

CHAPTER 181

(H. B. No. 233—Wigen.)

REPEAL INDIAN MARRIAGE CONTRACTS

An Act to repeal Section 4365, of the Revised Code of North Dakota for the year 1913, relating to Indian marriage contracts.

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

That Section 4365 of the Revised Codes of North Dakota for the year 1913 be and the same is hereby repealed.

Approved March 2, 1931.

MOTOR VEHICLES

CHAPTER 182

(H. B. No. 177—Mau and Scholl.)

COLORING OF GASOLINE

An Act to amend and re-enact Section 2 of Chapter 177, Laws of North Dakota for 1927, relating to the coloring of gasoline by the use of a harmless dye.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 177, Laws of North Dakota for 1927, is hereby amended and re-enacted to read as follows:

§ 2. Any gasoline that shows anti-knock characteristics equal to Octane Number 60 of the knock rating system adopted by the United States Bureau of Standards, may be colored by the use of any harmless dye. Any gasoline not showing the anti-knock standard specified above must be sold without the addition of any foreign coloring matter.

Approved March 9, 1931.

CHAPTER 183

(H. B. No. 290—Holte of Cass.)

HORNS AND WARNING DEVICES MOTOR VEHICLES ON
PUBLIC HIGHWAYS

An Act amending and re-enacting Section 45 of Chapter 162 of the Session Laws of the State of North Dakota for the year 1927, relating to horns and warning devices upon motor vehicles when operated upon a highway.

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

§ 1. AMENDMENT.] That Section 45 of Chapter 162 of the Session Laws of North Dakota for the year 1927 is hereby amended and re-enacted to read as follows:

§ 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. Every vehicle operated by a Sheriff or his deputies shall be equipped with a bell, siren or exhaust whistle of a type approved by the registrar, said bell, siren or exhaust whistle to be paid for by the county.

Approved March 11, 1931.

CHAPTER 184

(H. B. No. 85—Peters.)

LIABILITY FOR ACCIDENTAL DEATH OF GUEST

An Act to relieve the owner, driver or person responsible for the operation of a motor vehicle upon the public highways from civil liability for the accidental death of or injury to a guest riding in such vehicle, except in case of intoxication, wilful misconduct or gross negligence.

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

§ 1. LIABILITY FOR INJURY TO GUESTS.] Any person who as a guest accepts a ride in any vehicle, moving upon any of the public highways of the State of North Dakota, and while so riding as such guest receives or sustains an injury, shall have no right of recovery against the owner or driver or person responsible for the operation

of such vehicle. In the event that such person while so riding as such guest is killed, or dies as the result of injury sustained while so riding as such guest, then neither the estate nor the legal representatives or heirs of such guest shall have any right of recovery against the driver or owner of said vehicle by reason of the death of the said guest. If such person so riding as a guest be a minor and sustain an injury or be killed or die as a result of injury sustained while so riding as such guest, then neither the parents nor guardian nor the estate nor legal representatives or heirs of such minor shall have any right of recovery against the driver or owner or person responsible for the operation of said vehicle, for injury sustained or as a result of the death of such minor.

§ 2. EXCEPTIONS IN CASES OF INTOXICATION, WILFUL MISCONDUCT AND GROSS NEGLIGENCE.] Nothing in this Act contained shall be construed as relieving the owner or driver or person responsible for the operation of a vehicle from liability for injury to or death of such guest proximately resulting from the intoxication, wilful misconduct, or gross negligence of such owner, driver or person responsible for the operation of such vehicle; provided, that in any action for death or for injury or damage to person or property by or on behalf of a guest or the estate, heirs or legal representatives of such guest, the burden shall be upon the plaintiff to establish that such intoxication, wilful misconduct or gross negligence was the proximate cause of such death or injury or damage.

§ 3. "GUEST" DEFINED.] For the purpose of this Act the term "guest" is hereby defined as being a person who accepts a ride in any vehicle without giving compensation therefor.

§ 4. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 2, 1931.

CHAPTER 185

(S. B. No. 100—Lynch.)

MOTOR VEHICLE FUEL TAX

An Act to amend and re-enact Sections 2, 3 and 5 of Chapter 166, Session Laws of North Dakota for the year 1929, and providing for a tax of four cents per gallon upon motor vehicle fuels, and further providing for the distribution of the revenues derived from said tax.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 166, Session Laws of North Dakota for the year 1929, is hereby amended and re-enacted to read as follows:

§ 2. That each and every dealer in motor vehicle fuel, as defined in this Act, who is now engaged or who may hereafter engage in his own name, or in the name of others, or in the name of his representative or agents, in this State, in the sale or use of motor vehicle fuel as herein defined, shall, not later than the 15th day of each calendar month render to the State Auditor, on forms prescribed, prepared, and furnished by the State Auditor, a sworn statement of the number of gallons of motor vehicle fuel sold or used by him or them during the preceding calendar month, which statement shall be sworn to by one of the principal officers, in case of domestic corporation; or by the resident general agent, or agents, or attorney-in-fact, or by a chief accountant or officer in case of a foreign corporation; by the managing agent or owner in case of a firm, association or individual; and shall contain a statement of the quantities of motor vehicle fuel sold or used within the State of North Dakota from his or their respective places of business, and if any of such motor vehicle fuel has been sold and delivered by said dealer to customers in the original package, whether in tank cars, barrels or other packages and in the same form and condition in which the same was imported, said statement shall show the amount of motor vehicle fuel so sold and the names and addresses of the persons, firm or corporations to whom the same was sold.

Said dealer shall pay a license tax of four cents per gallon on all motor vehicle fuel used and sold by him, other than such fuel sold by him or them, in the original packages as above specified, and shall have the option of paying said tax of four cents per gallon on all motor vehicle fuel sold by him or them, in the State, in the original packages in which the same was imported as above specified.

Whenever any sale is made by a dealer of motor vehicle fuel in the original packages in which the same was imported as above specified, such dealer shall deliver to the purchaser thereof an invoice of such motor vehicle fuel, stating the name and address of the purchaser, the quantity and kind of fuel sold, and whether or not said dealer assumes and agrees to pay the license tax on said fuel above specified, and such dealer shall transmit to the State Auditor at the same time he shall render the statement above specified, duplicate copies of all such invoices issued and delivered by him during the period covered by such statement.

§ 2. AMENDMENT.] That Section 3 of Chapter 166, Session Laws of the State of North Dakota for the year 1929, is hereby amended and re-enacted to read as follows:

§ 3. Every dealer paying such license tax or being liable for the payment thereof, shall be entitled to charge and collect the sum of four cents per gallon, on such motor fuel sold by him, as a part of the selling price thereof.

§ 4. AMENDMENT.] That Section 5 of Chapter 166, Session Laws of the State of North Dakota for the year 1929, is hereby amended and re-enacted to read as follows:

§ 5. That said license tax in respect to motor vehicle fuel sold or used in any calendar month, shall be paid at the same time the statement provided for in Section 2 hereof is rendered, to the State Auditor, who shall receipt to the dealer therefor, and shall forthwith pay over all the money thus received to the State Treasurer, except such money as shall have been expended by said State Auditor for the purpose of making refunds as herein provided. The State Treasurer shall promptly credit to the State Highway Commission five-eighths of said license tax. The money so credited, being five-eighths of said license tax, is hereby appropriated to be used by such Commission for the construction, reconstruction, maintenance or repairs of highways or roads under the jurisdiction of said Commission. Three-eighths of said license tax so received by the State Treasurer, shall be deposited by him to a "County Highway Aid Fund". During the months of January, April, July and October of each year, the State Treasurer, upon the warrant of the State Auditor, shall apportion and disburse all of the moneys of such "County Highway Aid Fund" not previously disbursed, including interest received thereon, to the various counties of the State in the same proportion and ratio as the motor vehicle registration fund collected in each county shall bear to the total motor vehicle registration fund collected in all the counties of the State during the entire preceding calendar year as shown by the certificate of the registrar of motor vehicles. Such moneys so received by the respective counties shall be set aside in a separate fund, under the jurisdiction and control of the Board of County Commissioners and appropriated and employed solely by such counties in the construction, reconstruction, maintenance and repair of county highways, bridges and culverts thereon leading up to and connecting with Federal Aid and State Aid highways; provided however, that the County Commissioners are hereby authorized to and may by proper resolutions set aside not to exceed 33 1-3% of the Counties' share for the construction, reconstruction, maintenance and repairs of highways, bridges, culverts in the Federal Aid and State Aid Highways of said county. On making the payments to the State Auditor as provided in this section, the dealer shall first deduct *(from) the amount of tax due, one and one-half per centum thereof to cover the cost of collecting said tax and transmitting the same to the State Auditor, provided, that in order to reimburse the State on account of the expenses of carrying the provisions of this Act into effect, the State Auditor is hereby authorized and directed to credit to the general fund of the State, on the first day of July of each

year, the sum of twenty-five thousand dollars out of the moneys collected as a license tax under the provisions of this Act.

Approved March 11, 1931.

*The word "(from)" appearing in original bill seems to have been inadvertently omitted from enrolled law. It has been inserted to assist in showing probable intent of legislature.

CHAPTER 186
(H. B. No. 268—Jardine.)

MOTOR VEHICLE REGISTRATION

An Act to amend and re-enact Sections one, four, ten, nineteen, twenty-five, twenty-nine, thirty-one and thirty-seven of Chapter 179, Session Laws of 1927, as amended by Chapters 165 and 167 of the Session Laws of 1929, being an act to provide for the taxing and licensing of motor vehicles and trailers, the creation of a Department of Motor Vehicle Registration, the appointment of a Registrar of Motor Vehicles, his powers and duties, establishing the method of distribution of the fees received therefrom, fixing penalties for violation of this act and providing for an appropriation for administering the same and for the use of the State Highway Commission, 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:

§ 1. AMENDMENT.] That Section 1, of Chapter 179 of the Session Laws of 1927, be amended and re-enacted to read as follows:

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

(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, moving 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 independently or any part of the weight of a vehicle or load so drawn.

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

(h) "Specially Constructed Vehicle". Any vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles.

(i) "Essential Parts". All integral parts and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

(j) "Reconstructed Vehicle". Any vehicle which shall have been assembled or constructed largely by means of essential parts, new or used, derived from other vehicles or makes of vehicles of various names, models and types, or which, if originally otherwise constructed, shall have been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles; provided that a motor vehicle that has been constructed by the use of an engine, differential or transmission complete, old or new, may be registered by the payment of the fee for the calendar year, on satisfactory proof to the department of such reconstructed vehicle.

(k) "Foreign Vehicles". Every motor vehicle, which shall be brought into this State otherwise than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this State.

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

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

(n) "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.

(o) "Person". Every natural person, firm, co-partnership, association or corporation.

(p) "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.

(q) "Non-resident". Every person who is not a resident of this State.

(r) "Manufacturer". Every person engaged in the business of manufacturing motor vehicles or trailers.

(s) "Dealer". Every person engaged in the business of buying, selling or exchanging motor vehicles in this State and having an established place of business in this State.

(t) "Highway". Every way or place of whatever nature open to the use of the public as a matter of right for 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.

(u) "Department". The Department of Motor Vehicle Registration of this State acting directly or through its duly authorized officers and agents.

§ 2. AMENDMENT.] That Section 4 of Chapter 179 of the Session Laws of 1927, be amended and re-enacted to read as follows:

§ 4. RECORDS OF DEPARTMENT.] The Registrar shall maintain an office in the State Capitol, or other suitable quarters provided by the State at Bismarck, which said office shall be open and accessible to all applicants for motor vehicle licenses during all reasonable office hours.

§ 3. AMENDMENT.] That Section 10 of Chapter 179 of the Session Laws of 1927, be amended and re-enacted to read as follows:

§ 10. REGISTER OF APPLICANTS TO BE KEPT BY THE DEPARTMENT.] The Department shall file each application received, and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled thereto, shall register the vehicle therein described and the owner thereof in suitable books or on index cards as follows:

(1) Under a distinctive registration number assigned to the vehicle and to the owner thereof hereinafter referred to as the registration number;

(2) Alphabetically under the name of the owner;

(3) Numerically and alphabetically under the engine and serial number and name of the vehicle; provided that such applications may be destroyed by the department after they are two years old or more.

§ 4. AMENDMENT.] That Section 19 of Chapter 179 of the Session Laws of 1927 and as amended by Chapter 167 of the Session Laws of 1929, be amended and re-enacted to read as follows:

§ 19. REGISTRATION BY NON-RESIDENTS.]

(a) A non-resident owner, except as otherwise provided in this section, owning any foreign vehicle which has been duly registered for the current calendar year in the state, county or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the number plate or plates issued for such vehicle in the place of residence of such owner, may operate or permit the operation of such vehicle within this State without registering such vehicle or paying any fees to this State.

(b) Except a non-resident owner of a foreign vehicle operated within this State for the transportation of persons or property for compensation or for the transportation of merchandise, shall register such vehicle and pay the same fees therefor as are required with reference to like vehicles owned by residents of this State.

(c) And except further, that every non-resident, including any foreign corporation carrying on business within this State and owning and regularly operating in such business any motor vehicle, within this State, shall be required to register each such vehicle and pay the same fees therefor as are required with reference to like vehicles owned by residents of this State.

(d) And except further that every person as hereinbefore defined, engaged in the hauling or transportation for hire or compensation of property or persons by motor vehicle from any state into the State of North Dakota, or from any state through the State of North Dakota, and using the highways within said State of North Dakota, shall be required to register each such vehicle and pay the same fees therefor as are required with reference to like vehicles owned by residents of this State.

§ 5. AMENDMENT.] That Section 25 of Chapter 179 of the Session Laws of 1927, be amended and re-enacted to read as follows:

§ 25 REGISTRATION FEES.] And there shall be paid to the Department for the registration of motor vehicles, fees upon the basis and according to the schedules hereinafter set forth.

(a) Every motor vehicle shall be registered annually, each registration certificate and set of tags being valid until the 31st day of December next following the date of registration from and after January 1, 1928. The fee to be paid on all passenger motor vehicles, including hearses and ambulances, except motorcycles, for registration, re-registration and operation, shall be based on manufacturer's weights of said passenger motor vehicles as follows:

PASSENGER CARS

2,000 pounds or less	\$ 12.50	4,500 pounds	\$ 37.50
Over 2,000 pounds to		Over 4,500 pounds to	
2,500 pounds	\$ 14.00	5,000 pounds	\$ 50.00
Over 2,500 pounds to		Over 5,000 pounds to	
2,800 pounds	\$ 16.50	6,000 pounds	\$ 70.00
Over 2,800 pounds to		Over 6,000 pounds to	
3,200 pounds	\$ 20.00	7,000 pounds	\$ 90.00
Over 3,200 pounds to		Over 7,000 pounds to	
3,600 pounds	\$ 25.00	8,000 pounds	\$110.00
Over 3,600 pounds to		Over 8,000 pounds to	
4,000 pounds	\$ 27.50	9,000 pounds	\$130.00
Over 4,000 pounds to		Over 9,000 pounds	\$150.00

(a) Provided, that upon the installation of any new motor or the addition or change of type of any body or equipment in or upon any registered motor vehicle, the owner shall file with the Registrar a new application blank, setting forth the weight of the vehicle if a passenger car, and the load capacity, if a truck. All motor vehicles used for the first time during the year after July 1, shall be entitled to a fifty per cent reduction of that year's fee for such vehicle; and all motor vehicles used for the first time during the year after October first shall be entitled to a seventy-five per cent reduction of that year's fee for such vehicle, provided, that the Registrar is satisfied with the proof given of such fact; provided, further, that the fee at no time shall be less than \$5.00. The annual license fee for a motorcycle shall be \$5.00. For the registration of each motorcycle equipped with a side car, a fee of \$8.00 shall be charged.

(b) The registration fee for the years subsequent to the year in which the passenger vehicle or truck was purchased from the dealer shall be the basic fee or major fraction thereof as above determined, and as determined in this paragraph for trucks, less a ten per cent reduction for the second year, a ten per cent reduction from such second year fee for the third year, a ten per cent reduction from such third year fee for the fourth year, and a ten per cent reduction from such fourth year fee for the fifth year, and after the 8th year a fifty per cent reduction from the original basic fee, and thereafter no further reduction in fee. For motor trucks, not used for commercial freighting, the fee shall be based on its manufacturer's advertised load capacity, at the rate of \$13.50 on such vehicles with advertised load capacity of one-half ton; \$16.50 for trucks of three-quarter ton capacity; \$21.00 for trucks of one ton capacity; \$28.50 for trucks one and one-half ton capacity; \$55.00 for trucks of two tons capacity; \$70.00 for trucks of two and one-half tons capacity; \$90.00 for trucks of three to less than four tons capacity; \$200.00 for trucks of four to less than five tons capacity; \$400.00 for trucks of five to less than six tons capacity; \$600.00 for

trucks of six to less than seven tons capacity; \$900.00 for trucks with load capacity of over seven tons.

(c) For motor trucks used for commercial freighting, in addition to the factors mentioned in paragraph (b) of this Act, an additional fee of twenty-five dollars per vehicle shall be charged.

Provided, that any passenger motor vehicle not having an advertised manufacturer's weight shall pay a license fee based upon actual weight as determined by the Registrar from satisfactory proof submitted to him. Provided, that any truck not having a manufacturer's advertised load capacity, shall pay a license fee in accordance with the schedules herein provided and applicable thereto upon its load capacity as determined by the Registrar upon satisfactory proof submitted to him. Provided, further, that any truck however constructed, having a manufacturer's advertised load capacity of ten tons or over if permitted to operate on the highways of the State of North Dakota shall pay a license fee of Fifteen Hundred Dollars (\$1500.00).

Trailers used for commercial freighting shall pay a license fee based on its load capacity of \$5.00 for one ton or less and \$5.00 per ton for each additional ton; provided, that trailers used with pleasure vehicles for private purposes need not be licensed.

(d) **COMMERCIAL PASSENGER TRANSPORTATION.** In addition to the factors mentioned in paragraph (a) of this Act an additional fee shall be charged on all passenger carrying motor vehicles engaged in Commercial Passenger Transportation, at the rate of \$7.00 per passenger carrying capacity of vehicle, seating capacity to be calculated on the seating room of 16 inches per passenger.

(e) "Commercial Freighting" defined: Commercial freighting shall mean the carriage of things other than passengers, for hire, except within the limits of the same city, village or town; providing that local dray lines carrying baggage or goods to or from a railway station from or to places in said city, village or town, or in the immediate vicinity thereof, in this state and not to exceed two miles from the corporate or recognized limits of said city, village or town, shall not be construed to be engaged in commercial freighting hereunder.

(f) "Commercial Passenger Transportation" defined. Commercial Passenger Transportation shall mean the carriage of passengers for hire, not within the limits of a city, village or town; provided, that local bus lines carrying passengers from a railroad station from or to places in any *city, village or town or within two miles of the limits thereof*, shall not be construed to be engaged in commercial passenger transportation.

(g) Dealers in passenger automobiles and automobile trucks shall pay a license fee of \$25.00 per year, and which said license shall allow the dealer to deal in new and used cars. Additional

dealer's license plates shall be issued to the dealer upon payment of a fee of \$5.00 per set. Said dealer's license plates may be used on any car owned by the dealer and being used by the dealer in the ordinary course of his business, but such dealer's license plates shall not be used on used cars except for demonstration purposes only. Motorcycle dealers shall pay a license fee of five (\$5.00) dollars for each set of motorcycle tags issued to them.

(h) The taxes provided for in this Act shall be in lieu of all other taxes upon such vehicles, either state or local.

§ 6. AMENDMENT.] That Section 29 of Chapter 179 of the Session Laws of 1927 and as amended by Chapter 165 of the Session Laws of 1929, be amended and re-enacted to read as follows:

§ 29. WHEN FEES DELINQUENT; PENALTIES.] The license fee under this Act to be paid upon a motor vehicle shall become due as soon as such vehicle shall first be used upon the public streets or highways in this State, and upon January 1st in each year thereafter. License fees due upon January 1st shall be paid upon transfer of ownership in the vehicle, and in any event on or before May 15th, and shall be delinquent after May 15th unless paid. License fees falling due between May 15th, except as hereinafter provided, and December 31st, shall become delinquent upon the expiration of five days after the same become due. Provided, that a licensed dealer shall on or before May 15th of each year, file with the Motor Vehicle Department, a list and description of all used cars on hand May 15th. Said used cars need not be licensed, unless sold, until October 1st, at which time said dealer must license all used cars on hand, paying the full annual license fee, but without penalty; provided, further, that on any car licensed in another state, which carries the current year's license issued by the state from which said car comes, taken in after July 1st of any year, one-half of the regular fee shall be paid and if any such car be taken in after October 1st of any year, said car shall be entitled to a license from the State of North Dakota, by paying one-fourth of the regular fee, and if said car is not sold by the dealer until after December 31st of said year, in which it was taken in, no license shall be required by the State of North Dakota for that year.

A penalty of 10 cents a day shall be added to the license fee required under this Act for each and every day such license fee shall be delinquent for not to exceed fifteen days and \$2.00 for every thirty days or fraction thereof, but not to exceed one hundred and fifty days; provided, however, that there shall be no penalty charged on vehicles not owned by dealers that have not been operated on the highways during one or more years previous to application for re-registration, if the Registrar is satisfied of such proof.

§ 7. AMENDMENT.] That Section 31 of Chapter 179 of the Session Laws for 1927, be amended and re-enacted to read as follows:

§ 31. Within ten days after this Act goes into effect the Commission shall appoint a suitable person to act as Registrar of the Motor Vehicle Registration Department. Such appointment shall be for a term of two years, but such Registrar shall be removed for cause. Said Registrar shall qualify by taking and subscribing to the oath of office prescribed by law for state officers, and shall file a bond with sufficient security to be approved by the Commission, in the sum of Twenty Thousand Dollars (\$20,000.00), conditioned upon the faithful performance of the duties of the office and the full accounting for all moneys received as taxes or fees under the provisions of this Act, the cost of such bond to be paid by the Motor Vehicle Registration Department. The salary of such Registrar shall be fixed by the Commission, but such salary shall not exceed \$3,000.00 per annum, and same shall be paid out of the fund set apart for the operation of the Motor Vehicle Registration Department.

§ 8. AMENDMENT.] That Section 37 of Chapter 179 of the Session Laws of 1927, be amended and re-enacted to read as follows:

§ 37. PENALTY FOR MISDEMEANOR.]

(a) It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this Act unless such violation is by this Act or other law of this State declared to be a felony.

(b) Unless another penalty is in this Act or by the laws of this State provided, every person convicted of a violation of any provision of this Act shall, for the first offense, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or both such fine and imprisonment, and for the second offense by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

§ 9. TIME OF TAKING EFFECT.] The provisions of this Act other than those relating to the penalty for failure to procure a license as specified in Section 29 hereof; and relative to reconstructed motor vehicles as specified in sub-division "J" of Section 1 hereof; and the provision 7 increasing the salary of the Motor Vehicle Registrar; shall not be operative until January 1st, A. D. 1932.

Approved March 12, 1931.

CHAPTER 187
(H. B. No. 281—Lynch.)

MOTOR VEHICLE TITLE REGISTRATION

An Act to amend and re-enact Sections 1, 3, 4, 5, 5½, 6, 7 and 13 of Chapter 180 of the Session Laws of 1927, amended by Chapter 164 of the Session Laws of 1929, being an act to require certificates of title for registered motor vehicles; to facilitate the recovery of stolen or unlawfully taken motor vehicles; to provide for the licensing of dealers in used motor vehicles, trailers, or semi-trailers; to prescribe the powers and duties of the Motor Vehicle Registration Department; to impose penalties for violation of this act 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:

§ 1. AMENDMENT.] That Section 1 of Chapter 180, Session Laws of 1927 is amended and re-enacted to read as follows:

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

(a) "Vehicles." 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.

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

(c) "Used Vehicles." Every motor vehicle, which has been sold, bargained, exchanged, given away or title transferred from the person who first acquired it from the manufacturer or importer, dealer or agent of the agent of the manufacturer or importer, and so used as to have become what is commonly known as "second hand" within the ordinary meaning thereof.

(d) "Person." Every natural person, firm, co-partnership, association or corporation.

(e) "Legal Owner." A person who holds the legal title to a vehicle.

(f) "Registered Owner." A person who holds legal possession of a vehicle but does not hold legal title.

(g) "Manufacturer." Every person engaged in the business of manufacturing motor vehicles.

(h) "Dealer." Every person engaged in the business of buying, selling or exchanging motor vehicles.

(i) "State." A State, territory, organized or unorganized, or district of the United States of America.

(j) "Department." The Department or branch of the Government of this State charged by law with the duty of registering motor vehicles.

(k) "Registrar." The officer of this State in charge of the Department.

§ 2. AMENDMENT.] That Section 3 of Chapter 180 Session Laws of 1927 is amended and re-enacted to read as follows:

3½ § 3. CERTIFICATES OF TITLE MUST BE OBTAINED BEFORE REGISTERED VEHICLE.]

(a) The Department shall not, after July 1, 1927, register or renew the registration of any motor vehicle unless and until application is made for an official certificate of title for such vehicle, or unless satisfactory evidence is presented that a certificate of title for such vehicle has been previously issued to the legal owner by the Department.

(b) No motor vehicle registered in this state shall, after July 1, 1927, operate upon any highway, unless an official certificate of title therefor shall have been issued by the Department, nor shall any person operate such vehicle upon the highways knowing or having reason to believe that the legal owner has failed to obtain a certificate of title therefor, and any person violating this subsection shall be punished as provided in Section 19 of this Act.

§ 3. AMENDMENT.] That Section 4 of Chapter 180 Session Laws of 1927 is amended and re-enacted to read as follows:

§ 4. APPLICATION FOR A CERTIFICATE OF TITLE.]

(a) The application for a Certificate of Title shall be made upon the appropriate form furnished or approved by the Department and shall contain a full description of the motor vehicle including the name of the maker, the engine and serial number and any distinguishing marks thereon, and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or incumbrances upon said vehicle, and the name and address of the person to whom the Certificate of Title shall be delivered, and such other information as the Department may require; and every application shall be accompanied by a fee of one dollar, which shall be in addition to any fee charged for the registration of such vehicle.

Whenever a new motor vehicle is purchased from a dealer, the application for a Certificate of Title shall include a statement of the transfer by the dealer and of any lien retained by such dealer, and if title to the vehicle is reserved by the dealer, the certificate shall be made out to such dealer and delivered to him as the legal owner of the vehicle.

(b) The applicant shall verify every application for a Certificate of Title before a person authorized to administer oaths, and officers and employees of the Department designated by the Registrar

are hereby authorized to administer oaths and it is their duty to do so without fee for the purpose of this Act.

§ 4. AMENDMENT.] That Section 5 of Chapter 180, Session Laws of 1927 is amended and re-enacted to read as follows:

§ 5. DEPARTMENT TO ISSUE CERTIFICATES OF TITLE.]

(a) The Department shall maintain an engine and serial number index of registered motor vehicles and upon receiving an application for a Certificate of Title shall first check the engine and serial number shown in the application against said index and against the Stolen and Recovered Motor Vehicle Index, required to be maintained by Section 12 of this Act. The Department when satisfied that the applicant is the legal owner of the vehicle, shall thereupon issue in the name of the legal owner a Certificate of Title bearing a serial number and the signature of the Registrar, and the seal of his office, and setting forth the date issued, and a description of the vehicle as determined by the Department, together with a statement of the legal owner's title and of all liens or incumbrances upon the vehicle therein described, and whether possession is held by the legal owner. The Certificate of Title shall also contain, upon the reverse side, forms for assignment of title or interest and warranty thereof by the legal owner with space for notation of liens and incumbrances upon such vehicle at the time of a transfer. The Department shall deliver the Certificate of Title to the legal owner.

(b) Said Certificate shall be good for the life of the vehicle so long as the same is owned or held by the original holder of such Certificate.

§ 5½. AMENDMENT.] That Section 5½ of Chapter 180, Session Laws of 1927, is amended and re-enacted to read as follows:

§ 5½. REGISTRATION CARD.]

(a) The Department upon registering a motor vehicle shall issue to the applicant, who must be the person entitled to possession of the vehicle, a registration card which shall set forth on the face thereof the date issued, the registration number assigned to the applicant and to the vehicle, also a description of the registered vehicle, including the engine and serial numbers, and with reference to every new vehicle hereafter sold in this state, the date of the sale by the manufacturer or dealer to the person first operating such vehicle and such other statements of facts as may be determined by the Department, and shall provide a space for the signature of the applicant, and upon the reverse side a form for endorsement of notice to the Department upon the transfer of the vehicle, if endorsed registration card is not mailed to the Motor Vehicle Department within 5 days after said endorsement is made thereon, there shall be a penalty imposed of ten cents (\$.10) per day, not to exceed 50 days.

(b) An applicant upon receiving a registration card shall sign the usual signature or name of such applicant with pen and ink in the space provided upon such card.

(c) The registration card issued for a vehicle, shall at all times while the vehicle is being operated upon a highway within this state, be carried in a container costing with the registration card, not to exceed ten cents, furnished by the State in the driver's compartment of the vehicle, and subject to inspection by any peace officer.

§ 6. AMENDMENT.] That Section 6 of Chapter 180, Session Laws of 1927 is amended and re-enacted to read as follows:

§ 6. ENDORSEMENT AND DELIVERY OF THE CERTIFICATE OF TITLE UPON A TRANSFER OF TITLE OR INTEREST.]

(a) The legal owner of a motor vehicle for which a Certificate of Title is required hereunder, shall not, after July 1, 1927, sell or transfer his title to such vehicle unless he shall have obtained a Certificate of Title thereto, nor unless having procured a Certificate of Title, he shall in every respect comply with the requirements of this section; and any person who violates the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 19 of this Act.

(b) The legal owner who sells or transfers his title to such motor vehicle after July 1, 1927, shall endorse an assignment and warranty of title upon the Certificate of Title for such motor vehicle with a statement of all liens or encumbrances thereon, which statement shall be verified under oath by the legal owner. The legal owner shall deliver the Certificate of Title to the purchaser in the event legal title passes to said purchaser. In the event legal title does not pass to the purchaser, under the terms of the contract for sale of the vehicle, then the legal owner shall retain the Certificate of Title until the terms of the contract are complied with by the purchaser, but shall deliver the Certificate of Title, properly assigned, to the purchaser as soon as the terms of the contract are complied with by said purchaser.

(c) The transferee except as provided in the next succeeding paragraph, shall thereupon present such Certificate, endorsed and assigned as aforesaid to the Department, accompanied by a transfer fee of one dollar, and make application for and obtain a new Certificate of Title for such vehicle.

(d) When the transferee of a vehicle is a dealer, who holds the same for resale and operates the same only for purposes of demonstration, such transferee shall not be required to forward the Certificate of Title to the Department, as provided in the preceding paragraph, but such transferee, upon transferring his title to another person, shall execute and acknowledge an assignment and warranty of title upon the Certificate of Title and deliver the same to the person to whom such transfer is made.

(e) Whenever the ownership of any motor vehicle shall pass otherwise than by voluntary transfer, the new legal owner may obtain

a Certificate of Title therefor from the Department upon application therefor and payment of a fee of one dollar, accompanied with such instruments or documents of authority, or certified copies thereof, as may be required by law to evidence or effect a transfer of title in or to chattels in such case. The Department, when satisfied of the genuineness and regularity of such transfer shall issue a new Certificate of Title to the person entitled thereto.

(f) When the transferee of a motor vehicle is unable to obtain a properly assigned Certificate of Title for such vehicle, and makes application for a new Certificate of Title and presents satisfactory proof of ownership, the Department may cancel the old Certificate of Title and issue a new Certificate of Title to such transferee.

§ 7. AMENDMENT.] That Section 7 of Chapter 180, Session Laws of 1927 is amended and re-enacted to read as follows :

§ 7. DEPARTMENT TO MAINTAIN TRANSFER FILE.]

(a) The Department shall retain and appropriately file every surrendered Certificate of Title, such file to be maintained as to permit the tracing of title of the vehicle designated therein.

(b) The Department within thirty days after the taking effect of this Act, shall have printed copies of this Act and shall mail a copy thereof, with a blank form of application for a Certificate of Title, to every legal owner of a registered motor vehicle in this State.

§ 8. AMENDMENT.] That Section 13 of Chapter 180, Session Laws of 1927 is hereby amended and re-enacted to read as follows :

§ 13. ALTERED OR CHANGED ENGINE OR SERIAL NUMBERS.]

(a) The legal owner of a motor vehicle, the engine or serial number of which has been altered, removed or defaced, may, within thirty days from the date this Act takes effect, make application in form prescribed by the Department, accompanied by a fee of one dollar, for a special number. He shall furnish such information as will satisfy the Department that he is the legal owner, whereupon the Department shall assign a special number for the motor vehicle, preceded by a symbol indicating this State. A record of special numbers so assigned shall be maintained by the Department.

The legal owner shall stamp said number upon the engine, or otherwise as directed by the Department ; and upon receipt by the Department of a certificate by a peace officer that he has inspected and found said number stamped upon the motor vehicle, as directed, in a workmanlike manner, together with application for a Certificate of Title, such special number shall be regarded as the engine or serial number of said motor vehicle.

(b) Any person who with fraudulent intent shall deface, destroy or alter the engine or serial number of a motor vehicle, or shall place a stamp other than the original engine or serial number upon a motor vehicle, or shall sell or offer for sale any motor vehicle bearing an altered or defaced engine or serial number, other than the orig-

inal or a number assigned as above provided, shall be guilty of a felony, and upon conviction shall be punished as provided in Section 20 of this Act.

This Section is not intended to prohibit the restoration by the legal owner of an engine or serial number of a motor vehicle for which a Certificate of Title has been issued by this State, nor to prevent any manufacturer or importer, or agents, thereof, other than a dealer, from placing or stamping in the ordinary course of business, numbers on motor vehicles, or parts thereof removed or changed and replacing the numbered parts.

§ 9. TIME OF TAKING EFFECT.] This Act shall take effect from and after the 1st day of January, 1932.

Approved March 12, 1931.

CHAPTER 188

(S. B. No. 59—Bonzer.)

MOTOR VEHICLE TRANSPORTATION

An Act to amend and re-enact Section one, Chapter 90, of the Session Laws of 1927; providing for the supervision and regulation of the transportation of persons and property for compensation over any public highway by motor propelled vehicles; defining auto transportation companies; providing for supervision and regulation thereof by the Board of Railroad Commissioners of the State of North Dakota; providing for the enforcement of the provisions of this act and for punishment for violation thereof.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 90 of the Laws of 1927 of the State of North Dakota be and the same hereby is amended and re-enacted as follows:

§ 1 DEFINITION OF TERMS.]

(a) The term "Corporation" when used in this Act means a corporation, company or association, or joint stock association.

(b) The term "Person" when used in this Act means an individual, a firm or a copartnership.

(c) The term "Commission" when used in this Act means the Board of Railroad Commissioners of the State of North Dakota, or the Director of Public Works or such other board or body as may succeed to the powers and duties now held by the Board of Railroad Commissioners.

"(d) The term "Auto Transportation Company" when used in this Act means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any motor propelled vehicle not usually operated on or over rails, used in the business of transporting

persons and/or property for compensation over any public highway in this state as a common carrier; provided that the term "Auto Transportation Company" as used in this Act shall not include corporations or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever insofar as they own, control, operate or manage busses, taxi cabs, or transfer trucks operated exclusively within two miles of the incorporated limits of any city, town or village, school busses wherever operated, motor propelled vehicles operated exclusively in transporting agricultural, horticultural, livestock or dairy or other farm products from the point of production to the market by the producer or in the exchange of labor, or rural mail carriers employed by the United States Government.

(d-1) The term "Common Carriers" when used in this Act means every auto transportation company which offers to the public to carry persons and/or property for compensation.

(e) The term "Public Highway", when used in this Act, means every street, road, or highway in this State, and shall include any highway, state road, county road, public street, avenue, alley, driveway, boulevard, or other place built, supported, maintained, controlled or used by the public or by the state, county, district or municipal officers for the use of the public as a highway or for the transportation of persons, and/or property, or as a place of travel or communication between different localities or communities.

(f) The word "Certificate" means the certificate of public convenience and necessity authorized to be issued by the Commission after notice and hearing under the provisions of this Act.

(g-1) The words "For Compensation" means for remuneration of any kind, paid or promised, either directly or indirectly.

(g-2) The word "Loss" means the excess of operating costs of the business, interest, taxes and a reasonable and proper charge for depreciation over the earnings.

(h) There shall be two classes of auto transportation companies authorized to operate under this Act which shall embrace all auto transportation companies operating as common carriers.

(i) Class A auto transportation companies shall embrace all auto transportation companies operating between fixed termini or over a regular route upon a regular time schedule at regular rates or charges based upon station to station rates, or upon a mileage rate or scale or a combination of both, provided that nothing herein shall be construed as prohibiting a Class A carrier from publishing, maintaining, charging and collecting rates at competitive points the same as published, maintained, charged and collected by other carriers.

Special auto transportation companies shall embrace all auto transportation companies transporting persons and/or property of the class or classes usually and ordinarily transported by Class A companies under regular rates and charges made for each vehicle accord-

ing to size or capacity on a mileage or hourly basis or both, but not operating between fixed termini or over a regular route.

Class B auto transportation companies, as defined by Chapter 90 of the Session Laws of 1927, is abolished.

(j) OPERATION OF VEHICLES—No auto transportation company, nor corporation, nor person or its or their legal representatives, shall operate on any public highway in this State any motor propelled vehicle for the transportation of persons, and/or property for compensation, except in accordance with the provisions of this Act.

(k) POWER OF COMMISSION, RATES.] The "Commission" of the State of North Dakota is hereby vested with power and authority and it is hereby made its duty to supervise and regulate every auto transportation company in this state subject to the provisions of this act; to fix just, fair, reasonable, sufficient and non-discriminatory rates, fares, charges, classifications, rules and regulations of each auto transportation company; to alter rates, rules and regulations; to regulate the accounts, service, rates of speed of such auto transportation company and safety of operations of each such auto transportation company; to require the filing of annual and other reports, tariffs, schedules or other data by such auto transportation companies and to supervise and regulate auto transportation companies in all other matter affecting the relationship between such auto transportation companies and the travelling and shipping public. The Commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this Act, applicable to any and all such auto transportation companies; and within such limits shall have power and authority to make orders and to prescribe rules and regulations affecting auto transportation companies.

The Commission may, at any time, by its order duly entered after a hearing had upon notice to the holder of any certificate hereunder, and an opportunity to such holder to be heard, at which it shall be proved that such holder wilfully violates or refuses to observe any of its proper orders, rules or regulations or any provisions of this Act, suspend, revoke, alter or amend any certificate issued under the provisions of this article, but the holder of such certificate shall have all the rights of rehearing, review and appeal as to such order of this Commission as provided for in this Act.

The Commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this Act, applicable to any and all auto transportation companies provided that no rule shall be made restricting common carries of passengers hereunder from transporting the baggage of each passenger; or transporting express packages weighing not to exceed one hundred pounds each. All rules and regulations in relation to schedules, service, tariffs, rates, facilities, accounts and reports shall be just, fair and reasonable as to the public, and to other common carriers.

In fixing the tariffs or rates to be charged for the carrying of persons and/or property, the Commission shall take into consideration, among other things, the kind and character of service to be performed, the public convenience and necessity therefor, and the effect of such tariffs and rates upon other common carriers, if any, and as far as possible avoid detrimental or unreasonable competition with existing transportation service.

No time schedule, tariff or rates shall be put into effect or be changed or altered except upon hearing duly had and an order therefor by the Commission. Notice of such hearing shall be served upon any competing auto transportation company or railroad; provided however that in case of an emergency or where application is made for minor or unimportant alterations of time schedules or tariffs the Commission may, in its discretion, authorize the changing or alteration of its time schedules or tariffs without a hearing, and prior to the service of such notice, but in that event notice shall be served within a reasonable time after such action on the part of the Commission and any competing auto transportation company or railroad affected by such change, may, upon application, be entitled to a hearing upon such alteration or change.

No auto transportation company shall charge or demand or collect or receive a greater or less or different compensation for the transportation of persons and/or property, or for any service in connection therewith, than the rates, fares and charges which have been duly approved therefor by an order of the Commission; nor shall any auto transportation company refund or remit in any manner or by any device, any portion of the rates, fares and charges required to be collected by the Commission's order, nor extend to any shipper or person any privilege or facilities in the transportation of persons, and/or property, except such as have been provided for by an order of the Commission.

(1) CONSENT OF COMMISSION TO OPERATION, CERTIFICATE, TERMS AND CONDITIONS. No auto transportation company, except those properly licensed by the Commission as of April 1st, 1931, shall hereafter operate for the transportation of persons and/or property for compensation as a common carrier without first having obtained from the Commission under the provisions of this act, a certificate declaring that public convenience and necessity require such operation.

Any right, privilege, or certificate held, owned or obtained by an auto transportation company may be sold, assigned, leased, transferred or inherited as other property, only upon the authorization of the Commission.

The Commission shall have power, after hearing, when the applicant requests a certificate to operate in a territory already served by a certificate holder under this act to issue said certificate as prayed for; or for good cause shown, to refuse to issue same or to issue

it for the partial exercise only of said privilege, and may attach to the exercise of the rights granted by said certificate, such terms and conditions, as, in its judgment, the public convenience and necessity may require.

(m) **PETITION ON APPLYING FOR CERTIFICATE.** Any auto transportation company making application for a certificate under this act shall file with the Commission a duly verified petition which shall specify the following matters:

1. The name and address of the applicant and the names and addresses of its officers, if any.

2. The public highway or highways over which, and the fixed termini between which, or the route or routes over which it intends to operate, if the same are fixed.

3. The kind of transportation, whether of persons or property together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of the vehicle to be used in freight traffic.

4. The proposed time schedule.

5. A schedule of the tariff or rates desired to be charged for the transportation of freight or passengers.

6. A complete and detailed description of the property proposed to be devoted to the public service.

7. A detailed statement showing the assets and liabilities of such applicant.

8. And such other or additional information as the Commission may by order require.

(n) **HEARING, FIXING TIME AND PLACE OF; SERVICE OF NOTICE OF.** Upon the filing of such petition the Commission shall fix a time and place for hearing thereon which shall not be less than twenty (20) days after such filing. The Commission shall cause notice of hearing thereon to be served upon any officer or owner of any auto transportation company that, in the opinion of the Commission, might be affected by the granting of any such certificate, and upon a station agent of any railroad operating into or through any village or city located on the proposed route of the applicant, and on the State Highway Department, at least twenty (20) days before the date of the hearing, and any such railroad, auto transportation company, State Highway Department, or any other interested party may appear and offer testimony for or against the granting of such certificate.

(o) **CONSIDERATION GIVEN ON DETERMINING WHETHER CERTIFICATE SHALL BE ISSUED.** In determining whether or not a certificate should be issued, the Commission shall give reasonable consideration to the transportation service being furnished or that could be furnished by any railroad and the effect which such proposed

transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby, and to the traffic already existing upon the route proposed to be traveled and the effect that such proposed service may have upon the existing travel upon said route and the excess cost of maintaining such highway on account of installation of such additional service, if any. The Commission shall avoid as far as possible, consistent with the public interest, the duplication of transportation services.

(p) **INSURANCE OR BOND REQUIRED. LIABILITY OF INSURER AND SURETY. TRIAL.** The Commission shall in the granting of a certificate to operate any auto transportation company, for the transporting of persons, and/or property, for compensation, require the owner or operator to first procure liability and property damage insurance from a company licensed to make liability insurance in the State of North Dakota, or a surety bond of a company licensed to write surety bonds in the State of North Dakota, in such amounts as the Commission may fix as being adequate for the protection of the interests of the public, with due regard to the hazard and density of traffic, which insurance policy or surety bond shall guarantee the payment of any loss or damage to property, death or injury to persons, not exceeding the amounts determined by the Commission and specified in such policy or bond, resulting from the negligence of such auto transportation company. In any action for damages resulting from negligence of such auto transportation company the insurer or surety shall not be joined as a party defendant with such auto transportation company, nor shall the fact of the ultimate liability of such insurer or surety be disclosed or commented upon to the jury, but upon final judgment the insurer or surety shall become directly liable to the owner of such judgment for the full amount thereof, but not exceeding the amount of the policy of insurance or surety bond applicable to such loss. Each policy of insurance or surety bond required, shall be filed with the Commission and kept in full force and effect and failure so to do shall be cause for revocation of the certificate.

(q) **COMPLAINTS; ORDERS; DECISIONS; APPEALS.** In all respects in which the Commission has power and authority under this act, applications and complaints may be made and filed with it and notices issued thereon, hearing held, opinions and decisions made and filed, petitions for rehearing filed and acted upon, and appeals from such orders and decisions may be taken by any party to the District Court of the County where such hearing was held unless otherwise provided for in this article, in the same manner and under the same terms and upon the same conditions provided for by Sections 4609c1 to 4609c56, inclusive, Supplement to the 1913 Compiled Laws of North Dakota.

(r) **VIOLATION OF PROVISIONS.** Every officer, agent or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provisions of this act, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement or any part or provision thereof, is guilty of a misdemeanor and punishable as such.

(s) **FEES.** Every auto transportation company now operating or which shall hereafter operate as a common carrier in this State shall at the time of making application for a certificate and annually thereafter on or before April 15th of each calendar year, pay a fee of not less than fifteen (\$15) dollars nor more than seventy-five (\$75) dollars, to be fixed by the Commission in each instance.

Miscellaneous fees shall be as follows:

Application for transfer of a certificate of public convenience and necessity, \$5.00.

Application for the mortgaging of a certificate of public convenience and necessity, \$5.00.

Application for the issuance of a duplicate certificate of public convenience and necessity, \$3.00.

For copies of any records of the Commission pertaining to auto transportation companies, per one hundred words or portion thereof, (15¢) fifteen cents.

For the purpose of carrying out the provisions of this act there is hereby created in the State Treasury a state fund to be known as the "Auto Transportation Fund." All fees collected by the Commission, as herein provided, shall be paid into the State Treasury monthly and shall be credited to the said "Auto Transportation Fund" to the use of the Commission and shall be paid out upon proper voucher and audit by the State Auditing Board, for the expenses of said Commission in administering the provisions of this act.

(t) **FORFEITURE OF RIGHTS.** Any auto transportation company shall forfeit all rights under a certificate issued under the provisions of this act by non-use thereof for a period of sixty days after the granting of such certificate.

(u) **BALANCE OF STATUTE NOT TO BE AFFECTED BY UNCONSTITUTIONALITY OF ACT.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

§ 2. **REPEAL.]** All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 10, 1931.

CHAPTER 189
(S. B. No. 10—Gronvold.)

REFUND MOTOR VEHICLE FUEL TAX.

An Act to amend and re-enact Section 6 of Chapter 166, Session Laws of North Dakota for the year 1929, providing for the refunding of license tax paid on motor vehicle fuel used for other purposes than in motor vehicles operated or intended to be operated, in whole or in part, upon any of the public highways in the State of North Dakota.

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

§ 1. AMENDMENT.] That Section 6 of Chapter 166, Session Laws of North Dakota for the year 1929, be amended and re-enacted to read as follows:

§ 6. That any person or persons, firm or corporation who shall buy or use any motor vehicle fuel as defined in this Act, for the purpose of operating and propelling stationary gas engines, tractors used for agricultural purposes, motor boats, airplanes or aircraft, or who shall purchase or use any of such fuel for lighting, heating, cleaning or dyeing or other commercial use of the same, except motor vehicles operated or intended to be operated, in whole or in part upon any of the public highways in the State of North Dakota, on which motor fuel tax imposed by this Act has been paid; shall be reimbursed and repaid the amount of such tax paid by him, on presentation to the State Tax Commissioner, on a form prescribed by the State Tax Commissioner, of a sworn statement setting forth the total amount of such fuel purchased and used by such consumer, other than in motor vehicles operated or intended to be operated upon any of the public highways in the State of North Dakota, and the purpose for which said motor fuel upon which he claims exemption from said tax was used, and such other information as the State Tax Commissioner shall require, and the State Tax Commissioner, upon the presentation of such sworn statement, together with the invoice or ticket hereinbefore provided for and marked paid, shall audit such claims for refunds and prepare, in duplicate, an abstract showing the claim number, the name, address and amount due each claimant, and shall certify to the State Auditor within fifteen days all claims entitled to approval; and the Auditor shall pay the same immediately. Upon such certification the State Auditor shall issue his check, payable to each consumer as shown by such certified abstract, from the taxes collected on motor fuels, the said taxes on fuels purchased or used for other than motor vehicles as aforesaid, and shall deliver, for mailing, said checks to the State Tax Commissioner; provided that no refund or repayment shall be made unless such claimant thereof shall make application therefor within twelve months from and after the

purchase of such motor vehicle fuel. Applications for refunds or repayments shall not be made oftener than at the beginning of the quarter of each calendar year. The State Auditor shall furnish the Tax Commissioner with the information relating to the collection of the motor vehicle fuel tax and the Tax Commissioner shall withhold approval of any refund or repayment until the tax upon such motor vehicle fuel, on which refund or repayment is claimed, shall have been paid.

"The Tax Commissioner shall have the power to formulate rules and regulations for the administration of this provision and shall require the assistance of the tax supervisors in the enforcement thereof."

Approved March 10, 1931.

CHAPTER 190
(S. B. No. 80—Bonzer.)

SIZE AND LOAD OF MOTOR VEHICLES ON HIGHWAYS

An Act to amend and re-enact Section 36 of Chapter 162, of the Session Laws of North Dakota for 1927, being the uniform Motor Vehicle Act regulating the operation of vehicles upon the highways of the State of North Dakota.

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

§ 1. AMENDMENT.] That Section 36 of Chapter 162 of the Session Laws of North Dakota for 1927, be amended and re-enacted to read as follows:

§ 36. SIZE OF VEHICLE AND LOAD.]

(a) No vehicle shall exceed a total outside width, including any load thereon, of eight feet; provided, that the limitations as to size of vehicles stated in this section shall not apply to contractors' equipment or 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-five feet. The hauling of more than one trailer as hereinbefore defined, behind a motor vehicle, except for the purpose of transporting the property of the owner of such vehicle, is prohibited and made unlawful. No train of more than two motor vehicles shall be operated on the highways of this state, except that one motor vehicle may haul to a convenient place another motor vehicle in the case of an emergency on the road brought about by injury or damage to, or break down of said hauled motor vehicle. Nothing in this act shall prohibit any North Dakota automobile dealer from hauling not to exceed two new cars; hitched in manner approved by the Motor Vehicle Registrar.

(d) No Motor vehicle 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.

(f) The provisions hereof shall not apply to carriage of structural material which must necessarily be transported on the highway.

§ 2. EMERGENCY.] This Act is hereby declared to be an Emergency measure, and shall be in full force and effect immediately after its passage and approval.

Approved March 13, 1931.

MUNICIPAL CORPORATIONS

CHAPTER 191

(H. B. No. 236—Pfenning.)

ATTENDANCE FIRES OUTSIDE CORPORATE LIMITS BY MUNICIPAL FIRE DEPARTMENTS

An Act authorizing municipal fire departments to attend fires outside of the corporate limits, and to provide that attending such fires shall be in the performance of a public duty.

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

§ 1. The governing body of any city or village may by resolution provide that the fire chief may, in cases of emergency, order the fire department or any portion thereof to attend and serve at fires outside the limits of the municipality, but within the limits prescribed by such resolution.

§ 2. When so engaged outside the limits of the municipality, the fire department, its members and apparatus shall be deemed and considered to be engaged in the performance of a public duty, as fully as if serving within the limits of the municipality.

§ 3. All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 11, 1931.