

TITLE 23 – TRAFFIC CODE

CHAPTER 1 - TRAFFIC

Legislative History: Resolution No. 842 (adopting Arizona Code Sections 66-151 through 66-401, 66-401, and 66-406 through 66-408, with some exceptions, as Sections 36 through 237 of Chapter 5 of the Papago Law and Order Code) was enacted by the Papago Council on September 23, 1955 and approved by the Sells Agency Superintendent on [no date given]. Section 66-156 of the Arizona Code Annotated, dealing with driving under the influence of liquor or drugs, was subsequently repealed and replaced by Ordinance No. 51 effective January 9, 1975. Section 66-156 [sic]¹ of the Arizona Code Annotated, dealing with speed restrictions, was subsequently repealed and replaced by Ordinance No. 52 effective January 9, 1975. The sections adopted by Resolution No. 842, as amended, were formally compiled within the Traffic Code of the Tohono O'odham Nation on July 5, 2005 pursuant to Resolution No. 05-361.

Related History: The traffic laws adopted by Resolution No. 842 were initially added to 1945 Papago Law and Order Code Chapter 5, which originally comprised 36 criminal offense definitions. Several of the original 36 criminal offense sections were subsequently amended and all Chapter 5 non-traffic criminal offense sections were repealed and replaced by the Criminal Code of the Tohono O'odham Nation in 1985 pursuant to Ordinance No. 02-85, as amended. The traffic laws adopted by Resolution No. 842 were subsequently compiled within the Traffic Code of the Tohono O'odham Nation as noted above.

¹ Section 66-156, Persons under the influence of intoxicating liquor or of drugs, as incorporated by Resolution No. 842, was previously repealed by Ordinance No. 51. Ordinance No. 52 may have been intended to repeal speeding-related Sections 66-158 through 66-162.

RESOLUTIONS OF THE PAPAGO COUNCIL

RES. NO. 842

WHEREAS: The number of motor vehicle owned by the Papago people is constantly increasing so that the provisions of the Papago Law and Order Code for control of motor vehicle traffic are becoming outmoded, and

WHEREAS: It has been the policy of the Papago Council to revise its Law and Order Code from time to time to bring it closer to State Law, and

WHEREAS: It will make for greater traffic safety if the Traffic Code, to which the members of the Papago Tribe are subject, is the same both on and off the reservation,

NOW THEREFORE BE IT RESOLVED BY THE PAPAGO COUNCIL, that Section 66-151 through 66-401, 66-401, and 66-406 through 66-408 of Chapter V of the laws of the State of Arizona relating to Motor Vehicles be made applicable to the Papago reservations, except these provisions which by their nature can have no application, and that the above-listed sections be hereby adopted as an addition to Chapter V of the Papago Law and Order Code, becoming section 36 through 237 in consecutive order,

PROVIDED,

(1) That where the Arizona State Law reads "Department" "Commission: or "Local Authority," the corresponding sections of the Papago Law and Order Code shall read "Papago Council," "State," "County", "City", or "Village", shall read Papago Reservation,"; "Magistrate," or Justice of the Peace: shall read "Tribal Judge"; "County Jail" shall read "Tribal Court"; Superintendent" of Highway Patrol" shall read "Chief of Indian Police"; and "Patrol Officers," Police", or "Peace Officers" shall read "Indian Police", and

(2) that where the Arizona State Law reads "misdemeanor" or "Felony" the corresponding section of the Papago Law and Order Code shall read "offense".

BE IT FURTHER RESOLVED: That Section 13, "Reckless Driving" of Chapter V of the Papago Law and Order Code and any other provisions thereof, pertaining to traffic laws, in conflict with this ordinance, be hereby repealed.

The foregoing resolution was on September 23, 1955, duly enacted by a vote of 12 for, and 0 against by the Papago Council pursuant to authority vested in it by section 3 (b) of Article V of the Constitution of the Tribe ratified by the Tribe on December 12, 1936 pursuant to section 16 of the Act of June 18, 1934 (48Stat. 984). Said resolution is effective as of the date of its enactment.

THE PAPAGO

BY:

/s/ Mark Manuel
Mark Manuel, Chairman

ATTEST:

/s/ Evelyn Siquieros
Evelyn Siquieros, Secretary & Treasurer

/s/ Albert N. Hawley
Albert N. Hawley, Superintendent

ARIZONA
CODE
1939

ARIZONA CODE

1939

Containing the
GENERAL LAWS OF ARIZONA
ANNOTATED

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VOLUME FIVE

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or revoke the approval issued therefor until such device is resubmitted, retested and found to meet the requirements.

It shall be unlawful for any person to sell or offer for sale either separately or as a part of the equipment of a motor vehicle any head lamp, auxiliary driving lamp, rear lamp or signal lamp unless such device bears thereon the trademark or name under which it is approved so as to be legible when installed, and is accompanied by printed instructions as to the candlepower of bulbs to be used therewith as approved by the department and any particular methods of mounting or adjustment as to focus or aim necessary for compliance with the requirements of this article. [Laws 1927 (4th S. S.), ch. 2, subch. 5, § 55, p. 94; rev., R. C. 1928, § 1626.]

66-141. Enforcement of lamp requirements.—The department may designate, furnish instructions to and supervise official stations for adjusting head lamps and auxiliary driving lamps to conform with the provisions of this article. When head lamps and auxiliary driving lamps have been adjusted in conformity with the instructions issued by the department a certificate of adjustment shall be issued to the driver of the motor vehicle on forms issued in duplicate by the department and showing date of issue, registration number of motor vehicle, owner's name, make of vehicle and official designation of the adjusting station. The driver of any motor vehicle equipped with approved head lamps, auxiliary driving lamps, rear lamps or signal lamps who is arrested upon a charge that such lamps are improperly adjusted or are equipped with bulbs of a candlepower not approved for use therewith, shall be allowed forty-eight [48] hours within which to bring such lamps within the requirements. It shall be a defense to any such charge if the person arrested produce a certificate from an official adjusting station showing that within forty-eight [48] hours after such arrest such lamps have been made to conform with the requirements. [Laws 1927 (4th S. S.), ch. 2, subch. 5, § 56, p. 94; R. C. 1928, § 1627.]

66-142. Red light visible from front prohibited.—It shall be unlawful for any person to drive or move any vehicle except police, fire department or fire patrol vehicles upon a highway with a red light thereon visible from in front. [Laws 1927 (4th S. S.), ch. 2, subch. 5, § 57, p. 94; R. C. 1928, § 1628.]

ARTICLE 2

MOTOR VEHICLE DIVISION

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66-201. Motor vehicle division.—(a) The highway department shall maintain a division of motor vehicles. The state engineer, subject to the approval of the commission, shall appoint a vehicle superintendent to be the head of such division.

(b) The vehicle division shall maintain an office in the capital, and such other offices as the duties of the division may require. The superintendent may, with the consent of the state engineer, appoint a chief clerk and such other employees as the business of the division may demand.

(c) The superintendent, and such officers, agents and employees of the division as he may designate, are denominated peace officers for the enforcement of all laws the enforcement or administration of which

is vested in the superintendent or in the division. The powers of the superintendent, officers, agents and employees as peace officers are strictly limited to the enforcement of motor vehicle laws and regulations, and within such limits shall be co-extensive with the like authority of regular peace officers of the state or of the municipalities thereof, and may be exercised throughout the state.

(d) The superintendent shall prescribe rules and regulations for carrying out the provisions of this act, shall designate the necessary agencies for such purpose, and shall prepare and deliver to such agencies all forms required therefor.

(e) The superintendent, chief clerk, and such officers, agents and employees of the division as the superintendent shall designate, shall have power to administer oaths and acknowledge signatures, without fee, in any matter connected with the administration of any law the enforcement of which is vested in the superintendent of the division. The superintendent shall issue to all persons designated by him to administer oaths and acknowledge signatures a certificate of authority so to do, the original of which shall be filed in the division and a copy in the office of the secretary of state.

(f) The assessor of each county is constituted an agent of the division for the performance of acts and duties delegated to him, and the offices maintained by such county assessors are constituted county offices of the division. Fifty cents [50c] of each original registration fee shall be remitted to the county treasurer of the county in which such registration fee is collected, and placed in a special fund for the use of the assessor in carrying out the duties imposed upon him by this act. Claims against said fund shall be allowed and paid in the same manner as claims against the county are allowed and paid. The board of supervisors may order the transfer of all or any unexpended part of said fund received during a previous fiscal year into the fund for the maintenance and construction of county highways. All moneys received from the taxes herein imposed, except the portion retained for the assessor's special fund, shall be immediately transferred by the collecting officer to the superintendent, and by him to the state treasurer, who shall credit the same to the state highway fund. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 1-4, p. 33; cons. & rev., R. C. 1928, § 1629; Laws 1937, ch. 67, § 1, p. 234.]

Compiler's Note.

Section 5 of Laws 1927 (4th S. S.), ch. 2, subch. 3 was not included in Rev. Code 1928. It provided as follows: "All registration and license records in the offices of the vehicle division shall be public records and open to inspection by the public during business hours."

Title of Act.

An act relating to the motor vehicle division of the state highway department; amending sections 1629, 1632, 1634, 1636, 1637, 1638, 1639, 1641, 1642, 1644, and 1647, Revised Code of 1928; section 1643a, Revised Code of 1928 (chapter 78,

Session Laws of 1933), as amended; sections 1633, 1635, 1640, 1646, 1653 and 1672, Revised Code of 1928, as amended; and amending chapter 31, Revised Code of 1928, by adding sections 1640a, 1640b, 1642a, 1642b, 1643b, 1644a and 1648a. [Laws 1937, ch. 67.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "The highway department shall maintain a division of motor vehicles, for which a vehicle superintendent shall be appointed by the state engineer. The county assessors shall be officers of the vehicle division

in their respective counties. The vehicle division shall maintain an office in the headquarters building of the department. The vehicle superintendent may, with the consent of the commission, appoint one [1] chief clerk and such employees as the business of the vehicle division may demand. He shall adopt and enforce rules and regulations, and designate agencies necessary to carry out the provisions of this article, and provide and deliver necessary forms."

66-202. Stolen car and revoked license record.—The division shall, not less than once each month, publish or post in each of its offices, a record of stolen and recovered motor vehicles, and of suspensions and revocations of operators' and chauffeur's licenses; furnish copies of such records to the police departments and sheriffs' offices throughout the state, and forward copies of stolen and recovered motor vehicle records to the officer of each state having charge of motor vehicles. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 6, p. 33; R. C. 1928, § 1630.]

Comparative Legislation. Stolen car record:
Cal. Deering's Codes 1937, Vehicle Code, §§ 220-222.

Cross-References.

Driving on railroad right of way, § 43-4815.

Motor vehicles, injuring or preventing operation, § 66-408.

Using without consent of owner, § 43-5508.

Comparative Legislation. Motor vehicle division:

Cal. Deering's Codes 1937, Vehicle Code, §§ 101-138.

Ill. Rev. Stat. 1939, ch. 95½, § 95.
La. Dart's Stat., § 5283.

66-203. Accident reports.—The vehicle division shall prepare and supply to police and sheriffs' offices forms for accident reports, calling for information disclosing the cause, conditions then existing, and the persons and vehicles involved in a highway accident. The driver of any vehicle involved in an accident resulting in injury or death to any person, or property damage to an apparent extent of fifty dollars [\$50.00] or more, shall forthwith report the accident in writing to the police department of the city wherein such accident occurred, or if it occurred outside of a city, then to the sheriff of the county, and a copy thereof shall be forwarded by such officer to the division. The division may require drivers involved in accidents, or police departments to file supplemental reports of accidents upon forms furnished by it whenever the original report is insufficient. Such reports shall be for the information of the division only and shall not be open to public inspection, and shall be admissible in evidence solely to prove a compliance with this section but for no other purpose. The division shall tabulate and analyze such reports and publish annually or oftener statistical information based thereon as to the number, cause and location of highway accidents. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 7, p. 33; rev., R. C. 1928, § 1631.]

Comparative Legislation. Accident reports:

Cal. Deering's Codes 1937, Vehicle Code, § 489.

Ill. Rev. Stat. 1939, ch. 95½, § 142.

Ind. Burns' Stat. 1933, § 47-901.

La. Dart's Stat., § 5285.

Collateral References.

Constitutionality, construction, and application of statute for determination of

questions in relation to accidents, by executive or administrative board. 110 A. L. R. 826.

Evidence, admissibility of report of operator filed pursuant to law, respecting automobile accident. 69 A. L. R. 905.

Report of accident, requiring private motor carriers or contract carriers to make. 109 A. L. R. 565.

66-204. Registration of motor vehicles.—(a) Every owner of a motor vehicle, trailer or semi-trailer, before the same if [is] operated upon any highway in this state, shall apply to the vehicle division for a certificate of title thereto and the registration thereof.

(b) When an application, accompanied by the proper fee, has been made as herein required, such vehicle may be operated pending completion of the registration thereof, but during such period there shall be displayed, as evidence of said application, two "drive-out" number plates of a distinctive type, which shall be supplied by the county assessor, attached to the front and rear of the vehicle. At the expiration of fifteen [15] days said plates shall be surrendered and regular license plates affixed. Any assessor issuing "drive-out" plates shall, on the day of the issuance thereof, notify the local peace officers and the nearest highway patrolman, and failure to do so shall constitute a misdemeanor. On the sixteenth day after the issuance of any such plates, if the same be not surrendered, any officer shall seize and impound the said vehicle and hold it until the regular license plates are procured and placed thereon, and the owner of such vehicle shall be guilty of a misdemeanor, except that in the case of a foreign registration or other emergency, the division shall have the right to extend said time so as to allow time for clearance of title and registration.

(c) This section shall not apply to farm tractors, road-rollers, or road machinery temporarily operating or moved upon the highway, nor to any owner permitted to operate a vehicle under special provision relating to lien holders, manufacturers, dealers and nonresidents. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 8, p. 33; R. C. 1928, § 1632; Laws 1937, ch. 67, § 2, p. 234.]

Compiler's Note.

The bracketed word "is" was inserted by the compiler.

Amendment.

This section, prior to its amendment in 1937, read as follows: "Every owner of a motor vehicle, trailer or semi-trailer, before the same is operated upon a highway in the state, shall apply to the office of the vehicle division located in the county of which the owner of said motor vehicle is a resident, and obtain the registration thereof. This section shall not apply to farm tractors, road rollers, and road machinery temporarily operated or moved upon the highway, or to an owner permitted to operate a vehicle under the special provisions relating to lien holders, manufacturers, dealers and non-residents."

Comparative Legislation. Motor vehicle registration:

Cal. Deering's Codes 1937, Vehicle Code, §§ 140-167.
 Colo. Sess. Laws 1931, ch. 122.
 Del. Rev. Code 1935, §§ 5539-5571.
 Idaho. Code 1932, §§ 48-101—48-121.
 Ind. Burns' Stat. 1933, §§ 47-101—47-133.
 Iowa. Acts 1937, ch. 134.
 Kans. Gen. Stat. 1935, §§ 8-126—8-151.
 La. Dart's Stat., § 5155 et seq.
 N. Mex. Stat. 1929, §§ 11-301—11-341.
 N. Car. Pub. Laws 1937, ch. 407.
 N. Dak. Laws 1927, ch. 179.
 Utah. Laws 1933, ch. 43.

NOTES TO DECISIONS

Purpose of Law.

The spirit and purpose of the automobile registration statute is to prevent the sale of stolen or converted automobiles. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

Status of Unlicensed Automobile.

An unlicensed automobile is not an outlaw which has no right on the highways, and is not to be regarded as a trespasser to which those rightfully and lawfully going about their business owe

no duty, care, or caution to avoid injury. *Arizona Copper Co., Ltd. v. Garcia*, 25 Ariz. 158, 214 Pac. 317.

Collateral References.

Civil rights and liabilities as affected by failure to comply with regulations as to registration or license. 16 A. L. R. 1108; 38 A. L. R. 1038; 43 A. L. R. 1153; 54 A. L. R. 374; 35 A. L. R. 62; 58 A. L. R. 532; 61 A. L. R. 1190; 78 A. L. R. 1028; 87 A. L. R. 1469; 111 A. L. R. 1258.

Delegation of legislative power with respect to licenses or registration. 87 A. L. R. 548, 554.

Financial responsibility, constitutionality of statute which makes proof of, condition of granting registration or driver's license. 115 A. L. R. 1376.

Lack of automobile registration as evidence of negligence. 73 A. L. R. 164.

Liability for injury or damage by unregistered car or car driven by unlicensed person. 16 A. L. R. 1117; 35 A. L. R. 68; 38 A. L. R. 1038; 43 A. L. R. 1153; 54 A. L. R. 381; 58 A. L. R. 533; 61 A. L. R. 1190; 78 A. L. R. 1031; 84 A. L. R. 1473; 111 A. L. R. 1266.

Name used to identify owner, registration of automobile as affected by. 47 A. L. R. 1103.

Prima facie case or presumption from registration of automobile in name of, or from proof of ownership by, defendant, as applicable to questions other than the master-servant relationship at time of accident. 122 A. L. R. 228.

Public officials or employees, applicability to, of regulations as to registration and licensing of motor vehicles. 19 A. L. R. 463; 23 A. L. R. 418.

Registration or license, defense of contributory negligence as affected by failure to comply with regulations as to. 35 A. L. R. 62; 38 A. L. R. 1038.

Street car, violation of regulations as to registration and license as affecting right to recover for injuries due to collision with. 28 A. L. R. 227; 46 A. L. R. 1008.

Taxes, validity of requirement of payment of property taxes as condition precedent to issuance of automobile license. 62 A. L. R. 304.

Taxes, validity of statutes imposing license tax on automobiles as affected by constitutional provisions in relation to taxation. 5 A. L. R. 759.

Tolls, automobile registration or license fees as. 68 A. L. R. 209.

66-205. Application for certificate of title.—(a) Application for a certificate of title to any motor vehicle, trailer or semi-trailer, shall be made to the assessor of the county in which the owner resides, upon a form furnished by the vehicle division. It shall be signed by the owner, and shall contain his complete residence address, a brief description of the vehicle to be registered, the name of the maker, the engine and serial number, whether new or used, the last license number if known, the state in which issued, and in the case of the application for a certificate of title to a new vehicle, the date of sale by the manufacturer or dealer to the person first operating such vehicle, and such other information as may be required by the vehicle division.

(b) The application for a certificate of title to a new vehicle shall be accompanied by a certificate from the manufacturer showing the date of sale to the dealer or person first receiving same from the manufacturer, the name of such dealer or person, and a description of the vehicle sufficient to identify it, and shall certify that the vehicle when so sold was a new vehicle. If sold through a dealer, such dealer shall certify that the vehicle when sold to the applicant was new.

(c) If an application is for a certificate of title to a specially constructed, reconstructed or foreign vehicle, such fact shall be stated in the application. With reference to every foreign vehicle which has been registered in another state or country, the owner thereof shall surrender to the vehicle division the number plates assigned to such vehicle, the registration card and certificate of title, certificate of ownership, or other evidence of such foreign registration, together with satisfactory evidence of ownership showing that the applicant is the

lawful owner or possessor of such vehicle, except that where in the course of the interstate operation of a vehicle registered in another state or country it is desirable to retain registration of such vehicle in such other state or country, the applicant need not surrender but shall submit for inspection said evidence of such foreign registration and ownership and the vehicle division upon a proper showing shall register such vehicle, but shall not issue a certificate of title for such vehicle.

(d) Every foreign vehicle, before the same shall be registered in this state, shall be examined and inspected by the vehicle division or an officer or agent thereof.

(e) An applicant who rents, or intends to rent such vehicle without a driver shall state such fact in the application. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 9, p. 33; R. C. 1928, § 1633; Laws 1931, ch. 100, § 1, p. 265; 1937, ch. 67, § 3, p. 234.]

Title of Act.

An act to provide for the regulation of motor vehicles upon the highways, and for the certification of the ad valorem tax for the benefit of the state highway fund. [Laws 1931, ch. 100.]

Amendments.

This section, prior to its amendment in 1931, read as follows: "The application for registration shall be made by the owner upon a form furnished by the vehicle division, which shall be signed by the owner and contain his residence address, a brief description of the vehicle to be registered, the name of the maker, the engine and serial number, whether new or used, the last license number if known, the state in which issued, and, upon the registration of a new vehicle, the date of sale by the manufacturer or dealer to the person first operating such vehicle, and such other information as may be required by the vehicle division. When the vehicle is a specially constructed, reconstructed, or foreign vehicle, such fact shall be stated in the

application. The owner of every foreign vehicle which has been registered theretofore outside of this state shall exhibit to the vehicle division the registration card or other evidence of such former registration showing that the applicant is the lawful owner or possessor of the vehicle. When the owner of the vehicle rents or intends to rent such vehicle without a driver, such fact shall be stated in the application."

The 1931 amendment added: "and the motor vehicle shall be examined and inspected by the registration officer or by an officer designated by the vehicle superintendent."

The 1937 amendment placed the section in its present form.

Comparative Legislation. Certificate of title:

Cal. Deering's Codes 1937, Vehicle Code, § 153.

Ill. Rev. Stat. 1939, ch. 95½, §§ 74-93.

Ind. Burns' Stat. 1933, § 47-301 et seq.

La. Dart's Stat., § 5165.

NOTES TO DECISIONS

Forged Indorsement of Certificate.

When second-hand automobile dealer obtained possession of owner's registered certificate of title and by forged indorsement obtained new certificate in his

name, and executed mortgage, the owner could recover his automobile from mortgagee and assignee. (See §§ 66-206, 66-207.) *Winship v. Standard Finance Co.*, 40 Ariz. 382, 12 Pac. (2d) 282.

66-206. Register to be kept—Certificate of title.—(a) The vehicle division shall file each application for a certificate of title and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled thereto, shall register the vehicle therein described and the owner thereof in books or on index cards under a distinctive registration number assigned to the vehicle and to the owner thereof, alphabetically under the name of the owner and numerically under the engine number.

(b) The certificate of title shall contain upon the reverse side a space for the signature of the owner, and the owner shall write his name with pen and ink in such space upon receipt of the certificate. Said certificate shall also contain upon the reverse side forms for assignment of title or interest and warranty thereof by the owner, with space for notation of liens and encumbrances upon the vehicle at the time of a transfer.

(c) Certificates of title to motor vehicles, trailers or semi-trailers which have been registered in any other state or country shall be of a distinctive color.

(d) The person owning any motor vehicle, trailer, or semi-trailer may, upon furnishing satisfactory proof to the superintendent of such ownership, procure a certificate of title to such vehicle, regardless of whether a certificate of title thereto has previously been issued. If the superintendent shall determine that an applicant for a certificate of title to a motor vehicle, trailer, or semi-trailer, is not entitled thereto, he may refuse to issue a certificate or to register the vehicle, and for like reason, and after notice and hearing, may revoke a registration already made, or any outstanding certificate of title. Said notice shall be served in person or by registered mail. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 10, p. 33; R. C. 1928, § 1634; Laws 1937, ch. 67, § 4, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "The division shall file each application, and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled thereto, shall register the vehicle therein described and the owner thereof in books or on index cards under a distinctive registration number assigned to

the vehicle and to the owner thereof, alphabetically under the name of the owner, and numerically and alphabetically under the engine and serial number and name of the vehicle."

Collateral Reference.

Records, right to examine and copy.
108 A. L. R. 1395.

66-207. Application for registration.—(a) Every application for the registration of a motor vehicle, trailer or semi-trailer, shall be made to the vehicle division on forms prescribed and furnished by the division. Each such application shall contain the name and complete residence address of the owner, a description of the vehicle, including the engine number, and if a new vehicle the date of sale by the manufacturer or dealer to the person first operating the vehicle, and such other facts as may be required by the division. When the owner of the vehicle rents or intends to rent such vehicle without a driver, such fact shall be stated in the application. Every application shall be accompanied by the required fees and the certificate of title to the vehicle for which registration is sought.

(b) The vehicle division shall file each application and when satisfied as to the genuineness and regularity thereof, shall issue to the owner of the vehicle a registration card and assign number plates to the vehicle. The registration card shall contain upon the face thereof, the date issued, the registration number assigned to the owner and the vehicle, the name and address of the owner, a description of the registered vehicle including the engine number and serial number,

and the amount of fees paid for the registration of such vehicle. The owner, upon receiving the registration card, shall sign the same in conformity with the signature appearing in his application in ink, in the space provided therefor, and such registration card shall at all times be carried in plain sight within the driver's compartment of the vehicle for which issued, and shall be subject to inspection by the vehicle superintendent or his authorized agent, members of the highway patrol, or any peace officer.

(c) The superintendent shall deny registration on any motor vehicle, trailer, or semi-trailer owned by or under the control of a person who has failed, refused or neglected to pay any motor vehicle fee, tax or other assessment, or penalty thereon, due to be paid to the division or for its account. Any registration so revoked shall be renewed only upon paying the fees provided for registration and the full amount of such delinquent fees, taxes or other assessments and penalties, if any thereon.

(d) Any person who: 1. issues a number plate for which a fee is required to be paid, without the presentation of a certificate of title; 2. issues a registration card unless such card carries all information required to be shown thereon, or, 3. places any information on such card which does not appear on the certificate of title of the vehicle, shall be guilty of a misdemeanor. Any person who issues a number plate, without the full amount of the registration and unladen weight fee, applicable upon the date of issuance, has been paid, shall be guilty of a felony. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 11, 12, p. 33; cons. & rev., R. C. 1928, § 1635; Laws 1931, ch. 100, § 2, p. 265; 1937, ch. 67, § 5, p. 234.]

Compiler's Note.

Laws 1939, ch. 47, p. 128, adding Rev. Code 1928, §§ 1635a-1635h, and imposing a license tax on motor vehicles, was held unconstitutional in *Miners & Merchants Bank v. Board of Supervisors*, — Ariz. —, 101 Pac. (2d) 461.

Amendments.

This section, prior to its amendment in 1931, read as follows: "The division upon registering a vehicle, and upon the payment of the annual license fee and the certificate of title registration fees herein provided for, and the payment of the personal property tax therein for the current year, unless such personal property tax is secured by real property assessed to the owner within such county, shall issue to the owner a registration card and a certificate of registration of title. The registration card and the certificate of registration shall contain upon the face thereof the date issued, the registration number assigned to the owner and to the vehicle, the name and address of the owner, a description of the registered vehicle including the engine number, and, if a new vehicle, the date of sale by the manufacturer or dealer to the

person first operating such vehicle, and such other facts as may be determined by the vehicle division. The certificate of registration of title shall contain upon the reverse side a form for indorsement of notice to the division upon a transfer of the vehicle.

"The owner, upon receiving the registration card, shall sign the usual signature or name of such owner with pen and ink in the space provided upon such card, and it shall at all times, while the vehicle is being operated upon a highway within the state, be in the possession of the operator or chauffeur thereof, or carried in the vehicle, subject to inspection by any peace officer."

The 1931 amendment changed the last sentence to read as follows: "The owner, upon receiving the registration card, shall sign the same, in conformity with the signature appearing in his application, in ink, in the space provided therefor, and such registration card shall at all times be carried in the vehicle, and shall be subject to inspection by any peace officer."

The 1937 amendment placed the section in its present form.

NOTES TO DECISIONS

Assignment—Rights of Assignee.

Where used car dealer sold used car under conditional sales contract, and failed to deliver to purchaser a properly indorsed certificate of title, and assigned the contract, the assignee could not declare a forfeiture of the contract of sale for nonpayment of instalments without complying with the burden imposed on the assignor to deliver the certificate of title. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

Constitutionality.

Provisions of act imposing ad valorem property tax on motor vehicles, exempting those which were not being operated on highways and levying on those used

a different tax according to length of time used being unconstitutional, are so interwoven with remainder of act as to invalidate entire act. *Powell v. Gleason*, 50 Ariz. 542, 74 Pac. (2d) 47, 114 A. L. R. 838.

An ad valorem property tax on motor vehicles which exempted those which were not being operated on the highways from any form of property tax, while exacting such a tax from those which were being so used, and which levied a different tax on those of equal value according to the length of time they were used, was an arbitrary classification in violation of the constitution. *Powell v. Gleason*, 50 Ariz. 542, 74 Pac. (2d) 47, 114 A. L. R. 838.

66-208. Number plates.—(a) The vehicle division shall furnish to every owner one [1] number plate for each motorcycle, trailer, or semi-trailer registered, and two [2] number plates for every other motor vehicle registered, and no charge shall be made therefor. The number plate shall have displayed upon it the number assigned to the vehicle and to the owner thereof, the name of this state, which may be abbreviated, and the year for which it is issued. The plate and the letters and numerals thereon, except the year number for which issued, shall be of sufficient size to be plainly readable from a distance of one hundred [100] feet during daylight.

(b) The superintendent may require the return to the vehicle division of all number plates upon the termination of the lawful use thereof. If the number plates of any motor vehicle become mutilated or illegible, such plates shall be surrendered to the division, and new plates in lieu thereof issued upon payment of the prescribed fee.

(c) A passenger motor vehicle rented without a driver shall receive the same type of number plates as issued for a private passenger motor vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 13, p. 33; R. C. 1928, § 1636; Laws 1937, ch. 67, § 6, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "The division shall furnish to every owner whose vehicle shall be registered one [1] number plate for a motorcycle or semi-trailer and two [2] number plates for every other motor vehicle and trailer. The number plate shall have displayed upon it the registration number assigned to the vehicle and to the owner thereof, the name of this state, which may be abbreviated, and the year number for which it is issued, which plate and the letters and numerals thereon, except the year number for which it is issued, shall be of a sufficient size to be plainly readable from a distance of one hundred [100] feet during daylight. The vehicle superintendent may require the return to the vehicle division

of all number plates upon termination of the lawful use thereof. A passenger motor vehicle rented without a driver shall receive the same type of number plates as issued for private passenger vehicles."

Comparative Legislation. Number plates:

Cal. Deering's Codes 1937, Vehicle Code, §§ 156-158.

Ill. Rev. Stat. 1939, ch. 95½, § 15.

Ind. Burns' Stat. 1933, § 47-119.

La. Dart's Stat., § 5164.

Collateral References.

Criterion of value of license plates for purpose of fixing degree of larceny of. 48 A. L. R. 1167.

Liability of one lending license plates to another. 26 A. L. R. 1246.

Unauthorized use of license plates as affecting right to recover for injuries or

damages in consequence of automobile accident. 86 A. L. R. 236.

66-209. How to attach number plates.—The number plate assigned to a motorcycle, trailer, or semi-trailer shall be attached thereto in the rear, and the number plates assigned to any other motor vehicle shall be attached thereto, one [1] in the front and one [1] in the rear, and all such plates shall be so displayed until their lawful use shall expire, or they shall be cancelled or revoked. Every number plate shall at all times be securely fastened to the vehicle so as to prevent the plate from swinging, and at a height of not less than twelve [12] inches from the ground to the bottom of such plate, in a position to be clearly visible, and shall be so maintained as to be clearly legible. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 14, p. 33; R. C. 1928, § 1637; Laws 1937, ch. 67, § 7, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "Number plates assigned to a trailer and to a motor vehicle other than a motorcycle shall be attached thereto, one in front and the other in the rear; to a motorcycle or semi-trailer to the rear thereof, and shall be so displayed until the registration shall expire, be canceled or revoked. The number plate shall at all times be se-

curely fastened to the vehicle so as to prevent the plate from swinging and at a height not less than twelve [12] inches from the ground to the bottom of such plate, in a position to be clearly visible, and shall be maintained as to be clearly legible."

Section to Section Reference.

This section is referred to in § 66-222.

66-210. Certificate not to be renewed—Annual registration.—The certificate of title shall be valid for the life of the vehicle, so long as it is owned by the original holder thereof. Every vehicle registration shall expire on December 31 of each year and shall be renewed annually upon application by the owner and by payment of the fees required, such renewal to take effect on January 1. When application is made for renewal of registration, the owner shall exhibit to the county assessor his certificate of title to the motor vehicle, trailer or semi-trailer to be registered. An owner who previous to January 1 has made proper application for renewal of registration, but has not received the number plates or registration card for the ensuing year, may operate such vehicle upon displaying thereon the number plates assigned thereto for the preceding year, for such time, to be prescribed by the vehicle division, as it may find necessary for the issuance of new plates. The division may, upon request, issue to such applicant a certificate or card showing the applicant's right to use such number plates, for a period not to exceed thirty [30] days. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 15, p. 33; R. C. 1928, § 1638; Laws 1937, ch. 67, § 8, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "The certificate of registration of title shall be valid for the life of the car, so long as it is owned by the original holder of such certificate. Every vehicle registration shall expire December thirty-first each year and shall be renewed annually upon

application by the owner and by payment of the fees required, such renewal to take effect on the first day of January of each year. When application for a renewal of registration is made, the owner must exhibit to the vehicle division his certificate of registration of title to the motor vehicle to be registered. An owner who has made proper application

for renewal of registration of a vehicle previous to January first but who has not received the number plates or registration card for the ensuing year may operate such vehicle upon the highways upon

displaying thereon the number plates issued for the preceding year for such time to be prescribed by the vehicle division, as it may find necessary for issuance of new plates."

66-211. Transfer of title and registration.—(a) When the owner of a registered vehicle transfers or assigns his title or interest thereto, the registration of such vehicle shall expire, but the number plates assigned to such vehicle shall be and remain thereon. Upon such transfer or assignment, the owner shall remove the registration card issued for such vehicle and endorse upon the reverse side thereof the name and address of the transferee and the date of transfer, and shall immediately forward such card to the vehicle division, and shall also endorse on the back of the certificate of title to such vehicle, if issued, any assignment thereof, with the warranty of title in the form printed thereon, and shall deliver the same to the purchaser or transferee at the time of delivery to him of such motor vehicle, except as provided in section 1640a [§ 66-213]. The purchaser, or transferee, except as provided in section 1640 [§ 66-212], and within ten [10] days after such transfer, shall apply for and obtain the registration of such vehicle by presenting the certificate of title thereto to the vehicle division, accompanied by the required fee, whereupon a new certificate of title shall be issued to the purchaser or transferee.

(b) The person owning any motor vehicle, upon furnishing satisfactory proof of ownership to the vehicle superintendent, may procure a certificate of title to such motor vehicle, regardless of whether a certificate of title has ever been issued. If the vehicle superintendent shall determine that an applicant for a certificate of title to a motor vehicle, trailer or semi-trailer is not entitled thereto, he may refuse to issue a certificate or to register such vehicle, and for like reason and after notice and hearing, may revoke a registration already acquired, or any outstanding certificate of title. Said notice shall be served in person or by registered mail.

(c) The vehicle superintendent shall refuse to register any motor vehicle, trailer or semi-trailer owned by or under the control of a person who has failed, refused or neglected to pay any motor vehicle fee, tax or other assessment, or any penalty thereon, due to be paid to the vehicle division or for its account, and shall revoke the registration of any motor vehicle, trailer or semi-trailer owned by or under the control of any person who has been delinquent for the period of forty-five [45] days in the payment of any motor vehicle fee, tax or other assessment due to be paid the vehicle division or for its account. The registration of any motor vehicle, trailer or semi-trailer so revoked shall be renewed only upon paying the fees described for registration and the full amount of such delinquent fees, taxes or other assessments and penalties thereon, if any. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 16, p. 33; R. C. 1928, § 1639; Laws 1937, ch. 67, § 9, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "When the owner

of a registered vehicle transfers or assigns his title or interest thereto, or when his title or interest is transferred

by legal proceedings the registration of such vehicle shall expire and such owner shall remove the number plates therefrom and forward the same to the vehicle division; or, he may have such plates and the registration number thereof assigned to another vehicle upon payment of the fees and subject to the rules and regulations of the division. The transferee, before operating or permitting the operation of such vehicle upon a highway, shall apply and obtain the registration thereof; if the vehicle division does not receive the former registration card properly indorsed, it may re-register the vehicle, when satisfied of the genuineness and regularity of the transfer.

"An administrator, executor, trustee or other representative of the owner, or a peace officer, or any person repossessing a vehicle under the terms of a conditional sale contract, lease, chattel mortgage or other security agreement, or the assignee or legal representative of any such person may operate a vehicle upon the high-

ways for a distance of not exceeding seventy-five [75] miles from the place of repossession or place where formerly kept by the owner to a garage or place of storage, either upon displaying upon such vehicle the number plates issued to the former owner, or without number plates attached thereto but under a written permit first obtained from the division, or the local police authorities having jurisdiction over such highways, and upon displaying in plain sight upon such vehicle a placard bearing the name and address of the person authorizing such movement, and plainly readable from a distance of one hundred [100] feet during daylight."

Comparative Legislation. Transfer of title:

Cal. Deering's Codes 1937, Vehicle Code, §§ 175-186.

Ill. Rev. Stat. 1939, ch. 95½, § 80.

Ind. Burns' Stat. 1933, § 47-116.

La. Dart's Stat., § 5168.

NOTES TO DECISIONS

Certificate of Registration.

Where agent of insurer being cognizant of all facts of transaction fails to ask buyer whether certificate had been registered, and also neglects to ascertain from proper state office if same has been done he, the insurer, will be deemed to have waived same, and will be liable under warranties of policy. *Chicago Fire & Marine Ins. Co. v. Sharpensteen*, 37 Ariz. 132, 289 Pac. 985.

Payments Refused for Nondelivery of Certificate.

Purchaser of automobile under conditional sales contract was justified in refusing to make the final payment on the

automobile until he received certificate of title. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

Prima Facie Title.

Certificate of title when properly issued and indorsed, establishes prima facie title to automobile in person named in certificate. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

Collateral Reference.

Forfeiture of automobile by innocent vendor when sold conditionally and used by vendee in violation of law. 2 A. L. R. 1596.

66-212. Transfer of ownership by operation of law.—(a) Whenever the title or interest of an owner in or to a registered vehicle shall pass to another otherwise than by voluntary transfer, the transferee shall, within ten [10] days after the passing of such title or interest, secure a transfer of registration to himself, and (upon proper application and presentation of the last certificate of title, if available, and such instruments or documents of authority, or certified copies thereof as may be sufficient or required by law to evidence or effect a transfer of title or interest in or to chattels in such case) a new certificate of title.

(b) Where the title or interest of an owner in or to a registered vehicle shall pass to another through notice and sale under the conditions contained in a chattel mortgage, conditional sale, or other evidence of lien, or under the authority given by statute in cases arising under sections 2042 and 2043, Revised Code of 1928 [§§ 62-401 and 62-402],

the transferee may secure a transfer of registration to himself, and a new certificate of title, upon presenting satisfactory evidence to the division that the sale of said vehicle was fairly and lawfully conducted in conformity with all requirements of law after due notice given to the former owner.

(c) An administrator, executor, trustee or other representative of the owner, or a peace officer, or any person repossessing a vehicle under the terms of a conditional sales contract, lease, chattel mortgage or other security agreement, or a purchaser at a sale foreclosing a lien, or the assignee or legal representative of any such person, may operate a vehicle from the place of repossession or place where formerly kept to a garage or place of storage, in the county or state where the contract was recorded or where the one repossessing the same resides, or to any other garage or place of storage not exceeding seventy-five [75] miles from the place of repossession or place where formerly kept by the owner, either upon displaying upon such vehicle the number plates assigned thereto, or without number plates attached thereto but under a written permit first obtained from the vehicle division or the local police authorities having jurisdiction over such highways, and upon displaying in plain sight upon such vehicle a placard bearing the name and address of the person authorizing such movement, and plainly readable from a distance of one hundred [100] feet during daylight. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 17, 19, p. 33; cons. & rev., R. C. 1928, § 1640; Laws 1931, ch. 100, § 3, p. 265; 1937, ch. 67, § 10, p. 234.]

Amendments.

This section, prior to its amendment in 1931, read as follows: "Upon a transfer of the ownership of a motor vehicle for which a certificate of registration of title has been issued, the holder of such certificate shall indorse on the back of the same an assignment thereof with a warranty of title in the form printed thereon, and deliver the same to the purchaser or transferee, at the time of the delivery to him of such motor vehicle. The purchaser or transferee shall within ten [10] days thereafter present such certificate to the vehicle superintendent accompanied by the required fee, whereupon a new certificate of registration of title shall be issued to the assignee. The person owning such motor vehicle may upon furnishing satisfactory proof to the vehicle superintendent of such ownership procure a registration of title to said motor vehicle regardless of whether a certificate of registration of title has ever been issued. If the vehicle superintendent shall determine at any time that an applicant for a certificate of registration of a motor vehicle is not entitled thereto, he may refuse to issue such certificate or to register such vehicle, and he may for a like reason and after notice and hearing, revoke a registration

already acquired, or any outstanding certificate of registration of title. Said notice shall be served in person or by registered mail."

The 1931 amendment added the following: "The vehicle superintendent shall refuse to register any motor vehicle owned by or under the control of a person who has failed, refused or neglected to pay any motor vehicle fee, tax or other assessment, and any penalty thereon, due to be paid to the vehicle division or for its account. The vehicle superintendent shall revoke the registration of any motor vehicle owned by or under the control or [of] any person who has been delinquent for the period of forty-five [45] days in the payment of any motor vehicle fee, tax or other assessment due to be paid the vehicle division or for its account. The registration of any motor vehicle so revoked shall be renewed only upon paying the fees provided for registration and the full amount of such delinquent fees, taxes or other assessments and penalties, if any thereon."

The 1937 amendment placed the section in its present form.

Section to Section Reference.

This section is referred to in § 66-211.

NOTES TO DECISIONS

Certificate Required for Conditional or Completed Sale.

Statutes require vendor of automobile, upon delivery of possession to the vendee, to furnish a certificate of title to the

latter, whether the transaction be a completed sale with passage of title or a conditional sale with title reserved. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

66-213. Dismantling registered vehicle.—Any owner who sells a registered motor vehicle, trailer or semi-trailer as scrap, or to be dismantled or destroyed, shall assign the certificate of title thereto to the purchaser, who shall deliver the same, together with the registration card and number plate or plates to the vehicle division with an application for a permit to scrap, dismantle or destroy such vehicle, and any owner intending or desiring to dismantle or wreck any registered vehicle shall, before so doing, forward to the vehicle division the certificate of title, registration card and the number plate or plates assigned to such vehicle, together with an application for permit to dismantle or wreck such vehicle: The vehicle division, upon receipt of such title, registration card and number plates, together with such application, shall issue a permit to the applicant to scrap, dismantle or destroy the vehicle, which shall authorize such person to transport or possess the vehicle or to transfer ownership thereto by endorsement upon the permit. A certificate of title shall not again be issued for such vehicle in the event it is scrapped, dismantled or destroyed. [R. C. 1928, § 1640a, as added by Laws 1937, ch. 67, § 11, p. 234.]

Section to Section Reference.

This section is referred to in § 66-211.

66-214. Re-registration on change of use.—The owner of a registered vehicle on which no unladen weight fee has been paid, shall forthwith, upon using or offering to use the same for the transportation of passengers for compensation, or upon altering or reconstructing the same for the transportation of property, whether the unladen weight fee has been paid or not, surrender to the vehicle division the certificate of title and registration card to such vehicle and the number plate or plates assigned thereto, and shall make application for a corrected certificate of title and obtain a new registration. In such case, no additional fee, other than the unladen weight fee, shall be required. [R. C. 1928, § 1640b, as added by Laws 1937, ch. 67, § 12, p. 234.]

66-215. Dealer to obtain certificate of title for each car.—Every dealer in motor vehicles, trailers and semi-trailers, including manufacturers who sell to others than dealers, having in his possession any motor vehicle, trailer, or semi-trailer, shall at the same time have in his possession a duly and regularly assigned certificate of title thereto. Every such dealer or manufacturer, upon acquiring any foreign vehicle, shall forthwith apply to the vehicle division and obtain a certificate of title thereto. No dealer or manufacturer shall offer for sale or sell any motor vehicle, trailer or semi-trailer unless and until he shall have obtained a certificate of title thereto as hereinabove provided, but a certificate of title shall not be required for a new motor vehicle sold

by manufacturers to dealers. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 18, p. 33; rev., R. C. 1928, § 1641; Laws 1937, ch. 67, § 13, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "Dealers in motor vehicles, including manufacturers who sell to others than dealers, shall obtain a separate certificate of registration of title, either of such dealer's immediate vendor or of the dealer himself,

for each motor vehicle in his possession, and the vehicle superintendent shall determine the form in which application for such certificate of registration of title and assignments thereof shall be made. No certificate shall be required for a new motor vehicle sold by manufacturers to dealers."

NOTES TO DECISIONS

Payments Refused for Nondelivery of Certificate.

Purchaser of automobile under conditional sales contract was justified in refusing to make the final payment on the automobile until he received certificate of title. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

Collateral References.

Damages for personal injuries resulting in death of automobile dealer, excessiveness for inadequacy of. 48 A. L. R. 820.

Demonstration or instruction by dealer, who is responsible for injury by automobile during. 20 A. L. R. 194; 50 A. L. R. 1391.

66-216. Dealers and wreckers to be licensed.—(a) No person, unless licensed so to do by the vehicle division under the provisions of this section, shall carry on or conduct the business of: 1. a dealer in motor vehicles, trailers or semi-trailers; 2. a dealer in used parts or used accessories of motor vehicles; 3. wrecking or dismantling any such vehicle for resale of the parts thereof. A used car dealer shall be defined as one who deals in used cars other than those taken in by a dealer in new motor vehicles in the sale of such vehicles.

(b) Application for a dealer's or wrecker's license shall be made upon the form prescribed by the vehicle division. It shall contain: 1. the name and address of the applicant, and, 1a. when the applicant is a partnership, the name and address of each partner, or, 1b. when the applicant is a corporation, the names and addresses of the principal officers of the corporation and the state in which incorporated; 2. the place or places where the business is to be conducted; 3. the nature of such business, and such other information as may be required by the vehicle division. Every such application shall be verified by the oath or affirmation of the applicant, if an individual, or in the event an applicant is a partnership or corporation, then by a partner or officer thereof. Every such application shall be accompanied by the fee required by law and by a sworn statement of two [2] reputable persons of the community in which the principal place of business is to be located, certifying the good moral character of the applicant.

(c) In addition to the foregoing provisions, an applicant for a license to deal in used vehicles shall furnish with his application proof satisfactory to the superintendent that he has a permanent and established place of business within the state, and is actively and continuously engaged at such place of business in the business of dealing in used vehicles, or if the applicant is making application for the first time for license as a dealer in used vehicles, that he has established a permanent place of business within the state and intends to actively and continu-

ously engage in such business at such place, and that he has a duly appointed resident agent at said place of business upon whom legal service may be had at any time during ordinary business hours.

(d) Every such applicant shall also at the time of filing his application file a bond satisfactory to the superintendent, with a surety company authorized to do business in the state as surety. Said bond shall be in such amount, not less than one thousand dollars [\$1,000], as the superintendent may prescribe, shall be conditioned that the dealer will faithfully comply with all the provisions of law required of him, shall contain a warranty and guarantee that the titles to all vehicles offered for sale or sold by said dealer are, when so represented, free and clear of encumbrances in said dealer, and also conditioned that the said bond shall be noncancellable for the period of time co-terminous with the license to be issued to said dealer. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 20, p. 33; rev., R. C. 1928, § 1642; Laws 1937, ch. 67, § 14, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "It shall be unlawful for any person to carry on or conduct the business of buying, selling or dealing in used vehicles, unless he shall have received a license from the vehicle superintendent authorizing the transaction of such business; but a manufacturer or importer of vehicles or his subsidiaries or selling agents, may take in trade and sell any used vehicles without such license. Such license shall be furnished annually by the superintendent, on an application subject to such rules and regulations as he may prescribe. The application shall be accompanied by a sworn statement of two [2] reputable persons of the community in which the principal place of business is to be located, certifying the good moral character of the applicant together with the fee required therefor.

"A license certificate shall be issued by the superintendent entitling the licensee to transact the business of buying, selling and dealing in used vehicles for a period of one [1] year from the

first day of January of the current year. The superintendent may make rules and regulations for the issuance of such licenses to expire upon the first day of January of the succeeding year, where an application is made after July first of any year. Every such licensee shall keep a book or record, in such form as may be prescribed by the superintendent, of the purchase, sale or exchange or receipt for the purpose of sale, of any second-hand vehicle, which shall at all times be open to inspection by any peace officer. He shall also have in his possession a duly assigned certificate of registration of title from the owner of said motor vehicle from the time when the motor vehicle is delivered to him until it has been disposed of by him. Any person violating this section shall be guilty of a felony."

Comparative Legislation. Dealers' licenses:

Cal. Deering's Codes 1937, Vehicle Code, §§ 205-208, 375.

Ind. Burns' Stat. 1933, § 47-121 et seq.

La. Dart's Stat., § 5169.

NOTES TO DECISIONS

Payments Refused Until Delivery of Title.

Failure of used car dealer, in selling and delivering car to conditional buyer, to deliver also a properly assigned Arizona certificate of title, placed him in

default on his contract, and buyer could properly refuse to make any payments until he received the certificate. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

66-217. Superintendent to issue dealers' and wreckers' licenses.—

(a) The vehicle division, upon receiving an application for a dealer's or wrecker's license, accompanied by the required fee, 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 registration of vehicles and certificates of title and the provisions of this section, shall issue to the applicant a license which shall entitle the licensee to carry on and conduct the business of a dealer or wrecker, as the case may be, 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 fee required by law.

(b) The vehicle division 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 or licensee has failed to comply with the provision of this chapter.

(c) A licensee, before removing any place of business, or opening any additional place of business, shall apply to the division for and obtain a supplemental license, for which no fee shall be charged. [R. C. 1928, § 1642a, as added by Laws 1937, ch. 67, § 15, p. 234.]

66-218. Records to be kept by dealers and wreckers.—(a) Every licensee shall maintain a record, in form as prescribed by the vehicle division, of:

1. Every vehicle of a type subject to registration hereunder which is bought, sold or exchanged by the licensee or received or accepted by the licensee for sale or exchange;

2. Every used motor vehicle body, chassis or motor vehicle engine which is sold or otherwise disposed of;

3. Every such vehicle which is bought or otherwise acquired and wrecked by the licensee.

(b) Every said record shall state the name and address of the person from whom any such vehicle, motor vehicle body, chassis or motor vehicle engine was purchased or acquired and the date thereof; the name and address of the person to whom any such vehicle or motor vehicle body, chassis or motor vehicle engine was sold or otherwise disposed of and the date thereof, and a sufficient description of every such vehicle, body, chassis or motor vehicle engine, by name and identifying numbers, to identify the same. Every such record shall be open to inspection by the superintendent or his agents, the members of the highway patrol or any peace officer during reasonable business hours. [R. C. 1928, § 1642b, as added by Laws 1937, ch. 67, § 16, p. 234.]

66-219. Special engine numbers—New blocks—Changing motors—Seizure.—Any person the owner of or having possession of a motor vehicle, the original engine number of which has been destroyed, altered or defaced, shall apply to the superintendent, on a form prescribed by him, for permission to stamp on the engine of such motor vehicle a special engine number. Upon receipt of such application, sworn to by the applicant, with the required information, together with the fee, the superintendent shall issue to said applicant written permission to stamp on the engine of such motor vehicle a special number designated by the superintendent, and when stamped or placed on the engine it shall thereafter be the lawful engine number of such motor vehicle, and the owner thereof may sell or transfer the same under said number. The superintendent shall require of the applicant a statement that the

special number has been put on in a workmanlike manner, and this statement shall be certified to by a peace officer. Before placing a new block in any motor vehicle, or changing a motor from one vehicle to another, the owner shall make application to the superintendent as is herein provided for numbering motors.

The vehicle superintendent shall have the authority, and he is hereby empowered, to seize any vehicle, or motor, the motor, serial or other identification number or mark of which has been removed, defaced, obliterated or changed, or any vehicle in which a new block or motor, or a block and motor, taken from any other vehicle has been placed, when no application has been made to him, as herein provided. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 21, p. 33; rev., R. C. 1928, § 1643; Laws 1933, ch. 78, § 1, p. 316.]

Title of Act.

An act relating to motor vehicles, special engine numbers, new blocks, changing motors, and seizure of motor vehicles or motors, and amending section 1643, Revised Code of 1928, and the further amendment of article 5, chapter 31,

Revised Code of 1928, by adding thereto a section to be designated section 1643a. [Laws 1933, ch. 78.]

Amendment.

The 1933 amendment added the second paragraph.

66-220. Sale of seized vehicles or motors.—(a) Any vehicle or motor seized under the provisions of this chapter and held for a period of six [6] months, without compliance by the owner with the provisions of law under which the same was seized, including the payment of all fees, penalties, costs and expenses of seizure, shall be sold by the vehicle superintendent. Any motor vehicle, trailer or semi-trailer seized and held for the non-payment of any fee, tax or other assessment or penalty thereon, due to be paid to the vehicle division or for its account, may be sold in thirty [30] days.

(b) The sale of any motor vehicle, motor, trailer, or semi-trailer sold under the provisions of this section shall be at public auction, and notice thereof shall be given by registered mail not less than five [5] nor more than twenty [20] days prior to sale, directed to the last known address of the owner of the vehicle or motor to be sold, when such owner is known, otherwise by publication in a newspaper of general circulation in the county in which the vehicle or motor was seized. If published in a weekly newspaper, such publication shall be made once in each week for two [2] consecutive weeks, and if in a daily newspaper, six [6] consecutive times. The last publication shall not be less than five [5] nor more than ten [10] days prior to the date of sale. The proceeds from such sale, after the fees, penalties, costs and expenses of seizure and sale are deducted, shall be paid to the owner from whom the vehicle or motor was seized, if he be known; otherwise the same shall be transmitted to the state treasurer and by him credited to the highway fund. [R. C. 1928, § 1643a, as added by Laws 1933, ch. 78, § 2, p. 316; 1937, ch. 67, § 17, p. 234.]

Amendment.

The 1937 amendment added the second sentence; and substituted the portion of the first sentence of subd. (b) preceding "shall be at public auction" for "Such sale."

Emergency.

Section 3 of Laws 1933, ch. 78 declared an emergency. Approved March 18, 1933.

66-221. Special serial numbers.—If the serial or other identifying number of any motor vehicle, trailer or semi-trailer, other than the motor number of a motor vehicle, shall be altered, removed, obliterated, defaced, omitted, or is otherwise absent, the owner of such vehicle at the time of application for registration thereof shall file an application with the division, on a form provided by it and containing such facts and information as shall be required by the superintendent, for the assignment of a special serial or identifying number for such vehicle. If the superintendent is satisfied that the applicant is entitled to the assignment of such serial or identifying number he shall designate a special number for such vehicle, which shall be noted upon the application, upon a suitable record of the division, and upon the authorization of the use thereof, and the superintendent shall furnish the applicant with a metal plate impressed with the symbol M V D, followed by the number assigned to such vehicle, which plate shall forthwith be securely attached to the vehicle in a conspicuous position. Such plate shall remain on the vehicle during the life of the same, and shall be the lawful serial or identifying number thereof. Within ten [10] days after the delivery of any such plate the owner shall procure from any justice of the peace, peace officer, officer or agent of the motor vehicle division, or member of the highway patrol, a certificate that said special serial or identifying number has been securely attached in a conspicuous position upon such vehicle, and deliver the same to the vehicle division. [R. C. 1928, § 1643b, as added by Laws 1937, ch. 67, § 18, p. 234.]

66-222. Dealers' number plates.—(a) A manufacturer or dealer owning any vehicle of a type otherwise required to be registered may, within a distance of fifty [50] miles from the manufacturer's or dealer's place of business, and for the sole purpose of moving, testing, demonstrating or selling said vehicle, operate the same without registering it, provided that there shall be displayed upon such vehicle in the manner prescribed in section 1637 [§ 66-209] a special plate or plates issued to such owner as herein provided. This provision shall not apply to work or service vehicles owned by a manufacturer or licensed dealer.

(b) Any manufacturer or licensed dealer may make application to the division, upon a form provided for such purpose, for a dealer's certificate containing a general distinguishing number, and for one [1] or more pairs of special plates or single special plates appropriate to various types of vehicles. The applicant, at the time of making such application shall, if a manufacturer, submit such proof of his status as a bona fide manufacturer as may reasonably be required by the division, and if a dealer in new motor vehicles, trailers or semi-trailers, shall submit satisfactory proof that he is a duly authorized distributor or dealer for a manufacturer. The division, upon granting any such application, shall issue to the applicant a certificate containing the applicant's name and address and the general distinguishing number assigned to him, and shall also issue special plates as applied for. Every plate or pair of plates so issued shall contain a number or symbol identifying the same from every other plate or pair of plates issued to the

same manufacturer or dealer. The right to use any special plate issued as provided herein for any calendar year shall terminate at midnight on December 31 of each year. Every manufacturer or dealer shall keep a written record of the vehicles upon which such special plate or plates are used, and the time during which each plate or pair of plates is used upon a particular vehicle. Such record shall be open to the inspection of the division, any officer or agent thereof, any member of the highway patrol, or any peace officer. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 22, p. 33; rev., R. C. 1928, § 1644; Laws 1937, ch. 67, § 19, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "A manufacturer or dealer in motor vehicles, trailers or semi-trailers, owning or operating any such vehicle upon a highway, in lieu of registering each such vehicle, may obtain from the division, upon application therefor on the official form and payment of the fees required, and attach to each such vehicle the required number plates, which plates shall each bear thereon in addition the word 'dealer,' or a distinguishing symbol indicating that such plates are issued to a manufacturer or dealer. Such plates may, during the calendar year for which issued, be transferred from one vehicle to another owned or operated by such manufacturer or dealer who shall keep a written record of the vehicles upon which such plates are used and the time during which each set of plates is used on a particular vehicle. Such record shall be open to in-

spection by any peace officer, or employee of the vehicle division.

"Any manufacturer of motor vehicles, trailers or semi-trailers may operate or move the same upon the highways for a distance of seventy-five [75] miles, or any dealer for a distance of twenty-five [25] miles, or for such further distance as may be authorized by the superintendent, to or from the factory where manufactured, a railway depot, vessel, place of shipment or delivery, or salesroom, without registering the same and without number plates attached thereto under a written permit first obtained from the local police authorities having jurisdiction over such highways and upon displaying in plain sight upon each such vehicle a placard bearing the name and address of the manufacturer authorizing or directing such movement, plainly readable from a distance of one hundred [100] feet during daylight."

66-223. Manufacturer and dealer's permit to move without plates.—

Any manufacturer of motor vehicles, trailers or semi-trailers may operate or move the same for a distance of seventy-five [75] miles, and any dealer in new motor vehicles, trailers, or semi-trailers for a distance of fifty [50] miles, or such further distance as may be authorized by the vehicle division, to or from the factory where manufactured, a railway depot, vessel, place of shipment or delivery, or salesroom, without registering the same and without number plates attached, under a written permit first obtained from the vehicle division or local police authorities having jurisdiction over the highway traversed, and upon displaying in plain sight upon each such vehicle a placard bearing the name and address of the manufacturer authorizing or directing such movement, plainly readable from a distance of one hundred [100] feet during daylight. [R. C. 1928, § 1644a, as added by Laws 1937, ch. 67, § 20, p. 234.]

66-224. Notice by manufacturer or dealer of transfer of vehicle.—

Every manufacturer or dealer, upon transferring a motor vehicle, whether by sale, lease or otherwise, to any person other than a manufacturer or dealer, shall immediately give written notice of such transfer to the division upon the official form, containing the date of such

transfer, the names and addresses of the transferor and transferee, and such description of the vehicle as may be called for in such form. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 23, p. 33; rev., R. C. 1928, § 1645.]

66-225. Registration of vehicles of nonresidents.—(a) Except as hereinafter provided, any foreign vehicle owned by a nonresident and used or intended to be used within this state for the transportation of property other than for compensation, shall be registered and licensed in the same manner as is required in the case of motor vehicles, trailers or semi-trailers not theretofore registered or licensed.

(b) Where it is desired to operate any such vehicle in this state for a period not to exceed three [3] months in any registration year, if such vehicle is duly registered and licensed under the laws of any other state or country, the owner may make application to the vehicle division in the manner and form prescribed, for the registration and licensing of such vehicle for the period of time during which it is desired to operate the same in this state. Said application shall be accompanied by an amount equal to one-tenth of the full annual registration and unladen weight fees applicable to said vehicle as prescribed in section 1672 [§ 66-256], for each month or fraction thereof that said vehicle is to be so operated in this state. The minimum fee for such licensing and registration shall be three dollars and fifty cents [\$3.50]. The vehicle division, if satisfied as to the facts stated in said application, shall register and license such vehicle for the period named and assign an appropriate certificate or license, which shall at all times be displayed upon the vehicle in the manner prescribed by the division, while the same is being operated or driven upon any highway of the state. If any such vehicle shall be operated in this state beyond the period for which such certificate or license is issued, the owner shall apply for and obtain the registration of such vehicle, and shall pay the fees for the remaining portion of the registration year.

(c) Every foreign vehicle operated for the transportation of passengers or property for compensation, or in the business of a nonresident carried on in this state, which has been duly registered for the current year in any other state or country, shall be registered in like manner as vehicles owned by residents and the same fees paid.

(d) Every foreign vehicle owned by a nonresident and operated in this state other than for the transportation of passengers or property for compensation, or for the transportation of property, or in the business of a nonresident carried on in this state, shall be registered within ten [10] days after the beginning of operation in this state in like manner as vehicles owned by residents, and no fee shall be charged for such registration, nor shall any number plates be assigned to such vehicle, but in lieu thereof the vehicle division shall issue to such nonresident owner a permit to operate, which shall be distinctive in form, containing the date issued, a brief description of the vehicle, and a statement that the owner has procured registration of such vehicle as a nonresident. No such nonresident owner shall operate any such vehicle upon the highways of this state either before or while it is registered,

as provided in this section, unless there shall be displayed thereon the registration number plates assigned to said vehicle for the current calendar year, by the state or country of which the owner is a resident, nor unless said permit is displayed on the windshield of the vehicle in the manner prescribed by the division. Said permit shall be valid for the period for which the registration plate was issued by the state of which the owner is a resident. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 24, p. 33; rev., R. C. 1928, § 1646; Laws 1931, ch. 100, § 4, p. 265; 1931 (1st S. S.), ch. 14, § 1, p. 44; 1937, ch. 67, § 21, p. 234.]

Compiler's Note.

Laws 1931 (1st S. S.), ch. 14 provided:
Section 2. Severability.—Should any section, paragraph, sentence, clause or phrase of this act be declared unconstitutional or invalid for any reason, the remainder of said act shall not be affected thereby. [Laws 1931 (1st S. S.), ch. 14, § 2, p. 44.]

Title of Act.

An act to amend section 1646 of the Revised Code of 1928, as amended by chapter 100, Laws of the Regular Session of the Tenth Legislature relating to the registration of foreign vehicles; and declaring an emergency. [Laws 1931 (1st S. S.), ch. 14.]

Amendments.

This section, prior to its amendment in 1931 (regular session), read as follows: "A foreign vehicle owned by a non-resident, operated within this state for the transportation of persons or property for compensation, or for the transportation of merchandise, either regularly according to a schedule or for a consecutive period exceeding thirty [30] days, and any motor vehicle, trailer, or semi-trailer owned by a non-resident carrying on business in this state and regularly operated in such business within this state, shall be registered and the same fees paid therefor as required of like vehicles owned by residents.

"Except as otherwise provided in this section, any non-resident owner of a vehicle which has been duly registered for the current year in any other state or country shall, within ten [10] days after commencing to operate such vehicle in this state, register the same in like manner as provided for residents. No fee shall be charged for such registration nor shall any number plates be issued, but in lieu thereof the division shall issue to such non-resident owner a certificate of registration of a distinctive form containing the date it is issued, a brief description of the vehicle and a statement that the owner has procured registration of such vehicle as a non-resident. No non-resident owner of a vehicle shall operate the same upon the public high-

ways, either before or while it is registered under this section, unless there shall be at all times displayed thereon the registration number plates assigned to said vehicle for the current calendar year by the country or state of which the owner is a resident, nor unless the certificate of registration, when issued as in this section provided shall be placed on the windshield of said motor vehicle in the manner to be specified by the division. Every such certificate of registration shall be valid not to exceed six [6] months from the date of its issuance."

The 1931 (regular session) amendment added "either regularly according to a schedule or for a consecutive period exceeding thirty days"; and changed the last sentence to read as follows: "Certificates of registration issued to such non-resident owners shall be valid for a period not to exceed four [4] months in the calendar year in which such certificate of registration is issued, except that where such period shall expire in December, it shall be extended to the following January first."

The 1931 (special session) amendment substituted the following for the first three sentences: "A foreign vehicle operated within this state for the transportation of persons for compensation or for the transportation of property, or operated in the business of a non-resident, carried on in this state, shall be registered and the same fees paid therefor as required of like vehicles owned by residents. Any vehicle coming into this state with any kind of produce for sale in this state shall, upon entering the state, pay the regular registration and weight fees before selling any portion of the produce so brought into this state. A foreign vehicle operated in this state other than for the transportation of persons for hire or for the transportation of property or in the business of a non-resident carried on in this state, which has been duly registered for the current year in any other state or country, shall be registered, within ten [10] days after commencing to operate the same in this state, in like manner as vehicles owned by residents, but no fee shall be charged for such registration nor shall any num-

ber plates be issued, but in lieu thereof the division shall issue to such non-resident owner a certificate of registration of a distinctive form, containing the date it is issued, a brief description of the vehicle and a statement that the owner has procured registration of such vehicle as a non-resident."

The 1937 amendment placed the section in its present form.

Emergency.

Section 3 of Laws 1931 (1st S. S.), ch. 14 declared an emergency. Approved January 12, 1932.

Section to Section Reference.

This section is referred to in § 66-226.

Comparative Legislation. Registration of vehicles of nonresidents:

Cal. Deering's Codes 1937, Vehicle Code, §§ 210-217.

Ind. Burns' Stat. 1933, § 57-123 et seq.

La. Dart's Stat., §§ 5171-5174.

Collateral References.

Discrimination against nonresidents. 61 A. L. R. 347.

Foreign-owned vehicles operating within state, statute in relation to. 82 A. L. R. 1091.

66-226. Appointment by non-resident of attorney upon whom to serve process.—(a) The rights and privileges conferred by section 1646, Revised Code of 1928, as amended by section 4, chapter 100, Session Laws 1931 [§ 66-225], and by section 1654, Revised Code of 1928 [§ 66-238], shall be deemed to be accepted, and such acceptance evidenced, by a non-resident: 1. When such non-resident, by himself or his agent, operates a motor vehicle on a public highway in this state, under the provisions of and the conditions imposed by said sections; 2. When such non-resident, by himself or his agent, operates a motor vehicle on a public highway in this state otherwise than under the provisions of either of said sections; 3. When a motor vehicle, owned by such non-resident, is operated on a public highway in this state with his express or implied permission, and, in either of said cases, the said motor vehicle is operated under such circumstances as would render a resident motor vehicle owner liable for damages to person or property caused by such operation. Such acceptance of the said rights and privileges shall be deemed to constitute and be the appointment of the vehicle superintendent of the division of motor vehicles, by such non-resident, as his true and lawful attorney, upon whom may be served all legal processes in any action or proceeding against him, growing out of any accident or collision in which may be involved such non-resident, his agent, or such other person operating as aforesaid a motor vehicle owned by him with his express or implied permission on a public highway in this state.

(b) The provisions of this section shall also apply to a non-resident 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. [Laws 1935, ch. 61, § 1, p. 273.]

Title of Act.

An act relating to appointment of attorney by and service of process upon nonresident operating or owning a motor vehicle. [Laws 1935, ch. 61.]

Section to Section Reference.

This section is referred to in §§ 66-227, 66-228.

Comparative Legislation. Process against nonresidents:

Fla. Comp. Gen. Laws, Permanent Supp., §§ 4274(3)-4274(6).

Idaho. Sess. Laws 1937, ch. 34.

Iowa. Laws 1937, ch. 134, §§ 513-526.

La. Dart's Stat., § 5296 et seq.

Ohio. Page's Gen. Code, §§ 6308.1-6308.5.

Ore. Code Supp. 1935, § 55.

66-227. Service on vehicle superintendent and notice to non-resident

—Proof of service.—(a) Service of process under section 1 [§ 66-226] shall be by leaving a copy of the summons and complaint, with a fee of two dollars [\$2.00], in the hands of the vehicle superintendent, or in his office during office hours, and shall be deemed to be sufficient service upon such non-resident, provided: 1. The plaintiff shall forthwith send notice of such service and a copy of the summons and complaint by registered mail to the non-resident defendant, and the defendant's return receipt and plaintiff's affidavit of compliance herewith shall be appended to the original summons and filed with the court within such time as the court may allow, or, 2. That such notice and copy of the summons and complaint shall be served upon the defendant, if found without the state, by any duly constituted officer qualified to serve like process in the state or jurisdiction where the defendant is to be found, and the officer's return showing such service to have been made shall be filed in the case within such time as the court may allow. The court in which the action is pending may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action.

(b) The vehicle superintendent shall keep a record, which shall include the day and hour of service, of all processes served upon him under this section. The fee of two dollars [\$2.00] paid to him at the time of service shall be taxes by plaintiff as costs in the suit. [Laws 1935, ch. 61, § 2, p. 273.]

Section to Section Reference.

This section is referred to in § 66-228.

Collateral Reference.

Constitutionality of statute which permits action, against bus companies for

injury to person or property to be brought in any county through or into which the route passes and providing for service of process in such cases. 81 A. L. R. 777.

66-228. Severability.—The several provisions of sections 1 and 2 [§§ 66-226 and 66-227] shall be separable, and if any such provisions shall be held to be unconstitutional such unconstitutionality shall not affect the validity of the remaining provisions thereof. [Laws 1935, ch. 61, § 3, p. 273.]

66-229. Substitute for lost plate or certificate.—If any number plate, certificate of title, permit or registration card shall be lost, mutilated or become illegible, the person entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor upon furnishing information satisfactory to the division. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 25, p. 33; R. C. 1928, § 1647; Laws 1937, ch. 67, § 22, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "If any number plate, certificate of registration of title, or registration card shall be lost, mutilated or become illegible, the person

who is entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor upon furnishing information satisfactory to the division."

66-230. Notice of stolen vehicle—Re-registration suspended.—When the owner of any motor vehicle, trailer or semi-trailer which is stolen

or embezzled files an affidavit with the division alleging said fact it shall immediately suspend the registration of such vehicle and shall not transfer the registration, or re-register such vehicle until it is notified that the owner has recovered such vehicle. Such notices shall be effective only during the current registration year in which given. If during such year the vehicle is not recovered a new affidavit may be filed with like effect during the ensuing year. Every owner who has filed an affidavit of theft or embezzlement shall immediately notify the division of the recovery of such vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 26, p. 33; R. C. 1928, § 1648.]

Comparative Legislation. Notice of stolen vehicles: Cal. Deering's Codes 1937, Vehicle Code, §§ 220-222.
La. Dart's Stat., § 5283.

66-231. Liens and encumbrances.—(a) No conditional sale contract, conditional lease, chattel mortgage or other lien or encumbrance, title retention instrument, or other instrument affecting or evidencing title to, ownership of, or reservation of title to any registered vehicle, other than a lien dependent upon possession, is valid as against the creditors of an owner acquiring a lien by levy or attachment, or subsequent purchasers, or encumbrances [encumbrancers] without notice, until the requirements of this section have been complied with.

(b) There shall be deposited with the division a copy of the instrument creating and evidencing any such lien or encumbrance, which instrument shall be executed in the manner required by the laws of this state and accompanied by the certificate of title last issued for such vehicle. If the vehicle is of a type subject to registration hereunder but has not been registered and no certificate of title has been issued therefor, then the copy of the instrument creating such lien or encumbrance shall be accompanied by the application of the owner for an original registration and issuance of an original certificate of title. In every such event such application shall be accompanied by the fee or fees provided by law. Upon receipt of the application and documents as hereinabove provided, the division shall file the same, endorsing thereon the date and hour received at the central office of the division, and when satisfied as to the genuineness and regularity of the application shall issue a new certificate of title, giving the name of the owner, and a statement of all liens or encumbrances and the amount thereof certified to the vehicle division, as herein provided, as existing against said vehicle. The vehicle division shall maintain an appropriate index of all liens, encumbrances, or title retention instruments filed as herein provided.

(c) Such filing and the issuance of a new certificate of title as provided in this section shall constitute constructive notice, to creditors of the owner or to subsequent purchasers, of all liens and encumbrances against the vehicle described therein, except such as may be authorized by law dependent upon possession. In the event the documents herein referred to are received and filed in the central office of the vehicle division within ten [10] days after the date of execution thereof such constructive notice shall date from the time of execution, otherwise

from the time of receipt and filing of the documents by the vehicle division as shown by its endorsement thereon.

(d) The method provided in this section of giving constructive notice of a lien or encumbrance upon a registered vehicle shall be exclusive, except as to liens dependent upon possession, and any lien, encumbrance, or title retention instrument, or document evidencing the same, filed as herein provided, is hereby exempted from the provisions of law which otherwise require or relate to the recording or filing of instruments creating or evidencing title retention or other liens or encumbrances upon vehicles of a type subject to registration hereunder.

(e) Upon final payment being made on any lien or encumbrance recorded as provided in this section, the holder thereof shall make and deliver to the lienor or encumbrancer a satisfaction of the same. Upon delivery to the vehicle division by such lienor or encumbrancer of the certificate of title to the vehicle on which such lien or encumbrance was given, together with the satisfaction thereof, the division shall satisfy such lien or encumbrance on its records and on the certificate of title to such vehicle.

(f) Hereafter no county recorder shall receive for filing or recording, any conditional sales contract, conditional lease, chattel mortgage or other lien or encumbrance, title retention instrument or other instrument affecting or evidencing title to, ownership of or reservation of title to any registered vehicle, provided that nothing herein shall prohibit any county recorder from receiving and filing any assignment, satisfaction or release of any such instruments theretofore filed in their respective offices. [R. C. 1928, § 1648a, as added by Laws 1937, ch. 67, § 23, p. 234.]

Compiler's Note.

The bracketed word "encumbrancers" was inserted by the compiler.

Comparative Legislation. Liens and encumbrances:

Ind. Burns' Stat. 1933, §§ 43-701—43-713.

66-232. Owners of vehicles rented without drivers to procure liability insurance—Liability of owner and renter—Penalty.—No owner engaged in the business of renting, or who intends to rent motor vehicles without drivers, shall be permitted to register such motor vehicle until he has procured public liability insurance in an insurance company approved by the insurance department of this state insuring the renter thereof against liability arising out of his negligence in the operation of such rented vehicle in limits of not less than five thousand dollars [\$5,000] for any one [1] person injured or killed and ten thousand dollars [\$10,000] for any number more than one [1] injured or killed in any one [1] accident and against the liability of the renter for property damage in the limit of not less than one thousand dollars [\$1,000] for any one [1] accident, or until such owner has furnished the division with satisfactory proof of his ability to respond in damages in the amount of ten thousand dollars [\$10,000] when but one [1] motor vehicle is registered, and five thousand dollars [\$5,000] additional for each motor vehicle in excess of one [1], but a proof of ability to respond in damages in the amount of one hundred thousand dollars [\$100,000] shall be sufficient for any number of motor vehicles. The

division shall cancel the registration of any motor vehicle rented without a driver whenever the owner has failed to comply with the provisions of this section.

The owner of a motor vehicle who rents it to another without a driver, otherwise than as a bona fide transaction involving the sale of such motor vehicle, without having procured such public liability insurance, shall be jointly and severally liable with the renter for damage caused by the negligence of the renter operating the motor vehicle. This policy of insurance herein required shall cover any liability of the renter to any passenger in the motor vehicle rented unless the owner shall give to the renter a written notice that such policy does not cover such liability. "Renter" as used in this section includes any person operating a motor vehicle with the permission of the person who has rented it.

Any owner of a motor vehicle, who, without first having complied with the provisions of this section, rents such motor vehicle without a driver, otherwise than as a bona fide transaction involving the sale of such motor vehicle is guilty of a misdemeanor. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 27, p. 33; rev., R. C. 1928, § 1649.]

Comparative Legislation. Vehicles rented without drivers:

Cal. Deering's Codes 1937, Vehicle Code, §§ 336, 337.

Ill. Rev. Stat. 1939, ch. 95½, § 63.

automobiles to be rented and driven by lessee or his privy. 77 A. L. R. 895.

Occupant of rented automobile, injury to. 4 A. L. R. 1504; 31 A. L. R. 1209; 45 A. L. R. 303; 69 A. L. R. 994.

Collateral References.

Constitutionality and construction of statutes and ordinances in relation to

66-233. Record required of persons renting without driver.—Every person engaged in the business of renting motor vehicles without drivers who shall rent any such vehicle without a driver, otherwise than as a part of a bona fide transaction involving the sale of such vehicle, shall maintain a record of the identity of the person to whom the vehicle is rented and the exact time the vehicle is rented or in possession of the person renting and having the use thereof. Such record shall be public and open to inspection by any person, and a failure to make or have such record, or a refusal of any inspection of such record shall be a misdemeanor punishable by a fine of not more than one hundred dollars [\$100]. If the superintendent prescribes a form for such record, the owner shall use said form. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 28, p. 33; R. C. 1928, § 1650.]

66-234. Cancellation of registration.—The division shall cancel the registration of any vehicle which it shall determine is unsafe or unfit to be operated or is not equipped as required by law, and shall cancel the registration of a vehicle whenever the person to whom the registration card or number plates therefor have been issued shall make or permit to be made any unlawful use of the same or permit the use thereof by a person not entitled thereto. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 30, p. 33; R. C. 1928, § 1651.]

Comparative Legislation. Cancellation of registration:
Cal. Deering's Codes 1937, Vehicle Code, § 152.

Ind. Burns' Stat. 1933, § 47-126.
La. Dart's Stat., § 5178.

66-235. Official vehicles exempt from fees—Must be registered.—The registration fees need not be paid for any vehicle owned by any foreign government or by a consul or other official representative thereof, or by the United States, or by any state, or political subdivision thereof. All such vehicles shall be registered as herein required by the person having the custody thereof and such custodian shall display official registration plates bearing distinguishing marks thereon which shall be furnished by the division free of charge. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 31, p. 33; R. C. 1928, § 1652.]

Comparative Legislation. Official vehicles: **Collateral Reference.**

La. Dart's Stat., § 5184.

Exemption or exception provisions of statute requiring registration, construction, and application of. 91 A. L. R. 422.

66-236. Operation without payment of registration fee.—(a) Whenever any vehicle shall be operated upon any highway without payment of the registration or transfer fee, such fee shall be deemed delinquent, and if not paid within thirty [30] days after delinquency, a penalty equal to such fee shall be added thereto and collected. The fact of registration of a vehicle in the name of the applicant for the year immediately preceding the year for which application for registration is made shall be prima facie evidence that such vehicle has been operated on the highways during the year for which application for registration is made.

(b) The full annual registration and unladen weight fee, and any other required fee, together with the penalty herein provided, shall accompany any application for the registration of a vehicle, which is filed more than thirty [30] days subsequent to the date on which registration of such vehicle for the next preceding year expired; except, that if it shall be determined, upon hearing and proof satisfactory to the superintendent, that the vehicle was not operated on the highways of this state prior to the filing of said application and the registration of said vehicle, such penalty over and above the regular fee or fees shall be refunded.

(c) Every registration or transfer fee and penalty added thereto shall constitute a lien upon the vehicle upon which the same are due, as and from the due date. The division shall collect such fee and penalty by seizure of such vehicle from the person in possession thereof, if any, and by sale as provided by law. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 32, p. 33; R. C. 1928, § 1653; Laws 1933, ch. 4, § 1, p. 5; 1933, ch. 26, § 1, p. 52; 1937, ch. 67, § 24, p. 234.]

Title of Act.

An act to amend section 1653, Revised Code of 1928, as amended by chapter 4, Session Laws of 1933, relating to the operation of motor vehicles without paying registration fee; penalty; seizure and sale. [Laws 1933, ch. 26.]

Amendments.

This section, prior to the first 1933 amendment, read as follows: "Whenever any vehicle shall be operated upon the public highways of the state without payment of the registration or transfer fee, such fee shall be deemed delinquent,

and if not paid within thirty [30] days after delinquency a penalty equal to such fee shall be added thereto and collected. Every registration or transfer fee and any penalty added thereto shall from the date the same are due constitute a lien upon the vehicle upon which the same are due. The division shall collect such fee and penalty by seizure of such vehicle from the person in possession thereof, if any, and by sale as provided by law for the seizure and sale of personal property by the tax collector for the collection of taxes due thereon."

The first 1933 amendment added at the end of the first sentence "provided, that during the year 1933 such penalty shall not be collected if such fees are paid within 60 days after such delinquency."

The second 1933 amendment substituted "90 days" for "60 days" in the added proviso.

The 1937 amendment placed the section in its present form.

Emergency.

Section 2 of Laws 1933, ch. 4 declared an emergency. Approved January 26, 1933. Section 2 of Laws 1933, ch. 26 declared an emergency. Approved March 2, 1933.

Collateral References.

Civil rights and liabilities as affected by failure to comply with regulations as to registration of automobile or licensing of operator. 16 A. L. R. 1108; 35 A. L. R. 62; 38 A. L. R. 1038; 58 A. L. R. 532.

Liability of one who lends an automobile license plate to another. 26 A. L. R. 1246.

66-237. Sale of vehicles registered in another state or country.—No person shall engage in the business of bringing motor vehicles, trailers, or semi-trailers previously registered in any other state or country into this state for the purpose of sale unless licensed as provided herein.

Every person engaged or desiring to engage in such business shall file with the vehicle division [division] his verified application upon forms prescribed and furnished by it, accompanied by a fee of one hundred dollars [\$100] and a bond or bonds, in the penal sum of one thousand dollars [\$1,000], on a form to be approved by the vehicle superintendent, and with a surety company authorized to transact business in this state as surety thereon, and upon which such applicant shall be the principal obligor and the state of Arizona shall be the obligee, conditioned upon compliance with the provisions hereof. Upon the filing of a proper application, accompanied by the fee and the bond or bonds as required herein, the vehicle superintendent shall issue to the applicant a license to engage in the business of bringing motor vehicles, trailers, or semi-trailers previously registered in another state or country into this state for the purpose of sale.

Every person engaged in the business of bringing motor vehicles, trailers, or semi-trailers previously registered in any other state or country into this state, for the purpose of sale, shall within ten [10] days from the date of the sale thereof report such sale to the vehicle division upon a form to be prescribed and furnished by it, and shall at the same time pay to such division an amount equal to ten [10] percent of the selling price of said vehicle, provided that such amount shall not be paid on more than one [1] sale of any such vehicle.

Any person shall be deemed to be engaged in the business of bringing motor vehicles, trailers or semi-trailers previously registered in another state or country into this state for the purpose of sale who shall in any one [1] day bring into, or cause to be brought into this state for the purpose of sale more than one [1] such vehicle, or who in any one [1] month shall bring into, or cause to be brought into this state for the purpose of sale more than two [2] such vehicles, or who in any one [1]

year shall bring into, or cause to be brought into this state for the purpose of sale three [3] or more such vehicles.

The word "sale" as used herein shall mean the transfer or conveyance within this state of the possession, ownership or to the right to acquire the ownership of any motor vehicle, trailer, or semi-trailer previously registered in any other state or country for a consideration, either in money or other thing of value. Every such vehicle shall be deemed to have been brought into this state for the purpose of sale when brought in, or caused to be brought in, by a person engaged in the business of bringing such vehicles into this state for the purpose of sale as defined herein.

Every licensee hereunder shall keep within this state a full and complete record of every sale made by him, and such records shall at all times be open to inspection by any officer or agent of this state.

The vehicle superintendent shall cancel the license of every person failing or refusing to comply with the provisions hereof.

All monies collected under the provisions hereof shall be transmitted by the vehicle division to the state treasurer and by him credited to the general fund of the state, except that the fees paid by any applicant for a license hereunder shall be by the state treasurer credited to the state highway fund. [R. C. 1928, § 1653a, as added by Laws 1937, ch. 76, § 1, p. 428.]

Compiler's Notes.

The bracketed word "division" was inserted by the compiler.

This act became a law March 25, 1937 without the governor's approval.

Title of Act.

An act relating to the sale of motor vehicles, trailers and semi-trailers previously registered in another state or

country, and to amend chapter 31, Revised Code of 1928, by adding thereto a new section to be designated section 1653a. [Laws 1937, ch. 76.]

Emergency.

Section 2 of Laws 1937, ch. 76 declared an emergency. Law without approval of governor. March 25, 1937.

66-238. Driving without operator's or chauffeur's license prohibited—

Exception.—No person shall drive any motor vehicle upon a highway unless he has been licensed as an operator or chauffeur, or has been granted a temporary instruction or driver's permit by the division. This section shall not apply to a person driving or operating a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved or propelled on the highways; nor to a person in the service of the army, navy, or marine corps of the United States, when furnished with a driver's permit, and when operating an official motor vehicle in such service; nor to a non-resident over the age of sixteen [16] years who has been duly licensed either as an operator or chauffeur under a law requiring the licensing of operators or chauffeurs in his home state or country and who has such license in his immediate possession. A non-resident owner of a motor vehicle which has been duly registered for the current calendar year in the state or country of which the owner is a resident but who has not been licensed as an operator or chauffeur in such state or country, may operate such motor vehicle upon the highways of this state for a period of not more than thirty [30] days in any one [1] year without

applying for an operator's or chauffeur's license upon condition that such non-resident owner have in his immediate possession a registration card evidencing his ownership and registration of such motor vehicle in the state or country of his residence, and that the license number plates issued by such state or country at all times be displayed upon such motor vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 33, p. 33; R. C. 1928, § 1654.]

Section to Section Reference.

This section is referred to in § 66-226.

Comparative Legislation. Driver's or operator's licenses:

Cal. Deering's Codes 1937, Vehicle Code, §§ 250-259.

Ill. Rev. Stat. 1939, ch. 95½, § 33 et seq.

Ind. Burns' Stat. 1933, §§ 47-401—47-431.

La. Dart's Stat., §§ 5254-5258.

NOTES TO DECISIONS

Failure to Have Driver's License.

Fact that owner was aware of the fact that person to whom he loaned his car did not have driver's license will not make him liable for the latter's torts committed in the course of its use. *Luffy v. Lockhart*, 37 Ariz. 488, 295 Pac. 975.

Fact that person had failed to procure driver's license is no evidence whatever that he is not a capable, skilled, and safe driver. *Luffy v. Lockhart*, 37 Ariz. 488, 295 Pac. 975.

Collateral References.

Chauffeur in general employment of owner or servant for time being of owner or of hirer of car. 42 A. L. R. 1416.

Construction and application of statutes requiring "chauffeurs'" licenses. 105 A. L. R. 69.

Lack of license as evidence of negligence. 73 A. L. R. 164.

Liability for injury or damage by car driven by unlicensed person. 16 A. L. R. 1117; 35 A. L. R. 68; 38 A. L. R. 1038; 43 A. L. R. 1153; 54 A. L. R. 381; 58 A. L. R. 533; 61 A. L. R. 1190; 78 A. L. R. 1031; 87 A. L. R. 1473; 111 A. L. R. 1266.

Loan of car to unlicensed driver as affecting liability of owner for negligence. 68 A. L. R. 1015.

Negligence of chauffeur furnished with a car hired for an extended period. 8 A. L. R. 484; 42 A. L. R. 1429.

Nonresident operators' or drivers' licenses, statute with respect to. 82 A. L. R. 1392.

Nonresidents, license regulations discriminating against. 112 A. L. R. 68.

Validity of statute or ordinance relating to grant of license or permit to operate automobile. 71 A. L. R. 616; 108 A. L. R. 1162; 125 A. L. R. 1459.

66-239. Persons to whom operator's or chauffeur's license may not be issued.—No operator's license shall be issued to any person under the age of sixteen [16] years, and no chauffeur's license shall be issued to any person under the age of eighteen [18] years; nor shall an operator's or chauffeur's license issue to any person as an operator or chauffeur during the period of his suspension; nor to any person whose license either as an operator or chauffeur, has been revoked, until the expiration of one [1] year after such revocation; nor to any person whom it has determined to be an habitual drunkard or addicted to the use of narcotic drugs; nor to any person who has previously been adjudged insane, an idiot, imbecile, epileptic, or feeble-minded, and who has not at the time of such application been adjudged competent by judicial decree or released from a hospital for the insane or feeble-minded upon a certificate of the superintendent that such person is competent, nor then unless the division is satisfied that such person is competent to operate a motor vehicle with safety to persons and property; nor to any person when in its opinion such person is afflicted

with or suffering from such physical or mental disability or disease as will prevent him from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways; nor to any person who is unable to understand highway warning signs in the English language. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 34, p. 33; R. C. 1928, § 1655.]

Cited:

Keller v. State, 46 Ariz. 106, 47 Pac.
(2d) 442.

66-240. Minor driving school or public passenger vehicle prohibited.—It shall be unlawful for any person under the age of twenty-one [21] years to drive a motor vehicle while in use as a school bus for the transportation of pupils to or from a school, or to drive a motor vehicle while in use as a public passenger carrying vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 35, p. 33; R. C. 1928, § 1656.]

66-241. Temporary instruction permit.—The division upon receiving from any person over the age of sixteen [16] years an application for a temporary instruction permit may in its discretion issue such permit entitling the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the highways for a period of sixty [60] days when accompanied by a licensed operator or chauffeur who is actually occupying a seat beside the driver and there is no other person in the vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 36, p. 33; R. C. 1928, § 1657.]

66-242. Application for operator's and chauffeur's licenses.—Every application for an operator's or chauffeur's license shall be made upon the form furnished by the division, and shall be verified by the applicant, stating his name, age, sex and residence address, his experience in driving a motor vehicle; whether he has heretofore been licensed as an operator or chauffeur, if so, when and by what state, and whether such license has ever been suspended or revoked, and if so, the date and reason for such suspension or revocation. The application of any minor under the age of eighteen [18] years shall not be granted unless signed by the father of the applicant, if the father is living and has custody of the applicant, otherwise by the mother or guardian, if living and having the custody of such minor, otherwise by his employer. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 37, 38, p. 33; cons. & rev., R. C. 1928, § 1658.]

66-243. Examination of applicant who may be exempted from.—The division shall examine every applicant for an operator's or chauffeur's license as to his physical and mental qualifications to operate a motor vehicle in such manner as not to jeopardize the safety of persons or property and as to facts which would bar the issuance of a license. The examination for the renewal of such license may be waived when the applicant has a valid unrevoked license of like nature issued to him by this state, or by any other state under a law requiring the licensing

and examination of operators and chauffeurs. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 39, p. 33; R. C. 1928, § 1659.]

Collateral Reference.

See 23 Cal. Jur. 148.

66-244. Persons may be designated to examine.—The superintendent may designate peace officers or appoint other persons within this state to act for the division in examining applicants for operator's and chauffeur's licenses, and they shall conduct examinations of applicants for operator's and chauffeur's licenses under the provisions hereof and make written findings and recommendations upon such examination to the division. The division shall file each application, index the same by name and number, and maintain records of all licenses issued, of applications denied, and of licenses suspended or revoked. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 40, 41, p. 33; cons. & rev., R. C. 1928, § 1660.]

66-245. Contents of license—Chauffeur's badge—Temporary permit—Duplicates.—The division shall issue to every person licensed as an operator, an operator's license; and, to every person licensed as a chauffeur a chauffeur's license. A chauffeur before operating a vehicle as a public or common carrier of persons or property shall apply for and receive from the division, and at all times while so operating a vehicle shall display in plain sight upon the band of his cap or upon the lapel of his coat a chauffeur's badge. Any person licensed as a chauffeur hereunder need not procure an operator's license, but no person shall drive any motor vehicle as a chauffeur unless so licensed.

The operator's or chauffeur's license shall state thereon the number assigned to the licensee, the name, age, residence address and a brief description of the licensee, and contain a space for the signature of the licensee, and a chauffeur's license a photograph of the licensee. A chauffeur's badge shall be of metal with the number assigned to the licensee plainly stamped thereon. The division, upon determining that an applicant is qualified to receive a license, may issue to the applicant a temporary driver's permit entitling such person while having such permit in his immediate possession to drive a motor vehicle upon the highways for a period of ten [10] days. If an operator's or chauffeur's license or a chauffeur's badge be lost or destroyed, the person to whom the same was issued may obtain a duplicate or substitute thereof upon furnishing proof, satisfactory to the division, that such license or badge has been lost or destroyed. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 42, 43, p. 33; cons. & rev., R. C. 1928, § 1661.]

66-246. Signature by licensee—Possession for inspection.—Every person licensed as an operator shall write his usual signature in ink in the space provided for that purpose on the license certificate issued to him immediately upon receipt of such certificate, and every chauffeur shall write his usual signature in ink across the face of the photograph on the license certificate issued to him immediately upon receipt of such certificate, and such license shall not be valid until the certificate is so signed. The licensee shall have such license in his immediate

possession at all times when driving a motor vehicle and shall display the same upon demand of a peace officer, field deputy, or inspector of the division. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 44, p. 33; rev., R. C. 1928, § 1662.]

66-247. Renewal of licenses.—Every operator's license shall be valid until suspended or revoked except that the superintendent may, not more than once every three [3] years and after public notice, cancel all outstanding operator's licenses and issue in lieu thereof, to the persons applying therefor and entitled thereto, new licenses without examination, except when the division has reason to believe that the applicant may not be qualified. Every chauffeur's license shall expire December thirty-first each year and may be renewed annually upon application, provided that the division may waive the examination of any applicant previously licensed as a chauffeur under this article. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 45, p. 33; rev., R. C. 1928, § 1663.]

Section to Section Reference.

This section is referred to in § 66-256.

Cited:

Keller v. State, 46 Ariz. 106, 47 Pac. (2d) 442.

66-248. Courts to report convictions—Suspensions—Grounds of revocation—Proof of financial responsibility.—(a) Upon the conviction of any person for a violation of any law regulating the operation of motor vehicles upon the highways, the court in which the conviction occurred shall immediately forward to the division a record of such conviction, upon forms prescribed by the division, and may recommend the suspension of the operator's or chauffeur's license of the person so convicted. The division shall thereupon act upon such record and recommendation as may seem desirable.

(b) The division shall forthwith revoke the license of any person upon receiving a record of his conviction of any of the following offenses:

Manslaughter resulting from the operation of a motor vehicle;

Driving a vehicle while under the influence of intoxicating liquor or a narcotic drug;

Perjury, or the making of a false affidavit to the division under this or any other law of this state requiring the registration of motor vehicles or regulating their operation on highways;

Any crime punishable as a felony under the motor vehicle laws of this state, or any other felony in the commission of which a motor vehicle was used;

Conviction or forfeiture of bail upon three [3] charges of reckless driving within the preceding twelve [12] months; or

A conviction upon a charge of failure to stop and disclose his identity at the scene of the accident, where such accident resulted in the death or injury of another person.

The division, upon receiving a record of the conviction of any person operating a motor vehicle while the license of such person is suspended or revoked, shall immediately extend the period of such first suspension or revocation for an additional like period.

(c) The division shall also suspend the operator's and chauffeur's license and all registration certificates or cards and registration plates issued to any person upon receiving authenticated report as hereinafter provided that such person has failed for a period of thirty [30] days to satisfy any final judgment in amounts and upon a cause of action as hereinafter stated.

(d) The judgment hereinbefore referred to shall mean a final judgment of any court of competent jurisdiction in any state or of the United States against a person as defendant upon a cause of action as hereinafter stated.

(e) The judgment herein referred to shall mean any final judgment in the sum of one hundred dollars [\$100] or more for damage to property or for damages in any amount on account of bodily injury to or death of any person resulting from the operation of any motor vehicle upon a highway.

(f) This act shall not apply to any such judgment rendered against this state or any political subdivision thereof or any municipality therein.

(g) The suspension shall remain in effect and no other motor vehicle shall be registered in the name of such judgment debtor nor any new license issued to such person unless and until such judgment is satisfied or stayed and the judgment debtor gives proof of financial responsibility in future, as hereinafter provided, except under the conditions as hereinafter stated.

(h) A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this act.

(i) Every judgment herein referred to shall for the purposes of this act be deemed satisfied:

1. When five thousand dollars [\$5,000] has been credited upon any judgment or judgments rendered in excess of that amount for bodily injury to or the death of one [1] person as the result of any one [1] accident; or

2. When, subject to said limit of five thousand dollars [\$5,000] as to one [1] person, the sum of ten thousand dollars [\$10,000] has been credited upon any judgment or judgments rendered in excess of that amount for bodily injury to or the death of more than one [1] person as the result of any one [1] accident; or

3. When one thousand dollars [\$1,000] has been credited upon any judgment or judgments rendered in excess of that amount for damage to property of others as a result of any one [1] accident.

Credit for such amounts shall be deemed a satisfaction of any such judgment or judgments in excess of said amounts only for the purposes of this act.

4. When said judgment has remained unsatisfied, in whole or in part, for the full period of five [5] years from the date of its entry.

Whenever payment has been made in settlement of any claims for bodily injury, death, or property damage arising from a motor vehicle accident resulting in injury, death, or property damage to two [2] or

more persons in such accident, any such payment shall be credited in reduction of the amounts provided for in this section.

5. The division shall not suspend a license or registration of a motor vehicle and shall restore any suspended license or registration following non-payment of a final judgment when the judgment debtor gives proof of financial responsibility in future and when the judgment debtor obtains an order from the trial court in which such judgment was rendered, permitting the payment of such judgment in installments and while the payment of any said installment is not in default.

A judgment debtor upon five [5] days notice to the judgment creditor may apply to the trial court in which the judgment was obtained for the privilege of paying such judgment in installments and the court in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order, fixing the amounts and times of payment of the installments.

In the event the judgment debtor fails to pay any installment as permitted by the order of the court, then upon notice of such default the division shall forthwith suspend the license and registration certificates and registration plates of the judgment debtor until said judgment is satisfied as provided in this act.

(j) Whenever, after one [1] judgment is satisfied and proof of financial responsibility is given as herein required another such judgment is rendered against the judgment debtor for any accident occurring prior to the date of the giving of said proof and such person fails to satisfy the latter judgment within the amounts specified herein within thirty [30] days after the same becomes final, then the division shall again suspend the operator's or chauffeur's license of such judgment debtor and the registration of any vehicle registered in the name of such judgment debtor as owner and shall not renew the same and shall not issue to him any operator's or chauffeur's license or registration of any vehicle while such latter judgment remains in effect and unsatisfied within the amounts specified herein.

(k) Whenever the division determines that any person required to give proof hereunder by reason of a conviction is not the owner of a motor vehicle but was at the time of such conviction a chauffeur or motor vehicle operator, however designated, in the employ of an owner of a motor vehicle or a member of the immediate family or household of the owner of a motor vehicle, the division shall accept proof of financial responsibility given by such owner in lieu of proof given by such other person so long as such latter person is operating a motor vehicle for which the owner has given proof as herein provided. The division shall designate the restrictions imposed by this section on the face of such person's operator's or chauffeur's license. No such license shall be reinstated or any new license issued until otherwise permitted under the laws of this state.

(l) Proof of financial responsibility shall mean proof of ability to respond in damages for any liability thereafter incurred resulting from the ownership, maintenance, use, or operation of a motor vehicle for bodily injury to or death of any one [1] person in the amount of five thousand dollars [\$5,000], and subject to said limit for any one [1]

person injured or killed, in the said amount of ten thousand dollars [\$10,000] for bodily injury to or death of two [2] or more persons in any one [1] accident, and for damage to property in the amount of one thousand dollars [\$1,000] resulting from any one [1] accident. Such proof in said amounts shall be furnished for each motor vehicle registered by such person.

(m) Proof of financial responsibility when required under this act may be given by the following alternate methods: Either by proof that a policy or policies of liability insurance have been obtained and are in full force and effect or that a bond has been duly executed or that deposit has been made of money or securities all as hereinafter provided.

(n) Proof of financial responsibility may be made by filing with the division the written certificate or certificates of any insurance carrier duly authorized to do business in this state, certifying that it has issued to or for the benefit of the person furnishing such proof and named as the insured a motor vehicle liability policy or policies, or in certain events an operator's policy, meeting the requirements of this act and that said policy or policies are then in full force and effect. Such certificate or certificates shall give the dates of issuance and expiration of such policy or policies and certify that the same shall not be canceled unless ten [10] days' prior written notice thereof be given to the division and shall explicitly describe all motor vehicles covered thereby, unless the policy or policies are issued to a person who is not the owner of a motor vehicle.

(o) The division shall not accept any certificate or certificates unless the same cover all motor vehicles registered in the name of the person furnishing such proof as owner and an additional certificate or certificates shall be required as a condition precedent to the subsequent registration of any motor vehicle or motor vehicles in the name of the person giving such proof as owner.

(p) When a certificate is filed showing that a policy or policies have been issued covering all motor vehicles owned by the insured but not insuring such person when operating any motor vehicle not owned by him it shall be unlawful for such person to operate any motor vehicle not owned by him or not covered by such certificate. In such event the division shall designate the above restriction upon the operator's or chauffeur's license of such person.

(q) In the event the owner of a motor vehicle or motor vehicles desires to be relieved of the foregoing restriction and to be permitted to drive any other motor vehicle he may have such restrictions removed upon filing a certificate showing that there has been issued to him a policy of insurance insuring him as insured against liability imposed by law upon such insured for bodily injury to or death of any person or damage to property to the amounts and limits as provided under sub-section (n) of this section with respect to any motor vehicle operated by him and which otherwise complies with the requirements of this act with respect to such type of policy. Such policy is hereinafter referred to as an operator's policy.

(r) When the person required to give proof of financial responsibility is not the owner of a motor vehicle then an operator's policy of the type and coverage described in the preceding paragraph shall be sufficient under this act.

(s) The non-resident owner of a foreign vehicle may give proof of financial responsibility by filing with the division 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 non-resident does not own a motor vehicle then in the state in which the insured resides and otherwise conforming to the provisions of this act and the division shall accept the same.

If any foreign insurance carrier which has qualified to furnish proof of financial responsibility as hereinbefore required defaults in any said undertakings or agreements, the division shall not thereafter accept any certificate of said carrier, whether theretofore filed or thereafter tendered, as proof of financial responsibility so long as such default continues.

(t) A motor vehicle liability policy as said term used in this act shall mean a policy of liability insurance issued by an insurance carrier authorized to transact business in this state to or for the benefit of the person named therein as insured which policy shall meet the following requirements:

Said policy shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby intended to be granted.

Said policy shall insure the person named therein and any other person using or responsible for the use of said motor vehicle or motor vehicles with the express or implied permission of said insured.

Said policy shall insure every said person on account of the maintenance, use or operation of said motor vehicle or motor vehicles within the continental limits of the United States or the Dominion of Canada against loss from the liability imposed by law arising from such maintenance, use or operation to the extent and aggregate amount, exclusive of interest and costs, with respect to each such motor vehicle, of five thousand dollars [\$5,000] for bodily injury to or death of one [1] person as a result of any one [1] accident and, subject to said limit as to one [1] person, the amount of ten thousand dollars [\$10,000] for bodily injury to or death of all persons as a result of any one accident and the amount of one thousand dollars [\$1,000] for damage to property of others as a result of any one [1] accident.

When an operator's policy is required it shall insure the person named therein as insured against the liability imposed by law upon the insured for bodily injury to or death of any person or damage to property to the amounts and limits above set forth and growing out of the use or operation by the insured within the continental limits of the United States or the Dominion of Canada of any motor vehicle not owned by him.

Any liability policy or policies issued hereunder need not cover any liability of the insured assumed by or imposed upon said insured under

any workman's compensation law nor any liability for damage to property in charge of the insured or the insured's employees.

Any such policy may, however, grant any lawful coverage in excess of or in addition to the coverage herein specified or contain any agreements, provisions or stipulations not in conflict with the provisions of this act and not otherwise contrary to law.

Any motor vehicle liability policy which by endorsement contains the provisions required hereunder shall be sufficient proof of ability to respond in damages.

The department may accept several policies of one [1] or more such carriers which together meet the requirements of this section.

Any binder pending the issuance of any policy, which binder contains or by reference includes the provisions hereunder shall be sufficient proof of ability to respond in damages.

(u) No motor vehicle liability policy or operator's policy shall be accepted as proof of ability to respond in damages hereunder unless and until all of the following requirements of this section shall be complied with.

A copy of the form of such policy shall be filed with the division of insurance who shall within thirty [30] days approve or disapprove the same. If the division approves the same within such time or fails to take action for thirty [30] days the form of policy shall be deemed approved. If within said thirty [30] days the division disapproves such form of policy upon the ground that it does not comply with the requirements of this act it shall give written notice thereof and its reason therefor to the carrier and said policy shall not be accepted as proof of financial responsibility under this act.

Any said form of policy shall specify the name, address, and business, if any, of the insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability.

The insurance carrier shall, however, 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 the policy.

No such policy shall be canceled or annulled as respects any loss or damage by any agreement between the carrier and the insured after the said insured has become responsible for such loss or damage and any such cancellation or annulment shall be void.

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

(v) An insurance carrier who has issued a motor vehicle liability policy or policies or an operator's policy meeting the requirements of this act shall upon request of the insured therein deliver to the insured for filing, or at the request of the insured shall file direct with the division, and appropriate certificate showing that such policy or policies have been issued, which certificates shall meet the requirements of this act.

(w) When an insurance carrier has certified a motor vehicle liability policy under this act it shall give ten [10] days' written notice to

the division before cancellation of such policy and the policy shall continue in full force and effect until the date of cancellation specified in such notice or until its expiration.

(x) This act 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 endorsed to conform to the requirements of this act, shall be accepted as proof of financial responsibility when required under this act.

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

(y) A person required to give proof of financial responsibility may file with the division a bond meeting the requirements of this section.

Such bond shall be executed by the person giving such proof and by a surety company duly authorized to transact business in this state or by the person giving such proof and by two [2] individual sureties, each owning real estate within this state and having an equity therein in the amount of such bond which real estate shall be scheduled therein, and the division shall not accept any such real estate bond unless it is first approved by a judge of a court of record.

The division shall not accept any such bond unless it is conditioned for payments in amounts and under the same circumstance as would be required in a motor vehicle liability policy furnished by the person giving such proof under this act.

No such bond shall be canceled unless ten [10] days' prior written notice of cancellation is given the division but cancellation of such bond shall not prevent recovery thereon with respect to any right or cause of action arising prior to the date of cancellation.

Before any said real estate bond is accepted by the division it shall be recorded as other instruments affecting real property in the county or counties wherein any real estate described therein is located. Any liability covered by the conditions of said bond shall constitute a lien upon such real estate effective as of the date said bond is so recorded.

If a judgment is rendered against the principal of any such surety or real estate bond upon a liability covered by the conditions of such bond and such judgment is not satisfied within thirty [30] days after it becomes final, then 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 who executed 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, which foreclosure action shall be brought in like manner and subject to all the provisions of law applicable to an action to foreclose a mortgage upon real estate.

(z) A person may give proof of financial responsibility by delivering to the division a receipt of the treasurer of this state showing the deposit with said treasurer of money in an amount or securities approved by said treasurer and of a market value in a total amount as would be required for coverage in a motor vehicle liability policy fur-

nished by the person giving such proof under this act. Such securities shall be United States or state of Arizona bonds.

All money or securities so deposited shall be subject to execution to satisfy any judgment mentioned in this act but shall not otherwise be subject to attachment or execution.

The state treasurer shall not accept any such deposit or issue a certificate therefor, and the division shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments against the depositor registered in the office of the county clerk of the county where the depositor resides.

This act shall not prevent the owner of a motor vehicle, the registration of which has been suspended hereunder, from effecting a bona fide sale of such motor vehicle to another person whose rights or privileges are not suspended under this act nor prevent the registration of such motor vehicle by such transferee.

The division shall cancel any bond or return any certificate of insurance, or the division 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 act.

Whenever any evidence of proof of ability to respond in damages filed by any person under the provisions of this act no longer fulfills the purpose for which required, the division shall, for the purpose of this act, require other evidence of ability to respond in damages as required by this act, and shall suspend the operator's license, chauffeur's license, and registration certificate and registration plates of such person pending such proof.

The division shall upon request cancel any bond or return any certificate or insurance, or the division shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this act as proof of financial responsibility, or waive the requirement of filing proof of financial responsibility in any of the following events:

1. 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

2. In the event the person who has given proof of financial responsibility surrenders his operator's or chauffeur's license, registration certificates, and registration plates to the division, but the division shall not release such proof in the event any action for damages upon a liability referred to in this act is then pending or any judgment upon any such liability then outstanding and unsatisfied or in the event the division has received notice that such person has within the period of six [6] months immediately preceding been involved as a driver in any motor vehicle accident. An affidavit of the applicant of the non-existence of such facts shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

The division shall upon request furnish any insurance carrier or any person or surety a certified abstract of the operating record of

any person subject to the provisions of this act, which abstract shall fully designate the motor vehicles, if any, registered in the name of such person, and if there is no record of any conviction of such person of a violation of any provision of any statute relating to the operation of a motor vehicle or of any injury or damage caused by such person as herein provided, the division shall so certify. The division shall collect for each such certificate the sum of one dollar [\$1.00]. Such record shall not be admissible as evidence in any action for damages or criminal proceeding arising out of a motor vehicle accident. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 46, 47, p. 33; cons. & rev., R. C. 1928, § 1664; Laws 1935, ch. 45, § 1, p. 165.]

Title of Act.

An act to amend section 1664 of the Revised Code of 1928 so as to require proof of financial responsibility of motor vehicle operators to respond in damages for negligent operation of motor vehicles. [Laws 1935, ch. 45.]

Comparative Legislation. Suspension or revocation of licenses:

Cal. Deering's Codes 1937, Vehicle Code, §§ 304-317.

Ill. Rev. Stat. 1939, ch. 95½, § 35j.

Ind. Burns' Stat. 1933, §§ 47-415—47-417.

La. Dart's Stat., § 5257.

Amendment.

The 1935 amendment added the portion of the section following subd. (b).

NOTES TO DECISIONS

Complaint for Declaratory Judgment.

A complaint by the attorney-general for a declaratory judgment as to the validity of this law will be treated as stating a cause of action, where the point that the complaint failed to show that the state was an interested party was not called to the trial court's attention, and where by liberal construction the complaint presents a case where the highway department and owners of final judgments for torts by automobile disagree as to the validity of the law. State ex rel. Sullivan v. Price, 49 Ariz. 19, 63 Pac. 653, 108 A. L. R. 1156.

Constitutionality.

This statute is constitutional and does not deprive a motorist of his liberty or property without due process of law, since the object is to make highways safer. State ex rel. Sullivan v. Price, 49

Ariz. 19, 63 Pac. (2d) 653, 108 A. L. R. 1156.

Purpose of Statute.

This section is a valid exercise of the legislative power, the object being safety on the state highways. State ex rel. Sullivan v. Price, 49 Ariz. 19, 63 Pac. (2d) 653, 108 A. L. R. 1156.

Collateral References.

Construction and application of statute or ordinance relating to revocation of license or permit to operate automobile. 125 A. L. R. 1459.

Conviction, what amounts to, within statute making conviction ground for canceling license. 113 A. L. R. 1179.

Validity of statute or ordinance relating to revocation of license. 71 A. L. R. 616; 108 A. L. R. 1162; 125 A. L. R. 1459.

66-249. Grounds for optional suspension—Hearing.—The division may immediately suspend the license of any person without hearing, and without receiving a record of conviction of such person of a crime, whenever it believes that such person has committed any offense for the conviction of which mandatory revocation of license is provided in the preceding section; or, that such person, has by reckless or unlawful operation of a motor vehicle caused or contributed to an accident resulting in death or injury to any other person or serious property damage; or, that such person is incompetent to drive a motor vehicle, or is afflicted with mental or physical infirmities or disabilities

rendering it unsafe for him to drive a motor vehicle upon the highways; or, that such person is an habitual reckless or negligent driver or has committed a serious violation of the motor vehicle laws.

Whenever the division suspends the license of any person on any of the above grounds, it shall immediately notify the licensee of a hearing before said division in the county wherein the licensee resides, and upon such hearing shall either vacate its order of suspension or, good cause appearing therefor, may suspend the license of such person for a further period, or revoke said license. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 48, in part, p. 33; R. C. 1928, § 1665.]

66-250. Revocation of non-resident's permit—Penalty—Revocation on foreign conviction.—The division may suspend or revoke the right of any non-resident to operate a motor vehicle in this state for any cause for which the license of a resident operator or chauffeur may be suspended or revoked; and, any non-resident who operates a motor vehicle upon a highway after such suspension or revocation shall be guilty of a misdemeanor. The division shall suspend or revoke the license of any resident upon receiving notice of the conviction of such person in another state of an offense therein, which if committed in this state, would be grounds for the suspension or revocation of the license of an operator or chauffeur, and shall, upon receiving a record of the conviction in this state of a non-resident driver of a motor vehicle of any offense under the motor vehicle laws of this state, forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 48, in part, p. 33; R. C. 1928, § 1666.]

66-251. Limitation on period of suspension—Surrender of license and badge.—The division shall not suspend a license for a period of more than one [1] year and upon suspending or revoking any license shall require the license and the badge of the chauffeur to be surrendered to the division. At the end of the suspension such license and badge shall be returned to the licensee. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 48, in part, p. 33; R. C. 1928, § 1667.]

66-252. Review by court of suspension or revocation.—Any person denied a license, or whose license has been revoked by the division, except when such revocation is mandatory hereunder, may, within thirty [30] days thereafter, file a petition for a hearing in the matter in the superior court in the county where he resides, and such court shall set the matter for hearing upon ten [10] days written notice to the vehicle superintendent, and thereupon hear and determine the petition. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 49, p. 33; rev., R. C. 1928, § 1668.]

66-253. One year minimum on revocation.—A person whose license is revoked hereunder shall not receive a new license until the expiration of one [1] year from the date of such revocation. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 50, p. 33; R. C. 1928, § 1669.]

66-254. Negligence of minor imputable to signer of application.—Any negligence of a minor under the age of eighteen [18] years licensed upon application, when driving any motor vehicle upon a highway, shall be imputed to the person who signed the application of such minor for said license, and such person shall be jointly and severally liable, with such minor, for any damages caused by such negligence. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 51, p. 33; R. C. 1928, § 1670.]

Collateral References.

Liability for injury to or by one operating motor vehicle while under the age prescribed by law. 46 A. L. R. 1067.

Liability of parent who gives automobile or motorcycle to minor child forbidden by statute to operate same, for negligent use thereof by child. 49 A. L. R. 1523.

66-255. Liability of owner or donor for negligence of minor under eighteen.—Every owner of a motor vehicle causing or knowingly permitting a minor under the age of eighteen [18] years to drive such vehicle upon a highway, and any person giving or furnishing a motor vehicle to such minor, shall be jointly and severally liable with such minor for any damages caused by the negligence of such minor in driving such vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 52, p. 33; R. C. 1928, § 1671.]

Compiler's Note.

Laws 1927, ch. 2, subd. 3, §§ 54-57 (Rev. Code 1928, §§ 1680-1682) was repealed by Laws 1933, ch. 100, § 32.

Collateral References.

Intrusting automobile to minor child as rendering parent liable for negligence. 36 A. L. R. 1150.

Liability of owner for negligence of one permitted by the former's servant, or member of his family, to drive automobile. 44 A. L. R. 1382; 54 A. L. R. 851; 98 A. L. R. 1043.

Liability of owner under "family-purpose" doctrine, for injuries by automobile while being used by member of his family. 5 A. L. R. 226; 10 A. L. R. 1449; 14 A. L. R. 1087; 19 A. L. R. 387; 20 A. L. R. 1469; 23 A. L. R. 620; 32 A. L. R. 1504; 36 A. L. R. 1150; 44 A. L. R. 1382; 45 A. L. R. 482; 50 A. L. R. 1512;

54 A. L. R. 851; 64 A. L. R. 851; 88 A. L. R. 608; 98 A. L. R. 1045; 100 A. L. R. 1021.

Liability of parent for injury to child's guest by negligent operation of car. 2 A. L. R. 900; 88 A. L. R. 590.

Liability of parent who gives automobile or motorcycle to minor child forbidden by statute to operate same, for negligent use thereof by child. 36 A. L. R. 1164; 49 A. L. R. 1523.

Loan of car by owner to his minor child as rendering him liable for injury. 68 A. L. R. 1014; 100 A. L. R. 926.

Validity, construction, and effect of statutes which make owner responsible, or create a lien, for injury or damage inflicted by another operating an automobile. 4 A. L. R. 361.

Youth of operator of automobile as affecting his negligence. 73 A. L. R. 1277.

66-256. Fees—License tax on commercial vehicles.—(a) The following fees shall be paid to the vehicle division:

1. For each original certificate of title, one dollar [\$1.00].
2. For each certificate of title on sale or transfer, one dollar [\$1.00].
3. For a duplicate certificate of title, the original of which is lost or destroyed and is satisfactorily accounted for, fifty cents [50c].
4. For each registration card upon transfer of registration, fifty cents [50c].
5. For a duplicate registration card, fifty cents [50c].
6. For a duplicate of any permit, fifty cents [50c].
7. For filing each application for dealer's or wrecker's license, five dollars [\$5.00].

8. For each dealer's or wrecker's license when issued, three dollars [\$3.00].
 9. For filing each application for a chauffeur's license, one dollar [\$1.00].
 10. For each original operator's license other than owners, fifty cents [50c].
 11. For each operator's license issued under the provisions of section 1663 [§ 66-247], for which a fee is thereby required to be paid, fifty cents [50c].
 12. For each duplicate chauffeur's or operator's license, fifty cents [50c].
 13. For each chauffeur's badge to replace lost badge, one dollar [\$1.00].
 14. For filing each application to make or stamp special engine number, one dollar [\$1.00].
 15. For each identification plate bearing serial or identification number to be affixed to any vehicle, one dollar [\$1.00].
 16. For approving each type of reflector, electric lantern, flare, fire extinguisher, or mechanical signal, five dollars [\$5.00].
 17. For each number plate or pair of number plates to replace lost, destroyed or mutilated plates, one dollar [\$1.00].
 18. For each original plate or plates issued to a dealer, three dollars and fifty cents [\$3.50].
 19. For each additional plate or pair of plates issued to a dealer, one dollar [\$1.00].
 20. For the registration of any motor vehicle, trailer or semi-trailer, if registered prior to July 1, three dollars and fifty cents [\$3.50]; if registered after July 1, two dollars [\$2.00].
 21. For filing any conditional sales contract, conditional lease, chattel mortgage or other lien or encumbrance, or title retention instrument, or any other instrument affecting or evidencing title to, ownership of, or reservation of title to any motor vehicle, trailer or semi-trailer, seventy-five cents [75c].
 22. For filing any assignment or satisfaction or release of any conditional sales contract, conditional release, chattel mortgage or other title retention instrument, or any other instrument affecting or evidencing title to, ownership of or reservation of title to any motor vehicle, trailer or semi-trailer, twenty-five cents [25c].
- (b) In addition to the required registration fee, there shall be paid at the time of application for registration an unladen weight fee on each motor vehicle, trailer or semi-trailer designed, used or maintained primarily for the transportation of passengers for compensation, or for the transportation of property, including hearses, ambulances and other vehicles used by a mortician in the conduct of his business, and motor vehicles rented without drivers, when such vehicles are equipped wholly with pneumatic tires, in accordance with the following schedule:
- For vehicles with two [2] axles, 1. two thousand nine hundred [2,900] to four thousand [4,000] pounds unladen weight, thirty-five cents [35c] per cwt.; 2. four thousand [4,000] to six thousand [6,000]

pounds, fifty cents [50c] per cwt.; 3. six thousand [6,000] to eight thousand [8,000] pounds, sixty-five cents [65c] per cwt.; 4. eight thousand [8,000] to ten thousand [10,000] pounds, seventy-five cents [75c] per cwt.; 5. ten thousand [10,000] to twelve thousand [12,000] pounds, one dollar [\$1.00] per cwt.; 6. twelve thousand [12,000] pounds or over, one dollar [\$1.00] per cwt.; 7. maximum fee, one hundred twenty dollars [\$120].

For vehicles with three [3] axles, 8. two thousand nine hundred [2,900] to four thousand [4,000] pounds, forty cents [40c] per cwt.; 9. four thousand [4,000] to six thousand [6,000] pounds, sixty-five cents [65c] per cwt.; 10. six thousand [6,000] to eight thousand [8,000] pounds, eighty cents [80c] per cwt.; 11. eight thousand [8,000] to ten thousand [10,000] pounds, one dollar [\$1.00] per cwt.; 12. ten thousand [10,000] to twelve thousand [12,000] pounds, one dollar and thirty-five cents [\$1.35] per cwt.; 13. twelve thousand [12,000] pounds or over, one dollar and sixty cents [\$1.60] per cwt.; 14. maximum fee, one hundred eighty-five dollars [\$185].

(c) In addition to the required registration fee, there shall be paid, at the time of application for registration on each motor vehicle designed and used primarily for the transportation of passengers for compensation or for the transportation of property, when equipped wholly with pneumatic tires and weighing, when unladen, less than twenty-nine hundred [2,900] pounds, two dollars [\$2.00]; and on each trailer or semi-trailer, when equipped wholly with pneumatic tires and weighing, when unladen, less than twenty-nine hundred [2,900] pounds but more than one thousand [1,000] pounds, two dollars [\$2.00].

(d) When any vehicle referred to in subdivision twenty-two hereof or any motor vehicle referred to in subdivision twenty-three hereof is equipped with two [2] or more solid tires, the unladen weight fee therein specified shall be twice the amount specified for such vehicles if equipped wholly with pneumatic tires.

(e) Upon any registration issued after the beginning of the registration year, the unladen weight fees herein prescribed shall be reduced by one-twelfth for each month which shall have elapsed since the beginning of the registration year.

(f) The unladen weight of any vehicle shall be the weight of such vehicle when unladen and fully equipped and ready for service, and shall be evidenced by a sworn statement of the applicant for registration, accompanied by a verified certificate of weight duly issued by a public weighmaster. Such sworn statement or certificate shall be subject to verification by the vehicle division, or any of its officers or agents. A major fraction of one hundred [100] pounds shall be considered as one hundred [100] pounds and a minor fraction of one hundred [100] pounds shall not be counted in determining the unladen weight of any vehicle.

(g) All moneys received from the taxes herein provided shall be immediately transferred by the officer collecting the same to the superintendent, and by him to the state treasurer, who shall immediately credit the same to the state highway fund. [Laws 1927 (4th S. S.).

ch. 2, subch. 4, § 5 in part, p. 73; rev., R. C. 1928, § 1672; Laws 1931, ch. 100, § 5, p. 265; 1931 (1st S. S.), ch. 1, § 1, p. 1; 1937, ch. 67, § 25, p. 234.]

Title of Act.

An act to amend section 1672, Revised Code of 1928, as amended by chapter 100, Laws of the Regular Session of the Tenth Legislature, relating to registration, license and other fees to be paid to the motor vehicle superintendent, Arizona highway department, in regulating the operation of motor vehicles on the highway in this state; repealing all laws or parts of laws in conflict herewith; and declaring an emergency. [Laws 1931 (1st S. S.), ch. 1.]

Amendments.

This section, prior to its amendment in 1931, read as follows: "The following fees shall be paid to the superintendent: For each original certificate of registration of title, one dollar [\$1.00]; for each certificate of registration of title, on sale or transfer, one dollar [\$1.00]; for filing each application for second-hand dealer's license five dollars [\$5.00], and for each said license, when issued an additional three dollars [\$3.00]; for filing each application for a chauffeur's license, two dollars [\$2.00]; for filing each application for a duplicate chauffeur's or operator's license, fifty cents [50c], and for duplicate chauffeur's badge, one dollar [\$1.00]; for filing each application to make or stamp special engine number, one dollar [\$1.00]; for filing each application for operator's license other than owner's, fifty cents [50c]; for a lost certificate of registration which is accounted for to the satisfaction of the vehicle superintendent, a duplicate may be issued for fifty cents [50c]; for lost license plates satisfactorily accounted for to the vehicle superintendent, duplicates shall be issued for the actual cost of replacement; for the registration of each motor vehicle, trailer or semi-trailer, to be paid at the time of application for such registration, three dollars and fifty cents [\$3.50], and in addition thereto for the registration of each electric passenger motor vehicle, fifteen dollars [\$15.00]; for the registration of each electric motor vehicle designed, used or maintained primarily for the transportation of passengers for hire or for the transportation of property, when weighing unladen less than six thousand [6,000] pounds, sixty dollars [\$60.00], when weighing unladen six thousand [6,000] pounds or more, but less than ten thousand [10,000] pounds, ninety dollars [\$90.00], and when weighing unladen ten thousand [10,000] pounds or more, one hundred and twenty dollars [\$120].

"For the registration of vehicles other than electric motor vehicles, including trailers, semi-trailers, truck tractors and road tractors, designed, used or maintained primarily for the transportation of passengers for hire, or for the transportation of property, in addition to the three dollars and fifty cents [\$3.50], when such vehicles are equipped wholly with pneumatic tires and weighing, when unladen, less than sixteen hundred [1,600] pounds five dollars [\$5.00], when weighing, when unladen, sixteen hundred [1,600] pounds or more, but less than three thousand [3,000] pounds ten dollars [\$10.00], when weighing, when unladen, three thousand [3,000] pounds or more, but less than six thousand [6,000] pounds twenty dollars [\$20.00], when weighing, when unladen, six thousand [6,000] pounds or more, but less than ten thousand [10,000] pounds thirty dollars [\$30.00], and when weighing, when unladen, ten thousand [10,000] pounds or more forty dollars [\$40.00], and when such vehicles are equipped with two [2] or more solid tires the additional fees shall be twice such amounts. The additional fees herein required shall not apply to coupling semi-trailers, weighing not to exceed five hundred [500] pounds unladen, nor to vehicles used exclusively in the transportation of free delivery mail; nor to reregistration of a vehicle upon the transfer of title thereto.

"The following interpretation shall govern this section: A vehicle weighing less than sixteen hundred [1,600] pounds unladen and equipped with cushion tires, shall be deemed to be equipped with pneumatic tires, otherwise with solid tires; any vehicle which is used occasionally or incidentally for the transportation of property, other than a truck, trailer, or semi-trailer shall not be classed as a commercial vehicle or subject to the payment of the fees based upon weight, and the fact that such vehicle is equipped with a box or other receptacle for the carrying incidentally or occasionally of personal property shall not render such vehicle subject to payment of such fees; if the registration fee of three dollars and fifty cents [\$3.50] has been paid for such vehicle, it shall not be seized by the division under a claim of non-payment of the additional fees based upon weight until there has been a judicial determination that such vehicle is subject to such additional fee.

"The assessor of each county is hereby constituted an agent of the division for the purpose of the performance of such

acts and duties as are delegated to him, as well as other duties delegated by the division. Fifty cents [50c] of each original registration fee shall be remitted to the county treasurer of the county in which such registration fee is collected, to be placed in a special fund by such treasurer, said fund to be under the control and for the exclusive use of the assessor in carrying out the provisions hereof. The money received from the taxes herein provided shall be immediately transferred by the officer collecting same to the superintendent, and by him to the state treasurer, who shall immediately credit the same to the state highway fund."

The 1931 (regular session) read as follows: "The following fees shall be paid to the superintendent: For original certificates of registration of title, one dollar [\$1.00]; for certificate of registration of title, on sale or transfer, one dollar [\$1.00]; for filing application for second-hand dealer's license, five dollars [\$5.00]; for second-hand dealer's license, three dollars [\$3.00]; for filing application for chauffeur's license, two dollars [\$2.00]; for filing application for duplicate chauffeur's or operator's license, fifty cents [50c]; for duplicate chauffeur's badge, one dollar [\$1.00]; for filing application to make or stamp special engine number, one dollar [\$1.00]; for filing application for operator's license other than owner's, fifty cents [50c]; for duplicate of lost certificate of registration which is accounted for to the satisfaction of the vehicle superintendent, fifty cents [50c]; for duplicates of lost license plates satisfactorily accounted for to the vehicle superintendent, one dollar [\$1.00]; for registration of motor vehicle, trailer or semi-trailer, to be paid at the time of application therefor, three dollars and fifty cents [\$3.50]; for original set of dealer's plates, three dollars and fifty cents [\$3.50]; for additional set of dealer's plates, one dollar [\$1.00]; in addition to said registration fee of three dollars and fifty cents [\$3.50] electric motor vehicle shall pay, at the time of application, for passenger vehicle, fifteen dollars [\$15.00]; for vehicle designed, used or maintained primarily for the transportation of passengers for hire or for the transportation of property, when weighing unladen less than six thousand [6,000] pounds, sixty dollars [\$60.00]; when weighing unladen six thousand [6,000] pounds, or more, but less than ten thousand [10,000] pounds, ninety dollars [\$90.00]; when weighing unladen ten thousand [10,000] pounds or more, one hundred and twenty dollars [\$120]; in addition to said registration fee of three dollars and fifty cents [\$3.50], motor vehicles other than electric motor vehicles,

including trailers, semi-trailers, truck tractors and road tractors, designed, used or maintained primarily for the transportation of passengers for hire, and equipped wholly with pneumatic tires, shall pay at the time of application, if weighing unladen less than sixteen hundred [1,600] pounds, five dollars [\$5.00]; if weighing unladen sixteen hundred [1,600] pounds or more, but less than three thousand [3,000] pounds, ten dollars [\$10.00]; if weighing unladen three thousand [3,000] pounds or more, but less than six thousand [6,000] pounds, twenty dollars [\$20.00]; if weighing unladen six thousand [6,000] pounds or more, but less than ten thousand [10,000] pounds, thirty dollars [\$30.00]; if weighing unladen ten thousand [10,000] pounds or more, forty dollars [\$40.00], and if equipped with two [2] or more solid tires, the additional fee shall be twice such amounts. The additional fees herein required shall not apply to coupling semi-trailers weighing not to exceed five hundred [500] pounds unladen, nor to vehicles used exclusively in the transportation of free delivery mail; nor to re-registration of a motor vehicle other than an electric motor vehicle upon the transfer of title thereto. The following interpretation shall govern this section: A vehicle weighing less than sixteen hundred [1,600] pounds unladen and equipped with cushion tires shall be deemed to be equipped with pneumatic tires, otherwise with solid tires; any vehicle which is used occasionally or incidentally for the transportation of property, other than a truck, trailer, or semi-trailer shall not be classed as a commercial vehicle or subject to the payment of the fees based upon weight. The assessor of each county is hereby constituted an agent of the division for the purpose of the performance of such acts and duties as are delegated to him, as well as other duties delegated by the division. Fifty cents [50c] of each original registration fee shall be remitted to the county treasurer of the county in which such registration fee is collected, to be placed in a special fund by such treasurer, for the use of the assessor in carrying out the provisions hereof. Claims against said fund shall be allowed and paid in the same manner as claims against the county are allowed and paid. The board of supervisors, may from time to time order the payment of all or any part of said fund, received during a previous fiscal year or years and not used, into the fund for the maintenance and construction of county highways. The money received from the taxes herein provided shall be immediately transferred by the officer collecting same to the superintendent, and by him to the state treasurer, who shall im-

mediately credit the same to the state highway fund."

The 1931 (special session) amendment provided as follows: "The following fees shall be paid to the superintendent: For each original certificate of registration of title, one dollar [\$1.00]; for each certificate of registration of title, on sale or transfer, one dollar [\$1.00]; for filing each application for second-hand dealer's license, five dollars [\$5.00], and for each said license, when issued, an additional three dollars [\$3.00]; for filing each application for a chauffeur's license, two dollars [\$2.00]; for filing each application for a duplicate chauffeur's or operator's license, fifty cents [50c], and for duplicate chauffeur's badge, one dollar [\$1.00]; for filing each application to make or stamp special engine number, one dollar [\$1.00]; for filing each application for operator's license other than owner's, fifty cents [50c]; for a lost certificate of registration which is accounted for to the satisfaction of the vehicle superintendent, a duplicate may be issued for fifty cents [50c]; for lost license plates satisfactorily accounted for to the vehicle superintendent, duplicates shall be issued for one dollar [\$1.00]; for the registration of each motor vehicle, trailer or semi-trailer, to be paid at the time of application for such registration, and for each original set of dealer's plates, three dollars and fifty cents [\$3.50], and for each additional set of dealer's plates, one dollar [\$1.00]; in addition to said registration fee of three dollars and fifty cents [\$3.50], there shall be paid at the time of application for registration on each motor vehicle (other than electric motor vehicles, trailers and semi-trailers), including truck tractors and road tractors designed, used or maintained primarily for the transportation of passengers for compensation or for the transportation of property, when such vehicles are equipped wholly with pneumatic tires and weighing unladen less than twenty-six hundred [2,600] pounds, two dollars [\$2.00] in addition to the registration fee, and on all such vehicles, including trailers and semi-trailers, weighing unladen more than twenty-six hundred [2,600] pounds, additional fees according to the following schedule: Vehicles with two [2] axles, or semi-trailers with one [1] axle weighing unladen (a) 2,600 pounds or over, but less than four thousand [4,000] pounds, additional fee, thirty-five cents [35c] per one hundred [100] pounds; (b) four thousand [4,000] pounds and over, but less than six thousand [6,000] pounds, additional fee of fifty cents [50c] per one hundred [100] pounds; (c) six thousand [6,000] pounds and over, but less than eight thousand [8,000] pounds, additional fee of sixty-

five cents [65c] per one hundred [100] pounds; (d) eight thousand [8,000] pounds and over, but less than ten thousand [10,000] pounds, additional fee of seventy-five cents [75c] per one hundred [100] pounds; (e) ten thousand [10,000] pounds and over, at the rate of \$1.00 per one hundred [100] pounds, but not to exceed one hundred and twenty dollars [\$120] for any such vehicle. All vehicles with three [3] or more axles weighing unladen (a) twenty-six hundred [2,600] pounds and over, but less than four thousand [4,000] pounds, additional fee of fifty cents [50c] per one hundred [100] pounds; (b) four thousand [4,000] pounds and over, but less than six thousand [6,000] pounds, sixty-five cents [65c] per one hundred [100] pounds; (c) six thousand [6,000] pounds and over, but less than eight thousand [8,000] pounds, eighty cents [80c] per one hundred [100] pounds; (d) eight thousand [8,000] pounds and over, but less than ten thousand [10,000] pounds, one dollar [\$1.00] per one hundred [100] pounds; (e) ten thousand [10,000] pounds and over, but less than twelve thousand [12,000] pounds, one dollar and thirty-five cents [\$1.35] cents per one hundred [100] pounds; (f) twelve thousand [12,000] pounds and over, at the rate of one dollar and sixty cents [\$1.60] per one hundred [100] pounds, but not to exceed one hundred and eighty-five dollars [\$185] for any such vehicle. The foregoing schedules are based on pneumatic tires for said vehicles, and provided any such vehicle is equipped with two [2] or more solid tires, then the additional fee for such vehicle shall be twice the amount specified for the classes herein. There shall be paid on each trailer or semi-trailer at the time of application for registration, when such vehicle weighs unladen one thousand [1,000] pounds or more, but less than twenty-six hundred [2,600] pounds, five dollars [\$5.00], in addition to the registration fee. A major fraction of one hundred [100] pounds shall be considered as one hundred [100] pounds. There shall be paid on electric motor vehicles, at the time of application for registration, an additional fee of twenty dollars [\$20.00], provided, if such electric motor vehicle is designed, used or maintained primarily for the transportation of passengers for compensation, or for the transportation of property, and equipped wholly with pneumatic tires and weighing, when unladen, twenty-six hundred [2,600] pounds, or more, such additional fee shall be at the rate of one dollar and fifty cents [\$1.50] for each one hundred [100] pounds, or major fraction thereof, based upon the unladen weight of such vehicle, but not to exceed one hundred eighty dol-

lars [\$180]. The unladen weight of vehicles shall be evidenced by the sworn statement of the applicant for registration, which shall be accompanied by a certificate of weight, and shall be subject to verification by the vehicle division or any of its officers or agents. The additional fees herein required shall not apply to vehicles used exclusively in the transportation of free delivery mail, nor to the re-registration of any vehicle upon the transfer of title thereto. The following interpretation shall govern this section: Any vehicle, other than a truck, trailer, or semi-trailer, which is used occasionally or incidentally, for the transportation of property shall not be classed as a commercial vehicle, or subject to the payment of the fees based upon weight. The assessor of each county is hereby constituted an agent of the division for the purpose of the performance of such acts and duties as are delegated to him, as well as other duties delegated by the division. Fifty cents [50c] of each original registration fee shall be remitted to the county treasurer of the county in which such registration fee is collected, to be placed in a special fund by such treasurer, for the use of the assessor in carrying out the provisions hereof. Claims against said fund shall be allowed and paid in the same manner as claims against the county are allowed and paid. The board of supervisors may, from time to time, order the payment of all or any part of said fund, received during a pre-

vious fiscal year or years and not used, into the fund for the maintenance and construction of county highways. The money received from the taxes herein provided shall be immediately transferred by the officer collecting same to the superintendent, and by him to the state treasurer, who shall immediately credit the same to the state highway fund."

The 1937 amendment placed this section in its present form.

Repeal and Emergency.

Section 2 of Laws 1931 (1st S. S.), ch. 1 repealed all laws or parts of laws in conflict therewith. Section 3 declared an emergency. Approved December 31, 1931.

Section to Section Reference.

This section is referred to in § 66-225.

Comparative Legislation. Fees — License tax on commercial vehicles:

Cal. Deering's Codes 1937, Vehicle Code, §§ 370-384.

Ind. Burns' Stat. 1933, § 47-110.

La. Dart's Stat., § 5179.

Collateral References.

License tax or fee on automobiles as affected by interstate commerce clause. 52 A. L. R. 533.

Validity of statutes imposing license tax on automobiles as affected by constitutional provisions in relation to taxation. 5 A. L. R. 759.

66-257. Severability.—If any provision of this act be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of the act are declared to be severable. [Laws 1937, ch. 67, § 26, p. 234.]

ARTICLE 3

MOTOR VEHICLE FUEL TAX

SECTION.

- 66-301. Amount of tax—When payable—Distribution.
- 66-302. Application for licenses—Contents—Licensing of distributors.
- 66-303. Bond required of licensed distributor.
- 66-304. Reports of distributors.
- 66-305. Power of vehicle superintendent to cancel licenses—Surrender of bond.
- 66-306. Penalty for failure to report or pay taxes promptly.
- 66-307. Vehicle superintendent may estimate motor vehicle fuel received.

SECTION.

- 66-308. Report from persons not distributors — Contents — Penalty for failure to submit report.
- 66-309. Reports from carriers transporting motor vehicle fuel—Penalty.
- 66-310. Retention of records by distributors and other persons.
- 66-311. Inspection of records and equipment—Hearings—Forms.
- 66-312. Tax lien on property.
- 66-313. Discontinuance or transfer of business—Penalty.
- 66-314. When tax payment is in default—Procedure.

driver of a motor vehicle importing motor vehicle fuel into this state in the fuel tank or tanks of a motor vehicle, when such tank or tanks contain more than twenty [20] gallons shall immediately, or upon demand of the vehicle superintendent, pay to said superintendent

ent on such excess motor vehicle fuel, the license tax required to be paid by distributors under the provisions of sec. 1673 [§ 66-301]. Any person violating the provisions of this section shall be guilty of a misdemeanor."

66-324. Waybills or manifest required—Inspection of.—All persons transporting motor vehicle fuel in interstate commerce shall, at all times have in their possession on the vehicle in which such fuel is transported waybills or manifest showing the consignor, consignee, date of shipment and class of fuel shipped, together with the amount thereof, and which said waybills or manifest may be inspected by the vehicle superintendent at any time. [R. C. 1928, § 1678c as added by Laws 1931 (1st S. S.), ch. 16, § 1, p. 50.]

66-325. Authority—Enforcement—Officers.—The highway patrol division of the Arizona highway department and its officers shall have full authority in the enforcement of the provisions of this article. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 68, p. 33; rev., R. C. 1928, § 1679; Laws 1931 (1st S. S.), ch. 16, § 1, p. 50.]

Compiler's Note.

Laws 1927 (4th S. S.), ch. 2, subd. 3, §§ 54-57 (Rev. Code 1928, §§ 1680-1682) were repealed by Laws 1933, ch. 100, § 32, p. 472.

Amendment.

This section, prior to its amendment in 1931, read as follows: "Any person, officer or agent, violating a provision of this article, or making a false statement, or concealing any material fact in any record, report or claim provided for therein, shall be guilty of a misdemeanor, unless such act is by any other law a felony, and upon conviction shall be fined not less than five hundred [\$500] nor more than five thousand dollars [\$5,000], or be imprisoned in the county jail not exceeding six [6] months, or both. The superintendent may revoke the license of a distributor failing to comply with the provisions of this article."

Cross-Reference.

General penal section, § 66-406.

Collateral References.

Attractive nuisance, gasoline drip, or tank as. 53 A. L. R. 1354.

Building erected by tenant for use as gasoline filling station as trade fixture. 107 A. L. R. 1158.

False imprisonment by gasoline station attendant, liability for. 77 A. L. R. 935.

Gasoline station operator, damages for loss of earning capacity. 122 A. L. R. 312.

Injunction against threatened or anticipated nuisance from automobile supply station. 26 A. L. R. 944.

Lease of filling station, rights and remedies of parties in respect to. 83 A. L. R. 1416.

Liability of injuries incident to filling gasoline tank of automobile or motorcycle. 33 A. L. R. 774; 38 A. L. R. 674.

License or permit for keeping or storage of gasoline. 43 A. L. R. 859.

Lien on automobile for furnishing gasoline. 62 A. L. R. 1497.

Public regulation or authorization of gasoline station, 18 A. L. R. 101; 29 A. L. R. 450; 34 A. L. R. 507; 49 A. L. R. 767; 55 A. L. R. 256; 79 A. L. R. 918; 96 A. L. R. 1337.

Right to service at gasoline station. 35 A. L. R. 557.

Sale of gasoline or oil as necessity within Sunday Laws. 60 A. L. R. 763.

ARTICLE 4

DEFINITIONS AND PENALTIES

SECTION.

66-401. Words and phrases defined.

66-402. Driving while under influence of liquor or drugs—Penalty.

SECTION.

66-403. Reckless driving—Penalty.

66-404. Driving with trailer swaying—Penalty.

SECTION.

66-405. Railroad warning signal—Disobeying—Penalty.

66-406. Other wrongful acts—Penalty.

SECTION.

66-407. Receiving and transferring stolen vehicle—Penalty.

66-408. Injuring or preventing operation of vehicle—Penalty.

66-401. Words and phrases defined.—In this and the preceding eight articles [§§ 47-125—47-127; 59-101—59-312; 66-101—66-325], unless the context or subject matter otherwise requires,

“The department” shall mean the Arizona state highway department;

“The commission” shall mean the Arizona state highway commission;

“The state engineer” shall mean the Arizona state highway engineer;

“The vehicle division” shall mean the division of motor vehicles of the Arizona state highway department;

“The vehicle superintendent” shall mean the superintendent of said division;

“The board” shall mean any county board of supervisors;

“Local authority” shall mean any county, municipal or other local board or body having authority of law to adopt local police regulation;

“State route” shall mean any right of way, whether actually used as a highway or not, designated by the commission as a location for the construction of a state highway;

“State highway” shall mean any state route, or portion thereof, accepted and designated by the commission as such, and maintained by the state;

“County highway” shall mean any public road constructed and maintained by a county;

“Highway” shall mean any way, road or place of whatever nature, open to the use of the public as a matter of right for the purpose of vehicular travel, and embraces culverts, sluices, drains, ditches, waterways, embankments, retaining walls, trees, shrubs and fences along or upon the same, and within the right of way;

“Improved highway” shall mean a highway paved with cement concrete, or asphaltic concrete, or a highway having a hard surface and distinct roadway not less than four [4] inches thick, made up of a mixture of rock, sand, or gravel, bound together by an artificial binder other than natural soil;

“Private road or driveway” shall mean any road or driveway upon private grounds and not open to the use of the public for purposes of vehicular travel;

“Right of way” shall mean the privilege of the immediate use of the highways;

“Intersection” shall mean the area embraced within the prolongation of the lateral curb lines or,

If none, then the lateral boundary lines of two [2] or more highways which join one another at an angle, whether or not one such highway crosses the other;

“Safety zone” shall mean the area or space officially set aside within a highway for the exclusive use of the pedestrians, and which is so

plainly marked or indicated by proper signs as to be plainly visible at all times when set apart as a safety zone;

"Business district" shall mean the territory contiguous to a highway when fifty per cent [50%], or more, of the frontage thereon, for a distance of one-fourth of a mile, or more, is occupied by buildings in use for business;

"Resident district" shall mean the territory contiguous to a highway not comprising a business district when the frontage on such highway, for a distance of one-fourth of a mile, or more, is mainly occupied by dwellings, or by dwellings and buildings in use for business;

"Vehicle" shall mean any device, in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks; provided, that for the purposes of this chapter relating to the operation of vehicles and rules of the road, a bicycle or ridden animal shall be deemed a vehicle;

"Motor vehicle" shall mean any self-propelled vehicle, provided that for the purposes of this chapter relating to the imposition of a tax upon motor vehicle fuel the term shall mean any vehicle operated upon the highways of this state which is propelled by the use of motor vehicle fuel;

"Motor cycle" shall mean any motor vehicle designed to travel on not more than three [3] wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined;

"Truck" shall mean any motor vehicle designed or used primarily for the carriage of property other than the effects of the driver or passengers, and includes a motor vehicle to which has been added a box, platform or other equipment for such carriage;

"Truck tractor" shall mean any motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load so drawn;

"Farm tractor" shall mean any motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry;

"Road tractor" shall mean any motor vehicle designed and used for drawing other vehicles and not so constructed as to carry a load independently, or any part of the weight of a vehicle or load so drawn;

"Trailer" shall mean any vehicle without motive power, designed for carrying property or passengers wholly on its own structure, and for being drawn by a motor vehicle;

"Semi-trailer" shall mean any vehicle of the trailer type, used in conjunction with a motor vehicle, and so designed that some part of its own weight, and that of its own load, rests upon or is carried by another vehicle;

"Specially constructed vehicle" shall mean any vehicle which shall not have been originally constructed under a distinctive name, make, model, or type, by a generally recognized manufacturer of vehicles;

"Essential parts" shall mean integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle;

"Service station" shall mean a place operated primarily for the purpose of delivering motor vehicle fuel into the fuel tanks of motor vehicles;

"Budget" shall mean the annual highway program prepared by the commission. [Laws 1927 (4th S. S.), ch. 2, subch. 1, § 2, p. 8; rev., R. C. 1928, § 1686; Laws 1931, ch. 100, § 6, p. 265; 1931 (1st S. S.), ch. 16, § 2, p. 50.]

Compiler's Notes.

Section 1 of Laws 1927 (4th S. S.), ch. 2, subch. 1 was omitted from Rev. Code 1928. It provided: "This act may be cited as the Highway Code."

Revised Code 1928, § 1687, width of highways, is compiled herein as § 59-401.

Section 3 of Laws 1931 (1st S. S.), ch. 16 provided:

Section 3. Severability.—If any section, sub-section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. [Laws 1931 (1st S. S.), ch. 16, § 3, p. 50.]

Amendments.

The 1931 (regular session) amendment added the definition of "truck"; changed the definition of "distributor" from the following: "'distributor' shall mean every person who refines, manufactures, produces or compounds motor vehicle fuel in this state, and sells the same in this state; also every person who imports any motor vehicle fuel into this state and sells the same in this state whether in the original packages or containers in which it is imported, or otherwise; or imports any such fuel for his own use in this state; also every person who, having acquired in this state in the original package or container motor vehicle fuel which has been imported into this state, shall distribute or sell the same, whether in such original package or container or otherwise"; and changed the definition of "chauffeur" from the following: "'chauffeur' shall mean every person who is employed for the principal purpose of operating a motor vehicle and every person who

drives a motor vehicle while in use as a public or common carrier of persons or property"; and changed the definition of "motor vehicle fuel" from the following: "'Motor vehicle fuel' shall mean and include all gasoline, distillate, benzine, naphtha, liberty fuel and other volatile and inflammable liquids produced or compounded for the purpose of, or which may be used in operating or propelling motor vehicles, except kerosene, and except unfinished products requiring re-run, blending, or compounding; and which are not used or sold for use in such form for the purpose of operating or propelling motor vehicles."

The 1931 (special session) amendment changed the definition of "distributor" from the following: "'distributor' shall mean every person who imports, acquires, refines, manufactures, produces, or compounds motor vehicle fuel, and sells the same, whether in the original packages or containers in which it is imported, or otherwise, or imports any such fuel for his own use, other than in the fuel tank of a motor vehicle when such tank is in accordance with manufacturer's stock specifications."

Repeal and Emergency.

Section 4 of Laws 1931 (1st S. S.), ch. 16 repealed all laws or parts of laws in conflict therewith. Section 5 declared an emergency. Approved January 18, 1932.

Comparative Legislation. Definitions:

Cal. Deering's Codes 1937, Vehicle Code, §§ 31-52.

Ill. Rev. Stat. 1939, ch. 95½, § 1.

Ind. Burns' Stat. 1933, §§ 47-1801—47-1821.

La. Dart's Stat., § 5198.

NOTES TO DECISIONS

Alteration or Abandonment.

State routes after being designated by the commission can not be altered or abandoned except by authority which created them, and only when such rules are complied with may supervisors follow eminent domain statutory provisions. Apache County v. Udall, 38 Ariz. 488, 1 Pac. (2d) 340.

City Streets.

Regulations of the Highway Code were intended to apply to city streets. (See § 59-101 et seq.) Clayton v. State, 38 Ariz. 135, 297 Pac. 1037.

Public Highways.

Public highways are only such as come within the provisions of statutes declaring them to be such. Roads estab-

"Reconstructed vehicle" shall mean any vehicle which has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models, and types, or which, if originally otherwise constructed, has been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles, or makes of vehicles;

"Foreign vehicle" shall mean any motor vehicle, trailer or semi-trailer brought into this state, otherwise than in the ordinary course of business by or through a manufacturer or dealer, and which has not been registered in this state;

"Pneumatic tires" shall mean all tires inflated with compressed air;

"Solid rubber tires" shall mean every tire made of rubber other than a pneumatic tire; and

"Metal tires" shall mean all tires the surfaces of which in contact with the highway are wholly or partly of metal or other hard, non-resilient material;

"Owner" shall mean a person who holds the legal title of a vehicle; if the vehicle is the subject of a lease or an agreement for the conditional sale 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 if a mortgagor of a vehicle is entitled to possession, then such lessee, conditional vendee or mortgagor shall be deemed the owner;

"Dealer" shall mean every person engaged in the business of buying, selling or exchanging motor vehicles, trailers or semi-trailers, and having an established place of business;

"Manufacturer" shall mean every person engaged in the business of manufacturing motor vehicles, trailers, or semi-trailers;

"Distributor" shall mean every person who refines, manufactures, produces, compounds, blends or imports motor vehicle fuel in the original package or container or otherwise, and shall include every person importing motor vehicle fuel by means of a pipe line or in any other manner, but shall not include persons importing motor vehicle fuel in the fuel tank of a motor vehicle;

"Operator" shall mean every person other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway, and "chauffeur" shall mean every person who operates a motor vehicle while in use as a public or common carrier, and every person, who, in the course of his employment, drives a vehicle of which he is not the owner, for the purpose of the transportation of persons, or property;

"Motor vehicle fuel" shall mean and include any inflammable liquid, by whatsoever name such liquid may be known or sold, which is used or usable in motor vehicles, either alone or when mixed, blended or compounded, for the propulsion thereof upon the public highways, including (but the following enumeration shall be without prejudice to the generality of the foregoing definition) kerosene, benzol, and all kinds of naphthas;

lished without authority for the convenience of individuals are without legal status either as public highways or private ways. *Territory v. Richardson*, 8 Ariz. 336, 76 Pac. 456.

Under this section, "highway" includes streets and public ways of a city or town. *Clayton v. State*, 38 Ariz. 135, 297 Pac. 1037.

Collateral References.

Aeroplane as a motor vehicle. 99 A. L. R. 209.

Applicability of regulations governing vehicular traffic to driveways or other places not legal highways. 80 A. L. R. 469.

Applicability of state or municipal traffic or vehicle regulations to those engaged in handling United States mail. 18 A. L. R. 1169.

"Highway" in statutory provision relative to vehicle traffic as including street. 54 A. L. R. 1250.

Motorcycle as within contract, statute, or ordinance in relation to motor cars and motor-driven cars. 48 A. L. R. 1090; 70 A. L. R. 1253.

Property tax or privilege tax, tax on automobiles as. 103 A. L. R. 97.

Road or street construction, improvement, or maintenance, tax on automobile or on its use for cost of. 24 A. L. R. 937.

Violation of statute or ordinance regulating movement of vehicles as affecting violator's right to recover for negligence. 12 A. L. R. 458.

Will, automobile as within description of property covered by bequest. 75 A. L. R. 113.

66-402. Driving while under influence of liquor or drugs—Penalty.—

Any person under the influence of intoxicating liquor or narcotic drugs, or who is a habitual user of narcotic drugs, who shall drive any vehicle upon any highway within this state, shall be guilty of a misdemeanor, and punished by imprisonment in the county jail for not less than thirty [30] nor more than ninety [90] days. No judge may suspend imposition of sentence for a violation of this section, and if upon the conviction for three [3] such offenses; the party convicted shall, forfeit his driver's license. [Laws 1927 (4th S. S.), ch. 2, subch. 6, § 1, p. 131; R. C. 1928, § 1688; Laws 1935, ch. 33, § 1, p. 136.]

Title of Act.

An act relating to driving while under the influence of liquor or drugs; fixing a penalty therefor, and amending section 1688, Revised Code of 1928. [Laws 1935, ch. 33.]

Amendment.

The 1935 amendment changed the penal provision from the following: "shall be guilty of a misdemeanor and punished by imprisonment in the county jail for not less than ninety [90] days

nor more than one [1] year, or by fine of not less than two hundred [200] nor more than five thousand dollars [\$5,000]," and added the second sentence.

Emergency.

Section 2 of Laws 1935, ch. 33 declared an emergency. Approved March 6, 1935.

Cited:

Keller v. State, 46 Ariz. 106, 47 Pac. (2d) 442.

NOTES TO DECISIONS

ANALYSIS

In general.

Intoxication.

Justice of the peace—Jurisdiction.

Power of city.

Review.

Speed.

In General.

The Highway Code of 1927 superseded prior laws on same subject. *Olson v. State*, 36 Ariz. 294, 285 Pac. 282.

Intoxication.

Any person who of his own free will voluntarily lessened in the slightest degree his ability to handle such vehicles by the use of intoxicating liquor, should, while in such condition, be debarred from their use. *Hasten v. State*, 35 Ariz. 427, 280 Pac. 670; *Weston v. State*, 49 Ariz. 183, 65 Pac. (2d) 652.

This section covers all degrees of intoxication. *Steffani v. State*, 45 Ariz. 210, 42 Pac. (2d) 615.

It is a question for the jury to determine whether a driver of an automobile was under the influence of intoxicating liquor to the extent that he did not have the clearness of intellect or control of himself that he otherwise would have had. *Weston v. State*, 49 Ariz. 183, 65 Pac. (2d) 652.

This statute is not invalid for indefiniteness of the phrase "driving while under the influence of liquor," since it has the commonly understood meaning sufficient to inform accused of the nature of the crime, which is influence to the extent that the driver does not possess that clearness of intellect and self-control he would otherwise have. *Weston v. State*, 49 Ariz. 183, 65 Pac. (2d) 652.

Justice of the Peace—Jurisdiction.

This offense is triable in the justice of the peace court. *Davis v. Burris*, 51 Ariz. 220, 75 Pac. (2d) 689.

Power of City.

There is no power either express or implied in charter of city to pass a by-law making it a crime to drive a motor vehicle on highways while under the influence of intoxicating liquor. (See Const., art. 13, § 2 and § 16-303.) *Clayton v. State*, 38 Ariz. 135, 297 Pac. 1037.

66-403. Reckless driving—Penalty.—Any person who drives any vehicle upon a highway without due caution and at a speed or in a manner endangering or likely to endanger any person or property, shall be guilty of a misdemeanor and punished by imprisonment in the county jail for not less than five [5] nor more than ninety [90] days, or by a fine of not less than twenty-five dollars [\$25.00], nor more than two hundred and fifty dollars [\$250], or by both such fine and imprisonment. [Laws 1927 (4th S. S.), ch. 2, subch. 6, § 2, p. 131; R. C. 1928, § 1689.]

NOTES TO DECISIONS

City Ordinances.

The legislature having appropriated the field and declared the subject of reckless driving to be of state-wide concern, a city has no authority to pass an ordinance on the same subject-matter. *Keller v. State*, 46 Ariz. 106, 47 Pac. (2d) 442.

Jurisdiction.

The superior court has original jurisdiction of this offense. *Keller v. State*, 46 Ariz. 106, 47 Pac. (2d) 442.

Manslaughter.

Driving an automobile without due caution or in a manner endangering life is criminal negligence, and if such negligence was the proximate cause of death,

Review.

Where the evidence on the issue of whether accused was or was not under the influence of liquor is conflicting, the finding of guilty by the jury is binding on Supreme Court. *Weston v. State*, 49 Ariz. 183, 65 Pac. (2d) 652.

Speed.

Under this section, one who exceeds the speed limit while intoxicated is guilty of a misdemeanor. *Harding v. State*, 26 Ariz. 334, 225 Pac. 482.

Collateral References.

Conflict between statutes and local regulations as to intoxication of driver. 21 A. L. R. 1212; 64 A. L. R. 1005.

Constitutionality and effect of statute relating to civil liability of person driving automobile while under influence of liquor. 56 A. L. R. 327.

Driving automobile while intoxicated as a substantive criminal offense. 42 A. L. R. 1498; 49 A. L. R. 1392; 68 A. L. R. 1356.

Indictment for driving while intoxicated, necessity and sufficiency of. 68 A. L. R. 1374.

Reckless driving, driving while intoxicated as, where driving while intoxicated is made a separate offense. 86 A. L. R. 1274.

the defendant is then to be charged with involuntary manslaughter. *Steffani v. State*, 45 Ariz. 210, 42 Pac. (2d) 615.

In manslaughter prosecution, questions of speed of automobile and recklessness should be submitted to the jury. *Steffani v. State*, 45 Ariz. 210, 42 Pac. (2d) 615.

Defendant is entitled to have the distinction between two kinds of negligence stated to the jury, but not necessarily in his own language. *Steffani v. State*, 45 Ariz. 210, 42 Pac. (2d) 615.

Misdemeanor.

Operating an automobile without due caution and at a high speed is a misdemeanor. *Salt River Valley Water Users Assn. v. Cornum*, 49 Ariz. 1, 63 Pac. (2d) 639.

Collateral References.

Backing of automobile causing damage or injury. 2 A. L. R. 1499, 67 A. L. R. 647; 118 A. L. R. 242.

Curve or hill, duty in operating automobile at or on. 57 A. L. R. 589.

Dangerous instrumentality doctrine as applied to automobile. 16 A. L. R. 270.

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Gross or wanton negligence in driving automobile which will preclude defense of contributory negligence. 38 A. L. R. 1424; 72 A. L. R. 1357; 92 A. L. R. 1367.

Reckless driving, within statute making reckless driving of automobile a criminal offense, what amounts to. 86 A. L. R. 1273.

Validity of statute or ordinance forbidding running of automobile so as to inflict damage or injury. 47 A. L. R. 255.

Wantonness, wilfulness, or the like precluding defense of contributory negligence, what constitutes. 119 A. L. R. 654.

66-404. Driving with trailer swaying—Penalty.—Any person who shall drive a vehicle towing a trailer or semi-trailer at a rate of speed causing the trailer or semi-trailer to sway laterally from the line of traffic is guilty of a misdemeanor. [Laws 1927 (4th S. S.), ch. 2, subch. 6, § 3, p. 131; R. C. 1928, § 1690.]

66-405. Railroad warning signal—Disobeying—Penalty.—Any person driving a vehicle, upon approaching a grade crossing of a state highway and an interurban or steam railway, who fails to bring such a vehicle to a complete stop before traversing such grade crossing when a clearly visible and mechanical signal gives warning of the immediate approach of a railway train or car, is guilty of a misdemeanor. [Laws 1927 (4th S. S.), ch. 2, subch. 6, § 4, p. 131; R. C. 1928, § 1691.]

66-406. Other wrongful acts—Penalty.—Any person who shall willfully remove, deface, obliterate or change, or cause to be removed, defaced, obliterated or changed, any factory, motor, serial or other identification number or mark on or from any motor vehicle, is guilty of a felony.

Any person who is a driver of a vehicle carrying children to and from school and who, in receiving or discharging such children fails to stop such vehicle on the side of the highway upon which the school building is located; or who,

Being the owner thereof, operates or knowingly permits to be operated upon a highway, any motor vehicle, trailer or semi-trailer required by law to be registered which does not display thereon the number plates assigned thereto by the vehicle division for the current registered year; or who

Drives any motor vehicle upon a highway, and who has not been licensed, either as an operator or as a chauffeur, nor granted a temporary instruction or driver's permit, by the vehicle division; or who

Displays, causes, or permits to be displayed, or to have in his possession any operator's or chauffeur's license knowing the same to be fictitious or to have been canceled, revoked, suspended or altered; or who

Lends, or knowingly permits the use of, by one not entitled thereto, any operator's or chauffeur's license issued to the person so lending or permitting the use thereof; or who

Displays or represents as his own, any operator's or chauffeur's license not issued to him; or who

Fails or refuses to surrender to the vehicle division, upon demand, any operator's or chauffeur's license which has been suspended, canceled or revoked; or who

Uses a false or fictitious name, or gives a false or fictitious address in any application for an operator's or chauffeur's license, or any renewal or duplicate thereof; or who knowingly makes a false statement, knowingly conceals a material fact, or otherwise commits a fraud in any such application; or who

Fails to report an accident, as in this chapter required; or who

Causes or knowingly permits a minor under the age of eighteen years [18] to drive a motor vehicle upon a highway as an operator, unless such minor has first obtained a license to so drive; or who

Employs any unlicensed chauffeur to operate a motor vehicle, or authorizes or knowingly permits a motor vehicle owned by him or under his control to be driven by any person in violation of any provision of this chapter; or who

Drives a motor vehicle upon the highways while his license is suspended or revoked; or who

Displays or has in his possession any registration card, or registration number plate knowing the same to be fictitious or to have been canceled, revoked, suspended, or altered; or who

Lends to, or knowingly permits the use of, by one not entitled thereto, his registration card or registration number plate; or who

Fails or refuses to surrender to the vehicle division upon demand, any registration number plate which has been suspended, canceled or revoked; or who

Uses a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate thereof; or who

Knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application; or who

Drives a vehicle, not his own, without the consent of the owner thereof, and with intent temporarily to deprive said owner of his possession of such vehicle, without intent to steal the same; or who

Defaces, injures, knocks down or removes any posted sign as prohibited in this chapter; or who

Places on a state right-of-way any signal, sign or advertisement without authority of law or of the department, shall be guilty of a misdemeanor.

It shall be a misdemeanor for any person to violate any of the provisions of, or to fail or refuse to do or perform any act or thing

required by this chapter, unless such violation is by law declared to be a felony. [Laws 1927 (4th S. S.), ch. 2, subch. 6, §§ 5-14, p. 131; subch. 5, § 60, p. 94; cons. & rev., R. C. 1928, § 1692; Laws 1931, ch. 100, § 7, p. 265.]

Compiler's Note.

Section 8 of Laws 1931, ch. 100 is compiled herein as § 59-301.

Amendment.

This section, prior to its amendment in 1931, read as follows: "Every driver of a vehicle carrying children to and from school who is receiving or discharging such children and fails to stop such vehicle on the side of the highway upon which the school building is located, is guilty of a misdemeanor."

"Any person who shall deface, injure, knock down or remove any sign posted as provided in this chapter; or display, cause, or permit to be displayed, or have in possession any operator's or chauffeur's license knowing the same to be fictitious or to have been canceled, revoked, suspended or altered; or lend, or knowingly permit the use of, by one not entitled thereto, any operator's or chauffeur's license issued to the person so lending or permitting the use thereof; or display or represent as one's own, any operator's or chauffeur's license not issued to the person so displaying the same; or fail or refuse to surrender to the vehicle division upon demand, any operator's or chauffeur's license which has been suspended, canceled or revoked; or use a false or fictitious name, or give a false or fictitious address in any application for an operator's or chauffeur's license, or any renewal or duplicate thereof; or, knowingly make a false statement or knowingly conceal a material fact, or otherwise commit a fraud in any such application; or, fail to report an accident, as in this chapter required; or cause or knowingly permit a minor under the age of eighteen [18] years to drive a motor vehicle upon a highway as an operator, unless such minor has first obtained a license to so drive; or employ any unlicensed chauffeur to operate a motor vehicle; or authorize or knowingly permit a motor vehicle owned by him or under his control to be driven by any person in violation of any provision of this chapter; or drive any motor vehicle upon the highways or this state while his license is suspended or revoked; or any owner who shall operate or knowingly permit to be operated, upon a highway any motor vehicle, trailer or semi-trailer which is required by law to be registered in this state, and which is not registered, or which does not display thereon the number plates assigned thereto by the vehicle division

for the current registration year; or display or have in possession any registration card, or registration number plate knowing the same to be fictitious or to have been canceled, revoked, suspended, or altered; or lend to or knowingly permit the use of by one not entitled thereto, of his registration card or registration number plate; or fail or refuse to surrender to the vehicle division upon demand, any registration number plate which has been suspended, canceled or revoked; or use a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate thereof, or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application; or drive a vehicle, not his own, without the consent of the owner thereof, and with intent temporarily to deprive said owner of his possession of such vehicle without intent to steal the same; or place on a state right of way any signal, sign or advertisement without authority of law or the department, shall be guilty of a misdemeanor."

Collateral References.

Abandonment or discontinuance of use of rails, poles, wires, or other obstructions having previous lawful status in street, as affecting liability for injury to automobile or occupant thereof. 102 A. L. R. 677.

Age prescribed by law, liability for injury by one operating motor vehicle while under. 46 A. L. R. 1067.

Bailor's liability for personal injuries due to defects in automobile. 12 A. L. R. 788; 61 A. L. R. 1336.

Barrier placed to indicate that street is closed or undergoing repairs, duty of operator of motor vehicle as affected by. 78 A. L. R. 525; 86 A. L. R. 1389.

Child playing ball in street, liability for injury by automobile to. 44 A. L. R. 1304.

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Commercial automobiles, validity of regulations excluding or restricting automobile traffic in certain streets. 121 A. L. R. 577.

Condition of automobile, liability of owner or one in charge for injury due to, to one, other than his employee or

bailee for use, engaged in some service or operation in connection with it. 122 A. L. R. 1023.

Consent, liability of parent for injury inflicted by minor child by automobile left accessible to him without the parent's consent. 12 A. L. R. 816.

Corporation's liability for injury by its automobile while being used by official for his own pleasure or business. 68 A. L. R. 1054; 80 A. L. R. 727.

Dangerous agency, loan of car by owner as rendering him liable for negligent injury on theory of dangerous agency. 36 A. L. R. 1137.

Employer of negligent driver of automobile, responsibility of, for damages immediately inflicted by another car. 62 A. L. R. 1131.

Employer's liability for employee's negligence in driving his own car in employer's business. 60 A. L. R. 1163; 87 A. L. R. 787; 112 A. L. R. 920.

Employer's liability for injury by automobile while being driven by or for salesman or collector. 17 A. L. R. 621; 29 A. L. R. 470; 54 A. L. R. 627; 107 A. L. R. 419.

Employer's liability for injury by automobile while being used for servant's own pleasure or business. 23 A. L. R. 1397; 45 A. L. R. 477; 68 A. L. R. 1051; 80 A. L. R. 725; 122 A. L. R. 858.

Fall, injury to person who, after falling in street, is struck by automobile. 62 A. L. R. 1339.

Family-purpose doctrine. 5 A. L. R. 226; 10 A. L. R. 1449; 14 A. L. R. 1087; 19 A. L. R. 387; 20 A. L. R. 1469; 22 A. L. R. 1404; 23 A. L. R. 620; 32 A. L. R. 1504; 36 A. L. R. 1150; 44 A. L. R. 1382; 45 A. L. R. 482; 50 A. L. R. 1512; 54 A. L. R. 851; 64 A. L. R. 851; 88 A. L. R. 608; 98 A. L. R. 1043; 100 A. L. R. 1021.

Federal control of telephone company as affecting liability for negligent operation of motor truck. 10 A. L. R. 962, 963.

Ferry operator's duty as regards automobiles or their occupants. 82 A. L. R. 798.

Guest, liability of operator of automobile for injury to. 2 A. L. R. 900; 20 A. L. R. 1014; 26 A. L. R. 1425; 40 A. L. R. 1338; 47 A. L. R. 327; 48 A. L. R. 1077; 51 A. L. R. 581; 61 A. L. R. 875; 61 A. L. R. 1252; 63 A. L. R. 921; 63 A. L. R. 1451; 65 A. L. R. 955; 74 A. L. R. 1198; 82 A. L. R. 1365; 86 A. L. R. 1145; 88 A. L. R. 590; 91 A. L. R. 554; 95 A. L. R. 1180; 96 A. L. R. 1479; 109 A. L. R. 667; 111 A. L. R. 1011; 112 A. L. R. 425.

Guest, personal care required of one riding in automobile driven by another as affecting his right to recover in case of collision with other automobile. 18

A. L. R. 352; 22 A. L. R. 1301; 41 A. L. R. 778; 47 A. L. R. 293; 63 A. L. R. 1432.

Guests, presence of owner in automobile operated by another as affecting former's liability. 2 A. L. R. 888; 80 A. L. R. 285.

Inspection of motor vehicles, statute or ordinance requiring. 106 A. L. R. 795.

Insurance company's responsibility for negligent operation of automobile by agent, causing physical injury to person or damage to property. 116 A. L. R. 1389.

Insurance, scope and effect of specific provision in accident policy relating to accident in connection with motorcycle or automobile. 76 A. L. R. 1311.

Insurance, when failure to comply with acts relating to use of motor vehicles deemed proximate cause of death of, or injury to insured. 17 A. L. R. 1008.

Intent, fault, or knowledge, statutes or ordinances making noncompliance with motor vehicle regulations a penal offense without reference to. 11 A. L. R. 1434.

Joint owners' liability for injury or damage resulting from operation of automobile. 109 A. L. R. 124.

Liability for injury to pedestrian struck by automobile as affected by his physical disability. 62 A. L. R. 578.

Liability of owner for negligence of one to whom car is hired. 36 A. L. R. 1153; 68 A. L. R. 1008; 100 A. L. R. 920.

Liability of vehicle owner to one not in his general employment injured while assisting in remedying conditions due to accident to automobile or truck in highway. 72 A. L. R. 1283.

Opinion evidence as to condition of automobile or other motor vehicle. 77 A. L. R. 559.

Overcrowded motor vehicle, assumption of risk by, or negligence of, one riding in, or riding in unusual position. 104 A. L. R. 312.

Ownership of automobile as prima facie evidence of responsibility for negligence of person operating it. 74 A. L. R. 951; 96 A. L. R. 634.

Owner's liability for injury to passenger when car is driven by another. 61 A. L. R. 875; 83 A. L. R. 879.

Pedestrian colliding with side of automobile, liability for injury to. 25 A. L. R. 1513.

Pedestrian injured by automobile, liability as affected by failure to give timely warning. 67 A. L. R. 101; 93 A. L. R. 556.

Pedestrian's duty as regards looking for automobiles when crossing street or highway. 79 A. L. R. 1073.

Pedestrian's duty before crossing street, to look for automobiles approaching on intersecting street. 9 A. L. R. 1248; 44 A. L. R. 1299; 76 A. L. R. 786.

Pedestrian struck by automobile while walking along street or highway, liability for injury to. 67 A. L. R. 96; 93 A. L. R. 551.

Pedestrian who suddenly darts or steps into path of automobile, liability for injury to. 65 A. L. R. 192; 113 A. L. R. 528.

Physical defect, illness, or drowsiness of operator of automobile or motorcycle as affecting liability for injury. 64 A. L. R. 136.

Pole in or near highway, liability of company maintaining, for injury resulting from road vehicle striking. 82 A. L. R. 395; 98 A. L. R. 487.

Private crossing or driveway, duty of automobile driver at. 24 A. L. R. 946.

Proximate cause of injury to pedestrian who is forced to go into the street because of obstruction of sidewalk and is struck by automobile. 17 A. L. R. 646.

Repairman, liability of owner for injury while car is being operated by. 18 A. L. R. 974.

Res ipsa loquitur as applied to automobile accidents. 5 A. L. R. 1240; 12 A. L. R. 668.

Responsibility of owner of car for negligence of one in general employment of repair man or keeper of garage while getting or delivering car. 46 A. L. R. 840.

Running board of automobile or other place outside body of car, liability for injury to one riding on. 80 A. L. R. 553, 104 A. L. R. 323.

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Sidewalk, injury by motor vehicle to person on. 1 A. L. R. 840; 75 A. L. R. 559.

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Smoke, contributory negligence in stepping into roadway where view is obscured by. 28 A. L. R. 1279.

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Stone or other object on surface of highway thrown by passing vehicle, liability for injury to person or damage to property by. 115 A. L. R. 1501.

Street railway company's liability to passenger struck by automobile. 1 A. L. R. 953; 12 A. L. R. 1371; 44 A. L. R. 162.

Temporary obstruction in connection with alteration or repair of street, liability of municipality for injury or damage by automobile colliding with. 100 A. L. R. 1386.

Traffic, negligence of one injured as result of conditions due to, rendering roadway dangerous for automobiles. 63 A. L. R. 208.

Traffic officer, liability for injury to, by motor vehicle. 92 A. L. R. 1518.

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Trespasser, liability for forcing, from moving automobile. 58 A. L. R. 617.

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Validity and construction of statutes or ordinances which make noncompliance with motor vehicle regulations a penal offense without reference to intent, fault, or knowledge. 11 A. L. R. 1434.

Validity of regulations excluding or limiting automobile traffic in certain streets. 32 A. L. R. 752; 121 A. L. R. 573.

Violation of instructions by servant in permitting person to ride in automobile as affecting master's liability for injury to such person. 14 A. L. R. 145; 62 A. L. R. 1168; 74 A. L. R. 163.

Wife's liability for injuries inflicted by husband while driving wife's automobile. 12 A. L. R. 1466.

Windshield, impairment of driver's view through, as affecting liability for automobile accident. 10 A. L. R. 299.

Workman on highway, duty of driver of automobile to. 47 A. L. R. 807.

66-407. Receiving and transferring stolen vehicle—Penalty.—Any person who with intent to procure or pass title to a motor vehicle which he knows or has reason to believe has been stolen, shall receive or transfer possession of the same from one to another, or who has in his possession any motor vehicle which he knows or has reason to believe has been stolen, shall be guilty of a felony. [Laws 1927 (4th S. S.), ch. 2, subch. 6, § 15, p. 131; rev., R. C. 1928, § 1693.]

Collateral Reference.

Constitutionality of statute making possession of automobile from which

identifying marks have been removed a crime. 4 A. L. R. 1538; 42 A. L. R. 1149.

66-408. Injuring or preventing operation of vehicle—Penalty.—Any person who shall wilfully break, injure, tamper with or remove any part of any vehicle for any purpose against the will or without the consent of the owner of such vehicle, or who shall in any other manner wilfully or maliciously interfere with or prevent the running or operation of such vehicle; or who shall without the consent of the owner or person in charge of a vehicle climb into or upon such vehicle with the intent to commit any crime, malicious mischief, or injury thereto; or who while a vehicle is stopped and unattended attempts to manipulate any levers, starting crank or other starting device, brakes or other mechanism thereof, or set said vehicle in motion, shall be guilty of a misdemeanor, unless such act is done in an emergency in furtherance of public safety or convenience or by or under the direction of an officer in the performance of his duty. [Laws 1927 (4th S. S.), ch. 2, subch. 6, §§ 16, 17, p. 131; cons. & rev., R. C. 1928, § 1694.]

ARTICLE 5

REGULATION OF PUBLIC HIGHWAY TRANSPORTATION

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66-501. Definition of terms.—In this act, unless the context or subject matter otherwise requires,

“Motor vehicle” shall mean any automobile, truck, truck tractor, trailer, semi-trailer, motor bus, or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting persons or property;