A STUDY OF THE KANSAS MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

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CHAPTER I

INTRODUCTION

To say that America is a nation on wheels would be, of course, a trite expression. Americans have been "on the move" in an ever-increasing rate since Henry Ford first made such mass migration possible. The automobile has become not only an instrument for pleasure but, for most, a matter of economic necessity. However, the automobile has also introduced many problems, not the least of which is that of compensating victims of automobile accidents in those instances where claims and judgments arising out of accidents cannot be collected because of the financial irresponsibility of the negligent driver.

The principle that an individual is responsible for his own wrongs and personal misfortunes has always been a part of the American philosophy. These are the burdens of the individual, and the economic risks that all must chance pertain as well to the operation of an automobile. The alleviation of the economic distress of uncompensated victims of automobile accidents in those cases where fault has been established has been accomplished in part through legislation in the form of financial responsibility laws. Such legislation places the burden of compensating victims of automobile accidents upon the careless and irresponsible driver, and is

designed to induce motorists to see that they are financially able to pay for injuries and property damage they may inflict with their vehicles. The laws tend to encourage motorists to become insured by imposing financial requirements on them if they are involved in accidents and can not show other evidence of financial responsibility.[1]

State financial responsibility legislation, dating back to the 1920s, attests to the long-standing public policy that all operators of motor vehicles should be financially responsible. Implicit in this policy is the underlying proposition that the cost of injuries and damage inflicted because of negligence should not be permitted to rest upon the shoulders of the victim and that, where necessary, society should see to it that the cost of these injuries is forced upon the negligent wrongdoer.

Connecticut was the first state to enact a "financial responsibility law"; it was effective January 1, 1926. Vermont and Rhode Island followed with the enactment of similar laws in 1927. Other states soon followed suit, and in 1939 Kansas adopted with but few changes the Uniform Financial Responsibility Act (Act IV, Uniform Vehicle Code) "to ameliorate the harsh effects of uncompensated automobile

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[1]Automobile liability insurance may not be the only means of showing evidence of financial responsibility, but since this is the most reliable method in the majority of cases, the laws tend to encourage all motorists to become insured.

accidents."[2] Kansas was the 35th state to adopt such financial responsibility legislation.

During the 1957 session of the Kansas legislature an act was passed entitled "Kansas Motor Vehicle Safety Responsibility Act" which repealed the Financial Responsibility Law of 1939 and provided much broader provisions for compensating victims of financially irresponsible drivers. Kansas was, this time, the 45th state to adopt the broader, more modern, security-type law.

The purpose of this study is threefold: (1) to examine the major provisions of the 1958 Kansas Motor Vehicle Safety Responsibility Act, (2) to summarize the activities of the administration and enforcement of the Act during its first eight years of existence, and (3) to show that the Act has served the purpose for which it was intended. The object of the paper is not meant to be an exhaustive interpretation of the Act in light of the judicial construction of other states, but rather to be an informative resume of the Act in terms that the layman, who is the most frequent recipient of the benefits and penalties of its provisions, can understand.

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[2] Robert H. Burtis, "The Operation of the Kansas Financial Responsibility Law," 9 Kansas Bar Journal (May, 1941), p. 367.

CHAPTER II

HISTORY

The 1939 Law[1]

The Kansas Financial Responsibility Law adopted in 1939 provided for the suspension of drivers' licenses in cases of conviction of certain traffic offenses involving the use of a motor vehicle, and in cases of civil suits arising out of automobile accidents where judgments rendered against the offending motorist went unsatisfied for longer than thirty days. In cases of conviction of certain traffic violations, the operator also was required to furnish proof of future financial responsibility before his license could be restored. In cases of a civil suit resulting in a judgment against the wrongdoer, the suspension remained in effect until the judgment debtor paid the judgment and filed proof of future financial responsibility. Reinstatement of the driver's license or vehicle registration could be made by the Motor Vehicle Department at the end of three years, regardless of whether the judgment, if any, had been satisfied.

Through the enactment of the Financial Responsibility Law it was hoped that a large number of dangerous, negligent, and irresponsible motorists would be removed from the highways

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[1]Kans. G.S. 1949, 8-701 to 8-717, 8-719 to 8-721; G.S. 1955 Supp. 8-718.

by suspension of their driving privileges and vehicle registrations. This would not only reduce the number of accidents, but would make it more likely that those persons who used the roads would be those who were better able to pay damages assessed against them for personal injury or property damage arising from traffic accidents. Robert H. Burtis, attorney for the Financial Responsibility Division of the Motor Vehicle Department, wrote in 1941, two years after the enactment of the Law: "The purpose of the Law, it is said, is to promote safety on the highways by removing those who have clearly demonstrated their dangerous tendencies as drivers."[2]

As a means of achieving the desired objective, this law had two serious drawbacks which stringently curtailed its effectiveness. First, the suspension of a driver's license or vehicle registration did not become effective until the offending motorist had defaulted on a judgment resulting from a motor vehicle accident, or had been convicted for a certain type of traffic offense. Because of the difficulty of collecting judgments from financially irresponsible persons, many victims of financially irresponsible motorists may have been reluctant to undertake a suit for damages if it appeared that they would simply be "throwing good money after bad" by incurring attorney fees and other legal costs. Under these circumstances, it was possible for a motorist to be involved

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[2] Burtis, loc. cit.

in one or more accidents without ever coming under the sanctions of the Financial Responsibility Law. Second, the offending motorist was not required to compensate his first victim; thus originated the nickname "first-bite" law. This meant simply that no security was required to compensate the first victim. Although Mr. Burtis did not seem particularly concerned about these obvious defects, he did express concern that the law was perhaps not achieving the results aimed at through its objective. He wrote:

> The true function of the Financial Responsibility Law is to require a selected group of drivers to show proof of their ability to respond in damages for future accidents, or to secure the payment of past damage, or both. It has to some extent accomplished this function. It is inaccurate to term it a safety measure in the sense of diminishing the number of accidents, for the terms of the Law do not apply to a broad enough group of drivers to achieve its avowed objective; in practice, it does not reach a large proportion of persons to whom it does apply in terms.
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> The chief fault lies not with the operation of the Law itself but with the objective which has been set for it to accomplish. To secure safe highways free from dangerous and negligent drivers will require a system of driver-regulation much more comprehensive than that which is now in effect.[3]

Proof versus Security

The 1939 Kansas Financial Responsibility Law was of a class termed "proof-type" because no security was required to compensate the victim of the first accident; it merely required proof of future financial responsibility. In order to

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[3] *Ibid.*, p. 372.

overcome the shortcomings inherent in the old law, and as a means of increasing the incentive for motorists to acquire financial responsibility <u>before</u> becoming involved in an accident, proposals were considered by the Kansas legislature which included a so-called "security" provision.[4] Briefly stated, the security provision requires a report to the vehicle department by those who are involved in traffic accidents in which any person is killed or injured, or in which damage to the property of any one person exceeds a specified amount. On the basis of the accident report, the vehicle department determines the amount of security which it deems sufficient to satisfy any judgment or judgments for damages which may be recovered against each operator or owner of a vehicle in any manner involved in the accident. Each operator or owner must then either furnish security in the amount determined by the department, show that an automobile liability policy of a specified amount was in effect at the time of the accident with respect to the motor vehicle involved in the accident, or else qualify as a self-insurer.[5]

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[4]Security-type laws are frequently designated as "safety responsibility" laws, in order to distinguish them from the older type financial responsibility law.

[5]Liberally defined, a self-insurer is one who has shown to the satisfaction of the vehicle department an ability to pay judgments obtained against him, and has been issued a certificate of self-insurance by the department.

Failure to do so results in the suspension of the person's driver's license or vehicle registration.

Legislative History

Security-type financial responsibility legislation was considered by the Kansas legislature in the 1949, 1951, 1953, and 1955 sessions:

> In 1949, the bill was recommended for passage by the committee to which it was referred in the house of its origin but died on the calendar. In 1951 and 1955, the bill died in the committee to which it was referred in the house of origin. In 1953, the bill was passed by both the House of Representatives and the Senate near the close of the session. However, the Senate had made several amendments to the House version, upon which conference committees could not reach agreement, and the bill died in conference.
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> A barrier to the passage of security-type financial responsibility legislation in Kansas in recent years has been the controversy over the question of including in the law the doctrine of comparative negligence. A section embodying this doctrine, which was added by the Senate in 1953, constituted the chief source of disagreement over the bill between the House and Senate in that session. Reportedly, it was again controversy over this issue which was responsible for the bill's dying in the committee in 1955.[6]

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[6] "Motor Vehicle Safety Responsibility Laws," Kansas Legislative Council, Pub. No. 204, Sept., 1956, p. 10. The doctrine of comparative negligence is that a plaintiff may not be barred from recovering damages simply because it has been shown that his own negligence contributed to the cause of the accident, but whatever damages are awarded to him shall be diminished in proportion to the amount of negligence attributable to him. The enactment of legislation embodying this principle would in effect repeal the common law principal, recognized in Kansas today, that, if it can be shown that negligence of the plaintiff was a contributing factor in causing the accident, he may not recover damages.

In 1957, the legislature which was then in session enacted the Kansas Motor Vehicle Safety Responsibility Act[7] which, in addition to the inclusion of security provisions, retained the principal features of the "proof-type" law, i.e., the requirement of proof of future financial responsibility in case of conviction of certain traffic offenses or failure to satisfy a judgment arising out of a motor vehicle accident. This legislation became law on January 1, 1958.

Definitions

The remainder of this study will be concerned primarily with, and confined to, the provisions of the Safety Responsibility Act in its present form.

Hereinafter, the term "Act" and "Law" refer to the 1958 Motor Vehicle Safety Responsibility Act, and the term "department" refers specifically to the Motor Vehicle Department of the State Highway Commission. The term "reportable accident" means a motor vehicle accident involving injury to, or death of, any person, or damage to the property of any one person in excess of one hundred dollars.

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[7] K.S.A. 8-722 to 8-769.

CHAPTER III

MOTOR VEHICLE SAFETY RESPONSIBILITY ACT
January 1, 1958

Before commencing a detailed discussion of the various provisions and aspects of the Act, it should be pointed out that the Act is divided into two distinct parts; the first part pertains to the deposit of security, while the second part deals with proof of financial responsibility for the future. It should likewise be pointed out that parts of the Act apply not only to those involved in motor vehicle accidents, but also to those persons convicted of certain traffic law violations. Primary emphasis will be given in this paper to the provisions relating to motor vehicle accidents.

It might be said there are three duties that a motorist is expected to discharge, and if there is no breach of any of these duties the question of financial responsibility will not be raised. Stated briefly, the motorist is expected to (1) obey the law, (2) satisfy judgments, and (3) avoid accidents.[1] The first duty is assumed of all mature drivers, but the recalcitrant minority who repeatedly break the law will, sooner or later, come within the provisions of the Act. The second duty can be much more difficult to discharge than the

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[1]Calvin H. Brainard, Automobile Insurance (Homewood, Illinois: Richard D. Irwin, Inc., 1961), pp. 416-17.

first as it often requires a great deal of care, with luck not to be overlooked, to avoid an act that may result in a judgment for damages because of negligence liability. As will be shown in greater detail later, the failure to satisfy a judgment also is grounds for bringing the judgment debtor within the scope of the Act. "Negligence is tolerated if one has the ability to pay for its consequences, and lack of financial responsibility is tolerated if one is not negligent. But to be both negligent and lacking in financial responsibility is not to be countenanced."[2] The last duty to discharge is probably the most difficult of all as the most careful and prudent operator of an automobile may find it utterly impossible to avoid accidents caused by the negligence of others, or from circumstances beyond his control. However, since the Act does not differentiate fault from no-fault, this motorist may also be arbitrarily brought within its scope.

This analysis will begin with the last of the duties mentioned above; that of accident avoidance.

Motorists Involved in Accidents

The Act applies to the driver *and* owner of any vehicle subject to registration which is in any manner involved in an accident within the state, provided the accident results in bodily injury to, or death of, any person, or results in damage to the property of any one person in excess of one

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[2] *Ibid.*

hundred dollars.[3] It is not necessary for a vehicle to be in motion, or have any physical contact with the property damaged. The Act applies to any vehicle which is "in any manner" involved. For example, if the driver of car A pulled into the path of car B, causing the driver of car B to swerve and subsequently strike a telephone pole, the driver of car A would be "involved" regardless of the fact there was no actual contact between the vehicles of A and B. To come under the sanction of the Act, all that is necessary as far as the Safety Responsibility Division of the Motor Vehicle Department is concerned, is that a report of accident be filed by any one participant of an accident naming any other person as having in any way contributed to, or been a part of, the accident.

After an accident has occurred, each driver or owner is required to forward a written report to the Motor Vehicle Department within twenty-four hours. This requirement is not found within the Motor Vehicle Safety Responsibility Act, but rather is found in the "Uniform Act Regulating Traffic on Highways."[4] This has led to the conclusion by the Motor Vehicle Department, Safety Responsibility Division, that the Act makes no provision for reporting of accidents to the department, and therefore invokes no penalty for not reporting

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[3] K.S.A. 8-725.

[4] K.S.A. 8-523.

an accident to it. This fact notwithstanding, any person involved in an accident is subject to the provisions of the Act so long as he has been named by any other person involved in the accident who has filed a written report. His only relief is that there is no penalty such as fine or imprisonment for the failure to report.

The accident report is to be made on a form furnished by the Motor Vehicle Department (Appendix A), and is not to be confused with any accident report required by state or local law enforcement agencies. However, as a matter of convenience, the forms required by the Safety Responsibility Division are furnished to law enforcement officers to be given to those persons involved in motor vehicle accidents.

Security Requirements

On the accident report form the driver is asked to complete an insurance information section and give answers to such questions as name of insurance company, policy number, selling agent and so forth. If an automobile liability policy with minimum statutory limits of $10,000/$20,000 bodily injury and $5,000 property damage was in effect at the time of the accident, the driver is deemed to be financially responsible for whatever damage he may be charged with under common law negligence, and the security requirements will not apply to him.[5] On the other hand, if no insurance was in

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[5] A copy of this section of the report is sent to the

effect, the question of his financial responsibility will be raised through the requirement for deposit of security.

As was previously pointed out, the requirement of security applies indiscriminately both to drivers and owners, regardless of fault. Upon the expiration of twenty days after the department receives the accident report, it determines the amount of security which it feels will be sufficient to satisfy any judgment or judgments for damage resulting from the accident which may be recovered against each owner or driver involved.[6]

Security requirements are determined by trained evaluators working in the Safety Responsibility Division of the Motor Vehicle Department who evaluate each reported accident for bodily injuries and property damage. The evaluators work from the accident report, police report, injury charts, automobile repair manuals, and used car valuation guide books to determine as accurately as possible the dollar value to be assigned to each injury and each item of property damaged. The total valuation which has been determined for all injury and damage caused by any one vehicle becomes the amount of security required by the owner or driver of that vehicle.

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involved insurance company by the department for certification of coverage. If the company does not return the copy as "rejected," with the reason stated, within a reasonable length of time, the department assumes that coverage is in force.

[6] K.S.A. 8-726.

For example, if the driver of car A strikes B's car and injures B, and if the accident report indicates the damage to A's car to be $150 and the damage to B's car $250, and if B received a slight laceration while A was uninjured, then the amount of security that B is required to submit to the department will be $150, while the amount of security required of A will be some amount in excess of the $250 property damage, the total requirement being dependent on the dollar amount affixed to the case by the evaluator for the injury of B.

Admittedly, the evaluation of accident cases involves some degree of estimation and guesswork. However, in order to remain as completely free of subjectivity as possible, no consideration is given, in evaluating injuries, to probable or possible loss of work, pain and suffering, and permanent disability. In spite of this limitation, the system does provide a reasonable approximation of the damages that might be assessed against the involved driver in a civil suit. The department evaluates each case solely on the basis of the injury and property damage, and apparent lack of fault on the part of either driver will not mitigate the amount of security required.

After the amount of security required from any owner or driver involved in an accident has been determined, the department will, within fifty days after receiving the accident report, notify the involved person by registered or certified mail of the amount of security required of him

(Appendix B). The person is informed by this notice that unless security is deposited with the department within twenty days, the driver's license of the driver and/or all vehicle tags and registration receipts of the owner will be suspended.

Security Compliance

The responsibility for complying with the security requirements of the Act rests with the individual owner or driver, and it is up to him to submit proof of his financial responsibility before the suspension date in order to protect his driving and/or registration privileges. The Act provides that security shall be in the form required by the department, and the department has approved six methods for an individual to comply. Compliance through any one form will satisfy the requirements. First, the offender may show, through the accident report form, that he had in force at the time of the accident, automobile liability insurance coverage protecting the owner or driver,[7] written through a company authorized to do business in the state, and with minimum liability limits of $10,000 bodily injury per person, $20,000 bodily injury limit per accident, and $5,000 property damage coverage per accident.[8]

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[7]K.S.A. 8-728.

[8]K.S.A. 1965 Supp. 8-729. It is well to make the point at this time that liability insurance is not compulsory or required by law; it merely is one method of satisfying the security requirement.

Second, security may be posted through certified check, money order, or bank draft.[9] Third, a notarized Release of Liability from each adverse party involved may be sent to the department by the offender. Fourth, a judgment of non-liability may be made in a court hearing in a suit for the recovery of damages and filed with the department. Fifth, an agreement may be made to make installment payments on a court judgment for damages. Sixth, an agreement may be made with each adverse party involved to make installment payments of an agreed amount. However, any default on the payments of this agreement will result in an immediate order of suspension of the license or registration certificate of the defaulter.

Any person who feels that the security he is obligated to submit as proof of his financial responsibility is too high may request a hearing before a hearing's officer in the department.[10] If it can be shown to the satisfaction of the department that the amount of security ordered was excessive, it may, if within six months of the date of accident, reduce

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[9] Prior to September 8, 1965, security also could be posted by corporate surety or real estate bond. However, the Highway Commission adopted a policy that the Motor Vehicle Department should not accept any form of bonds, either corporate or real estate, in connection with a security deposit for an accident. The legality of the State's decision was tested in 1966 in the District Court of Shawnee County in re _United Bonding and Insurance Co., Inc._ v. _Motor Vehicle Department, State of Kansas_. Decision was rendered in favor of the defendant.

[10] K.S.A. 8-723.

the security requirement.[11] However, the department has no authority to increase the amount of security required once the notice of security requirement has been sent to the offender.

Failure to Deposit Security

While the purchase of automobile liability insurance coverage would appear to be the simplest way of complying with the security requirement, it is frivolous to assume that all persons who own or drive an automobile will purchase insurance merely because it is the most convenient way of complying with the Act. Elderly people existing on a meager budget may feel that they cannot afford to pay the premium on an insurance policy. The immature of all ages often fail to see any value or significance in an intangible like insurance. Young persons owning their very first automobile often find that the annual premium for liability insurance equals or exceeds the value of the used car they are driving. Since the law does not require the purchase of liability insurance as a prerequisite to registration, it is clearly understandable why a small minority of uninsured motorists will always exist.

If there is no automobile liability insurance coverage in force at the time of the accident, we have seen that the driver or owner may meet the security requirement by posting

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[11]K.S.A. 8-734.

certified check, money order, or bank draft with the department in the amount required. This may not be too difficult for most people if the accident is very minor in nature and the amount of required security is nominal. However, due in part to present high-speed, powerful automobiles, many accidents occur which result in very serious injuries, and even death, to one or more persons. In a case such as this, the involved driver may be required to deposit security for as much as $25,000, depending on the number of persons injured and the extent of their injuries and property damage. It is apparent that the burden, for most people at least, of raising $25,000 in cash within the twenty-day statutory period would be extremely difficult, if not impossible.

If the involved driver has no insurance and cannot deposit the required security, he has the privilege of submitting a Release of Liability to the department from each adverse party involved. In this day of legal technicalities, it is not likely that injured parties will readily release him even though he was not at fault. In fact, an injured party whose vehicle was damaged generally should not execute a Release because of the possibility of violating the subrogation conditions of his collision insurance policy.[12]

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[12]The condition relating to subrogation states that if any payment is made under the policy, the Company becomes subrogated to all of the insured's rights of recovery against any person or organization, and the insured shall do nothing after a loss to prejudice such rights. If an insured signs

In a serious accident involving many persons it is unlikely that the involved driver will be able to sign agreements with all for the payment of damages in installments. Chances are that seriously injured persons will not be willing to sign any agreement for several months following an accident, at least until the extent of their injuries is known. Remembering that the department will issue a notice of suspension if security is not posted within twenty days after it has been demanded, it is apparent that the offender's lack of success in obtaining these agreements will result in his suspension.

The two methods of satisfying security requirements through a judgment of non-liability or through an agreement to pay a judgment in installments involve litigation. With the courts already clogged with civil suits, a motorist stands very little chance of having his case adjudicated within the twenty-day statutory time period allowed for the deposit of security.

It becomes obvious, for the reasons given above, that all drivers or owners involved in accidents are not able to comply with the security requirement. If the involved driver fails without just cause to deposit the required security within twenty days after the department has sent the security

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away his rights through a release, he also signs away his company's rights at the same time because an insured can assign (to his company) no more or no better rights than he himself has.

notice, he is considered financially irresponsible for his acts, and his suspension is automatic. He will lose his driving privilege even though he might not have a driver's license in force at the time of the accident. Furthermore, registration privileges are suspended for any owner who does not comply, and all of the owner's registration receipts and vehicle tags must be surrendered to the department.[13] The department serves notice to the offender through an "Order of Suspension" letter which is mailed to him (Appendix C). In the event that the offender does not immediately surrender his license and/or registration voluntarily, the department is authorized to direct any peace officer to secure possession of the license and registration and return them to the department.[14] The Motor Vehicle Department itself maintains a staff of ten investigators whose job is to seek out violators of the surrender order and make the pick-up of license and registration for the department.

Duration of Suspension

Once the suspension order has been put into effect and the driver has lost all driving privileges, the suspension will continue in effect until all requirements of the Act have been met. Termination of the requirement of security, and thus suspension since there would be no suspension if the

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[13]K.S.A. 8-727.

[14]K.S.A. 8-760.

security requirement had been met, may be had in one of several ways: (1) the person is finally released from liability by all injured parties or has been finally adjudicated free from fault,[15] (2) a written agreement is made with the judgment creditor to pay an agreed amount (the payment may be made in installments),[16] (3) the amount of security required is deposited, or one year has elapsed since the date of suspension and satisfactory evidence (Appendix D) is filed with the department showing that during the one-year period no action for damages arising out of the accident was filed against the person required to post the security.[17]

Custody, Disposition,[18] and Return of Security[19]

The monies which are paid to the department to meet security requirements are placed in the custody of the State Treasurer and are held for the payment of any judgment that may arise against the person for whom the deposit was made. It is necessary, of course, that the judgment shall have arisen out of the accident which created the requirement of deposit in the first place. The act has a self-contained statute of limitations which requires that the legal action (for judgment) be instituted within one year after the deposit was made or the security will be returned to the depositor. Although certainly not totally ineffective because of this

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[15]K.S.A. 8-731. [16]K.S.A. 8-732. [17]K.S.A. 8-735.

[18]K.S.A. 8-736. [19]K.S.A. 8-737.

one-year limitation, the Act does seem somewhat weakened because of its inconsistency with the two-year statute of limitation for the bringing of a tort action for damages in a civil suit.

> Example: A was involved in an accident with B wherein B suffered injury to his person and damage to his automobile. A was uninsured and posted the amount of security required by the department in the form of cash. No suit for damages was filed by B against A within twelve months of the accident, and the security deposited by A was returned to him. Twenty months after the accident, B filed suit against A and obtained a judgment. However, the security that was returned to A has since been spent, and A is now no longer financially able to pay the judgment. B has, in effect, a judgment that is uncollectible.

If the period for the release of security were extended to two years, it would assure that persons injured or damaged in an accident would be more likely to have a claim or judgment satisfied since the extension would bring the deposit period into better alignment with the statute of limitations. However, the deficiency is overcome in part by the fact that A, in the example above, would still be required to satisfy the judgment within sixty days or become subject to suspension of his license and registration certificate.

The Act contains rather elaborate provisions for the disposition of security, but provides, in effect, that priority will be given the judgment creditors and claimants who have agreed to settle their claims, to the extent that the claims were evaluated by the department. The amount paid to each judgment creditor and claimant will not exceed the amount fixed by the department in each evaluation.

If there is any balance of the security remaining after distribution to those persons who have agreed to settle their claims, the amount will be returned to the depositor provided (1) there is no litigation pending against him as a result of the accident, and (2) there is no judgment against him which has not been satisfied.

Exemptions to Security Requirements

In a case where a person subject to the provisions of the Act is completely innocent, the requirements may seem harsh. Therefore, the innocent party is expressly excepted from the requirement of security in certain situations. The requirements as to security and suspension do not apply to the driver or the owner of a vehicle involved in an accident where no injury or damage was caused to the person or property of anyone other than the operator or owner. Another exception applies to the driver or owner of a vehicle that was legally parked at the time of the accident, while still another exception applies to the owner of a vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating the vehicle without such permission.[20]

In addition to the above, the Act does not apply to vehicles owned by the United States, the State of Kansas or

[20] K.S.A. 8-730.

any political subdivision or municipality within the state.[21] However, since this section of the Act pertains to ownership exclusively, it follows that drivers of vehicles owned by the state, political subdivisions or municipalities are not excluded, and are therefore subject to the requirements.

Owners and operators of vehicles which are exempt from registration also are exempt from the provisions of the Act. Such vehicles include farm tractors, road rollers and road machinery temporarily operated or moved upon the highways, municipally owned fire trucks, school buses owned and operated by a school district, and self-propelled construction equipment. Drivers and owners involved in accidents which occur on United States government property also are exempt.

Unsatisfied Judgments

Up to this point, the analysis has centered around the operation of the security requirement against those motorists who are unfortunate enough to become involved in an automobile accident. The second duty expected of a motorist is to satisfy all judgments which may be a result of such an accident and, as in the case of failing to meet security requirements, the Act likewise imposes penalties of suspension for failure to satisfy any judgment within sixty days. If a claimant obtains a judgment against the driver of the adverse vehicle, it is his, or his attorney's, duty to make written request to

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[21] K.S.A. 8-762.

the clerk of the court to have a copy of the judgment sent to the department.[22] As soon as this information is received by the department, the license and registration of the judgment debtor will be suspended immediately.[23] The suspension will remain in effect unless and until the judgment is stayed[24] or is satisfied to the extent that $5,000 has been paid because of bodily injury to, or death of, any one person, $10,000 has been paid because of bodily injury to, or death of, two or more persons as the result of any one accident, or when $1,000 has been paid because of property damage resulting from one accident.[25] There is inconsistency in the law at this point since the Act allows no insurance policy to be effective to satisfy security requirements unless the liability limits meet the minimum coverage of 10/20/5. On the other hand, suspension may be avoided by the judgment debtor provided he is able to make any payment for bodily injury and property damage up to a total of 5/10/1, even if the judgment is in excess of these amounts. While payments to this extent are sufficient to satisfy the requirements of the Act, and while such judgments are deemed satisfied for the purpose of the Act, the judgment debtor, at law, is required to pay the entire amount of the judgment. For instance, if B, C, and D obtain substantial judgments against A as a result of a very serious

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[22]K.S.A. 8-742.

[23]K.S.A. 8-743.

[24]K.S.A. 8-744.

[25]K.S.A. 8-745.

accident, A can protect his driving privileges by making a total payment of $11,000 even though the combined judgment may total $50,000 or more. However, each individual judgment will not be deemed satisfied by the court unless and until payment is made in full to each judgment creditor.

The Act provides that a discharge in bankruptcy following the rendering of any judgment shall not relieve the judgment debtor from any of the requirements of the Act.[26] In a Utah case decided in 1962, the U. S. Supreme Court held that the police power of a state to suspend does not conflict with the Bankruptcy Act, which states that a discharge in bankruptcy will release the bankrupt from all his provable debts, whether allowable in full or in part.[27] The only legal way for a bankrupt to regain his driver's license or registration certificate is to pay the judgment against him.

Traffic Law Violations

The first duty of all drivers is to obey the traffic laws of the state. A mature, responsible motorist does not flagrantly ignore or purposely violate the traffic regulations which have been designed primarily for his own safety. However, for those drivers who recklessly and habitually break traffic regulations the law has imposed certain penalties. In addition to being subject to fines, imprisonment, or both,

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[26] K.S.A. 8-744.

[27] *Kessler v. Department of Public Safety* 369 U.S. 153, 82 S. Ct. 807, 7 L. Ed. 2d 641 (1962).

the reckless driver can expect suspension of his driver's license in certain instances. The uniform traffic law requires mandatory revocation in any case where the driver is convicted of (1) negligent homicide, (2) driving while intoxicated, (3) leaving the scene of an accident where there is personal injury, (4) three charges of reckless driving committed within a twelve-month period, or (5) use of an automobile in the commission of a felony.[28]

While this section of the Kansas Motor Vehicle Laws has no direct bearing to security requirements or unsatisfied judgments, it does become important to the section of the Safety Responsibility Act dealing with proof of future financial responsibility. This will be dealt with in much greater detail in the next section, and it is only important now to be cognizant of the fact that conviction of certain traffic violations can result in suspension and revocation of a driver's license.

Proof of Financial Responsibility

Security is a deposit of cash (certified check, money order, or bank draft) as evidence of financial responsibility for a past accident in which the depositor was not covered by automobile liability insurance. Proof is the filing of evidence by owner or driver that he is financially able to respond to any claim for damages that may arise from a future

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[28] K.S.A. 8-254.

accident. The Act defines the term as "Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance, or use of a motor vehicle . . . ."[29]

Under the Act, proof is required in two situations: (1) As one of the prerequisites for restoration when license and registration have been suspended because of a failure to satisfy a judgment within sixty days,[30] and (2) for those convicted of serious traffic violations as one of the conditions precedent to the restoration of the suspended operator's license and registration.[31] Concerning the first situation, a reminder would appear to be in order. Driving privileges are not restored merely because proof is filed; the judgment must also be satisfied. It is only fitting that the Act should operate in this fashion since, obviously, the fact that a judgment has been rendered against a motorist indicates injury or damage to a third party as a result of the judgment debtor's negligence. And inability to pay a judgment should properly restrain a motorist from driving until the judgment has been paid and proof has been shown that he is financially able to pay for a future accident.

The most glaring weakness of this aspect of the Act is that few injury victims, and still fewer contingency-fee

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[29] K.S.A. 8-740.

[30] K.S.A. 8-744.

[31] K.S.A. 1965 Supp. 8-739.

lawyers, will incur the time and expense of an action for damages against a financially irresponsible tortfeasor. In most cases, then, no judgment will be taken, and no proof will be required. It must be remembered, however, that this weakness is offset in part by the security provisions of the Act, under which, as already noted, a driver's license and vehicle registration can be suspended on the mere occurrence of an accident and failure to deposit security, regardless of whether a judgment is recovered. But the security provisions arising as a result of an accident do not require proof for the future. As an illustration, let us assume that John Brown and Richard Smith, each driving his own car, were involved in an accident, and Smith received rather extensive injuries. Assume further that the proximate cause of the accident was Brown's negligent operation of his automobile. Both drivers made a report of the accident to the Motor Vehicle Department, and Smith's damages were evaluated by the department at $2,500. Brown, being financially irresponsible, was unable to post security and accordingly lost his driver's license and automobile registration. What happens next is entirely dependent on what course of action Smith decides to take. (1) If Smith sues and obtains a $2,500 judgment against Brown (which Brown cannot satisfy because his lack of financial responsibility makes him "judgment proof"), Brown's driving privileges will not be restored until the judgment is satisfied and proof of future financial responsibility furnished.

(2) If Smith decides not to sue, since it appears he would only be throwing good money after bad, Brown will regain his driving privileges after only one year <u>without</u> any requirement of proof of future financial responsibility.

In a case such as that just cited, the negligent driver is allowed to return to the highway without any greater financial responsibility than before. In this respect the law appears based on the false assumption that if a judgment is not taken against the operator, he was not at fault and should be allowed to resume driving. Part of this weakness could be overcome by requiring the filing of proof as a part of the security provisions, thereby requiring a person who has had a reportable accident, and is unable to post security, to furnish proof for the future in order to recover his driving privileges at the end of the one-year suspension period.

The requirement for maintaining proof will be terminated (1) if the person required to furnish proof dies, (2) if the person required to furnish proof surrenders his license and registration to the department, or (3) after two years from the date proof was required, provided the person required to furnish proof was not convicted of a traffic violation during the two-year period which would permit or require suspension, or did not have an accident resulting in injury or damage to property of others within the previous year.[32]

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[32] K.S.A. 8-758.

The Act requires that the amount of proof furnished shall be in the amount of $5,000 because of bodily injury to, or death of, one person in any one accident; in the amount of $10,000 because of bodily injury to, or death of, two or more persons in any one accident and in the amount of $1,000 because of property damage resulting from any one accident.[33] The Act further provides four alternatives for the furnishing of proof: (1) filing an automobile liability insurance policy, (2) filing a corporate surety or real estate bond, (3) a deposit of money or securities, or (4) qualification as a self-insurer.[34] The most common method of satisfying the proof requirement is, of course, by the acquisition of an automobile liability insurance policy.

The Act explicitly states (K.S.A. 8-750) that the limits of coverage required under an insurance policy to meet the proof requirement are $5,000/$10,000/$1,000. It is also explicit in stating (K.S.A. 8-754) that proof of financial responsibility may be evidenced by the deposit with the State Treasurer the sum of $11,000 in cash or securities. With this in mind, it appears that the proof requirement of 5/10/1 is in conflict with the security requirement of 10/20/5. For instance, assume that John Doe, who is uninsured, was involved in an automobile accident with Richard Roe wherein Doe

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[33] K.S.A. 8-740.

[34] K.S.A. 8-747.

negligently caused injury and damage to the person and property of Roe. Shortly thereafter, Roe sued Doe and obtained a judgment against him. The judgment went unsatisfied for sixty days, the department was notified of such, and Doe's driving privileges were immediately suspended.[35] A short time later Doe came into some money, paid the judgment, and requested reinstatement of his driving privileges. He complied with the proof requirement by purchasing an automobile liability insurance policy with limits of 5/10/1. A few days later he was involved in another accident which resulted in property damage in excess of $100. This time he submitted his insurance policy as evidence of his financial responsibility to meet the security requirement, but again found his license and registration suspended because the security provisions of the Act require that an insurance policy, to be effective, must have limits of not less than 10/20/5. In an instance such as this, it seems that the proof requirement, which is designed to show proof of ability to respond to damages arising from future accidents, leaves a gap between proof and security which is not adequately bridged.

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[35] Chances are, Doe was unable to meet the security requirement and had his license suspended for that cause. However, even though security had been deposited, it is possible that the judgment was in excess of the amount posted giving rise to suspension if the whole amount of the judgment was not paid in sixty days.

Reinstatement

If any driver or owner of a vehicle involved in a reportable accident fails to meet the security requirements, he is subject to suspension of driver's license and/or registration receipts and tags after the statutory period of twenty days following the sending of the security notice by the department has elapsed. It has already been noted that an owner or driver can meet the security requirements, and apply for reinstatement if suspension has already taken effect, by posting security, obtaining signed releases from adverse parties, signing an agreement to pay in installments an agreed amount, obtaining a final judgment of non-liability, or submitting an affidavit one year from the suspension date showing that no lawsuit is pending.

If any of the above conditions are met, the owner of the involved vehicle will have his registration and vehicle tags returned to him. On the other hand, a suspended driver, in order to gain reinstatement of his driver's license, must pass a driver's examination unless such an examination was taken and passed within the two-year period prior to suspension. Furthermore, if the driver's license was not surrendered to the department prior to the expiration of the twenty-day period, the driver is required to pay a $25.00 reinstatement fee before he may be reinstated. These requirements of the driver are in addition to satisfaction of the requirements already noted.

Reciprocity

Prior to July 1, 1965, the Kansas Act had no provision regarding reciprocity agreements with other states when non-residents were involved in accidents on Kansas highways. However, as the law now stands, any state having a safety responsibility act similar to that of Kansas may simply notify the Kansas Motor Vehicle Department that a Kansas resident involved in an accident in that state failed to meet security requirements of that state. Upon receipt of certification of this fact, the department will suspend the license and/or registration of the offender in the same manner as if he had been involved in an accident in Kansas and failed to meet the security requirements. The suspension will remain in effect until the resident furnishes evidence of his compliance with the law of the other state relating to the deposit of security.[36] The same procedure will hold true for residents of a reciprocal state who are involved in accidents in Kansas.

At the end of 1965, Kansas had reciprocity agreements with forty-four states, but the department had processed no cases under reciprocity at that time. Although the largest specific drawback to reciprocity between states concerning the Safety Responsibility Act is the lack of uniformity concerning limits of liability, such agreements can be extremely beneficial in the overall plan of ridding the nation's highways of financially irresponsible motorists.

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[36]K.S.A. 1965 Supp. 8-733a.

CHAPTER IV

ASSIGNED RISK PLAN

When insurance is required, even though not mandatory or compulsory, as a condition of a safety responsibility law, it is obvious that the needed insurance must be made available to all eligible persons who wish to purchase it. However, it is equally obvious that, from an insurance underwriter's standpoint, not all persons who have the money and wish to buy insurance are eligible. For example, such persons as under-age drivers, habitual traffic violators, heavy drinkers, and those with a record of frequent accidents, are not normally considered good insurance risks, and would probably find it most difficult to obtain insurance through regular channels. If insurers were generally to refuse insurance coverage to these undesirable categories of risks when the law states that insurance may be carried to avoid the penalties of the Safety Responsibility Act, the state would probably then be forced to coerce insurers into accepting them, or else establish state insurance funds. To avoid both measures, assigned risk plans have been developed whereby risks possessing undesirable underwriting characteristics are shared by insurers in accordance with some equitable plan of centralized distribution.

The Kansas Automobile Assigned Risk Plan became effective on November 20, 1950. The purpose of the plan is to

make automobile bodily injury and property damage liability insurance available to risks unable to secure it for themselves, and to establish a procedure for the equitable distribution of risks assigned to insurance companies.

Since it is not the purpose of this study to present a detailed analysis of the Assigned Risk Plan in its entirety, it will be deemed sufficient at this time to make the reader aware that such a plan does exist for providing liability insurance to substandard risks. Policies under the Plan are written for a term of one year with basic limits of $10,000/ $20,000 bodily injury and $5,000 property damage to conform with the provisions of the Safety Responsibility Act.

It should be mentioned that undesirable risks do not necessarily have to be first subjected to the requirements of the Act to be considered for assignment. A person may be considered under the Plan even though he has not been involved in an accident or been convicted of a serious traffic violation. However, under those circumstances, it is doubtful that assigned risk would be needed to obtain insurance.

Although the assigned risk plan was in effect some seven years prior to the enactment of the Safety Responsibility Act, the Act appears to have had some influence in bringing about an increase in the number of substandard risks who began seeking insurance coverage. For instance, during the period from July 1, 1956 to June 30, 1957, the number of policies written through the Plan was 5,915. To June 30,

1958, 13,509 policies were written; 18,921 were written during the next twelve months, and 18,297 policies were written from July 1, 1959 to June 30, 1960.[1] These figures are significant only to the extent that they show a very marked increase in the number of persons who sought automobile liability insurance under assigned risk after June 30, 1957. This period of marked increase coincides with the enactment of the Safety Responsibility Act during the 1957 session of the legislature.

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[1] Source: Office of the Kansas Automobile Assigned Risk Plan, Topeka, Kansas.

CHAPTER V

POLICE POWER AND DUE PROCESS OF LAW

Without doubt the private automobile is the primary mode of individual transportation in a highly mobile society such as ours, and it can probably be said that the automobile is an economic as well as social necessity. Automobiles are used by persons commuting to places of employment, and by salespeople to move from customer to customer. Planners of shopping centers give prime consideration to the availability of land for parking when choosing an appropriate location, while other individual businesses consider accessibility to adequate highway routes before making any decisions to change locations. In addition, individuals desire to use automobiles for purely social reasons; for vacation use, weekend trips, or visiting friends and relatives.

While many other illustrations could be given, it is readily apparent that without the automobile, society's ease of mobility would be seriously impaired. By the same token, a license to operate a motor vehicle is of tremendous value to the individual operator, and individual mobility would be severely restricted if the license should be taken away.

In many instances persons are dependent on their automobile for their livelihood; yet in spite of this the Safety Responsibility Act empowers the Motor Vehicle Department to

suspend the license or registration certificate of any owner or driver who fails to post security within the specified time period following a reportable accident. It is the purpose of this chapter to examine the right of a state to suspend or revoke the license of a driver who faces this penalty.

In order to gain the proper perspective to the problem, it should be remembered, first of all, that as the several states became united a portion of the power inherent in the state sovereignty was transferred to the federal government. Although state governments are subordinate in the system, they do retain a large portion of their former sovereign characteristics in what is commonly designated as the "police power." As long as a state's action under its police power is not in conflict with the federal government, the state is allowed to make whatever regulations it desires to govern and regulate its citizens. When a conflict between state and federal power appears to exist, the matter must be decided by the courts through interpretation of constitutional provisions. If the court finds that there is no conflict, it will uphold the state regulation as being a reasonable exercise of its police power. However, if the court determines that there is, in fact, a conflict, state authority will be forced to yield.

In determining the authority of a state to regulate the operation of motor vehicles, or more specifically the right of a state to suspend or revoke an individual's driver's

license, the criterion used is the due process clause of the Fourteenth Amendment.[1] As one writer stated:

> . . . the function of due process is to reconcile and adjust interests where necessary--it does not deny a state's power to regulate, although it does put a limitation on that power. Due process simply aids in the judicial determination of whether particular state action is proper as a valid exercise of the police power or forbidden as an improper violation of constitutional rights.[2]

Due process of law protects the interest of the individual by preventing a motor vehicle administrator or judge from acting in an arbitrary manner in suspending or revoking an individual's license.

Throughout this report the operation of a motor vehicle has been referred to as being a "privilege" rather than a "right," and the implication involved should become apparent. If a license denotes merely a privilege granted by a state to operate an automobile, then this privilege may be just as easily taken away, by regulation or other means. If, on the other hand, a license is considered to be a property right, then such right is protected by the federal constitution.

One of the very earliest cases dealing with this question was the 1913 New York case of People v. Rosenheimer which created the doctrine that the operation of automobiles

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[1] U.S. Const. amend. XIV, Sec. 1: ". . . nor shall any State deprive any person of life, liberty or property, without due process of law . . . ."

[2] John H. Reese, The Legal Nature of a Driver's License (Washington: Automotive Safety Foundation, 1965), p. 33.

on highways is a privilege granted by the state.[3] A 1938 New Hampshire Supreme Court decided that the right to drive an automobile was not a right guaranteed under the constitution, but a privilege which the citizen was at liberty to accept by becoming a licensee, or not, as he pleased. Having accepted the privilege, the Court said the driver could not then object to any conditions attached by the grantor which, if it had so chosen, could have withheld the privilege entirely.[4]

The weight of authority, in deciding the issue of a state's authority to suspend a driver's license for failure to post security, is in agreement that such statutes represent a valid exercise of the police power and are not in violation of the due process clause.[5]

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[3] 209 N.Y. 115, 102 N.E. 530 (1913).

[4] Rosenblum v. Griffin, 197 A. 701 (1938).

[5] Arizona--State ex rel. Sullivan v. Price, 49 Ariz. 19, 63 P. 2d 653. Arkansas--Franklin v. Scurlock, 224 Ark. 168, 272 S.W. 2d 62 (1954). California--Sheehan v. Division of Motor Vehicles, 140 Cal App. 200, 35 P. 2d (1934). Iowa--Doyle v. Kahl, 242 Iowa 153, 46 N.W. 2d 52 (1951). Kentucky--Ballow v. Reeves, 238 S.W. 2d 141 (1951). Nebraska--Hadden v. Aitken, 156 Neb. 215, 55 N.W. 2d 621, 35 ALR 2d 1003 (1952). New York--Reitz v. Mealey, 314 U.S. 33, 62 S.Ct. 24, 86 L.Ed. 21 (1941). Ohio--Ragland v. Wallace, 80 Ohio App. 210, 70 N.E. 2d 118 (1946). Pennsylvania--Commonwealth v. Koczwara, 78 Pa. D&C 6 (1951). Rhode Island--Berberian v. Lussier, 139 A. 2d 869, 873 (1958). Tennessee--Sullins v. Butler 175 Tenn. 468, 135 S.W. 2d 930 (1939). Texas--Gillaspie v. Department of Public Safety, 152 Tex. 459, 259 S.W. 2d 177, 347 U.S. 933, 74 S.Ct. 625, 98 L.Ed. 1084 (1953). West Virginia--Nulter v. State Road Comm., 119 W.Va. 312, 194 S.E. 270 (1937). Wisconsin--State v. Stehlek, 262 Wis. 652, 56 N.W. 2d 514 (1953).

Although many of these earlier decisions were founded on the premise that the operation of a motor vehicle was a mere privilege, a case decided by the Supreme Court of Arizona on March 27, 1963[6] held such a statute to be constitutional and not in violation of the due process clause even though the use of an automobile was viewed as being a right rather than a privilege. The Court said:

> In this day, when the motor vehicle is such an important part of our modern day living, when the use of the vehicle is so essential to both a livelihood and the enjoyment of life, this Court recognizes that the use of the public highways is a right which all qualified citizens possess, subject, of course, to reasonable regulation under the police power of the sovereign.

The validity of financial responsibility acts has been consistently upheld against constitutional objections of all varieties. The reasoning seems to rest on the view that the state, in the exercise of its police power, may make reasonable regulations as to the use of its highways, and that since financial responsibility acts aim to promote safety on the highways by protecting the users against financially irresponsible persons, they are reasonable regulations within such power. Of course, the acts must meet the basic requirements of any statute as to the proper manner of enactment. One annotator wrote:

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[6] _Schecter_ v. _Killingsworth_, 93 Ariz. 273, 380 P. 2d 136 (1963).

> Where a question has been raised as to the validity of statutes providing for the suspension or revocation of the operator's license and registration certificate of any person involved in a motor vehicle accident which resulted in personal injury or property damage usually of a certain specified amount, unless such person deposits or posts security in an amount sufficient to satisfy any judgment which might be obtained against him as a result of the accident, the courts have uniformly held such acts valid.[7]

An exception to the above came in the form of a Colorado Supreme Court case rendered July 3, 1961 which declared unconstitutional that section of Colorado's safety responsibility law pertaining to the suspension of a driver's license and registration certificate for failure to post security.[8] The Court found that this section

> has nothing whatever to do with the protection of the public safety, health, morals or welfare. It is a device designated and intended to bring about the posting of security for the payment of a private obligation without the slightest indication that any legal obligation exists on the part of any person. The public gets no protection whatever from the deposit of such security. This is not the situation we find in some states where the statutes require public liability insurance as a condition to be met before a driver's license will issue. Such statute protects the public. The statute before us is entirely different. In the matters to which we have particularly directed attention, C.R.S. '53, 13-7-7 is unconstitutional.

In finding that suspension of driving privileges and vehicle registration for failure to deposit security deprives

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[7] 35 A.L.R. 2d p. 1021 (1954).

[8] People v. Nothaus, 363 P. 2d 180 (1961). The section dealt with by the Court was 13-7-7, Colorado Revised Statutes 1953, which required uninsured drivers and owners of motor vehicles involved in accidents to deposit security sufficient "to satisfy any judgment for damages resulting from such accident as may be recovered against such operator or owner."

the licensee of a property right by preventing him from using and enjoying his vehicle the Court said:

> The term property, within the meaning of the due process clause, includes the right to make full use of the property which one has the inalienable right to acquire.
>
> Every citizen has an inalienable right to make use of the public highways of the state; every citizen has full freedom to travel from place to place in the enjoyment of life and liberty . . . . Any unreasonable restraint upon the freedom of the individual to make use of the public highways cannot be sustained. Regulations imposed upon the right of the citizen to make use of the public highways must have a fair relationship to the protection of the public safety in order to be valid.

The majority opinion cited no authority whatever for its decision, and at the same time implied that all previous authority had overlooked basic constitutional guarantees. It concluded:

> On a matter so basic and fundamental no additional citation of authority is required. We reach this conclusion notwithstanding the fact that other jurisdictions have seemingly overlooked basic constitutional guarantees which must be ignored in reaching the opposite conclusion.

Much has been written about this particular decision,[9] and there was consternation at the outset that all so-called

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[9] 48 Iowa Law Review, pp. 140-47, 21 Maryland Law Review, pp. 361-62, 34 Rocky Mountain Law Review, pp. 252-55, 16 Southwestern Law Journal, pp. 685-89, 7 Utah Law Review, pp. 546-51, 47 Virginia Law Review, pp. 1247-52, 13 Western Reserve Law Review, pp. 408-10.

For an interesting analysis of the Colorado case, see also an article by Robert L. Donigan, General Counsel, and Edward C. Fisher, Associate Counsel, The Traffic Institute, Northwestern University in October, 1961 "Traffic Digest and Review," pp. 32-40.

financial responsibility laws would be placed in jeopardy by the decision. However, there are apparently no subsequent cases which have followed the same line of reasoning as the Colorado Supreme Court, and the case seems to stand alone without establishing any precedent whatever.[10]

The right-privilege dichotomy has not been completely settled by the courts at this time, but regardless of what term is given the driver's license, the weight of authority upholds a state's right to suspend or revoke an individual's license in the interest of public welfare by removing irresponsible and reckless drivers from the highways. In explaining the legal nature of a driver's license, John H. Reese, Assistant Dean, School of Business Administration, and Associate Professor of Finance at Texas Technological College, wrote:

> In finality, it is suggested that the time-worn right-privilege approach to driver licensing be abandoned as essentially meaningless for adequate analysis of legal problems involving motor vehicle operation. Future research efforts should be based on a realistic legal theory which openly recognizes the importance of motor vehicle operation to the individual. In order to implement such a philosophy, let our research emphasize the development of appropriate due process of law criteria which will serve adequately to protect the interests of both the individual and society.[11]

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[10]The 1965 Session Laws of Colorado indicate that sections 13-7-4 through 13-7-7 of the Colorado Motor Vehicle Responsibility Act "are presently being expanded."

[11]Reece, op. cit., p. 52. In this Master of Laws thesis, Professor Reece examined in great detail the historical evolution of the right-privilege dichotomy, and says

Generally speaking, the question of due process arises in the area of discretionary suspensions, and the requirements of due process are usually met if provisions are made for an administrative hearing with the right to a judicial appeal. The Kansas Motor Vehicle Safety Responsibility Act provides the opportunity for an administrative hearing as well as the right of appeal to the district court of the county in which the aggrieved party resides. Therefore, it is concluded, at least arguendo, that the state does have ample authority, under its police powers, to prohibit operation of a motor vehicle through mandatory revocation or suspension of any person who has demonstrated his financial irresponsibility.

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basically that the approach has shown itself to be an inadequate tool for proper legal analysis. His work does not stand for the proposition that a license to drive cannot be suspended, revoked, or cancelled, but that a person cannot be deprived of his license except in procedures consistent with due process of law, regardless of whether the individual's interest in driving is a right or a privilege.

CHAPTER VI

ADMINISTRATION

In General

The provisions of the Safety Responsibility Act are administered and enforced by the Safety Responsibility Division of the Motor Vehicle Department which is granted authority to make reasonable rules and regulations necessary for the administration of the Act. Among other things, the department receives and processes all accident reports of persons affected by the Act, issues security notices, receives and distributes all security that is deposited, handles complaints and conducts hearings, issues suspension notices and pick-up orders, and handles requests for reinstatement of owners and drivers.

The processing of any accident case begins with receipt of accident reports from the owner or drivers involved. These reports are coded and matched with any other reports from drivers involved in the same accident. From that point on the individual reports are put together in one file and become a "case." The case then is processed through procedures already discussed, such as insurance certification, evaluation, security requirements, security deposits, suspension notices, pick-ups, and so forth.

The number of accident reports received by the department increased from 63,136 in 1960 to 76,878 in 1965. This was an increase of 13,742 or 21.8 per cent. This illustrates, of course, that the division is administrating a "growing" business. In 1962 there were 10,006 security requests and 3,124 pick-ups issued as compared to 10,971 security requests and 2,562 pick-ups issued in 1965.

Security

The Safety Responsibility Division is responsible for receipt and disposition of all security deposited by persons who come under the requirements of the Act. This security, as we have seen, applies only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit is made, for damages arising out of the accident, or to the settlement of a claim or claims arising out of the accident upon proper assignment by the person making the deposit.

If security has already been posted with the department and the person depositing the security later is released from liability, obtains a judgment of non-liability, or enters into an agreement with the claimant or claimants to pay an agreed amount, the security on deposit is returned to him. Security is also returned to the depositor after one year has elapsed since the security was posted, provided no suit for damages is pending against him.

Table I has been prepared to emphasize the magnitude of the security function of the Motor Vehicle Department, Safety Responsibility Division. It is a summary of cash bonds and real estate and corporate surety bonds deposited with the department as security from 1961 through 1965. It is necessary to keep in mind that while the department presently accepts only cash, in one form or another, as security, real estate and surety bonds also were a satisfactory method of meeting the security requirements prior to September 8, 1965. This summary also shows the amount of security returned to the depositor during the five-year period.

TABLE I

SUMMARY OF SECURITY RECEIVED AND RETURNED
1961-1965

Year	Cash bonds (In thousands) Received	Cash bonds (In thousands) Returned	Real Estate and Surety Bonds (In thousands) Received	Real Estate and Surety Bonds (In thousands) Returned	Total bonds (In thousands) Received	Total bonds (In thousands) Returned
1961	$102.3	$ 97.8	$124.0	$ 53.4	$226.2	$151.3
1962	121.6	108.5	134.8	163.3	230.1	271.9
1963	130.3	125.1	184.4	120.0	314.8	245.1
1964	133.7	130.6	221.6	138.4	355.2	269.0
1965	188.3	129.6	179.6	190.7	367.8	320.2

Source: Motor Vehicle Department, Safety Responsibility Division.

The amount of cash deposited in a trust fund with the State Treasurer representing cash security posted as of

December 31, 1965 was $181,316.24. The department also had on hand as of December 31, 1965, corporate surety and real estate bonds posted as security amounting to $330,051.75. The total amount of security not returned or otherwise disposed of as of December 31, 1965 was $511,367.99.

Cost

The cost of administration and enforcement of the Safety Responsibility Act by the Motor Vehicle Department is not borne directly by those persons involved in reportable accidents, and the expense of processing the reports to finality is no small amount. The Safety Responsibility Division estimated in 1962 that the total cost of processing the report of an insured driver involved in an accident was $2.39 contrasted with a cost of $10.02 for processing an accident report involving an uninsured driver who complied with the requirements by depositing security, releases, agreements to pay, etc., or by voluntarily surrendering his driver's license. On the other hand, the cost to process an accident report of an uninsured driver who failed to comply with the security requirements and refused to voluntarily surrender his license was estimated to be $18.68.[1] Remembering that in 1965 the department received 76,878 accident

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[1] Motor Vehicle Department, Safety Responsibility Division, Cost to the Department for Processing Accidents Under Safety Responsibility Act, 1962.

reports, involving uninsured as well as insured drivers, it should be readily apparent that the price of ensuring financial responsibility on the part of the state's drivers is not cheap.

CHAPTER VII

THE SAFETY RESPONSIBILITY ACT--HOW EFFECTIVE?

The purpose of the Act, as stated in it's title, is to promote highway safety by eliminating the reckless and irresponsible driver, provide for the giving of security by persons owning or driving vehicles which are subject to registration who have been involved in an accident, and provide for the furnishing of proof of future financial responsibility by those convicted of certain traffic offenses. These individuals have presumably indicated that their presence as drivers on the highways is inimical to public safety unless they are able to show evidence of their financial responsibility in case of an accident or traffic violation. Attainment of the safety objective of the Act, therefore, must be predicated upon the theory that safety on the highways may be largely achieved through the process of removal of the uninsured or otherwise financially irresponsible driver. The Act seems to presume that the uninsured and financially irresponsible drivers are more dangerous to highway safety than those who are insured or are otherwise able to pay cash for their negligence. The point is, can the highways be made safer simply by removing those drivers who are not able to show evidence of financial responsibility? It would appear not, for the number of reported automobile accidents increased from 24,084

in 1955 to 38,555 in 1965, an increase of 60.1 per cent. During the same period, automobile registrations increased from 1,078,107 to 1,386,427, a total of 28.6 per cent. This means that the number of reported accidents increased at a faster rate than the number of cars.

There does not appear to be any evidence of direct correlation between insured or otherwise financially responsible drivers and the number of accidents that occur each year. Furthermore, there is no evidence which might suggest that the Act prevents accidents or in any other manner makes the highways safer. The continually rising accident rate indicates that the reckless and negligent motorist is still operating his vehicle on state highways, even though he may now be insured.

Although the Safety Responsibility Act has apparently met with little or no success in reducing the number of motor vehicle accidents, there is no doubt but that it has effectively reduced the percentage of uninsured motorists who use the highways, or at least the percentage of those involved in reportable accidents. Robert Burtis, Financial Responsibility Division Attorney in 1941 wrote in May of that year, almost two years after the 1939 law had been enacted: "To date, 1,841 persons have become subject to the Financial Responsibility law. Two hundred and fifty-three (13 per cent) have filed certificates of insurance which are in good order at present time. Four hundred and thirty have surrendered their

license tags and registration receipts . . . ."[1]

While 13 per cent of the drivers were insured in 1941, the complete reversal was true for 1965 (see Table II) when 87 per cent of the motorists were insured. But, one might ask, just what is meant by the fact that 87 per cent of the drivers were insured in 1965? Does it mean that 87 per cent of all persons licensed to drive are insured? And, if so, how was this determined?

TABLE II

SUMMARY OF DRIVERS INSURED AND UNINSURED
1961-1965

Year	Accident reports received	Per cent increase	Drivers insured	Per cent insured	Drivers un-insured	Per cent un-insured
1961	63,549	0.6	52,428	82.5	11,121	17.5
1962	69,447	7.7	59,030	85.0	10,417	15.0
1963	72,124	3.8	61,305	85.0	10,819	15.0
1964	74,017	2.6	65,135	88.0	8,882	12.0
1965	76,878	3.8	68,421	87.0	8,457	13.0

Source: Motor Vehicle Department, Safety Responsibility Division.

Admittedly, it is not possible to determine accurately the number of uninsured drivers or the extent to which the

[1] Robert H. Burtis, "The Operation of the Kansas Financial Responsibility Law," 9 Kansas Bar Journal (May, 1941), p. 368.

Safety Responsibility Act has encouraged motorists to become insured since the figures on licensed drivers, motor vehicles, and insured motorists are all in continuous fluctuation. Licensed drivers die, stop operating vehicles, or move from the state. Automobiles are sold, destroyed, or registered in another state when the owners move. Insured motorists die, dispose of, wreck or lose their cars, move out of the state, or lose their insurance. And new ones take their place.

For these reasons, records are kept to determine the number of uninsured motorists, not as a numerical entity at an instant of time, but rather over a period of time, using the means available to arrive at a specific percentile of a sampling of the total number of vehicles involved in reportable motor vehicle accidents. This is done by examining the accident reports processed by the department, determining the total number of drivers involved in accidents, and the number of uninsured drivers of that total.

There are, of course, weaknesses of such sampling, the more apparent being: (1) reports are probably not always filed when all drivers involved in an accident are insured because they then serve no practical purpose, (2) reports are probably not always filed when all drivers in an accident are uninsured because it would require that security be deposited by all, and (3) the sample constitutes only about 5 per cent of the total number of vehicles registered.

In spite of these limitations, it may be said in defense that 76,000 reports constitute a fair representation on which to base statistical data, and furthermore, even though the percentage of insured drivers is not completely accurate, the Act will still affect those persons who are financially irresponsible, and as long as it does that, then statistics are actually needed only for evaluation, and serve no particular purpose in administration or enforcement.

Enforcement

In order to make the Act really effective, there must exist some means of promptly retrieving the licenses of drivers, and the license plates and registrations of owners who do not comply with the security requirements for a strong law weakly enforced, becomes merely another weak law. To enforce the Act against those drivers and owners who do not voluntarily surrender their licenses and registration certificates, the department has ten investigators assigned to specific territories throughout the state. One of the functions of an investigator is to locate suspended persons who have not surrendered the items requested by the department and make the necessary pick-up. The investigators are quite successful in making these pick-ups, having completed 1,819 of 2,562 pick-ups issued in 1965, or 71 per cent. They are hampered in their efforts, of course, by persons who purposely evade the penalty by moving without leaving any forwarding address.

In addition to this method, the department publishes a weekly list of all suspended persons, and this list is sent to law enforcement officers and courts throughout the state. The law enforcement agencies also assist the department in making pick-ups by being alerted to the license tag numbers of all suspended owners or drivers.

There is one weakness, however, which seems worthy of mention. The problem develops partly because of the fact that individual county treasurers are not given any information regarding owners of vehicles whose license tags have been lifted, and partly because applications for registration renewals are sent from the Motor Vehicle Department about October of each year in order for every owner of a vehicle to be able to purchase new tags when they become available the first of January. The problem which results from this combination is simply this: (1) If an individual owner is not on the suspended list at the Motor Vehicle Department when the registration applications are mailed, even though he may become suspended later, he will receive an application form. (2) All that is needed to purchase a new license tag, in addition to the required sum of money, is the application form. (3) A new tag may be purchased and installed on the vehicle even though the owner has been suspended.

The victory gained by the owner in the above circumstance is short-lived, however. One part of the three-part registration application is returned to the Motor Vehicle

Department by the county treasurer after the tag is sold. The department checks all returned applications against the list of suspensions to determine the identity of any suspended persons who have purchased new license tags to replace those lifted by the department. A pick-up order is then issued for the new tag and it, too, soon comes into the possession of the department.

Although the department is aware of this gap, it believes that the additional time and expense connected with catching these violators on the rebound is less than that which would be involved in sending suspension and withdrawal of suspension notices to all of the county treasurers' offices.

CHAPTER VIII

COMPULSORY INSURANCE v. SAFETY RESPONSIBILITY LAWS

In 1965 only three of the fifty states--Massachusetts, New York, and North Carolina--had compulsory automobile liability insurance laws. Massachusetts has had such a law since January 1, 1927. New York's law went into effect February 1, 1957, and North Carolina has had its law on the books since January 1, 1958. In these states, every owner of a motor vehicle is required to purchase automobile liability insurance as a condition to registration. The law is concerned only with the motor vehicle and its registration, the object being to have insurance placed in force on all automobiles registered in the state.

Compulsory insurance has, for many years, been argued as an alternative for safety responsibility laws. The pros and cons of compulsory insurance have been discussed since Massachusetts enacted such legislation in 1927, and the subject still remains highly controversial. Since it is outside the scope of this study, an exhaustive analysis of the compulsory insurance laws will not be made. Proponents and critics of such laws are not able to agree on the merits of this type legislation, and all that will be offered here is a short summary of some of the principal arguments for and against compulsory insurance.

It is argued primarily that if all registered motor vehicles had to be insured, the weaknesses inherent in safety responsibility laws would be overcome. These weaknesses, according to one author, are: (1) a significant number of recalcitrant irresponsible owners still do not insure their automobiles, (2) the victims of the first accident involving an uninsured and financially irresponsible motorist are left without compensation regardless of the corrective measures taken against him after the first accident, and (3) because the financially irresponsible are seldom worth suing for damages, they are allowed under most laws to resume driving without insurance after one year from the date of accident.[1]

Opponents of compulsory insurance have argued, and just as strenuously as the proponents, that such a law is weak and deficient in the following ways: (1) it cannot compel and is impossible to enforce, (2) it costs millions of dollars to administer, (3) it creates an unneeded government bureaucracy, (4) it does not protect the responsible citizen, (5) it increases the cost of automobile insurance, and (6) it causes the frequency of claims to increase.[2]

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[1] Calvin H. Brainard, _Automobile Insurance_ (Homewood, Illinois: Richard D. Irwin, Inc., 1961), p. 429.

[2] National Association of Independent Insurers, _A Fact Sheet for Newspaper Editors_ (The Case Against Compulsory Automobile Liability Insurance. Chicago: National Association of Independent Insurers), pp. 1-10.

Safety responsibility laws, on the other hand, are as much concerned with the driver and his operator's license as with the motor vehicle and its registration. These laws are not compulsory legislation to the extent that automobile liability insurance is a prerequisite to registration. However, it might be said that such laws are compulsory on a selective individual motorist basis. The acts do not apply to motorists who discharge their duties under the law, but if there is a breach of that duty, such as an accident, the guilty party will be visited by penalty and compulsion; i.e., security will be required or the privilege to drive will be suspended. In case of certain traffic violations or failure to satisfy a judgment, the offender becomes required to show proof of future financial responsibility before his license can be reinstated. In this respect the acts are compulsory.

Safety Responsibility laws do not change the methods by which rates are fixed, nor do they interfere with the ability of insurance companies to compete in a free market or devise improved forms of coverage. They do not curtail protection afforded by existing policies nor interfere with or attempt to control in any way the remuneration paid to agents and brokers. They in no way place the state in the insurance business. All that they do is require motorists to maintain insurance or other evidence of financial responsibility.

The real point at issue in the controversy of compulsory insurance versus safety responsibility laws seems merely

to be whether a compulsory act would produce a higher percentage of insured motorists in a given state than could be obtained under a security-type safety responsibility law. Since it is equally difficult to measure objectively the percentage of uninsured motorists under either type law, this issue would be extremely difficult to prove.

CHAPTER IX

SUMMARY AND CONCLUSIONS

The Kansas Safety Responsibility Act is directed specifically toward two classes of motorists; those who are involved in accidents, and those who flagrantly and habitually disregard traffic laws. The implied objective of the Act is to have every driver and owner of a motor vehicle show evidence of financial responsibility, both present and future, hopefully through automobile liability insurance coverage. The stated objective, mentioned previously, is to "eliminate the reckless and irresponsible driver from the highway. . . ."

Although the Act is meant to provide accident victims with the compensation to which they are entitled under common-law negligence, up to a limit specified by the department, this does not mean that a victim is assured of automatic payment, nor does it mean that he has in every instance to bring a civil action against the wrongdoer. It simply provides for a specified sum of money to be collected by the department and set aside for use as payment of judgments or in settlement of claims against the wrongdoer, provided he is legally liable for damages arising out of the accident.

Since evidence of an automobile liability insurance policy in force at the time of an accident exempts a driver or owner from the security provisions of the Act, this method

has become the most popular one of providing evidence of financial responsibility. It must be kept in mind, however, that the mere fact that an insurance policy was in force does not guarantee payment of damages to any party. First, a driver must have been guilty of negligence and therefore have become legally obligated to pay, and second, the driver must not have been guilty of any acts which would violate the conditions of the insurance policy and render it void.

It would be extremely difficult, if not impossible, to prove that the Act has in any way increased highway safety by implanting safety consciousness in the minds of all motor vehicle operators. The thought seems to be that, in order to avoid the penalties inherent in the Act, most drivers will either insure their automobiles, or they will drive with an increased sense of care and responsibility toward others. The minority, then, who neither insure nor drive more carefully will sooner or later have an accident, the result being the suspension or revocation of their driving privileges. Therefore, as time passes, negligent and financially irresponsible persons will gradually be immobilized and the highways thereby made increasingly safer.

The Safety Responsibility Division of the Motor Vehicle Department has no authority to remove the "reckless and irresponsible driver" from the highway except in cases where such driver (1) has an accident and (2) is uninsured and can offer no other proof of his financial responsibility. If such a

driver has had his license suspended or revoked for conviction of specified traffic violations, then the division can require proof of future financial responsibility. But the Act makes no provision for removing negligent drivers per se, and to this extent highway safety is outside the scope of the Safety Responsibility Act. A good traffic safety program, strict enforcement of the motor vehicle laws, competent traffic courts, and rigid driver examinations and licensing will offer a sound highway program in which the rights and safety of the individual will be adequately protected. Inasmuch as highway safety cannot be objectively equated to financial responsibility of motorists, and because there is no evidence to indicate that the number of traffic accidents has diminished as a result of its enactment, the Act cannot properly or accurately be termed a safety measure.

The Act has successfully increased the percentage of insured drivers from about 35 per cent at its inception to 87 per cent in 1965. Because being insured is practically synonymous with being financially responsible, for purposes of the Act at least, the Kansas Legislature has gone a long way in relieving the distress of uncompensated victims of automobile accidents in cases where the negligent operator would otherwise be unable to pay for damages assessed against him.

Despite the overall success which the Act in its present form has had in reducing the percentage of uninsured drivers, the three glaring weaknesses referred to previously

in this report seem important enough to be worthy of mention again. The weaknesses refer generally to (1) proof of future financial responsibility following accidents, (2) release of security after one year from date of accident, and (3) the inconsistency of the maximum amount required for security and for proof.

As the Act is presently written, any uninsured driver involved in an accident will have the security which he deposited returned to him after one year has elapsed, provided no suit for damages has been instituted against him. Since in many instances it is economically impractical to sue a person who has no money, the Act falsely assumes that such driver must not have been guilty of improper driving, and his license is returned after one year, allowing him to resume driving, still no more financially responsible than before. It is recommended, therefore, that the Act be amended to require that whenever an operator or owner must post security for a past accident, he shall give and maintain proof of financial responsibility for future accidents for a period of two years from the date such proof is required.

As was just noted, the Act provides that if no suit or judgment is pending, the wrongdoer shall have the security he deposited returned to him after the lapse of one year. It is recommended that security be required to be held for a period of two years in the absence of one of the specified causes for earlier release such as settlement of pending claims or

satisfaction of a judgment. This proposal would bring the deposit period into closer alignment with the statute of limitations generally governing the bringing of an action for for damages, thereby being of significant benefit to those persons having a claim for injury or damage which is still valid under the statue of limitations.

The Act presently states that proof, when required to be furnished, may be in a specified manner with a maximum total of $11,000. Security, on the other hand, may be required in case of a serious accident for as much as $25,000. It is proposed that the proof requirement be amended to conform with the higher security requirement.

Although it is inaccurate to term the Act a safety measure in the sense of diminishing the number of accidents or eliminating the reckless and irresponsible driver from the highways, it has resulted in a substantial improvement in the percentage of insured drivers (thereby reducing the percentage of financially irresponsible drivers), and by modifying its stated objective to this extent, the Act has accomplished the major purpose for which it was, in fact, intended.

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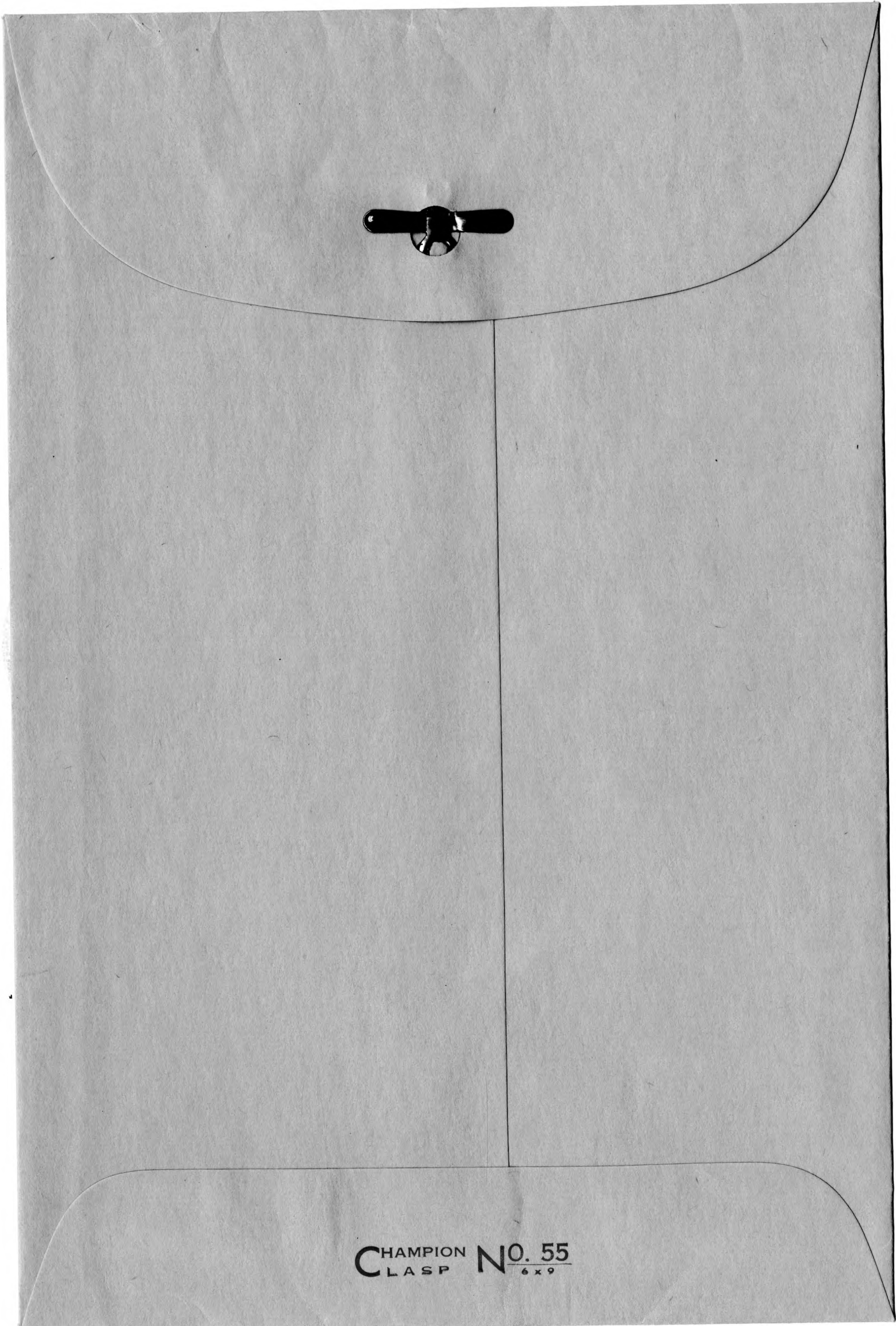
APPENDIXES



APPENDIXES

KANSAS MOTOR VEHICLE ACCIDENT REPORT

Mail Within 24 Hours To: Motor Vehicle Department
State Office Building, Topeka, Kansas

ACCIDENT CASE NO.

VEHICLE 1

DATE OF ACCIDENT ____ Month Day Year DAY OF WEEK ____ HOUR ____ A. M. ☐ P. M. ☐

LOCATION OF ACCIDENT ____ Town County State

TOTAL NUMBER OF VEHICLES INVOLVED ____

DRIVER'S NAME ____ OCCUPATION ____

DRIVER'S ADDRESS ____ Street or R. F. D. Town State

DRIVER'S LICENSE NUMBER ____ State DATE OF BIRTH ____

OWNER'S NAME ____

OWNER'S ADDRESS ____ Street or R. F. D. Town State

MAKE OF VEHICLE ____ Type Year VEHICLE TAG ____ Year State Number

PARTS OF VEHICLE DAMAGED ____ $ ____ Approximate Cost

MOTOR, SERIAL or I. D. NUMBER ____

INJURY REPORT FOR OCCUPANTS IN YOUR VEHICLE

CODE FOR INJURY ____ **NOTE: USE MOST SERIOUS INJURY TO OCCUPANT**

K—Dead before report made.

A—Visible signs of injury, as bleeding wound or distorted member; or had to be carried from scene.

B—Other visible injury, as bruises, abrasions, swelling, limping, etc.

C—No visible injury but complaint of pain or momentary unconsciousness.

O—No indication of injury.

OCCUPANTS—(Include driver injury) If more than three injuries use additional report form.

Name / Street or R. F. D. / City and State	AGE	SEX	INJURY	HOSPITALIZED
Name Street or R. F. D. City and State				YES ☐ NO ☐
Name Street or R. F. D. City and State				YES ☐ NO ☐
Name Street or R. F. D. City and State				YES ☐ NO ☐

YOUR INSURANCE CO. (Liability) ____

AGENT ____ ADDRESS ____ PHONE NO. ____

POLICY NO. ____ POLICY PERIOD FROM ____ TO ____

SIGNATURE OF POLICY HOLDER ____

K. C. C. NO. ____ SR-23 ☐ FLEET INSURANCE ON FILE? ☐

FOR INSURANCE COMPANY USE ONLY

IF POLICY (10-20-5) NOT IN EFFECT AT THE TIME OF ACCIDENT RETURN THIS ENTIRE FORM WITHIN 30 DAYS

REASON FOR REFUSAL ____

____

AUTHORIZED REPRESENTATIVE ____ DATE ____

SR-21 PERSON REPORTING MUST COMPLETE OTHER SIDE

VEHICLE 2

DRIVER'S NAME ______ AGE ______

DRIVER'S ADDRESS ______
Street or R. F. D. ______ Town ______ State

DRIVER'S LICENSE NO. ______ STATE ______

OWNER'S NAME ______

OWNER'S ADDRESS ______
Street or R. F. D. ______ Town ______ State

MAKE OF VEHICLE ______
Type ______ Year

VEHICLE TAG ______
Year ______ State ______ Number

VEHICLE 3

DRIVER'S NAME ______ AGE ______

DRIVER'S ADDRESS ______
Street or R. F. D. ______ Town ______ State

DRIVER'S LICENSE NO. ______ STATE ______

OWNER'S NAME ______

OWNER'S ADDRESS ______
Street or R. F. D. ______ Town ______ State

MAKE OF VEHICLE ______
Type ______ Year

VEHICLE TAG ______
Year ______ State ______ Number

DAMAGE TO PROPERTY OTHER THAN VEHICLES ______
Object Damaged

NAME OF OWNER OF OBJECT DAMAGED ______

ADDRESS OF OWNER ______
Street or R. F. D. ______ Town ______ State

DESCRIBE THE ACCIDENT ______

______

______

GIVE EXACT LOCATION OF ACCIDENT ______

______

DATE OF THIS ACCIDENT ______

DATE OF THIS REPORT ______ DRIVER SIGN HERE ______

31-3184—246-T 3-66-100M

B

MOTOR VEHICLE DEPARTMENT

State Office Building
Topeka 66612

72

WM. H. AVERY,
Governor

Please refer to our file S.R.D.

L. A. BILLINGS,
Superintendent

ACCIDENT CASE #__________

ACCIDENT DATE :__________

DRIVER:

OWNER:

Evidence indicates you, and/or a motor vehicle owned by you, were involved in an accident. This accident caused one or more of the following:

1. Property damage in excess of $100.00 for any one person.
2. Injury to, or death of a person.

You must furnish this office with proof that you are financially able to comply with the security requirements in the sum of $__________ for this accident. (See the reverse side of this notice for ways to comply).

YOU ARE HEREBY NOTIFIED, that unless you comply with this Act, the

( ) DRIVER'S LICENSE of the DRIVER

( ) ALL VEHICLE TAGS and REGISTRATION RECEIPTS of the OWNER

WILL BE SUSPENDED AS OF

AND SHALL REMAIN SUSPENDED, AND SHALL NOT BE RENEWED, until you have complied with ALL of the requirements of the Kansas Motor Vehicle SAFETY RESPONSIBILITY ACT (8-722-8-769 G.S. 1961 Supp., As Amended By L. 1963, Ch. 59, Sec. 1-4).

ALL suspended Kansas driver's licenses, registration receipts, and tags must be surrendered to this office ON OR BEFORE SUSPENSION DATE.

Failure to return suspended items on or before suspension date will result in an order to a Kansas Investigator to pick up ALL suspended items. ONCE SUSPENDED, the DRIVER must surrender the requested items, pass a driver's examination (if he has not done so within the past two years), comply with the requirements for this accident and pay a $25.00 reinstatement fee before he can be reinstated.

L. A. BILLINGS, SUPERINTENDENT
MOTOR VEHICLE DEPARTMENT

By: Louis J. Casebier
Louis J. Casebier, Assistant Director
Safety Responsibility Division

SR_61

(SEE REVERSE SIDE)

THE SAFETY RESPONSIBILITY ACT REQUIRES YOU TO FILE PROOF THAT YOU ARE FINANCIALLY ABLE TO RESPOND TO ANY CLAIM FOR DAMAGES THAT MAY ARISE FROM THIS ACCIDENT EVEN THOUGH IT MAY APPEAR THAT YOU WERE NOT AT FAULT. (THIS DEPARTMENT DOES NOT DETERMINE LIABILITY.)

THE RESPONSIBILITY FOR COMPLYING WITH THIS ACT RESTS WITH YOU

Comply with any ONE of the requirements listed below, (before your suspension date), and you may retain your driving and/or registration privileges.

1. MAIL a completed accident form showing motor vehicle LIABILITY INSURANCE COVERAGE IN EFFECT at the time of the accident.

* 2. POST SECURITY as requested on the face of this notice. This may be by certified check, money order, bank draft .

   (IF, AFTER ONE YEAR, FROM THE DATE OF THE DEPOSIT, there is no judgment or court action pending against you, you may make application for the return of the deposit.)

3. MAIL A NOTARIZED RELEASE from EACH adverse party involved, for all claims, regarding injuries and/or damages suffered in this accident.

4. MAIL A SATISFACTORY AGREEMENT signed by each adverse party involved, providing for installment payments of an agreed amount, with respect to all claims, for injuries and/or damages suffered in this accident. If at any time you default on the payments of this agreement you will become subject to the provisions of this act.

5. MAIL A COURT JUDGMENT allowing for installment payments with respect to all claims sor injuries and/or damages suffered in this accident.

6. Mail a certified copy of FINAL JUDGMENT OF NON-LIABILITY by a court in an action to collect damages.

THERE IS ONE OTHER WAY IN WHICH YOU MAY COMPLY

1. (a) MAIL satisfactory evidence, ONE YEAR FROM THE SUSPENSION DATE, THAT NO COURT ACTION has been filed against you to collect damages for injuries and/or damages suffered in this accident.

* NOTE: If, and when, posting security, under Number 2, above; Sec. 8-726,G.S. of Kansas Requires that you specify in writing the person or persons on whose behalf the deposit is made. In any case, where the driver is not the owner of the vehicle involved, either may post security and include the other, if so specified in writing; otherwise each shall be required to post security separately.

MAIL ALL DOCUMENTS AND SUSPENDED ITEMS TO:

SAFETY RESPONSIBILITY DIVISION
MOTOR VEHICLE DEPARTMENT
STATE OFFICE BUILDING
TOPEKA, KANSAS

SR-61 b (Rev. 7/8/65)

C

73

MOTOR VEHICLE DEPARTMENT

State Office Building
Topeka 66612

WM. H. AVERY,
Governor

L. A. BILLINGS,
Superintendent
Ph. CE-5-0011
Ext. 581

Please refer to: Accident Case #________

ORDER OF SUSPENSION

TO:

BY AUTHORITY OF THE GENERAL STATUTES OF KANSAS, it has been determined from the records of this department that your privilege to operate and/or register a motor vehicle in the State of Kansas, should be and is hereby suspended as hereinafter set forth, for the following reasons:

You failed to comply with the provisions of the Motor Vehicle Safety Responsibility Act.

ACTION: Suspension — STATUTORY AUTHORITY: 8-727

CAUSE: Failure to Deposit security in the amount of $ __________

LENGTH OF SUSPENSION: Indefinite Period

To avoid further or additional penalties it is important that you surrender to this department, immediately:

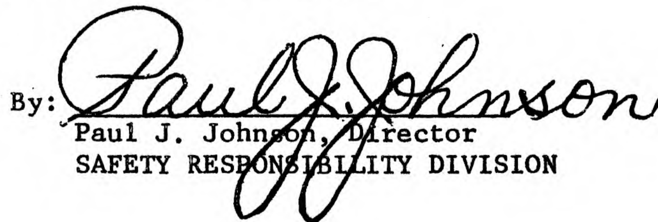
☐ DRIVER — Your driver's license

☐ DRIVER & OWNER — Your driver's license and all registration receipts and tags on all vehicles registered solely or jointly in your name.

☐ OWNER — ALL registration receipts and tags on all vehicles registered solely or jointly in your name.

THIS ORDER IS EFFECTIVE AS OF THIS ____ DAY OF ______________________, 19____.

L. A. BILLINGS, SUPERINTENDENT
MOTOR VEHICLE DEPARTMENT

By: 

Paul J. Johnson, Director
SAFETY RESPONSIBILITY DIVISION

LAB/PJJ/

Mail all of the requested items to the Safety Responsibility Division, Motor Vehicle Dept., State Office Building, Topeka, Kansas.

SR-61 A (Rev. 6/1/66)

AFFIDAVIT FOR RETURN OF LICENSES, SAFETY RESPONSIBILITY DIVISION
MOTOR VEHICLE DEPARTMENT, TOPEKA, KANSAS

STATE OF KANSAS)
) SS.
COUNTY OF)

______________________________ of lawful age being first duly sworn on his oath deposes and says:

That his vehicle was involved in an automobile accident on date ________________ in _______________ County, Kansas, at or near a location about ___________________________ ________________ with an automobile driven by one ______________________________ in Accident Case # ____________. Pursuant to an order of the Safety Responsibility Division, this affiant was required to post security in the amount of $____________ and was suspended for failure to post the security.

That one year has elapsed since the time said suspension became effective, and that no action for damages areising out of said accident has been filed against this affiant in any Court.

Further affiant saith not.

____
Affiant

Subscribed in my presence and sworn to before me this _______ day of _______________, 19____.

____
Notary Public

My commission expires:_________________________.

SR-117

A STUDY OF THE KANSAS MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

by

CHARLES ROBERT SMITH

B. S., Kansas State University, 1956

AN ABSTRACT OF A MASTER'S THESIS

submitted in partial fulfillment of the

requirements for the degree

MASTER OF SCIENCE

College of Commerce

KANSAS STATE UNIVERSITY
Manhattan, Kansas

1966

Americans have been "on the move" at an ever-increasing rate since Henry Ford first made such mass migration possible. The automobile has become not only an instrument for pleasure but, for most, a matter of economic necessity. However, the rise in popularity of the automobile has been accompanied by many problems, not the least of which is that of compensating victims of automobile accidents where the wrongdoer is financially irresponsible.

The alleviation of the economic distress of uncompensated accident victims has been accomplished, in part, through legislation in the form of safety responsibility laws. These laws are intended to encourage motorists to become insured by imposing financial requirements on them if they are involved in accidents and cannot show other evidence of financial responsibility.

The Kansas Motor Vehicle Safety Responsibility Act was enacted by the 1957 session of the legislature, and became law on January 1, 1958. The stated purpose of the legislation is to promote safety on the highways by eliminating the reckless and irresponsible driver, and to provide for the giving of security as evidence of financial responsibility for a past accident and proof of financial ability to pay a claim or judgment for damage arising out of a future accident.

The provisions of the Act apply to both drivers and owners of motor vehicles, and a motorist may become affected by the Act by being involved in a motor vehicle accident, or

by being convicted for certain specified traffic violations. In case of an accident, the owner or driver is required to deposit security with the Motor Vehicle Department, Safety Responsibility Division, as evidence of his financial responsibility, and failure to do so within a specified time limit will result in a suspension or revocation of the driver's license and/or vehicle registration. Before reinstatement can be made in cases of traffic law violations, the offender must show proof of his financial responsibility for future accidents.

Although the Act does not require automobile liability insurance as a prerequisite to registration, thereby making it a "compulsory insurance" law, it does presume that any owner or driver who is not protected by liability insurance at the time of an accident is financially irresponsible unless evidence to the contrary is furnished. Since insured drivers and owners are, in effect, exempt from the Act, motorists are induced to provide liability insurance protection before an accident occurs. It might be said, then, that an implied purpose of the Act is to eliminate the uninsured driver from the highways.

The thought seems to be that, in order to avoid the penalties embodied in the Act, most drivers will either insure their automobiles or they will drive with an increased sense of care and responsibility toward others. The recalcitrant minority who neither insure nor drive more carefully will

sooner or later have an accident, the result being the suspension or revocation of their driving privileges. Therefore, as time passes, financially irresponsible persons will gradually be immobilized and, hopefully, the highways made increasingly safer.

There is no evidence to indicate that the number of accidents has diminished subsequent to the enactment of the Act, but the number of insured drivers has increased from 13 per cent in 1941 to 87 per cent in 1965. Since this indicates a very drastic reduction in the number of uninsured drivers, the Act seems to have accomplished its purpose in this respect.

The object of the study was threefold: (1) to examine the major provisions of the Act, (2) to summarize the activities of the Motor Vehicle Department, Safety Responsibility Division, in the administration and enforcement of the Act during its first eight years of existence, and (3) to show that the Act has served the purpose for which it was, in fact, intended.