

MOTOR VEHICLES

CHAPTER 166

H. B. No. 302—(Committee on Highways and Bridges)

REGULATION OF AGRICULTURAL CARRIERS

An act to amend Sections 1, 3 and 15 of Chapter 164 of the Session Laws of North Dakota for the Year 1933, and acts amendatory thereof and supplementary thereto; defining and classifying agriculture carriers and providing for their licensing, regulations and exemption; and providing for the enforcement of the provisions of this act, and for penalties for the violation thereof, repealing all acts and parts of acts in conflict herewith; and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Chapter 164 of the Session Laws of North Dakota for the year 1933, and acts amendatory thereof or supplementary thereto, be amended by adding thereto the classification of "Agricultural Carrier"; and that Section 1 of said Chapter be amended and re-enacted to read as hereinafter provided.

§ 1. DEFINITION.] (a) The term "agricultural carrier" when used in this act, shall mean any person, firm or association, hauling or transporting, for compensation, grain, seed, feed, poultry, livestock, dairy products, or any other agricultural products or farm supplies from the farm where such products are produced, grown or further processed, to the market, town or place where such grain, seed, feed, poultry, livestock, dairy products, or any other agricultural products or farm supplies are sold, stored, disposed of, purchased or acquired; and the hauling or transporting of grain, seed, feed, poultry, livestock, dairy products, or any other agricultural products or farm supplies from the market, town, or place where the same is purchased or acquired to the farm where the same is to be used, consumed, or further processed.

(b) (1) The term "motor vehicle" when used in this act, shall mean any automobile, truck, trailer, semi-trailer, tractor, motor bus, or any self-propelled or motor driven vehicle used upon any public highway of the State for the purpose of transporting persons or property. (2) The term "public highway" when used in this act shall mean every public street, alley, road or highway or thoroughfare of any kind used by the public. (3) The term "commission" means the Board of Railroad Commissioners of the State of North Dakota. (4) The term "person" means and includes an individual, firm, co-partnership, corporation, company, association, or their lessees, trustees or receivers.

(c) This act shall not apply to any farmer, or association of

farmers, engaged in operating or controlling a motor vehicle engaged in the transportation of grain, seed, feed, poultry, livestock, dairy products, any other agricultural products or farm supplies from the farm where such products are produced, grown, or further processed, to the market, town or place where such products are sold, stored, disposed of, when so transported by the producer thereof, or by an association of such producers transporting such products of its producer members, or the transporting of such goods from the market, town or place where the same is purchased or acquired to the farm where the same is to be used, consumed, or further processed, by such farmer, or association. This act shall not apply to the transportation of any and all property between the farms and the usual local trading places of the person for whom such transportation is performed or between farms locally.

(d) All agricultural carriers are hereby declared to be affected with the public interest and subject to the laws of this State, now in force or that hereafter may be enacted, pertaining to agricultural carriers as far as applicable, and not in conflict herewith.

(e) No agricultural carrier shall operate any motor vehicle for hire on any public highway in this State except in accordance with the provisions of this act.

(f) The commission is vested with the power and authority to do all things necessary to carry out and enforce the provisions of this act, and shall, upon application, issue an agricultural carrier's permit in accordance with the provisions of this act for which the applicant shall pay the sum of twenty-five dollars (\$25.00) annually.

(g) Every agricultural carrier shall at the time of making application for a permit and annually thereafter on April 15th of each calendar year, pay a fee of fifteen dollars (\$15.00) for each vehicle, for the purposes of the safety regulations in said chapter contained.

(h) The commission shall prescribe forms of applications for agricultural carrier permits and shall make regulations for the filing thereof. Said application shall contain a statement by the applicant that he will confine the operation of his motor vehicle or vehicles within the limitations of this act, pertaining to agricultural carriers, and that he consents to be governed by the safety regulations now in force, or may hereafter be enacted or prescribed.

(i) An agricultural carrier shall be specifically exempt from making any showing of public convenience and necessity, from any requirements as to insurance, and from any schedule as to rates.

§ 2. AMENDMENT.] That Section 3 of Chapter 164 of the Session Laws of North Dakota for the year 1933 be amended and re-enacted to read as follows:

§ 3. This act shall not apply to common motor carriers who shall operate wholly within a city or village of this State, or not

to exceed two miles from the corporate or recognized limits of such city or village, and this act shall not apply to any farmer or association of farmers engaged in operating or controlling a motor vehicle engaged in the transportation of grain, seed, feed, poultry, dairy products, livestock, or other agricultural products from the farm where such products are produced or grown, to the market, when so transported either by the producer thereof or by an association of such producers, or the transporting of goods from market to farm by such farmer or such association. This act shall not apply to the transportation of any and all property between the farms and the usual local trading places of the person for whom such transportation is performed or between farms locally.

§ 3. AMENDMENT.] That Section 15 of Chapter 164 of the Session Laws of North Dakota for the year 1933 be amended and re-enacted to read as follows:

§ 15. This act shall not apply to contract motor carriers of property or passengers who shall operate wholly within a city or village of this State, or within not to exceed two miles thereof, or who are engaged exclusively in the transportation of children to or from school, or rural mail carriers, or persons or farmers, or associations of farmers, operating or controlling a motor vehicle engaged in hauling grain, poultry, dairy products, livestock or other agricultural products from the farm where such products are produced to the market by the producing farmer, or association of such farmers, or the transporting of goods from market by such farmers, or association of such farmers. This act shall not apply to the transportation of any and all property between the farms and the usual local trading places of the person for whom such transportation is performed or between farms locally.

§ 4. Any person operating such motor vehicle without first obtaining such permit from the commission, or operating the same contrary hereto, shall be guilty of a misdemeanor and punishable for such.

§ 5. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 6. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 16, 1939.

CHAPTER 167

S. B. No. 225—(Committee on Insurance)

FINANCIAL RESPONSIBILITY ACT

An act relating to the giving of proof of financial responsibility by owners and operators of motor vehicles and to make uniform the law with reference thereto.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

ARTICLE I.

WORDS AND PHRASES DEFINED.

§ 1. DEFINITIONS.] The following words and phrases when used in this act shall, for the purpose of this act, have the meanings respectively ascribed to them in this article.

§ 2. (a) *Commissioner*—The Commissioner of the North Dakota State Highway Department.

(b) *Department*—The State Highway Department of this State acting directly or through its duly authorized officers and agents.

§ 3. (a) *Person*—Every natural person, firm, copartnership, association, or corporation.

(b) *Operator*—Every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway.

(c) *Chauffeur*—Every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation.

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

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

§ 4. (a) *Vehicle*—Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(b) *Motor Vehicle*—Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

§ 5. *Street or Highway*—The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purpose of vehicular travel.

§ 6. *State*—Any State of the United States, the District of Columbia, or any Province of the Dominion of Canada.

ARTICLE II.

WHEN PROOF OF FINANCIAL RESPONSIBILITY REQUIRED. DUTIES OF COMMISSIONER.

§ 7. COMMISSIONER TO ADMINISTER ACT.] (a) The commissioner shall administer and enforce the provisions of this act.

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

§ 8 PROOF REQUIRED UPON CERTAIN CONVICTIONS.] (a) Whenever the commissioner is required under any law of this State to suspend or revoke the operator's or chauffeur's license of any person upon receiving record of the conviction of such person for any offense under the motor vehicle laws of this State, the commissioner upon receiving such record shall forthwith without notice or hearing suspend or revoke the license of such person as required.

(b) In any event hereinbefore stated the commissioner shall also suspend any and all of the registration certificates or cards and registration plates issued for any motor vehicle registered in the name of the person so convicted as owner except that he shall not suspend such evidences of registration in the event such owner has previously given or shall immediately give and thereafter maintain, for a period of three years, proof of financial responsibility in the manner hereinafter specified in this act with respect to each and every motor vehicle owned and registered by such person.

(c) The suspensions or revocation hereinbefore required shall remain in effect and the commissioner shall not issue to any such person any new or renewal of license or register or reregister in the name of such person any motor vehicle until permitted under the motor vehicle laws of this State and not then unless and until said person gives proof of his financial responsibility in future as hereinafter provided in this act.

(d) The commissioner shall take action as required in this section upon receiving proper evidence of any such conviction of any person in another State.

(e) For the purposes of this act the term conviction shall include a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, upon a charge which upon conviction of the defendant requires the commissioner to suspend or revoke the license of such person.

§ 9. PROOF REQUIRED IN THE EVENT OF CERTAIN JUDGMENTS.]

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

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

(c) The judgment herein referred to shall mean any final judgment for damage to property in excess of twenty-five dollars (\$25.00) or for damages in any amount on account of bodily injury to or death of any person resulting from the operation of any motor vehicle upon a highway.

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

§ 10. SUSPENSION EFFECTIVE UNTIL JUDGMENT SATISFIED AND PROOF GIVEN OF FINANCIAL RESPONSIBILITY.] (a) The suspensions required in Section 9 shall remain in effect and no other motor vehicle shall be registered in the name of such judgment debtor nor any new license issued to such person unless and until such judgment is satisfied or stayed and the judgment debtor gives proof of financial responsibility in future, as hereinafter provided, except under the conditions as herein stated in the next succeeding sections.

§ 11. PAYMENTS SUFFICIENT TO SATISFY REQUIREMENTS OF ACT.] Every judgment herein referred to shall for the purposes of this act be deemed satisfied.

1. When five thousand dollars (\$5,000.00) has been credited upon any judgment or judgments rendered in excess of that amount for bodily injury to or the death of one person as the result of any one accident; or

2. When, subject to said limit of five thousand dollars (\$5,000.00) as to one person, the sum of ten thousand dollars (\$10,000.00) has been credited upon any judgment or judgments rendered in excess of that amount for bodily injury to or the death of more than one person as the result of any one accident; or

3. When one thousand dollars (\$1,000.00) has been credited upon any judgment or judgments rendered in excess of that amount for damage to property of others in excess of one hundred dollars (\$100.00) as a result of any one accident.

Credit for such amounts shall be deemed a satisfaction of any

such judgment or judgments in excess of said amounts only for the purposes of this act.

Whenever payment has been made in settlement of any claims for bodily injury, death, or property damage arising from a motor vehicle accident resulting in injury, death, or property damage to two or more persons in such accident, any such payment shall be credit in reduction of the amounts provided for in this section.

§ 12. SUSPENSION WAIVED UPON PAYMENT OF JUDGMENT IN INSTALLMENTS.] (a) The commissioner shall not suspend a license or registration of a motor vehicle and shall restore any suspended license or registration following nonpayment of a final judgment when the judgment debtor gives proof of financial responsibility in future and when the judgment debtor obtains an order from the trial court in which such judgment was rendered, permitting the payment of such judgment in installments and while the payment of any said installment is not in default.

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

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

§ 13. DUTY OF COURTS TO REPORT CONVICTION AND JUDGMENTS.] (a) The clerk of a court or the judge of a court which has no clerk in which any person is convicted of any offense under the laws of this State which requires the commissioner to suspend or revoke the operator's or chauffeur's license of any person shall, when such conviction has become final, or in such other event as stated in Section 8 (e) hereof, forthwith forward to the commissioner a certified record of such conviction or of the proceedings upon such charge.

(b) The clerk of a court or the judge of a court which has no clerk shall forward to the commissioner a certified record of any judgment for damages, the rendering and non-payment of which judgment requires the commissioner to suspend the operator's or chauffeur's license and registrations in the name of the judgment debtor hereunder, such record to be forwarded to the commissioner immediately upon the expiration of 30 days after such judgment has become final and when such judgment has not been stayed or satisfied within the amounts specified in this act, as shown by the records of the court.

§ 14. REQUIRED SUSPENSION AND PROOF UPON SECOND JUDGMENT NOT SATISFIED.] Whenever, after one judgment is satisfied and proof of financial responsibility is given as herein required, another such judgment is rendered against the judgment debtor for any accident occurring prior to the date of the giving of said proof and such person fails to satisfy the latter judgment within the amounts specified herein within 30 days after the same becomes final, then the commissioner shall again suspend the operator's or chauffeur's license of such judgment debtor and the registration of any vehicle registered in the name of such judgment debtor as owner and shall not renew the same and shall not issue to him any operator's or chauffeur's license or registration of any vehicle while such latter judgment remains in effect and unsatisfied within the amounts specified herein.

§ 15. ACTION AGAINST NONRESIDENT.] (a) All of the provisions of this act shall apply to any person who is not a resident of this State, and if such non-resident has been convicted of an offense which would require the suspension or revocation of the license of a resident or if such non-resident has failed to satisfy a judgment within 30 days after the same became final, which would require suspension or revocation hereunder in respect to a resident, then in either such event such non-resident shall not operate any motor vehicle in this State nor shall any motor vehicle owned by him be operated within this State by any person and the commissioner shall not issue to such non-resident any operator's or chauffeur's license or register any motor vehicle owned by such non-resident unless and until such non-resident shall give proof of financial responsibility and shall satisfy any such judgment all as required with respect to a resident of this State.

(b) The commissioner shall transmit a certified copy of any record of any such conviction of a non-resident to the motor vehicle commissioner or State officer performing the functions of a commissioner in the State in which such non-resident resides and shall likewise forward to such officer a certified record of any unsatisfied judgment rendered against such non-resident which requires suspension of such non-resident's driving privileges in this State.

§ 16. OWNER MAY GIVE PROOF FOR CHAUFFEUR OR MEMBER OF FAMILY.] Whenever the commissioner determines that any person required to give proof hereunder by reason of a conviction is not the owner of a motor vehicle but was at the time of such conviction a chauffeur or motor vehicle operator, however designated, in the employ of an owner of a motor vehicle or a member of the immediate family or household of the owner of a motor vehicle, the commissioner shall accept proof of financial responsibility given by such owner in lieu of proof given by such other person so long as such latter person is operating a motor vehicle for which the owner has given proof as herein provided. The commissioner shall

designate the restrictions imposed by this section on the face of such person's operator's or chauffeur's license. No such license shall be reinstated or any new license issued until otherwise permitted under the laws of this State.

§ 17. SURRENDER OF LICENSE AND EVIDENCES OF REGISTRATION.] (a) Any person whose operator's or chauffeur's license or registration plates have been suspended as provided in this act and have not been reinstated shall immediately return every such license, registration certificates, and registration plates held by such person to the commissioner. Any person willfully failing to comply with this requirement is guilty of a misdemeanor.

(b) The commissioner is hereby authorized to take possession of any license, registration card, or registration plate upon the suspension thereof under the provisions of this act or to direct any peace officer to take possession thereof and to return the same to the officer [office] of the commissioner.

ARTICLE III.

REQUIRED PROOF OF FINANCIAL RESPONSIBILITY.

§ 18. AMOUNT OF PROOF REQUIRED.] Proof of financial responsibility shall mean proof of ability to respond in damages for any liability thereafter incurred resulting from the ownership, maintenance, use, or operation of a motor vehicle for bodily injury to or death of any one person in the amount of five thousand dollars (\$5,000.00), and subject to said limit for any one person injured or killed, in the amount of ten thousand dollars (\$10,000.00) for bodily injury to or death of two or more persons in any one accident, and for damage to property in the amount of one thousand dollars (\$1,000.00) resulting from any one accident. Such proof in said amounts shall be furnished for each motor vehicle registered by such person.

§ 19. ALTERNATE METHODS OF GIVING PROOF.] Proof of financial responsibility when required under this act may be given by the following alternate methods: either by proof that a policy or policies of liability insurance have been obtained and are in full force and effect or that a bond has been duly executed or that deposit has been made of money or securities all as hereinafter provided.

§ 20. CERTIFICATE SHOWING INSURANCE POLICY OBTAINED.] (a) Proof of financial responsibility may be made by filing with the commissioner the written certificate or certificates of any insurance carrier duly authorized to do business in this State, certifying that it has issued to or for the benefit of the person furnishing such proof and named as the insured a motor vehicle liability policy or policies, or in certain events an operator's policy, meeting the requirements of this act and that said policy or policies are then in full force and effect. Such certificate or certificates shall give

the dates of issuance and expiration of such policy or policies and certify that the same shall not be cancelled unless 10 days' prior written notice thereof be given to the commissioner and shall explicitly describe all motor vehicles covered thereby, unless the policy or policies are issued to a person who is not the owner of a motor vehicle.

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

§ 21. RESTRICTIONS IN OPERATING MOTOR VEHICLES WHEN CERTAIN TYPE OF POLICY ISSUED.] (a) When a certificate is filed showing that a policy or policies have been issued covering all motor vehicles owned by the insured but not insuring such person when operating any motor vehicle not owned by him it shall be unlawful for such person to operate any motor vehicle not owned by him or not covered by such certificate. In such event the commissioner shall designate the above restriction upon the operator's or chauffeur's license of such person.

(b) In the event the owner of a motor vehicle or motor vehicles desires to be relieved of the foregoing restriction and to be permitted to drive any other motor vehicle he may have such restrictions removed upon filing a certificate showing that there has been issued to him a policy of insurance insuring him as insured against liability imposed by law upon such insured for bodily injury to or death of any person or damage to property to the amounts and limits as provided under Section 23 of this act with respect to any motor vehicle operated by him and which otherwise complies with the requirements of this act with respect to such type of policy. Such policy is hereinafter referred to as an operator's policy.

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

§ 22. CERTIFICATE FURNISHED BY NONRESIDENT.] (a) The nonresident owner of a foreign vehicle may give proof of financial responsibility by filing with the commissioner a written certificate or certificates of an insurance carrier authorized to transact business in the State in which the motor vehicle or motor vehicles described in such certificate is registered or if such nonresident does not own a motor vehicle then in the State in which the insured resides and otherwise conforming to the provisions of this act and the commissioner shall accept the same upon condition that said insurance carrier complies with the following provisions of this section.

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

2. Said insurance carrier shall duly adopt a resolution which shall be binding upon it, declaring that its policies shall be deemed to be varied to comply with the law of this State relating to the terms of motor vehicle liability policies issued herein.

3. Said insurance carrier shall also agree to accept as final and binding any final judgment of any court of competent jurisdiction in this State duly rendered in any action arising out of a motor vehicle accident.

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

§ 23. MOTOR VEHICLE LIABILITY POLICY.] (a) 1. A motor vehicle liability policy as said term is used in this act shall mean a policy of liability insurance issued by an insurance carrier authorized to transact business in this State to or for the benefit of the person named therein as insured which policy shall meet the following requirements:

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

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

4. Said policy shall insure every said person on account of the maintenance, use or operation of said motor vehicle or motor vehicles within the continental limits of the United States or the Dominion of Canada against loss from the liability imposed by law arising from such maintenance, use or operation to the extent and aggregate amount, exclusive of interest and costs, with respect to each such motor vehicle, of five thousand dollars (\$5,000.00) for bodily injury to or death of one person as a result of any one accident and, subject to said limit as to one person, the amount of ten thousand dollars (\$10,000.00) for bodily injury to or death of all persons as a result of any one accident and the amount of one thousand dollars (\$1,000.00) for damage to property of others as a result of any one accident.

(b) When an operator's policy is required it shall insure the person named therein as insured against the liability imposed by

law upon the insured for bodily injury to or death of any person or damage to property to the amounts and limits above set forth and growing out of the use or operation by the insured within the continental limits of the United States or the Dominion of Canada of any motor vehicle not owned by him.

(c) Any liability policy or policies issued hereunder need not cover any liability of the insured assumed by or imposed upon said insured under any workman's compensation law nor any liability for damage to property in charge of the insured or the insured's employees.

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

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

(f) The department may accept several policies of one or more such carriers which together meet the requirements of this section.

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

§ 24. ADDITIONAL REQUISITES OF MOTOR VEHICLE LIABILITY POLICY.] No motor vehicle liability policy or operator's policy shall be accepted as proof of ability to respond in damages hereunder unless and until all of the following requirements of this section shall be complied with.

(a) A copy of the form of such policy shall be filed with the Commissioner of Insurance who shall within 30 days approve or disapprove the same. If the Commissioner of Insurance approves the same within such time or fails to take action for 30 days the form of policy shall be deemed approved. If within said 30 days the Commissioner of Insurance disapproves such form of policy upon the ground that it does not comply with the requirements of this act he shall give written notice thereof and his reasons therefor to the carrier and said policy shall not be accepted as proof of financial responsibility under this act. Any said form of policy shall specify the name, address, and business, if any, of the insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability and shall contain an agreement that the insurance thereunder is provided in accordance with the coverage defined in this act as respects bodily injury and death or property damage or both and is subject to all the provisions of this act.

(b) Every motor vehicle liability policy and every operator's

policy accepted as proof under this act shall be subject to the following provisions whether or not contained therein.

1. The liability of the insurance carrier under any such policy shall become absolute whenever loss or damage covered by such policy occurs and the satisfaction by the insured of a final judgment for such loss or damage shall not be a condition precedent to the right or obligation of the carrier to make payment on account of such loss or damage.

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

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

4. The policy may provide that the insured, or any other person covered by the policy, shall reimburse the insurance carrier for payment made on account of any loss or damage claim or suit involving a breach of the terms, provisions, or conditions of the policy; and further, if the policy shall provide for limits in excess of the limits specified in this act, the insurance carrier may plead against any plaintiff, with respect to the amount of such excess limits of liability, any defenses which it may be entitled to plead against the insured, and any such policy may further provide for the pro-rating of the insurance thereunder with other applicable valid and collectible insurance.

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

§ 25. WHEN INSURANCE CARRIER TO ISSUE CERTIFICATES.] An insurance carrier who has issued a motor vehicle liability policy or policies or an operator's policy meeting the requirements of this act shall upon request of the insured therein deliver to the insured for filing, or at the request of the insured shall file direct with the commissioner, an appropriate certificate showing that such policy or policies have been issued, which certificate shall meet the requirements of this act.

§ 26. NOTICE REQUIRED BEFORE CANCELLATION.] When an insurance carrier has certified a motor vehicle liability policy under this act it shall give 10 days' written notice to the commissioner before cancellation of such policy and the policy shall continue in full force and effect until the date of cancellation specified in such notice or until its expiration.

§ 27. ACT NOT TO AFFECT OTHER POLICIES.] (a) This act shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this State, and such policies, if endorsed to conform to the requirements of this act, shall be accepted as proof of financial responsibility when required under this act.

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

§28. FILING A BOND AS PROOF OF FINANCIAL RESPONSIBILITY.]

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

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

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

(d) No such bond shall be cancelled unless 10 days' prior written notice of cancellation is given the commissioner but cancellation of such bond shall not prevent recovery thereon with respect to any right or cause of action arising prior to the date of cancellation.

(e) Whenever a judgment is obtained against the principal of any such real estate bond upon a liability covered by the conditions of such bond and a notice to that effect is filed in the office of (the proper clerk or court of the county or city) where such real estate is located, then such bond shall constitute a lien upon such real estate.

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

(f) If a judgment is rendered against the principal of any such surety or real estate bond upon a liability covered by the

conditions of such bond and such judgment is not satisfied within 30 days after it becomes final, then the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the State against the company or persons who executed such bond including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond, which foreclosure action shall be brought in like manner and subject to all the provisions of law applicable to an action to foreclose a mortgage upon real estate.

§ 29. MONEY OR SECURITIES DEPOSITED AS PROOF OF FINANCIAL RESPONSIBILITY.] (a) A person may give proof of financial responsibility by delivering to the commissioner a receipt of the Treasurer of this State showing the deposit with said Treasurer of money in an amount or securities approved by said Treasurer and of a market value in a total amount as would be required for coverage in a motor vehicle liability policy furnished by the person giving such proof under this act. Such securities shall be of a type which may legally be purchased by savings banks or for trust funds.

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

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

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

§ 31. PERSON HAVING GIVEN PROOF MAY SUBSTITUTE OTHER PROOF.] The commissioner shall cancel any bond or return any certificate of insurance, or the commissioner shall direct and the State Treasurer shall return any money or securities to the person entitled thereto, upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this act.

§ 32. IF PROOF FAILS COMMISSIONER MAY REQUIRE OTHER PROOF.] Whenever any evidence of proof of ability to respond in damages filed by any person under the provisions of this act no longer fulfills the purpose for which required, the commissioner shall, for the purpose of this act, require other evidence of ability to respond in damages as required by this act, and shall suspend

the operator's license, chauffeur's license, and registration certificates and registration plates of such person pending such proof.

§ 33. WHEN COMMISSIONER MAY RELEASE PROOF.] The commissioner shall upon request cancel any bond or return any certificate of insurance, or the commissioner shall direct and the State Treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this act as proof of financial responsibility, or waive the requirement of filing proof of financial responsibility in any of the following events:

1. At any time after 3 years from the date such proof was required when during the 3-year period preceding the request the person furnishing such proof has not been convicted of any offense referred to in Section 8 of this act; or

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

3. In the event the person who has given proof of financial responsibility surrenders his operator's or chauffeur's license, registration certificates, and registration plates to the commissioner, but the commissioner shall not release such proof in the event any action for damages upon a liability referred to in this act is then pending or any judgment upon any such liability then outstanding and unsatisfied or in the event the commissioner has received notice that such person has within the period of 3 months immediately preceding been involved as a driver in any motor vehicle accident. An affidavit of the applicant of the nonexistence of such facts shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

Whenever any person to whom proof has been surrendered, as provided in the foregoing paragraph, applies for an operator's or chauffeur's license or the registration of a motor vehicle within a period of 3 years from the date proof of financial responsibility was originally required any such application shall be refused unless the applicant shall reestablish such proof for the remainder of such period.

§ 34. COMMISSIONER TO FURNISH OPERATING RECORD.] The commissioner shall upon request furnish any insurance carrier or any person or surety a certified abstract of the operating record of any person subject to the provisions of this act, which abstract shall fully designate the motor vehicles, if any, registered in the name of such person, and if there is no record of any conviction of such person of a violation of any provision of any statute relating to the operation of a motor vehicle or of any injury or damage caused by such person as herein provided, the commissioner shall so certify. The commissioner shall collect for each such certificate the sum of two dollars (\$2.00). Such record shall not be

admissible as evidence in any action for damages or criminal proceeding arising out of a motor vehicle accident.

ARTICLE IV.

VIOLATION OF PROVISIONS OF ACT — PENALTIES

§ 35. OPERATING WITHOUT GIVING PROOF WHEN PROOF REQUIRED.] Any person whose operator's or chauffeur's license or registration card or other privilege to operate a motor vehicle has been suspended or revoked and restoration thereof or issuance of a new license or registration is contingent upon the furnishing of proof of financial responsibility and who during such suspension or revocation or in the absence of full authorization from the commissioner drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway except as permitted hereunder shall be punished by imprisonment for not less than 7 days nor more than 6 months and there may be imposed in addition thereto a fine of not more than five hundred dollars (\$500.00).

§ 36. FORGING OR WITHOUT AUTHORITY SIGNING EVIDENCE OF ABILITY TO RESPOND IN DAMAGES.] Any person who forges or without authority signs any evidence of ability to respond in damages as required by the commissioner in the administration of this act shall be punished by imprisonment for not more than 90 days or by fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or both such fine and imprisonment.

§ 37. OTHERWISE VIOLATING ACT.] Any person who violates any provision of this act for which another penalty is not prescribed by law shall be punished by imprisonment for not more than 90 days or by a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) or both.

ARTICLE V.

EFFECT OF AND SHORT TITLE OF ACT.

§ 38. ACT NOT TO REPEAL OTHER MOTOR VEHICLE LAWS.] This act shall in no respect be considered as a repeal of the provisions of the State motor vehicle laws but shall be construed as supplemental thereto.

§ 39. UNIFORMITY OF INTERPRETATION.] This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.

§ 40. SHORT TITLE.] This act may be cited as the Uniform Motor Vehicle Safety Responsibility Act.

§ 41. ACT NOT RETROACTIVE.] This act shall not have a retroactive effect and shall not apply to any judgment or cause of

action arising out of an accident occurring prior to the effective date of this act.

§ 42. THIS ACT DOES NOT PREVENT OTHER PROCESS.] This act shall not be construed to prevent the plaintiff in any action at law from relying for security upon the other processes provided by law.

§ 43. CONSTITUTIONALITY.] If any part or parts of this act shall be held unconstitutional such unconstitutionality shall not affect the validity of the remaining part of this act. The legislature hereby declares that it would have passed the remaining parts of this act if it had known that such part or parts thereof would be declared unconstitutional.

§ 44. The (existing motor vehicle safety responsibility act) is hereby repealed.

§ 45. TIME OF TAKING EFFECT.] This act shall take effect from and after the 1st day of July, 1939.

Approved March 15, 1939.

CHAPTER 168

H. B. No. 279—(Committee on Highways and Bridges)

MOTOR VEHICLE REGISTRATION AMENDMENT

An act to amend and re-enact Subdivisions (a) and (c) of Section 19 of Chapter 179 of the 1927 Session Laws as amended by Section 6 of Chapter 160 of the 1933 Session Laws; providing for the registration of motor vehicles, registration fees for motor vehicles except trucks and busses, and when all motor vehicle fees shall become delinquent, and penalties therefor; and repealing all acts and parts of acts in conflict herewith, emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Subdivisions (a) and (c) of Section 19 of Chapter 179 of the 1927 Session Laws as amended by Section 6 of Chapter 160 of the 1933 Session Laws be enacted and re-enacted to read as follows:

§ 19. (a) A non-resident owner, except as otherwise provided in this section, owning any foreign vehicle which has been duly registered for the current calendar year in the State, county or other place of which the owner is a resident and which, at all times when operated in this State, has displayed upon it the numbered plate or plates issued for such vehicle and legally required in the place of residence of such owner, may operate or permit the opera-

tion of such vehicle within this State without registering the said vehicle or paying fees to this State therefor, for a total period of not longer than thirty days, in any one registration year, if, under the law of the State of the residence of such owner, as great or greater privileges are granted to vehicles duly registered under the laws and owned by residents of this State.

The Registrar, with approval of the Governor and the chairman of the Board of Railroad Commissioners is hereby authorized to enter into reciprocal agreements not contrary to any provisions of this act with duly authorized officials of other states whereby foreign vehicles may be operated on the highways of this State without North Dakota registration plates, provided, however, that said vehicles are duly registered for the current year in the State where the owner resides.

(c) And except further, that every non-resident, including any foreign corporation, owning and operating any motor vehicle in its business within this State, shall be required to register each such vehicle and pay the same fees therefor as are now required with reference to like vehicles owned by residents of this State, provided, further, that such owner may operate such vehicle within this State for a total time of not to exceed thirty days in any one registration year if such vehicle displays the current legal license required by the State of the owner's residence, and provided the laws of such State allow an equal or greater privilege to such vehicles duly registered under our laws and owned by residents of this State.

The registration fee for the year in which any vehicle covered by this act was purchased new from the dealer shall be the basic fee as above determined. There shall be a reduction of 10% of the basic fee each year thereafter for 4 years, and 5% each year after 4 years. A minimum fee shall be \$3.00; provided, however, that any car which has reached a fee basis of \$3.00 under the existing law shall not be raised from that fee.

§ 2. REPEAL.] And repealing all acts and parts of acts in conflict herewith.

§ 3. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1939.

CHAPTER 169

S. B. No. 90—(Committee on Appropriations)

APPLICATION OF MOTOR VEHICLE AND GASOLINE
TAXES FOR HIGHWAY PURPOSES

An act to amend and re-enact Chapter 166 of the Session Laws of North Dakota for the year 1937, relating to the application to highway purposes of all special taxes on motor vehicle transportation and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Chapter 166 of the Session Laws of North Dakota for the year 1937 be amended and re-enacted to read as follows:

§ 1. The proceeds, after deduction of costs of administration and collection authorized by legislative appropriation only, from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor vehicle owners and operators, except drivers license fees, shall be applied only to construction, improvement, and maintenance of highways and administration expenses in connection therewith, including the retirement of bonds for the payment of which such revenues have been pledged, and for no other purposes.

§ 2. REPEAL.] All other acts and parts of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] This act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 170

H. B. No. 341—(Schauss, Schimke, Sharpe and Hougland)

ONE CENT GASOLINE TAX

An act assessing and levying from April 1, 1939 to July 1, 1941 on all licensed dealers of motor vehicle fuels, a special license tax of one cent per gallon of motor vehicle fuels used or sold by them in addition to all other taxes now imposed upon them, appropriating the proceeds of such special tax to the State Highway Fund for specific purposes, making all provisions of initiated measures approved July 30, 1926 and known as the "Motor Vehicle Fuel Tax Law," other than division of proceeds between the State and counties and for costs of administration and collection, applicable to said special license tax and declaring an emergency.

WHEREAS, under acts of Congress relating to grants of monies by the Federal Government to the States for the purpose of constructing and improving highways, there is available to this State out of Federal funds for highway purposes a sum amounting to approximately \$1,732,000.00, which sum will revert and lapse on June 30, 1939, unless this State can furnish funds to match the aforesaid sum, and

WHEREAS, additional sums are available in 1939, 1940 and 1941 for State aid and feeder highways that will total upward of \$7,000,000.00, and

WHEREAS, all of said Federal highway funds will become lost to this State and our citizens will be deprived of the benefits to be derived from the expenditures in this State of these Federal funds, unless this State is able to furnish for highway construction and improvement purposes an amount approximately equal to the amount to be derived from the Federal Government, and

WHEREAS, the completion of this proposed highway construction and improvement at a total cost of approximately \$15,000,000.00 in the years 1939, 1940, and 1941 will give employment to about 2,500 men and is of the utmost importance to our citizens under present financial conditions and during our present unemployment period, and

WHEREAS, the matching of said Federal highway grants or so much thereof as may be possible to complete said highway project can be accomplished only by the State through the imposition of a special tax on motor vehicle fuels.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. LEVY, ASSESSMENT, AND APPROPRIATION OF SPECIAL MOTOR VEHICLE FUEL TAX.] From April 1, 1939 and until and up to the first day of July, 1941 every "dealer" in "motor vehicle

fuels," as defined in initiated measure approved June 30, 1926, and amendments thereto and commonly known as the "Motor Vehicle Fuel Tax Law" of this State, shall pay in the manner, at the times and to the officer specified in said initiated measure of June 30, 1926, and apart from and in addition to any license tax or other tax now imposed upon or applicable to said motor vehicle fuels under the laws of this state, a license tax of one cent per gallon on all motor vehicle fuels used and sold by such dealer, and the proceeds of said special license tax of one cent per gallon is hereby appropriated and shall be allocated and transferred to the State Highway Fund as created by statute and be expended for such purposes only mentioned in the statute creating said State Highway Fund as may come within the purview and restrictions of the acts of Congress and all amendments thereto granting regular and secondary Federal aid road funds for the construction and repair of Federal, State and feeder highways within this State. All definitions of terms, method of procedure for assessment and collection, provisions for reports by licensed dealers and revocation of licenses, method and procedure for refunds on tax exempt fuel sold or used, and penalties for violation and other general provisions by context applicable hereto now contained and provided in said initiated measure of June 30, 1926, and amendments thereto, shall apply and are hereby made applicable to the special license tax imposed under the terms and provisions of this act; provided, however, that all indemnity or surety bonds now provided in said initiated measure shall cover the tax hereby imposed and levied and that no bond additional to the ones provided for in said initiated measure shall be required from any licensed dealer or other person on account of the tax herein imposed; and provided further, that the total proceeds of the tax herein imposed shall be covered, as hereinbefore provided, in said State Highway Fund without any deduction whatever, other than deductions for lawful refunds to the persons and for the reasons applicable to the license tax imposed under the provisions of said initiated measure, and without any deduction for administrative and collection cost.

Approved March 16, 1939.