

No. 305, A.]

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### CHAPTER 521.

AN ACT to amend 85.05 (3), 85.09 (5) (c) and 194.10 of the statutes, relating to service of process on nonresidents using the highways of this state in actions for damages arising out of such use.

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

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

85.05 (3) The use and operation by a nonresident of a motor vehicle over the highways of Wisconsin shall be deemed an irrevocable appointment binding upon *him*, his executor, administrator or personal representative by such nonresident of the commissioner of the motor vehicle department to be his true and lawful attorney upon whom may be served all legal processes in any action or proceeding against him, or his executor, administrator or personal representative, growing out of such use or operation resulting in damage or loss to person or property, and said use or operation shall be a signification of his agreement that any such process against him, or his executor, administrator or personal representative, which is so served shall be of the same legal force and validity as if served on him personally, or his executor, administrator or personal representative. \* \* \* *The commissioner as such attorney shall upon being served with such process forthwith mail by registered mail a copy of the papers served to such nonresident at the address given in the papers so served. It shall be the duty of the party or his attorney to certify*

*in the papers so served that the address given therein is the last known address of the nonresident to be served. In all cases of service hereunder there shall be served the original and the number of copies that there are defendants so served in the action, the original to be returned with proper certificate of service attached for filing in court as proof of service of the copies by having mailed them by registered mail to the defendants named therein. The service fee shall be \$2 for each defendant so served. The commissioner \* \* \* shall keep a record of all such processes which shall show the day and hour of service.*

SECTION 2. 85.09 (5) (c) of the statutes is amended to read:

85.09 (5) (c) No such policy or bond shall be effective under this subsection unless issued by an insurance company or surety company authorized to do business in this state, except that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under this subsection unless the insurance company or surety company if not authorized to do business in this state shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident; provided, however, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$5,000 because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than \$10,000 because of bodily injury to or death of 2 or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$1,000 because of injury to or destruction of property of others in any one accident. *Where service of process is made on the commissioner under a power of attorney filed in accordance with this paragraph, the commissioner shall forthwith mail by registered mail a copy of such papers to such company at the address given in the filed power of attorney. In all cases of service hereunder there shall be served the original and the number of copies that there are defendants so served in the action, the original to be returned with proper certificate of service attached for filing in court as proof of service of the copies by having mailed them by registered mail to the defendants named therein. The service fee shall be \$2 for each defendant so served.*

SECTION 3. 194.10 of the statutes is amended to read:

194.10 If any common motor carrier of property or of passengers, any contract motor carrier, or any private motor carrier, subject to this chapter, is a nonresident of this state, he shall, prior to operating under this chapter, appoint an agent in this state upon whom process in any or all legal proceedings, arising out of its operation within this state or under this chapter, may be served and shall forthwith notify the motor vehicle department of such appointment and of the name and address of such agent, and such nonresident carrier shall, so long as he continues to operate in this state, maintain such an agent. Unless such an agent is appointed by the time the certificate, license or permit is issued, authorizing such nonresident carrier to operate in this state under this chapter, or if at any time thereafter, so long as he continues to operate in this state under this chapter, he does not maintain such an agent in this state, he shall be deemed to have authorized the commissioner of the motor vehicle department to act as his agent for the service of process in the legal proceedings above set forth. The commissioner, while he is such agent shall, upon being served with process as the agent of such nonresident carrier, forthwith mail to him the papers so served. *Such service on the commissioner shall be effected by serving upon him the original and the number of copies that there are defendants so served in the action, the original to be returned with proper certificate of service attached for filing in court as proof of service of the copies by having mailed them by registered mail to the defendants named therein. The service fee shall be \$2 for each defendant so served.*

Approved July 5, 1951.