

No. 348, S.]

[Published August 19, 1947.

CHAPTER 528.

AN ACT to repeal 85.08 (27k) and (37), 85.09 (17) (c) and (34) (d), 85.135 and 85.141 (7); to renumber 85.09 (34) to be 85.09 (6m); to renumber 85.09 (30) to be 85.09 (16m) and amend the same as renumbered; to amend 85.01 (4) (i), 85.05 (1), 85.08 (24) (a), 85.09 (1) (d) and (g), (2) (a), (5) (a), (6) (b), (c) and (d), (10), (11), (12) (a), (13) (a), (30) and (32) (a), 85.10 (30), and 85.141 (6) (a) and (b) and (10); to repeal and recreate 85.08 (42); to create 85.01 (1a) (c), 85.08 (25) (g), 85.09 (1) (jm), (5) (am), (9) (c), (d) and (e), 85.141 (6) (ag), (am) and (ar), and 110.055; and to insert subheadings within 85.09 of the statutes, relating to the motor vehicle responsibility act, drivers' licenses, motor vehicle administration, administration of the motor vehicle department, and law of the road, providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 85.01 (1a) (c) of the statutes is created to read:

85.01 (1a) (c) The owner of a vehicle shall be deemed to "operate" the same if it is being driven with his consent.

SECTION 2. 85.01 (4) (i) of the statutes is amended to read:

85.01 (4) (i) No person shall operate or have in his possession any motor vehicle, trailer, or semitrailer, with any metal number plates or plates fashioned in imitation of, or altered in any manner so as to resemble the legal license number plates issued by the motor vehicle department for such registration year. No number plates shall be used or displayed * * * *except by the person to whom issued in accordance with this section.* The issuance or use of any windshield or other permit for the operation of a motor vehicle pending the receipt of registration number plates, excepting such permit as may be issued by the motor vehicle department, is hereby prohibited. Such permits shall be valid only for a period of 15 days from date of issuance. Violations of this paragraph shall be punishable by a fine of not less than \$25 nor more than \$100, or by imprisonment for not less than 30 days nor more than 6 months.

SECTION 3. 85.05 (1) of the statutes is amended to read:

85.05 (1) Any motor vehicle, trailer or semitrailer registered

in any state of the United States, the District of Columbia, or any foreign state or province which carries the number plates indicating such registration, may be operated over the highways of Wisconsin without registration in this state, during the year of such registration * * * if such state, district or province allows motor vehicles, trailers or semitrailers registered in this state to be operated tax free upon its streets and highways under conditions substantially as favorable to residents of Wisconsin as granted herein to nonresidents * * *, unless the owner of the motor vehicle has * * * moved to Wisconsin, or the vehicle is purchased by a Wisconsin resident, in which case the vehicle must be registered * * * in accordance with section 85.01.

SECTION 4. 85.08 (24) (a) of the statutes is amended to read:

85.08 (24) (a) Whenever any person is convicted of any offense for which this section makes mandatory the revocation by the department of a license or the privilege to secure a license, the court in which such conviction is had, shall require the surrender to it of all licenses, certificates of registration and license plates then held by the person so convicted, and the court shall thereupon forward the same together with a record of such conviction to the department. *The court shall report in addition thereto whether such party was involved in an accident at the time of the offense.*

SECTION 5. 85.08 (25) (g) of the statutes is created to read:

85.08 (25) (g) Whenever the report of conviction, provided in subsection (24) (a) shall show that the party convicted was involved in a motor vehicle accident at the time of the offense, the commissioner shall, in lieu of immediate revocation as provided herein, temporarily suspend said operator's licenses until the accident case has been duly processed and the party has complied with section 85.09 or until his failure of compliance has resulted in an order of suspension thereunder. Upon issuing such order of suspension the commissioner shall in addition revoke the operator's license as provided in this subsection. When such license has been both suspended and revoked, no operator's license or registration shall again be issued to such person until he has complied with this section and section 85.09.

SECTION 6. 85.08 (27k) and (37) of the statutes are repealed.

SECTION 7. 85.08 (42) of the statutes is repealed and re-created to read:

85.08 (42) REVOCATION AND SUSPENSION BY COURTS. All operators' licenses ordered suspended or revoked by a justice of the peace or other court of competent jurisdiction shall be suspended or revoked in accordance with the provisions of this section.

SECTION 8. 85.09 (1) (d) and (g) of the statutes are amended to read:

85.09 (1) (d) Every self-propelled vehicle which is designed for use upon a highway * * * including trailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers).
* * *

(g) *Operator.* Every person who is in actual or constructive physical control of a motor vehicle including a person who has parked the same and including a driver or person pushing or towing such vehicle in case there is no person actually driving and controlling the vehicle being pushed or towed.

SECTION 9. 85.09 (1) (jm) of the statutes is created to read:

85.09 (1) (jm) *Safety responsibility.* Depositing security under subsection (5) (a) for prior accidents.

SECTION 10. 85.09 (2) (a) is amended to read:

85.09 (2) (a) The commissioner shall administer and enforce the provisions of this section and may make rules and regulations necessary for its administration. *The commissioner may, in his discretion, appoint any employe in the department as his representative to affix his signature to the administrative letters, notices and orders to enforce the provisions of the law and authorize such employe to affix the facsimile signature of the commissioner adopted by him as a facsimile signature.*

SECTION 11. There is inserted into the statutes between 85.09 (4) and 85.09 (5) as division heading to read:

SAFETY RESPONSIBILITY LAW

SECTION 12. 85.09 (5) (a) of the statutes is amended to read:

85.09 (5) (a) Within 60 days after the receipt of * * * each individual report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any * * * other person in excess of \$50, the commissioner shall suspend the license of each operator and all registrations of each owner of a motor vehicle in any

manner involved in such accident, and if such operator is a nonresident the privilege of operating a motor vehicle within this state, and if such owner is a nonresident the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner or both deposit security in a sum which shall be sufficient in the judgment of the commissioner to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against such operator or owner; provided notice of such suspension shall be sent by the commissioner to such operator and owner not less than 10 days prior to the effective date of such suspension and shall state the amount required as security. *Upon request of such owner or operator, the commissioner may extend such effective date of suspension not to exceed 20 additional days.*

SECTION 13. 85.09 (5) (am) of the statutes is created to read:

85.09 (5) (am) The commissioner may request such further information, sworn statement or other evidence relating to property damage, personal injury or death in motor vehicle accidents as he deems necessary to aid in determining the amount to be deposited as security under this section from any of the persons, including passengers and pedestrians, involved in such accident. Failure to comply with such request shall constitute ground for suspension of such person's operating privileges. No suspension shall be made on such grounds until one follow-up request has been made and not less than 20 days from mailing of the first request.

SECTION 14. 85.09 (6) (b), (c) and (d) of the statutes are amended to read:

85.09 (6) (b) To the operator or the owner of a motor vehicle legally parked at the time of the accident. *Such operator and owner shall not be exempt hereunder unless the operator of the other vehicle or vehicles involved admits that such vehicle was legally parked, or other proof of such fact to the satisfaction of the commissioner is filed.*

(c) To the owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such motor vehicle without such permission. *The commissioner shall require such proof as he deems necessary to establish such facts.*

(d) If, prior to the date that the commissioner would otherwise suspend license and registration * * * or nonresident's operating privilege under subsection (5), there shall be filed with the commissioner evidence satisfactory to him that the person who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has executed a warrant for confession of judgment, payable when and in such instalments as the parties have agreed to, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in instalments, with respect to all claims for injuries or damages resulting from the accident.

SECTION 15. 85.09 (9) (c), (d) and (e) of the statutes are created to read:

85.09 (9) (c) In all cases where the commissioner accepts security in the form of lien on real estate, the party owning such real estate shall prepare the proper instrument to effect such lien, payable to the state and all persons entitled to the same under section 85.09, and shall record the same in the office of the register of deeds in the county where the real estate is situated. The commissioner may require that the party shall furnish the commissioner an abstract of merchantable title showing the same to be a first lien on the premises. The recorded instrument and abstract, when required, shall be deposited by the commissioner with the state treasurer. Time for compliance may be extended under subsection (5) (a). In all cases where a judgment has been entered against a person involved in a motor vehicle accident and it remains unsatisfied 60 days after it has become final, the judgment creditor may for his own use and benefit and at his sole expense, bring an action to foreclose such lien in the name of the state for his use and benefit under this section. The costs of such foreclosure may be estimated by the commissioner and added to the amount required to be posted. In the foreclosure of such lien, the provisions of chapter 278 for the foreclosure of real estate mortgages shall apply as far as applicable.

(d) In all cases where the commissioner accepts security in the form of a lien on personal property, the party owning such personal property shall prepare the proper instrument to effect such lien payable to the state and all persons entitled to the same under section 85.09 and shall file the same in the office

of the register of deeds in the county where such property is kept. He shall furnish the commissioner with a certified copy and if required by the commissioner, a chattel abstract from the register of deeds showing the same to be a first lien on such property. The certified copy and abstract shall be deposited by the commissioner with the state treasurer. Time for compliance may be extended under subsection (5) (a). In all cases where a judgment has been entered against a person involved in a motor vehicle accident and it remains unsatisfied 60 days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action to foreclose such lien in the name of the state for his use and benefit under this section. The costs of such foreclosure shall be estimated by the commissioner and added to the amount required to be posted. In foreclosure of such lien the provisions of section 241.13 for the foreclosure of chattel mortgages shall apply as far as applicable.

(e) In all cases where the commissioner has accepted security in the form of a lien on real estate or personal property the state treasurer shall satisfy such lien of record, on order of the commissioner to return said security upon the party's compliance with this chapter, by executing a satisfaction in the legal form in the name of the state by state treasurer, custodian security "Motor Vehicle Safety Responsibility Act". The treasurer shall note on the satisfaction that the commissioner has issued such order, which shall be prima facie evidence of such issuance. The treasurer shall record or file such satisfaction with the proper register of deeds.

SECTION 16. 85.09 (10), (11), (12) (a) and (13) (a) of the statutes are amended to read:

85.09 (10) (a) Security deposited in compliance with the requirements of this section shall be placed by the commissioner in the custody of the state treasurer and shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one year after the date of such accident, or within one year after the date of deposit of any security under subsection (7) (c) * * *; or to the payment of a duly acknowledged assignment by the person or persons on whose behalf the deposit was made (to a property owner

where the case involves only damage to the property of one person or to a sole pedestrian or his legal representative where the case involves only the pedestrian) for damages arising out of such accident.

(b) To the extent of such security in his custody, the state treasurer shall pay such judgment upon a duly issued execution, properly served upon him.

(c) Such deposit or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the commissioner has been filed with him that there has been a release from liability, or a final adjudication of nonliability, or a warrant for confession of judgment or a duly acknowledged agreement, in accordance with subsection (6) (d) or whenever, after the expiration of one year from the date of the accident, or within one year after the date of deposit of any security under subsection (7) (c), the commissioner shall be given reasonable evidence that there is no such action pending and no judgment rendered in such action left unpaid.

(11) Neither the report required by subsection (4), the action taken by the commissioner pursuant to this section, the findings, if any, of the commissioner upon which such action is based, nor the security filed as provided in this section shall be referred to in any way, nor be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages. *This subsection shall not be construed as excluding a notice of insurance filed under subsection (5) (d) from being admissible in evidence where it would otherwise be material and admissible under the rules of evidence.*

(12) (a) Whenever any person fails within 60 days to satisfy any judgment in excess of \$50 for damages arising out of a motor vehicle accident, it shall be the duty of the clerk of the court * * * (or of the judge of a court * * * which has no clerk) in which * * * such judgment is rendered * * *, to forward to the commissioner immediately after the expiration of said 60 days, a certified copy of such judgment.

(13) (a) Upon the receipt of a certified copy of a judgment for damages in excess of \$50 arising out of a motor vehicle accident, the commissioner shall forthwith suspend, except as provided in subsection (16), the license and registration and the nonresident's operating privilege of any person against whom such judgment was rendered.

SECTION 17. There is inserted into the statutes between 85.09 (16m) and 85.09 (17) a division heading to read:

FINANCIAL RESPONSIBILITY LAW

SECTION 18. 85.09 (17) (c) of the statutes is repealed.

SECTION 19. 85.09 (30) of the statutes is renumbered 85.09 (16m) and amended to read:

85.09 (16m) * * * *In all motor vehicle accident cases within this state reportable under section 85.141 (6) no registration of the owner of a motor vehicle involved shall be transferred to another vehicle nor shall the title to such vehicle involved be transferred until the provisions of this "Act" are complied with or until the commissioner is satisfied that such transfer * * * is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this section. Nothing in this subsection shall be held to apply to or affect the registration of any motor vehicle sold by a person who, pursuant to the terms or conditions of any written instrument giving a right of repossession, has exercised such right and has repossessed such motor vehicle from a person whose registration has been suspended under the provisions of this section.*

SECTION 20. There is inserted into the statutes between sections 85.09 (30) and 85.09 (31) a division heading to read:

GENERAL PROVISIONS, SAFETY AND FINANCIAL RESPONSIBILITY

SECTION 21. 85.09 (32) (a) of the statutes is amended to read:

85.09 (32) (a) Any person whose license or registration or nonresident's operating privileges has been suspended or revoked under this * * * chapter and who, during such suspension or revocation or thereafter but before filing proof of financial responsibility drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this section, shall be deemed guilty of a misdemeanor and be fined not less than \$10 nor more than \$500 or imprisoned not exceeding 6 months, or both.

SECTION 22. 85.09 (34) (d) of the statutes is repealed.

SECTION 23. 85.09 (34) of the statutes is renumbered to be 85.09 (6m).

SECTION 24. 85.10 (30) of the statutes is amended to read:
85.10 (30) The stopping or standing of a vehicle, whether

occupied or not, upon a highway otherwise than * * * in obedience to traffic regulations or official traffic signs or signals.

SECTION 25. 85.135 of the statutes is repealed.

SECTION 26. 85.141 (6) (a) of the statutes is amended to read:

85.141 (6) (a) The driver of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of \$50 or more shall, as soon as reasonably possible, report such accident to the local authorities and within 10 days after such accident, forward a written report of such accident to the state motor vehicle department.

* * *

SECTION 27. 85.141 (6) (ag), (am) and (ar) of the statutes are created to read:

85.141 (6) (ag) Whenever the driver of a vehicle is physically incapable of making a required accident report and there was another occupant in the vehicle at the time of the accident capable of making a report, such occupant shall make or cause to be made said report.

(am) If there is no other occupant of the vehicle, or such occupant is physically or mentally incapable of making such report, the owner of the motor vehicle involved in such accident, shall, as soon as he learns of the accident, forward such report.

(ar) For the purposes of this subsection the term "injury" is defined as an injury to a person of a physical nature resulting in death or the need of first aid or attention by a physician or surgeon, regardless of whether or not first aid or medical or surgical treatment was actually received. "Total property damage", as used in this subsection, is defined as the sum total cost of putting the property damaged in the condition it was in before the accident, if repair thereof is practical, and if not practical, the sum total cost of replacing such property.

SECTION 28. 85.141 (6) (b) of the statutes is amended to read:

85.141 (6) (b) The department may require any driver, occupant, or owner of a vehicle involved in an accident of which report must be made as provided in this subsection to file supplemental reports whenever the original report is insufficient in the opinion of the department and may require witnesses of accidents to render reports to the department.

SECTION 29. 85.141 (7) of the statutes is repealed.

SECTION 30. 85.141 (10) of the statutes is amended to read:
 85.141 (10) All required *written* accident reports *including those required by county and municipal authorities* and * * * reports *supplemental thereto* shall be without prejudice to the individual so reporting and shall be for the confidential use of * * * *such department or authority* except that the department *or authority* may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident. No such report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any person who has, or claims to have, made such a report or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made to the department.

SECTION 31. 110.055 of the statutes is created to read:
 110.055 DESTRUCTION OF OBSOLETE RECORDS. Whenever necessary to gain needed storage space, the commissioner of the motor vehicle department may turn over to the director of purchases for destruction applications for operator's licenses under section 85.08 which have been on file for 4 or more years and all other obsolete records on file for 6 or more years.

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No. 379, S.]

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CHAPTER 529.

AN ACT to amend 40.88 (1), 41.01 (1), (3) and (9), and 41.03 (1) and to create 41.01 (10) of the statutes, relating to the instruction of handicapped children.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 40.88 (1) of the statutes is amended to read:
 40.88 (1) Any county, which maintains a county home for dependent children or other institution in which children are received for care, and in which institution or institutions the educational facilities required to be provided by a common school