

CHAPTER 85.

VEHICLES AND TRAFFIC.

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85.01 Auto registration. (1) **REQUIRED; MANNER OF ENFORCEMENT.** No automobile, motor truck, motor delivery wagon, bus, motor cycle or other similar motor vehicle or trailer or semitrailer used in connection therewith, shall be operated upon any highway unless the same shall have been registered in the office of the motor vehicle department, and the registration fee paid. Any person who shall operate an automobile or motor cycle, or any person, except as hereinafter provided, who shall operate after July 15, a motor truck, tractor truck, bus, tractor, trailer or semitrailer, unless the same shall have been registered, as hereinbefore provided, may be arrested by any sheriff, deputy sheriff, city or village marshal, constable or any other police officer, and brought before any judge of a court of record or justice of the peace. Such judge or justice shall impose the penalty provided in sub. (12), and in addition require such person to make application for registration and pay the fee therefor, and \$2 in addition thereto. Such judge or justice shall forthwith forward such application and fee to the motor vehicle department, and pay the \$2 collected in addition to the registration fee to the informant. The absence of number plates shall be prima facie evidence that the vehicle is not registered. This subsection shall not apply to any motor vehicle while being operated by any dealer or distributor, in accordance with s. 85.02, nor to any vehicle while being operated by any private person within a period of 10 days from the date of purchase of such vehicle by such private person, provided that application for registration has been made, or to any vehicle displaying official permit issued by the motor vehicle department. The motor vehicle registration fee for any vehicle registered under this chapter as a bus, truck, trailer or semitrailer may be paid on a quarterly basis when the registered gross weight of such vehicle is over 8,000 pounds, or any vehicle operated in conjunction with another such vehicle as a unit having an aggregate combined registered gross weight of over 8,000 pounds. The quarterly registration fee for each quarter shall be one quarter of the annual fee plus \$1. The quarters are the 3-month periods commencing on July 1, October 1, January 1 and April 1; and no vehicle permit shall be issued until such quarterly or annual registration fee shall have been paid. The quarterly permit plate so issued shall cover all licenses and fees and shall be in lieu of the license number plate issued for the quarter period for which it is issued. No such quarterly plate shall be issued except it appear by affidavit that such vehicle was not operated on the highways of this state during the previous quarter of the license year without the payment of the annual or quarterly registration fee due for such previous quarter. If such vehicle was not operated on the highways during any quarter it shall be exempt from the payment of the registration fee for such quarter in which it was not used. If such vehicle is new or has not previously been registered in this state, and the time of registration falls within any such quarter, the owner thereof may at his option pay for the remainder of the quarter during which he desires to so operate which fee shall be computed on the basis of one-twelfth of the annual fee multiplied by the number of months within the quarter which have not fully expired. The quarterly registration fees so collected shall be deposited in the state treasury. Subsection (4) (h) shall not apply to the provisions of this subsection relating to quarterly payment.

(1a) **DEFINITIONS.** In this section, unless the context otherwise requires, the following words and terms shall have the following meanings:

(a) "Automobile" shall mean every motor vehicle not excluded by paragraph (b) designed for the purpose of transporting not more than 7 persons including the operator.

(b) The term "automobile" does not include motor driven cycles, motor vehicles used for the purpose of transporting persons or goods for hire, and motor vehicles owned and operated exclusively in the public service by the state of Wisconsin or by any county or municipality thereof.

(c) The owner of a vehicle shall be deemed to "operate" the same if it is being driven with his consent.

(1b) **MONTHLY SERIES REGISTRATION SYSTEM ESTABLISHED.** (a) The commissioner shall establish a system of registration of automobiles on a monthly series basis to distribute the work of registering such vehicles as uniformly as practicable throughout the 12 months of the calendar year.

(b) Commencing January 1, 1952, automobiles required to be registered by this chapter shall be registered for a period of 12 consecutive calendar months. There are established 12 registration periods, each of which shall be designated by a calendar month and to start on the first day of such month and end on the last day of the twelfth month from the date of commencing.

(c) The commissioner shall distribute the total automobile registrations among the registration periods as nearly as possible in accordance with the established distribution, and he may allocate new registrations among the 12 registration periods so as to equalize the registration and renewal work load of the department; and if, as a result, fractional

registration periods are assigned when first registered in Wisconsin, such registrations shall be for the full 12-month period thereafter.

(d) Automobiles operated for the first time upon the public highways of this state to and including the 15th day of any given month shall be subject to registration and payment of the fee for the 12-month period commencing the first day of the month of such operation. Automobiles operated for the first time upon the public highways of this state on and after the 16th day of any given month shall be subject to registration and payment of fee for the 12-month period commencing the first day of the next following calendar month.

(e) Beginning January 1, 1952, each automobile license plate, in addition to carrying the name "Wisconsin" or the abbreviation "Wis." as required by sub. (6) in the upper left-hand portion of the plate and the words "America's Dairyland" as required in sub. (6) across the lower portion of the plate, shall carry a 3-letter abbreviation for the month of registration and the year of registration in the upper right-hand portion of the plate in symbols not less than three-fourths inch high. For each registration made under this section there shall be allocated an identifying letter-number symbol consisting of a prefix of a letter or letters and a suffix of numbers, each of which shall be not less than 3 inches in height, of clearly distinguishable design and located prominently in the center of the plate. There shall be 2 slots in the plate, one near each end or side of the year designation, which will admit the insertion of a tag showing a succeeding annual registration; such tags to be provided by the department and used only in the event of a national emergency determined by the emergency board which would cause shortage of metal or other suitable material for the annual replacement of plates.

(1d) INTERPRETATION. (a) Subsections (1a), (1b), (4), (5), (6), (8), (10) and (11) as amended or created to establish and effectuate the system of staggered registration of automobiles and the permanent retention of license plates by the owners of automobiles registered under that system, are declared to supersede all existing statutes governing registration and licensing in so far as they may conflict therewith. In so far as the existing statutes relating to registration and licensing of motor vehicles are consistent with the staggered system of registration and permanent retention of license plates, the same shall continue to be applicable to the vehicles defined as "automobiles" under section 85.01 (1a).

(b) If any of the provisions of subsections (1a), (1b), (4), (5), (6), (8), (10) and (11), relating to the establishment of a system for the staggered registration of automobiles, and providing the formula for accomplishing same shall be held invalid and unconstitutional by any court of competent jurisdiction, with the resultant effect of nullifying the system of staggered registration so provided for, the class or classes of persons and automobiles affected thereby shall become subject to the existing provisions of this chapter as if no system of staggered registration had been provided for. All provisions enumerated above are declared to be severable, so that in the event of a declaration of invalidity as to one or more of such sections which does not effectually nullify the system of staggered registration, the existing provisions of this chapter shall be applicable to the extent of such nullification.

(2) APPLICATION. Application for such registration shall be made by the owner to the motor vehicle department in the form prescribed by it and the registration fee shall be paid to it. Blank applications shall be supplied to the several county clerks by the motor vehicle department. Such application shall give the name of the town, city or village in which the owner of the motor vehicle resides which shall be stated in each instance on the certificate of title by the motor vehicle department. In cities of the first and second classes the application shall also give the true residential or business address of the owner and no application shall be accepted by the motor vehicle department which does not give the town, city or village in which the owner resides or which gives an address of general delivery. If the motor vehicle department has doubts about the facts stated in the application it may require such further evidence of ownership as it may consider necessary.

(2a) APPLICATION IN SPECIAL CASES. Whenever the holder of a common carrier certificate or contract carrier license issued by the public service commission shall operate a motor truck or truck tractor as defined in s. 85.10 (5) and (6) under the certificate or license of such holder, it shall cause such vehicle to be registered in the name of the legal owner under sub. (4) (c). Such vehicle may be registered by such operator in the name of owner, lessee. This subsection shall not affect the interchange of trailers permitted under s. 85.05 (5).

(3) CERTIFICATE OF TITLE AND OF REGISTRATION; WHERE KEPT. (a) The motor vehicle department shall register the vehicle described in the application, giving it a distinguishing number, and shall thereupon issue to the applicant a certificate of registration and a certificate of title, which shall contain the name, place of residence and address of the

owner, the registered number assigned, and a brief description of the vehicle registered, and furnish him registration number plates. The certificate of registration issued under the provisions of this section shall, in the case of motor trucks and passenger busses, be displayed in a prominent place in the driver's compartment of such vehicle. The certificate of title shall show any mortgage, conditional sales contract or other lien on the vehicle, and shall always be in the possession of the owner. In the case of a new motor vehicle being registered for the first time, no certificate of title or registration shall be issued unless such application is signed by an enfranchised new car dealer authorized to sell such new motor vehicle.

(b) Upon application and payment of a fee of \$1 by a dealer licensed in this state under section 218.01, the department may issue a certificate of title for a nonregistered vehicle without requiring registration of the vehicle.

(4) **FEE.** (a) *Automobiles.* There shall be paid annually to the motor vehicle department for the registration of each automobile a fee of \$16; provided that any automobile registered prior to the effective date of the recreation of this subsection (1947) for a fee less than \$16 and any automobile 5 years or more old registered prior to said time for an amount less than \$16, shall continue to be registered for such lesser fee or amount so long as it continues to be registered.

(ad) *Title fee.* A fee of \$1 shall be required for the issuance of an original certificate of title to a vehicle not previously registered in this state prior to January 1, 1956. This fee shall be in addition to any other required registration fees.

(am) *Automobiles under monthly series registration.* The fees payable during the 17 months commencing January 1, 1945 and ending May 31, 1947 for the registration of automobiles as defined in section 85.01 (1a) shall be computed on the basis of one-twelfth of the full year registration fee prescribed for such vehicles in paragraph (a) multiplied by the number of months for which said automobiles shall be required to be registered. Commencing January 1, 1946 there shall be paid to the motor vehicle department for the registration of each automobile required to be registered for a 12-month period a fee equal to the annual fee prescribed for such class of vehicles in paragraph (a).

(an) *Change of automobiles.* Upon application for registration of an automobile by an owner who holds a valid registration not yet expired for another automobile of which he has disposed, the commissioner shall register the automobile which is the subject of the application for the unexpired portion of the registration period for which applicant holds a license. When the automobile which is the subject of the application for registration for remainder of unexpired period is of the same fee class as the automobile for which the license was originally issued no further registration fee shall be required. When such automobile is in a higher fee class for which a greater fee is prescribed applicant shall pay a pro rata portion of the difference in fees. When the automobile is in a lower fee class for which a lesser registration fee is prescribed applicant shall not be entitled to a refund of the difference.

(ao) *Fee prorated.* Upon application for registration of an automobile by an owner who holds license plates for a registration period which has expired, as permitted by section 85.01 (8) (am), the commissioner shall register said vehicle for such fraction of a 12-month period as will enable said owner to use said license plates so held by him, and he shall be required to pay a fee computed on the basis of one-twelfth of the full year registration fee prescribed for such vehicles in paragraph (a), multiplied by the number of months remaining in the registration period for which he shall be required to register.

(b) *Motor cycles.* For the registration of each motor cycle, a fee of five dollars. For the registration of each motor cycle equipped with a side car, a fee of eight dollars.

(ba) *Snowmobiles.* For the registration of each snowmobile weighing less than three thousand pounds, a fee of five dollars. If the snowmobile is converted to a motor vehicle, such vehicle shall again be registered upon payment of the registration fee provided for such vehicle with allowance of credit for the registration fee paid for snowmobile.

(bb) *Vehicles of veterans' organizations.* For the registration of each motor vehicle operated exclusively by any nationally chartered war veterans' organization and used for the purpose only to advertise the organization, a fee of \$1.

(c) *Motor trucks and truck tractors.* 1. All motor trucks and truck tractors as defined in s. 85.10 (5) and (6) shall be registered on the basis of the maximum gross weight of such truck and the maximum combined gross weight of such truck tractor and any semitrailer which the applicant proposes to combine with such truck tractor in accordance with the following weight schedule and at the following annual fee:

	Proposed Fee
Not more than 3,000	\$ 16.00
Not more than 4,500	25.00
Not more than 6,000	35.00

Not more than 8,000	55.00
Not more than 10,000	90.00
Not more than 12,000	115.00
Not more than 14,000	140.00
Not more than 16,000	165.00
Not more than 18,000	190.00
Not more than 20,000	215.00
Not more than 22,000	240.00
Not more than 24,000	265.00
Not more than 26,000	290.00
Not more than 28,000	315.00
Not more than 30,000	350.00
Not more than 32,000	375.00
Not more than 34,000	400.00
Not more than 36,000	425.00
Not more than 38,000	450.00
Not more than 40,000	475.00
Not more than 42,000	500.00
Not more than 44,000	535.00
Not more than 46,000	560.00
Not more than 48,000	585.00
Not more than 50,000	610.00
Not more than 52,000	635.00
Not more than 54,000	660.00
Not more than 56,000	685.00
Not more than 58,000	710.00
Not more than 60,000	735.00
Not more than 62,000	770.00
Not more than 64,000	805.00
Not more than 66,000	840.00
Not more than 68,000	875.00

2. The gross weight in pounds shall in every case be arrived at by adding together the weight in pounds of the vehicle, or combination of vehicles, when equipped to carry a load and the maximum load carried by the vehicle or combination of vehicles in pounds.

(cc) *Milk tank tractor-semitrailer combinations.* 1. In recognition of the necessity of marketing dairy products and in furtherance of the economy of the dairy industry and the state, motor vehicles used exclusively for transporting liquid dairy products in a tank truck or a tractor tank semitrailer or trailer combination shall be registered at a fee equal to 60 per cent of the fee specified in par. (c) for a combination of the same gross weight.

1m. In recognition of the relationship of the basic economy of the state to the production of milk, motor vehicles used exclusively in the transportation of milk from the point of production to the primary market and the return of dairy supplies and dairy products from that terminus to the farms shall be registered at a fee of \$15 less than the fees specified in par. (c) for trucks of the same gross weight.

2. Where an owner of truck tractors has an excess of tractors over tractors and semi-trailers registered in combination under this paragraph and used exclusively for the transportation of liquid dairy products, the owner shall be allowed to register the excess tractor at the annual fee specified in par. (c), providing such owner uses such tractor interchangeably with other semitrailers owned by him and registered in combination with in this state.

3. As used in this paragraph "liquid dairy products" includes milk and products of milk in liquid form, including without limitation because of specific enumeration herein the following: condensed and sweetened condensed products of milk, both in raw and pasteurized form.

NOTE: 85.01 (4) (cc) is printed above as it appeared in the 1953 statutes. It was repealed and recreated by ch. 883, Laws 1955, and is printed below as changed by that act. See the new (4) (cc) 7 as printed below for effective dates of the new schedule.

(cc) *Dairy products, liquid and manufactured.* 1. Schedule. In recognition of the necessity of marketing dairy products and the importance of transportation in such marketing, and in furtherance of the dairy industry and this state, motor vehicles used exclusively in the transportation of liquid dairy products, or cheese, butter and powdered milk when such cheese, butter and powdered milk are transported from plant to plant or to warehouses within Wisconsin and are transported by vehicles registered at a gross weight of not more than 20,000 pounds, shall be registered at the same fee as a vehicle of the same gross weight in accordance with the following weight schedule and at the following annual fee:

	Proposed Fee
Not more than 3,000	\$ 16
Not more than 4,500	20
Not more than 6,000	24
Not more than 8,000	33
Not more than 10,000	54
Not more than 12,000	69
Not more than 14,000	84
Not more than 16,000	99
Not more than 18,000	114
Not more than 20,000	129
Not more than 22,000	144
Not more than 24,000	159
Not more than 26,000	174
Not more than 28,000	189
Not more than 30,000	210
Not more than 32,000	225
Not more than 34,000	240
Not more than 36,000	255
Not more than 38,000	270
Not more than 40,000	285
Not more than 42,000	300
Not more than 44,000	321
Not more than 46,000	336
Not more than 48,000	351
Not more than 50,000	366
Not more than 52,000	381
Not more than 54,000	396
Not more than 56,000	411
Not more than 58,000	426
Not more than 60,000	441
Not more than 62,000	462
Not more than 64,000	483
Not more than 66,000	504
Not more than 68,000	525

2. Gross weight. The gross weight in pounds shall in every case be arrived at by adding together the weight in pounds of the vehicle, or combination of vehicles, when equipped to carry a load and the maximum load carried by the vehicle or combination of vehicles in pounds.

3. Transportation to and from primary market. Motor vehicles used exclusively in the transportation of milk from the point of production to the primary market, and the return of dairy supplies and dairy products from such primary market to the farm, shall be registered at the fee specified in subd. 1 for motor vehicles of the same gross weight.

4. Excess tractors. A person owning and operating more truck tractors than semitrailers registered within this state and used exclusively for transporting liquid dairy products may register such excess tractors at the annual fees specified in subd. 1, based upon the weight of the tractor only, providing that he uses such excess tractors exclusively with such semitrailers.

5. Liquid dairy products. As used herein liquid dairy products include milk and products of milk in liquid form including without limitation because of specific enumeration herein the following: condensed and sweetened condensed products of milk both in raw and pasteurized form.

6. Quarterly registration. Quarterly registration of motor vehicles registered under this paragraph shall be permissible notwithstanding the provisions of sub. (1). The quarterly registration fee for each quarter shall be one-fourth of the annual fee plus \$1.

7. Effective date. The new fees set forth in this paragraph shall take effect on January 1, 1957 for vehicles with a gross weight of less than 8,000 pounds and on July 1, 1956 for vehicles with a gross weight of 8,000 pounds or more.

(cd) *Special mobile equipment.* The annual registration fee for the following types of special mobile equipment shall be:

1. Any motor truck or any traction well-drilling rig permanently equipped with a well-drilling outfit and used exclusively for well-drilling purposes, \$10.

2. Any motor truck or any traction sawmill or corn sheller rig permanently equipped with a portable sawmill or corn sheller outfit and used exclusively for sawmill or corn sheller purposes, \$10.

3. Any trailer not used for hire and used for transporting any ditching machine

which is used exclusively for farm ditching or for the loading of gravel or other road material and which has a dipper capacity of not to exceed five-eighths of a yard, \$10.

4. Any motor vehicle, trailer or semitrailer, if operated empty, or transporting the equipment of the owner to or from a certain location over the public highways, when such operation at the location is the performance of work on a contract for the construction or maintenance of highways or airports for the United States, state or any political subdivision thereof, \$10.

5. Any motor vehicle, trailer or semitrailer, if operated empty, or transporting the equipment of the owner to and from a certain location over the public highways, when such operation at the location is the production of agricultural lime, \$10.

6. Any motor vehicle, trailer or semitrailer, if operated empty, or transporting the equipment of the owner to and from a certain location over the public highways, when such operation at the location is the clearing of land, dike building, terracing and ditching for the purpose of soil erosion control, farm drainage or forestry, \$10.

7. Mobile cranes or trench hoes used for bridges and building construction, ditching and excavating, heavy machinery removal or installation and loading and handling of heavy articles, \$10.

8. Any trailer or semitrailer permanently equipped with a well-drilling outfit or designed for moving pea viners and used exclusively for either of such purposes, no fee.

9. Tractors used exclusively in agricultural operations, including threshing, or used exclusively to provide power to drive other machinery, or to transport from job to job machinery driven by such tractor, or tractors used exclusively for construction operations, no fee.

10. Any trailer used as an implement of husbandry in farm operations with a gross weight of 12,000 pounds or less and consisting of a farm machine or implement or used exclusively for transportation of farm machinery, implements, produce or supplies on a farm or between farms, and any farm trailer, as defined in s. 85.10 (11a), having a gross weight of not to exceed 8,000 pounds when used as such, no fee.

(ed) 12. Any fork-lift truck which is used principally off the highway and which is operated only across a highway, no fee.

13. Any trailer as defined in s. 85.10 (11), designed to be hauled by a motor vehicle other than a truck tractor, which is used principally off the highway and which is operated only across a highway, no fee.

(em) *Farm trucks.* For the registration of farm trucks having a gross weight of 10,000 pounds or less a fee of \$10, and for the registration of farm trucks having a gross weight in excess of 10,000 pounds, one-fourth of the fee specified in par. (e) for a truck of the same gross weight.

(er) *School busses.* For the registration of a vehicle operated exclusively as a school bus, the fee specified in paragraph (e) for motor trucks except that the gross weight shall be determined as provided in paragraph (d) for passenger carrying motor vehicles. A school bus may be registered for a year, quarterly or part-quarterly as requested in the application. The quarterly period shall begin July 1, October 1, January 1 and April 1 and the fee for any quarter shall be one-fourth the annual fee. Fees for part-quarterly registration shall be computed on the basis of one-twelfth of the annual fee multiplied by the number of months of the current quarter which have not fully expired on the date of application, provided that, where the vehicle was not operated, an affidavit of non-operation satisfactory to the department shall be filed with the application. The department shall provide means whereby the registration plates will show the period of registration. A "school bus" is any motor vehicle transporting, under written contract with any school, school district or municipality, children to or from school, or used in transporting school groups on educational or recreational tours in conjunction with a school activity.

(d) *Busses.* For the registration of each motor vehicle having a passenger carrying capacity of more than 7 persons used for the transportation of passengers the fee specified in par. (e) for a motor truck of the same gross weight. The gross weight in tons of the passenger carrying motor vehicles specified in this paragraph shall be in every case determined by adding together the weight of pounds of the vehicle when equipped ready to carry passengers and the total passenger weight capacity in pounds divided by 2,000. The total passenger weight capacity in pounds shall be determined by dividing the total length of seating space therein or thereon, including the driver's seat, by 20 inches and multiplying this result by 150.

(dm) *Busses.* For the registration of each motor vehicle used for the urban mass transportation of passengers as defined in s. 71.18 (2) (a), or each motor vehicle operated as auxiliary to or a part of a street railway system, the annual fee shall be \$1.

(e) TRAILERS, SEMITRAILERS. 1. Except as otherwise provided by subd. 1m or par. (em), for the registration of each trailer defined in s. 85.10 (11) designed to be hauled

by a motor vehicle other than a truck tractor, one-half the annual fee specified in par. (c) for a motor truck of the same maximum gross weight.

1m. Each trailer or semitrailer designed to be hauled by a motor vehicle and having a gross weight of 1½ tons or less and not used for hire, no registration or fee.

2. For the registration of each semitrailer defined in s. 85.10 (12) operated in connection with a truck tractor an annual fee of \$10.

(el) *Farm trailers.* For the registration of each farm trailer having a gross weight of over 8,000 pounds but less than 12,000 pounds, a fee of \$5; for every farm trailer having a gross weight of 12,000 pounds or more, a fee one-half of the fee specified in par. (c) for a motor truck of the same gross weight. The gross weight in tons of the vehicles specified in this paragraph shall be in every case arrived at by adding together the weight in pounds of the vehicle when equipped ready to carry a load and the maximum load carried by the vehicle and then dividing the sum of the 2 by 2,000.

(em) *Mobile homes.* Each resident mobile home shall be registered with and titled by the motor vehicle department and shall be charged a flat fee of \$5 if such mobile home is 25 feet or less in length, and \$10 if over 25 feet in length.

(en) *Mobile home brakes.* All new mobile homes manufactured or sold in this state shall be equipped with brakes approved by the motor vehicle department, designed of a capacity sufficient to bring to a stop such vehicle and mobile home within a distance of 50 feet when operated at a speed of 20 miles per hour. No person shall drive any mobile home unless the propelling vehicle may stop within the distance and manner specified herein.

(f) *Road tractors.* For the registration of all road tractors as defined in s. 85.10 (7) and not exempt under par. (cc) the fees prescribed in par. (c) for trucks of the same gross weight.

(g) *Vehicles of state, municipalities, private schools and charitable corporations.* Automobiles, motor trucks, motor busses, motor delivery wagons, trailers or semitrailers owned and operated exclusively in the public service by the state, or by any county or municipality thereof, and motor vehicles loaned to approved public and private schools for the sole purpose of driver education, and motor busses owned and operated by a private school or college and used exclusively for transportation of students to and from such school or college or by a charitable corporation used exclusively for the purposes for which incorporated and not used for hire, and motor vehicles operated exclusively as Red Cross blood bank vehicles shall be registered by the motor vehicle department upon receipt of a properly filled out application blank accompanied by the payment of a registration fee of \$1 for each of said vehicles or trailers. The foregoing provision shall also apply to automobiles, motor trucks, motor delivery wagons, trailers or semitrailers loaned to the state or any county or municipality thereof for the duration of the war emergency and operated exclusively by the state or such county or municipality for civilian defense purposes. The motor vehicle department shall furnish one number plate for each automobile, motor truck, motor bus, motor delivery wagon, motorcycle, trailer or semitrailer, of a special series and color, and said number plates shall be removed [renewed] each year so long as it is used exclusively in the public service or for such school or college transportation. Registration fees received under this paragraph shall be credited as from the town, village or city from which said fees are received. Automobiles owned by the state and used by conservation wardens may be registered in the same manner as privately owned automobiles.

(h) *Part year fees.* The registration fees provided in this section shall be paid in full on all automobiles, motor trucks, passenger busses, motor cycles or other similar motor vehicles or trailers or semitrailers used in connection therewith registered in Wisconsin in the previous year, excepting vehicles transferred as hereinafter provided. For new vehicles and vehicles not previously registered in this state, the fees shall be computed on the basis of one-twelfth of the full year registration fee prescribed for such vehicles, multiplied by the number of months of the current registration year which have not fully expired on the date of application. When a nonregistered vehicle which has not been previously operated upon the public highways during the current registration year by the person acquiring ownership of such vehicle shall be transferred, the registration fee to be paid by the transferee shall be computed as provided above for new vehicles; provided a satisfactory affidavit of such nonoperation is filed with the motor vehicle department. The legal date of application for registration shall in the case of a new vehicle, a vehicle not previously registered in Wisconsin or a vehicle being transferred, be the date on which such vehicle was first operated on the public highways after it was acquired by the applicant; however, if the bill of sale is dated prior to the date the vehicle was placed in operation as aforesaid the applicant must file an affidavit of nonoperation, provided the latter date is a factor in the computation of the registration fee. On any new

vehicle purchased in Wisconsin by residents of other states there shall be paid fees as specified in this section providing that when the license plates are returned to the motor vehicle department within 30 days, a refund shall be made of any money collected in excess of \$2.

(ha) *Same; persons called to military duty.* The motor vehicle owned by any person who engages in active service of any of the naval or military forces of the United States shall be exempt from the registration provisions of chapter 85 for any period not less than one month of any registration year, provided the owner thereof makes written application for such exemption to the commissioner of the motor vehicle department in such form and furnishes such proof as the commissioner may require for any such vehicle which will not be operated upon the public highways of this or any other state during any registration period or part thereof. A refund shall be made of one-twelfth of the registration fee paid for such vehicle times the number of full months remaining in the registration year for which the vehicle will not be operated upon the public highways of this or any other state, provided that the applicant for such refund surrenders the certificate of registration, license plates, and files with the commissioner an affidavit in such form as the commissioner shall require. Whenever the owner of a vehicle who has been granted an active service exemption under the provisions of this paragraph desires to reregister such vehicle, the motor vehicle department will register such vehicle in the same manner as a vehicle which has not been previously registered in this state.

(hb) *Temporary permits to persons on furlough.* The motor vehicle owned or designated by any person engaged in the active military service of the United States or its allies may be operated on the highways of this state by any such person while on furlough and for a period not to exceed 30 days without complying with the registration provisions of chapter 85, provided such person makes application for a temporary permit for such operation to the commissioner of the motor vehicle department in such form and furnishes such proof as the commissioner may require. There shall be no fee charged for such permit.

(hm) *Registration of replacement vehicle.* If any vehicle is junked or permanently removed from the highways of the state by reason of fire, collision or other accident, and replaced by another vehicle, such replacement vehicle shall be registered by the motor vehicle department upon payment of only the excess registration fee, if any, of such replacement vehicle over the vehicle so removed. Another vehicle, in the case of a truck so removed from the highway, shall also include an automobile; such replacement automobile to be registered by the department upon payment of only the excess registration fee, if any, of such automobile over the unused registration fee of the truck so removed, but no such credit shall extend to more than one annual registration fee nor shall there be any refund. Such registration shall be conditioned on the filing of proof, satisfactory to the motor vehicle department, that such permanent removal occurred as herein provided. No application to register a motor vehicle previously junked shall be granted unless accompanied by a certificate over the signature of a state or county traffic officer stating that in his opinion the motor vehicle described in the application is in such mechanical condition that operation thereof on public streets and highways will not jeopardize the safety of motorists or pedestrians. A fee of \$25 shall be paid to the clerk of the agency of government employing the examining officer, who shall be a state or county traffic officer, for the cost of examination and checking of title to ascertain if the vehicle fully complies with the vehicle safety laws of this state or city of the first class. Such clerk's receipt of payment of such fee shall accompany application for registration and the title issued for such vehicle shall permanently carry the notation "this vehicle previously junked and reconditioned."

(i) *Improper use of plates.* No person shall operate or have in his possession any motor vehicle, trailer or semitrailer, with any metal number plates or plates fashioned in imitation of, or altered in any manner so as to resemble the legal license number plates issued by the motor vehicle department for such registration year. No number plates shall be used or displayed except by the person to whom issued in accordance with this section. The issuance or use of any windshield or other permit for the operation of a motor vehicle pending the receipt of registration number plates, excepting such permit as may be issued by the motor vehicle department, is hereby prohibited. Such permits shall be valid only for a period of 15 days from date of issuance. Violations of this paragraph shall be punishable by a fine of not less than \$25 nor more than \$100, or by imprisonment for not less than 30 days nor more than 6 months.

(j) *Fraudulent registration.* If any motor truck, truck tractor, tractor, delivery wagon, passenger automobile bus, or trailer or semitrailer used in connection therewith, shall be registered at a lower gross weight than that indicated thereon as required by section 85.50, or if the gross weight of the vehicle is greater than that at which such vehicle is registered, or the owner wilfully gives an erroneous address in the application,

the owner thereof shall be required to register the same in conformity with the actual gross weight of the vehicle and shall pay only the additional fee required for the increased carrying capacity of the vehicle, or shall be required to supply such correct address and in addition the penalties provided in subsection (12) of this section may also be imposed. Trucks, trailers and semitrailers may be registered in excess of the maximum gross weight according to the manufacturers' rating on payment of the proper fee for such weight but such registration shall not exempt such vehicle from compliance with all weight restrictions imposed by chapter 85.

(5) EXPIRATION OF LICENSE. All motor vehicles, trailers and semitrailers except as hereinafter provided shall be registered annually and automobile and motorcycle registrations shall expire on December 31 of the year for which registration is made. The annual registration of all motor trucks, busses, tractor trucks, tractors, trailers and semitrailers shall expire on June 30, except trucks, trailers or semitrailers with a registered gross weight less than 8,000 pounds or any such vehicle operated in conjunction with another such vehicle as a unit having an aggregate combined registered gross weight less than 8,000 pounds and farm trucks which annual registrations shall expire on December 31 beginning with the calendar year of 1953; and the registration fee for the one-half year period from July 1, 1952 to December 31, 1952 shall be computed pursuant to the provisions of section 85.01 (4) (h). After October 31, any application for registration of an automobile or motor cycle shall be given a registration number of the succeeding year, which shall serve as a registration for the balance of the current year. After May 31, any application for registration of a motor truck, bus, tractor truck, tractor, trailer or semitrailer shall be given a registration number of the succeeding fiscal year which shall serve as a registration for the balance of the current fiscal year, except for farm trucks and trucks, trailers, semitrailers and combinations thereof having a registered gross weight less than 8,000 pounds, which shall be provided registration number of the succeeding year after November 30. Motor vehicle registrations paid on a quarterly basis shall expire on the last day of the quarter for which a permit is issued. This section shall not be applicable to expiration date of registrations under the monthly series system provided in subsection (1b).

(6) NUMBER PLATES. (a) *Design, issue.* The motor vehicle department shall devise, secure, issue and deliver annually prepaid to each owner of any motor vehicle registered in accordance with the provisions of this section except motor cycles, 2 official number plates, and to the owner of any trailer or semitrailer registered in accordance with the provisions of this section, one official number plate. The name: "Wisconsin" or "Wis." and the registration year for which the license is issued shall be indicated thereon and the words "America's Dairyland" shall in addition be indicated on all official number plates on automobiles. Plates shall be purchased from the state prison at Waupun unless otherwise approved by the governor.

(ad) *Special for war disabled.* Whenever any resident of this state shall register his automobile and make affidavit to the commissioner of the motor vehicle department that by reason of injuries sustained while in the military service of the United States he is disabled by paraplegia, amputation of a member, minimum faulty vision of 20/200 or otherwise (specifying) so as not to be able to get about without great difficulty the commissioner shall procure and issue, without charge, a triangle of the same material as the license plate measuring approximately 4 inches from its base or the top of the number plate to the apex and shall have inscribed thereon the words "Disabled Veteran" in letters legible at a distance of at least 50 feet, which triangle shall be so attached to the license plate that the identification of the latter is not obliterated. An automobile bearing a special number plate and otherwise lawfully parked upon or along a public street or highway by or at the direction of the person in whose name it is registered shall not be subject to state laws and municipal and county ordinances limiting the time for parking automobiles in such places or the penalties prescribed for violating the same. Parking privileges under a special number plate shall be limited to the person to whom they are issued and to qualified drivers acting under his express direction.

(b) *Plates for trucks and busses, how lettered.* The set of number plates for motor trucks, motor delivery wagons, and for trailers and semitrailers, shall bear distinguishing letters indicating the gross weight as follows: One and one-half tons, or less, the letter A; for more than one and one-half tons and less than two and one-quarter tons, the letter B; two and one-quarter tons or more and less than three tons, the letter C; three tons or more and less than four tons, the letter D; four tons or more and less than five tons, the letter E; five tons or more and less than six tons, the letter F; six tons or more and less than seven tons, the letter G; seven tons or more and less than eight tons, the letter H; eight tons or more and less than nine tons, the letter J; nine tons or more and less than ten tons, the letter K; ten tons or more and less than eleven tons, the letter L; eleven tons or more

and less than twelve tons, the letter M; twelve tons and over, the letter N. Number plates issued for motor busses and other passenger vehicles registered under paragraph (d) of subsection (4) of this section and for trailers and semitrailers shall bear similar distinguishing letters, and in addition insignia denoting the type of vehicle.

(c) *Plates, how affixed.* 1. One of the said number plates shall be firmly and rigidly fastened and placed horizontally in a conspicuous place on the front of each motor vehicle, and the other of such number plates shall be firmly and rigidly fastened and placed horizontally in a conspicuous place on the rear of such vehicle, and the number plate issued for a trailer or semitrailer shall be firmly attached in a horizontal position to the rear of such vehicle. All such number plates shall be so displayed and kept reasonably clean at all times that the same can be readily and distinctly seen and read. Any peace officer may require the operator of any vehicle on which plates are not properly displayed to display such plates as required by this paragraph. Plates shall not be removed from any vehicle, until the plates for the succeeding year are attached, except as provided in subsection (6) (c) 2.

2. Plates issued to owners of automobiles registered under the monthly series system of registration provided for in subsection (1b) shall remove such plates on sale or transfer of ownership of such vehicles. Such plates shall thereafter be retained and preserved by the person to whom issued, to be fastened to such other automobile as said person shall thereafter register in his name and for which he shall pay the required fee, if any be due under subsection (4) (am). It shall be a misdemeanor, punishable under subsection (12), to fasten said plates to any vehicle not validly registered in the name of the person to whom such plates have been issued.

(e) *Mobile amateur radio stations.* The state recognizes the valuable assistance which mobile amateur radio stations can render in times of emergency and in civil defense and provides for the issuance of special license plates upon which, in lieu of the numbers as prescribed, shall be inscribed the official amateur radio call letters of such applicant as follows:

1. Upon compliance with the laws relating to registration and licensing of motor vehicles, including payment of fees plus an additional fee of \$1 accompanied by an application showing satisfactory proof that the applicant is the holder of an unexpired amateur radio station license issued by the Federal Communications Commission, the motor vehicle department shall issue license plates on which, in lieu of the usual registration number, shall be inscribed in large legible form the call letters of such applicant as assigned by the Federal Communications Commission.

2. The motor vehicle commissioner shall, on or before January 1 of each year, furnish to the sheriff of each county in the state of Wisconsin an alphabetically arranged list of the names, addresses and license tag letters of each person to whom a license tag is issued under the provisions of subd. 1, and it shall be the duty of the sheriffs of the state to maintain and to keep current such lists for public information and inquiry.

(7) **MOTOR DRIVEN CYCLE NUMBERS.** The motor vehicle department shall issue and deliver to each owner of a motor driven cycle an official number plate of standard size and design which shall have thereon the letter "W" and the number assigned to such motor driven cycle, such letter and figures to be at least 2 inches high; said number plates shall be kept firmly and rigidly fastened on the rear of such motor driven cycle in a conspicuous place.

(8) **TRANSFER OF TITLE.** (a) *Manner, effect.* The rights conferred by the certificate of title specified in subsection (3) shall be transferable with the sale of the vehicle covered thereby, and the number plates issued for any calendar year shall be valid for use on the identical vehicle for which they were issued during said calendar year, notwithstanding the sale or sales of such vehicle. Provided, that no such transfer shall be valid nor shall the use of such plates after sale be valid unless the motor vehicle department shall have been notified in writing of such sale or transfer, such notice to be accompanied by the certificate of title properly signed by the new owner. Upon receipt of said certificate of title, accompanied by the payment of a fee of \$1, to cover the cost thereof, the motor vehicle department shall issue and mail to said new owner a new certificate of title. If ownership of the vehicle be transferred, the owner shall assign the certificate of title in writing at the time of sale. When ownership shall pass by judicial decree or sale, or by operation of law, the new owner shall be entitled to a certificate of title upon filing appropriate evidence thereof. Within 5 days thereafter, the transferee shall present such certificate or evidence to the motor vehicle department. License plates issued for the vehicle being transferred, must remain on the same notwithstanding such transfer or transfers. This section, in so far as it requires license plates to remain on vehicles notwithstanding transfer, shall not be applicable to automobiles as that term is defined under the system of monthly series registration in subsection (1a).

(am) *Plates not transferable.* License plates issued upon the registration of automobiles as defined in subsection (1a) shall not be transferred upon sale of the vehicle for which originally issued, but shall remain with the owner to identify him as the owner of any other automobile registered by him in the future.

(b) *New identifying numbers.* If the identification number of a motor vehicle or other vehicle required to be registered has been removed, obliterated or altered, or if the original casting has been replaced and the number on the original cannot be ascertained, or if the vehicle has not been numbered by the manufacturer the application for certificate of title shall so state and the motor vehicle department shall assign a number to be stamped upon the engine if a motor vehicle, and on the frame and rear axle if a trailer or semitrailer. Such numbers shall begin with 101, run consecutively, and be followed by the letters: "WIS." Such numbers shall be stamped upon the engine or other part only under the supervision of a dealer, manufacturer or distributor registered under section 85.02, a sheriff, deputy sheriff or police officer, who shall report the same to the motor vehicle department. Upon the removal or replacement of the engine or the part thereof which bears the identification number, the number shall be defaced from the old block.

(c) *Application to dealers.* Dealers, manufacturers or distributors, registered under section 85.02, need not apply for certificates of title for vehicles in stock, or acquired for stock purposes but upon transfer of the same, shall give the transferee evidence of title, which in case the vehicle has a certificate shall be a reassignment of the same.

(d) *Autos junked or stolen.* Any person owning or possessing a motor vehicle shall notify the commissioner of motor vehicle department within ten days after the destruction or junking of the same. The certificate of title must be returned to the commissioner of motor vehicle department for cancellation along with the license plates. Each sheriff and police department in the state shall make immediate report of each motor vehicle reported stolen or recovered, and of each felony committed and detected within its jurisdiction, to the commissioner of motor vehicle department who shall keep a file and index of such reports, together with similar reports received by him from other states. The commissioner of motor vehicle department shall prepare once a month a list of such reports during the preceding month and forward a copy to each sheriff and police department in this state, to each motor vehicle organization in Wisconsin applying therefor, and to the motor vehicle registration official in each state of the United States. Reports and lists of felonies unsolved or for which no arrest has been made shall contain such and other information which may be deemed helpful in leading to the solution of such felony or to the apprehension of the offender. Before issuing a certificate of registration and title the commissioner of motor vehicle department shall check the application with his records. Records more than five years old may be destroyed.

(e) *Penalty for violating subsection (8).* Any person who shall knowingly make a false statement in any application or other document required by this subsection to be filed with the motor vehicle department, or forge any such application or other document or any certificate of title or assignment thereof, or attempt to do any of said acts, shall be guilty of a felony and shall be punished by a fine not exceeding five thousand dollars or imprisonment not exceeding five years or both. Any person who shall operate a motor vehicle for which a certificate of title is required without such certificate having been issued or applied for, or shall sell, buy or otherwise transfer such a vehicle without assignment of the certificate of title, or shall violate any other provision of this subsection for which no penalty is herein specifically provided, shall be guilty of a misdemeanor and shall be punished by fine not exceeding five hundred dollars or imprisonment not exceeding six months or both.

(9) **RECORD.** A record of all applications and of certificates issued thereon shall be kept by the motor vehicle department and shall be open to inspection of all persons during office hours.

(9a) **STORED AND UNIDENTIFIED AUTOMOBILES.** Whenever any motor vehicle of a type subject to registration in this state has been stored, parked or left in a garage, trailer park, or any type of storage or parking lot for a period of over 30 days, the owner of such garage, trailer park or lot shall report in writing the make, motor, vehicle identification number and serial number of such vehicle to the motor vehicle department and local law enforcement agency. Nothing herein shall apply where arrangements have been made for continuous storage or parking by the owner of said motor vehicle so parked or stored, and where the owner of said motor vehicle so parked or stored is personally known to the owner or operator of such garage, trailer park, storage or parking lot. Any person failing to submit such report shall be fined not more than \$25.

(10) **DUPLICATES.** (a) *Plates.* 1. Upon satisfactory proof of the loss or destruction of any number plate, except those issued as provided by section 85.02, the motor vehicle department shall issue a duplicate thereof to the owner of the registered vehicle

upon the payment of a sum not exceeding \$1, provided that issuance of duplicate plates for automobiles registered under the monthly series system of registration shall be governed by subdivision 2.

2. Upon satisfactory evidence of the loss, destruction or illegibility of any number plate issued for automobiles registered under the monthly series system provided for in subsection (1b), the motor vehicle department shall issue a duplicate thereof to the owner of the registered vehicle upon the payment of a sum not exceeding \$1 if the duplicate is issued within one year of date of issuance of the plate or plates to be replaced, and without fee if application is made after the expiration of one year. Duplicates shall be issued at any time without fee if the reason for issuance is illegibility of a plate, which illegibility shall be certified in writing by any law enforcement officer who has inspected same. Whenever a law enforcement officer shall observe a plate to be in such condition as to hinder or make difficult the identification of the same, and shall notify the motor vehicle department, the licensee may be required by order of the commissioner to surrender said plate for the issuance of a duplicate thereof without fee. If the plate for which duplicate is requested has not been destroyed, the same shall be surrendered to the motor vehicle department when application for duplicate has been made. Failure to surrender plate for which duplicate has been issued is declared to be a misdemeanor punishable under subsection (12).

(b) *Titles and certificates.* Upon satisfactory proof of the loss or destruction of a certificate of title the motor vehicle department shall issue a duplicate thereof to the registered owner upon payment of the sum of \$1. A duplicate certificate of registration shall be issued upon payment of 25 cents.

(11) PUBLICATION OF REGISTRY LISTS. (a) *Publication of motor vehicle registry list.* The department shall at the close of each month or as soon as possible thereafter, transmit the list of registrations for each month to each county clerk, sheriff and chief of police and to every village clerk making application therefor one copy, to the state highway commission 10 copies and to the state department of taxation 5 copies. Such lists shall be in book form and contain all registrations for automobiles as defined in sub. (1a), giving the name and address of the registrant, the registered plate number, and such other identifying information as the commissioner of the motor vehicle department deems necessary. Lists hereafter issued shall commence from those already issued (1949). Such officers, clerks and commissions shall keep such lists on file in their respective offices and the same shall be open to the inspection of all persons. The commissioner of the motor vehicle department shall sell copies of such registration lists at not exceeding \$50 for the entire annual series. Other registration information shall be sold by the commissioner at his discretion.

(an) *Same; publication temporarily suspended.* The motor vehicle department shall not be required to transmit annually a motor vehicle registry list as provided in section 85.01 (11) (a) to the persons and bodies designated therein during the period of national war emergency and while new motor vehicle registration numbers are not being issued annually. The motor vehicle department shall, however, continue to transmit from time to time to the persons and bodies designated in section 85.01 (11) (a), numerical registry lists of motor vehicles not registered in Wisconsin previous to the transmittal of the last annual registry list and numerical registry lists of those vehicles previously registered for which new registration numbers have been issued. This section shall no longer be in effect as to any group or groups of vehicles designated under section 85.01 (4) at any time the motor vehicle department shall issue new registration numbers for any such group or groups.

(b) *New car sales registration.* The motor vehicle department shall compile and publish daily a list by counties of new car sales registrations. If a vehicle has once been registered it shall not again be listed as a new car sale. Such lists shall contain the name and permanent address of the owner of such vehicle, the make, model, serial number, motor number and registration number thereof, together with the firm name and address of the firm selling such car and date of such sale. Such lists shall be made available to county clerks upon request. Such clerks shall keep such lists on file in their respective offices and the same shall be open to the inspection of all persons. The commissioner of the motor vehicle department shall determine the cost of compilation of new car sales registrations and shall fairly apportion the major share of same among the subscribers to this service.

(12) PENALTY. Any person convicted of violating any provision of this section for which no penalty is otherwise prescribed shall be subject to a fine of not less than five dollars, nor more than one hundred dollars, or imprisonment in the county jail not to exceed ninety days, or to both such fine and imprisonment. The penalty provided by this sub-

section may be imposed by any judge or justice of the peace notwithstanding any statutes defining the jurisdiction of judges and justices in any county.

History: 1951 c. 80, 226, 234, 348, 378, 385, 415, 536; 1953 c. 61, 106, 114, 243, 252, 320, 563, 575, 635, 639, 647; 1955 c. 10, 34, 240, 316, 319, 331, 342, 528, 557, 644, 652, 683, 696.

Cross Reference: See 193.01 (1), providing that trackless trolley cars shall not be deemed motor vehicles within the meaning of ch. 85 and ch. 194.

See note to 194.48, citing *State v. Petroleum Transport, Inc.* 260 W 310, 50 NW (2d) 465.

See note to 121.19, citing *Hofslund v. Metropolitan Casualty Ins. Co. of N. Y.* 138 F (2d) 188.

(3) (a) does not require a conditional seller who has properly filed his contract under 122.06 to have a reference to the contract put on the certificate of title in order to perfect his lien. *Commercial Credit Corp. v. Schneider*, 265 W 264, 61 NW (2d) 499.

If a motor vehicle is owned and operated by a municipality or school district, exclusively in the public service, the question of whether a charge is made for the service need not be considered in determining whether the vehicle may be registered under (4) (g). A vehicle owned by a private individual and operated under contract with a school district for transportation of school children may not be registered under (4) (g). 39 Atty. Gen. 161.

Owner of a truck of a gross weight in excess of that at which it is registered should be required by order of court to effect a proper registration. 39 Atty. Gen. 452.

Motor vehicles used part time on projects other than the special uses enumerated in 85.01 (4) (fm) are required to be registered in accordance with 85.01 (4) (c). To entitle special equipment to operate for a flat annual fee of \$10, it must be used exclusively during such license year upon work enumerated in (fm). 39 Atty. Gen. 493.

Person who loans his automobile license plates to another, intending and knowing that such other will use such plates on a vehicle for which they were not issued, in violation of (1) or (4) (i), is "concerned in the commission of a crime" and may be prosecuted as a principal under 353.05, notwithstanding that there is no specific prohibition against the loan of license plates. He may also be guilty of a conspiracy with the borrower, in violation of 348.40. 40 Atty. Gen. 325.

A tractor used exclusively for driving and giving power to a trench digger, which is bolted to the tractor and has no power of its own, and for hauling it from job to job need not be registered. 40 Atty. Gen. 339.

Where motor vehicle department is required by (6) (a) to "devise, secure, issue and deliver annually prepaid to each owner" of specified motor vehicles 2 official number plates, and a "sum sufficient to carry out the provisions of section 85.01 (6) (a)" is granted by the legislature, all costs incurred which are additional costs of devis-

ing, securing, issuing and delivering the number plates annually are chargeable to said sum sufficient appropriation. What are "additional costs" is primarily a question of fact. 41 Atty. Gen. 1.

The term "injuries" as used in (6) (ad) includes diseases resulting from accidental injury, but does not include disease which results from idiopathic condition of the system. Whether or not a person suffering from various named ailments is eligible for special plates is a question of fact, dependent in each case on (1) whether the applicant suffered an injury within the meaning of the foregoing definition of the term, and (2) whether the difficulty with which applicant gets about is equal in degree of disability to that of a person suffering from paraplegia or loss of a member. 41 Atty. Gen. 38.

Operators of mink ranches and nurseries are not entitled to register their trucks as "farm trucks." 41 Atty. Gen. 93.

A truck tractor may not be registered as a farm truck under (4) (cm), where such truck tractor is used in combination with a trailer. 41 Atty. Gen. 146.

Where sole operation of a motor vehicle on a highway consists of crossing such public highway, crossing constitutes operation "upon" a public highway, requiring registration and payment of license fee and compliance with all applicable statutes relating to the law of the road, including weight limitations. 41 Atty. Gen. 172.

In order to qualify for the special license fee rate accorded school busses by (4) (cr), a bus transporting school groups on educational or recreational tours in conjunction with a school activity is required to be operated under written contract. 41 Atty. Gen. 227.

The only vehicles owned and operated by charitable corporations which may be registered for the \$1 fee under (4) (g) are motor busses. 43 Atty. Gen. 81.

Semitrailer owned by nonresident and registered in foreign state with which Wisconsin has reciprocity under 85.05 (5), and operated in Wisconsin on interchange basis in intrastate commerce must be registered in Wisconsin under (4) (e) 2 under the owner's name and the \$10 fee paid. Said fee is payable on annual basis. 43 Atty. Gen. 102.

Farm tractor used as road tractor for pulling trailer loaded with farm produce from place of production to market is exempt from registration under (4) (cd) 9. 43 Atty. Gen. 248.

85.015 Licenses for power driven cycles and motor bicycles. (1) There shall be paid annually to the motor vehicle department for the registration of each power driven cycle and motor bicycle as defined in section 85.10 (4) (a) and (b) operated upon a public highway of this state a fee of \$3.

(3) Local municipalities may by ordinance regulate the number of persons that may ride on any such power driven cycle or motor bicycle at any one time, and the time of day at which, and the highways upon which, any such power driven cycle or motor bicycle may be operated.

85.02 Registration by manufacturers and dealers. (1) **CERTIFICATE.** (a) Every dealer, distributor and manufacturer of motor vehicles as defined in chapter 218.01 shall file a duly acknowledged application for registration with the motor vehicle department, which shall contain the name under which such dealer, distributor or manufacturer is transacting business within this state, the names and addresses of the several persons constituting the firm or partnership and if a corporation the corporate name under which it is authorized to transact business, the names and addresses of its principal officers, resident general agent and attorney in fact and the established place or places of business of such dealer, distributor or manufacturer, and whether engaged in wholesale or retail selling of automobiles or both, and whenever a new place of business is opened such place of business shall promptly be reported to the motor vehicle depart-

ment. On receipt of such statement and \$25 to cover the cost of registration and the first set of dealer plates, the motor vehicle department shall issue a certificate of registration to such dealer, distributor or manufacturer which shall be assigned a number.

(ab) The fees required by (1) (a) and (6) as amended by chapter 78, laws of 1945, do not affect any registration year prior to 1946.

(b) Any licensed manufacturer, distributor, or dealer of motor vehicles, shall, before changing the location of his place of business, or before opening any additional places of business within the same municipality in which he is licensed, apply to the motor vehicle department and obtain a supplemental certificate of registration for which no fee shall be charged. When a manufacturer, distributor or dealer has an established place of business in more than one Wisconsin municipality, different registration numbers must be assigned to such manufacturer, distributor, or dealer for each municipality.

(c) The motor vehicle department shall issue a certificate of registration to an applicant for the sale of motor vehicles at retail only if he owns or leases a permanent building wherein there are facilities to display and repair functional and nonfunctional parts of automobiles and where replacement parts, repair tools and equipment to service automobiles are kept, and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business, and such place shall not mean residence, tents or temporary stands. An approved service contract with an established repair shop having the above repair facilities and the requirement for replacement parts, repair tools and equipment to service automobiles shall serve in lieu of an applicant's repair facilities and the requirement for replacement parts, repair tools and equipment to service automobiles, provided that such service connection is within reasonable distance from the applicant's place of business, and provided further that such service connection guarantees in writing the making of the repairs or replacements ordered by the dealer.

(2) FORM, APPLICATION, APPOINTMENTS. (a) The motor vehicle department shall cause to be printed and distributed suitable forms for application for registration under this section, and also a form of motor vehicle dealers' and manufacturers' certificates of appointment, and every dealer and distributor of new motor vehicles shall file his appointment with the motor vehicle department at the time application is made for registration under this section. Distributors' appointments shall be certified by the manufacturer of motor vehicles whom they represent. Appointments of dealers in motor vehicles shall be certified by the manufacturer through whom such vehicles are received for the purpose of sale.

(b) Such applications shall be accompanied by a certified copy of the franchise or contract with the manufacturer and certificates of appointment shall be executed by an authorized officer of such manufacturer; provided, that if the identical basic franchise or contract for all its dealers in Wisconsin is utilized by any manufacturer, the filing of one such franchise or contract shall be sufficient if accompanied by a list of authorized dealers and the subsequent filing of names of any additional dealers. The motor vehicle department shall be immediately notified by the manufacturer of revisions or additions to basic franchises or contracts on file with the department or of any individual dealer supplements to such franchises or contracts.

(c) After the filing of a certificate of appointment and franchise or contract, as herein provided, such certifications need not be filed thereafter with the annual application for registration by dealers and the appointments and franchises or contracts are deemed to be continuing unless the motor vehicle department is advised by a manufacturer of the discontinuation or cancellation of the franchise or contract of any of its dealers. Notice of such discontinuation or cancellation shall be given to the motor vehicle department at least 60 days before its effective date and shall state the specific grounds for such cancellation.

(3) SERVICE VEHICLES TO BE REGISTERED. Beginning July 1, 1931, as to motor trucks, tractor trucks, trailers and semitrailers, and on January 1, 1932, as to other vehicles, every tow truck, service truck or pickup truck owned by any dealer, distributor or manufacturer of vehicles required to be registered by this chapter shall be registered in the same manner as other similar vehicles, except service or pickup trucks actually for sale and incidentally used for business purposes.

(6) PLATES. Number plates shall be furnished by the motor vehicle department at \$25 for the first set of 2 plates and \$1 for each additional set to manufacturers, distributors and dealers whose vehicles are registered in accordance with the provisions of this section. Such plates shall have upon them the registration number assigned to the registered manufacturer, distributor or dealer but with a different symbol upon each set of number plates as a special distinguishing mark and such plates shall be used in lieu of regular plates for private or business purposes only on those vehicles actually offered

for sale by dealers, distributors or manufacturers or on vehicles while in transit from the factory to a dealer or distributor or while being used for trial tests by manufacturers.

(7) **LOANING PLATES.** No person, other than a bona fide manufacturer, distributor or dealer, shall obtain or use a registration certificate or the number plates issued to a manufacturer, distributor or dealer except for the purpose mentioned, and no person shall loan such registration certificate or number plates or allow it or them to be used for any other purpose.

(8) **USE OF PLATES.** No manufacturer, distributor or dealer or his employe shall cause or permit the display or other use of any number plate or certificate of registration which may have been furnished him except upon motor vehicles owned by the manufacturer, distributor or dealer, and no other person shall have in his possession any such number plates or certification of registration.

(9) **DEALERS' DISCONTINUANCES.** Whenever a dealer or distributor, or manufacturer discontinues or disposes of his business, he shall notify the motor vehicle department and return the plates.

(10) **YEARLY RENEWAL.** Certificates and number plates issued under this section shall be valid only during the calendar year for which issued.

(10a) **POWER CYCLES EXCEPTED.** Power cycles as defined in section 85.015 shall not be included within the term "motor vehicles" as used in this section.

(11) **PENALTIES.** Any person violating any provision of this section, shall, upon conviction be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars, or imprisonment not to exceed ninety days, or both, and the motor vehicle department shall cancel the registration, and the number plates issued to the aforesaid dealer shall be surrendered to any police officer upon direction of the motor vehicle department without refund of the fees paid. Any registration so canceled shall not be renewed during the current year.

History: 1955 c. 33.

85.025 Licenses for motor vehicles in transit. (1) Any person, firm or corporation engaged in this state in the business of transporting and delivering motor vehicles in tow on their own wheels or under their own power from the manufacturer to the distributor, dealer or branch of the manufacturer, or from the distributor or dealer to another distributor or dealer, the manufacturer or branch of the manufacturer, or from the branch of the manufacturer to the distributor, dealer or manufacturer, may file a duly acknowledged application for registration with the motor vehicle department which shall contain the name of said person, firm or corporation, the names and addresses of the several persons constituting the firm, and if a corporation the names and addresses of the principal officers, resident general agent and attorney in fact, and the place or places of business of such person, firm or corporation; and whenever a new place of business is opened in this state, such place of business shall promptly be reported to the motor vehicle department. On receipt of such application, the motor vehicle department shall issue a certificate of registration to such person, firm or corporation making the application.

(2) The motor vehicle department shall cause to be printed and distributed suitable forms for applications for registration under this section and also a form for certificate of registration and each such certificate of registration issued under this section shall be filed in the office of the motor vehicle department by the person, firm or corporation to whom issued. Each such certificate of registration shall bear a number distinguishing it from every other certificate of registration issued.

(3) Number plates shall be furnished by the motor vehicle department at twenty-five dollars for the first set of two plates and three dollars for each additional set of two plates to persons, firms or corporations engaged in this state in the business of transporting and delivering motor vehicles in tow on their own wheels or under their own power from the manufacturer to the distributor, dealer or branch of the manufacturer, or from the distributor or dealer to another distributor or dealer, the manufacturer or branch of the manufacturer or from the branch of the manufacturer to the distributor, dealer or manufacturer, provided such person, firm or corporation so engaged in business in this state shall have been duly issued a certificate of registration under this section, and provided further that said certificate of registration shall have been filed in the office of the motor vehicle department. Such plates shall have upon them the words "IN TRANSIT" and shall show the registration number assigned to such person, firm or corporation registered under this section but with a different symbol upon each set of number plates as a special distinguishing mark to distinguish one set thereof from another.

(4) No person, firm or corporation other than one actually engaged in the business of transporting and delivering motor vehicles in tow on their own wheels or under their own power shall obtain or use said number plates, and said number plates shall be used

by said person, firm or corporation only on motor vehicles being transported in tow on their own wheels or under their own power from the manufacturer to the distributor, dealer or branch of the manufacturer, or from the distributor, or dealer to another distributor or dealer, the manufacturer or branch of the manufacturer or from the branch of the manufacturer to the distributor, dealer or manufacturer.

(5) Certificates of registration and number plates issued under this section shall be valid only during the calendar year for which issued and said number plates shall be transferable from one motor vehicle to another.

(6) Any person violating any provision of this section shall upon conviction be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars or by imprisonment not to exceed ninety days, or both, and the motor vehicle department shall cancel the registration, and the number plates issued shall be surrendered to any police officer upon direction of the motor vehicle department without refund of the fees paid. Any registration so canceled shall not be renewed during the current year.

85.03 Motor vehicle salvage dealers; license. (1) No person unless licensed so to do by the department, under this section, shall carry on or conduct the business of wrecking or dismantling any motor vehicle or selling parts thereof.

(2) Application for a motor vehicle salvage dealer's license shall be made upon the form prescribed by the department and shall contain the name and address of the applicant; and when the applicant is a partnership, the name and address of each partner; or when the applicant is a corporation, the names of the principal officers of the corporation, and the state in which incorporated. It shall also set forth the place or places where the business is to be conducted, and the nature of such business, and such other information as may be required by the department. Every application shall be executed by the applicant, if an individual, or in the event an applicant is a partnership or corporation, by a partner or officer thereof. Every such application shall be accompanied by the fee required by law.

(3) The department, upon receiving application accompanied by the required annual fee of \$25, and when satisfied that the applicant is of good character, and so far as can be ascertained has complied with and will comply with the laws of this state with reference to the provisions of this section, shall issue to the applicant a license certificate which shall entitle the licensee to carry on and conduct the business of a motor vehicle salvage dealer during the calendar year in which the license is issued. Every such license shall expire on December 31 of each year, and may be renewed upon application and payment of the annual license fee of \$25.

(4) The department may refuse to issue a license or, after written notice to the licensee and a hearing, may cancel a license when satisfied that the applicant for a license or the licensee has failed to comply with the provisions of this section and does not qualify.

(5) Cars purchased by or for a motor vehicle salvage dealer for the purpose of wrecking cannot be delivered or resold to any subsequent individual, firm or corporation except by bill of sale indicating description and which bill of sale shall indicate that the certificate of title has been surrendered to the motor vehicle department designating the vehicle as junked.

(6) Titles of cars purchased for wrecking are to be mailed to the motor vehicle department within 10 days of delivery to the salvage yard.

(7) Every licensee shall maintain a record in the form prescribed by the department of every vehicle which is bought or otherwise acquired and wrecked by the licensee and every such record shall state the name and address of the person from whom such vehicle was purchased or acquired and the date thereof.

(8) Any person violating this section shall be punished by a fine of not less than \$25 nor more than \$200 or by imprisonment not more than 60 days, or both.

History: 1955 c. 583.

85.04 Used motor vehicles, title history; penalty. (1) Any person, firm or corporation who applies for a Wisconsin license for any used motor vehicle which was previously licensed and used in another state or country, shall furnish the motor vehicle department an affidavit pertaining to the title history of such motor vehicle as shall be required by such motor vehicle department, which shall be sworn to before a notary public or any person authorized to administer oaths. Such application shall contain a certification by a sheriff, deputy sheriff, police officer or other law enforcement officer, stating that the physical description of said motor vehicle has been checked and conforms to the description given in said application.

(2) No person, firm or corporation shall knowingly offer for sale or exchange in this state to any resident thereof any motor vehicle which was previously licensed and used as a taxicab or for public transportation until the certificate of title for such motor

vehicle shall have been surrendered to the motor vehicle department and until the motor vehicle department has stamped in a conspicuous place on such certificate of title the words "This motor vehicle has previously been used as a taxicab or for public transportation."

(3) Any person, firm or corporation who shall purchase an unlicensed or licensed motor vehicle for the purpose of utilizing same as a taxicab or for public transportation, shall state such fact on the application for title or in the request for transfer of title. The motor vehicle department shall then stamp in a conspicuous place on the certificates of title and registration the words "This motor vehicle has previously been used as a taxicab or for public transportation." Any new or duplicate certificate issued for the vehicle shall have stamped thereon by the department the same words.

(4) Any person, firm or corporation having on July 13, 1949 any motor vehicle used as a taxicab or for public transportation shall forward the certificates of title and registration for such vehicle to the motor vehicle department and the department shall then stamp in a conspicuous place on such certificates the words "This motor vehicle has previously been used as a taxicab or for public transportation." Any new or duplicate certificate of title issued for the vehicle shall have stamped thereon by the department the same words.

(5) Any person who shall sell a motor vehicle contrary to the provisions of this section and every officer, agent or employe of any person, firm or corporation and every person who shall sell or who shall authorize, direct, aid in or consent to the sale of a motor vehicle contrary to the provisions of this section or otherwise violate any provision of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

History: 1951 c. 261 s. 10.

85.045 Automobile property tax certified; registration fees tabulated by municipalities. (1) The department of taxation shall compute and not later than November 15, 1931, certify to the highway commission the approximate amount which was collected in each town, village, and city from the property tax on motor vehicles levied in the year 1930. Such amount shall be arrived at by assuming that the tax collected on motor vehicles bears the same ratio to the total personal property tax collected up to the time when the delinquent tax roll is delivered to the county treasurer as the assessed value of motor vehicles bears to the assessed value of all personal property.

(2) Not later than December fifteenth of each year, beginning with the year 1932, the motor vehicle department shall compute the amount of the net registration fees derived from motor vehicles customarily kept in each town, village, and city in the state for the fiscal year ending the previous June thirtieth and certify such amounts for each town, village, and city to the highway commission.

85.05 Motor vehicles, foreign licensed and equipped. (1) (a) Any nonresident of this state shall be exempt from the laws of this state providing for the registration and taxation of motor vehicles, trailers and semitrailers, from the imposition of regulatory fees and charges against such vehicles, and from the licensing of operators and chauffeurs, to the same extent as like exemptions are granted any resident of this state under the laws of another state or foreign country of such nonresident; provided that such nonresident shall have complied with the provisions of the law of the state or foreign country of his residence relative to the registration of his motor vehicles, trailers and semitrailers and shall conspicuously display a legal registration plate, and provided also the operator of such vehicle or vehicles has in his possession a valid registration certificate or other evidence of such registration issued for each vehicle and a valid operator's or chauffeur's license or permit as required by the laws of the state or foreign country of his residence.

(b) Any automobile registered in any state of the United States, the District of Columbia, or any foreign state or province which carries the number plates indicating such registration, may be operated over the highways of Wisconsin without registration in this state during the year of such registration, if such state, district or province allows automobiles registered in Wisconsin to be operated tax free upon its streets and highways under conditions substantially as favorable to residents of Wisconsin as to its own residents, unless the owner of the automobile has moved to Wisconsin, or the automobile is purchased by a Wisconsin resident, in which case such automobile must be registered in accordance with s. 85.01.

(2) The commissioner of the motor vehicle department with the approval of the governor is hereby empowered to make agreements with the duly authorized representatives of other states, the District of Columbia, or any foreign state or province exempting the residents of such other states or foreign countries using the highways of this state from the payment of all or any taxes, fees or other charges imposed by the laws of this state,

with such restrictions, conditions and privileges, including any proportional registration, taxes or fees, as he may deem advisable; provided, that a vehicle owned by a nonresident shall be properly registered in the state of the residence of its owner, its domicile or the principal place of business of its owner, and shall conspicuously display a legal registration plate, and provided also the operator of such vehicle shall have in his possession a registration certificate, or other evidence of such registration, issued for such vehicle; and, such agreement shall provide that a resident of this state when using the highways of such other state or foreign country shall receive exemptions of a similar kind to a like degree.

(3) If by the laws of any other state or foreign country any taxes, fees, charges, fines, penalties, obligations, prohibitions, restrictions or limitations of any kind are imposed upon the vehicles of residents of this state additional to those imposed by this state upon the vehicles of residents of such other state or foreign country the commissioner of the motor vehicle department with the approval of the governor shall have the authority to impose and collect fees or charges in a like amount, and to provide for similar obligations, prohibitions, restrictions or limitations upon the owner or operator of a vehicle registered in such other state or foreign country so long as the laws of the other state or foreign country requiring such imposition remain in force and effect.

(4) The commissioner of the motor vehicle department with the approval of the governor is hereby empowered to enter into full, complete motor vehicle reciprocity agreements with the duly authorized representatives of other states exempting the residents of those states from complying with ch. 85 pertaining to vehicle equipment required for the same time and to the same extent as like exemptions are granted to residents of this state.

(5) Notwithstanding any contrary provision of this section, the commissioner of the motor vehicle department, with the approval of the governor, shall have authority to enter into reciprocal agreements with the responsible officers of other states as to licenses, permit fees, mileage and flat taxes under which motor vehicles, trailers or semitrailers properly licensed or registered in other states may be operated in interstate commerce in this state without a Wisconsin registration or the payment of permit fees or mileage or flat taxes, provided like privileges are accorded to vehicles owned by Wisconsin residents when operated in such other states, provided further, that trailers and semitrailers owned by residents of a state with which a reciprocal agreement is in effect pursuant to this chapter may be operated in commerce by a Wisconsin resident in Wisconsin without the payment of fees or ton mile or flat taxes when such trailers or semitrailers are operated in exchange for trailers or semitrailers or are operated in accordance with rules and regulations promulgated by the commissioner of the motor vehicle department respecting the interchange of equipment.

(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 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 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.

(7) The provisions of sub. (6) shall apply to a nonresident defendant who was a resident of the state at the time of the accident or occurrence which gave rise to the cause of action sued on.

(8) Subsections (6) and (7) (which in substance were formerly s. 85.05 (3) and (4), statutes of 1951, were unintentionally repealed by chapter 593, laws of 1953, and were re-

created by chapter 648, laws of 1953) are hereby declared to be retroactive to August 13, 1953.

History: 1951 c. 521, 706; 1953 c. 593, 648; 1955 c. 345, 409, 584.

In actions against a nonresident motorist, his widow should be permitted to intervene to offer proof that he had died prior to the service of the summons and had left no property for probate and that no administrator or personal representatives had been appointed; and on the making of such proof the actions should be dismissed, since a deceased person cannot be a party to an action. *Brickley v. Neuling*, 256 W 334, 41 NW (2d) 284.

For definition of independent contractor, see note to 102.07, citing *Thurn v. La Crosse Liquor Co.* 258 W 448, 46 NW (2d) 212.

The exemption under the reciprocity compact is strictly construed and is not transferable. *State v. Petroleum Transport, Inc.* 260 W 310, 50 NW (2d) 465.

The words "process" or "processes" as used in (3) (Stats. 1949) were intended to mean the means of subjecting a party to the jurisdiction of a court, and the language of such statute discloses that the word "process" as used therein was not limited to the meaning of process as a writ issued by the court under its seal. The word "process" is frequently used to designate a means, by writ or otherwise, of acquiring jurisdiction of a defendant or his property, or of bringing the defendant into, or compelling him to appear in, court to answer. The broader meaning of the word "process" includes not only a summons, but also whatever steps may be required by statute to institute a special proceeding, such as the petition and notice required by 269.23, in a proceeding to revive an action. A circuit court summons, although part of the process system, is but a notice of a proposed action and differs in nature and effect from a writ procured from a court. *Tarczynski v. Chicago, M., St. P. & P. R. Co.* 261 W 149, 52 NW (2d) 396.

Under 85.05 (3) (Stats. 1949) and 269.23, where an action for damages sustained in an automobile collision in Wisconsin was pending in a Wisconsin court against a nonresident motorist at the time of his death, the Wisconsin court had jurisdiction, and the plaintiff was entitled to revive and continue the action against the nonresident administrator of such nonresident defendant, in proceedings brought for that purpose in accordance with 269.23, and by service of a copy of the petition and other papers on such administrator in the manner provided for the service of "process" by 85.05 (3), although the decedent owned no property in Wisconsin and there were no probate proceedings in Wisconsin. In respect to reviving and continuing such action against the nonresident administrator of the deceased nonresident motorist, 85.05 (3) does not require that the Wisconsin courts do more than adjudicate the plaintiff's right growing out of her claim for wrongful death in an automobile collision in Wisconsin; and when such adjudication has been made, the plaintiff will file her claim in the court having jurisdiction over the probate of the defendant decedent's estate in the state of such decedent's residence, and it will be for

that court to determine the priority of claims of his various creditors, including the plaintiff, and to administer his assets according to the law of that state. *Tarczynski v. Chicago, M., St. P. & P. R. Co.* 261 W 149, 52 NW (2d) 396.

The provisions in (3) (Stats. 1949) are not unconstitutional as a deprivation of property without due process of law, as applied to reviving, against a nonresident administrator, an action against a nonresident motorist for damages sustained in an automobile collision in Wisconsin, pending in a Wisconsin court at the time of his death by reason of service of summons, complaint, and notice on him prior to his death, in the manner provided therefor by the statutes. *Tarczynski v. Chicago, M., St. P. & P. R. Co.* 261 W 149, 52 NW (2d) 396.

Where an action was commenced against Alfred V., a resident of Chicago for injuries sustained in a collision involving an automobile registered in his name in Illinois, and service of the summons and complaint was made by serving a copy on the commissioner of motor vehicles pursuant to (3), and by mailing a copy only to Alfred at his residence address, and on a special appearance by Alfred to vacate a default judgment on the ground that the trial court lacked jurisdiction over the defendant, it was shown that Alfred was not the owner or driver of the car nor responsible for its operation, and that David V., an adult married son, was the owner and driver, and there was no proof that the mailed copy of the summons and complaint was ever received or seen by David nor that he resided at the same address with Alfred, there was a complete failure to mail a copy of process to David within the time required by the statute, thereby rendering the attempted service of process entirely void and warranting the vacation of the judgment. *Plovey v. Vogeles*, 264 W 416, 59 NW (2d) 495.

A notice of injury under 330.19 (5) is not a "legal process," and cannot be effectively served on the commissioner under 85.05 (3). *Oldenburg v. Hartford Accident & Indemnity Co.* 266 W 68, 62 NW (2d) 574.

Substituted service on commissioner in action against personal representative of deceased nonresident motorist is constitutional. *Feinsinger v. Bard*, 195 F (2d) 45.

(2) (d) (Stats. 1949) authorizes commissioner with approval of governor to enter into reciprocal agreement with Illinois, exempting Illinois licensed vehicles operating in interstate commerce between points in Wisconsin and Minnesota from liability for Wisconsin registration fees, permit fees, ton mile or flat taxes. 39 Atty. Gen. 504.

85.05 (2) (a) (Stats. 1949) and 85.055 (Stats. 1951) are not inconsistent and both may be given effect. Motor vehicle department has correctly interpreted 85.05 (2) (a) by granting privilege of making single trip into Wisconsin per license year to private, contract and common carriers without necessity of registering the motor vehicles involved in Wisconsin. 41 Atty. Gen. 86.

85.055 Nonresident reciprocity permit. (1) Operators or owners of motor vehicles which have a gross weight of 8,000 pounds or more or which are operated in conjunction with other vehicles as a unit having an aggregate combined gross weight of 8,000 pounds or more, as a condition precedent to being granted the reciprocity privileges under s. 85.05, shall first file with the motor vehicle department in this state an instrument in writing, subscribed by him and duly acknowledged before a notary public or other officer with like authority, setting forth the name and address of the owner and such information as the motor vehicle department shall require. A motor vehicle within the meaning of this section shall be deemed to be a motor truck or truck tractor as defined in s. 85.10.

(2) Upon compliance with this section by a nonresident motor vehicle owner or operator, the motor vehicle department shall issue to him an identification plate for each vehicle so registered. The identification plate shall be carried and displayed on the motor vehicle which is identified on the application blank for such registration. Upon such com-

pliance, such owner is entitled to operate such motor vehicle within the state for and during such time as he continues to own such motor vehicle with license to operate the same in his own state or county.

(3) Any foreign motor vehicle having a gross weight of 8,000 pounds or more or operated in conjunction with other vehicles as a unit having an aggregate combined gross weight of 8,000 pounds or more, operating at any time without such identification plate shall be required to immediately register such vehicle or combination of vehicles as a Wisconsin resident vehicle.

(4) Any operator or owner of a foreign motor vehicle operating with a nonresident identification plate or certificate convicted a second or subsequent time of violating the weight limitations of ss. 85.47 and 85.48 may have such nonresident identification plate or certificate canceled by the motor vehicle department, and further shall pay the same tax and fees for a period of one year as is required for like vehicles owned by residents of Wisconsin under chs. 85 and 194.

(5) The motor vehicle department may promulgate such rules and regulations as may be reasonably necessary to accomplish the purpose of this section.

History: 1951 c. 706; 1953 c. 318; 320, 593, 631, 674; 1955 c. 353.

The word "may," as used in (4), means "must" or "shall." 43 Atty. Gen. 100.

85.06 Lighting equipment on vehicles. (1) **DEFINITIONS.** When used in chapter 85, unless the context clearly indicates otherwise, the following words and phrases shall mean:

(a) "Headlamp" is a major lighting device used to provide general illumination ahead of the vehicle.

(b) "Multiple beam headlamp" is a headlamp arranged to permit the driver of the vehicle to use any one of 2 or more distributions of light on the roadway.

(c) "Clear road beam" is a beam intended primarily for distant illumination and for use on the open highway when not meeting other vehicles.

(d) "Meeting or traffic beam" is a beam low enough on the left to avoid glare in the eyes of oncoming drivers and intended for use in congested areas and on highways when meeting other vehicles within a distance of 500 feet.

(e) "Spotlamp" is an auxiliary driving lamp used primarily to supplement the headlamps in providing general illumination ahead of the vehicle, usually mounted and arranged so it can be controlled by the driver for the purpose of reading signs and illuminating objects to the side of or beyond the scope of the regular headlamp beams.

(f) "Adverse weather lamp" is a lamp which may be used in lieu of a headlamp to provide road illumination under conditions of rain, snow, dust or fog.

(g) "Direction signal lamp" is a lighting device used to indicate the intention of the driver of a vehicle to change direction.

(h) "Stop lamp" is a device giving a steady warning light to the rear of a vehicle to indicate the intention of the driver of a vehicle to diminish speed or stop.

(i) "Tail lamp" is a device to designate the rear of a vehicle by a warning light.

(j) "License plate lamp" is a device to illuminate the license number plate on the rear of a vehicle.

(k) "Side marker lamps" are lamps on the left and right sides near the front and rear of a vehicle, which show to the side to mark the sides of the vehicle.

(l) "Clearance lamps" are lamps on the left and right sides of the front and rear of a vehicle which show to the front and rear to mark the extreme sides of the vehicle.

(m) "Emergency electric lantern" is an electric lantern providing a warning light, either flashed or steady burning, to mark a disabled vehicle.

(n) "Fusee" is a paper or fibre tube filled with an inflammable material which, when ignited, burns with a red flame for from 5 to 30 minutes and is used temporarily to mark a disabled vehicle until other warning lights or devices can be properly placed.

(o) "Pot torch" is a wick-type liquid-burning device designed to produce a steady burning flame to mark a disabled vehicle.

(p) "Reflex reflector" is a device designed to give an indication to an approaching driver by reflected light from the driving lamps on the approaching vehicle.

(q) "Hours of darkness" are the period of time from one-half hour after sunset to one-half hour before sunrise and all other times when there is not sufficient natural light to render clearly visible any person or vehicle upon a highway at a distance of 500 feet.

(2) **EQUIPMENT REQUIRED.** (a) Every vehicle upon a public highway during hours of darkness shall be equipped with the lighting equipment required by this section for vehicles of its class.

(b) In determining the distance from which lighting equipment shall render objects visible or within which such lighting equipment shall be visible during hours of darkness, such distance shall be measured directly ahead upon a straight, level, unlighted highway

under normal atmospheric conditions unless a different time, direction or condition is expressly stated.

(3) **HEADLAMPS ON MOTOR VEHICLES.** Every motor vehicle other than a motorcycle shall be equipped with 2 headlamps, which shall display a white light of sufficient illuminating power to reveal any person, vehicle or substantial object 200 feet ahead of the headlamps.

(4) **HEADLAMPS ON MOTORCYCLES.** Every motorcycle shall be equipped with at least one and not more than 2 headlamps which shall display a white light of sufficient illuminating power to reveal any person, vehicle or substantial object 200 feet ahead of such headlamp.

(5) **TAIL LAMP.** Every motor vehicle, when in use upon, or parked upon or immediately adjacent to, a traveled portion of a highway shall display on the rear a tail lamp so constructed and placed to show a red light from the rear plainly visible from a distance of 500 feet to the rear of such vehicle. But no motor vehicle lawfully parked upon a highway within the limits of an incorporated municipality shall be required to display a lighted tail lamp or lamps when equipped with a red reflex reflector or reflectors in accordance with subsections (26) and (27). No motor vehicle originally equipped at the time of manufacture and sale with 2 tail lamps shall be operated upon any public highway unless both of said lamps are in good working order.

(6) **STOP LAMP.** Every motor vehicle in use upon a highway shall be equipped with a stop lamp on the rear, which shall emit a red light and which shall be actuated upon application of the service or foot brake. Such lamp shall be plainly visible and understandable from a distance of 100 feet to the rear both during normal sunlight and at those times when lighted lamps are required on motor vehicles. Such lamp may be incorporated with a tail lamp. No motor vehicle originally equipped at the time of manufacture and sale with 2 stop lamps shall be operated upon a highway unless both of said lamps are in good working order.

(7) **SPOTLAMP.** (a) Any motor vehicle may be equipped with not to exceed 2 spotlamps which shall not be used in substitution of headlamps.

(b) Every spotlamp mounted upon a motor vehicle shall be located with the center of such lamp not less than 30 nor more than 72 inches above the level surface upon which the vehicle stands.

(c) No spotlamp shall be used as an auxiliary driving light on any motor vehicle except when such spotlamp is set or adjusted so that the rays of light shall be projected directly upon the road surface at a distance not exceeding 150 feet directly in front of the vehicle and to the right of the center of the traveled roadway. No spotlight shall project any glaring light into the eyes of an approaching driver.

(8) **ADVERSE WEATHER LAMP.** (a) Any motor vehicle may be equipped with not to exceed 2 adverse weather lamps mounted upon the front of said vehicle below the level of the centers of the headlamps.

(b) Adverse weather lamps shall not be used in lieu of headlamps unless absolutely necessary in case of rain, snow, dust or fog and then only when a vehicle is equipped with 2 adverse weather lamps mounted on opposite sides of the front of the vehicle and when both such adverse weather lamps are lighted.

(c) Whenever any vehicle is equipped with only one adverse weather lamp, both headlamps of such vehicle shall be lighted at all times whenever such adverse weather lamp is lighted.

(9) **BACK-UP LAMPS.** (a) Any motor vehicle may be equipped with a back-up lamp, which shall be so directed as to project a white or amber light illuminating the roadway to the rear of such vehicle for a distance not to exceed 75 feet.

(b) No lighted back-up lamp shall be displayed on any vehicle upon a highway except when such vehicle is about to be or is being driven backward. Whenever a back-up lamp is lighted during hours of darkness, the tail lamp or tail lamps on the vehicle displaying such lighted back-up lamp shall also be lighted.

(10) **NUMBER OF LIGHTED LAMPS RESTRICTED.** No motor vehicle upon a highway shall display lighted at one time more than 4 headlamps, adverse weather lamps or spotlamps or combination thereof.

(11) **COLOR OF LIGHTS ON FRONT OF VEHICLES.** Except as otherwise provided in this section, no person shall drive or move any vehicle or equipment upon a highway displaying other than a white or amber light visible from directly in front of said vehicle.

(12) **COLOR OF LIGHTS ON REAR OF VEHICLES.** Except as otherwise provided in this section, no person shall drive or move any vehicle or equipment upon any highway displaying any color of light other than red on the rear of said vehicle.

(13) IDENTIFICATION LAMPS ON TAXICABS AND BUSES. No motor vehicle regularly used for transporting passengers for hire may display any lighting device for identification purposes other than a single illuminated sign or lighted lamp mounted above the top line of the windshield, colored white, amber or green. Such illuminated sign or lamp shall be so constructed as to emit a steady or flashing nonglaring light.

(14) LAMPS ON AUTHORIZED EMERGENCY VEHICLES. (a) Any authorized emergency vehicle may be equipped with flashing, oscillating or rotating red lights to warn drivers and pedestrians to yield the right of way when making an emergency run on official business.

(b) The chief of police of any city or, when the owner resides outside of a city, the sheriff of the county, may authorize the owner of a motor truck equipped and used for towing or moving disabled vehicles to mount not to exceed 2 fixed flashing red lamps on the front of such truck. Said red lamps may be lighted only when said truck is being used to move a disabled vehicle along or upon a public highway. Chiefs of police and sheriffs shall keep a record of all such authorizations issued by them.

(15) DIRECTION SIGNAL LAMPS. (a) Any vehicle may be equipped, and all new motor vehicles sold in the state on or after January 1, 1955, and those otherwise required under this chapter, shall be equipped, with direction signal lamps for the purpose of giving a signal of intention to turn right or left. Such lamps shall project a flashing white or amber light visible to the front and a red or amber flashing light visible to the rear. Direction signal lamps shall be plainly visible and understandable from a distance of 100 feet both during normal sunlight and during hours of darkness.

(b) Vehicle equipped with such lamps shall also be equipped with a visible signal on the instrument panel, dash or steering column to indicate to the driver when either signal lamp is operating.

(16) DIMMING OR DEPRESSING HEADLAMP BEAMS. (a) Every person operating a motor vehicle equipped with multiple beam headlamps upon a public highway during hours of darkness shall, when at a distance of not less than 500 feet of an oncoming vehicle or of a vehicle proceeding ahead in the same direction, dim, depress or tilt the headlamps of his vehicle and keep them dimmed, depressed or tilted while approaching or following such other vehicle within a distance of 500 feet, so as to distribute the light therefrom so that the glaring rays are not directed into the eyes of the driver of the other vehicle; but at all times during hours of darkness every operator of a motor vehicle upon a highway shall use headlamps which will reveal a person or vehicle at a distance of at least 100 feet ahead.

(17) CLEARANCE LAMPS. Every motor vehicle, trailer or semitrailer having a width at any part in excess of 80 inches shall be equipped with 2 amber clearance lamps mounted on the front of said vehicle so as to be visible from the front and 2 red clearance lamps mounted on the rear of said vehicle so as to be visible from the rear. Such lamps shall be mounted in such a manner as to indicate the extreme width of the vehicle and as near the top thereof as practicable, and when lighted shall be visible from a distance of 500 feet.

(18) LIGHTING DEVICES FOR STATIONARY VEHICLES. No person shall during hours of darkness permit a truck, tractor, trailer, semitrailer or bus to stand upon any traveled portion of a highway outside of the corporate limits of any incorporated city or village, unless there is displayed 3 of any one of the following lighting devices: burning fusees, burning pot torches, lighted red lanterns. One shall be placed 10 feet to the left rear side of the vehicle, one placed approximately 125 feet to the front and one placed approximately 125 feet to the rear of the vehicle to clearly indicate the location of such vehicle on the highway. Such lighting devices shall be so displayed during the entire time such vehicle is left standing. Every truck, tractor or bus operated upon a highway outside of the corporate limits of any incorporated city or village shall carry in a place readily accessible to the driver the lighting device so required. Said lighting devices shall at all times be kept in proper working order, and pot torches or lantern shall be kept filled.

(19) LIGHTS ON HIGHWAY MAINTENANCE EQUIPMENT. (a) No tractor, truck, road grader, road drag or other unit of road machinery used in highway construction or maintenance shall be used upon a highway unless such vehicle or machinery displays during daylight hours a red flag on each side of the front and a red flag on each side of the rear. During hours of darkness a red light visible at a distance of 500 feet shall be displayed on each side of the front and each side of the rear to give adequate warning of the presence of such vehicle or machinery and to show safe clearance for passing or overtaking vehicles. Red flags herein prescribed shall be not less than 12 inches square.

(b) In lieu of such red lamps such vehicles or road machinery may be equipped with 2 amber floodlamps, one mounted on each side of the vehicle, so as to illuminate the sides of the vehicle and the attachments, if any, to show safe clearance for passing or over-

taking vehicles. Such floodlamps shall display an amber light of sufficient illuminating power to indicate safe clearance from a distance of 200 feet to the front and the rear of such vehicle. When such vehicles are required to operate on the left hand side of a highway they shall be equipped with an auxiliary lamp or lamps projecting a blue light visible from a distance of 500 feet from the front and rear. The lenses of such auxiliary lamps shall be not less than 6 inches in diameter, and said lamps shall be mounted approximately midway between the extremities of the width of the vehicle and at the highest practicable point.

(c) Motor vehicles and road machinery used for and engaged in maintaining highways, when equipped with and designated by lighted amber floodlamps and blue auxiliary lamps as provided in paragraph (b) are exempt from the provisions of paragraph (a).

(20) LAMPS ON SELF-PROPELLED FARM EQUIPMENT. No farm tractor, as defined in section 85.10, or self-propelled farm equipment shall be operated or parked upon a highway during hours of darkness unless such tractor or equipment carries the lighted lighting equipment required of motor vehicles under this section. No such tractor or equipment when so operated or parked shall show any light to the rear other than red in color.

(21) LAMPS ON POWER-DRIVEN CYCLES AND MOTOR BICYCLES. Power-driven cycles and motor bicycles shall be equipped with an electric headlamp, red tail lamp and current source. Such headlamp shall display a white light of sufficient illuminating power to reveal any person, vehicle or substantial object at a distance of 100 feet ahead, and shall be so adjusted or operated that the glaring light rays therefrom are not directed into the eyes of the driver of any oncoming vehicle. The tail light, when illuminated, must be visible on a dark clear night for a minimum of 500 feet from the rear. The electric current source shall be derived from either a wet battery and electric generator; or from a generator connected to the motor direct or by gears, friction wheel, chain or belt; or by means of a current generating coil incorporated into the magneto.

(22) LAMPS ON BICYCLES. Every bicycle operated upon a highway shall be equipped with a lamp on the front emitting a white light visible from a distance of at least 500 feet to the front and with a lamp on the rear emitting a red light visible from a distance of 300 feet to the rear. But in lieu of the red lamp a bicycle may be equipped with a red reflex reflector so mounted and maintained as to be readily visible from all distances from 50 feet to 300 feet from the rear of said bicycle.

(23) LAMPS ON MOBILE HOMES. Mobile homes operated on a highway shall be equipped with a combination tail lamp and stop lamp, controlled and operated from the driver's seat of the propelling vehicle.

(24) LAMPS ON NONMOTOR VEHICLES. No vehicle or piece of equipment or machinery not otherwise referred to in this section shall be driven upon or occupy any highway during hours of darkness unless such vehicle, equipment or machinery is equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of 500 feet ahead and a lighted lamp or lantern exhibiting a red light visible at a distance of 300 feet to the rear, except that in lieu of a red lamp or lantern 2 red reflex reflectors may be displayed on the rear of such vehicle, equipment or machinery.

(25) REFLEX REFLECTORS ON VEHICLES. No vehicle having a width at any part in excess of 80 inches shall be operated or parked upon a highway during hours of darkness unless such vehicle is equipped with 2 amber reflex reflectors mounted on the front, and 2 red reflex reflectors mounted on the rear in such a manner as to indicate as nearly as possible the extreme width of said vehicle.

(26) INSTALLATION OF REFLEX REFLECTORS. Whenever this section requires any reflex reflector to be displayed by a vehicle upon a highway, each such reflector shall be mounted on such equipment not less than 16 inches nor more than 60 inches above the ground on which the equipment stands. Such reflector shall be of such size and characteristics and so maintained as to be readily visible from all distances within 500 feet to 50 feet from such vehicle when directly in front of lawful upper headlamp beams during hours of darkness. A lawful red reflex reflector may be incorporated as a part of a tail lamp.

(27) COLOR OF REFLEX REFLECTORS. All reflex reflectors required under this section shall reflect an amber color, except that any reflex reflector mounted on the rear or on either side nearest to the rear of a vehicle or other equipment shall reflect a red color. Red reflex reflector warning devices shall comply with the minimum visibility requirements set forth in subsection (26).

(28) LAMPS AND REFLECTORS TO BE KEPT CLEAN. The operator of every vehicle on a highway required to display lighted lamps or reflex reflectors under this section shall keep such lamps and reflectors reasonably clean and in proper working condition at all times.

(29) ENFORCEMENT. It shall be the duty of sheriffs, deputy sheriffs, traffic officers, policemen and village marshals to enforce the provisions of this section.

History: 1951 c. 247 s. 33, 34; 1951 c. 420; 1953 c. 297, 563.

Revisor's Note 1951: Motor-driven cycles include motor cycles, power-driven cycles and motor bicycles; see 85.10 (4). Motor cycle headlamps are governed by 85.06 (4). This amendment is recommended by the motor vehicle department. (Bill 198-S)

In an action for injuries sustained by the driver of a truck proceeding on a main highway from the north, and colliding with a tractor-trailer which had turned west into a side road to turn around but became stalled so that it extended back into the main highway, the evidence sustained the jury's finding that the driver of the tractor-trailer was causally negligent as to placing and maintaining proper flares, fuseses, or other warning devices. *Yanisch v. American Fidelity & Casualty Co.*, 257 W 462, 44 NW (2d) 267.

The evidence supported the jury's finding that driver of truck was causally negligent in failing to maintain proper lights on the truck, although he was operating the truck on the right side of the highway at the time of collision with the approaching automobile. (*McGuiggan v. Hiller Brothers*, 209 W 402, applied.) *Olson v. Rink*, 259 W 599, 49 NW (2d) 923.

See note to 85.40, citing *Quady v. Sickl*, 260 W 343, 51 NW (2d) 3, 52 NW (2d) 134.

Aside from the requirement of (3) that automobiles shall have headlights sufficient to disclose substantial objects 200 feet in front of them, due care on the part of a motorist also requires him to have headlights which enable him to see the usual highway directional and warning signs, and the railroad-crossing signs prescribed by statute, located at the sides of highways. *Schulz v. Chicago, M., St. P. & P. R. Co.* 260 W 541, 51 NW (2d) 542.

Under the evidence bearing on visibility at the time of the accident, the supreme court cannot hold that as a matter of law the trial court should have changed from "No" to "Yes" the jury's answer to a question in the special verdict asking whether the plaintiff was negligent in respect to operating the car on the highway without a taillight lit before 30 minutes after sunset when there was not sufficient natural light to render clearly visible any person or vehicle on the highway at a distance of 500 feet. *Dahl v. Harwood*, 263 W 1, 56 NW (2d) 557.

In an action for the death of the operator of a motor scooter, proceeding on the highway at night and struck by the defendant's overtaking automobile, evidence warranting the inference that the reflectibility of the taillight glass on the scooter was such that the defendant should have seen it, even though the lights on the scooter were inadequate, was sufficient to sustain the jury's finding that the defendant was negligent as

to lookout. *Johnson v. Sipe*, 263 W 191, 56 NW (2d) 852.

Where the question to be determined by the jury was whether the preceding truck showed a taillight of the visibility required by (5) and the absence or invisibility of a taillight would be negligence as a matter of law, a question in the special verdict asking whether the defendant driver of the truck was "negligent . . . with respect to transporting the load on his truck in such a manner so as to obscure the taillight," answered in the affirmative, was so confusing and so subject to misinterpretation by the jury, in apparently requiring the jury to decide whether it was negligent for the defendant to transport a load in such a manner, as to require a new trial. *Johnston v. Eschrich*, 263 W 254, 57 NW (2d) 396.

In an action for the death of an occupant of an automobile which collided at night with the left rear fender of a car parked on the south shoulder of the road somewhat east of another car stopped on the opposite side of the road and facing in the direction from which the colliding car was approaching, testimony of the driver of the colliding car and another occupant thereof, that neither one saw a lighted taillight on such parked car, but that neither one saw such parked car until they had passed the facing car, and that the driver of the colliding car was blinded by the lights of the facing car and an approaching car and was concerned with avoiding them, was so negative in substance and character as to be incapable of overcoming the positive testimony offered by the operator of such parked car that there was a lighted taillight on it. *Rambo v. Wilkins*, 264 W 76, 58 NW (2d) 517.

If a car has the light required by (5), no additional warning need be given even though it is disabled on the highway. *Swanson v. Maryland Casualty Co.* 266 W 357, 63 NW (2d) 743.

Where the lights of a truck, traveling on its own side of the highway with a stalled car in tow, were lighted and were in full compliance with statutory requirements, they constituted adequate warning lights to other users of the highway; the jury's finding that the truck lights were not adequate to give warning of the position of the truck on the highway to the driver of an automobile approaching from the opposite direction was of no legal consequence. *Callan v. Wick*, 269 W 68, 68 NW (2d) 438.

(5) did not apply where an automobile was parked partly on the gravel shoulder but 8 feet from the concrete or traveled portion of the highway when struck from the rear by another automobile. *Superior Steel Products Corp. v. Zbytoniewski*, 270 W 245, 70 NW (2d) 671.

85.063 Safety glass on motor vehicles and trackless trolleys; penalty. (1) It shall be unlawful for any person to operate on any public highway or street in this state any motor vehicle which is registered in this state and which is manufactured or assembled after January 1, 1936, or any trackless trolley which is manufactured after January 1, 1952, unless such motor vehicle or trackless trolley is equipped with safety glass wherever glass is used thereon in partitions, doors, windows or windshields. This provision shall apply only to motor vehicles that are manufactured after January 1, 1936, and to trackless trolleys manufactured after January 1, 1952.

(2) The term "safety glass," as used in this section, shall be construed as meaning glass so treated or combined with other materials as to reduce, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from external sources or by such glass when the same is struck, cracked or broken.

(3) The motor vehicle department shall approve and maintain a list of the approved types of glass, conforming to recognized specifications, tests and requirements for safety glass as defined in this section, and shall not issue a license for or relicense any motor vehicle unless such motor vehicle is equipped with safety glass as herein provided.

(4) Every vendor of a motor vehicle shall certify in a bill of sale or the certificate of title to any motor vehicle sold the type of glass used in partitions, doors, windows and

windshields of such motor vehicle, and whether it was manufactured or assembled after the effective date of this section. Every owner of a motor vehicle purchasing a motor vehicle after the effective date of this section shall exhibit such certificate to the motor vehicle division when applying for registration of such motor vehicle.

(5) The operator or owner of any motor vehicle which is operated in violation of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five dollars or ten days in the county jail or by both such fine and imprisonment. In case of violation of the provisions of this section by any common carrier or person operating under a permit or certificate issued by the public service commission, in addition to such penalty, such permit or certificate may be revoked, or, in the discretion of the commission, suspended until the provisions of this section are complied with.

History: 1951 c. 90.

Statutory classifications based on time sustaining a finding that failure to equip a trackless trolley bus with safety glass constitutes negligence. *Werlein v. Milwaukee E. R. & T. Co.* 267 W 392, 66 NW (2d) 185.

85.08 Motor vehicle operator's license. (1) DEFINITIONS. (a) Words and phrases not specifically defined in the section shall have the meaning ascribed to them in section 85.10, except in those instances where the contents clearly indicate a different meaning.

(c) "School bus" is any motor vehicle which is owned or operated by a public or governmental agency, or privately owned and operated for compensation, which such vehicle is used to transport children to or from school or to transport school groups engaged in extra curricular activities to or from a school or district.

(d) "Nonresident" is every person who is not a resident of this state.

(e) "License" is an operator's or a chauffeur's license except in those cases where the contents clearly indicate a different type of license.

(f) "Suspension" means that the licensee's privileges to operate a vehicle are temporarily withdrawn.

(g) "Revocation" means that the licensee's privilege to operate a vehicle is terminated for a definite period.

(h) "Canceled" means that a license which was issued through error or fraud or that the release from liability under subsection (10) is declared void and terminated.

(i) "Conviction" means a final conviction; a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, or a stipulation of guilt pursuant to s. 85.831, is equivalent to a conviction; a finding of a juvenile court under ch. 48 of a violation of this chapter or of a county or municipal ordinance enacted in conformity with s. 85.84 is equivalent to a conviction.

(j) "Registration" means registration plates.

(k) "Record of conviction" means a report of conviction furnished on the form supplied by the department.

(2) ADMINISTRATION. (a) The department shall administer and enforce the provisions of this section.

(b) The commissioner is authorized to adopt and enforce such rules and regulations as may be necessary for the administration of this section.

(3) OPERATORS MUST BE LICENSED. No person, except those hereinafter expressly exempted, shall operate any motor vehicle upon a highway in this state unless such person has a valid license issued under the provisions of this section. After revocation or cancellation a new license can be obtained only as permitted in this section after the period of revocation has terminated.

(3a) SCHOOL BUS OPERATOR'S LICENSE. No person shall operate a school bus without having first applied for and received a school bus operator's license. The department shall not issue a school bus operator's license to any person who: (a) Is less than 21 years of age; (b) does not hold a valid operator's license issued under the provisions of this section; (c) is without the natural use of both hands; (d) is without the natural use of the foot normally employed to operate the foot brake and foot accelerator; or (e) fails to pass the state driving examination.

(4) PERSONS EXEMPT FROM LICENSE. The following persons are exempt from licenses hereunder:

(a) Any person while operating a motor vehicle in the service of the army, navy or marine corps of the United States;

(b) Any person while operating any farm tractor or implement of husbandry temporarily operated or moved on a highway;

(c) A nonresident who is at least 16 years of age and who has in his immediate

possession a valid license issued to him in his home state or country may operate a motor vehicle in this state;

(d) Any nonresident who is at least 16 years of age whose home state or country does not require the licensing of operators may operate a motor vehicle for a period of not more than 90 days in any calendar year, if the motor vehicle so operated is duly registered in the home state or country of such nonresident. However, such nonresident shall have an official certificate showing the lawful registration of such motor vehicle and may be required at any time or place by any person empowered to enforce the provisions of chapter 85 to establish his identity and prove lawful possession or right to operate such motor vehicle.

(5) LICENSES PREVIOUSLY CANCELED, SUSPENDED OR REVOKED. Any person whose operator's license or motor vehicle license has been withheld, suspended, revoked or canceled by this state or any other state, province or country previous to September 1, 1941, shall be eligible to apply for a reinstated Wisconsin operator's license in the same manner as a person whose operator's license or motor vehicle license is withheld, suspended, revoked or canceled under this section.

(6) PERSONS NOT TO BE LICENSED. The department shall not issue any license hereunder:

(a) To any person whose license was withheld, suspended, revoked or canceled under the provisions of the law that was in effect before September 1, 1941, unless such person shall comply with the requirements of this section.

(b) To any person as an operator who is under the age of 16 years, except that the department may issue a restricted license as hereinafter provided to any person who is at least 14 years of age;

(c) To any person whose license has been suspended, during such suspension, nor to any person whose license has been revoked, until the expiration of one year after such license was revoked;

(d) To any person as an operator who is an habitual drunkard or is addicted to the use of narcotic drugs or who is addicted to the use of dangerous drugs as defined in section 151.07 (1) (a) 1 to 8, unless at the time of the application he has been legally declared to have recovered, or, in case he has been institutionalized, unless he exhibits the certificate of the superintendent that he has recovered or has been absolutely or conditionally released from the institution and, in his opinion, is competent to drive a motor vehicle, and then only in the discretion of the commissioner;

(e) To any person who has been adjudged mentally ill or mentally deficient, unless at the time of the application he has been judicially declared restored to competency, or exhibits the certificate of the superintendent that he has recovered or has been released from a hospital for the mentally ill or mentally deficient, absolutely or conditionally or on temporary discharge, and that, in his opinion, he is competent to drive a motor vehicle and then only in the discretion of the commissioner;

(f) To any person who is afflicted with or suffering from any mental or physical disability or disease such as to prevent him or her from exercising reasonable control over a motor vehicle;

(g) To any person who is required by this section to take an examination, unless such person shall have successfully passed such examination; deaf persons otherwise qualified to receive a license hereunder shall be issued such license at the discretion of the commissioner;

(h) To any person who is required under the provisions of the motor vehicle financial responsibility laws of this state to furnish proof of financial responsibility, and who has not furnished such proof in the manner prescribed by law and in accordance with the rulings of the department;

(i) To any person when the commissioner has good cause to believe that the operation of a motor vehicle on the highways by such person to be inimical to the public safety or welfare;

(j) To any person subject to epileptic seizures; provided, however, than any person afflicted with epilepsy who submits to the department a certificate in the form hereinafter prescribed may be issued a temporary driver's license as hereinafter provided. Such temporary license, when issued, shall continue in effect as long as such licensee presents to the department 6 months from the date of issue of such license and at 6-month intervals thereafter recertification. In no event shall such license be valid beyond the date of expiration shown on such license. The department shall furnish to applicants upon request, a form of medical questionnaire to be completed and signed by any physician or surgeon duly licensed to practice medicine in this state, upon examination of applicant by such physician. Said form shall be devised by the commissioner upon and with the advice of any physician or physicians of his selection qualified as experts in the field of

diagnosing and treating epilepsy. The form shall be drawn to elicit the maximum medical information necessary to aid in determining whether or not it would be a hazard to public safety to permit applicant to drive a motor vehicle, including, if such be the fact, the attending physician's statement that the applicant is under medication and free from seizures while under medication. Said questionnaire shall contain the recommendation of the examining physician to the commissioner as to whether such temporary driver's license shall be issued to applicant. The combined questionnaire and recommendation shall constitute the "certificate" or "certification," as those terms are used herein. The commissioner shall not be bound by such recommendation, but shall give fair consideration to same in exercising his discretion in acting upon the application, the criterion being whether or not, upon all the evidence, it appears that it is safe to permit such applicant to drive. In making such determination the commissioner may be guided by opinion of experts in the field of diagnosing and treating epilepsy, and may take into consideration any other factors which bear on the issue of public safety. The burden of proof shall be upon the applicant. Whenever a license is denied by the commissioner, such denial may be reviewed by a reviewing board upon written request of applicant filed with the department within 10 days after receipt of notice of such denial. The reviewing board shall consist of the commissioner and 2 members designated by the chairman of the state board of health consisting of members of the state board of health or physicians duly licensed to practice medicine in this state. The medical members of said board, including members of the board of health, shall receive the same per diem and expenses provided by law for members of the board of health to be charged to the same appropriation as per diems and expenses for members of the board of health. Actions of the reviewing board shall be subject to subsection (34a).

(k) To any person who has been convicted of any of the offenses enumerated in subsection (25), except as provided in subsection (25c), for a period of one year from the date of such conviction and such person shall then be licensed only upon filing proof of financial responsibility as provided in section 85.09 (18).

(6m) SURRENDER OF LICENSE. Whenever any person holding a license falls into one of the classes to whom no license shall be issued under subsection (6), he shall forthwith surrender such license to the department upon demand.

(7) INSTRUCTION PERMITS OTHER THAN FOR SCHOOLS. Except as provided in subsection (7m), any person, who, except for his lack of instruction in operating a motor vehicle would otherwise be qualified to obtain a license under this section, may apply for an instruction permit, and the department may issue such permit, entitling the applicant, while having such permit in his immediate possession, to operate a motor vehicle upon the highways for a period not to exceed 60 days, but, except when operating a motor-driven cycle, such person must be accompanied by a licensed operator who is actually occupying a seat beside the operator and there shall be no other occupant in the vehicle. Any instruction permit shall be valid only to the party to whom issued for use during daylight hours.

(7m) SCHOOL INSTRUCTION PERMITS. (a) Any person 16 years of age or older enrolled in a driver education and training course in any school, otherwise qualified to obtain a license under this section, may apply for a school instruction permit, certified to by the driver training instructors, and the department shall issue such permit entitling the applicant, while having such permit in his immediate possession, to operate a motor vehicle upon the highways for a period not exceeding 5 months. The fee charge for such permit shall be the same as for other instruction permits.

(b) The department upon receiving proper application may in its discretion issue a restricted instruction permit to an applicant who is enrolled in a driver education program in any school which includes practice driving which is approved by the department of public instruction, providing the applicant is 15 years of age and is otherwise qualified to obtain a license under this section. Such instruction permit shall entitle the permittee, when he has such permit in his immediate possession, to operate a motor vehicle within a designated area but only when an approved instructor is occupying a seat beside the permittee or he is accompanied by an authorized driver license examiner for the purpose of examining his ability to drive. No such permit shall be issued unless the applicant can complete the driver education program not earlier than 2 months before he reaches the age of 16. Such permit shall be valid only for the duration of the course in which the permittee is enrolled.

(c) When a motor vehicle equipped with dual brake and clutch pedals is used by any school, public or private, for the purpose of training motor vehicle drivers, and a qualified instructor occupies a seat beside the operator, not exceeding 3 other persons may occupy seats in the motor vehicle other than the front seat.

(8) APPLICATION FOR LICENSE OR INSTRUCTION PERMIT. (a) Every application for a license or for an instruction permit shall be made upon a form furnished by the department.

(b) The form of such application shall be determined by the commissioner and shall include the full name, address, date of birth, color of eyes, color of hair, sex, height and weight, race, residence and business address and occupation of applicant, and shall state whether the applicant has heretofore been licensed as an operator or chauffeur, and if so, when and by what state or country, and whether any previous license has ever been suspended or revoked or whether application has ever been refused, and if so, the date and place of such suspension, revocation or refusal.

(c) The application of any person under the age of 18 years for an instruction permit or license shall be signed and verified before a person duly authorized to administer oaths, by the father of the applicant if he has the custody of such person; or if the father has not such custody then the mother, if she has the custody; or in the event that neither parent has the custody, then by the person or guardian having such custody or by the employer.

(9) APPLICATION OF PERSON UNDER THE AGE OF 16 YEARS AND LIABILITY OF SPONSORS.

(a) The department may issue a license to any person otherwise qualified, who is less than 16 years and more than 14 years of age, if satisfied that it is necessary for such person to operate his parent's or guardian's motor vehicle licensed as an automobile or a farm truck. Such license shall be of such form or color so that it may be readily distinguishable from licenses issued to persons who are 16 years of age or over, and shall restrict the holder thereof to the operation of a motor vehicle licensed as an automobile or farm truck belonging to his parent or guardian during the daylight hours only and shall not authorize such licensee to operate a motorcycle, motor bicycle, commercial motor truck, motor bus or taxicab. A license shall not be issued to a person who is less than 16 years of age until such person accompanied by his parent or guardian appears in person before an examining officer, as provided in this section, with a certificate of birth to show that such person is at least 14 years of age; nor until such person shall have passed an oral examination and a test of his ability to safely operate a motor vehicle as provided herein and the examining officer shall attest the signature of the applicant and the parent or guardian as required on the application for licenses issued to persons under the age of 16 years. Nothing in this section shall be construed to permit any person who is less than 16 years of age to operate any type of motor vehicle in any city of this state having a population of 500,000 or more, except those persons with restricted instruction permits issued pursuant to sub. (7m) (a).

(b) The department may issue a permit to any person otherwise qualified, who is less than 16 years and more than 14 years of age, if satisfied that it is necessary for such person to operate a power driven cycle as defined in section 85.10 (4) (a), provided the applicant establishes his age and passes an operator's test as specified in paragraph (a). The driving test shall be taken on a power driven cycle and the permit issued shall be so marked as to show that it entitles the holder to operate a power driven cycle only. The permit shall be readily distinguishable from a license for operating motor vehicles and shall restrict the holder thereof to the operation of a power driven cycle belonging to his parent or guardian and during daylight hours only. The applicant shall submit on a form furnished by the department a certificate attested to by the dealer from whom the vehicle was originally purchased or by the manufacturer of the vehicle declaring that the vehicle meets all the specifications set forth in the definition of a power driven cycle as stated in section 85.10.

(c) Any negligence or wilful misconduct of a person under the age of 18 years when operating a motor vehicle upon the highways shall be imputed to the person who signed the application of such person for a permit or license, which person shall be jointly and severally liable for such operator for any damages caused by such negligent or wilful misconduct.

(10) RELEASE FROM LIABILITY. Any person who signed the application of a person under the age of 18 years for a license may thereafter file with the commissioner a verified written request that the license of such person so granted be canceled. Thereupon the commissioner shall within 10 days after the receipt of such notice, cancel the license of such person and the person who signed the application of such person shall be relieved from the liability imposed under this section by reason of having signed such application on account of any subsequent negligent or wilful misconduct of such person while operating a motor vehicle.

(11) REVOCATION OF LICENSE UPON DEATH OF SPONSORS. The commissioner upon receipt of satisfactory evidence of the death of the persons who signed the application of a person under the age of 18 years for a license shall cancel such license and shall

not issue a new license until such time as a new application, duly signed and verified, is made as required by this section.

(12) EXAMINATIONS. The department shall examine every applicant for an operator's license except:

(a) That it shall be the policy of the department to issue an operator's license without examination to a person previously licensed in this state.

(b) To facilitate such examinations and tests the department may authorize any state traffic officer, deputy, chief of police, sheriff or county traffic officer to conduct the same in accordance with such rules and regulations as the department may prescribe. The person conducting such examination shall upon completion thereof forward to the department a report of same on a form furnished by the department, with a definite recommendation as to whether a license or instruction permit should be issued, denied or taken up as the case may be. If the person examined is not at the time the holder of a valid license, the examiner's report must be accompanied by a duly executed application and the proper fee.

(c) Such examination shall include a test of the applicant's eyesight; his ability to read and understand highway signs regulating, warning and directing traffic; his knowledge of the traffic laws (including section S5.44 (10)); and an actual demonstration of his ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The person to be examined shall furnish a motor vehicle in safe operating condition, and shall appear at such time and place in the city or village of or nearest his residence as the department or its agent may designate.

(d) The commissioner may in his discretion require a special examination by such agencies as the commissioner may direct, of any applicant for learner's permit or operator's license, or of any licensed operator to determine incompetency, physical or mental disability, or disease or any other condition which might prevent such person from exercising reasonable and ordinary control over a motor vehicle. When the department shall require a physical examination of the applicant the applicant shall pay the cost of the same, but no physician shall charge more than \$2 therefor.

(e) Whenever an examination shall be conducted by any police department or sheriff's department pursuant to this subsection, the fee paid pursuant to sub. (18) by the person so examined shall be transmitted to the motor vehicle department but the state shall reimburse the municipality or county whose department conducted such examination, 75 per cent of such fee for the cost of conducting the examination. The motor vehicle department shall certify to the director of budget and accounts amounts due municipalities and counties under this paragraph and the director of budget and accounts shall draw his warrant in favor of the municipality or county for the amount certified and charge same to the proper appropriation under s. 20.560 (74).

(f) Any person required by this section to be examined for an operator's license who by any means secures the services of another person to appear in his place to take such examination shall be fined not less than \$100 nor more than \$200 or imprisoned for 6 months, or both.

(g) Any person who appears for an examination under this section in the place of another person required to take such examination shall be fined not less than \$100 nor more than \$200 or imprisoned for 6 months, or both, for the first offense and for the second or each subsequent offense thereafter fined not less than \$200 nor more than \$500 or imprisoned in the county jail for one year, or both.

(13) LICENSES ISSUED TO OPERATORS. (a) The department shall assign a distinguishing number to each license and keep a proper record of all licenses issued, which record shall be open to public inspection. A license card shall be issued to each licensee in such form as the department may determine, including either a facsimile of the licensee's signature or a space for the licensee to indorse his usual signature thereon in ink. No license shall be valid until it has been so signed by the licensee.

(14) LICENSE TO BE CARRIED; VERIFICATION OF SIGNATURE. (a) Every licensee shall have his license in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand from a justice of the peace, judge, police officer, magistrate, a peace officer, a field deputy, officer of the department or county traffic officer. However, no person charged with violating this subsection shall be convicted if he produces in court or the office of the arresting officer a license theretofore issued to him and valid at the time of his arrest.

(b) For the purposes of verification, any justice of the peace, judge, police justice, magistrate, a peace officer, field deputy, officer of the department or county traffic officer, may require the licensee to write his signature in the presence of such officer.

(15) RESTRICTED LICENSES. (a) The department upon issuing a license shall have authority whenever good cause appears, to impose restrictions suitable to the licensee's operating ability with respect to the type of or special mechanical control devices required

on a motor vehicle which the licensee may operate, or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee. Restricted licenses issued by the department shall be of such form or color so that they will be readily distinguishable from the regular licenses.

(b) The department shall, upon receiving satisfactory evidence of any violation of the restriction of such license, suspend or revoke the same but the licensee shall be entitled to a hearing as upon a suspension or revocation under this section.

(16) **DUPLICATE LICENSES AND PERMITS.** In event that an instruction permit or license issued under the provisions of this section is lost or destroyed, the person to whom the same was issued may obtain a duplicate or substitute thereof upon furnishing proof satisfactory to the department that such permit or license has been lost or destroyed. In the event that the original license is found it shall immediately be transmitted to the department.

(17) **EXPIRATION OF LICENSES.** (b) 1. Beginning July 1, 1955, all validly outstanding licenses shall be renewed in such number and at such times as may be deemed advisable by the motor vehicle department in order to gain a uniform rate of renewal of driver's licenses. Licenses so renewed shall be valid for at least 2 years from the date of issue of such renewal license. Licenses issued or renewed on or after July 1, 1955 shall be valid for 2 years. It shall be the duty of the motor vehicle department to mail to the last-known address of a licensee at least 30 days prior to the expiration of his renewal license notice of the date upon which such license must be renewed.

3. Any person who holds a valid driver's license and who is unable to make a renewal application within the period declared by the motor vehicle department due to his serving with any branch of the armed services shall be permitted to apply for a renewal operator's license at any time within 6 months from date of his discharge from such services. Such person shall be issued a renewal license at the regular fee of 25 cents.

(c) Every such license renewal or duplicate shall be made upon a verified application to the department in such form as the department shall prescribe and upon satisfactory proof the licensee is qualified under this section to receive such license.

(d) Every license and instruction permit issued shall show the date upon which such license or permit expires.

(18) **COST OF LICENSES, RENEWALS, DUPLICATES AND PHYSICAL EXAMINATIONS.** Each application for a license, reinstatement, renewal, instruction permit or duplicate shall be accompanied by a fee, as follows:

(a) For any person not previously licensed in this state, for each 2 years or part thereof, \$2.

(b) For reinstating a license, \$2.

(c) For a license renewal, \$1.

(d) For an instruction permit, \$1.

(e) For a duplicate license, \$1.

(19) **NOTICE OF CHANGE OF ADDRESS OR NAME.** Whenever any person, after applying for or receiving a license shall move from the address named in such application or in the license issued to him, he shall immediately indorse his new address on his license and inform the department of such change, or when the name of the licensee is changed by marriage or otherwise, such person shall within ten days thereafter notify the department in writing of such former or new names, and the number of any license then held by him. No fee shall be charged for licenses issued solely for change of name when the original license is returned with such application. Proper fee shall be forwarded with such application when the original license is not returned.

(20) **RECORDS TO BE KEPT BY THE DEPARTMENT.** The department shall file every application for license received by it and shall maintain suitable indices containing:

(a) All applications denied, and on each thereof note the reason for such denial;

(b) The name of every licensee whose license has been suspended, revoked or canceled by the department and note thereon the reason for such action;

(c) The department shall maintain a file for each licensee so that such file shall contain the application for license, a copy of the license issued, a record of reports or abstract of convictions, and a record of any reportable accident in which the licensee has been involved. This information must be filed by the department so that the complete operator's record is available for the use of the commissioner in determining whether the operating privileges of such person shall be suspended, revoked, canceled or withheld in the interest of public safety. Such reports and records may be accumulative beyond the period for which a license is granted but the commissioner, in exercising the power of suspension granted him under sub. (27) (b), shall consider only those reports and records entered during the 4-year period immediately preceding the exercise of such power of suspension.

(21) FRAUD VOIDS LICENSE. Any license or instruction permit issued upon any application which is untrue, or which contains any false statements as to any material matter, shall be void from the date of its issuance, and any such license card so issued shall forthwith be surrendered to the department or its agent upon demand.

(22) SUSPENDING PRIVILEGES OF NONRESIDENTS AND REPORTING CONVICTIONS. (a) The privilege of operating a motor vehicle on the highways of this state given to a nonresident hereunder shall be subject to suspension or revocation by the commissioner in like manner and for like cause as a license issued hereunder may be suspended or revoked.

(b) The commissioner is further authorized, upon receiving a record of the conviction in this state of a nonresident operator of a motor vehicle of any offense which is grounds for suspension or revocation under the laws of this state, to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(23) REVOKING OR SUSPENDING RESIDENT'S LICENSE UPON CONVICTION IN ANOTHER STATE AND RELEASE THEREFROM. (a) The commissioner shall suspend or revoke the license of any resident of this state or if such resident has not been issued a license, the commissioner shall suspend or revoke the privilege of such resident to secure a license or the privilege of a nonresident to operate a motor vehicle in this state upon receiving notice of the conviction of such person in another state, for an offense therein, which if committed in this state, would be grounds for suspension or revocation of the license of an operator.

(b) The commissioner shall upon receipt of proper evidence of release of the suspension or revocation of the operating privileges by the proper authority of the state in which the offense was committed, release such person's suspension or revocation in this state.

(24) WHEN COURT TO FORWARD LICENSE TO DEPARTMENT AND REPORT CONVICTIONS. (a) Whenever any person is convicted of any offense for which this section makes mandatory the revocation by the department of a license or the privilege to secure a license, the court in which such conviction is had shall require the surrender to it of all licenses then held by the person so convicted, and the court shall thereupon forward the same together with a record of such conviction to the department and shall report whether such party was involved in an accident at the time of the offense. If the offender has stipulated his guilt of such an offense pursuant to s. 85.831, the official receiving the penalty shall require the surrender to him of all licenses then held by the offender and shall forward the same to the department with a certified copy of the stipulation and a statement whether the offender was involved in an accident at the time of the offense.

(b) Every court having jurisdiction over offenses committed under this section, or any other law of this state, or a county, city or village ordinance which is in conformity with state law regulating the operation of motor vehicles on highways, shall forward to the department a record of the conviction of any person in such court for any moving traffic violation of ch. 85 or any local ordinance which is in conformity therewith. If the offender has stipulated his guilt of such an offense pursuant to s. 85.831 the official receiving the penalty shall forward a certified copy of the stipulation to the department.

(c) It is the duty of the clerk of such court or the justice of the peace, judge or magistrate of such court not having a clerk, or the official receiving the penalty under a stipulation of guilt, to comply with pars. (a) and (b) and the failure of such person whose duty it is to make such entry or to forward such record of conviction or certified copy of the stipulation of guilt to the department within 48 hours thereafter, is a misdemeanor and the commissioner shall cause to be brought against such person such action as the statutes provide.

(d) Whenever the driving privilege of any person is suspended, revoked or denied, the department shall thereupon forward the name and address of such person to the sheriff of the county, chiefs of police, and county traffic department in the county in which such person resides; and once each month furnish the sheriff of each county, the chief of police of each city, and all county traffic officers, a list of the names and addresses of all operators whose licenses have been suspended or revoked during the preceding month under this section and the periods thereof.

(24b) ACCUSED TO BE INSTRUCTED AS TO MANDATORY REVOCATION AND SUSPENSION PROVISIONS. (a) Whenever a person is charged with a violation of law which requires upon conviction that his license be revoked or suspended, the police officer or district attorney handling the case shall inform him that a forfeiture of bail will result in his license being revoked or suspended, and shall require him to sign a stipulation to the effect that he has been so informed. One copy of such stipulation shall be given to the defendant and one copy shall be filed with the court.

(b) Before taking the plea of a person charged with a violation of law which requires upon conviction that such person's license be revoked or suspended, it is the duty of the presiding judge or justice to inform the defendant that conviction will result in his license being revoked or suspended. No bail shall be forfeited on such charge unless a copy of the stipulation mentioned in par. (a) has been filed with court, but this shall not be construed to prevent revocation or suspension pursuant to sub. (23) even though the person whose bail was forfeited in a court in another state was not given notice in the manner provided for in this subsection.

(24c) Whenever any child under 18 is found by a criminal court, by a juvenile court or, in the case of an ordinance violation, by a civil court to have violated a provision of this chapter regulating moving vehicles or any county or municipal ordinance enacted in conformity therewith under s. 85.84, the court shall suspend the child's motor vehicle operator's license, for not less than 30 days nor more than one year by taking immediate possession of the license and mailing it with a report of the violation to the department. But the provisions of sub. (29) shall not be applicable to the first such suspension unless the court so orders.

(25) MANDATORY REVOCATION OF LICENSE. Whenever an operator is convicted under a state law or under a county, city or village ordinance which is in conformity to the state law (except that such ordinance need not impose imprisonment to so conform), the commissioner shall forthwith revoke the operator's license upon receiving the record of such operator's conviction of any of the following offenses when such conviction has become final:

(a) Homicide resulting from the operation of a motor vehicle and which is criminal under ss. 940.06, 940.08 or 940.09.

(b) Operation of a motor vehicle while under the influence of intoxicating liquor or a narcotic or dangerous drug;

(c) Any felony in the commission of which a motor vehicle is used;

(d) Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another or in serious property damage;

(e) Perjury or the making of a false affidavit or statement under oath to the department under this section or any other law relating to the ownership or operation of motor vehicles.

(f) Operating a motor vehicle while driving privileges are suspended or revoked or operating a motor vehicle when proof of financial responsibility is required without furnishing such proof.

(g) Whenever the report of conviction, provided in subsection (24) (a) shall show that the party convicted was involved in a motor vehicle accident at the time of the offense, the commissioner shall, in lieu of immediate revocation as provided herein, temporarily suspend said operator's licenses until the accident case has been duly processed and the party has complied with section 85.09 or until his failure of compliance has resulted in an order of suspension thereunder. Upon issuing such order of suspension the commissioner shall in addition revoke the operator's license as provided in this subsection. When such license has been both suspended and revoked, no operator's license or registration shall again be issued to such person until he has complied with this section and section 85.09.

(25a) CONVICTION SET ASIDE. Whenever a conviction is reversed, set aside or vacated, the department shall forthwith reinstate and restore any valid operator's license which had been surrendered by such licensee.

(25c) OCCUPATIONAL LICENSES. (a) If a person has had or will have his license revoked because he has been convicted of operating a motor vehicle while under the influence of intoxicating liquor, and if such person is engaged in an occupation or trade making it essential that he operate a motor vehicle, that person may file with a judge of a court of record or of a municipal court having criminal jurisdiction in the county of residence a verified petition setting forth in detail his need for operating a motor vehicle. Thereupon, if the petitioner has not been convicted of any such offense within the 18-month period immediately preceding the present conviction, the judge may order the commissioner to issue an occupational license to such person. A copy of the petition shall be mailed to the department together with the order for the occupational license. No occupational license shall be ordered or issued until after 90 days following the date of the conviction.

(am) No person 18 years of age or over shall file a petition for an occupational license unless he first pays to the county treasurer a fee of \$10. The treasurer shall give such person a receipt and shall pay the full amount of the fee to the state treasurer, to be deposited in the general fund.

(b) An occupational license means authority to operate a motor vehicle not to exceed 12 hours per day and then only where such operation is an essential part of the occupation or trade. The order for issuance of an occupational license shall contain definite restrictions as to hours of the day, type of occupation, areas or routes of travel to be permitted under such license. The occupational license shall be conditioned on the furnishing of satisfactory proof to the commissioner of the motor vehicle department of the financial responsibility of the owner of the vehicle or vehicles which are to be operated by the holder of the occupational license as specified in s. 85.09 or that he is a self-insurer as specified in s. 85.09 (6m). If the order for an occupational license permits the convicted operator to operate vehicles other than those registered in the name of the person or company by which he is employed, the commissioner of the motor vehicle department shall not issue an occupational license to such person until such person has filed acceptable proof of his financial responsibility as specified in s. 85.09.

(c) The period of restricted operation under an occupational license shall be for one year from the date of conviction. Where an occupational license is issued and is not revoked during the year the licensee may obtain a new license at the end of such year if, but only if, he complies with the conditions specified in sub. (26).

(d) In the event that an occupational licensee is convicted for operating in violation of his restrictions, or of a serious traffic violation, or if the judge does not, upon the facts, see fit to permit such person to retain such occupational license, the commissioner shall, upon receipt of notice thereof, revoke the occupational license. Such revocation shall be effective as of the date of such violation, conviction or withdrawal order and shall continue with the same force and effect as other revocations made by the commissioner under sub. (25).

(e) Any person convicted for violation of any restriction of an occupational license shall in addition to the immediate revocation of such licenses be fined not less than \$50 nor more than \$200 or imprisoned for not more than 6 months or both.

(26) LICENSE AFTER REVOCATION. Any person whose license has been duly revoked is not entitled to apply for a new license until the period of such revocation has been terminated, and then only upon such person's meeting with the following requirements:

(a) The filing of financial responsibility as required by section 85.09 as specified in subsection (31) of this section;

(am) The payment of a fee of \$10, but this paragraph shall not apply to persons under the age of 18;

(b) The filing of an application for a new license; and

(c) The passing of an operating or any other test which the commissioner may deem necessary.

(26m) NONLICENSED VIOLATORS. When a person not holding a license becomes subject to surrender, revocation or suspension of license, no license shall be issued to him until he has complied with all conditions governing reissuance, reinstatement or termination of revocation in the same manner required of persons originally licensed.

(27) SUSPENSION OF OPERATORS' LICENSES. (a) The commissioner shall suspend the operator's license of any operator who has been convicted of violating any of the state traffic laws or adjudged to have violated any of the county, city or village ordinances which are in conformity with the state traffic laws upon being directed to do so by the court in which the conviction or adjudication occurred.

(b) Whenever any operator appears by the records of the department to be an habitually reckless or negligent operator of a motor vehicle or to have repeatedly violated any of the state traffic laws, or any of the county, city or village ordinances which are in conformity to the state traffic laws, the commissioner may suspend such operator's license. The commissioner may determine and adopt by rule a method of weighing traffic convictions by their seriousness and may change such weighted scale from time to time as experience or the accident frequency in the state may make necessary or advisable.

(c) Whenever an operator is convicted under a state traffic law or adjudged to have violated a county, city or village ordinance which is in conformity with the state law, the commissioner shall suspend the operator's license of such operator without preliminary hearing, upon receiving the record of such operator's conviction or adjudication of a traffic violation which is the cause of an accident resulting in death or personal injury of another.

(d) Whenever any operator is convicted under the state law or adjudged to have violated a county, city or village ordinance which is in conformity with the state law for altering his operator's license, loaning his operator's license to another or unlawfully or fraudulently using or permitting an unlawful or fraudulent use of such license, the commissioner shall suspend the operator's license issued in the name of such operator.

(e) Whenever any judgment in excess of \$100 for damages arising out of a motor

vehicle accident is certified to the department, the commissioner shall suspend the operator's license of such operator in accordance with the provisions of section 85.09 (12) and (13).

(g) No county or municipal ordinance shall be considered as not conforming with the state statute if the only variation is that the county or municipal ordinance does not provide for imprisonment for its violation.

(28) HEARING ON SUSPENSION. Upon suspending the license of any person as hereinafore in this section authorized, the department shall immediately notify the licensee in writing and upon his request shall afford him an opportunity to a hearing as early as practicable within not to exceed 20 days after receipt of such request. The place of such hearing shall be set by the commissioner as close as practicable to the residence of the applicant and in no case shall it be set for a place not in a county of the applicant's residence or a county contiguous to such county, unless another place is mutually agreed upon; in the event that the applicant's residence is without the state then the commissioner shall fix the place of hearing. The department may refuse to hold a hearing if satisfied that the records and information in its possession do not warrant such hearing. Any person who shall without cause fail to appear at the time and place specified in the notice served on him shall forfeit his right to a hearing. Upon such hearing the commissioner or his duly authorized agent may administer oaths, issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the license. No law enforcement officer or other witness produced by the person who has requested a hearing to testify on his behalf shall be paid a witness fee by the department; nor shall any law enforcement officer called to appear for the department be paid any witness fee by the department. All testimony shall be taken and transcribed. After such hearing the department shall make findings of fact and either rescind its order of suspension or, upon good cause appearing therefor, may extend the suspension of such license or revoke such license. This subsection shall not apply to any operator whose license has been suspended pursuant to direction from any court as provided in sub. (27) (a).

(29) REINSTATEMENT AFTER SUSPENSION. Any person whose license has been duly suspended may regain such license after the period of suspension has terminated upon meeting the following requirements:

(a) The filing of proof of financial responsibility as required by section 85.09 as specified in subsection (31) of this section;

(am) The payment of a fee of \$10, but this paragraph shall not apply to persons under the age of 18;

(b) The filing of application for reinstatement of his license; and

(c) The demonstration of ability to satisfactorily operate a motor vehicle or any other tests which the commissioner may deem necessary.

(30) PERIOD OF SUSPENSION OR REVOCATION. No license shall be suspended for a period of more than one year. After revocation the department shall not grant a new license until the expiration of one year after the date of such revocation.

(31) PERIOD OF SUSPENSION OR REVOCATION. The department shall not issue a new license to any person whose license has been revoked at any time during the 3 years immediately following the date of expiration of such revocation, unless such person shall have filed financial responsibility in the amounts, form and manner specified in section 85.09 for that time of such 3-year period during which he is granted a license; nor shall the department reinstate an operator's license which has been suspended at any time during 3 years immediately following the date of expiration of such suspension, unless such person shall have filed financial responsibility in the amounts, form and manner specified in section 85.09 for that time of such 3-year period during which such license is reinstated.

(32) SURRENDER AND RETURN OF LICENSES. The commissioner or his duly appointed agent is authorized to take possession of any license upon the suspension or revocation thereof under the provisions of this section or to direct any person empowered to enforce the provisions of chapter 85 to take possession thereof and to return the same to the office of the commissioner. Upon receipt of notice of the suspension or revocation of any person's license to operate a motor vehicle, the license issued to or in the possession of such person shall be immediately surrendered to the department.

(33) COMMISSIONER MAY REQUIRE REEXAMINATION. The commissioner having good cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed, may upon written notice of at least 5 days to the licensee require him to submit to an examination. Upon the conclusion of such examination the commissioner shall take action as may be appropriate and may require the surrender of such license of such person

or permit him to retain such license subject to any restriction he may order. Refusal or neglect of the licensee to submit to such examination shall be grounds for requiring the surrender of such license.

(34) NO OPERATION UNDER FOREIGN LICENSE DURING SUSPENSION OR REVOCATION IN THIS STATE. Any resident or nonresident whose license or right or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this section, shall not operate a motor vehicle in this state under a license, permit or certificate of registration issued by any other jurisdiction or otherwise during such suspension or revocation until a new license is obtained when and as permitted under this section.

(34a) RIGHT OF REVIEW. The denial of a license, or the suspension, revocation or cancellation thereof, unless mandatory under this section, shall be subject to review in the manner provided in chapter 227, except that if the appellant resides in Wisconsin the place of review shall be the circuit court of the county in which he resides.

(35) UNLAWFUL USE OF LICENSE. It is a misdemeanor for any person:

(a) To display or cause or permit to be displayed or have in his possession any suspended, revoked, canceled, fictitious or fraudulently altered operator's license;

(b) To lend his operator's license to any other person or knowingly permit the use thereof by another;

(c) To display or represent as one's own any operator's license not issued to him;

(d) To fail or refuse to surrender to the department upon its lawful demand any operator's license which has been suspended, revoked, canceled or obtained by fraudulent representations in his application for the same;

(e) To use a false or fictitious name in any application for an operator's license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application;

(f) To permit any unlawful use of an operator's license issued to him; or

(g) To do any act forbidden or fail to perform any act required by this section.

(h) To reproduce by any means whatever a copy of an operator's license.

(38) PERMITTING UNAUTHORIZED MINOR TO OPERATE A MOTOR VEHICLE. No person shall cause or knowingly permit his child or ward under the age of 18 years to operate a motor vehicle upon any highway when such minor is not authorized hereunder or in violation of any of the provisions of this section.

(39) PERMITTING UNAUTHORIZED PERSON TO OPERATE A MOTOR VEHICLE. No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be operated upon any highway by any person who is not authorized hereunder or in violation of any of the provisions of this section.

(40) RENTING VEHICLES TO ANOTHER. (a) No person shall rent a motor vehicle, trailer or semitrailer to another person unless the person who operates such vehicle is then duly licensed hereunder, or in the case of a nonresident, the person who shall operate such vehicle shall then be duly licensed under the laws of the state or country of his residence, except a nonresident whose home state or country does not require that a person be licensed.

(b) No person shall rent a motor vehicle, trailer or semitrailer to another until he has inspected the license of the person who is to operate the vehicle and compare and verify the signature thereon with the signature of such person written in his presence.

(c) Every person renting a motor vehicle, trailer or semitrailer to another shall keep a record of the registration number of the motor vehicle so rented or in the case of a trailer or semitrailer the registration number of the motor vehicle to which such trailer or semitrailer is to be attached, the name and address of the person who is to operate such rented vehicle, the number of the license of such person and the date and place, when and where such license was issued. Such record shall be open to inspection by any police officer or inspector or employe of the department.

(41) PENALTY FOR MISDEMEANOR. (a) It is a misdemeanor for any person to violate any of the provisions of this section unless such violation is by this section or other law of this state declared to be a felony.

(b) Unless another penalty is in this section or by the laws of this state provided, every person convicted of a misdemeanor for the violation of this section shall be punished by a fine of not more than \$100 or imprisonment of not more than 6 months, or by both such fine and imprisonment.

(42) REVOCATION AND SUSPENSION BY COURTS. All operators' licenses ordered suspended or revoked by a justice of the peace or other court of competent jurisdiction shall be suspended or revoked in accordance with the provisions of this section.

(43) INTERPRETATION; SHORT TITLE; CONSTITUTIONALITY. (a) This section shall be

so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(b) This section may be cited as the "Uniform Motor Vehicle Operators' License Act."

History: 1951 c. 124; 1951 c. 247 s. 35; 1951 c. 261 s. 10; 1951 c. 280, 289, 642; 1953 c. 61, 254, 338, 631, 650, 679; 1955 c. 226, 386, 549, 575, 599, 662, 686, 696.

(25c) (a), authorizing a "judge" of a court of record to order the commissioner of the motor vehicle department to issue an occupational driver's license to a person convicted of operating a motor vehicle while under the influence of intoxicating liquor, considered with the provision in (b) that in certain cases the commissioner should not issue an occupational license until the person had filed acceptable proof of his financial responsibility, conferred no judicial power on the county court, and the county judge, in entering an order directing the issuance of an occupational license, was acting solely in an administrative capacity; in so acting the judge was without power to punish the commissioner for contempt in failing to issue the license. *State v. Marcus*, 259 W 543, 49 NW (2d) 447.

Under (25c) any order issued pursuant thereto is solely an administrative order, and not a judicial order, even though it is issued in the name of the court, instead of in the name of the judge of such court. *State ex rel. Marcus v. County Court*, 260 W 532, 51 NW (2d) 503.

The word "permission" as used in the statutory omnibus coverage clause (204.30 (3)) means legal permission. The policy does not cover a driver who could not be legally permitted to drive, although he has the insured owner's actual permission. *Quin v. Hoffman*, 265 W 636, 62 NW (2d) 423.

Where a driver convicted of ordinance violation under (25) appeals to circuit court, and neither the state, the motor vehicle department nor commissioner is a party, service on the department of an order to show cause why the driver's license should not be returned pending the appeal did not give the circuit court jurisdiction over either the state or the commissioner in the absence of a general appearance, so that a subsequent order requiring the department to reissue such license was a nullity. *Madison v. Pierce*, 266 W 303, 62 NW (2d) 910.

Under (9) (c) the sponsor of a temporary instruction permit issued to his son was liable for the son's wrecking of an automobile as the result of negligence in operating the same, although the son had stolen the car and wrecked it while attempting to escape capture. *Employers Mut. Fire Ins. Co. v. Haucke*, 267 W 72, 64 NW (2d) 426.

As used in (25), the reference to a "final conviction" means that a conviction becomes final when the court which has rendered it has exercised all the powers given it and has made an adjudication of guilt. Any other construction would be inconsistent with (25a). On a conviction in the district court of Milwaukee, the revocation and surrender of the driver's license is not stayed pending

85.09 Motor vehicle responsibility. (1) **DEFINITIONS.** The following words and phrases, when used in this section, shall, for the purposes of this section, have the meanings respectively ascribed to them in this subsection and as used in sections 85.08 and 85.10, except in those instances where the context clearly indicates a different meaning:

(a) *Commissioner.* The commissioner of motor vehicles of this state.

(b) *Judgment.* Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

(c) *License.* Any operator's license, temporary instruction permit or temporary license issued under the laws of this state pertaining to the licensing of operators.

(d) *Motor vehicle.* Every self-propelled vehicle which is designed for use upon a highway including trailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers).

an appeal to the municipal court, even though a new trial would be had on such appeal. *State v. Berres*, 270 W 103, 70 NW (2d) 197.

Under (14), the officers mentioned therein have implied authority to stop vehicles for the purpose of inspecting the operator's license of the driver. This does not constitute an unreasonable search in violation of sec. 11, art. I, nor compel the driver to be a witness against himself. If the driver is unlicensed, the officer may arrest him on that charge, but if he claims to be licensed but does not produce the license he should be arrested for violating 85.08 (14). 38 Atty. Gen. 429.

The fact that (24) requires justice of peace to require physical surrender of operator's license, registration, etc., does not oust him of jurisdiction to try persons on charge of operating motor vehicle while under influence of intoxicating liquor. 39 Atty. Gen. 120.

Failure of owner of automobile to affix and display metal insert showing expiration date of registration of motor vehicle registered under the monthly series system of registration is a violation of (6) (c). 39 Atty. Gen. 121.

Legislative history of chs. 38 and 634, Laws 1949, amending 85.08 (25c) (a), clearly supports conclusion that petition for occupational driver's license is to be filed in the designated courts located in the county of petitioner's residence. 39 Atty. Gen. 146.

"Felony in the commission of which a motor vehicle is used" includes statutory rape committed in an automobile while parked away from the highway. 39 Atty. Gen. 456.

Commissioner must revoke operator's license upon receipt of record of conviction of operating vehicle while intoxicated, in violation of city ordinance conforming to state statute, notwithstanding that person convicted claims evidence was insufficient to support such conviction. 40 Atty. Gen. 7.

See note to 48.07, citing 41 Atty. Gen. 59.

See note to 85.09, citing 42 Atty. Gen. 66.

Under (25c) petitions for occupational drivers' licenses do not institute actions or special proceedings in the courts. No clerk fees or suit tax may properly be charged. 43 Atty. Gen. 38.

Where farm tractor exempt from registration by reason of use in agricultural operations is nevertheless used regularly upon public highways as a road tractor, its operator must possess motor vehicle operator's license. Such operation is not "temporary" and exemption under (4) (b) is inapplicable. 43 Atty. Gen. 248.

(e) *Nonresident.* Every person who is not a resident of this state.

(f) *Nonresident's operating privilege.* The privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in this state.

(g) *Operator.* Every person who is in actual or constructive physical control of a motor vehicle including a person who has parked the same and including a driver or person pushing or towing such vehicle in case there is no person actually driving and controlling the vehicle being pushed or towed.

(h) *Owner.* A person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this section.

(i) *Person.* Every natural person, firm, copartnership, association or corporation.

(j) *Proof of financial responsibility.* Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of \$10,000 because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of \$20,000 because of bodily injury to or death of 2 or more persons in any one accident, and in the amount of \$5,000 because of injury to or destruction of property of others in any one accident.

(jm) *Safety responsibility.* Depositing security under subsection (5) (a) for prior accidents.

(k) *Registration.* Registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

(1) *State.* Any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

(2) COMMISSIONER TO ADMINISTER; COURT REVIEW. (a) The commissioner shall administer and enforce the provisions of this section and may make rules and regulations necessary for its administration. The commissioner may, in his discretion, appoint any employe in the department as his representative to affix his signature to the administrative letters, notices and orders to enforce the provisions of the law and authorize such employe to affix the facsimile signature of the commissioner adopted by him as a facsimile signature.

(b) Any person aggrieved by an order or act of the commissioner, under the provisions of chapter 227, may, within 10 days after notice thereof, file a petition in the circuit court of Dane county for a review thereof; but the filing of such a petition shall not suspend the order or act unless a stay thereof shall be allowed by a judge of said court pending final determination of the review. The court shall summarily hear the petition and may make any appropriate order or decree.

(c) Notwithstanding any other provision of this section, when so ordered by the court wherein the conviction occurred or wherein a judgment for damages was had or pursuant to petition of the registrant to the court when there is no conviction or judgment, the commissioner shall not revoke or suspend registration or require the surrender or direct any person to take possession of, the registration plates, registration certificates, registration plate inserts or windshield regulation stickers of the registrant involved. Upon receiving information, other than of a conviction or judgment for damages in a court of this state, that would be cause for suspension or revocation of registration, the commissioner shall notify the registrant of his intention to suspend or revoke such registration. The registrant may thereupon petition any court of record in his county for an order enjoining the commissioner's contemplated action, whereupon the judge of such court shall grant an order restraining the commissioner in the matter until the petition is finally determined by the court. If such petition and order are served upon the commissioner within 10 days after the date of such commissioner's notice, or before the commissioner has taken any action, the commissioner shall await the final determination of the court. The commissioner shall be given notice of the hearing. Upon a showing that it would result in undue hardship upon the petitioner to have any such registration revoked or suspended the court shall issue an order restraining the commissioner from revoking or suspending the registration.

(3) COMMISSIONER TO FURNISH OPERATING RECORD. The commissioner shall upon request furnish any person a certified abstract of the operating record of any person subject to the provisions of this section, which abstract shall also fully designate the motor vehicles, if any, registered in the name of such person, and, if there shall be no record of any conviction of such person of violating any law relating to the operation

of a motor vehicle or of any injury or damage caused by such person, the commissioner shall so certify. Such abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident.

(4) REPORT OF ACCIDENT REQUIRED. Failure to report an accident as provided by section 85.141, unless in the judgment of the commissioner there was excusable cause for such failure to report, or failure to give correctly the information required of him by the commissioner in connection with such report shall be a misdemeanor and, in the event of injury or damage to the person or property of another in such accident, shall also constitute a ground for suspension or revocation of:

(a) The license or registration for any motor vehicle, or of all such licenses and registrations of the person failing to make such report as herein required, and

(b) The nonresident's operating privilege of such person.

(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.

SAFETY RESPONSIBILITY LAW

(5) SECURITY REQUIRED FOLLOWING ACCIDENT UNLESS EVIDENCE OF INSURANCE; SUSPENSION FOR FAILURE TO DEPOSIT SECURITY. (a) Within 60 days after the receipt of each individual report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any other person in excess of \$100, the commissioner shall suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in such accident, and if such operator is a nonresident the privilege of operating a motor vehicle within this state, and if such owner is a nonresident the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner or both deposit security in a sum which shall be sufficient in the judgment of the commissioner to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against such operator or owner; provided notice of such suspension shall be sent by the commissioner to such operator and owner not less than 10 days prior to the effective date of such suspension and shall state the amount required as security. Upon request of such owner or operator, the commissioner may extend such effective date of suspension not to exceed 20 additional days.

(am) The commissioner may request such further information, sworn statement or other evidence relating to property damage, personal injury or death in motor vehicle accidents as he deems necessary to aid in determining the amount to be deposited as security under this section from any of the persons, including passengers and pedestrians, involved in such accident. Failure to comply with such request shall constitute ground for suspension of such person's operating privileges. No suspension shall be made on such grounds until one follow-up request has been made and not less than 20 days from mailing of the first request.

(b) This section shall not apply:

1. To such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;

2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

3. To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the commissioner, covered by any other form of liability insurance policy or bond; or

4. To the operator or owner of any vehicle the owner of which has qualified as a self-insurer under subsection (6m).

(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, 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 \$10,000 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 \$20,000 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 \$5,000 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.

(d) Upon receipt of notice of such accident, the insurance company or surety company which issued such policy or bond shall furnish for filing with the commissioner a written notice that such policy or bond was in effect at the time of such accident.

(e) *Notice of insurance to buyer under instalment sales contract.* Every person who shall sell or agree to sell any motor vehicle at retail under a retail instalment contract as defined in s. 218.01 (1) (e) wherein provision is made for insurance coverage, or a charge is made therefor, such policy so issued or provided for, shall include public liability coverage protecting the driver of such motor vehicle against damages resulting from the negligent use thereof, or the seller shall, in writing, notify the buyer at the time of making such contract that the motor vehicle is not covered by public liability insurance protecting the driver against damages resulting from the negligent use thereof, and shall obtain a dated, written receipt for such notice signed by the buyer.

(6) EXCEPTIONS TO REQUIREMENT OF SECURITY. The requirements as to security and suspension in subsection (5) shall not apply:

(a) To the operator or the owner of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of any one other than such operator or owner.

(b) To the operator or the owner of a motor vehicle legally parked at the time of the accident. Such operator and owner shall not be exempt hereunder unless the operator of the other vehicle or vehicles involved admits that such vehicle was legally parked, or other proof of such fact to the satisfaction of the commissioner is filed.

(c) To the owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such motor vehicle without such permission. The commissioner shall require such proof as he deems necessary to establish such facts.

(d) If, prior to the date that the commissioner would otherwise suspend license and registration or nonresident's operating privilege under sub. (5), there shall be filed with the commissioner evidence satisfactory to him that the person who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has executed a warrant for confession of judgment, payable when and in such instalments as the parties have agreed to, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in instalments, with respect to all claims for injuries or damages resulting from the accident. The commissioner may accept a release from liability executed by a parent as natural guardian, in behalf of a minor child in respect to property damage or personal injuries sustained by such minor, provided that the total of such damages including the cost of medical care does not exceed \$200 and provided further that, in the case of personal injury, the doctor's certificate of injury filed with the department certifies that such minor received no permanent injury.

(6m) SELF-INSURERS. (a) Any person in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the commissioner as provided in paragraph (b).

(b) The commissioner may, in his discretion, upon the application of such a person, issue a certificate of self-insurance when he is satisfied that such person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(c) Upon not less than 5 days' notice and a hearing pursuant to such notice, the commissioner may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within 30 days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

(7) DURATION OF SUSPENSION. The license and registration and nonresident's operating privilege suspended as provided in subsection (5) shall remain so suspended and

shall not be renewed nor shall any such license or registration be issued to such person until:

(a) Such person shall deposit or there shall be deposited on his behalf the security required under subsection (5); or

(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

(c) Evidence satisfactory to the commissioner has been filed with him of a release from liability. The commissioner may accept such a release executed by a parent on behalf of a minor child if the conditions prescribed by sub. (6) (d) in respect to such releases are satisfied.

(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.

(8) APPLICATION TO NONRESIDENTS, UNLICENSED DRIVERS, UNREGISTERED MOTOR VEHICLES AND ACCIDENTS IN OTHER STATES. (a) If the operator or the owner of a motor vehicle involved in an accident within this state has no license or registration, whether because he is a nonresident or because he is a resident who has failed or neglected to obtain a license or registration in this state, he shall not be allowed a license or registration until he has complied with the requirements of this section to the same extent as would be necessary if, at the time of the accident, he had held a license and registration in this state.

(b) If a nonresident's operating privilege is suspended pursuant to the provisions of sub. (5), the commissioner shall transmit a certified copy of the record of such action to the motor vehicle commissioner or equivalent official of the state in which that person resides if the law of the state in which that person resides provides for similar action by the commissioner or equivalent official of that state in the event that a resident of this state has his nonresident's operating privilege in that state suspended or revoked for failure to comply with the safety responsibility or equivalent law of that state.

(c) Upon receipt of such certification from another state to the effect that the operating privilege of a resident of this state has been suspended or revoked in such other state pursuant to a law providing for its suspension or revocation for failure to deposit security for payment of judgments arising out of a motor vehicle accident, under circumstances which would require the commissioner to suspend a nonresident's operating privilege had the accident occurred in this state, the commissioner shall suspend the license of such resident if he was the operator, and all of his registrations if he was the owner of a motor vehicle involved in such accident. Such suspension shall continue until such

resident furnishes evidence of his compliance with the law of the other state relating to the deposit of such security.

(9) FORM AND AMOUNT OF SECURITY. (a) The security required under this section shall be in such form and in such amount as the commissioner may require but in no case in excess of the limits specified in subsection (5). The person depositing security shall specify in writing the person or persons on whose behalf the deposit is made and, at any time while such deposit is in the custody of the commissioner or state treasurer, the person depositing it may, in writing, amend the specification of the person or persons on whose behalf the deposit is made to include an additional person or persons; provided, however, that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

(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).

(c) In all cases where the commissioner accepts security in the form of lien on real estate, the party owning such real estate shall prepare the proper instrument to effect such lien, payable to the state and all persons entitled to the same under section 85.09, and shall record the same in the office of the register of deeds in the county where the real estate is situated. The commissioner may require that the party shall furnish the commissioner an abstract of merchantable title showing the same to be a first lien on the premises. The recorded instrument and abstract, when required, shall be deposited by the commissioner with the state treasurer. Time for compliance may be extended under subsection (5) (a). In all cases where a judgment has been entered against a person involved in a motor vehicle accident and it remains unsatisfied 60 days after it has become final, the judgment creditor may for his own use and benefit and at his sole expense, bring an action to foreclose such lien in the name of the state for his use and benefit under this section. The costs of such foreclosure may be estimated by the commissioner and added to the amount required to be posted. In the foreclosure of such lien, the provisions of chapter 278 for the foreclosure of real estate mortgages shall apply as far as applicable.

(d) In all cases where the commissioner accepts security in the form of a lien on personal property, the party owning such personal property shall prepare the proper instrument to effect such lien payable to the state and all persons entitled to the same under section 85.09 and shall file the same in the office of the register of deeds in the county where such property is kept. He shall furnish the commissioner with a certified copy and if required by the commissioner, a chattel abstract from the register of deeds showing the same to be a first lien on such property. The certified copy and abstract shall be deposited by the commissioner with the state treasurer. Time for compliance may be extended under subsection (5) (a). In all cases where a judgment has been entered against a person involved in a motor vehicle accident and it remains unsatisfied 60 days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action to foreclose such lien in the name of the state for his use and benefit under this section. The costs of such foreclosure shall be estimated by the commissioner and added to the amount required to be posted. In foreclosure of such lien the provisions of section 241.13 for the foreclosure of chattel mortgages shall apply as far as applicable.

(e) In all cases where the commissioner has accepted security in the form of a lien on real estate or personal property the state treasurer shall satisfy such lien of record, on order of the commissioner to return said security upon the party's compliance with this chapter, by executing a satisfaction in the legal form in the name of the state by state treasurer, custodian security "Motor Vehicle Safety Responsibility Act". The treasurer shall note on the satisfaction that the commissioner has issued such order, which shall be prima facie evidence of such issuance. The treasurer shall record or file such satisfaction with the proper register of deeds.

(10) CUSTODY, DISPOSITION AND RETURN OF SECURITY. (a) Security deposited in compliance with the requirements of this section shall be placed by the commissioner in the custody of the state treasurer and shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one year after the date of such accident, or within one year after the date of deposit of any security under sub. (7) (d); or to the payment of a duly acknowledged assignment by the person or persons on whose behalf the deposit was made (to a property owner where the case involves only damage to the property of one person or to a

sole pedestrian or his legal representative where the case involves only the pedestrian) for damages arising out of such accident or to the payment of a duly acknowledged assignment or assignments by the person or persons on whose behalf the deposit was made (to all parties in interest in such cases where the amount of the deposit is equal to or greater than the total amount of such assignment or assignments) for damages arising out of such accident. In all cases involving assignments a release or releases of liability from all parties in interest shall accompany such assignment or assignments.

(b) Upon service on the state treasurer, which service shall be by mail only, of a certified copy of an order by the court which rendered such a judgment for damages, entered upon notice as provided in section 269.31 to every person upon whose behalf the deposit was made who is a party to the action after the entry of the judgment, directing surrender of the amount of the deposit specified therein to the court for application to the judgment, the state treasurer shall transmit to the clerk of the court money or securities or both to the amount directed in the order or if insufficient to the extent of the deposit. Securities transmitted shall be valued at the same amount as when received from the motor vehicle department. The state treasurer shall have no further responsibility for the amount of the deposit so transmitted and the court shall determine and direct the application thereof, provided that any excess shall be returned to the state treasurer to be held by him subject to the same conditions and disposition as the original deposit. If more than one order is served the state treasurer shall comply therewith in the order of priority of service upon him.

(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) (d), 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.

(11) MATTERS NOT TO BE EVIDENCED IN CIVIL SUITS. Neither the report required by subsection (4), the action taken by the commissioner pursuant to this section, the findings, if any, of the commissioner upon which such action is based, nor the security filed as provided in this section shall be referred to in any way, nor be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages. This subsection shall not be construed as excluding a notice of insurance filed under subsection (5) (d) from being admissible in evidence where it would otherwise be material and admissible under the rules of evidence.

(12) COURTS TO REPORT NONPAYMENT OF JUDGMENT. (a) Whenever any person fails within 60 days to satisfy any judgment in excess of \$50 for damages arising out of a motor vehicle accident, it shall be the duty of the clerk of the court (or of the judge of a court which has no clerk) in which such judgment is rendered to forward to the commissioner immediately after the expiration of said 60 days a certified copy of such judgment.

(b) If the defendant named in any certified copy of a judgment reported to the commissioner is a nonresident, the commissioner shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

(13) SUSPENSION FOR NONPAYMENT OF JUDGMENTS. (a) Upon the receipt of a certified copy of judgment for damages in excess of \$100 arising out of a motor vehicle accident, the commissioner shall forthwith suspend, except as provided in sub. (16), the license and registration and the nonresident's operating privilege of any person against whom such judgment was rendered.

(b) If the judgment creditor consents in writing, in such form as the commissioner may prescribe, that the judgment debtor be allowed license and registration or nonresident's operating privilege, the same may be allowed by the commissioner, in his discretion, for 6 months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any instalments thereof prescribed in subsection (16), provided the judgment debtor furnishes proof of financial responsibility.

(14) **SUSPENSION TO CONTINUE UNTIL JUDGMENTS PAID AND PROOF GIVEN.** Such license, registration and nonresident's operating privilege shall, except as provided in subsection (16), remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied or discharged, except that a discharge in bankruptcy shall not be deemed a satisfaction of such judgment, and until the said person gives proof of financial responsibility.

(15) **PAYMENTS SUFFICIENT TO SATISFY REQUIREMENTS.** Judgments in excess of the amounts specified in subsection (1) (j) shall, for the purpose of this section only, be deemed satisfied when payments in the amounts so specified have been credited thereon; provided, however, payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the respective amounts so specified.

(16) **INSTALMENT PAYMENT OF JUDGMENTS; DEFAULT.** (a) A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in instalments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the instalments.

(b) The commissioner shall not suspend a license, registration or a nonresident's operating privilege, and shall restore any license, registration or nonresident's operating privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of such judgment in instalments, and while the payment of any said instalment is not in default.

(c) In the event the judgment debtor fails to pay any instalment as specified by such order, then upon notice of such default, the commissioner shall forthwith suspend the license, registration or nonresident's operating privilege of the judgment debtor until such judgment is satisfied, as provided in this section.

FINANCIAL RESPONSIBILITY LAW

(17) **PROOF REQUIRED UPON CERTAIN CONVICTIONS.** (a) Whenever the commissioner, under any law of this state, suspends or revokes the license of any person upon receiving record of a conviction or a forfeiture of bail, the commissioner shall also suspend the registration for all motor vehicles registered in the name of such person, except that he shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person.

(b) Such license shall remain suspended or revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person until permitted under chapter 85 and not then unless and until he shall give and thereafter maintain proof of financial responsibility.

(d) Whenever the commissioner suspends or revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility.

(18) **ALTERNATE METHODS OF GIVING PROOF.** Proof of financial responsibility shall be furnished for each motor vehicle registered by any person required to give such proof and may be given by filing:

- (a) A certificate of insurance as provided in subsection (19) or subsection (20) or
- (b) A bond as provided in subsection (24) or
- (c) A certificate of deposit of money or securities as provided in subsection (25) or
- (d) A certificate of self-insurance as provided in subsection (6m).

(19) **CERTIFICATE OF INSURANCE AS PROOF.** (a) Proof of financial responsibility may be furnished by filing with the commissioner the written certificate of any insurance carrier duly authorized to do business in this state certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle.

(b) No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such motor vehicle is so designated in such a certificate.

(20) CERTIFICATE FURNISHED BY NONRESIDENT AS PROOF. (a) The nonresident owner of a motor vehicle not registered in this state may give proof of financial responsibility by filing with the commissioner a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in such certificate is registered, or if such nonresident does not own a motor vehicle, then in the state in which the insured resides, provided such certificate otherwise conforms to the provisions of this section, and the commissioner shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified:

1. Said insurance carrier shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state;

2. Said insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this state relating to the terms of motor vehicle liability policies issued herein.

(b) If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any said undertakings or agreements, the commissioner shall not thereafter accept as proof any certificate of said carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues.

(21) "MOTOR VEHICLE LIABILITY POLICY" DEFINED. (a) A "motor vehicle liability policy" as said term is used in this section shall mean an owner's or an operator's policy of liability insurance, certified as provided in subsection (19) or (20) as proof of financial responsibility, and issued, except as otherwise provided in subsection (20), by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(b) Such owner's policy of liability insurance:

1. Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

2. Shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: \$10,000 because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, \$20,000 because of bodily injury to or death of 2 or more persons in any one accident, and \$5,000 because of injury to or destruction of property of others in any one accident.

(c) Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(d) Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be indorsed that insurance is provided thereunder in accordance with the coverage defined in this section as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this section.

(e) Such motor vehicle liability policy shall not insure any liability under any workmen's compensation law as provided in chapter 102 nor any liability on account of bodily injury to or death of an employe of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(f) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

1. The policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of any injury or damage covered by said motor vehicle liability policy.

2. The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage.

3. The insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in paragraph (b) 2 hereof.

4. The policy, the written application therefor, if any, and any rider or indorsement which does not conflict with the provisions of the section shall constitute the entire contract between the parties.

(g) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this section. With respect to a policy which grants such excess of additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this subsection.

(h) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this section.

(i) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(k) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

(22) NOTICE OF CANCELLATION OR TERMINATION OF CERTIFIED POLICY. When an insurance carrier has certified a motor vehicle liability policy under subsection (19) or a policy under subsection (20), the insurance so certified shall not be canceled or terminated until at least 10 days after a notice of cancellation or termination of the insurance so certified shall be filed in the office of the commissioner, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

(23) NOT TO AFFECT OTHER POLICIES. (a) This section shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if they contain an agreement or are indorsed to conform to the requirements of this section, may be certified as proof of financial responsibility under this section.

(b) This section shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of motor vehicles not owned by the insured.

(24) BOND AS PROOF. (a) Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this state, or a bond with at least 2 individual sureties each owning real estate within this state, which real estate shall be scheduled in the bond approved by a judge of a court of record, which said bond shall be conditioned for payment of the amounts specified in subsection (1) (j). Such bond shall be filed with the commissioner and shall not be cancelable except after 10 days' written notice to the commissioner. Such bond shall constitute a lien in favor of the state upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after such bond was filed, upon the filing of notice to that effect by the commissioner in the office of the proper clerk or court of the county or city where such real estate shall be located as provided in chapter 235.

(b) If such a judgment, rendered against the principal on such bond, shall not be satisfied within 60 days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the state against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond. In the foreclosure of the lien mentioned herein, the provisions of chapter 273 for the foreclosure of real estate mortgages shall apply as far as possible.

(25) MONEY OR SECURITIES AS PROOF. (a) Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named therein has deposited with him \$25,000 in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of \$25,000. The state treasurer shall not

accept any such deposit and issue a certificate therefor and the commissioner shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(b) Such deposit shall be held by the state treasurer to satisfy, in accordance with the provisions of this section, any execution on a judgment issued against such person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid.

(26) OWNER MAY GIVE PROOF FOR OTHERS. Whenever any person required to give proof of financial responsibility hereunder is or later becomes an operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the commissioner shall accept proof given by such owner in lieu of proof by such other person to permit such other person to operate a motor vehicle for which the owner has given proof as herein provided. The commissioner shall designate the restrictions imposed by this subsection on the face of such person's license.

(27) SUBSTITUTION OF PROOF. The commissioner shall consent to the cancellation of any bond or certificate of insurance or the commissioner shall direct and the state treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this section.

(28) OTHER PROOF MAY BE REQUIRED. Whenever any proof of financial responsibility filed under the provisions of this section no longer fulfills the purposes for which required, the commissioner shall for the purpose of this section, require other proof as required by this section and shall suspend the license and registration or the nonresident's operating privilege pending the filing of such other proof.

(29) DURATION OF PROOF; WHEN PROOF MAY BE CANCELED OR RETURNED. (a) The commissioner shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the commissioner shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this section as proof of financial responsibility, or the commissioner shall waive the requirement of filing proof, in any of the following events:

1. At any time after 3 years from the date such proof was required when, during the 3-year period preceding the request, the commissioner has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or nonresident's operating privilege of the person by or for whom such proof was furnished; or

2. In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

3. In the event the person who has given proof surrenders his license and registration to the commissioner;

(b) Provided, however, that the commissioner shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has, within one year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the non-existence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the commissioner.

(c) Whenever any person whose proof has been canceled or returned under subdivision 3 applies for a license or registration within a period of 3 years from the date proof was originally required, any such application shall be refused unless the applicant shall re-establish such proof for the remainder of such 3-year period.

GENERAL PROVISIONS, SAFETY AND FINANCIAL RESPONSIBILITY

(31) SURRENDER OF LICENSE AND REGISTRATION. Any person whose license or registration shall have been suspended as herein provided, or whose policy of insurance or bond, when required under this section, shall have been canceled or terminated, or who shall neglect to furnish other proof upon request of the commissioner shall immediately return his license and registration to the commissioner. If any person shall fail to return

to the commissioner the license or registration as provided herein, the commissioner shall forthwith direct any peace officer to secure possession thereof and to return the same to the commissioner.

(31m) TRANSFER OF REGISTRATION TO DEFEAT PURPOSE; PROHIBITED. In all motor vehicle accident cases within this state reportable under section 85.141 (6) no registration of the owner of a motor vehicle involved shall be transferred to another vehicle nor shall the title to such vehicle involved be transferred until the provisions of this act are complied with or until the commissioner is satisfied that such transfer is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this section. Nothing in this subsection shall be held to apply to or affect the registration of any motor vehicle sold by a person who, pursuant to the terms or condition of any written instrument giving a right of repossession, has exercised such right and has repossessed such motor vehicle from a person whose registration has been suspended under the provisions of this section.

(32) OTHER VIOLATIONS; PENALTIES. (a) Any person whose license or registration or nonresident's operating privileges has been suspended or revoked under this chapter and who, during such suspension or revocation or thereafter but before filing proof of financial responsibility drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this section, shall be deemed guilty of a misdemeanor and be fined not less than \$10 nor more than \$500 or imprisoned not exceeding 6 months, or both.

(b) Any person willfully failing to return license or registration as required in subsection (31) shall be deemed guilty of a misdemeanor and be fined not more than \$500 or imprisoned not to exceed 30 days, or both.

(c) Any person who shall forge or, without authority, sign any notice provided for under subsection (5) that a policy or bond is in effect, or any evidence of proof of financial responsibility, or who files or offers for filing any such notice or evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be deemed guilty of a misdemeanor and be fined not more than \$1,000 or imprisoned not more than one year, or both.

(d) Any person who shall violate any provision of this section for which no penalty is otherwise provided shall be fined not more than \$500 or imprisoned not more than 90 days, or both.

(33) EXCEPTIONS. This section shall not apply with respect to any motor vehicle owned by the United States, this state or any political subdivision of this state or any municipality therein; nor, except for subs. (4) and (26), with respect to any motor vehicle which is subject to the requirements of ss. 40.57, 194.41 and 194.42 nor to taxicabs in the city of Milwaukee as long as the owners thereof comply with the financial responsibility requirements of the ordinances of that city.

(35) REPEAL. The existing section 85.09 is hereby repealed except with respect to any accident, or judgment arising therefrom, or violation of the motor vehicle laws of this state, occurring prior to January 1, 1946.

(36) PAST APPLICATION. This section shall not apply with respect to any accident, or judgment arising therefrom, or violation of the motor vehicle laws of this state, occurring prior to January 1, 1946.

(37) ACT NOT TO PREVENT OTHER PROCESS. Nothing in this section shall be construed as preventing the plaintiff in any action at law from relying for relief upon the other processes provided by law.

(38) UNIFORMITY OF INTERPRETATION. This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact it.

(40) TITLE. This section may be cited as the "Motor Vehicle Safety Responsibility Act."

History: 1951 c. 261 s. 10; 1951 c. 289, 521, 658; 1953 c. 255, 302, 339, 482, 524, 546; 1955 c. 320.

When the conditions imposed by the legislature in (5) have been fulfilled by acts or omissions of a driver so as to require the commissioner of motor vehicles to suspend his driver's license, the commissioner's duty to suspend is mandatory and his function in carrying out the will and mandate of the legislature is purely ministerial. The provision in (9) authorizing the commissioner of motor vehicles to fix an amount of security less than the maximum is solely for the

benefit of persons required to post security, and they cannot be heard to complain that this is a denial of due process. *State v. Stehlek*, 262 W 642, 56 NW (2d) 514.

See note to art. IV, sec. 1, citing *State v. Stehlek*, 262 W 642, 56 NW (2d) 514.

The provision in 85.09 (21) (h) that any motor-vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to

make under the terms of the policy except for the provisions of such section, considered in connection with (23) (a), was intended to operate only for the enforcement of the "Financial Responsibility Law" under which title both such subsections are carried, and was not intended to supersede or render ineffective 204.30 (3) and 204.34 (1). *Olander v. Klapprote*, 263 W 463, 57 NW (2d) 734.

A foreign insurance company which has not complied with 201.32 is not authorized to do business in this state within the meaning of 85.09 (5) (c). Motor vehicle department may not accept notice of insurance forms from such companies. 39 Atty. Gen. 151.

Upon claim for refund of deposit of security under (10) (c), claimant must satisfy commissioner that no action was instituted within the one-year limitation referred to in (7) (b) and (10) (c), to which claimant was made a party within the one-year period of limitation. 39 Atty. Gen. 462.

Running of statute of limitations upon damage suit judgment based upon finding of negligent operation of motor vehicle does not constitute payment and satisfaction of judgment within the meaning of those terms as used in 85.135. 39 Atty. Gen. 490.

Order or judgment of court dismissing action upon the merits should be treated as adjudication that defendant is not liable, even though entered on stipulation. 39 Atty. Gen. 517.

85.141 (6) (a) and 85.09 (5) (a), Stats. 1951, are not in direct conflict. Both are enforceable if security is required in all cases of apparent damage over \$50 which come to commissioner's knowledge. 41 Atty. Gen. 80.

Ch. 658, Laws 1951, does not violate constitutional inhibitions against interference

with vested rights. Its provisions may be applied to restoration of motor vehicle operators' licenses forthwith regardless of the fact that accident resulting in suspension of license occurred prior to effective date of act. Party to accident does not have a "vested right" in the suspension of his adversary's license. For same reasons, deposits may be refunded after 13 months if no notice of suit is given to commissioner, notwithstanding accident occurred prior to effective date of ch. 658. 41 Atty. Gen. 89.

An act authorizing the impoundment of a motor vehicle for security for the satisfaction of such judgment as may be recovered if the operator of the vehicle is unable to show that there is insurance coverage for the vehicle and financial responsibility on his part is constitutional in principle. An act giving priority to claims arising out of such accident notwithstanding the existence of prior liens against the vehicle is constitutional. 41 Atty. Gen. 214.

Upon the occurrence of the contingencies mentioned in (31), peace officers have the right to remove registration plates from automobiles parked on public streets or on private parking lots when requested to "secure possession" of such plates by the commissioner of the motor vehicle department for the purpose of returning them to the custody of the department. 41 Atty. Gen. 223.

Operation of farm tractor on a highway between the garage where it has been repaired and farm of owner by one whose driver's license has been suspended is not in violation of either 85.08 (3) or 85.09 (32). 42 Atty. Gen. 66.

Notice and receipt required by (5) (e) may be combined with conditional sales contract form and need not be a separate instrument. 42 Atty. Gen. 208.

85.095 Motor vehicle accidents, state and municipal liability. (1) As used in this section unless the context otherwise requires:

(a) "Municipality" means the state, any county, city, village, town, school district (as enumerated in section 67.01 (1)), sewer district, drainage district, community center, and without restriction because of enumeration, any other political subdivision of the state.

(b) "Governing body" means the state legislature, county or town board, the legislative body of a city or village and the board of any district, center or other municipality enumerated in paragraph (a).

(c) "Business" means any business whether governmental or proprietary.

(2) Any person, firm or corporation suffering any damage proximately resulting from the negligent operation of a motor vehicle owned and operated by any municipality, or from the negligent operation of a motor vehicle owned or operated by the state through the agency of the Wisconsin national guard, the Wisconsin air national guard, or the members or employes thereof when on state duty and whether paid from state or federal funds, and which damage is occasioned by the operation of such motor vehicle in the performance of its business, may file a claim therefor against such municipality and the governing body thereof shall have the right to allow, compromise, settle and pay the same.

(3) The manner and form of and the place for filing claims shall be:

(a) If against the state, as provided in section 15.18 (8), with the director of budget and accounts.

(b) If against any county, as provided in sections 59.76 and 59.77 (1), with the county clerk.

(c) If against any city, as provided in section 62.25, with the city clerk.

(d) If against any village, as provided in section 61.51, with the village clerk.

(e) If against any town, as provided in section 60.36, with the town clerk.

(f) If against any school district, as provided in s. 40.31.

(g) If against any other municipality, the claim shall be filed with the person who performs the duties of a clerk or secretary and shall state the time and place of the accident and an itemized statement of the damages sought.

(4) Failure of the governing body to pass upon the claim within 60 days after presentation shall constitute a disallowance. Disallowance by the governing body shall bar any action founded on the claim unless brought within 6 months after disallowance. Actions against the state and payment of the amount recovered shall be as provided in sections 285.01 and 285.04. For the purposes of this section, judgments against other

municipalities shall be certified, filed and collected as provided in section 66.09 whether named therein or not.

(5) If the allowance of claim is by or the judgment is against any municipality lying in more than one town, city, village or county, the governing body of the debtor municipality shall prorate the amount of the claim allowed or the judgment and so certify to the proper officials for tax levy, so that the taxable property of the debtor municipality will equitably bear the amount of the claim or judgment.

(6) This section does not create any liability against a county for any act of the sheriff where such liability is prohibited by article VI, section 4 of the state constitution.

History: 1955 c. 493.

See note to 59.76, citing *Raube v. Christenson*, 270 W 297, 71 NW (2d) 639.

85.10 Definitions. The following words and phrases, when used in sections 85.10 to 85.86 and 85.91 shall, for the purpose of said sections, have the meaning respectively ascribed to them except in those instances where the context clearly indicates a different meaning:

(1) **VEHICLE.** Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting, unless specifically included, vehicles used exclusively upon stationary rails or tracks or any vehicle propelled by the use of electricity obtained from overhead trolley structures.

(2) **MOTOR VEHICLE.** Every vehicle as herein defined which is self-propelled.

(3) **AUTOMOBILE.** Every motor vehicle, excepting motor driven cycles, designed for the purpose of transporting not more than 7 persons including the operator and not used for the purpose of transporting persons or goods for hire.

(4) **MOTOR DRIVEN CYCLES.** Motor driven cycles are motor vehicles designed to travel on not more than 3 wheels in contact with the ground, having a seat for the use of the rider, including motor cycles, power driven cycles, and motor bicycles, but excluding tractors as herein defined. Motor cycles, power driven cycles and motor bicycles are further defined as follows:

(a) A power driven cycle is a motor driven cycle, weighing between 100 and 300 pounds avoirdupois, fully equipped, without gasoline or oil, designed to travel not over 35 miles per hour, with a 150-pound rider on a dry, level, hard surface with no wind, having brakes as specified in section 85.67 and having lights as specified in section 85.06.

(b) A motor bicycle is a bicycle to which a motor has been added to form a motor driven cycle as distinguished from a power driven cycle or motor cycle in which the motor is an integral part of the original vehicle.

(c) A motor cycle, or motorcycle, is a motor driven cycle not otherwise classified.

(5) **MOTOR TRUCK.** Every motor vehicle used for commercial purposes carrying its load as a single unit with a nondetachable propelling power except those vehicles operating on rails or those motor vehicles used for transporting persons exclusively.

(5a) **FARM TRUCK.** Every motor truck owned and operated by a farmer and used primarily for the transportation of supplies, farm equipment and products on the licensee's farm or between his farms, the transportation of farm products from the licensee's farm to market, and the transportation of supplies to his farm. As used in this subsection, the term "farmer" shall include persons who are engaged in those activities specified in the definition of "operation of farm premises" contained in s. 102.04 (4), provided that such activities are directly or indirectly for the purpose of producing a commodity or commodities for market, or as an accessory to such production.

(6) **TRUCK TRACTOR.** Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(7) **ROAD TRACTOR.** Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of the vehicle or load so drawn.

(8) **FARM TRACTOR.** Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

(9) **STREET CAR.** Every vehicle traveling exclusively on rails other than cars or trains propelled or moved by gas or steam.

(10) **SLOW MOVING VEHICLE.** Every vehicle being operated or moved upon a highway at a speed less than the maximum speed then and there permissible.

(11) **TRAILER.** Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

(11a) **FARM TRAILER.** Every vehicle of the trailer type designed for carrying property wholly on its own structure or designed so that some part of its own weight and that

of its own load rests upon or is carried by a motor vehicle, and which is owned and operated by a farmer and is used exclusively for the transportation of farm products from the licensee's farm to market or for the transportation of supplies to his farm.

(12) SEMITRAILER. Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(13) WAGON. Every animal-drawn vehicle except those operating on rails.

(14) AUTHORIZED EMERGENCY VEHICLES. Vehicles of the fire department, fire patrol, police vehicles, conservation wardens' vehicles, foresters' trucks, privately owned motor vehicles being used by any deputy state fire marshal, personnel of a full-time or part-time fire department and members of a volunteer fire department while en route to a fire or on an emergency call pursuant to orders of their chief or other commanding officer, such emergency vehicles of municipal, county or state departments or public service corporations and such ambulances as are so designated or authorized by local authorities.

(15) TIRES; CLASSIFICATION AND DEFINITION. (a) Pneumatic tire is one inflated with compressed air.

(b) Solid rubber tire is one made of rubber other than a pneumatic tire.

(c) Metal tire is one the surface of which in contact with the highway is wholly or partially of metal or other hard, nonresilient material.

(16) OWNER. A person who holds the legal title of a vehicle; or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the condition stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner.

(17) OPERATOR. Any person who is in actual physical control of a vehicle.

(18) PEDESTRIAN. Any person afoot.

(19) TRAFFIC OFFICER. Every officer legally authorized to direct or regulate traffic or to make arrests for violation of traffic regulation.

(20) LOCAL AUTHORITIES. Every county board, city council, town or village board or other local board or body having authority to adopt traffic regulations under the constitution and laws of this state.

(21) KINDS OF HIGHWAYS DEFINED. (a) A highway is every way or place of whatever nature open to the use of the public as a matter of right for the purposes of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private persons, colleges, universities or other institutions, except upon property under the jurisdiction of the board of regents of state colleges.

(b) A street is every highway except alleys within the corporate limits of any city or village.

(c) An alley is every highway of whatever nature within a city or village open for vehicular travel, not a street and not for the use of through traffic.

(d) A private highway, alley or driveway is every highway, alley or driveway not open to the use of the public for the purposes of vehicular traffic.

(e) Roadway is that portion of a highway between the regularly established curb lines or that portion which is commonly used by vehicular traffic.

(f) Divided highway is a highway with two or more roadways separated by spaces not used by vehicular traffic.

(g) Pedestrian way shall mean a walk designated for the use of pedestrian travel. Public utilities may be installed either above or below a pedestrian way, and assessments may be made therefor as if such pedestrian way were a highway, street, alley, roadway or sidewalk. All of the applicable provisions of chapter 85 pertaining to highways, streets, alleys, roadways and sidewalks shall apply to a pedestrian way.

(22) INTERSECTION. The area embraced within the prolongation of the lateral curb lines or, if none, then within the lateral boundary lines of two or more highways which join one another at an angle, whether or not one such highway crosses the other.

(23) CROSSWALK. That portion of the highway ordinarily included within the prolongation of the curb and property lines at intersections or any other portion of a highway clearly indicated for pedestrian crossing by lines or other markers on the surface.

(24) SIDEWALK. That portion of a highway between the curb lines and the adjacent property lines, unless local authorities designate otherwise.

(25) SAFETY ZONE. The area or space officially set apart within a highway for the exclusive use of pedestrians or passengers or prospective passengers of public convey-

ances, and which is protected or is so marked or indicated by adequate signs or marks as to be plainly visible at all times when set apart as a safety zone.

(26) SAFETY ISLAND. Any safety zone that is elevated above the highway level.

(27) LOADING ZONE. That portion of a highway adjacent to a curb or property line reserved for the exclusive use of vehicles for the purpose of loading or unloading passengers or material.

(28) BUSINESS DISTRICT. The territory contiguous to a highway when fifty per cent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings in use for business.

(29) RESIDENCE DISTRICT. The territory contiguous to a highway not comprising a business district where the frontage on such highway for a distance of three hundred feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

(30) PARKING. The stopping or standing of a vehicle, whether occupied or not, upon a highway otherwise than in obedience to traffic regulations or official traffic signs or signals.

(31) TRAFFIC. Pedestrians, ridden or herded or driven animals, vehicles, street cars and other conveyances, either singly or together, while using any highway for the purpose of travel.

(32) THROUGH TRAFFIC. All traffic the intention of which is to traverse that portion of the highway upon which it is operating without parking, loading or unloading persons or property.

(33) HEAVY TRAFFIC. All vehicles designated or used for the purpose of transporting material of any nature when the gross weight of such vehicle shall be three tons or greater, or any vehicle not operating completely upon pneumatic tires. Motor busses completely equipped with pneumatic tires shall not be considered heavy traffic.

(34) TRAFFIC LANE. That portion of a roadway paralleling the center line of the roadway having a width of not less than seven feet and not more than ten feet, whether or not such portion is indicated by marks or markers.

(35) RIGHT OF WAY. The privilege of the immediate use of the highway.

(36) WEIGHTS. (a) The net weight of a vehicle is the weight of the vehicle equipped for service.

(b) The tare weight of a vehicle is that weight which the vehicle is equipped to carry as a load.

(c) The gross weight of a vehicle is the sum of the net and tare weights.

(37) OFFICIAL TRAFFIC SIGNS. All signs and markings other than signals, not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction for the purpose of guiding, directing, warning or regulating traffic.

(38) OFFICIAL TRAFFIC SIGNALS. All signals not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction for the purpose of directing, warning or regulating traffic.

(39) TRAFFIC CONTROL SIGNALS. Any device using colored lights, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to go.

(40) PERSON. Every natural person, firm, copartnership, association or corporation.

(41) COMMISSIONER. The motor vehicle commissioner of this state.

(42) DEPARTMENT. The motor vehicle department of this state acting directly or through its duly authorized officer or agents.

(45) MOBILE HOMES. A unit designed to be transported by any motor vehicle upon a public highway and designed, equipped and used for sleeping, eating and living quarters, or is intended to be so used.

History: 1951 c. 297; 1953 c. 243, 417, 563, 575; 1955 c. 208, 475.

A request for an instruction, that an intersecting arterial street on which the motorist was traveling was divided at an intersection into 2 lanes by safety islands and hence was in effect "2 streets" at such point, was properly denied, since such safety islands, located within the highway for the express use and protection of pedestrians crossing it, were merely elevated "safety zones" within the definition thereof in 85.10 (25), (26), and did not create a "divided highway" within the definition thereof in 85.10 (21) (f). *Augustin v. Milwaukee E. R. & T. Co.* 259 W 625, 49 NW (2d) 730.

85.11 Motor vehicle road rights. The operator of every vehicle shall have equal rights upon all highways with other users of such highways, subject to the provisions of this chapter.

85.12 Obedience, direction and exemptions in traffic signs and signals. (1) OFFICERS TO DIRECT TRAFFIC. It shall be the duty of the police and traffic departments of every political unit of government and each authorized department of the state to enforce the

provisions of sections 85.10 to 85.86 and 85.91. Such officers are authorized to direct all traffic within their respective jurisdictions either in person or by means of visual or audible signal in accordance with the provisions of said sections; but in the event of a fire or other emergency, officers of the police, traffic or fire department may direct traffic as conditions may require notwithstanding the provisions of said section.

(2) **OBEDIENCE TO TRAFFIC OFFICERS.** It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of a traffic officer.

(3) **OBEDIENCE TO TRAFFIC SIGNS AND SIGNALS.** It shall be unlawful for the operator of any motor vehicle or for the operator of any street car to disobey the instructions of any official traffic sign or signal placed in accordance with the provisions of said sections unless otherwise directed by a traffic officer.

(4) **PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS.** The provisions of said sections shall apply to the operator of any vehicle owned by or used in the service of the United States government, or of this state or any political subdivision thereof, and it shall be unlawful for any said operator to violate any of said provisions except as otherwise provided.

(5) **EXEMPTIONS TO AUTHORIZED EMERGENCY VEHICLES.** The provisions of said sections regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the operator of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, protect the operator of any such vehicle from the consequence of a reckless disregard of the safety of others.

(6) **PERSONS PROPELLING PUSH CARTS OR RIDING BICYCLES OR ANIMALS TO OBEY TRAFFIC REGULATIONS.** Every person propelling any push cart, bicycle, or riding a bicycle or animal, or driving or leading any animal upon a roadway shall be subject to the provisions of said sections, applicable to the operator of any vehicle, except those provisions with reference to the equipment of vehicles and except those provisions which by their very nature would have no application.

85.13 Intoxicated persons or users of drugs prohibited from operating vehicles.

(1) It is unlawful for any of the following to operate a motor vehicle upon any highway of this state:

(a) A person who is under the influence of an intoxicating liquor or a dangerous or narcotic drug;

(b) A person who is an habitual user of dangerous or narcotic drugs;

(c) A person who is subject to epilepsy.

(2) In this section, "motor vehicle" includes streetcars used on stationary rails or tracks and vehicles propelled by the use of electricity obtained from overhead trolley structures; "dangerous drug" means any drug enumerated in s. 151.07 (1) (a) 1 to 8.

(3) Any person violating any of the provisions of this section may, upon the first conviction, be fined not more than \$200 or imprisoned not more than 6 months or both. Upon the second or each subsequent conviction within 5 years thereafter, such person shall be imprisoned not less than 5 days nor more than one year and in addition may be fined not more than \$200.

History: 1953 c. 340; 1955 c. 510.

Cross Reference: See 325.235 for chemical tests for intoxication.

In an action for violation of a city ordinance making it unlawful for any person who is "under the influence of an intoxicating liquor" to operate any vehicle on any highway, it is not necessary to prove that the intoxicating liquor consumed by the defendant appreciably interfered with his ability to operate a vehicle on the highway with ordinary care, but only that the defendant was operating a vehicle on the highway and that he was under the influence of intoxicants. *Milwaukee v. Richards*, 269 W 570, 69 NW (2d) 445.

85.14 Prohibited signs and signals. (1) **DISPLAY OF UNAUTHORIZED SIGNS AND SIGNALS PROHIBITED.** It is unlawful for any person to place or maintain or display upon or in view of any highway or steam or electric railway crossing any unauthorized sign, light or reflector, signal, marking or device which purports to be or is an imitation of or resembles or may be mistaken as an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic or which hides from view or by its color, location, brilliance or manner of operation interferes with the effectiveness of any official traffic control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic control device bearing thereon any advertising, excepting that a federal yellow flag, 24 inches by 24 inches, bearing either the words "Safety Patrol" or "School", attached to a light weight pole 8 feet or less in length, may be used by members of school safety patrols standing adjacent to but off the highway to warn traffic that children are about to cross the street. Every such prohibited sign, signal, marking or device is declared to be a public nuisance and any police or traffic officer and the authority in charge of the main-

tenance of the highway is empowered to remove the same, or cause the same to be removed, at the expense of the owner, occupant or person maintaining the nuisance, to be collected in the manner provided in section 146.14 (5), if not removed by said person within 30 days after notice in writing from said authority, or if found to be in operation at any time after such notice.

(2) INTERFERENCE WITH SIGNS AND SIGNALS PROHIBITED. It shall be unlawful for any person to wilfully deface, injure, move, obstruct or interfere with an official sign or signal.

85.141 Accidents involving vehicles. (1) ACCIDENTS INVOLVING DEATH OR PERSONAL INJURIES. (a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of subsection (3) of this section. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person failing to stop or to comply with said requirements under such circumstances shall upon conviction be punished by imprisonment for not less than ten days nor more than one year or by fine of not less than five dollars nor more than five thousand dollars, or by both such fine and imprisonment.

(2) ACCIDENT INVOLVING DAMAGE TO VEHICLE. (a) The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of subsection (3) of this section. Every such stop shall be made without obstructing traffic more than is necessary. Any such person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor.

(b) Any person failing to stop or to comply with said requirements under such circumstances shall upon conviction be punished by a fine of not more than \$200 or by imprisonment for not more than 6 months, or both.

(3) DUTY TO GIVE INFORMATION AND RENDER AID. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address, and the registration number of the vehicle he is driving and shall upon request and if available exhibit his driver's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such a person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

(4) DUTY UPON STRIKING UNATTENDED VEHICLE. (a) The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck, a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof.

(b) Any person failing to stop or to comply with said requirements under such circumstances shall upon conviction be punished by a fine of not more than \$200 or by imprisonment for not more than 6 months or both.

(5) DUTY UPON STRIKING FIXTURES UPON A HIGHWAY. (a) The driver of any vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his driver's license and shall make report of such accident when and as required in subsection (6) hereof.

(b) Any person failing to stop or to comply with said requirements under such circumstances shall upon conviction be punished by a fine of not more than \$200 or by imprisonment for not more than 6 months, or both.

(6) DUTY TO REPORT ACCIDENTS. (a) The driver of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of \$100 or more shall immediately report the accident to the police department, the sheriff's department or the traffic department of the municipality or county in which

the accident occurred and within 10 days after the accident forward a written report of the accident to the state motor vehicle department.

(ag) Whenever the driver of a vehicle is physically incapable of making a required accident report and there was another occupant in the vehicle at the time of the accident capable of making a report, such occupant shall make or cause to be made said report.

(am) If there is no other occupant of the vehicle, or such occupant is physically or mentally incapable of making such report, the owner of the motor vehicle involved in such accident, shall, as soon as he learns of the accident, forward such report.

(ar) For the purposes of this subsection the term "injury" is defined as an injury to a person of a physical nature resulting in death or the need of first aid or attention by a physician or surgeon, regardless of whether or not first aid or medical or surgical treatment was actually received. "Total property damage", as used in this subsection, is defined as the sum total cost of putting the property damaged in the condition it was in before the accident, if repair thereof is practical, and if not practical, the sum total cost of replacing such property.

(b) The department may require any driver, occupant, or owner of a vehicle involved in an accident of which report must be made as provided in this subsection to file supplemental reports whenever the original report is insufficient in the opinion of the department and may require witnesses of accidents to render reports to the department.

(c) Any person who shall falsely make and file an accident report, which must be made as provided in this subsection, or who shall knowingly make any false statement in any such report, shall be punished by a fine of not less than \$25 or more than \$50 for each offense, or by imprisonment in the county jail for a period of not less than 30 days nor more than 60 days, or by both such fine and imprisonment.

(8) ACCIDENT REPORT FORMS. (a) The motor vehicle department shall prepare and supply at its own expense to police departments, coroners, sheriffs and other suitable agencies or individuals, forms for accident reports required hereunder, which report shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicles involved.

(b) Every required accident report shall be made on a form approved by the motor vehicle department.

(9) CORONERS TO REPORT. Every coroner or other official performing like functions shall on or before the tenth day of each month report in writing to the motor vehicle department the death of any person within his jurisdiction during the preceding calendar month as the result of an accident involving a motor vehicle and the circumstances of such accidents.

(10) ACCIDENT REPORTS CONFIDENTIAL. All required written accident reports including those required by county and municipal authorities and reports supplemental thereto shall be without prejudice to the individual so reporting and shall be for the confidential use of such department or authority except that the department or authority may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident. No such report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any person who has, or claims to have, made such a report or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made to the department.

(11) TO TABULATE AND ANALYZE ACCIDENT REPORTS. The department shall tabulate and may analyze all accident reports and shall publish annually or at more frequent intervals statistical information based thereon as to the number and circumstances of traffic accidents.

(12) MUNICIPALITY MAY REQUIRE ACCIDENT REPORTS. Any city, town, village or other municipality may by ordinance require that the driver of a vehicle involved in an accident shall also file with a designated municipal department or officer a report of such accident or a copy of any report herein required to be filed with the motor vehicle department. All such reports shall be for the confidential use of the department or officer and subject to the provisions of subsection (10) of this section.

History: 1951 c. 365.

As used in (6) (a), the word "immediately" means within a reasonable time under all of the facts and circumstances of the case. Whether or not a person under duty to report did so "immediately" is a question of fact and not a question of law. The failure to report "immediately" to local enforcement officers and failure to report "within 10 days" in writing to the motor vehicle department are 2 separate offenses. Prosecution will lie in appropriate cases for failure to comply with either of the 2 requirements. 43 Atty. Gen. 90.

85.15 Operation of vehicles. (1) **OPERATE ON THE RIGHT SIDE OF HIGHWAY.** Upon all highways of sufficient width, except upon one-way highways, the operator of a vehicle shall operate the same upon the right half of the roadway and in the right-hand lane of a 3-lane highway, unless it is impractical to travel on such side of the roadway or in such lane and except when preparing to make a left turn from a 3-lane highway or when overtaking and passing another vehicle subject to the limitations applicable to overtaking and passing as set forth in this chapter. The operator of a slow-moving vehicle shall operate such vehicle as closely as practical to the right-hand edge or curb of the roadway. The foregoing provisions shall not be deemed to prevent the marking of lanes for traffic upon any roadway and the allocation of designated lanes to traffic moving in a particular direction or at designated speeds or the operation of highway maintenance equipment on the left-hand side of a highway as authorized by s. 85.18 (12).

(2) **LIMITATIONS ON OVERTAKING AND PASSING.** It shall be unlawful for the operator of a vehicle to operate on any portion of the left side of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety. The provisions of this subsection shall not apply upon one-way highways or upon highways laned for traffic; and in all cases of the latter, vehicles traveling in marked lanes shall move in the direction permitted in such lanes.

(3) **OPERATING ON DIVIDED HIGHWAYS.** On highways that are divided longitudinally by a parkway, viaduct, wall or other form of division, vehicles shall keep to the right of such division unless directed to do otherwise by an official traffic sign or signal or by a traffic officer.

(4) **MEETING OF VEHICLES.** Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each operator shall give to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

(5) **OPERATING ON 3-LANE HIGHWAYS.** Upon a roadway which is divided into 3 lanes a vehicle shall not be operated in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is marked or posted to give notice of such allocation.

History: 1955 c. 531.

A motorist traveling in the center of the road must seasonably turn to the right on encountering a vehicle approaching from the opposite direction, and his speed, lookout and management and control must be such that he can turn to his proper side of the road to avoid an accident. *Gimbel v. Goldman*, 256 W 28, 39 NW (2d) 768.

A custom or agreement which involved driving on the wrong side of the highway could not supplant the statutory rules of the road on a public highway entirely open for public travel. *Stephens v. Cutsforth*, 256 W 256, 40 NW (2d) 389.

Where a boy, although inexperienced and traveling in a zigzag manner, was operating his bicycle on his own side of the road, his negligence, if any, operated remotely and not proximately to cause collision with the defendant's automobile approaching from the opposite direction. Where 2 vehicles proceeding on a highway in opposite directions collide, the fact that one of them was traveling in a zigzag fashion will not of itself support a claim of negligence on the part of the driver of such vehicle, unless it is shown that such manner of driving contributed to proximately cause the accident. *Leiner v. Kohl*, 261 W 159, 52 NW (2d) 154.

It is the intent of the statutes that, where highways are laned for traffic, vehicles must stay in the lanes, subject to the rights given by the "turning statutes," and that other users of the highways have a right to rely on such conduct. See also notes to this case under 85.16 and 85.17. *Topham v. Casey*, 262 W 580, 55 NW (2d) 392.

The rule, that the presence of a vehicle on the wrong side of the road establishes a

prima facie case of negligence on the part of the operator, did not apply where the tractor-trailer unit encroaching partly on the pavement was overturned and at rest, and its presence was observable to an approaching driver, and it lay in such position as to enable other users of the highway to proceed on an unobstructed portion of the highway without danger of collision. *Olsen v. Milwaukee Automobile Ins. Co.* 266 W 106, 62 NW (2d) 549, 63 NW (2d) 740.

In an action arising out of a collision between an automobile and a truck approaching from opposite directions on a curve in a slippery road on which the main-traveled portion was in the center of the road and consisted only of a path or rut, the evidence sustained the findings that the driver of the truck, who did not diminish his speed or stop when it was apparent that the other driver was not able to get the rear wheels of his car out of the rut, was causally negligent as to speed and management and control, contributing 22½ per cent to the collision, although he succeeded in yielding one half of the traveled portion of the road and was found not negligent in that respect. (*Clark v. McCarthy*, 210 W 631, distinguished.) *Thelen v. Machotka*, 268 W 1, 66 NW (2d) 684.

Under (1) the driver of a northbound automobile, after overtaking and passing another car on an unmarked 3-lane roadway 30 feet in width, should have returned to the east 15 feet of the roadway and should have left the west 15 feet for the driver of a southbound car, instead of continuing north in the so-called center lane, where his car collided with the southbound car. *Bush v. Hadley*, 269 W 160, 69 NW (2d) 261.

85.16 Rules for passing. (1) **SIGNALS FOR PASSING.** The operator of an overtaking motor vehicle not within a business or residence district shall give audible warning

with his warning device before passing or attempting to pass a vehicle proceeding in the same direction.

(2) **VEHICLES TO KEEP IN TRAFFIC LANES.** The operator of a vehicle upon a roadway shall not deviate from the traffic lane in which he is operating without first ascertaining that such movement can be made with safety to other vehicles approaching from the rear.

(3) **OVERTAKING AND PASSING ANOTHER VEHICLE.** The operator of any vehicle overtaking another vehicle proceeding in the same direction shall pass such vehicle at a safe distance to the left thereof and shall not again operate to the right side of the roadway until safely clear of such overtaken vehicle.

(4) **CONDUCT OF OPERATOR BEING PASSED.** The operator of a vehicle about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right if practical in favor of the overtaking vehicle on suitable and audible signal being given by the operator of the overtaking vehicle and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(5) **PASSING ON CURVES AND GRADES RESTRICTED.** It shall be unlawful for the operator of a vehicle to operate on the left side of the highway upon any part of a grade or upon a curve in the highway where the operator's view along said highway is obstructed for such a distance as to create a hazard in the event another vehicle might approach from the opposite direction.

(6) **PASSING AT RAILROAD GRADE CROSSING AND HIGHWAY INTERSECTIONS PROHIBITED.** It shall be unlawful for the operator of any vehicle to overtake and pass any other vehicle proceeding in the same direction at any steam, gas or electric railway grade crossing or at an intersection of highways unless permitted to do so by a traffic officer or upon highways which are properly marked by traffic lanes; except that this subsection shall not apply to intersections on rural highways unless such intersections are designated by proper signs.

(7) **PASSING STREET CARS ON TWO-WAY HIGHWAY.** It shall be unlawful for the operator of a vehicle on a two-way highway to overtake and pass upon the left any street car proceeding in the same direction whether such car is actually in motion or at rest.

(8) **PASSING STREET CARS ON ONE-WAY HIGHWAYS.** The operator of a vehicle on a one-way highway may pass on the left, any street car actually stopped for the purpose of receiving or discharging passengers, at a speed not greater than fifteen miles an hour and with due regard for the safety of pedestrians, except when directed to do otherwise by a traffic officer or official traffic signal.

(9) **PASSING STREET CAR WHILE LOADING OR UNLOADING PASSENGERS.** The operator of a vehicle overtaking any street car actually stopped for the purpose of receiving or discharging any passenger shall stop such vehicle to the rear of the nearest door of said car and shall remain stationary until any such passenger has boarded such car or reached the adjacent sidewalk, except that where a safety zone has been established, a vehicle need not be brought to a full stop before passing any such car but may proceed past such car at a speed that is reasonable and proper and in no event greater than fifteen miles an hour and with due regard for the safety of pedestrians. This provision shall apply to busses when at a safety zone.

(10) **PASSING VEHICLES AT INTERSECTIONS.** Whenever any vehicle has stopped at a marked or unmarked crosswalk or at any intersection to permit a pedestrian to cross the highway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle.

(11) **PASSING OR MEETING FRIGHTENED ANIMALS.** The operator of any vehicle upon any highway, upon a signal by putting up the hand or other signal of distress made by a person riding, driving or leading an animal which is frightened, shall cause such motor vehicle to stop unless a movement forward is necessary to avoid an accident or injury, and such operator shall, upon request, stop all motive power until such animal is under control.

(12) **STOPPING FOR SCHOOL BUSES LOADING OR UNLOADING PUPILS.** (a) The driver of a vehicle upon a street or highway, upon meeting or overtaking from the front or rear any school bus which has stopped on the street or highway for the purpose of loading or unloading any school child or children, shall stop the vehicle immediately upon the display of flashing red signals by the school bus driver and shall remain stopped until the school bus driver extinguishes the flashing red signals. The driver of a school bus shall not use the flashing red signals in the built-up areas of cities, villages or towns where passengers are to be loaded or unloaded from a curb or sidewalk or in special bus loading areas. The provisions of this subsection do not apply to vehicles proceeding in the opposite direction of a school bus on the opposite side of a dividing highway.

(b) Every school bus shall be equipped with flashing red signals of a type, and actuated in a manner approved by the state superintendent and the commissioner of motor

vehicles. When such a vehicle is being used upon a public highway for purposes other than the actual transportation of children as provided in ss. 40.53 to 40.57, the flashing red signals shall not be used and all markings thereon indicating it is a school bus shall be removed or concealed.

History: 1951 c. 74; 1953 c. 180, 535; 1955 c. 455.

A collision took place at an intersection in the open country on a highway properly marked by traffic lanes when defendant was making a left turn. Under (6) the defendant did not have the right to assume that no one would pass; further, the plaintiff had blown his horn to warn that he expected to pass. Even though the trial court found the plaintiff negligent in attempting to pass at the intersection it was not required to hold that the plaintiff's causal negligence was at least equal to that of the defendant. (*J. W. Cartage Co. v. Laufenberg*, 251 W 301, distinguished.) (*Kaestner v. Preferred Accident Ins. Co.* 257 W 6, 42 NW (2d) 260.

While defendants were still in the right traffic lane a bus had moved over to the left lane of traffic and was about to pass the defendants' car, when, in accordance with the car driver's intention to turn into a park, there was a sudden turn of his car on an angle of at least 45 degrees invading the left traffic lane just ahead of the bus. Defendant improperly deviated from the proper traffic lane, that is, the one in which he was driving when the bus undertook to pass, because he turned without first ascertaining that such movement could "be made with safety to other vehicles approaching from the rear," and hence was liable for damages sustained by the bus in running off the road to avoid a collision. (*Green Bay-Wausau Lines, Inc. v. Mangel*, 257 W 92, 42 NW (2d) 493.

Requirement of audible warning in overtaking or attempting to pass another vehicle was not applicable to a driver who was not attempting to pass a preceding automobile but who was attempting to avoid a collision with it by swerving to the right when it turned back into his path after turning to the left apparently to enter a side road. (*Kleckner v. Great American Indemnity Co.* 257 W 574, 44 NW (2d) 560.

In an action by a wife for injuries sustained when the left wheels of an automobile driven by her husband went off the pavement onto the soft, snow-covered shoulder of the highway in passing a preceding car, and then crossed the pavement and went into the ditch on the right side of the highway, without the 2 cars colliding or touching in any manner, the evidence supported the jury's findings that neither the defendant husband nor the defendant driver of the other car was negligent. (*Stikl v. Williams*, 261 W 426, 53 NW (2d) 440.

At common law, there was no limitation on a driver's right to pass at an intersection, but (6) limits that right by making it unlawful for the operator of a vehicle to overtake and pass another vehicle proceeding in the same direction at an intersection of highways, unless permitted to do so by a traffic officer or on highways properly marked by traffic lanes. (*Topham v. Casey*, 262 W 580, 55 NW (2d) 392.

The negligence of the driver of a non-colliding northbound bus, who traveled in the west lane of the highway abreast of a northbound automobile in a second unsuccessful attempt to pass the automobile, and then, traveling at top speed and creating a cloud of dust, took to the west gravel shoulder to avoid colliding with an approaching southbound truck, was a proximate cause of the collision between the truck and the automobile, and a request of his attorney for an instruction to the jury on "inter-

vening cause" was properly refused under the facts. (*Eliason v. Northland Greyhound Bus Lines, Inc.* 263 W 435, 57 NW (2d) 675.

See note to 85.40, citing *Zenner v. Fischer*, 264 W 393, 59 NW (2d) 435.

(6), declaring it unlawful for the operator of a vehicle to overtake and pass another vehicle "proceeding" in the same direction at an intersection of highways, does not contemplate that the driver of a following car must wait for an indefinite period before attempting to pass a vehicle stopped and blocking a lane of traffic. (*Funk v. Woyak*, 264 W 437, 59 NW (2d) 431.

The jury's finding of negligence on the part of the plaintiff in respect to deviating from his lane of traffic at the time of the accident was not inconsistent with its finding of negligence on the part of the defendant in passing too close to the tractor. (*Engsberg v. Hein*, 265 W 58, 60 NW (2d) 714.

Where the plaintiff knew that the defendant's truck was approaching from the rear and would pass his farm tractor when he drove onto the roadway from a parked position, the omission from the special verdict of a question asking whether the defendant had failed to blow his horn was not error, since the blowing of the horn could not have warned the plaintiff of anything he did not already know, and hence the failure to blow it could not have been a cause of the ensuing collision. (*Engsberg v. Hein*, 265 W 58, 60 NW (2d) 714.

The requirements of (1) and (4) that a signal of intention to pass be suitable as well as audible implies that it be given at a time when the operator of the overtaken vehicle will have the opportunity to respond by yielding the right of way. (*Anderson v. Stricker*, 266 W 1, 62 NW (2d) 396.

It is the duty of a motorist to stay in his lane of travel behind a preceding car or, on pulling out to pass, to keep such a position on the road as will allow him enough space to return to his lane safely so as to avoid collision with a car approaching from the opposite direction. (*Raddant v. Tamminen*, 266 W 49, 62 NW (2d) 428.

Driver of car on arterial, hit by car which did not stop for the sign at an intersection where vision was obscured, was negligent in passing another car at the intersection, but such negligence was not causal, since the driver on the intersecting highway would have hit him regardless of his position on the highway. (*Roeske v. Schmitt*, 266 W 557, 64 NW (2d) 394.

To comply with (1), the warning must be given in volume and at a time and place sufficient to inform a reasonably attentive driver that an overtaking motorist intends to pass him and is about to do so. (*Frankland v. Peterson*, 268 W 394, 67 NW (2d) 865.

The provisions of (2) that the operator of a vehicle on a roadway shall not deviate from the traffic lane in which he is operating without first ascertaining that such movement can be made with safety to other vehicles approaching from the rear, apply to the entire roadway. (*Schweidler v. Caruso*, 269 W 438, 69 NW (2d) 611.

If driver of overtaking vehicle gives signal capable of being overheard by occupants of overtaken car, it is not necessary for overtaking driver to show that signal was actually heard by occupants. Whether signal was given is for jury. (*Werner Transfer Co. v. Zimmerman*, 201 F (2d) 687.

85.17 Rules for turning. (1) **TURNING RIGHT.** The operator of a vehicle intending to turn to the right at an intersection shall approach the point of turning in the traffic lane nearest the right-hand edge or curb of the highway and in turning shall keep as closely as practicable to the right-hand edge or curb of the highway.

(2) **TURNING LEFT.** The operator of a vehicle intending to turn to the left at an intersection or into a private highway shall make such turn from the traffic lane immediately to the right of and next to the center of the highway, or from the center lane of a highway

having an uneven number of lanes unless such center lane has been posted or marked for vehicles moving in the opposite direction. In making the turn, he shall pass immediately to the left of the center of the intersection, passing as closely as practicable to the left of the center of the intersection, and shall leave the intersection immediately to the right of the center of the intersecting highway. For purposes of this subsection a divided highway intersected by any other highway shall be considered one intersection.

(2a) **TURNING LEFT ON ONE-WAY STREETS.** At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

(3) **WHEN NOT APPLICABLE.** The provisions of subsections (1) and (2) shall not apply to those vehicles that are required by local authorities to travel in such lanes that said provisions cannot be complied with.

(4) **TURNING AROUND AT CERTAIN INTERSECTIONS PROHIBITED.** At any intersection where traffic is controlled by a traffic control signal or by a traffic officer, it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection so as to proceed in the opposite direction.

(5) **TURNING AROUND IN MID-BLOCK PROHIBITED ON CERTAIN HIGHWAYS.** It shall be unlawful for the operator of any vehicle operating on any street in a business district or on any artery for through traffic in a residence district to turn his vehicle so as to proceed in the opposite direction at any place except at an intersection where such turns are permitted.

History: 1955 c. 531.

In an action for injuries sustained in a collision at an intersection of a 3-lane highway, properly marked by traffic lanes, and a side road, when the plaintiff truck driver was attempting to pass and the defendant automobile driver was attempting to make a left turn into the side road, the evidence warranted the jury's findings that the plaintiff was not causally negligent in any respect, and that the defendant was causally negligent in deviating from his traffic lane, in turning to the left without giving a timely signal of intention to turn, and in failing to maintain a proper lookout. *Topham v. Casey*, 262 W 580, 55 NW (2d) 892.

In an action for injuries sustained when

the defendant motorist, directed by a traffic officer to proceed on the same street instead of making a left turn into an intersecting street, turned his car to the right so as to return to his proper lane of travel, and his car then skidded, and crossed to the left side of the street over a safety island and up onto the sidewalk, where it struck the plaintiff pedestrian standing there, the defendant's evidence in explanation of the accident was sufficient to render the doctrine of *res ipsa loquitur* inapplicable thereto, and the evidence was sufficient to support the jury's finding that the defendant was not negligent. *Churchill v. Brock*, 264 W 23, 58 NW (2d) 200.

85.175 Turning movements and required signals. (1) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in section 85.17, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.

(2) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

(3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in sections 85.176 and 85.177 to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

The evidence supported the jury's finding that the driver of a squad car, proceeding north on the east lane of a boulevard divided by a center strip, turning left at an intersection where the center strip was covered by snow 5 to 6 feet deep, and colliding with a motor cycle approaching from the north on the west lane of the boulevard, was causally negligent in failing to make a proper lookout before entering the west lane. *Mitchell v. Williams*, 258 W 351, 46 NW (2d) 325.

In an action for injuries sustained when the plaintiff's eastbound truck was struck by a westbound semitrailer as the latter was passing an automobile stopped at an intersection, wherein the jury, in finding that the driver of the automobile was not negligent in the manner in which he stopped his car on the highway, accepted the version of the testimony that he did not suddenly stop when the semitrailer was only 40 feet behind him but that, when he stopped, the semitrailer was approximately 360 feet to

his rear, the jury's further finding that his failure to signal an intention to turn left was a proximate cause of the accident was properly changed by the trial court since, under the version of the testimony accepted by the jury, the driver of the semitrailer had ample time to bring his vehicle to a stop and avoid the accident if he had been driving with due caution. *Greenville Co-op. Gas Co. v. Lodesky*, 259 W 376, 48 NW (2d) 234.

In an action for injuries sustained when the left side of the plaintiff's following automobile struck the tail gate of the defendant's left-turning tractor-trailer unit within an intersection, the evidence established that the slowing down of the truck was gradual and was apparent to the plaintiff for some distance before the left turn was made, and that the plaintiff could have stopped completely or safely passed the truck on the right if he had not followed so closely and had maintained adequate control of his car, and that, as a matter of law,

the plaintiff's causal negligence in respect thereto was as great as the defendant's causal negligence in failing to give a signal of intention to turn. *Phillips v. Haring*, 262 W 174, 54 NW (2d) 200.

One intending to enter a private driveway or otherwise turn a vehicle from a direct course or move right or left on a roadway has a duty of making the movement only on reasonable surety that such turn may be made safely. *Firemen's Underwriters Dept. v. Nieman*, 263 W 188, 56 NW (2d) 816.

In an action for injuries sustained by guest occupants when the host car slowed down or momentarily stopped because of a parked car and was struck in the rear by a following truck, wherein the jury found that the host, preceding driver, was causally negligent as to lookout although there was no evidence that he had been made aware of the presence of the following vehicle by the sound of the latter's horn or otherwise, the judgment is reversed for a new trial because the real issue under the evidence was whether such preceding driver had suddenly stopped his car without giving appropriate signal to the following driver, and this issue was not submitted to the jury nor inferentially determined in its finding on management and control. *Thoresen v. Grything*, 264 W 487, 59 NW (2d) 682.

The driver of an automobile, parked on the right shoulder of the highway about 50 feet from a crossover between the traffic lanes of a divided highway, and then proceeding onto the highway and turning to

the left at the crossover, could not comply with the provision of (2), that a signal of intention to turn left be given continuously during not less than the last 100 feet traveled by the vehicle before turning, and hence was required to yield the right of way to a vehicle approaching from the rear. The evidence supported findings that the driver of an automobile so parked, so proceeding and so turning, and struck by a following car, was causally negligent as to lookout and as to violating (1), permitting a movement to the left only if the same can be made with reasonable safety, and (2), requiring a signal of intention to turn for the last 100 feet, and that the driver of the following car was not causally negligent in any respect. *Sparling v. Thomas*, 264 W 506, 59 NW (2d) 433.

As a matter of law, causal negligence of the plaintiff motorist in failing to blow his horn before attempting to pass a truck did not equal the causal negligence of the defendant driver of the truck in turning left across the highway without a signal and without observing the plaintiff's automobile, although that was then almost abreast of him. *Frankland v. Peterson*, 268 W 394, 67 NW (2d) 865.

Slowing a car by releasing the accelerator while traveling 50 miles per hour up a slight incline does not result in a sudden decrease in speed within the meaning of (3). A driver need not give a signal under (3) before beginning to stop or slow down. *Wodill v. Sullivan*, 270 W 591, 72 NW (2d) 396.

85.176 Signals by hand and arm or signal device. Any stop or turn signal when required herein shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device of a type approved by the department, but when a vehicle is so constructed or loaded that a hand-and-arm signal would not be visible both to the front and rear of such vehicle then said signals must be given by such lamp or lamps or signal device.

85.177 Method of giving hand-and-arm signals. All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- (1) Left turn.—Hand and arm extended horizontally.
- (2) Right turn.—Hand and arm extended upward.
- (3) Stop or decrease speed.—Hand and arm extended downward.

85.18 Right of way. (1) **RIGHT OF WAY AT INTERSECTIONS.** When 2 vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right, except as otherwise provided in this section. The driver of any vehicle driving at an unlawful speed shall forfeit any right of way which he might otherwise have hereunder.

(4) **VEHICLES STOPPING FOR ARTERIES FOR THROUGH TRAFFIC.** The operator of a vehicle shall stop as required by s. 85.69 before entering an artery for through traffic, and shall yield the right of way to other vehicles which have entered or are approaching the intersection upon the artery for through traffic.

(5) **VEHICLES TURNING LEFT AT INTERSECTIONS.** The operator of a vehicle within an intersection intending to turn to the left across the path of any vehicle approaching from the opposite direction, may make such left turn where it is permitted only after affording a reasonable opportunity to the operator of the approaching vehicle to avoid a collision. The operator of a vehicle approaching but not having entered an intersection shall yield the right of way to a vehicle within such intersection and turning therein to the left across the line of travel of such first mentioned vehicle; provided, the operator of the vehicle turning left has given a plainly visible signal of intention to so turn.

(6) **RIGHT OF WAY OF FUNERAL PROCESSIONS.** Funeral processions shall have the right of way at intersections when vehicles comprising such procession shall have their headlights lighted, excepting in case of an emergency or when directed otherwise by a traffic officer. Such processions, however, shall be governed by traffic control signals except that when the leading vehicle has proceeded across an intersection in accordance with such signal, all vehicles in such procession may so proceed regardless of any change in such signal. It shall be unlawful for any vehicles to form a procession and have their headlights lighted for the purpose of securing the right of way granted by this subsection to funeral processions.

(7) **RIGHT OF WAY OF AUTHORIZED EMERGENCY VEHICLES.** It shall be unlawful for the

operator of a vehicle upon a highway not to yield the right of way to an authorized emergency vehicle which is operating upon official business and the operator thereof sounds audible signal by means of a siren.

(8) **VEHICLES EMERGING FROM ALLEYS OR PRIVATE DRIVEWAYS TO STOP.** The operator of a vehicle emerging from an alley, private driveway or garage shall stop such vehicle immediately prior to moving on to the sidewalk or sidewalk area extending across the path of such vehicle, or if there is no sidewalk or sidewalk area then before crossing the near limits of the roadway.

(9) **EMERGING FROM ALLEY OR PRIVATE DRIVEWAY.** The operator of a vehicle entering a public highway from an alley, garage or private driveway shall yield the right of way to all vehicles approaching on such highway.

(10) **MOVING VEHICLES HAVE RIGHT OF WAY OVER PARKED VEHICLES.** The operator of any vehicle that has been parked shall while moving from such position yield the right of way to all vehicles approaching on such highway.

(11) **RIGHT OF WAY OF LIVE STOCK.** Live stock being driven over or along any highway shall have the right of way over any motor vehicle, but any person in charge of such live stock shall use reasonable care and diligence to open the roadway for vehicular traffic.

(12) **HIGHWAY MAINTENANCE VEHICLES.** Vehicles actually engaged in maintaining the highway are permitted to operate on the left hand side of the highway when they are designated or at night lighted according to the standard method of marking or lighting such vehicles as promulgated by the motor vehicle department.

History: 1955 c. 531.

In an action for injuries sustained in a collision at an intersection, the evidence established that the defendant's truck entered the intersection appreciably before the plaintiff's car and that the collision took place when defendant's truck had nearly passed out of the intersection, so that the plaintiff did not have the right of way by reason of approaching on the defendant's right. *Himebauch v. Ludtke*, 256 W 1, 39 NW (2d) 684.

A driver approaching an intersection could assume that a driver approaching from the left would respect his right of way; but his right to continue in that assumption ceased when he knew or ought to have known that the driver on the left would not or could not yield the right of way, and when such a situation became or ought to have become apparent to the driver on the right it was his duty to refrain from exercising his right of way and to exercise ordinary care in the management and control of his car. *Hamm v. Miller*, 256 W 192, 40 NW (2d) 387.

The driver of an automobile, if he had seen that the driver of another car approaching an intersection had his head extended out of the car window, would have been under no duty to assume that it was a signal of intention to make a left turn across the intersection; but even if he did interpret it as a signal, he had a right to rely on the other driver's observance of the law. *Schultz v. Miller*, 259 W 316, 48 NW (2d) 316.

In actions for injuries sustained in a nighttime collision which occurred when a car occupied by the plaintiffs turned across the path of an approaching car without signal to enter a farm driveway, evidence establishing that the driver of the approaching car, not negligent as to lookout or speed, had no more than 2 seconds, after the other car turned into his half of the road, in which to decide what, if anything, he had better do, and to do it, warranted the trial court's determination that as a matter of law an emergency was presented in which the driver of the approaching car could not be held responsible for the results of any action which he might take or might fail to take to avoid collision. *Roberts v. Knorr*, 260 W 288, 50 NW (2d) 374.

Where the danger from a car approaching on an intersecting highway is not apparent to a driver on an arterial highway or to one having the right of way at an intersection, such a driver has the right to assume that the one approaching will yield the right of way. *Clocherez v. Miller*, 262 W 492, 55 NW (2d) 881.

In the exercise of ordinary care, the plaintiff driver, approaching an intersection and observing the defendant's automobile

approaching on the right at about the same distance from the intersection, should have had his own car under such control as to be able to yield the right of way, in the absence of any indication that the defendant driver would slow down or stop, and in such case he was negligent in relying on any assumption that the defendant driver would stop and allow him to pass. *Wagner v. Home Mut. Casualty Co.* 262 W 673, 56 NW (2d) 539.

In an action for damages sustained when the defendant's automobile, approaching on an arterial highway and entering an intersection from the north, struck the plaintiff's automobile, entering the intersection from the east and turning south in the path of the defendant's approaching car, a requested instruction to the jury, which based the plaintiff's right to come into the intersection, without further observation of the approaching car, on his own conclusion that he could do so safely, was correctly rejected, since his right to enter the intersection in the path of the approaching car depended, not on his conclusion that he could do so safely, but on the quality of the lookout on which his conclusion was founded, and a conclusion which was the product of deficient lookout would confer no rights on him. (*Trautmann v. Charles Schefft & Sons Co.* 201 W 113, distinguished.) *Thoms v. Gunnelson*, 263 W 424, 57 NW (2d) 678.

The provision in (9), that the operator of a vehicle entering a public highway from a private driveway shall yield the right of way to "all vehicles approaching on such highway," cannot be applied literally. The operator of a motor vehicle entering the highway from a private driveway has a duty to make a proper lookout by looking a sufficient distance to ascertain that any vehicle approaching on the highway at a lawful rate of speed will not interfere with his entering on and reaching his proper position on the highway, and if he does not look a sufficient distance or if he does not see a vehicle approaching within that distance, he has failed to make a proper or efficient lookout. Having made his observation for vehicles approaching on the highway, the operator of a vehicle entering the highway from a private driveway must exercise reasonable judgment in calculating the time it will take him to enter on and reach his proper position on the highway without interference with an approaching vehicle, and if he does not make a reasonable calculation, he is negligent. *Heinecke v. Hardware Mut. Casualty Co.* 264 W 89, 58 NW (2d) 442.

As used in (1), the word "unlawful" does not necessarily mean contrary to some statute or ordinance, but means unauthorized

by law. Under the evidence as to the 2 cars approaching the intersection at approximately the same time, the jury's supported finding of negligent speed on the part of the defendant driver, approaching on the right, operated as a forfeiture by such driver of any right of way which she might otherwise have had under (1), so that there was no occasion to consider the question of whether the plaintiff driver was negligent as to yielding the right of way, and the trial court erred in changing the jury's findings on comparative negligence from 40-60 to 50-50 on the theory that the jury's finding that the plaintiff driver was causally negligent in failing to yield the right of way required it. Where the driver claims the "directional" right of way and there is evidence which would permit a finding of unlawful speed on his part, the verdict should be prepared in such form as not to require a determination by the jury of the question whether the other driver failed to yield the right of way, if it has been found that the driver to the right has by his speed forfeited his right of way. *Johnson v. Firemen's Fund Indemnity Co.* 264 W 358, 59 NW (2d) 660.

Although the driver entitled to the right of way at an intersection may rely on the assumption that the other driver will yield the right of way, such assumption disappears when it appears or should appear to him, as a person of ordinary and reasonable prudence, that the other driver will not or cannot yield, and it then becomes the duty of the favored driver to exercise ordinary care in the management and control of his car. *Vogel v. Vetting*, 265 W 19, 60 NW (2d) 399.

As used in (1), the word "approximately" means an approach of 2 vehicles so nearly at the same time that there would be imminent hazard of a collision if both continued the same course at the same speed. *Vogel v. Vetting*, 265 W 19, 60 NW (2d) 399.

Stopping a car at an arterial as required by 85.69 does not give the driver the right of way over a car approaching from the left; part of the purpose of requiring the stop is to enable the driver to observe traffic to determine whether he can safely enter the intersection. The driver on the arterial can act on the assumption that such observation will be made. *Kraskey v. Johnson*, 266 W 201, 63 NW (2d) 112.

It was the duty of the driver, after stopping for the arterial, not to enter the intersection until he had made an efficient observation as to traffic approaching from either direction and particularly from his right. *Weber v. Mayer*, 266 W 241, 63 NW (2d) 318.

The provision in (1), relating to forfeiture of right of way at intersections because of unlawful speed, is not applicable to (5), relating to vehicles turning left at intersections. *Leikness v. Prochaska*, 266 W 437, 63 NW (2d) 723.

Under (1) the question of whether the vehicle approaching from the right has the right of way is not determined by which vehicle enters the intersection first but the test of whether they are approaching "at approximately the same time" is whether there would be imminent hazard of a collision if both continued the same course at the same speed. *Kraskey v. Johnson*, 266 W 201, 63 NW (2d) 112; *Groling v. Goltz*, 267 W 390, 66 NW (2d) 195.

The driver of a motor vehicle having the right of way at a nonarterial intersection, over a driver coming from the left, is not required to stop, look, and listen but, having exercised ordinary care in all the required particulars, including not knowing or having reason to know that the oncoming car will not or cannot stop, he may reasonably conclude that he will be protected in his use of the right of way. *Kreft v. Charles*, 268 W 44, 66 NW (2d) 618.

Where a driver stopped his automobile behind a bus discharging passengers, and then, when the bus turned right at the intersection, made a single observation for traffic approaching on the intersecting street and proceeded into and across the intersection without ever seeing a car approaching from the right until the collision, although there was no stationary obstruction to his view to the right, he was negligent as to lookout as a matter of law. *Bailey v. Zwirowski*, 268 W 208, 67 NW (2d) 262.

Under (1), the driver approaching an intersection from the left never acquires a right of way as against the driver approaching from the right, except in the special situation where the driver of a vehicle approaching but not having entered an intersection shall yield the right of way to a vehicle within such intersection and turning therein to the left across the line of travel of such first-mentioned vehicle. Where 2 automobiles approach an intersection on separate highways but not at approximately the same time, and the driver from the left enters the intersection first, the driver coming from the right owes no duty to yield the right of way by reason thereof. Even where the vehicle approaching from the right is traveling at an excessive speed and forfeits the right of way by reason thereof, the driver from the left does not gain the right of way so forfeited. *Schill v. Meers*, 269 W 653, 70 NW (2d) 234.

85.19 Parking, stopping or standing. (1) PARKING ON HIGHWAY. No person shall park, stop, or leave standing any vehicle, whether attended or unattended, upon any highway outside a business or residence district when it is practical to park, stop or leave such vehicle standing off the roadway of such highway, provided that in no event shall any person park, stop or leave standing any vehicle, whether attended or unattended, upon any highway unless a clear and unobstructed width of no less than fifteen feet upon the roadway of such highway opposite such standing vehicle shall be left for the free passage of other vehicles thereon, nor unless a clear view of such vehicle may be obtained from a distance of two hundred feet in each direction along such highway.

(2) **PARKING ON STREETS.** (a) No person shall park, stop, or leave standing any vehicle, whether attended or unattended, upon any street unless parallel to the edge of the street, headed in the direction of traffic, on the right side of the street, and with the right wheels of the vehicle within twelve inches of the curb or edge of the street except as provided in paragraphs (b) and (c).

(b) Upon those streets which have been marked or signed for angle parking by official markers or signs, vehicles shall be parked at the angle indicated by such markers or signs.

(c) Upon one-way streets, local authorities may by ordinance designate parking upon the left side of the street instead of the right side or may permit parking on both sides.

(3) **STOPPING PROHIBITED IN SPECIFIED PLACES.** It shall be unlawful for the operator of a vehicle to stop, stand or park such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or to comply with the directions of a traffic officer or traffic control sign or signal:

- (a) Within an intersection of highways.
 - (b) On a crosswalk.
 - (c) Between a safety zone and the adjacent curb, or within fifteen feet of a point on the curb immediately opposite the end of a safety zone unless a different distance is clearly indicated by an official traffic sign.
 - (d) On a sidewalk or sidewalk area except as provided in subsection (7) of this section.
 - (e) Alongside or opposite any highway excavation or obstruction when such stopping, standing or parking would obstruct traffic or when pedestrian traffic would be required to travel in the roadway.
 - (f) Upon any portion of a hill or curve in the highway outside of a business or residence district.
 - (g) On the roadway side of any other parked vehicle unless such double parking is clearly indicated by markers or official traffic signs.
- (4) PARKING PROHIBITED IN SPECIFIED PLACES. It shall be unlawful for the operator of a vehicle to park such vehicle in any of the following places except to comply with the directions of a traffic officer or traffic control signal or sign:
- (a) In a loading zone.
 - (b) In an alley in a business district.
 - (c) Within fifteen feet of the driveway entrance to a fire station or directly across the highway from such entrance.
 - (d) Within ten feet of a fire hydrant unless a greater distance is indicated by an official traffic sign.
 - (e) Within 4 feet of the entrance to a private highway or alley.
 - (f) Upon the near side of a highway adjacent to a schoolhouse during the hours of 7:30 A. M. to 4:30 P. M. during school days except that local authorities may permit parking adjacent to high schools, colleges or universities.
 - (g) Upon any portion of a highway right of way when such highway is properly designated by an official sign limiting, restricting or prohibiting parking placed by the local authorities, or by the officer in charge of maintenance or by a traffic officer.
 - (h) On a highway adjacent to the entrance to a school, church, theatre, hotel, hospital, or any other place of public assemblage during the hours designated by an official sign.
 - (i) Closer than two feet to another vehicle when parking parallel to the edge of the highway.
 - (j) Closer than fifteen feet to the near limits of a crosswalk.
- (5) PARKING VEHICLES FOR SALE PROHIBITED. It shall be unlawful for any person to park upon any highway any vehicle displayed for sale.
- (6) TRAFFIC OFFICER MAY MOVE VEHICLE PARKED ON HIGHWAY. Whenever any traffic officer shall find a vehicle standing upon a highway in violation of the provisions of this section, he is authorized to move such vehicle or to require the operator in charge thereof to move such vehicle to a position permitted under this section.
- (7) LOCAL AUTHORITIES MAY PERMIT PARKING OF VEHICLES ON CERTAIN SIDEWALK AREAS. Local authorities may permit parking of vehicles on such sidewalk areas as they may designate.
- (8) DISABLED VEHICLES UPON HIGHWAY. The provisions of this section shall not apply to the operator of any vehicle which is disabled while on the highway in such a manner or to such extent that it is impossible to avoid stopping or temporarily leaving such vehicle in such position.
- (9) PARKING OR STOPPING ON LEFT SIDE OF HIGHWAY. No vehicle shall be parked or stopped on the left side of the highway except as provided in paragraphs (b) and (c) of subsection (2) of this section.
- (10) NO PARKING SIGNS ON PRIVATE PROPERTY. No person shall, without the permission of the owner or lessee of any private property, leave or park any motor vehicle thereon, if there is in plain view on such property a "No Parking" sign.

History: 1951 c. 343; 1955 c. 488.

The driver of an automobile who, when his engine stopped and refused to start, allowed his car to roll backward down a hill and left it on the roadway, when he could have left it on the shoulder of the highway, was negligent as to the position of his car on the highway. *Richards v. Pickands-Mather Co.* 257 W 365, 43 NW (2d) 359.

See note to 85.66, citing *Schwellenbach v. Wagner*, 258 W 526, 46 NW (2d) 852.

In prohibiting the parking, the stopping or the leaving of a vehicle on a highway under the circumstances stated therein, (1) applies whether the stopping was voluntary or involuntary, and is in relation to the vehicle

after it has come to a stop, no matter what the cause of the stopping may have been. In connection with an instruction quoting the provisions of (1), the failure of the trial court to cite the provisions of (8) that (1) shall not apply to the operator of a vehicle disabled while on the highway to such an extent that it is impossible to avoid stopping or temporarily leaving such vehicle in such position, was not error, in the absence of any request by the defendant complaining thereof that the court should instruct the jury on (8), and the absence of any evidence that the car of such defendant was so disabled as to come within the exception con-

tained in (8). Puccio v. Mathewson, 260 W 358, 50 NW (2d) 390.

See note to 85.32, citing Retzlaff v. Soman Home Furnishings, 260 W 615, 51 NW (2d) 514.

In an action for injuries sustained by the plaintiff when his automobile crashed at night into the rear end of a preceding truck, which had momentarily stopped behind the defendant's automobile, which had stopped because of a flat tire, the evidence warranted the jury's finding that the plaintiff motorist, who failed timely to see the lights of either stopped vehicle and had ample room on the left for passing, was causally negligent as to lookout and as to management and control and may have warranted the jury's finding that the defendant motorist, who parked his car partly on the concrete roadway but as close to a ditch as possible and leaving ample room for the passage of other vehicles on the concrete, was causally negligent in parking in the manner in which he did, but did not warrant the jury's finding that the defendant's causal negligence in that one respect found was greater than the plaintiff's causal negligence in the 2 respects found. Hephner v. Wolf, 261 W 191, 52 NW (2d) 390.

The defendant motorist negligently attempted to pass a preceding car in a fog and his car collided with a car approaching from the opposite direction on its proper side of the concrete pavement, with the result that the 2 cars involved in such collision obstructed the passageway of vehicles approaching from either direction on the pavement; a tractor-trailer operator, arriving at the scene of such accident, parked his vehicle there with its left wheels on the pavement, and was getting out flares to set them out to warn approaching traffic of the 2 cars crosswise on the pavement, when the plaintiff motorist's car crashed into the rear of the tractor-trailer. The act of the tractor-trailer operator, in parking as he did for the purpose of getting flares and setting them out, was a normal response to the situation created by the defendant motorist's negligence, and was not extraordinarily negligent, and was not such an intervening or superseding cause as to relieve the defendant motorist from liability with respect to the second collision causing the plaintiff's injuries. (Prior decisions analyzed.) McFee v. Harker, 261 W 213, 52 NW (2d) 381.

The evidence sustained the jury's finding that the operator of the truck was negligent in stopping with the left rear of the truck extending over the traveled portion of the highway. Schroeder v. Kuntz, 263 W 590, 58 NW (2d) 445.

In an action arising out of a collision while an automobile was parked facing north on the east side of a main highway within the limits of a "Y" intersection of such highway with a side road at the right, thereby obstructing traffic more than would ordinarily be the case because of bordering snowbanks, evidence that such parking caused the driver of truck A, approaching from the south, to apply his brakes and turn such truck partly into the side road at the right to avoid possible accident with a

truck approaching from the north, and that such acts of the driver of truck A in turn caused the driver of truck B, following from the south, to apply his brakes thereby resulting in such truck skidding into the path of the truck approaching from the north and the collision between such 2 last-mentioned vehicles, sustained the jury's finding that the negligence of the operator of the automobile as to parking was a natural cause of the collision, so that her negligence constituted a substantial factor in causing it. The intervening acts of the driver of truck A were a normal response to the situation created by the conduct of the operator of the automobile in negligently parking her car as she did, and the acts of such truck driver were not extraordinarily negligent, so that his acts did not constitute an intervening or superseding cause which prevented the negligence of the operator of the automobile from constituting a legal cause of the accident. Dombrowski v. Albrent Freight and Storage Corp. 264 W 440, 59 NW (2d) 465.

Negligent acts of the driver of the automobile which collided with the overturned tractor-trailer unit were held not an intervening or superseding cause which insulated any negligence of the operator of the tractor-trailer as a cause of the collision. Olson v. Milwaukee Automobile Ins. Co. 266 W 106, 62 NW (2d) 549, 63 NW (2d) 740.

In a complaint in an action for injuries sustained in a collision at a highway intersection, allegations merely that the driver of a truck was negligent in parking "adjacent" to a corner of the intersection in such position as to obscure the vision of the drivers of the vehicles involved in the collision, was subject to general demurrer as failing to show that the truck was parked in violation of the statute and as failing to state any breach of duty which the driver of the truck owed to users of the adjacent highways. Lawrence v. E. W. Wylie Co. 267 W 239, 64 NW (2d) 820.

Where the driver of a tractor-trailer unit attempted to turn around on a highway by backing into a farm driveway, but during such turning operation the vehicle became stalled across the highway in such a manner that it could not be removed except by means of a wrecker, it was a "disabled" vehicle within the meaning of (8), so that the provisions of (1) against parking, stopping, or leaving a vehicle on the highway, etc., were inapplicable. Jennings v. Mueller Transportation Co. 268 W 622, 63 NW (2d) 565.

The evidence was insufficient to raise a jury question as to the negligence of the driver of the stalled truck in leaving the truck standing on the roadway but leaving a clear and unobstructed width of more than 15 feet on the opposite side of the roadway for the passage of traffic. Szymon v. Johnson, 269 W 153, 69 NW (2d) 232, 70 NW (2d) 2.

Evidence presented a jury question as to whether defendant violated (1) in parking car on highway when it was practical to park off the roadway. Ryan v. Cameron, 270 W 325, 71 NW (2d) 408.

(4) (h) construed. Meaning of "entrance" discussed. 39 Atty. Gen. 24.

85.20 What to do on approach of emergency vehicles. (1) **VEHICLES.** Upon the approach of any authorized emergency vehicle giving audible signal by siren, the operator of every other vehicle shall immediately operate the same to a position as near as possible and parallel to the right-hand edge or curb of the roadway, clear of any intersection of highways, and shall stop and remain in such position unless otherwise directed by a traffic officer, until such authorized emergency vehicle shall have passed.

(2) **STREET CARS.** Upon the approach of any authorized emergency vehicle giving audible signal by a siren, the operator of every street car shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle shall have passed, unless otherwise directed by a traffic officer.

85.21 Following emergency vehicle prohibited. It shall be unlawful for the operator of any vehicle other than one on official business to follow any authorized emergency vehicle in response to a call or alarm, closer than five hundred feet, or to drive into or

park any such vehicle within the block where fire apparatus has stopped in response to an alarm.

85.215 Rent-a-car, indemnity bond. (1) No person shall for compensation rent any motor vehicle to be operated by or with the consent of the person renting the same, unless there shall be filed with the motor vehicle department a good and sufficient bond or policy of insurance or certificate issued by a company or exchange organized under the laws of this state, or duly authorized to transact business therein, which shall provide that the company or exchange issuing the same shall be liable for damage for injury or for damage due to death or damage to property, caused by the negligent operation of such motor vehicle, in amounts not less than the following: \$10,000 because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, \$20,000 because of bodily injury to or death of 2 or more persons in any one accident, and \$5,000 because of injury to or destruction of property of others in any one accident.

(2) Any person, firm or corporation failing to comply with the provisions of this section shall be directly liable for all damages to persons or property caused by the negligence of the person operating such rented vehicle, to the extent that such liability could be established if this section had been complied with.

History: 1955 c. 316.

85.216 Liability for damages by foreign rent-a-cars. (1) Whenever any motor vehicle rented for compensation outside the state shall be operated in this state, the lessor of such motor vehicle shall be directly liable for all damages to person or property caused by the negligent operation of such rented vehicle, unless at the time when said injury or damage occurs the operation of the motor vehicle is effectively covered by a policy of insurance which shall provide that the insurer shall be liable for said damages to all persons suffering personal injury or death as a result of said negligence in an amount not less than \$10,000 for any one accident, and, subject to said limit for one person, in the amount not less than \$20,000 because of bodily injury to or death of 2 or more persons in any one accident, and for all of said damages to or destruction of property caused by such negligence not exceeding \$5,000 in any one accident. The amount of liability imposed upon the lessor by this section shall not exceed \$10,000 for personal injury or death in any one accident, or, subject to said limit for one person, in the amount of not exceeding \$20,000 because of bodily injury to or death of 2 or more persons in any one accident, or not exceeding \$5,000 for damage to or destruction of property in any one accident. The fact that the rented vehicle is operated in this state contrary to any understanding or agreement with the lessor shall not be a defense to any liability imposed by this section.

(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 legal process in any legal action or proceeding against said lessor or his executor, administrator, personal representative, successor 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 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 legal process shall be made on the commissioner of the motor vehicle department in the same manner as provided in section 85.05 (6). Nothing contained in this section shall be deemed to negative the right to serve legal process on a nonresident operator of said rented motor vehicle as provided in section 85.05 (6) and (7).

History: 1951 c. 261 s. 10; 1955 c. 316.

85.22 Conduct at safety zones. (1) **DRIVING THROUGH SAFETY ZONES PROHIBITED.** The operator of any vehicle shall not at any time operate through or over a safety zone when such safety zone is clearly indicated.

(2) **PASSING SAFETY ZONES.** The operator of any vehicle may pass on either side of a safety zone upon those highways having two street railway tracks, or upon one-way highways.

85.23 Vehicles not to be driven upon sidewalk or sidewalk area. The operator of a vehicle shall not operate his vehicle upon any sidewalk area except at a permanently or temporarily established driveway, unless permitted to do so by the local authorities.

85.24 Races, speed or endurance contests prohibited. No person shall participate in any race or speed or endurance contest with a motor vehicle upon any highway.

85.25 Driving through funeral processions prohibited. It shall be unlawful for the operator of any vehicle or street car to operate a vehicle between the vehicles comprising a funeral procession as provided in subsection (6) of section 85.18, except when authorized to do so by a traffic officer.

85.26 Use of coasters, roller skates, and similar devices restricted. It shall be unlawful for any person upon roller skates or riding in or on a roller coaster, toy vehicle, hand sled, toboggan or similar device to go upon any roadway except while crossing a roadway at a crosswalk.

85.27 Clinging to moving vehicles. It shall be unlawful for any person riding upon a bicycle, motor cycle, coaster sled, roller skates, toboggan, toy vehicle or any other similar vehicle or device to cling to or attach himself or his vehicle to any other moving vehicle or street car upon a highway.

85.28 Operating on street car tracks. (1) **MID-BLOCK.** It shall be unlawful for the operator of any vehicle proceeding upon any street car tracks in front of a street car, upon any highway, to fail to remove such vehicle from the tracks as soon as practicable after signal from the street car operator.

(2) **INTERSECTION.** When a street car has started to cross an intersection, it shall be unlawful for the operator of any vehicle to operate upon or across the car tracks within the intersection in front of the street car.

85.29 Throwing or placing missiles or circulars in vehicles prohibited. No person shall throw any missile, circulars or pamphlets at the occupants of any vehicle or throw or place any missile, circular or pamphlet in or on any vehicle whether the vehicle is occupied or not.

85.30 Placing debris upon highways prohibited. (1) It shall be unlawful for any person to place or cause to be placed upon a highway any foreign substance which is or may be injurious to or damaging to any vehicle or any part thereof.

(2) It is unlawful for any person to throw or deposit any type of debris or waste material on or along any highway.

History: 1955 c. 696 s. 22.

85.31 Limitations on backing. The operator of a vehicle shall not back the same unless such movement can be made in safety, and it shall be unlawful for any operator to back his vehicle into an intersection of highways upon which complete turns are prohibited, for the purpose of making such complete turn.

85.32 Distance between vehicles. (1) **FOLLOWING TOO CLOSELY.** The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the highway. The provisions of this subsection shall not prevent overtaking and passing nor does it apply to funeral processions.

(2) **DISTANCE BETWEEN SLOW MOVING VEHICLES.** The operator of any motor truck with gross weight over 10,000 pounds, or the operator of any motor vehicle which is drawing or towing another vehicle where the combined gross weight is over 10,000 pounds and operating upon a highway outside of a business or residence district shall keep the unit he is operating at a distance of not less than 500 feet to the rear of any vehicle immediately preceding it being driven in the same direction. The provisions of this subsection shall not prevent overtaking and passing nor shall the same apply upon any lane especially designated for use by truck and tractor-trailer units.

History: 1951 c. 87; 1953 c. 525.

In an action for injuries sustained when a hearse at the head of a funeral procession came to a stop on the highway, and the second, third and fifth following cars came to a stop without contacting the vehicles respectively ahead of them, but the fourth following car, in which the plaintiff was riding, failed to stop and collided with the rear of the third following car, the evidence established that the stopping of the hearse on the highway, without leaving the required statutory clearance for other vehicles to pass, was not a proximate cause of the collision of the fourth following car with the third following car, and that the negligence

of the driver of the fourth following car as to lookout, following too closely and management and control was an intervening and the sole cause of such collision. *Retzlaff v. Soman Home Furnishings*, 260 W 615, 51 NW (2d) 514.

It is the duty of the driver of a following car, under circumstances where he has ample opportunity to do so, to have his car under such control or to maintain such a distance behind the preceding vehicle as will enable him to stop his car and avoid a collision. *Phillips v. Haring*, 262 W 174, 54 NW (2d) 200.

85.33 Trucks to display signals while being towed. All trucks, while being towed upon any highway, shall display a red flag from the rear during the daylight hours.

85.34 Obstruction of operator's view or driving mechanism. (1) **ILLEGAL TO OPERATE SUCH VEHICLE.** It shall be unlawful for the operator of any vehicle to operate the same when it is so loaded or when there are in the front seat such a number of persons, or any person so situated, as to obstruct the view of the operator to the front or to the sides, or to interfere with the operator having free use of both hands and feet to the operating mechanism or controls of the vehicle.

(2) **ILLEGAL RIDING.** It shall be unlawful for any passenger in a vehicle or street car to ride in such a position as to interfere with the operator's view ahead or to the sides or to interfere with the operator's control of the operating mechanism of the vehicle.

(3) **ONE ARM DRIVING.** No person while operating a motor vehicle shall be so engaged as to interfere with the safe operation of such vehicle.

(4) **TELEVISION EQUIPMENT.** No person shall drive any motor vehicle equipped with any television viewer, screen or other means of visually receiving a television broadcast which is located in the motor vehicle at any point forward of the back of the driver's seat, or which is visible to the driver while operating the motor vehicle.

Under allegations in a complaint that the plaintiff was driving the defendant's automobile with the defendant sitting in the front seat beside him, that the plaintiff although making "some protest," made an observation into the back seat and allowed the defendant to assume the steering responsibility of the car at the insistence of the defendant, and that during such time the defendant also looked into the back seat and thereby lost control of the car so that it left the highway and turned over, the plaintiff assumed the risk and hence stated no cause of action against the defendant for the injuries sustained. *Groshek v. Groshek*, 263 W 515, 57 NW (2d) 704.

85.35 Windshields and windows. (1) **SIGNS ON WINDSHIELD AND WINDOWS PROHIBITED.** It shall be unlawful for any person to operate any vehicle upon a highway with any sign, poster or other nontransparent material upon the front windshield, side wings, side or rear windows of such motor vehicle other than a certificate or other paper required to be so displayed by law.

(2) **WINDSHIELD WIPERS, MOTOR VEHICLES TO BE EQUIPPED WITH.** Every windshield on a motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield and such device shall be so constructed as to be controlled or operated by the operator of the vehicle.

(3) **WINDSHIELD AND WINDOWS TO BE KEPT CLEAN.** The windshield, side wings and windows of all motor vehicles shall be kept reasonably clean at all times.

85.355 Certain coloring prohibited. No owner of any vehicle using the public highway for purposes other than the transportation of school children shall paint or in any way designate his vehicle in the manner described in s. 40.59. Any person, firm or corporation violating this section is guilty of a misdemeanor and shall be punished by a fine not to exceed \$100 or by imprisonment in the county jail not to exceed 30 days, or by both such fine and imprisonment.

85.36 Use of mufflers. (1) Every motor vehicle subject to registration and operated on a highway shall at all times be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise or annoying smoke, and no such muffler or exhaust system shall be equipped with a cutout, by-pass or similar device, nor shall there be installed in such system a device to ignite exhaust gases to produce flame within or outside of the exhaust system. No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle, above that emitted by the muffler originally installed on the vehicle and such original muffler shall comply with all of the requirements of this section.

(2) As used in this section, "muffler" means a device consisting of a series of chambers of baffle plates or other mechanical design for the purpose of receiving exhaust gas from an internal combustion engine and which is effective in reducing noise.

History: 1955 c. 538.

85.37 Sale of illegal devices. No person shall sell any device, appliance, accessory or replacement part for a motor vehicle the use of which on a motor vehicle is unlawful.

History: 1955 c. 538.

85.38 Spilling loads. No vehicle shall be operated or moved on any highway unless such vehicle is so constructed and loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom.

85.39 Illegal riding. (1) **UNLAWFUL TO OPERATE VEHICLE WITH PERSONS ON OUTSIDE OF VEHICLE.** It shall be unlawful for the operator of any vehicle to operate the same when any person is upon any portion thereof not designed or intended for the use of passengers when such vehicle is in motion.

(2) **UNLAWFUL TO RIDE ON OUTSIDE OF VEHICLE.** It shall be unlawful for any person to ride on any street car or vehicle upon any portion thereof not designed or intended for the use of passengers when the vehicle is in motion. This provision does not apply to an employe engaged in the necessary discharge of his duty nor to persons riding within truck bodies in space intended for merchandise.

(3) **LEADING ANIMALS FROM MOTOR VEHICLES PROHIBITED.** It shall be unlawful for any person to lead any animal upon a highway from a motor vehicle, trailer or semitrailer.

A bicycle is a "vehicle" within the meaning of (1) and the bicyclist, in carrying a passenger on a bicycle designed for only one person, violated such statute and was negligent per se, but it was for the jury to say whether such negligence was a proximate cause of the collision, if a question thereon had been requested and submitted to the jury. Where no such question was requested or submitted, a finding by the jury thereon was waived under 270.28 and it will be deemed that the trial court, by ordering judgment on the verdict, found in favor of the bicyclist thereon. *Miller v. Keller*, 263 W 509, 57 NW (2d) 711.

85.395 Reckless driving. It is unlawful for any person to endanger the safety of his own person or property or the safety of another's person or property by a high degree of negligence in the operation of a vehicle.

History: 1953 c. 525.

85.40 Speed restrictions. (1) Except as otherwise provided in this section, the speed of any vehicle shall not be in excess of the following:

(a) 25 miles per hour in any business or residence district.

(b) 35 miles per hour in outlying districts within any city, village or unincorporated village where on each of both sides of the highway there is an average distance of not less than 500 feet between buildings fronting thereon.

(c) 15 miles per hour when passing a schoolhouse at those times when children are going to or from school or are playing within the sidewalk area at or about the school.

(d) 15 miles per hour when passing an intersection properly marked with a "School Crossing" sign of a type approved by the state highway commission when children are crossing or are about to cross the highway.

(e) 15 miles per hour when passing a safety zone.

(g) 55 miles per hour during nighttime except as provided in (i).

(h) 65 miles per hour except as provided in (i).

(i) 45 miles per hour for any commercial vehicle or combination of commercial vehicles, except busses, having a gross weight of more than 10,000 pounds.

(2) (a) No person shall operate a vehicle at a speed greater than is reasonable and prudent under conditions and having regard for the actual and potential hazards then existing and the speed of the vehicle shall be so controlled as may be necessary to avoid colliding with any object, person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and using due care.

(b) The operator of every vehicle shall, consistent with the requirements of paragraph (a), operate at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, when passing school children or other pedestrians, and when special hazard exists with regard to other traffic or by reasons of weather or highway conditions.

(c) The speed of all vehicles equipped with metal or solid rubber tires shall not exceed 15 miles per hour.

(3) (a) Whenever the state highway commission with respect to the state trunk highway system, or the local authorities with respect to highways under their jurisdiction, shall determine upon the basis of an engineering and traffic investigation that any speed limit hereinbefore set forth, except in sub. (1) (c) to (e), or the actual speed of vehicles on such highways, is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a highway, said commission with respect to the state trunk highway system or local authorities with respect to highways under their jurisdiction may determine and declare a reasonable and safe speed limit thereat, which shall not exceed the limits set forth in sub. (1) (g) and (h), and which shall be effective at all times, or at such times as may be determined and indicated by appropriate signs giving notice thereof. The speed limits determined as the result of such engineering surveys shall be applicable to not more than 2,000 miles of state trunk highways. The first mile outside of and immediately adjacent to any incorporated municipality shall not be counted in computing such 2,000 miles.

(b) Local authorities may increase speed limits as provided by this section, but may not decrease speed limits set forth in subsection (1) (a), (b), nor increase the speed limits set forth in subsection (1) (g) and (h), nor establish speed limits at any location set

forth in subsection (2) without the approval of the state highway commission, nor shall signs giving notice thereof be erected before such approval.

(c) All speed limit signs erected under the provisions of this section shall be of a type approved by the state highway commission.

(d) No liability shall attach to the state highway commission nor to the local authorities by reason of the posting of a speed limit under this section, nor shall such posting constitute a guarantee that it is reasonable and safe under all conditions.

(f) Local authorities shall place and maintain upon all highways where the permissible speed is increased or decreased by them in the manner provided in this subsection, standard signs giving notice of such speed.

(g) For the purposes of this section, the term local authorities shall mean county boards with respect to county trunk highways, town boards with respect to town highways, village boards with respect to village streets and city councils with respect to city streets.

(4) (a) The sheriff, chief of police or clerk of the court having jurisdiction of violations of this section is authorized to receive at his office from any person who shall have been accused of violation of this section or any county, city or village ordinance enacted by authority of chapter 85, and who has been arrested therefor, a deposit in money not to exceed the amount of the maximum penalty, the imposing of which in such case may be authorized, and to release such person from arrest until the opening of the court having jurisdiction of such violation on the next succeeding day when such court may be in session, or until a time which may be fixed for the hearing of the case.

(b) In case the person so arrested and released shall fail to appear, personally or by an authorized attorney or agent, before said court at the time fixed for the hearing of the case, then the money deposited with the sheriff or clerk shall be retained and used for the payment of the penalty, which may be imposed after an ex parte hearing upon such person so arrested and depositing the same, together with the costs; and the surplus, if any there be, shall be refunded to the person who made such deposit upon his application; in case such person is acquitted, then the whole amount of such deposit shall be refunded to said depositor upon application.

(c) The provisions of paragraphs (a) and (b) shall not be construed so as to make the county or municipality in any case liable for the whole or any part of the money deposited with such sheriff, chief of police, or clerk of court.

(5) The speed limitations set forth in this section shall not apply to authorized emergency vehicles when responding to emergency calls and the operators thereof sound audible signal by siren or exhaust whistle, and when such emergency vehicle is equipped with at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle. This provision shall not relieve the operator of an authorized emergency vehicle from the duty to operate with due regard for the safety of all persons using the highway, nor shall it protect the operator of any such vehicle from the consequence of a reckless disregard of the safety of others.

(6) No person shall operate a vehicle upon any highway at a speed so slow as to impede or block the reasonable and lawful movement of traffic. If the operator of the overtaking vehicle gives audible warning with his warning device, the operator of the slow-moving vehicle shall if practicable yield the roadway to the overtaking vehicle. Traffic officers may direct such a person to move at a reasonably increased speed or to yield the roadway to overtaking vehicles in accordance with s. 85.12.

History: 1951 c. 100, 652, 692; 1953 c. 180; 1955 c. 10, 395.

Evidence that the defendant motorist was familiar with the highway and a curve where her car struck the pedestrian walking on the right shoulder of the highway, that the defendant speeded up her car as it rounded the curve and proceeded upgrade, that she had sufficient vision ahead on rounding the curve, and that she swung to her right instead of going straight ahead, together with other evidence, supported the jury's findings that she was causally negligent as to speed, lookout, and management and control. *Schoenberg v. Berger*, 257 W 100, 42 NW (2d) 466.

In an action for injuries sustained in a collision between a westbound automobile and an eastbound automobile making a left turn to enter a farm driveway, wherein the jury found that the westbound motorist was not negligent as to lookout nor as to management and control, evidence as to the manner in which the eastbound motorist made his left turn and as to the distance

between his car and the oncoming westbound car would not sustain the jury's finding that the westbound motorist was causally negligent as to speed on the theory that such motorist, although driving at a prudent and reasonable rate of speed until the eastbound car invaded his lane of travel, was negligent thereafter in failing to reduce his speed sooner than he did. *Mezera v. Palmeyer*, 258 NW 229, 45 NW (2d) 620.

Where the jury found the plaintiff driver negligent as to speed only, and found that such speed was not an efficient cause which produced the collision with the car driven by the defendant, but the jury nevertheless apportioned 20 per cent of the combined negligence of the parties to the plaintiff, the verdict was inconsistent and a new trial is required. *Mitchell v. Williams*, 258 W 351, 46 NW (2d) 325.

Evidence that a motorist, when still 100 feet from a street intersection, observed that a truck was slowly entering it from the

right after having stopped for the stop sign, but that the motorist did not turn his car in an effort to avoid a collision, and was unable to stop in time although applying the brakes, supported the jury's findings that he was causally negligent as to management and control and as to speed. *Peter-son v. General Casualty Co.* 259 W 370, 48 NW (2d) 459.

If a motorist's vision is completely obscured, it is his duty to slow down or even stop until the cause of such obscured vision is at least in part removed. Where a motorist first became blinded by the bright headlights of an approaching truck when he was about 4 blocks away from a stalled vehicle partly on the roadway, and he nevertheless continued to proceed without reducing his speed of 50 miles per hour or taking any other steps for his own safety until after he had passed out of the blind area and first observed the stalled vehicle only 50 feet ahead of him, when it was too late for him to avert disaster, his causal negligence was at least as great, as a matter of law, as the causal negligence of the driver whose truck headlights had blinded him. *Quady v. Sickl*, 260 W 348, 51 NW (2d) 3, 52 NW (2d) 134.

The driver of a truck, who materially reduced his speed on entering an area covered by smoke which came from burning leaves and was so dense that his vision was completely obscured thereby, but who continued to drive with his vision thus obscured and turned into an alley where the truck struck a city employe engaged in stirring burning leaves at the curb, was causally negligent as to speed and as to management and control as a matter of law. (*Guderyon v. Wisconsin Telephone Co.* 240 W 215, applied.) *Cook v. Wisconsin Telephone Co.* 263 W 56, 56 NW (2d) 494.

Evidence that the defendant overtaking motorist continued on without reducing his speed of 40 to 45 miles per hour when he was blinded by the lights of an approaching car, and that he could have turned his car onto the right shoulder of the highway in time to avoid striking the preceding motor scooter when he did see it ahead of him, was sufficient to sustain the jury's findings that the defendant was negligent as to speed and as to management and control. *Johnson v. Sipe*, 263 W 191, 56 NW (2d) 852.

Under the evidence in an action for injuries sustained when the plaintiff's automobile collided at night with the left rear of an unlighted truck stopped with the left rear extending over the traveled portion of the highway, the plaintiff was negligent as a matter of law in failing to reduce her speed of 40 to 45 miles, except by releasing the accelerator to some extent, as she approached the point of collision partially blinded by the bright lights of an approaching car, but the comparison of her negligence with the negligence of the operator of the stopped truck was for the jury. *Schroeder v. Kuntz*, 263 W 590, 58 NW (2d) 445.

The provision in (2) (b), that the driver of a vehicle shall operate at an "appropriate reduced speed" when approaching an intersection, and when special hazard exists with regard to other traffic or by reasons of weather or highway conditions, does not require that the speed of a vehicle must be reduced when approaching an intersection no matter at what speed (under the maximum limit) the vehicle is being operated. In an action for injuries sustained in a collision between a northbound milk truck and an eastbound pickup truck at an intersection of straight, level, dry, nonarterial highways on a clear, sunny day, whether the speed of the northbound milk truck of 35 to 40 miles per hour, as it approached the intersection, was a reasonable and prudent speed and an appropriate reduced speed under the conditions then existing, and considering the hazard presented by a cornfield located at the southwest corner of the intersection, was a question for the jury under the circumstances presented in evidence. In order to take the question from the jury and hold that a person was negligent as a matter of law, the evidence must be such that no other conclusion can be

drawn. *Lake to Lake Dairy Co-operative v. Andrews*, 264 W 170, 53 NW (2d) 685.

The defendant motorist came up within 150 feet of the plaintiff's slowly moving, preceding car at a speed of 35 to 40 miles per hour on a black-top road slippery from snow and ice, and moved slightly toward the left lane of travel, intending to pass, when the plaintiff began to turn his car left at a private driveway without signal of intention to do so; the defendant then swung his car back into the right lane and put on the brakes while still traveling at such speed, and struck the plaintiff's car, which was back in the right lane. The trial court, after a special verdict finding the plaintiff 100 per cent causally negligent, properly held that the defendant was negligent as a matter of law in driving at a speed which made it impossible for him to slow or stop his car under the conditions then existing and avoid the collision, requiring a new trial, as against contentions that the defendant was a "passing" motorist as to whom rules as to the duties of a "following" motorist did not apply, and that the defendant was confronted with an emergency. *Zenner v. Fischer*, 264 W 393, 59 NW (2d) 435.

As to instruction under (2) (b) see note to 270.21, citing *Swanson v. Maryland Casualty Co.* 266 W 357, 63 NW (2d) 743.

The requirement of (2) (b) that a driver shall operate "consistent with the requirements of par. (a)" does not mean that he must reduce speed only when the driver on the intersecting road complies with requirements; it only means that the 2 paragraphs should be construed to make them compatible. *Roeske v. Schmitt*, 266 W 557, 64 NW (2d) 394.

Under evidence that the driver of a motor-transport carrier, approaching an intersection on an arterial highway and colliding with an automobile approaching on the intersecting nonarterial highway, had reduced his speed to no more than 35 miles per hour by the time he came to the front of a truck parked adjacent to the highway, that he made observation and saw the automobile approaching and that there was nothing about its speed or the manner in which it was being operated to give him reason to believe that it was not going to stop at the arterial, he was not negligent as a matter of law in allegedly violating (2) (a), (b), but the question of his negligence was for the jury. *Lawrence v. E. W. Wylie Co.* 267 W 239, 64 NW (2d) 820.

Under (2), each approaching driver, familiar with the limited roadway, limited visibility on the curve, and slippery conditions, was required to operate his vehicle, under the circumstances known to him, with proper regard for the hazards then existing, so that his speed would be sufficiently controlled to avoid a collision. *Thelen v. Machotka*, 268 W 1, 66 NW (2d) 684.

In an action for the death of the driver of a truck who was struck by a following automobile while he was attempting to push his truck stalled on the highway, it was for the jury to decide whether the speed of the following driver at 50 miles per hour was negligent in the face of whatever reduction in visibility might have been caused by the lights of oncoming cars, there being no evidence that he was blinded by their lights, and speed being held negligent as a matter of law only where the driver's vision has been blinded, dazzled, obscured, or obstructed. *Szymon v. Johnson*, 269 W 153, 69 NW (2d) 232, 70 NW (2d) 2.

Negligence as to speed under (2) (a) and (b) is generally a question for the jury, but there must be evidence that such speed has a bearing on the driver's ability to control his vehicle. *Bachmann v. Bollig*, 270 W 32, 70 NW (2d) 216.

The maximum speed of 55 miles per hour for motor vehicles operating in the nighttime is effective during the period beginning one hour after sunset and ending one hour before sunrise of the following day. 370.015 controls. 38 Atty. Gen. 466.

A municipality may not establish a maximum speed limit of lower than 25 miles per hour on a roadway within a municipal

park without the approval of the highway commission. 39 Atty. Gen. 454. See note to 354.42, citing 41 Atty. Gen. 166.

85.41 Speed limitations on bridges and viaducts. (1) **SPEED LIMITATIONS ON BRIDGES, CAUSEWAYS, VIADUCTS OR STRUCTURES.** The state highway commission upon request from any county highway committee or local authority shall, or it may upon its own initiative, conduct an investigation of any bridge, causeway, viaduct or structure or any highway, and if it shall thereupon find that such structure cannot with safety to itself withstand vehicles traveling at the speeds otherwise permitted under this section, the commission shall determine and declare the maximum speed of vehicles which such structure can withstand and shall cause or permit warning signs stating such maximum speed to be erected and maintained at a suitable distance before each end of such structure. The findings and determination of the commission shall be conclusive evidence of the maximum speed which can be maintained with safety to any such structure.

(2) **UNLAWFUL TO EXCEED SPEED LIMITATIONS ON BRIDGES, CAUSEWAYS, VIADUCTS OR STRUCTURES.** It shall be unlawful to operate any vehicle upon any structure mentioned in subsection (1) at a speed which is greater than the maximum speed which can be maintained with safety thereto when such structure is sign-posted as provided in said subsection.

History: 1951 c. 79.

85.44 Pedestrian regulations. (1) **PEDESTRIAN RIGHT OF WAY.** The operator of any vehicle shall yield the right of way to a pedestrian crossing the highway within any marked or unmarked crosswalk at an intersection except at those intersections where the movement of traffic is being regulated by traffic officers or traffic control signals.

(2) **PEDESTRIAN RIGHTS AND DUTIES AT CONTROLLED INTERSECTIONS.** At intersections where traffic is controlled by traffic control signals or by traffic officers, operators of vehicles shall yield the right of way to pedestrians crossing or those who have started to cross the highway on a green or "GO" signal and in all other cases pedestrians shall yield the right of way to vehicles lawfully proceeding directly ahead on a green or "GO" signal.

(3) **PEDESTRIANS ON DIVIDED HIGHWAYS.** Upon the intersections of divided highways, or highways provided with safety zones where in either case, traffic is controlled by traffic control signals or by traffic officers, the pedestrian shall have the right of way only on that portion of the highway between the highway limits and the spaces not used by traffic or safety zone.

(4) **PEDESTRIAN RIGHT OF WAY FORFEITED WHEN JAY WALKING.** Every pedestrian crossing a highway at any point other than a marked or unmarked crosswalk shall yield the right of way to vehicles upon the highway.

(5) **PEDESTRIANS ON SIDEWALKS.** Pedestrians upon any sidewalk shall have the right of way over all vehicles crossing such sidewalk.

(6) **PEDESTRIANS TO WALK ON LEFT SIDE OF HIGHWAY.** Pedestrians using those highways not provided with sidewalks shall travel on and along the left side of such highway and the pedestrian, upon meeting a vehicle shall, if practicable, step to the extreme outer limit of the traveled portion of the highway.

(7) **SOLICITING RIDES UNLAWFUL.** It shall be unlawful for any person to be in the roadway for the purpose of soliciting a ride from the operator of any private vehicle.

(8) **ALIGHTING FROM OR BOARDING MOVING STREET CARS OR VEHICLES PROHIBITED.** It shall be unlawful for any person to alight from or board any street car or vehicle when such street car or vehicle is in motion.

(9) **STANDING OR LOITERING ON ROADWAY PROHIBITED.** No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.

(10) **BLIND PEDESTRIANS.** (a) No person, not wholly or partially blind, shall carry or use on any street, highway or public place any cane or walking stick which is white in color, or white trimmed with red.

(b) Every operator of a vehicle, before approaching within 10 feet of a pedestrian carrying such a cane or walking stick held in an extended or raised position, shall immediately come to a complete stop and take such precaution as may be necessary to avoid accident or injury to such pedestrian.

(c) Nothing in this subsection shall be construed to deprive any totally or partially blind person, not carrying such cane or walking stick, of the rights of other pedestrians crossing highways, nor shall the failure of such totally or partially blind pedestrian to carry such cane or walking stick be evidence of any negligence.

(11) LOCAL CONTROL. Cities of the first, second and third classes may enact ordinances regulating traffic of pedestrians upon highways.

The negligence of the defendant driver did not affect the absolute duty of the pedestrian to yield the right of way when crossing the street at a point other than a crosswalk. *Ninneman v. Schwede*, 258 W 408, 46 NW (2d) 230.

Under the evidence in an action for the death of a pedestrian crossing a north-south highway from the west when struck by the right front fender of a truck approaching from the south, the jury could find that the truck driver was causally negligent as to management and control, and that the pedestrian was causally negligent in the manner in which he crossed the roadway and in failing to yield the right of way, and that 90 per cent of the total causal negligence was attributable to the truck driver and 10 per cent to the pedestrian. *Johnson v. Viebrock*, 263 W 284, 57 NW (2d) 337.

A driver who has been towing another car who goes back to stand beside it to talk

to its driver does not violate (9) as a matter of law and the question should be submitted to the jury. *Giessel v. Mutual Service Casualty Ins. Co.* 265 W 450, 61 NW (2d) 859.

Under (4) a pedestrian who was jay-walking when struck by an automobile was negligent as a matter of law in respect to yielding the right of way, although the automobile was traveling astraddle the center line of the street at the time of the impact. *Bassil v. Fay*, 267 W 265, 64 NW (2d) 826.

Evidence sustained jury finding as to negligence of decedent in failure to yield right of way when crossing country highway. *Cherney v. Holmes*, 185 F (2d) 718.

Plaintiff struck on edge of concrete roadway as he was about to step off after crossing at point where there was no marked sidewalk had failed to yield right of way and was negligent as matter of law. *Lang v. Rogney*, 201 F (2d) 88.

85.445 Mobile homes; width, length, height and special permit. It shall be unlawful for any person to operate a towing vehicle, having attached a mobile home in excess of 45 feet and having a combined length of over 60 feet, a realistic body width of over 8 feet and a height of over 12½ feet on the highways of this state, except that it shall be unlawful to operate a towing vehicle having attached a mobile home having a combined length in excess of 45 feet during the hours of 12:00 noon to 12:00 midnight on Sundays, New Year's, Memorial, Independence, Labor, Thanksgiving and Christmas days, and except that the state highway commission may issue annual state-wide permits for the movement of mobile homes in excess of the legal size to licensed mobile home transport companies, licensed mobile home manufacturers and dealers and in the ordinary course of their business and may issue special permits for a single trip for the movement of over-size mobile homes to owners of mobile homes, but any permits shall be issued only upon condition that the permittee comply with standard requirements, limitations, and other criteria generally required by s. 85.53, with the objective of obtaining the result in the operation of any mobile home under permit in a manner which will not impede major traffic on the highways and with safety in the movement of any mobile home as it may affect other users of the highways and only between sunrise and sunset on days other than Saturday, Sunday and holidays, and over such roads as are approved by said authorities. No single trip permit for the movement of an overwidth mobile home shall be granted to the owner thereof unless provision has been made for surveillance of such movement by a traffic officer.

History: 1953 c. 563; 1955 c. 306.

85.45 The size, weight, construction and equipment of vehicles. (1) SCOPE AND EFFECT OF REGULATIONS IN THIS SECTION. The maximum limitations on width, length, height and weight of vehicles, imposed in this chapter, shall apply to the vehicle and load. It shall be unlawful for any person to operate or move or for the owner to cause or permit to be operated or moved on any highway any vehicle of a size or weight so loaded that the combination of vehicle and load shall exceed the limitations stated in this chapter or any vehicle which is not constructed or equipped as required by this chapter or by the rules and regulations adopted pursuant thereto; and the maximum size and weight of vehicles specified in this chapter shall be lawful throughout this state and local authorities shall have no power or authority to alter said limitations except as express authority may be granted in this chapter.

(2) SIZE OF VEHICLES. (a) No vehicle including any load thereon shall exceed a total outside width of 8 feet, except that the width of a farm tractor shall not exceed 9 feet and that the limitations as to the size of vehicle stated in this section shall not apply to implements of husbandry temporarily propelled or moved upon the highway or to snowplows attached to motor vehicles normally used for the transportation of milk, which may be not to exceed 10 feet 6 inches in width, or to those vehicles operating under special permits issued in accordance with s. 85.53; and except further that such total width of motor trucks operated prior to July 1, 1929, on solid tires shall not exceed 8 feet 6 inches when equipped with dual pneumatic tires; and except further that the total width of urban passenger busses, busses operated as auxiliary to or as a part of a street railway system in counties of 500,000 population or more, trackless trolleys and passenger busses operated within or between counties of 500,000 or more and counties contiguous thereto, shall not exceed 8 feet 8 inches, and the total width of load of tie logs, pulp wood slabs and unplanned dimension material cut therefrom shall not exceed 8 feet 6 inches.

(b) The over-all length of a vehicle shall not exceed 35 feet except that busses shall

not exceed 40 feet. The over-all length of a semitrailer shall be measured from the rear thereof to the rear of the vehicle to which it is attached.

(c) No motor vehicle shall be driven upon any highway drawing or having attached thereto more than one other vehicle except that 2 vehicles may be drawn or attached when such vehicles are being transported by the drive-away method in saddlemount combination, and in no case shall the over-all length of such combination of vehicles exceed 50 feet except as provided in sub. (3) and except that a mobile home shall not exceed 45 feet in length nor 60 feet in combination.

(d) The maximum over-all height of any motor vehicle, trailer or semitrailer shall not exceed 12½ feet or when auto carriers, commonly known as "drive aways", specially constructed to carry and transport motor vehicles 13½ feet, except as provided by s. 85.53. The limitation of total height in this paragraph shall not be construed as requiring a clearance of such height or as relieving the owners of vehicles not exceeding such total height from liability for any damage.

(3) PERMITS FOR TRAILER TRAINS. The commissioner of public works of any city of the first class or in other units of government the officer in charge of the maintenance of the highway desired to be used, is authorized to issue permits for the operation of trains consisting of truck tractors, tractors, trailers, semitrailers or wagons when such train does not exceed a total length of 100 feet on such highways as may be designated in the permit. When highways outside of the corporate limits of cities and villages are used, such permit shall have the approval of the state highway commission. Whenever a trailer train operating under this subsection or under a special permit crosses an intersection of an artery for through traffic or a street railway, such intersection shall be flagged. Trailers used primarily as implements of husbandry in connection with seasonal agricultural activities may, without a permit, be operated in a train consisting of not more than 2 trailers, or one trailer and any other implement of husbandry, plus a farm tractor, provided that such operations are not for the transportation of property for hire and are performed exclusively as a farming operation, and that the overall length does not exceed 55 feet.

(4) EQUIPMENT FOR TRAILER TRAINS. Trains operating under sub. (3) shall carry in addition to the lights prescribed by s. 85.06 and by the existing ordinances of the municipalities in which they are operating, a red light or approved reflective signal on each side of each trailer so placed as to make the trailer visible from all sides. On the rear vehicle of trains there shall be displayed a red flag, at least 12 inches square, on each rear corner, and when crossing a public highway with such train the operator thereof shall place a like flag along the roadside at points approximately 125 feet in each direction from the place of such crossing. Units operating under sub. (3) shall comply with s. 85.56 and in addition hitches shall be of positive nature so as to prevent accidental release.

(5) INFLAMMABLE LIQUIDS, TRANSPORTATION. It shall be unlawful to transport in or on any motor vehicle, trailer or semitrailer upon the public highways any gasoline, naphtha, benzine, fuel oil, crude oil, kerosene or other inflammable liquids, which are herein defined as any liquid which gives off inflammable vapors as determined by flash point by Tagliabue's open cup tester, as used for tests of burning oils at or below a temperature of 80 degrees Fahrenheit, except by tank mounted on, or attached to, or structurally a part of, a motor vehicle, trailer or semitrailer plainly marked so as to show that inflammable substances or liquids are being transported therein. This subsection shall not apply to transportation by the consumer of the liquids here referred to, as freight only, from the place of purchase to the place of consumption, provided such liquids are transported in drums or other containers having a capacity of not more than 100 gallons each, and provided further that the total amount of said liquids so transported in said drums or containers in any one vehicle or combination of vehicles, shall not exceed 500 gallons.

(6) REAR FENDERS OR MUD GUARDS. No person shall operate a privately owned straight truck or semitrailer drawn by a truck tractor in intercity movement, except when equipped with dump bodies, upon the public highways of this state unless the same is equipped with rear fenders capable of restricting to a minimum the splashing of water, mud and other matter upon the windshields of following vehicles or, in lieu of such fenders, with mud guards constructed and placed to serve the same purpose. To effectuate the purposes of this section, the motor vehicle department shall promulgate rules by September 1, 1953, prescribing standards for adequate rear fenders and for the construction, design and installation of suitable mud guards and shall publish such rules in pamphlet form. Whoever violates this section or any rule implementing it shall be punished as provided by s. 85.91 (1).

History: 1951 c. 103, 591, 650; 1953 c. 18, 389, 472, 572, 631, 680; 1955 c. 327, 624.

Where by use of a motor truck or a farm for delivery to the purchaser, the trailer, a dealer transports new farm ma- motor truck or trailer used to transport chinery from his place of business to a same does not thereby become an "imple-

ment of husbandry." Accordingly, such dealer must observe the width limitation of 8 feet imposed by 85.45 (2) (a). If the cargo of farm machinery extends beyond the statutory width limitation, the carrier must obtain a special permit under 85.53. 44 Atty. Gen. 103.

85.46 Gross weight of vehicles. (1) CLASSIFICATION OF HIGHWAYS FOR VEHICLES. The highways maintained by counties, in so far as the limitations upon the use of vehicles upon such highways are concerned, shall be divided into class "A" and class "B." State trunk highways and connecting streets shall be designated class "A."

(2) AUTHORITY TO CLASSIFY HIGHWAYS. The class into which any portion of highway maintained by a county shall fall shall be determined by the county highway committee if said portion is a part of a highway not a United States or state highway but maintained by the county; by the local authorities if said portion is a part of a highway maintained by a municipality over which is routed a United States, state or county highway.

(3) MAP OF HIGHWAY CLASSIFICATIONS. The state highway commission shall cause to be prepared and published a map designating the classification of all United States and state highways as provided in subsection (1). Said maps shall be available for distribution on or before January 1 of each year.

History: 1951 c. 597.

Highways described in 85.46, as amended by ch. 597, Laws 1951, are class "A" highways for purposes of prosecution under 85.47 unless classified as "B" pursuant to authority conferred thereby upon local authorities. Classification of such highways as "A" is not dependent upon action by local authorities, but is deemed made by the legislature itself. Any contrary interpretation would be absurd, since it must be presumed that the legislature did not deliberately intend that such highways would be without any weight limitation whatsoever unless and until local authorities acted. Sole purpose of 85.46 is to permit local authorities, under certain circumstances, to reduce or make weight limitations more stringent. 40 Atty. Gen. 394.

85.465 Weight limitations apply to state, county and municipal vehicles. (1) Except when being used for the removal, treatment and sanding of snow or ice, and the vehicles included in sub. (2) and s. 85.10 (14), the term "vehicle" as used in ss. 85.47, 85.48, 85.53, 85.91 (2b) and 85.54 includes, among others, vehicles owned by the state, a county or municipality.

(2) State, county and municipal vehicles having a manufacturers gross vehicle weight rating, as established by the motor truck division of the automobile manufacturers' association, of 26,000 pounds and over may be operated for other purposes until July 1, 1958. Subsequent to July 1, 1958, the operation of such vehicles, except for the removal, treatment and sanding of snow or ice, or when used under authorization of s. 85.10 (14) or 85.53, shall comply with the provisions of ss. 85.47, 85.48 and 85.54 and shall be subject to the penalties as provided by s. 85.91 (2b)

History: 1953 c. 404.

85.47 Weight limitations on Class "A" highways. (1) (a) Every vehicle operated singly or in a combination of vehicles and every combination of vehicles operated on Class "A" highways in this state must comply with the provisions of this subsection. It is the intent of this subsection that for vehicles and combination of vehicles operated on Class "A" highways in the state the gross weight with load of any axle shall not exceed 18,000 pounds and the gross weight with load of any group of 2 or more axles shall not exceed 26,000 pounds plus 1,000 pounds for each foot of distance measured longitudinally to the nearest foot between the foremost and rearmost of the axles of the particular group under consideration. In recognition of practical operating problems of possible accumulation of weight of snow, ice, mud, dirt, tire chains, minor shifting of load in transport or all or any other reasons the maximum gross wheel and axle weight and gross weight of vehicle or combination of vehicles set forth in paragraphs (c) and (d) are maxima and include all tolerances allowable in enforcement and judging violation of the law.

(b) As used in this section, an axle is defined as including all wheels of a vehicle imposing weight on the highway, the centers of which are included between 2 parallel transverse vertical planes 40 inches apart, extending across the full width of vehicle and load.

(c) For enforcement purposes only and to provide for practical operating problems and tolerances of every nature, no summons or complaint shall be issued, served or enforced under paragraph (a) herein unless the gross weight imposed on the highway by the wheels on any one axle of a vehicle shall exceed 19,500 pounds. In no case shall the gross weight upon any one wheel, or multiple wheels, supporting one end of an axle and resting on the roadway exceed 10,000 pounds.

(d) For enforcement purposes only and to provide for practical operating problems and tolerances of every nature, no summons or complaint shall be issued, served or enforced under paragraph (a) herein unless the total gross weight with load imposed on the highway by any group of 2 or more consecutive axles of a vehicle or a combination of

vehicles, subject to the maximum load on any one axle as specified in paragraph (c), shall exceed that given for the respective distances in the following table:

Distances in Feet between First and Last Axles of Group under consideration	Maximum Allowed Load in Pounds on Group of Axles
4	32,000
5	32,000
6	32,000
7	33,000
8	35,000
9	37,000
10	38,000
11	39,000
12	43,000
13	44,000
14	45,000
15	46,000
16	47,000
17	48,000
18	49,000
19	50,000
20	51,500
21	52,000
22	52,500
23	53,000
24	53,500
25	54,000
26	54,500
27	55,000
28	56,000
29	57,000
30	58,000
31	59,000
32	60,000
33	61,000
34	62,000
35	63,000
36	64,000
37	65,000
38	66,000
39	67,000
40 and over	68,000

The distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half foot, the next larger whole number shall be used.

(2) Any city of the first class may by ordinance increase the maximum weight specified in this section which may be carried on any vehicle when operated on the streets of such city.

History: 1951 c. 437; 1953 c. 61.

In prosecutions for overloads on Class "A" highways, a stipulation of the parties stating that the alleged violations occurred on a street in a named village, constituting a part of the marked route of U. S. Highway 41, sufficiently showed, in view of various statutory provisions, that the violations occurred on a Class "A" highway. *State v. Seraphine*, 266 W 118, 62 NW (2d) 403.

(1) (a), (d) held constitutional. *State v. Seraphine*, 266 W 118, 62 NW (2d) 403.

The exceptions created by (3) and (4) (ch. 396, Laws 1949) of 85.47 and 85.48, af-

fording to dump body trucks and semitrailers and milk tank body trucks and semitrailers operating on Class "A" and Class "B" highways the right to carry heavier gross weight pay loads than heretofore permitted, do not destroy or modify the single axle weight limitations imposed by (1) of said sections. 38 Atty. Gen. 616.

County employes engaged in the maintenance of the county trunk system are not bound, when carrying out that duty, by the statutes relating to weight limitations on the highways of the state. 41 Atty. Gen. 65.

85.48 Weight limitations on Class "B" highways. (1) No vehicle or combination of vehicles shall be operated upon Class "B" highways of this state with gross weights exceeding the following limitations: The gross weight on any axle shall not exceed 12,000 pounds. The gross weight on any 2 or more axles shall not exceed 16,000 pounds plus 600 pounds for each foot of distance measured longitudinally to the nearest foot between the foremost and rearmost of the axles under consideration. An axle as used in this section is defined as comprising all wheels the centers of which may be included between 2 parallel transverse vertical planes 40 inches apart.

(2) Any city of the first class may by ordinance increase the maximum weight specified in this section which may be carried on any vehicle when operated on the streets of such city.

(6) In addition to the weight limitations provided in sub. (1) any motor vehicle whose operation is pick-up or delivery shall be permitted to pick-up or deliver on a class B highway provided the gross weight does not exceed 16,500 pounds on any one axle, subject to the approval of the county highway commissioner or the county highway committee in case of highways maintained by the county.

History: 1953 c. 61, 585.

See note to 85.47, citing 38 Atty. Gen. 616, 59.07 (11) (Stats 1953) and 85.84 do not authorize counties to enact ordinance permanently restricting weight loads on highways maintained by counties below that specified in 85.47 and 85.48. 85.54 grants authority to restrict weight limits on highways for a reasonable period of time. 39 Atty. Gen. 446.

85.49 Weight distribution limitations. (1) **WEIGHT PER INCH OF TIRE WIDTH.** No vehicle shall be operated when the gross weight carried by any one wheel shall exceed 800 pounds per inch of the tire according to the manufacturer's rated width.

(2) **WHEEL WEIGHT.** The gross weight carried on any vehicle wheel shall not exceed 9,500 pounds on a class "A" highway and 6,000 pounds on a class "B" highway.

85.50 Weights to appear on sides of certain types of vehicles. No motor truck, truck tractor, tractor or bus, or trailer or semitrailer used in connection therewith, shall be operated upon any highway unless it shall have attached to or lettered upon each side thereof a sign giving its net weight, the tare weight and the gross weight of vehicle and load. The weights indicated on any such vehicles shall correspond with the weights for which said vehicle is registered under paragraph (e) of subsection (4) of section 85.01.

85.51 Vehicles carrying loads in excess of fees paid. In case any motor truck, truck tractor, tractor, bus, trailer or semitrailer shall be registered with the motor vehicle department at a lower net carrying capacity or gross weight than is indicated thereon, as required in section 85.50, the owner thereof shall be required to register the same in conformity with the actual load carrying capacity for which the vehicle is equipped, and pay only the additional fee required for the increased carrying capacity of the vehicle; and such additional load shall in no case be so large as to be the direct cause of mechanical failure of the vehicle. In addition thereto the penalties provided for the violation of this section may also be imposed.

85.52 Traffic officers may weigh vehicle and require removal of excess load. Any traffic officer, having reason to believe that the gross weight of a vehicle is illegal, is authorized to require the driver to stop and to weigh the same either by means of portable or stationary scales; or, if such officer so demands, the operator of any such vehicle shall convey the same to a public scale for the purpose of ascertaining the gross weight of such vehicle. If upon such weighing it is found that the gross weight is in excess of the maximum permitted by sections 85.47 (1) (c) and (d), 85.48, 85.49 and 85.54, or any ordinances enacted pursuant to sections 85.47 and 85.48 or any restrictions under section 85.54, the vehicle or vehicles shall not proceed without reloading or unloading to conform to such sections, ordinances and restrictions. This shall not prevent the traffic officer from directing the driver to proceed to a suitable place for such reloading or unloading. All material or goods so reloaded or unloaded shall be reloaded or unloaded and cared for by the owner or operator of such vehicle, at the risk of such owner or operator. A failure or refusal to stop or to submit vehicle, vehicles or load to a weighing as herein provided shall constitute a violation of section 85.47 (1) (c) or (d), 85.48 or 85.54.

History: 1951 c. 436.

85.53 Special permits. (1) **FOR LOADS OF EXCESSIVE SIZE AND WEIGHT.** (a) Whenever it is necessary to transport a single article or a number of articles which cannot properly or suitably be reasonably divided and which exceed the maximum permissible load or weight or dimensions or both, the same shall be done, except as herein provided, only after the issuance of a special permit for a single trip designating the loads to be transported, pursuant to authority granted in this section. Where such trip is wholly or partly over the state trunk system in more than one county, such permit may be given by the state highway commission. The owner or operator of any vehicle engaged in the business of transporting articles, requiring the use of trailers, or other similar equipment of such size and weight as to require special permits, may obtain from the state highway commission an annual permit for such transporting. A separate permit shall be required for each trailer used by any permittee. The issuance of such annual permit shall be in lieu of all other permits required under this section, but shall not release the permittee from observance of any restrictions imposed under section 85.54.

(b) Any industry owning and operating motor vehicles and trailers in connection with its interplant operations in this state, which exceed the maximum permissible dimensions set out in paragraphs (b) and (c) of subsection (2) of section 85.45, may obtain from the state highway commission an annual permit for the operation of such trailers or other similar equipment on the highways of this state, over designated routes. A separate permit shall be required for each trailer used by any permittee, and the issuance of such annual permit shall be in lieu of all other permits required under this section, but shall not release the permittee from observance of any restrictions imposed under section 85.54. The commissioner of public works in cities of the first class, and the officers in charge of highway maintenance in other cities, towns and villages shall designate the routes over which such vehicles shall be operated within the same.

(c) Application for any permit under this subsection shall be made on forms prescribed by the state highway commission, which may impose such reasonable conditions as it shall deem necessary for the safety of travel, and for the protection of the highways, including a bond, or in lieu thereof, a certificate of insurance, approved by it to protect the state and any county, city, village or town against any damage which may result from such transporting. Such permit may be revoked by the commission for good cause, after having given the permittee reasonable opportunity for a hearing.

(2) ISSUANCE OF SPECIAL PERMITS. The commissioner of public works in cities of the first class, and in other cities and in towns and villages the officer in charge of highway maintenance therein and the county highway commissioner in each county, are authorized in their discretion, upon proper application in writing, to grant such special permits for the moving of any such single article or articles, except as provided in subsection (3).

(3) TRANSPORTATION OF POLES, GIRDERS, ETC. (a) The provisions of paragraph (b) of subsection (2) of section 85.45 shall not apply to any public service corporation in the transportation of poles and other similar material used in its business. Such public service corporation shall obtain from the state highway commission an annual permit for transporting such poles or other similar material.

(b) The state highway commission in its discretion may require a bond to protect the various counties and municipalities against damage which may result because of such transportation.

(4) BONDS MAY BE REQUIRED. The officer issuing a special permit may require the person, firm or corporation making application therefor to furnish a bond or certified check in a suitable sum, running to the unit of government granting the permit, and conditioned to save such unit through which such article is transported, harmless from any claim, loss or damage that may result from the granting of such permit or that may arise from or on account of any act done pursuant thereto, and further conditioned that the grantee shall restore to a condition satisfactory to the officer in charge of the maintenance of any such highway any pavement, bridge, culvert, sewer pipe or other improvement that may be injured by reason of the transportation of such heavy article, under such permit. If, after such article has been transported over the highway, no damage is found to have resulted therefrom, the certified check or bond shall be returned to the person, firm or corporation furnishing same, but in the event of any damage having resulted therefrom the officer in charge shall report the same, or if necessary, replace the damaged portion of the highway and the cost thereof shall be paid by the owner of the vehicle causing such damage and for failure to pay such cost the officer issuing the permit shall deduct the same from the proceeds of the certified check or shall enforce the bond and for that purpose may maintain an action upon such bond.

(5) SPECIAL PROVISIONS. Every such permit shall designate the route to be traversed and may contain any other condition or restriction deemed necessary by the officer granting the permit. Whenever the officer deems it necessary to have a traffic officer accompany such vehicle through his municipality or county, a reasonable charge for such officer's services shall be paid by the person to whom the permit is issued.

(6) GENERAL PERMITS FOR EXCESSIVE LOADS. For good cause in specified instances for specified construction or maintenance operations or for a specified period, the officer in charge of maintenance may allow loads to be hauled on either class of highway in excess of those herein provided for; provided, that no such officer shall allow such excess loads to be hauled except on highways the cost of the maintenance of which is paid by the municipality which said officer represents.

(7) EXCESSIVE LOADS OF MILK. Any registered motor truck of the gross weight of five tons or less and loaded exclusively with fluid milk or cream is permitted during the months of May, June and July to carry upon and along public highways of this state from the point of production of such milk to the primary market therefor fifteen hundred pounds or less in excess of the gross weight for which such motor truck is registered under para-

graph (c) of subsection (4) of section 85.01 subject, however, to all the limitations and restrictions of sections 85.49 and 85.54. No such motor truck shall be required to be reregistered by reason of such excess loading.

History: 1953 c. 404.

85.54 When loads may be restricted. (1) **SEASONAL RESTRICTIONS.** The officer in charge of maintenance of highways maintained by a town, city or village, subject to the approval of the county highway commissioner, and the county highway commissioner or county highway committee in case of highways maintained by the county, and the state highway commission in the case of highways maintained by the state, may further restrict the gross weight of vehicles upon any such highway whenever the public interest so requires by erecting gross weight limitation signs on or along the highway upon which the gross weight is so restricted sufficient to give reasonable notice that such restriction is in effect. All gross weight limitation signs shall be standard as prescribed by the state highway commission. The transportation of unmanufactured forest products shall not be restricted because of gross weight limitations during the winter months when the highways are so frozen that no damage may result thereto by reason of such transportation. If at any time any person is so transporting unmanufactured forest products upon a class "A" highway in such frozen condition then he may likewise use a class "B" highway without other limitation, except that chains and other traction devices are prohibited on class "A" highways but such chains and devices may be used in cases of necessity. The officers in charge of maintenance of highways as herein designated upon determination of such frozen condition and freedom of damage to such highways by such transportation forthwith shall grant such operating right. Any person transporting any such product over any highway of this state under the provisions of 85.54 (1) shall be liable to the state for any damage caused to such highway.

(2) **GENERAL RESTRICTIONS.** If at any time any person is operating upon any highway any vehicle which is causing or is likely to cause injury to such highway or is visibly injuring the permanency thereof or the public investment therein, the officer in charge of the maintenance of highways maintained by a town, city or village and the county highway commissioner or county highway committee or any member of such committee in the case of highways maintained by the county, and any traffic officer may summarily suspend the operation of such vehicle on such highway, and the owner or operator thereof shall forthwith comply with such suspension.

(3) **RESTRICTION ON BRIDGES.** The officer in charge of maintenance of highways maintained by a city, village or town, subject to the approval of the governing body of such city, village or town, and the county highway commissioner, subject to the approval of the county highway committee in the case of highways maintained by the county, and the state highway commission in the case of highways maintained by the state, may indicate the maximum gross vehicle or axle weight considered safe for passage over any bridge or culvert, where such gross weight is less than otherwise permitted by statute, by erecting gross weight limitation signs on or within 100 feet before each end of such structure.

(4) **UNMANUFACTURED FOREST PRODUCTS; WEIGHT TOLERANCES.** For enforcement purposes only and to provide for practical operating problems and tolerances of every nature in the application of s. 85.47 (1) (a) to 2-axle motor trucks transporting unmanufactured forest products only, no summons or complaint shall be issued, served or enforced under said par. (a) unless the gross weight imposed on the highway by the wheels on any one axle of a vehicle shall exceed 21,000 pounds and in no case shall the gross weight upon any one wheel of such vehicle, or multiple wheels, supporting one end of an axle and resting on the roadway exceed 11,000 pounds.

History: 1955 c. 370.

Where a county highway committee has tain highway, such weight limitation ap-
under this section further restricted the plies uniformly to all users and exceptions
gross weight of vehicles traversing a cer- may not be made. 41 Atty. Gen. 154.

85.55 Cities and villages may direct heavy traffic. Cities and villages may by ordinance or resolution set aside any highway under their jurisdiction and declare the same to be heavy traffic routes and may provide for the use thereof and regulate the same by placing proper signs thereon. Whenever any city or village shall set aside and designate highways as heavy traffic routes, they may provide for the use of and regulate traffic on any such highway and designate what character and type of vehicle may travel thereon, provided that no city or village shall prohibit the ordinary use of any highway for the purpose of obtaining orders for and delivering or moving supplies or other necessary commodities to or from any place of business or residence fronting on such highway.

85.56 Trailer hitch and following in line. Whenever a semitrailer or trailer or both are used in connection with a motor vehicle upon the highway, the attachment shall be of

such construction as to cause the semitrailer or trailer or both to follow in a direct line with the propelling vehicle. The trailer hitch shall also be of such construction as to eliminate any dangerous side swing or wobbling of the trailer or trailers.

85.57 Motor vehicle tire equipment. All motor vehicles, trailers and semitrailers shall have tires of rubber or of some material or construction of equal resiliency of a width provided for in this chapter. After July 1, 1934, no automobile, motor truck, motor bus, truck tractor, trailer, or semitrailer shall be used on any highway or street in this state unless such vehicle is completely equipped with pneumatic tires. This section shall not apply to:

- (a) Fire fighting vehicles;
- (b) Farm tractors or farm vehicles used in connection with seasonal industries;
- (c) Tractors moved along the highway temporarily;
- (d) Vehicles engaged in highway construction or maintenance operation on those portions of the highway under construction or maintenance;
- (e) Trailers or other similar equipment with a net weight of over twenty thousand pounds and which are operated on the highways under special permit;
- (f) Semitrailers designed and used for pick-up and delivery service within the limits of any incorporated village or city as a part of rail transportation and actually carried by rail as containers of merchandise. Provided, however, that such semitrailers so used as a part of rail transportation shall not be operated on any public street or highway at a rate of speed in excess of ten miles per hour;
- (g) Vehicles purchased prior to January 1, 1931, operated solely within the corporate limits of any city or village.

85.58 Restriction of tire equipment. Every solid rubber tire of a vehicle moved upon any highway shall have rubber on its entire traction surface at least one inch in thickness above the edge of the flange of the entire periphery. No solid rubber tire having flat spots of three inches or more in dimension, when measured on the circumference of the tire, shall be permitted upon the highway.

85.59 Flanges, cleats and lugs on wheels. Except when engaged in actual highway construction or maintenance on unfinished highways, no person shall propel or draw upon any highway any motor vehicle or tractor engine equipped with any flange, cleat, lug, spud, rim or any other projection extending more than two inches beyond the outside surface of any wheel or tractive rim thereof. No flange, cleat, lug, spud, rim or other projection on any wheel or tractive rim thereof shall come to a sharp edge or point and no angle iron or V-shaped cleat or rim shall be used unless so mounted that the ends of both lugs of such angle irons or V-shaped cleats are on the wheel or tractive rim. The cleats and lugs shall be so arranged on all driving wheels that two or more cleats or lugs are in contact with the road surface at all times and the weight on any wheel or tractive rim shall not exceed eight hundred pounds per inch of tire width.

85.60 Sale of certain vehicles prohibited; optional in counties. No wagon or other vehicle having metal tires less than three inches in width, except animal-drawn pleasure vehicles seating less than eight persons, shall be operated on any highway in this state. This provision shall not be in effect in any county whose county board shall by a majority vote of all members thereof determine that the provisions of this section shall not apply to wagons used in said counties.

85.61 Protection of tractor wheels. No vehicle of the tractor type shall be operated unless the driving wheels are protected by suitable fenders.

This section construed in the light of its purpose as a highway safety measure, and in the light of the applicable definition of "vehicle" in 85.10 (1) as being every device in, on, or by reason of which any person or property may be transported or drawn "upon a public highway," is broad enough to cover a farm tractor, as defined in 85.10 (8), while being driven or operated on a public highway, but does not apply to a farm tractor while being operated in a field on the owner's farm by a farm hand who was injured during such operation as the alleged result of the absence of fenders on the driving wheels of the tractor. *Connell v. Luck*, 264 W 282, 58 NW (2d) 633.

85.62 Distance between axles, semitrailer axles and motor vehicle axles. The distance between the axle centers of any one or more vehicles shall not be less than forty inches.

85.63 Drawbar or towrope length. The drawbar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, shall not exceed twelve feet in length.

85.64 Loads extending beyond front of vehicles. No vehicle or train of vehicles shall carry any load extending more than three feet beyond the front of the motor vehicle.

85.65 Loads on sides of vehicles. No motor vehicle, trailer or semitrailer shall carry any load extending beyond the line of fender on the left side of such vehicle nor extending more than six inches beyond the line of fender on the right side thereof. In the case of trucks the fender line shall be considered as the rear fenders, flare boards or floor of body.

85.66 Flag or light at end of load. Whenever the load on any vehicle shall extend more than four feet beyond the rear of the bed or body thereof there shall be displayed at the end of such load in such position as to be clearly visible at all times from the rear of such load, a red flag not less than twelve inches in length and width during the daytime. From one-half hour after sunset until one-half hour before sunrise the rear of such load shall be marked with a red light plainly visible three hundred feet from the rear of the vehicle. This provision shall not apply to vehicles loaded with loose hay or straw.

In an action for injuries sustained by an occupant of an automobile when the driver thereof failed to turn out soon enough to avoid colliding with a log protruding from the rear of a truck loaded with logs and parked at a curve in the highway, the record sustained the jury's findings that the operator of the truck was negligent in parking at the time and place in question, and in failing to display a red flag at the end of the load of logs, at least one of which extended more than 4 feet beyond the rear of the platform of the truck. *Schwellessbach v. Wagner*, 258 W 526, 46 NW (2d) 852.

85.665 Trucking logs on highways. No automobile, truck, trailer or semitrailer shall carry logs on any public highway, unless the logs are securely fastened and wrapped by chains to the vehicle or the vehicle is equipped with stakes which are securely fastened by chains and the top of the load is lower than the top of the stakes. Any person violating this section shall be fined not more than \$50.

85.67 Equipment of vehicles. (1) **BRAKES.** Every motor vehicle, when operated on a highway, shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle, including 2 separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least 2 wheels, except that a motor-driven cycle need be equipped with only one brake. All such brakes shall be maintained in good working order. Motor vehicles, except power-driven cycles, shall be considered efficient if the vehicle can be stopped under normal conditions within 50 feet when traveling at a rate of speed of 20 miles per hour. A power-driven cycle, with a 150-pound rider, traveling 20 miles per hour on a level, dry, hard surface free from loose material, with no wind, must be capable of being brought to a complete stop in 35 feet. A power-driven cycle shall be equipped with an inclosed brake of sound design, with the disc or brake drum directly connected to or integral with the rear wheel; with internal-expanding brake shoes or engaging discs. The brake shall be operated by a foot pedal or hand control, which shall be connected to the brake by means of suitable brake rods or cable adequate to stop the vehicle. The design shall permit simple and easy adjustment to compensate for wear. If the brake control is hand operated there shall be no other controls linked to it.

(2) **HORNS AND WARNING DEVICES.** Every motor vehicle, when operated upon a highway, shall be equipped with a horn in good working order, capable of emitting sound audible under normal conditions for a distance of not less than 200 feet and it shall be unlawful, except as otherwise provided in this section, for any vehicle to be equipped with, or for any person to use upon a vehicle, any siren or compression spark plug whistle, or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device. When authorized by the common council of any city or the board of any town or village, it shall be lawful for full-time, part-time and volunteer members of fire departments to equip their privately owned motor vehicles with a siren or red warning lights, provided such full-time, part-time and volunteer firemen shall only use such siren or red warning lights while traveling to the scene of a fire or while on any other emergency call.

(3) **USE OF SIRENS.** An authorized emergency vehicle shall be equipped with a siren.

(4) **MIRRORS.** No person shall operate any motor vehicle upon a highway unless such vehicle is equipped with a mirror so located as to reflect to the operator a view of the roadway for a distance of two hundred feet to the rear of such vehicle.

(5) **TRAILER BRAKES.** Every trailer, semitrailer or other vehicle manufactured after January 1, 1942, having a gross weight of 3,000 pounds or more when drawn or pulled upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and of design approved by the motor vehicle department, excepting trailers owned by farmers when transporting agricultural products produced on the owner's farm, supplies or equipment back to the farm of the owner of the trailer, and except disabled vehicles being towed to a place of repair and except passenger auto-

mobiles and trucks while being towed. All such brakes shall be maintained in good working order and shall be considered efficient if the vehicle can be stopped under normal conditions within 50 feet when traveling at a rate of speed of 20 miles per hour.

(6) **MOBILE HOME COUPLING.** Whenever a mobile home is used in connection with a motor vehicle upon the highway it shall be attached by a coupling so that it will follow in a direct line with the propelling vehicle, without sideswing or wobble and in addition shall be coupled with stay chains or cables to the vehicle by which it is drawn which chains or cables shall be of sufficient size and strength to prevent parting from the drawing vehicle if the regular coupling breaks or becomes otherwise disengaged. The couplings shall conform to the regulations of the motor vehicle department.

(7) **SPEEDOMETERS.** Every motor vehicle, primarily designed for use upon a public highway and when operated thereon, shall be equipped with a speedometer which with reasonable accuracy registers the speed of the vehicle.

History: 1951 c. 101, 297; 1953 c. 224, 563.

It was negligence as a matter of law for one to operate his truck without 2 complete and adequate independent braking systems. Operator was negligent as a matter of law in failing to come to a stop at a stop sign because of an insufficient emergency brake which he knew would not stop the truck and which he did not attempt to apply. *Prunty v. Vandenburg*, 257 W 469, 44 NW (2d) 246.

85.68 Who may declare highways arteries for through traffic. (1) **STATE.** The state highway commission may, when it deems it necessary for the public safety, by order declare any United States or state highway or any portion thereof or any highway within a city or village not a portion of the United States or state highway system but selected and marked as a connecting street through such city or village between portions of said system, to be an artery for through traffic.

(2) **COUNTY.** Every county highway committee may, when it deems it necessary for the public safety, by order declare any county trunk highway or any portion thereof to be an artery for through traffic except where state highways are involved in which case such order shall be subject to the approval of the state highway commission.

(3) **MUNICIPALITY.** Every local authority may, when it deems it necessary for the public safety, by ordinance or resolution declare any highway or any portion thereof under its exclusive jurisdiction, to be an artery for through traffic.

85.69 Vehicles to stop at artery for through traffic signs. It shall be unlawful for the operator of any vehicle, and every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, to fail to come to a full and complete stop within 30 feet of the near limits of an intersection at which has been erected an official stop sign or traffic signal designating an artery for through traffic.

See note to 85.18, citing *Kraskey v. Johnson*, 266 W 201, 63 NW (2d) 112; *Groling v. Goltz*, 267 W 390, 66 NW (2d) 195.

85.70 Stop signs or traffic control signals must be installed before stop is legal. No order, ordinance or resolution declaring any highway to be an artery for through traffic shall be effective until the official stop sign or traffic signal has been installed thereat.

85.71 Stop signs and traffic control signals to be standard. (1) Every place where traffic crossing or entering an artery for through traffic is required to stop under the provisions of this chapter, shall be plainly marked by an official stop sign directing traffic to stop.

(2) The state highway commission shall prescribe and publish regulations for the design, installation and operation of traffic control signals and stop signs in accordance with sub. (3) and as it shall deem necessary the said commission may prescribe and publish revised regulations which shall have the full force of law.

(3) Stop signs and traffic control signals and their installation shall be uniform throughout the state as prescribed by the state highway commission.

(4) All new stop signs and traffic control signals installed or erected after the publication of the regulations of the state highway commission shall conform to said regulations.

(5) All stop signs and traffic control signals including those presently installed or erected shall conform to the regulations of the state highway commission on and after January 1, 1950.

History: 1955 c. 221.

85.72 Use of additional stop signs. Nothing in this chapter shall prohibit local authorities from placing additional stop signs on the roadway provided that such signs shall not interfere with the free movement of vehicles over or about such signs.

85.73 Cost of stop signs and traffic control signals. The cost of any stop sign or traffic control signal installed by reason of an order of the state highway commission, a

county highway committee, or any local authority, shall be paid for from any funds available for the maintenance of the arteries for through traffic.

85.74 State may furnish signs and signals. The state highway commission may when requested furnish official traffic control devices at cost to any county or municipality.

85.75 Traffic sign and signal legend. (1) **TRAFFIC CONTROL SIGNAL LEGEND.** Whenever traffic is controlled by traffic control signals exhibiting the words "Go", "Caution" or "Stop" or exhibiting different colored lights successively, or with arrows, the following colors shall be used and said terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) *Green or "Go"*. 1. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn, but vehicular traffic shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

2. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(b) *Yellow or "Caution"*. When shown with or following the green, traffic facing this signal shall stop before entering the intersection unless so close to it that a stop cannot be made in safety.

(c) *Red or "Stop"*. 1. Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of an intersection, or if none, then before entering the intersection or at such other point as may be indicated by a clearly visible sign or marking, and shall remain standing until green or "Go" is shown.

2. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(d) *Green arrow*. 1. Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a crosswalk, and with regard to vehicular traffic the rules of right of way as stated in section 85.18 shall apply.

2. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(2) **FLASHING SIGNALS.** Whenever flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows:

(a) *Flashing red (stop signal)*. When a red lens is illuminated by rapid intermittent flashes, operators of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) *Flashing yellow (caution signal)*. When a yellow lens is illuminated with rapid intermittent flashes, operators of vehicles may proceed through the intersection or past such signal only with caution.

(3) **APPLICATION OF SECTION.** In the event an official traffic signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application.

(4) **WHISTLE SIGNALS.** Whenever traffic is alternately being directed to stop and to proceed by a traffic officer using a whistle, said officer shall use the following whistle signals which shall signify as follows:

(a) *One whistle blast*. One blast of the whistle shall mean that all traffic not within the intersection shall stop.

(b) *Two whistle blasts*. Two blasts of the whistle shall mean that traffic which had been stopped prior to the one blast shall proceed through the intersection and that the traffic which had been stopped by the one blast shall remain stopped.

(c) *Interval between blasts*. The interval between the one and the 2 blasts shall be regulated by the traffic officer so as to permit traffic that is legally within the intersection to clear the intersection.

85.76 One-way highways and alleys. The state highway commission, the several county highway committees, and local authorities may by order, ordinance or resolution designate and declare highways or alleys or any portion thereof under their respective jurisdictions to be one-way highways and alleys and compel all vehicles except street cars to go in one direction on such highways and alleys.

85.77 Safety zones. The state highway commission, county highway committees and local authorities may designate by mark or markers certain places in highways under their respective jurisdictions as safety zones and may regulate and control traffic with respect to such safety zones not inconsistent with the provisions set forth in subsections (8) and (9) of section 85.16.

85.78 Islands of safety. The state highway commission, county highway committees and local authorities may erect and maintain or cause to be erected and maintained, islands of safety and may regulate and control traffic with respect to such islands of safety not inconsistent with subsections (8) and (9) of section 85.16.

85.79 Prohibition of turns. The state highway commission, county highway committees and local authorities may prohibit turns of any nature upon the highways under their respective jurisdictions not inconsistent with the provisions set forth in section 85.17.

85.80 Owner's liability for act of operator. The owners of every vehicle, operating upon any highway for the conveyance of passengers for hire, shall be liable, jointly and severally, to the party injured for all injuries and damage done by any person in the employment of such owners as an operator, while operating such vehicle, whether the act occasioning such injuries or damage be wilful, negligent or otherwise, in the same manner as such operator would be liable.

85.801 Hayrack and sleigh rides licensed. In counties containing a city of the first or second class, the owners of every vehicle operating upon any highway for hire for the purpose of transporting persons in what is commonly known as a hayrack ride, a sleigh, box sled or bobsled ride or a ride of similar nature, shall obtain a license from the county board which is authorized to issue such license for a fee of \$1. No such license shall be issued until the applicant shall exhibit proof that he is a person of good moral character and that he carries liability insurance for the protection of his passengers in the minimum amount of \$10,000 for any one passenger and \$50,000 for any single accident. If such owner operates such vehicle by an agent or servant, such agent or servant must likewise obtain such license. The county board may revoke any such license after notice and hearing accorded the licensee, whenever in their judgment the public safety requires. Any person operating any vehicle for hire for the purposes hereinabove described without first obtaining such a license, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$100 or by imprisonment in the county jail for not more than 30 days, or both. The provisions of section 85.93 shall be applicable to the insurance required under this section, whether the vehicle used for the purposes hereinabove specified be a motor vehicle or propelled in any other manner. Such vehicles shall be equipped at the 2 rear corners with red reflective signals and at the 2 front corners and at the end of the tongue or pole thereof with blue reflective signals of a type approved by the motor vehicle department.

85.81 Drunken operators. (1) **EMPLOYMENT OF DRUNKEN OPERATORS.** Any person who owns or has direct control of any vehicle operating upon any highway for the conveyance of passengers for hire, and who employs as an operator of such vehicle and retains in his employment any person who is addicted to drunkenness or the excessive use of intoxicating liquor, shall forfeit five dollars for each day such operator shall have been retained in his employ.

(2) **DISCHARGE OF DRUNKEN OPERATORS.** If any operator mentioned in subsection (1), while actually employed in operating such vehicle, shall be convicted of intoxication, the owner or person having the charge or control of such vehicle shall, upon conviction of such operator, discharge such operator from such employment and every person who shall retain or have in such service any operator within six months after such conviction, shall forfeit five dollars for each day such operator was retained in his employment after such conviction.

(3) **RECKLESS OPERATION OF VEHICLES.** Any person, who, while operating any vehicle in a drunken condition, or in a reckless, wilful or wanton disregard of the rights or safety of others, shall inflict injury upon any person, shall be guilty of criminal negligence, and upon conviction shall be punished by imprisonment in the county or municipal jail for not less than 30 days nor more than one year.

(4) **DEFINITION OF VEHICLE.** As used in this section the word "vehicle" includes also a street car operated on a highway on stationary rails or tracks or any vehicle propelled by the use of electricity obtained from overhead trolley structures.

85.82 Municipalities may license taxicab operators and taxicabs. The council of every city and every village board may regulate and license chauffeurs and operators of taxicabs used for hire and may also regulate and license the taxicab business by licensing each taxicab used for hire and may require that no person shall operate any motor vehicle for hire upon the highways of such city or village, unless such person is licensed as a chauffeur and operator and unless such taxicab business is licensed by the licensing of each taxicab, and may revoke any such license when in their judgment the public safety requires such revocation. Any person licensed by any city or village as a chauffeur and operator shall not be required to procure either a chauffeur's and operator's license or

a taxicab license in any other municipality for the purpose of carrying taxicab passengers for hire from one municipality to another, but this exception shall not permit such chauffeur or operator to operate a taxicab wholly within the limits of any municipality in which such chauffeur or operator is not licensed.

An ordinance of the town in which Milwaukee county's airport is located, so far as attempting to require local licenses from, and to prevent the daily solicitation of passengers at the airport by, the drivers of cabs licensed by the city of Milwaukee and engaged in carrying air-line passengers between the city and the airport for a cab company licensed by the city and authorized by the public service commission to operate limousines interurban between the city and the airport, violates 85.82, and, together with a provision in the ordinance that no license will be issued in the case of a corporation unless its records and main office are located in the town, the ordinance is void as attempting to deprive such cab company and its drivers of their property rights without due process of law and denying to them the equal protection of the laws. Milwaukee County v. Lake, 259 W 208, 47 NW (2d) 87.

85.83 Traffic officers not to profit from arrests. No deputy sheriff, constable, marshal, traffic officer, policeman or other police officer shall demand, solicit, receive or be paid any remuneration whatsoever upon the basis of number of arrests made, convictions obtained or the amount of fines collected except as otherwise provided in subsection (1) of section 85.01.

85.831 Right to stipulate guilt; procedure. Local ordinances adopted in conformity with this chapter, may contain a provision for stipulation of guilt of the offense charged as to such offenses and in such manner as the local ordinance shall designate. When such stipulation is timely and payment of the penalty fixed is made to the designated official, the person charged with the offense need not appear in court and no witness fees or other additional costs shall be taxed unless the local ordinance so provides. The official receiving the penalty shall comply with s. 85.08 (24) (a) and (b).

History: 1953 c. 348; 1955 c. 662.

85.84 Regulation by local authorities forbidden; bail not forfeited; exceptions. No local authority shall have power to enact, pass, enforce or maintain any ordinance, resolution, rule or regulation requiring local registration or other requirements inconsistent with the provisions of this chapter, or in any manner excluding or prohibiting any motor vehicle, trailer or semitrailer, whose owner has complied with the provisions of this chapter, from the free use of all highways except as provided by s. 66.046; but the provisions of this section shall not apply to corporations organized pursuant to ch. 55, laws of 1899. Except for the suspension or revocation of motor vehicle operators' licenses, any local authority may pass any ordinance, resolution, rule or regulation in strict conformity with the provisions of this chapter but the penalty for a violation of any of its provisions shall be limited to a fine or a forfeiture and any such ordinance, resolution, rule or regulation so adopted must be in strict conformity with provisions of this chapter except as above provided. If any person gives bail for his appearance to answer a charge under such ordinance, resolution, rule or regulation, except for a parking violation, it shall not be forfeited for his failure to appear except by order of the court. Any officer paying bail money into the county or municipal treasury without such court order shall be deemed guilty of violating s. 946.12.

History: 1955 c. 696.

The words "strict conformity" refer to the offense or substantive law and not to the penalty provision. A county ordinance, dealing with drunken driving and imposing a fine or forfeiture for violation thereof, was valid as conforming to 85.13, and such ordinance was not rendered void by the fact that ch. 340, Laws 1953, increased the penalty for violation of 85.13 so that it was greater than the penalty provided in the ordinance. Dane County v. Bloomfield, 287 W 193, 64 NW (2d) 829.

85.845 Use of parking meters in cities and villages. (1) It is hereby declared to be the public policy of the state that the use of parking meters to measure the time for parking vehicles on city streets is a local matter to be determined by local authority and local authorities in cities and villages may use the revenues of parking meters not only to meet the cost of regulation of parking but also to make provision for additional parking places off the street and such other expenses and purposes as the local authority deems reasonably necessary to provide for the convenience, safety and welfare of persons using the streets and highways of the municipality for vehicular traffic. Local authorities may also by ordinance, resolution, rule or regulation provide for the installation and operation of parking meters on the streets or highways within the limits of the municipality and may provide for the use of moneys collected from such parking meters for general street and highway maintenance, repair and construction, traffic regulations and for the purchase and operation of municipally owned, off-street parking lots. This section shall not apply to cities of the first class.

(2) It is hereby declared to be the public policy of the state that the use of parking meters by cities of the first class to measure the time for parking vehicles is a local matter

to be determined by such cities, and such cities may, by ordinance, resolution, rule or regulation provide for the installation and operation of parking meters in such cities.

Cities may erect parking meters upon such meters. County may not prevent the that portion of county trunk highways erection of the meters or demand revenue which extends within the corporate limits from them. 40 Atty. Gen. 162.
of such cities and use the revenue from

85.85 Powers of local authorities. Local authorities, except as expressly authorized by the provisions of this chapter, shall have no power or authority to enact or enforce any rule, ordinance or regulation contrary to the provisions of this chapter; provided, that any city or village may limit the use of the streets by vehicles equipped with other than pneumatic tires, and may restrict the use of specified streets by heavy traffic except as to streets over which are routed state or federal trunk highways.

85.86 Uniformity of interpretation. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the traffic law of this state, and of all local units of government.

History: 1953 c. 61.

85.90 Weight limitations, certificates of conviction filed, repetitious violators. (1) Whenever any owner or operator is convicted of violating sections 85.47, 85.48, 85.49 and 85.54, or is convicted of violating any ordinance enacted pursuant to sections 85.47 and 85.48 or restrictions promulgated under section 85.54, it shall be the duty of the clerk of court wherein such conviction is had to forward a certificate of such conviction to the state motor vehicle department within 48 hours thereof, on a suitable form devised and furnished by the motor vehicle department. For the purpose of determining a repetitious violator, receipt of a certificate of conviction by the motor vehicle department shall constitute prima facie evidence of a conviction. If the court wherein such conviction is had does not have a clerk, it shall be the duty of the presiding judge, justice or magistrate to forward such certificate to said department. Failure to forward certificates of conviction of any owner or operator, upon whom the duty so to do is imposed, shall constitute malfeasance in office.

(2) (a) In the event the certificates of conviction are not forwarded to the motor vehicle department by the clerk, judge or justice, the public service commission may act upon other proof of such convictions from any competent source.

(b) Forfeiture of bail or appearance money or payment of a fine shall be deemed a conviction within the meaning of this section.

(c) In determining whether 5 convictions have occurred within a given 12-month period, the commission may count either the original judgment of conviction in justice or trial court if the original judgment is affirmed or the affirmance of a judgment of conviction in an appellate court. This method of counting is authorized to effectually reach the repetitious violator and to prevent the misuse of the right of appeal from a justice court conviction in forestalling revocation or the penalties provided in section 85.91 (2a) and (2b).

(3) (a) It is declared to be the public policy of the state that prosecutions for overweight violations shall in every instance where practicable be instituted against the person, firm or corporation holding authority, certificates, licenses or permits evidencing their operating privileges from the state public service commission or motor vehicle department, which may be the proper subject of cancellation or revocation proceedings as herein provided. In instances where a combination of tractor and trailer or semitrailer is used, the person standing in the relationship of principal or employer to the driver of the tractor portion of the vehicle combination shall be liable for violation of the weight limitation statutes along with the owner holding authority, certificates, licenses or permits from the state. It shall be a violation of sections 85.47, 85.48 or 85.54 for the owner, or any other person, employing or otherwise directing the operator of the vehicle, to require or knowingly to permit the operation of such vehicle upon a highway contrary to the provisions of sections 85.47, 85.48 and 85.54.

(b) The driver, as an agent thereof, shall accept service of a summons from a law enforcement officer for the person, firm or corporation holding authority, certificate, license or permit from the state and for the owner of the tractor portion of a vehicle combination of tractor and trailer or semitrailer.

History: 1951 c. 436, 706; 1953 c. 61.

85.91 Penalties. (1) Any person violating any provision of ss. 85.11, 85.12 (2), (3), (4) and (6), 85.15 (4), 85.16 (1), (2) and (8), 85.17 (1), (2), (4) and (5), 85.175, 85.176, 85.177, 85.18 (1), (4) to (6) and (8) to (11), 85.19 (2), (3) and (4), 85.21 to 85.23, 85.25 to 85.28, 85.30 (2), 85.31, 85.33, 85.34 (1), (2) and (4), 85.35, 85.39 (1) and (2), 85.40 (6), 85.44 (2) to (9), 85.45 (6), 85.50, 85.61, 85.63 to 85.66, 85.67 (2) to (7) and 85.69 shall be fined not less than \$10 nor more than \$20 for the first offense and for the

second or each subsequent conviction within one year thereafter, shall be fined not less than \$25 nor more than \$50.

(2) Any person violating any of the provisions of ss. 85.06, 85.14 (2), 85.15 (1), (2) and (3), 85.16 (3) to (7) and (9), (10), (11) and (12) (a), 85.18 (7), 85.19 (1), (5) and (9), 85.20, 85.24, 85.29, 85.30 (1), 85.32, 85.34 (3), 85.36 to 85.38, 85.39 (3), 85.40 (1) (a), (b), (g), (h) and (i) and (2) (e), 85.41 (2), 85.44 (1), 85.51, 85.55 to 85.60, 85.62, 85.67 (1) and 85.92 (1) shall be fined not less than \$10 nor more than \$200 or imprisoned for not more than 30 days or both.

(2a) Any person violating any provision of ss. 85.45, 85.49 and 85.52 shall be punished by a fine of not less than \$50 nor more than \$100. For the second or each subsequent conviction within any period of 12 consecutive months as determined by s. 85.90 such person shall be punished by a fine of not less than \$100 nor more than \$200 or by imprisonment for not less than 10 days nor more than 30 days, or by both such fine and imprisonment.

(2b) Any person, firm or corporation who violates any provision of sections 85.47, 85.48 and 85.54 shall be guilty of a misdemeanor, and upon conviction therefor shall pay the following penalties:

(a) If the weight is 1,000 pounds or less in excess of schedules provided in section 85.47 (1) (c) and (d), 85.48 or 85.54, a fine of not less than \$50 or more than \$100. For the second or each subsequent conviction within one year thereafter such person shall be punished by a fine of not less than \$100 nor more than \$200 or by imprisonment for not less than 10 days nor more than 30 days, or by both such fine and imprisonment.

(b) If the weight exceeds the schedules provided in s. 85.47 (1) (c) and (d), 85.48 or 85.54 by more than 1,000 pounds, the fine shall be computed according to the legal weights as defined in s. 85.47 (1) (a), 85.48 or 85.54, as the case may be, and imposed according to the following schedule: For the first conviction thereof, such person, firm or corporation shall be fined not less than \$50 nor more than \$200 plus an amount equal to: 1 cent for each pound of total excess load when the total excess is not over 2,000 pounds; 2 cents for each pound of total excess load if the excess is over 2,000 pounds and not over 3,000 pounds; 3 cents for each pound of total excess load if the excess is over 3,000 pounds and not over 4,000 pounds; 5 cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds; 7 cents for each pound of total excess load if the excess is over 5,000 pounds. For the second and each subsequent conviction, within any period of 12 consecutive months, as determined by s. 85.90, such person, firm or corporation shall be punished by a fine of not less than \$100 nor more than \$300 or by imprisonment for not less than 10 days nor more than 30 days or by both such fine and imprisonment, plus an amount equal to: 2 cents for each pound of total excess load when the total excess is not over 2,000 pounds; 4 cents for each pound of total excess load if the excess is over 2,000 pounds and not over 3,000 pounds; 6 cents for each pound of total excess load if the excess is over 3,000 and not over 4,000 pounds; 8 cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds; 10 cents for each pound of total excess load if the excess is over 5,000 pounds. In computing the amount of penalty for violations under s. 85.47, the total excess load shall be determined from the basic figures in s. 85.47 (1) (a) and not from s. 85.47 (1) (c) and (d).

(3) Any person violating any provision of ss. 85.14 (1), 85.395, 85.40 (1) (c), (d), (e) and (2) (a) and (b) and (3), 85.44 (10), 85.81 and 85.83 shall be fined not less than \$25 nor more than \$200 or imprisoned for not more than 6 months or both. For the second or each subsequent conviction, except under s. 85.395, within one year thereafter, and for the second and each subsequent conviction under s. 85.395 within 4 years thereafter, such person shall be fined not less than \$50 nor more than \$500 or imprisoned not to exceed one year in county or municipal jail or both.

(4) Any person violating any provision of s. 85.19 (10) shall be fined not less than \$2 nor more than \$25 or imprisoned not to exceed 5 days.

(5) Any person violating any provision of s. 85.141 as to which no penalty is provided in s. 85.141 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished for the first offense by a fine of not less than \$20 nor more than \$200, and for the second or each subsequent offense within one year thereafter by a fine of not less than \$50 nor more than \$500.

History: 1951 c. 436; 1953 c. 61, 180, 224, 340, 426, 472, 631; 1955 c. 395, 513, 652, 696.

Graduated penalties for overloading held constitutional. *State v. Seraphine*, 266 W 113, 62 NW (2d) 403.

85.915 Penalty of compulsory safety school attendance. In addition to, or in lieu of, the penalties provided by s. 85.91, the trial court may in its judgment of conviction order the person convicted to attend, for a certain number of school days, a traffic safety

school, whose course and mode of instruction is approved by the commissioner of the motor vehicle department, conducted by the police department of the municipality, the sheriff's office of the county or by any regularly established safety organization.

History: 1953 c. 534.

85.92 Stop at railroad crossing. (1) No operator of a vehicle shall drive on or across a grade crossing with the main line tracks of any railroad or interurban railroad while any peace officer or railroad employe signals to stop; or while any warning device signals to stop, except that in the latter case if after stop and investigation he finds that no train or car is approaching he may proceed. The provisions of this section do not apply to crossings with interurban railroad tracks which are laid on or along public streets within the corporate limits of any incorporated city or village.

(2) Any person operating any motor vehicle described in ss. 40.53 or 40.57 and 194.01 or a vehicle carrying inflammable liquids in quantities over 100 gallons who shall drive any such vehicle on or across a grade crossing with the main line tracks of any railroad or interurban railway company, whether or not such crossing is protected by crossing protective devices or by flagmen, without coming to a full stop at a distance from such tracks of at least 20 and not more than 40 feet, shall be fined not less than \$10 nor more than \$100, or imprisoned not less than 10 nor more than 90 days, or both. The provisions of this section do not apply to crossings with interurban railroad tracks which are laid on or along public streets within the corporate limits of any incorporated city or village. The school board or public service commission may refuse to accept the bond of any person who has been convicted of a violation of the provisions of this section, and may cancel any such bond theretofore issued if it believes that the safety of the public requires such action.

(2) applies to common motor carriers of property as well as to common motor carriers of passengers, and requires a stop where the crossing is not protected by crossing gates or by flagmen even though it is protected by automatic electric signals. *Glendenning Motorways v. Green Bay & W. R. Co.* 256 W 69, 39 NW (2d) 694.

The requirement of (2) applies to require a stop at a crossing with main-line tracks even though the railroad company is operating a train or engine on switch or side-tracks, and applies in the case of accident which did not happen on the main-line track but involved a collision between a truck and a switch engine on a sidetrack. Where the driver of a truck of a common motor carrier, struck by switch engine, failed to come to a full stop at the crossing, he was guilty of negligence as a matter of law. *Glendenning Motorways v. Green Bay & W. R. Co.* 256 W 69, 39 NW (2d) 694.

The driver of a truck covered by this section was required to come to a full stop not less than 20 nor more than 40 feet from the main-line tracks at a railroad crossing, not to stop at his discretion, and his failure to stop as thus required was not excusable on the ground that because the road was icy he proceeded in second gear without attempting to stop until he saw a train approaching on the main-line tracks, when he put on his brakes and skidded onto the tracks in front of the engine. *Lang v. Chicago & N. W. R. Co.* 256 W 131, 40 NW (2d) 543. On appeal from retrial, court held that

section did not apply, since driver of truck was not licensee under ch. 194, and was not operating licensed vehicle in pursuit of licensed purpose. *Lang v. Chicago & N. W. R. Co.* 258 W 610, 46 NW (2d) 844.

The provision in (1) that no operator of a vehicle shall drive on or across a grade crossing with the main-line tracks of any railroad while any warning device signals to stop, does not make a motorist negligent as a matter of law where, although such a warning device is signaling, he does not stop and proceeds onto the crossing because of an invitation to proceed given by a railroad flagman, but in such case the question of the motorist's negligence is for the jury. *Pargeter v. Chicago & N. W. R. Co.* 264 W 250, 58 NW (2d) 674.

(2) does not apply to a private motor carrier transporting its own property in its own truck and operating as an incident to and in furtherance of its own business, and involved in a collision with a train. *Borden v. Minneapolis, St. P. & S. S. M. R. Co.* 270 W 601, 72 NW (2d) 336.

Supreme court decisions in civil negligence cases hold that trucks operated as contract, private and common carriers of property are required by (2) to stop at railroad tracks, but a number of reasons are suggested why the court might in a future case decline to follow the earlier decisions and might limit the statutory requirement to passenger busses, school busses and trucks carrying more than 100 gallons of inflammable liquids. 39 Atty. Gen. 165.

85.93 Accident insurance, liability of insurer. Any bond or policy of insurance covering liability to others by reason of the operation of a motor vehicle shall be deemed and construed to contain the following conditions: That the insurer shall be liable to the persons entitled to recover for the death of any person, or for injury to person or property, irrespective of whether such liability be in praesenti or contingent and to become fixed or certain by final judgment against the insured, when caused by the negligent operation, maintenance, use or defective construction of the vehicle described therein, such liability not to exceed the amount named in said bond or policy.

Cross Reference: As to insurers being joined as defendants, see 260.11.

85.94 Civil actions by commissioner. In addition to all existing remedies afforded by civil and criminal law, the commissioner is authorized to bring civil actions for the recovery of all license fees, ton mile taxes, interest and penalties to which the state may be entitled by reason of the operation by any person of a motor vehicle upon the public highways of the state.

85.95 Suit to recover protested tax and fees. No suit shall be maintained in any court to restrain or delay the collection or payment of the taxes levied or the fees imposed

or exacted in this chapter. The aggrieved taxpayer shall pay the tax or fee as and when due, and, if paid under protest, may at any time within 90 days from the date of such payment, sue the state in an action at law to recover the tax or fee so paid. If it is finally determined that said tax or fee, or any part thereof, was wrongfully collected for any reason, it shall be the duty of the director of budget and accounts to issue a warrant on the state treasurer for the amount of such tax or fee so adjudged to have been wrongfully collected, and the treasurer shall pay the same out of the highway fund. A separate suit need not be filed for each separate payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made within any 90-day period preceding the commencement of such an action. Such suits shall be commenced as provided in s. 285.01.

History: 1953 c. 602.