

Mere general testimony that the area was built up with houses was insufficient to establish that it was a residence district. *Ellison v. National Cas. Co.* 254 W 117, 35 NW (2d) 300.

21. Right of Way.

Legislative Council Note, 1957: The definition is the same as in s. 85.10 (35) except that "roadway" was substituted for "highway." Rules of right of way are concerned with use of the roadway, not with the use of the entire highway. The revised definition is consistent with the UVC. [Bill 99-S]

22. Roadway.

Legislative Council Note, 1957: This is perhaps the most important of all definitions from the standpoint of understanding the rules of the road. The first sentence is substantially the same as the definition in s. 85.10 (21) (e). The last sentence is new. A divided highway has 2 roadways. Therefore, when a section speaks in terms of one-way roadways or roadways upon which traffic is restricted to one direction of movement, divided highways are included. This is consistent with the present definition of divided highway, as set forth in s. 85.10 (21) (f), as well as the new definition in sub. (15). [Bill 99-S]

23. Safety Zone.

A line merely marking the center of the street is not a "safety zone" for pedestrians. *Post v. Thomas*, 240 W 519, 3 NW (2d) 344.

24. Sidewalk.

Legislative Council Note, 1957: The definition is important primarily from the standpoint of certain of the rules of the road in ch. 346. The definition is a revision of the one set forth in s. 85.10 (24) so that the definition will correspond more nearly to the popular notion of the meaning of the term. The present law states that a sidewalk is that portion of a highway between the curb lines and the adjacent property lines unless local authorities designate otherwise. The new definition would require that some type of walk or path be constructed for the use of pedestrians before it can be considered a sidewalk. This does not necessarily mean a concrete walk. It could be a gravelled path, for example. The requirement of a curb line has been dropped. There sometimes are sidewalks in places where no curbs have been constructed. [Bill 99-S]

25. Trailer.

Pulpwood sleds are not trailers. 13 Atty. Gen. 279.

A triangular steel frame mounted upon 4 dual-tired wheels, designed only for carrying a power shovel from place to place, and further designed for attachment to independent motive power, is nevertheless a trailer and subject to registration. 28 Atty. Gen. 382.

26. Transporter.

Legislative Council Note, 1957: The definition is based upon s. 85.025. The term "transporter" is a convenient way to refer

to a person who is in the business of transporting vehicles and is therefore entitled to "In Transit" registration plates. [Bill 99-S]

27. Vehicle.

Legislative Council Note, 1957: This term is used throughout the vehicle code wherever broad coverage is desired. The definition differs from the one in present s. 85.10 (1) in that it includes trolley busses and streetcars. However, more restricted definitions of "vehicle" are used in some of the chapters of the new vehicle code. [Bill 99-S]

CHAPTER 341.

Registration of Vehicles.

341.01 History: 1957 c. 260; Stats. 1957 s. 341.01.

On equality, inherent rights, exercises of police power and exercises of taxing power see notes to sec. 1, art. I.

341.04 History: 1957 c. 260; Stats. 1957 s. 341.04; 1961 c. 662; 1969 c. 354, 441.

Legislative Council Note, 1957: This is the general penalty section covering operation of unregistered or improperly registered vehicles, including the operation of a vehicle registered on the basis of gross weight when loaded in excess of the maximum gross weight at which it is registered.

Subsection (1) is a restatement of parts of s. 85.01 (1) and (1a) of the present law. The phrase "motor vehicle, mobile home trailer or semitrailer or any other vehicle for which a registration fee is specifically prescribed" replaces the rather incomplete enumeration in s. 85.01 (1). All such vehicles must be registered unless exempted from registration by s. 341.05.

That part of sub. (2) requiring re-registration of a vehicle the construction or use of which has been changed so as to make it subject to a higher fee is not in the present statutes. However, it states past and present practice in the enforcement of the registration law. The provision means, for example, that a non-farmer who purchases a truck currently registered at the special farm truck fee is violating the law if he operates such truck before making application for re-registration of the truck at the regular truck fee. For the method of computing the fee upon registration, see s. 341.32 (1). That part of sub. (2) requiring re-registration of a vehicle carrying a greater load than the gross weight at which it currently is registered is from s. 85.01 (4) (j). The present law enumerates "motor truck, truck tractor, tractor, delivery wagon, passenger automobile bus, or trailer or semitrailer used in connection therewith" but a general reference to vehicles registered on the basis of gross weight seems preferable and less subject to becoming obsolete. For the method of computing the fee upon re-registration, see s. 341.32 (2).

The first sentence of sub. (3) replaces the penalty presently stated in s. 85.01 (12). A uniform statutory penalty has been used throughout the registration law. This consists of a fine of not more than \$200 or imprisonment for not more than 6 months or

both and replaces the following inconsistent penalties set forth in the present registration law:

1. A fine of not less than \$5 nor more than \$100 or imprisonment for not more than 90 days or both for violation of most provisions of the registration law (s. 85.01 (12)).

2. A fine of not less than \$25 nor more than \$100 or imprisonment for not less than 30 days nor more than 6 months for misuse of registration plates (s. 85.01 (4) (i)).

3. A fine of not less than \$25 nor more than \$100 or imprisonment for not more than 90 days or both for violation of any provision of the special registration law applicable to dealers, distributors, manufacturers and transporters (s. 85.02 (11) and 85.025 (6)).

The second sentence of sub. (3) is a modification of a provision of present s. 85.01 (1). The present law requires the judge or justice to forward the application and fee to the department upon conviction of a person for operating an unregistered vehicle. So as not to burden the courts with this duty, the provision was changed to require merely that the court order the offender to make the application himself.

The following provisions relating to enforcement of the registration law were dropped:

1. The \$2 informer fee was dropped on the ground that, to the extent that it is being collected today, it is being collected by police officers who are being paid salaries for enforcing the law and on the ground that enforcement of the registration law no longer is the serious problem it used to be in the twenties and thirties.

2. The provision authorizing any sheriff, deputy sheriff, city or village marshal to arrest any person operating an unregistered vehicle and making absence of number plates prima facie evidence of nonregistration was dropped on the ground that such officers have general authority to arrest for all violations of state law within their respective jurisdictions and the special authorization with respect to unregistered vehicles is unnecessary. Absence of number plates is a reasonable ground for suspecting a violation of the law without its being stated as a statutory prima facie case.

3. The provision authorizing any judge or justice to impose the penalty for violation of the registration law, regardless of any statutes defining the jurisdiction of such judge or justice, was dropped on the ground that it is not a proper way to confer jurisdiction upon a court and also on the ground that repeal of the provision would have no practical effect on enforcement of the registration law. [Bill 99-S]

An automobile, the registration of which had expired, was not a "lawfully registered and licensed automobile" at the time of an accident, within an accident policy; hence the insurer was not liable for the accidental death of the insured while driving such automobile. *Wyman v. Great Northern Life Ins. Co.* 220 W 369, 265 NW 220.

A tribal Indian, living on the Menominee Indian reservation, owning a motor truck, and operating it only within the boundaries of the reservation, must nevertheless register

his truck under 85.01, Stats. 1939, and pay a registration fee to the state for its operation over that portion of the state highway which is within the boundaries of the reservation, and the state court has jurisdiction of the offense committed by him by his failure so to register and pay. *State v. Tucker*, 237 W 310, 296 NW 645.

Indians' title to reservation lands is equivalent to beneficial ownership. Permission to the state for a highway across a reservation did not extinguish the underlying Indian title. A state court did not have jurisdiction to prosecute an enrolled member of a tribe for operating an unregistered motor truck on a state highway within the reservation. *In re Fredenberg*, 65 F Supp. 4.

An agent or inspector of the United States Emergency Fleet Corporation is required to comply with the state automobile registration law if such agent or inspector uses an automobile on state highways. 8 Atty. Gen. 535.

An auto truck may not be operated on a street, for practice, without a license, and number plates displayed thereon. 10 Atty. Gen. 491.

A judge cannot compel one who operates an automobile without a license to give evidence against himself, but may make an order requiring him to make application for a license and to pay a fee therefor. 16 Atty. Gen. 385.

A holder of a federal mail contract who employs his automobile solely to haul mail must secure a license. 24 Atty. Gen. 576.

Motor vehicles owned by the U. S. government and operated by auxiliary military police under command and authority of the commanding officer of Badger Ordnance Works need not be registered. 33 Atty. Gen. 274.

Where sole operation of a motor vehicle on a highway consists of crossing such public highway, crossing constitutes operation "upon" a public highway, requiring registration and payment of a license fee and compliance with all applicable statutes relating to the law of the road, including weight limitations. 41 Atty. Gen. 172.

Vehicles owned and operated by Menominee Indians on state highways must be licensed. Some logging roads on the reservation are not public highways. 45 Atty. Gen. 159.

The owner, operator or both may be charged with operation of an improperly registered or unregistered truck, but the operator cannot be served as an agent of the owner unless he is an officer, director or managing agent of the corporation. 54 Atty. Gen. 45.

341.05 History: 1957 c. 260, 554, 674; Stats. 1957 s. 341.05; 1959 c. 244; 1961 c. 662; 1965 c. 335, 373; 1967 c. 98.

Legislative Council Note, 1957: This section lists all the situations in which a vehicle is exempt from registration in this state. If a motor vehicle, trailer or semitrailer does not come within one of the exemptions listed in this section it must be registered.

Present s. 85.01 (1) contains a provision to the effect that "any motor vehicle while being operated by any dealer or distributor, in accordance with s. 85.02" is exempt from registration. Subsection (1) of the new section brings this provision up to date. The

exemption obviously should also apply to vehicles operated by registered manufacturers and transporters and sub. (1) so provides.

Subsection (2) is a cross reference to the special exemptions for nonresidents and foreign-registered vehicles.

Present s. 85.01 (1) contains a provision to the effect that any vehicle "being operated by any private person within a period of 10 days from the date of purchase of such vehicle by such private person, provided that application for registration has been made" is exempt from registration. Subsection (3) of the new section brings this provision up to date by making it applicable to a person who moves to this state from another state as well as to a person who purchases a vehicle in this state. Note, however, that a vehicle is not exempt under sub. (3) unless both application for certificate of title and application for registration has been made. The idea of the exemption is to permit a person to operate a vehicle during the time the motor vehicle department is processing the application for registration and title. Because this processing often takes more than 10 days the period was changed to 30 days. The exemption in sub. (3) does not apply to a person who is merely renewing his registration. Such a person has ample opportunity to renew his registration before it expires and no grace period is provided, except as provided in sub. (4).

Subsection (4) is based upon a provision in present s. 85.01 (1) which seems to exempt from registration a motor truck, truck tractor, bus, tractor, trailer or semitrailer operated prior to July 16. It seems obvious that there was no intention to grant such vehicles 15 days of free operation. Consequently, the provision was modified to read in terms of a 15-day grace period for vehicles subject to registration on a fiscal year basis, provided application for registration has been made.

Subsection (5) is a restatement of part of s. 85.01 (1).

Subsection (6) is a statement of present practice. Streetcars and trolley busses are not being registered under the present law.

Subsection (7) is a restatement of part of s. 85.01 (4) (cd) 9. The remainder of s. 85.01 (4) (cd) 9. is restated in sub. (12).

Subsections (8), (9) and (10) restate s. 85.01 (4) (cd) 10.

Subsection (11) is a restatement of s. 85.01 (4) (cd) 8.

Subsection (12) is a restatement of part of s. 85.01 (4) (cd) 9.

Subsection (13), together with the definition of "trailer" in s. 340.01, is a restatement of s. 85.01 (4) 12. and 13.

Subsection (14) is a restatement of s. 85.01 (4) (e) 1m.

Subsection (15) exempts trailers and semitrailers when not operated in conjunction with a motor vehicle. Such cases are perhaps rare, but it has been the practice to exempt all animal-drawn vehicles from registration.

Subsection (16) exempts motor vehicles being towed. There is no similar exemption in the present law and there has always been a question as to whether a towed motor vehicle is being operated upon a highway and

therefore subject to registration. In general, the practice has been to permit motor vehicles to be towed to a garage for storage or repair without requiring registration of such motor vehicle. Subsection (16) would exempt towed motor vehicles from registration, except that such vehicles would of course have to carry an "In Transit" plate when being towed by a person who is in the business of transporting vehicles.

Subsection (17) exempts "road machinery," as defined in s. 340.01. This exemption is not expressly stated in the present law but it has been the practice to exempt such machinery and equipment from registration. [Bill 99-S]

Editor's Note: Amendment 1-A to Bill 99-S, by the same author, deleted paragraph (12) and renumbered paragraphs (13) to (17) to be paragraphs (12) to (16). Paragraph (14m) was added by ch. 674, Laws 1957.

See notes to sec. 1, art. I, on exercises of taxing power, citing State ex rel. Transportation Asso. v. Zimmerman, 181 W 552, 196 NW 848.

A tractor used on public highways only for hauling equipment for use in threshing and silo filling is exempt from payment of a license fee. 12 Atty. Gen. 409; 13 Atty. Gen. 321.

A county-owned motor road grader or scraper need not be licensed. 20 Atty. Gen. 192.

Tractors used exclusively in agricultural operations are exempt from motor vehicle registration, but such exemption does not extend to commercial hauling. 27 Atty. Gen. 209.

85.01 (4) does not apply to a truck used for hauling construction machinery from job to job and in the hauling of lumber used on the job. 28 Atty. Gen. 352.

A farm tractor used as a road tractor for pulling a trailer loaded with farm produce from place of production to market is exempt from registration. 43 Atty. Gen. 248.

341.055 History: 1967 c. 292; Stats. 1967 s. 341.055.

341.06 History: 1957 c. 260; Stats. 1957 s. 341.06; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section has no exact counterpart in the present law but states present practice insofar as small trailers are concerned. The motor vehicle department has in the past registered small trailers and semitrailers when requested to do so by the owner. For persons who expect to travel out of state with their trailers, it is a matter of convenience to be able to have a current Wisconsin registration plate attached. This prevents harassment by enforcement officers in other states who do not know or will not recognize that Wisconsin law exempts small trailers and semitrailers from registration.

The last sentence of s. 85.01 (4) (h) by implication authorizes new vehicles purchased in this state by nonresidents to be registered in this state. Section 341.06 (1) (b) would expand this provision to permit any vehicle owned by a nonresident to be registered in this state if the nonresident so desires.

The section expressly provides that a person who registers a vehicle not subject to

registration does not thereby gain any property tax advantage. [Bill 99-S]

341.07 History: 1957 c. 260; Stats. 1957 s. 341.07.

Legislative Council Note, 1957: This is an express statement of law which is contained only by implication in s. 85.01 (2a). Section 85.01 (2a) was enacted by the 1953 legislature as a result of the decision in the case of *State v. Petroleum Transport, Inc.* 260 W. 310, 50 NW (2d) 465 (1951). In that case the court held in effect that a Wisconsin corporation holding operating authority from the Wisconsin public service commission is not responsible for registration of the leased trucks used in its hauling operations. Section 85.01 (2a) changed that rule.

Ordinarily, the owner of a vehicle or person actually operating it is responsible for its registration. This is the rule stated in s. 85.01 (1) and (1a) (c) and restated in s. 341.04. Section 341.07 modifies that rule as to leased motor trucks or truck tractors operated under authority of a common carrier certificate or contract carrier license issued by the state public service commission. In that case, the holder of the operating authority from the commission is treated as the owner from the standpoint of the registration law, whether or not the actual owner resides in this state. The actual owner, if a resident, is responsible under s. 341.04. [Bill 99-S]

341.08 History: 1957 c. 260; Stats. 1957 s. 341.08; 1959 c. 223; 1959 c. 542 s. 6, 7; 1959 c. 641 s. 32; 1965 c. 350, 396, 485; 1969 c. 500 s. 30 (3) (i).

Where plaintiff testified that he paid a license fee, made out an application and saw a check or draft in an envelope with the application for registration, and that he deposited it in the mail correctly addressed, he was entitled to the presumption that the application and registration fee reached the addressee in the usual course of mail shortly after deposit. *Bursack v. Davis*, 199 W 115, 225 NW 738.

Motor vehicles must be registered in the name of the lawful owner. Where a corporation does business under a combined corporate name, the one corporation owning and operating the second corporation, the vehicles of the corporation under whose names business is transacted must be registered in the latter's name. On the other hand, if owned by the successor corporation, the vehicles may be registered in the combined name. Disclosure of the true identity of a successor corporation when a combined name is used does not violate 343.722, Stats. 1945. 34 Atty. Gen. 370.

341.09 History: 1957 c. 260; Stats. 1957 s. 341.09; 1969 c. 354; 1969 c. 500 s. 30 (3) (h), (i).

Legislative Council Note, 1957: Subsections (1) and (2) restate and amplify parts of s. 85.01 (4) (i) so as to make the law conform to practice. The 15-day permits are basically receipts showing application for registration and payment of the registration fee by a person who is renewing the registration of his vehicle. A person who has recently purchased a vehicle or who has just moved to this state has of course a 30-day grace period (10 days

under present law) by virtue of s. 341.05 (3) and does not need the permit authorized by this section.

The provision in the present law prohibiting anyone other than the motor vehicle department from issuing a temporary operation permit pending receipt of registration plates was dropped. The original purpose of this provision apparently was to prevent municipalities from issuing permits to applicants for registration. This no longer appears to be a problem and in any event the law recognizes only those permits issued pursuant to s. 341.09 so that a person operating under an unauthorized permit could be prosecuted for operating an unregistered vehicle.

Subsection (3) is a restatement of s. 85.01 (4) (hb). [Bill 99-S]

341.10 History: 1957 c. 260; Stats. 1957 s. 341.10; 1967 c. 209; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section is largely new law in the sense that the present statutes contain only 2 or 3 express references to the authority of the department to refuse registration of a vehicle. For example, s. 85.01 (2) states that the department shall not accept an application for registration which does not give the town, city or village in which the owner resides or which gives an address of general delivery. However, the powers enumerated in the first 4 subsections must necessarily be vested in the department by implication even though not expressly stated in the present law and represent a statement of authority exercised by the department in practice. Subsection (5) would probably be new law, though it would not affect present practice. By virtue of s. 341.06, it would permit the department to register exempt trailers and semitrailers with a gross weight of 3,000 pounds or less and not used for hire and vehicles owned by nonresidents, but would require the department to refuse registration of other exempt vehicles. [Bill 99-S]

341.11 History: 1957 c. 260; Stats. 1957 s. 341.11; 1969 c. 500 s. 30 (3) (i).

341.12 History: 1957 c. 260; Stats. 1957 s. 341.12; 1965 c. 452; 1969 c. 276; 1969 c. 366 s. 117 (2) (e); 1969 c. 500 s. 30 (3) (f).

Legislative Council Note, 1957: Subsection (1) is partly a restatement of present law and partly a statement of current practice. Subsection (1) would require 2 plates to be issued for automobiles, motor trucks, motor busses, school busses and self-propelled mobile homes registered at the standard annual or quarterly fee and would provide for the issuance of only one plate for truck tractors, road tractors, trailers, semitrailers and mobile homes and for motor driven cycles or similar passenger carrying vehicles with a shipping weight of 1,000 pounds or less. See s. 341.25. Subsection (1) would give the department a considerable amount of discretion with respect to the number of plates to be issued for vehicles registered pursuant to s. 341.26. This includes vehicles registered at the special annual fees of \$10 and \$1 as well as farm trucks, milk trucks and farm trailers. Subsection (1) will not necessitate any change in current practice.

The first sentence of sub. (2) is a restatement of s. 85.01 (6). The last sentence of sub. (2) states the general principles which are to guide the department in designing registration plates. It replaces certain specific requirements of the present law, such as the specifications in s. 85.01 (6) (b) as to the meaning of letters on plates issued for vehicles registered on the basis of gross weight and the specifications in s. 85.01 (7) for motorcycle plates. Such specific designations have a tendency to become obsolete quite quickly and in any event the design of a registration plate is largely an administrative matter. The legislative prescription as to design of automobile plates, however, has been retained in the law. See s. 341.13.

Subsection (3) prescribes the basic information which must appear on all registration plates. It is a restatement of part of s. 85.01 (6), with the present statutory language having been modified so as to reflect current law and practice. [Bill 99-S]

341.13 History: 1957 c. 260; Stats. 1957 s. 341.13; 1959 c. 542; 1963 c. 209; 1969 c. 500 s. 30 (3) (h), (i).

The term "injuries" as used in 85.01 (6) (ad), Stats. 1951, relating to special plates, includes diseases resulting from accidental injury, but does not include disease which results from idiopathic conditions of the system. Whether or not a person suffering from various named ailments is eligible for special plates is a question of fact, dependent in each case on (1) whether the applicant suffered an injury within the meaning of the foregoing definition of the term, and (2) whether the difficulty with which applicant gets about is equal in degree of disability to that of a person suffering from paraplegia or loss of a member. 41 Atty. Gen. 38.

341.14 History: 1957 c. 260, 372, 589; Stats. 1957 s. 341.14; 1959 c. 66; 1961 c. 20; 1963 c. 332, 533; 1965 c. 561; 1969 c. 379, 498; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section describes 3 situations in which the department, upon request, will issue plates which differ from those which ordinarily would be issued to the person in question.

Subsection (1) is a restatement of part of s. 85.01 (6) (ad) except that the type of plate to be issued to a disabled veteran has been changed. Presently, the law prescribes a separate plate triangular in shape and designed to be mounted with its base on the top edge of the regular plate. Since all states now have agreed upon a standard size for registration plates, it is anticipated that automobile manufacturers will in the future design the registration plate holder to hold only the one size of plate. Moreover, it is likely that the holder will be so designed that the plate will be enclosed and will be inserted in the holder without use of mounting brackets. Under those circumstances, there will be no place to mount an additional triangular plate such as the "Disabled Veteran" plate now used. The new section will permit the regular plate to be so designed as to apprise law enforcement officers that the owner of the automobile is a disabled veteran entitled to the

parking privileges stated in s. 85.01 (6) (ad) and restated in s. 346.50 (2).

Subsection (2) is a restatement of s. 85.01 (6) (e) 1.

Subsection (3) is not in the present law but is a statement of current practice. Certain types of police investigative work require a large amount of secrecy if the work is to be carried out successfully. One method of attaining this secrecy is to use a standard automobile registration plate rather than the special plate ordinarily issued for police vehicles. The department has in the past honored requests for standard plates for police vehicles used in investigative work even though there is no express authority in the statutes for so doing and sub. (3) would expressly authorize that practice. Subsection (3) does not affect the registration fee to be paid. In other words, a municipality would pay the \$1 fee rather than the \$16 fee, regardless of the type of plate obtained. [Bill 99-S]

341.145 History: 1965 c. 572; Stats. 1965 s. 341.145; 1969 c. 500 s. 30 (3) (i).

341.15 History: 1957 c. 260; Stats. 1957 s. 341.15.

It is not a violation of the statute to attach to the official license plate a small plate designating the owner's place of residence. 10 Atty. Gen. 32.

Perforation of a number plate is not a violation of the statute if the number can be distinctly read. 11 Atty. Gen. 182.

Failure of the owner of an automobile to affix and display metal insert showing expiration date of registration of motor vehicle registered under the monthly series system of registration is a violation of 85.01 (6) (c), Stats. 1949. 39 Atty. Gen. 121.

341.16 History: 1957 c. 260; Stats. 1957 s. 341.16; 1959 c. 542; 1965 c. 452, 542; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: In general, this section is a restatement of present s. 85.01 (10) (a). However, certain minor changes have been made. The present law makes a distinction between duplicate plates for automobiles registered under the monthly series system and duplicate plates for other vehicles. In the former case, the present law provides for the issuance of a duplicate plate if the present plate has become lost, destroyed or illegible while in the latter case a duplicate plate may be issued only if the present plate has become lost or destroyed. No provision is made in the latter case for issuance of a duplicate plate if the present plate has become illegible, apparently on the assumption that a plate used for only one year will not become illegible before it expires. This assumption is not necessarily a valid one. Moreover, insert tags are issued for vehicles other than automobiles, as well as for automobiles, and so plates issued for such other vehicles also may be used for more than one year. Consequently, the same rule in regard to issuance of duplicate plates should apply to all vehicles. The new section so provides.

With respect to the fee to be charged, the new section makes applicable to all vehicles the rule which presently applies only to auto-

mobiles. A fee of \$1 is charged for a duplicate issued within one year after issuance of the original if reason for issuance of the duplicate is loss or destruction of the original plate. No fee is charged for issuance of a duplicate after one year or for issuance of a duplicate at any time if the original has become illegible.

The provision requiring a law enforcement officer to certify to the illegibility of a plate as a prerequisite to securing a duplicate plate was dropped. Proof of illegibility satisfactory to the department must be furnished in any event and certification by a law enforcement officer is only one of the means of furnishing such proof. Such a certification should not be necessary if satisfactory proof of illegibility is furnished in some other manner.

Subsection (4) is not in the present law but is a statement of current practice. [Bill 99-S]

Editor's Note: Amendment 1-A to Bill 99-S, by the same author, deleted paragraph (3) and renumbered paragraphs (4), (5) and (6) to be paragraphs (3), (4) and (5).

341.17 History: 1957 c. 260; Stats. 1957 s. 341.17; 1961 c. 662; 1963 c. 209; 1969 c. 276 s. 590 (1); 1969 c. 500 s. 30 (2) (e), (3) (h), (i).

341.25 History: 1957 c. 260, 314, 581; Stats. 1957 s. 341.25; 1959 c. 542, 610; 1965 c. 232, 499; 1967 c. 98; 1967 c. 291 s. 14; 1969 c. 154 s. 377; 1969 c. 205, 407, 464; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: The schedule of registration fees set forth in the present statutes is very lengthy and complex and is constantly being amended. In order to simplify that schedule as much as possible and to facilitate orderly change whenever the legislature deems change necessary, the fee schedule has been divided among 3 sections. This section lists what might be termed the "standard fees" which are applicable in the absence of some special fee provision pertaining to the vehicle in question. Section 341.26 lists the special fees based on the usage of the vehicle or the status of the owner and s. 341.30 sets forth the method of computing quarterly fees for those vehicles which may be registered on a quarterly basis.

Subsection (1) (a) is a restatement of s. 85.01 (4) (a). Subsection (1) (b) is new and replaces present s. 85.01 (4) (b) and 85.015 (1). The present law prescribes a \$3 fee for motor driven cycles other than motorcycles, a \$5 fee for a motorcycle without sidecar and an \$8 fee for a motorcycle with sidecar. Difficult problems of administration have arisen because of the increasing use of small passenger vehicles such as golfmobiles. Under the attorney general's interpretation of the present law, any small passenger vehicle of the cycle type must be registered as an automobile if it has a seat designed for carrying more than one person or if it has more than 3 wheels. See 44 Atty. Gen. 281 (1955). Thus, a motor scooter with 2 or 3 wheels is registered at a fee of \$3, a motor scooter with 4 wheels at a fee of \$16, a motorcycle at a fee of \$5,

a motorcycle with sidecar at a fee of \$8 and a golfmobile with a bench seat for carrying 2 persons at a fee of \$16. New sub. (1) (b) proposes that all such small vehicles designed primarily for the transportation of persons be registered at a flat \$5 fee. This will greatly simplify administration and will be basically more fair than the present law. For the purposes of the registration law, the dividing line between automobiles registered at the \$16 fee and passenger vehicles registered at the \$5 fee will be a shipping weight of 1,000 pounds. Shipping weight is a convenient criterion from the standpoint of administration of the law because manufacturers customarily publish lists of their vehicles' shipping weights. The 1,000 pound dividing line will permit the largest motorcycles and sidecars to be registered at the lower fee yet will require all vehicles commonly considered to be automobiles to be registered at the \$16 fee. All small vehicles designed primarily for carrying property will continue to be registered as motor trucks on the basis of gross weight and therefore will pay a \$16 fee.

Subsection (1) (c) is from s. 85.01 (4) (c) and is a restatement of present law.

Subsection (1) (d) is from s. 85.01 (4) (f) and is a restatement of present law.

Subsection (1) (e) is from s. 85.01 (4) (c) and is a restatement of present law.

Subsection (1) (f) is a restatement of s. 85.01 (4) (e) 2.

Subsection (1) (g) is from s. 85.01 (4) (e) 1. The word "semitrailer" has been added to make the law complete. The present law seems to assume that all semitrailers are hauled by truck tractors. This is not a valid assumption since "semitrailer" is defined to mean any vehicle of the trailer type so designed that some part of its weight and load rests upon another vehicle. Technically, therefore, every 2-wheel trailer is a "semitrailer." Semitrailers drawn by truck tractors will be registered under sub. (1) (f) at a fee of \$10; small semitrailers, such as those drawn by automobiles and used for hire or voluntarily registered as authorized by s. 341.06, will be registered pursuant to sub. (1) (g) on the basis of gross weight. This is a clarification of rather than a change in the law.

Subsection (1) (h) is from s. 85.01 (4) (cr) and (d). It is a restatement of present law insofar as school busses are concerned. It is also a restatement of present law insofar as motor busses are concerned, but it is pertinent at this point to note again the revised definitions of automobile and motor bus set forth in s. 341.01. The present law defines an automobile as a vehicle designed for carrying not more than 7 persons, including the driver. This would seem to throw many modern station wagons into the motor bus category, yet in practice such station wagons have been registered as automobiles. Other vexing problems have arisen in connection with administration of the law pertaining to registration of automobiles and motor busses. The new definitions of automobile and motor bus draws a sharp distinction between them. If a vehicle is designed to carry 10 or more persons, based on the total seating space measured in inches and divided by 20, it will

be registered as a motor bus; if not, it will be registered as an automobile.

Subsection (1) (i) is from s. 85.01 (4) (em). The present law is phrased in terms of "each resident mobile home." The word "resident" was dropped on the ground that it is ambiguous and superfluous. Mobile homes are subject to the same reciprocity provisions as other vehicles.

Subsection (1) (j) is not in the present law but states current practice. It has been the practice to register so-called house cars or self-propelled mobile homes in the same manner and for the same fee as automobiles.

Subsection (2) restates without change the table set forth in s. 85.01 (4) (c).

Subsection (3) restates and brings up to date the last sentence of s. 85.01 (4) (j). [Bill 99-S]

A motor vehicle which is the private property of a local dealer should be registered under the statute. 13 Atty. Gen. 111.

A motor vehicle, previously owned by a municipality and used exclusively in public service and registered as such, when sold may be registered in the name of the new owner as a vehicle not previously registered in this state. 21 Atty. Gen. 891.

When an automobile registered in this state in a previous year but not used in the current license year is transferred, the fee to be paid the transferee shall be computed as for a new vehicle. 25 Atty. Gen. 131.

An owner of trailers kept for the purpose of leasing to private users need not qualify such trailers under 85.01 (4) (e), Stats. 1941. 32 Atty. Gen. 225.

341.26 History: 1957 c. 105, 260, 314, 581, 674; Stats. 1957 s. 341.26; 1959 c. 346, 426, 660; 1961 c. 582, 647; 1963 c. 202, 503; 1965 c. 232, 499; 1967 c. 49, 98; 1967 c. 291 s. 14; 1967 c. 320; 1969 c. 154 s. 377; 1969 c. 498; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section states the various special reduced fees which are applicable to certain vehicles. Presently included in this category are special mobile equipment, state, county and municipal vehicles, certain vehicles of charitable or patriotic organizations, vehicles used in the urban mass transportation of passengers and vehicles used in farming or milk hauling operations.

Subsection (1) restates s. 85.01 (4) (cd) 1. through 7.

Subsection (2) (a), (b), (c), (d), (e) and (f) are from s. 85.01 (4) (g). The present law designates publicly owned "automobiles, motor trucks, motor busses, motor delivery wagons, trailers or semitrailers" as being subject to the \$1 fee. This enumeration is incomplete and not in conformity with practice. Municipally owned police motorcycles, for example, are registered at the \$1 fee even though not mentioned in the present law. The new section therefore uses the term "vehicle" in place of the enumeration. In sub. (2) (d) the word "automobile" was added to compensate for the fact that some vehicles which might be treated as motor busses in view of the present definition of automobile might be thrown into the "automobile" category by the revised definition of automobile. In any event,

there is little chance for abuse of the special fee authorized by sub. (2) (d), for the vehicle is entitled to the special fee only if it is used exclusively for transportation of students.

Subsections (2) (g) and (2) (h) are restatements respectively of s. 85.01 (4) (bb) and (4) (dm).

Subsections (3) (a) and (3) (b) are from s. 85.01 (4) (cm) and (4) (el) respectively and restate present law. The remainder of sub. (3) restates s. 85.01 (4) (cc) 1. through 5. This is the new law pertaining to registration of vehicles transporting milk and dairy products which took effect January 1, 1957. Section 85.01 (4) (cc) 6., relating to quarterly registration of such vehicles, is restated in s. 341.30. [Bill 99-S]

The conducting of a nursery for the growing of trees is embraced within the term "farm" as used in 85.01 (4) (cm) and 85.10 (5a), Stats. 1953, relating to the registration of, and license fees for, farm trucks, so that trucks used primarily in conducting such a nursery were entitled thereunder to be registered as, and to pay the reduced license fees prescribed for, farm trucks. Trucks used primarily in operating several large greenhouses were not "farm trucks" within that term used in those sections, but were commercial trucks required to be registered as such and to pay the higher license fees prescribed for commercial trucks. *Holton & Hunkel Greenhouse Co. v. State*, 274 W 337, 80 NW (2d) 371.

Under contracts whereby school districts procured school buses from defendant corporation, and whereby the districts, in addition to having legal title, also had exclusive domination and possession of the buses during the school term when they were operated by the districts, such buses were both "owned" and operated by the districts, within the meaning of 85.01 (4) (g). *State v. Jelco*, 1 W (2d) 630, 85 NW (2d) 487, 86 NW (2d) 428.

A motor vehicle used by one under contract with a school district to transport pupils and not used for other passenger-carrying purposes for hire is not subject to payment of the additional license fee prescribed by 85.04 (4) (d), Stats. 1923. 13 Atty. Gen. 220.

A state or county-owned automobile, the operator of which is authorized to use it in his official capacity as well as in his private business and for pleasure, is not exclusively operated in public service and may be registered as a privately owned automobile. 19 Atty. Gen. 210.

Motor vehicles used part time on projects other than the special uses enumerated in 85.01 (4) (fm) are required to be registered in accordance with 85.01 (4) (c), Stats. 1949. To entitle special equipment to operate for a flat annual fee of \$10, it must be used exclusively during such license year upon work enumerated in the statute. 39 Atty. Gen. 493.

A tractor used exclusively for driving and giving power to a trench digger, which is bolted to the tractor and has no power of its own, and for hauling it from job to job need not be registered. 40 Atty. Gen. 339.

Operators of mink ranches and nurseries are not entitled to register their trucks as "farm trucks." 41 Atty. Gen. 93.

A truck tractor may not be registered as a farm truck where such truck tractor is used in combination with a trailer. 41 Atty. Gen. 146.

In order to qualify for the special license fee rate accorded school busses, a bus transporting school groups on educational or recreational tours in conjunction with a school activity is required to be operated under contract. 41 Atty. Gen. 227.

The only vehicles owned and operated by charitable corporations which may be registered for the \$1 fee are motor busses. 43 Atty. Gen. 81.

A motor vehicle registered under 341.26 (3) (d) may be used to return supplies used in manufacturing cheese from the market or assembly point to a country cheese factory. 47 Atty. Gen. 173.

341.265 History: 1957 c. 589; Stats. 1957 s. 341.265.

341.27 History: 1957 c. 260, 589; Stats. 1957 s. 341.27; 1969 c. 500 s. 30 (3) (i).

341.28 History: 1957 c. 260; Stats. 1957 s. 341.28; 1961 c. 662; 1965 c. 350; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: The present statutes relating to computation of part-period fees are fragmentary, disorganized, incomplete and sometimes conflicting. The law is complicated by the fact that a different system is used for registration of private automobiles than for other vehicles. In order to simplify the law as much as possible, part-period fees for automobiles registered under the monthly series system are covered in this section while part-period fees for other vehicles are covered in s. 341.31.

This section is a statement of current practice with respect to part-period fees for automobiles registered pursuant to the monthly series system, which practice is of course based upon the motor vehicle department's interpretation of the present law. Because of the technicality of the law and practice relative to this subject, the operation of the law will be illustrated by use of hypothetical cases.

Upon the transfer or junking of an automobile registered pursuant to the monthly series system, the owner must remove the registration plates for use on any other automobile which he subsequently registers. See s. 342.18 and s. 342.34. Subsection (2) of s. 341.28 describes the situations in which a person may transfer such removed plates to another automobile and the method of computing the registration fee payable upon such transfer. Subsection (2) (a) is from present s. 85.01 (4) (an). Its operation can be illustrated by the following examples:

Example 1. Mr. Smith owns a 1953 Chevrolet carrying registration plates expiring in March 1956. On October 20, 1955 he trades it for a new Nash. Since Mr. Smith must remove his plates from the Chevrolet, he comes within the scope of sub. (2), i.e., he holds current registration plates which were removed from an automobile of which he no longer is the owner and such plates were issued to him under the monthly series sys-

tem. Mr. Smith pays no registration fee for the Nash until March 1956.

Example 2. Same facts as Example 1, except that the automobile traded by Mr. Smith for the new Nash is a 1940 Dodge which had been registered in Wisconsin prior to 1947. This means that the annual registration fee for the 1940 Dodge is less than \$16 and sub. (2) (a) therefore is applicable. Assuming that the registration fee for the Dodge is \$10, Mr. Smith pays a pro rata portion of the difference between \$10 and \$16. If the bill of sale for the Nash is dated October 20, 1955, he pays the pro rata difference for a period of 5 months (November through March). The formula would be \$6.00 divided by 12 times 5, or a total of \$2.50 which Mr. Smith must pay upon registering the Nash for the remainder of the period covered by his current plates.

Subsection (2) (b) is not in the present law but is a statement of current practice. It deals with the situation where a person owns 2 or more automobiles simultaneously and who then sells or junks one and applies for transfer of the unexpired plates to one of the other vehicles which he owned prior to and at the time of the transfer or junking. In this situation, it has been the practice of the department to permit transfer of the unexpired plates without payment of any additional registration fee only if the registration of the automobile to which the owner seeks to transfer the plates was still in effect at the time of transfer or junking of the automobile from which the plates were removed. The following examples will illustrate the operation of sub. (2) (b):

Example 3. Mr. Jones owns a 1950 Ford registered for the period of July 1954 to July 1955 and a 1948 Plymouth registered for the period of March 1955 to March 1956. He does not renew the registration of the Ford when it expires on July 31, 1955. On October 5, 1955, he sells the Plymouth and applies for registration of the Ford. Mr. Jones comes within the scope of sub. (2) (b) since he holds current registration plates removed from an automobile (the Plymouth) of which he no longer is the owner and the automobile which is the subject of the application (the Ford) was owned by him prior to and at the time of the disposal of the Plymouth and was not currently registered at the time of the disposal. The fee therefore is computed in accordance with whichever provision of sub. (3) to (5) is applicable to the Ford. Since 12 months have not elapsed since the expiration of the registration of the Ford on July 31 and since the other conditions stated in subs. (3) to (5) as authorizing part-year fees are not present, Mr. Jones must pay a fee for a period starting with the month of August and running through the following March, a total of 8 months. He is entitled to a credit, however, for the months of October through March, a period of 6 months. The net effect is that he pays for only 2 months upon registering the Ford for the remainder of the period covered by the plates removed from the Plymouth which he sold.

Example 4. Same facts as Example 3, except that Mr. Jones sells the Plymouth on

June 5, 1955 and then applies for transfer of the Plymouth plates to the Ford when the registration of the Ford expires on July 31. In this case, sub. (2) is applicable but the exception set forth in sub. (2) is not, for the Ford was registered at the time of the transfer of the Plymouth. The Ford may therefore be registered for the remainder of the period covered by the plates removed from the Plymouth without payment of a registration fee.

Subsections (3) to (6) set forth the method of computing fees when the applicant for registration does not hold current plates removed from a transferred or junked automobile. The most common situation is perhaps the case of purchase of an automobile by a person who previously did not own one and the case of an automobile owner from another state becoming a resident of this state. The following examples illustrate a few of the many less common fact situations which are possible:

Example 5. On October 12, 1955, Mr. Johnson purchases a new Oldsmobile. He owns a 1951 Hudson convertible registered for the period of April 1955 to April 1956. Believing that he will get a better price for the Hudson in the spring, he decides not to trade it but rather to place it in storage for the winter. Mr. Johnson then applies for transfer of his current plates to the new Oldsmobile upon registering it. However, since the Hudson is not sold or junked, sub. (2) is not applicable. Subsection (3) is applicable and since the Oldsmobile has not previously been registered in this state, Mr. Johnson pays a fee based on the date of first operation within the meaning of sub. (7). This is the date of the bill of sale unless he furnishes a satisfactory affidavit to the effect that the Oldsmobile was not operated until some later date. Assuming that Mr. Johnson started operating the Oldsmobile on October 12, he will pay a fee starting with the month of October. Under s. 341.27 the department has authority to register the Oldsmobile for a year or for any part thereof which it feels will best help to equalize its registration and renewal workload.

Example 6. On July 20, 1955, a truck owned by Mr. Brown is demolished in an accident. The truck had been registered for 1955 at a fee of \$25. On August 5, 1955, he purchases a new automobile as a replacement for the truck which was permanently removed from the highways as a result of the accident on July 20. Since Mr. Brown is registering a new automobile and since he does not hold current plates issued under the monthly series system, he comes within the provisions of sub. (3) and the fee for the automobile is determined on the basis of a period starting August 1. However, since he is replacing a junked vehicle, sub. (6) also is applicable and Mr. Brown receives a credit computed in accordance with s. 341.31 (2) (b). Applying s. 341.31 (2) (b) to the described fact situation, we have the following results: Since there are 5 full months of the period for which the truck was registered which have not expired on July 20 (the day the truck was demolished), Mr. Brown theoretically has a credit of one-twelfth of \$25 multiplied by 5, or

a total credit of \$10.42 to be applied toward the registration of the automobile. However, since the credit is not permitted to extend beyond the period for which the truck was registered (December 31) and since the automobile will be registered for only 5 months up to that time, the actual credit received is five-twelfths of \$16, or \$6.67.

Example 7. Mr. Green sells an automobile in January 1955 and removes plates expiring on March 31, 1955. On August 15, 1955 he repurchases the same automobile and operates it immediately. Since Mr. Green is registering an automobile which has been registered by him in this state within the last 12 months, he normally would be required to pay a fee dating back to the expiration of the previous registration. In this case, however, registration has been interrupted by ownership in another person and Mr. Green therefore comes within the provisions of sub. (4) (a). Since he operated the automobile on August 15, he pays a fee for a period starting August 1.

Example 8. Mr. Wilson owns an automobile which he registered from June 1952 to June 1953. It has been in storage from June 1953 until November 5, 1955 when he applies for registration. Subsection (4) (b) is applicable. Assume that Mr. Wilson files an affidavit that the automobile has not been operated since June 1953 and will not be operated until November 25, 1955. The department will either register the automobile for a period starting November 1 or refuse the application until November 25, since it does not accept affidavits which project the date of first operation into the future. [Bill 99-S]

85.01 (4) (h), Stats. 1937, has reference solely to the current license year, and in no event should fees computed under this section exceed the fee for a whole year. The license fee is to be calculated from the date of purchase. 27 Atty. Gen. 485.

341.29 History: 1957 c. 260; Stats. 1957 s. 341.29; 1961 c. 99; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section states the periods for which vehicles other than automobiles registered under the monthly series system are to be registered. It corresponds to s. 85.01 (5) of the present law, but certain minor changes have been made. Some of these changes merely will bring the law into conformity with practice while a few will result in a change in practice.

Automobiles used for hire presently are registered on a calendar year basis. This requirement has been changed so as to make such automobiles subject to registration on a fiscal year basis. This will make the registration period correspond to the effective period of permits required by ch. 194 of the statutes, so that both the registration and the operating permit under ch. 194 will expire at the same time. This should result in added convenience to the public as well as more efficient administration. Automobiles used as taxicabs presently are registered pursuant to the monthly series system and this practice has been incorporated into the new section.

Taxicabs are exempt from the permit requirements of ch. 194.

Subsection (1) (f) is new. It provides a definite registration period for all vehicles the registration period of which is not otherwise stated in the statutes.

Subsection (3) will require a change in present practice. The present law is rather ambiguous and has been construed by the department to mean that a period of free registration must be granted when application for registration of a vehicle not currently registered is received within a specified period before the expiration of the present registration period. The new provision will require the registration fee to be computed from the date of first operation, the same as in other cases of applications for registration of vehicles subject to part-period fees, but will permit issuance of and operation under the registration plate for the succeeding registration period before the start of that period. In short, the purpose of the new provision is to permit certain economies in the issuance of registration plates, not to grant a period of free operation. [Bill 99-S]

The provision of 85.01 (5), Stats. 1939, that applications for motor truck registration made after May 31 shall be given registration numbers of the succeeding fiscal year applies only to vehicles registered under annual registration provisions and not to those registered on a quarterly basis. 29 Atty. Gen. 349.

341.30 History: 1957 c. 260; Stats. 1957 s. 341.30; 1959 c. 542; 1961 c. 99; 1963 c. 550; 1965 c. 515; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section restates s. 85.01 (4) (cc) 6. and parts of s. 85.01 (1) and (4) (cr). Minor changes in wording have been made so as to make the law conform to practice. For example, the present law does not seem to require the \$1 additional fee for a school bus registered on a quarterly basis, but the practice has been to treat all vehicles registered on a quarterly basis the same and to collect one-fourth of the annual fee plus \$1 for each quarter of registration. The last sentence of sub. (3) is based upon an attorney general's opinion construing the present law. See 31 Atty. Gen. 145 (1942). [Bill 99-S]

Where the owner of a vehicle of 8,000 pounds or more elects to pay a motor vehicle registration fee on a quarterly, rather than on an annual basis, he may at any one time apply and pay for as many quarters less than a full license year as he desires, but the fee for each quarter must be one-fourth of the annual fee, plus \$1. 31 Atty. Gen. 145.

341.305 History: 1963 c. 550; Stats. 1963 s. 341.305; 1965 c. 515, 601; 1967 c. 116; 1969 c. 500 s. 30 (3) (i).

341.31 History: 1957 c. 260, 314; Stats. 1957 s. 341.31; 1961 c. 662; 1963 c. 456; 1965 c. 350; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section is based upon provisions of present s. 85.01 (1), (4) (cr), (4) (h), (4) (ha) and (4) (hm) as interpreted and administered by the motor vehicle department. Subsections (1) (b) 1., (4) and (5) are not in the present law but rep-

resent current practice. Subsection (2) (b) will require a change in current practice. The present practice of the department is to permit credit from registration of a junked truck to be applied toward registration of a replacement automobile but not to allow a registration credit from a junked automobile to be applied toward registration of a replacement truck. Subsection (2) (b) will permit the credit to be applied in both cases.

As was true in the case of s. 341.28 relating to computation of part-year fees for automobiles registered under the monthly series system, this section also can best be explained by use of hypothetical cases.

Example 1. Mr. Smith purchases a new truck on July 20, 1955 and operates it for the first time on August 4, 1955. The truck is not used for hire.

(a) Assume that the truck is registered at a gross weight of 8,000 pounds. The truck is subject to registration on a calendar year basis and the annual fee is \$55.00. Since the truck has not previously been registered in this state, however, sub. (1) (a) directs that the fee be computed in accordance with sub. (2) (a). Mr. Smith will have to pay for the months of July through December unless he files a satisfactory affidavit to the effect that the truck was not operated until August 4, 1955, in which event he pays for one month less. Assuming that he does file the affidavit, the formula would be one-twelfth of \$55 times \$5, or a total fee of \$22.92.

(b) If the truck is registered at a gross weight of more than 8,000 pounds, Mr. Smith may register it on a quarterly basis but the formula for computing the initial registration fee is the same as in (a) above. If a satisfactory affidavit to the effect that the truck was not operated until August 4 is filed, Mr. Smith pays for the months of August and September since the quarter ends on September 30. Assuming that the annual fee is \$115, the formula would be one-twelfth of \$115 times 2 plus \$1, or a total fee of \$20.17.

Example 2. Mr. Jones purchases a used truck from Mr. Brown on July 20, 1955 which is registered in this state at the time of the purchase. Mr. Jones operates the truck immediately. Subsection (4) is applicable and Mr. Jones pays no registration fee until the expiration of the current registration unless, by reason of his status or his use of the truck, he is subject to a higher fee, in which event he pays a pro rata portion of the difference between the 2 fees. For example, assume that Mr. Brown is a farmer and that Mr. Jones is not. Assume that Mr. Brown registered the truck as a farm truck at a fee of \$10 for the calendar year and that the regular fee for the truck is \$25. In that event, Mr. Jones pays one-twelfth of \$15 multiplied by 6 (the number of months of the registration period which have not fully expired on July 20).

Example 3. Mr. Johnson purchases from Mr. Black on November 15, 1954 a truck which Mr. Johnson does not operate until April 25, 1955, at which time he applies for registration and files an affidavit of nonoperation covering the period since he purchased the truck.

(a) Assume that the truck is subject to reg-

istration only on an annual basis and had been registered in Wisconsin by Mr. Black for the calendar year 1954. Mr. Johnson cannot take advantage of any of the exceptions set forth in sub. (1) and therefore must pay the full annual fee upon registration of the vehicle even though he has not operated the truck since purchasing it.

(b) Same facts as paragraph (a) except that Mr. Johnson purchased the truck on January 5, 1955 rather than on November 15, 1954. In that case sub. (1) (b) 2. is applicable and Mr. Johnson does not pay for the months of January, February and March, assuming that he did not operate the truck until April 25 and files a satisfactory affidavit to that effect.

(c) Same facts as paragraph (a) except that Mr. Black is a Minnesota resident who had registered the truck in Minnesota for 1954. In that event, sub. (1) (b) 1. is applicable and Mr. Johnson pays a part period fee the same as under the facts stated in paragraph (b).

(d) Same facts as paragraph (a) except that the truck is subject to registration on a quarterly basis. In that event, sub. (1) requires Mr. Johnson to pay only the full quarterly fee, regardless of whether any of the exceptions stated in sub. (1) (a) to (d) are applicable. Since quarter No. 3 (January, February and March) has expired, Mr. Johnson pays only for quarter No. 4 (April, May and June).

Example 4. Mr. Harris purchases from Mr. Green on March 15, 1955 a truck of less than 8,000 pounds gross weight which was registered in Wisconsin by Mr. Green in 1954 but has not been registered in 1955. During 1954, Mr. Harris operated the truck as employe of Mr. Green. On March 15, 1955 Mr. Harris applies for registration as owner of the truck. Since the truck was registered in this state during the preceding registration period by a different owner and was transferred to Mr. Harris after the expiration of such registration, sub. (1) (b) 2. is applicable and Mr. Harris pays only a part-period fee computed in accordance with sub. (2) (a). It does not matter that the truck was operated by him in this state in 1954 since he was not the owner of the truck at the time of such operation.

Example 5. Mr. Smith registers a truck in this state for the year 1954. In February 1954 he moves to Illinois and registers the truck in Illinois. In March 1955 he again becomes a Wisconsin resident and applies for registration of the truck in this state. Mr. Smith comes within the provisions of sub. (1) (b) 1. and therefore pays only a part-period fee.

Example 6. Same facts as Example 5, except that instead of moving out of the state, Mr. Smith sells the truck in February 1954 and then repurchases the same truck in March 1955. The truck had not been registered for 1955 by the previous owner and Mr. Smith applies for registration. Since the truck was registered in this state during the preceding registration period by a different owner and since it was subsequently transferred to Mr. Smith after the expiration of such preceding registration period, he comes within the pro-

visions of sub. (1) (b) 2. and pays only a part-year fee for 1955.

Example 7. On July 20, 1955, a truck owned by Mr. Wilson and which he had registered for the quarter of July 1 to October 1 is demolished in an accident. The annual fee prescribed for the truck is \$400 so Mr. Wilson had paid a quarterly fee of \$101. On August 5, 1955, he registers another truck as a replacement for the truck which was demolished on July 20. The annual fee prescribed for this truck is \$240 so the quarterly fee is \$61. Mr. Wilson comes within the provisions of sub. (1) (c) and receives a credit for the unused portion of the truck fee computed as provided in sub. (2) (b). Since there are 2 full months of the period for which the replaced truck was registered which have not expired on July 20 (the day the replaced truck was permanently removed from the highways), he gets a credit of one-twelfth of \$400 multiplied by 2 or \$66.66. Since he will have to pay for 2 months of the current quarter when registering the new vehicle, his new fee will be one-twelfth of \$240 multiplied by 2 plus \$1 or a total fee of \$41. Mr. Wilson therefore does not pay any fee upon registering the replacement truck for the remainder of the quarter and theoretically has a remaining credit of \$25.66 (\$66.66 minus \$41.00) but since the credit cannot extend beyond the period for which the replaced vehicle was registered (September 30) he gets a net credit of only \$41.

Example 8. Mr. Johnson registered a school bus for the period of April 1 to July 1. He did not operate the bus during July or August so he did not again apply for registration until September at which time he applies for registration for the remainder of the quarter ending September 30 and for the quarter ending December 31. Mr. Johnson comes within the special provision for part-quarterly registration of school busses and therefore pays only a part-quarterly fee for the period of July 1 to October 1 even though the bus was operated and registered by him during the preceding period, assuming that he files a satisfactory affidavit of nonoperation for the months of July and August. [Bill 99-S]

Editor's Note: The part-quarterly provision in subsection (3), relating to school buses, was repealed by ch. 314, Laws 1957.

A transferee of a truck licensed as "farm truck", who is not a farmer, must obtain a new license for the truck. 23 Atty. Gen. 509.

A truck trailer not registered in the state during the preceding licensing year is eligible for registration upon payment of part-year fee as provided in 85.01 (4) (h), Stats. 1937. 28 Atty. Gen. 84.

341.32 History: 1957 c. 260; Stats. 1957 s. 341.32; 1961 c. 662; 1965 c. 345; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section states the circumstances under which a currently registered vehicle must be reregistered. Subsection (1) is not in the present law but reflects current practice. Subsection (2) is based upon s. 85.01 (4) (j) and s. 85.51. The enumeration of vehicles in the present law has been generalized. One substantive

change has been made. Section 85.50 requiring the net, tare and gross weights of certain vehicles to appear on the sides of such vehicles has been dropped. The only significant weight today is the gross weight at which the vehicle is registered and that is adequately indicated by the letter prefixes on the registration plates. All enforcement officers are familiar with the meaning of such letters. Since s. 85.50 has been dropped, the reference in the present law to operating a vehicle with a load in excess of that stated on the sides of the vehicle also has been omitted.

Subsection (3) is a restatement of s. 85.53 (7).

The following examples are illustrative of the operation of this section:

Example 1. Mr. Smith, a farmer, owns a truck which he registered for 1955 as a farm truck at a fee of \$10. On September 15, 1955 he decides to use the truck for general commercial hauling. Mr. Smith comes within the provision of sub. (1) and must reregister the truck. Assuming that the truck is subject to calendar-year registration at an annual fee of \$35, the fee for the remainder of the year will be \$35 divided by 12 and multiplied by 4, or a total of \$11.67. However, Mr. Smith gets a credit for the unused portion of the farm truck fee based on the number of full months of registration which have not expired. Since there are 3 full months remaining, the formula for computing the credit is \$10 divided by 12, and multiplied by 3, or \$2.50. Mr. Smith therefore pays a net fee of \$9.17 (\$11.67 minus \$2.50).

Example 2. Mr. Jones registers his truck tractor at a gross weight of 40,000 pounds for the period of July 1, 1955 to July 1, 1956. On November 25, 1955, he is caught carrying 48,000 pounds and is convicted of overloading. Mr. Jones comes within the provisions of sub. (2). In addition to penalties which may be imposed, he will have to pay one-twelfth of the difference between the annual fee for 40,000 pounds (\$475) and the annual fee for 48,000 pounds (\$585) multiplied by the number of months of the current registration quarter which had not fully expired on the date of the infraction (2 months). The formula will be \$110 divided by 12 and multiplied by 2, or an additional fee of \$18.33 which Mr. Jones must pay. [Bill 99-S]

The registered gross weight of a motor vehicle may be lowered to correct errors in such registration. 23 Atty. Gen. 114.

The owner of a truck of a gross weight in excess of that at which it is registered should be required by court order to effect a proper registration. 39 Atty. Gen. 452.

341.33 History: 1957 c. 260; Stats. 1957 s. 341.33; 1969 c. 500 s. 30 (3) (h), (i).

Legislative Council Note, 1957: Sections 341.28 to 341.32 describe certain situations in which the unused portion of a registration fee may be applied as a credit on a new registration fee. In general, however, this is the extent to which the law permits "unused" portions of registration fees to be recouped. The exceptions are stated in this section which describes a few special situations in

which unused registration fees actually are refundable.

Subsection (1) is not expressly set forth in the present statutes but the attorney general has ruled that no refund of a fee can be made unless there is an express statute permitting it. 35 Atty. Gen. 124 (1946). Among statutes outside of this section authorizing refunds are s. 20.951 (5) providing that any overpayment of registration fees shall be refunded by the state treasurer from the highway fund on certificate and audit of the motor vehicle department, s. 20.555 (41) providing that license fees may be refunded when for any reason the license cannot be issued or when the request for the refund is made prior to the beginning of the license year, and s. 20.555 (42) providing generally that moneys paid into the state treasury through error may be refunded upon written approval of the governor, secretary of state, state treasurer and attorney general.

Subsection (2) is from the last sentence of s. 85.01 (4) (h). The present law permits a refund only in case of a new vehicle purchased by a nonresident. There is no logical reason today for limiting the provision to new vehicles and so subsection (2) provides that there may be a refund in case of any vehicle acquired in this state by a nonresident when plates are returned within 30 days.

Subsection (3) is a restatement of part of s. 85.01 (4) (ha). [Bill 99-S]

Where an automobile is owned by joint tenants and is registered in their names as joint tenants and subsequently the registration certificate and license plates are revoked because one joint tenant is convicted of driving while under the influence of intoxicating liquor, no refund can be made to the other joint tenant of an amount representing one-half of unused portion of plates or any other amount and no credit in said amount or in any amount can be allowed such joint tenant in event he hereafter individually makes application for registration of said automobile. 35 Atty. Gen. 124.

341.34 History: 1957 c. 260; Stats. 1957 s. 341.34; 1969 c. 500 s. 30 (3) (h), (i).

Legislative Council Note, 1957: Subsection (1) is based upon s. 85.045 (2) and part of s. 85.01 (4) (g). The date for certifying the amount of net registration fees to the highway commission has been changed from December 15 to November 1. Since the highway commission must make its allotments by December 15, it necessarily must receive the certification from the motor vehicle department some time prior to that date. This change in the law will not affect practice since the department always has submitted its certification to the commission a number of weeks before December 15. The second sentence of sub. (1) is new but states current practice. The last sentence of sub. (1) is new. It provides a definite means of determining what registration fees to credit to a municipality which has been the subject of annexation or detachment proceedings or which has changed its corporate status during the fiscal year in question. It is similar to s. 84.01 (25) which governs computation and allotment of highway aids by the highway commission.

Subsection (2) also is new. It, together with a provision added to s. 86.35 by Section 22 of this bill, sets up a procedure for correcting errors which occur in the computation, allotment or distribution of the privilege highway tax. Presently there is no procedure whereby such errors can be rectified, resulting in injustice to those municipalities which did not receive their fair share. The procedure is similar to that provided in s. 71.14 (7) for correction of errors in distribution of the income tax. The motor vehicle commissioner will certify the errors to the highway commission and the highway commission then will make the proper adjustment in its next allotment of the privilege highway tax. [Bill 99-S]

341.35 History: 1967 c. 209; Stats. 1967 s. 341.35; 1969 c. 500 s. 30 (3) (i).

341.40 History: 1957 c. 260, 518; Stats. 1957 s. 341.40; 1967 c. 98; 1969 c. 500 s. 30 (3) (h).

Legislative Council Note, 1957: This section replaces present s. 85.05 (1) (a) and (b). The statement of the law has been revised so as to make it conform to practice. The present law is subject to the interpretation that any foreign-owned vehicle is exempt from registration in this state if like privileges are granted to Wisconsin vehicles operating in such other state or country. In practice, all vehicles having a gross weight of more than 8,000 pounds are handled by means of reciprocity agreements. This restatement of the law makes clear that only those vehicles with a gross weight of 8,000 pounds or less are granted reciprocity privileges by law. Other foreign-owned vehicles are exempt only if exempted by a reciprocity agreement. [Bill 99-S]

A resident of this state who acquires a motor vehicle registered under laws of another state must register the same under Wisconsin law. Foreign exemption statutes do not apply to motor vehicles owned and operated by residents of this state on state highways. 13 Atty. Gen. 524; 15 Atty. Gen. 411.

A nonresident automobile owner is required to take out a Wisconsin automobile license when he becomes a resident of Wisconsin. 15 Atty. Gen. 411.

A camp operating a bus is required to have a Wisconsin automobile license. 15 Atty. Gen. 411.

An automobile owned by a Wisconsin corporation which is operated 10 months in each year in Illinois and the 2 remaining months in Wisconsin must be licensed to operate in Wisconsin. 18 Atty. Gen. 182.

A school teacher employed from October to June in Wisconsin is required to register his automobile in Wisconsin. 20 Atty. Gen. 899.

341.41 History: 1957 c. 260, 518; Stats. 1957 s. 341.41; 1959 c. 359, 408; 1967 c. 98; 1969 c. 270, 282, 392; 1969 c. 500 s. 30 (3) (g), (h), (i).

Legislative Council Note, 1957: This section defines the scope of the motor vehicle commissioner's authority to enter into reciprocity agreements and states the conditions under which a vehicle coming within the scope of such an agreement is exempt from registration in this state.

Subsections (1) and (1a) are based upon s. 85.05 (2) and s. 85.05 (5) respectively. The only difference between subs. (1) and (1a) is that (1a) restricts reciprocity agreements to vehicles operating in interstate commerce while sub. (1) does not contain any such restriction. This discrepancy also appears in the present law. The highway advisory committee of the legislative council decided not to recommend an answer to the question of whether reciprocity agreements should be permitted to authorize intrastate hauling by foreign-owned vehicles under certain circumstances or whether reciprocity agreements should deal only with interstate hauling. Hence, both provisions of the present law are restated.

Subsection (2) restates parts of s. 85.05 (2). The language has been expanded so as to recognize vehicles registered on a proportional registration basis pursuant to an interstate compact. Such vehicles are not necessarily registered in the state of residence, domicile or principal place of business and so technically do not come within the language of the present law.

Subsection (3) is a restatement of s. 85.05 (3). Subsection (4) is a restatement of part of s. 85.05 (5). Subsection (5) is new but is designed to clarify rather than change the present law. [Bill 99-S]

Editor's Note: This section as contained in Bill 99-S (ch. 260) was superseded by ch. 518, Laws 1957, which followed the provisions of subsection (1a) and omitted subsection (1) as contained in ch. 260. As to other parts of this section the enactments were the same.

See notes to sec. 1, art. I, on equality, and sec. 1, art. IV, on legislative power generally, citing *Interstate Trucking Co. v. Dammann*, 208 W 116, 241 NW 625.

The exemption under the reciprocity compact is strictly construed and is not transferable. *State v. Petroleum Transport, Inc.* 260 W 310, 50 NW (2d) 465.

Motor trucks operated daily in Wisconsin but housed in Illinois at night must be registered in Wisconsin. 13 Atty. Gen. 159.

Motor trucks licensed in a foreign state, used for distributing Tarvia oil in Wisconsin, must be licensed in Wisconsin before they can lawfully operate on highways of the state. 14 Atty. Gen. 278.

A tank truck delivering gasoline from Illinois to dealers and other customers in Wisconsin must be licensed in Wisconsin. 14 Atty. Gen. 429.

The commissioner of the motor vehicle department may not validly enter into agreement with other states to exempt nonresident operators from payment of motor fuel tax in Wisconsin. 33 Atty. Gen. 247.

The commissioner with approval of the governor is authorized to enter into reciprocal agreement with Illinois, exempting Illinois licensed vehicles operating in interstate commerce between points in Wisconsin and Minnesota from liability for Wisconsin registration fees, permit fees, ton-mile or flat taxes. 39 Atty. Gen. 504.

85.05 (2) (a) and 85.055, Stats. 1951, are not inconsistent and both may be given effect. The motor vehicle department has correctly

interpreted 85.05 (2) (a) by granting the privilege of making a single trip into Wisconsin per license year to private, contract and common carriers without the necessity of registering the motor vehicles involved in Wisconsin. 41 Atty. Gen. 86.

341.42 History: 1957 c. 260, 518; Stats. 1957 s. 341.42; 1961 c. 98; 1967 c. 98; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This is a restatement of s. 85.055 with various changes having been made so as to bring the law into conformity with practice. For example, the present section reads in terms of vehicles with a gross weight of "8,000 pounds or more." To be consistent with other registration statutes and with practice, this has been changed to "more than 8,000 pounds." The present section reads in terms of issuance of an identification plate. The practice is to issue the permit in the form of a certificate of registration and to issue a decal to be attached to the windshield in lieu of the identification plate. Subsection (3) expressly authorizes this practice. The last 2 sentences of sub. (3) also are new but state current practice and provide a desirable clarification of the department's powers and duties.

Subsection (4) incorporates MVD 8.01 of the motor vehicle department's rules. Violation of such rule was subject to the penalty stated in s. 85.01 (12). The revised penalty used throughout the registration law has been incorporated in sub. (4).

Subsection (5) is a revision of s. 85.055 (3) so as to bring it into conformity with practice.

In sub. (6) the word "shall" has been used to indicate the department's duty to cancel a reciprocity permit for a second or subsequent violation of a statutory weight limitation. Present s. 85.055 (4) uses the word "may" in this respect, but in order to avoid holding the delegation of authority to the department unconstitutional for failure of the legislature to set standards to guide the department in canceling permits, the attorney general construed the word "may" to mean "shall." 43 Atty. Gen. 100 (1954). The reference to s. 348.15 and 348.16 is to the proposed revision of present s. 85.47 and 85.48.

The reference in s. 85.055 (5) to the department's authority to make rules has been dropped on the ground that such a provision adds nothing to the authority granted in s. 110.06. [Bill 99-S]

341.47 History: 1957 c. 260, 554; Stats. 1957 s. 341.47.

Legislative Council Note, 1957: This section states the conditions under which a vehicle owned by a dealer, distributor or manufacturer or being transported by a person engaged in the business of transporting vehicles is exempt from registration.

Subsection (1) is based upon s. 85.02 (6) and s. 110.09 (4) and takes into account the effect of the definitions contained in s. 218.01 (1) (a), (k), (n) and (o). The phrase "or from the dealer to the purchaser" in sub. (1) (b) is new. Its principal purpose is to permit mobile home dealers to deliver mobile

homes on their dealer plates, thereby making it unnecessary for the purchaser to register the mobile home if he is not going to operate the mobile home on a highway. The word "primarily" has been inserted in sub. (1) (c) to reflect an attorney general's opinion construing the present law. See 35 Atty. Gen. 272 (1946).

Subsection (2) is a restatement of s. 85.02 (3).

Subsection (3) is based upon s. 85.025 (4). The law relating to persons engaged in the business of transporting vehicles in tow on their own wheels between dealer, distributor, manufacturer or branch of the manufacturer has been expanded to include transportation of trailers, semitrailers and mobile homes. See the definition of "transporter" in s. 340.01. [Bill 99-S]

A dealer in automobiles is not authorized to use the dealer's number plates on automobiles for his private use or on those let out for hire. 3 Atty. Gen. 535.

A car owned and used by a garage proprietor for the purpose of towing to the garage or for the purpose of pulling cars out of mud holes or snow banks for hire must have regular registration as a motor vehicle; it cannot be operated under a manufacturer's, distributor's or dealer's certificate of registration. Trucks and cars owned by residents of Michigan operated in Wisconsin for the purpose of towing cars to garages for repair and towing cars for hire are covered by general registration laws. 17 Atty. Gen. 336.

A motor finance company in selling repossessed cars on which it has lent money is not a dealer in motor vehicles so as to be eligible to register for auto license as a dealer. 19 Atty. Gen. 52.

A garage proprietor may permit a prospective purchaser of a new car to drive the same upon the highway without an official garage representative being present. 22 Atty. Gen. 752.

Auto dealers' license plates may be used in lieu of regular plates only on vehicles offered for sale by dealers, distributors or manufacturers, or on vehicles in transit from factory to a dealer or distributor, or when being used for trial tests by manufacturers; otherwise there is no restriction as to the use or as to the driver of vehicles equipped with dealers' license plates. 27 Atty. Gen. 333.

A manufacturer may not operate motor vehicles upon highways to transport materials, etc., to and from its plant under the manufacturer's license plates, even though experimental vehicles and some testing thereof are involved. 35 Atty. Gen. 272.

A dealer's plates may be used on a vehicle operated by a member of the dealer's family on private business provided, however, that the vehicle is owned by the dealer and that it is offered for sale. 38 Atty. Gen. 323.

341.51 History: 1957 c. 260; Stats. 1957 ss. 341.48, 341.51; 1961 c. 175; 1961 c. 560 s. 10; Stats. 1961 s. 341.51; 1969 c. 500 s. 30 (3) (i).

341.52 History: 1957 c. 260; Stats. 1957 s. 341.52.

341.53 History: 1957 c. 260; Stats. 1957 s. 341.53.

The presumption that one using an automobile upon which is affixed a dealer's license was an employe of the dealer and within the scope of his employment is rebuttable. *Buchholz v. Kastner*, 193 W 224, 231, 213 NW 329.

341.55 History: 1957 c. 260, 554; Stats 1957 s. 341.55.

341.57 History: 1957 c. 554; Stats. 1957 s. 341.57; 1967 c. 92 s. 22; 1967 c. 229; 1969 c. 500 s. 30 (3) (i).

341.60 History: 1957 c. 260; Stats. 1957 s. 341.60; 1961 c. 560.

Legislative Council Note, 1957: This section is largely new, though it covers that part of s. 85.01 (4) (j) which prohibits the giving of an erroneous address in an application for registration of a vehicle subject to registration on the basis of gross weight. Presently there is no penalty for falsifying an application for registration except in the case of a vehicle being registered on the basis of gross weight. There is a penalty for making a false statement in an application for a certificate of title, but the penalty (\$5,000 fine or 5 years imprisonment or both) is out of proportion to the seriousness of the offense contemplated by the new section.

Specifically, this section is aimed at a situation which currently is causing considerable difficulty in the administration of the registration laws. The motor vehicle department has been receiving an unusually large number of applications for registration of new automobiles which are made out in the name of a fictitious person or a person other than the true owner or giving a false address. This section should help curb that practice. [Bill 99-S]

341.61 History: 1957 c. 260; Stats. 1957 s. 341.61; 1959 c. 542.

Legislative Council Note, 1957: Subsection (1) is not in the present law but in effect incorporates into the statutes an attorney general's ruling that a person who lends registration plates to a person he knows is not entitled to use them is concerned in the commission of the crime of using plates on a vehicle for which they were not issued and therefore may be prosecuted for that crime. 40 Atty. Gen. 325 (1951).

Subsection (2) is substantially a restatement of parts of s. 85.01 (4) (i) and 85.01 (6) (c) 2. The phrase "or not otherwise authorized by law to be used thereon" refers to plates issued for automobiles registered under the monthly series system. When ownership of such an automobile is transferred, the plates must be removed by the seller and attached to the automobile which he purchases. Such plates therefore may under certain circumstances be attached to a vehicle for which they were not issued. In most other cases, the plates stay with the vehicle for which they were issued, regardless of the transfer of the ownership of the vehicle. See s. 342.18. [Bill 99-S]

341.62 History: 1957 c. 260; Stats. 1957 s. 341.62; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section

is based upon the first sentence of s. 85.01 (4) (i) but the scope of the present law has been expanded somewhat. The present law prohibits the alteration or fashioning of "any metal number plates" so as to imitate or resemble the current registration plates. The new section uses the term "plate or similar device" because it is possible to use materials other than metal to imitate current registration plates, and every method of imitation obviously should be prohibited. [Bill 99-S]

341.63 History: 1957 c. 260; Stats. 1957 s. 341.63; 1969 c. 500 s. 30 (3) (h), (i).

A person operating a motor vehicle with license plates issued on a license subsequently canceled is subject to arrest under 85.01, Stats. 1931. 22 Atty. Gen. 123.

CHAPTER 342.

Vehicle Title and Anti-Theft Law.

342.01 History: 1957 c. 260; Stats. 1957 s. 342.01.

342.02 History: 1965 c. 485; Stats. 1965 s. 342.02.

342.05 History: 1957 c. 260; Stats. 1957 s. 342.05; 1965 c. 485; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section is largely a statement of present practice. There is nothing in the present law which clearly states when a certificate of title is required, though s. 85.01 (3) seems to direct the department to issue a certificate of title whenever it registers a vehicle. In practice, a certificate of title is issued upon an owner's first registration of a vehicle and eligibility for a certificate of title is considered a prerequisite to such first registration. The owner is not required to apply for and obtain a new certificate whenever he renews the registration of the vehicle. This procedure is entirely proper, for a certificate of title serves an entirely different purpose than the certificate of registration. The certificate of title is evidence of the ownership of the vehicle and there should be at least a strong presumption that once a person has proved his ownership of a vehicle and obtained a certificate of title, his ownership continues past the end of the registration year unless the department is notified to the contrary. The certificate of registration, on the other hand, is evidence of the payment of the annual registration fee and obviously should be reissued upon each annual payment of such fee.

Subsection (1) states the conditions under which the owner of a vehicle subject to registration in this state must apply for a certificate of title. The duties of a person who has newly acquired a vehicle are set forth in s. 342.19. The most common example of the application of sub. (1) (b) occurs when a person owning a vehicle moves to this state from another state.

Subsections (2) and (3) state when a certificate of title is a prerequisite to registration. Section 341.10 (3) directs the department to refuse registration if a certificate of title is a prerequisite and the applicant is not