

mvd 10.05

Filed May 15/56
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STATE OF WISCONSIN
MOTOR VEHICLE DEPARTMENT
MADISON

IN THE MATTER OF THE ADOPTION
OF ADMINISTRATIVE RULES UNDER
85.09 OF THE WISCONSIN STATUTES

Pursuant to authority vested in the Commissioner of Motor Vehicles by 85.09 (2)(a) of the Wisconsin Statutes, the Commissioner hereby adopts rules as follows:

Sections MVD 10.02 to ~~10.04~~ ^{10.05} (2) of the Wisconsin Administrative Codes are adopted to read:

10.02 UNTIMELY FILING OF JUDGMENTS UNDER 85.09. (1) An administrative problem confronting the department arises under 85.09 of the statutes wherein a driver, owner or both fully comply with the Safety Responsibility Act by depositing security to pay any and all damage judgments arising from an accident; or, a driver and owner's licenses are suspended for his failure to deposit security under such Act; and,

No claimant files any notice of an action instituted within one year from the date of the accident as provided by law, thus entitling such depositor or licensee to the return of the deposit or the reinstatement of his licenses under the law; and,

After the return of the deposit or the reinstatement of the license as provided by law, a claimant files a judgment under 85.09 (12) and (13) for the purpose of re-suspending the license for non-payment of such judgment, thus creating a double penalty under the law if such interpretation were given such statute.

(2) It shall be declared interpretation that such subsections read separately creating one interpretation, and read as a whole creating another interpretation, that the Supreme Court rule of reading the statute as a whole be adopted; and, that in accordance with such interpretation where no notice is given to retain the deposit or retain the suspension of license pending judgment for damages as required by law,

that such judgment being filed after the return of the deposit, or the reinstatement of license, as the case may be, shall be considered as untimely filing of such judgment within the over-all intent and purpose of the Act and considered laches on the part of the claimant. That such judgment shall be returned to the claimant as not complying with the intent and purpose of the Act by not availing themselves of the security deposited, or the retention of the suspension of license as provided under the general statute.

10.03 PROOF OF OPERATING WITHOUT PERMISSION UNDER 85.09 (6)(c). In all motor vehicle accident cases wherein the owner of a motor vehicle involved alleges the vehicle to have been operated or parked without the owner's express or implied permission for the purpose of being exempt from the requirement of depositing security under 85.09 (6)(c), such owner shall produce proof of such operation without express or implied permission with proof as follows:

(1) In the case of a stolen vehicle with the driver unknown, a letter from the law enforcement chief of the municipality where the offense occurred, that the vehicle was immediately reported stolen and investigated by such law enforcement agency and found to be a stolen vehicle with driver unknown; or,

(2) In the case of a claim that the vehicle was operated without express or implied permission by a stranger, by a letter from the District Attorney that the owner has shown his good faith and signed a complaint with the District Attorney, that a warrant was issued and the driver was convicted and proven to be so operating such vehicle at the time of the accident; or,

(3) In cases of relatives or close friends where the claim is made ~~on~~ that prosecution would be impossible because of it being in the family or a close friend, causing a breach in the family or loss of companionship of society and immediate friends, the owner files with the Commissioner his sworn affidavit of such operation without express or implied permission;

a. Upon the filing of such sworn statement of operation without permissive use, the Commissioner would give all injured passengers and the owner's of all damaged property involved, a ten-day notice of such claim for exemption and further stating that unless substantiated proof of the contrary is filed within such ten-day period, the owner's claim for exemption will be granted.

Where no proof to the contrary is filed within such ten-day period resulting in the commissioner's granting an exemption to the owner on the basis of the operator's operation of the vehicle without express or implied permission, such exemption shall stand irrespective of proof to the contrary being filed untimely under such notice until a court of competent jurisdiction determines otherwise.

b. In all cases where substantiated proof by affidavit is furnished within such ten-day notice period, that an investigation by a party in interest has produced facts to prove that a vehicle was operated without either express or implied permission indicating a controversy, either security must be deposited in accordance with law, or an insurance certificate in lieu of such security indicating coverage for the accident; or, one of the other alternatives meeting the statutory requirements filed with the Commissioner to comply with the statute.

10.04) TIME FOR SUBSTANTIATION OF DAMAGE.

(1) In all cases of requirement of an affidavit of damages (personal or real property or personal injury) under 85.09 (5)(am) such substantiation must be filed within 10 days on the day certain as noticed such party or considered untimely for the requirement of security. Such time limitation is evident from the fact that 85.09 (5)(a) requires the Commissioner to require the security within sixty days of the filing of the accident report, with at least a 10 day notice of the amount of security requirement given within such 60 day period.

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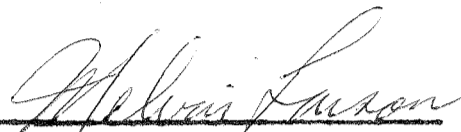
10.04 NOTICE OF SUBROGATION OR ASSIGNMENTS.

(2) In all cases of subrogation claims or assignments under 85.09 of statutes a signed duplicate or certified copy of such subrogation or assignment agreement of claim must be filed with the Commissioner as notice of such rights.

(a) (Where the Commissioner has acted prior to receipt of such notice the notice shall be considered as untimely.)

Dated at Madison, Wisconsin

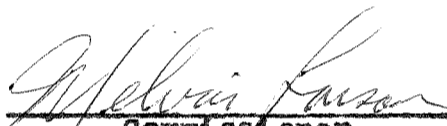
this 2 day of April 1956



Commissioner of
Motor Vehicles
State of Wisconsin

I, Melvin Larson, Commissioner of the Motor Vehicle Department, do hereby certify that the annexed rules and regulations relating to the Safety Responsibility Act were duly approved and adopted by the department.

(SEAL)



Commissioner