

No. 143, A.]

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CHAPTER 84

AN ACT to amend 85.05 (6), 85.216 (2), 194.10 and 330.19 (5) of the statutes, relating to the service of the notice of injury in automobile accident cases.

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

SECTION 1. 85.05 (6) of the statutes is amended to read:

85.05 (6) 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 the notice of injury required by s. 330.19 (5) and 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 resulting in damage or loss to person or property, whether the damage or loss occurs on a public highway or on abutting public or private property, and said use or operation shall be a signification of his agreement that any such notice or 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 notice or 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 notices and processes which shall show the day and hour of service.

SECTION 2. 85.216 (2) of the statutes is amended to read:

85.216 (2) In the event a motor vehicle rented for compensation outside the state is operated in this state, the lessor of said vehicle shall be deemed to have made an irrevocable appointment of the commissioner of the motor vehicle department as said lessor's agent or attorney binding upon any executor, administrator, personal representative, successors or assigns of said lessor, for the service of all notices of injury required by s. 330.19 (5) and legal process in any legal action or proceeding against said lessor or his executor, administrator, personal representative, suc-

cessor or assigns growing out of the operation of said rented motor vehicle in this state, and the operation of said rented motor vehicle in the state of Wisconsin shall be a signification of said lessor's agreement that said *notice or legal process* may be served upon him or his executor, administrator, personal representatives or assigns as herein provided and that when so served shall have the same legal force and validity as if personally served in this state on the lessor or his executor, administrator, personal representative, successors or assigns. Service of such *notice or legal process* shall be made on the commissioner of the motor vehicle department in the same manner as provided in s. 85.05 (6). Nothing contained in this section shall be deemed to negative the right to serve *notice and legal process* on a nonresident operator of said rented motor vehicle as provided in s. 85.05 (6) and (7).

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 *the notice of injury required by s. 330.19 (5) and* 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 *notice and* process in the legal proceedings above set forth. The commissioner, while he is such agent shall, upon being served with *notice or* 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.

SECTION 4. 330.19 (5) of the statutes is amended to read:

330.19 (5) An action to recover damages for an injury to property, real or personal, or for an injury to the person, character or rights of another, not arising on contract, except in case where a different period is expressly prescribed. But no action to recover damages for injuries to the person, received without this state, shall be brought in any court in this state when such action shall be barred by any statute of limitations of actions of the state or country in which such injury was received unless the person so injured shall, at the time of such injury, have been a resident of this state. No action to recover damages for an injury to the person shall be maintained unless, within 2 years after the happening of the event causing such damages, notice in writing, signed by the party damaged, his agent or attorney, shall be served upon the person or corporation by whom it is claimed such damage was caused, stating the time and place where such damage occurred, a brief description of the injuries, the manner in which they were received and the grounds upon which claim is made and that satisfaction thereof is claimed of such person or corporation. Such notice shall be given in the manner required

for the service of summons in courts of record, *including service upon the commissioner of motor vehicles when authorized by s. 85.05 (6)*. No such notice shall be deemed insufficient or invalid solely because of any inaccuracy or failure therein in stating or omitting any detail, provided it appears that there was no intention on the part of the person giving the notice to mislead the other party and that such party was not in fact misled thereby. It is declared that the purpose of this statute is to prevent the prosecution of claims after the investigation of the facts upon which they are based shall have become difficult and no notice which advises the person to whom it is addressed of the principal facts upon which the claim is based shall be deemed insufficient if it substantially meets the requirements hereof. When an action shall be brought and a complaint actually served within 2 years after the happening of the event causing such damages, the notice herein provided for need not be served.

Approved May 9, 1957.
