

No. 239, S.]

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CHAPTER 320

AN ACT to amend 85.09 (7) (b) and (d), (9) (b) and (10) (c); and to create 85.09 (4) (c) of the statutes, relating to the inclusion of counterclaims and cross complaints in the safety responsibility law and the reinstatement of licenses suspended for failure to report an accident.

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

SECTION 1. 85.09 (4) (c) of the statutes is created to read:

85.09 (4) (c) If no notice of action instituted within one year from the date of the accident has been filed with the motor vehicle department within 13 months as provided in s. 85.09 (7) (b) or (10) (c) thus entitling reinstatement of licenses or the return of security as provided therein, such person's licenses suspended in accordance with the above provision for failure to report shall be automatically reinstated on the reinstatement order as provided in s. 85.09 (7) (b), or the order to the state treasurer on the return of the deposit as provided in s. 85.09 (10) (c). The commissioner shall also reinstate all licenses suspended for failure to report under all other subsections of the law providing for suspensions for failure to report unless notice of action has been filed as provided above.

SECTION 2. 85.09 (7) (b) and (d) of the statutes are amended to read:

85.09 (7) (b) One year shall have elapsed following the date of such accident and no notice having been filed with the commissioner by any claimant within 13 months from the date of accident of any action instituted *or counterclaim or cross complaint entered in an action instituted* by any party in interest within one year from the date of the accident by actual service of summons * * * *and complaint* within such one-year period *or the service of counterclaim or cross complaint within the 20-day answer period.* Such notice shall include, if the action was commenced in a court of record, a certified copy of the summons and complaint *or counterclaim or cross complaint and proof of service* filed therein * * * *but, if the action was commenced before a justice of the peace, a certificate from the justice of the peace * * * establishing such facts; or*

(d) Evidence satisfactory to the commissioner has been filed with him of a final adjudication of nonliability, or a warrant for confession of judgment, or a duly acknowledged written agreement, in accordance with sub. (6) (d), provided, in the event there shall be any default in the payment of any instalment under any confession of judgment, then, upon notice of such default *given within the term of the instalment agreement or in no event later than 30 days after the time for the final instalment*, the commissioner shall forthwith suspend the license and registration or nonresident's operating privilege of such person defaulting which shall not be restored unless and until the entire amount provided for in said confession of judgment has been paid; and provided, further, that in the event there shall be any default in the payment of any instalment under any duly acknowledged written agreement, then, upon notice of such default, the commissioner shall forthwith suspend the license and registration or nonresident's operating privilege of such person defaulting which shall not be restored unless and until 1. such person deposits and thereafter maintains security as required under sub. (5) in such amount as the commissioner may then determine, or 2. one year shall have elapsed following the date when such security was required * * * *and no notice*

having been filed with the commissioner by any claimant within 13 months from the date when such security was required of any action instituted or counterclaim or cross complaint entered in an action instituted by any party in interest within one year from the date when such security was required by actual service of summons and complaint within such one-year period or the service of counterclaim or cross complaint within the 20-day answer period. Such notice shall include, if the action was commenced in a court of record, a certified copy of the summons and complaint or counterclaim or cross complaint and proof of service filed therein; but, if the action was commenced before a justice of the peace, a certificate from the justice of the peace establishing such facts.

SECTION 3. 85.09 (9) (b) of the statutes is amended to read:

85.09 (9) (b) The commissioner may reduce the amount of security ordered in any case * * * if, in his judgment, *from evidence submitted the amount ordered is excessive or has become excessive by filed release on partial liability or adjudication reducing extent of liability.* In case the security originally ordered has been deposited the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith, notwithstanding the provisions of sub. (10).

SECTION 4. 85.09 (10) (c) of the statutes is amended to read:

85.09 (10) (c) Such deposit or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the commissioner has been filed with him that there has been a release from liability, or a final adjudication of nonliability, or a warrant for confession of judgment or a duly acknowledged agreement, in accordance with sub. (6) (d) or whenever, after the expiration of one year from the date of the accident, or within one year after the date of deposit of any security under sub. (7) (c), and no notice having been filed with the commissioner by any claimant within 13 months from date of accident of any action instituted *or counterclaim or cross complaint entered in an action instituted* by any party in interest within one year from the date of the accident by actual service of summons * * * *and complaint* within such one-year period *or the service of counterclaim or cross complaint within the 20-day answer period.* Such notice shall include, if the action was commenced in a court of record, a certified copy of the summons and complaint *or counterclaim or cross complaint and proof of service* filed therein * * * *but, if the action was commenced before a justice of the peace, a certificate from the justice of the peace * * * establishing such facts.*

Approved June 23, 1955.
