

§ 28. PENALTIES.] Any person who shall practice any of the occupations, maintain a school or act in any capacity wherein a certificate is required, without a certificate provided in this Act, shall be guilty of a misdemeanor and shall be fined not to exceed \$100.00 or shall be imprisoned for no more than 90 days, or both. Each and every day of violation shall be construed a separate offense. All fines and penalties shall be paid to the Secretary of the Board, and by the Secretary shall be paid into the State Treasury for the use of the Board.

§ 29. MEANING OF "SAID BOARD".] Wherever the words "Said Board" are used in this Act it is the meaning and intent in this Act that it refers to the Board of Hairdressers and Cosmetologists, as created by this Act.

§ 30. EFFECT OF PARTIAL INVALIDITY OF ACT.] Each section of this Act and every part of each section is hereby declared to be independent of every other, and the holding of any section or part thereof to be void or ineffective for any cause shall not be deemed to affect any other section or part thereof.

§ 31. REPEAL OF INCONSISTENT ACTS.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1927.

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## HIGHWAYS

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### CHAPTER 158 (H. B. No. 162—Lynch)

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#### STATE HIGHWAY COMMISSION

An Act Creating a State Highway Commission, Defining its Powers and Duties and Fixing the Compensation of the Commission.

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

§ 1. COMPOSITION.] A State Highway Commission is hereby created and established which shall consist of the Governor, who, ex-officio, shall be the chairman thereof, and two other members each of whom shall be appointed by the Governor and each of whom shall serve for a term of four years from and after his appointment and until his successor has been duly appointed and has qualified, except as hereinafter provided.

§ 2. TERM AND APPOINTMENT.] Within ten (10) days after this act shall take effect, the Governor shall appoint one member whose term shall expire on the last day of January 1929, or until

his successor shall have been appointed and has qualified, and a second member whose term shall expire on the last day of January, 1931, or until his successor shall have been appointed and has qualified. All subsequent appointments shall be for a term of four years except where such appointments as may be made to fill a vacancy in which event it shall be for the unexpired term only. All vacancies shall be filled by appointment by the Governor. Each commissioner, upon appointment, shall take and file the usual oath of office prescribed by law.

§ 3. MEETINGS.] When ten (10) days after this act shall take effect, upon call of the Governor, the State Highway Commission shall hold its first meeting at the State Capitol in offices located therein and provided by the State Board of Administration at the expense of the State. Thereafter, the Commission shall meet regularly and not less than twelve (12) times each year. Special meetings may be called by the Governor, or by two members of the Commission.

§ 4. COMPENSATION.] In addition to their necessary expenses when traveling in connection with their official duties, the members of the Commission shall each receive a per diem of ten (10) dollars for not to exceed one hundred eighty (180) days in any one year.

§ 5. POWERS AND DUTIES.] The State Highway Commission shall have the full control, management, supervision, administration and direction of the State Highway Department or State Highway Commission now existing or hereafter created, the office of Registrar of Motor Vehicles and such other offices and duties as may now or hereafter be imposed upon it, or placed under its jurisdiction. All powers and duties now vested or which hereafter may be vested by law in such State Highway Commission now existing by law or any officer thereof, the State Highway Department, the office of Registrar of Motor Vehicles or any officer thereof now existing or hereafter created and any other officer, department, bureau or agency placed under the control and direction of the State Highway Commission hereby created, shall be exercised and performed under the direction, control, supervision, management of and with the approval of the State Highway Commission hereby created. It is hereby declared to be the intent and purpose of this Act to make and constitute the State Highway Commission hereby created the final and ultimate authority to carry out the duties and exercise the powers of the departments and offices hereinbefore mentioned.

§ 6. SECRETARY, COMPENSATION AND DUTIES.] The Secretary of the State Highway Commission shall be its chief administrative officer, but shall not be a member thereof. He shall serve at the pleasure of the Commission, at such compensation as it shall

fix not exceeding the sum of \$3,000.00 per annum, and shall exercise such powers and perform such duties as the Commission shall prescribe. He shall devote all his time to his office. Such secretary may be employed by the Commission, or the powers and duties of such Secretary be vested in or imposed on the Chief Engineer of the State Highway Department, or any other officer or employee of the State Highway Department. The Secretary shall be the custodian of and preserve the records of the State Highway Commission and of its official acts and determinations; keep the minutes of the Commission, keep accurate and complete books of account as may be prescribed, sign and execute all contracts, agreements, documents, papers, sign all vouchers, orders for supplies and materials and other expenditures and subscribe to all other matters which may arise under the authority of and in conformity with the directions of the State Highway Commission.

§ 7. REPEALS.] Sections 2 and 3 and so much of Sections 4, 5 and 6 as may be in conflict herewith of Chapter 131 of the Session Laws of North Dakota for the year 1917, and Section 1 of Chapter 141, Session Laws of North Dakota for the year 1919, and all other acts and parts of acts in conflict herewith are hereby modified or repealed.

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

Approved March 10, 1927.

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CHAPTER 159  
(H. B. No. 211—Lynch)

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DEPARTMENT OF STATE HIGHWAYS

An Act Creating the Department of State Highways, Defining its Powers and Duties, Providing for its Government and Imposing Penalties for Violations Thereof.

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

§ 1. THE STATE HIGHWAY SYSTEM.] There is hereby created a system of main market, arterial and interstate public roads to be known and designated as "The State Highway System." Such State Highway System shall not exceed seven per centum of the entire road mileage of the state, whether such roads be township, county or state roads, and in no case shall the State Highway System exceed 7,500 miles in length. As far as practicable, such State Highway System shall connect all county seats, large trading centers and constitute part of national or interstate roads deemed necessary

and essential for the promotion of commerce between the different states, provide for a common defense and the general welfare of the people of this and the surrounding states.

§ 2. DESIGNATION OF STATE HIGHWAYS.] The designation, the location, creation and determination of all such roads, highways and thoroughfares which shall be and constitute part of the State Highway System is hereby exclusively and solely vested in the Department of State Highways, hereinafter created, and all roads and highways heretofore designated, improved and constructed by the State Highway Department shall be continued and construed as parts of the State Highway System, subject, however, to the provisions and limitations hereinafter set forth.

The Department of State Highways shall, at all times, have the full power and authority to designate, locate and create new and additional roads, highways and thoroughfares from time to time to be and constitute part of such State Highway System, provided, however, that the mileage of all such state highways shall not exceed that set out in the foregoing section. It being the intent and purpose hereof to provide a system of arterial roads and highways which from time to time shall serve the best interests of the state and not exceed the system of roads set forth in the preceding section.

The Department of State Highways shall also from time to time determine, designate and declare which roads and highways of the State Highway System shall be included in and constitute the Primary system and which the Secondary system, provided, however, that such classification shall not be altered oftener than once in each two years.

It shall be the duty of the Department of State Highways at all times to provide and maintain a map of the state, which shall show all the roads and highways which have been designated, located, created and constituted as part of such State Highway System and which are part of such Primary system and such Secondary system, and if practical the status of improvement thereof. Not later than the fifteenth day of January of each odd numbered year, it shall file a copy of such map in the office of the Secretary of State and deposit another copy thereof with the State Historical Society.

The Department of State Highways shall have exclusive power to designate and declare over what streets, alleys, boulevards, and public thoroughfares in any incorporated village or city any State Highway shall pass or follow to connect with another highway beyond the corporate limits thereof, and may mark and designate such route with appropriate directional signs and markers

provided, however, that such designation shall in no way compel or obligate the Department of State Highways to improve, reconstruct and maintain any such street, alley, boulevard or thoroughfare, nor shall the route so marked within any incorporated municipality be construed as part of the mileage permitted in the State Highway System by reason of such marking.

§ 3. CREATION OF A DEPARTMENT OF STATE HIGHWAYS.] There is hereby created a Department of State Highways which shall consist of a chief engineer, such other engineers, draftsmen, persons and employees necessary to carry out the intent and purpose of this act, and the said Department of State Highways shall be vested with the power and duties now or hereafter imposed upon the State Highway Commission heretofore created insofar as the same appertain to the State Highway System or the roads of the state. The Department of State Highways shall be under the sole and exclusive control, direction, administration of the State Highway Commission now existing by law or which hereafter may be created, or such other person, persons or body created, designated or empowered to act in its place as the successor to the existing State Highway Commission. All powers and duties herein conferred or which may hereafter be conferred on the Department of State Highways shall be exercised solely by and through the State Highway Commission aforesaid, or its successor or successors, for and on behalf of the Department of State Highways.

§ 4. POWERS AND DUTIES OF THE DEPARTMENT OF STATE HIGHWAYS.] Subject to the constitution and the laws enacted in pursuance thereof and to be exercised in the manner herein provided, the Department of State Highways is hereby granted and vested with full and complete power and authority, and it shall be its duty to do each and everything necessary to provide, designate, locate, relocate, alter, amend, revise, improve, construct, reconstruct, surface, resurface, repair, maintain, patrol, mark, re-mark and sign the State Highway System or any part thereof, to close temporarily and prohibit the use of any part of the State Highway System by the general public during construction or where any part may have been destroyed by the elements or may be unsafe and dangerous, and to provide, mark and maintain temporary roads or highways where any part of the State Highway System shall have been closed; to regulate the use of such highways, any part thereof, and such temporary roads, by persons and vehicles and to do such and other things as shall be necessary at all times to provide and furnish the people of this state the fullest and completest use of such State Highway System with due regard for public safety and the general public wellbeing.

As a more specific enumeration and not to be construed as limitation of general powers herein granted, the Department of State Highways shall have the power:—

1. To acquire by gift, purchase or condemnation, as provided by statute, all necessary right of way or land needed to provide and lay out a State Highway or any part thereof and of such width as it shall deem wise either for present or reasonable future use.

2. To acquire by gift, permission, purchase, lease or condemnation all necessary temporary easements or right of way to provide a temporary road for public use where a State Highway or any part thereof shall be closed for construction, reconstruction, repair or otherwise unsafe for public use.

3. To designate, redesignate, lay out, locate and relocate, alter, amend, revise any road and parcel of such State Highway System notwithstanding that the same may have been at any time used, improved and maintained as a state road.

4. To construct, reconstruct, improve, widen, rebuild, surface, and resurface any part of the State Highway System and to provide and erect guard rails and other devices to render safe the use thereof.

5. To maintain, patrol, repair, reconstruct, resurface and to light, maintain guard rails, and other devices to keep any part of such State Highway System duly improved by the said Department in good and safe condition for public use.

6. To contract on an equitable basis with any railway company for the construction of bridges, underpasses and approaches necessary for the separation of grades at points of intersection between railroads and State Highways and to let all the necessary contracts therefor.

7. To purchase, lease or acquire all necessary road material, machinery, tools, equipment and supplies necessary for the construction, reconstruction, repair and maintenance of the State Highways and to purchase or rent grounds and buildings necessary for the storage and housing of such materials, machinery, tools and equipment.

8. While the necessary bridges on any state highway shall be construed and considered a part of such highway, nevertheless, such bridges may be designed, erected and contracts awarded separately therefor, and such bridges may be designed, erected and contracted irrespective as to the time when the highway contiguous thereto

shall have been or may be improved. Provided, however, all necessary fills and approaches to any bridge shall be construed and considered as part of said bridge.

9. To number and renumber any State Highway and to erect and maintain a uniform system of road markers, warning, directional and historical signs, and such other signs and markers on the State Highways and upon such temporary roads, as may be deemed necessary and wise.

10. To remove or cause to be removed or destroyed any and all advertising signs, bill-boards and other signs erected on the right of way of the State Highway System, and also such other signs and bill boards on land abutting a state highway, erected and maintained contrary to law.

11. To erect and maintain guard rails, stretch wires and such other devices to render safe the travel of such highway.

12. To inspect and test all materials, equipment, machinery and supplies for the use of the Department of State Highways and any of its activities, and to create, maintain and enlarge from time to time a technical and testing laboratory for the purpose of making such tests and inspections. Upon request of any other department or division of the government, to make such tests and inspections in such laboratory as within its power.

13. To gather, investigate and compile information concerning road construction, use, maintenance, highway organization, practices, methods and other information, data, and statistics of this state and other states, the natural resources of road building materials in this state, and to disseminate such information, together with any recommendations thereon, within this state.

14. To take at least once a year a traffic census or count of vehicles using the state highways, or any other roads of the state, to ascertain whence such vehicles originally came and their destination, to retard the rate of speed or halt such vehicles entirely for a reasonable time to secure all the desirable and necessary data and information to supply a complete presentation of the road burden, road use and the class and types of vehicles thereon. To take a traffic census at such points and for such periods as it shall deem sufficient.

15. To prepare and issue to the public, road-maps of the State Highway System and of such other roads as it may deem best; to prepare, print and distribute such information concerning roads, road-markings and other material, as may prove helpful to the traveling public.

16. To prepare, print and distribute manuals of standard and uniform methods for any of the activities, divisions or work of the Department of State Highways, or for general road and bridge construction, design, maintenance, marking and kindred purposes in the State of North Dakota.

17. To prepare and adopt, insofar as practicable, uniform and standard plans and specifications for the construction, reconstruction and maintenance of State Highways and bridges; and also uniform and standard forms of contracts, bonds, estimates and other forms and documents deemed essential. Also, to prepare and issue standard and uniform prescriptions for road use by and for such other divisions of the government of the state as may wish to employ them.

§ 5. CHIEF ENGINEER—QUALIFICATIONS, ETC.] The State Highway Commission, or its successor, shall employ a Chief Engineer who shall be a competent civil engineer, a graduate of an approved engineering school, with at least five years' experience in highway and bridge construction, maintenance and repair, or in case he shall not be a graduate of some college or school of engineering, he shall have at least ten years' experience in highway and bridge construction and maintenance. He shall serve at the pleasure of the State Highway Commission or its successors and shall be paid such compensation as it shall prescribe, but not to exceed \$4,000.00 per annum. He shall devote all his time and services to the Department of State Highways and shall exercise such powers and perform such duties as may be prescribed by the State Highway Commission or its successor.

§ 6. OTHER EMPLOYEES.] The Department of State Highways is hereby authorized to employ such other engineers, surveyors, draftsmen, skilled and unskilled help and employees as may be necessary to conduct its affairs and who shall have such qualifications as it may prescribe, and on such terms and compensation as it may deem proper. Each employee in addition to his salary may, with the consent of the said Department be allowed his actual travel and other necessary expense incurred in the performance of his duties. Such employes of the said Department as may be determined and designated by the State Highway Commission or its successors, before entering upon his duties of office or employment, shall give bond to the state in such penal sum as may be determined by the State Highway Commission, or its successors, to be approved by the State Highway Commission, and be conditioned upon the faithful performance of his duties. The state, the civil government divisions thereof, and any person damaged by any wrongful act or omission of any

such employee so bonded in the performance of his official duties, may maintain an action on his bond for the recovery of damages so sustained.

§ 7. DEPARTMENTAL BUDGET ESTIMATES.] Not later than the fifteenth day of November of each year, each head of a department, division, section or activity of the Department of State Highways as may be directed and designated to do so by the State Highway Commission, shall submit to the chief executive officer thereof an outline of the work which should be undertaken by such department, division, section or activity during the following calendar year and the estimated expense thereof, in such detail as the Commission may prescribe, together with such other cost data and information as the Commission shall direct.

Not later than the first day of December of each year, the said chief executive officer shall transmit to each member of the State Highway Commission a copy of such outlines, estimated expense and other documents previously submitted to him, together with a statement of an estimate of the cash, income and resources of the said Commission on hand on the first day of January, following, an estimate of the unpaid liabilities or commitments of said Commission, and an estimate of the income to accrue to the said Department during the next calendar year and the sources from which such income may be derived or accrued, together with such other data and information as the Commission may direct.

§ 8. DEPARTMENTAL BUDGET.] Not later than the fifteenth day of December of each year, the State Highway Commission shall examine, consider and revise such estimates of income and proposed expenditures and thereafter by resolution adopt a Department Budget wherein shall be allocated, set aside and appropriated to each department, division, section or activity of the Department of State Highways for the ensuing calendar year a definite and fixed sum or allowance in such amount and with such detail as the Commission may elect for the use and purpose set out in said Departmental Budget.

§ 9. CONSTRUCTION PROGRAM.] Not later than the fifteenth day of January of each year, there shall be submitted to the State Highway Commission, by the chief engineer thereof, a statement showing what improvements, structure, and construction work has been requested, proposed, and may be undertaken by the Department of State Highways. Such statement shall set forth the estimated quantities and the estimated unit cost of each class, type and nature, together with the totals thereof for each and every project

or improvement which may be made, and the totals of all such projects or improvements, and the average quantities and unit costs for all such projects or improvements.

Thereafter the said Commission shall examine the same and proceed to adopt a Construction Program by resolution, wherein shall be determined what projects and improvements shall be undertaken by the said Department of State Highways during the ensuing construction season, and the order of priority thereof; provided, however, that insofar as practical, priority shall first be given to the improvement of the so-called Primary System of the State Highway System, and provided further, that the total estimated cost of such Construction Program shall not exceed the total estimated income or allowance granted or set aside for construction purposes in the Departmental Budget hereinbefore provided. Nothing hereinbefore provided, however, shall prevent the State Highway Commission from adding to, amending, revising or reducing from time to time and as circumstances may warrant, such construction program.

Thereafter, the Commission shall proceed to advertise for bids for contracts at such time as it may elect, and in the manner and for the purposes hereinafter provided.

§ 10. BASIS OF CONTRACTS FOR CONSTRUCTION WORK.] The State Highway Commission may request bids for and award contracts for construction work, upon the basis that the contractor shall furnish all equipment, labor, materials and supplies for each particular contract or project; or upon the basis that the said State Highway Commission may furnish and provide the said contractor with such materials and supplies as it may elect. In the event that the State Highway Commission shall elect to provide materials and supplies for any project or construction work, such election shall be made at the time of the adoption of the Construction Program hereinbefore provided.

Thereafter the State Highway Commission shall request proposals or bids for the total and aggregate of such materials and supplies for any and all such projects or construction work according to the class, type and nature of such materials and supplies, and may proceed to award a contract or contracts therefor upon such basis as it shall deem efficient and economical; whether upon the basis of delivery to the construction project directly or to a central storehouse or storehouses maintained by said Department of State Highways. Provided, however, that such materials and supplies so purchased by the Department of State Highways may be delivered to the project or construction work without expense

to the contractor doing such construction work, or may be sold to him at cost and constitute a part of such construction cost, as the Commission may elect.

§ II. CONTRACTS AND FORCE ACCOUNT.] Whenever the cost of any improvement or the purchase price of equipment or materials and supplies shall exceed the sum of Three Thousand (\$3,000.00) Dollars, the Department of State Highways shall proceed to advertise the same, request bids and award such contracts in the manner hereinafter provided. Whenever any proposed contract, purchase or work of the Department of State Highways shall be for a sum less than Three Thousand (\$3,000.00) Dollars, it shall be discretionary with the Department of State Highways whether the same shall be awarded after advertising, or request of bids; and it shall award such contracts in a manner hereinafter provided; provided, however, that where contracts be in excess of One Thousand (\$1,000.00) Dollars, the Department of State Highways shall request informal bids from as many contractors, manufacturers and dealers as it can conveniently.

Request for bids for all construction work or the improvement of any State Highway, or any structure in excess of Three Thousand (\$3,000.00) Dollars, shall be advertised by publication once a week for a period of three successive weeks, prior to the opening of such bids, in the county official newspaper of the county in which the project is located. Such advertisement shall state where the bidder may inspect the plans and specifications, with whom bids shall be filed, and the time and place where bids shall be opened.

All requests for bids for the purchase of equipment, materials and supplies in excess of the sum of Three Thousand (\$3,000.00) Dollars, shall be advertised in the official newspaper of Burleigh County, once a week for a period of three successive weeks prior to the opening of such bids. All bids shall be opened at the time and place specified, and in the offices of the Department of State Highways, by and in the presence of the State Highway Commission, or its successors. Each bid shall be accompanied by a bidder's bond for the full amount of the bid and a certified check of the bidder in an amount equal to five per cent of his bid, which check shall be forfeited to the State Highway Fund, should the bidder fail to effect a contract within ten days after a notice of such award. In the event that any county or municipality shall participate in and defray the cost, or part of the cost of any improvement to be made by the Department of State Highways, it shall be the duty of the chief executive officer of such Highway Commission to notify

the board of county commissioners of the county so interested, or the proper city officials of any municipality, of the time set for opening such bids.

Informal bids shall be requested and the contract therefor may be awarded upon such basis and procedure as the State Highway Commission shall direct.

Provided, however, that in case of great emergency requiring immediate action and, where delay would cause a public injury, the work may be done by the Department of State Highways by force account.

§ 12. AWARD OF CONTRACTS AND FORCE ACCOUNT.] Each and every contract in excess of the sum of Three Thousand (\$3,000.00) Dollars, shall be awarded by the Department of State Highways to the lowest responsible bidder, but said Department of State Highways may reject any and all bids. If no satisfactory bid or bids shall be received, new bids may be called for. The successful bidder shall be required to furnish a suitable bond in at least the amount of the contract and with such sureties as may be determined by the Department of State Highways and as shall be approved by it.

Payment shall be made monthly to such contractor for all work done or material furnished, in the amount of 90% thereof; and payment shall be made in full upon the completion of the contract and acceptance of the work.

§ 13. CONSTRUCTION OF BRIDGES.] No bridge shall be constructed in the State of North Dakota on the State Highway System unless the plans and specifications therefor shall have been previously submitted and approved by the Department of State Highways.

§ 14. INSPECTION OF BRIDGES.] The Department of State Highways shall at least every two years, and so far as time and conditions may permit, cause an inspection to be made of all bridges on the State Highway System in the state. In case any bridge on the State Highway System shall be deemed unsafe for public use by the said Department of State Highways, they shall forthwith take steps to close the same and prevent the use thereof by the public. In case any bridge shall be deemed unsafe for loads in excess of a given weight, it shall be the duty of the Department of State Highways, in case of bridges on the State Highway System, to forthwith post notices on both ends of such bridge stating that such bridge is unsafe for loads beyond a given weight.

§ 15. CLOSING OF ROADS.] Whenever, during the construction work on any State Highway or for any other reason, it may be necessary to prevent traffic from passing over any portion of

such highway, the Department of State Highways is empowered to close such portion of the highway to any and all traffic by causing to be posted in a conspicuous manner, at the ends of the portion of the highway so closed, suitable signs warning the public that such road is closed under authority of law, and by the erection of suitable barricades, fences or other obstructions. The driver or owner, or both, of any vehicle, self-propelling or otherwise, passing through, over or around any such barricade, fence or other obstruction so placed, or any person or persons opening, removing or defacing any such barricade, fence or other obstruction or any such warning sign without written permission from the engineer in charge of the work, or in charge of such highway, or any person or persons wilfully, knowingly or maliciously causing any damage to the work under construction, shall be guilty of a misdemeanor.

§ 16. CUSTODIAN OF RECORDS.] All of the files and records of the Department of State Highways shall, under reasonable regulations, be open to public inspection, and a copy thereof certified by the chief executive of the Department of State Highways as being a true copy, and shall be received in evidence in any court in the state with the same force and effect as the originals. The State Highway Commission as now created by law, or which may hereinafter be created, or any successor or successors thereof, shall be the custodian thereof and preserve the records of the Department of State Highways. The Attorney General shall be ex-officio attorney for the Department of State Highways and shall render such legal counsel, advice and assistance as may be necessary from time to time.

§ 17. FILES, RECORDS AND REPORTS.] The Department of State Highways shall keep accurate and complete books of account of such character as may be prescribed or approved by the State Examiner. The books of account shall show among other things the following facts:

(a) The cost of maintaining the Department of State Highways, including the salaries and expenses of the individual members thereof.

(b) The amounts of money expended in each county of the state for the construction or maintenance of the state highway therein, when, where and upon what job or portion of the road expended so that the cost per mile of such construction or maintenance can easily be ascertained.

(c) The amount of road equipment and materials purchased and when and where and from whom purchased. Such book shall also show the price paid for each item; the original invoice shall form a part of the permanent files and records in said Department and shall be open to public inspection.

(d) It shall be the duty of the State Examiner to examine the books, accounts, records and files of the Department of State Highways at least once a year, and oftener if he deems proper, and without previous notice of such examination.

§ 18. REPORTS.]

A—Annual Reports:

Not later than the first day of February of each year it shall be the duty of the Department of State Highways to transmit to the Governor a full and complete report of its activities during the preceding calendar year.

B—Biennial Reports:

It shall be the duty of the Department of State Highways to submit to the Governor a biennial report as now required by law of other departments of the State Government.

§ 19. The State Highway Fund created by law and not otherwise appropriated and allocated by Section 2976t15, Supplement to the 1913 Compiled Laws of North Dakota, or acts amendatory thereof, shall be applied and used for the purposes herein named and in the following order of priority: A. The estimated annual cost of maintaining and keeping in repair of all improved parts of the State Highway System, constructed and improved in part with Federal aid and to be maintained in accordance with the requirements upon which Federal aid was granted. B. The cost of construction and reconstruction of highways in an amount equal to the state's share of the amount necessary to equal the sum of Federal aid granted to this state annually by the United States Government for road purposes in North Dakota.

Any portion of the Highway Fund not allocated as above provided may be expended for the construction of State Highways without Federal aid but with county aid to the extent of not less than 25% of the cost of project, or may be expended in the purchase of machinery, tools, supplies, materials, the hire of teams or labor, or the rental of machinery, in the construction, improvement or maintenance of such state highways.

Any claims for moneys expended by the State Highway Commission under the provisions of this act shall be paid out of the State Highway Fund by the State Treasurer upon the presentation of properly prepared vouchers approved by the State Auditing Board and approved by the State Highway Commission, or its duly authorized agent.

§ 20. PURCHASE OF RIGHT OF WAY, GRAVEL PITS, ETC., BY THE STATE HIGHWAY COMMISSION.] The State Highway Commission or its successor, by resolution or order may, on behalf of

the state, and as part of the cost of construction, reconstruction, widening, altering, changing, locating, relocating, aligning, re-aligning, or maintaining, or for providing a temporary road for public use, may purchase, acquire, take over, or condemn under the right and power of eminent domain, for the state, any and all lands which it shall deem necessary for present public use, either temporary or permanent, or which it may deem necessary for reasonable future public use, and to provide adequate drainage in the improvement, construction, reconstruction, widening, altering, changing, locating, relocating, aligning, re-aligning, or maintaining of a state highway. It may, by the same means, secure any and all materials, including clay, gravel, sand or rock, or the land or lands necessary to secure such material, and the necessary land, lands or easements thereover, to provide ways and access thereto. It may so acquire such land, lands or materials notwithstanding that the title thereto now or hereafter be vested in the state or any division thereof.

Whenever the State Highway Commission or its successors shall determine by resolution or order that public exigency requires the taking of land or materials as aforesaid, it shall cause the same to be surveyed and described, and a plat thereof and the said description shall be recorded in the office of the register of deeds for the county wherein the same is located. The State Highway Commission, or its duly authorized agents, is hereby authorized and empowered to enter upon any land or lands for the purpose of making such surveys, examinations or tests for the purposes herein named; provided, however, that no permanent injury or damage shall be done thereto.

If the State Highway Commission is unable to purchase such land, lands, or materials with the necessary ways and access thereto, at what it deems a reasonable valuation, then the board of county commissioners of the county wherein such land, lands or materials may be situated, on the petition of the State Highway Commission, shall proceed to ascertain and determine the damages and make awards in the same manner as provided by statute for lands taken for highway purposes as hereby modified or amended. Within 15 days after the filing of such petition with the county auditor, the board of county commissioners shall fix a time and place, not later than 60 days from and after the filing of such petition, for a hearing of all persons or parties interested or aggrieved by such taking and shall cause to be published in the official newspaper of the county at least once a week, for a period of three successive weeks, prior to such hearing, a notice of such hearing, stating the time and place where the same shall be held, together with a description of the property so to be taken. Such published notice shall be in lieu of all other notices now required by statute, and when so published shall give the said board of county commissioners full and complete

jurisdiction to proceed with the determination of awards of damages, provided, however, that a copy of such notice shall be served by the sheriff of the county upon all known owners residing or found within the county where such land or materials is situated, and upon the occupant of such land not less than ten days prior to such hearing, by leaving a copy of such notice at the last known residence of such owner or occupant with a person of suitable age.

When the award of damages for the taking of land or materials, or both, shall have been completed by the board of county commissioners, the State Highway Commission shall pay or cause to be paid from the State Highway Fund into court for the benefit of the owners of land to whom such awards have been made by depositing with the clerk of court of such county, cash in the amount of such award or awards. Every owner entitled to such award before the same shall be paid to him by the clerk of court, aforesaid, shall sign and execute a receipt therefor, which receipt shall contain a description of the premises covered by the said award, and such receipt shall be recorded in the office of register of deeds for the county in which such land or lands is situated. As soon as such money shall be deposited in the office of the clerk of court, aforesaid, the title to the land or materials aforesaid shall be and become vested in the state, provided, however, that all parties aggrieved by the estimate of damages and the awards aforesaid shall have like remedies provided by statute for appraisal of damage for land taken by counties for highway purposes.

No fees shall be charged or collected by the county auditor, the register of deeds, or the clerk of court for any services rendered for the recording or filing of any document hereinbefore required.

The State Highway Commission may vacate any land or part thereof or rights in land which have been taken or acquired for highway purposes under the provisions of this act by executing and recording a deed thereof, and said vacation shall revert the title to the lands or rights so vested in the persons, their heirs, successors or assigns in whom it was vested at the time of the taking, and the value at the time of vacation may be pleaded in mitigation of damages in any suit therefor on account of such taking. The Governor, on recommendation of the State Highway Commission, is authorized to sell and convey on behalf of the state the interests of the state in property acquired by purchase under this section and deemed no longer necessary for the purposes of the act, and the proceeds of such sale so far as practicable be credited to the funds from which such purchase was originally made.

§ 21. The legislative assent required by Section 1 of the Act of Congress approved July 11, 1916 (Public No. 156) entitled "An Act to Provide that the United States shall aid the States in the Construction of Rural Post Roads and for Other Purposes," is hereby given. The State Highway Commission is authorized and empowered to make all contracts and do all things necessary to cooperate with the United States Government in the construction of roads under the provisions of the said act or any other Act of Congress that may hereafter be enacted.

§ 22. Whenever any board of county commissioners of any county shall decide that any road or roads in such county shall be improved or constructed under the provisions of this act, said board shall make written application to the State Highway Commission or its successors for the improvement and construction thereof. If the State Highway Commission shall approve such application, it shall notify in writing the said board of county commissioners of such approval and at the same time submit to the said board of county commissioners an estimate of the cost of such improvement, including the cost of engineering, the purchase or acquirement of right of way and all other expenses, and the share or portion thereof which such county shall bear. Whenever the board of county commissioners aforesaid shall elect to proceed with such improvement, the said board shall adopt a resolution signifying such election and shall in such resolution set aside out of such funds as are or may become available to pay the county's share of the cost of such improvement, and shall instruct and direct the county auditor in such resolution, upon written demand of the State Highway Commission, to draw a warrant or warrants on the County Treasurer in favor of the contractor for such amount or amounts as may be due him, not to exceed the county's share of such estimate, necessary to meet or pay the county's portion of such improvement during the process of such improvement and after a contract therefor has been awarded or the work done by force account, and also such additional warrants in such amount or amounts in favor of the Department of State Highways to reimburse it for the county's share of the cost of engineering and the acquisition of right of way. Such warrants shall be drawn by the County Treasurer upon the certificate of the Secretary of the State Highway Commission.

Such election to proceed with an improvement aforesaid by the board of county commissioners shall be and constitute an agreement and contract with the State Highway Commissioner, and it shall be the mandatory duty of the board of county commissioners to provide sufficient funds in accordance with law to defray its

share of the cost of such improvement, or levy sufficient taxes therefor; provided, however, that construction on such improvement shall be commenced within one year.

§ 23. The county board of any county, the council or other governing body of any city, village or borough, or the town board of any town, as the case may be, may enter into an agreement with the State Highway Commission for the construction of a roadway or structure of greater width or capacity than would be necessary to accommodate the normal state highway traffic, upon any state highway within its boundaries, and may appropriate from any funds available, and pay into the state highway fund such sum or sums of money as may be agreed upon. Provided that nothing herein contained shall prevent any such city or village from constructing the portions of the street not included in the State Highway System independent of any contract with the Department of State Highways, provided, such construction conform to such reasonable regulations as the Department of State Highways may prescribe as to grade and drainage.

Where a state highway is located over or along a street in any city, village or borough, which street is or may be improved to a width greater than the normal width of such state highway, the council or other governing body of such city, village or borough, as the case may be, may enter into an agreement with the Department of State Highways for the maintenance of such additional width by the Department of State Highways, and shall from time to time in accordance with such agreement appropriate and pay into the state highway fund such sums of money as may be agreed upon. Provided nothing herein contained shall be construed to prevent any such city or village maintaining such additional width at their own expense independent of any contract with the Department of State Highways.

§ 24. Electric transmission, telephone or telegraph lines, pole lines, railways, ditches, sewers, water, heat, or gas mains, flumes or other structures outside of the limits of any city or village which under the laws of this State may be constructed, placed or maintained across or along any highway which is a part of the State Highway System, by any person, persons, corporation or any subdivision of the state, may be so maintained or hereafter constructed only in accordance with such regulations as may be prescribed by the Department of State Highways, who shall have power to prescribe and enforce reasonable rules and regulations with reference to the placing and maintaining along, across or on any such state highway any of the utilities hereinbefore set forth; provided, however, that nothing herein shall restrict the action of public authorities

in extraordinary emergencies. And provided further, that nothing in this act contained shall be construed as modifying or abridging the powers conferred upon the Board of Railroad Commissioners by Chapter 122, Laws of 1919, the intent of this act being that the powers hereby granted to the Department of State Highways shall be exercised only in such manner as not to conflict with the valid exercise by the Board of Railroad Commissioners of the powers granted it by said Chapter 122 of 1919.

§ 25. The State Highway Commission may grant to any person, who is a resident of this State, or any company or corporation organized under the laws of this state or to any company or corporation duly licensed to do business within this State, the right of way for the erection of a telephone line or electric lines over or upon any state highway or structure constituting part of such highway, or to lay pipes, conduits, tunnels in, through or over any such state highway or structure, or to erect, construct and maintain any bridge, conduit or other crossing in, under or over such state highway or such structure and in accordance with the rules and regulations therefor.

§ 26. Sections 3, 5, 6, 7, 8 and 9 of Chapter 141, Laws 1919, and all of Chapter 131, Laws of 1917, except Sections 3, 4 and 13 thereof, and all other acts or parts of acts inconsistent herewith are hereby repealed.

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

Approved March 10, 1927.

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CHAPTER 160  
(H. B. No. 261—Jardine)

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**ARBITRATION OF CONTROVERSIES BY HIGHWAY COMMISSION**

**An Act Authorizing and Providing for the Submission of Controversies Between the State Highway Commission of the State of North Dakota and Parties Contracting Therewith to Arbitration, and Providing for the Entry of Judgment as in Cases of Arbitration Between Other Parties and Providing for the Enforcement of Such Judgments.**

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

§ 1. All controversies arising out of any contract for the construction or repair of highways entered into by the State Highway Commission of the State of North Dakota shall be submitted to arbitration as hereinafter provided, if the parties cannot otherwise

agree. Three persons shall compose the Arbitration Board, one of whom shall be appointed by each of the parties and the two thus appointed shall name a third.

§ 2. The party desiring arbitration shall make a written demand therefor and shall in such demand name the arbitrator by him selected. He shall also in such demand set forth all the controversies and claims which he desires to submit to arbitration and a concise statement of his claims with reference to such controversies. Such demand shall be served upon the opposite party, who shall, within ten days, name in writing the arbitrator on his part, and in connection therewith shall set forth in writing his contentions with reference to the claims set forth in the demand served upon him and any additional claims or controversies which he desires to submit to arbitration on his part, with a concise statement of his claims in connection therewith. PROVIDED, HOWEVER, if the party proceeded against shall fail or refuse to name an arbitrator the moving party may apply ex parte to the Judge of the District Court of the county in which the improvement in the contract in question, or any part thereof, may be located for the appointment of the two additional arbitrators, and if upon the appointment of an arbitrator by each of the parties, the two so appointed have been unable to agree upon a third arbitrator within five days, then either party to the controversy may, upon five days notice, apply to such District Court for the appointment of such third arbitrator.

§ 3. When such Board of Arbitration shall have been appointed, a submission in writing shall be executed as provided by Section 8328 Compiled Laws of 1913, except that such submission must provide for the entry of judgment upon the award by the District Court of the County within which the improvement, or some part thereof, involved in the contract is located, which county must be specified in such submission, and which submission must be executed on the part of the State Highway Commission by some member thereof to be selected by such Commission. Thereupon the arbitration shall proceed in accordance with the provisions of Chapter 40 of the Code of Civil Procedure of the Compiled Laws of 1913.

§ 4. If either party refuses to submit to arbitration as herebefore provided he shall be deemed to have waived all claims and demands, and the arbitrators shall proceed to determine the controversies set forth by the moving party according to the justice of the case, and judgment shall be entered upon the award of such arbitrators in all things the same as though the submission to arbitration had been signed by both parties.

§ 5. No right shall exist to demand arbitration against the State Highway Commission until the following conditions shall have

been complied with; that is, the contractor must give the Commission notice in writing that he claims the contract has been or will be fully performed on a day stated, which shall not be less than ten days after the giving of such notice. At the time stated in the notice the Commission shall cause the work to be inspected, and if it claims the work has not been completed it shall with all reasonable dispatch, having regard to the early completion of the work, specify the particulars in which it is incomplete and direct that it be completed accordingly, or if it considers further work necessary to bring the project up to the desired standard for acceptance either by it or the United States Bureau of Public Roads, even though it considers such contract complete, it may likewise specify any such additional work, and the contractor must proceed with all reasonable dispatch, having due regard to weather conditions, with the performance of all such additional work with a view to a speedy completion of the project. When the contractor claims in good faith, supported by affidavit furnished to the Commission, that he has completed such additional work according to the specifications furnished him and the Commission fails for ten days to accept such work as completed, he shall have the right to institute proceedings hereunder. The arbitrators shall then determine all controversies between the parties growing out of the contract, including the question whether it had been performed at the time claimed by the contractor and whether the additional work required by the Commission as specified has been done, and if not it shall specify the particulars in which it has not been done and give appropriate directions with reference thereto, and shall make a proper award for any extra work it finds the contractor entitled to, making such award so far as is practicable upon the basis of the contract price, having due regard to what is just and equitable between the parties under the facts and circumstances of the case.

PROVIDED, HOWEVER; in any case where controversy already exists at the time of this act taking effect and it is claimed by the contractor that the contract has been performed and he has removed his equipment from the job, arbitration may be had and all the controversy settled without obligation on his part to do extra work as aforesaid.

If after the making of an award which requires the contractor to do further work, any controversies arise between the parties as to the doing of such work, such controversies may be submitted to the same arbitrators on five days notice for further determination.

§ 6. No arbitration shall be had hereunder unless commenced within six months after the right thereto has arisen, except in the case of controversies already existing in which case it may be commenced at any time within six months after the taking effect hereof.

§ 7. When judgment shall have been entered against the Highway Commission the same shall not be collectible or enforceable by execution, but if the same provides for the payment of money by the Highway Commission it shall be paid in the same manner, to the same extent and out of the same funds as though the claims thus established had been recognized and allowed without arbitration, and the performance of the duty of the Highway Commission with reference to payment or other compliance with such judgment may be enforced by mandamus proceedings in the District Courts of the State.

§ 8. Inasmuch as there is doubt and difference of opinion as to whether the State Highway Commission may sue or be sued in the courts of the state, and as to whether compulsory arbitration may be resorted to for or against it, and there are substantial and important disputes pending between such Commission and persons who have contracted with it, this Act is declared to be an emergency measure and shall be in full force and effect immediately upon its passage and approval.

Approved March 3, 1927.

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## CHAPTER 161

(H. B. No. 62—Iverson and Johnson of McKenzie)

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### CONSTRUCTION OF BRIDGES ACROSS STATE LINES OF INTER-STATE HIGHWAYS—ROADS ACROSS LITTLE MISSOURI OR ACROSS OTHER NAVIGABLE STREAMS WITHIN STATE

An Act to Amend and Re-enact Sections 1 and 2, of Chapter 73, of the Session Laws of North Dakota for 1919, Providing for State Aid in the Construction of Bridges Across State Lines of Inter-State Highways, or Roads Across the Little Missouri River on Federal Highway Number 85, or Roads Across Navigable Streams Within the State of North Dakota.

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

§ 1. That Section 1, of Chapter 73, of the Session Laws of North Dakota for 1919, be amended and re-enacted as follows:

§ 1. That hereafter the State of North Dakota shall aid to the amount of one-third of the cost and the construction of any bridge hereafter built across the State line upon the interstate roads or highways, or across the Little Missouri River on Federal Highway Number 85, or across navigable streams within the State of North Dakota on State highways or roads.

§ 2. That Section 2, Chapter 73, Session Laws of North Dakota for 1919 be amended and re-enacted to read as follows:

§ 2. That before such interstate bridge or bridges across the Little Missouri River on Federal Highway Number 85, or across navigable streams within the State are begun, the plans thereof shall be submitted to the Chief Engineer of the State Highway Commission who shall if he approves the same, endorse his approval thereon before the same shall be submitted to the Federal authorities if such submission is necessary; thereafter as all estimates in the construction of said bridges are allowed, duplicates thereof shall be submitted to and filed with the Chief Engineer of the State Highway Commission, who shall thereupon certify the amount thereof to the State Auditor who shall issue the State warrant for one-third thereof in favor of the City, county or municipality which has entered into the contract for, is constructing and paying for said bridge, which warrant upon presentation shall be paid by the State Treasurer from any moneys in the general fund.

§ 2. This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 1, 1927.

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## CHAPTER 162

(S. B. No. 160—Committee on Public Safety)

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### HIGHWAY TRAFFIC REGULATIONS

**An Act Regulating the Operation of Vehicles on Highways and Providing for Traffic Signs and Signals and Defining the Power of Local Authorities to Enact or Enforce Ordinances, Rules or Regulations in Regard to Matters Embraced Within the Provisions of this Act and to Provide for the Enforcement of this Act and the Disposition of Fines and Forfeitures Collected Hereunder and to Make Uniform the Law Relating to the Subject Matter of this Act.**

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

#### TITLE I.

##### Definition of Terms.

§ 1. DEFINITIONS.] The following words and phrases used in this act shall for the purpose of this act have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(a) "Vehicle." Every device in, upon or by which any person or property is or may be transported or drawn upon a public

highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks; provided, that for the purposes of this act, a bicycle or a ridden animal shall be deemed a vehicle.

(b) "Motor Vehicle." Every vehicle, as herein defined, which is self-propelled.

(c) "Motorcycle." Every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.

(d) "Truck Tractor." Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(e) "Farm Tractor." Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

(f) "Road Tractor." Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight or a vehicle or load so drawn.

(g) "Trailer." Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

(h) "Semi-trailer." Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(i) "Pneumatic Tires." All tires inflated with compressed air.

(j) "Solid Rubber Tire." Every tire made of rubber other than a pneumatic tire.

(k) "Metal Tires." All tires the surface of which in contact with the highway is wholly or partly of metal or other hard, non-resilient material.

(l) "Person." Every natural person, firm, copartnership, association or corporation.

(m) "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.

(n) "Highway." Every way or place of whatever nature open to the use of the public, as a matter of right, for the purposes of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private persons, colleges, universities or other institutions.

(o) "Private Road or Driveway." Every road or driveway, not open to the use of the public for purposes of vehicular travel.

(p) "Intersection." The area embraced within the prolongation of the lateral curb lines or, if none, then the lateral boundary lines of two or more highways which join one another at an angle, whether or not one such highway crosses the other.

(q) "Safety Zone." The area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

(r) "Right of Way." The privilege of the immediate use of the highway.

(s) "Business District." The territory contiguous to a highway when fifty per cent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings in use for business.

(t) "Residence District." The territory contiguous to a highway not comprising a business district when the frontage on such highway for a distance of three hundred feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

(u) "Department." The motor vehicle department of this state acting directly or through its duly authorized officers and agents.

(v) "Commissioner." The Registrar of Motor Vehicles of this state.

(w) "Local Authorities." Every county, municipal and other local board or body having authority to adopt local police regulations under the constitution and laws of this state.

## TITLE II.

### Operation of Vehicles—Rules of the Road

§ 2. PERSONS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR NARCOTIC DRUGS.] It shall be unlawful and punishable as provided in section 62 of this act for any person whether licensed or not who is an habitual user of narcotic drugs or any person who is under the influence of intoxicating liquor or narcotic drugs to drive any vehicle upon any highway within this state.

§ 3. RECKLESS DRIVING.] Any person who drives any vehicle upon a highway carelessly and heedlessly in wilful or wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving and upon conviction shall be punished as provided in section 63 of this act.

§ 4. RESTRICTIONS AS TO SPEED.] (a) Any person driving a vehicle on a highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface and width of the highway and of any other conditions then existing, and no person shall drive any vehicle upon a highway at such a speed as to endanger the life, limb or property of any person.

(b) Subject to the provisions of subdivision (a) of this section and except in those instances where a lower speed is specified in this act, it shall be prima facie lawful for the driver of a vehicle to drive the same at a speed not exceeding the following, but in any case when such speed would be unsafe it shall not be lawful.

1. Fifteen miles an hour when approaching within fifty feet of a grade crossing of any steam, electric or street railway when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred feet of his approach to such crossing he does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred feet in each direction from such crossing;

2. Fifteen miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours;

3. Fifteen miles an hour when approaching within fifty feet and intraversing an intersection of highways when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty feet of his approach to such intersection, he does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred feet from such intersection;

4. Fifteen miles an hour in traversing or going around curves or traversing a grade upon a highway when the driver's view is obstructed within a distance of one hundred feet along such highway in the direction in which he is proceeding;

5. Twenty miles an hour on any highway in a business district, as defined herein, when traffic on such highway is controlled at intersections by traffic officers or stop-and-go signals;

6. Fifteen miles an hour on all other highways in a business district, as defined herein;

7. Twenty miles an hour in a residence district, as defined herein, and in public parks unless a different speed is fixed by local authorities and duly posted;

8. Thirty-five miles an hour under all other conditions.

It shall be prima facie unlawful for any person to exceed any of the foregoing speed limitations, except as provided in subdivision (c) of this section. In every charge of violation of this section the complaint shall specify the speed at which the defendant is alleged to have driven, also the speed which this section declares shall be prima facie lawful at the time and place of such alleged violation.

(c) Local authorities in their respective jurisdictions are hereby authorized in their discretion to increase the speed which shall be prima facie lawful upon through highways at the entrances to which vehicles are by ordinance of such local authorities required to stop before entering or crossing such through highways. Local authorities shall place and maintain upon all through highways upon which the permissible speed is increased adequate signs giving notice of such special regulations and shall also place and maintain upon each and every highway intersecting any said through highway, appropriate stop signs which shall be illuminated at night or so placed as to be illuminated by the headlights of an approaching vehicle or by street lights.

§ 5. RAILROAD WARNING SIGNALS MUST BE OBEYED.] Whenever any person driving a vehicle approaches a highway and interurban or steam railway grade crossing and a clearly visible and positive signal gives warning of the immediate approach of a railway train or car, it shall be unlawful for the driver of the vehicle to fail to bring the vehicle to a complete stop before traversing such grade crossing.

§ 6. VEHICLES MUST STOP AT CERTAIN RAILWAY GRADE CROSSINGS.] The Board of Railroad Commissioners is hereby authorized to designate particularly dangerous grade crossings of steam or interurban railways by highways and to erect signs thereat notifying drivers of vehicles upon any such highway to come to a complete stop before crossing such railway tracks, and whenever any such crossing is so designated and signposted it shall be unlawful for the driver of any vehicle to fail to stop within fifty feet but not less than ten feet from such railway tracks before traversing such crossing.

§ 7. SPECIAL SPEED LIMITATION ON BRIDGES.] It shall be unlawful to drive any vehicle upon any public bridge, causeway or

viaduct at a speed which is greater than the maximum speed which can with safety to such structure be maintained thereon, when such structure is signposted as provided in this section.

The State Highway Commission, or other authority having jurisdiction, may conduct an investigation of any public bridge, causeway or viaduct, and if it shall thereupon find that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this act, the commission, or other authority, shall determine and declare the maximum speed of vehicles such structure can withstand, and shall cause, or permit suitable signs stating such maximum speed to be erected and maintained at a distance of one hundred feet before each end of such structure. The findings and determination of the commission or other authority shall be conclusive evidence of the maximum speed which can with safety to any such structure be maintained thereon.

§ 8. WHEN SPEED LIMIT NOT APPLICABLE.] The speed limitations set forth in this act shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to fire department or fire patrol vehicles when traveling in response to a fire alarm, nor to public or private ambulances when traveling in emergencies. This exemption shall not however protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others.

§ 9. DRIVE ON RIGHT SIDE OF HIGHWAY.] Upon all highways of sufficient width, except upon one way streets, the driver of a vehicle shall drive the same upon the right half of the highway and shall drive a slow moving vehicle as closely as possible to the righthand edge or curb of such highway, unless it is impracticable to travel on such side of the highway and except when overtaking and passing another vehicle subject to the limitations applicable in overtaking and passing set forth in Sections 12 and 13 of this act.

§ 10. KEEP TO THE RIGHT IN CROSSING INTERSECTIONS OR RAILROADS.] In crossing an intersection of highways or the intersection of a highway by a railroad right of way, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right half is obstructed or impassible.

§ 11. MEETING OF VEHICLES.] Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one-half of the main traveled portion of the roadway, as nearly as possible.

§ 12. OVERTAKING A VEHICLE.] (a) The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof, and shall not again drive to the right side of the highway until safely clear of such overtaken vehicle.

(b) The driver of an overtaking motor vehicle not within a business or residence district as herein defined shall give audible warning with his horn or other warning device before passing or attempting to pass a vehicle proceeding in the same direction.

§ 13. LIMITATIONS ON PRIVILEGES OF OVERTAKING AND PASSING.] (a) The driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.

(b) The driver of a vehicle shall not overtake and pass another vehicle proceeding in the same direction upon the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed within a distance of 500 feet.

(c) The driver of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any steam or electric railway grade crossing nor at any intersection of highways unless permitted so to do by a traffic or police officer.

§ 14. DRIVER TO GIVE WAY TO OVERTAKING VEHICLE.] The driver of a vehicle upon a highway about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle on suitable and audible signal being given by the driver of the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

§ 15. FOLLOWING TOO CLOSELY.] (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicles and the traffic upon and condition of the highway.

(b) The driver of any motor truck when traveling upon a highway outside of a business or residence district shall not follow another motor truck within one hundred feet, but this shall not be construed to prevent one motor truck overtaking and passing another.

§ 16. TURNING AT INTERSECTIONS.] (a) Except as otherwise provided in this section, the driver of a vehicle intending to turn to the right at an intersection shall approach such intersection in the lane for traffic nearest to the righthand side of the highway, and in turning shall keep as closely as practicable to the right-hand curb or edge of the highway, and when intending to turn to the left shall approach such intersection in the lane for traffic to the right of and nearest to the center line of the highway and in turning shall pass beyond the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left.

For the purpose of this section, the center of the intersection shall mean the meeting point of the medial lines of the highways intersecting one another.

(b) Local authorities in their respective jurisdictions may modify the foregoing method of turning at intersections by clearly indicating by buttons, markers or other direction signs within an intersection the course to be followed by vehicles turning thereat, and it shall be unlawful for any driver to fail to turn in a manner as so directed when such direction signs are installed by local authorities.

§ 17. SIGNALS ON STARTING, STOPPING OR TURNING.] (a) The driver of any vehicle upon a highway before starting, stopping or turning from a direct line shall first see that such movement can be made in safety and if any pedestrian may be affected by such movement shall give a clearly audible signal by sounding the horn, and whenever the operation of any other vehicle may be affected by such movement shall give a signal as required in this section plainly visible to the driver of such other vehicle of the intention to make such movement.

(b) The signal herein required shall be given either by means of the hand and arm in the manner herein specified, or by an approved mechanical or electrical signal device, except that when a vehicle is so constructed or loaded as to prevent the hand and arm signal from being visible both to the front and rear the signal shall be given by a device of a type which has been approved by the department.

Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to start, stop or turn by extending the hand and arm horizontally from and beyond the left side of the vehicle.

§ 18. RIGHT OF WAY.] (a) When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on

the right except as otherwise provided in section 19. The driver of any vehicle traveling at an unlawful speed shall forfeit any right of way which he might otherwise have hereunder.

(b) The driver of a vehicle approaching but not having entered an intersection shall yield the right of way to a vehicle within such intersection and turning therein to the left across the line of travel of such first mentioned vehicle, provided the driver of the vehicle turning left has given a plainly visible signal of intention to turn as required in section 17.

(c) The driver of any vehicle upon a highway within a business or residence district shall yield the right of way to a pedestrian crossing such highway within any clearly marked crosswalk or any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block, except at intersections where the movement of traffic is being regulated by traffic officers or traffic direction devices. Every pedestrian crossing a highway within a business or residence district at any point other than a pedestrian crossing, crosswalk or intersection shall yield the right of way to vehicles upon the highway.

§ 19. EXCEPTIONS TO THE RIGHT OF WAY RULE.] (a) The driver of a vehicle entering a public highway from a private road or drive shall yield the right of way to all vehicles approaching on such public highway.

(b) The driver of a vehicle upon a highway shall yield the right of way to police and fire department vehicles when the latter are operated upon official business and the drivers thereof sound audible signal by bell, siren or exhaust whistle. This provision shall not operate to relieve the driver of a police or fire department vehicle from the duty to drive with due regard for the safety of all persons using the highway nor shall it protect the driver of any such vehicle from the consequence of an arbitrary exercise of such right of way.

§ 20. WHAT TO DO ON APPROACH OF POLICE OR FIRE DEPARTMENT VEHICLE.] (a) Upon the approach of any police or fire department vehicle giving audible signal by bell, siren or exhaust whistle, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right hand edge or curb of the highway, clear of any intersection of highways, and shall stop and remain in such position unless otherwise directed by a police or traffic officer until the police or fire department vehicle shall have passed. (b) It shall be unlawful for the driver of any vehicle other than one on official business to follow any fire apparatus traveling in response to a fire alarm closer

than five hundred feet or to drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

§ 21. VEHICLES MUST STOP AT CERTAIN THROUGH HIGHWAYS.] The State Highway Commission with reference to state highways and local authorities with reference to highways under their jurisdiction are hereby authorized to designate main traveled or through highways by erecting at the entrances thereto from intersecting highways signs notifying drivers of vehicles to come to a full stop before entering or crossing such designated highway, and whenever any such signs have been so erected it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto. All such signs shall be illuminated at night or so placed as to be illuminated by the headlights of an approaching vehicle or by street lights.

§ 22. PASSING STREET CARS.] (a) The driver of a vehicle shall not overtake and pass upon the left any interurban or street car proceeding in the same direction, whether actually in motion or temporarily at rest when a travelable portion of the highway exists to the right of such street car.

(b) The driver of a vehicle overtaking any railway, interurban or street car stopped or about to stop for the purpose of receiving or discharging any passenger, shall bring such vehicle to a full stop at least ten feet in the rear of such street car and remain stationary until any such passenger has boarded such car or reached the adjacent sidewalk, except that where a safety zone has been established, or at an intersection where traffic is controlled by an officer or a traffic stop-and-go signal, a vehicle need not be brought to a full stop before passing any such railway, interurban or street car, but may proceed past such car at a speed not greater than is reasonable or proper and in no event greater than ten miles an hour and with due caution for the safety of pedestrians.

§ 23. DRIVING THROUGH SAFETY ZONE PROHIBITED.] The driver of a vehicle shall not at any time drive through or over a safety zone as defined in section I of this act.

§ 24. STOPPING ON HIGHWAY.] (a) No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled portion of any highway, outside of a business or residence district, when it is practicable to park or leave such vehicle standing off of the paved or improved or main traveled portion of such highway; provided, in no event shall any person park or leave standing any vehicle, whether attended or unattended, upon any highway unless a clear and unobstructed width of not less than fifteen feet upon the main traveled

portion of said highway opposite such standing vehicle shall be left for free passage of other vehicles thereon, nor unless a clear view of such vehicle may be obtained from a distance of 200 feet in each direction upon such highway.

(b) Whenever any peace officer shall find a vehicle standing upon a highway in violation of the provisions of this section, he is hereby authorized to move such vehicle or require the driver or person in charge of such vehicle to move such vehicle to a position permitted under this section.

(c) The provisions of this section shall not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such vehicle in such position.

§ 25. PARKING IN FRONT OF FIRE HYDRANT, FIRE STATION OR PRIVATE DRIVEWAY.] No person shall park a vehicle or permit it to stand, whether attended or unattended, upon a highway in front of a private driveway or within fifteen feet in either direction of a fire hydrant or the entrance to a fire station nor within twenty-five feet from the intersection of curb lines or if none then within fifteen feet of the intersection of property lines at an intersection of highways.

§ 26. MOTOR VEHICLE LEFT UNATTENDED. BRAKES TO BE SET AND ENGINE STOPPED.] No person having control or charge of a motor vehicle shall allow such vehicle to stand on any highway unattended without first effectively setting the brakes thereon and stopping the motor of said vehicle and when standing upon any grade without turning the front wheels of such vehicle to the curb or side of the highway.

§ 27. DRIVING ON MOUNTAIN HIGHWAYS.] The driver of a motor vehicle, traversing defiles, canyons or mountain highways shall hold such motor vehicle under control and as near the right-hand side of the highway as reasonably possible and upon approaching any curve where the view is obstructed within a distance of two hundred feet along the highway shall give audible warning with a horn or other warning device.

§ 28. COASTING PROHIBITED.] The driver of a motor vehicle when traveling upon a down grade upon any highway shall not coast with the gears of such vehicle in neutral.

§ 29. DUTY TO STOP IN EVENT OF ACCIDENT.] (a) The driver of any vehicle involved in an accident resulting in injury or

death to any person shall immediately stop such vehicle at the scene of such accident and any person violating this provision shall upon conviction be punished as provided in section 64 of this act.

(b) The driver of any vehicle involved in an accident resulting in damage to property shall immediately stop such vehicle at the scene of such accident and any person violating this provision shall upon conviction be punished as provided in section 61 of this act.

(c) The driver of any vehicle involved in any accident resulting in injury or death to any person or damage to property shall also give his name, address and the registration number of his vehicle to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary or is requested by the injured person.

§ 30. DUTY TO REPORT ACCIDENTS.] The driver of any vehicle involved in an accident resulting in injuries or death to any person or property damage to an apparent extent of fifty dollars or more shall within twenty-four hours forward a report of such accident, when such accident occurs within an incorporated city or town to the police headquarters in such city or town.

§ 31. GARAGE KEEPER TO REPORT DAMAGED VEHICLES.] The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a serious accident or struck by any bullet shall report to the nearest police station or sheriff's office within twenty-four hours after such motor vehicle is received, giving the engine number, registration number and the name and address of the owner, or operator of such vehicle.

§ 32. DRIVERS OF STATE, COUNTY AND CITY VEHICLES SUBJECT TO PROVISIONS OF THE ACT.] The provisions of this act applicable to the drivers of vehicles upon the highways, shall apply to the drivers of all vehicles owned or operated by this state or any county, district or other political subdivision of the state subject to such specific exceptions as are set forth in this act. The provisions of this act shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work.

§ 33. POWERS OF LOCAL AUTHORITIES.] Local authorities except as expressly authorized by sections 4 (c) and 21 shall have

no power or authority to alter any speed limitations declared in this act or to enact or enforce any rule or regulation contrary to the provisions of this act, except that local authorities shall have power to provide by ordinance for the regulation of traffic by means of traffic officers or semaphores or other signaling devices on any portion of the highway where traffic is heavy or continuous and may prohibit other than one-way traffic upon certain highways and may regulate the use of the highways by processions or assemblages. Local authorities may also regulate the speed of vehicles in public parks and shall erect in all entrances to such parks adequate signs giving notice of any such special speed regulations.

§ 34. THIS ACT NOT TO INTERFERE WITH RIGHTS OF OWNERS OF REAL PROPERTY WITH REFERENCE THERETO.] Nothing in this act shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use nor from requiring other or different or additional conditions than those specified in this act or otherwise regulating such use as may seem best to such owner.

### TITLE III.

#### Effect of and Short Title of Act

#### The Size, Weight, Construction and Equipment of Vehicles

§ 35. SCOPE AND EFFECT OF REGULATIONS IN THIS TITLE.] It shall be unlawful and constitute a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or vehicles of a size or weight exceeding the limitations stated in this title or any vehicle or vehicles which are not so constructed or equipped as required in this title or the rules and regulations of the Registrar adopted pursuant thereto and the maximum size and weight of vehicles herein specified shall be lawful throughout this state, and local authorities shall have no power or authority to alter said limitations except as express authority may be granted in this act.

§ 36. SIZE OF VEHICLES AND LOAD.] (a) No vehicle shall exceed a total outside width, including any load thereon, of eight feet, except that the width of a farm tractor shall not exceed nine feet, and excepting further, that the limitations as to size of vehicles stated in this section shall not apply to implements of husbandry temporarily propelled or moved upon the public highway.

(b) No vehicle unladen or with load shall exceed a height of fourteen feet and six inches.

(c) No vehicle shall exceed a length of thirty-three feet and no combination of vehicles coupled together shall exceed a total length of eighty-five feet.

(d) No train of vehicles or vehicle operated alone shall carry any load extending more than three feet beyond the front thereof.

(e) No passenger vehicle shall carry any load extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fender on the right side thereof.

§ 37. FLAG OR LIGHT AT END OF LOAD.] Whenever the load on any motor vehicle shall extend more than four feet beyond the rear of the bed or body thereof, there shall be displayed at the end of such load in such position as to be clearly visible at all times from the rear of such load a red flag not less than twelve inches both in length and width, except that between one-half hour after sunset and one-half hour before sunrise there shall be displayed at the end of any such load a red light plainly visible under normal atmospheric conditions at least two hundred feet from the rear of such vehicle.

§ 38. WEIGHT OF VEHICLES AND LOADS.] The State Highway Commission for the State Highway System, the board of County Commissioners for County Roads, and other appropriate bodies having control over roads, in their respective jurisdictions are hereby authorized and empowered to classify public highways and roads under their respective jurisdictions and to enforce limitations as to the weight and load of vehicles thereon for such respective classifications.

§ 39. PEACE OFFICER MAY WEIGH VEHICLE AND REQUIRE REMOVAL OF EXCESS LOAD.] Any peace officer having reason to believe that the weight of a vehicle and load is unlawful is authorized to weigh the same either by means of portable or stationary scales, and may require that such vehicle be driven to the nearest scales in the event such scales are within two miles. The officer may then require the driver to unload immediately such portion of the load as may be necessary to decrease the gross weight of such vehicle to the maximum therefor specified by such authority.

§ 40. PERMITS FOR EXCESSIVE SIZE AND WEIGHT.] The State Highway Commission and local authorities in their respective jurisdictions may, in their discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle of a size or

weight exceeding the maximum specified in this act, upon any highway under the jurisdiction of and for the maintenance of which the body granting the permit is responsible. Every such permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting such permit. Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer, and it shall be a violation of this act for any person to violate any of the terms or conditions of such special permit.

§ 41. WHEN LOCAL AUTHORITIES MAY RESTRICT RIGHT TO USE HIGHWAYS.].. Local authorities may by ordinance or resolution prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles, for a total period not to exceed ninety days in any one calendar year, when operated upon any highway under the jurisdiction of and for the maintenance of which such local authorities are responsible whenever any said highway by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced. Such local authorities enacting any such ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected thereby and the ordinance or resolution shall not be effective until or unless such signs are erected and maintained. Local authorities may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or impose limitations as to the weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

§ 42. RESTRICTIONS AS TO TIRE EQUIPMENT.] (a) Every solid rubber tire on a vehicle moved on any highway shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberances of any material other than rubber which projects beyond the tread of the traction surface of the tire except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway and except also, that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to slide or skid.

(c) The State Highway Commission and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery.

§ 43. TRAILERS AND TOWED VEHICLES.] (a) The draw bar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, shall not exceed fifteen feet in length from one vehicle to the other. Whenever such connection consists of a chain, rope or cable, there shall be displayed upon such connection a red flag or other signal or cloth not less than twelve inches both in length and width.

§ 44. BRAKES.] Every motor vehicle when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels and so constructed that no part which is liable to failure shall be common to the two, except that a motorcycle need be equipped with only one brake. All such brakes shall be maintained in good working order and shall conform to regulations not inconsistent with this section to be promulgated by the registrar.

§ 45. HORNS AND WARNING DEVICES.] (a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, and it shall be unlawful, except as otherwise provided in this section, for any vehicle to be equipped with or for any person to use upon a vehicle any siren, exhaust, compression or spark plug whistle or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(b) Every police or fire department and fire patrol vehicle and every ambulance used for emergency calls shall be equipped with a bell, siren or exhaust whistle of a type approved by the registrar.

§ 46. MIRRORS.] No person shall drive a motor vehicle on a highway which motor vehicle is so constructed or loaded as to prevent the driver from obtaining a view of the highway to the rear by looking forward from the driver's position, unless such vehicle is equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle.

§ 47. WINDSHIELDS MUST BE UNOBSTRUCTED AND EQUIPPED WITH WIPERS.] (a) It shall be unlawful for any person to drive any vehicle upon a highway with any sign, poster or other non-transparent material upon the front windshield, side wings, side or rear windows of such motor vehicle other than a certificate or other paper required to be so displayed by law.

(b) Every windshield on a motor vehicle shall be equipped with a device for cleaning rain or snow or other moisture from the windshield which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

§ 48. PREVENTION OF NOISE, SMOKE, ETC.; MUFFLER CUT-OUTS REGULATED.] (a) No person shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(b) It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon a highway.

(c) No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.

§ 49. REQUIRED LIGHTING EQUIPMENT OF VEHICLES.] (a) When Vehicles Must be Equipped.) Every motor vehicle upon a highway within this state during a period from a half hour after sunset to a half hour before sunrise and at any other time where there is not sufficient light to render clearly discernible any person on the highway at a distance of two hundred feet ahead, shall be equipped with lighted front and rear lamps as in this section respectively required for different classes of vehicles and subject to exemption with reference to lights on parked vehicles as declared in Section 55.

(b) Head Lamps on Motor Vehicles.) Every motor vehicle other than a motorcycle, roadroller, road machinery or farm tractor shall be equipped with two head lamps, nor more and no less, at the front of and on opposite sides of the motor vehicle, which headlamps shall comply with the requirements and limitations set forth in section 51 or section 52 and except as to acetylene head lamps shall be of a type which has been approved by the registrar.

(c) Head Lamps on Motorcycles.) Every motorcycle shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations set forth in section 51 or section 52 and except as to acetylene head lamps shall be of a type which has been approved by the registrar.

(d) Rear Lamps.) Every motor vehicle and every trailer or semi-trailer which is being drawn at the end of a train of vehicles shall carry at the rear a lamp of a type which has been approved by the registrar and which exhibits a red light plainly visible under normal atmospheric conditions from a distance of five hundred feet to the rear of such vehicle.

(e) Clearance Lamps.) Every motor vehicle, other than any roadroller, road machinery or farm tractor, having a width at any part in excess of eighty inches shall carry two clearance lamps on the left side of such vehicle, one located at the front and displaying a white light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, and the other located at the rear of the vehicle and displaying a red light visible under like conditions from a distance of 500 feet to the rear of the vehicle.

(f) Lamps on Bicycles.) Every bicycle shall be equipped with a lighted lamp on the front thereof visible under normal atmospheric conditions from a distance of at least three hundred feet in front of such bicycle and shall also be equipped with a reflex mirror or lamp on the rear exhibiting a red light visible under like conditions from a distance of at least two hundred feet to the rear of such bicycle.

§ 50. ADDITIONAL PERMISSIBLE LIGHTS ON VEHICLES.]

(a) Spot Lamps. Any motor vehicle may be equipped with not to exceed two spot lamps, except that a motorcycle shall not be equipped with more than one spot lamp, and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the beam will be directed to the left of the center of the highway nor more than 100 feet ahead of the vehicle.

(b) Auxiliary Driving Lamps.) Any motor vehicle may be equipped with not to exceed two auxiliary driving lamps mounted on the front at a height not less than 24 inches above the level surface on which the vehicle stands and every such auxiliary driving lamp or lamps shall meet the requirements and limitations set forth in section 51 (c).

(c) Signal Lamps.) Whenever a motor vehicle is equipped with a signal lamp to comply with the provisions of section 17 the signal lamp shall be so constructed and located on the vehicle as to give a signal red in color, which shall be plainly visible in normal sunlight, from a distance of 100 feet to the rear of the vehicle but shall not project a glaring or dazzling light and shall be of a type approved by the registrar.

(d) Restrictions on Lamps.) Any device, other than head lamps, spot lamps or auxiliary driving lamps, which projects a beam

of light of an intensity greater than twenty-five candlepower shall be so directed that no part of the beam will strike the level of the surface on which the vehicle stands at a distance of more than 50 feet from the vehicle.

§ 51. REQUIREMENTS AS TO HEAD LAMPS AND AUXILIARY DRIVING LAMPS.] (a) The head lamps of motor vehicles shall be so constructed, arranged, and adjusted that, except as provided in subsection (c) of this section, they will at all times mentioned in section 49 and under normal atmospheric conditions and on a level road produce a driving light sufficient to render clearly discernible a person two hundred feet ahead, but shall not project a glaring or dazzling light to persons in front of such head lamp.

(b) Head lamps shall be deemed to comply with the foregoing provisions prohibiting glaring and dazzling lights if none of the main bright portion of the head lamp beams rises above a horizontal plane passing through the lamp centers parallel to the level road upon which the loaded vehicle stands and in no case higher than forty-two inches, seventy-five feet ahead of the vehicle.

(c) Whenever a motor vehicle is being operated upon a highway, or a portion thereof, which is sufficiently lighted to reveal a person on the highway at a distance of 200 feet ahead of the vehicle it shall be permissible to dim the head lamps or to tilt the beams downward or to substitute therefor the light from an auxiliary driving lamp or pair of such lamps, subject to the restrictions as to tilted beams and auxiliary driving lamps set forth in this subsection.

Whenever a motor vehicle meets another vehicle on any highway it shall be permissible to tilt the beams of the head lamps downward or to substitute therefor the light from an auxiliary driving lamp or pair of such lamps subject to the requirement that the tilted head lamps or auxiliary lamp or lamps shall give sufficient illumination under normal atmospheric conditions and on a level road to render clearly discernible a person 75 feet ahead, but shall not project glaring or dazzling light to persons in front of the vehicle, provided that at all times as required in section 49 at least two lights shall be displayed on the front of and on opposite sides of every motor vehicle other than a motorcycle, road-roller, road machinery, or farm tractor.

§ 52. ACETYLENE LIGHTS.] Motor vehicles may be equipped with two acetylene head lamps of approximately equal candlepower when equipped with clear plane glass fronts, bright six-inch spherical

mirrors and standard acetylene five-eighths foot burners nor more and not less and which do not project a glaring or dazzling light into the eyes of approaching drivers.

§ 53. TEST AND APPROVAL OF LAMPS.] (a) It shall be unlawful for any person to sell or offer for sale, either separately or as a part of the equipment of a motor vehicle, or to use upon a motor vehicle upon a highway, any electric head lamp, or any auxiliary driving lamp, rear lamp or signal lamp, unless of a type which has been submitted to the registrar for test and for which a certificate of approval has been obtained from the registrar as hereinafter provided.

(b) The registrar is hereby authorized and required to adopt and enforce standard specifications as to the amount, color and direction of light to be emitted by head lamps, auxiliary driving lamps, rear lamps and signal lamps for compliance with the requirements and limitations set forth in sections 49, 50, 51; and the registrar is authorized and required to determine whether any head lamps, auxiliary driving lamps, signal lamps and rear lamps submitted will comply with the requirements of this act and the specifications adopted by the registrar and to approve such head lamps, auxiliary driving lamps, signal lamps and rear lamps, and to publish lists of such devices by name and type together with the permissible candlepower rating of the bulbs as he shall determine are lawful hereunder, and to forward such lists to the county auditor of every county within the state, who shall file the same, and to every state, county and city police department or others whose duty it is to enforce the provisions of this act.

(c) Any person, firm or corporation desiring approval of a device shall submit to the registrar two sets of each type of device upon which approval is desired, together with a fee of \$25.00 for each type of head lamp and auxiliary driving lamp and a fee of \$10.00 for each type of rear lamp or signal lamp submitted. Within 30 days the registrar shall, upon notice to the applicant submit such device to the United States Bureau of Standards or to such other recognized testing laboratory as he may elect for a report as to the compliance of such type of device with the standard specifications and the provisions of this act as to lighting performance. The registrar is authorized and required to accept the certificate of the United States Bureau of Standards or of some other recognized testing laboratory as to compliance with the specifications and requirements; provided, however, that in cases of dispute as to the findings of such other laboratory appeal may be made to the United States Bureau of Standards; and provided, also, that the registrar is authorized to refuse approval of any device, certified as complying with

the specifications and requirements, which the registrar determines will be in actual use unsafe or impracticable or would fail to comply with the provisions of this act.

(d) The registrar shall request the testing agency to submit a report of each type of device to the registrar. For those which are found to comply with the specifications and requirements the report shall include any special adjustments required and the candle-power rating of the bulbs for such conformance. Reports of all tests shall be accessible to the public and a copy thereof shall be furnished by the registrar to the applicant for the test.

(e) The registrar, when having reason to believe that an approved device as being sold commercially does not comply with the requirements of this act, may after 30 days' notice to the manufacturer thereof, suspend or revoke the approval issued therefor until or unless such device is resubmitted to and retested by an authorized testing agency and is found to meet the requirements of this act. The registrar may at the time of the retest purchase in the open market and submit to the testing agency one or more sets of such approved devices and if such device upon such retest fails to meet the requirements of this act, the registrar may refuse to renew the certificate of approval of such device.

(f) It shall be unlawful for any person to sell or to offer for sale either separately or as a part of the equipment of a motor vehicle any head lamp, auxiliary driving lamp, rear lamp or signal lamp approved by the registrar unless such device bears thereon the trademark or name under which it is approved so as to be legible when installed, and is accompanied by printed instructions as to the candle power of bulbs to be used therewith as approved by the registrar and any particular methods of mounting or adjustment as to focus or aim necessary for compliance with the requirements of this act.

§ 54. ENFORCEMENT OF PROVISIONS.] (a) The driver of any motor vehicle equipped with approved head lamps, auxiliary driving lamps, rear lamps or signal lamps who is arrested upon the charge that such lamps are improperly adjusted or are equipped with bulbs of a candle power not approved for use therewith, shall be allowed 48 hours within which to bring such lamps into conformance with the requirements of this act. It shall be a defense to any such charge that the person arrested produce in court or submit to the state's attorney a certificate showing that within 48 hours after such arrest such lamps have been made to conform with the requirements of this act.

§ 55. LIGHTS ON PARKED VEHICLES.] Whenever a motor vehicle is parked or stopped upon a highway whether attended or

unattended during the time mentioned in section 49 there shall be displayed upon such motor vehicle one or more lamps projecting a white light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such motor vehicle and projecting a red light visible under like conditions from a distance of five hundred feet to the rear, except that local authorities may provide by ordinance that no lights need be displayed upon any such motor vehicle when parked in accordance with local ordinances upon a highway where there is sufficient light to reveal any person within a distance of two hundred feet upon such highway.

§ 56. RED OR GREEN LIGHT VISIBLE FROM IN FRONT OF VEHICLE PROHIBITED.] It shall be unlawful for any person to drive or move any vehicle upon a highway with any red or green light thereon visible from directly in front thereof. This section shall not apply to police or fire department or fire patrol vehicles.

#### TITLE IV.

##### Highway Traffic Signs

§ 57. UNIFORM MARKING OF AND ERECTION OF SIGNS ON HIGHWAYS.] The State Highway Commission is hereby authorized to classify, designate and mark both intrastate and interstate highways lying within the boundaries of this state and under the jurisdiction of the State Highway Department to provide a uniform system of marking and signing such highways under the jurisdiction of this state, and such systems of marking and signing shall correlate with and so far as possible conform to the system adopted in other states.

§ 58. LOCAL TRAFFIC SIGNS.] Local authorities in their respective jurisdictions may cause appropriate signs to be erected and maintained, designating resident and business districts, highway and steam or interurban railway grade crossings and such other signs as may be deemed necessary to carry out the provisions of this act, and such additional signs as may be appropriate to give notice of local parking and other special regulations. Local parking and other special regulations shall not be enforceable against an alleged violator if, at the time and place of the alleged violation, an appropriate sign giving notice thereof, is not in proper position and sufficiently legible to be seen by an ordinary observant person.

§ 59. OTHER THAN OFFICIAL SIGNS PROHIBITED.] No unauthorized person shall erect or maintain upon any highway any warning or direction sign, marker, signal or light in imitation of

any official sign, marker, signal or light erected under the provisions of this act, and no person shall erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial advertising, provided nothing in this section shall be construed to prohibit the erection or maintenance of signs, markers, or signals bearing thereon the name of an organization authorized to erect the same by the State Highway Commission or any local authority as defined in this act.

§ 60. INJURING SIGNS.] Any person who shall deface, injure, knock down or remove any sign posted as provided in this act shall be guilty of a violation of this act.

#### TITLE V.

##### Penalties.

§ 61. PENALTIES FOR VIOLATION.] Every person convicted for a violation of any of the provisions of this act for which another penalty is not provided shall for a conviction thereof be punished by a fine of not more than one hundred dollars or by imprisonment in the county or municipal jail for not more than ten days; for a second such conviction within one year thereafter such person shall be punished by a fine of not more than two hundred dollars or by imprisonment in the county or municipal jail for not more than twenty days or by both such fine and imprisonment; upon a third or subsequent conviction within one year after the first conviction such person shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county or municipal jail for not more than six months or by both such fine and imprisonment.

§ 62. PENALTY FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR NARCOTIC DRUGS.] Every person who is convicted of a violation of Section 2 of this act relating to habitual users of narcotic drugs and driving while under the influence of intoxicating liquor or narcotic drugs shall be punished by a fine of not less than \$25.00 nor more than \$500.00, or by imprisonment in a county jail for a period not exceeding one year, or by both such fine and imprisonment. On a second or subsequent conviction he shall be punished by imprisonment for not less than ninety days nor more than one year, and, in the discretion of the court, a fine of not more than \$1,000.00. Provided, that the court in sentencing any person either for a first or a subsequent violation of this act, may suspend any sentence of imprisonment or any part thereof, and make its order that the person so sentenced shall be precluded from driving any automobile within this state for a period of not to exceed two years. Upon proof to the satisfaction of the court that such order has been disobeyed such suspension shall be by the court revoked.

§ 63. PENALTY FOR RECKLESS DRIVING.] Every person convicted of reckless driving under section 3 of this act shall be punished by imprisonment in the county or municipal jail for a period of not more than ninety days or by fine of not more than five hundred dollars or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten days nor more than six months or by a fine of not less than fifty dollars nor more than one thousand dollars, or by both such fine and imprisonment.

§ 64. PENALTY FOR FAILURE TO STOP IN EVENT OF ACCIDENT INVOLVING INJURY OR DEATH TO A PERSON.] Every person convicted of violating section 29 (a) of this act relative to the duty to stop in the event of certain accidents shall be punished by imprisonment in the county or municipal jail for not less than thirty days nor more than one year or in the state prison for not less than one nor more than five years or by fine of not less than one hundred dollars nor more than five thousand dollars or by both such fine and imprisonment.

#### TITLE VI.

##### Procedure Upon Arrest, Reports, Disposition of Fines and Forfeitures.

§ 65. APPEARANCE UPON ARREST FOR VIOLATION.] (a) Whenever any person is arrested for a violation of any provision of this act punishable as a violation, the arresting officer shall, except as otherwise provided in this section, take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice, such time to be at least five days after such arrest unless the person arrested shall demand an earlier hearing, and such person shall, if he so desire, have a right to an immediate hearing or a hearing within twenty-four hours at a convenient hour and such hearing to be before a magistrate within the township or county wherein such offense was committed. Such officer shall thereupon and upon the giving by such person of his written promise to appear at such time and place forthwith, release him from custody.

Any person refusing to give such written promise to appear shall be taken immediately by the arresting officer before the nearest or most accessible magistrate.

Any person who wilfully violates his written promise to appear, given in accordance with this section, shall be guilty of a violation of this act regardless of the disposition of the charge upon which he was originally arrested.

(b) The provisions of subsection (a) of this section shall not apply to any person arrested and charged with an offense causing

or contributing to an accident resulting in injury or death to any person nor to any person charged with reckless driving or driving in excess of thirty miles per hour within a business or residence district or in excess of forty-five miles per hour outside of a business or residence district nor to any person charged with driving while under the influence of intoxicating liquor or narcotic drugs nor to any person whom the arresting officer shall have good cause to believe has committed any felony, and the arresting officer shall take such person forthwith before the nearest or most accessible magistrate.

(c) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and shall be subject to removal from office.

§ 66. REPORT OF CONVICTIONS TO BE SENT TO DEPARTMENT.]

(a) Every justice of the peace or police magistrate or court in this state shall keep a full report of every case in which a person is charged with violation of any provision of this act.

§ 67. FINES AND FORFEITURES.] All fines or forfeitures collected upon conviction or upon forfeiture of bail of any person charged with a violation of any of the provisions of this act shall be disposed of as by law provided.

Failure, refusal or neglect to comply with any of the provisions of this section shall constitute misconduct in office and shall be ground for removal therefrom.

## TITLE VII.

### Effect of and Short Title of Act.

§ 68. 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.

§ 69. SHORT TITLE.] This act may be cited as the Uniform Motor Vehicle Act Regulating the Operation of Vehicles.

§ 70. CONSTITUTIONALITY.] If any part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts 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.

§ 71. REPEAL.] Sections 2972, 2973, 2974, and 2976 L, Compiled Laws of North Dakota, 1913, and Sections 2976t10 and 2976t12, Supplement to the 1913 Compiled Laws of North Dakota, are hereby repealed and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 7, 1927.