

No. 716, A.]

[Published October 28, 1959.

**CHAPTER 562**

AN ACT to repeal 331.035 (4); and to amend 102.29 (5), 194.10, 344.52 (2) and 345.09 (1) of the statutes, relating to reconciling certain sections of the statutes with the new 3-year personal injury limitation and the abolition of the 2-year notice requirement.

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

SECTION 1. 102.29 (5) of the statutes is amended to read:

102.29 (5) If the insurance carrier of the employer and of the third party \* \* \* are the same or if there is common control of the insurer of each, and the insurer fails to commence a third party action, \* \* \* within the 3 years allowed by s. 330.205, \* \* \* the 3-year statute of limitations in s. 330.205 shall not be pleaded as a bar in any action commenced by the injured employe herein against any such third party subsequent to \* \* \* 3 years from the date of injury, but prior to 6 years from such date of injury, provided that any recovery in such action shall be limited to the insured liability of the third party. In any such action commenced by the injured employe subsequent to the \* \* \* 3-year period, the insurance carrier of the employer shall forfeit all right to participate in such action as a complainant and to recover any payments made under

the workmen's compensation act. This subsection shall not apply if the insurance carrier has complied with sub. (4).

SECTION 2. 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 and notices 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 motor vehicles 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 affected by serving upon him the original, one copy for the commissioner's record of service and such additional number of copies as 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 is \$2 for each defendant so served.

SECTION 2m. 331.035 (4) of the statutes is repealed.

SECTION 3. 344.52 (2) of the statutes is amended to read:

344.52 (2) If a motor vehicle rented for compensation outside this state is operated in this state, the lessor of such vehicle is deemed to have irrevocably appointed the commissioner as his agent or attorney upon whom legal process \* \* \* may be served in any action or proceeding against such lessor or his executor, administrator, personal representative, successors or assigns, growing out of the operation of such rented motor vehicle in this state. Such appointment is binding upon the lessor's executor, administrator, personal representative, successors or assigns. The operation of such rented motor vehicle in this state is a signification of the lessor's agreement that such legal process or notice may be served upon him or his executor, administrator, personal representative, successors or assigns and that process or notice so served has the same legal force as if personally served upon him or them in this state. Service of such process or notice shall be made \* \* \* as provided in s. 345.09. This section does not affect the right to serve process or notice on the nonresident operator of the rented motor vehicle as provided in s. 345.09.

SECTION 4. 345.09 (1) of the statutes is amended to read:

345.09 (1) The use and operation of a motor vehicle over the highways of this state by a nonresident is deemed an irrevocable appointment by such nonresident of the motor vehicle commissioner 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 the use or operation of the motor vehicle in this state and resulting in damage or loss to person or property,

whether the damage or loss occurs on a highway or on abutting public or private property. Such appointment is binding upon the nonresident's executor, administrator or personal representative. Such use or operation of a motor vehicle by such nonresident is a signification of his agreement that any such process or notice 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 on his executor, administrator or personal representative.

SECTION 5. This act shall take effect September 1, 1959.

Approved October 23, 1959.

---