

THE NEW YORK MOTOR VEHICLE SAFETY
RESPONSIBILITY ACT

BY

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The governor has just signed the Page-Anderson Bill giving New York a new automobile financial responsibility law to be effective January 1, 1942. Although not a compulsory insurance law, it is the nearest thing to such a law that has been adopted since the Massachusetts Compulsory Act.

The automobile highway safety problem has become so serious that compulsory automobile insurance proposals have been made in various states including New York. It is because the same problem is confronting other states that the decision of New York, a model for many states, is of more than local interest.

It had been known for some time that the Superintendent of Insurance of New York favored compulsory insurance as the answer to the highway safety question and a bill sponsored by him, proposing such legislation, was introduced in the legislature this year. There was no organized support and it was apparent soon that this was not the year for compulsory insurance. However, both the proponents and opponents of compulsory insurance were in agreement that the existing financial responsibility law failed to meet requirements and that a change was needed. Within two months two very similar bills outlining new financial responsibility laws, both based on the New Hampshire Act, were introduced in the legislature and it is one of these which has become law.

The advocates of the new financial responsibility law pointed out that under the 1937 New Hampshire Law the percentage of insured automobiles increased from 36 to 75. They also, argued that the financial responsibility law is more likely to make the average driver safety-conscious than a compulsory law and that the reduction of accidents is of primary importance and payment of damages secondary. This was to counter the Superintendent's statement that even an increase in insured automobiles to over 70% still left a substantial number uninsured.

The Superintendent, despite his opinion that compulsory insurance was the real answer indicated that since the times were un-

favorable for such a proposal, the Insurance Department would approve a revised financial responsibility law as a step in the right direction.

Commencing in 1942, many more automobile owners and drivers than ever before will have to give evidence of financial responsibility, and many others will voluntarily buy insurance to avoid the penalties which will be theirs in the event of an accident or violation of the law.

The Commissioner of Motor Vehicles may suspend or revoke license to operate and registration certificates and plates *upon any reasonable ground* until proof of financial responsibility is given, but such action is mandatory under certain conditions. The Act provides no limit to the period during which proof must be furnished and proof once demanded must be continued as long as a license or registration is issued to the motorists, unless the conviction or judgment is reversed on appeal to the court.

The new law is entitled "The New York Motor Vehicle Safety Responsibility Act" and provides for the filing of proof by operators and owners for

1. Conviction of certain violations of the motor vehicle law.
2. Failure to satisfy a judgment arising out of an automobile accident.
3. Involvement in an automobile accident.

Each of these divisions is reviewed below.

1A. Proof of financial responsibility shall be required of persons convicted of certain infractions of the Motor Vehicle Law.

The Commissioner *shall* suspend or revoke the operator's or chauffeur's license of any person upon receiving record of the conviction of such person for :

- Homicide or assault arising out of operation of a motor vehicle
- Leaving scene of an accident after personal injury without report or identification.
- Leaving scene of an accident after property damage without report or identification
- Knowingly making false statement in application for registration
- Operating while intoxicated
- Three or more over-speeding convictions within 18 months.

1B.

The Commissioner *may* at his discretion suspend or revoke the operator's or chauffeur's license of any person upon receiving record of any of the aforementioned without conviction or physical or mental disability or disability by reason of intoxication or drugs or for

Conviction of a felony

For persistent and habitual violation of motor vehicle laws, rules, regulations and ordinances relative to motor vehicle traffic

Gross negligence in operation or operating with reckless disregard for life and property of others

Knowingly permitting motor vehicle to be used in commission of a crime

Preventing lawful identification or evading lawful arrest or prosecution while operating a motor vehicle

For wilfully evading lawful prosecution in this or another state or jurisdiction for an offense against the motor vehicle or traffic laws.

Provision is made in the law for reporting by Court Clerks to Commissioner of Motor Vehicles of all motor vehicle convictions (major offense) requiring or allowing suspension or revocation of operator licenses.

Whenever the Commissioner suspends or revokes the operator's or chauffeur's license of any person convicted of any of the offenses listed above, he shall also suspend any and all registration certificate and plates issued for any motor vehicle registered in the name of such person unless such owner has previously given or shall immediately give and thereafter maintain proof of financial responsibility in the future for each and every automobile owned and registered by him.

Such suspension or revocation shall remain in effect and the Commissioner shall not issue any new or renewal license or registration until permitted under the Act and not then until such person gives proof of future financial responsibility.

The Commissioner shall take the same action for any offense committed in another state or province as if it occurred in New York.

For the purposes of this law the term conviction shall include

a forfeiture of bail or collateral deposited to secure a defendant's appearance in court upon a charge conviction for which requires or authorizes the Commissioner to suspend or revoke the license of such person.

This section of the law is generally the same as in most financial responsibility laws with certain variations in the list of offenses. A similar provision existed in the previous New York Financial Responsibility Act.

2. Proof of Financial Responsibility Required for Failure to Satisfy Certain Judgments.

The Commissioner shall suspend the license to operate and registration certificates and plates issued to any person who has failed for a period of fifteen days to satisfy any judgment for damages because of bodily injury to or death of any person or any judgment in excess of twenty-five dollars for damage to or destruction of property arising out of the ownership, maintenance, use or operation of any motor vehicle.

A judgment shall be considered satisfied when \$5,000 is paid for bodily injury to or death of one person or \$10,000 for bodily injuries to or death of more than one person, and when \$1,000 is paid for damage to property. Suspension of license and registration will be waived if judgment debtor gives proof of financial responsibility and obtains permission from the court to pay the judgment in installments.

However, until such judgment is satisfied or stayed or the debtor has obtained a release or a judgment in his favor and until the judgment debtor has given proof of future financial responsibility the suspension shall remain in effect and no new or renewal license or registration shall be issued to him by the Commissioner.

Court Clerks will report to the Commissioner of Motor Vehicles all judgments in automobile cases.

Up to this point the principal change in this section is in the reduction in the minimum property damage judgment for operation of the law from one hundred dollars to twenty-five dollars.

In the following New York has taken a step which has no prototype in the New Hampshire Act or any other.

The Motor Vehicle involved in the accident resulting in the un-

satisfied judgment shall not be registered in New York in the name of any person until the person whose licenses have been suspended satisfies the judgment, obtains a stay or a release or a judgment in his favor and gives proof of future financial responsibility.

This ruling will not only prevent the transfer of the automobile to some other member of the household but makes it more difficult for the judgment debtor to dispose of his car. Only a receiver or trustee in bankruptcy, a judgment creditor, and in some cases a lien or mortgage holder, can take possession and legally register it in New York. Therefore, if sold, the car must be sold out of state to a non-resident and the fact that it cannot be registered in New York may affect the sale price.

The holder of a lien or mortgage on an automobile owned by a judgment debtor will be exempted from the prohibition against registering the automobile *only* if such lien or mortgage was taken before the Act became effective. Thus, the holder of a lien or mortgage taken on or after January 1, 1942, will not be able to repossess the automobile as long as the judgment remains unpaid. Obviously, the finance companies, banks and organizations who loan money with an automobile as security are going to insist that such automobile be insured against liability for bodily injury and property damage.

There is some possibility that finance companies, banks, etc. will try to buy a special insurance policy to cover the risk of a financed car being tied up by the Act. It does not appear, however, that such an arrangement would be in the public interest.

3. Security for and Proof of Future Financial Responsibility Required After an Accident.

Not less than ten days or more than forty-five days after receipt of the report of an accident resulting in bodily injury to or death of a person or in damage to property in excess of twenty-five dollars the Commissioner shall suspend the license of any person operating, and the registration certificates and plates of the owner of any motor vehicle involved, unless the operator or owner or both shall have previously furnished or immediately furnishes sufficient security to satisfy any judgments for damages arising out of such accident and until the operator or owner or both give proof of future financial responsibility. However, if such operator or

owner can produce evidence that the liability for damages resulting from the accident is insured by a liability policy or by a bond of the necessary limits, the Commissioner shall not require security or proof of financial responsibility from such operator or owner.

In lieu of a deposit of security as required the motor vehicle owner or operator may, with the consent of the person who was injured or whose property was damaged, contract to pay the judgment in installments. Failure to pay any installment will result in immediate suspension of the license and registration certificate and plates of the judgment debtor until the judgment is satisfied. Any such arrangement for satisfying the judgment shall not avoid the requirement for furnishing evidence of future financial responsibility.

Under the law as adopted all drivers involved in an automobile accident—innocent and guilty, must file reports with the Motor Vehicle Commissioner regardless of the amount of damage done. Failure to report an accident will result in suspension or revocation of license. However, an amendment is being considered for the next session of the legislature whereby only accidents involving bodily injury or damage to property in excess of \$25 need be reported. It is also proposed to amend the law to require proof of financial responsibility after an accident from only the driver found to be at fault.

If the injured person does not bring suit within one year from the date of the accident, the Commissioner may issue in the name of the person whose license and registration certificates were suspended, new license and registration certificates provided such person furnish evidence of future financial responsibility.

By requiring neither security nor proof of financial responsibility of an owner or operator who can show insurance for damage resulting from an accident, the Act enables persons who voluntarily carry insurance to avoid application of this section. Knowledge of this should stimulate voluntary insuring of many automobiles.

Non-resident Application.

The law shall be applied to non-residents in the same manner as to residents by suspending the right of a non-resident operator to drive and by forbidding the operation of any motor vehicle

registered by a non-resident owner in New York until requirements of the Act are met.

Amount and Method of Showing Proof.

The amount of proof required and method of showing proof of financial responsibility are generally the same as under the preceding law. The only important change permits a non-resident to give proof of financial responsibility by filing a certificate of insurance of an insurance carrier admitted in the non-resident's state even though not admitted in New York provided such carrier meet certain requirements.

Expense of Administering the Act.

The provision for raising funds to administer the Act was added when certain members of the legislature would not approve the bill unless a specific means of raising funds was included.

The total of all expenses incurred in connection with the administration of the Act will be assessed upon all insurance carriers, self-insurers and persons who gave proof of financial responsibility by bond or deposit of money or securities in proportion to the number of motor vehicles for which proof of financial responsibility was furnished by them.

It is provided that not more than the highest number of motor vehicles registered in the name of any person at one time during the fiscal year shall be counted with respect to such person in making the assessment.

The adoption of a direct assessment upon the insurance carriers is a departure from the usual method of raising funds to administer such a law and there is some concern as to what lengths this idea may be carried. In general, these costs come from the general funds.

Under the new law in theory the motorist will pay these costs as a part of his insurance rate where previously they were borne by all taxpayers. While this is probably a fairer distribution of expenses than before, it puts the insurance carriers in the position of underwriting the bureau. In order to compute the rate increase necessary to produce the additional income, the costs of administration, and the increase in the number of insured automobiles

must be estimated. And, while desirable from the public angle, it further complicates matters for the carriers that the administration of the Act will not be hampered by any budget limitation.

The new Act will certainly increase the number of insured drivers and should increase safety consciousness among motorists and on these grounds can be considered an advance. It is admitted that the Act has defects and already means of correcting some of these are being considered for the next session of the legislature. The cost and difficulty of administration at this time appear to be weaknesses which will provoke later discussion. In the opinion of the Commissioner of Motor Vehicles the cost of administration which is estimated to be about \$1,000,000 is much greater than the cost of a compulsory law. The machinery for detecting and obtaining proof from persons subject to the Act will be cumbersome and in many instances slow moving because of inevitable disputes. The determination of the amount of damage immediately after an accident will be very much a matter of opinion, and where the amount of such damages will decide whether a motorist must carry insurance forever after, there will be arguments.

By voluntarily agreeing to establish a plan for assigning undesirable risks, the insurance carriers have avoided any need for including such a provision in the Act. The carriers recognize that a state regulated assigned risk plan is the forerunner of a state insurance fund. The voluntary plan for handling assigned risk will probably follow those in effect in Maine, New Hampshire, and other states.