

The Motor-Vehicle Safety Responsibility Act

JOHN E. HALLEN*

Millions of cars on the highway have created dangers that were unheard of in the nineteenth century. Their operation may result in serious injury or death and damages for large sums may be secured against negligent defendants. Yet millions of persons are authorized to drive automobiles and a considerable percentage of them would be unable to pay a judgment that was rendered against them. There may be a wide difference between securing a judgment against a negligent defendant and the satisfaction of the judgment, and legislatures in recent years have been giving increasing attention to attempts to bridge the gulf.

For some years Massachusetts has had a law which requires all drivers licensed in that state to carry liability insurance. The act has aroused a great deal of controversy and has not been generally followed. This is known as compulsory insurance and is at the opposite extreme from the view that insurance is a voluntary matter which an individual may secure or not, as he pleases.

The Uniform Automobile Liability Security Act was approved by the National Conference of Commissioners on Uniform State Laws in 1932. It required proof of financial responsibility from operators having certain accident records. It was adopted, with some amendments, by Pennsylvania, Washington, and Hawaii, but was withdrawn from the active list of uniform acts recommended for adoption by the Commissioners in 1943.

Meanwhile financial responsibility acts, showing greater or less similarity to this Uniform Act, were adopted in many states. The beginning was made in Ohio in 1935. With minor amendments in 1939 and 1943 it became Section 6298-1 of the Ohio General Code.

It authorized the registrar to revoke the license of a person who had been convicted of certain crimes involving the use of a motor vehicle (manslaughter, operation under the influence of liquor, failing to stop when required, or a felony in which a motor vehicle was used) and then added that the registrar should revoke if a final judgment in action for wrongful death, personal injury or damage to property, due to the person's individual operation of a motor vehicle, remained unsatisfied for thirty days.

This Act authorized the registrar to revoke the license (or to require liability insurance or an equivalent bond) of a person who had been convicted of certain offenses or had an unsatisfied judgment against him, and so it went beyond the previous Ohio law. It did not authorize the registrar to act against any one who

* Professor of Law, College of Law, The Ohio State University

did not have such a judgment against him and so had little effect on the great majority of Ohio drivers.

The 1951 Legislature enacted Amended House Bill No. 168, which as it says (6298-1), may be cited as the Motor-Vehicle Safety Responsibility Act. The Act consists of 93 sections and it repeals Sections 6298-1 to 6298-26 of the General Code. It is a new act and while it covers much of the subject matter of the repealed law, it extends far beyond it.

The driver of any motor vehicle which is involved in a motor vehicle accident shall forward a written report of the accident on a prescribed form within 5 days.¹ Accident means any accident involving a motor vehicle which results in bodily injury or death of any person, or damage to property in excess of \$100.² The registrar may suspend the license of any person who fails to report an accident.³ Twenty days after receiving the report the registrar shall determine the amount of security that he believes to be sufficient to satisfy any judgment that may be secured. Within 50 days after the report has been received, the registrar shall give written notice to the parties concerned of the amount of security that must be deposited and that an order of suspension will be made 10 days later unless the security has been deposited in the meantime.⁴ The registrar shall suspend the license of the person and the registration of all motor vehicles owned by the person if the security is not deposited in 10 days.⁵

All of this goes far beyond the scope of the earlier act. The registrar does not have to wait for a conviction of crime or an unsatisfied judgment. Participants in an automobile accident are under a duty to notify the registrar and requirements that security must be raised or the license suspended follow almost as a matter of course.

The requirements of security and suspension do not apply if the driver or owner has a sufficient liability policy or bond at the time of the accident.⁶ They will not apply to a person if there was no damage to anything or anyone but himself, or if his car was lawfully parked.⁷ So releases, settlements, payment of judgments, or final judgment in his favor will put an end to the requirements.⁸ The deposit will be returned if no action has been

¹ OHIO GEN. CODE § 6298-17.

² OHIO GEN. CODE § 6298-13.

³ OHIO GEN. CODE § 6298-21.

⁴ OHIO GEN. CODE § 6298-24.

⁵ OHIO GEN. CODE § 6298-26.

⁶ OHIO GEN. CODE § 6298-27.

⁷ OHIO GEN. CODE § 6298-29.

⁸ OHIO GEN. CODE §§ 6298-30 to 6298-34.

brought in one year.⁹

The registrar will disclose to any person claiming to have been injured or damaged the names and addresses of all persons and the ownership of all motor vehicles involved. Upon demand of a court or a person claiming to have made a report, he will furnish a certificate stating that a report has or has not been made. Otherwise, the reports are confidential and are not subject to subpoena nor may they be used in any trial, civil or criminal, arising out of the accident. In the same way the actions and findings of the registrar or the security provided shall not be evidence of due care or negligence nor shall it be referred to in any way.¹⁰

"Proof of financial responsibility" means proof of ability to respond in damages to the extent of \$5,000 for the death or injury of any one person, \$10,000 for the death or injury of two or more persons, and \$5,000 because of damage to the property of others.¹¹ For purposes of this act only, judgments shall be deemed satisfied if these amounts are credited upon any judgment in excess of that amount.¹² In other words a motorist will not lose his license although he cannot satisfy a judgment beyond the figures set. The amounts for personal injury or death are the same as in the old act for persons convicted of crime or unable to satisfy a judgment, but the total for property damage has been raised from one thousand to five.

Proof of financial responsibility may be given by filing a satisfactory certificate of insurance. It must insure the party named against loss from liability to others for at least the amounts mentioned above.¹³ Every operator's policy must protect him against loss from liability for damages arising out of the use of any motor vehicle not owned by him.¹⁴ In every policy the liability of the company shall become absolute whenever injury or damage covered by the policy occurs. It cannot be cancelled by any agreement between the company and the insured after the occurrence of the injury, and no statement by the insured and no violation of the policy shall defeat it.¹⁵

This Act, as it becomes known, may lead to a considerable increase in liability insurance. It will benefit society because it will make it possible for more plaintiffs to recover from negligent defendants. Some owners and operators of motor vehicles may regard it as sufficient benefit when they realize that a certificate

⁹ OHIO GEN. CODE § 6298-40.

¹⁰ OHIO GEN. CODE §§ 6298-22 and 6298-41.

¹¹ OHIO GEN. CODE § 6298-46

¹² OHIO GEN. CODE § 6298-55.

¹³ OHIO GEN. CODE § 6298-63.

¹⁴ OHIO GEN. CODE § 6298-65.

¹⁵ OHIO GEN. CODE § 6298-68.

of insurance will protect them from the various steps involved in this Act. There is no question about the benefit to insurance companies. But there are a number of drivers who for one reason or another have not been regarded as good risks by the companies. If these drivers remain uninsurable, there may be a number of accidents with no possibility of collecting damages by the injured parties, with consequent loss to society and possible opposition to the new law. The Act envisages a plan to include many of these people by apportioning them among the companies, with details to be worked out.¹⁶

Proof of financial responsibility may be evidenced by the bond of a surety company or a bond with at least two individual sureties having equities equal in value to at least twice the bond, the real estate to be scheduled in the bond approved by a judge of a court of record.¹⁷ Notice of such deposit shall be filed with the county recorder where the land is located and shall constitute a lien.¹⁸ Apparently the bond with individual sureties will continue to be permitted but not encouraged.

Proof of financial responsibility may also be evidenced by the certificate of the treasurer of state that the party has deposited \$15,000 in money or bonds of the United States, State of Ohio, or a political subdivision of Ohio.¹⁹ It would seem that parties who could raise \$15,000 in cash or bonds would probably also possess liability insurance with coverage at least as high as indicated in this Act.

Failure to report a motor vehicle accident as required may be punished by a fine of not more than \$100.²⁰ If a person whose license has been suspended or revoked, drives a car, he shall be fined not more than \$500 or imprisoned for not more than six months or both.²¹

The essence of the new law is that any driver or owner of a motor vehicle must, if he is found at fault, be prepared to respond in damages up to the limits prescribed in the Act. These limits seem extremely modest for the personal liability damages, \$5,000 for the injury or death of one person, in comparison with some of the jury awards of recent years. It may be that these figures will be increased by amendments in the future. We have not yet adopted a doctrine that every automobile driver or owner must carry

¹⁶ OHIO GEN. CODE § 6298-90.

¹⁷ OHIO GEN. CODE § 6298-74.

¹⁸ OHIO GEN. CODE § 6298-75.

¹⁹ OHIO GEN. CODE § 6298-77.

²⁰ OHIO GEN. CODE § 6298-85.

²¹ OHIO GEN. CODE § 6298-87.

liability insurance but this Act which provides that any one involved in an accident must post adequate security has certainly moved us a considerable distance in that direction.