, trailers and semi-trailers requiring a light hereunder may, in lieu of such light, be equipped with an adequate reflector conforming as to color and marginal location to the requirements for such light. Every motor vehicle, motor driven cycle and every trailer shall be equipped with at least 1 adequate reflector securely attached to the rear thereof. Such reflector may be a part of the rear lamp and shall in all cases be red. No reflector shall be deemed adequate unless it is so designed, located and maintained as to reflect at night on an unlighted highway, for at least 200 feet,

the lawful undimmed headlights of a vehicle approaching from the rear thereof.

The provisions of this chapter governing the equipment or use of front lights on motor vehicles shall not apply to motor vehicles owned or controlled by municipalities or village corporations and used for police and fire fighting purposes; or to motor vehicles operated by chiefs of police and by chiefs and assistant chiefs of fire departments. (R. S. c. 19, § 34. 1949, c. 38, §§ 3, 4, 5, 6; c. 104, § 9. 1951, c. 235, §§ 11, 12, 13, 14; c. 310.)

Section inapplicable to coasting sleds.— There is no legislative intent, expressed or implied, which warrants the conclusion that coasting sleds of any type are governed by this section or §§ 136 and 141 of this chapter as to lights. Illingworth v. Madden, 135 Me. 159, 192 A. 273.

Applied in Baker v. McGary Transp. Co., 149 Me. 190, 36 A. (2d) 6.

Quoted in Plante v. Canadian Nat. Rys., 138 Me. 215, 23 A. (2d) 814.

Stated in part in Sanborn v. Stone, 149 Me. 429, 103 A. (2d) 101.

Cited in Witherly v. Bangor & Aroostook Ry., 131 Me. 4, 158 A. 362; Spang v. Cote, 144 Me. 338, 68 A. (2d) 823.

Sec. 44. Snow removal or sanding equipment.—All trucks, graders and other vehicles, while being used for the express purpose of plowing snow or sanding on public ways, unless the 6-inch diameter lights hereinafter described are not available in the markets of this state, shall be equipped with 2 auxiliary lights to be mounted on the highest practical point on the vehicle, one showing to the front and one to the rear of the vehicle. The light showing to the front shall be a blue light and at least 6 inches in diameter. The light showing to the rear shall be a red light at least 6 inches in diameter. These 2 lights shall be equipped with blinker attachments. When the left wing of the plow is in operation and extends over the center of the road, an auxiliary light shall show the extreme end of said left wing. This light may be attached to the vehicle with the beam of light pointed at the left wing. These lights may be controlled by a separate switch or may be controlled by the regular lighting system and shall be lighted during the period of ½ hour after sunset to ½ hour before sunrise. The use of these auxiliary lights shall not relieve the owner or operator from conforming to the provisions of section 43. (1945, c. 335. 1949, c. 39; c. 349, § 23.)

Sec. 45. Inspection of motor vehicles; stickers.—Every person who is the owner or in control of a motor vehicle registered and operated upon the highways of the state shall submit such vehicles for semiannual inspection as provided for in this and the 2 following sections, to determine the proper adjustment and sufficiency of the following required equipment: brakes, lights, running gear, wheels, tires, horns, windshields, mechanical windshield wipers, rear view mirrors, reflectors and mufflers.

Such inspection shall be made during the months of April and October of each year at an official inspection station, duly appointed and certified as such by the secretary of state. If, at the time of such inspection and before the said vehicle is again operated upon the highway, the condition of said vehicle conforms in each and every respect as required by law, an official sticker as a certificate of inspection furnished by said secretary shall be placed in the upper right-hand corner of the windshield or in the center of the windshield back of the rear mirror.

Each official inspection station shall stock a sufficient number of stickers to meet their demands through the entire inspection period. These shall be furnished by the office of the secretary of state at 5¢ each. Within 30 days after the close of each inspection period, stickers on hand may be returned to the secretary of state and the purchase price refunded.

Said inspection shall not apply to motor vehicles owned and registered in another state nor to new motor vehicles being driven by a dealer or his authorized representative from the point of distribution to his place of business.

No dealer in new or used motor vehicles shall permit any such vehicle owned or controlled by him to be released for operation upon the highways until it has been inspected as herein provided and a proper sticker certifying such inspection placed thereon. If such vehicle bears thereon a certificate showing a prior inspection, the same shall be removed. The provisions of this paragraph shall not apply to sale of vehicles as junk or to those which are to be repaired and put into condition so as to pass inspection by the purchaser thereof.

The secretary of state or authorized agent or state police officer may issue a permit to owners of motor vehicles which are not inspected to enable them to move such vehicle from garage or storage place to the nearest inspection station for the purpose of complying with this law.

It shall be unlawful for any person to operate upon the highway any motor vehicle which has not been inspected and which does not bear a certificate, as provided for in this section.

The provisions of this section shall not apply to farm tractors which are manufactured as such. (R. S. c. 19, § 35. 1947, c. 63. 1951, c. 235, §§ 15, 16. 1953, c. 9.)

Sec. 46. Official inspection stations; suspension or revocation of license.—Upon written application giving such description of the garage and its equipment as may be required by the secretary of state, the secretary may license such garage as an official inspection station located as to convenience the public for the purposes of carrying out the provisions of section 45. No application for a license to operate an official inspection station shall be considered unless the garage building to be used as an inspection station shall be of suitable length and width, shall have a level floor, shall be equipped with a screen or chart or other equipment approved by the secretary of state for the purpose of testing lights and with tools and machinery necessary to make repairs to motor vehicles.

Before a license as an official inspection station is granted, the premises shall be examined by a member of the state police and the operator investigated as to his reliability and fitness for such appointment. If any person is aggrieved by the decision of a member of the state police in refusing approval, he may within 10 days thereafter appeal to any justice of the superior court, by presenting to him a petition therefor, in term time or vacation. Such justice shall fix a time and place for hearing, which may be in vacation, and cause notice thereof to be given to the chief of the state police; and after hearing such justice may affirm or reverse the decision of the member of the state police and the decision of such justice shall be final. Pending judgment of the court, the decision of the member of the state police shall remain in full force and effect.

Upon approval of an inspection station, the secretary of state shall issue a license and sign, for which he shall charge an annual fee of $2.

After hearing and determination, the secretary of state may suspend or revoke the license issued to any official inspection station. (R. S. c. 19, § 36. 1945, c. 59. 1947, cc. 106, 186. 1949, c. 37; c. 104, § 10. 1951, c. 235, §§ 17, 18.)

Sec. 47. Fee for licenses.—The operator of any official inspection station shall conduct the inspection of motor vehicles presented to him for that purpose in accordance with rules and regulations promulgated by the secretary of state, for which he shall receive a fee of 50¢ for each car inspected, this sum not to include labor or material used in correction of faults in equipment. (R. S. c. 19, § 37.)

School Buses.

Sec. 48. "School Bus" defined; descriptive sign to be attached; standards; buses to stop before crossing railroad track. — The term "school bus" includes every motor vehicle owned by a public or governmental

agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school. Buses operated by a motor carrier having a certificate of public convenience and necessity issued by the public utilities commission under the provisions of sections 1 to 18, inclusive, of chapter 48, which comply with the requirements of the commission, within a city in which such carrier is so authorized to operate, shall not be regarded as "school buses."

All school buses, as above defined, shall bear upon the front and rear thereof a plainly visible sign "School Bus" in letters not less than 4 inches in height which can be removed or covered when the vehicle is not in use as a school bus; but this provision shall not apply to public buses while transporting school children together with regular passengers. Such standard "descriptive signs" shall be furnished at cost by the department of education.

No municipality and no person or corporation employed by a municipality to convey children to and from school may use a conveyance which provides less than one linear foot of seating space for each such child.

All motor vehicles used as school buses, except the pleasure car type, so called, shall be equipped with 2 doors, one on the right side near the front of the bus to be used for all ordinary exits and entrances; the other at the rear to be equipped with a spring lock on the inside to be used only in case of emergency.

Any such motor vehicle shall be so constructed that the operator has access to the passenger compartment without leaving the vehicle, and that the exhaust pipe shall extend beyond the external rear of the body of the bus, but not beyond the bumper, and shall be entirely outside of the body, and that the gasoline tank filler, vent and drain openings shall be outside of the bus body.

All school buses as defined in this section shall be equipped with a fire extinguisher of a type and size approved by the laboratories of the National Board of Fire Underwriters. In addition to other lights required by law on each such bus, its front and rear shall be equipped with a stop light of a type approved by the secretary of state. Such light shall be clearly displayed whenever the bus stops to receive or discharge its passengers. The provisions of this section with reference to lights shall apply only to school buses with a carrying capacity of 10 or more pupils.

All school buses when carrying children shall come to a full stop before crossing any railroad track or tracks, such stop to be made at a point not more than 50 feet and not less than 10 feet from the nearest rail; and the driver thereof shall take such steps as are necessary to ascertain beyond reasonable doubt that no train, engine or car is approaching the crossing before he shall proceed to drive such bus across the track or tracks. The operator of any school bus failing to so stop shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $200; and his driver's license shall be suspended by the secretary of state for a period of not less than 2 years.

School buses with a carrying capacity of over 20 passengers must comply with the Uniform School Bus Standards. (1951, c. 235, § 19.)

See § 119, re school bus operators; § 119, re overtaking and passing school buses.

Taxation of Motor Vehicles. Aircraft.

Sec. 49. Annual excise tax; exemptions. — An excise shall be levied annually as herein provided with respect to each calendar year for the privilege of operating upon the public ways, each motor vehicle to be so operated, subject to the provisions of section 56, as follows: a sum equal to 23 mills on each dollar of the maker's list price for the 1st or current year of model, 16½ mills for the 2nd year, 12½ mills for the 3rd year, 9 mills for the 4th year, 5½ mills for the 5th year and 3 mills for the 6th and succeeding years; provided, however, that whenever an excise tax has been paid for the previous calendar

year on the same motor vehicle, the excise tax for the new calendar year shall be assessed as if the vehicle was in its next year of the model; provided, however, that persons registering under the provisions of section 67, the state and political subdivisions thereof, volunteer fire departments, bona fide dealers or manufacturers of motor vehicles, which motor vehicles are solely for the purpose of demonstration and sale and which constitute stock in trade, telephone and telegraph companies subject to the excise tax set forth in sections 125 to 132, inclusive, of chapter 16, express companies subject to the excise tax as set forth in sections 133 to 136, inclusive, of chapter 16, the vehicles of charitable, benevolent, literary and scientific organizations which are used exclusively in carrying on charitable, benevolent, literary or scientific work in this state, railroad companies subject to the excise tax set forth in sections 113 to 124, inclusive, of chapter 16, excepting however, motor buses used exclusively for the transportation of passengers for hire, shall not be subject to the excise herein provided; and provided further, that in all cases where the excise tax under the preceding provisions of this section amounts to less than $5, a minimum tax of $5 shall be levied, except that for a bicycle with motor attached the excise tax shall be $2.50; and provided further, that in respect to noncommercial vehicles on and after the 7th year of a model, the maximum amount to be levied as an excise tax under the provisions of this section shall be $10.

No motor vehicle shall be considered the property of a dealer or manufacturer and intended for demonstration and sale or to constitute stock in trade so as to be eligible for operation without the payment of the tax herein provided except such cars as are the actual property of the dealers, are stored regularly in the garage of the dealer and are not in use by any one individual regularly.

No motor truck or trailer, traveling in this state only in interstate commerce, and owned in a state wherein an excise or property tax shall have been paid on said vehicle, and which grants to Maine owned trucks and trailers the exemption herein contained, shall be subject to this excise.

Provided, however, that no amputee veteran who has been the recipient of an automobile from the United States government under authority of P. L. 663, 79th congress, as amended, or P. L. 187, 82nd congress, as amended, or any amputee veteran receiving compensation from the Veterans Administration for service connected disability who shall have a specially designed motor vehicle, shall be required to pay the annual excise tax or be otherwise in any way taxed for any one such automobile so owned by him. (R. S. c. 19, § 38. 1945, c. 342, § 1. 1947, cc. 356, 360. 1949, c. 22; c. 77, § 2; c. 87, § 1. 1951, c. 266, § 16. 1953, c. 385, § 1.)

Cited in Steves v. Robie, 139 Me. 359, 31 A. (2d) 797.

Sec. 50. Exempt from further taxation.—Any automobile or tractor owner, who has paid the excise tax on his motor vehicle for the year to a city or town as provided for in this chapter, shall be exempt from further or other taxation on said motor vehicle for that year by said city or town; provided, however, that in the case of tractors used principally on farms or in the woods, the excise tax must be paid before April 1, otherwise the owner shall be subject to a personal property tax.

In case a personal property tax is paid and later registration on a tractor is desired, the secretary of state shall accept a personal property tax receipt in lieu of an excise tax receipt. (R. S. c. 19, § 39. 1945, c. 267.)

Sec. 51. Annual excise tax on aircraft.—An excise tax shall be levied annually as herein provided with respect to each calendar year for the privilege of operating aircraft within this state. Each heavier or lighter than air aircraft so operated and owned or controlled by a resident of this state shall be subject to the tax imposed by this section. This excise tax shall be levied as follows: A

sum equal to 23 mills on each dollar of the maker's list price for the 1st or current year of model, 16½ mills for the 2nd year, 12½ mills for the 3rd year, 9 mills for the 4th year, 5½ mills for the 5th year and 3 mills for the 6th and succeeding years; and the minimum tax shall be $5. This excise tax on aircraft shall be subject to the same provisions and exemptions as apply to motor vehicles in sections 49 to 59, inclusive, which can be applied to such aircraft. (1949, c. 358. 1951, c. 264, § 1. 1953, c. 190, § 1.)

Sec. 52. Tax paid before registration.—No motor vehicle or aircraft owned or controlled by a resident of this state, excepting only motor vehicles or aircraft owned and operated by charitable, benevolent, literary or scientific organizations which are used exclusively in carrying on charitable, benevolent, literary or scientific work in the state, shall be registered under the provisions of this chapter or under chapter 24 until the owner or person controlling the same has paid the excise tax herein provided for to the city or town wherein he resides. Provided further, that a nonresident person registering a motor vehicle or aircraft in this state shall pay to the municipality of the state where he is occasionally or temporarily residing, or if there be no such residing place, then to the state the excise tax above provided; and that a foreign corporation registering a motor vehicle or aircraft in this state shall pay to the municipality of the state where said motor vehicle or aircraft is customarily kept, or if there be no such customary place of keeping, then to the state, the excise tax hereinbefore provided for. If such payment is made to the state, the secretary of state is authorized to receive the same and to give a receipt therefor, or, in the case of aircraft, the aeronautics commission is authorized to receive the same and to give a receipt therefor. (R. S. c. 19, § 40. 1951, c. 264, § 2. 1953, c. 190, § 2.)

Cited in Steves v. Robie, 139 Me. 359, 31 A. (2d) 797.

Sec. 53. Credit for tax may be transferred.—Any owner who has paid said excise tax for a motor vehicle the ownership of which is transferred, or which is subsequently totally lost by fire, theft or accident or which is subsequently totally junked or abandoned, in the same calendar year, shall be entitled to a credit to the amount of such tax towards an excise tax for another motor vehicle which may be required of him in the same calendar year and if, since payment of the excise tax on the first vehicle, the owner has by removal established a new place of residence, the said credit shall be allowed in the town in which the owner is now residing, said town to receive such additional tax as said owner may now be required to pay; provided, however, that only one such credit shall be allowed in any one calendar year. No portion of any excise tax once paid shall be repaid to any person; and from September 1st to December 31st such credit shall not exceed ½ of the amount of the original tax. (R. S. c. 19, § 41. 1947, c. 115.)

Sec. 54. Receipts issued in duplicate.—Receipts for the payment of this excise tax shall be in the form prescribed by the secretary of state. They shall be issued in duplicate, and 1 copy shall be delivered to the secretary of state, or to the aeronautics commission in the case of aircraft, at the time application is made for registration of the motor vehicle or aircraft, and filed with the application. (R. S. c. 19, § 42. 1951, c. 264, § 3.)

Sec. 55. Collection of taxes; annual report.—The collector of taxes of each city or town, or such other person as the city or town may designate, shall collect such excise tax and issue to each person paying it, the receipt therefor prescribed in section 54.

Said collector of taxes shall make his annual report to the municipal officers at the end of the municipal year, showing the total amount of excise tax collected by him and designate the amounts applying to each year. (R. S. c. 19, § 43.)

Sec. 56. Tax ½ during certain period.—The excise tax, during the period beginning with September 1st and ending with December 31st, shall be ½ of the sum named in sections 49 or 51. (R. S. c. 19, § 44. 1945, c. 378, § 15. 1949, c. 104, § 11. 1951, c. 264, § 4. 1953, c. 190, § 3.)

Sec. 57. Money raised to be accounted for; how apportioned.—Each designated city official and treasurer of each town shall keep an account of the money received by him for said excise taxes, and deposit the same in the city or town treasury monthly. Failure so to deposit shall be cause for immediate removal from office. All moneys collected in accordance with the provisions of sections 49 to 59, inclusive, shall be apportioned between such town, city and any village corporation, sewer district, fire district or other public municipal corporation, in the same manner as the moneys now collected for taxes assessed on property located within such town or city. In case the manner of apportionment between any public municipal corporations has not been otherwise determined, it shall be made by the assessors of such city or town for any year and the assessors of the other public municipal corporation concerned in such apportionment for that year. (R. S. c. 19, § 45.)

Sec. 58. Agent of county commissioners to make collections in unorganized places.—The county commissioners of each county may appoint an agent to receive the excise tax and issue the receipt prescribed therefor under the provisions of section 54 to persons residing in unorganized places in each county. Such agent shall remit said sums promptly to the county treasurer and they shall be credited as undedicated funds for the unorganized township in which the taxpayer resides. (R. S. c. 19, § 46. 1953, c. 304.)

Sec. 59. False statements to any person receiving tax.—Any person willfully making any false statement to any person charged with the duty of receiving this tax and issuing the receipt therefor, when making statement for the purpose of the levy of said tax hereunder, shall be punished by a fine of not more than $25. (R. S. c. 19, § 47.)

Operators' Licenses.

Sec. 60. Applications for operators' licenses, termination of.—No resident of the state shall operate a motor vehicle on any way, unless licensed by the state to operate such motor vehicle. Applications to operate motor vehicles shall be presented by mail or otherwise to the secretary of state upon blanks prepared under his authority, and which shall therein call for specific answers to questions of a character designed to show the experience and competency of the applicant to operate a motor vehicle; a fee of $2 shall accompany the application. Before the license is granted, an applicant shall be required to pass such physical examination and such examination by actual demonstration or otherwise as to his qualifications to operate a motor vehicle as the said secretary shall require; provided said secretary may waive such examination in the case of applicants who have been duly licensed by this state to operate a motor vehicle during any one of the 3 preceding calendar years; and no license shall be issued until the said secretary is satisfied that the applicant is a proper person to receive it. No license shall be issued to any person under 15 years of age. Any person required to take an examination to qualify him to operate a motor vehicle shall pay a fee of $1 to the secretary of state, which fee shall be paid before the examination is given and shall be applied by him for defraying the expense of giving such examination; except that any person required to take such examination because of advanced age or physical disability shall not be required to pay said examination fee of $1. A record of all applications for license and of all licenses issued shall be kept by the said secretary. Each license shall state the name, age, place of residence of the licensee and the distinguishing numbers or

marks assigned to him and may contain a brief description of the licensee for the purpose of identification and such other information as the said secretary shall deem necessary. A person to whom a license to operate a motor vehicle has been issued, unless such license contains a special limitation or restriction, may operate any registered motor vehicle. Every licensee shall indorse his usual signature upon the margin of the license before using it and no license shall be valid until so indorsed.

No person shall operate any motor vehicle on or after the 1st day of January of any year unless then duly licensed to operate such vehicle for such year.

Provided, however, that on application to the secretary of state, of any amputee veteran who has been the recipient of an automobile from the United States government under authority of P. L. 663, 79th congress, as amended, or P. L. 187, 82nd congress, as amended, or any amputee veteran receiving compensation from the Veterans Administration for service connected disability who shall have a specially designed motor vehicle, and who is otherwise qualified to operate a motor vehicle in this state, such veteran shall receive a license to operate such automobile without the requirement of the payment of any fee.

Provided further, that on application to the secretary of state, any person who is serving in the armed forces of the United States in time of war or national emergency and who is otherwise qualified to operate a motor vehicle in this state shall receive a license without the requirement of the payment of any fee. (R. S. c. 19, § 48. 1945, c. 247, § 1. 1949, c. 79, § 1; c. 104, § 12. 1951, c. 157, § 19; c. 235, § 20. 1953, c. 385, § 3.)

Cross reference.—See note to § 65 of this chapter, re right of recovery of unlicensed operator in action for negligence.

Validity of section.—The right of a state in the exercise of its police power to prescribe uniform regulations necessary for public safety and order in respect to the operation of motor vehicles on its highways has been repeatedly recognized and sustained. It includes the right to require licenses for operation of such vehicles on its ways and the charge of a fee therefor reasonably required to defray the expense of administering the regulations, or even including a reasonable charge as a fair contribution to the cost of constructing and maintaining the public highways. State v. Chandler, 131 Me. 262, 161 A. 148.

Applied in Davis v. Simpson, 138 Me. 137, 23 A. (2d) 320.

Sec. 61. Licenses issued when poll tax paid.—No person required by law to pay a poll tax in this state shall be granted a license to operate a motor vehicle until he shall present a receipt or certificate that he has paid his poll tax in the town where he resided for the year preceding that for which the license is applied for or written evidence from the taxing authority of that town that he was legally exempted therefrom or that the tax has been abated. (R. S. c. 19, § 49.)

See c. 92, § 1, re poll taxes.

Sec. 62. Minors under 18.—The secretary of state shall not grant the application of any minor under the age of 18 years for an operator's license unless such application is signed by the father of the applicant, if the father is living and has custody of the applicant, otherwise by the mother or guardian having the custody of such minor; or in the event a minor under the age of 18 years has no father, mother or guardian, then an operator's license shall not be granted to the minor unless his application therefor is signed by his employer. (R. S. c. 19, § 50.)

See § 156, re damages caused by minor.

Sec. 63. Duplicate license. — In the event that an operator's license or registration card issued under the provisions of this chapter shall be lost or destroyed, the person to whom the same was issued may obtain a duplicate or substitute thereof upon furnishing proof satisfactory to the secretary of state that such license or card has been lost or destroyed and upon payment of a fee of 25¢. (R. S. c. 19, § 51.)

Sec. 64. Special license for motorcycle. — The secretary of state shall also prepare suitable blanks for applicants for a license to operate motorcycles and he shall issue licenses to competent persons to operate motorcycles, subject to the same general requirements with respect to a license to operate a motor vehicle.

A license to operate a motor vehicle shall not authorize the licensee to operate a motorcycle, unless the license shall so specify; but licensees to operate a motor vehicle may on application be granted a license to operate a motorcycle without paying an additional fee. (R. S. c. 19, § 52.)

Sec. 65. Unlicensed persons not to operate motor vehicles. — No person shall operate a motor vehicle upon any way in this state unless licensed according to the provisions of this chapter; but the provisions of this section shall not prevent the operation of a motor vehicle by an unlicensed person, not less than 15 years of age, if riding beside a licensed operator in said vehicle for the purpose of becoming familiar with the use and handling of a motor vehicle preparatory to taking out license for driving; and provided further, that such unlicensed person has not theretofore had a license revoked, suspended or finally refused. (R. S. c. 19, § 53.)

So far as a town is concerned an unlicensed operator is not a lawful traveler unless in any particular case he is within the exception found in this section. Blanchard v. Portland, 120 Me. 142, 113 A. 18.

In actions against towns to enforce a statutory liability for defects in the highways, it is not a question of causal connection in either case between the violation of the statute and the happening of the accident; the unlicensed operator is expressly forbidden by statute to pass along the highway. Blanchard v. Portland, 120 Me. 142, 113 A. 18; Davis v. Simpson, 138 Me. 137, 23 A. (2d) 320.

Nor is a passenger in a motor vehicle driven by an unlicensed operator a lawful traveler upon the highway, so far as the town is concerned, unless the unlicensed operator is within the exception found in this section. Blanchard v. Portland, 120 Me. 142, 113 A. 18.

But an unlicensed operator is not a trespasser on the highway except as to municipalities; he is entitled to observance of due care on the part of other travelers and may recover for injuries proximately caused by the negligent acts of another (not a municipality) unless his violation of law is a proximate cause of the accident; though such violation is prima facie evidence of negligence, which may be overcome by other evidence. Davis v. Simpson, 138 Me. 137, 23 A. (2d) 320.

And an under-age operator is not a trespasser and "an outlaw" on the highway, but is burdened only with the presumption of negligence, and the triers of facts are to determine whether the evidence in the case overcomes the presumption. Davis v. Simpson, 138 Me. 137, 23 A. (2d) 320.

There is no governing distinction between the operation of a motor vehicle by a learner over fifteen when accompanied by a licensed operator and operation by one not old enough under this section to learn. Davis v. Simpson, 138 Me. 137, 23 A. (2d) 320.

Purpose of exception provision. — The exception provision in this section was evidently intended to enable an inexperienced person to learn to operate a motor vehicle by operating it under the supervision and instruction of a licensed operator. Blanchard v. Portland, 120 Me. 142, 113 A. 18.

A licensed operator must ride with the unlicensed person, under such conditions and in such proximity that he can maintain the supervision over the unlicensed person necessary for safety, and render assistance, if need be, with reasonable promptness. Blanchard v. Portland, 120 Me. 142, 113 A. 18.

Operation must be for purpose of becoming familiar with vehicle.—The unlicensed person must be operating the vehicle in company with the licensed operator "for the purpose of becoming familiar with the use and handling of a motor vehicle, preparatory to taking out license for driving"—not necessarily for the sole purpose of becoming familiar with the vehicle, but that purpose must be present in his mind. Blanchard v. Portland, 120 Me. 142, 113 A. 18.

Applied in State v. Chandler, 131 Me. 262, 161 A. 148.

School Bus Operators.

Sec. 66. School bus operators; requirements.—No person shall operate a school bus with a seating capacity of 10 or more persons in the actual conveyance of school children until he shall have complied with the following requirements:

I. Must have held a Maine operator's license for at least 1 year;

II. Must pass such examination as the secretary shall prescribe to determine his ability to operate the specific vehicle which will be driven while transporting school children or any comparable type vehicle;

III. Application for such examination must be filed with the secretary within 30 days after the commencement of such operation;

IV. A fee of $1 shall be paid to the secretary for such examination.

The operator of a school bus under the provisions of this section, on returning the children to their homes from the public school, shall discharge such children at the place where they first entered the bus to be transported to the public school, unless written notification to the contrary has been received by the operator of a school bus from the parents of such children or the person or persons having care and custody of such children. (1951, c. 384.)

See § 48, re school buses.

Reciprocity. Nonresident Privileges and Restrictions.

Sec. 67. Nonresident vehicles and operators licensed in home state may operate; reciprocity.—

I. The provisions of this chapter relative to the registration of motor vehicles, tractors and trailers and the granting of operators' licenses shall not apply to a motor vehicle, tractor or trailer owned by a nonresident, or to a nonresident operator, provided that the owner of such vehicle has complied with the provisions of law of the state, district or country of his residence relative to the registration of such vehicle and provided said operator has complied with the provisions of law of the state, district or country of his residence relative to operators' licenses.

II. The provisions of this section shall apply to a motor vehicle owned by a nonresident who has complied with the provisions of law of such state, district or country only to the extent that like privileges are granted by such state, district or country to a motor vehicle owned by a resident of this state who shall have complied with the laws of this state relative to registration of such vehicles.

III. The secretary of state shall determine what like privileges are granted by such states, districts or countries and his decision shall be final.

IV. No truck, tractor or trailer owned, leased or operated by a nonresident shall be operated under the provisions of this section in transportation of merchandise or material in intrastate commerce, nor in interstate commerce unless the point of actual receipt or delivery of any merchandise or material so transported is without the state.

Nothing in this chapter shall be construed to permit a nonresident vehicle, having a weight in excess of or equipped contrary to that allowed a similar resident vehicle, to be operated on the ways of this state.

Nothing in this section shall be construed to authorize the operation of any vehicle herein described in any manner contrary to the provisions of this chapter relating to other similar vehicles upon ways and bridges of this state. Whoever violates or fails to comply with the provisions of this section shall be punished by a fine of not more than $100, or by imprisonment for not more than 90 days,

or by both such fine and imprisonment. (R. S. c. 19, §§ 54, 135. 1945, c. 342, § 2. 1947, c. 360.)

As to validity of a former provision of this section providing that the exemption shall not apply to residents of states and countries whose laws do not require operators' licenses, see State v. Chandler, 131 Me. 262, 161 A. 148.

Cited in Steves v. Robie, 139 Me. 359, 31 A. (2d) 797.

Sec. 68. "Nonresident" defined.—The term "nonresident," as used in this chapter, shall be defined as any person whose legal residence is in some state, district or country other than Maine; but a nonresident, having a regular abode or place of business within the state for more than 6 months of the 12 months next preceding, shall be deemed a resident as to all vehicles principally used in connection with such abode or place of business; and the secretary of state, for the purposes of registration, shall determine what vehicles are so used. (R. S. c. 19, § 55. 1945, c. 342, § 3. 1947, c. 360.)

Sec. 69. Revocation or suspension for nonresident operator.—The secretary of state may suspend or revoke the right of any nonresident operator to operate in this state and may suspend or revoke the license or right of any nonresident owner to operate or have operated in this state any vehicle for the same causes and under the same conditions and in the same manner that he could take such action regarding any resident owner or operator, or vehicle owned in this state; and thereupon the right of such nonresident owner or operator to operate or have operated any such vehicle in this state shall terminate, and he shall be subject to the same penalties as any resident owner or operator who operates without license or registration.

Whenever the secretary of state is notified by the licensing or registration department of another state or country that any licensee or registrant resident therein has had his license or registration suspended, revoked or annulled, the secretary of state may forthwith suspend, revoke or terminate any right, license or registration granted to such person in this state. (R. S. c. 19, § 56.)

Cited in State v. Chandler, 131 Me. 262, 161 A. 148.

Service of Process on Nonresidents.

Sec. 70. Secretary of state attorney for service on nonresident.—The acceptance by a person who is a resident of any other state or country of the rights and privileges conferred by this chapter as evidenced by the operation, by himself or agent, of a motor vehicle thereunder, or the operation by such a person, by himself or his agent, of a motor vehicle on a public way in this state otherwise than under the provisions of said chapter, shall be deemed equivalent to an appointment by him of the secretary of state, or his successor in office, to be his true and lawful attorney upon whom may be served all lawful processes in any action or proceeding against him, growing out of any accident or collision in which such person or his agent may be involved, while operating a motor vehicle on such a way, and said acceptance or operation shall be a signification of his agreement that any such process against him which is so served shall be of the same legal force and validity as if served on him personally. Service of such process shall be made by leaving a copy thereof with a fee of $2 in the hands of the secretary of state, or in his office, and such service shall be sufficient service upon such nonresident; provided that notice of such service and a copy of the process are forthwith sent by registered mail by the plaintiff to the defendant, and the defendant's return receipt and the plaintiff's affidavit of compliance herewith are appended to the writ and are filed with the clerk of courts in which the action is pending, or that such notice and copy are served upon the defendant, if found within the state, by an officer duly qualified to serve legal process, or, if found without the state, by any duly constituted public officer qualified to serve like process in the state or jurisdiction where the defendant is

found, and the officer's return showing such service to have been made is filed in the case on or before the return day of the process or within such further time as the court may allow. The court in which the action is pending may order such continuance as may be necessary to afford the defendant reasonable opportunity to defend the action. (R. S. c. 19, § 59.)

This section is a valid exercise of the police power of the state. White v. March, 147 Me. 63, 83 A. (2d) 296.

Its policy is but a recognition that the law must keep abreast of the demands of modern science in so far as they apply to travel by automobile. There is thus provided by the exercise of the police power an efficacious remedy to promote the public safety and preserve the public health on behalf of those injured in their persons or property by the negligent use of our highways by others. White v. March, 147 Me. 63, 83 A. (2d) 296.

But the section must be strictly followed, to give the court in Maine personal jurisdiction over the defendant. White v. March, 147 Me. 63, 83 A. (2d) 296.

This section provides that the service of process shall be sufficient service upon the nonresident defendant, "provided that notice of such service and a copy of the process are forthwith sent by registered mail by the plaintiff to the defendant, and the defendant's return receipt, and the plaintiff's affidavit of compliance herewith, are appended to the writ and are filed with the clerk of courts in which the action is pending." Where this provision was not complied with, because of such defective service no jurisdiction was ever obtained over the defendant. White v. March, 147 Me. 63, 83 A. (2d) 296.

This section does not restrict the right of a nonresident plaintiff to sue in our courts. A transitory action may be brought by a nonresident plaintiff where jurisdiction over a nonresident defendant can be obtained in accordance with the principles of the common law or by substituted service in accordance with the provisions of this section. White v. March, 147 Me. 63, 83 A. (2d) 296.

And its application to nonresident plaintiffs violates no constitutional prohibition. —Even assuming that the consent upon which the constitutionality of this section is based is a fiction and that the real basis for sustaining it is the necessity of securing safety on the highways, the extension of the benefits of the section to nonresidents violates no constitutional prohibition. White v. March, 147 Me. 63, 83 A. (2d) 296.

It does not restrict venue to any particular county.—This section does not restrict the venue of the action to the county where the accident happens or to any other particular county within the state. In the absence of any specific designation of venue, the normal place to bring the action was the county of Kennebec where service of process would normally be made. A statute as important as this does not fail because no provision is made as to venue. White v. March, 147 Me. 63, 83 A. (2d) 296.

Applied in Abbott v. Zirpolo, 132 Me. 368, 171 A. 251.

Sec. 71. Plaintiff to file bond.—The plaintiff in an action brought as prescribed in the preceding section shall file with his writ in the court to which such action is returnable, a bond to the defendant with two or more sureties to be approved by the judge or clerk of said court, or with a surety company authorized to do business in this state, as surety in the sum of $100 conditioned that in the event judgment is rendered against such plaintiff so much of the penalty of said bond as may be required to saistfy any judgment for costs awarded against him shall be applied thereto, and the attorney for the plaintiff in such action against a nonresident defendant shall be liable to the defendant for his costs in the action to an amount not exceeding $50 unless and until such bond shall be filed as aforesaid. (R. S. c. 19, § 60.)

Sec. 72. If plaintiff prevails, fee taxed in costs; record of processes.—The fee of $2, paid by the plaintiff to the secretary of state at the time of the service as required by section 70, shall be taxed in his costs, if he prevails in the suit. The said secretary shall keep a record of such processes which shall show the day and hour of service. (R. S. c. 19, § 61.)

Sec. 73. Officers who serve on secretary of state.—Officers authorized to serve civil processes by statutes of this state are authorized and em-

powered to serve all processes and notices on the secretary of state required under the provisions of section 70. (R. S. c. 19, § 62.)

Sec. 74. Notice of revocation or suspension sent to state of issuance.—Notice of the revocation or suspension of the right of a nonresident owner or operator of a vehicle to operate or to have operated said vehicle in this state shall forthwith be sent by the secretary of state to the motor vehicle department of the state or country which issued his license or registration. (R. S. c. 19, § 63.)

Financial Responsibility Law.

Sec. 75. Definitions.—

I. Terms defined. As used in sections 75 to 82, inclusive, the following words shall have the following meanings:

A. "Secretary" shall mean the secretary of state or any of his deputies.

B. "Person," every person, firm, copartnership, association or corporation, but not the state or any political subdivision thereof.

C. "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 purposes of sections 75 to 82, inclusive.

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

E. "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.

F. "Certificate," the certificate of an insurance company authorized to transact the business specified in chapter 60, 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 subsection II of section 77 was commenced as respects such accident; or the certificate of a surety company authorized to transact business under the provisions of chapter 60 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 subsection II of section 77 was commenced as respects such accident. The insurance company or surety company may, at its election, specify on such certificate the expiration date of the motor vehicle liability policy or bond and, if such company elects to so provide, the policy or bond shall, on and after such date, be deemed terminated for purposes of sections 75 to 82, inclusive, unless such policy or bond is previously canceled or superseded in accordance with the provisions of subsection VI of section 81. Where no expiration date is specified on the certificate, the policy or bond shall be deemed, for the purposes of sections 75 to 82, inclusive, to continue in effect until it is canceled or superseded in accordance with the provisions of subsection VI of section 81. (1951, c. 243, § 1.)

G. "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 $10,000 on account of injury to or death of any one person, and subject to such limits as respects injury to or death of 1 person, of at least $20,000 on account of any one accident resulting in injury to or death of more than 1 person, and of at least $5,000 for damage to property of others, as herein provided, or a binder pending the issue of such policy, or an indorsement to an existing policy, as defined in subsections I, II and IV of section 80. (1953, c. 96, § 1.)

H. "Motor Vehicle Liability Bond," a bond conforming to the provisions of subsection III of section 80 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 $5,000 on account of damage to property and at least $10,000 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 $20,000 on account of any one accident resulting in injury to or death of more than one person. (1953, c. 96, § 1)

II. Secretary to administer §§ 75 to 82; court review. The secretary shall administer and enforce the provisions of sections 75 to 82, inclusive, and he is authorized to adopt and enforce such regulations as may be necessary for their administration. He is authorized to remove and destroy all records and papers in his office pertaining to the financial responsibility law which are more than 3 years old, are not in use and which in his judgment are no longer of value. Any person aggrieved by an order or act of the secretary under the provisions of said sections 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 nonresidents, 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. [1953, c. 67, § 1]. (R. S. c. 19, § 64. 1951, c. 243, § 1. 1953, c. 67, § 1; c. 96, § 1.)

Sec. 76. Proof required upon conviction for motor vehicle law violations.—

I. Suspension of licenses. Upon receipt of an abstract of the record in case of conviction of any person for a violation of the provisions of any state law relative to motor vehicles, the secretary, in his discretion, 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. (1953, c. 67, § 2.)

II. Definition of term "conviction". For purposes of sections 75 to 82, inclusive, 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. (R. S. c. 19, § 65. 1953, c. 67, § 2.)

Sec. 77. Reports.—

I. Contents of report and duty of chief of state police. Where an accident has resulted in bodily injury to or death of any person, or in property damage to an apparent extent of $100 or more, the accident report required by section 7 of chapter 15 shall contain, in a form prescribed by the secretary information to enable the secretary to determine whether the requirements for the deposit of security and proof of financial responsibility are inapplicable by reason of the existence of insurance or other exceptions specified in this section. The driver, or the person acting for him in reporting, shall furnish such additional relevant information as the secretary shall require. Immediately after receipt of any accident report required by section 7 of chapter 15, the chief of the state police shall forward said report to the secretary. The secretary may rely upon the accuracy of the information unless and until he has reason to believe that the information is erroneous. (1951, c. 243, § 2.)

II. Security and proof of financial responsibility required following accident.

A. Upon receipt by the secretary of the report of any 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, for 3 years next following the date of filing the proof as provided under the provisions of subsection II of section 81, as specified in the following paragraph. (1953, c. 67, § 3)

B. Upon receipt by him of the report of an accident other than as provided for in paragraphs A and C of this subsection, which has resulted in bodily injury, or property damage to an apparent extent of $100 or more, the secretary shall, 30 days following the date of request for compliance with the 2 following requirements, 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 as hereinbefore provided. [1953, c. 67, § 3]. (1945, c. 134. 1949, c. 427. 1953, c. 67, § 3)

C. 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 as hereinbefore provided. (1953, c. 67, § 3)

D. Upon receipt of notice from the secretary which contains information that a motor vehicle liability policy was carried at the time of the accident, the insurance carrier shall within 15 days notify the secretary in such manner as he may require in case such policy was not in effect at the time of such accident. Where erroneous information with respect to the existence of insurance or other exceptions specified in this section is furnished to the secretary, he shall take appropriate action as above provided after the receipt by him of correct information with respect to such coverage or other exceptions. (1951, c. 243, § 3)

E. Any person whose operator's license or registration certificates and registration plates have been suspended as provided in this section and have not been reinstated shall immediately return every such license, registration certificates and registration plates to the secretary of state. Any person, who, after notice of such suspension, fails or refuses to return every such license, registration certificates and registration plates to the said secretary may, upon conviction, be punished by a fine of not more than $25. (1947, c. 140, § 1. 1951, c. 243, § 4)

F. The secretary, upon any reasonable ground appearing on the records in his office, may suspend or revoke the operator's license of any person and may suspend or revoke any and all of the registration certificates and registration plates for any motor vehicle and may refuse to issue to any such person any license or to register in the name of such person any motor vehicle unless and until such person gives proof of his financial responsibility for such period as the secretary may require. (1953, c. 67, § 4)

III. 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 the provisions of sections 75 to 82, inclusive. Proof of responsibility as prescribed in subsection I of section 81 shall in all cases be deemed sufficient security hereunder.

IV. 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 1 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.

V. Limitation. The provisions of subsection II of this section shall not apply:

A. 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;

B. 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 that neither such owner nor operator caused the accident;

C. 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;

D. 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.

E. To any person involved in an accident while operating a motor vehicle licensed by the public utilities commission of this state, or while operating a motor vehicle, trailer or semi-trailer covered by a motor vehicle liability policy, so long as the owner of the motor vehicle so operated by such operator shall maintain proof of financial responsibility in the future as provided in section 81. The secretary of state may issue a restricted license to operate a motor vehicle to such operator.

F. To the owner or licensed operator of a motor vehicle, trailer or semi-trailer involved in an accident if the said motor vehicle, trailer or semi-trailer at the time of the accident was insured by the owner thereof under a motor vehicle liability policy as defined by this chapter. (1945, c. 346)

G. To the operator of a motor vehicle, trailer or semi-trailer involved in an accident if at the time such motor vehicle, trailer or semi-trailer was owned by the state of Maine or any political subdivision thereof or was owned by a corporation which has complied by the method provided in paragraph C of subsection II of section 81. (1947, c. 140, § 2)

VI. Suspension; duration. The suspension required in subsection II of this section 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 as hereinbefore provided. If the aggrieved or injured person or his legal representative shall not have brought suit within 1 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 as hereinbefore provided. A discharge in bankruptcy shall not relieve the judgment debtor from any of the requirements of sections 75 to 82, inclusive. (1953, c. 67, § 5)

VII. Penalty. Any person who gives information required in a report or otherwise as provided for in this section, knowing or having reason to believe such information is false, shall be punished by a fine of not more than $500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. [1951, c. 243, § 5]. (R. S. c. 19, § 66. 1945, cc. 134, 346. 1947, c. 140, §§ 1, 2. 1949, c. 427. 1951, c. 243, §§ 2, 3, 4, 5. 1953, c. 67, §§ 3, 4, 5.)

Sec. 78. Payments sufficient to satisfy requirements.—Every judgment herein referred to shall, for the purposes of sections 75 to 82, inclusive, be deemed satisfied:

I. When $10,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of 1 person as the result of any one accident; or (1953, c. 96, § 2)

II. When, subject to such limit of $10,000 because of bodily injury to or death of 1 person, the sum of $20,000 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 (1953, c. 96, § 2)

III. When $5,000 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 purposes of sections 75 to 82, inclusive.

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. [1953, c. 96, § 2]. (R. S. c. 19, § 67. 1953, c. 96, § 2.)

Sec. 79. Action against nonresident.—All of the provisions of sections 75 to 82, inclusive, 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 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 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. (R. S. c. 19, § 68. 1953, c. 67, § 6.)

Sec. 80. Bonds.—

I. Policy form; liability, bond. No motor vehicle liability policy, as de-

fined in section 75, 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 and address 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 sections 75 to 82, inclusive. (1951, c. 243, § 6)

II. Required provisions. A motor vehicle liability 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 company to make payment on account of said loss or damage. No such contract of insurance shall be canceled or annulled by any agreement between the company 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 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.

B. The policy, the written application therefor, if any, and any rider or endorsement, which shall not conflict with the provisions of sections 75 to 82, inclusive, shall constitute the entire contract between the parties.

C. 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.

D. 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 the provisions of sections 75 to 82, inclusive, as shall be required by the insurance commissioner.

E. 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 75, 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.

III. Liability bonds. The provisions of subsections I and II of this section, except paragraphs A, B and C of subsection II, shall apply to motor vehicle liability bonds, as defined in section 75, 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.

IV. Prohibition. No motor vehicle liability policy other than that defined in section 75 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 sections 75 to 82, inclusive, 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 sections 75 to 82, inclusive. (R. S. c. 19, § 69. 1951, c. 243, § 6.)

Sec. 81. Proof of financial responsibility.—

I. 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 $10,000 because of bodily injury or death to any one person, and subject to said limit respecting 1 person, in the amount of $20,000 because of bodily injury to or death to two or more persons in any one accident, and in the amount of $5,000 because of injury to and destruction of property in any one accident. Whenever required under the provisions of sections 75 to 82, inclusive, such proof in such amounts shall be furnished for each motor vehicle, trailer or semi-trailer registered by such person. (1953, c. 96, § 3.)

II. Methods of giving proof. Proof of financial responsibility when required under the provisions of sections 75 to 82, inclusive, may be given by any of the following methods:

A. By filing with the secretary a certificate, as defined in section 75, of an insurance company or of a surety company; or

B. By the deposit of money or securities as provided in subsection III of this section; or

C. By satisfying the secretary that any corporation has financial ability to comply with the requirements of sections 75 to 82, inclusive.

III. 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 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 the provisions of sections 75 to 82, inclusive. 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 said sections but shall not otherwise be subject to attachment or execution.

IV. 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.

V. 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 the provisions of sections 75 to 82, inclusive.

VI. Cancellation of policy or bond. No motor vehicle liability policy or bond certified as proof of financial responsibility pursuant to paragraph A of subsection II of this section shall be canceled until at least 10 days after notice of cancellation of the insurance or bond so certified shall be filed in the office of the secretary, except that such a policy or bond subsequently procured and certified shall, on the effective date of its certification, terminate the insurance or bond previously certified with respect to any motor vehicle designated in both certificates. (1951, c. 243, § 7.)

VII. Operating without giving proof. Any person whose operator'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 under the provisions of sections 75 to 82, inclusive, 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. [1951, c. 243, § 8]. (R. S. c. 19, § 70. 1951, c. 243, §§ 7, 8. 1953, c. 96, § 3.)

Sec. 82. Limitation and saving clauses.—

I. Limitation. The provisions of sections 75 to 82, inclusive, shall not be construed to prevent the plaintiff in any action at law from relying upon the other processes provided by law.

II. Saving clause. Nothing in sections 75 to 82, inclusive, shall affect any right or remedy accrued or liability to penalty incurred before July 26, 1941 under the provisions of sections 91 to 98, inclusive, of chapter 29 of the revised statutes of 1930, and amendments thereto. (R. S. c. 19, § 71.)

Law of the Road.

Sec. 83. Teams meeting shall turn to right.—When persons traveling with a team are approaching to meet on a way, they shall seasonably turn to the right of the middle of the traveled part of it so that they can pass each other without interference. When it is unsafe, or difficult on account of weight of load to do so, a person about to be met or overtaken, if requested, shall stop a reasonable time, at a convenient place, to enable the other to pass. (R. S. c. 19, § 72.)

Rules are applicable to motor and animal-drawn vehicles.—These rules of conduct and responsibility on the road apply to vehicles moved by animal power. They must accordingly be applied with emphasized severity to vehicles weighing tons, capable of great speed and propelled by mechanical power. Bragdon v. Kellogg, 118 Me. 42, 105 A. 433.

Violation is prima facie evidence of negligence.—Violation of the law of the road is prima facie evidence of negligence on the part of the person disobeying it. Dansky v. Kotimaki, 125 Me. 72, 130 A. 871;

Bolduc v. Garcelon, 127 Me. 482, 144 A. 395; Bennett v. Lufkin, 147 Me. 216, 85 A. (2d) 922.

The design of this law is to prevent travelers, when going on the road in opposite directions from obstructing each other, or so interfering as to produce injury or expose them to danger. Palmer v. Barker, 11 Me. 338.

The word "team" now includes an automobile, and this section is thus applicable now to this class of vehicles. Bragdon v. Kellogg, 118 Me. 42, 105 A. 433; American Mutual Liability Ins. Co. v. Witham, 124 Me. 240, 127 A. 719.

Section defines what driver shall do and may expect of others.—This section provides, in its application to present day traffic, what course shall be pursued by a motor vehicle when approaching to meet another; it defines what each driver shall himself do, and may expect of others, these being among the purposes of the law of the road. Morin v. Carney, 132 Me. 25, 165 A. 166.

Both travelers must use ordinary care.—Unless in some special cases, each traveler is bound to pass to the right of the centre of the traveled road, when two are traveling in contrary directions and are nearly approaching and about passing each other. In so doing, both are bound to use ordinary care and caution. Palmer v. Barker, 11 Me. 338.

But section applies only when vehicles are "approaching to meet."—The statutory rule commanding a turning to the right applies only where one vehicle is "approaching to meet" another. Gravel v. Roberge, 125 Me. 399, 134 A. 375.

Otherwise one may travel on any part of road.—When no person is passing, or about to pass in an opposite direction, one may travel upon any part of the traveled road which suits his pleasure or convenience, but when teams are approaching to meet, the law requires them seasonably to turn to the right of the middle of the traveled part of the road. Neal v. Rendall, 98 Me. 69, 56 A. 209.

A man may travel in the middle or on either side of the traveled road, when no person is passing or about to pass in an opposite direction. Palmer v. Barker, 11 Me. 338.

And may cross road for purpose of making turn.—A traveler may pass on the left side of the road or across the same, for the purpose of turning up to a house, store or other object on that side of the road; but in so doing he must not interrupt or obstruct a man lawfully passing on that side, which would be in a direction, in a degree contrary to him; if he does, he acts at his peril, and must answer for the consequences of such violation of his duty. In such circumstances he must pass before, or wait till after such person has passed on. Palmer v. Barker, 11 Me. 338.

But driver approaching corner or curve must keep to right.—Each party driving a car, fast or slow, approaching a street corner or a curve or bend in the road, whether the corner or the curve is blind or visible, should keep to the right of the middle of the traveled part of the road. Bragdon v. Kellogg, 118 Me. 42, 105 A. 433.

This section is mandatory when it says travelers must "seasonably turn" to the right. Bragdon v. Kellogg, 118 Me. 42, 105 A. 433.

"Seasonably turn" means that travelers shall turn to the right in such season that neither shall be retarded in his progress, by reason of the other occupying his half of the way, which the law has assigned to his use, when he may have occasion to use it in passing. In short, each has an undoubted right to one-half of the way whenever he wishes to pass on it, and it is the duty of each, without delay, to yield such half to the other. Neal v. Rendall, 98 Me. 69, 56 A. 209; Bragdon v. Kellogg, 118 Me. 42, 105 A. 433. See American Mutual Liability Ins. Co. v. Witham, 124 Me. 240, 127 A. 719.

And in season to prevent collision.—This section means that drivers must turn in season to prevent a collision, and the one who fails to obey this mandate is prima facie guilty of negligence, and must sustain the burden of excusing his presence upon the wrong side of the road. Bragdon v. Kellogg, 118 Me. 42, 105 A. 433; Burtchell v. Willey, 147 Me. 339, 87 A. (2d) 658.

Violation of section is strong evidence of negligence.—The fact that a party was at the left of the road at the time of the collision is strong evidence of carelessness, and, unexplained and uncontrolled, it would not only be strong but conclusive evidence of carelessness. It is competent evidence of negligence to be submitted to a jury. Neal v. Rendall, 98 Me. 69, 56 A. 209; Bragdon v. Kellogg, 118 Me. 42, 105 A. 433; American Mutual Liability Ins. Co. v. Witham, 124 Me. 240, 127 A. 719. See Atherton v. Crandlemire, 140 Me. 28, 33 A. (2d) 303.

If, by neglecting to attend to the duty imposed by this section, one of the travelers is injured in his person or property,

he can have no remedy against any one; and if he so injures the other, he is liable to him in damages for the injury his wrong has occasioned. Palmer v. Barker, 11 Me. 338.

But is not negligence per se.—It is not negligence per se for a traveler with a team not to seasonably turn to the right of the middle of the traveled part of the way when another team is approaching, so far that they can pass each other without interference. Neal v. Rendall, 98 Me. 69, 56 A. 209.

Such violation raises only prima facie presumption of negligence.—The fact that a vehicle is shown to have been on the left of the road when it approached another vehicle raises a prima facie presumption of negligence. Procedurally, then, it is for the defendant, in reference to the point to which the presumption relates, to go forward with the evidence. But prima facie presumptions are open to explanation. Callahan v. Amos D. Bridges Sons, 128 Me. 346, 147 A. 423.

The presumption of negligence arising from violation of this section is not conclusive. The law of the road is not an inflexible criterion by which to determine the question of negligence. Neal v. Rendall, 98 Me. 69, 56 A. 209.

Negligence must arise from failure to use ordinary care under all circumstances.—Notwithstanding the statutory duty to turn to the right of the middle of the traveled way, the defendant had the right to be upon any part of the road, and his negligence must arise out of his failure to exercise ordinary care under all the circumstances. Neal v. Rendall, 98 Me. 69, 56 A. 209.

Thus in case of emergency swerving to wrong side of road is not negligence. Bragdon v. Kellogg, 118 Me. 42, 105 A. 433.

Applied in Kennard v. Burton, 25 Me. 39; Skene v. Graham, 114 Me. 229, 95 A. 950; Sylvester v. Gray, 118 Me. 74, 105 A. 815; Brown v. Sanborn, 131 Me. 53, 158 A. 855.

Stated in Field v. Webber, 132 Me. 236, 169 A. 732.

Cited in Cobb v. Cumberland County Power & Light Co., 117 Me. 455, 104 A. 844.

Sec. 84. Stationary vehicles; animal drawn vehicles to be fastened.—No person shall leave his vehicle stationary on a way so as to obstruct the free passage of other vehicles; or allow an animal drawn team to be in the way unattended unless it is reasonably fastened. (R. S. c. 19, § 74.)

Cited in Cobb v. Cumberland County Power & Light Co., 117 Me. 455, 104 A. 844.

Sec. 85. Vehicles shall keep to right. — A person in control of any vehicle moving slowly along a way shall keep said vehicle as closely as practicable to the right-hand boundary of the way, allowing more swiftly moving vehicles reasonably free pasage to the left. (R. S. c. 19, § 75.)

Sec. 86. Right of way at intersecting ways and at entrances of private roads to public ways.—All vehicles shall have the right of way over other vehicles approaching at intersecting public ways from the left and shall give the right of way to those approaching from the right; except that traffic officers stationed at such intersections may otherwise regulate traffic thereat. The driver of a vehicle entering a public way from a private road shall yield the right of way to all vehicles approaching on such public way. "Private road" as used in this section shall be construed to include a private road, a private way of any description, an alleyway or a driveway. (R. S. c. 19, § 77. 1951, c. 213.)

Cross reference.—See c. 91, & 86, sub-§ VI, re purposes for which towns may pass by-laws, etc.

The purpose of this section is care, commensurate with the necessity for care, for the assurance of safety. Fitts v. Marquis, 127 Me. 75, 140 A. 909.

A right of way, like a burden of proof, will establish precedence when rights might otherwise be balanced. Fitts v. Marquis, 127 Me. 75, 140 A. 909.

But this "law of the road" creating the right of way is not absolute, does not afford an inflexible standard by which to decide questions which arise over collisions at intersection, does not confer the right of way without reference to the distance of the vehicles from the intersection point,

their speed, and respective duties, and does not give precedence under all circumstances to a vehicle on the right against one from the left. Fitts v. Marquis, 127 Me. 75, 140 A. 909; Gold v. Portland Lumber Corp., 137 Me. 143, 16 A. (2d) 111.

And does not free driver having right of way from duty of exercising care.—The rule of the road laid down in this section is not an absolute rule which frees a driver of a motor vehicle at intersecting streets from observing the ordinary rules of due care with respect to a motor vehicle approaching on his left. Petersen v. Flaherty, 128 Me. 261, 147 A. 39. See Dansky v. Kotimaki, 125 Me. 72, 130 A. 871.

Though this involves waiving right of way.—No driver, and especially no driver of an automobile, has leave to approach an intersection without using reasonable watchfulness and caution to have his vehicle under control. If a situation indicates collision, the driver, who can do so by the exercise of ordinary care, should avoid doing injury, though this involves that he waive his right of way. The supreme rule of the road is the rule of mutual forbearance. Fitts v. Marquis, 127 Me. 75, 140 A. 909; Gold v. Portland Lumber Corp., 137 Me. 143, 16 A. (2d) 111.

Nor does section require driver to stop whenever another vehicle approaches from right.—This section does not compel a driver at intersecting streets to stop whenever a motor vehicle is approaching on his right, but too far away to reach the intersection until he has crossed. Only when the motor vehicle approaching on the right, traveling at a lawful rate of speed, will enter the intersection before he can cross and a collision might follow, if he did not stop or slow down, does the rule apply. Petersen v. Flaherty, 128 Me. 261, 147 A. 39; Gold v. Portland Lumber Corp., 137 Me. 143, 16 A. (2d) 111.

But he must stop if there is doubt safe crossing can be made.—If there is doubt that a safe crossing may be made, reasonable care requires the driver coming in from the left to stop. Gregware v. Poliquin, 135 Me. 139, 190 A. 811; Gold v. Portland Lumber Corp., 137 Me. 143, 16 A. (2d) 111.

When a reasonably prudent man driving a vehicle on a public street, and approaching another street on which is a vehicle coming from his right, might otherwise be in doubt whether his or the other vehicle should go through the intersection first, the injunction of this section operates that he yield to that other. Fitts v. Marquis, 127 Me. 75, 140 A. 909.

Occasions will obviously arise when quick decision must be exercised by the driver approaching on the left. If doubt exists in his mind, reasonable care requires him to stop; but if, through failure to exercise good judgment or reasonable care, he enters the intersection, the driver approaching on the right must still use due care and all reasonable means within his power to avoid a collision. Petersen v. Flaherty, 128 Me. 261, 147 A. 39.

Nothing else appearing, a breach of this section creates a presumption of negligence on the part of the offending driver. Gregware v. Poliquin, 135 Me. 139, 190 A. 811. See Fitts v. Marquis, 127 Me. 75, 140 A. 909; Gold v. Portland Lumber Corp., 137 Me. 143, 16 A. (2d) 111.

But does not establish absolutely defendant's liability.—A violation of this section does not establish absolutely the defendant's liability. But, nothing else appearing, it sustains the burden of proving the defendant's negligence, which burden primarily rested upon the plaintiff. It creates a presumption in favor of the plaintiff which the defendant must overcome if he would prevail. Dansky v. Kotimaki, 125 Me. 72, 130 A. 871.

Section held inapplicable.—See Woodworth v. Lafoy, 139 Me. 297, 30 A. (2d) 20.

Applied in Goodwin v. McAllister, 135 Me. 512, 197 A. 557; Campbell v. Langdo, 139 Me. 188, 28 A. (2d) 311; Hill v. Janson, 139 Me. 344, 31 A. (2d) 236.

Cited in Smith v. Elliott, 122 Me. 126, 119 A. 203.

Sec. 87. Traffic-control signals regulated.—Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution" or "Stop," or exhibiting different colored lights successively one at a time, or in combination, or with arrows, the following colors only shall be used and said terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

I. Green alone or "Go."

A. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn; but vehicular traffic shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

B. Pedestrians facing the signal may proceed across the roadway within any crosswalk.

II. Yellow alone or "Caution" when shown following the green or "Go" signal.

A. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection but, if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

B. Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway and any pedestrian then starting to cross shall yield the right of way to all vehicles.

III. Red alone or "Stop."

A. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line and shall remain standing until green or "Go" is shown alone.

B. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

IV. Red with green arrow.

A. Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

B. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

V. Whenever flashing red or yellow signals are used, they shall require obedience by vehicular traffic as follows:

A. Flashing red (stop signal). When a red lens is illumined by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

B. Flashing yellow (caution signal). When a yellow lens is illumined with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

VI. Red and yellow (pedestrian signal). While the red and yellow lenses are illumined together, drivers shall not enter the intersection and the intersection shall be reserved for the exclusive use of pedestrians. (1949, c. 229.)

Sec. 88. "Through ways" designated.—For the purposes of this section, the state highway commission may from time to time designate certain state and state aid highways as "through ways," and may after notice revoke any such designation. The municipal officers of any city, village or town may designate certain other ways under their jurisdiction as "through ways" and may after notice revoke such designation. No such designation of a through way shall become effective as to regulation of traffic at such a point of intersection until said commission or municipal officers shall have caused suitable warning signs or signals to be erected at or near such point. Such signs and signals shall be prima facie evidence that said signs and signals were erected in accordance with the provisions of this section. For the purposes of this section, a way joining a through way at an angle, whether or not it crosses the same, shall be deemed to intersect it, and the word "way," unless the context otherwise requires, shall include a through or other way. The state highway commission or municipal officers may also designate any intersection under their respective jurisdictions as a stop in-

tersection and erect stop signs at one or more entrances. The same rules and penalties shall apply in regard to these stop signs as are in effect for stop signs at "through ways."

The state highway commission and municipal officers, in their respective jurisdictions, may erect standard signs requiring vehicles, or drivers of vehicles, to "yield" the right of way at certain intersections, including approaches to through ways or previously designated "Stop" intersections where it is expedient to allow traffic to move through or into the intersection at a reasonable speed for existing conditions of traffic and visibility, in no case greater than 15 miles per hour, yielding the right of way to all vehicles or pedestrians approaching from either direction on the intersecting street which are so close as to constitute an immediate hazard.

Any person who violates the provisions of this section and any person who removes, destroys, damages or defaces any sign or signal erected by or under the direction of the state highway commission as herein provided shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $50, or by imprisonment for not more than 60 days, or by both such fine and imprisonment. (R. S. c. 19, § 78. 1947, c. 98. 1949, c. 146. 1951, c. 292, § 1. 1953, c. 230, § 1.)

Cross reference.—See note to § 89 of this chapter.

Signs and signals are evidence of erection in accordance with law.—See Crockett v. Staples, 148 Me. 55, 89 A. (2d) 737.

Sec. 89. Vehicles on "through ways" have right of way; stop signs.—Every vehicle approaching on a through way to point of its intersection with a way other than a through way so as to arrive at such point at approximately the same instant as a vehicle approaching on such other way shall as against such other vehicle have the right of way, and every vehicle immediately before entering or crossing a through way at its point of intersection with another way shall first come to a full stop, provided that whenever a traffic officer is stationed at such point, he shall have the right to regulate traffic thereat.

The driver of a vehicle shall likewise stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at one or more entrances thereto although not a part of a through highway and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed.

The driver of any vehicle who, after driving past a "yield right of way" sign, collides or interferes with the movement of a vehicle or pedestrian proceeding on the intersecting street shall be deemed prima facie in violation of this section. (R. S. c. 19, § 79. 1949, c. 144. 1953, c. 230, § 2.)

The purpose of this section and § 88 of this chapter is to give travelers on specially designated through ways the right of way over all vehicles entering or crossing such through ways. This abrogates the general rule in many instances. Hill v. Janson, 139 Me. 344, 31 A. (2d) 236.

Sections 88 and 89 of this chapter do not modify the statutory requirements in regard to speed in approaching an intersection. They merely relate to the right of way at intersection of a designated through way. Keller v. Banks, 130 Me. 397, 156 A. 817.

Undue reliance on right of way as contributory negligence.—That undue reliance on the grant of right of way contained in this section may be evidence of contributory negligence in the event of collision between an automobile on the through way and one entering from a side road, see Crockett v. Staples, 148 Me. 55, 89 A. (2d) 737.

Applied in Stairs v. Quincy, 139 Me. 133, 27 A. (2d) 911.

Sec. 90. Solicitation of transportation in motor vehicles forbidden.—It shall be unlawful for any person while upon any public highway, or the right-of-way of any public highway, to endeavor by words, gestures or otherwise, to

beg, invite or secure transportation in any motor vehicle not engaged in passenger carrying for hire, unless said person knows the driver thereof or any passenger therein. Provided nothing in this section shall prohibit the solicitation of aid in the event of accidents or by persons who are sick or seeking assistance for the sick; and provided furthermore, that the exception for sickness shall apply only in cases of bona fide sickness in which an emergency exists.

Any person violating any of the provisions of this section shall be punished by a fine of not more than $50, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. (R. S. c. 19, § 80.)

Sec. 91. Interruption of traffic for certain purposes prohibited. — Whoever, for the purpose of soliciting any alms, contribution or subscription or of selling any merchandise or ticket of admission to any game, show, exhibition, fair, ball, entertainment or public gathering, signals a moving vehicle on any highway, or causes the stopping of a vehicle thereon, or accosts any occupant of a vehicle stopped thereon at the direction of a police officer or signalman, or of a signal or device for regulating traffic, shall be punished by a fine of not more than $50, or by imprisonment for 30 days in jail. (R. S. c. 19, § 81.)

Sec. 92. Police and fire department vehicles and ambulances have right of way.—Police, fire department, traffic emergency repair vehicles and ambulances, when operated in response to calls, shall have the right of way; and on the approach of any such vehicle the driver of every other vehicle shall immediately draw his vehicle as near as practicable to the right-hand curb and parallel thereto and bring it to a standstill until such public service vehicles have passed. The person in control of a street car shall also immediately stop said car upon the approach of fire apparatus and keep it stationary until such apparatus has passed. (R. S. c. 19, § 83.)

Exemption extends to signal lights and other devices.—In answering emergency calls a fire department vehicle, having the right of way, is exempt from the operation of traffic regulations. Reason and authority dictate that the exemption should be extended to regulations controlling the movement of traffic by signal lights or other means or devices. Russell v. Nadeau, 139 Me. 286, 29 A. (2d) 916.

Section applies to fire department vehicle answering call outside home limits.— The rights possessed by a fire department under this section while acting within its home jurisdiction in the performance of its important and necessary service obtain as well when reasonably engaged in that kind of service outside its home limits. The needs are the same, whether the call comes from within or without the city. McCarthy v. Mason, 132 Me. 347, 171 A. 256.

The fire chief's car is within this section as a fire department vehicle. McCarthy v. Mason, 132 Me. 347, 171 A. 256.

Driver not relieved from duty of exercising due care.—The right of way given to public service vehicles and their exemption from traffic regulations, however, do not relieve their operators from the duty of exercising due care to prevent injury to themselves and others lawfully upon the ways. Russell v. Nadeau, 139 Me. 286, 29 A. (2d) 916. See McCarthy v. Mason, 132 Me. 347, 171 A. 256.

Driver of other vehicle must know that public service vehicle is approaching.—To impose upon the driver of every other vehicle the duty to immediately draw it to the right hand curb and stop until a public service vehicle responding to a call has passed, he must know or in the exercise of ordinary prudence should know that a public service vehicle is approaching in response to a call and he must have a reasonable opportunity to draw to the curb and stop. Russell v. Nadeau, 139 Me. 286, 29 A. (2d) 916.

Sec. 93. Teams conveying passengers not to be left unattended; brakes to be set on stationary motor vehicle.—No driver of a team having passengers therein conveyed for hire shall leave it without a person in charge or without fastening it securely; and no person having control or charge of a motor vehicle shall allow such vehicle to stand upon any way and remain unattended without effectively setting its brakes. (R. S. c. 19, § 84.)

Sec. 94. Height and width of motor vehicles and trailers limited.—No motor vehicle or trailer which with or without load is wider than 96 inches over all shall be operated upon any way or bridge; except that motor vehicles or trailers hauling firewood, pulpwood, logs or bolts may be operated on any way or bridge if the width of the load does not exceed 102 inches; provided, however, that a strip 3 inches thick shall extend along the sides of the platform securely fastened to the platform of the vehicle or trailer in order that the load shall pitch to the center of said vehicle or trailer; and provided further, that each vehicle or trailer shall carry a solid-boarded tailboard or 5 stakes evenly spaced of sufficient strength to maintain the weight of the load, and such load at no place along its length shall be higher than the tailboard or stakes. No motor vehicle or trailer any structural part of which, permanent or temporary, is more than 12 feet 6 inches in height measured vertically from a plane and level surface of ground or pavement shall be operated upon any way or bridge; provided, however, that the load on any motor vehicle or trailer may extend 1 foot 6 inches above the maximum permissible structural height of such motor vehicle or trailer. No such motor vehicle or trailer shall be operated over any section of way which does not afford adequate structural overhead clearance. No portion of any such vehicle or load, except the reflecting mirror required by this chapter, shall project beyond the side of such vehicle to make a total width greater than herein specified. Provided, however, that the provisions of this section shall not apply to snow plows and equipment used exclusively for the removal of snow or to construction equipment the uses of which are confined to the limits of highway and bridge construction projects; and provided also, that the provisions of this section shall not be construed as limiting the width of a load of loose hay, pea vines or cornstalks. (R. S. c. 19, § 85. 1947, c. 348, § 4; c. 378. 1949, c. 349, § 24.)

Applied in State v. Stairs, 143 Me. 245, 60 A. (2d) 141.

Sec. 95. Binding of long logs, lumber and timber.—No motor vehicle or trailer while being used to transport a load of long logs, lumber or timber, the height of which load is greater than 8 feet, shall be operated over any way or bridge unless each such load on each such unit is bound by 3 chains and binders. Provided, however, that if the height of such load is less than 8 feet, and more than 30 inches, such load shall be bound by 2 chains and binders. Said chains shall be made of not less than 3/8 of an inch wire and said chains and binders shall be held firmly in place and properly spaced to secure the load. (1953, c. 387.)

Sec. 96. Injurious substances not to be placed on any way or bridge; loads securely fastened. — No person shall throw or place, or cause to be thrown or placed upon any way or bridge, any tacks, nails, wire, scrap metal, glass, crockery or other substance injurious to the feet of persons or animals or to tires or wheels of vehicles. Whoever accidentally, or by reason of an accident, drops from his hand or a vehicle any such substance upon any way or bridge shall forthwith make all reasonable efforts to clear such way or bridge of the same.

No person shall operate or cause to be operated upon any public way a vehicle with a load, unless such load is fastened, secured, confined or loaded to prevent any danger, reasonably to be anticipated, of any portion of said load from falling to the ground. The word "load" as used in this paragraph shall include, but shall not be limited to, firewood, pulpwood, logs, bolts or other material, but shall not include loose hay, pea vines, straw, grain or cornstalks. (R. S. c. 19, § 86. 1949, c. 362.)

Cross reference.—See c. 137, § 31, re throwing of bottles, etc., on highways.

Cited in Wilde v. Madison, 145 Me. 83, 72 A. (2d) 635.

Sec. 97. Certain vehicles not to be operated on roads and bridges without special permit.—No vehicle, engine, contrivance or object shall be moved upon or over any way or bridge upon wheels, rollers or otherwise in excess of the lengths or widths or heights or weights prescribed in this chapter without obtaining a permit in accordance with section 98, provided, however, that nothing in this chapter shall prevent the transportation of poles by means of a combination of a tractor and semi-trailer without regard to the overall length of the vehicle and load; nor shall any vehicle, engine, team or contrivance of whatever weight be moved upon or over any way or bridge which has any flange, rib, clamp or other object attached to its wheels, or made a part thereof, likely to bruise or injure the surface of such way or bridge, without permit obtained as provided in this chapter. Mowing machines, light farm tractors, not customarily operated over public ways, and other lightweight farming vehicles are exempted from the provisions of this section. This secton shall not be construed to prohibit the use of tire chains of reasonable proportions on vehicles when required for safety because of snow, ice or other conditions tending to cause such vehicle to slide or skid. Provided, however, that this section shall not apply to ways open to the public, privately owned or maintained, or to the use of such ways by those owning or maintaining them. (R. S. c. 19, § 87. 1945, c. 74.)

Cross reference.—See § 102, re penalty.

Applied in State v. Hughes, 129 Me. 378, 152 A. 315.

Sec. 98. Permits for moving heavy objects over ways and bridges; jurisdiction; permits limited.—Jurisdiction is vested in the state highway commission to grant emergency permits upon proper application in writing to move objects having a length or width or height or weight greater than specified in this chapter over any way or bridge maintained by the state highway commission; and like permits may be granted by county commissioners, municipal officers, superintendents of streets or other road officials having charge of the repair and maintenance of any other way or bridge. The fee for such permits shall be not less than $2, nor more than $10, to be determined, on the basis of weight, height, length and width, by the state highway commission. All vehicles granted emergency permits under this section, because object to be moved is over legal maximum weight, must first be registered or hold a short-term permit for the maximum legal gross weight allowed with such vehicle.

Said permits shall be issued to cover the emergency or purpose stated in the application and shall be limited as to the particular objects to be moved and the particular ways and bridges which may be used, but permits for stated periods of time may be issued for loads and suitable equipment employed upon public highway construction projects, United States government projects or private construction of private ways, when such loads or equipment are operated within construction areas established by the commission.

Permits must also be procured from the municipal officers of any town or city, in case the construction area encompasses said town or city, said permits to further provide that the contractor be responsible for damage to any roads which may be used in said construction areas and may provide for withholding by the agency contracting for the work of final payment under any contract, or may provide for the furnishing of a bond by the contractor to guarantee suitable repair or payment of damages, the suitability of repairs or the amount of damage to be determined by the state highway commission on state maintained ways and bridges, otherwise by the municipal officers.

Said permits may be granted by the state highway commission or by the state engineer in charge of the construction contract and no further approval by the state highway commission shall be deemed necessary.

The permit for construction areas shall carry no fee and shall not come within the scope of the first paragraph of this section.

Provided, however, that the state highway commission, in respect to state and state aid highways and bridges within city or compact village limits, and municipal officers in respect to all other ways and bridges within such city and compact village limits, may grant permits to operate vehicles having a gross weight exceeding the limit of gross weight in this chapter prescribed, and all such permits may contain any special conditions or provisions which in the opinion of the grantors are necessary. (R. S. c. 19, § 89. 1945, c. 217. 1947, c. 348, § 5. 1953, cc. 231, 282.)

See § 102, re penalty.

Sec. 99. Special restrictions relating to heavy objects passing over bridges.—Notwithstanding any loads authorized in this chapter upon any bridge, officials or corporations charged with the repair and maintenance thereof may limit the load permitted on any bridge to such weight as they deem necessary for the safety of life or property or the maintenance of such bridge. Upon the failure or neglect of such local officials or corporations to prescribe such weights for any bridge, the state highway commission may fix such limit of weight as it deems proper. Such regulations shall be in effect when notice thereof is conspicuously posted at each end of the bridge affected. (R. S. c. 19, § 90.)

See § 102, re penalty.

Sec. 100. Ways may be closed to certain vehicles during certain seasons of the year; notices to be posted; jurisdiction.—The state highway commission, county commissioners and municipal officers are authorized to promulgate such reasonable rules and regulations as in their judgment may be necessary to insure the proper use and to prevent abuse of all highways under their maintenance or supervision by motor driven and animal drawn vehicles during such seasons of the year as said highways require such special protection. These rules and regulations shall be kept on file. The state highway commission shall designate state and state aid highways and improved 3rd-class highways and bridges, or sections thereof, over which, during such periods of each year as may be determined by the commission, it shall be unlawful for any motor truck or other vehicle or team to pass having a weight, with or without load, exceeding that prescribed by said commission; or to pass except according to restrictions as to weight, speed, operation and equipment prescribed by the commission and pursuant to its permit or notice.

County commissioners and municipal officers may make similar designations of any other ways and bridges within their respective jurisdictions, and impose similar restrictions upon vehicles passing over the same. Provided always that a notice, specifying the designated sections of a way or bridge, the periods of closing and prescribed restrictions or exclusion, shall be conspicuously posted at each end thereof. The municipal officers of each city, town and plantation shall, within their respective municipalities, have the same power as the chief and members of the state police in the enforcement of the provisions of this section and of all rules and regulations promulgated by the state highway commission, the county commissioners and the municipal officers of towns pertaining thereto, and in arresting all violators thereof and in prosecuting all offenders against the same; such municipal officers shall, in such cases, serve without compensation. (R. S. c. 19, § 91. 1951, c. 321, § 9.)

See § 102, re penalty.

Sec. 101. Log-haulers and traction engines to obtain permits. — Log-haulers, traction engines or other motive power to be used in drawing heavily loaded sledges, carts, drays or vans may be operated upon ways; provided the owners or operators thereof shall apply for and obtain a permit as provided in

the 4 preceding sections and shall deposit a bond as provided in said sections. (R. S. c. 19, § 92. 1949, c. 349, § 25.)

See § 102, re penalty.

Sec. 102. Violating 5 preceding sections; bond for permits.—Whoever as owner, driver, operator or mover of any engine, team, vehicle or contrivance mentioned in the 5 preceding sections violates any provision of said sections or the regulations made or permits granted under authority thereof shall be liable to a fine of not less than $10, nor more than $500, for each offense; and he shall also be responsible for all damage which said way or bridge may sustain as a result thereof, and the amount may be recovered in an action on the case brought by the municipality or other corporation, when any way or bridge is injured which is under the care of said municipality or other corporation; by the county commissioners in behalf of any unincorporated township injured and by the state when any state or state aid way or bridge is injured; and shall be used for the repair of the ways and bridges so injured. Highway officials in granting permits under the provisions of the preceding sections may require from owners or operators a bond satisfactory to them running to the state or the municipal or other corporation affected, conditioned to reimburse it for any expenses necessarily incurred in repairing all damage caused to the way or bridge by the use thereon of such vehicle, load, contrivance or other object. (R. S. c. 19, § 93. 1945, c. 378, § 16.)

Sec. 103. Appeal to state highway commission from decision of local highway officers.—An appeal in writing may be taken from any order or decision of local highway officials made under the provisions of sections 97 to 102, inclusive, to the state highway commission, and the state highway commission may hear and decide the matter in a summary manner, modifying, affirming or vacating the action of such officials and may issue any order necessary to carry its decision into effect. No appeal shall suspend the order or decision of said highway officials, pending the decision of the state highway commission. An appeal may be taken in like manner to the public utilities commission from any action by a railroad corporation under the provisions of section 99 in respect to any highway bridge maintained by such corporation and said commission, after notice and hearing thereon, may confirm or modify such action. (R. S. c. 19, § 94.)

Sec. 104. Movable track tractors not subject to weight provisions of § 109. — Tractors, the propulsive power of which is exerted not through wheels resting upon the ground but by means of a flexible band or chain known as a movable track, shall not be subject to the limitation upon permissible weight per inch width of tire as provided in section 109 if the portions of the movable track in contact with the surface of the way present plane surfaces. (R. S. c. 19, § 95.)

Quoted in State v. Hughes, 129 Me. 378, 152 A. 315.

Sec. 105. Roads closed for repairs; notices.—No person shall remove, injure or tamper with any sign, lights, flares or other signalling or safety device placed by authority of the state highway commission or by any local official having charge of the repair and maintenance of ways and bridges; nor shall any person operate any vehicle over a way or bridge which is lawfully closed for construction or repairs and contrary to posted notice whether the work thereon is being done by the state, county or municipality, or by a contractor, unless permit to pass is expressly granted by some person in charge of the work. (R. S. c. 19, § 96. 1945, c. 137.)

Sec. 106. Revocation or suspension of certain certificates of registration.—Subject to the same conditions as to appeal as provided for in sec-

tion 7 the secretary of state may revoke or suspend the certificate of registration of any vehicle which is so constructed as to be, when in operation, a menace to the safety of its occupants or to the public, or is so constructed or operated as to cause unreasonable damage to ways or bridges. (R. S. c. 19, § 97.)

Sec. 107. Commercial vehicles; speed.—No commercial vehicle equipped with pneumatic tires and registered for a gross weight of over 6,000 pounds shall be operated on open country ways at a rate of speed exceeding 40 miles per hour, or within the compact, built up portions of any city, town or village at a rate of speed exceeding 20 miles per hour; said ways and built up portions being defined in section 113; nor shall any commercial vehicle equipped with 2 or more solid tires be operated on said open country ways at a rate of speed exceeding 25 miles per hour or within said compact, built up portions at a rate of speed exceeding 15 miles per hour. (R. S. c. 19, § 98. 1945, c. 236. 1951, c. 235, § 21.)

Sec. 108. Abuse of highways by commercial vehicles. — The rights and powers of the state highway commission to exclude or restrict the weight or equipment or to regulate the speed of vehicles enumerated in section 107, when in their judgment the passage of any such vehicle over any way or bridge would be unsafe or likely to cause excessive damage to the same, is expressly conferred on said commission and nothing in any section of this chapter shall be construed to restrict or abridge any of said rights and powers; the intent of this chapter being to confer upon the state highway commission, and upon the appropriate highway officials, broad regulative authority to encourage reasonable use of the ways and bridges and to correct abuse thereof; such delegated authority being necessary in the opinion of the legislature for the reasonable use and proper protection and continued maintenance of the ways and bridges of this state. (R. S. c. 19, § 99.)

Sec. 109. Weight of commercial vehicles limited.—No motor truck, trailer, tractor, combination of truck tractor and semi-trailer, or other commercial vehicle shall be operated, or caused to be operated, on or over any way or bridge when the gross weight, actual weight of vehicle and load, exceeds 50,000 pounds. No vehicle having 2 axles shall be so operated, or caused to be operated, when the gross weight exceeds 32,000 pounds. The operation of the vehicle shall be prima facie evidence that said operation was caused by the person, firm or corporation holding the permit or certificate for said vehicle from the public utilities commission.

No group of axles shall carry a load in pounds in excess of the value given in the following table corresponding to the distance in feet between the extreme axles of the group, measured longitudinally to the nearest foot:

Distance in feet between the extremes of any group of axles	Maximum load in pounds carried on any group of axles
4 to 7, inclusive	32,000
8	32,610
9	33,580
10	34,550
11	35,510
12	36,470
13	37,420
14	38,360
15	39,300
16	40,230
17	41,160

Distance in feet between the extremes of any group of axles	Maximum load in pounds carried on any group of axles
18	42,080
19	42,990
20	43,900
21	44,800
22	45,700
23	46,590
24	47,470
25	48,350
26	49,220
27 and over	50,000

provided, however, that no vehicle shall have a gross weight imparted to any road surface of more than 22,000 pounds on any one axle, and no vehicle having 2 or more axles less than 10 feet apart shall be operated, or caused to be operated, with more than 16,000 pounds imparted to the road surface from either axle; provided further, that no vehicle shall be so operated, or caused to be operated, when the load imparted to the road surface is greater than 600 pounds per inch width tire, manufacturer's rating; except, however, that 3-axle trucks with brakes on the wheels of all axles hauling forest products may be operated for a gross weight of 48,000 pounds with a distance between the extreme axles of not less than 18 feet and except, further, that 3-axle trucks with brakes on the wheels of all axles hauling construction materials may be operated for a gross weight of 48,000 pounds with a distance between the extreme axles of not less than 16 feet and except that in special cases, special permits for the transportation of individual shipments in loads of greater gross weights may be granted by the state highway commission or such appropriate commission or official as is duly authorized elsewhere in this chapter. (R. S. c. 19, § 100. 1947, c. 348, § 1. 1951, c. 235, § 22; c. 346. 1953, c. 308, § 18; c. 309, § 2; c. 415.)

Sec. 110. Officers to weigh vehicles and require removal of excess weight; risk of loss or damage to goods so removed.—Any police officer may require the driver of any motor vehicle described in section 109 to stop and submit to a weighing of the same by means of either portable or stationary scales. If such scales are not available at the place where such vehicle is stopped, the police officer may require that such vehicle be driven to the nearest public scales capable of weighing said vehicle and load if such does not increase by more than 5 miles the distance which said vehicle may reasonably travel to reach its destination.

Whenever a police officer, upon weighing a vehicle and load, as above provided, determines that the weight is in excess of any of the limits prescribed in section 109, such officer shall require the driver to stop the vehicle in a place designated by such officer and such vehicle shall not be permitted to proceed until the operator thereof shall have taken such action as may be necessary to reduce the weight of the vehicle and load to such limits as are permitted under the terms of said section 109; provided, however, that if said excess weight does not exceed 2,000 pounds, said officer may in his discretion permit said vehicle to proceed without unloading said excess weight; and such police officer may summons the owner or driver of such vehicle; or he may arrest the driver forthwith, in which case the provisions of section 6 of chapter 147 shall apply. Neither the arresting officer, the state of Maine nor any political subdivision or agency thereof shall be responsible for loss or damage to such vehicle, its contents or any part thereof as a result of such unloading. (1951, c. 323.)

Sec. 111. Weight violations. — Any person who violates any provision

of section 109 shall be guilty of a misdemeanor on account of each such violation, and for each violation of which convicted shall be punished by a fine and costs of court which fine and costs of court shall not be suspended, of

$20 and costs of court when the gross weight is in excess of the limits prescribed in section 109, provided such excess is 1,000 pounds or over but less than 2,000 pounds;

$40 and costs of court when such excess is 2,000 pounds or over but less than 3,000 pounds;

$80 and costs of court when such excess is 3,000 pounds or over but less than 4,000 pounds;

$150 and costs of court when such excess is 4,000 pounds or over but less than 5,000 pounds;

$200 and costs of court when such excess is 5,000 pounds or over but less than 6,000 pounds;

$250 and costs of court when such excess is 6,000 pounds or over but less than 8,000 pounds;

$300 and costs of court when such excess is 8,000 pounds or over but less than 10,000 pounds;

Not less than $350, and costs of court and not more than $500 and costs of court when such excess is 10,000 pounds or over.

For the purposes of this chapter, weights as indicated by any type of stationary or portable scales approved by the Maine state highway commission and tested within 12 calendar months prior to the time of use by a person and method approved by said commission shall be deemed accurate.

In addition to the penalties above provided for, the court may impose an alternative jail sentence of not more than 30 days to be served if the respondent fails to pay the fine and costs imposed by said court.

The provisions of section 36 exempting from penalty operators employed by carriers holding permits or certificates from the public utilities commission, who have not participated in loading the vehicle, and pertaining to appointment of a resident agent, representative or attorney upon whom all lawful processes regarding any violation may be served and who may be required to appear in court on behalf of the carrier regarding the violation, and the provisions of said section relating to the suspension of permits or certificates issued by the public utilities commission for failure to appoint an agent, representative or attorney, or for failure to satisfy any penalty imposed by any court, shall likewise apply in full force for the purposes of violations under this section. (1951, c. 323. 1953, c. 268; c. 309, § 3.)

Sec. 112. Minimum speed of motor vehicles.—No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law. Police officers are authorized to enforce the provisions of this section by directions to drivers, and in the event of apparent willful disobedience to this provision and refusal to comply with direction of an officer in accordance herewith, the continued slow operation by a driver shall be a misdemeanor. (1953, c. 75.)

Sec. 113. Speed regulations.—

I. Any person driving a vehicle on a way shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface and width of the highway, and of any other conditions then existing, and no person shall drive any vehicle upon a way at such a speed as to endanger any person or property. No passenger bus having a seating capacity of more than 7 passengers shall be driven or operated at a rate

of speed in excess of 45 miles per hour. No person shall operate any motor driven cycle at any time mentioned in section 136 at a speed greater than 35 miles per hour unless such motor driven cycle is equipped with a headlamp or lamps which are adequate to reveal a person or vehicle at a distance of 300 feet ahead. (1949, c. 38, § 7.)

Cross reference.—See § 48, re safety on school busses.

This statutory regulation affirms the rule of the common law, and makes manifest the duty resting upon automobile operators. Marr v. Hicks, 136 Me. 33, 1 A. (2d) 271.

Applied in Wiles v. Connor Coal & Wood Co., 143 Me. 250, 60 A. (2d) 786; Robinson v. LeSage, 145 Me. 300, 75 A. (2d) 447.

II. Subject to the provisions of subsection I of this section and except in those instances where a lower speed is specified in this chapter, it shall be prima facie lawful for the driver of a vehicle to drive the same at a speed not exceeding the following, but in any case when such speed would be unsafe it shall not be lawful:

A. 15 miles an hour when passing a school during recess or while children are going to or leaving school during opening or closing hours;

B. 15 miles an hour when approaching within 50 feet and in traversing an intersection of ways when the driver's view is obstructed, except where preference is given to through movement of traffic in one direction at the expense of cross traffic by utilization of "Stop" signs or other control devices or by direction of a traffic officer. A driver's view shall be deemed to be obstructed when at any time during the last 50 feet of his approach to such intersection he does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the ways entering such intersection for a distance of 200 feet from such intersection; (1953, c. 137, § 1)

Sections 88 and 89 of this chapter do not modify the statutory requirements in regard to speed in approaching an intersection. They merely relate to the right of way at intersection of a designated through way. Keller v. Banks, 130 Me. 397, 156 A. 817.

Applied in Gold v. Portland Lumber Corp., 137 Me. 143, 16 A. (2d) 111; Wiles v. Connor Coal & Wood Co., 143 Me. 250, 60 A. (2d) 786; Berry v. Adams, 145 Me. 291, 75 A. (2d) 461; Robbins v. Carter, 145 Me. 392, 72 A. (2d) 453.

C. 25 miles an hour in a business or residential district, or built up portion, as defined in subsection IV of this section, and in public parks unless a different speed in such places is fixed by the municipal officers and approved by the state highway commission and duly posted;

Applied in Wiles v. Connor Coal & Wood Co., 143 Me. 250, 60 A. (2d) 786; Campbell v. Langdo, 139 Me. 188, 28 A. (2d) 311.

Cited in Sanborn v. Stone, 149 Me. 429, 103 A. (2d) 101.

D. 45 miles an hour under all other conditions.

Any speed in excess of the limits established by law shall be prima facie evidence that the speed is not reasonable and proper as defined in subsection I of this section. In every charge of violation of a speed limit, the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven; also the speed at which the statute declares shall be prima facie lawful at the time and place of the alleged violation.

Violation prima facie evidence of negligence.—Under this section speed in excess of forty-five miles per hour at the scene of the accident was "prima facie evidence that the speed is not reasonable and proper," and thus evidence in itself of negligence. Hunt v. Begin, 148 Me. 459, 95 A. (2d) 818.

Applied in Robinson v. LeSage, 145 Me. 300, 75 A. (2d) 447.

III. Municipal officers in their respective jurisdictions are authorized in their discretion, but subject to the approval of the state highway commission, to increase the speed which shall be prima facie lawful upon through ways at the entrances to which vehicles are required to stop before entering or crossing such through ways. Municipal officials shall place and maintain upon all through ways upon which the permissible speed is increased adequate signs giving notice of such special regulations. (1951, c. 292, § 3)

IV. The compact or built up portions of any city, town or village shall be the territory of any city, town or village contiguous to any way which is built up with structures which are situated less than 150 feet apart for a distance of at least 1/4 of a mile. Municipal officers may designate such compact or built up portions by appropriate signs. [1953, c. 137, § 2]. (R. S. c. 19, § 102. 1949, c. 38, § 7. 1951, c. 292, § 3. 1953, c. 137, §§ 1, 2.)

The statutory provisions as to speed have no application to fire apparatus when on the way to a fire. McCarthy v. Mason, 132 Me. 347, 171 A. 256.

Subsection IV applied in Sanborn v. Stone, 149 Me. 429, 103 A. (2d) 101.

Subsection IV cited in Sturtevant v. Ovellette, 126 Me. 558, 140 A. 368; Robinson v. LeSage, 145 Me. 300, 75 A. (2d) 447.

Section cited in Smith v. Elliott, 122 Me. 126, 119 A. 203.

Sec. 114. Driving on roadways laned for traffic. — Whenever any roadway has been divided into 2 or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

I. A vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

II. Upon a roadway which is divided into 3 lanes a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

III. Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign. (1947, c. 168.)

Sec. 115. Driving on divided highways; restricted access.—Whenever any highway has been divided into 2 roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority.

No person shall drive a vehicle onto or from any limited-access roadway except at such entrances and exits as are established by public authority.

The state highway commission may by resolution or order entered in its minutes and local authorities may by ordinance with respect to any limited-access roadway under their respective jurisdictions prohibit the use of any such roadway by pedestrians, bicycles or other nonmotorized traffic or by any person operating a motor driven cycle.

The state highway commission or the local authority adopting any such prohibitory regulation shall erect and maintain official signs on the limited-access

roadway on which such regulations are applicable and when so erected no person shall disobey the restrictions stated on such signs. (1947, c. 169. 1949, c. 38, § 8.)

Sec. 116. Overtaking vehicle to pass at left; driver to give warning; passing at right under certain conditions.—The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof and shall not again drive to the right side of the highway until safely clear of such overtaken vehicle.

The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

I. When the vehicle overtaken is making or about to make a left turn;

II. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for 2 or more lines of moving vehicles in each direction;

III. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for 2 or more lines of moving vehicles;

IV. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

The driver of an overtaking motor vehicle not within a business or residence district as herein defined shall give audible warning with his horn or other warning device before passing or attempting to pass a vehicle proceeding in the same direction. (R. S. c. 19, § 103. 1947, c. 86.)

Violation of section is prima facie negligence.—This section constitutes a part of the "law of the road," and proof of a violation of its mandate makes a prima facie case of negligence. Parker v. Knox, 147 Me. 396, 87 A. (2d) 663.

Failure to give warning signal as contributory negligence.—See Field v. Webber, 132 Me. 236, 169 A. 732.

Failure to give warning to vehicle stopped off side of road.—See Hunt v. Begin, 148 Me. 459, 95 A. 818.

Applied in Levesque v. Pelletier, 131 Me. 266, 161 A. 198.

Sec. 117. Overtaking vehicle not to pass another under certain conditions.—The driver of a vehicle shall not overtake and pass or attempt to overtake and pass another vehicle proceeding in the same direction, upon a grade or upon a curve in the way, where the driver's view along the way is obstructed within a distance of 400 feet.

In every event the overtaking vehicle must return to the right hand side of the roadway before coming within 100 feet of any vehicle approaching in the opposite direction.

The driver of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any steam or electric railway grade crossing nor at any intersection of ways unless permitted to do so by a traffic or police officer.

No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching in either direction within 500 feet. (R. S. c. 19, § 104. 1947, c. 87. 1951, c. 7.)

"At" defined.—The inhibition of this section is that a motor vehicle must not attempt to pass another, proceeding in the same direction, at any intersection of streets. Traffic statutes are given a reasonable construction. "At" is a word of somewhat indefinite meaning, whose significance is generally controlled by the context and accompanying surroundings. Used in reference to place, it often means "in" or "within," but its primary sense encases the idea of "nearness" or "prox-

imity." "At" is less specific than "in" or "on." "At" emphasizes locality. Field v. Webber, 132 Me. 236, 169 A. 732.

"Intersection of ways."—Where a lateral road enters another highway but does not continue by emergence from the other side of that highway the two nevertheless form an "intersection of ways," within the meaning of this section. Rawson v. Stiman, 133 Me. 250, 176 A. 870.

Passing at intersection is prima facie negligence.—The violation of this section, prohibiting the passing of automobiles at intersecting ways, by a plaintiff, raises a prima facie presumption of negligence on his part which is conclusive unless rebutted by evidence. Rawson v. Stiman, 133 Me. 250, 176 A. 870.

Under this section it is negligence—prima facie negligence—to overtake or pass at an intersection. The driver of the overtaking car cannot base his due care upon the expectation that the car ahead will not turn, for example, to the left. The negligence of the driver of the car ahead does not erase the contributing negligence of the overtaking driver. Bennett v. Lufkin, 147 Me. 216, 85 A. (2d) 922.

Sec. 118. Overtaken vehicle to give right of way.—The driver of a vehicle upon a way about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle on suitable and audible signal being given by the driver of the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (R. S. c. 19, § 105.)

Quoted in Levesque v. Pelletier, 131 Me. 266, 161 A. 198.

Cited in Field v. Webber, 132 Me. 236, 169 A. 732.

Sec. 119. Overtaking and passing school buses.—The driver of a vehicle on a way upon meeting or overtaking from either direction any school bus which has stopped on the way for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed. Each motor vehicle, carrying the designation "School Bus," shall conceal or remove such designation when such motor vehicle is parked on any way and does not contain any pupils or used for any purpose other than transportation of pupils. (1949, c. 385. 1951, c. 145. 1953, c. 318.)

Sec. 120. Trucks to travel 150 feet apart.—The driver of any motor truck when traveling upon a way outside of a business or residence district shall not follow another motor truck within 150 feet, but this shall not be construed to prevent one motor truck overtaking and passing another. (R. S. c. 19, § 106.)

Disregard of the mandate of this section constitutes prima facie evidence of negligence. Unless explained, it represents evidence that is not only "strong," but conclusive. Robinson v. LeSage, 145 Me. 300, 75 A. (2d) 447.

Sec. 121. Following too closely.—The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

The driver of any motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residential district and which is following another motor vehicle drawing another vehicle shall whenever conditions permit leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

Motor vehicles being driven upon any roadway outside of a business or residential district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

The provisions of this section shall not apply to motor trucks as provided in section 120. (1953, c. 283.)

Sec. 122. Required position and method of turning at intersections.—The driver of a vehicle intending to turn at an intersection shall do so as follows:

I. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

II. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

III. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

Local authorities in their respective jurisdictions may cause markers, buttons or signs to be placed within or adjacent to intersections, and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs. (R. S. c. 19, § 107. 1951, c. 22.)

Violation of section creates presumption of negligence.—Where, in turning her car across a street, the defendant passed, not to the right, but to the left of the intersection of the medial lines of the ways in violation of this section, this was prima facie evidence of her negligence. And while the failure of the defendant to observe the law of the road does not establish absolutely her liability, the presumption created is sufficient, nothing else appearing, to sustain the burden which was on the plaintiff to prove the defendant's negligence. Rouse v. Scott, 132 Me. 22, 164 A. 872.

The failure of a motorist to obey the law by not attempting to pass beyond the center of the intersection, as this section requires of a driver who intends to turn left, is very strong evidence of contributory negligence. It creates a presumption of negligence. Gamache v. Cosco, 147 Me. 333, 87 A. (2d) 509.

But presumption may be overcome.—Proof of violation of this rule of the road is prima facie evidence of negligence, but there are many situations which may overcome and dispel the presumption which arises. In the last analysis, the violation is merely evidence to be considered with all other attending facts in determining whether the disobedient driver exercised due care in the operation of his vehicle under the circumstances. Tibbetts v. Harbach, 135 Me. 397, 198 A. 610.

And causal connection between violation and accident must be established.—Regardless of the nature and extent of the violation, however, causal connection between it and the accident must be established. Tibbetts v. Harbach, 135 Me. 397, 198 A. 610.

Forking roads. — Where the constant and customary flow of travel with the acquiescence of public officers has established two well-defined diverging ways in and out of an intersection accompanied by a practical nonuser of the triangle between, the forking roads become separate ways and this section must be interpreted accordingly, and the medial lines as used in this section shall mean through the center

of the forking roads rather than the triangle between the forks. Tibbetts v. Harbach, 135 Me. 397, 198 A. 610.

Applied in Field v. Webber, 132 Me. 236, 169 A. 732; Hutchins v. Emery, 134 Me. 205, 183 A. 754; Willwerth v. Freeman, 134 Me. 499, 186 A. 428; Berry v. Adams, 145 Me. 291, 75 A. (2d) 461; Hutchins v. Mosher, 146 Me. 409, 82 A. (2d) 411.

Sec. 123. Turning movements and required signals. — No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in section 122, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course, or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner provided in this section and sections 124 and 125 in the event any other traffic may be affected by such movement.

A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

No person shall stop or suddenly decrease the speed of such a vehicle without first giving an appropriate signal in the manner provided by this section and sections 124 and 125 to the driver of any vehicle immediately to the rear when there is opportunity to give such signal. (1951, c. 301. 1953, c. 113, § 1.)

Sec. 124. Signals by hand and arm or signal device.—Any stop or turn signal when required as provided in section 123 shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device but when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle then said signals must be given by such a lamp or lamps or signal device. (1951, c. 301.)

Sec. 125. Method of giving hand and arm signals.—All signals required by section 123 given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

I. Left turn—hand and arm extended horizontally with the index finger pointed to the left;

II. Right turn—hand and arm extended horizontally and rotated from the rear to the front;

III. Stop or decrease speed—hand and arm extended horizontally in a steady position with palm to the rear. (1951, c. 301.)

Sec. 126. No parking upon paved or improved portion of ways; exceptions.—No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled portion of any way outside of a business or residence district, when it is practicable to park or leave such vehicle standing off of the paved or improved or main traveled portion of such way; provided in no event shall any person park or leave standing any vehicle, whether attended or unattended, upon any way unless a clear and unobstructed width of not less than 10 feet upon the main traveled portion of said way opposite such standing vehicle shall be left for free passage of other vehicles thereon, nor unless the operator of an approaching vehicle can have a clear view of the way for a distance of 300 feet beyond the parked or standing vehicle, before approaching within 200 feet of such vehicle.

The state highway commission with respect to highways under its jurisdiction may place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway, or within 10 feet from the nearer outside line of the traveled way of a public highway, where in its opinion, as evidenced by resolution or order entered in its minutes, such stopping, standing or parking is dangerous

to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. Such signs shall be official signs and no person shall stop, stand or park any vehicle in violation of the restriction stated on such signs.

When an officer finds a vehicle standing on a highway in violation of this section he may move the vehicle or require the driver or person in charge of the vehicle to move it to a position permitted under the provisions of this section.

This section shall not apply to the driver of a vehicle which is disabled while on the paved, improved or main traveled portion of a highway or within 10 feet from the nearer outside line of the traveled way of a public highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in that position nor shall it apply to the driver of any vehicle while the same is employed in connection with the construction, maintenance or repair of pipes and wires of a public utility in, upon, along, over, across and under a highway.

An officer may cause any vehicle so parked on any way so as to interfere with or hinder the removal of snow or the normal movement of traffic to be removed from the way and placed in a suitable parking place, at the expense of the owner of such vehicle. Neither the state or political subdivisions thereof nor the officer shall be liable for any damage that may be caused by such removal. (R. S. c. 19, § 108. 1949, c. 145. 1951, c. 128, §§ 1, 2. 1953, c. 126.)

Violation of this section is prima facie evidence of negligence. Tibbetts v. Dunton, 133 Me. 128, 174 A. 453.

But application depends on finding of fact as to exigency of occasion.—The applicability of this section depends upon the finding of fact as to the exigency of the occasion for stopping on the highway. Tibbetts v. Dunton, 133 Me. 128, 174 A. 453; Nadeau v. Perkins, 135 Me. 215, 193 A. 877.

Changing flat tire on highway.—If it was reasonably necessary for the plaintiff to change a flat tire where his car was on the highway, then for such length of time, consistent with the reasonable use of the highway for that purpose, his automobile was not parked within the meaning of this section. Tibbetts v. Dunton, 133 Me. 128, 174 A. 453.

Sec. 127. No coasting on down grade with gears in neutral.—The driver of a motor vehicle when traveling upon a down grade upon any way shall not coast with the gears of such vehicle in neutral. (R. S. c. 19, § 109.)

Sec. 128. Following fire apparatus.—The driver of any motor vehicle shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet. (1951, c. 296.)

Sec. 129. Driving over fire hose.—No motor vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway, to be used at any fire or alarm of fire, without the consent of the state or municipal police or fire department official in command. (1951, c. 296.)

Sec. 130. Municipalities may not alter speed limitations; traffic regulated by signal devices; speed in parks.—Municipalities shall have no power to alter any speed limitations or to enact or enforce any regulations contrary to the provisions of this chapter; except that they may by ordinances or by-laws regulate traffic by means of signal devices or other appropriate methods on any portion of the way where traffic is heavy or continuous, and prohibit other than one-way traffic upon certain ways, subject, however, to the provisions of section 28 of chapter 23. The speed of vehicles in public parks may be regulated in like manner provided there shall be erected at all entrances to such parks adequate signs giving notice of any such special speed regulations. (R. S. c. 19, § 110. 1945, c. 196, § 2.)

Sec. 131. Vehicles to stop if signalled in approaching frightened ani-

mals.—Whoever, driving or operating a motor vehicle upon any way, when approaching from the opposite direction a person riding, driving or leading a horse or other animal which appears to be frightened, is signalled by putting up of the hand or by other visible sign by such person, shall cause such motor vehicle to come to a stop as soon as possible and remain stationary as long as it may be necessary and reasonable to allow such horse or animal to pass. Whenever traveling in the same direction, the person operating a motor vehicle shall use reasonable caution in passing horses or other animals and vehicles. (R. S. c. 19, § 111.)

Sec. 132. Carrying of canes.—It is unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway, to carry in a raised or extended position a cane or walking stick which is white in color or white tipped with red. (1949, c. 148.)

Sec. 133. When vehicles to stop.—Whenever a pedestrian is crossing or attempting to cross a public street or highway, guided by a guide dog or carrying in a raised or extended position a cane or walking stick which is white in color or white tipped with red, the driver of every vehicle approaching the intersection, or place where such pedestrian is attempting to cross, shall bring his vehicle to a full stop before arriving at such intersection or place of crossing, and before proceeding shall take such precautions as may be necessary to avoid injuring such pedestrian. (1949, c. 148.)

Sec. 134. Limitation.—Nothing contained in sections 132 to 135, inclusive, shall be construed to deprive any totally or partially blind or otherwise incapacitated person, not carrying such a cane or walking stick or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing streets or highways, nor shall the failure of such totally or partially blind or otherwise incapacitated person to carry a cane or walking stick, or to be guided by a guide dog upon the streets, highways or sidewalks of this state, be held to constitute nor be evidence of contributory negligence. (1949, c. 148.)

Sec. 135. Penalty. — Any person who violates any provision of sections 132 to 134, inclusive, shall be punished by a fine of not more than $25 or imprisonment for not more than 10 days, or by both such fine and imprisonment. (1949, c. 148.)

Sec. 136. Display of lights.—Every vehicle, whether stationary or in motion, on any way or bridge shall have attached to it a light or lights so displayed as to be visible from the front and rear thereof during the period from ½ hour after sunset to ½ hour before sunrise; provided, however, that this section shall not apply to any vehicle which is designed to be propelled by hand, nor to any vehicle not in motion and parked or beside a curb in a place and under conditions where there is sufficient artificial light to make such vehicle clearly visible from a distance not less than 100 feet in each direction. (R. S. c. 19, § 112.)

Section not applicable to coasting sleds. —There is no legislative intent, expressed or implied, which warrants the conclusion that coasting sleds of any type are governed by this section or §§ 43 and 141 of this chapter as to lights. Illingworth v. Madden, 135 Me. 159, 192 A. 273.

Applied in Nadeau v. Perkins, 135 Me. 215, 193 A. 877; Roberts v. Neil, 138 Me. 105, 22 A. (2d) 135; Baker v. McGary Transp. Co., 140 Me. 190, 36 A. (2d) 6.

Sec. 137. Headlights to be dimmed or operated on low beam when approaching oncoming vehicles.—Whenever the driver of a vehicle equipped with multiple-beam road lighting equipment, during the times when lighted lamps are required, approaches an oncoming vehicle within 500 feet, such drivers shall dim the headlights or switch to a low beam so that the glaring rays are not projected into the eyes of the driver of the oncoming vehicle. (1947, c. 132.)

Sec. 138. Trucks 15,000 pounds and over to carry flares.—No person shall operate or cause to be operated upon the highways of the state any truck or truck tractor having a gross weight in excess of 15,000 pounds unless equipped with 2 red flags, and in addition thereto 3 flares, 3 red lanterns or 3 red emergency reflectors; except that in the case of vehicles used for transportation of inflammable liquids or gas in bulk, such equipment shall consist of 2 red flags, and in addition thereto 3 red electric lanterns or 3 red emergency reflectors. (1951, c. 287.)

Sec. 139. Use of flares, lanterns and reflectors.—Whenever any motor truck or truck tractor having a gross weight in excess of 15,000 pounds is disabled upon the traveled portion of the highway or shoulder next thereto, the operator thereof shall, during the time that lights are required, place 3 lighted flares or 3 red lanterns or 3 emergency reflectors on the roadway as follows: 1 flare or 1 lantern or 1 red emergency reflector in the center of the lane of traffic occupied by said disabled motor vehicle not less than 100 feet distant therefrom in the direction of traffic approaching in that lane, 1 flare or red lantern or 1 red emergency reflector not less than 100 feet from such vehicle in the center of said lane in the opposite direction and 1 flare or 1 red lantern or 1 red emergency reflector at the traffic side of such vehicle not closer than 10 feet from the front or rear thereof; except that if such vehicle shall be a vehicle used for the transportation of inflammable liquids or gas in bulk, only red electric lanterns or red emergency reflectors shall be placed as above provided. During such time as lights are not required, red flags shall be used in place of flares, lanterns or reflectors as above specified, except that no flag shall be required to be placed at the side of the vehicle. (1951, c. 287.)

Sec. 140. Headlights on motor vehicle following another.—No driver of a motor vehicle shall operate his headlights continuously on the upper or high beam when following a motor vehicle closer than 100 feet. (1953, c. 201.)

Sec. 141. Vehicles carrying objects extending 5 feet from rear to be equipped with danger signals; trailers to be securely fastened. — Every vehicle carrying objects which project more than 5 feet from the rear shall, during the period of ½ hour after sunset to ½ hour before sunrise, carry a red light at or near the rear end of the objects so projecting, and at all other times such vehicle shall carry a danger signal at or near the end of the object so projecting. Trailers having more than 2 wheels shall be connected to the towing vehicle or preceding trailer by at least 1 chain, in addition to the hitch bar, of sufficient strength to hold the trailer on a hill if the hitch bar becomes disconnected, or shall be provided with some other adequate holding device. (R. S. c. 19, § 113.)

Coasting sleds not governed by this section.—There is no legislative intent, expressed or implied, which warrants the conclusion that coasting sleds of any type are governed by this section or §§ 43 and 136 of this chapter as to lights. Illingworth v. Madden, 135 Me. 159, 192 A. 273.

Sec. 142. Municipal officers may limit speed in dangerous places.— Municipal officers may designate places on any way where in their judgment by reason of cliffs, embankments or other exceptional natural conditions, the meeting of motor vehicles and horses or other animals would be attended with unusual danger, by causing the words "Automobiles go slow" to be conspicuously displayed on signs on each approach to such place not less than 150 feet distant therefrom. No motor vehicle shall pass any place so designated at a greater speed than 10 miles an hour. (R. S. c. 19, § 114.)

Sec. 143. Mirrors for certain vehicles.—No person shall operate upon

any public way, any passenger car, taxicab, commercial motor vehicle, motor truck or trailer so constructed, equipped, loaded or used that the driver or operator is prevented from having a constantly free and unobstructed view of the highway immediately in the rear, unless there is attached to the vehicle a mirror or reflector so placed and adjusted as to afford the operator a clear, reflected view of the highway in the rear of the vehicle, for a distance of at least 50 feet. (R. S. c. 19, § 115. 1953, c. 8.)

Sec. 144. Spot, fog or auxiliary lights.—There shall not be used on or in connection with any motor vehicle a spotlight, so called, or more than 2 fog or auxiliary lights, so called, the rays from which shine more than 2 feet above the road at a distance of 30 feet from the vehicle, except that such spotlight may be used for the purpose of reading signs, and as an auxiliary light in cases of necessity when the other lights required by law fail to operate. The fog or auxiliary light shall emit a white or amber beam of light. This section shall not apply to ambulances, police and fire department vehicles, vehicles operated by state, city and town fire inspectors, vehicles engaged in highway maintenance, wreckers and public utility emergency service vehicles. (R. S. c. 19, § 116. 1947, c. 320. 1949, c. 147.)

Sec. 145. Use of highways by vehicles authorized unless specifically prohibited.—Subject to the provisions of the several sections of this chapter, vehicles of every kind or description may be operated on the ways of this state unless prohibited or restricted by special law or town ordinance duly authorized by legislative act prohibiting or restricting the use of motor vehicles in certain towns, or by the rules, orders and regulations promulgated by the state highway commission under authority of this chapter. (R. S. c. 19, § 117.)

Sec. 146. Speed of motor vehicles.—Notwithstanding the provisions of sections 107 and 113, the state highway commission shall have authority to restrict the speeds of either commercial or pleasure vehicles at any and all points on the highway where in the opinion of the commission a rate of speed less than that now authorized by law will minimize the danger of accident and in each such place shall have authority to fix the rate of speed in accordance with its own judgment and place all necessary signs to give notice thereof. The state highway commission shall also have the authority to increase the speeds of either commercial or pleasure vehicles at any and all points on the highway where, in their opinion, a higher speed is warranted and they shall place all necessary signs to give notice thereof. (R. S. c. 19, § 118. 1951, c. 6.)

Sec. 147. Pedestrians on ways.—Where sidewalks are provided and their use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent way.

Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the way or its shoulder facing traffic which may approach from the opposite direction. (1949, c. 143.)

Violation is not contributory negligence as a matter of law.—One violating this section is not necessarily guilty of contributory negligence as a matter of law. There still remains the question whether the violation was the proximate cause of the accident. Stearns v. Smith, 149 Me. 127, 99 A. (2d) 340.

But should be submitted to jury.—Whether, under this section, a pedestrian is guilty of contributory negligence in walking along the right hand side of the road during a snowstorm, involves questions of facts which should be submitted to a jury. Hamilton v. Littlefield, 149 Me. 48, 98 A. (2d) 545.

Whether "sidewalks are provided and their use practicable" is a question of fact to be decided by a jury under this section. Stearns v. Smith, 149 Me. 127, 99 A. (2d) 340.

Enforcement and General Provisions.

Sec. 148. Reckless driving. — Whoever operates any vehicle upon any way or in any place to which the public has a right of access:

I. Recklessly; or

II. In a wanton manner causing injury to 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 such fine and imprisonment; and whoever is convicted the 2nd time for a violation of the provisions of this section shall be punished by a fine of not less than $200, nor more than $500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. (R. S. c. 19, § 119.)

Sec. 149. Going away without stopping after an 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, shall be punished by a fine of not more than $200, or by imprisonment for a term of not more than 9 months, or by both such fine and imprisonment; and if any person be convicted the 2nd time for a violation of the provisions of this section, he shall be punished by a fine of not less than $200, nor more than $500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

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, occupants or owner, if known. Upon recepit 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 nonresident, his right to operate in this state, and annul the registration of any vehicle so operated, for such time as he shall deem advisable. (R. S. c. 19, § 120.)

Section applies only to persons controlling or operating motor vehicles.—This section is a section having to do with motor vehicles and applies only to persons in control of or operating motor vehicles State v. Verrill, 120 Me. 41, 112 A. 673.

Driver must both stop and make himself known.—The acts required by this section of a person causing injury are not in the alternative—stopping or making himself known; he must do both. He must stop and make himself known. State v. Verrill, 120 Me. 41, 112 A. 673.

"To make one's self known" is to "disclose one's identity," to show or make known to some person or persons in the vicinity who one is, what one's name is, and where one may be found. State v. Verrill, 120 Me. 41, 112 A. 673.

This section requires the person to make himself known, not to furnish information from which the owner of the automobile may be known. State v. Verrill, 120 Me. 41, 112 A. 673.

Merely furnishing license number of car is insufficient.—It would not be a compliance with this section, which requires the operator to make himself known, if he were to furnish some person with the number of his car; and that for the reason that the operator may not be the owner of the car, and that may not be sufficient for the purpose of ascertaining who was the person who may be wanted. State v. Verrill, 120 Me. 41, 112 A. 673.

The word "cause" is a word the meaning of which is well known. It needs no elaboration and no definition. It does not mean: Who was legally responsible for the injury? The word "cause" in this section is not used in that sense, but in the ordinary sense of the word. State v. Verrill, 120 Me. 41, 112 A. 673.

Section includes any unauthorized use of motor vehicle.—This section provides that whoever uses a motor vehicle with-

out authority from its owner is guilty of a misdemeanor. This includes any unauthorized use, whatever the intention. It might apply to a member of the family, or to a neighbor for an emergency, with all intention on the part of the user to make immediate return. It does not appear to be a so-called "larceny statute," although a larceny would naturally be included in its terms. Wheeler v. Phoenix Assur. Co., 144 Me. 105, 65 A. (2d) 10.

And violation is not "theft" within meaning of insurance policy.—The "unauthorized taking and use" of an automobile in violation of this section, but without intent to steal, was not a "theft" within the meaning of a theft insurance policy. Wheeler v. Phoenix Assur. Co., 144 Me. 105, 65 A. (2d) 10.

Sec. 150. Operating motor vehicle while under the influence of intoxicating liquor or drug.—Whoever shall operate or attempt to operate a motor vehicle upon any way, or in any other place when intoxicated or at all under the influence of intoxicating liquor or drugs, upon conviction, shall be punished by a fine of not less than $100, nor more than $1,000, or by imprisonment for not less than 30 days, nor more than 11 months, or by both such fine and imprisonment. Any person convicted of a 2nd or subsequent offense shall be punished by imprisonment for not less than 3, nor more than 11 months, and in addition thereto, the court may impose a fine as above provided. Evidence that there was, at that time, 7/100%, or less, by weight of alcohol in his blood, is prima facie evidence that the defendant was not under the influence of intoxicating liquor within the meaning of this section. Evidence that there was, at that time, from 7/100% to 15/100% by weight of alcohol in his blood is relevant evidence but it is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor within the meaning of this section. Evidence that there was, at the time, 15/100%, or more, by weight of alcohol in his blood, is prima facie evidence that the defendant was under the influence of intoxicating liquor within the meaning of this section. All such tests made to determine the weight of alcohol in the blood shall be paid for by the county wherein the violation of the provisions of this section was alleged to have occurred. Blood tests the expense for which has been paid for by, or charged to, the county or state may be admissible in evidence. The failure of a person accused of this offense to have tests made to determine the weight of alcohol in his blood shall not be admissible in evidence against him. Whoever shall operate or attempt to operate a motor vehicle upon any way, or in any other place when intoxicated or at all under the influence of intoxicating liquor or drugs, when such offense is a high and aggravated nature shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not less than $100, nor more than $1,000, or by imprisonment for not less than 60 days, nor more than 2 years, or by both such fine and imprisonment. Any person convicted of a 2nd or subsequent offense of the same gravity shall be punished by imprisonment for not less than 3 months, nor more than 3 years, and in addition the court may impose a fine as above provided. The license or right to operate motor vehicles 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 convicted of any violation of the provisions of this section shall appeal from the judgment and sentence of the trial court, his license and right to operate a motor vehicle in this state shall be suspended during the time his appeal is pending in the appellate court, unless the trial court shall otherwise order, or unless the secretary of state, after a hearing, shall restore the license or permit pending decision on the appeal. The license of any person against whom probable cause is found and who is held under bail pending the action of the grand jury for the violation of the foregoing provision shall be suspended until the final disposition of the charge.

No person whose license or right to operate a motor vehicle has been revoked upon conviction of violating the provisions of this section shall be licensed again or permitted to operate a motor vehicle for 2 years, except that, after the expiration of 1 year from the date of such revocation, he may petition the secretary of state for a license or permit, who, after hearing and after his determination that public safety will not be endangered by issuing a new license, may issue such license or permit, with or without conditions thereto attached; upon a 2nd conviction of a violation of the provisions of this section, such person shall not be licensed again or permitted to operate a motor vehicle in this state for 5 years from the date of revocation, provided, however, that after 3 years from the date of such last revocation, he may petition the secretary of state for a license or permit and the secretary of state, after like hearing and determination, again may issue a license or permit to the petitioner, with or without conditions; upon any subsequent conviction for a similar offense, the license or permit shall terminate and no subsequent license or permit shall be granted to such person; except that a person who has had 3 convictions under the provisions of this section may petition the secretary of state for a special license, who, after being satisfied beyond a reasonable doubt that the said petitioner has refrained from all use of intoxicating liquor for a period of 6 years next preceding the day of hearing on the said petition, may issue a special permit or license conditioned upon continued non-use of intoxicating liquor; for the purpose of this section, in case a person has been convicted one or more times prior to the 13th day of July, 1929, of a violation of the provisions of this section, such previous conviction or convictions shall be construed as 1 conviction. (R. S. c. 19, § 121. 1947, c. 232. 1949, c. 349, § 26. 1951, c. 93. 1953, cc. 161, 222.)

I. In General.

II. Nature and Elements of Offense.

III. Procedure and Punishment.

I. IN GENERAL.

History of section.—See State v. Cormier, 141 Me. 307, 43 A. (2d) 819; State v. Mann, 143 Me. 305, 61 A. (2d) 786.

Construction.—As a general rule it is recognized that penal statutes should be strictly construed, but it has become increasingly apparent with the passing years that gasoline and alcohol make a dangerous mixture, and construction of statutes designed to punish those who operate motor vehicles while under the influence of intoxicating liquor should, and properly may, be in the interest of reducing the hazard of such operation to a minimum. State v. Roberts, 139 Me. 273, 29 A. (2d) 457.

This section is not now affected by the definitions contained in § 1 of this chapter. The language is complete and sufficient of itself and is in no way dependent upon or governed by the definitions given in § 1. State v. Cormier, 141 Me. 307, 43 A. (2d) 819.

The purpose of this section is to protect persons and property from loss or injury, by the movement of a motor vehicle operated by a person while intoxicated or at all under the influence of liquor or drugs. State v. Sullivan, 146 Me. 381, 82 A. (2d) 629.

The blood test provision of this section gives a respondent no privilege. Any person can have a blood test at any time, and the result can be testified to in court under the common law as a scientific fact. The section itself recognizes this and gives no privilege. It simply says "evidence that there was at the time" a certain percentage of alcohol in the blood makes the test either "prima facie" evidence that he was, or that he was not, under the influence, or makes it evidence to be considered with no prima facie effect, depending in each case on the particular percentage found. The only privilege given by the section (if in fact a statute is necessary to give it) is, that a failure to permit a blood test to be made, is not evidence against an accused. State v. Demerritt, 149 Me. 380, 103 A. (2d) 106.

Applied in State v. Vashon, 123 Me. 412, 123 A. 511; State v. Mathon, 123 Me. 566, 123 A. 824; State v. Conant, 124 Me. 198, 126 A. 838; State v. Taylor, 131 Me. 438, 163 A. 777; State v. Peterson, 136 Me. 165, 4 A. (2d) 835; State v. Corey, 145 Me. 231, 74 A. (2d) 881; State v. Hoffses, 147 Me.

221, 85 A. (2d) 919; State v. Smith, 149 Me. 333, 102 A. (2d) 342.

Cited in State v. True, 135 Me. 96, 189 A. 831.

II. NATURE AND ELEMENTS OF OFFENSE.

Actual danger need not exist at time of arrest.—Under this section the intoxicated driver is to be regarded as one who should be denied wholly the right to operate a motor vehicle while in such condition. This section recognizes the fact that every intoxicated driver is a menace and creates a potential danger, and it relieves the State from proving that actual danger existed at the time of arrest. State v. Cormier, 141 Me. 307, 43 A. (2d) 819.

And section applies whether offense occurred in public or private place.—Under this section there is no requirement that the defendant be found in a particular place or in a particular condition. Indeed, whether the offense occurred in a private or public place is of no consequence. State v. Lawrence, 146 Me. 360, 82 A. (2d) 90.

A complaint under this section sets forth a violation of law, notwithstanding that it is not charged that the vehicle was operated upon a public way or in a public place, and that in fact the place described was a private driveway. State v. Cormier, 141 Me. 307, 43 A. (2d) 819.

The word "way" includes all kinds of public ways. State v. Peterson, 136 Me. 165, 4 A. (2d) 835.

Offense is different from that of being found intoxicated in street, etc.—The offenses of "being found intoxicated in any street, highway, etc.," under c. 61, § 94, and operating or attempting to operate a motor vehicle when intoxicated or at all under the influence of intoxicating liquor in violaton of this section, are different offenses, and a defendant is not "twice put in jeopardy" by prosecutions for each offense. State v. Lawrence, 146 Me. 360, 82 A. (2d) 90.

Intoxication and state of being "under the influence" of liquor distinguished.—The legislature has in this section recognized that there is a difference between a state of intoxication and a state of being under the influence of intoxicating liquor. State v. Mann, 143 Me. 305, 61 A. (2d) 786.

The word "intoxicated" is a synonym for "drunk." "Intoxicated" commonly and usually means inebriated to such an extent that the mental or physical faculties are materially impaired. While the difference may be only in the degree of impairment, the expression "at all under the influence" means simply what the word themselves say. "At all" has been defined as "in any way or respect" or "to the least extent or degree." State v. Mann, 143 Me. 305, 61 A. (2d) 786.

Section applies if faculties and abilities are at all affected by liquor.—No matter how little the mental or physical faculties and abilities may be affected, if they are in fact affected, the law of "at all under the influence" now applies. The burden is of course upon the state to prove beyond a reasonable doubt that the car operator was to some extent under the influence of intoxicating liquor. State v. Mann, 143 Me. 305, 61 A. (2d) 786.

"Operation" need not be complete or extended.—The "operation" intended to be curtailed by this section is not either complete or extended. State v. Roberts, 139 Me. 273, 29 A. (2d) 457; State v. Sullivan, 146 Me. 381, 82 A. (2d) 629.

"Operate" defined.—According to popular acceptance, the meaning of the term "to operate a motor vehicle" is the same as to "drive" it. It usually means that a person must so manipulate the machinery that the power of the motor is applied to the wheels to move the automobile forward or backward. The starting of the motor, however, may under existing circumstances be sufficient, if there is the intention to move the car. State v. Sullivan, 146 Me. 381, 82 A. (2d) 629.

The application of power to the driving wheels of a motor vehicle constitutes operation of the vehicle under this section, notwithstanding the wheels which control the steering gear are suspended above the ground by a chain attached for towing purposes. State v. Roberts, 139 Me. 273, 29 A. (2d) 457.

Operation might be inferred from the fact that an automobile moved ahead a short distance with the engine running and with the respondent in the driver's seat, and the forward movement could not be accounted for by vibration or a slight depression in front of the automobile. State v. Sullivan, 146 Me. 381, 82 A. (2d) 629. See State v. Jalbert, 142 Me. 407, 53 A. (2d) 336.

Operating and attempting to operate motor vehicle distinguished.—The legislature, by the terms of this section, has distinguished between the operation of a car, and the attempt to operate. The commission of the crime of operating while under the influence of liquor or drugs, also includes of necessity, that the

person charged with an attempt to operate intended to operate. State v. Sullivan, 146 Me. 381, 82 A. (2d) 629.

Where an attempt to operate is charged, there must be an intent to commit the offense of operating. Unless the acts done were done with the intent to operate the motor vehicle while under the influence of liquor, no offense is committed. State v. Sullivan, 146 Me. 381, 82 A. (2d) 629, holding the evidence insufficient to show an attempt to "operate" within the meaning of this section.

III. PROCEDURE AND PUNISHMENT.

Jurisdiction of offense.—See note to § 163 of this chapter.

Indictment for attempt.—See State v. Jones, 125 Me. 42, 130 A. 737.

Section provides enhanced punishment for second offense.—While it is true that under this section the court may impose as severe punishment for the first offense as it can for the second or subsequent offense, nevertheless, for a first offense the court may impose a lessor punishment than it must impose for a second or subsequent offense under the mandatory terms of the section respecting punishment for the second or subsequent offense. This constitutes an enhancement or increase in the punishment for a second offense. State v. McClay, 146 Me. 104, 78 A. (2d) 347.

But prior conviction must be alleged and proved.—In order to subject an accused to the enhanced punishment for a second or subsequent offense it is necessary to allege in the indictment or complaint the fact of a prior conviction or convictions. And not only must the prior conviction be sufficiently alleged, but before the defendant can be convicted of a second or subsequent offense, the prior conviction must be proved beyond a reasonable doubt. State v. McClay, 146 Me. 104, 78 A. (2d) 347.

Complaint alleging prior conviction is not invalid.—A complaint under this section is not invalid in that it contains an allegation that the defendant had been previously convicted of the crime of operating a motor vehicle while under the influence of intoxicating liquor. State v. McClay, 146 Me. 104, 78 A. (2d) 347.

But it is the duty of the court to give the jury adequate instructions with respect thereto, carefully limiting the purpose and effect of both the allegation of prior conviction and the proof thereof within legitimate bounds. If the court omits to give such instructions, the rights of the defendant to the same can be preserved by a request therefor, which, if refused, would constitute reversible error. State v. McClay, 146 Me. 104, 78 A. (2d) 347.

The offense of driving an automobile while intoxicated has a limitation of six years (c. 145, § 17). If this section gave a "privilege" by its blood-test provision, every driver of an automobile who drives under the influence of liquor must be arrested immediately. No person thus breaking the law could ever be convicted and sentenced unless he was "found" so driving and immediately arrested, and be at once permitted to have a blood test if he requested. This would practically result in a statute of limitations of not more than a few hours, which is an absurdity. State v. Demerritt, 149 Me. 380, 103 A. (2d) 106.

Instructions as to blood test.—See State v. Beane, 146 Me. 328, 81 A. (2d) 924.

Instructions held proper.—See State v. Mann, 143 Me. 305, 61 A. (2d) 786.

Sec. 151. Manslaughter; license to be revoked.—The license of any person to operate a motor vehicle, who, as the result of operating a motor vehicle in such a manner as to cause the death of any person, shall be convicted of the crime of manslaughter, shall be revoked immediately by the secretary of state upon receipt of an attested copy of the court records, without further hearing, provided, however, that in case of an appeal the license shall be suspended during the course of the appeal and the revocation start when and if the conviction is upheld. No person whose license or permit to operate a motor vehicle has been revoked upon such conviction of manslaughter shall be licensed again or permitted to operate a motor vehicle for a period of 5 years from the time such license is revoked, or, by the provisions of this section, should have been revoked. For the purposes of this section and of section 150, a person shall be deemed to have been convicted if he pleaded guilty or nolo contendere or was adjudged or found guilty by a court of competent jurisdiction, whether or not he was placed on probation without sentence or under a suspended sentence or the case was placed on file or on special docket. (R. S. c. 19, § 122.)

Sec. 152. Operating motor vehicle at grade crossings; to stop if warning signal indicates approach of train.—Every person operating a motor vehicle upon passing any sign provided for in sections 90 and 91 of chapter 23 which is located more than 100 feet from a grade crossing shall, upon reaching a distance of 100 feet from the nearest rail of such crossing, forthwith reduce the speed of the vehicle to a reasonable and proper rate and shall proceed cautiously over the crossing. Whenever such crossing is protected by gates, by a flagman or by automatic signal, every such motor vehicle operator, or person in control of such vehicle, if the gates are lowered or are being lowered, or if the action of the flagman or the operation of the automatic signal shall indicate that a train is approaching, shall bring such vehicle to a full stop at a distance of not less than 10 feet from the nearest rail of the crossing and shall not proceed on or across the railroad track or tracks until the gates shall have been raised, or until the action of the flagman shall indicate that no train is approaching such crossing, or if the crossing is protected by automatic signal, until such driver has ascertained that no train is approaching. This provision shall be deemed to require a precaution in addition to the duties and precautions imposed by law on persons approaching or crossing a railroad grade crossing.

Whoever violates the provisions of this section shall, upon conviction, be punished as provided by section 149; and in addition thereto his license to operate shall be suspended or revoked. (R. S. c. 19, § 123. 1945, c. 91.)

Cross reference.—See c. 23, § 93, re jurisdiction for unlawfully removing, etc., signs, etc.

Applied in Plante v. Canadian Nat. Rys., 138 Me. 215, 23 A. (2d) 814.

Cited in Ham v. Maine Central R. R., 121 Me. 171, 116 A. 261.

Sec. 153. Police officers in uniform may stop motor vehicles for examination; may examine stationary vehicles.—All police officers in uniform may at all times, with or without process, stop any motor vehicle to examine identification numbers and marks thereon, raising the hood or engine cover if necessary to accomplish this purpose, and may demand and inspect the driver's license, registration certificate and permits.

It shall be unlawful for the operator of any motor vehicle to fail or refuse to stop any such vehicle, upon request or signal of any officer whose duty it is to enforce the motor vehicle laws when such officer is in uniform.

Whenever a motor vehicle is being operated by a person not having upon his person or in such vehicle the registration certificate covering such vehicle, or if it be operated by a person other than the person in whose name it is registered, and such operator is unable to present evidence of his authority to operate such motor vehicle, such police officer, or any sheriff or his deputy, may impound such vehicle and hold it until the same is claimed and taken by the registered owner thereof, who shall be forthwith notified of the impounding. Said officers if wearing a badge may also at all times, with or without process, and with or without uniform, enter public garages, parking places and buildings where motor vehicles are stored or kept, for the purpose of examining identification numbers and marks thereon and may also examine any vehicle standing in any public way or place.

Any such officer may in like manner and under like circumstances examine any vehicle to ascertain whether its equipment complies with the requirements of this chapter.

Whoever while operating a vehicle not lighted or equipped as required by any of the provisions of this chapter shall fail or refuse when requested by an officer authorized to make arrests to give his correct name and address shall be punished by a fine of not more than $100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. (R. S. c. 19, §§ 124, 135.)

See c. 61, § 93, re limitation in stopping motor vehicles to enforce liquor laws.

Sec. 154. Selling or having in possession motor vehicle or trailer from which identification marks have been removed.—Whoever knowingly buys, sells, receives, disposes of, aids in the disposal of, conceals or has in his possession any motor vehicle or trailer from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed for the purpose of concealment or misrepresenting the identity of said vehicle shall be punished by a fine of not more than $1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. (R. S. c. 19, § 125.)

Sec. 155. Garage proprietor to report any motor vehicle involved in a serious accident.—The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a serious accident or struck by any bullet shall report to the nearest police station, to some one of the state police or to some sheriff or his deputy, immediately after such motor vehicle is received, giving the serial and engine number or identification number, registration number and the name and address of the owner or operator of such vehicle. (R. S. c. 19, § 126. 1949, c. 56, § 3.)

Sec. 156. Owner of motor vehicle liable for damages caused by minor under 18 operating with his authority.—Every owner of a motor vehicle causing or knowingly permitting a minor under the age of 18 years to operate such vehicle upon a highway, and any person who gives or furnishes a motor vehicle to such minor, shall be jointly and severally liable with such minor for any damages caused by the negligence of such minor in operating such vehicle. (R. S. c. 19, § 127.)

Necessity of proof that minor was operating vehicle with consent of owner.— There are really two divisions in this section. The first division includes that class of cases where the owner of a motor vehicle causes or permits it to be operated by such a minor, thus making liability of the owner depend upon proof of his consent to the operation of such vehicle on the highway by such minor. Strout v. Polakewich, 139 Me. 134, 27 A. (2d) 911.

It is also expressly provided in this section that "any person who gives or furnishes a motor vehicle to such minor" shall be liable for damages caused by the negligent operation thereof on the highway by such minor. Liability under this clause is not made to depend upon proof that such minor was operating the motor vehicle at the time of the accident, with the consent of the owner, but rather upon the question whether or not the vehicle then used by such minor had been given or furnished to him by the person whose liability is sought to be established. Strout v. Polakewich, 139 Me. 134, 27 A. (2d) 911.

"Furnishes" is used here in the sense of supply or provide. So one who supplies or provides such a minor with a motor vehicle comes within the meaning of this part of the section, although he did not consent to the use to which the vehicle was put by the minor. Strout v. Polakewich, 139 Me. 134, 27 A. (2d) 911.

Sec. 157. Owner and renter of motor vehicles to be jointly and severally liable for damages.—The owner of a motor vehicle engaged in the business of renting motor vehicles without drivers who rents any such vehicle without a driver to another, otherwise than as a part of a bona fide transaction involving the sale of such motor vehicle, permitting the renter to operate the vehicle upon the public ways, shall be jointly and severally liable with the renter for any damages caused by the negligence of the latter in operating the vehicle and for any damages caused by the negligence of any person operating the vehicle by or with the permission of the person so renting the vehicle from the owner, except that the foregoing provisions shall not confer any right of action upon any passenger in any such rented vehicle as against the owner, but nothing herein contained shall be construed to prevent the introduction as a defense of contributory negligence to the extent to which such defense is allowed in other cases. (R. S. c. 19, § 128.)

Sec. 158. Owner of rented motor vehicles to keep a record of the renter.—Every person engaged in the business of renting motor vehicles without drivers who shall rent any such vehicle without a driver, otherwise than as a part of a bona fide transaction involving the sale of such motor vehicle, shall maintain a record of the identity of the person to whom the vehicle is rented, including a record of his license, and the exact time the vehicle is the subject to such rental or in possession of the person renting and having the use of the vehicle, and every such record shall be a public record and open to inspection by any officer, and it shall be a misdemeanor for any such owner to fail to make or have in possession or to refuse an inspection of the record required in this section. If the secretary of state prescribes a form for the keeping of the record provided for in this section, the owner shall use said form. (R. S. c. 19, § 129.)

Sec. 159. Deception, misstatement or false statements on application for license or registration.—Whoever shall make any material misstatement of fact upon his application for license to operate a motor vehicle, or for registration thereof, and whoever shall deceive or substitute, or cause another to deceive or substitute in connection with any examination required hereunder, or shall knowingly make use of any registration certificate, number plate or operator's license or badge issued upon an application containing any material false statement of fact shall be punished by a fine of not more than $100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment; and every such certificate, license plate or badge shall be void from the date of its issue, and shall be surrendered to the secretary of state upon demand, and any moneys paid for the same shall be forfeited to the state. (R. S. c. 19, § 130.)

Sec. 160. Registration plates to be surrendered on demand of secretary of state.—All registration number plates, issued by the secretary of state, shall continue to be the property of the state, and the person to whom the same are issued shall surrender the same on demand of the secretary of state whenever his registration certificate is suspended or revoked or has expired without renewal. Whoever steals, takes or carries away any registration number plate from any person entitled to its possession shall be punished by a fine of not more than $100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. (R. S. c. 19, §§ 131, 135. 1951, c. 235, § 23.)

Sec. 161. Effect of revoking registration, license or right to operate; number plates not transferable; plates to be properly displayed.—No person shall operate a motor vehicle after his license or right to operate has been suspended or revoked, or operate or permit any other person to operate a vehicle while the certificate of registration of such vehicle is suspended or after it has been terminated or canceled, or attach or permit to be attached to a vehicle a number plate assigned to another vehicle, or obscure or permit to be obscured the figures of any number plate attached to any vehicle, or fail to properly display on a vehicle the number plates and registration number duly issued therefor.

Any person who drives a motor vehicle on any public highway of this state at a time when his privilege to do so is suspended or revoked shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 19, § 132. 1951, c. 235, § 24. 1953, c. 263.)

Sec. 162. Persons arrested to be given immediate trial; exceptions; bail.—Whoever is arrested for violation of any provisions of this chapter, except those of sections 149, 150, 154 and 159, shall be given an immediate trial if he shall so demand of the officer making the arrest, but if for any reason it is impracticable to do so, the officer making the arrest shall immediately take the prisoner before some bail commissioner, who before admitting him to bail, shall

require him to give his name, his place of residence, the number of his license to operate a motor vehicle and the registration number of the motor vehicle operated at the time of his arrest, and shall make a record thereof on the bail bond, and may take his personal recognizance for his appearance in court on a specified day, not less than 2 days thereafter if requested by the person arrested; or such officer in like cases may accept the personal recognizance of such person for his appearance as aforesaid. If such person fails to appear in court on the day specified, either in person or by counsel, the court shall notify the secretary of state, who shall immediately suspend or revoke his license, if licensed in this state, or suspend or revoke his right to operate motor vehicles in this state, if a nonresident and not licensed in this state, and also suspend or annul the registration of the motor vehicle driven by such person when arrested, if said motor vehicle is registered in this state. (R. S. c. 19, § 133.)

Sec. 163. Court jurisdiction.—Trial justices in their respective counties shall have original and concurrent jurisdiction with municipal courts and the superior court over all prosecutions for violation of the provisions of this chapter. All fines and forfeitures collected under the provisions of this chapter shall accrue to the county where the offense is prosecuted; except that all fines and forfeitures collected for overload violations shall accrue to the general highway fund. (R. S. c. 19, § 134. 1951, c. 293.)

Cross reference.—See c. 23, § 131, re general highway fund.

The crime of operating a motor vehicle while under the influence of intoxicating liquor may be prosecuted either before an inferior court or by indictment returned to the superior court. These courts have concurrent original jurisdiction of the offense. State v. Boynton, 143 Me. 313, 62 A. (2d) 182.

The superior court has original concurrent jurisdiction with municipal courts and trial justices over prosecutions for the offense of operating under the influence of intoxicating liquor. State v. Demerritt, 149 Me. 380, 103 A. (2d) 106.

Sec. 164. General penalty for violation where specific penalty is not provided.—Whoever violates or fails to comply with the provisions of any section of this chapter, or any rules or regulations established thereunder, when no other penalty is specifically provided, shall be punished by a fine of not more than $100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. (R. S. c. 19, § 135.)

Sec. 165. Court record of conviction sent to secretary of state; public record.—Every court and trial justice in every case wherein a person is convicted of the violation of any statute relative to motor vehicles or to the operation of any vehicle shall forthwith transmit to the secretary of state an abstract, duly certified, setting forth therein the names of the parties, the nature of the offense, the date of hearing, the plea, the judgment and the result; and they shall be open to public inspection during reasonable hours. Said magistrates may make such recommendations to the secretary of state as to suspension or revocation of licenses and certificates of registration of respondents as they deem to be in furtherance of justice. (R. S. c. 19, § 136.)

Sec. 166. Court may temporarily suspend operator's license. — In addition to any other penalty provided in this chapter and imposed by any court or trial justice upon any person for violation of any provision of this chapter, the court or trial justice may suspend an operator's license for a period not exceeding 10 days, in which case the magistrate shall take up the license certificate of such person, who shall forthwith surrender the same and forward it by registered mail to the secretary of state. The secretary of state may thereupon grant a hearing and take such further action relative to suspending, revoking or restoring such license or the registration of the vehicle operated thereunder as he deems necessary. (R. S. c. 19, § 137.)