

TITLE 23 – TRAFFIC CODE

CHAPTER 1 - TRAFFIC

Legislative History: Resolution No. 842 (adopting Arizona Code Sections 66-151 through 66-401, 66-401, and 66-406 through 66-408, with some exceptions, as Sections 36 through 237 of Chapter 5 of the Papago Law and Order Code) was enacted by the Papago Council on September 23, 1955 and approved by the Sells Agency Superintendent on [no date given]. Section 66-156 of the Arizona Code Annotated, dealing with driving under the influence of liquor or drugs, was subsequently repealed and replaced by Ordinance No. 51 effective January 9, 1975. Section 66-156 [sic]¹ of the Arizona Code Annotated, dealing with speed restrictions, was subsequently repealed and replaced by Ordinance No. 52 effective January 9, 1975. The sections adopted by Resolution No. 842, as amended, were formally compiled within the Traffic Code of the Tohono O’odham Nation on July 5, 2005 pursuant to Resolution No. 05-361.

Related History: The traffic laws adopted by Resolution No. 842 were initially added to 1945 Papago Law and Order Code Chapter 5, which originally comprised 36 criminal offense definitions. Several of the original 36 criminal offense sections were subsequently amended and all Chapter 5 non-traffic criminal offense sections were repealed and replaced by the Criminal Code of the Tohono O’odham Nation in 1985 pursuant to Ordinance No. 02-85, as amended. The traffic laws adopted by Resolution No. 842 were subsequently compiled within the Traffic Code of the Tohono O’odham Nation as noted above.

¹ Section 66-156, Persons under the influence of intoxicating liquor or of drugs, as incorporated by Resolution No. 842, was previously repealed by Ordinance No. 51. Ordinance No. 52 may have been intended to repeal speeding-related Sections 66-158 through 66-162.

RESOLUTIONS OF THE PAPAGO COUNCIL

RES. NO. 842

WHEREAS: The number of motor vehicle owned by the Papago people is constantly increasing so that the provisions of the Papago Law and Order Code for control of motor vehicle traffic are becoming outmoded, and

WHEREAS: It has been the policy of the Papago Council to revise its Law and Order Code from time to time to bring it closer to State Law, and

WHEREAS: It will make for greater traffic safety if the Traffic Code, to which the members of the Papago Tribe are subject, is the same both on and off the reservation,

NOW THEREFORE BE IT RESOLVED BY THE PAPAGO COUNCIL, that Section 66-151 through 66-401, 66-401, and 66-406 through 66-408 of Chapter V of the laws of the State of Arizona relating to Motor Vehicles be made applicable to the Papago reservations, except these provisions which by their nature can have no application, and that the above-listed sections be hereby adopted as an addition to Chapter V of the Papago Law and Order Code, becoming section 36 through 237 in consecutive order,

PROVIDED,

(1) That where the Arizona State Law reads "Department" "Commission: or "Local Authority," the corresponding sections of the Papago Law and Order Code shall read "Papago Council," "State," "County", "City", or "Village", shall read Papago Reservation,"; "Magistrate," or Justice of the Peace: shall read "Tribal Judge"; "County Jail" shall read "Tribal Court"; Superintendent" of Highway Patrol" shall read "Chief of Indian Police"; and "Patrol Officers," Police", or "Peace Officers" shall read "Indian Police", and

(2) that where the Arizona State Law reads "misdemeanor" or "Felony" the corresponding section of the Papago Law and Order Code shall read "offense".

BE IT FURTHER RESOLVED: That Section 13, "Reckless Driving" of Chapter V of the Papago Law and Order Code and any other provisions thereof, pertaining to traffic laws, in conflict with this ordinance, be hereby repealed.

The foregoing resolution was on September 23, 1955, duly enacted by a vote of 12 for, and 0 against by the Papago Council pursuant to authority vested in it by section 3 (b) of Article V of the Constitution of the Tribe ratified by the Tribe on December 12, 1936 pursuant to section 16 of the Act of June 18, 1934 (48Stat. 984). Said resolution is effective as of the date of its enactment.

THE PAPAGO

BY:

/s/ Mark Manuel
Mark Manuel, Chairman

ATTEST:

/s/ Evelyn Siquieros
Evelyn Siquieros, Secretary & Treasurer

/s/ Albert N. Hawley
Albert N. Hawley, Superintendent

ARIZONA
CODE
1939

ARIZONA CODE

1939

Containing the
GENERAL LAWS OF ARIZONA
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VOLUME FIVE

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or revoke the approval issued therefor until such device is resubmitted, retested and found to meet the requirements.

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 any head lamp, auxiliary driving lamp, rear lamp or signal lamp 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 candlepower of bulbs to be used therewith as approved by the department and any particular methods of mounting or adjustment as to focus or aim necessary for compliance with the requirements of this article. [Laws 1927 (4th S. S.), ch. 2, subch. 5, § 55, p. 94; rev., R. C. 1928, § 1626.]

66-141. Enforcement of lamp requirements.—The department may designate, furnish instructions to and supervise official stations for adjusting head lamps and auxiliary driving lamps to conform with the provisions of this article. When head lamps and auxiliary driving lamps have been adjusted in conformity with the instructions issued by the department a certificate of adjustment shall be issued to the driver of the motor vehicle on forms issued in duplicate by the department and showing date of issue, registration number of motor vehicle, owner's name, make of vehicle and official designation of the adjusting station. The driver of any motor vehicle equipped with approved head lamps, auxiliary driving lamps, rear lamps or signal lamps who is arrested upon a charge that such lamps are improperly adjusted or are equipped with bulbs of a candlepower not approved for use therewith, shall be allowed forty-eight [48] hours within which to bring such lamps within the requirements. It shall be a defense to any such charge if the person arrested produce a certificate from an official adjusting station showing that within forty-eight [48] hours after such arrest such lamps have been made to conform with the requirements. [Laws 1927 (4th S. S.), ch. 2, subch. 5, § 56, p. 94; R. C. 1928, § 1627.]

66-142. Red light visible from front prohibited.—It shall be unlawful for any person to drive or move any vehicle except police, fire department or fire patrol vehicles upon a highway with a red light thereon visible from in front. [Laws 1927 (4th S. S.), ch. 2, subch. 5, § 57, p. 94; R. C. 1928, § 1628.]

ARTICLE 2

MOTOR VEHICLE DIVISION

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66-201. Motor vehicle division.—(a) The highway department shall maintain a division of motor vehicles. The state engineer, subject to the approval of the commission, shall appoint a vehicle superintendent to be the head of such division.

(b) The vehicle division shall maintain an office in the capital, and such other offices as the duties of the division may require. The superintendent may, with the consent of the state engineer, appoint a chief clerk and such other employees as the business of the division may demand.

(c) The superintendent, and such officers, agents and employees of the division as he may designate, are denominated peace officers for the enforcement of all laws the enforcement or administration of which

is vested in the superintendent or in the division. The powers of the superintendent, officers, agents and employees as peace officers are strictly limited to the enforcement of motor vehicle laws and regulations, and within such limits shall be co-extensive with the like authority of regular peace officers of the state or of the municipalities thereof, and may be exercised throughout the state.

(d) The superintendent shall prescribe rules and regulations for carrying out the provisions of this act, shall designate the necessary agencies for such purpose, and shall prepare and deliver to such agencies all forms required therefor.

(e) The superintendent, chief clerk, and such officers, agents and employees of the division as the superintendent shall designate, shall have power to administer oaths and acknowledge signatures, without fee, in any matter connected with the administration of any law the enforcement of which is vested in the superintendent of the division. The superintendent shall issue to all persons designated by him to administer oaths and acknowledge signatures a certificate of authority so to do, the original of which shall be filed in the division and a copy in the office of the secretary of state.

(f) The assessor of each county is constituted an agent of the division for the performance of acts and duties delegated to him, and the offices maintained by such county assessors are constituted county offices of the division. Fifty cents [50c] of each original registration fee shall be remitted to the county treasurer of the county in which such registration fee is collected, and placed in a special fund for the use of the assessor in carrying out the duties imposed upon him by this act. Claims against said fund shall be allowed and paid in the same manner as claims against the county are allowed and paid. The board of supervisors may order the transfer of all or any unexpended part of said fund received during a previous fiscal year into the fund for the maintenance and construction of county highways. All moneys received from the taxes herein imposed, except the portion retained for the assessor's special fund, shall be immediately transferred by the collecting officer to the superintendent, and by him to the state treasurer, who shall credit the same to the state highway fund. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 1-4, p. 33; cons. & rev., R. C. 1928, § 1629; Laws 1937, ch. 67, § 1, p. 234.]

Compiler's Note.

Section 5 of Laws 1927 (4th S. S.), ch. 2, subch. 3 was not included in Rev. Code 1928. It provided as follows: "All registration and license records in the offices of the vehicle division shall be public records and open to inspection by the public during business hours."

Title of Act.

An act relating to the motor vehicle division of the state highway department; amending sections 1629, 1632, 1634, 1636, 1637, 1638, 1639, 1641, 1642, 1644, and 1647, Revised Code of 1928; section 1643a, Revised Code of 1928 (chapter 78,

Session Laws of 1933), as amended; sections 1633, 1635, 1640, 1646, 1653 and 1672, Revised Code of 1928, as amended; and amending chapter 31, Revised Code of 1928, by adding sections 1640a, 1640b, 1642a, 1642b, 1643b, 1644a and 1648a. [Laws 1937, ch. 67.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "The highway department shall maintain a division of motor vehicles, for which a vehicle superintendent shall be appointed by the state engineer. The county assessors shall be officers of the vehicle division

in their respective counties. The vehicle division shall maintain an office in the headquarters building of the department. The vehicle superintendent may, with the consent of the commission, appoint one [1] chief clerk and such employees as the business of the vehicle division may demand. He shall adopt and enforce rules and regulations, and designate agencies necessary to carry out the provisions of this article, and provide and deliver necessary forms."

66-202. Stolen car and revoked license record.—The division shall, not less than once each month, publish or post in each of its offices, a record of stolen and recovered motor vehicles, and of suspensions and revocations of operators' and chauffeur's licenses; furnish copies of such records to the police departments and sheriffs' offices throughout the state, and forward copies of stolen and recovered motor vehicle records to the officer of each state having charge of motor vehicles. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 6, p. 33; R. C. 1928, § 1630.]

Comparative Legislation. Stolen car record:
Cal. Deering's Codes 1937, Vehicle Code, §§ 220-222.

Cross-References.

Driving on railroad right of way, § 43-4815.

Motor vehicles, injuring or preventing operation, § 66-408.

Using without consent of owner, § 43-5508.

Comparative Legislation. Motor vehicle division:

Cal. Deering's Codes 1937, Vehicle Code, §§ 101-138.

Ill. Rev. Stat. 1939, ch. 95½, § 95.
La. Dart's Stat., § 5283.

66-203. Accident reports.—The vehicle division shall prepare and supply to police and sheriffs' offices forms for accident reports, calling for information disclosing the cause, conditions then existing, and the persons and vehicles involved in a highway accident. The driver of any vehicle involved in an accident resulting in injury or death to any person, or property damage to an apparent extent of fifty dollars [\$50.00] or more, shall forthwith report the accident in writing to the police department of the city wherein such accident occurred, or if it occurred outside of a city, then to the sheriff of the county, and a copy thereof shall be forwarded by such officer to the division. The division may require drivers involved in accidents, or police departments to file supplemental reports of accidents upon forms furnished by it whenever the original report is insufficient. Such reports shall be for the information of the division only and shall not be open to public inspection, and shall be admissible in evidence solely to prove a compliance with this section but for no other purpose. The division shall tabulate and analyze such reports and publish annually or oftener statistical information based thereon as to the number, cause and location of highway accidents. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 7, p. 33; rev., R. C. 1928, § 1631.]

Comparative Legislation. Accident reports:

Cal. Deering's Codes 1937, Vehicle Code, § 489.

Ill. Rev. Stat. 1939, ch. 95½, § 142.

Ind. Burns' Stat. 1933, § 47-901.

La. Dart's Stat., § 5285.

questions in relation to accidents, by executive or administrative board. 110 A. L. R. 826.

Evidence, admissibility of report of operator filed pursuant to law, respecting automobile accident. 69 A. L. R. 905.

Report of accident, requiring private motor carriers or contract carriers to make. 109 A. L. R. 565.

Collateral References.

Constitutionality, construction, and application of statute for determination of

66-204. Registration of motor vehicles.—(a) Every owner of a motor vehicle, trailer or semi-trailer, before the same if [is] operated upon any highway in this state, shall apply to the vehicle division for a certificate of title thereto and the registration thereof.

(b) When an application, accompanied by the proper fee, has been made as herein required, such vehicle may be operated pending completion of the registration thereof, but during such period there shall be displayed, as evidence of said application, two "drive-out" number plates of a distinctive type, which shall be supplied by the county assessor, attached to the front and rear of the vehicle. At the expiration of fifteen [15] days said plates shall be surrendered and regular license plates affixed. Any assessor issuing "drive-out" plates shall, on the day of the issuance thereof, notify the local peace officers and the nearest highway patrolman, and failure to do so shall constitute a misdemeanor. On the sixteenth day after the issuance of any such plates, if the same be not surrendered, any officer shall seize and impound the said vehicle and hold it until the regular license plates are procured and placed thereon, and the owner of such vehicle shall be guilty of a misdemeanor, except that in the case of a foreign registration or other emergency, the division shall have the right to extend said time so as to allow time for clearance of title and registration.

(c) This section shall not apply to farm tractors, road-rollers, or road machinery temporarily operating or moved upon the highway, nor to any owner permitted to operate a vehicle under special provision relating to lien holders, manufacturers, dealers and nonresidents. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 8, p. 33; R. C. 1928, § 1632; Laws 1937, ch. 67, § 2, p. 234.]

Compiler's Note.

The bracketed word "is" was inserted by the compiler.

Amendment.

This section, prior to its amendment in 1937, read as follows: "Every owner of a motor vehicle, trailer or semi-trailer, before the same is operated upon a highway in the state, shall apply to the office of the vehicle division located in the county of which the owner of said motor vehicle is a resident, and obtain the registration thereof. This section shall not apply to farm tractors, road rollers, and road machinery temporarily operated or moved upon the highway, or to an owner permitted to operate a vehicle under the special provisions relating to lien holders, manufacturers, dealers and non-residents."

Comparative Legislation. Motor vehicle registration:

- Cal. Deering's Codes 1937, Vehicle Code, §§ 140-167.
- Colo. Sess. Laws 1931, ch. 122.
- Del. Rev. Code 1935, §§ 5539-5571.
- Idaho. Code 1932, §§ 48-101-48-121.
- Ind. Burns' Stat. 1933, §§ 47-101-47-133.
- Iowa. Acts 1937, ch. 134.
- Kans. Gen. Stat. 1935, §§ 8-126-8-151.
- La. Dart's Stat., § 5155 et seq.
- N. Mex. Stat. 1929, §§ 11-301-11-341.
- N. Car. Pub. Laws 1937, ch. 407.
- N. Dak. Laws 1927, ch. 179.
- Utah. Laws 1933, ch. 43.

NOTES TO DECISIONS

Purpose of Law.

The spirit and purpose of the automobile registration statute is to prevent the sale of stolen or converted automobiles. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

Status of Unlicensed Automobile.

An unlicensed automobile is not an outlaw which has no right on the highways, and is not to be regarded as a trespasser to which those rightfully and lawfully going about their business owe

no duty, care, or caution to avoid injury. *Arizona Copper Co., Ltd. v. Garcia*, 25 Ariz. 158, 214 Pac. 317.

Collateral References.

Civil rights and liabilities as affected by failure to comply with regulations as to registration or license. 16 A. L. R. 1108; 38 A. L. R. 1038; 43 A. L. R. 1153; 54 A. L. R. 374; 35 A. L. R. 62; 58 A. L. R. 532; 61 A. L. R. 1190; 78 A. L. R. 1028; 87 A. L. R. 1469; 111 A. L. R. 1258.

Delegation of legislative power with respect to licenses or registration. 87 A. L. R. 548, 554.

Financial responsibility, constitutionality of statute which makes proof of, condition of granting registration or driver's license. 115 A. L. R. 1376.

Lack of automobile registration as evidence of negligence. 73 A. L. R. 164.

Liability for injury or damage by unregistered car or car driven by unlicensed person. 16 A. L. R. 1117; 35 A. L. R. 68; 38 A. L. R. 1038; 43 A. L. R. 1153; 54 A. L. R. 381; 58 A. L. R. 533; 61 A. L. R. 1190; 78 A. L. R. 1031; 84 A. L. R. 1473; 111 A. L. R. 1266.

Name used to identify owner, registration of automobile as affected by. 47 A. L. R. 1103.

Prima facie case or presumption from registration of automobile in name of, or from proof of ownership by, defendant, as applicable to questions other than the master-servant relationship at time of accident. 122 A. L. R. 228.

Public officials or employees, applicability to, of regulations as to registration and licensing of motor vehicles. 19 A. L. R. 463; 23 A. L. R. 418.

Registration or license, defense of contributory negligence as affected by failure to comply with regulations as to. 35 A. L. R. 62; 38 A. L. R. 1038.

Street car, violation of regulations as to registration and license as affecting right to recover for injuries due to collision with. 28 A. L. R. 227; 46 A. L. R. 1008.

Taxes, validity of requirement of payment of property taxes as condition precedent to issuance of automobile license. 62 A. L. R. 304.

Taxes, validity of statutes imposing license tax on automobiles as affected by constitutional provisions in relation to taxation. 5 A. L. R. 759.

Tolls, automobile registration or license fees as. 68 A. L. R. 209.

66-205. Application for certificate of title.—(a) Application for a certificate of title to any motor vehicle, trailer or semi-trailer, shall be made to the assessor of the county in which the owner resides, upon a form furnished by the vehicle division. It shall be signed by the owner, and shall contain his complete residence address, a brief description of the vehicle to be registered, the name of the maker, the engine and serial number, whether new or used, the last license number if known, the state in which issued, and in the case of the application for a certificate of title to a new vehicle, the date of sale by the manufacturer or dealer to the person first operating such vehicle, and such other information as may be required by the vehicle division.

(b) The application for a certificate of title to a new vehicle shall be accompanied by a certificate from the manufacturer showing the date of sale to the dealer or person first receiving same from the manufacturer, the name of such dealer or person, and a description of the vehicle sufficient to identify it, and shall certify that the vehicle when so sold was a new vehicle. If sold through a dealer, such dealer shall certify that the vehicle when sold to the applicant was new.

(c) If an application is for a certificate of title to a specially constructed, reconstructed or foreign vehicle, such fact shall be stated in the application. With reference to every foreign vehicle which has been registered in another state or country, the owner thereof shall surrender to the vehicle division the number plates assigned to such vehicle, the registration card and certificate of title, certificate of ownership, or other evidence of such foreign registration, together with satisfactory evidence of ownership showing that the applicant is the

lawful owner or possessor of such vehicle, except that where in the course of the interstate operation of a vehicle registered in another state or country it is desirable to retain registration of such vehicle in such other state or country, the applicant need not surrender but shall submit for inspection said evidence of such foreign registration and ownership and the vehicle division upon a proper showing shall register such vehicle, but shall not issue a certificate of title for such vehicle.

(d) Every foreign vehicle, before the same shall be registered in this state, shall be examined and inspected by the vehicle division or an officer or agent thereof.

(e) An applicant who rents, or intends to rent such vehicle without a driver shall state such fact in the application. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 9, p. 33; R. C. 1928, § 1633; Laws 1931, ch. 100, § 1, p. 265; 1937, ch. 67, § 3, p. 234.]

Title of Act.

An act to provide for the regulation of motor vehicles upon the highways, and for the certification of the ad valorem tax for the benefit of the state highway fund. [Laws 1931, ch. 100.]

Amendments.

This section, prior to its amendment in 1931, read as follows: "The application for registration shall be made by the owner upon a form furnished by the vehicle division, which shall be signed by the owner and contain his residence address, a brief description of the vehicle to be registered, the name of the maker, the engine and serial number, whether new or used, the last license number if known, the state in which issued, and, upon the registration of a new vehicle, the date of sale by the manufacturer or dealer to the person first operating such vehicle, and such other information as may be required by the vehicle division. When the vehicle is a specially constructed, reconstructed, or foreign vehicle, such fact shall be stated in the

application. The owner of every foreign vehicle which has been registered theretofore outside of this state shall exhibit to the vehicle division the registration card or other evidence of such former registration showing that the applicant is the lawful owner or possessor of the vehicle. When the owner of the vehicle rents or intends to rent such vehicle without a driver, such fact shall be stated in the application."

The 1931 amendment added: "and the motor vehicle shall be examined and inspected by the registration officer or by an officer designated by the vehicle superintendent."

The 1937 amendment placed the section in its present form.

Comparative Legislation. Certificate of title:

Cal. Deering's Codes 1937, Vehicle Code, § 153.

Ill. Rev. Stat. 1939, ch. 95½, §§ 74-93.

Ind. Burns' Stat. 1933, § 47-301 et seq.

La. Dart's Stat., § 5165.

NOTES TO DECISIONS

Forged Indorsement of Certificate.

When second-hand automobile dealer obtained possession of owner's registered certificate of title and by forged indorsement obtained new certificate in his

name, and executed mortgage, the owner could recover his automobile from mortgagee and assignee. (See §§ 66-206, 66-207.) *Winship v. Standard Finance Co.*, 40 Ariz. 382, 12 Pac. (2d) 282.

66-206. Register to be kept—Certificate of title.—(a) The vehicle division shall file each application for a certificate of title 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 books or on index cards under a distinctive registration number assigned to the vehicle and to the owner thereof, alphabetically under the name of the owner and numerically under the engine number.

(b) The certificate of title shall contain upon the reverse side a space for the signature of the owner, and the owner shall write his name with pen and ink in such space upon receipt of the certificate. Said certificate shall also contain upon the reverse side forms for assignment of title or interest and warranty thereof by the owner, with space for notation of liens and encumbrances upon the vehicle at the time of a transfer.

(c) Certificates of title to motor vehicles, trailers or semi-trailers which have been registered in any other state or country shall be of a distinctive color.

(d) The person owning any motor vehicle, trailer, or semi-trailer may, upon furnishing satisfactory proof to the superintendent of such ownership, procure a certificate of title to such vehicle, regardless of whether a certificate of title thereto has previously been issued. If the superintendent shall determine that an applicant for a certificate of title to a motor vehicle, trailer, or semi-trailer, is not entitled thereto, he may refuse to issue a certificate or to register the vehicle, and for like reason, and after notice and hearing, may revoke a registration already made, or any outstanding certificate of title. Said notice shall be served in person or by registered mail. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 10, p. 33; R. C. 1928, § 1634; Laws 1937, ch. 67, § 4, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "The division shall file each application, 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 books or on index cards under a distinctive registration number assigned to

the vehicle and to the owner thereof, alphabetically under the name of the owner, and numerically and alphabetically under the engine and serial number and name of the vehicle."

Collateral Reference.

Records, right to examine and copy. 108 A. L. R. 1395.

66-207. Application for registration.—(a) Every application for the registration of a motor vehicle, trailer or semi-trailer, shall be made to the vehicle division on forms prescribed and furnished by the division. Each such application shall contain the name and complete residence address of the owner, a description of the vehicle, including the engine number, and if a new vehicle the date of sale by the manufacturer or dealer to the person first operating the vehicle, and such other facts as may be required by the division. When the owner of the vehicle rents or intends to rent such vehicle without a driver, such fact shall be stated in the application. Every application shall be accompanied by the required fees and the certificate of title to the vehicle for which registration is sought.

(b) The vehicle division shall file each application and when satisfied as to the genuineness and regularity thereof, shall issue to the owner of the vehicle a registration card and assign number plates to the vehicle. The registration card shall contain upon the face thereof, the date issued, the registration number assigned to the owner and the vehicle, the name and address of the owner, a description of the registered vehicle including the engine number and serial number,

and the amount of fees paid for the registration of such vehicle. The owner, upon receiving the registration card, shall sign the same in conformity with the signature appearing in his application in ink, in the space provided therefor, and such registration card shall at all times be carried in plain sight within the driver's compartment of the vehicle for which issued, and shall be subject to inspection by the vehicle superintendent or his authorized agent, members of the highway patrol, or any peace officer.

(c) The superintendent shall deny registration on any motor vehicle, trailer, or semi-trailer owned by or under the control of a person who has failed, refused or neglected to pay any motor vehicle fee, tax or other assessment, or penalty thereon, due to be paid to the division or for its account. Any registration so revoked shall be renewed only upon paying the fees provided for registration and the full amount of such delinquent fees, taxes or other assessments and penalties, if any thereon.

(d) Any person who: 1. issues a number plate for which a fee is required to be paid, without the presentation of a certificate of title; 2. issues a registration card unless such card carries all information required to be shown thereon, or, 3. places any information on such card which does not appear on the certificate of title of the vehicle, shall be guilty of a misdemeanor. Any person who issues a number plate, without the full amount of the registration and unladen weight fee, applicable upon the date of issuance, has been paid, shall be guilty of a felony. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 11, 12, p. 33; cons. & rev., R. C. 1928, § 1635; Laws 1931, ch. 100, § 2, p. 265; 1937, ch. 67, § 5, p. 234.]

Compiler's Note.

Laws 1939, ch. 47, p. 128, adding Rev. Code 1928, §§ 1635a-1635h, and imposing a license tax on motor vehicles, was held unconstitutional in *Miners & Merchants Bank v. Board of Supervisors*, — Ariz. —, 101 Pac. (2d) 461.

Amendments.

This section, prior to its amendment in 1931, read as follows: "The division upon registering a vehicle, and upon the payment of the annual license fee and the certificate of title registration fees herein provided for, and the payment of the personal property tax therein for the current year, unless such personal property tax is secured by real property assessed to the owner within such county, shall issue to the owner a registration card and a certificate of registration of title. The registration card and the certificate of registration shall contain upon the face thereof the date issued, the registration number assigned to the owner and to the vehicle, the name and address of the owner, a description of the registered vehicle including the engine number, and, if a new vehicle, the date of sale by the manufacturer or dealer to the

person first operating such vehicle, and such other facts as may be determined by the vehicle division. The certificate of registration of title shall contain upon the reverse side a form for indorsement of notice to the division upon a transfer of the vehicle.

"The owner, upon receiving the registration card, shall sign the usual signature or name of such owner with pen and ink in the space provided upon such card, and it shall at all times, while the vehicle is being operated upon a highway within the state, be in the possession of the operator or chauffeur thereof, or carried in the vehicle, subject to inspection by any peace officer."

The 1931 amendment changed the last sentence to read as follows: "The owner, upon receiving the registration card, shall sign the same, in conformity with the signature appearing in his application, in ink, in the space provided therefor, and such registration card shall at all times be carried in the vehicle, and shall be subject to inspection by any peace officer."

The 1937 amendment placed the section in its present form.

NOTES TO DECISIONS

Assignment—Rights of Assignee.

Where used car dealer sold used car under conditional sales contract, and failed to deliver to purchaser a properly indorsed certificate of title, and assigned the contract, the assignee could not declare a forfeiture of the contract of sale for nonpayment of instalments without complying with the burden imposed on the assignor to deliver the certificate of title. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

Constitutionality.

Provisions of act imposing ad valorem property tax on motor vehicles, exempting those which were not being operated on highways and levying on those used

a different tax according to length of time used being unconstitutional, are so interwoven with remainder of act as to invalidate entire act. *Powell v. Gleason*, 50 Ariz. 542, 74 Pac. (2d) 47, 114 A. L. R. 838.

An ad valorem property tax on motor vehicles which exempted those which were not being operated on the highways from any form of property tax, while exacting such a tax from those which were being so used, and which levied a different tax on those of equal value according to the length of time they were used, was an arbitrary classification in violation of the constitution. *Powell v. Gleason*, 50 Ariz. 542, 74 Pac. (2d) 47, 114 A. L. R. 838.

66-208. Number plates.—(a) The vehicle division shall furnish to every owner one [1] number plate for each motorcycle, trailer, or semi-trailer registered, and two [2] number plates for every other motor vehicle registered, and no charge shall be made therefor. The number plate shall have displayed upon it the number assigned to the vehicle and to the owner thereof, the name of this state, which may be abbreviated, and the year for which it is issued. The plate and the letters and numerals thereon, except the year number for which issued, shall be of sufficient size to be plainly readable from a distance of one hundred [100] feet during daylight.

(b) The superintendent may require the return to the vehicle division of all number plates upon the termination of the lawful use thereof. If the number plates of any motor vehicle become mutilated or illegible, such plates shall be surrendered to the division, and new plates in lieu thereof issued upon payment of the prescribed fee.

(c) A passenger motor vehicle rented without a driver shall receive the same type of number plates as issued for a private passenger motor vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 13, p. 33; R. C. 1928, § 1636; Laws 1937, ch. 67, § 6, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "The division shall furnish to every owner whose vehicle shall be registered one [1] number plate for a motorcycle or semi-trailer and two [2] number plates for every other motor vehicle and trailer. The number plate shall have displayed upon it the registration number assigned to the vehicle and to the owner thereof, the name of this state, which may be abbreviated, and the year number for which it is issued, which plate and the letters and numerals thereon, except the year number for which it is issued, shall be of a sufficient size to be plainly readable from a distance of one hundred [100] feet during daylight. The vehicle superintendent may require the return to the vehicle division

of all number plates upon termination of the lawful use thereof. A passenger motor vehicle rented without a driver shall receive the same type of number plates as issued for private passenger vehicles."

Comparative Legislation. Number plates:

Cal. Deering's Codes 1937, Vehicle Code, §§ 156-158.

Ill. Rev. Stat. 1939, ch. 95½, § 15.

Ind. Burns' Stat. 1933, § 47-119.

La. Dart's Stat., § 5164.

Collateral References.

Criterion of value of license plates for purpose of fixing degree of larceny of. 48 A. L. R. 1167.

Liability of one lending license plates to another. 26 A. L. R. 1246. damages in consequence of automobile accident. 86 A. L. R. 236.

Unauthorized use of license plates as affecting right to recover for injuries or

66-209. How to attach number plates.—The number plate assigned to a motorcycle, trailer, or semi-trailer shall be attached thereto in the rear, and the number plates assigned to any other motor vehicle shall be attached thereto, one [1] in the front and one [1] in the rear, and all such plates shall be so displayed until their lawful use shall expire, or they shall be cancelled or revoked. Every number plate shall at all times be securely fastened to the vehicle so as to prevent the plate from swinging, and at a height of not less than twelve [12] inches from the ground to the bottom of such plate, in a position to be clearly visible, and shall be so maintained as to be clearly legible. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 14, p. 33; R. C. 1928, § 1637; Laws 1937, ch. 67, § 7, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "Number plates assigned to a trailer and to a motor vehicle other than a motorcycle shall be attached thereto, one in front and the other in the rear; to a motorcycle or semi-trailer to the rear thereof, and shall be so displayed until the registration shall expire, be canceled or revoked. The number plate shall at all times be se-

curely fastened to the vehicle so as to prevent the plate from swinging and at a height not less than twelve [12] inches from the ground to the bottom of such plate, in a position to be clearly visible, and shall be maintained as to be clearly legible."

Section to Section Reference.

This section is referred to in § 66-222.

66-210. Certificate not to be renewed—Annual registration.—The certificate of title shall be valid for the life of the vehicle, so long as it is owned by the original holder thereof. Every vehicle registration shall expire on December 31 of each year and shall be renewed annually upon application by the owner and by payment of the fees required, such renewal to take effect on January 1. When application is made for renewal of registration, the owner shall exhibit to the county assessor his certificate of title to the motor vehicle, trailer or semi-trailer to be registered. An owner who previous to January 1 has made proper application for renewal of registration, but has not received the number plates or registration card for the ensuing year, may operate such vehicle upon displaying thereon the number plates assigned thereto for the preceding year, for such time, to be prescribed by the vehicle division, as it may find necessary for the issuance of new plates. The division may, upon request, issue to such applicant a certificate or card showing the applicant's right to use such number plates, for a period not to exceed thirty [30] days. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 15, p. 33; R. C. 1928, § 1638; Laws 1937, ch. 67, § 8, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "The certificate of registration of title shall be valid for the life of the car, so long as it is owned by the original holder of such certificate. Every vehicle registration shall expire December thirty-first each year and shall be renewed annually upon

application by the owner and by payment of the fees required, such renewal to take effect on the first day of January of each year. When application for a renewal of registration is made, the owner must exhibit to the vehicle division his certificate of registration of title to the motor vehicle to be registered. An owner who has made proper application

for renewal of registration of a vehicle previous to January first but who has not received the number plates or registration card for the ensuing year may operate such vehicle upon the highways upon

displaying thereon the number plates issued for the preceding year for such time to be prescribed by the vehicle division, as it may find necessary for issuance of new plates."

66-211. Transfer of title and registration.—(a) When the owner of a registered vehicle transfers or assigns his title or interest thereto, the registration of such vehicle shall expire, but the number plates assigned to such vehicle shall be and remain thereon. Upon such transfer or assignment, the owner shall remove the registration card issued for such vehicle and endorse upon the reverse side thereof the name and address of the transferee and the date of transfer, and shall immediately forward such card to the vehicle division, and shall also endorse on the back of the certificate of title to such vehicle, if issued, any assignment thereof, with the warranty of title in the form printed thereon, and shall deliver the same to the purchaser or transferee at the time of delivery to him of such motor vehicle, except as provided in section 1640a [§ 66-213]. The purchaser, or transferee, except as provided in section 1640 [§ 66-212], and within ten [10] days after such transfer, shall apply for and obtain the registration of such vehicle by presenting the certificate of title thereto to the vehicle division, accompanied by the required fee, whereupon a new certificate of title shall be issued to the purchaser or transferee.

(b) The person owning any motor vehicle, upon furnishing satisfactory proof of ownership to the vehicle superintendent, may procure a certificate of title to such motor vehicle, regardless of whether a certificate of title has ever been issued. If the vehicle superintendent shall determine that an applicant for a certificate of title to a motor vehicle, trailer or semi-trailer is not entitled thereto, he may refuse to issue a certificate or to register such vehicle, and for like reason and after notice and hearing, may revoke a registration already acquired, or any outstanding certificate of title. Said notice shall be served in person or by registered mail.

(c) The vehicle superintendent shall refuse to register any motor vehicle, trailer or semi-trailer owned by or under the control of a person who has failed, refused or neglected to pay any motor vehicle fee, tax or other assessment, or any penalty thereon, due to be paid to the vehicle division or for its account, and shall revoke the registration of any motor vehicle, trailer or semi-trailer owned by or under the control of any person who has been delinquent for the period of forty-five [45] days in the payment of any motor vehicle fee, tax or other assessment due to be paid the vehicle division or for its account. The registration of any motor vehicle, trailer or semi-trailer so revoked shall be renewed only upon paying the fees described for registration and the full amount of such delinquent fees, taxes or other assessments and penalties thereon, if any. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 16, p. 33; R. C. 1928, § 1639; Laws 1937, ch. 67, § 9, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "When the owner

of a registered vehicle transfers or assigns his title or interest thereto, or when his title or interest is transferred

by legal proceedings the registration of such vehicle shall expire and such owner shall remove the number plates therefrom and forward the same to the vehicle division; or, he may have such plates and the registration number thereof assigned to another vehicle upon payment of the fees and subject to the rules and regulations of the division. The transferee, before operating or permitting the operation of such vehicle upon a highway, shall apply and obtain the registration thereof; if the vehicle division does not receive the former registration card properly indorsed, it may re-register the vehicle, when satisfied of the genuineness and regularity of the transfer.

"An administrator, executor, trustee or other representative of the owner, or a peace officer, or any person repossessing a vehicle under the terms of a conditional sale contract, lease, chattel mortgage or other security agreement, or the assignee or legal representative of any such person may operate a vehicle upon the high-

ways for a distance of not exceeding seventy-five [75] miles from the place of repossession or place where formerly kept by the owner to a garage or place of storage, either upon displaying upon such vehicle the number plates issued to the former owner, or without number plates attached thereto but under a written permit first obtained from the division, or the local police authorities having jurisdiction over such highways, and upon displaying in plain sight upon such vehicle a placard bearing the name and address of the person authorizing such movement, and plainly readable from a distance of one hundred [100] feet during daylight."

Comparative Legislation. Transfer of title:

Cal. Deering's Codes 1937, Vehicle Code, §§ 175-186.

Ill. Rev. Stat. 1939, ch. 95½, § 80.

Ind. Burns' Stat. 1933, § 47-116.

La. Dart's Stat., § 5168.

NOTES TO DECISIONS

Certificate of Registration.

Where agent of insurer being cognizant of all facts of transaction fails to ask buyer whether certificate had been registered, and also neglects to ascertain from proper state office if same has been done he, the insurer, will be deemed to have waived same, and will be liable under warranties of policy. *Chicago Fire & Marine Ins. Co. v. Sharpensteen*, 37 Ariz. 132, 289 Pac. 985.

Payments Refused for Nondelivery of Certificate.

Purchaser of automobile under conditional sales contract was justified in refusing to make the final payment on the

automobile until he received certificate of title. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

Prima Facie Title.

Certificate of title when properly issued and indorsed, establishes prima facie title to automobile in person named in certificate. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

Collateral Reference.

Forfeiture of automobile by innocent vendor when sold conditionally and used by vendee in violation of law. 2 A. L. R. 1596.

66-212. Transfer of ownership by operation of law.—(a) Whenever the title or interest of an owner in or to a registered vehicle shall pass to another otherwise than by voluntary transfer, the transferee shall, within ten [10] days after the passing of such title or interest, secure a transfer of registration to himself, and (upon proper application and presentation of the last certificate of title, if available, and such instruments or documents of authority, or certified copies thereof as may be sufficient or required by law to evidence or effect a transfer of title or interest in or to chattels in such case) a new certificate of title.

(b) Where the title or interest of an owner in or to a registered vehicle shall pass to another through notice and sale under the conditions contained in a chattel mortgage, conditional sale, or other evidence of lien, or under the authority given by statute in cases arising under sections 2042 and 2043, Revised Code of 1928 [§§ 62-401 and 62-402],

the transferee may secure a transfer of registration to himself, and a new certificate of title, upon presenting satisfactory evidence to the division that the sale of said vehicle was fairly and lawfully conducted in conformity with all requirements of law after due notice given to the former owner.

(c) An administrator, executor, trustee or other representative of the owner, or a peace officer, or any person repossessing a vehicle under the terms of a conditional sales contract, lease, chattel mortgage or other security agreement, or a purchaser at a sale foreclosing a lien, or the assignee or legal representative of any such person, may operate a vehicle from the place of repossession or place where formerly kept to a garage or place of storage, in the county or state where the contract was recorded or where the one repossessing the same resides, or to any other garage or place of storage not exceeding seventy-five [75] miles from the place of repossession or place where formerly kept by the owner, either upon displaying upon such vehicle the number plates assigned thereto, or without number plates attached thereto but under a written permit first obtained from the vehicle division or the local police authorities having jurisdiction over such highways, and upon displaying in plain sight upon such vehicle a placard bearing the name and address of the person authorizing such movement, and plainly readable from a distance of one hundred [100] feet during daylight. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 17, 19, p. 33; cons. & rev., R. C. 1928, § 1640; Laws 1931, ch. 100, § 3, p. 265; 1937, ch. 67, § 10, p. 234.]

Amendments.

This section, prior to its amendment in 1931, read as follows: "Upon a transfer of the ownership of a motor vehicle for which a certificate of registration of title has been issued, the holder of such certificate shall indorse on the back of the same an assignment thereof with a warranty of title in the form printed thereon, and deliver the same to the purchaser or transferee, at the time of the delivery to him of such motor vehicle. The purchaser or transferee shall within ten [10] days thereafter present such certificate to the vehicle superintendent accompanied by the required fee, whereupon a new certificate of registration of title shall be issued to the assignee. The person owning such motor vehicle may upon furnishing satisfactory proof to the vehicle superintendent of such ownership procure a registration of title to said motor vehicle regardless of whether a certificate of registration of title has ever been issued. If the vehicle superintendent shall determine at any time that an applicant for a certificate of registration of a motor vehicle is not entitled thereto, he may refuse to issue such certificate or to register such vehicle, and he may for a like reason and after notice and hearing, revoke a registration

already acquired, or any outstanding certificate of registration of title. Said notice shall be served in person or by registered mail."

The 1931 amendment added the following: "The vehicle superintendent shall refuse to register any motor vehicle owned by or under the control of a person who has failed, refused or neglected to pay any motor vehicle fee, tax or other assessment, and any penalty thereon, due to be paid to the vehicle division or for its account. The vehicle superintendent shall revoke the registration of any motor vehicle owned by or under the control or [of] any person who has been delinquent for the period of forty-five [45] days in the payment of any motor vehicle fee, tax or other assessment due to be paid the vehicle division or for its account. The registration of any motor vehicle so revoked shall be renewed only upon paying the fees provided for registration and the full amount of such delinquent fees, taxes or other assessments and penalties, if any thereon."

The 1937 amendment placed the section in its present form.

Section to Section Reference.

This section is referred to in § 66-211.

NOTES TO DECISIONS

Certificate Required for Conditional or Completed Sale.

Statutes require vendor of automobile, upon delivery of possession to the vendee, to furnish a certificate of title to the

latter, whether the transaction be a completed sale with passage of title or a conditional sale with title reserved. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

66-213. Dismantling registered vehicle.—Any owner who sells a registered motor vehicle, trailer or semi-trailer as scrap, or to be dismantled or destroyed, shall assign the certificate of title thereto to the purchaser, who shall deliver the same, together with the registration card and number plate or plates to the vehicle division with an application for a permit to scrap, dismantle or destroy such vehicle, and any owner intending or desiring to dismantle or wreck any registered vehicle shall, before so doing, forward to the vehicle division the certificate of title, registration card and the number plate or plates assigned to such vehicle, together with an application for permit to dismantle or wreck such vehicle: The vehicle division, upon receipt of such title, registration card and number plates, together with such application, shall issue a permit to the applicant to scrap, dismantle or destroy the vehicle, which shall authorize such person to transport or possess the vehicle or to transfer ownership thereto by endorsement upon the permit. A certificate of title shall not again be issued for such vehicle in the event it is scrapped, dismantled or destroyed. [R. C. 1928, § 1640a, as added by Laws 1937, ch. 67, § 11, p. 234.]

Section to Section Reference.

This section is referred to in § 66-211.

66-214. Re-registration on change of use.—The owner of a registered vehicle on which no unladen weight fee has been paid, shall forthwith, upon using or offering to use the same for the transportation of passengers for compensation, or upon altering or reconstructing the same for the transportation of property, whether the unladen weight fee has been paid or not, surrender to the vehicle division the certificate of title and registration card to such vehicle and the number plate or plates assigned thereto, and shall make application for a corrected certificate of title and obtain a new registration. In such case, no additional fee, other than the unladen weight fee, shall be required. [R. C. 1928, § 1640b, as added by Laws 1937, ch. 67, § 12, p. 234.]

66-215. Dealer to obtain certificate of title for each car.—Every dealer in motor vehicles, trailers and semi-trailers, including manufacturers who sell to others than dealers, having in his possession any motor vehicle, trailer, or semi-trailer, shall at the same time have in his possession a duly and regularly assigned certificate of title thereto. Every such dealer or manufacturer, upon acquiring any foreign vehicle, shall forthwith apply to the vehicle division and obtain a certificate of title thereto. No dealer or manufacturer shall offer for sale or sell any motor vehicle, trailer or semi-trailer unless and until he shall have obtained a certificate of title thereto as hereinabove provided, but a certificate of title shall not be required for a new motor vehicle sold

by manufacturers to dealers. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 18, p. 33; rev., R. C. 1928, § 1641; Laws 1937, ch. 67, § 13, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "Dealers in motor vehicles, including manufacturers who sell to others than dealers, shall obtain a separate certificate of registration of title, either of such dealer's immediate vendor or of the dealer himself,

for each motor vehicle in his possession, and the vehicle superintendent shall determine the form in which application for such certificate of registration of title and assignments thereof shall be made. No certificate shall be required for a new motor vehicle sold by manufacturers to dealers."

NOTES TO DECISIONS

Payments Refused for Nondelivery of Certificate.

Purchaser of automobile under conditional sales contract was justified in refusing to make the final payment on the automobile until he received certificate of title. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

Collateral References.

Damages for personal injuries resulting in death of automobile dealer, excessiveness for inadequacy of. 48 A. L. R. 820.

Demonstration or instruction by dealer, who is responsible for injury by automobile during. 20 A. L. R. 194; 50 A. L. R. 1391.

66-216. Dealers and wreckers to be licensed.—(a) No person, unless licensed so to do by the vehicle division under the provisions of this section, shall carry on or conduct the business of: 1. a dealer in motor vehicles, trailers or semi-trailers; 2. a dealer in used parts or used accessories of motor vehicles; 3. wrecking or dismantling any such vehicle for resale of the parts thereof. A used car dealer shall be defined as one who deals in used cars other than those taken in by a dealer in new motor vehicles in the sale of such vehicles.

(b) Application for a dealer's or wrecker's license shall be made upon the form prescribed by the vehicle division. It shall contain: 1. the name and address of the applicant, and, 1a. when the applicant is a partnership, the name and address of each partner, or, 1b. when the applicant is a corporation, the names and addresses of the principal officers of the corporation and the state in which incorporated; 2. the place or places where the business is to be conducted; 3. the nature of such business, and such other information as may be required by the vehicle division. Every such application shall be verified by the oath or affirmation of the applicant, if an individual, or in the event an applicant is a partnership or corporation, then by a partner or officer thereof. Every such application shall be accompanied by the fee required by law and by a sworn statement of two [2] reputable persons of the community in which the principal place of business is to be located, certifying the good moral character of the applicant.

(c) In addition to the foregoing provisions, an applicant for a license to deal in used vehicles shall furnish with his application proof satisfactory to the superintendent that he has a permanent and established place of business within the state, and is actively and continuously engaged at such place of business in the business of dealing in used vehicles, or if the applicant is making application for the first time for license as a dealer in used vehicles, that he has established a permanent place of business within the state and intends to actively and continu-

ously engage in such business at such place, and that he has a duly appointed resident agent at said place of business upon whom legal service may be had at any time during ordinary business hours.

(d) Every such applicant shall also at the time of filing his application file a bond satisfactory to the superintendent, with a surety company authorized to do business in the state as surety. Said bond shall be in such amount, not less than one thousand dollars [\$1,000], as the superintendent may prescribe, shall be conditioned that the dealer will faithfully comply with all the provisions of law required of him, shall contain a warranty and guarantee that the titles to all vehicles offered for sale or sold by said dealer are, when so represented, free and clear of encumbrances in said dealer, and also conditioned that the said bond shall be noncancellable for the period of time co-terminous with the license to be issued to said dealer. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 20, p. 33; rev., R. C. 1928, § 1642; Laws 1937, ch. 67, § 14, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "It shall be unlawful for any person to carry on or conduct the business of buying, selling or dealing in used vehicles, unless he shall have received a license from the vehicle superintendent authorizing the transaction of such business; but a manufacturer or importer of vehicles or his subsidiaries or selling agents, may take in trade and sell any used vehicles without such license. Such license shall be furnished annually by the superintendent, on an application subject to such rules and regulations as he may prescribe. The application shall be accompanied by a sworn statement of two [2] reputable persons of the community in which the principal place of business is to be located, certifying the good moral character of the applicant together with the fee required therefor.

"A license certificate shall be issued by the superintendent entitling the licensee to transact the business of buying, selling and dealing in used vehicles for a period of one [1] year from the

first day of January of the current year. The superintendent may make rules and regulations for the issuance of such licenses to expire upon the first day of January of the succeeding year, where an application is made after July first of any year. Every such licensee shall keep a book or record, in such form as may be prescribed by the superintendent, of the purchase, sale or exchange or receipt for the purpose of sale, of any second-hand vehicle, which shall at all times be open to inspection by any peace officer. He shall also have in his possession a duly assigned certificate of registration of title from the owner of said motor vehicle from the time when the motor vehicle is delivered to him until it has been disposed of by him. Any person violating this section shall be guilty of a felony."

Comparative Legislation. Dealers' licenses:

Cal. Deering's Codes 1937, Vehicle Code, §§ 205-208, 375.

Ind. Burns' Stat. 1933, § 47-121 et seq.

La. Dart's Stat., § 5169.

NOTES TO DECISIONS

Payments Refused Until Delivery of Title.

Failure of used car dealer, in selling and delivering car to conditional buyer, to deliver also a properly assigned Arizona certificate of title, placed him in

default on his contract, and buyer could properly refuse to make any payments until he received the certificate. *Pacific Finance Corp. v. Gherna*, 36 Ariz. 509, 287 Pac. 304.

66-217. Superintendent to issue dealers' and wreckers' licenses.—

(a) The vehicle division, upon receiving an application for a dealer's or wrecker's license, accompanied by the required fee, and when satisfied that the applicant is of good character, and so far as can be ascertained has complied with and will comply with the laws of this state

with reference to the registration of vehicles and certificates of title and the provisions of this section, shall issue to the applicant a license which shall entitle the licensee to carry on and conduct the business of a dealer or wrecker, as the case may be, during the calendar year in which the license is issued. Every such license shall expire on December 31 of each year, and may be renewed upon application and payment of the fee required by law.

(b) The vehicle division may refuse to issue a license or, after written notice to the licensee and a hearing, may cancel a license when satisfied that the applicant or licensee has failed to comply with the provision of this chapter.

(c) A licensee, before removing any place of business, or opening any additional place of business, shall apply to the division for and obtain a supplemental license, for which no fee shall be charged. [R. C. 1928, § 1642a, as added by Laws 1937, ch. 67, § 15, p. 234.]

66-218. Records to be kept by dealers and wreckers.—(a) Every licensee shall maintain a record, in form as prescribed by the vehicle division, of:

1. Every vehicle of a type subject to registration hereunder which is bought, sold or exchanged by the licensee or received or accepted by the licensee for sale or exchange;

2. Every used motor vehicle body, chassis or motor vehicle engine which is sold or otherwise disposed of;

3. Every such vehicle which is bought or otherwise acquired and wrecked by the licensee.

(b) Every said record shall state the name and address of the person from whom any such vehicle, motor vehicle body, chassis or motor vehicle engine was purchased or acquired and the date thereof; the name and address of the person to whom any such vehicle or motor vehicle body, chassis or motor vehicle engine was sold or otherwise disposed of and the date thereof, and a sufficient description of every such vehicle, body, chassis or motor vehicle engine, by name and identifying numbers, to identify the same. Every such record shall be open to inspection by the superintendent or his agents, the members of the highway patrol or any peace officer during reasonable business hours. [R. C. 1928, § 1642b, as added by Laws 1937, ch. 67, § 16, p. 234.]

66-219. Special engine numbers—New blocks—Changing motors—Seizure.—Any person the owner of or having possession of a motor vehicle, the original engine number of which has been destroyed, altered or defaced, shall apply to the superintendent, on a form prescribed by him, for permission to stamp on the engine of such motor vehicle a special engine number. Upon receipt of such application, sworn to by the applicant, with the required information, together with the fee, the superintendent shall issue to said applicant written permission to stamp on the engine of such motor vehicle a special number designated by the superintendent, and when stamped or placed on the engine it shall thereafter be the lawful engine number of such motor vehicle, and the owner thereof may sell or transfer the same under said number. The superintendent shall require of the applicant a statement that the

special number has been put on in a workmanlike manner, and this statement shall be certified to by a peace officer. Before placing a new block in any motor vehicle, or changing a motor from one vehicle to another, the owner shall make application to the superintendent as is herein provided for numbering motors.

The vehicle superintendent shall have the authority, and he is hereby empowered, to seize any vehicle, or motor, the motor, serial or other identification number or mark of which has been removed, defaced, obliterated or changed, or any vehicle in which a new block or motor, or a block and motor, taken from any other vehicle has been placed, when no application has been made to him, as herein provided. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 21, p. 33; rev., R. C. 1928, § 1643; Laws 1933, ch. 78, § 1, p. 316.]

Title of Act.

An act relating to motor vehicles, special engine numbers, new blocks, changing motors, and seizure of motor vehicles or motors, and amending section 1643, Revised Code of 1928, and the further amendment of article 5, chapter 31,

Revised Code of 1928, by adding thereto a section to be designated section 1643a. [Laws 1933, ch. 78.]

Amendment.

The 1933 amendment added the second paragraph.

66-220. Sale of seized vehicles or motors.—(a) Any vehicle or motor seized under the provisions of this chapter and held for a period of six [6] months, without compliance by the owner with the provisions of law under which the same was seized, including the payment of all fees, penalties, costs and expenses of seizure, shall be sold by the vehicle superintendent. Any motor vehicle, trailer or semi-trailer seized and held for the non-payment of any fee, tax or other assessment or penalty thereon, due to be paid to the vehicle division or for its account, may be sold in thirty [30] days.

(b) The sale of any motor vehicle, motor, trailer, or semi-trailer sold under the provisions of this section shall be at public auction, and notice thereof shall be given by registered mail not less than five [5] nor more than twenty [20] days prior to sale, directed to the last known address of the owner of the vehicle or motor to be sold, when such owner is known, otherwise by publication in a newspaper of general circulation in the county in which the vehicle or motor was seized. If published in a weekly newspaper, such publication shall be made once in each week for two [2] consecutive weeks, and if in a daily newspaper, six [6] consecutive times. The last publication shall not be less than five [5] nor more than ten [10] days prior to the date of sale. The proceeds from such sale, after the fees, penalties, costs and expenses of seizure and sale are deducted, shall be paid to the owner from whom the vehicle or motor was seized, if he be known; otherwise the same shall be transmitted to the state treasurer and by him credited to the highway fund. [R. C. 1928, § 1643a, as added by Laws 1933, ch. 78, § 2, p. 316; 1937, ch. 67, § 17, p. 234.]

Amendment.

The 1937 amendment added the second sentence; and substituted the portion of the first sentence of subd. (b) preceding "shall be at public auction" for "Such sale."

Emergency.

Section 3 of Laws 1933, ch. 78 declared an emergency. Approved March 18, 1933.

66-221. Special serial numbers.—If the serial or other identifying number of any motor vehicle, trailer or semi-trailer, other than the motor number of a motor vehicle, shall be altered, removed, obliterated, defaced, omitted, or is otherwise absent, the owner of such vehicle at the time of application for registration thereof shall file an application with the division, on a form provided by it and containing such facts and information as shall be required by the superintendent, for the assignment of a special serial or identifying number for such vehicle. If the superintendent is satisfied that the applicant is entitled to the assignment of such serial or identifying number he shall designate a special number for such vehicle, which shall be noted upon the application, upon a suitable record of the division, and upon the authorization of the use thereof, and the superintendent shall furnish the applicant with a metal plate impressed with the symbol M V D, followed by the number assigned to such vehicle, which plate shall forthwith be securely attached to the vehicle in a conspicuous position. Such plate shall remain on the vehicle during the life of the same, and shall be the lawful serial or identifying number thereof. Within ten [10] days after the delivery of any such plate the owner shall procure from any justice of the peace, peace officer, officer or agent of the motor vehicle division, or member of the highway patrol, a certificate that said special serial or identifying number has been securely attached in a conspicuous position upon such vehicle, and deliver the same to the vehicle division. [R. C. 1928, § 1643b, as added by Laws 1937, ch. 67, § 18, p. 234.]

66-222. Dealers' number plates.—(a) A manufacturer or dealer owning any vehicle of a type otherwise required to be registered may, within a distance of fifty [50] miles from the manufacturer's or dealer's place of business, and for the sole purpose of moving, testing, demonstrating or selling said vehicle, operate the same without registering it, provided that there shall be displayed upon such vehicle in the manner prescribed in section 1637 [§ 66-209] a special plate or plates issued to such owner as herein provided. This provision shall not apply to work or service vehicles owned by a manufacturer or licensed dealer.

(b) Any manufacturer or licensed dealer may make application to the division, upon a form provided for such purpose, for a dealer's certificate containing a general distinguishing number, and for one [1] or more pairs of special plates or single special plates appropriate to various types of vehicles. The applicant, at the time of making such application shall, if a manufacturer, submit such proof of his status as a bona fide manufacturer as may reasonably be required by the division, and if a dealer in new motor vehicles, trailers or semi-trailers, shall submit satisfactory proof that he is a duly authorized distributor or dealer for a manufacturer. The division, upon granting any such application, shall issue to the applicant a certificate containing the applicant's name and address and the general distinguishing number assigned to him, and shall also issue special plates as applied for. Every plate or pair of plates so issued shall contain a number or symbol identifying the same from every other plate or pair of plates issued to the

same manufacturer or dealer. The right to use any special plate issued as provided herein for any calendar year shall terminate at midnight on December 31 of each year. Every manufacturer or dealer shall keep a written record of the vehicles upon which such special plate or plates are used, and the time during which each plate or pair of plates is used upon a particular vehicle. Such record shall be open to the inspection of the division, any officer or agent thereof, any member of the highway patrol, or any peace officer. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 22, p. 33; rev., R. C. 1928, § 1644; Laws 1937, ch. 67, § 19, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "A manufacturer or dealer in motor vehicles, trailers or semi-trailers, owning or operating any such vehicle upon a highway, in lieu of registering each such vehicle, may obtain from the division, upon application therefor on the official form and payment of the fees required, and attach to each such vehicle the required number plates, which plates shall each bear thereon in addition the word 'dealer,' or a distinguishing symbol indicating that such plates are issued to a manufacturer or dealer. Such plates may, during the calendar year for which issued, be transferred from one vehicle to another owned or operated by such manufacturer or dealer who shall keep a written record of the vehicles upon which such plates are used and the time during which each set of plates is used on a particular vehicle. Such record shall be open to in-

spection by any peace officer, or employee of the vehicle division.

"Any manufacturer of motor vehicles, trailers or semi-trailers may operate or move the same upon the highways for a distance of seventy-five [75] miles, or any dealer for a distance of twenty-five [25] miles, or for such further distance as may be authorized by the superintendent, to or from the factory where manufactured, a railway depot, vessel, place of shipment or delivery, or salesroom, without registering the same and without number plates attached thereto under a written permit first obtained from the local police authorities having jurisdiction over such highways and upon displaying in plain sight upon each such vehicle a placard bearing the name and address of the manufacturer authorizing or directing such movement, plainly readable from a distance of one hundred [100] feet during daylight."

66-223. Manufacturer and dealer's permit to move without plates.— Any manufacturer of motor vehicles, trailers or semi-trailers may operate or move the same for a distance of seventy-five [75] miles, and any dealer in new motor vehicles, trailers, or semi-trailers for a distance of fifty [50] miles, or such further distance as may be authorized by the vehicle division, to or from the factory where manufactured, a railway depot, vessel, place of shipment or delivery, or salesroom, without registering the same and without number plates attached, under a written permit first obtained from the vehicle division or local police authorities having jurisdiction over the highway traversed, and upon displaying in plain sight upon each such vehicle a placard bearing the name and address of the manufacturer authorizing or directing such movement, plainly readable from a distance of one hundred [100] feet during daylight. [R. C. 1928, § 1644a, as added by Laws 1937, ch. 67, § 20, p. 234.]

66-224. Notice by manufacturer or dealer of transfer of vehicle.— Every manufacturer or dealer, upon transferring a motor vehicle, whether by sale, lease or otherwise, to any person other than a manufacturer or dealer, shall immediately give written notice of such transfer to the division upon the official form, containing the date of such

transfer, the names and addresses of the transferor and transferee, and such description of the vehicle as may be called for in such form. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 23, p. 33; rev., R. C. 1928, § 1645.]

66-225. Registration of vehicles of nonresidents.—(a) Except as hereinafter provided, any foreign vehicle owned by a nonresident and used or intended to be used within this state for the transportation of property other than for compensation, shall be registered and licensed in the same manner as is required in the case of motor vehicles, trailers or semi-trailers not theretofore registered or licensed.

(b) Where it is desired to operate any such vehicle in this state for a period not to exceed three [3] months in any registration year, if such vehicle is duly registered and licensed under the laws of any other state or country, the owner may make application to the vehicle division in the manner and form prescribed, for the registration and licensing of such vehicle for the period of time during which it is desired to operate the same in this state. Said application shall be accompanied by an amount equal to one-tenth of the full annual registration and unladen weight fees applicable to said vehicle as prescribed in section 1672 [§ 66-256], for each month or fraction thereof that said vehicle is to be so operated in this state. The minimum fee for such licensing and registration shall be three dollars and fifty cents [3.50]. The vehicle division, if satisfied as to the facts stated in said application, shall register and license such vehicle for the period named and assign an appropriate certificate or license, which shall at all times be displayed upon the vehicle in the manner prescribed by the division, while the same is being operated or driven upon any highway of the state. If any such vehicle shall be operated in this state beyond the period for which such certificate or license is issued, the owner shall apply for and obtain the registration of such vehicle, and shall pay the fees for the remaining portion of the registration year.

(c) Every foreign vehicle operated for the transportation of passengers or property for compensation, or in the business of a nonresident carried on in this state, which has been duly registered for the current year in any other state or country, shall be registered in like manner as vehicles owned by residents and the same fees paid.

(d) Every foreign vehicle owned by a nonresident and operated in this state other than for the transportation of passengers or property for compensation, or for the transportation of property, or in the business of a nonresident carried on in this state, shall be registered within ten [10] days after the beginning of operation in this state in like manner as vehicles owned by residents, and no fee shall be charged for such registration, nor shall any number plates be assigned to such vehicle, but in lieu thereof the vehicle division shall issue to such nonresident owner a permit to operate, which shall be distinctive in form, containing the date issued, a brief description of the vehicle, and a statement that the owner has procured registration of such vehicle as a nonresident. No such nonresident owner shall operate any such vehicle upon the highways of this state either before or while it is registered,

as provided in this section, unless there shall be displayed thereon the registration number plates assigned to said vehicle for the current calendar year, by the state or country of which the owner is a resident, nor unless said permit is displayed on the windshield of the vehicle in the manner prescribed by the division. Said permit shall be valid for the period for which the registration plate was issued by the state of which the owner is a resident. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 24, p. 33; rev., R. C. 1928, § 1646; Laws 1931, ch. 100, § 4, p. 265; 1931 (1st S. S.), ch. 14, § 1, p. 44; 1937, ch. 67, § 21, p. 234.]

Compiler's Note.

Laws 1931 (1st S. S.), ch. 14 provided:
Section 2. Severability.—Should any section, paragraph, sentence, clause or phrase of this act be declared unconstitutional or invalid for any reason, the remainder of said act shall not be affected thereby. [Laws 1931 (1st S. S.), ch. 14, § 2, p. 44.]

Title of Act.

An act to amend section 1646 of the Revised Code of 1928, as amended by chapter 100, Laws of the Regular Session of the Tenth Legislature relating to the registration of foreign vehicles; and declaring an emergency. [Laws 1931 (1st S. S.), ch. 14.]

Amendments.

This section, prior to its amendment in 1931 (regular session), read as follows: "A foreign vehicle owned by a non-resident, operated within this state for the transportation of persons or property for compensation, or for the transportation of merchandise, either regularly according to a schedule or for a consecutive period exceeding thirty [30] days, and any motor vehicle, trailer, or semi-trailer owned by a non-resident carrying on business in this state and regularly operated in such business within this state, shall be registered and the same fees paid therefor as required of like vehicles owned by residents.

"Except as otherwise provided in this section, any non-resident owner of a vehicle which has been duly registered for the current year in any other state or country shall, within ten [10] days after commencing to operate such vehicle in this state, register the same in like manner as provided for residents. No fee shall be charged for such registration nor shall any number plates be issued, but in lieu thereof the division shall issue to such non-resident owner a certificate of registration of a distinctive form containing the date it is issued, a brief description of the vehicle and a statement that the owner has procured registration of such vehicle as a non-resident. No non-resident owner of a vehicle shall operate the same upon the public high-

ways, either before or while it is registered under this section, unless there shall be at all times displayed thereon the registration number plates assigned to said vehicle for the current calendar year by the country or state of which the owner is a resident, nor unless the certificate of registration, when issued as in this section provided shall be placed on the windshield of said motor vehicle in the manner to be specified by the division. Every such certificate of registration shall be valid not to exceed six [6] months from the date of its issuance."

The 1931 (regular session) amendment added "either regularly according to a schedule or for a consecutive period exceeding thirty days"; and changed the last sentence to read as follows: "Certificates of registration issued to such non-resident owners shall be valid for a period not to exceed four [4] months in the calendar year in which such certificate of registration is issued, except that where such period shall expire in December, it shall be extended to the following January first."

The 1931 (special session) amendment substituted the following for the first three sentences: "A foreign vehicle operated within this state for the transportation of persons for compensation or for the transportation of property, or operated in the business of a non-resident, carried on in this state, shall be registered and the same fees paid therefor as required of like vehicles owned by residents. Any vehicle coming into this state with any kind of produce for sale in this state shall, upon entering the state, pay the regular registration and weight fees before selling any portion of the produce so brought into this state. A foreign vehicle operated in this state other than for the transportation of persons for hire or for the transportation of property or in the business of a non-resident carried on in this state, which has been duly registered for the current year in any other state or country, shall be registered, within ten [10] days after commencing to operate the same in this state, in like manner as vehicles owned by residents, but no fee shall be charged for such registration nor shall any num-

ber plates be issued, but in lieu thereof the division shall issue to such non-resident owner a certificate of registration of a distinctive form, containing the date it is issued, a brief description of the vehicle and a statement that the owner has procured registration of such vehicle as a non-resident."

The 1937 amendment placed the section in its present form.

Emergency.

Section 3 of Laws 1931 (1st S. S.), ch. 14 declared an emergency. Approved January 12, 1932.

Section to Section Reference.

This section is referred to in § 66-226.

Comparative Legislation. Registration of vehicles of nonresidents:

Cal. Deering's Codes 1937, Vehicle Code, §§ 210-217.

Ind. Burns' Stat. 1933, § 57-123 et seq.

La. Dart's Stat., §§ 5171-5174.

Collateral References.

Discrimination against nonresidents. 61 A. L. R. 347.

Foreign-owned vehicles operating within state, statute in relation to. 82 A. L. R. 1091.

66-226. Appointment by non-resident of attorney upon whom to serve process.—(a) The rights and privileges conferred by section 1646, Revised Code of 1928, as amended by section 4, chapter 100, Session Laws 1931 [§ 66-225], and by section 1654, Revised Code of 1928 [§ 66-238], shall be deemed to be accepted, and such acceptance evidenced, by a non-resident: 1. When such non-resident, by himself or his agent, operates a motor vehicle on a public highway in this state, under the provisions of and the conditions imposed by said sections; 2. When such non-resident, by himself or his agent, operates a motor vehicle on a public highway in this state otherwise than under the provisions of either of said sections; 3. When a motor vehicle, owned by such non-resident, is operated on a public highway in this state with his express or implied permission, and, in either of said cases, the said motor vehicle is operated under such circumstances as would render a resident motor vehicle owner liable for damages to person or property caused by such operation. Such acceptance of the said rights and privileges shall be deemed to constitute and be the appointment of the vehicle superintendent of the division of motor vehicles, by such non-resident, as his true and lawful attorney, upon whom may be served all legal processes in any action or proceeding against him, growing out of any accident or collision in which may be involved such non-resident, his agent, or such other person operating as aforesaid a motor vehicle owned by him with his express or implied permission on a public highway in this state.

(b) The provisions of this section shall also apply to a non-resident defendant who was a resident of the state at the time of the accident or occurrence which gave rise to the cause of action sued on. [Laws 1935, ch. 61, § 1, p. 273.]

Title of Act.

An act relating to appointment of attorney by and service of process upon nonresident operating or owning a motor vehicle. [Laws 1935, ch. 61.]

Section to Section Reference.

This section is referred to in §§ 66-227, 66-228.

Comparative Legislation. Process against nonresidents:

Fla. Comp. Gen. Laws, Permanent Supp. §§ 4274(3)-4274(6).

Idaho. Sess. Laws 1937, ch. 34.

Iowa. Laws 1937, ch. 134, §§ 513-526.

La. Dart's Stat., § 5296 et seq.

Ohio. Page's Gen. Code, §§ 6308.1-6308.5.

Ore. Code Supp. 1935, § 55.

66-227. Service on vehicle superintendent and notice to non-resident.—Proof of service.—(a) Service of process under section 1 [§ 66-226] shall be by leaving a copy of the summons and complaint, with a fee of two dollars [\$2.00], in the hands of the vehicle superintendent, or in his office during office hours, and shall be deemed to be sufficient service upon such non-resident, provided: 1. The plaintiff shall forthwith send notice of such service and a copy of the summons and complaint by registered mail to the non-resident defendant, and the defendant's return receipt and plaintiff's affidavit of compliance herewith shall be appended to the original summons and filed with the court within such time as the court may allow, or, 2. That such notice and copy of the summons and complaint shall be served upon the defendant, if found without the state, by any duly constituted officer qualified to serve like process in the state or jurisdiction where the defendant is to be found, and the officer's return showing such service to have been made shall be filed in the case within such time as the court may allow. The court in which the action is pending may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action.

(b) The vehicle superintendent shall keep a record, which shall include the day and hour of service, of all processes served upon him under this section. The fee of two dollars [\$2.00] paid to him at the time of service shall be taxes by plaintiff as costs in the suit. [Laws 1935, ch. 61, § 2, p. 273.]

Section to Section Reference.

This section is referred to in § 66-228.

Collateral Reference.

Constitutionality of statute which permits action, against bus companies for

injury to person or property to be brought in any county through or into which the route passes and providing for service of process in such cases. 81 A. L. R. 777.

66-228. Severability.—The several provisions of sections 1 and 2 [§§ 66-226 and 66-227] shall be separable, and if any such provisions shall be held to be unconstitutional such unconstitutionality shall not affect the validity of the remaining provisions thereof. [Laws 1935, ch. 61, § 3, p. 273.]

66-229. Substitute for lost plate or certificate.—If any number plate, certificate of title, permit or registration card shall be lost, mutilated or become illegible, the person entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor upon furnishing information satisfactory to the division. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 25, p. 33; R. C. 1928, § 1647; Laws 1937, ch. 67, § 22, p. 234.]

Amendment.

This section, prior to its amendment in 1937, read as follows: "If any number plate, certificate of registration of title, or registration card shall be lost, mutilated or become illegible, the person

who is entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor upon furnishing information satisfactory to the division."

66-230. Notice of stolen vehicle—Re-registration suspended.—When the owner of any motor vehicle, trailer or semi-trailer which is stolen

or embezzled files an affidavit with the division alleging said fact it shall immediately suspend the registration of such vehicle and shall not transfer the registration, or re-register such vehicle until it is notified that the owner has recovered such vehicle. Such notices shall be effective only during the current registration year in which given. If during such year the vehicle is not recovered a new affidavit may be filed with like effect during the ensuing year. Every owner who has filed an affidavit of theft or embezzlement shall immediately notify the division of the recovery of such vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 26, p. 33; R. C. 1928, § 1648.]

Comparative Legislation. Notice of Cal. Deering's Codes 1937, Vehicle
stolen vehicles: Code, §§ 220-222.
La. Dart's Stat., § 5283.

66-231. Liens and encumbrances.—(a) No conditional sale contract, conditional lease, chattel mortgage or other lien or encumbrance, title retention instrument, or other instrument affecting or evidencing title to, ownership of, or reservation of title to any registered vehicle, other than a lien dependent upon possession, is valid as against the creditors of an owner acquiring a lien by levy or attachment, or subsequent purchasers, or encumbrances [encumbrancers] without notice, until the requirements of this section have been complied with.

(b) There shall be deposited with the division a copy of the instrument creating and evidencing any such lien or encumbrance, which instrument shall be executed in the manner required by the laws of this state and accompanied by the certificate of title last issued for such vehicle. If the vehicle is of a type subject to registration hereunder but has not been registered and no certificate of title has been issued therefor, then the copy of the instrument creating such lien or encumbrance shall be accompanied by the application of the owner for an original registration and issuance of an original certificate of title. In every such event such application shall be accompanied by the fee or fees provided by law. Upon receipt of the application and documents as hereinabove provided, the division shall file the same, endorsing thereon the date and hour received at the central office of the division, and when satisfied as to the genuineness and regularity of the application shall issue a new certificate of title, giving the name of the owner, and a statement of all liens or encumbrances and the amount thereof certified to the vehicle division, as herein provided, as existing against said vehicle. The vehicle division shall maintain an appropriate index of all liens, encumbrances, or title retention instruments filed as herein provided.

(c) Such filing and the issuance of a new certificate of title as provided in this section shall constitute constructive notice, to creditors of the owner or to subsequent purchasers, of all liens and encumbrances against the vehicle described therein, except such as may be authorized by law dependent upon possession. In the event the documents herein referred to are received and filed in the central office of the vehicle division within ten [10] days after the date of execution thereof such constructive notice shall date from the time of execution, otherwise

from the time of receipt and filing of the documents by the vehicle division as shown by its endorsement thereon.

(d) The method provided in this section of giving constructive notice of a lien or encumbrance upon a registered vehicle shall be exclusive, except as to liens dependent upon possession, and any lien, encumbrance, or title retention instrument, or document evidencing the same, filed as herein provided, is hereby exempted from the provisions of law which otherwise require or relate to the recording or filing of instruments creating or evidencing title retention or other liens or encumbrances upon vehicles of a type subject to registration hereunder.

(e) Upon final payment being made on any lien or encumbrance recorded as provided in this section, the holder thereof shall make and deliver to the lienor or encumbrancer a satisfaction of the same. Upon delivery to the vehicle division by such lienor or encumbrancer of the certificate of title to the vehicle on which such lien or encumbrance was given, together with the satisfaction thereof, the division shall satisfy such lien or encumbrance on its records and on the certificate of title to such vehicle.

(f) Hereafter no county recorder shall receive for filing or recording, any conditional sales contract, conditional lease, chattel mortgage or other lien or encumbrance, title retention instrument or other instrument affecting or evidencing title to, ownership of or reservation of title to any registered vehicle, provided that nothing herein shall prohibit any county recorder from receiving and filing any assignment, satisfaction or release of any such instruments theretofore filed in their respective offices. [R. C. 1928, § 1648a, as added by Laws 1937, ch. 67, § 23, p. 234.]

Compiler's Note.

The bracketed word "encumbrancers" was inserted by the compiler.

Comparative Legislation. Liens and encumbrances:
Ind. Burns' Stat. 1933, §§ 43-701—43-713.

66-232. Owners of vehicles rented without drivers to procure liability insurance—Liability of owner and renter—Penalty.—No owner engaged in the business of renting, or who intends to rent motor vehicles without drivers, shall be permitted to register such motor vehicle until he has procured public liability insurance in an insurance company approved by the insurance department of this state insuring the renter thereof against liability arising out of his negligence in the operation of such rented vehicle in limits of not less than five thousand dollars [\$5,000] for any one [1] person injured or killed and ten thousand dollars [\$10,000] for any number more than one [1] injured or killed in any one [1] accident and against the liability of the renter for property damage in the limit of not less than one thousand dollars [\$1,000] for any one [1] accident, or until such owner has furnished the division with satisfactory proof of his ability to respond in damages in the amount of ten thousand dollars [\$10,000] when but one [1] motor vehicle is registered, and five thousand dollars [\$5,000] additional for each motor vehicle in excess of one [1], but a proof of ability to respond in damages in the amount of one hundred thousand dollars [\$100,000] shall be sufficient for any number of motor vehicles. The

division shall cancel the registration of any motor vehicle rented without a driver whenever the owner has failed to comply with the provisions of this section.

The owner of a motor vehicle who rents it to another without a driver, otherwise than as a bona fide transaction involving the sale of such motor vehicle, without having procured such public liability insurance, shall be jointly and severally liable with the renter for damage caused by the negligence of the renter operating the motor vehicle. This policy of insurance herein required shall cover any liability of the renter to any passenger in the motor vehicle rented unless the owner shall give to the renter a written notice that such policy does not cover such liability. "Renter" as used in this section includes any person operating a motor vehicle with the permission of the person who has rented it.

Any owner of a motor vehicle, who, without first having complied with the provisions of this section, rents such motor vehicle without a driver, otherwise than as a bona fide transaction involving the sale of such motor vehicle is guilty of a misdemeanor. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 27, p. 33; rev., R. C. 1928, § 1649.]

<p>Comparative Legislation. Vehicles rented without drivers:</p> <p>Cal. Deering's Codes 1937, Vehicle Code, §§ 336, 337.</p> <p>Ill. Rev. Stat. 1939, ch. 95½, § 63.</p>	<p>automobiles to be rented and driven by lessee or his privy. 77 A. L. R. 895.</p> <p>Occupant of rented automobile, injury to. 4 A. L. R. 1504; 31 A. L. R. 1209; 45 A. L. R. 303; 69 A. L. R. 994.</p>
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Collateral References.

Constitutionality and construction of statutes and ordinances in relation to

66-233. Record required of persons renting without driver.—Every person engaged in the business of renting motor vehicles without drivers who shall rent any such vehicle without a driver, otherwise than as a part of a bona fide transaction involving the sale of such vehicle, shall maintain a record of the identity of the person to whom the vehicle is rented and the exact time the vehicle is rented or in possession of the person renting and having the use thereof. Such record shall be public and open to inspection by any person, and a failure to make or have such record, or a refusal of any inspection of such record shall be a misdemeanor punishable by a fine of not more than one hundred dollars [\$100]. If the superintendent prescribes a form for such record, the owner shall use said form. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 28, p. 33; R. C. 1928, § 1650.]

66-234. Cancellation of registration.—The division shall cancel the registration of any vehicle which it shall determine is unsafe or unfit to be operated or is not equipped as required by law, and shall cancel the registration of a vehicle whenever the person to whom the registration card or number plates therefor have been issued shall make or permit to be made any unlawful use of the same or permit the use thereof by a person not entitled thereto. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 30, p. 33; R. C. 1928, § 1651.]

Comparative Legislation. Cancellation of registration:
Cal. Deering's Codes 1937, Vehicle Code, § 152.

Ind. Burns' Stat. 1933, § 47-126.
La. Dart's Stat., § 5178.

66-235. Official vehicles exempt from fees—Must be registered.—The registration fees need not be paid for any vehicle owned by any foreign government or by a consul or other official representative thereof, or by the United States, or by any state, or political subdivision thereof. All such vehicles shall be registered as herein required by the person having the custody thereof and such custodian shall display official registration plates bearing distinguishing marks thereon which shall be furnished by the division free of charge. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 31, p. 33; R. C. 1928, § 1652.]

Comparative Legislation. Official vehicles: La. Dart's Stat., § 5184.

Collateral Reference. Exemption or exception provisions of statute requiring registration, construction, and application of. 91 A. L. R. 422.

66-236. Operation without payment of registration fee.—(a) Whenever any vehicle shall be operated upon any highway without payment of the registration or transfer fee, such fee shall be deemed delinquent, and if not paid within thirty [30] days after delinquency, a penalty equal to such fee shall be added thereto and collected. The fact of registration of a vehicle in the name of the applicant for the year immediately preceding the year for which application for registration is made shall be prima facie evidence that such vehicle has been operated on the highways during the year for which application for registration is made.

(b) The full annual registration and unladen weight fee, and any other required fee, together with the penalty herein provided, shall accompany any application for the registration of a vehicle, which is filed more than thirty [30] days subsequent to the date on which registration of such vehicle for the next preceding year expired; except, that if it shall be determined, upon hearing and proof satisfactory to the superintendent, that the vehicle was not operated on the highways of this state prior to the filing of said application and the registration of said vehicle, such penalty over and above the regular fee or fees shall be refunded.

(c) Every registration or transfer fee and penalty added thereto shall constitute a lien upon the vehicle upon which the same are due, as and from the due date. The division shall collect such fee and penalty by seizure of such vehicle from the person in possession thereof, if any, and by sale as provided by law. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 32, p. 33; R. C. 1928, § 1653; Laws 1933, ch. 4, § 1, p. 5; 1933, ch. 26, § 1, p. 52; 1937, ch. 67, § 24, p. 234.]

Title of Act.

An act to amend section 1653, Revised Code of 1928, as amended by chapter 4, Session Laws of 1933, relating to the operation of motor vehicles without paying registration fee; penalty; seizure and sale. [Laws 1933, ch. 26.]

Amendments.

This section, prior to the first 1933 amendment, read as follows: "Whenever any vehicle shall be operated upon the public highways of the state without payment of the registration or transfer fee; such fee shall be deemed delinquent,

and if not paid within thirty [30] days after delinquency a penalty equal to such fee shall be added thereto and collected. Every registration or transfer fee and any penalty added thereto shall from the date the same are due constitute a lien upon the vehicle upon which the same are due. The division shall collect such fee and penalty by seizure of such vehicle from the person in possession thereof, if any, and by sale as provided by law for the seizure and sale of personal property by the tax collector for the collection of taxes due thereon."

The first 1933 amendment added at the end of the first sentence "provided, that during the year 1933 such penalty shall not be collected if such fees are paid within 60 days after such delinquency."

The second 1933 amendment substituted "90 days" for "60 days" in the added proviso.

The 1937 amendment placed the section in its present form.

Emergency.

Section 2 of Laws 1933, ch. 4 declared an emergency. Approved January 26, 1933. Section 2 of Laws 1933, ch. 26 declared an emergency. Approved March 2, 1933.

Collateral References.

Civil rights and liabilities as affected by failure to comply with regulations as to registration of automobile or licensing of operator. 16 A. L. R. 1108; 35 A. L. R. 62; 38 A. L. R. 1038; 58 A. L. R. 532.

Liability of one who lends an automobile license plate to another. 26 A. L. R. 1246.

66-237. Sale of vehicles registered in another state or country.—No person shall engage in the business of bringing motor vehicles, trailers, or semi-trailers previously registered in any other state or country into this state for the purpose of sale unless licensed as provided herein.

Every person engaged or desiring to engage in such business shall file with the vehicle division [division] his verified application upon forms prescribed and furnished by it, accompanied by a fee of one hundred dollars [\$100] and a bond or bonds, in the penal sum of one thousand dollars [\$1,000], on a form to be approved by the vehicle superintendent, and with a surety company authorized to transact business in this state as surety thereon, and upon which such applicant shall be the principal obligor and the state of Arizona shall be the obligee, conditioned upon compliance with the provisions hereof. Upon the filing of a proper application, accompanied by the fee and the bond or bonds as required herein, the vehicle superintendent shall issue to the applicant a license to engage in the business of bringing motor vehicles, trailers, or semi-trailers previously registered in another state or country into this state for the purpose of sale.

Every person engaged in the business of bringing motor vehicles, trailers, or semi-trailers previously registered in any other state or country into this state, for the purpose of sale, shall within ten [10] days from the date of the sale thereof report such sale to the vehicle division upon a form to be prescribed and furnished by it, and shall at the same time pay to such division an amount equal to ten [10] percent of the selling price of said vehicle, provided that such amount shall not be paid on more than one [1] sale of any such vehicle.

Any person shall be deemed to be engaged in the business of bringing motor vehicles, trailers or semi-trailers previously registered in another state or country into this state for the purpose of sale who shall in any one [1] day bring into, or cause to be brought into this state for the purpose of sale more than one [1] such vehicle, or who in any one [1] month shall bring into, or cause to be brought into this state for the purpose of sale more than two [2] such vehicles, or who in any one [1]

year shall bring into, or cause to be brought into this state for the purpose of sale three [3] or more such vehicles.

The word "sale" as used herein shall mean the transfer or conveyance within this state of the possession, ownership or to the right to acquire the ownership of any motor vehicle, trailer, or semi-trailer previously registered in any other state or country for a consideration, either in money or other thing of value. Every such vehicle shall be deemed to have been brought into this state for the purpose of sale when brought in, or caused to be brought in, by a person engaged in the business of bringing such vehicles into this state for the purpose of sale as defined herein.

Every licensee hereunder shall keep within this state a full and complete record of every sale made by him, and such records shall at all times be open to inspection by any officer or agent of this state.

The vehicle superintendent shall cancel the license of every person failing or refusing to comply with the provisions hereof.

All monies collected under the provisions hereof shall be transmitted by the vehicle division to the state treasurer and by him credited to the general fund of the state, except that the fees paid by any applicant for a license hereunder shall be by the state treasurer credited to the state highway fund. [R. C. 1928, § 1653a, as added by Laws 1937, ch. 76, § 1, p. 428.]

Compiler's Notes.

The bracketed word "division" was inserted by the compiler.

This act became a law March 25, 1937 without the governor's approval.

Title of Act.

An act relating to the sale of motor vehicles, trailers and semi-trailers previously registered in another state or

country, and to amend chapter 31, Revised Code of 1928, by adding thereto a new section to be designated section 1653a. [Laws 1937, ch. 76.]

Emergency.

Section 2 of Laws 1937, ch. 76 declared an emergency. Law without approval of governor. March 25, 1937.

66-238. Driving without operator's or chauffeur's license prohibited—
Exception.—No person shall drive any motor vehicle upon a highway unless he has been licensed as an operator or chauffeur, or has been granted a temporary instruction or driver's permit by the division. This section shall not apply to a person driving or operating a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved or propelled on the highways; nor to a person in the service of the army, navy, or marine corps of the United States, when furnished with a driver's permit, and when operating an official motor vehicle in such service; nor to a non-resident over the age of sixteen [16] years who has been duly licensed either as an operator or chauffeur under a law requiring the licensing of operators or chauffeurs in his home state or country and who has such license in his immediate possession. A non-resident owner of a motor vehicle which has been duly registered for the current calendar year in the state or country of which the owner is a resident but who has not been licensed as an operator or chauffeur in such state or country, may operate such motor vehicle upon the highways of this state for a period of not more than thirty [30] days in any one [1] year without

applying for an operator's or chauffeur's license upon condition that such non-resident owner have in his immediate possession a registration card evidencing his ownership and registration of such motor vehicle in the state or country of his residence, and that the license number plates issued by such state or country at all times be displayed upon such motor vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 33, p. 33; R. C. 1928, § 1654.]

Section to Section Reference.

This section is referred to in § 66-226.

Comparative Legislation. Driver's or operator's licenses:

Cal. Deering's Codes 1937, Vehicle Code, §§ 250-259.

Ill. Rev. Stat. 1939, ch. 95½, § 33 et seq.

Ind. Burns' Stat. 1933, §§ 47-401—47-431.

La. Dart's Stat., §§ 5254-5258.

NOTES TO DECISIONS

Failure to Have Driver's License.

Fact that owner was aware of the fact that person to whom he loaned his car did not have driver's license will not make him liable for the latter's torts committed in the course of its use. *Luffy v. Lockhart*, 37 Ariz. 488, 295 Pac. 975.

Fact that person had failed to procure driver's license is no evidence whatever that he is not a capable, skilled, and safe driver. *Luffy v. Lockhart*, 37 Ariz. 488, 295 Pac. 975.

Collateral References.

Chauffeur in general employment of owner or servant for time being of owner or of hirer of car. 42 A. L. R. 1416.

Construction and application of statutes requiring "chauffeurs'" licenses. 105 A. L. R. 69.

Lack of license as evidence of negligence. 73 A. L. R. 164.

Liability for injury or damage by car driven by unlicensed person. 16 A. L. R. 1117; 35 A. L. R. 68; 38 A. L. R. 1038; 43 A. L. R. 1153; 54 A. L. R. 381; 58 A. L. R. 533; 61 A. L. R. 1190; 78 A. L. R. 1031; 87 A. L. R. 1473; 111 A. L. R. 1266.

Loan of car to unlicensed driver as affecting liability of owner for negligence. 68 A. L. R. 1015.

Negligence of chauffeur furnished with a car hired for an extended period. 8 A. L. R. 484; 42 A. L. R. 1429.

Nonresident operators' or drivers' licenses, statute with respect to. 82 A. L. R. 1392.

Nonresidents, license regulations discriminating against. 112 A. L. R. 68.

Validity of statute or ordinance relating to grant of license or permit to operate automobile. 71 A. L. R. 616; 108 A. L. R. 1162; 125 A. L. R. 1459.

66-239. Persons to whom operator's or chauffeur's license may not be issued.—No operator's license shall be issued to any person under the age of sixteen [16] years, and no chauffeur's license shall be issued to any person under the age of eighteen [18] years; nor shall an operator's or chauffeur's license issue to any person as an operator or chauffeur during the period of his suspension; nor to any person whose license either as an operator or chauffeur, has been revoked, until the expiration of one [1] year after such revocation; nor to any person whom it has determined to be an habitual drunkard or addicted to the use of narcotic drugs; nor to any person who has previously been adjudged insane, an idiot, imbecile, epileptic, or feeble-minded, and who has not at the time of such application been adjudged competent by judicial decree or released from a hospital for the insane or feeble-minded upon a certificate of the superintendent that such person is competent, nor then unless the division is satisfied that such person is competent to operate a motor vehicle with safety to persons and property; nor to any person when in its opinion such person is afflicted

with or suffering from such physical or mental disability or disease as will prevent him from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways; nor to any person who is unable to understand highway warning signs in the English language. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 34, p. 33; R. C. 1928, § 1655.]

Cited:

Keller v. State, 46 Ariz. 106, 47 Pac. (2d) 442.

66-240. Minor driving school or public passenger vehicle prohibited.—It shall be unlawful for any person under the age of twenty-one [21] years to drive a motor vehicle while in use as a school bus for the transportation of pupils to or from a school, or to drive a motor vehicle while in use as a public passenger carrying vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 35, p. 33; R. C. 1928, § 1656.]

66-241. Temporary instruction permit.—The division upon receiving from any person over the age of sixteen [16] years an application for a temporary instruction permit may in its discretion issue such permit entitling the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the highways for a period of sixty [60] days when accompanied by a licensed operator or chauffeur who is actually occupying a seat beside the driver and there is no other person in the vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 36, p. 33; R. C. 1928, § 1657.]

66-242. Application for operator's and chauffeur's licenses.—Every application for an operator's or chauffeur's license shall be made upon the form furnished by the division, and shall be verified by the applicant, stating his name, age, sex and residence address, his experience in driving a motor vehicle; whether he has heretofore been licensed as an operator or chauffeur, if so, when and by what state, and whether such license has ever been suspended or revoked, and if so, the date and reason for such suspension or revocation. The application of any minor under the age of eighteen [18] years shall not be granted unless signed by the father of the applicant, if the father is living and has custody of the applicant, otherwise by the mother or guardian, if living and having the custody of such minor, otherwise by his employer. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 37, 38, p. 33; cons. & rev., R. C. 1928, § 1658.]

66-243. Examination of applicant who may be exempted from.—The division shall examine every applicant for an operator's or chauffeur's license as to his physical and mental qualifications to operate a motor vehicle in such manner as not to jeopardize the safety of persons or property and as to facts which would bar the issuance of a license. The examination for the renewal of such license may be waived when the applicant has a valid unrevoked license of like nature issued to him by this state, or by any other state under a law requiring the licensing

and examination of operators and chauffeurs. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 39, p. 33; R. C. 1928, § 1659.]

Collateral Reference.

See 23 Cal. Jur. 148.

66-244. Persons may be designated to examine.—The superintendent may designate peace officers or appoint other persons within this state to act for the division in examining applicants for operator's and chauffeur's licenses, and they shall conduct examinations of applicants for operator's and chauffeur's licenses under the provisions hereof and make written findings and recommendations upon such examination to the division. The division shall file each application, index the same by name and number, and maintain records of all licenses issued, of applications denied, and of licenses suspended or revoked. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 40, 41, p. 33; cons. & rev., R. C. 1928, § 1660.]

66-245. Contents of license—Chauffeur's badge—Temporary permit—Duplicates.—The division shall issue to every person licensed as an operator, an operator's license; and, to every person licensed as a chauffeur a chauffeur's license. A chauffeur before operating a vehicle as a public or common carrier of persons or property shall apply for and receive from the division, and at all times while so operating a vehicle shall display in plain sight upon the band of his cap or upon the lapel of his coat a chauffeur's badge. Any person licensed as a chauffeur hereunder need not procure an operator's license, but no person shall drive any motor vehicle as a chauffeur unless so licensed.

The operator's or chauffeur's license shall state thereon the number assigned to the licensee, the name, age, residence address and a brief description of the licensee, and contain a space for the signature of the licensee, and a chauffeur's license a photograph of the licensee. A chauffeur's badge shall be of metal with the number assigned to the licensee plainly stamped thereon. The division, upon determining that an applicant is qualified to receive a license, may issue to the applicant a temporary driver's permit entitling such person while having such permit in his immediate possession to drive a motor vehicle upon the highways for a period of ten [10] days. If an operator's or chauffeur's license or a chauffeur's badge be lost or destroyed, the person to whom the same was issued may obtain a duplicate or substitute thereof upon furnishing proof, satisfactory to the division, that such license or badge has been lost or destroyed. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 42, 43, p. 33; cons. & rev., R. C. 1928, § 1661.]

66-246. Signature by licensee—Possession for inspection.—Every person licensed as an operator shall write his usual signature in ink in the space provided for that purpose on the license certificate issued to him immediately upon receipt of such certificate, and every chauffeur shall write his usual signature in ink across the face of the photograph on the license certificate issued to him immediately upon receipt of such certificate, and such license shall not be valid until the certificate is so signed. The licensee shall have such license in his immediate

possession at all times when driving a motor vehicle and shall display the same upon demand of a peace officer, field deputy, or inspector of the division. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 44, p. 33; rev., R. C. 1928, § 1662.]

66-247. Renewal of licenses.—Every operator's license shall be valid until suspended or revoked except that the superintendent may, not more than once every three [3] years and after public notice, cancel all outstanding operator's licenses and issue in lieu thereof, to the persons applying therefor and entitled thereto, new licenses without examination, except when the division has reason to believe that the applicant may not be qualified. Every chauffeur's license shall expire December thirty-first each year and may be renewed annually upon application, provided that the division may waive the examination of any applicant previously licensed as a chauffeur under this article. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 45, p. 33; rev., R. C. 1928, § 1663.]

Section to Section Reference.

This section is referred to in § 66-256.

Cited:

Keller v. State, 46 Ariz. 106, 47 Pac. (2d) 442.

66-248. Courts to report convictions—Suspensions—Grounds of revocation—Proof of financial responsibility.—(a) Upon the conviction of any person for a violation of any law regulating the operation of motor vehicles upon the highways, the court in which the conviction occurred shall immediately forward to the division a record of such conviction, upon forms prescribed by the division, and may recommend the suspension of the operator's or chauffeur's license of the person so convicted. The division shall thereupon act upon such record and recommendation as may seem desirable.

(b) The division shall forthwith revoke the license of any person upon receiving a record of his conviction of any of the following offenses:

- Manslaughter resulting from the operation of a motor vehicle;
- Driving a vehicle while under the influence of intoxicating liquor or a narcotic drug;
- Perjury, or the making of a false affidavit to the division under this or any other law of this state requiring the registration of motor vehicles or regulating their operation on highways;
- Any crime punishable as a felony under the motor vehicle laws of this state, or any other felony in the commission of which a motor vehicle was used;
- Conviction or forfeiture of bail upon three [3] charges of reckless driving within the preceding twelve [12] months; or

A conviction upon a charge of failure to stop and disclose his identity at the scene of the accident, where such accident resulted in the death or injury of another person.

The division, upon receiving a record of the conviction of any person operating a motor vehicle while the license of such person is suspended or revoked, shall immediately extend the period of such first suspension or revocation for an additional like period.

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

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

(e) The judgment herein referred to shall mean any final judgment in the sum of one hundred dollars [\$100] or more for damage to property or for damages in any amount on account of bodily injury to or death of any person resulting from the operation of any motor vehicle upon a highway.

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

(g) The suspension shall remain in effect and no other motor vehicle shall be registered in the name of such judgment debtor nor any new license issued to such person unless and until such judgment is satisfied or stayed and the judgment debtor gives proof of financial responsibility in future, as hereinafter provided, except under the conditions as hereinafter stated.

(h) A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this act.

(i) Every judgment herein referred to shall for the purposes of this act be deemed satisfied:

1. When five thousand dollars [\$5,000] has been credited upon any judgment or judgments rendered in excess of that amount for bodily injury to or the death of one [1] person as the result of any one [1] accident; or

2. When, subject to said limit of five thousand dollars [\$5,000] as to one [1] person, the sum of ten thousand dollars [\$10,000] has been credited upon any judgment or judgments rendered in excess of that amount for bodily injury to or the death of more than one [1] person as the result of any one [1] accident; or

3. When one thousand dollars [\$1,000] has been credited upon any judgment or judgments rendered in excess of that amount for damage to property of others as a result of any one [1] accident.

Credit for such amounts shall be deemed a satisfaction of any such judgment or judgments in excess of said amounts only for the purposes of this act.

4. When said judgment has remained unsatisfied, in whole or in part, for the full period of five [5] years from the date of its entry.

Whenever payment has been made in settlement of any claims for bodily injury, death, or property damage arising from a motor vehicle accident resulting in injury, death, or property damage to two [2] or

more persons in such accident, any such payment shall be credited in reduction of the amounts provided for in this section.

5. The division shall not suspend a license or registration of a motor vehicle and shall restore any suspended license or registration following non-payment of a final judgment when the judgment debtor gives proof of financial responsibility in future and when the judgment debtor obtains an order from the trial court in which such judgment was rendered, permitting the payment of such judgment in installments and while the payment of any said installment is not in default.

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

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

(j) Whenever, after one [1] judgment is satisfied and proof of financial responsibility is given as herein required another such judgment is rendered against the judgment debtor for any accident occurring prior to the date of the giving of said proof and such person fails to satisfy the latter judgment within the amounts specified herein within thirty [30] days after the same becomes final, then the division shall again suspend the operator's or chauffeur's license of such judgment debtor and the registration of any vehicle registered in the name of such judgment debtor as owner and shall not renew the same and shall not issue to him any operator's or chauffeur's license or registration of any vehicle while such latter judgment remains in effect and unsatisfied within the amounts specified herein.

(k) Whenever the division determines that any person required to give proof hereunder by reason of a conviction is not the owner of a motor vehicle but was at the time of such conviction a chauffeur or motor vehicle operator, however designated, in the employ of an owner of a motor vehicle or a member of the immediate family or household of the owner of a motor vehicle, the division shall accept proof of financial responsibility given by such owner in lieu of proof given by such other person so long as such latter person is operating a motor vehicle for which the owner has given proof as herein provided. The division shall designate the restrictions imposed by this section on the face of such person's operator's or chauffeur's license. No such license shall be reinstated or any new license issued until otherwise permitted under the laws of this state.

(l) Proof of financial responsibility shall mean proof of ability to respond in damages for any liability thereafter incurred resulting from the ownership, maintenance, use, or operation of a motor vehicle for bodily injury to or death of any one [1] person in the amount of five thousand dollars [\$5,000], and subject to said limit for any one [1]

person injured or killed, in the said amount of ten thousand dollars [\$10,000] for bodily injury to or death of two [2] or more persons in any one [1] accident, and for damage to property in the amount of one thousand dollars [\$1,000] resulting from any one [1] accident. Such proof in said amounts shall be furnished for each motor vehicle registered by such person.

(m) Proof of financial responsibility when required under this act may be given by the following alternate methods: Either by proof that a policy or policies of liability insurance have been obtained and are in full force and effect or that a bond has been duly executed or that deposit has been made of money or securities all as hereinafter provided.

(n) Proof of financial responsibility may be made by filing with the division the written certificate or certificates of any insurance carrier duly authorized to do business in this state, certifying that it has issued to or for the benefit of the person furnishing such proof and named as the insured a motor vehicle liability policy or policies, or in certain events an operator's policy, meeting the requirements of this act and that said policy or policies are then in full force and effect. Such certificate or certificates shall give the dates of issuance and expiration of such policy or policies and certify that the same shall not be canceled unless ten [10] days' prior written notice thereof be given to the division and shall explicitly describe all motor vehicles covered thereby, unless the policy or policies are issued to a person who is not the owner of a motor vehicle.

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

(p) When a certificate is filed showing that a policy or policies have been issued covering all motor vehicles owned by the insured but not insuring such person when operating any motor vehicle not owned by him it shall be unlawful for such person to operate any motor vehicle not owned by him or not covered by such certificate. In such event the division shall designate the above restriction upon the operator's or chauffeur's license of such person.

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

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

(s) The non-resident owner of a foreign vehicle may give proof of financial responsibility by filing with the division a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in such certificate is registered or if such non-resident does not own a motor vehicle then in the state in which the insured resides and otherwise conforming to the provisions of this act and the division shall accept the same.

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

(t) A motor vehicle liability policy as said term used in this act shall mean a policy of liability insurance issued by an insurance carrier authorized to transact business in this state to or for the benefit of the person named therein as insured which policy shall meet the following requirements:

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

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

Said policy shall insure every said person on account of the maintenance, use or operation of said motor vehicle or motor vehicles within the continental limits of the United States or the Dominion of Canada against loss from the liability imposed by law arising from such maintenance, use or operation to the extent and aggregate amount, exclusive of interest and costs, with respect to each such motor vehicle, of five thousand dollars [\$5,000] for bodily injury to or death of one [1] person as a result of any one [1] accident and, subject to said limit as to one [1] person, the amount of ten thousand dollars [\$10,000] for bodily injury to or death of all persons as a result of any one accident and the amount of one thousand dollars [\$1,000] for damage to property of others as a result of any one [1] accident.

When an operator's policy is required it shall insure the person named therein as insured against the liability imposed by law upon the insured for bodily injury to or death of any person or damage to property to the amounts and limits above set forth and growing out of the use or operation by the insured within the continental limits of the United States or the Dominion of Canada of any motor vehicle not owned by him.

Any liability policy or policies issued hereunder need not cover any liability of the insured assumed by or imposed upon said insured under

any workman's compensation law nor any liability for damage to property in charge of the insured or the insured's employees.

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

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

The department may accept several policies of one [1] or more such carriers which together meet the requirements of this section.

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

(u) No motor vehicle liability policy or operator's policy shall be accepted as proof of ability to respond in damages hereunder unless and until all of the following requirements of this section shall be complied with.

A copy of the form of such policy shall be filed with the division of insurance who shall within thirty [30] days approve or disapprove the same. If the division approves the same within such time or fails to take action for thirty [30] days the form of policy shall be deemed approved. If within said thirty [30] days the division disapproves such form of policy upon the ground that it does not comply with the requirements of this act it shall give written notice thereof and its reason therefor to the carrier and said policy shall not be accepted as proof of financial responsibility under this act.

Any said form of policy shall specify the name, address, and business, if any, of the insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability.

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

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

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

(v) An insurance carrier who has issued a motor vehicle liability policy or policies or an operator's policy meeting the requirements of this act shall upon request of the insured therein deliver to the insured for filing, or at the request of the insured shall file direct with the division, and appropriate certificate showing that such policy or policies have been issued, which certificates shall meet the requirements of this act.

(w) When an insurance carrier has certified a motor vehicle liability policy under this act it shall give ten [10] days' written notice to

the division before cancellation of such policy and the policy shall continue in full force and effect until the date of cancellation specified in such notice or until its expiration.

(x) This act shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if endorsed to conform to the requirements of this act, shall be accepted as proof of financial responsibility when required under this act.

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

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

Such bond shall be executed by the person giving such proof and by a surety company duly authorized to transact business in this state or by the person giving such proof and by two [2] individual sureties, each owning real estate within this state and having an equity therein in the amount of such bond which real estate shall be scheduled therein, and the division shall not accept any such real estate bond unless it is first approved by a judge of a court of record.

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

No such bond shall be canceled unless ten [10] days' prior written notice of cancellation is given the division but cancellation of such bond shall not prevent recovery thereon with respect to any right or cause of action arising prior to the date of cancellation.

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

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

(z) A person may give proof of financial responsibility by delivering to the division a receipt of the treasurer of this state showing the deposit with said treasurer of money in an amount or securities approved by said treasurer and of a market value in a total amount as would be required for coverage in a motor vehicle liability policy fur-

nished by the person giving such proof under this act. Such securities shall be United States or state of Arizona bonds.

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

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

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

The division shall cancel any bond or return any certificate of insurance, or the division shall direct and the state treasurer shall return any money or securities to the person entitled thereto, upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this act.

Whenever any evidence of proof of ability to respond in damages filed by any person under the provisions of this act no longer fulfills the purpose for which required, the division shall, for the purpose of this act, require other evidence of ability to respond in damages as required by this act, and shall suspend the operator's license, chauffeur's license, and registration certificate and registration plates of such person pending such proof.

The division shall upon request cancel any bond or return any certificate or insurance, or the division shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this act as proof of financial responsibility, or waive the requirement of filing proof of financial responsibility in any of the following events:

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

2. In the event the person who has given proof of financial responsibility surrenders his operator's or chauffeur's license, registration certificates, and registration plates to the division, but the division shall not release such proof in the event any action for damages upon a liability referred to in this act is then pending or any judgment upon any such liability then outstanding and unsatisfied or in the event the division has received notice that such person has within the period of six [6] months immediately preceding been involved as a driver in any motor vehicle accident. An affidavit of the applicant of the non-existence of such facts shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

The division shall upon request furnish any insurance carrier or any person or surety a certified abstract of the operating record of

any person subject to the provisions of this act, which abstract shall fully designate the motor vehicles, if any, registered in the name of such person, and if there is no record of any conviction of such person of a violation of any provision of any statute relating to the operation of a motor vehicle or of any injury or damage caused by such person as herein provided, the division shall so certify. The division shall collect for each such certificate the sum of one dollar [\$1.00]. Such record shall not be admissible as evidence in any action for damages or criminal proceeding arising out of a motor vehicle accident. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 46, 47, p. 33; cons. & rev., R. C. 1928, § 1664; Laws 1935, ch. 45, § 1, p. 165.]

Title of Act.

An act to amend section 1664 of the Revised Code of 1928 so as to require proof of financial responsibility of motor vehicle operators to respond in damages for negligent operation of motor vehicles. [Laws 1935, ch. 45.]

Amendment.

The 1935 amendment added the portion of the section following subd. (b).

Comparative Legislation. Suspension or revocation of licenses:

Cal. Deering's Codes 1937, Vehicle Code, §§ 304-317.

Ill. Rev. Stat. 1939, ch. 95½, § 35j.

Ind. Burns' Stat. 1933, §§ 47-415—47-417.

La. Dart's Stat., § 5257.

NOTES TO DECISIONS

Complaint for Declaratory Judgment.

A complaint by the attorney-general for a declaratory judgment as to the validity of this law will be treated as stating a cause of action, where the point that the complaint failed to show that the state was an interested party was not called to the trial court's attention, and where by liberal construction the complaint presents a case where the highway department and owners of final judgments for torts by automobile disagree as to the validity of the law. State ex rel. Sullivan v. Price, 49 Ariz. 19, 63 Pac. 653, 108 A. L. R. 1156.

Constitutionality.

This statute is constitutional and does not deprive a motorist of his liberty or property without due process of law, since the object is to make highways safer. State ex rel. Sullivan v. Price, 49

Ariz. 19, 63 Pac. (2d) 653, 108 A. L. R. 1156.

Purpose of Statute.

This section is a valid exercise of the legislative power, the object being safety on the state highways. State ex rel. Sullivan v. Price, 49 Ariz. 19, 63 Pac. (2d) 653, 108 A. L. R. 1156.

Collateral References.

Construction and application of statute or ordinance relating to revocation of license or permit to operate automobile. 125 A. L. R. 1459.

Conviction, what amounts to, within statute making conviction ground for canceling license. 113 A. L. R. 1179.

Validity of statute or ordinance relating to revocation of license. 71 A. L. R. 616; 108 A. L. R. 1162; 125 A. L. R. 1459.

66-249. Grounds for optional suspension—Hearing.—The division may immediately suspend the license of any person without hearing, and without receiving a record of conviction of such person of a crime, whenever it believes that such person has committed any offense for the conviction of which mandatory revocation of license is provided in the preceding section; or, that such person, has by reckless or unlawful operation of a motor vehicle caused or contributed to an accident resulting in death or injury to any other person or serious property damage; or, that such person is incompetent to drive a motor vehicle, or is afflicted with mental or physical infirmities or disabilities

rendering it unsafe for him to drive a motor vehicle upon the highways; or, that such person is an habitual reckless or negligent driver or has committed a serious violation of the motor vehicle laws.

Whenever the division suspends the license of any person on any of the above grounds, it shall immediately notify the licensee of a hearing before said division in the county wherein the licensee resides, and upon such hearing shall either vacate its order of suspension or, good cause appearing therefor, may suspend the license of such person for a further period, or revoke said license. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 48, in part, p. 33; R. C. 1928, § 1665.]

66-250. Revocation of non-resident's permit—Penalty—Revocation on foreign conviction.—The division may suspend or revoke the right of any non-resident to operate a motor vehicle in this state for any cause for which the license of a resident operator or chauffeur may be suspended or revoked; and, any non-resident who operates a motor vehicle upon a highway after such suspension or revocation shall be guilty of a misdemeanor. The division shall suspend or revoke the license of any resident upon receiving notice of the conviction of such person in another state of an offense therein, which if committed in this state, would be grounds for the suspension or revocation of the license of an operator or chauffeur, and shall, upon receiving a record of the conviction in this state of a non-resident driver of a motor vehicle of any offense under the motor vehicle laws of this state, forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 48, in part, p. 33; R. C. 1928, § 1666.]

66-251. Limitation on period of suspension—Surrender of license and badge.—The division shall not suspend a license for a period of more than one [1] year and upon suspending or revoking any license shall require the license and the badge of the chauffeur to be surrendered to the division. At the end of the suspension such license and badge shall be returned to the licensee. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 48, in part, p. 33; R. C. 1928, § 1667.]

66-252. Review by court of suspension or revocation.—Any person denied a license, or whose license has been revoked by the division, except when such revocation is mandatory hereunder, may, within thirty [30] days thereafter, file a petition for a hearing in the matter in the superior court in the county where he resides, and such court shall set the matter for hearing upon ten [10] days written notice to the vehicle superintendent, and thereupon hear and determine the petition. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 49, p. 33; rev., R. C. 1928, § 1668.]

66-253. One year minimum on revocation.—A person whose license is revoked hereunder shall not receive a new license until the expiration of one [1] year from the date of such revocation. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 50, p. 33; R. C. 1928, § 1669.]

66-254. Negligence of minor imputable to signer of application.—Any negligence of a minor under the age of eighteen [18] years licensed upon application, when driving any motor vehicle upon a highway, shall be imputed to the person who signed the application of such minor for said license, and such person shall be jointly and severally liable, with such minor, for any damages caused by such negligence. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 51, p. 33; R. C. 1928, § 1670.]

Collateral References.

Liability for injury to or by one operating motor vehicle while under the age prescribed by law. 46 A. L. R. 1067.

Liability of parent who gives automobile or motorcycle to minor child forbidden by statute to operate same, for negligent use thereof by child. 49 A. L. R. 1523.

66-255. Liability of owner or donor for negligence of minor under eighteen.—Every owner of a motor vehicle causing or knowingly permitting a minor under the age of eighteen [18] years to drive such vehicle upon a highway, and any person giving or furnishing a motor vehicle to such minor, shall be jointly and severally liable with such minor for any damages caused by the negligence of such minor in driving such vehicle. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 52, p. 33; R. C. 1928, § 1671.]

Compiler's Note.

Laws 1927, ch. 2, subd. 3, §§ 54-57 (Rev. Code 1928, §§ 1680-1682) was repealed by Laws 1933, ch. 100, § 32.

54 A. L. R. 851; 64 A. L. R. 851; 88 A. L. R. 608; 98 A. L. R. 1045; 100 A. L. R. 1021.

Liability of parent for injury to child's guest by negligent operation of car. 2 A. L. R. 900; 88 A. L. R. 590.

Collateral References.

Intrusting automobile to minor child as rendering parent liable for negligence. 36 A. L. R. 1150.

Liability of owner for negligence of one permitted by the former's servant, or member of his family, to drive automobile. 44 A. L. R. 1382; 54 A. L. R. 851; 98 A. L. R. 1043.

Liability of parent who gives automobile or motorcycle to minor child forbidden by statute to operate same, for negligent use thereof by child. 36 A. L. R. 1164; 49 A. L. R. 1523.

Loan of car by owner to his minor child as rendering him liable for injury. 68 A. L. R. 1014; 100 A. L. R. 926.

Liability of owner under "family-purpose" doctrine, for injuries by automobile while being used by member of his family. 5 A. L. R. 226; 10 A. L. R. 1449; 14 A. L. R. 1087; 19 A. L. R. 387; 20 A. L. R. 1469; 23 A. L. R. 620; 32 A. L. R. 1504; 36 A. L. R. 1150; 44 A. L. R. 1382; 45 A. L. R. 482; 50 A. L. R. 1512;

Validity, construction, and effect of statutes which make owner responsible, or create a lien, for injury or damage inflicted by another operating an automobile. 4 A. L. R. 361.

Youth of operator of automobile as affecting his negligence. 73 A. L. R. 1277.

66-256. Fees—License tax on commercial vehicles.—(a) The following fees shall be paid to the vehicle division:

1. For each original certificate of title, one dollar [\$1.00].
2. For each certificate of title on sale or transfer, one dollar [\$1.00].
3. For a duplicate certificate of title, the original of which is lost or destroyed and is satisfactorily accounted for, fifty cents [50c].
4. For each registration card upon transfer of registration, fifty cents [50c].
5. For a duplicate registration card, fifty cents [50c].
6. For a duplicate of any permit, fifty cents [50c].
7. For filing each application for dealer's or wrecker's license, five dollars [\$5.00].

8. For each dealer's or wrecker's license when issued, three dollars [\$3.00].
 9. For filing each application for a chauffeur's license, one dollar [\$1.00].
 10. For each original operator's license other than owners, fifty cents [50c].
 11. For each operator's license issued under the provisions of section 1663 [§ 66-247], for which a fee is thereby required to be paid, fifty cents [50c].
 12. For each duplicate chauffeur's or operator's license, fifty cents [50c].
 13. For each chauffeur's badge to replace lost badge, one dollar [\$1.00].
 14. For filing each application to make or stamp special engine number, one dollar [\$1.00].
 15. For each identification plate bearing serial or identification number to be affixed to any vehicle, one dollar [\$1.00].
 16. For approving each type of reflector, electric lantern, flare, fire extinguisher, or mechanical signal, five dollars [\$5.00].
 17. For each number plate or pair of number plates to replace lost, destroyed or mutilated plates, one dollar [\$1.00].
 18. For each original plate or plates issued to a dealer, three dollars and fifty cents [\$3.50].
 19. For each additional plate or pair of plates issued to a dealer, one dollar [\$1.00].
 20. For the registration of any motor vehicle, trailer or semi-trailer, if registered prior to July 1, three dollars and fifty cents [\$3.50]; if registered after July 1, two dollars [\$2.00].
 21. For filing any conditional sales contract, conditional lease, chattel mortgage or other lien or encumbrance, or title retention instrument, or any other instrument affecting or evidencing title to, ownership of, or reservation of title to any motor vehicle, trailer or semi-trailer, seventy-five cents [75c].
 22. For filing any assignment or satisfaction or release of any conditional sales contract, conditional release, chattel mortgage or other title retention instrument, or any other instrument affecting or evidencing title to, ownership of or reservation of title to any motor vehicle, trailer or semi-trailer, twenty-five cents [25c].
- (b) In addition to the required registration fee, there shall be paid at the time of application for registration an unladen weight fee on each motor vehicle, trailer or semi-trailer designed, used or maintained primarily for the transportation of passengers for compensation, or for the transportation of property, including hearses, ambulances and other vehicles used by a mortician in the conduct of his business, and motor vehicles rented without drivers, when such vehicles are equipped wholly with pneumatic tires, in accordance with the following schedule:
- For vehicles with two [2] axles, 1. two thousand nine hundred [2,900] to four thousand [4,000] pounds unladen weight, thirty-five cents [35c] per cwt.; 2. four thousand [4,000] to six thousand [6,000]

pounds, fifty cents [50c] per cwt.; 3. six thousand [6,000] to eight thousand [8,000] pounds, sixty-five cents [65c] per cwt.; 4. eight thousand [8,000] to ten thousand [10,000] pounds, seventy-five cents [75c] per cwt.; 5. ten thousand [10,000] to twelve thousand [12,000] pounds, one dollar [\$1.00] per cwt.; 6. twelve thousand [12,000] pounds or over, one dollar [\$1.00] per cwt.; 7. maximum fee, one hundred twenty dollars [\$120].

For vehicles with three [3] axles, 8. two thousand nine hundred [2,900] to four thousand [4,000] pounds, forty cents [40c] per cwt.; 9. four thousand [4,000] to six thousand [6,000] pounds, sixty-five cents [65c] per cwt.; 10. six thousand [6,000] to eight thousand [8,000] pounds, eighty cents [80c] per cwt.; 11. eight thousand [8,000] to ten thousand [10,000] pounds, one dollar [\$1.00] per cwt.; 12. ten thousand [10,000] to twelve thousand [12,000] pounds, one dollar and thirty-five cents [\$1.35] per cwt.; 13. twelve thousand [12,000] pounds or over, one dollar and sixty cents [\$1.60] per cwt.; 14. maximum fee, one hundred eighty-five dollars [\$185].

(c) In addition to the required registration fee, there shall be paid, at the time of application for registration on each motor vehicle designed and used primarily for the transportation of passengers for compensation or for the transportation of property, when equipped wholly with pneumatic tires and weighing, when unladen, less than twenty-nine hundred [2,900] pounds, two dollars [\$2.00]; and on each trailer or semi-trailer, when equipped wholly with pneumatic tires and weighing, when unladen, less than twenty-nine hundred [2,900] pounds but more than one thousand [1,000] pounds, two dollars [\$2.00].

(d) When any vehicle referred to in subdivision twenty-two hereof or any motor vehicle referred to in subdivision twenty-three hereof is equipped with two [2] or more solid tires, the unladen weight fee therein specified shall be twice the amount specified for such vehicles if equipped wholly with pneumatic tires.

(e) Upon any registration issued after the beginning of the registration year, the unladen weight fees herein prescribed shall be reduced by one-twelfth for each month which shall have elapsed since the beginning of the registration year.

(f) The unladen weight of any vehicle shall be the weight of such vehicle when unladen and fully equipped and ready for service, and shall be evidenced by a sworn statement of the applicant for registration, accompanied by a verified certificate of weight duly issued by a public weighmaster. Such sworn statement or certificate shall be subject to verification by the vehicle division, or any of its officers or agents. A major fraction of one hundred [100] pounds shall be considered as one hundred [100] pounds and a minor fraction of one hundred [100] pounds shall not be counted in determining the unladen weight of any vehicle.

(g) All moneys received from the taxes herein provided shall be immediately transferred by the officer collecting the same to the superintendent, and by him to the state treasurer, who shall immediately credit the same to the state highway fund. [Laws 1927 (4th S. S.).

ch. 2, subch. 4, § 5 in part, p. 73; rev., R. C. 1928, § 1672; Laws 1931, ch. 100, § 5, p. 265; 1931 (1st S. S.), ch. 1, § 1, p. 1; 1937, ch. 67, § 25, p. 234.]

Title of Act.

An act to amend section 1672, Revised Code of 1928, as amended by chapter 100, Laws of the Regular Session of the Tenth Legislature, relating to registration, license and other fees to be paid to the motor vehicle superintendent, Arizona highway department, in regulating the operation of motor vehicles on the highway in this state; repealing all laws or parts of laws in conflict herewith; and declaring an emergency. [Laws 1931 (1st S. S.), ch. 1.]

Amendments.

This section, prior to its amendment in 1931, read as follows: "The following fees shall be paid to the superintendent: For each original certificate of registration of title, one dollar [\$1.00]; for each certificate of registration of title, on sale or transfer, one dollar [\$1.00]; for filing each application for second-hand dealer's license five dollars [\$5.00], and for each said license, when issued an additional three dollars [\$3.00]; for filing each application for a chauffeur's license, two dollars [\$2.00]; for filing each application for a duplicate chauffeur's or operator's license, fifty cents [50c], and for duplicate chauffeur's badge, one dollar [\$1.00]; for filing each application to make or stamp special engine number, one dollar [\$1.00]; for filing each application for operator's license other than owner's, fifty cents [50c]; for a lost certificate of registration which is accounted for to the satisfaction of the vehicle superintendent, a duplicate may be issued for fifty cents [50c]; for lost license plates satisfactorily accounted for to the vehicle superintendent, duplicates shall be issued for the actual cost of replacement; for the registration of each motor vehicle, trailer or semi-trailer, to be paid at the time of application for such registration, three dollars and fifty cents [\$3.50], and in addition thereto for the registration of each electric passenger motor vehicle, fifteen dollars [\$15.00]; for the registration of each electric motor vehicle designed, used or maintained primarily for the transportation of passengers for hire or for the transportation of property, when weighing unladen less than six thousand [6,000] pounds, sixty dollars [\$60.00], when weighing unladen six thousand [6,000] pounds or more, but less than ten thousand [10,000] pounds, ninety dollars [\$90.00], and when weighing unladen ten thousand [10,000] pounds or more, one hundred and twenty dollars [\$120].

"For the registration of vehicles other than electric motor vehicles, including trailers, semi-trailers, truck tractors and road tractors, designed, used or maintained primarily for the transportation of passengers for hire, or for the transportation of property, in addition to the three dollars and fifty cents [\$3.50], when such vehicles are equipped wholly with pneumatic tires and weighing, when unladen, less than sixteen hundred [1,600] pounds five dollars [\$5.00], when weighing, when unladen, sixteen hundred [1,600] pounds or more, but less than three thousand [3,000] pounds ten dollars [\$10.00], when weighing, when unladen, three thousand [3,000] pounds or more, but less than six thousand [6,000] pounds twenty dollars [\$20.00], when weighing, when unladen, six thousand [6,000] pounds or more, but less than ten thousand [10,000] pounds thirty dollars [\$30.00], and when weighing, when unladen, ten thousand [10,000] pounds or more forty dollars [\$40.00], and when such vehicles are equipped with two [2] or more solid tires the additional fees shall be twice such amounts. The additional fees herein required shall not apply to coupling semi-trailers, weighing not to exceed five hundred [500] pounds unladen, nor to vehicles used exclusively in the transportation of free delivery mail; nor to reregistration of a vehicle upon the transfer of title thereto.

"The following interpretation shall govern this section: A vehicle weighing less than sixteen hundred [1,600] pounds unladen and equipped with cushion tires, shall be deemed to be equipped with pneumatic tires, otherwise with solid tires; any vehicle which is used occasionally or incidentally for the transportation of property, other than a truck, trailer, or semi-trailer shall not be classed as a commercial vehicle or subject to the payment of the fees based upon weight, and the fact that such vehicle is equipped with a box or other receptacle for the carrying incidentally or occasionally of personal property shall not render such vehicle subject to payment of such fees; if the registration fee of three dollars and fifty cents [\$3.50] has been paid for such vehicle, it shall not be seized by the division under a claim of non-payment of the additional fees based upon weight until there has been a judicial determination that such vehicle is subject to such additional fee.

"The assessor of each county is hereby constituted an agent of the division for the purpose of the performance of such

acts and duties as are delegated to him, as well as other duties delegated by the division. Fifty cents [50c] of each original registration fee shall be remitted to the county treasurer of the county in which such registration fee is collected, to be placed in a special fund by such treasurer, said fund to be under the control and for the exclusive use of the assessor in carrying out the provisions hereof. The money received from the taxes herein provided shall be immediately transferred by the officer collecting same to the superintendent, and by him to the state treasurer, who shall immediately credit the same to the state highway fund."

The 1931 (regular session) read as follows: "The following fees shall be paid to the superintendent: For original certificates of registration of title, one dollar [\$1.00]; for certificate of registration of title, on sale or transfer, one dollar [\$1.00]; for filing application for second-hand dealer's license, five dollars [\$5.00]; for second-hand dealer's license, three dollars [\$3.00]; for filing application for chauffeur's license, two dollars [\$2.00]; for filing application for duplicate chauffeur's or operator's license, fifty cents [50c]; for duplicate chauffeur's badge, one dollar [\$1.00]; for filing application to make or stamp special engine number, one dollar [\$1.00]; for filing application for operator's license other than owner's, fifty cents [50c]; for duplicate of lost certificate of registration which is accounted for to the satisfaction of the vehicle superintendent, fifty cents [50c]; for duplicates of lost license plates satisfactorily accounted for to the vehicle superintendent, one dollar [\$1.00]; for registration of motor vehicle, trailer or semi-trailer, to be paid at the time of application therefor, three dollars and fifty cents [\$3.50]; for original set of dealer's plates, three dollars and fifty cents [\$3.50]; for additional set of dealer's plates, one dollar [\$1.00]; in addition to said registration fee of three dollars and fifty cents [\$3.50] electric motor vehicle shall pay, at the time of application, for passenger vehicle, fifteen dollars [\$15.00]; for vehicle designed, used or maintained primarily for the transportation of passengers for hire or for the transportation of property, when weighing unladen less than six thousand [6,000] pounds, sixty dollars [\$60.00]; when weighing unladen six thousand [6,000] pounds, or more, but less than ten thousand [10,000] pounds, ninety dollars [\$90.00]; when weighing unladen ten thousand [10,000] pounds or more, one hundred and twenty dollars [\$120]; in addition to said registration fee of three dollars and fifty cents [\$3.50], motor vehicles other than electric motor vehicles,

including trailers, semi-trailers, truck tractors and road tractors, designed, used or maintained primarily for the transportation of passengers for hire, and equipped wholly with pneumatic tires, shall pay at the time of application, if weighing unladen less than sixteen hundred [1,600] pounds, five dollars [\$5.00]; if weighing unladen sixteen hundred [1,600] pounds or more, but less than three thousand [3,000] pounds, ten dollars [\$10.00]; if weighing unladen three thousand [3,000] pounds or more, but less than six thousand [6,000] pounds, twenty dollars [\$20.00]; if weighing unladen six thousand [6,000] pounds or more, but less than ten thousand [10,000] pounds, thirty dollars [\$30.00]; if weighing unladen ten thousand [10,000] pounds or more, forty dollars [\$40.00], and if equipped with two [2] or more solid tires, the additional fee shall be twice such amounts. The additional fees herein required shall not apply to coupling semi-trailers weighing not to exceed five hundred [500] pounds unladen, nor to vehicles used exclusively in the transportation of free delivery mail; nor to re-registration of a motor vehicle other than an electric motor vehicle upon the transfer of title thereto. The following interpretation shall govern this section: A vehicle weighing less than sixteen hundred [1,600] pounds unladen and equipped with cushion tires shall be deemed to be equipped with pneumatic tires, otherwise with solid tires; any vehicle which is used occasionally or incidentally for the transportation of property, other than a truck, trailer, or semi-trailer shall not be classed as a commercial vehicle or subject to the payment of the fees based upon weight. The assessor of each county is hereby constituted an agent of the division for the purpose of the performance of such acts and duties as are delegated to him, as well as other duties delegated by the division. Fifty cents [50c] of each original registration fee shall be remitted to the county treasurer of the county in which such registration fee is collected, to be placed in a special fund by such treasurer, for the use of the assessor in carrying out the provisions hereof. Claims against said fund shall be allowed and paid in the same manner as claims against the county are allowed and paid. The board of supervisors, may from time to time order the payment of all or any part of said fund, received during a previous fiscal year or years and not used, into the fund for the maintenance and construction of county highways. The money received from the taxes herein provided shall be immediately transferred by the officer collecting same to the superintendent, and by him to the state treasurer, who shall im-

mediately credit the same to the state highway fund."

The 1931 (special session) amendment provided as follows: "The following fees shall be paid to the superintendent: For each original certificate of registration of title, one dollar [\$1.00]; for each certificate of registration of title, on sale or transfer, one dollar [\$1.00]; for filing each application for second-hand dealer's license, five dollars [\$5.00], and for each said license, when issued, an additional three dollars [\$3.00]; for filing each application for a chauffeur's license, two dollars [\$2.00]; for filing each application for a duplicate chauffeur's or operator's license, fifty cents [50c], and for duplicate chauffeur's badge, one dollar [\$1.00]; for filing each application to make or stamp special engine number, one dollar [\$1.00]; for filing each application for operator's license other than owner's, fifty cents [50c]; for a lost certificate of registration which is accounted for to the satisfaction of the vehicle superintendent, a duplicate may be issued for fifty cents [50c]; for lost license plates satisfactorily accounted for to the vehicle superintendent, duplicates shall be issued for one dollar [\$1.00]; for the registration of each motor vehicle, trailer or semi-trailer, to be paid at the time of application for such registration, and for each original set of dealer's plates, three dollars and fifty cents [\$3.50], and for each additional set of dealer's plates, one dollar [\$1.00]; in addition to said registration fee of three dollars and fifty cents [\$3.50], there shall be paid at the time of application for registration on each motor vehicle (other than electric motor vehicles, trailers and semi-trailers), including truck tractors and road tractors designed, used or maintained primarily for the transportation of passengers for compensation or for the transportation of property, when such vehicles are equipped wholly with pneumatic tires and weighing unladen less than twenty-six hundred [2,600] pounds, two dollars [\$2.00] in addition to the registration fee, and on all such vehicles, including trailers and semi-trailers, weighing unladen more than twenty-six hundred [2,600] pounds, additional fees according to the following schedule: Vehicles with two [2] axles, or semi-trailers with one [1] axle weighing unladen (a) 2,600 pounds or over, but less than four thousand [4,000] pounds, additional fee, thirty-five cents [35c] per one hundred [100] pounds; (b) four thousand [4,000] pounds and over, but less than six thousand [6,000] pounds, additional fee of fifty cents [50c] per one hundred [100] pounds; (c) six thousand [6,000] pounds and over, but less than eight thousand [8,000] pounds, additional fee of sixty-

five cents [65c] per one hundred [100] pounds; (d) eight thousand [8,000] pounds and over, but less than ten thousand [10,000] pounds, additional fee of seventy-five cents [75c] per one hundred [100] pounds; (e) ten thousand [10,000] pounds and over, at the rate of \$1.00 per one hundred [100] pounds, but not to exceed one hundred and twenty dollars [\$120] for any such vehicle. All vehicles with three [3] or more axles weighing unladen (a) twenty-six hundred [2,600] pounds and over, but less than four thousand [4,000] pounds, additional fee of fifty cents [50c] per one hundred [100] pounds; (b) four thousand [4,000] pounds and over, but less than six thousand [6,000] pounds, sixty-five cents [65c] per one hundred [100] pounds; (c) six thousand [6,000] pounds and over, but less than eight thousand [8,000] pounds, eighty cents [80c] per one hundred [100] pounds; (d) eight thousand [8,000] pounds and over, but less than ten thousand [10,000] pounds, one dollar [\$1.00] per one hundred [100] pounds; (e) ten thousand [10,000] pounds and over, but less than twelve thousand [12,000] pounds, one dollar and thirty-five cents [\$1.35] cents per one hundred [100] pounds; (f) twelve thousand [12,000] pounds and over, at the rate of one dollar and sixty cents [\$1.60] per one hundred [100] pounds, but not to exceed one hundred and eighty-five dollars [\$185] for any such vehicle. The foregoing schedules are based on pneumatic tires for said vehicles, and provided any such vehicle is equipped with two [2] or more solid tires, then the additional fee for such vehicle shall be twice the amount specified for the classes herein. There shall be paid on each trailer or semi-trailer at the time of application for registration, when such vehicle weighs unladen one thousand [1,000] pounds or more, but less than twenty-six hundred [2,600] pounds, five dollars [\$5.00], in addition to the registration fee. A major fraction of one hundred [100] pounds shall be considered as one hundred [100] pounds. There shall be paid on electric motor vehicles, at the time of application for registration, an additional fee of twenty dollars [\$20.00], provided, if such electric motor vehicle is designed, used or maintained primarily for the transportation of passengers for compensation, or for the transportation of property, and equipped wholly with pneumatic tires and weighing, when unladen, twenty-six hundred [2,600] pounds, or more, such additional fee shall be at the rate of one dollar and fifty cents [\$1.50] for each one hundred [100] pounds, or major fraction thereof, based upon the unladen weight of such vehicle, but not to exceed one hundred eighty dol-

lars [\$180]. The unladen weight of vehicles shall be evidenced by the sworn statement of the applicant for registration, which shall be accompanied by a certificate of weight, and shall be subject to verification by the vehicle division or any of its officers or agents. The additional fees herein required shall not apply to vehicles used exclusively in the transportation of free delivery mail, nor to the re-registration of any vehicle upon the transfer of title thereto. The following interpretation shall govern this section: Any vehicle, other than a truck, trailer, or semi-trailer, which is used occasionally or incidentally, for the transportation of property shall not be classed as a commercial vehicle, or subject to the payment of the fees based upon weight. The assessor of each county is hereby constituted an agent of the division for the purpose of the performance of such acts and duties as are delegated to him, as well as other duties delegated by the division. Fifty cents [50c] of each original registration fee shall be remitted to the county treasurer of the county in which such registration fee is collected, to be placed in a special fund by such treasurer, for the use of the assessor in carrying out the provisions hereof. Claims against said fund shall be allowed and paid in the same manner as claims against the county are allowed and paid. The board of supervisors may, from time to time, order the payment of all or any part of said fund, received during a pre-

vious fiscal year or years and not used, into the fund for the maintenance and construction of county highways. The money received from the taxes herein provided shall be immediately transferred by the officer collecting same to the superintendent, and by him to the state treasurer, who shall immediately credit the same to the state highway fund."

The 1937 amendment placed this section in its present form.

Repeal and Emergency.

Section 2 of Laws 1931 (1st S. S.), ch. 1 repealed all laws or parts of laws in conflict therewith. Section 3 declared an emergency. Approved December 31, 1931.

Section to Section Reference.

This section is referred to in § 66-225.

Comparative Legislation. Fees — License tax on commercial vehicles:

Cal. Deering's Codes 1937, Vehicle Code, §§ 370-384.

Ind. Burns' Stat. 1933, § 47-110.

La. Dart's Stat., § 5179.

Collateral References.

License tax or fee on automobiles as affected by interstate commerce clause. 52 A. L. R. 533.

Validity of statutes imposing license tax on automobiles as affected by constitutional provisions in relation to taxation. 5 A. L. R. 759.

66-257. Severability.—If any provision of this act be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of the act are declared to be severable. [Laws 1937, ch. 67, § 26, p. 234.]

ARTICLE 3

MOTOR VEHICLE FUEL TAX

SECTION.

- 66-301. Amount of tax—When payable—Distribution.
 66-302. Application for licenses—Contents—Licensing of distributors.
 66-303. Bond required of licensed distributor.
 66-304. Reports of distributors.
 66-305. Power of vehicle superintendent to cancel licenses—Surrender of bond.
 66-306. Penalty for failure to report or pay taxes promptly.
 66-307. Vehicle superintendent may estimate motor vehicle fuel received.

SECTION.

- 66-308. Report from persons not distributors — Contents — Penalty for failure to submit report.
 66-309. Reports from carriers transporting motor vehicle fuel—Penalty.
 66-310. Retention of records by distributors and other persons.
 66-311. Inspection of records and equipment—Hearings—Forms.
 66-312. Tax lien on property.
 66-313. Discontinuance or transfer of business—Penalty.
 66-314. When tax payment is in default—Procedure.

driver of a motor vehicle importing motor vehicle fuel into this state in the fuel tank or tanks of a motor vehicle, when such tank or tanks contain more than twenty [20] gallons shall immediately, or upon demand of the vehicle superintendent, pay to said superintendent

ent on such excess motor vehicle fuel, the license tax required to be paid by distributors under the provisions of sec. 1673 [§ 66-301]. Any person violating the provisions of this section shall be guilty of a misdemeanor."

66-324. Waybills or manifest required—Inspection of.—All persons transporting motor vehicle fuel in interstate commerce shall, at all times have in their possession on the vehicle in which such fuel is transported waybills or manifest showing the consignor, consignee, date of shipment and class of fuel shipped, together with the amount thereof, and which said waybills or manifest may be inspected by the vehicle superintendent at any time. [R. C. 1928, § 1678c as added by Laws 1931 (1st S. S.), ch. 16, § 1, p. 50.]

66-325. Authority—Enforcement—Officers.—The highway patrol division of the Arizona highway department and its officers shall have full authority in the enforcement of the provisions of this article. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 68, p. 33; rev., R. C. 1928, § 1679; Laws 1931 (1st S. S.), ch. 16, § 1, p. 50.]

Compiler's Note.

Laws 1927 (4th S. S.), ch. 2, subd. 3, §§ 54-57 (Rev. Code 1928, §§ 1680-1682) were repealed by Laws 1933, ch. 100, § 32, p. 472.

Amendment.

This section, prior to its amendment in 1931, read as follows: "Any person, officer or agent, violating a provision of this article, or making a false statement, or concealing any material fact in any record, report or claim provided for therein, shall be guilty of a misdemeanor, unless such act is by any other law a felony, and upon conviction shall be fined not less than five hundred [\$500] nor more than five thousand dollars [\$5,000], or be imprisoned in the county jail not exceeding six [6] months, or both. The superintendent may revoke the license of a distributor failing to comply with the provisions of this article."

Cross-Reference.

General penal section, § 66-406.

Collateral References.

Attractive nuisance, gasoline drip, or tank as. 53 A. L. R. 1354.

Building erected by tenant for use as gasoline filling station as trade fixture. 107 A. L. R. 1158.

False imprisonment by gasoline station attendant, liability for. 77 A. L. R. 935.

Gasoline station operator, damages for loss of earning capacity. 122 A. L. R. 312.

Injunction against threatened or anticipated nuisance from automobile supply station. 26 A. L. R. 944.

Lease of filling station, rights and remedies of parties in respect to. 83 A. L. R. 1416.

Liability of injuries incident to filling gasoline tank of automobile or motorcycle. 33 A. L. R. 774; 38 A. L. R. 674.

License or permit for keeping or storage of gasoline. 43 A. L. R. 859.

Lien on automobile for furnishing gasoline. 62 A. L. R. 1497.

Public regulation or authorization of gasoline station, 18 A. L. R. 101; 29 A. L. R. 450; 34 A. L. R. 507; 49 A. L. R. 767; 55 A. L. R. 256; 79 A. L. R. 918; 96 A. L. R. 1337.

Right to service at gasoline station. 35 A. L. R. 557.

Sale of gasoline or oil as necessity within Sunday Laws. 60 A. L. R. 763.

ARTICLE 4

DEFINITIONS AND PENALTIES

SECTION.

66-401. Words and phrases defined.

66-402. Driving while under influence of liquor or drugs—Penalty.

SECTION.

66-403. Reckless driving—Penalty.

66-404. Driving with trailer swaying—Penalty.

SECTION.

66-405. Railroad warning signal—Disobeying—Penalty.

66-406. Other wrongful acts—Penalty.

SECTION.

66-407. Receiving and transferring stolen vehicle—Penalty.

66-408. Injuring or preventing operation of vehicle—Penalty.

66-401. Words and phrases defined.—In this and the preceding eight articles [§§ 47-125—47-127; 59-101—59-312; 66-101—66-325], unless the context or subject matter otherwise requires,

“The department” shall mean the Arizona state highway department;

“The commission” shall mean the Arizona state highway commission;

“The state engineer” shall mean the Arizona state highway engineer;

“The vehicle division” shall mean the division of motor vehicles of the Arizona state highway department;

“The vehicle superintendent” shall mean the superintendent of said division;

“The board” shall mean any county board of supervisors;

“Local authority” shall mean any county, municipal or other local board or body having authority of law to adopt local police regulation;

“State route” shall mean any right of way, whether actually used as a highway or not, designated by the commission as a location for the construction of a state highway;

“State highway” shall mean any state route, or portion thereof, accepted and designated by the commission as such, and maintained by the state;

“County highway” shall mean any public road constructed and maintained by a county;

“Highway” shall mean any way, road or place of whatever nature, open to the use of the public as a matter of right for the purpose of vehicular travel, and embraces culverts, sluices, drains, ditches, waterways, embankments, retaining walls, trees, shrubs and fences along or upon the same, and within the right of way;

“Improved highway” shall mean a highway paved with cement concrete, or asphaltic concrete, or a highway having a hard surface and distinct roadway not less than four [4] inches thick, made up of a mixture of rock, sand, or gravel, bound together by an artificial binder other than natural soil;

“Private road or driveway” shall mean any road or driveway upon private grounds and not open to the use of the public for purposes of vehicular travel;

“Right of way” shall mean the privilege of the immediate use of the highways;

“Intersection” shall mean the area embraced within the prolongation of the lateral curb lines or,

If none, then the lateral boundary lines of two [2] or more highways which join one another at an angle, whether or not one such highway crosses the other;

“Safety zone” shall mean the area or space officially set aside within a highway for the exclusive use of the pedestrians, and which is so

plainly marked or indicated by proper signs as to be plainly visible at all times when set apart as a safety zone;

"Business district" shall mean the territory contiguous to a highway when fifty per cent [50%], or more, of the frontage thereon, for a distance of one-fourth of a mile, or more, is occupied by buildings in use for business;

"Resident district" shall mean the territory contiguous to a highway not comprising a business district when the frontage on such highway, for a distance of one-fourth of a mile, or more, is mainly occupied by dwellings, or by dwellings and buildings in use for business;

"Vehicle" shall mean any 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 chapter relating to the operation of vehicles and rules of the road, a bicycle or ridden animal shall be deemed a vehicle;

"Motor vehicle" shall mean any self-propelled vehicle, provided that for the purposes of this chapter relating to the imposition of a tax upon motor vehicle fuel the term shall mean any vehicle operated upon the highways of this state which is propelled by the use of motor vehicle fuel;

"Motor cycle" shall mean any motor vehicle designed to travel on not more than three [3] wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined;

"Truck" shall mean any motor vehicle designed or used primarily for the carriage of property other than the effects of the driver or passengers, and includes a motor vehicle to which has been added a box, platform or other equipment for such carriage;

"Truck tractor" shall mean any motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load so drawn;

"Farm tractor" shall mean any motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry;

"Road tractor" shall mean any motor vehicle designed and used for drawing other vehicles and not so constructed as to carry a load independently, or any part of the weight of a vehicle or load so drawn;

"Trailer" shall mean any vehicle without motive power, designed for carrying property or passengers wholly on its own structure, and for being drawn by a motor vehicle;

"Semi-trailer" shall mean any vehicle of the trailer type, used in conjunction with a motor vehicle, and so designed that some part of its own weight, and that of its own load, rests upon or is carried by another vehicle;

"Specially constructed vehicle" shall mean any vehicle which shall not have been originally constructed under a distinctive name, make, model, or type, by a generally recognized manufacturer of vehicles;

"Essential parts" shall mean integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle;

"Service station" shall mean a place operated primarily for the purpose of delivering motor vehicle fuel into the fuel tanks of motor vehicles;

"Budget" shall mean the annual highway program prepared by the commission. [Laws 1927 (4th S. S.), ch. 2, subch. 1, § 2, p. 8; rev., R. C. 1928, § 1686; Laws 1931, ch. 100, § 6, p. 265; 1931 (1st S. S.), ch. 16, § 2, p. 50.]

Compiler's Notes.

Section 1 of Laws 1927 (4th S. S.), ch. 2, subch. 1 was omitted from Rev. Code 1928. It provided: "This act may be cited as the Highway Code."

Revised Code 1928, § 1687, width of highways, is compiled herein as § 59-401.

Section 3 of Laws 1931 (1st S. S.), ch. 16 provided:

Section 3. Severability.—If any section, sub-section, 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 portion of this act. [Laws 1931 (1st S. S.), ch. 16, § 3, p. 50.]

Amendments.

The 1931 (regular session) amendment added the definition of "truck"; changed the definition of "distributor" from the following: "'distributor' shall mean every person who refines, manufactures, produces or compounds motor vehicle fuel in this state, and sells the same in this state; also every person who imports any motor vehicle fuel into this state and sells the same in this state whether in the original packages or containers in which it is imported, or otherwise; or imports any such fuel for his own use in this state; also every person who, having acquired in this state in the original package or container motor vehicle fuel which has been imported into this state, shall distribute or sell the same, whether in such original package or container or otherwise"; and changed the definition of "chauffeur" from the following: "'chauffeur' shall mean every person who is employed for the principal purpose of operating a motor vehicle and every person who

drives a motor vehicle while in use as a public or common carrier of persons or property"; and changed the definition of "motor vehicle fuel" from the following: "'Motor vehicle fuel' shall mean and include all gasoline, distillate, benzine, naphtha, liberty fuel and other volatile and inflammable liquids produced or compounded for the purpose of, or which may be used in operating or propelling motor vehicles, except kerosene, and except unfinished products requiring re-run, blending, or compounding; and which are not used or sold for use in such form for the purpose of operating or propelling motor vehicles."

The 1931 (special session) amendment changed the definition of "distributor" from the following: "'distributor' shall mean every person who imports, acquires, refines, manufactures, produces, or compounds motor vehicle fuel, and sells the same, whether in the original packages or containers in which it is imported, or otherwise, or imports any such fuel for his own use, other than in the fuel tank of a motor vehicle when such tank is in accordance with manufacturer's stock specifications."

Repeal and Emergency.

Section 4 of Laws 1931 (1st S. S.), ch. 16 repealed all laws or parts of laws in conflict therewith. Section 5 declared an emergency. Approved January 18, 1932.

Comparative Legislation. Definitions:
Cal. Deering's Codes 1937, Vehicle Code, §§ 31-52.

Ill. Rev. Stat. 1939, ch. 95½, § 1.

Ind. Burns' Stat. 1933, §§ 47-1801—47-1821.

La. Dart's Stat., § 5198.

NOTES TO DECISIONS

Alteration or Abandonment.

State routes after being designated by the commission can not be altered or abandoned except by authority which created them, and only when such rules are complied with may supervisors follow eminent domain statutory provisions. *Apache County v. Udall*, 38 Ariz. 488, 1 Pac. (2d) 340.

City Streets.

Regulations of the Highway Code were intended to apply to city streets. (See § 59-101 et seq.) *Clayton v. State*, 38 Ariz. 135, 297 Pac. 1037.

Public Highways.

Public highways are only such as come within the provisions of statutes declaring them to be such. Roads estab-

"Reconstructed vehicle" shall mean any vehicle which has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models, and types, or which, if originally otherwise constructed, has 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;

"Foreign vehicle" shall mean any motor vehicle, trailer or semi-trailer 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;

"Pneumatic tires" shall mean all tires inflated with compressed air;

"Solid rubber tires" shall mean every tire made of rubber other than a pneumatic tire; and

"Metal tires" shall mean all tires the surfaces of which in contact with the highway are wholly or partly of metal or other hard, non-resilient material;

"Owner" shall mean a person who holds the legal title of a vehicle; if the vehicle is the subject of a lease or an agreement for the conditional sale 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 if a mortgagor of a vehicle is entitled to possession, then such lessee, conditional vendee or mortgagor shall be deemed the owner;

"Dealer" shall mean every person engaged in the business of buying, selling or exchanging motor vehicles, trailers or semi-trailers, and having an established place of business;

"Manufacturer" shall mean every person engaged in the business of manufacturing motor vehicles, trailers, or semi-trailers;

"Distributor" shall mean every person who refines, manufactures, produces, compounds, blends or imports motor vehicle fuel in the original package or container or otherwise, and shall include every person importing motor vehicle fuel by means of a pipe line or in any other manner, but shall not include persons importing motor vehicle fuel in the fuel tank of a motor vehicle;

"Operator" shall mean every person other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway, and "chauffeur" shall mean every person who operates a motor vehicle while in use as a public or common carrier, and every person, who, in the course of his employment, drives a vehicle of which he is not the owner, for the purpose of the transportation of persons, or property;

"Motor vehicle fuel" shall mean and include any inflammable liquid, by whatsoever name such liquid may be known or sold, which is used or usable in motor vehicles, either alone or when mixed, blended or compounded, for the propulsion thereof upon the public highways, including (but the following enumeration shall be without prejudice to the generality of the foregoing definition) kerosene, benzol, and all kinds of naphthas;

lished without authority for the convenience of individuals are without legal status either as public highways or private ways. *Territory v. Richardson*, 8 Ariz. 336, 76 Pac. 456.

Under this section, "highway" includes streets and public ways of a city or town. *Clayton v. State*, 38 Ariz. 135, 297 Pac. 1037.

Collateral References.

Aeroplane as a motor vehicle. 99 A. L. R. 209.

Applicability of regulations governing vehicular traffic to driveways or other places not legal highways. 80 A. L. R. 469.

Applicability of state or municipal traffic or vehicle regulations to those engaged in handling United States mail. 18 A. L. R. 1169.

"Highway" in statutory provision relative to vehicle traffic as including street. 54 A. L. R. 1250.

Motorcycle as within contract, statute, or ordinance in relation to motor cars and motor-driven cars. 48 A. L. R. 1090; 70 A. L. R. 1253.

Property tax or privilege tax, tax on automobiles as. 103 A. L. R. 97.

Road or street construction, improvement, or maintenance, tax on automobile or on its use for cost of. 24 A. L. R. 937.

Violation of statute or ordinance regulating movement of vehicles as affecting violator's right to recover for negligence. 12 A. L. R. 458.

Will, automobile as within description of property covered by bequest. 75 A. L. R. 113.

66-402. Driving while under influence of liquor or drugs—Penalty.—

Any person under the influence of intoxicating liquor or narcotic drugs, or who is a habitual user of narcotic drugs, who shall drive any vehicle upon any highway within this state, shall be guilty of a misdemeanor, and punished by imprisonment in the county jail for not less than thirty [30] nor more than ninety [90] days. No judge may suspend imposition of sentence for a violation of this section, and if upon the conviction for three [3] such offenses; the party convicted shall, forfeit his driver's license. [Laws 1927 (4th S. S.), ch. 2, subch. 6, § 1, p. 131; R. C. 1928, § 1688; Laws 1935, ch. 33, § 1, p. 136.]

Title of Act.

An act relating to driving while under the influence of liquor or drugs; fixing a penalty therefor, and amending section 1688, Revised Code of 1928. [Laws 1935, ch. 33.]

Amendment.

The 1935 amendment changed the penal provision from the following: "shall be guilty of a misdemeanor and punished by imprisonment in the county jail for not less than ninety [90] days

nor more than one [1] year, or by fine of not less than two hundred [200] nor more than five thousand dollars [\$5,000]," and added the second sentence.

Emergency.

Section 2 of Laws 1935, ch. 33 declared an emergency. Approved March 6, 1935.

Cited:

Keller v. State, 46 Ariz. 106, 47 Pac. (2d) 442.

NOTES TO DECISIONS

ANALYSIS

In general.
Intoxication.
Justice of the peace—Jurisdiction.
Power of city.
Review.
Speed.

In General.

The Highway Code of 1927 superseded prior laws on same subject. *Olson v. State*, 36 Ariz. 294, 285 Pac. 282.

Intoxication.

Any person who of his own free will voluntarily lessened in the slightest degree his ability to handle such vehicles by the use of intoxicating liquor, should, while in such condition, be debarred from their use. *Hasten v. State*, 35 Ariz. 427, 280 Pac. 670; *Weston v. State*, 49 Ariz. 183, 65 Pac. (2d) 652.

This section covers all degrees of intoxication. *Steffani v. State*, 45 Ariz. 210, 42 Pac. (2d) 615.

It is a question for the jury to determine whether a driver of an automobile was under the influence of intoxicating liquor to the extent that he did not have the clearness of intellect or control of himself that he otherwise would have had. *Weston v. State*, 49 Ariz. 183, 65 Pac. (2d) 652.

This statute is not invalid for indefiniteness of the phrase "driving while under the influence of liquor," since it has the commonly understood meaning sufficient to inform accused of the nature of the crime, which is influence to the extent that the driver does not possess that clearness of intellect and self-control he would otherwise have. *Weston v. State*, 49 Ariz. 183, 65 Pac. (2d) 652.

Justice of the Peace—Jurisdiction.

This offense is triable in the justice of the peace court. *Davis v. Burris*, 51 Ariz. 220, 75 Pac. (2d) 689.

Power of City.

There is no power either express or implied in charter of city to pass a by-law making it a crime to drive a motor vehicle on highways while under the influence of intoxicating liquor. (See Const., art. 13, § 2 and § 16-303.) *Clayton v. State*, 38 Ariz. 135, 297 Pac. 1037.

66-403. Reckless driving—Penalty.—Any person who drives any vehicle upon a highway without due caution and at a speed or in a manner endangering or likely to endanger any person or property, shall be guilty of a misdemeanor and punished by imprisonment in the county jail for not less than five [5] nor more than ninety [90] days, or by a fine of not less than twenty-five dollars [\$25.00], nor more than two hundred and fifty dollars [\$250], or by both such fine and imprisonment. [Laws 1927 (4th S. S.), ch. 2, subch. 6, § 2, p. 131; R. C. 1928, § 1689.]

NOTES TO DECISIONS

City Ordinances.

The legislature having appropriated the field and declared the subject of reckless driving to be of state-wide concern, a city has no authority to pass an ordinance on the same subject-matter. *Keller v. State*, 46 Ariz. 106, 47 Pac. (2d) 442.

Jurisdiction.

The superior court has original jurisdiction of this offense. *Keller v. State*, 46 Ariz. 106, 47 Pac. (2d) 442.

Manslaughter.

Driving an automobile without due caution or in a manner endangering life is criminal negligence, and if such negligence was the proximate cause of death,

Review.

Where the evidence on the issue of whether accused was or was not under the influence of liquor is conflicting, the finding of guilty by the jury is binding on Supreme Court. *Weston v. State*, 49 Ariz. 183, 65 Pac. (2d) 652.

Speed.

Under this section, one who exceeds the speed limit while intoxicated is guilty of a misdemeanor. *Harding v. State*, 26 Ariz. 334, 225 Pac. 482.

Collateral References.

Conflict between statutes and local regulations as to intoxication of driver. 21 A. L. R. 1212; 64 A. L. R. 1005.

Constitutionality and effect of statute relating to civil liability of person driving automobile while under influence of liquor. 56 A. L. R. 327.

Driving automobile while intoxicated as a substantive criminal offense. 42 A. L. R. 1498; 49 A. L. R. 1392; 68 A. L. R. 1356.

Indictment for driving while intoxicated, necessity and sufficiency of. 63 A. L. R. 1374.

Reckless driving, driving while intoxicated as, where driving while intoxicated is made a separate offense. 86 A. L. R. 1274.

the defendant is then to be charged with involuntary manslaughter. *Steffani v. State*, 45 Ariz. 210, 42 Pac. (2d) 615.

In manslaughter prosecution, questions of speed of automobile and recklessness should be submitted to the jury. *Steffani v. State*, 45 Ariz. 210, 42 Pac. (2d) 615.

Defendant is entitled to have the distinction between two kinds of negligence stated to the jury, but not necessarily in his own language. *Steffani v. State*, 45 Ariz. 210, 42 Pac. (2d) 615.

Misdemeanor.

Operating an automobile without due caution and at a high speed is a misdemeanor. *Salt River Valley Water Users Assn. v. Cornum*, 49 Ariz. 1, 63 Pac. (2d) 639.

Collateral References.

Backing of automobile causing damage or injury. 2 A. L. R. 1499, 67 A. L. R. 647; 118 A. L. R. 242.

Curve or hill, duty in operating automobile at or on. 57 A. L. R. 589.

Dangerous instrumentality doctrine as applied to automobile. 16 A. L. R. 270.

Distraction of attention of driver as affecting question of negligence, or wantonness. 120 A. L. R. 1513.

Doctrine of last clear chance. 67 A. L. R. 328; 92 A. L. R. 47; 119 A. L. R. 1041.

Dust, smoke, or atmospheric conditions, duty of driver of automobile whose view is obscured by. 37 A. L. R. 587; 73 A. L. R. 1020.

"Emergency rule" as applied to automobile drivers. 6 A. L. R. 680; 27 A. L. R. 1197; 79 A. L. R. 1277; 111 A. L. R. 1019.

Evidence, admissibility of witness' conclusion as to care exercised in driving. 66 A. L. R. 1117.

Evidence as part of res gestae, of statements or exclamations relating to cause of, or responsibility for, automobile or motorcycle accident. 76 A. L. R. 1121; 101 A. L. R. 1197.

Evidence of test or experiment after accident as bearing on condition of automobile at time of accident. 72 A. L. R. 863.

Gross or wanton negligence in driving automobile which will preclude defense of contributory negligence. 38 A. L. R. 1424; 72 A. L. R. 1357; 92 A. L. R. 1367.

Reckless driving, within statute making reckless driving of automobile a criminal offense, what amounts to. 86 A. L. R. 1273.

Validity of statute or ordinance forbidding running of automobile so as to inflict damage or injury. 47 A. L. R. 255.

Wantonness, wilfulness, or the like precluding defense of contributory negligence, what constitutes. 119 A. L. R. 654.

66-404. Driving with trailer swaying—Penalty.—Any person who shall drive a vehicle towing a trailer or semi-trailer at a rate of speed causing the trailer or semi-trailer to sway laterally from the line of traffic is guilty of a misdemeanor. [Laws 1927 (4th S. S.), ch. 2, subch. 6, § 3, p. 131; R. C. 1928, § 1690.]

66-405. Railroad warning signal—Disobeying—Penalty.—Any person driving a vehicle, upon approaching a grade crossing of a state highway and an interurban or steam railway, who fails to bring such a vehicle to a complete stop before traversing such grade crossing when a clearly visible and mechanical signal gives warning of the immediate approach of a railway train or car, is guilty of a misdemeanor. [Laws 1927 (4th S. S.), ch. 2, subch. 6, § 4, p. 131; R. C. 1928, § 1691.]

66-406. Other wrongful acts—Penalty.—Any person who shall willfully remove, deface, obliterate or change, or cause to be removed, defaced, obliterated or changed, any factory, motor, serial or other identification number or mark on or from any motor vehicle, is guilty of a felony.

Any person who is a driver of a vehicle carrying children to and from school and who, in receiving or discharging such children fails to stop such vehicle on the side of the highway upon which the school building is located; or who,

Being the owner thereof, operates or knowingly permits to be operated upon a highway, any motor vehicle, trailer or semi-trailer required by law to be registered which does not display thereon the number plates assigned thereto by the vehicle division for the current registered year; or who

Drives any motor vehicle upon a highway, and who has not been licensed, either as an operator or as a chauffeur, nor granted a temporary instruction or driver's permit, by the vehicle division; or who

Displays, causes, or permits to be displayed, or to have in his possession any operator's or chauffeur's license knowing the same to be fictitious or to have been canceled, revoked, suspended or altered; or who

Lends, or knowingly permits the use of, by one not entitled thereto, any operator's or chauffeur's license issued to the person so lending or permitting the use thereof; or who

Displays or represents as his own, any operator's or chauffeur's license not issued to him; or who

Fails or refuses to surrender to the vehicle division, upon demand, any operator's or chauffeur's license which has been suspended, canceled or revoked; or who

Uses a false or fictitious name, or gives a false or fictitious address in any application for an operator's or chauffeur's license, or any renewal or duplicate thereof; or who knowingly makes a false statement, knowingly conceals a material fact, or otherwise commits a fraud in any such application; or who

Fails to report an accident, as in this chapter required; or who

Causes or knowingly permits a minor under the age of eighteen years [18] to drive a motor vehicle upon a highway as an operator, unless such minor has first obtained a license to so drive; or who

Employs any unlicensed chauffeur to operate a motor vehicle, or authorizes or knowingly permits a motor vehicle owned by him or under his control to be driven by any person in violation of any provision of this chapter; or who

Drives a motor vehicle upon the highways while his license is suspended or revoked; or who

Displays or has in his possession any registration card, or registration number plate knowing the same to be fictitious or to have been canceled, revoked, suspended, or altered; or who

Lends to, or knowingly permits the use of, by one not entitled thereto, his registration card or registration number plate; or who

Fails or refuses to surrender to the vehicle division upon demand, any registration number plate which has been suspended, canceled or revoked; or who

Uses a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate thereof; or who

Knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application; or who

Drives a vehicle, not his own, without the consent of the owner thereof, and with intent temporarily to deprive said owner of his possession of such vehicle, without intent to steal the same; or who

Defaces, injures, knocks down or removes any posted sign as prohibited in this chapter; or who

Places on a state right-of-way any signal, sign or advertisement without authority of law or of the department, shall be guilty of a misdemeanor.

It shall be a misdemeanor for any person to violate any of the provisions of, or to fail or refuse to do or perform any act or thing

required by this chapter, unless such violation is by law declared to be a felony. [Laws 1927 (4th S. S.), ch. 2, subch. 6, §§ 5-14, p. 131; subch. 5, § 60, p. 94; cons. & rev., R. C. 1928, § 1692; Laws 1931, ch. 100, § 7, p. 265.]

Compiler's Note.

Section 8 of Laws 1931, ch. 100 is compiled herein as § 59-301.

Amendment.

This section, prior to its amendment in 1931, read as follows: "Every driver of a vehicle carrying children to and from school who is receiving or discharging such children and fails to stop such vehicle on the side of the highway upon which the school building is located, is guilty of a misdemeanor.

"Any person who shall deface, injure, knock down or remove any sign posted as provided in this chapter; or display, cause, or permit to be displayed, or have in possession any operator's or chauffeur's license knowing the same to be fictitious or to have been canceled, revoked, suspended or altered; or lend, or knowingly permit the use of, by one not entitled thereto, any operator's or chauffeur's license issued to the person so lending or permitting the use thereof; or display or represent as one's own, any operator's or chauffeur's license not issued to the person so displaying the same; or fail or refuse to surrender to the vehicle division upon demand, any operator's or chauffeur's license which has been suspended, canceled or revoked; or use a false or fictitious name, or give a false or fictitious address in any application for an operator's or chauffeur's license, or any renewal or duplicate thereof; or, knowingly make a false statement or knowingly conceal a material fact, or otherwise commit a fraud in any such application; or, fail to report an accident, as in this chapter required; or cause or knowingly permit a minor under the age of eighteen [18] years to drive a motor vehicle upon a highway as an operator, unless such minor has first obtained a license to so drive; or employ any unlicensed chauffeur to operate a motor vehicle; or authorize or knowingly permit a motor vehicle owned by him or under his control to be driven by any person in violation of any provision of this chapter; or drive any motor vehicle upon the highways of this state while his license is suspended or revoked; or any owner who shall operate or knowingly permit to be operated, upon a highway any motor vehicle, trailer or semi-trailer which is required by law to be registered in this state, and which is not registered, or which does not display thereon the number plates assigned thereto by the vehicle division

for the current registration year; or display or have in possession any registration card, or registration number plate knowing the same to be fictitious or to have been canceled, revoked, suspended, or altered; or lend to or knowingly permit the use of by one not entitled thereto, of his registration card or registration number plate; or fail or refuse to surrender to the vehicle division upon demand, any registration number plate which has been suspended, canceled or revoked; or use a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate thereof, or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application; or drive a vehicle, not his own, without the consent of the owner thereof, and with intent temporarily to deprive said owner of his possession of such vehicle without intent to steal the same; or place on a state right of way any signal, sign or advertisement without authority of law or the department, shall be guilty of a misdemeanor."

Collateral References.

Abandonment or discontinuance of use of rails, poles, wires, or other obstructions having previous lawful status in street, as affecting liability for injury to automobile or occupant thereof. 102 A. L. R. 677.

Age prescribed by law, liability for injury by one operating motor vehicle while under. 46 A. L. R. 1067.

Bailor's liability for personal injuries due to defects in automobile. 12 A. L. R. 788; 61 A. L. R. 1336.

Barrier placed to indicate that street is closed or undergoing repairs, duty of operator of motor vehicle as affected by. 78 A. L. R. 525; 86 A. L. R. 1389.

Child playing ball in street, liability for injury by automobile to. 44 A. L. R. 1304.

Child playing on or in proximity to automobile, liability for injury to. 1 A. L. R. 1385.

Coasting in street, injury by collision with automobile. 20 A. L. R. 1435; 109 A. L. R. 945.

Commercial automobiles, validity of regulations excluding or restricting automobile traffic in certain streets. 121 A. L. R. 577.

Condition of automobile, liability of owner or one in charge for injury due to, to one, other than his employee or

bailee for use, engaged in some service or operation in connection with it. 122 A. L. R. 1023.

Consent, liability of parent for injury inflicted by minor child by automobile left accessible to him without the parent's consent. 12 A. L. R. 816.

Corporation's liability for injury by its automobile while being used by official for his own pleasure or business. 68 A. L. R. 1054; 80 A. L. R. 727.

Dangerous agency, loan of car by owner as rendering him liable for negligent injury on theory of dangerous agency. 36 A. L. R. 1137.

Employer of negligent driver of automobile, responsibility of, for damages immediately inflicted by another car. 62 A. L. R. 1181.

Employer's liability for employee's negligence in driving his own car in employer's business. 60 A. L. R. 1163; 87 A. L. R. 787; 112 A. L. R. 920.

Employer's liability for injury by automobile while being driven by or for salesman or collector. 17 A. L. R. 621; 29 A. L. R. 470; 54 A. L. R. 627; 107 A. L. R. 419.

Employer's liability for injury by automobile while being used for servant's own pleasure or business. 23 A. L. R. 1397; 45 A. L. R. 477; 68 A. L. R. 1051; 80 A. L. R. 725; 122 A. L. R. 858.

Fall, injury to person who, after falling in street, is struck by automobile. 62 A. L. R. 1339.

Family-purpose doctrine. 5 A. L. R. 226; 10 A. L. R. 1449; 14 A. L. R. 1087; 19 A. L. R. 387; 20 A. L. R. 1469; 22 A. L. R. 1404; 23 A. L. R. 620; 32 A. L. R. 1504; 36 A. L. R. 1150; 44 A. L. R. 1382; 45 A. L. R. 482; 50 A. L. R. 1512; 54 A. L. R. 851; 64 A. L. R. 851; 88 A. L. R. 608; 98 A. L. R. 1043; 100 A. L. R. 1021.

Federal control of telephone company as affecting liability for negligent operation of motor truck. 10 A. L. R. 962, 963.

Ferry operator's duty as regards automobiles or their occupants. 82 A. L. R. 798.

Guest, liability of operator of automobile for injury to. 2 A. L. R. 900; 20 A. L. R. 1014; 26 A. L. R. 1425; 40 A. L. R. 1338; 47 A. L. R. 327; 48 A. L. R. 1077; 51 A. L. R. 581; 61 A. L. R. 875; 61 A. L. R. 1252; 63 A. L. R. 921; 63 A. L. R. 1451; 65 A. L. R. 955; 74 A. L. R. 1198; 82 A. L. R. 1365; 86 A. L. R. 1145; 88 A. L. R. 590; 91 A. L. R. 554; 95 A. L. R. 1180; 96 A. L. R. 1479; 109 A. L. R. 667; 111 A. L. R. 1011; 112 A. L. R. 425.

Guest, personal care required of one riding in automobile driven by another as affecting his right to recover in case of collision with other automobile. 18

A. L. R. 352; 22 A. L. R. 1301; 41 A. L. R. 778; 47 A. L. R. 293; 63 A. L. R. 1432.

Guests, presence of owner in automobile operated by another as affecting former's liability. 2 A. L. R. 888; 80 A. L. R. 285.

Inspection of motor vehicles, statute or ordinance requiring. 106 A. L. R. 795.

Insurance company's responsibility for negligent operation of automobile by agent, causing physical injury to person or damage to property. 116 A. L. R. 1389.

Insurance, scope and effect of specific provision in accident policy relating to accident in connection with motorcycle or automobile. 76 A. L. R. 1311.

Insurance, when failure to comply with acts relating to use of motor vehicles deemed proximate cause of death of, or injury to insured. 17 A. L. R. 1008.

Intent, fault, or knowledge, statutes or ordinances making noncompliance with motor vehicle regulations a penal offense without reference to. 11 A. L. R. 1434.

Joint owners' liability for injury or damage resulting from operation of automobile. 109 A. L. R. 124.

Liability for injury to pedestrian struck by automobile as affected by his physical disability. 62 A. L. R. 578.

Liability of owner for negligence of one to whom car is hired. 36 A. L. R. 1153; 68 A. L. R. 1008; 100 A. L. R. 920.

Liability of vehicle owner to one not in his general employment injured while assisting in remedying conditions due to accident to automobile or truck in highway. 72 A. L. R. 1283.

Opinion evidence as to condition of automobile or other motor vehicle. 77 A. L. R. 559.

Overcrowded motor vehicle, assumption of risk by, or negligence of, one riding in, or riding in unusual position. 104 A. L. R. 312.

Ownership of automobile as prima facie evidence of responsibility for negligence of person operating it. 74 A. L. R. 951; 96 A. L. R. 634.

Owner's liability for injury to passenger when car is driven by another. 61 A. L. R. 875; 83 A. L. R. 879.

Pedestrian colliding with side of automobile, liability for injury to. 25 A. L. R. 1513.

Pedestrian injured by automobile, liability as affected by failure to give timely warning. 67 A. L. R. 101; 93 A. L. R. 556.

Pedestrian's duty as regards looking for automobiles when crossing street or highway. 79 A. L. R. 1073.

Pedestrian's duty before crossing street, to look for automobiles approaching on intersecting street. 9 A. L. R. 1248; 44 A. L. R. 1299; 76 A. L. R. 786.

Pedestrian struck by automobile while walking along street or highway, liability for injury to. 67 A. L. R. 96; 93 A. L. R. 551.

Pedestrian who suddenly darts or steps into path of automobile, liability for injury to. 65 A. L. R. 192; 113 A. L. R. 528.

Physical defect, illness, or drowsiness of operator of automobile or motorcycle as affecting liability for injury. 64 A. L. R. 136.

Pole in or near highway, liability of company maintaining, for injury resulting from road vehicle striking. 82 A. L. R. 395; 98 A. L. R. 487.

Private crossing or driveway, duty of automobile driver at. 24 A. L. R. 946.

Proximate cause of injury to pedestrian who is forced to go into the street because of obstruction of sidewalk and is struck by automobile. 17 A. L. R. 646.

Repairman, liability of owner for injury while car is being operated by. 18 A. L. R. 974.

Res ipsa loquitur as applied to automobile accidents. 5 A. L. R. 1240; 12 A. L. R. 668.

Responsibility of owner of car for negligence of one in general employment of repair man or keeper of garage while getting or delivering car. 46 A. L. R. 840.

Running board of automobile or other place outside body of car, liability for injury to one riding on. 80 A. L. R. 553, 104 A. L. R. 323.

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Sidewalk, injury by motor vehicle to person on. 1 A. L. R. 840; 75 A. L. R. 559.

Signal guidepost or "silent policeman" in street, causing injury to occupant of automobile. 39 A. L. R. 781.

Skidding car, injury to occupant of. 58 A. L. R. 283; 113 A. L. R. 1037.

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Street railway company's liability to passenger struck by automobile. 1 A. L. R. 953; 12 A. L. R. 1371; 44 A. L. R. 162.

Temporary obstruction in connection with alteration or repair of street, liability of municipality for injury or damage by automobile colliding with. 100 A. L. R. 1386.

Traffic, negligence of one injured as result of conditions due to, rendering roadway dangerous for automobiles. 63 A. L. R. 208.

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Traffic signals, liability for accident as affected by reliance upon or disregard of. 75 A. L. R. 970.

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Undertaker's liability to passenger in vehicle furnished by former. 29 A. L. R. 827.

Validity and construction of statutes or ordinances which make noncompliance with motor vehicle regulations a penal offense without reference to intent, fault, or knowledge. 11 A. L. R. 1434.

Validity of regulations excluding or limiting automobile traffic in certain streets. 32 A. L. R. 752; 121 A. L. R. 573.

Violation of instructions by servant in permitting person to ride in automobile as affecting master's liability for injury to such person. 14 A. L. R. 145; 62 A. L. R. 1168; 74 A. L. R. 163.

Wife's liability for injuries inflicted by husband while driving wife's automobile. 12 A. L. R. 1466.

Windshield, impairment of driver's view through, as affecting liability for automobile accident. 10 A. L. R. 299.

Workman on highway, duty of driver of automobile to. 47 A. L. R. 807.

66-407. Receiving and transferring stolen vehicle—Penalty.—Any person who with intent to procure or pass title to a motor vehicle which he knows or has reason to believe has been stolen, shall receive or transfer possession of the same from one to another, or who has in his possession any motor vehicle which he knows or has reason to believe has been stolen, shall be guilty of a felony. [Laws 1927 (4th S. S.), ch. 2, subch. 6, § 15, p. 131; rev., R. C. 1928, § 1693.]

Collateral Reference.

Constitutionality of statute making possession of automobile from which

identifying marks have been removed a crime. 4 A. L. R. 1538; 42 A. L. R. 1149.

66-408. **Injuring or preventing operation of vehicle—Penalty.**—Any person who shall wilfully break, injure, tamper with or remove any part of any vehicle for any purpose against the will or without the consent of the owner of such vehicle, or who shall in any other manner wilfully or maliciously interfere with or prevent the running or operation of such vehicle; or who shall without the consent of the owner or person in charge of a vehicle climb into or upon such vehicle with the intent to commit any crime, malicious mischief, or injury thereto; or who while a vehicle is stopped and unattended attempts to manipulate any levers, starting crank or other starting device, brakes or other mechanism thereof, or set said vehicle in motion, shall be guilty of a misdemeanor, unless such act is done in an emergency in furtherance of public safety or convenience or by or under the direction of an officer in the performance of his duty. [Laws 1927 (4th S. S.), ch. 2, subch. 6, §§ 16, 17, p. 131; cons. & rev., R. C. 1928, § 1694.]

ARTICLE 5

REGULATION OF PUBLIC HIGHWAY TRANSPORTATION

SECTION.		SECTION.	
66-501.	Definition of terms.	66-518.	License tax—Determining gross receipts.
66-502.	Carriers regulated.	66-519.	Commission to furnish names of certificate and permit holders — Payment of tax — Reports.
66-503.	Authority of commission.	66-520.	Failure to file report or pay tax.
66-504.	Regulation of common motor carriers.	66-521.	Reports from private motor carrier.
66-505.	Common motor carrier rates.	66-522.	Failure of private motor carrier to file report.
66-506.	Common motor carrier certificates—Application therefor.	66-523.	Tax lien on property.
66-507.	Contract motor carriers — Extent of regulation—Permits—Application therefor.	66-524.	When tax payment is in default — Procedure.
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66-513.	Existing certificates.	66-530.	Hearings—Forms.
66-514.	Insurance, financial responsibility.	66-531.	Penalties.
66-515.	Records—Retention and inspection thereof.	66-532.	Interstate and foreign commerce.
66-516.	Commission may make rules and regulations.	66-533.	Severability.
66-517.	Hours of service for operators.		

66-501. **Definition of terms.**—In this act, unless the context or subject matter otherwise requires,

“Motor vehicle” shall mean any automobile, truck, truck tractor, trailer, semi-trailer, motor bus, or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting persons or property;

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PUBLISHER'S NOTE

This supplement brings the annotations to Arizona Code, 1939 down through volume 238, second series of the Pacific Reporter.

Amendments to acts and new laws enacted since the year 1939 down to and including the 1952 regular session are compiled and will be found under their appropriate section numbers.

The skip in page numbers at the end of each chapter is designed to take care of future expansion and does not indicate that anything has been omitted.

Section numbers printed in black face type either refer to sections of the original volume or to new acts not included therein.

Chapter and article analyses, in these supplements, carry only laws that have been amended or new laws. Old sections that have nothing but annotations are not included in the analyses.

ADJOURNMENT DATES OF SESSIONS OF LEGISLATURE

1940 (S. S.)	Sept. 27, 1940
1941	Mar. 17, 1941
1942 (S. S.)	April 25, 1942
1943	Mar. 14, 1943
1944 (1st S. S.)	Feb. 24, 1944
1944 (2nd S. S.)	Mar. 16, 1944
1945	Mar. 9, 1945
1945 (1st S. S.)	Sept. 29, 1945
1946 (2nd S. S.)	May 3, 1946
1946 (3rd S. S.)	Sept. 28, 1946
1947	Mar. 20, 1947
1947 (1st S. S.)	June 23, 1947
1947 (2nd S. S.)	July 1, 1947
1948 (3rd S. S.)	Jan. 21, 1948
1948 (4th S. S.)	Feb. 17, 1948
1948 (5th S. S.)	Mar. 12, 1948
1948 (6th S. S.)	Mar. 25, 1948
1948 (7th S. S.)	Oct. 14, 1948
1949	Mar. 20, 1949
1950 (1st S. S.)	Mar. 19, 1950
1950 (2nd S. S.)	April 15, 1950
1951	Mar. 18, 1951
1951 (1st S. S.)	June 29, 1951
1952	Mar. 27, 1952

ALWAYS CONSULT THE LATEST SUPPLEMENT IN CONNECTION WITH
THE PERMANENT VOLUME

CHAPTER 66—MOTOR VEHICLES

ARTICLE.

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2. MOTOR VEHICLE DIVISION, §§ 66-203, 66-207a, 66-207b, 66-216—66-293.
3. MOTOR VEHICLE FUEL TAX, §§ 66-301—66-323.
4. DEFINITIONS AND PENALTIES, § 66-401, 66-401a, 66-403, 66-405.
5. REGULATION OF PUBLIC HIGHWAY TRANSPORTATION, §§ 66-502—66-519, 66-531.
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10. USE FUEL TAX ACT, §§ 66-1001—66-1031.
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12. TRAFFIC SAFETY DIVISION, §§ 66-1201—66-1205.
13. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT, §§ 66-1301—1339.
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ARTICLE 1—USE OF HIGHWAYS BY VEHICLES

SECTION.

- 66-101—66-142. [Repealed.]
- 66-151. Definition of words and phrases.
- 66-151a. Definitions—In general.
- 66-151b. Definitions—Tractors.
- 66-151c. Definitions—Trucks and busses.
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- 66-151e. Definitions—Tires.
- 66-151f. Definitions—Railroads and trains.
- 66-151g. Definitions—Explosives and flammable liquid.
- 66-151h. Definitions—Gross weight.
- 66-151i. Definitions—State agencies.
- 66-151j. Definitions—Person—Pedestrian—Driver—Owner.
- 66-151k. Definitions—Police officer.
- 66-151l. Definitions—Local authorities.
- 66-151m. Definitions—Roads and streets.
- 66-151n. Definitions—Intersection.
- 66-151o. Definitions—Cross walk.
- 66-151p. Definitions—Safety zone.
- 66-151q. Definitions—Districts.
- 66-151r. Definitions—Signals.
- 66-151s. Definitions—Traffic.
- 66-151t. Definitions—Right-of-way.
- 66-151u. Definitions—Stops.
- 66-152. Provisions of act refer to vehicles upon the highways—Exceptions.
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66-101, 66-101a, 66-102. [Repealed.]

Compiler's Note.

These sections (Laws 1927, ch. 2, subch. 5, §§ 1, 2; R. C. 1928, §§ 1587, 1588; Laws 1931 (1st S. S.), ch. 15, § 1, p. 46;

1933, ch. 43, § 1, p. 170; 1945 (1st S. S.), ch. 25, § 1) were repealed by Laws 1950 (1st S. S.), ch. 3, § 181. For present law see § 66-157a et seq.

66-103. [Repealed.]**Compiler's Note.**

Section 66-103 (Laws 1927 (4th S. S.), ch. 2, subch. 5, § 3, p. 94; R. C. 1928,

§ 1589; Laws 1931 (1st S. S.), ch. 15, § 2, p. 46) was repealed by Laws 1945, ch. 11, § 4.

66-104—66-142. [Repealed.]**Compiler's Note.**

These sections (Laws 1912 (S. S.), ch. 27, § 3, subch. 5, p. 88; R. S. 1913, § 5134(5); Laws 1927 (4th S. S.), ch. 2, subch. 5, §§ 4-30, 32-43, 45-57, p. 94; R. C. 1928, §§ 1590-1628; Laws 1941, ch. 36, § 1, p. 72; 1941, ch. 73, § 1, p. 135;

1945, ch. 11, §§ 1-3, p. 19; 1945 (1st S. S.), ch. 24, § 1, p. 541), were repealed by Laws 1950 (1st S. S.), ch. 3, § 181 which repealed all of art. 1 of ch. 66 of the Code. For present law see §§ 66-151—66-189.

66-151. Definition of words and phrases.—The following words and phrases when used in this act [§§ 66-151—66-189] shall, for the purpose of this act, have the meanings respectively ascribed to them in sections 1 to 21.1 inclusive [§§ 66-151—66-151u]. [Laws 1950 (1st S. S.), ch. 3, § 1.]

Title of Act.

An act regulating traffic on highways; defining certain crimes and fixing penalties in the use and operation of vehicles; providing for traffic signs and signals; 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; providing for the enforcement of this act; making uniform the law relating to the subject matter of this act; and repealing article 1 of chapter 66, and all of sections 59-208, 66-203, 66-402, 66-403 and 66-405, Arizona Code annotated, 1939, as amended. [Laws 1950 (1st S. S.), ch. 3.]

Comparative Legislation: Uniform act regulating traffic on highways:

Ark. Stat. 1947, §§ 75-401—75-1015.

Colo. Stat. 1935, ch. 16, §§ 76, 77, 158-299.

Del. Rev. Code 1935, §§ 5619-5687.

Idaho. Code 1947, §§ 49-501—49-568.

Ill. Rev. Stat. 1949, ch. 95½, §§ 98-239.

Ind. Burns' Stat., §§ 47-1801—47-2316.

Iowa. Code Ann., §§ 321.1-321.511.

Kans. Gen. Stat. 1935 (Supp. 1947), §§ 8-501—8-5134.

Mich. Comp. Laws 1948, §§ 256.301-256.360.

Minn. Stat. Ann., §§ 169.01-169.97.

Miss. Code 1942, §§ 8126-8285.

Nebr. Rev. Stat. 1943, §§ 39-741—39-798.

N. Mex. Stat. 1941, §§ 68-401—68-909.

N. Car. Gen. Stat. 1943, §§ 20-38—20-183.

N. Dak. Rev. Code 1943, §§ 39-0101—39-1305.

Ohio. Page's Gen. Code, §§ 6307-1—6307-110.

Ore. Comp. Laws, §§ 115-301—115-3101.

S. Dak. Code 1939, §§ 44.0301-44.0362.

Utah. Code Ann. 1943, §§ 57-7-78—57-7-236.

66-151a. Definitions—In general.—(a) **Vehicle.** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(b) **Implements of husbandry.** As used herein the term "implements of husbandry" shall include, but shall not be limited to vehicles designed for agricultural purposes and used exclusively in the conduct of agricultural operations.

(c) **Motor vehicle.** Every vehicle which is self-propelled.

(d) **Motorcycle.** Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three [3] wheels in contact with the ground, but excluding a tractor.

(e) Motor-driven cycle. Every motor cycle, including every motor scooter, with a motor which produces not to exceed 5 horsepower, and every bicycle with motor attached.

(f) Authorized emergency vehicle. Vehicles of the fire department, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the commission or the local authorities.

(g) School bus. Every motor vehicle owned by a public or governmental agency or other institution and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(h) Bicycle. Every device propelled by human power upon which any person may ride, having two [2] tandem wheels either of which is more than 16 inches in diameter. [Laws 1950 (1st S. S.), ch. 3, § 2; 1951, ch. 72, § 1.]

Title of Act.

An act relating to traffic on highways; defining implements of husbandry; and amending sections 2 and 157, chapter 3, session laws of 1950, first special session. [Laws 1951, ch. 72.]

Amendment.

The 1951 amendment inserted subsection (b) and relettered the succeeding subsections.

66-151b. Definitions—Tractors.—(a) 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.

(b) Farm tractor. Every motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

(c) 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 of a vehicle or load so drawn. [Laws 1950 (1st S. S.), ch. 3, § 3.]

66-151c. Definitions—Trucks and busses.—(a) Truck. Every motor vehicle designed, used, or maintained primarily for the transportation of property.

(b) Bus. Every motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. [Laws 1950 (1st S. S.), ch. 3, § 4.]

66-151d. Definitions—Trailers.—(a) Trailer. Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(b) Semitrailer. Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(c) Pole trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregu-

larly shaped loads as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections. [Laws 1950 (1st S. S.), ch. 3, § 5.]

66-151e. Definitions—Tires.—(a) Pneumatic tire. Every tire in which compressed air is designed to support the load.

(b) Solid tire. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(c) Metal tire. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard non-resilient material. [Laws 1950 (1st S. S.), ch. 3, § 6.]

66-151f. Definitions—Railroads and trains.—(a) Railroad. A carrier of persons or property upon cars operated upon stationary rails.

(b) Railroad train. A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails. [Laws 1950 (1st S. S.), ch. 3, § 7.]

66-151g. Definitions—Explosives and flammable liquid.—(a) Explosives. Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(b) Flammable liquid. Any liquid which has a flash point of 70 degrees F., or less, as determined by a tagliabue or equivalent closed-cup test device. [Laws 1950 (1st S. S.), ch. 3, § 8.]

66-151h. Definitions—Gross weight.—Gross weight. The weight of a vehicle without load plus the weight of any load thereon. [Laws 1950 (1st S. S.), ch. 3, § 9.]

66-151i. Definitions—State agencies.—(a) Commission. The Arizona state highway commission.

(b) Department. The highway department of this state acting directly or through its duly authorized officers and agents. [Laws 1950 (1st S. S.), ch. 3, § 10.]

66-151j. Definitions — Person — Pedestrian — Driver—Owner.—(a) Person. Every natural person, firm, co-partnership, association, or corporation.

(b) Pedestrian. Any person afoot.

(c) Driver. Every person who drives or is in actual physical control of a vehicle.

(d) Owner. A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event

a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this act [§§ 66-151—66-184a]. [Laws 1950 (1st S. S.), ch. 3, § 11.]

66-151k. Definitions—Police officer.—Every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. [Laws 1950 (1st S. S.), ch. 3, § 12.]

66-151l. Definitions—Local authorities.—Every county, municipal, and other local board or body exercising jurisdiction over highways under the constitution and laws of this state. [Laws 1950 (1st S. S.), ch. 3, § 13.]

66-151m. Definitions—Roads and streets.—(a) Street or highway. The entire width between the boundary lines of every way when any part thereof is open to the use of the public for purposes of vehicular travel.

(b) Private road or driveway. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(c) Roadway. That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

(d) Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(e) Laned roadway. A roadway which is divided into two [2] or more clearly marked lanes for vehicular traffic.

(f) Through highway. Every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this act.

(g) Controlled-access highway. Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway. [Laws 1950 (1st S. S.), ch. 3, § 14.]

66-151n. Definitions—Intersection.—(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two [2] highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two [2] roadways 30 feet or more apart, then every crossing of each roadway of such divided highway

by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two [2] roadways 30 feet or more apart, then every crossing of two [2] roadways of such highways shall be regarded as a separate intersection. [Laws 1950 (1st S. S.), ch. 3, § 15.]

66-151o. Definitions—Cross walk.—(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in absence of curbs, from the edges of the traversable roadway;

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface. [Laws 1950 (1st S. S.), ch. 3, § 16.]

66-151p. Definitions—Safety zone. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone. [Laws 1950 (1st S. S.), ch. 3, § 17.]

66-151q. Definitions—Districts.—(a) **Business district.** The territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

(b) **Residence district.** The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business. [Laws 1950 (1st S. S.), ch. 3, § 18.]

66-151r. Definitions—Signals.—(a) **Official traffic-control devices.** All signs, signals, markings, and devices not inconsistent with this act [§§ 66-151—66-189] placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

(b) **Traffic-control signal.** Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(c) **Railroad sign or signal.** Any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train. [Laws 1950 (1st S. S.), ch. 3, § 19.]

66-151s. Definitions—Traffic.—Pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel. [Laws 1950 (1st S. S.), ch. 3, § 20.]

66-151t. Definitions—Right-of-way.—The privilege of the immediate use of the highway. [Laws 1950 (1st S. S.), ch. 3, § 21.]

66-151u. Definitions—Stops.—(a) Stop. When required means complete cessation from movement.

(b) Stop, stopping, or standing. When prohibited means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(c) Park. When prohibited means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading. [Laws 1950 (1st S. S.), ch. 3, § 21.1.]

66-152. Provisions of act refer to vehicles upon the highways—Exceptions.—The provisions of this act relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

1. Where a different place is specifically referred to in a given section.
2. The provisions of sections 39 to 55 inclusive [§§ 66-153L—66-157], shall apply upon highways and elsewhere throughout the state. [Laws 1950 (1st S. S.), ch. 3, § 22.]

66-152a. Required obedience to traffic laws.—It is unlawful and, unless otherwise declared in this act with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this act. [Laws 1950 (1st S. S.), ch. 3, § 23.]

66-152b. Obedience to police officers.—No person shall wilfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control, or regulate traffic. [Laws 1950 (1st S. S.), ch. 3, § 24.]

66-152c. Public officers and employees to obey act—Exceptions.—(a) 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 the United States, this state, or any county, city, town, district, or any other political subdivision of the state, except as provided in this section and subject to such specific exceptions as are set forth in this act with reference to authorized emergency vehicles.

(b) Unless specifically made applicable, 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, or to railroad employees working on a railroad track or tracks crossing the highway but shall apply to such persons and vehicles when traveling to or from such work. [Laws 1950 (1st S. S.), ch. 3, § 25.]

66-152d. Authorized emergency vehicles.—(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

- (b) The driver of an authorized emergency vehicle may:
1. Park or stand, irrespective of the provisions of this act [§§ 66-151—66-189];

2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

3. Exceed the prima facie speed limits so long as he does not endanger life or property;

4. Disregard regulations governing direction of movement or turning in specified directions.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one [1] lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard or the safety of others. [Laws 1950 (1st S. S.), ch. 3, § 25.1.]

DECISIONS UNDER PRIOR LAW

Standard of Care.

Intent of former § 66-105 was not to hold patrolman to less than usual degree or standard of care, but to make excep-

tion only for the speed at which a patrolman's job sometimes requires him to travel. *Ruth v. Rhodes*, 66 Ariz. 129, 185 Pac. (2d) 304.

66-152e. Traffic laws apply to persons riding animals or driving animal-drawn vehicles.—Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this act except those provisions of this act which by their very nature can have no application. [Laws 1950 (1st S. S.), ch. 3, § 26.]

66-153. Provisions of act uniform throughout state.—The provisions of this act [§§ 66-151—66-189] shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein and no local authority shall enact or enforce any ordinance, rule, or regulation in conflict with the provisions of this act unless expressly authorized herein. Local authorities may, however, adopt additional traffic regulations which are not in conflict with the provisions of this act. [Laws 1950 (1st S. S.), ch. 3, § 27.]

66-153a. Powers of local authorities.—(a) The provisions of this act [§§ 66-151—66-189] shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

1. Regulating the standing or parking of vehicles;
2. Regulating traffic by means of police officers or traffic-control signals;
3. Regulating or prohibiting processions or assemblages on the highways;

4. Designating particular highways as one-way highways and requiring that all vehicles thereon be moved in one [1] specific direction;
5. Regulating the speed of vehicles in public parks;
6. Designating any highway as a through highway and requiring that all vehicles stop before entering or crossing the same or designating any intersection as a stop intersection and requiring all vehicles to stop at one [1] or more entrances to such intersection;
7. Restricting the use of highways as authorized in section 167 of this act [§ 66-185k];
8. Regulating the operation of bicycles and requiring the registration and licensing of same, including the requirement of a registration fee;
9. Regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;
10. Altering the prima facie speed limits as authorized herein;
11. Adopting such other traffic regulations as are specifically authorized by this act.

(b) No local authority shall erect or maintain any stop sign or traffic-control signal at any location so as to require the traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the commission.

(c) No ordinance or regulation enacted under subdivisions (4), (5), (6), (7), (9) or (10), of section 28 (a) shall be effective until signs giving notice of such local traffic regulations are posted upon or at the entrances to the highway or part thereof affected as may be most appropriate. [Laws 1950 (1st S. S.), ch. 3, § 28.]

DECISIONS UNDER PRIOR LAW

Parking Meters.

A city ordinance providing for placing parking meters on city streets was valid, and the meters are for regulatory pur-

poses, not for raising revenue. *Phoenix v. Moore*, 57 Ariz. 350, 113 Pac. (2d) 935.

66-153b. This act not to interfere with rights of owners of real property with reference thereto.—Nothing in this act [§§ 66-151—66-189] 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, or 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. [Laws 1950 (1st S. S.), ch. 3, § 29.]

66-153c. Commission to adopt sign manual.—The commission shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this act for use upon highways within this state. Such uniform system shall correlate with and so far as possible conform to the system then current as approved by the American association of state highway officials. [Laws 1950 (1st S. S.), ch. 3, § 30.]

66-153d. Commission to sign all state highways.—(a) The commission shall place and maintain such traffic-control devices, conforming to its manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this act [§§ 66-151—66-189] or to regulate, warn, or guide traffic.

(b) No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the commission except by the latter's permission. [Laws 1950 (1st S. S.), ch. 3, § 31.]

66-153e. Local traffic-control devices.—Local authorities in their respective jurisdiction shall place and maintain such traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this act [§§ 66-151—66-189] or local traffic ordinances or to regulate, warn, or guide traffic. All such traffic-control devices hereafter erected shall conform to the state manual and specifications. [Laws 1950 (1st S. S.), ch. 3, § 32.]

66-153f. Obedience to and required traffic-control devices.—(a) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this act, unless otherwise directed by a traffic or police officer, subject to the exemptions granted the driver of an authorized emergency vehicle in this act.

(b) No provision of this act for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place. [Laws 1950 (1st S. S.), ch. 3, § 33.]

66-153g. Traffic-control signal legend.—Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one [1] at a time, or with arrows, the following colors only shall be used and said terms and light shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) Green alone or "Go":

1. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent cross walk at the time such signal is exhibited.

2. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked cross walk.

(b) Yellow alone or "Caution" when shown following the green or "Go" signal:

1. Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such

vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

2. Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(c) Red alone or "Stop":

1. Vehicular traffic facing the signal shall stop before entering the cross walk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or go is shown alone.

2. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(d) Red with green arrow:

1. Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a cross walk and to other traffic lawfully using the intersection.

2. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(e) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal. [Laws 1950 (1st S. S.), ch. 3, § 34.]

66-153h. Pedestrian walk and wait signals.—Whenever special pedestrian-control signals exhibiting the words "Walk" or "Wait" are in place such signals shall indicate as follows:

(a) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(b) Wait. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing. [Laws 1950 (1st S. S.), ch. 3, § 35.]

66-153i. Flashing signals.—Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

1. Flashing red (Stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest cross walk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

2. Flashing yellow (Caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. [Laws 1950 (1st S. S.), ch. 3, § 36.]

66-153j. Display of unauthorized signs, signals, or markings.—(a) No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(b) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice. [Laws 1950 (1st S. S.), ch. 3, § 37.]

66-153k. Interference with official traffic-control devices or railroad signs or signals.—No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof. [Laws 1950 (1st S. S.), ch. 3, § 38.]

66-153l. Accidents involving death or personal injuries.—(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of section 41 [§ 66-153n]. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person failing to stop or to comply with said requirements under such circumstances shall upon conviction be punished by imprisonment for not less than 30 days nor more than 1 year in the county jail or by fine of not less than \$100.00 nor more than \$5,000.00, or by both such fine and imprisonment.

(c) The department shall revoke the license or permit to drive and any nonresident operating privilege of the person so convicted. [Laws 1950 (1st S. S.), ch. 3, § 39.]

66-153m. Accidents involving damage to vehicle.—The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of section 41 [§ 66-153n]. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor. [Laws 1950 (1st S. S.), ch. 3, § 40.]

66-153n. Duty to give information and render aid.—The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address, and the registration number of the vehicle he is driving and shall upon request exhibit his operator's or chauffeur's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the making of arrangements for the carrying of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person. [Laws 1950 (1st S. S.), ch. 3, § 41.]

Compiler's Note.

For early decisions under prior law, see § 66-122, parent volume.

DECISIONS UNDER PRIOR LAW

Sufficiency of Information.

Information charging that defendant failed to stop and give his name and address after collision with another ve-

hicle without disclosing accident happened on public highway, wholly fails to state an offense. *State v. Smith*, 66 Ariz. 376, 189 Pac. (2d) 205.

66-153o. Duty upon striking unattended vehicle.—The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking. [Laws 1950 (1st S. S.), ch. 3, § 42.]

66-153p. Duty upon striking fixtures upon a highway.—The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request exhibit his operator's or chauffeur's license and shall make report of such accident when and as required in section 45 [§ 66-153r] hereof. [Laws 1950 (1st S. S.), ch. 3, § 43.]

66-153q. Immediate report of accidents.—The driver of a vehicle involved in an accident resulting in injury to or death of any person shall immediately by the quickest means of communication, whether oral or written, give notice of such accident to the local police department if such accident occurs within a municipality, otherwise to the office of the county sheriff or the nearest office of the state highway patrol. [Laws 1950 (1st S. S.), ch. 3, § 44.]

66-153r. Written reports of accidents.—(a) The driver of a vehicle involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of \$50.00 or

more shall, within 5 days after such accident, forward a written report of such accident to the department.

(b) The department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient in the opinion of the department and may require witnesses of accidents to render reports to the department.

(c) Every law enforcement officer who, in the regular course of duty, investigates a motor-vehicle accident of which report must be made as required in this section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within 24 hours after completing such investigation, forward a written report of such accident to the department. [Laws 1950 (1st S. S.), ch. 3, § 45.]

66-153s. When driver unable to report.—(a) Whenever the driver of a vehicle is physically incapable of making an immediate report of an accident as required in section 44 [§ 66-153q] and there was another occupant in the vehicle at the time of the accident capable of making a report, such occupant shall make or cause to be made said report not made by the driver.

(b) Whenever the driver is physically incapable of making a written report of an accident as required in section 45 [§ 66-153r] and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within 5 days after learning of the accident make such report not made by the driver. [Laws 1950 (1st S. S.), ch. 3, § 46.]

66-153t. Accident report forms.—(a) The department shall prepare and upon request supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals, forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by persons involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicles involved.

(b) Every accident report required to be made in writing shall be made on the appropriate form approved by the department and shall contain all of the information required therein unless not available.

(c) Every such report shall also contain information sufficient to enable the department to determine whether the requirements for the deposit of security under any of the laws of this state are inapplicable by reason of the existence of insurance or other exceptions specified therein. [Laws 1950 (1st S. S.), ch. 3, § 47.]

66-153u. Penalty for failure to report.—The department shall suspend the license or permit to drive and any nonresident operating privileges of any person failing to report an accident as herein provided until such report has been filed. Any person convicted of failing to make a report as required herein shall be punished as provided in section 169 [§ 66-186]. [Laws 1950 (1st S. S.), ch. 3, § 47.1.]

66-153v. **Coroners to report.**—Every coroner or other official performing like functions shall on or before the 10th day of each month report in writing to the department the death of any person within his jurisdiction during the preceding calendar month as the result of a traffic accident giving the time and place of the accident and the circumstances relating thereto. [Laws 1950 (1st S. S.), ch. 3, § 48.]

66-153w. **Garages to report.**—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 an accident of which report must be made as provided in section 45 [§ 66-153r], or struck by any bullet, shall report to the department within 24 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. [Laws 1950 (1st S. S.), ch. 3, § 49.]

66-153x. **Accident reports confidential.**—All accident reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the department or other state agencies having use for the records for accident prevention purposes, or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the department may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident. No such report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any person who has, or claims to have, made such a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made to the department. [Laws 1950 (1st S. S.), ch. 3, § 50.]

66-153y. **Department to tabulate and analyze accident reports.**—The department shall tabulate and may analyze all accident reports and shall publish annually, or at more frequent intervals, statistical information based thereon as to the number and circumstances of traffic accidents. [Laws 1950 (1st S. S.), ch. 3, § 51.]

66-154. **Any incorporated city may require accident reports.**—Any incorporated city, town, village, or other municipality may by ordinance require that the driver of a vehicle involved in an accident shall also file with a designated city department a report of such accident or a copy of any report herein required to be filed with the department. All such reports shall be for the confidential use of the city department and subject to the provisions of section 50 [§ 66-153x] of this act. [Laws 1950 (1st S. S.), ch. 3, § 52.]

66-155. **Negligent homicide.**—(a) When the death of any person ensues within 1 year as a proximate result of injury received by the

driving of any vehicle in reckless disregard of the safety of others, the person so operating such vehicle shall be guilty of negligent homicide.

(b) Any person convicted of negligent homicide shall be punished by imprisonment for not more than 1 year in the county jail or by fine of not less than \$100.00 nor more than \$1,000.00, or by both such fine and imprisonment.

(c) The department shall revoke the license or permit to drive and any nonresident operating privilege of any person convicted of negligent homicide. [Laws 1950 (1st S. S.), ch. 3, § 53.]

66-156. Persons under the influence of intoxicating liquor or of drugs.

—(a) It is unlawful and punishable as provided in paragraph (d) of this section for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of any vehicle within this state.

(b) In any criminal prosecution for a violation of paragraph (a) of this section relating to driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance shall give rise to the following presumptions:

1. If there was at that time 0.05 percent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor;

2. If there was at that time in excess of 0.05 percent but less than 0.15 percent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant;

3. If there was at that time 0.15 percent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor;

4. The foregoing provisions of paragraph (b) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor.

(c) It is unlawful and punishable as provided in paragraph (d) of this section for any person who is an habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a vehicle to drive a vehicle within this state. The fact that any person charged with a violation of this paragraph is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this paragraph.

(d) Every person who is convicted of a violation of this section shall be punished by imprisonment for not less than 10 days nor more than 6 months, or by fine of not less than \$100.00 nor more than \$300.00, or by both such fine and imprisonment. On a second or subsequent conviction he shall be punished by imprisonment for not less than 90 days

nor more than 1 year in the county jail, and, in the discretion of the court, a fine of not more than \$1,000.00.

The department shall revoke the license or permit to drive and any nonresident operating privilege of any person who has been convicted a second time in any 12-month period under this section. [Laws 1950 (1st S. S.), ch. 3, § 54.]

Compiler's Note.

For early decisions under prior law, see § 66-402, parent volume.

DECISIONS UNDER PRIOR LAW

In General.

In construing former § 66-402, its location in the law as originally enacted by the legislature is controlling, not its location in the compilation of 1939. *State v. Stewart*, 57 Ariz. 82, 111 Pac. (2d) 70.

Construction.

It is the operation of the motor vehicle while intoxicated and not the intoxication which is prohibited, and death resulting from such unlawful operation amounts to manslaughter. *State v. Ponce*, 59 Ariz. 158, 124 Pac. (2d) 543.

"Vehicle" Includes Animal-drawn Vehicle.

"Vehicle" includes all animal-drawn vehicles, and even ridden animals and bicycles, despite the fact that former § 66-402 appears in chapter entitled "Motor Vehicles"; and an information charging that a person under the influence of intoxicating liquor drove a team and wagon upon public highway sufficiently states an offense under this section. *State v. Stewart*, 57 Ariz. 82, 111 Pac. (2d) 70.

66-157. Reckless driving.—(a) Any person who drives any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) Every person convicted of reckless driving may be punished upon a first conviction by imprisonment for a period of not less than 5 days nor more than 90 days, or by fine of not less than \$25.00 nor more than \$300.00, or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than 10 days nor more than 6 months, or by a fine of not less than \$50.00 nor more than \$1,000.00, or by both such fine and imprisonment. [Laws 1950 (1st S. S.), ch. 3, § 55.]

Compiler's Note.

For early decisions under prior law, see § 66-403, parent volume.

DECISIONS UNDER PRIOR LAW

Appeal.

Where appeal from conviction for reckless driving with jury trial in justice court was taken to superior court where case was tried de novo before court with jury, which likewise resulted in conviction, defendant had no remedy by appeal from this judgment. *Oswald v. Martin*, 70 Ariz. 392, 222 Pac. (2d) 632.

Jurisdiction of Recorder's Court.

Recorder's court of city of Prescott has jurisdiction to try proceedings for

reckless driving under concurrent jurisdiction with justices of the peace. *Miller v. Heller*, 68 Ariz. 352, 206 Pac. (2d) 569.

Prosecution.

Defendant in reckless driving prosecution was properly tried in superior court on original verified complaint transmitted from the city court, and the city attorney was proper officer to prosecute appeal from the police court. *Ex parte Conne*, 67 Ariz. 299, 195 Pac. (2d) 149.

66-157a. Special restrictions.—(a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under

the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(b) Where no special hazard exists that requires lower speed for compliance with paragraph (a) of this section the speed of any vehicle not in excess of the limits specified in this section or established as hereinafter authorized shall be lawful, but any speed in excess of the limits specified in this section or established as hereinafter authorized shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:

1. Fifteen [15] miles per hour approaching school crossing;
2. Twenty-five [25] miles per hour in any business or residence district;
3. (a) Fifty [50] miles per hour in other locations during the daytime except state highways;
(b) Reasonable and prudent miles per hour during the daytime on state highways;
4. (a) Forty-five [45] miles per hour during the nighttime in other locations except state highways;
(b) Fifty [50] miles per hour during the nighttime on state highways.

Daytime means from a half hour before sunrise to a half hour after sunset. Nighttime means at any other hour.

The prima facie speed limits set forth in this section may be altered as authorized in sections 57 and 58 [§§ 66-158, 66-159].

(c) The driver of every vehicle shall, consistent with the requirements of paragraph (a), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. [Laws 1950 (1st S.-S.), ch. 3, § 56.]

Compiler's Note.

For early decisions under prior law, see § 66-101, parent volume.

DECISIONS UNDER PRIOR LAW

Applicability of Act.

The 20-mile provision in Laws 1927 (4th S. S.), ch. 2, subch. 5, § 1 as amended relating to speed in business district or where view is obstructed had no application where passenger bus operated upon a through or arterial highway, absent proof that a special district speed was in effect, in which case general law as to speed applied. *Nichols v. Phoenix*, 68 Ariz. 124, 202 Pac. (2d) 201.

Instructions.

Instruction that if driver drives vehicle at speed greater than reasonable and

prudent, having due regard for traffic, surface and width of highway, and conditions then and there existing, such act constitutes negligence per se, is clearly erroneous. *Butane Corporation v. Kirby*, 66 Ariz. 272, 187 Pac. (2d) 325.

Whether plaintiff was properly driving truck, considering the various factors to be considered at time of collision with vehicle of deceased, improperly parked on highway, was question of fact for consideration of jury and instruction to that end was not a mere abstract statement of law. *Butane Corporation v. Kirby*, 66 Ariz. 272, 187 Pac. (2d) 325.

In action by bus passenger to recover damages for injuries sustained by sudden stoppage of the vehicle, a rescript of the statute regarding excessive rate of speed and prohibition against following another vehicle too closely, constituted reversible error in the instructions, in view of the fact that there was no allegation in the complaint nor any evidence on these two points. *Phoenix v. Mubarek Ali Khan*, 72 Ariz. 1, 229 Pac. (2d) 949.

Negligence Per Se.

One is not guilty of negligence per se merely because he operates his vehicle

at a speed greater than is reasonable and prudent, having due regard to the traffic, surface and width of the highway and other conditions then existing. *Butane Corporation v. Kirby*, 66 Ariz. 272, 187 Pac. (2d) 325.

Violation of specific speed limitations is not negligence per se. *Butane Corporation v. Kirby*, 66 Ariz. 272, 187 Pac. (2d) 325.

66-158. Establishment of state speed zones.—Whenever the commission shall determine upon the basis of an engineering and traffic investigation that any prima facie speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a state highway, said commission may determine and declare a reasonable and safe prima facie speed limit thereat which shall be effective at all times or during hours of daylight or darkness or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersection or other place or part of the highway. [Laws 1950 (1st S. S.), ch. 3, § 57.]

66-158a. When local authorities may alter prima facie limits.—(a) At intersections. Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the prima facie speed permitted under this act at any intersection is greater than is reasonable or safe under the conditions found to exist at such intersection, such local authority subject to paragraph (d) of this section shall determine and declare a reasonable and safe prima facie speed limit thereat, which shall be effective at all times or during hours of daylight or darkness or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersection or upon the approaches thereto.

(b) Authority to increase 25 mile limit. Local authorities in their respective jurisdictions may in their discretion, but subject to paragraph (d) of this section, authorize by ordinance higher prima facie speeds than those stated in section 56 [§ 66-157a] upon through highways or upon highways or portions thereof where there are no intersections or between widely spaced intersections, which higher prima facie speed shall be effective at all times or during hours of daylight or at such other times as may be determined when signs are erected giving notice of the authorized speed, but local authorities shall not have authority to modify or alter the basic rule set forth in paragraph (a) of section 56 or in any event to authorize by ordinance a speed in excess of 50 miles per hour during the daytime or 45 miles per hour during nighttime.

(c) Authority to alter 45-50 mile limits. Whenever local authorities within their respective jurisdictions determine upon the basis of an

engineering and traffic investigation that the prima facie speed permitted under this act upon any street or highway outside a business or residence district is greater or less than is reasonable or safe under the conditions found to exist upon such street or highway, the local authority may determine and declare a reasonable and safe prima facie limit thereon but in no event less than 35 miles per hour and subject to paragraph (d) of this section, which reduced prima facie limit shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.

(d) Alteration of prima facie limits on state highways or extensions thereof in a municipality by local authorities shall not be effective until such alteration has been approved by the commission. [Laws 1950 (1st S. S.), ch. 3, § 58.]

66-159. Minimum speed regulation.—No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

Police officers are hereby authorized to enforce this provision by directions to drivers, and in the event of apparent wilful disobedience to this provision, and refusal to comply with direction of an officer in accordance herewith the continued slow operation by a driver shall be a misdemeanor. [Laws 1950 (1st S. S.), ch. 3, § 59.]

66-160. Special speed limitation on motor-driven cycles.—No person shall operate any motor-driven cycle at any time mentioned in section 119 [§ 66-173a] at a speed greater than 35 miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of 300 feet ahead. [Laws 1950 (1st S. S.), ch. 3, § 60.]

66-161. Special speed limitations.—(a) No person shall drive any vehicle equipped with solid rubber or cushion tires at a speed greater than a maximum of 10 miles per hour.

(b) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is signposted as provided in this section.

(c) The commission upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, 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 shall determine and declare the maximum speed of vehicles which such structure can withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained at a distance of 300 feet before each end of such structure.

(d) Upon the trial of any person charged with a violation of this section, proof of determination of the maximum speed by said commission and the existence of said signs shall constitute conclusive evidence

of the maximum speed which can be maintained with safety to such bridge or structure. [Laws 1950 (1st S. S.), ch. 3, § 61.]

66-162. Charging violations and rule in civil actions.—(a) In every charge of violation of any speed regulation in this act the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the prima facie speed applicable within the district or at the location.

(b) The provision of this act declaring prima facie speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident. [Laws 1950 (1st S. S.), ch. 3, § 62.]

66-163. Drive on right side of roadway—Exceptions.—(a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
2. When the right half of a roadway is closed to traffic while under construction or repair;
3. Upon a roadway divided into three [3] marked lanes for traffic under the rules applicable thereon; or
4. Upon a roadway designated and signposted for one-way traffic.

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway. [Laws 1950 (1st S. S.), ch. 3, § 63.]

Compiler's Note.

For early decisions under prior law, see § 66-106, parent volume.

DECISIONS UNDER PRIOR LAW

In General.

A person traveling on highway, ascending a hill, on a curve and through a cut, is not presumed to anticipate that vehicle approaching from the opposite direction will be traveling on the wrong side of the road. *Alabam Freight Lines v. Phoenix Bakery*, 64 Ariz. 101, 166 Pac. (2d) 816.

"Right Half" Defined.

"Right half of the highway" always means the right half of the main traveled portion of the highway as it exists at the time. *Dixon v. Alabam Freight Co.*, 57 Ariz. 173, 112 Pac. (2d) 584.

Slow Moving Vehicle.

The direction to slow moving vehicles to travel as closely as possible to the

right-hand edge of the highway is not meant for the protection of vehicles coming in an opposite direction, for they have no right to be on the right half of the road at all, but rather for vehicles lawfully traveling on the same half of the road which desire to pass in the same direction. *Dixon v. Alabam Freight Co.*, 57 Ariz. 173, 112 Pac. (2d) 584.

White Line on Highway.

The white line placed by the highway department on the highway is for the guidance of motorists to assist them in keeping on the right half of the highway as it exists when the line is placed there, but it is not necessarily, as a matter of law, always the center of the highway. *Dixon v. Alabam Freight Co.*, 57 Ariz. 173, 112 Pac. (2d) 584.

66-163a. **Passing vehicles proceeding in opposite directions.**—Drivers of vehicles proceeding in opposite direction shall pass each other to the right, and upon roadways having width for not more than one [1] line of traffic in each direction each driver shall give to the other at least one-half [$1\frac{1}{2}$] of the main traveled portion of the roadway as nearly as possible. [Laws 1950 (1st S. S.), ch. 3, § 64.]

66-163b. **Overtaking a vehicle on the left.**—The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated:

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal, or blinking of headlamps at nighttime, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. [Laws 1950 (1st S. S.), ch. 3, § 65.]

Compiler's Note.

For early decisions under prior law, see § 66-107, parent volume.

Cross-Reference.

See notes, § 66-163. *Dixon v. Alabam Freight Co.*, 57 Ariz. 173, 112 Pac. (2d) 584.

DECISIONS UNDER PRIOR LAW

Instructions.

Whether plaintiff was properly driving truck, considering the various factors to be considered at time of collision with vehicle of deceased, improperly parked on highway, was question of fact for consideration of jury and instruction to that end was not a mere abstract statement of law. *Butane Corporation v. Kirby*, 66 Ariz. 272, 187 Pac. (2d) 325.

Instructions to Jury.

Instruction stating the law to be that driver of every vehicle shall pass a car proceeding in same direction on the left, was proper in case where car was improperly parked on highway without lights. *Butane Corporation v. Kirby*, 66 Ariz. 272, 187 Pac. (2d) 325.

Proceeding Vehicle Defined.

A vehicle temporarily stopped on highway does not lose its character as a "proceeding vehicle" merely by fact that it is not in motion, and car passing

stationary vehicle should pass on left thereof after determining that road is clear and that passing can be safely made. *Butane Corporation v. Kirby*, 66 Ariz. 272, 187 Pac. (2d) 325.

Proximate Cause.

Failure to give the signals required by former § 66-107 may not defeat recovery by plaintiff, if defendants' negligence, concurring with one or more efficient causes, other than plaintiff's fault, was the proximate cause of the injury. *Southwestern Freight Lines, Ltd. v. Floyd*, 58 Ariz. 249, 119 Pac. (2d) 120.

Question for Jury.

The question as to whether failure to give audible warning, before passing or attempting to pass, in any way contributed to the accident and plaintiff's injury was for the jury. *Southwestern Freight Lines, Ltd. v. Floyd*, 58 Ariz. 249, 119 Pac. (2d) 120.

66-163c. **When overtaking on the right is permitted.**—(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;

2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction;

3. Upon a one-way street, or upon any roadway on which traffic is restricted to one [1] direction of movement, where the roadway is free from obstructions and of sufficient width for two [2] or more lines of moving vehicles.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway. [Laws 1950 (1st S. S.), ch. 3, § 66.]

66-163d. Limitations on overtaking on the left.—No vehicle shall be driven to the left side of the center of the roadway 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 completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction. [Laws 1950 (1st S. S.), ch. 3, § 67.]

66-163e. Further limitations on driving to left of center of roadway.—(a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

2. When approaching within 100 feet of or transversing any intersection or railroad grade crossing;

3. When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

(b) The foregoing limitations shall not apply upon a one-way roadway. [Laws 1950 (1st S. S.), ch. 3, § 68.]

66-163f. No-passing zones.—The commission is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof. [Laws 1950 (1st S. S.), ch. 3, § 69.]

66-163g. One-way roadways and rotary traffic islands.—(a) The commission may designate any highway or any separate roadway under its jurisdiction for one-way traffic and shall erect appropriate signs giving notice thereof.

(b) Upon a roadway designated and signposted for one-way traffic a vehicle shall be driven only the direction designated.

(c) A vehicle passing around a rotary traffic island shall be driven only to the right of such island. [Laws 1950 (1st S. S.), ch. 3, § 70.]

66-163h. Driving on roadways laned for traffic.—Whenever any roadway has been divided into two [2] or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(b) Upon a roadway which is divided into three [3] lanes a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

(c) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign. [Laws 1950 (1st S. S.), ch. 3, § 71.]

66-163i. 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 for the speed of such vehicles and the traffic upon and the condition of the highway.

(b) The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle drawing another vehicle shall whenever conditions permit leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicles.

(c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions. [Laws 1950 (1st S. S.), ch. 3, § 72.]

DECISIONS UNDER PRIOR LAW

Following Too Closely.

Former § 66-109 recognizes that there is danger of collision between motor vehicles traveling in the same direction upon the same highway and following each other too closely. Southwestern

Freight Lines, Ltd. v. Floyd, 58 Ariz. 249, 119 Pac. (2d) 120.

Instructions to Jury.

In action by bus passenger to recover damages for injuries sustained by sud-

den stoppage of the vehicle, a rescript of the statutes regarding excessive rate of speed and prohibition against following another vehicle too closely, constituted reversible error in the instructions, in view of the fact that there was no allegation in the complaint nor any evidence on these two points. *Phoenix v. Mubarek Ali Khan*, 72 Ariz. 1, 229 Pac. (2d) 949.

Question for Jury.

Whether or not a truck was following a bicycle too closely was a question of fact for the jury. *Southwestern Freight Lines, Ltd. v. Floyd*, 58 Ariz. 249, 119 Pac. (2d) 120.

66-163j. Driving on divided highways.—Whenever any highway has been divided into two [2] roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority. [Laws 1950 (1st S. S.), ch. 3, § 73.]

66-163k. Restricted access.—No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority. [Laws 1950 (1st S. S.), ch. 3, § 74.]

66-163l. Restrictions on use of controlled-access roadway.—The commission may by resolution or order enter in its minutes and local authorities may by ordinance with respect to any controlled-access roadway under their respective jurisdictions prohibit the use of any such roadway by pedestrians, bicycles, or other non-motorized traffic or by any person operating a motor-driven cycle.

The commission or the local authority adopting any such prohibitory regulation shall erect and maintain official signs on the controlled access roadway on which such regulations are applicable and when so erected no person shall disobey the restrictions stated on such signs. [Laws 1950 (1st S. S.), ch. 3, § 75.]

66-164. Required position and method of turning at intersections.—The driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(c) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

(d) The commission or local authorities in their respective jurisdictions may cause markers, buttons, or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons, or signs. [Laws 1950 (1st S. S.), ch. 3, § 76.]

66-164a. Turning on curve or crest of grade prohibited.—No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet. [Laws 1950 (1st S. S.), ch. 3, § 77.]

66-164b. Starting parked vehicles.—No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety. [Laws 1950 (1st S. S.), ch. 3, § 78.]

66-164c. Turning movements and required signals.—(a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in section 76 [§ 66-164], or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal. [Laws 1950 (1st S. S.), ch. 3, § 79.]

DECISIONS UNDER PRIOR LAW

In General.

A party having given another reasonable cause for alarm can not complain that the person so alarmed has not exercised cool presence of mind, and thereby find protection from responsibility for damages. *Southwestern Freight Lines,*

Ltd., v. Floyd, 58 Ariz. 249, 119 Pac. (2d) 120.

Construction of Statute.

Former § 66-111 did not require a driver, before he makes a left-hand turn, to become "an insurer of others,"

nor does it require "absolute safety." Phoenix Baking Co. v. Vaught, 62 Ariz. 222, 156 Pac. (2d) 725.

It was not intended, by the provisions of former § 66-111, that a motorist be required to sound his horn to prevent pedestrian from walking into the side of his vehicle. Phoenix v. Mullen, 65 Ariz. 83, 174 Pac. (2d) 422.

Negligence per se.

Where evidence disclosed that pedestrian was struck by bus making a right hand turn, the court did not err in instructing the jury that the bus driver's violation of this section in failing to sound his horn was negligence per se.

Phoenix v. Mullen, 65 Ariz. 83, 174 Pac. (2d) 422.

Turning Between Intersections.

Court did not err in instructing jury that left turn on much traveled highway between intersections should not be attempted without the exercise of extra precaution. Phoenix Baking Co. v. Vaught, 62 Ariz. 222, 156 Pac. (2d) 725.

When a driver on a road where traffic is heavy makes a left-hand turn between intersections, common sense requires that he should exercise more than ordinary care. Phoenix Baking Co. v. Vaught, 62 Ariz. 222, 156 Pac. (2d) 725.

66-164d. Signals by hand and arm or signal device.—Any stop or turn signal when required herein shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device of a type approved by the department, but when a vehicle is so constructed or loaded that a hand-and-arm signal would not be visible both to the front and rear of such vehicle then said signals must be given by such a lamp or lamps or signal device. [Laws 1950 (1st S. S.), ch. 3, § 80.]

66-164e. Method of giving hand-and-arm signals.—All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

1. Left turn. Hand and arm extended horizontally.
2. Right turn. Hand and arm extended upward.
3. Stop or decrease speed. Hand and arm extended downward.

[Laws 1950 (1st S. S.), ch. 3, § 81.]

66-164f. Vehicle approaching or entering intersection.—(a) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

(b) When two vehicles enter an intersection from different highways 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.

(c) The right-of-way rules declared in paragraphs (a) and (b) are modified at through highways and otherwise as stated in sections 82 to 86 [§§ 66-164f—66-164j] inclusive. [Laws 1950 (1st S. S.), ch. 3, § 82.]

DECISIONS UNDER PRIOR LAW

Right-of-Way.

If the left hand vehicle enters the highway at a time not approximately that at which the right hand vehicle ap-

proaches or enters it, but before it, the left hand vehicle is within its rights in so entering. Hall v. Wallace, 59 Ariz. 503, 130 Pac. (2d) 36.

66-164g. Vehicle turning left at intersection.—The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an

immediate hazard, but said driver, having so yielded and having given a signal when and as required by this act, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn. [Laws 1950 (1st S. S.), ch. 3, § 83.]

66-164h. Vehicle entering through highway or stop intersection.—

(a) The driver of a vehicle shall stop as required by section 105 [§ 66-169] of this act at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from said through highway or which are approaching so closely on said through highway as to constitute an immediate hazard, but said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection on said through highway shall yield the right-of-way to the vehicle so proceeding into or across the through highway.

(b) The driver of a vehicle shall likewise stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at one [1] or more entrances thereto although not a part of a through highway and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed. [Laws 1950 (1st S. S.), ch. 3, § 84.]

DECISIONS UNDER PRIOR LAW

Proximate Cause.

Failure of driver to obey mandate of stop sign at intersection is not such an independent force which constitutes an intervening cause that the original negligence is no longer proximate cause of the injury. *Nichols v. Phoenix*, 68 Ariz. 124, 202 Pac. (2d) 201.

66-164i. Vehicle entering highway from private road or driveway.—

The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all closely approaching vehicles on said highway. [Laws 1950 (1st S. S.), ch. 3, § 85.]

DECISIONS UNDER PRIOR LAW

Questions for Jury.

Where, defendant, the driver of a truck entering the highway from a private drive, while still about 15 feet from the highway saw plaintiff approaching on the highway but believing plaintiff was far enough away proceeded to cross the highway but did not look again toward plaintiff until the front of his truck was in the middle of the highway, the question of his negligence should have been submitted to the jury. *Keeler v. Maricopa Tractor Co.*, 59 Ariz. 94, 123 Pac. (2d) 166.

66-164j. Operation of vehicles on approach of authorized emergency vehicles.—(a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one [1] lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle other than a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle, or bell:

1. The driver of every vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to,

the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

2. The driver of any vehicle other than one [1] on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. [Laws 1950 (1st S. S.), ch. 3, § 86.]

66-165. Pedestrians subject to traffic regulations.—(a) Pedestrians shall be subject to traffic-control signals at intersections as provided in section 34 [§ 66-153g] of this act unless required by local ordinance to comply strictly with such signals, but at all other places pedestrians shall be accorded the privilege and shall be subject to the restrictions stated in sections 87 to 92 inclusive [§§ 66-165—66-165f].

(b) Local authorities are hereby empowered by ordinance to require that pedestrians shall strictly comply with the directions of any official traffic-control signal and may by ordinance prohibit pedestrians from crossing any roadway in a business district or any designated highways except in a cross walk. [Laws 1950 (1st S. S.), ch. 3, § 87.]

66-165a. Pedestrians' right-of-way in cross walks.—(a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a cross walk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions stated in section 89 (b) [§ 66-165l].

(b) Whenever any vehicle is stopped at a marked cross walk or at any unmarked cross walk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. [Laws 1950 (1st S. S.), ch. 3, § 88.]

DECISIONS UNDER PRIOR LAW

Pleadings.

Plaintiff's complaint sufficiently pleaded bus driver's failure to yield right of way to plaintiff so as to authorize an in-

struction that the defendant's failure so to do was negligence per se. *Phoenix v. Mullen*, 65 Ariz. 83, 174 Pac. (2d) 422.

66-165b. Crossing at other than cross walk.—(a) Every pedestrian crossing a roadway at any point other than within a marked cross walk or within an unmarked cross walk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked cross walk. [Laws 1950 (1st S. S.), ch. 3, § 89.]

66-165c. Pedestrians to use right half of cross walk.—Pedestrians shall move expeditiously, whenever practicable, upon the right half of cross walks. [Laws 1950 (1st S. S.), ch. 3, § 90.]

66-165d. School crossings.—In front of each school building, or school grounds abutting thereon, the commission by and with the advice of the school board or superintendent of schools, is hereby empowered to mark or cause to be marked by the department, or local authorities, a single cross-walk where children shall be required to cross the highway.

Additional crossings across highways not abutting on school grounds may be approved by the department, or local authorities, upon application of school authorities, with written satisfactory assurance given the department or local authorities that guards will be maintained by the school district at such crossings to enforce the proper use of the crossing by school children.

The sign manual shall provide for yellow marking of the school crossing, yellow marking of the center line of the roadway, the erection of portable signs indicating that vehicles must stop when persons are in the crossing. The manual shall also provide the type and wording of portable signs indicating that school is in session, and permanent signs providing warning of approach to school crossings.

When such crossings are established school authorities shall place within the highway the portable signs indicating that school is in session, placed not to exceed 300 feet each side of the school crossings, and "stop when children in crosswalk" signs at school crossings. School authorities shall maintain these signs when school is in session and shall cause them to be removed immediately thereafter.

No vehicle shall proceed at a speed to exceed 15 miles per hour when approaching the crosswalk and while between the portable signs placed on the highway indicating "school in session" and "stop when children in crosswalk."

Whenever the term "school in session" is used in this section, either referring to the period of time or to signs, it means during school hours or while children are going to or leaving school during opening or closing hours.

Whenever the school authorities place and maintain the required portable "school in session" signs and "stop when children in crosswalk" signs, all vehicles shall come to a complete stop at the school crossing when crosswalk is occupied by any person. [Laws 1950 (1st S. S.), ch. 3, § 90.1.]

66-165e. Drivers to exercise due care. Notwithstanding the foregoing provisions of this act every driver of a vehicle shall exercise due

care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. [Laws 1950 (1st S. S.), ch. 3, § 91.]

66-165f. Pedestrians on roadways.—(a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

(c) No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any vehicle. [Laws 1950 (1st S. S.), ch. 3, § 92.]

66-165g. Use of white cane.—(a) Any person who is wholly or industrially blind shall, when walking on a street or highway, unless guided by a guide dog or assisted by a person with sight, carry a white cane with a red tip of approximately eight [8] inches. For the purposes of this section a person is blind who has central visual acuity of 20/200 or less in the better eye or central visual acuity of more than 20/200 in the better eye if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees. It is unlawful for a person who is not blind or industrially blind to carry on the streets or highways a white cane with a red tip.

(b) Any person operating a motor vehicle other than an emergency vehicle the siren of which is being sounded, shall bring such motor vehicle to a stop and yield the right of way at any street, avenue, alley or other public highway intersection to a blind or industrially blind person carrying a white cane with a red tip of approximately eight [8] inches, or who is being guided by a guide dog when such person enters the intersection.

(c) This section shall not be construed to deprive any totally or industrially blind person not carrying a white cane or being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing ways, nor shall the failure of a blind person to carry a white cane or be guided by a guide dog while on the ways be held to constitute prima facie evidence of contributory negligence.

(d) The violation of any provision of this section is a misdemeanor. [Code 1939, § 66-165g as added by Laws 1952, ch. 55, § 1.]

Title of Act.

An act relating to the use of highways by vehicles; providing for the use and recognition of white canes, and guide dogs; repealing chapter 3, Laws of 1952, second regular session, and amending article 1, chapter 66, Arizona

Code of 1939, by adding section 66-165g. [Laws 1952, ch. 55.]

Repeal.

Section 2 of Laws 1952, ch. 55 read: "Repeal.—Chapter 3, Laws of 1952, second regular session, is repealed."

66-166. Effect of regulations.—(a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in sections 93 to 99 inclusive [§§ 66-166—66-166f].

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this act.

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. [Laws 1950 (1st S. S.), ch. 3, § 93.]

66-166a. Traffic laws apply to persons riding bicycles.—Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this act, except as to special regulations in sections 93 to 99 inclusive [§§ 66-166—66-166f] and except as to those provisions of this act which by their nature can have no application. [Laws 1950 (1st S. S.), ch. 3, § 94.]

66-166b. Riding on bicycles.—(a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one [1] time than the number for which it is designed and equipped. [Laws 1950 (1st S. S.), ch. 3, § 95.]

66-166c. Clinging to vehicles.—No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself to any vehicle upon a roadway. [Laws 1950 (1st S. S.), ch. 3, § 96.]

66-166d. Riding on roadways and bicycle paths.—(a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles upon a roadway shall not ride more than two [2] abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(c) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway. [Laws 1950 (1st S. S.), ch. 3, § 97.]

66-166e. Carrying articles.—No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one [1] hand upon the handle bars. [Laws 1950 (1st S. S.), ch. 3, § 98.]

66-166f. Lamps and other equipment on bicycles.—(a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the department which shall be visible from all distance from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on motor vehicles. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(b) No person shall operate a bicycle equipped with a siren or whistle.

(c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement. [Laws 1950 (1st S. S.), ch. 3, § 99.]

DECISIONS UNDER PRIOR LAW

Causal Relation.

Failure to have bicycle equipped with lights as required by statute is negligence, but in the absence of evidence tending to show that such negligence

contributed to the accident, plaintiff may recover for injuries received. *Southwestern Freight Lines, Ltd. v. Floyd*, 58 Ariz. 249, 119 Pac. (2d) 120.

66-167. Driving through safety zone prohibited.—No vehicle shall at any time be driven through or within a safety zone. [Laws 1950 (1st S. S.), ch. 3, § 100.]

66-168. Obedience to signal indicating approach of train.—(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
3. A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing is an immediate hazard;
4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. [Laws 1950 (1st S. S.), ch. 3, § 101.]

66-168a. All vehicles must stop at certain railroad grade crossings.—The commission and local authorities with the approval of the commission are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall proceed only upon exercising due care. [Laws 1950 (1st S. S.), ch. 3, § 102.]

66-168b. Certain vehicles must stop at all railroad grade crossings.—(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying or returning after delivery of explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or

tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

(b) No stop need be made at any such crossing where a police officer or a traffic-control signal directs traffic to proceed.

(c) This section shall not apply at street-railway grade crossings within a business or residence district. [Laws 1950 (1st S. S.), ch. 3, § 103.]

66-163c. Moving heavy equipment at railroad grade crossings.—

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of 10 or less miles per hour or a vertical body or load clearance of less than one-half [$1\frac{1}{2}$] inch per foot of the distance between any two [2] adjacent axles or in any event of less than 9 inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Notice of any such intended crossing shall be given to a station agent of such railroad.

(c) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

(e) This section shall not apply to the normal movement of farm equipment in the regular course of farm operation. [Laws 1950 (1st S. S.), ch. 3, § 104.]

66-169. Vehicles must stop at through highways.—(a) The commission with reference to state highways and local authorities with reference to other highways under their jurisdiction may designate through highways and erect stop signs at specified entrances thereto or may designate any intersection as a stop intersection and erect like signs at one [1] or more entrances to such intersection.

(b) Every said sign shall bear the word "Stop" in letters not less than 6 inches in height and such sign shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed

floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign.

(c) Every stop sign shall be erected as near as practicable to the nearest line of the cross walk on the near side of the intersection or, if there is no cross walk, then as close as practicable to the nearest line of the roadway.

(d) Every driver of a vehicle approaching a stop sign shall stop before entering the cross walk on the near side of the intersection or in the event there is no cross walk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting highway where the driver has a view of approaching traffic on the intersecting highway before entering the intersection except when directed to proceed by a police officer or traffic-control signal. [Laws 1950 (1st S. S.), ch. 3, § 105.]

66-169a. Stop before emerging from alley or private driveway.—The driver of a vehicle within a business or residence district emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or private driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all closely approaching vehicles on said roadway. [Laws 1950 (1st S. S.), ch. 3, § 106.]

66-170. Overtaking and passing school bus.—(a) The driver of a vehicle upon a highway outside of a business or residence district upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion, or until signaled by the driver to proceed.

(b) Every bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words "School bus" in letters not less than 8 inches in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school all markings thereon indicating "School bus" shall be covered or concealed.

(c) Every bus used for the transportation of school children shall be equipped with a signal with the word "Stop" printed on both sides in black letters not less than 5 inches high on a yellow back ground. Such signal shall not be less than 20 inches long and shall be manually operated by the operator of the school bus in such manner as to be clearly visible from both front and rear when extended from the left of the body of the bus. It shall be displayed only when passengers are being received or discharged from the bus.

(d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus stopped in a loading zone which is a part of or adjacent to such

highway and where pedestrians are not permitted to cross the roadway. [Laws 1950 (1st S. S.), ch. 3, § 106.5.]

66-170a. Special lighting equipment on school busses.—(a) The commission is authorized to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school busses consistent with the provisions of this act, but supplemental thereto, and except that such standards and specifications may designate and permit the use of flashing warning signal lights on school busses for the purpose of indicating when children are boarding or alighting from any said bus. Such standards and specifications shall correlate with and, so far as possible, conform to the specifications then current as approved by the society of automotive engineers.

(b) It shall be unlawful to operate any flashing warning signal light on any school bus except when any said school bus is stopped on a highway for the purpose of permitting school children to board or alight from said school bus. [Laws 1950 (1st S. S.), ch. 3, § 106.6.]

66-171. Stopping, standing, or parking outside of business or residence district.—(a) Upon any highway outside of a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park, or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of 200 feet in each direction upon such highway.

(b) This section shall not apply to the driver of any vehicle which is disabled while on the paved 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 disabled vehicle in such position. [Laws 1950 (1st S. S.), ch. 3, § 107.]

Compiler's Note.

For early decisions under prior law, see § 66-116, parent volume.

DECISIONS UNDER PRIOR LAW

Actionable Negligence.

Dereliction to conform to statute which requires that cars be parked off the highway was not of itself an act of actionable negligence, but could only be so if in fact it proximately caused or contributed to the accident. *Motors Insurance Corp. v. Rhoton*, 72 Ariz. 416, 236 Pac. (2d) 739.

Cause of Accident.

Plaintiff's failure after prior minor accident to remove car entirely from highway was not efficient or contributing cause of accident where physical facts demonstrated that defendant was driving at high rate of speed without due regard to traffic, surface and width of the highway and other conditions then

existing. *Motors Insurance Corp. v. Rhoton*, 72 Ariz. 416, 236 Pac. (2d) 739.

Instructions to Jury.

In case where automobile which had run out of gasoline was being pushed upon highway at time accident occurred, instruction which omitted therefrom the exception referring to disabled vehicles was clearly misleading to the jury and prejudicial, as complete statement of the law was in no manner given elsewhere in the instructions. *Krauth v. Billar*, 71 Ariz. 298, 226 Pac. (2d) 1012.

Jury Question.

Asserted contributory negligence of plaintiffs in not removing stalled automobile from highway was for jury alone. *Valley Transportation System v. Reinartz*, 67 Ariz. 380, 197 Pac. (2d) 269.

66-171a. Officers authorized to remove illegally stopped vehicles.—

(a) Whenever any police officer finds a vehicle standing upon a highway in violation of any of the foregoing provisions of section 107 [§ 66-171] such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.

(b) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety. [Laws 1950 (1st S. S.), ch. 3, § 108.]

66-171b. Stopping, standing, or parking prohibited in specified places.—

(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within 15 feet of a fire hydrant;
5. On a cross walk;
6. Within 20 feet of a cross walk at an intersection;
7. Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;
8. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the commission or local authorities indicates a different length by signs or markings;
9. Within 50 feet of the nearest rail or a railroad crossing or within 8 feet 6 inches of the center of any railway track, except while a motor vehicle with motive power attached is loading or unloading railroad cars;
10. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly posted;
11. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
14. At any place where official signs prohibit stopping.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful. [Laws 1950 (1st S. S.), ch. 3, § 109.]

66-171c. Additional parking regulations.—(a) Except as otherwise provided in this section every vehicle stopped or parked upon a roadway

where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within 18 inches of the right-hand curb.

(b) Local authorities may by ordinance permit parking of vehicles with the left-hand wheels adjacent to and within 18 inches of the left-hand curb of a one-way roadway.

(c) Local authorities may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless the commission has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(d) The commission with respect to highways under its jurisdiction may place signs prohibiting or restricting the stopping, standing, or parking of vehicles on any highway where in its opinion, as evidenced by resolution or order entered in its minutes, such stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. Such signs shall be official signs and no person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs. [Laws 1950 (1st S. S.), ch. 3, § 110.]

66-171d. **Limitations on backing.**—The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. [Laws 1950 (1st S. S.), ch. 3, § 111.]

66-171e. **Riding on motorcycles.**—A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one [1] person, in which event a passenger may ride upon the permanent and regular seat if designed for two [2] persons, or upon another seat firmly attached to the rear or side of the operator. [Laws 1950 (1st S. S.), ch. 3, § 111.5.]

66-171f. **Obstruction to driver's view or driving mechanism.**—(a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle. [Laws 1950 (1st S. S.), ch. 3, § 112.]

66-171g. **Driving on mountain highways.**—The driver of a motor vehicle traveling through defiles or canyons or on mountain highways shall hold such motor vehicle under control and as near the right-hand

edge of the roadway as reasonably possible. [Laws 1950 (1st S. S.), ch. 3, § 113.]

66-171h. Coasting prohibited.—(a) The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears of such vehicle in neutral.

(b) The driver of a commercial motor vehicle when traveling upon a down grade shall not coast with the clutch disengaged. [Laws 1950 (1st S. S.), ch. 3, § 114.]

66-171i. Crossing fire hose.—No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, or private driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command. [Laws 1950 (1st S. S.), ch. 3, § 115.]

66-171j. Putting glass, etc. on roadway prohibited.—(a) No person shall throw or deposit upon any roadway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal, or vehicle upon such roadway.

(b) Any person who drops, or permits to be dropped or thrown, upon any roadway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. [Laws 1950 (1st S. S.), ch. 3, § 116.]

66-172. Regulations relative to school busses.—(a) The commission by and with the advice of the state board of education shall adopt and enforce regulations not inconsistent with this act to govern the design and operation of all school busses used for the transportation of school children when owned and operated by any school district, institution, or privately owned and operated under contract with any school district in this state and such regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to said regulations.

(b) Any officer or employee of any school district who violates any of said regulations or fails to include obligation to comply with said regulations in any contract executed by him on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any said regulations shall be guilty of breach of contract and such contract shall be canceled after notice and hearing by the responsible officers of such school district. [Laws 1950 (1st S. S.), ch. 3, § 117.]

66-173. Scope and effect of regulations.—(a) It is 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 combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times

equipped with such lamps and other equipment in proper condition and adjustment as required in sections 118 to 153.1 inclusive [§§ 66-173—66-182], or which is equipped in any manner in violation of sections 118 to 153.1 inclusive, or for any person to do any act forbidden or fail to perform any act required under sections 118 to 153.1 inclusive.

(b) Nothing contained in sections 118 to 153.1 [§§ 66-173—66-182] inclusive shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of sections 118 to 153.1 inclusive.

(c) The provisions of sections 118 to 153.1 [§§ 66-173—66-182] inclusive with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable. Every farm tractor equipped with an electric lighting system shall at all times mentioned in section 119 [§ 66-173a] display a red tail lamp and either multiple-beam or single-beam head lamps meeting the requirements of sections 121, 135 and 137 [§§ 66-173d, 66-173l, 66-173n] respectively. [Laws 1950 (1st S. S.), ch. 3, § 118.]

66-173a. When lighted lamps are required.—Every vehicle upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as hereinafter stated. [Laws 1950 (1st S. S.), ch. 3, § 119.]

Compiler's Note.

For early decisions under prior law, see § 66-137, parent volume.

66-173b. Visibility distance and mounted height of lamps.—(a) Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in section 119 [§ 66-173a] in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(b) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

(c) Every head lamp upon every motor vehicle, including every motor cycle and motor-driven cycle, shall be located at a height measured from the center of the head lamp of not more than 54 inches nor less than 28 inches to be measured as set forth in section 119.1(b) [§ 66-173b]. [Laws 1950 (1st S. S.), ch. 3, § 119.1.]

66-173c. Head lamps on motor vehicles.—(a) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at

least two [2] head lamps with at least one [1] on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in sections 118 to 143 [§§ 66-173—66-173v] inclusive.

(b) Every motorcycle and every motor-driven cycle shall be equipped with at least one [1] and not more than two [2] head lamps which shall comply with the requirements and limitations of sections 118 to 143 inclusive [§§ 66-173—66-173v]. [Laws 1950 (1st S. S.), ch. 3, § 120.]

66-173d. Tail lamps.—(a) Every motor vehicle, trailer, semi-trailer, and pole trailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with at least one [1] tail lamp mounted on the rear, which, when lighted as hereinbefore required, shall emit a red light plainly visible from a distance of 500 feet to the rear, provided that in the case of a train of vehicles only the tail lamp on the rear-most vehicle need actually be seen from the distance specified.

(b) Every tail lamp upon every vehicle shall be located at a height of not more than 60 inches nor less than 20 inches to be measured as set forth in section 119.1 (b) [§ 66-173b].

(c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted. [Laws 1950 (1st S. S.), ch. 3, § 121.]

66-173e. New motor vehicles to be equipped with reflectors.—(a) Every new motor vehicle hereafter sold and operated upon a highway, other than a truck tractor, shall carry on the rear, either as a part of the tail lamps or separately, two [2] red-reflectors, except that every motorcycle and every motor-driven cycle shall carry at least one [1] reflector, meeting the requirements of this section, and except that vehicles of the type mentioned in section 124 [§ 66-174a] shall be equipped with reflectors as required in those sections applicable thereto.

(b) Every such reflector shall be mounted on the vehicle at a height not less than 20 inches nor more than 60 inches measured as set forth in section 119.1 (b) [§ 66-173b], and shall be of such size and characteristics and so mounted as to be visible at night from all distances within 300 feet to 50 feet from such vehicle when directly in front of lawful upper beams of head lamps, except that visibility from a greater distance is hereinafter required of reflectors on certain types of vehicles. [Laws 1950 (1st S. S.), ch. 3, § 122.]

66-173f. Stop lamps required on new motor vehicles.—From and after January 1, 1951, it shall be unlawful for any person to sell any new motor vehicle, including any motorcycle or motor-driven cycle, in this state or for any person to drive such vehicle on the highways

unless it is equipped with a stop lamp meeting the requirements of section 133 [§ 66-173j]. [Laws 1950 (1st S. S.), ch. 3, § 122.1.]

66-174. Application of succeeding sections.—Those sections of this act [§§ 66-151—66-189] which follow immediately, including sections 124, 125, 126, 127 and 128 [§§ 66-174a—66-174e], relating to clearance and marker lamps, reflectors, and stop lights shall apply as stated in said sections to vehicles of the type therein enumerated, namely passenger busses, trucks, truck tractors, and certain trailers, semi-trailers, and pole trailers, respectively, when operated upon any highway, and said vehicles shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in section 119 [§ 66-173a], except that clearance and side marker lamps need not be lighted on any said vehicle when operated within any municipality where there is sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet. [Laws 1950 (1st S. S.), ch. 1, § 123.]

66-174a. Additional equipment required on certain vehicles.—In addition to other equipment required in this act [§§ 66-151—66-189] the following vehicles shall be equipped as herein stated under the conditions stated in section 123 [§ 66-174].

(a) On every bus or truck, whatever its size, there shall be the following:

On the rear, two [2] reflectors, one [1] at each side, and one [1] stop light.

(b) On every bus or truck 80 inches or more in over-all width, in addition to the requirements in paragraph (a):

On the front, two [2] clearance lamps, one [1] at each side.

On the rear, two [2] clearance lamps, one [1] at each side.

On each side, two [2] side marker lamps, one [1] at or near the front and one [1] at or near the rear.

On each side, two [2] reflectors, one [1] at or near the front and one [1] at or near the rear.

(c) On every truck tractor:

On the front, two [2] clearance lamps, one [1] at each side.

On the rear, one [1] stop light.

(d) On every trailer or semi-trailer having a gross weight in excess of 3,000 pounds:

On the front, two [2] clearance lamps, one [1] at each side.

On each side, two [2] side marker lamps, one [1] at or near the front and one [1] at or near the rear.

On each side, two [2] reflectors, one [1] at or near the front and one [1] at or near the rear.

On the rear, two [2] clearance lamps, one [1] at each side, also two [2] reflectors, one [1] at each side, and one [1] stop light.

(e) On every pole trailer in excess of 3,000 pounds gross weight:

On each side, one [1] side marker lamp and one [1] clearance lamp which may be in combination, to show to the front, side and rear.

On the rear of the pole trailer or load, two [2] reflectors, one [1] at each side.

(f) On every trailer, semi-trailer, or pole trailer weighing 3,000 pounds gross or less:

On the rear, two [2] reflectors, one [1] on each side. If any trailer or semi-trailer is so loaded or is of such dimensions as to obscure the stop light on the towing vehicle, then such vehicle shall also be equipped with one [1] stop light. [Laws 1950 (1st S. S.), ch. 3, § 124.]

66-174b. Color of clearance lamps, side marker lamps, and reflectors.

—(a) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflected an amber color.

(b) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect an amber color.

(c) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red, amber, or yellow, and except that the light illuminating the license plate or the light emitted by a back-up lamp shall be white. [Laws 1950 (1st S. S.), ch. 3, § 125.]

66-174c. Mounting of reflectors, clearance lamps, and side marker lamps.—(a) Reflectors when required by section 124 [§ 66-174a] shall be mounted at a height not less than 24 inches and not higher than 60 inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than 24 inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit.

The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.

Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this act [§§ 66-151—66-189].

(b) Clearance lamps shall be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both. [Laws 1950 (1st S. S.), ch. 3, § 126.]

66-174d. Visibility of reflectors, clearance lamps, and marker lamps.

—(a) Every reflector upon any vehicle referred to in section 124 [§ 66-174a] shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 500 feet to 50 feet from the vehicle when directly in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(b) Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of 500 feet from the front and rear, respectively, of the vehicle.

(c) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of 500 feet from the side of the vehicle on which mounted. [Laws 1950 (1st S. S.), ch. 3, § 127.]

66-174e. Obstructed lights not required.—Whenever motor and other vehicles are operated in combination during the times that lights are required, any lamp (except tail lamps) need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted. [Laws 1950 (1st S. S.), ch. 3, § 128.]

66-174f. Lamp or flag on projecting load.—Whenever the load upon any vehicle extends to the rear 4 feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in section 119 [§ 66-174a] hereof, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 12 inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear. [Laws 1950 (1st S. S.), ch. 3, § 129.]

66-174g. Lamps on parked vehicles.—(a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of 500 feet upon such street or highway no lights need be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of 500 feet upon such highway, such vehicle so parked or stopped shall be equipped with one [1] or more lamps which shall exhibit a white light on the roadway side visible from a distance of 500 feet to the front of such vehicle and a red light visible from a distance of 500 feet to the rear. The foregoing provisions shall not apply to a motor-driven cycle.

(c) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed. [Laws 1950 (1st S. S.), ch. 3, § 130.]

66-174h. Lamps on other vehicles and equipment.—All vehicles, including animal-drawn vehicles and including those referred to in section 118 (c) not hereinbefore specifically required to be equipped with lamps, shall at the times specified in section 119 [§ 66-173a] hereof be equipped with at least one [1] lighted lamp or lantern exhibit-

ing a white light visible from a distance of 500 feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of 500 feet to the rear. [Laws 1950 (1st S. S.), ch. 3, § 131.]

66-174i. Spot lamps and auxiliary lamps.—(a) Spot lamps. Any motor vehicle may be equipped with not to exceed one [1] spot lamp and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than 100 feet ahead of the vehicle.

(b) Fog lamps. Any motor vehicle may be equipped with not to exceed two [2] fog lamps mounted on the front at a height not less than 12 inches nor more than 30 inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of 25 feet ahead project higher than a level of 4 inches below the level of the center of the lamp from which it comes.

(c) Auxiliary passing lamp. Any motor vehicle may be equipped with not to exceed one [1] auxiliary passing lamp mounted on the front at a height not less than 24 inches nor more than 42 inches above the level surface upon which the vehicle stands and every such auxiliary passing lamp shall meet the requirements and limitations set forth in sections 118 to 143 inclusive [§§ 66-173—66-173v].

(d) Auxiliary driving lamp. Any motor vehicle may be equipped with not to exceed one [1] auxiliary driving lamp mounted on the front at a height not less than 16 inches nor more than 42 inches above the level surface upon which the vehicle stands and every such auxiliary driving lamp shall meet the requirements and limitations set forth in sections 118 to 143 inclusive [§§ 66-173—66-174v]. [Laws 1950 (1st S. S.), ch. 3, § 132.]

66-174j. Signal lamps and signal devices.—(a) Any motor vehicle may be equipped and when required under this act [§§ 66-151—66-189] shall be equipped with the following signal lamps or devices:

1. A stop lamp on the rear which shall emit a red or yellow light and which shall be actuated upon application of the service (foot) brake and which may but need not be incorporated with a tail lamp.

2. A lamp or lamps or mechanical signal device capable of clearly indicating any intention to turn either to the right or to the left and which shall be visible both from the front and rear.

(b) A stop lamp shall be plainly visible and understandable from a distance of 100 feet to the rear both during normal sunlight and at nighttime and a signal lamp or lamps indicating intention to turn shall be visible and understandable during daytime and nighttime from a distance of 100 feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.

(c) All mechanical signal devices shall be self-illuminated when in use at the times mentioned in section 119 [§ 66-173a]. [Laws 1950 (1st S. S.), ch. 3, § 133.]

66-174k. Additional lighting equipment.—(a) Any motor vehicle may be equipped with not more than two [2] side cowl or fender lamps which shall emit an amber or white light without glare.

(b) Any motor vehicle may be equipped with not more than one [1] running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(c) Any motor vehicle may be equipped with not more than two [2] back-up lamps either separately or in combination with other lamps, but any such back-up lamp shall not be lighted when the motor vehicle is in forward motion. [Laws 1950 (1st S. S.), ch. 3, § 134.]

66-174l. Multiple-beam road-lighting equipment.—Except as hereinafter provided, the head lamps or the auxiliary driving lamp, or the auxiliary passing lamp, or combinations thereof, on motor vehicles other than a motorcycle or motor-driven cycle shall be so arranged that the driver may select at will between distributions of light projected to different elevations, subject to the following requirements and limitations:

(a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading. The maximum intensity of this uppermost distribution of light or composite beam 1 degree of arc or more above the horizontal level of the lamps when the vehicle is not loaded shall not exceed 8,000 apparent candlepower, and at no other point of the distribution of light or composite beam shall there be an intensity of more than 75,000 apparent candlepower.

(b) There shall be a lowermost distribution of light, or composite beam, so aimed that:

1. When the vehicle is not loaded, none of the high-intensity portion of the light which is directed to the left of the prolongation of the extreme left side of the vehicle shall, at a distance of 25 feet ahead, project higher than a level of 8 inches below the level of the center of the lamp from which it comes.

2. When the vehicle is not loaded, none of the high-intensity portion of the light which is directed to the right of the prolongation of the extreme left side of the vehicle shall, at a distance of 25 feet ahead, project higher than a level of 3 inches below the level of the center of the lamp from which it comes.

3. In no event shall any of the high intensity of such lower-most distribution of light or composite beam project higher than a level of 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead.

(c) Where one [1] intermediate beam is provided, the beam on the left side of the road shall be in conformity with item 1 of paragraph (b) of this section except when arranged in accordance with the practice specified in paragraph (e).

(d) All head lighting beams shall be so aimed and of sufficient intensity to reveal a person or vehicle at a distance of at least 100 feet ahead.

(e) Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in this state after January 1, 1951, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the upper-most distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped. [Laws 1950 (1st S. S.), ch. 3, § 135.]

66-174m. Use of multiple-beam road-lighting equipment.—(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section 119 [§ 66-173a], the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(b) Whenever the driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver, and in no case shall the high-intensity portion which is projected to the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a distance of 25 feet ahead, and in no case higher than a level of 42 inches above the level upon which the vehicle stands at a distance of 75 feet ahead.

(c) Whenever the driver of a vehicle overtakes another vehicle proceeding in the same direction and within 200 feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected through the rear window of the overtaken vehicle.

The lowermost distribution of light specified in item 1 of section 135 (b) [§ 66-174l(b)] shall be deemed to avoid glare at all times, regardless of road contour and loading. [Laws 1950 (1st S. S.), ch. 3, § 136.]

66-174n. Single-beam road-lighting equipment.—Head lamps arranged to provide a single distribution of light shall be permitted on motor vehicles manufactured and sold prior to 1 year after the effective date of this act [§§ 66-151—66-189] in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

1. The head lamps shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall at a distance of 25 feet ahead project higher than a level of 5 inches below the level of the center of the lamp from which it comes, and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead.

2. The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet. [Laws 1950 (1st S. S.), ch. 3, § 137.]

66-174o. Lighting equipment on motor-driven cycles.—The head lamp or head lamps upon every motor-driven cycle may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

1. Every said head lamp or head lamps on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than 100 feet when the motor-driven cycle is operated at any speed less than 25 miles per hour and at a distance of not less than 200 feet when the motor-driven cycle is operated at a speed of 25 or more miles per hour, and any such motor-driven cycle shall be subject to the speed limitations in section 60 [§ 66-160].

2. In the event the motor-driven cycle is equipped with a multiple-beam head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in section 135 (a) [§ 66-174l(a)] and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in section 135 (b) [§ 66-174l(b)].

3. In the event the motor-driven cycle is equipped with a single-beam lamp or lamps, said lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of 25 feet ahead, shall project higher than the level of the center of the lamp from which it comes. [Laws 1950 (1st S. S.), ch. 3, § 137.5.]

66-174p. Alternate road-lighting equipment.—Any motor vehicle may be operated under the conditions specified in section 119 [§ 66-173a] when equipped with two [2] lighted lamps upon the front thereof capable of revealing persons and objects 75 feet ahead in lieu of lamps required in section 135 [§ 66-174l] or section 137 [§ 66-174o], provided, however, that at no time shall it be operated at a speed in excess of 20 miles per hour. [Laws 1950 (1st S. S.), ch. 3, § 138.]

66-174q. Number of driving lamps required or permitted.—(a) At all times specified in section 119 [§ 66-173a], at least two [2] lighted lamps shall be displayed, one [1] on each side at the front of every motor vehicle other than a motorcycle or motor-driven cycle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

(b) Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than 300 candlepower, not more than a total of four [4] of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway. [Laws 1950 (1st S. S.), ch. 3, § 139.]

66-174r. Special restrictions on lamps.—(a) Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps, or flashing front-direction signals which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) No person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof. This section shall not apply to any vehicle upon which a red light visible from the front is expressly authorized or required by this code.

(c) Flashing lights are prohibited except on an authorized emergency vehicle, school bus, snow removal equipment or on any vehicle as a means for indicating a right or left turn. [Laws 1950 (1st S. S.), ch. 3, § 140.]

66-174s. Standards for lights on snow removal equipment.—(a) The commission shall adopt standards and specifications applicable to head lamps, clearance lamps, identification and other lamps on snow removal equipment when operated on the highways of this state in lieu of the lamps otherwise required on motor vehicles by this act [§§ 66-151—66-189]. Such standards and specifications may permit the use of flashing lights for purposes of identification on snow removal equipment when in service upon the highways. The standards and specifications for lamps referred to in this section shall correlate with and, so far as possible, conform with those approved by the American association of state highway officials.

(b) It shall be unlawful to operate any snow removal equipment on any highway unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this section. [Laws 1950 (1st S. S.), ch. 3, § 140.1.]

66-174t. Selling or using lamps or devices.—(a) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semi-trailer or use upon any such vehicle any head lamp, auxiliary driving lamp, rear lamp, signal lamp, or reflector which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the department and approved by them.

(b) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semi-trailer any lamp or device mentioned in this section which has been approved by the department unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

(c) No person shall use upon any motor vehicle, trailer, or semi-trailer any lamps mentioned in this section unless said lamps are equipped with bulbs of a rated candlepower and are mounted and adjusted as to focus and aim in accordance with instructions of the department. [Laws 1950 (1st S. S.), ch. 3, § 141.]

66-174u. Authority of department with reference to lighting devices.—(a) The department is hereby authorized to approve or disapprove lighting devices.

(b) The department is hereby required to approve or disapprove any lighting device, of a type on which approval is specifically required

in this act [§§ 66-151—66-189], within a reasonable time after such device has been submitted.

(c) The department is further authorized to set up the procedure which shall be followed when any device is submitted for approval.

(d) The department upon approving any such lamp or device shall issue to the applicant a certificate of approval together with any instructions determined by them.

(e) The department shall publish lists of all lamps and devices by name and type which have been approved by them, together with instructions as to the permissible candlepower rating of the bulbs which they have determined for use therein and such other instructions as to adjustment as the department may deem necessary.

(f) Any person desiring approval of a device shall submit to the department two [2] sets of each type of device upon which approval is desired, together with a certificate of the United States bureau of standards or to such other recognized testing laboratories, satisfactory to the department, as to the compliance of such type device with provisions of this act as to lighting performance.

If at the expiration of 90 days after such notice the person holding the certificate of approval for such device has failed to satisfy the department that said approved device as thereafter to be sold meets the requirements of this act, the department shall 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, and may require that all said devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this act. The department may at the time of the retest purchase in the open market and submit to a testing agency one [1] or more sets of such approved devices, and if such device upon such retest fails to meet the requirements of this act, the department may refuse to renew the certificate of approval of such device. [Laws 1950 (1st S. S.), ch. 3, § 142.]

66-174v. Revocation of certificate of approval on lighting devices.—When the department has reason to believe that an approved device as being sold commercially does not comply with the requirements of this act [§§ 66-151—66-189], they may, after giving 30 days' previous notice to the person holding the certificate of approval for such device in this state, conduct a hearing upon the question of compliance of said approved device. After said hearing the department shall determine whether said approved device meets the requirements of this act. If said device does not meet the requirements of this act they shall give notice to the person holding the certificate of approval for such device in this state. [Laws 1950 (1st S. S.), ch. 3, § 143.]

66-175. Brakes.—(a) Brake equipment required.

1. Every motor vehicle, other than a motorcycle or motor-driven cycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two [2] separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two [2] wheels.

If these two [2] separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one [1] part of the operating mechanism shall not leave the motor vehicle without brakes on at least two [2] wheels.

2. Every motorcycle and every motor-driven cycle, when operated upon a highway, shall be equipped with at least one [1] brake which may be operated by hand or foot.

3. Every trailer or semi-trailer of a gross weight of 3,000 pounds or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes shall be so designed and connected that in case of an accidental break-away of the towed vehicle the brakes shall be automatically applied.

4. Every new motor vehicle, trailer, or semi-trailer hereafter sold in this state and operated upon the highways shall be equipped with service brakes upon all wheels of every such vehicle, except any motorcycle or motor-driven cycle, and except that any semi-trailer of less than 1,500 pounds gross weight need not be equipped with brakes.

5. In any combination of motor-drawn vehicles, means shall be provided for applying the rearmost trailer brakes, of any trailer equipped with brakes, in approximate synchronism with the brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes; or both of the above means capable of being used alternatively may be employed.

6. One of the means of brake operation shall consist of a mechanical connection from the operating lever to the brake shoes or bands and this brake shall be capable of holding the vehicle, or combination of vehicles, stationary under any condition of loading on any upgrade or downgrade upon which it is operated.

7. The brake shoes operating within or upon the drums on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

(b) Performance ability of brakes. Every motor vehicle or combination of motor-drawn vehicles shall be capable, at all times and under all conditions of loading, of being stopped on a dry, smooth, level road free from loose material, upon application of the service (foot) brake, within the distances specified below, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

	Feet to stop from 20 miles per hour	Deceleration in feet per second
Vehicles or combinations of vehicles having brakes on all wheels-----	30	14
Vehicles or combinations of vehicles not having brakes on all wheels----	40	10.7

(c) Maintenance of brakes. All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. [Laws 1950 (1st S. S.), ch. 3, § 144.]

DECISIONS UNDER PRIOR LAWS

Jury.

In action for death of child struck by a truck, the question of whether the truck could have stopped in time to save the life of the child had the truck have been equipped with adequate brakes was for the jury to determine. *Womack v. Preach*, 63 Ariz. 390, 163 Pac. (2d) 280.

Violation as Negligence.

A violation of former § 66-135 is negligence in itself and where defective brakes were the proximate cause of the death of a child the owner of the vehicle was liable. *Womack v. Preach*, 63 Ariz. 390, 163 Pac. (2d) 280.

66-175a. Brakes on motor-driven cycles.—(a) The commission is authorized to require an inspection of the brake on any motor-driven cycle and to disapprove any such brake which they find will not comply with the performance ability standard set forth in section 144 [§ 66-174], or which in their opinion is not so designed or constructed as to insure reasonable and reliable performance in actual use.

(b) The commission may refuse to register or may suspend or revoke the registration of any vehicle referred to in this section when they determine that the brake there on does not comply with the provisions of this section.

(c) No person shall operate on any highway any vehicle referred to in this section in the event the commission has disapproved the brake equipment upon such vehicle or type of vehicle. [Laws 1950 (1st S. S.), ch. 3, § 144.5.]

66-176. Horns and warning devices.—(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.

(c) It is permissible but not required that any vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

(d) Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the department, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof. [Laws 1950 (1st S. S.), ch. 3, § 145.]

66-177. Mufflers, prevention of noise.—(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. [Laws 1950 (1st S. S.), ch. 3, § 146.]

66-178. Mirrors.—Every motor vehicle which is so constructed or loaded as to obstruct the driver's view to the rear thereof from the driver's position shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of such vehicle. [Laws 1950 (1st S. S.), ch. 3, § 147.]

66-179. Windshields must be unobstructed and equipped with wipers.—(a) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of such vehicle which obstruct the driver's clear view of the highway or any intersecting highway.

(b) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, 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.

(c) Every windshield wiper upon a motor vehicle shall be maintained in good working order. [Laws 1950 (1st S. S.), ch. 3, § 148.]

66-180. Restrictions as to tire equipment.—(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least 1 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 protuberance 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 skid.

(c) The 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, the operation of which upon a highway would otherwise be prohibited under this act [§§ 66-151—66-189]. [Laws 1950 (1st S. S.), ch. 3, § 149.]

66-181. Safety glass in motor vehicles.—(a) On and after January 1, 1951, no person shall sell any new motor vehicle as specified herein, nor shall any new motor vehicle as specified herein be registered thereafter unless such vehicle is equipped with safety glass of a type approved by the commission wherever glass is used in doors, windows,

and windshields. The foregoing provisions shall apply to all passenger-type motor vehicles, including passenger busses and school busses, but in respect to trucks, including truck tractors, the requirements as to safety glass shall apply to all glass used in doors, windows, and windshields in the drivers' compartments of such vehicles.

(b) The term "safety glass" shall mean any product composed of glass, so manufactured, fabricated, or treated as substantially to prevent shattering and flying of the glass when struck or broken, or such other or similar product as may be approved by the commission.

(c) The commission shall compile and publish a list of types of glass by name approved by them as meeting the requirements of this section and the commission shall not register after January 1, 1951, any new motor vehicle unless it is equipped with an approved type of safety glass, and they shall thereafter suspend the registration of any motor vehicle so subject to this section which they find is not so equipped until it is made to conform to the requirements of this section.

(d) It shall be a misdemeanor for any person to replace any glass or glazing materials used in partitions, doors, windows, windshields or wind deflectors in any motor vehicle with any material other than safety glass of a type approved by the commission. [Laws 1950 (1st S. S.), ch. 3, § 150.]

66-182. Certain vehicles to carry flares or other warning devices.—

(a) No person shall operate any motor truck, passenger bus, or truck tractor upon any highway outside the corporate limits of municipalities at any time from a half hour after sunset to a half hour before sunrise unless there shall be carried in such vehicle the following equipment except as provided in paragraph (b):

1. At least three [3] flares or three [3] red electric lanterns each of which shall be capable of being seen and distinguished at a distance of 500 feet under normal atmospheric conditions at nighttime.

Each flare (liquid-burning pot torch) shall be capable of burning for not less than 12 hours in 5 miles per hour wind velocity and capable of burning in any air velocity from zero to 40 miles per hour. Every such flare shall be substantially constructed so as to withstand reasonable shocks without leaking. Every such flare shall be carried in the vehicle in a metal rack or box. Every such red electric lantern shall be capable of operating continuously for not less than 12 hours and shall be substantially constructed so as to withstand reasonable shock without breakage.

2. At least three [3] red-burning fusees unless red electric lanterns are carried.

Every fusee shall be made in accordance with specifications of the Bureau of Explosives, 30 Vesey St., New York City, and so marked and shall be capable of burning at least 15 minutes.

3. At least two [2] red cloth flags, not less than 12 inches square, with standards to support same.

(b) No person shall operate at the time and under the conditions stated in paragraph (a) any motor vehicle used in the transportation of flammable liquids in bulk, or transporting compressed flammable gases, unless there shall be carried in such vehicle three [3] red electric

lanterns meeting the requirements above stated, and there shall not be carried in any said vehicle any flares, fusees, or signal produced by a flame.

(c) As an alternative it shall be deemed a compliance with this section in the event a person operating any motor vehicle described in this section shall carry in such vehicle three [3] portable reflector units on standards of a type approved by the department. No portable reflector unit shall be approved unless it is so designed and constructed as to include two [2] reflectors, one above the other, each of which shall be capable of reflecting red light clearly visible from all distances within 500 feet to 50 feet under normal atmospheric conditions at nighttime when directly in front of lawful upper beams of head lamps. [Laws 1950 (1st S. S.), ch. 3, § 151.]

66-182a. Display of warning devices when vehicle disabled.—(a) Whenever any motor truck, passenger bus, truck tractor, trailer, semi-trailer, or pole trailer is disabled upon the traveled portion of any highway or the shoulder thereof outside of any municipality at any time when lighted lamps are required on vehicles the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in paragraph (b):

1. A lighted fusee shall be immediately placed on the roadway at the traffic side of the motor vehicle unless electric lanterns are displayed.

2. Within the burning period of the fusee and as promptly as possible three [3] lighted flares (pot torches) or three [3] electric lanterns shall be placed on the roadway as follows:

One [1] at a distance of approximately 100 feet in advance of the vehicle, one [1] at a distance of approximately 100 feet to the rear of the vehicle, each in the center of the lane of traffic occupied by the disabled vehicle, and one [1] at the traffic side of the vehicle approximately 10 feet rearward or forward thereof.

(b) Whenever any vehicle used in the transportation of flammable liquids in bulk, or transporting compressed flammable gases is disabled upon a highway at any time or place mentioned in paragraph (a) of this section, the driver of such vehicle shall display upon the roadway the following lighted warning devices: One [1] red electric lantern shall be immediately placed on the roadway at the traffic side of the vehicle and two [2] other red electric lanterns shall be placed to the front and rear of the vehicle in the same manner prescribed in paragraph (a) above for flares.

When a vehicle of a type specified in paragraph (b) is disabled the use of flares, fusees, or any signal produced by flame as warning signals is prohibited.

(c) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof outside of any municipality at any time when the display of fusees, flares, or electric lanterns is not required, the driver of such vehicle shall display two [2] red flags upon the roadway in the lane of traffic

occupied by the disabled vehicle, one [1] at a distance of approximately 100 feet in advance of the vehicle, and one [1] at a distance of approximately 100 feet to the rear of the vehicle.

(d) In the alternative it shall be deemed a compliance with this section in the event three [3] portable reflector units on standards of a type approved by the department are displayed at the times and under the conditions specified in this section either during the daytime or at nighttime and such portable reflector units shall be placed on the roadway in the locations as described with reference to the placing of electric lanterns and lighted flares.

(e) The flares, fusees, lanterns, and flags to be displayed as required in this section shall conform with the requirements of section 151 [§ 66-181] applicable thereto. [Laws 1950 (1st S. S.), ch. 3, § 152.]

66-182b. Vehicles transporting explosives.—Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a highway shall at all times comply with the provisions of this section.

(a) Said vehicle shall be marked or placarded on each side and the rear with the word "explosives" in letters not less than 8 inches high, or there shall be displayed on the rear of such vehicle a red flag not less than 24 inches square marked with the word "danger" in white letters 6 inches high.

(b) Every said vehicle shall be equipped with not less than two [2] fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle so used.

(c) The commission is hereby authorized and directed to promulgate such additional regulations governing the transportation of explosives and other dangerous articles by vehicles upon the highways as they shall deem advisable for the protection of the public. [Laws 1950 (1st S. S.), ch. 3, § 153.]

66-182c. Television installations.—No person shall drive any motor vehicle equipped with any television viewer, screen or other means of visually receiving a television broadcast which is located in the motor vehicle at any point forward of back of the driver's seat, or which is visible, directly or indirectly, to the driver while operating the motor vehicle. [Laws 1950 (1st S. S.), ch. 3, § 153.1.]

66-183. Vehicles without required equipment or in unsafe condition.—No person shall drive or move on any highway any motor vehicle, trailer, semi-trailer, or pole trailer, or any combination thereof unless the equipment upon any and every said vehicle is in good working order and adjustment as required in this act and said vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon the highway. [Laws 1950 (1st S. S.), ch. 3, § 154.]

66-184. Inspections by officers of the department.—(a) The superintendent of the state highway patrol, members of the state highway patrol, and such other officers and employees of the department as the patrol superintendent may designate, may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by

law, or that its equipment is not in proper adjustment or repair, require the driver of such vehicle to stop and submit such vehicle to an inspection and such test with reference thereto as may be appropriate.

(b) In the event such vehicle and its equipment are found to be in safe condition and in full compliance with the law, the officer making such inspection shall issue to the driver an official certificate of inspection and approval of such vehicle specifying those parts or equipment so inspected and approved.

(c) In the event such vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment the officer shall give a written notice to the driver and shall send a copy to the department. Said notice shall require that such vehicle be placed in safe condition and its equipment in proper repair and adjustment specifying the particulars with reference thereto and that a certificate of inspection and approval be obtained within 5 days. [Laws 1950 (1st S. S.), ch. 3, § 155.]

66-184a. Owners and drivers to comply with inspection laws.—(a) No person driving a vehicle shall refuse to submit such vehicle to an inspection and test when required to do so by the patrol superintendent or an authorized officer or employee of the department.

(b) Every owner or driver, upon receiving a notice as provided in section 155 [§ 66-184], shall comply therewith and shall within 5 days secure an official certificate of inspection and approval which shall be issued in duplicate, one [1] copy to be retained by the owner or driver and the other copy to be forwarded to the department. In lieu of compliance with this paragraph the vehicle shall not be operated, except as provided in the next succeeding paragraph.

(c) No person shall operate any vehicle after receiving a notice with reference thereto as above provided, except as may be necessary to return such vehicle to the residence or place of business of the owner or driver, if within a distance of 20 miles, or to a garage, until said vehicle and its equipment has been placed in proper repair and adjustment and otherwise made to conform to the requirements of this act and a certificate of inspection and approval shall be obtained as promptly as possible thereafter.

(d) In the event repair or adjustment of any vehicle or its equipment is found necessary upon inspection, the owner of said vehicle may obtain such repair or adjustment at any place he may choose, but in every event an official certificate of inspection and approval must be obtained, otherwise such vehicle shall not be operated upon the highways of this state. [Laws 1950 (1st S. S.), ch. 3, § 156.]

66-185. Scope and effect of sections 157 to 168 [§§ 66-185—66-185l] inclusive.—(a) It is 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 sections 157 to 168 [§§ 66-185—66-185l], inclusive, or otherwise in violation of sections 157 to 168 [§§ 66-185—66-185l], inclusive, and the maximum size and weight of vehicles herein specified

shall be lawful throughout the state, and local authorities shall have no power or authority to alter said limitations except as express authority may be granted in sections 157 to 168 [§§ 66-185—66-185l], inclusive.

(b) The provisions of sections 157 to 168 [§§ 66-185—66-185l], inclusive, governing size shall not apply to fire apparatus, road machinery, or to implements of husbandry, including farm tractors, temporarily moved upon a highway, or to a vehicle operated under the terms of a special permit issued as herein provided. [Laws 1950 (1st S. S.), ch. 3, § 157; 1951, ch. 72, § 2.]

Amendment.

The 1951 amendment deleted the words "not to exceed 10 miles" which followed the words "temporarily moved" in subsection (b).

66-185a. Width of vehicles.—(a) The total outside width of any vehicle or the load thereon shall not exceed 8 feet, except as otherwise provided in this section.

(b) Whenever pneumatic tires, in substitution for the same type or other type of tires, have been heretofore or are hereafter placed upon a vehicle in operation upon the effective date of this act, the maximum width from the outside of one [1] wheel and tire to the outside of the opposite wheel and tire shall not exceed 8 feet 6 inches, but in such event the outside width of the body of such vehicle or the load thereon shall not exceed 8 feet. [Laws 1950 (1st S. S.), ch. 3, § 158.]

66-185b. Projecting loads on passenger vehicles.—No passenger-type vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than 6 inches beyond the line of the fenders on the right side thereof. [Laws 1950 (1st S. S.), ch. 3, § 159.]

66-185c. Height and length of vehicles and loads.—(a) No vehicle including any load thereon shall exceed a height of 13 feet 6 inches.

(b) No vehicle including any load thereon shall exceed a length of 40 feet extreme over-all dimension, inclusive of front and rear bumpers.

(c) No combination of vehicles coupled together shall consist of more than two [2] units except that a truck tractor and semi-trailer will be permitted to haul one full trailer and no such combination of vehicles shall exceed a total length of 65 feet. [Laws 1950 (1st S. S.), ch. 3, § 160.]

66-185d. Special load limits.—(a) Subject to the foregoing provisions of sections 157 to 160 [§§ 66-185—66-185c] inclusive, limiting the length of vehicles and loads, the load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend more than 3 feet beyond the foremost part of the vehicle, and the load upon any vehicle operated alone or the load upon the rear vehicle of a combination of vehicles shall not extend more than 6 feet beyond the rear of the bed or body of such vehicle.

(b) The limitations as to length of vehicles and loads heretofore stated in section 160 [§ 66-185c] and section 160.5 (a) [§ 66-185d] shall not apply to any load upon a pole trailer as defined in section 5 (c)

[§ 66-151d] when transporting poles or pipes or structural material which cannot be dismembered, provided that no pole or pipe or other material exceeding 80 feet in length shall be so transported unless a permit has first been obtained as authorized in section 166 [§ 66-185j]. [Laws 1950 (1st S. S.), ch. 3, § 160.5.]

66-185e. Loads on vehicles.—(a) No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway. [Laws 1950 (1st S. S.), ch. 3, § 161.]

66-185f. Trailers and towed vehicles.—(a) When one vehicle is towing another the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby and said drawbar or other connection shall not exceed 15 feet from one vehicle to the other except the connection between any two [2] vehicles transporting poles, pipe, machinery, or other objects of structural nature which cannot readily be dismembered.

(b) When one vehicle is towing another and the connection consists of a chain, rope, or cable, there shall be displayed upon such connection a white flag or cloth not less than 12 inches square. [Laws 1950 (1st S. S.), ch. 3, § 162.]

66-185g. Single-axle load limit.—(a) The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed 18,000 pounds.

(b) For the purposes of this act an axle load shall be defined as the total load transmitted to the road by all wheels whose centers are included between two [2] parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle. [Laws 1950 (1st S. S.), ch. 3, § 163.]

DECISIONS UNDER PRIOR LAW

In General.

The statutory limit applies to each vehicle and its load and not to the combined weight of two or more vehicles and their loads. *Anderson v. Alabam Freight Lines*, 64 Ariz. 313, 169 Pac. (2d) 865.

Where a load weight of 20,712 pounds was to be evenly distributed between a

truck and trailer making a load of 10,356 on each vehicle so that the weight of the truck and the load thus distributed was 31,306 pounds and the weight of the trailer and load was 19,306 pounds, § 66-129 was not violated. *Anderson v. Alabam Freight Lines*, 64 Ariz. 313, 169 Pac. (2d) 865.

66-185h. Gross weight of vehicles and loads.—(a) Subject to the limit upon the weight imposed upon the highway through any one [1] axle as set forth in section 163 [§ 66-185g], the total gross weight with load imposed upon the highway by any one [1] group of two [2] or more consecutive axles of a vehicle or combination of vehicles shall not

exceed the gross weight given for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance in feet between first and last axles of group	Allowed load in pounds on group of axles
4	32,000
5	32,000
6	32,200
7	32,900
8	33,600
9	34,300
10	35,000
11	35,700
12	36,400
13	37,100
14	43,200
15	44,000
16	44,800
17	45,600
18	46,400

(b) The total gross weight with load imposed on the highway by any vehicle or combination of vehicles where the distance between the first and last axles is more than eighteen [18] feet shall not exceed that given for the respective distances in the following table:

Distance in feet	Allowed load in pounds
18	46,400
19	47,200
20	48,000
21	48,800
22	49,600
23	50,400
24	51,200
25	55,250
26	56,100
27	56,950
28	57,800
29	58,650
30	59,500
31	60,350
32	61,200
33	62,050
34	62,900
35	63,750
36	64,600
37	65,450
38	66,300
39	67,150
40	68,000

Distance in feet	Allowed load in pounds
41	68,000
42	68,000
43	68,000
44	68,000
45	68,000
46	68,800
47	69,600
48	70,400
49	71,200
50	72,000
51	72,800
52	73,600
53	74,400
54	75,200
55	76,000
56 or over	76,800

(c) The distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half [$\frac{1}{2}$] foot the next larger whole number shall be used. [Laws 1950 (1st S. S.), ch. 3, § 164.]

66-185i. Officers may weigh vehicles and require removal of excess loads.—(a) Any police or peace officer employed by the state having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales and may require that such vehicle be driven to the nearest public scales in the event such scales are within 2 miles.

(b) Whenever an officer upon weighing a vehicle and load, as above provided, determines that the weight is unlawful, such officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle to such limit as permitted under this act. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator.

(c) Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this section, shall be guilty of a misdemeanor. [Laws 1950 (1st S. S.), ch. 3, § 165.]

66-185j. Permits for excess size and weight.—(a) The commission with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction 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 or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this act or otherwise not in conformity with the provisions of this act upon any highway

under the jurisdiction of the party granting such permit and for the maintenance of which said party is responsible.

(b) The application for any such permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highways for which permit to operate is requested, and whether such permit is requested for a single trip or for continuous operation.

(c) The commission or local authority is authorized to issue or withhold such permit at its discretion; or, if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or otherwise to limit or prescribe conditions of operation of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces, or structures, and may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(d) Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting such permit, and no person shall violate any of the terms or conditions of such special permit. [Laws 1950 (1st S. S.), ch. 3, § 166.]

66-185k. When the commission or local authorities may restrict right to use highways.—(a) Local authorities with respect to highways under their jurisdiction may by ordinance or resolution prohibit the operation of vehicles upon any such highway or impose restrictions as to the weight of vehicles to be operated upon any such highway, for a total period of not to exceed 90 days in any one [1] calendar year, 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.

(b) The local authority 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 unless and until such signs are erected and maintained.

(c) Local authorities with respect to highways under their jurisdiction may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof, on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

(d) The commission shall likewise have authority as hereinabove granted to local authorities to determine by resolution and to impose restrictions as to the weight of vehicles operated upon any highway under the jurisdiction of said commission and such restrictions shall be effective when signs giving notice thereof are erected upon the highway or portion of any highway affected by such resolution. [Laws 1950 (1st S. S.), ch. 3, § 167.]

66-185l. **Liability for damage to highway or structure.**—(a) Any person driving any vehicle, object, or contrivance upon any highway or highway structure shall be liable for all damage which said highway or structure may sustain as a result of any illegal operation, driving, or moving of such vehicle, object, or contrivance, or as a result of operating, driving, or moving any vehicle, object, or contrivance weighing in excess of the maximum weight in this act but authorized by a special permit issued as provided in section 166 [§ 66-185j].

(b) Whenever such driver is not the owner of such vehicle, object, or contrivance, but is so operating, driving, or moving the same with the express or implied permission of said owner, then said owner and driver shall be jointly and severally liable for any such damage.

(c) Such damage may be recovered in a civil action brought by the authorities in control of such highway or highway structure. [Laws 1950 (1st S. S.), ch. 3, § 168.]

66-186. **Penalties for misdemeanor.**—(a) It is a misdemeanor for any person to violate any of the provisions of this act [§§ 66-151—66-189] unless such violation is by this act or other law of this state declared to be a felony.

(b) Every person convicted of a misdemeanor for a violation of any of the provisions of this act for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not more than \$100 or by imprisonment for not more than 10 days; for a second such conviction within 1 year thereafter such person shall be punished by a fine of not more than \$200 or by imprisonment for not more than 20 days or by both such fine and imprisonment; upon a third or subsequent conviction within 1 year after the first conviction such person shall be punished by a fine of not more than \$300 or by imprisonment for not more than 6 months or by both such fine and imprisonment. [Laws 1950 (1st S. S.), ch. 3, § 169.]

66-186a. **Parties to a crime.**—Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of, any act declared herein to be a crime, whether individually or in connection with one or more other persons or as a principal, agent, or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly, or wilfully induces, causes, coerces, requires, permits, or directs another to violate any provision of this act [§§ 66-151—66-189] is likewise guilty of such offense. [Laws 1950 (1st S. S.), ch. 3, § 170.]

66-186b. **Offenses by persons owning or controlling vehicles.**—It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law. [Laws 1950 (1st S. S.), ch. 3, § 171.]

66-186c. **When person arrested must be taken immediately before a magistrate.**—Whenever any person is arrested for any violation of this act punishable as a misdemeanor, the arrested person shall be im-

mediately taken before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense, provided a person taken before a justice of peace shall be taken before the nearest or most accessible with reference to the place where said arrest is made, in any of the following cases:

1. When a person arrested demands an immediate appearance before a magistrate;
2. When the person is arrested upon a charge of negligent homicide;
3. When the person is arrested upon a charge of driving while under the influence of intoxicating liquor or narcotic drugs;
4. When the person is arrested upon a charge of failure to stop in the event of an accident causing death, personal injuries, or damage to property;
5. In any other event when the person arrested refuses to give his written promise to appear in court as hereinafter provided. [Laws 1950 (1st S. S.), ch. 3, § 172.]

66-186d. When person arrested to be given 5 days' notice to appear in court.—(a) Whenever a person is arrested for any violation of this act punishable as a misdemeanor, and such person is not immediately taken before a magistrate as hereinbefore required the arresting officer shall prepare in quadruplicate written notice to appear in court containing the name and address of such person, the license number of his vehicle, if any, the offense charged, and the time and place when and where such person shall appear in court.

(b) The time specified in said notice to appear must be at least 5 days after such arrest unless the person arrested shall demand an earlier hearing.

(c) The place specified in said notice to appear must be before a magistrate within the city, town, precinct or county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense.

(d) The arrested person in order to secure release, as provided in this section, must give his written promise so to appear in court by signing at least one [1] copy of the written notice prepared by the arresting officer. The officer shall deliver a copy of the notice to the person promising to appear. Thereupon, said officer shall forthwith release the person arrested from custody.

(e) 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. [Laws 1950 (1st S. S.), ch. 3, § 173.]

66-186e. Jurisdiction of courts.—Every police court established by or within any incorporated city or town, within their jurisdiction, shall have concurrent jurisdiction over all violations of this act. All fees, fines, and forfeitures collected by the police courts in the exercise of such concurrent jurisdiction shall be retained by and inure to the benefit of the city or town wherein the said police court is situated. Whenever under this act any incorporated city or town exercises its juris-

diction and sentences an offender to confinement, said imprisonment may be in the city or county jail. [Laws 1950 (1st S. S.), ch. 3, § 173.1.]

66-186f. Violation of promise to appear.—(a) Any person wilfully violating his written promise to appear in court, given as provided in sections 170 to 177 [§§ 66-186a—66-187c] inclusive, is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

(b) A written promise to appear in court may be complied with by an appearance by counsel. [Laws 1950 (1st S. S.), ch. 3, § 174.]

66-186g. Procedure prescribed herein not exclusive.—The foregoing provisions of sections 170 to 174 [§§ 66-186a—66-186f] inclusive, shall govern all police officers in making arrests without a warrant for violations of this act, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense of like grade. [Laws 1950 (1st S. S.), ch. 3, § 175.]

66-187. Form for traffic citations.—(a) Every traffic-enforcement agency in this state shall provide in appropriate form traffic citations containing notices to appear which shall be issued in books with citations in quadruplicate and meeting the requirements of sections 170 to 177 [§§ 66-186a—66-187c] inclusive.

(b) The chief administrative officer of every such traffic-enforcement agency shall be responsible for the issuance of such books and shall maintain a record of every such book and each citation contained therein issued to individual members of the traffic-enforcement agency and shall require and retain a receipt for every book so issued. [Laws 1950 (1st S. S.), ch. 3, § 176.]

66-187a. Disposition and records of traffic citations.—(a) Every traffic-enforcement officer upon issuing a traffic citation to an alleged violator of any provision of the motor-vehicle laws of this state or of any traffic ordinance of any city or town shall deposit the original or a copy of such traffic citation with a court having jurisdiction over the alleged offense or with its traffic-violations bureau.

(b) Upon the deposit of the original or a copy of such traffic citation with a court having jurisdiction over the alleged offense or with its traffic-violations bureau as aforesaid, said original or copy of such traffic citation may be disposed of only by trial in said court or other official action by a judge of said court, including forfeiture of the bail or by the deposit of sufficient bail with or payment of a fine to said traffic-violations bureau by the person to whom such traffic citation has been issued by the traffic-enforcement officer.

(c) It shall be unlawful and official misconduct for any traffic-enforcement officer or other officer or public employee to dispose of a traffic citation or copies thereof or of the record of the issuance of the same in a manner other than as required herein.

(d) The chief administrative officer of every traffic-enforcement agency shall require the return to him of a copy of every traffic citation issued by an officer under his supervision to an alleged violator of any

traffic law or ordinance and of all copies of every traffic citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator.

(e) Such chief administrative officer shall also maintain or cause to be maintained in connection with every traffic citation issued by an officer under his supervision a record of the disposition of the charge by the court or its traffic-violations bureau in which the original or copy of the traffic citation was deposited. [Laws 1950 (1st S. S.), ch. 3, § 176.1.]

66-187b. Illegal cancellation of traffic citation—Audit of citation records.—(a) Any person who cancels any traffic citation, in any manner other than as provided in sections 170 to 177 [§§ 66-186a—66-187c] inclusive, shall be guilty of a misdemeanor.

(b) Every record of traffic citations required in sections 170 to 177 [§§ 66-186a—66-187c] inclusive, shall be audited monthly by the appropriate fiscal officer of the governmental agency to which the traffic-enforcement agency is responsible. [Laws 1950 (1st S. S.), ch. 3, § 176.2.]

66-187c. Record of traffic cases—Report of convictions to department.—(a) Every magistrate or judge of a court shall keep or cause to be kept a record of every traffic complaint, traffic citation, or other legal form of traffic charge deposited with or presented to said court or its traffic-violations bureau, and shall keep a record of every official action by said court or its traffic-violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, and the amount of fine or forfeiture resulting from every said traffic complaint or citation deposited with or presented to said court or traffic-violations bureau.

(b) Within 10 days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this act or other law regulating the operation of vehicles on highways every said magistrate of the court or clerk of the court of record in which such conviction was had or bail was forfeited shall prepare and immediately forward to the department an abstract of the record of said court covering the case in which said person was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any conviction involving the illegal parking or standing of a vehicle.

(c) Said abstract must be made upon a form furnished by the department and shall include the name and address of the party charged, the number, if any, of his operator's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail forfeited and the amount of the fine or forfeiture as the case may be.

(d) Every court of record shall also forward a like report to the department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(e) The failure, refusal, or neglect of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be ground for removal therefrom.

(f) The department shall keep all abstracts received hereunder at its main office and the same shall be open to public inspection during reasonable business hours. [Laws 1950 (1st S. S.), ch. 3, § 177.]

66-188. Uniformity of interpretation.—This act [§§ 66-151—66-189] shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. [Laws 1950 (1st S. S.), ch. 3, § 178.]

66-189. Short title.—This act [§§ 66-151—66-189] may be cited as the Uniform Act Regulating Traffic on Highways. [Laws 1950 (1st S. S.), ch. 3, § 179.]

Repeal.

Section 181 of Laws 1950 (1st S. S.), ch. 3 read: "Repeal.—All of article 1 of chapter 66, and all of sections 59-208, 66-203, 66-402, 66-403 and 66-405, Arizona Code Annotated, 1939, as amended, are hereby repealed and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed. This section does not negative an implied repeal of any statute which conflicts with this act."

sion of this act be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of the act are declared to be severable."

Time of Taking Effect.

Section 182 of Laws 1950 (1st S. S.), ch. 3 read: "Time of Taking Effect.—This act shall take effect from and after the first day of July, 1950."

Severability.

Section 180 of Laws 1950 (1st S. S.), ch. 3 read: "Severability.—If any provi-

66-190. Abandoned and seized motor vehicles.—Motor vehicles abandoned on the public highways of the state of Arizona or on the public roads, streets or other thoroughfares of any county or municipal corporation, or motor vehicles seized pursuant to law, and in the possession of the superintendent of the motor vehicle division of the state highway department, or the superintendent of the Arizona highway patrol of the Arizona state highway department, the sheriff of any county or the chief of police of any municipal corporation for more than sixty [60] days, where no claim for the return or possession thereof has been made or presented to the officer having possession thereof, shall be reported by such officer to the secretary of the state highway commission for the purpose of disposal by public auction and sale. [Laws 1952, ch. 24, § 1.]

Title of Act.

An act relating to the disposition of lost, abandoned or stolen motor vehicles; defining abandoned vehicles; providing

for notice of sale and disposition of proceeds arising therefrom; and providing for forfeiture of storage charges. [Laws 1952, ch. 24.]

66-191. Vehicles left unattended on public highways, roads and streets.—It shall be the duty of the patrol, the sheriff's department of each county and the police department of each municipal corporation to impound any motor vehicle which has been left unattended within the right-of-way of any highway, road, street or other thoroughfare for a

period of thirty-six [36] hours or longer. Evidence that a vehicle was left unattended for a period of thirty-six [36] hours within any right-of-way of any highway, road, street or other thoroughfare shall be prima facie evidence of abandonment. [Laws 1952, ch. 24, § 2.]

66-192. Notice of sale.—Personal notice of the secretary's intention to sell shall be given to the owner and any lien holder of record, when the records of the state highway department disclose the name and address of the owner and lien holder, by mailing such notice and registering the same and requesting a registry return receipt. In the event the owner and his address are unknown or the address of any lien holder is unknown and there appears to be a registered or legal ownership of said motor vehicle in another state, the secretary shall send notice of such intention to sell, to the agency of the state in which said motor vehicle is registered, by ordinary mail. If, at the expiration of thirty [30] days from the date of mailing notices of intention to sell the vehicle remains unclaimed, then the same may be sold by the secretary or his agent, at public auction, to the highest bidder, upon notice published in one issue of a paper of general circulation in the county in which such vehicle has been found abandoned or seized, such publication to describe the vehicle, and the owner's and lien holder's name, if known, and set forth the place, date and time at which such vehicle shall be put up for public auction, which date shall not be sooner than five [5] days following the date of publication. The purchaser shall be entitled to, and the superintendent of motor vehicles shall issue upon satisfactory evidence of compliance with the provisions of this act, a certificate of title. [Laws 1952, ch. 24, § 3.]

66-193. Cars left in storage may be sold at advertised sale.—Any vehicle left in a public garage or parking lot for storage more than thirty [30] days, where the same has not been left under a contract of storage and has not, during such period, been removed by the person leaving same, shall be an abandoned vehicle and shall be reported by the party in possession of the same to the secretary of the state highway commission. Any garage keeper failing to report such fact to the secretary of the state highway commission and tender delivery to him of such vehicle at the end of the succeeding thirty [30] days, shall thereby forfeit any claims for storage of such vehicle. All such vehicles considered abandoned by being left in a public garage or parking lot shall be disposed of in accordance with the procedure prescribed in section 3 [§ 66-192] for abandoned vehicles. [Laws 1952, ch. 24, § 4.]

66-194. Payment of storage.—Upon proof by the party in possession of an abandoned motor vehicle that notice of the abandonment has been given and tender of delivery of the same has been made at the time and in the manner as provided by law, such party shall be entitled to be paid for storage and such payment shall be a claim prior to the claims of all other lien holders; provided, however, said storage claim shall not impair any other lien or conditional sale of record at the time the notice required in section 4 [§ 66-193] is given to the secretary of the state highway commission. [Laws 1952, ch. 24, § 5.]

66-195. Disposition of proceeds of sale.—Any surplus accruing from said sale after deducting the costs arising from the sale of such vehicle, i. e., towing, storage, advertising and selling same, shall be held for the owner for a period of thirty [30] days and if not claimed by the expiration thereof shall be deposited; 1. with the state treasurer to the credit of the state highway fund, if custody of the motor vehicle was in the superintendent of the motor vehicle division, the superintendent of the highway patrol or the secretary of the state highway commission; 2. with the county treasurer, to the credit of the county general fund, if in the custody of the sheriff, or, 3. in the general fund of the municipality if in the custody of the chief of police. [Laws 1952, ch. 24, § 6.]

Severability.

Section 7 of Laws 1952, ch. 24 read: "Should any provision of this act be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of the act are declared to be severable."

Emergency.

Section 8 of Laws 1952, ch. 24 declared an emergency. Approved March 11, 1952.

ARTICLE 2—MOTOR VEHICLE DIVISION

SECTION.

66-207a. Vehicle identification number.
 66-208a. One number plate, tabs and windshield stickers.
 66-216—66-218. [Repealed.]
 66-225. Registration of vehicles of non-residents.
 66-233. [Repealed.]
 66-236. Operation without payment of registration fee.
 66-238—66-255. [Repealed.]
 66-261. Designation of state automobiles.
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66-273. Restricted licenses.
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SECTION.

66-289. Employing unlicensed chauffeur.
66-290. Renting motor vehicle to another.

SECTION.

66-291. Penalty for misdemeanor.
66-292. Uniformity of interpretation.
66-293. Short title.

66-201. Motor vehicle division.**Cross-Reference.**

Distribution of vehicle license tax, §§ 66-901—66-903.

Section to Section Reference.

Sections 66-201—66-257 are referred to in §§ 66-401, 66-1019, 66-1021.

Cost of License Plate Department.

In event money in special fund is insufficient to defray costs of license plate department for issuing registration certificates, collecting license fees and lieu tax, it is duty of the supervisors to provide the additional funds necessary. Board of Supervisors of Maricopa County v. Stanford, 70 Ariz. 277, 219 Pac. (2d) 769.

Handling of Funds.

Deposit of county's share of each registration fee in a separate and private bank account by the county assessor is

contrary to law. Board of Supervisors of Maricopa Co. v. Stanford, 70 Ariz. 277, 219 Pac. (2d) 769.

Officials.

The superintendent of motor vehicle division and the chief clerk of the motor vehicle division are officials within the meaning of compensation act excluding such from being insured in the compensation fund. Industrial Comm. v. Arizona State Highway Comm., 61 Ariz. 59, 145 Pac. (2d) 846.

Use of Fees.

The county assessor can, with approval of the supervisors, use all of the special fund provided in subsection (f) to defray the cost of operating his license plate department, if necessary. Board of Supervisors of Maricopa County v. Stanford, 70 Ariz. 277, 219 Pac. (2d) 769.

66-203. [Repealed.]**Compiler's Note.**

Section 66-203 (Laws 1927 (4th S. S.), ch. 2, subch. 3, § 7; R. C. 1928, § 1631)

was repealed by Laws 1950 (1st S. S.), ch. 3, § 181. For present law, see §§ 66-153r—66-153t.

66-204. Registration of motor vehicles.**Cross-Reference.**

Out-of-state vehicles hauling ore or strategic metals to government stock-

pile exempt from registration fee, see War Measure No. 1(B), Appx., Vol. 5.

66-207a. Vehicle identification number.—In lieu of the engine or serial number a motor vehicle may be registered and certificate of title issued by a vehicle identification number approved by the superintendent, and the provisions of sections 66-206 and 66-207 relating to engine or serial numbers, in so far as applicable, shall apply thereto. [Laws 1951, ch. 23, § 1.]

Title of Act.

An act relating to motor vehicles; providing for a vehicle identification

number, and amending article 2, chapter 66, Arizona Code of 1939, by adding section 66-207a. [Laws 1951, ch. 23.]

66-208. Number plates.**State-owned Vehicles.**

State-owned vehicle is entitled to be issued registration card and license plates without payment of auto lieu tax

under Const., art. 9, § 11. Brush v. State ex rel. Conway, 59 Ariz. 525, 130 Pac. (2d) 506.

66-208a. One number plate, tabs and windshield stickers.—When in the discretion of the superintendent, conditions and circumstances are such as to necessitate and warrant, the division may furnish one [1]

number plate in lieu of the two [2] number plates called for in section 66-208. The division may issue one [1] or more tabs or windshield stickers to indicate the year for which a plate is issued. The division may make appropriate rules and regulations for the use and display of such tabs or stickers or one plate. [Code 1939, § 66-208a as added by Laws 1951, ch. 56, § 1.]

Title of Act.

An act relating to vehicle number plates; providing for use of one number plate, and use of tabs or stickers for indicating year for which a plate is issued and amending article 2, chapter

66, Arizona Code of 1939, by adding section 66-208a. [Laws 1951, ch. 56.]

Emergency.

Section 2 of Laws 1951, ch. 56 declared an emergency. Approved March 14, 1951.

66-210. Certificate not to be renewed—Annual registration.

Extension of Time for Payment of Registration Fees.

Section 1 of Laws 1943, ch. 4, read: "The provisions of any law to the contrary notwithstanding, no motor vehicle registration fee for the year 1943 shall be deemed delinquent, or penalty col-

lected therefor, if paid on or before February 13, 1943."

Section 2 of said act declared an emergency and the act was approved February 1, 1943. While its provisions have now expired, it is printed here because of any possible prosecutions under the registration law.

66-211. Transfer of title and registration.

Bona Fide Purchaser.

When vendor relinquishes both possession of car and certificate of title, he can not recover the same from a third party purchaser for value without notice. *Kelsoe v. Grouskay*, 70 Ariz. 152, 217 Pac. (2d) 915.

the car. *Kelsoe v. Grouskay*, 70 Ariz. 152, 217 Pac. (2d) 915.

Purpose of Act.

Purpose of this statute is to prevent the sale of stolen or converted automobiles and that requirement that a certificate of title be passed with every transfer will tend greatly to promote the desired result is unquestioned. *Kelsoe v. Grouskay*, 70 Ariz. 152, 217 Pac. (2d) 915.

Endorsement in Blank.

The certificate of title may be endorsed in blank by the vendor and delivered to anyone to whom the purchaser may sell

66-216—66-218. [Repealed.]

Compiler's Note.

Sections 66-216—66-218 (Laws 1927 (4th S. S.), ch. 2, subch. 3, § 20, p. 33;

rev. R. C. 1928, §§ 1642—1642b; Laws 1937, ch. 67, §§ 14—16, p. 234) were repealed by Laws 1945, ch. 92, § 15.

66-225. Registration of vehicles of nonresidents.—(a) Except as hereinafter provided, every foreign vehicle owned by a nonresident and operated in the state for the transportation of passengers or property for compensation or in the business of a nonresident carried on in this state, or for the transportation of property, shall be registered and licensed in the same manner as is required in the case of motor vehicles, trailers or semi-trailers not theretofore registered or licensed.

(b) In case it is desired to operate any such vehicle in this state for a period not to exceed three [3] months in any registration year, if such vehicle is duly registered and licensed under the laws of any other state or country, the owner may make application to the vehicle division in the manner and form prescribed, for the registration and licensing of such vehicle for the period of time during which it is desired to operate the same in this state. The application shall be accompanied by an amount equal to one-tenth [1/10] of the full annual registration

vehicle for the current calendar year, by the state or country of which the owner is a resident, nor unless the permit prescribed by this subsection is displayed on the windshield of the vehicle in the manner prescribed by the division. Such permit shall be valid for the period for which the registration plate was issued by the state of which the owner is a resident. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 24, p. 33; rev., R. C. 1928, § 1646; Laws 1931, ch. 100, § 4, p. 265; 1931 (1st S. S.), ch. 14, § 1, p. 44; 1937, ch. 67, § 21, p. 234; 1951, ch. 113, § 1.]

Title of Act.

An act relating to motor vehicles; providing for the registration of vehicles of nonresidents, and amending section 66-225, Arizona Code of 1939. [Laws 1951, ch. 113.]

Amendment.

The 1951 amendment generally revised the provisions of subsections (c) and (d) and added subsection (e). For text before the amendment, see parent volume.

66-231. Liens and encumbrances.

Applicability.

This statute sets forth the modus operandi for registering motor vehicles, securing certificates of title, and establishing liens in Arizona by and for the

citizens of this state; it has no application to foreign liens or encumbrances. *Ragner v. General Motors Acceptance Corporation*, 66 Ariz. 157, 185 Pac. (2d) 525.

66-233. [Repealed.]

Compiler's Note.

This section (Laws 1927 (4th S. S.), ch. 2, subch. 3, § 28, p. 33; R. C. 1928,

§ 1650) was repealed by Laws 1951, ch. 115, § 41.

66-235. Official vehicles exempt from fees—Must be registered.

Cited:

Brush v. State ex rel. Conway, 59 Ariz. 525, 130 Pac. (2d) 506.

of the statute, yet, they are to be considered separately, and while a municipality is exempt from the former, the latter is imposed on vehicles owned by a municipality and used in transporting persons for hire. *Phoenix v. Bowles*, 65 Ariz. 315, 180 Pac. (2d) 222.

Application of Statute.

While unladen weight fees and registration fees are imposed by same section

66-236. Operation without payment of registration fee.—(a) Whenever any vehicle shall be operated upon any highway without payment of the registration or transfer fee, such fee shall be deemed delinquent, and if not paid within thirty [30] days after delinquency, a penalty equal to such fee shall be added thereto and collected; except that, during the year 1941, the penalty shall not be collected if the fee is paid on or before February 15, 1941. The fact of registration of a vehicle in the name of the applicant for the year immediately preceding the year for which application for registration is made shall be prima facie evidence that such vehicle has been operated on the highways during the year for which application for registration is made.

(b) The full annual registration and unladen weight fee, and any other required fee, together with the penalty prescribed in subsection (a), shall accompany any application for the registration of a vehicle, which is filed more than thirty [30] days subsequent to the date on which registration of such vehicle for the next preceding year expired; except, that if it shall be determined, upon hearing and proof satisfactory to the superintendent, that the vehicle was not operated on the highways of this state prior to the filing of said application and

and unladen weight fees applicable to the vehicle as prescribed by section 66-256, for each month or fraction thereof that the vehicle is to be so operated in this state. The minimum fee for such licensing and registration shall be three dollars fifty cents [\$3.50]. The vehicle division, if satisfied as to the facts stated in the application, shall register and license the vehicle for the period named and assign an appropriate certificate or license, which shall at all times be displayed upon the vehicle in the manner prescribed by the division, while the same is being operated or driven upon any highway of the state. If any such vehicle is operated in the state beyond the period for which such certificate or license is issued, the owner shall apply for and obtain the registration of the vehicle, and pay the fees for the remaining portion of the registration year.

(c) A nonresident owner of a foreign vehicle registered and licensed in a state adjoining Arizona, being used in this state for other than the transportation of passengers or property for compensation or in the business of a nonresident carried on in this state, shall not be required to pay the registration and unladen weight fees prescribed in section 66-256, provided the nonresident owner and vehicle are domiciled within twenty-five [25] miles of the Arizona border, and that the state in which the owner has his residence and in which such vehicle is registered exempts from the payment of registration and unladen fees like vehicles from this state.

(d) An owner seeking exemption as provided in subsection (c) shall apply to the motor vehicle division for a special registration permit, setting forth that the vehicle is to be used within this state for other than the transportation of passengers or property for compensation or in the business of a nonresident carried on in this state, and supplying such other information as the division may require, and shall make affidavit thereto. If satisfied that the applicant is entitled to exemption, the motor vehicle division shall issue a special permit to operate, which shall be distinctive in form, show the date issued, a brief description of the vehicle, and a statement that the owner has procured registration of such vehicle as a nonresident. Said permit shall be valid for the period for which the registration plate was issued by the state of which the owner is a resident.

(e) Every foreign vehicle owned by a nonresident and operated in this state other than for the transportation of passengers or property for compensation, or for the transportation of property, or in the business of a nonresident carried on in this state, shall be registered within ten [10] days after the beginning of operation in the state in like manner as vehicles owned by residents, and no fee shall be charged for such registration, nor shall any number plates be assigned to such vehicle, but the vehicle division shall issue to such nonresident owner a permit distinctive in form, containing the date issued, a brief description of the vehicle, and a statement that the owner has procured registration of the vehicle as a nonresident. No such nonresident owner shall operate any such vehicle upon the highways of this state, either before or while it is registered as provided in this section, unless there be displayed thereon the registration number plates assigned to the

the registration of said vehicle, such penalty over and above the regular fee or fees shall be refunded.

(c) Every registration or transfer fee and penalty added thereto shall constitute a lien upon the vehicle upon which the same are due, as and from the due date. The division shall collect such fee and penalty by seizure of such vehicle from the person in possession thereof, if any, and by sale as provided by law. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 32, p. 33; R. C. 1928, § 1653; Laws 1933, ch. 4, § 1, p. 5; 1933, ch. 26, § 1, p. 52; 1937, ch. 67, § 24, p. 234; 1941, ch. 3, § 1, p. 41.]

Title of Act.

An act relating to motor vehicles; prescribing a penalty for the operation thereof without payment of fees, and amending section 66-236, Arizona Code of 1939; and declaring an emergency. [Laws 1941, ch. 3.]

Amendment.

The 1941 amendment added the words which follow the semicolon in the first sentence, and substituted the words "prescribed in subsection (a)" for the words "herein provided" in the first clause of paragraph (b).

Emergency.

Section 2 of Laws 1941, ch. 3 declared an emergency. Approved January 24, 1941.

In General.

The term "any liens," as used in a contract whereby the plaintiff leased from the defendant motor busses wherein it was provided that the lessee should pay all costs and expenses incident to the operation of the busses and that the lessee should not suffer any liens to be imposed against such busses, would cover registration liens. *Phoenix v. Tanner*, 63 Ariz. 278, 161 Pac. (2d) 923.

66-238—66-247. [Repealed.]

Compiler's Note.

These sections (Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 33-45; R. C. 1928,

§§ 1654-1663) were repealed by Laws 1951, ch. 115, § 41.

66-248. [Repealed.]

Compiler's Note.

This section (Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 46, 47, p. 33; R. C. 1928, § 1664; Laws 1935, ch. 45, § 1, p.

165) was repealed by Laws 1951, ch. 122, § 36.

66-249—66-255. [Repealed.]

Compiler's Note.

These sections (Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 48-52; R. C. 1928,

§§ 1665-1671) were repealed by Laws 1951, ch. 115, § 41.

66-256. Fees—License tax on commercial vehicles.

Cross-Reference.

Out-of-state vehicles hauling ore or strategic metals to government stockpile exempt from unladen weight fee, see War Measure No. 1(B), Appx., Vol. 5.

of the statute, yet, they are to be considered separately and while a municipality is exempt from the former, the latter is imposed on vehicles owned by a municipality and used in transporting persons for hire. *Phoenix v. Bowles*, 65 Ariz. 315, 180 Pac. (2d) 222.

In General.

While unladen weight fees and registration fees are imposed by same section

66-261. Designation of state automobiles.—All automobiles the property of the state and operated by any officer, department or agency of the state or any employee of any such department or agency, shall bear the designation, in letters three [3] inches in height, painted on each side of the body thereof: "State of Arizona—(name of department or agency)." [Laws 1945 (1st S. S.), ch. 23, § 1, p. 540.]

66-262. Duty of highway department.—The state highway engineer shall adopt a uniform pattern for use in the designation of state automobiles, and it shall be the duty of the highway department to affix such designation, as provided by section 1 [§ 66-261]. Within thirty [30] days after this act takes effect the custodian of any state automobile shall present the same to the state highway department for such purpose. [Laws 1945 (1st S. S.), ch. 23, § 2, p. 540.]

66-263. Exemptions.—(a) The provisions of this act shall not apply to one automobile for the use of the governor.

(b) The head of any law enforcement department or agency having the power and duty to conduct investigations secret in character, may apply to the governor for the exemption from the provisions of this act of any automobile used in such service, stating the nature of the service, the license number of the automobile, and providing such other information as the governor may require, and the governor, in his discretion, may grant such exemption. [Laws 1945 (1st S. S.), ch. 23, § 3, p. 540.]

66-264. Penalty.—Failure to comply with any provision of this act is a misdemeanor. [Laws 1945 (1st S. S.), ch. 23, § 4, p. 540.]

66-265. [Motor vehicle licenses]—Definitions.—The following words and phrases when used in this act [§§ 66-265—66-293] shall, for the purpose of this act, unless the context otherwise requires, have the meanings respectively ascribed to them:

“commission” means the Arizona state highway commission;

“department” means the highway department of this state acting directly or through its duly authorized officers and agents;

“vehicle” means 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;

“motor vehicle” means every vehicle which is self-propelled;

“farm tractor” means every motor vehicle designed and used primarily as a farm implement of husbandry;

“school bus” means every motor vehicle owned by a public or governmental agency, or other institution, and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school;

“person” means every natural person, firm, copartnership, association, or corporation;

“operator” means every person, other than a chauffeur, who drives or is in actual physical control over a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle;

“chauffeur” means every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation;

"owner" means 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 purposes of this act;

"nonresident" means every person who is not a resident of this state;

"street" or "highway" means the entire width between the boundary lines of every way when any part thereof is open to the use of the public for purposes of vehicular travel;

"suspension" means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of such suspension;

"revocation" means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the department after the expiration of at least one [1] year after the date of revocation;

"cancellation" means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to such license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation. [Laws 1951, ch. 115, § 1.]

Title of Act.

An act relating to the licensing of persons operating motor vehicles; to make uniform the law prescribing the licensing of persons operating motor vehicles; providing for enforcement, defining crimes, and fixing penalties; repealing sections 66-233, 66-238 to 66-247 inclusive, and 66-249 to 66-255 inclusive, Arizona Code Annotated, 1939, and repealing all acts and parts of acts inconsistent with the provisions of this act. [Laws 1951, ch. 115.]

Comparative Legislation: Uniform Motor Vehicles Operators' and Chauffeurs' License Act:

Ark. Stat. 1947, §§ 75-301—75-348.
 Colo. Stat. 1935, ch. 16, §§ 121-157.
 Del. Rev. Code 1935, §§ 5539, 5539-5618.

Hawaii. Rev. Laws 1945, §§ 7301-7334.
 Idaho. Code 1947, §§ 49-301—49-350.
 Iowa. Code Ann., §§ 321.174-321.224.
 Kans. Gen. Stat. 1935 (Supp. 1947), §§ 8-234—8-271.
 Ky. Rev. Stat., §§ 186.010-186.990.
 Mich. Comp. Laws 1948, §§ 256.201-256.231.
 Mo. Stat. Ann., §§ 8443-8470.
 Nev. Comp. Laws 1929, §§ 4442-4442.51.
 N. Mex. Stat. 1941, §§ 68-301—68-330.
 Okla. Stat. Ann., Tit. 47, §§ 271-313.
 Ore. Comp. Laws, §§ 115-201—115-233.
 Tenn. Williams' Ann. Code, §§ 2715 (14)-2715(31).
 Utah. Code Ann. 1943, §§ 57-4-3—57-4-39.
 Va. Code 1942, §§ 2154(170)-2154(203).
 Wash. Rem. Rev. Stat., §§ 6312-1—6312-73.

66-266. Operators and chauffeurs must be licensed.—(a) No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid license as an operator or chauffeur under the provisions of this act. No person shall drive a motor vehicle as a chauffeur unless he holds a valid chauffeur's license.

(b) Any person holding a valid chauffeur's license hereunder need not procure an operator's license.

(c) Any person licensed as an operator or chauffeur hereunder may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations. [Laws 1951, ch. 115, § 2.]

66-266a. What persons are exempt from license.—The following persons are exempt from license hereunder:

1. Any person while operating a motor vehicle in the service of the armed forces of the United States;

2. Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway;

3. A nonresident who is at least sixteen [16] years of age and who has in his immediate possession a valid operator's license issued to him in his home state or country may operate a motor vehicle in this state only as an operator;

4. A nonresident who is at least eighteen [18] years of age and who has in his immediate possession a valid chauffeur's license issued to him in his home state or country may operate a motor vehicle in this state either as an operator or chauffeur subject to the age limits applicable to chauffeurs in this state except that any such person must be licensed as a chauffeur hereunder before accepting employment as a chauffeur from a resident of this state;

5. Any nonresident who is at least eighteen [18] years of age, whose home, state or country does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than ninety [90] days in any calendar year, if the motor vehicle so operated is duly registered in the home state or country of such nonresident. [Laws 1951, ch. 115, § 3.]

66-266b. What persons shall not be licensed.—The department shall not issue any license hereunder:

1. To any person, as an operator, who is under the age of sixteen [16] years, except that the department may issue a restricted license as hereinafter provided to any person who is at least fifteen [15] years of age;

2. To any person, as a chauffeur, who is under the age of eighteen [18] years;

3. To any person, as an operator or chauffeur, whose license has been suspended during such suspension, nor to any person whose license has been revoked, except as provided in section 26 [§ 66-281b];

4. To any person, as an operator or chauffeur, who is an habitual drunkard, or is addicted to the use of narcotic drugs;

5. To any person, as an operator or chauffeur, who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law;

6. To any person, as an operator or chauffeur, who is required by this act to take an examination, unless such person shall have successfully passed such examination;

7. To any person who is required under the provisions of the motor vehicle financial responsibility laws of this state to deposit proof of financial responsibility and who has not deposited such proof;

8. To any person when the department has good cause to believe that the operation of a motor vehicle on the highways by such person would be inimical to public safety or welfare. [Laws 1951, ch. 115, § 4.]

66-267. Classification of chauffeurs—Special restrictions.—(a) The department upon issuing a chauffeur's license shall indicate thereon the class of license so issued and shall appropriately examine each applicant according to the class of license applied for and may impose such rules and regulations for the exercise thereof as it may deem necessary for the safety and welfare of the traveling public.

(b) No person who is under the age of twenty-one [21] years shall drive any school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation nor in either event until he has been licensed as a chauffeur for either such purpose and the license so indicates. The department shall not issue a chauffeur's license for either such purpose unless the applicant has had at least one [1] year of driving experience prior thereto and has filed with the department one [1] or more certificates signed by a total of at least three [3] responsible people to whom he is well known certifying as to his good character and habits and the department is fully satisfied as to the applicant's competency and fitness to be so employed. [Laws 1951, ch. 115, § 5.]

66-268. Instruction permits and temporary licenses.—(a) Any person who is at least fifteen [15] years of age may apply to the department for an instruction permit. The department may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant while having such permit in his immediate possession to drive a motor vehicle upon the public highways for a period of sixty [60] days when accompanied by a licensed operator or chauffeur who is occupying a seat beside the driver, except in the event the permittee is operating a motorcycle. Any such instruction permit may be renewed or a new permit issued for an additional period of ninety [90] days.

(b) The department upon receiving proper application may in its discretion issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is enrolled in a driver training program approved by the department even though the applicant has not reached the legal age to be eligible for an operator's license. Such instruction permit shall entitle the permittee when he has such permit in his immediate possession to operate a motor vehicle only on a designated highway or within a designated area but only when approved instructor is occupying a seat beside the permittee.

(c) The department may in its discretion issue a temporary driver's permit to an applicant for an operator's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to such applicant's right to receive an operator's license. Such permit must be in his immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused. [Laws 1951, ch. 115, § 6.]

66-269. Application for license or instruction permit.—(a) Every application for an instruction permit or for an operator's or chauffeur's license shall be made upon a form furnished by the department. Every application shall be accompanied by a \$2.00 fee and payment of such fee shall entitle the applicant to not more than three [3] attempts to pass the examination within a period of six [6] months from the date of application.

(b) Every application shall state the full name, date of birth, sex, and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as an operator or chauffeur, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation, or refusal. [Laws 1951, ch. 115, § 7.]

66-269a. Applications of minors.—(a) The application of any person under the age of eighteen [18] years for an instruction permit or operator's license shall be signed and verified before a person authorized to administer oaths by both the father and mother of the applicant, if both are living and have custody of him, or in the event neither parent is living then by the person or guardian having such custody or by an employer of such minor, or in the event there is no guardian or employer then by other responsible person who is willing to assume the obligation imposed under this act upon a person signing the application of a minor.

(b) Any negligence or willful misconduct of a minor under the age of eighteen [18] years when driving a motor vehicle upon a highway shall be imputed to the person who has signed the application of such minor for a permit or license, which person shall be jointly and severally liable with such minor for any damage caused by such negligence or willful misconduct, except as otherwise provided in the next succeeding paragraph.

(c) In the event a minor deposits or there is deposited upon his behalf proof of financial responsibility in respect to the operation of a motor vehicle owned by him, or if not the owner of a motor vehicle, then with respect to the operation of any motor vehicle, in form and in amounts as required under the motor vehicle financial responsibility laws of this state, then the department may accept the application of such minor when signed by one [1] parent or guardian of such minor, and while such proof is maintained such parents or guardian shall not

be subject to the liability imposed under the preceding paragraph of this section. [Laws 1951, ch. 115, § 8.]

66-269b. Release from liability.—Any person who has signed the application of a minor for a license may thereafter file with the department a verified written request that the license of said minor so granted be cancelled. Thereupon the department shall cancel the license of said minor and the person who signed the application of such minor shall be relieved from the liability imposed under this act by reason of having signed such application on account of any subsequent negligence or willful misconduct of such minor in operating a motor vehicle. [Laws 1951, ch. 115, § 9.]

66-269c. Cancellation of license upon death of person signing minor's application.—The department upon receipt of satisfactory evidence of the death of the persons who signed the application of a minor for a license shall cancel such license and shall not issue a new license until such time as a new application, duly signed and verified, is made as required by this act. This provision shall not apply in the event the minor has attained the age of eighteen [18] years. [Laws 1951, ch. 115, § 10.]

66-270. Examination of applicants.—The department shall examine every applicant for an operator's or chauffeur's license, except as otherwise provided in this section. Such examination shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning, and directing traffic, his knowledge of the traffic laws of this state, and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle and such further physical and mental examination as the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways. The department shall make provision for giving an examination either in the county where the applicant resides or at a place adjacent thereto reasonably convenient to the applicant within not more than thirty [30] days from the date the application is received.

(b) Every chauffeur's license shall bear thereon a photograph of the licensee, which shall be furnished by him. [Laws 1951, ch. 115, § 11.]

66-271. Licenses issued to operators and chauffeurs.—(a) The department shall, upon payment of \$2.00 issue to every applicant qualifying therefor an operator's or chauffeur's license as applied for, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee. [Laws 1951, ch. 115, § 12.]

66-272. License to be carried and exhibited on demand.—Every licensee shall have his operator's or chauffeur's license in his immediate

possession at all times when operating a motor vehicle and shall display the same, upon demand of a justice of the peace, a police officer, or a field deputy or inspector of the department. However, no person charged with violating this section shall be convicted if he produces in court or the office of the arresting officer an operator's or chauffeur's license theretofore issued to him and valid at the time of his arrest. [Laws 1951, ch. 115, § 13.]

66-273. Restricted licenses.—(a) The department upon issuing an operator's or chauffeur's license shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee. The department furthermore shall have the authority to impose restrictions suitable to the licensee's driving ability with respect to areas, locations, highways within this state, or with respect to the time of day or night that the licensee shall be permitted to drive a motor vehicle or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(c) The department may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same but the licensee shall be entitled to a hearing as upon a suspension or revocation under this act.

(d) It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him. [Laws 1951, ch. 115, § 14.]

66-274. Duplicate certificates.—In the event that an instruction permit or operator's or chauffeur's license issued under the provisions of this act is lost or destroyed, the person to whom the same was issued may upon payment of fifty cents [50c] fee obtain a duplicate, or substitute thereof, upon furnishing proof satisfactory to the department that such permit or license has been lost or destroyed. [Laws 1951, ch. 115, § 15.]

66-275. Expiration of license.—(a) Every operator's license issued prior to July 1, 1951 shall expire on the birthday of the licensee in the year indicated in the following schedule:

1. Licenses issued prior to January 1, 1941 shall expire on the birthday of the licensee in the year 1952.

2. Licenses issued between December 31, 1940 and January 1, 1947 shall expire on the birthday of the licensee in the year 1953.

3. Licenses issued between December 31, 1946 and July 1, 1951 shall expire on the birthday of the licensee in the year 1954.

(b) Licenses issued as renewals of licenses expiring as hereinbefore provided, shall expire three [3] years from the licensee's birthday in the year in which the original license expired.

(c) Every original operator's license issued after June 30, 1951 shall expire on the birthday of the applicant three [3] years from the last previous birthday of applicant.

(d) Thereafter, all operators' licenses shall be renewed for a period of three [3] years from the expiration dates as hereinbefore established. Every license shall be renewable on or before its expiration, upon application and payment of the required fee. The department may require an examination of the applicant as upon original application.

(e) Every chauffeur's license issued prior to July 1, 1951 with an expiration date of December 31, 1951 is hereby extended to expire on the birthday of the licensee in 1952, provided the licensee's birthday is prior to July 1, 1952; also provided that if the birthday falls on a date between June 30, 1951 and January 1, 1952 the license shall expire on June 30, 1952. Licenses issued as renewals of chauffeurs' licenses hereinbefore mentioned, shall expire on the birthday of the licensee in the year 1953.

(f) Every chauffeur's license issued after June 30, 1951 shall expire on the birthday of the applicant two [2] years from the last previous birthday of the applicant. In no event shall any chauffeur's original or renewal license be issued for a period longer than two [2] years. Chauffeurs' licenses may be renewed within thirty [30] days prior to their expiration, upon payment of the fees as required by law. The department may require an examination of the applicant as upon an original application. [Laws 1951, ch. 115, § 16.]

66-276. Notice of change of address or name.—Whenever any person after applying for or receiving an operator's or chauffeur's license shall move from the address named in such application or in the license issued to him or when the name of a licensee is changed by marriage or otherwise such person shall within ten [10] days thereafter notify the department in writing of his old and new addresses or of such former and new names and of the number of any license then held by him. [Laws 1951, ch. 115, § 17.]

66-277. Records to be kept by the department.—(a) The department shall file every application for a license received by it and shall maintain suitable indexes containing, in alphabetical order:

1. All applications denied and on each thereof note the reasons for such denial;
2. All applications granted; and
3. The name of every licensee whose license has been suspended or revoked by the department and after each such name note the reasons for such action.

(b) The department shall also file all abstracts of court records of convictions received by it under the laws of this state and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents, in which he has been involved, shall be readily ascertainable and available for the consideration of the department upon any application for renewal of license and at other suitable times. [Laws 1951, ch. 115, § 18.]

66-278. Authority of department to cancel license.—(a) The department is hereby authorized to cancel any operator's or chauffeur's license upon determining that the licensee was not entitled to the issuance thereof hereunder or that said licensee failed to give the required or correct information in his application or committed any fraud in making such application.

(b) Upon such cancellation, the licensee must surrender the license so cancelled to the department. [Laws 1951, ch. 115, § 19.]

66-278a. Suspending privileges of nonresidents and reporting convictions.—(a) The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder shall be subject to suspension or revocation by the department in like manner and for like cause as an operator's or chauffeur's license issued hereunder may be suspended or revoked.

(b) The department is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident. [Laws 1951, ch. 115, § 20.]

66-278b. Suspending resident's license upon conviction in another state.—The department is authorized to suspend or revoke the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of such person in another state of an offense therein which, if committed in this state, would be grounds for the suspension or revocation of the license of an operator or chauffeur. [Laws 1951, ch. 115, § 21.]

66-279. When court to forward license to department and report convictions.—(a) Whenever any person is convicted of any offense for which this act makes mandatory the revocation of the operator's or chauffeur's license of such person by the department the court in which such conviction is had shall require the surrender to it of all operator's and chauffeur's licenses then held by the person so convicted and the court shall thereupon forward the same together with a record of such conviction to the department.

(b) Every court having jurisdiction over offenses committed under this act, or any other act of this state or municipal ordinance regulating the operation of motor vehicles on highways shall forward to the department a record of the conviction of any person in said court for a violation of any said laws other than regulations governing standing or parking, and may recommend the suspension of the operator's or chauffeur's license of the person so convicted.

(c) For the purposes of this act the term "conviction" shall mean a final conviction. Also, for the purposes of this act a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. [Laws 1951, ch. 115, § 22.]

66-280. Mandatory revocation of license by department.—The department shall, in addition to the grounds for mandatory revocation pro-

vided for in the uniform act regulating traffic on highways [§§ 66-151—66-189], forthwith revoke the license of any operator or chauffeur upon receiving a record of such operator's or chauffeur's conviction of any of the following offenses, when such conviction has become final:

1. Manslaughter resulting from the operation of a motor vehicle;
2. Driving a motor vehicle while under the influence of a narcotic drug;
3. Any felony in the commission of which a motor vehicle is used;
4. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;
5. Perjury or the making of a false affidavit or statement under oath to the department under this act or under any other law relating to the ownership or operation of motor vehicles;
6. Conviction, or forfeiture of bail not vacated, upon three [3] charges of reckless driving committed within a period of twelve [12] months. [Laws 1951, ch. 115, § 23.]

66-281. Authority of department to suspend or revoke license.—

(a) The department is hereby authorized to suspend the license of an operator or chauffeur without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

1. Has committed an offense for which mandatory revocation of license is required upon conviction;
2. Has been involved as a driver in any accident resulting in the death or personal injury of another or serious property damage;
3. Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;
4. Is an habitually reckless or negligent driver of a motor vehicle;
5. Is incompetent to drive a motor vehicle;
6. Has permitted an unlawful or fraudulent use of such license;
7. Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation.

(b) Upon suspending the license of any person as hereinbefore in this section authorized, the department shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing as early as practical within not to exceed twenty [20] days after receipt of such request in the county wherein the licensee resides unless the department and the licensee agree that such hearing may be held in some other county. Upon such hearing the commission or their duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the department shall either rescind its order of suspension or, good cause appearing therefor, may extend the suspension of such license or revoke such license. [Laws 1951, ch. 115, § 24.]

66-281a. Department may require reexamination.—The department having good cause to believe that a licensed operator or chauffeur is

incompetent or otherwise not qualified to be licensed, may upon written notice of at least five [5] days to the licensee require him to submit to an examination. Upon the conclusion of such examination the department shall take action as may be appropriate and may suspend or revoke the license of such person or permit him to retain such license, or may issue a license subject to restrictions as permitted under section 14 [§ 66-273]. Refusal or neglect of the licensee to submit to such examination shall be ground for suspension or revocation of his license. [Laws 1951, ch. 115, § 25.]

66-281b. Period of suspension or revocation.—(a) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than one [1] year, except as permitted under section 32 [§ 66-286].

(b) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of one [1] year from the date on which the revoked license was surrendered to and received by the department such person may make application for a new license as provided by law, but the department shall not then issue a new license unless and until it is satisfied after investigation of the character, habits, and driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. [Laws 1951, ch. 115, § 26.]

66-281c. Surrender and return of license.—The department upon suspending or revoking a license shall require that such license shall be surrendered to and be retained by the department except that at the end of the period of suspension such license so surrendered shall be returned to the licensee. [Laws 1951, ch. 115, § 27.]

66-282. No operation under foreign license during suspension or revocation in this state.—Any resident or nonresident whose operator's or chauffeur's license or right or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this act shall not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction, or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this act. [Laws 1951, ch. 115, § 28.]

66-283. Right of appeal to court.—Any person denied a license or whose license has been cancelled, suspended, or revoked by the department except where such cancellation or revocation is mandatory under the provisions of this act shall have the right to file a petition within thirty [30] days thereafter for a hearing in the matter in the superior court in the county wherein such person shall reside and such court is hereby vested with jurisdiction and it shall be its duty to set the matter for hearing upon thirty [30] days' written notice to the commission, and thereupon to take testimony and examine into the facts of the case and to determine whether the petitioner is entitled to a

license or is subject to suspension, cancellation, or revocation of license under the provision of this act. [Laws 1951, ch. 115, § 29.]

66-284. Unlawful use of license.—It is a misdemeanor for any person:

1. To display or cause or permit to be displayed or have in his possession any cancelled, revoked, suspended, fictitious, or fraudulently altered operator's or chauffeur's license;
2. To lend his operator's or chauffeur's license to any other person or knowingly permit the use thereof by another;
3. To display or represent as one's own any operator's or chauffeur's license not issued to him;
4. To fail or refuse to surrender to the department upon its lawful demand any operator's or chauffeur's license which has been suspended, revoked, or cancelled;
5. To use a false or fictitious name in any application for an operator's or chauffeur's license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application;
6. To permit any unlawful use of an operator's or chauffeur's license issued to him; or
7. To do any act forbidden or fail to perform any act required by this act. [Laws 1951, ch. 115, § 30.]

66-285. Making false affidavit perjury.—Any person who makes any false affidavit, or knowingly swears or affirms falsely to any matter or thing required by the terms of this act to be sworn to or affirmed, is guilty of perjury and upon conviction shall be punishable by fine or imprisonment as other persons committing perjury are punishable. [Laws 1951, ch. 151, § 31.]

66-286. Driving while license suspended or revoked.—(a) Any person who drives a motor vehicle on any public highway of this state at a time when his privilege so to do is suspended or revoked shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not less than two [2] days nor more than six [6] months and there may be imposed in addition thereto a fine of not more than \$300.00.

(b) The department upon receiving a record of the conviction of any person under this section upon a charge of driving a vehicle while the license of such person was suspended shall extend the period of such suspension for an additional like period and if the conviction was upon a charge of driving while a license was revoked the department shall not issue a new license for an additional period of one [1] year from and after the date such person would otherwise have been entitled to apply for a new license. [Laws 1951, ch. 115, § 32.]

66-287. Permitting unauthorized minor to drive.—No person shall cause or knowingly permit his child or ward under the age of eighteen [18] years to drive a motor vehicle upon any highway when such minor is not authorized hereunder or in violation of any of the provisions of this act. [Laws 1951, ch. 115, § 33.]

66-288. Permitting unauthorized person to drive.—No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized hereunder or in violation of any of the provisions of this act. [Laws 1951, ch. 115, § 34.]

66-289. Employing unlicensed chauffeur.—No person shall employ as a chauffeur of a motor vehicle any person not then licensed as provided in this act. [Laws 1951, ch. 115, § 35.]

66-290. Renting motor vehicle to another.—(a) No person shall rent a motor vehicle to any other person unless the latter person is then duly licensed hereunder or, in the case of a nonresident, then duly licensed under the laws of the state or country of his residence except a nonresident whose home state or country does not require that an operator be licensed.

(b) No person shall rent a motor vehicle to another until he has inspected the operator's or chauffeur's license of the person to whom the vehicle is to be rented and compared and verified the signature thereon with the signature of such person written in his presence.

(c) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person and the date and place when and where said license was issued. Such record shall be open to inspection by any police officer or officers or employee of the department. [Laws 1951, ch. 115, § 36.]

66-291. Penalty for misdemeanor.—(a) It is 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 misdemeanor for the violation of any provisions of this act shall be punished by a fine of not more than \$300.00 or by imprisonment for not more than six [6] months, or by both such fine and imprisonment. [Laws 1951, ch. 115, § 37.]

66-292. Uniformity of interpretation.—This act [§§ 66-265—66-293] shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. [Laws 1951, ch. 115, § 38.]

66-293. Short title.—This act [§§ 66-265—66-293] may be cited as the uniform motor vehicle operator's and chauffeur's license act. [Laws 1951, ch. 115, § 39.]

Repeal.

Section 41 of Laws 1951, ch. 115 read: "Repeal.—Sections 66-233, 66-238 to 66-247 inclusive, and 66-249 to 66-255 inclusive, Arizona Code Annotated, 1939, are repealed, and all acts and parts of acts inconsistent with the provision of this act are repealed."

Severability.

Section 40 of Laws 1951, ch. 115 read: "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 re-

maining parts of this act if it had known that such part or parts thereof would be declared unconstitutional."

Effective Date.

Section 42 of Laws 1951, ch. 115 read: "Time of taking effect.—This act shall take effect from and after the first day of July, 1951."

ARTICLE 3—MOTOR VEHICLE FUEL TAX

SECTION.

66-301. Amount of tax—When payable—Distribution.

66-304. Reports of distributors.

66-306. Penalty for failure to report or pay taxes promptly—Transmittal through United States mail—Effective date.

SECTION.

66-308. Report from persons not distributors—Contents—Penalty for failure to submit report.

66-318. License tax exemptions.

66-320. Refund on fuel exported or not used in vehicle.

66-323. Tax on fuel imported in fuel tank.

66-301. Amount of tax—When payable—Distribution.—Every distributor shall pay to the state, in addition to all other taxes provided by law, a license tax of five cents [5c] for each gallon of motor vehicle fuel possessed, refined, manufactured, produced, blended or compounded in this state by such distributor, or imported by such distributor, whether in the original package or container in which it was imported, or otherwise. The payment of the tax herein imposed shall not be required on any motor vehicle fuel possessed at the time this law becomes effective, and upon which a tax has been paid to the state under the provisions of chapter 31, Revised Code of 1928, and amendments thereto. In the computation of such tax, one [1] per cent of the tax otherwise due shall be deducted before payment for shrinkage. Such license tax accrued in any calendar month shall be paid on or before the twenty-fifth day of the next succeeding calendar month to the vehicle superintendent, who shall promptly pay seven-tenths of all such money to the state treasurer, who shall deposit the same in the state highway fund. The remaining three-tenths thereof shall be paid by the vehicle superintendent to the several county treasurers of the state in the proportion that the sale of motor vehicle fuel in such county shall bear to the total sales of motor vehicle fuel throughout the state, two-thirds of which shall be retained by the counties for the purposes hereinafter set forth, and the balance forthwith paid by each of the county treasurers to the several incorporated cities and towns within the boundaries of such county in proportion to their population as shown by the most recent United States census. In the event there be no incorporated city or town in a county, the amount allocated thereto shall revert to such county for the purposes provided herein. Such tax accruing to the incorporated cities and towns shall be used by them as may be determined by the governing bodies thereof solely for the improvement, construction, reconstruction or maintenance of municipal streets and highways and administrative expenses in connection therewith, including the retirement of bonds issued after the effective date of this act for the payment of which such revenues have been pledged, and for no other purposes. Such tax so accruing to the incorporated cities and towns shall be kept in a separate fund and may be allowed to accumulate from year to year and shall not be subject to the provisions of article V of chapter 73, Arizona Code 1939, as amended. Such tax

accruing to the counties shall be used by the counties as may be determined by the boards of supervisors thereof, for the construction, improvement, or maintenance of county highways or bridges, or for the retirement of outstanding county highway bonds, or the payment of interest thereon. The vehicle superintendent shall deduct all exemptions and refunds from said tax before making the division between the state and counties. [Laws 1927 (4th S. S.), ch. 2, subd. 3, §§ 58, 60, 61, 67, p. 33; cons. & rev., R. C. 1928, § 1673; Laws 1931 (1st S. S.), ch. 16, § 1, p. 50; 1933, ch. 27, § 2, p. 53; 1943, ch. 43, § 1, p. 90; Initiative Measure, 1946, § 1.]

Compiler's Note.

The 1946 amendment was initiated by the people and adopted by a vote of 47,069 for and 45,975 against at the general election held Nov. 5, 1946.

Title of Act.

An act relating to motor vehicle fuel tax; fixing the tax and the distribution and use thereof; amending section 66-301 of the Arizona Code 1939, as amended, (Laws 1927 (4th S. S.), ch. 2, subd. 3, §§ 58, 60, 61, 67, p. 33; cons. & rev., R. C. 1928, § 1673; Laws 1931 (1st S. S.), ch. 16, § 1, p. 50; 1933, ch. 27, § 2, p. 53; 1943, ch. 43, § 1, p. 90). [Initiative Measure, 1946, § 1.]

Amendments.

The 1943 amendment substituted the words "twenty-fifth day" in the fourth sentence for the words "fifteenth day."

The Initiative Measure of 1946 changed the amount of tax to be paid over to the state treasurer from "six tenths" to "~~seven tenths~~" of the amount collected and substituted the material following the clause "who shall deposit the same in the state highway fund" up to the second sentence from the end of the section for the following provisions: "and three tenths of all such money to the several county treasurers of the state, in the proportion that the sales of motor vehicle fuel in such county shall bear to the total sales of motor vehicle fuel throughout the state, and one tenth of all such money, during the ensuing two [2] years, to a reconstruction finance corporation fund to be expended under the governor's direction, and thereafter

66-304. Reports of distributors.—On or before the twenty-fifth day of each and every month, every distributor shall file with the vehicle superintendent, on forms prescribed and furnished by said superintendent, a true and verified statement showing the total number of gallons of motor vehicle fuel refined, manufactured, produced, blended, compounded, imported or acquired during the preceding calendar month, the number of gallons of motor vehicle fuel sold or otherwise disposed of by him for use in each of the several counties of this state, and such other and further data or information as said superintendent may require.

to the state highway fund; provided, however, that prior to July 1, 1933, the proportion of said tax distributed to the state shall be three-fifths thereof, and the proportion of said tax distributed to the counties shall be two-fifths thereof."

Section to Section Reference.

Sections 66-301—66-325 are referred to in §§ 66-401, 66-1002, 66-1027.

Application of Statute.

Where distributor mailed check in the amount of tax due, and due to unforeseen events the remittance arrived at the office of the superintendent one day late and was accepted, the superintendent was not entitled to assess the statutory penalty for delayed payment. *General Petroleum Corp. v. Smith*, 62 Ariz. 239, 157 Pac. (2d) 356, 158 A. L. R. 364.

Construction.

The provisions of the Motor Vehicle Fuel Tax Act, like every other law of Arizona, must be considered and measured by the rule of statutory construction provided by the legislature in § 1-101 of the statutes. *General Petroleum Corp. v. Smith*, 62 Ariz. 239, 157 Pac. (2d) 356, 158 A. L. R. 364.

A distributor is, for practical purposes, an agent of the state for the purpose of collecting the fuel tax, and it was never intended by the legislature that he be penalized for delay in payment of the tax where the same is occasioned by conditions wholly beyond his control. *General Petroleum Corp. v. Smith*, 62 Ariz. 239, 157 Pac. (2d) 356, 158 A. L. R. 364.

Section 115 read:
This act shall
take effect after the first day

IX

Persons not dis-
Contents—Penalty
to submit report.
exemptions.

Fuel exported or not
vehicle.

Fuel imported in fuel

ion.—Every dis-
tributer shall pro-
vide for the im-
provement of motor
vehicle fuel tax, one [1]
gallon of motor
fuel sold or other-
wise disposed of by
him for use in each
of the several coun-
ties of this state,
and such other and
further data or in-
formation as said
superintendent may
require.

Every distributor shall, in addition to making the foregoing report, forthwith, upon receipt of any interstate shipment of motor vehicle fuel, report to the vehicle superintendent, on forms prescribed and furnished by him, the quantity and particular description of such fuel received, the name of the consignor, the date shipped, the date received, how shipped, and such other information in respect thereto as the vehicle superintendent may require. [R. C. 1928, § 1673c as added by Laws 1931 (1st S. S.), ch. 16, § 1, p. 50; 1935, ch. 70, § 1, p. 289; 1943, ch. 43, § 2, p. 90.]

Amendment.

The 1943 amendment substituted the words "twenty-fifth day" for the words "fifteenth day."

66-306. Penalty for failure to report or pay taxes promptly—Transmittal through United States mail—Effective date.—(a) When any distributor shall fail to submit his monthly report to the vehicle superintendent on or before the twenty-fifth of the month or when such distributor fails to submit the data or information required under the provisions of this article in such monthly report, or when such distributor shall fail to pay the amount of taxes due this state when the same shall be payable, a penalty of twenty-five per cent [25%] shall be added to the amount of the tax due and said penalty of 25% shall immediately accrue, and thereafter said tax and penalty shall bear interest at the rate of seven per cent [7%] per annum until the same is paid.

(b) If a report or remittance to cover a payment required by law to be filed with or made to the vehicle superintendent under this article 3 is transmitted through the United States mail and is not received by the vehicle superintendent until after the date upon which such report is required to be filed or such payment was required to be made, and if the envelope in which such report or remittance is enclosed bears a post office cancellation mark dated on or prior to the date upon which such report was required to be filed or such payment was required to be made, the vehicle superintendent, upon receipt thereof, shall treat the report or remittance as if it had been received on the date upon which such report was required to be filed or such payment was required to be made. [R. C. 1928, § 1674a as added by Laws 1931 (1st S. S.), ch. 16, § 1, p. 50; 1943, ch. 43, § 3, p. 90.]

Amendment.

The 1943 amendment substituted the words "on or before the twenty-fifth" in the first sentence for the words "by the fifteenth"; and added subsection (b).

Construction.

It is apparent that this section, added to § 66-306, was intended by the legislature to avoid any hardship or injustice in the application of the law, and since an ambiguity exists when both sections are considered, the court may look to the

subsequent change by the legislature in support of its own view of the prior. *General Petroleum Corp. v. Smith*, 62 Ariz. 239, 157 Pac. (2d) 356, 158 A. L. R. 364.

Purpose.

The penalty herein provided is not intended as a punishment or for the purposes of securing additional revenue but its purpose is to secure compliance. *General Petroleum Corp. v. Smith*, 62 Ariz. 239, 157 Pac. (2d) 356, 158 A. L. R. 364.

66-308. Report from persons not distributors—Contents—Penalty for failure to submit report.—Every person purchasing or otherwise

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be fine first of sequen ch. 16,

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acquiring motor vehicle fuel in tank car or cargo lots and selling, using or otherwise disposing of the same for delivery in this state not required by the provisions of this article to be licensed as a distributor in motor vehicle fuel, shall file a statement with the vehicle superintendent setting forth the name under which such person is transacting business within this state, the location with street number address of such person's principal office or place of business within this state, the name and address of the owner, or the names and addresses of the partners if such person is a partnership, or the names and addresses of the principal officers if such person is a corporation or association, and, on or before the twenty-fifth day of each calendar month, such person shall, on forms prescribed by the vehicle superintendent, report to said superintendent all purchases or other acquisition and sales or other disposition of motor vehicle fuel during the next preceding calendar month, giving a record of each tank car or cargo lot delivered to a point within this state. Such report shall set forth from whom each tank car or cargo lot was purchased or otherwise acquired, point of shipment, to whom sold or shipped, point of delivery [,] date of shipment, the name of the carrier, the initials and number of the car, and the number of gallons contained in such tank car, if shipped by rail, and if shipped by truck, the motor number, serial number and license number of said truck, together with the number of gallons, and shall contain any other additional information the superintendent may require relative to such motor vehicle fuel.

Every person hereinabove referred to shall, in addition to making the foregoing monthly report, forthwith, upon receipt of any interstate shipment of motor vehicle fuel, report such shipment to the vehicle superintendent upon forms prescribed and furnished by him showing the quantity and particular description of such fuel received, the name of the consignor, the name and address of the consignee, how transported and the name of the carrier, the destination of such shipment, the date received and such other information as the vehicle superintendent may require.

When any person, not required by the provisions of this article to register as a distributor of motor vehicle fuel, purchasing or otherwise acquiring motor vehicle fuel in tank car or cargo lots and selling or otherwise disposing of the same for delivery in this state, shall fail to submit his monthly report to the vehicle superintendent on or before the twenty-fifth of the month following the month for which the report is made, or when such person shall fail to submit in such monthly report the data required by this article, or forthwith report the receipt of each interstate shipment of motor vehicle fuel as required by this section, such person shall be guilty of a misdemeanor and shall be fined an amount not greater than one hundred dollars [\$100] for the first offense nor more than one thousand dollars [\$1,000] for each subsequent offense. [R. C. 1928, § 1674c as added by Laws 1931 (1st S. S.), ch. 16, § 1, p. 50; 1935, ch. 70, § 2, p. 289; 1943, ch. 43, § 4, p. 90.]

Amendment.

The 1943 amendment substituted the word "twenty-fifth" for the word "fifteenth" in the first and third paragraphs.

Emergency.

Section 5 of Laws 1943, ch. 43 declared an emergency. Approved March 12, 1943.

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—Penalty
otherwise

66-318. License tax exemptions.—Motor vehicle fuel in interstate or foreign commerce, not destined or diverted to a point within this state, or motor vehicle fuel sold to the United States armed forces for use in ships or aircraft, or for use outside this state shall not be subject to the payment of license taxes required in this article. [R. C. 1928, § 1677a as added by Laws 1931 (1st S. S.), ch. 16, § 1, p. 50; Laws 1952, ch. 51, § 1.]

Title of Act.

An act relating to motor fuel tax exemption, and amending section 66-318, Arizona Code of 1939. [Laws 1952, ch. 51.]

Amendment.

The 1952 amendment substituted the words "armed forces for use in ships or aircraft, or for use outside this state" for the words "or any department thereof for the official use of such department."

66-320. Refund on fuel exported or not used in vehicle.—(a) When motor vehicle fuel is sold to a person who claims that he will be entitled to a refund of the tax hereunder, by reason of the fact that the motor vehicle fuel is not for use in a motor vehicle, the seller shall make out in triplicate, on a form prescribed by the superintendent, an invoice setting forth the name and address of the purchaser, the number of gallons of motor vehicle fuel so sold, and such other information as the superintendent shall require. When the claim that the tax is refundable is based upon the fact that the motor vehicle fuel was used in aircraft, that fact shall be stated on the invoice. The seller shall give the original of the invoice to the purchaser, at the time of sale, and shall mail the duplicate to the superintendent not later than Tuesday of the week next succeeding the sale. Any person entitled to a refund of the motor vehicle fuel tax shall be reimbursed under the following conditions:

1. Application for refund shall be filed with the superintendent within six [6] months from the date of purchase or invoice of the motor vehicle fuel with respect to which refund is claimed, and not thereafter.

2. The application shall be in the form prescribed and furnished by the superintendent, shall be sworn to, and shall state the quantity of motor vehicle fuel with respect to which refund is claimed, the purpose for which used, the date of purchase, and from whom purchased, and shall contain such other information as the superintendent shall require. No fee shall be charged or collected for taking the acknowledgment of an applicant for refund of the license tax on any motor vehicle fuel. The original invoice or an acceptable duplicate showing the purchase shall accompany the application.

3. In the case of a claim for refund on account of motor vehicle fuel exported, the claimant shall make satisfactory proof of export to the superintendent and shall file the claim within three [3] months from the date of export. The claim shall be in such form and contain such information as the superintendent may require. The original invoice or an acceptable duplicate shall accompany the claim.

4. Any person or distributor at the time he delivers motor vehicle fuel which will not be used on the highways, shall color such fuel so delivered with a coloring matter to be prescribed and furnished by the superintendent in the manner prescribed by the superintendent. No charge shall be made for such coloring matter. The seller and buyer shall at the time of delivery of such fuel sign the invoice provided for in this act certifying that the fuel covered by such invoice has been colored. Provided, however, the superintendent may in his discretion in writing exempt the coloring of any fuel which coloring may detract from its use and provided further that motor vehicle fuel to be exported shall be exempt from coloring. It shall be unlawful for any person to operate a motor vehicle on the highways using motor vehicle fuel which has been colored as provided and the superintendent or his authorized agents shall have the right to take samples of fuel from fuel tanks of motor vehicles in the enforcement of these provisions. Any person who violates any of these provisions, in addition to other penalties prescribed by law, shall not be allowed any refund on any motor vehicle fuel purchased during the six [6] months succeeding the date the superintendent advises such person by mail of the superintendent's discovery of such offense. Any person whose right to refunds is so suspended may institute an action in the superior court of Maricopa County to set aside such suspension.

(b) The conditions set forth in subsection (a) having been fully complied with, the superintendent shall determine the amount of refund due and shall certify and refund that amount.

(c) In the case of sales of motor vehicle fuel upon invoices stating that such fuel was used in aircraft, if applications for refund of the taxes upon such sales be not filed within the time provided in this section, then the superintendent shall determine from the copies of the invoices received by him under the provisions of subsection (a) of this section the amount of such unclaimed and unrefunded taxes, and shall transmit such unclaimed and unrefunded taxes to the state treasurer, to be by him credited to the state aviation fund established by chapter 45, session laws of Arizona, 1950, first special session [§§ 48-144-48-148]. [R. C. 1928, § 1677c; Laws 1931 (1st S. S.), ch. 16, § 1, p. 50; 1933, ch. 11, § 1, p. 12; 1941, ch. 109, § 1, p. 230; 1943, ch. 441, § 1, p. 94; 1952, ch. 142, § 1.]

Title of Acts.

An act relating to highways and motor vehicles; providing for refunds of fuel tax and payment of the tax on fuel imported in fuel tanks and defining terms, and amending sections 66-320, 66-323, and 66-401, Arizona Code of 1939. [Laws 1941, ch. 109.]

An act relating to the refund of motor vehicle fuel taxes, and amending section 66-320, Arizona Code of 1939. [Laws 1952, ch. 142.]

Amendments.

The 1941 amendment substituted paragraph 4, subsection (a), for a provision in the prior law which read as follows:

"(d) Any person or distributor selling kerosene in quantities not to exceed five [5] gallons at any one sale shall collect no license tax thereon, but at the time of such sale the purchaser shall execute a receipt for such kerosene, in triplicate, on a form prescribed by the superintendent, and the seller shall be entitled to a refund of the tax paid by him on such kerosene upon application therefor and filing with the superintendent the original of said receipt. The duplicate receipt shall be mailed to the superintendent by the seller not later than the Tuesday of the week next succeeding the sale. The triplicate shall be retained by the seller for a period of two [2] years." Other

changes in phraseology were made without changing the substance of the section.

The 1943 amendment substituted the words "three months" for the words "thirty days" in paragraph 3 of subsection (a).

The 1952 amendment inserted the second sentence in subsection (a), substituted "The seller" for "He" at the

66-323. Tax on fuel imported in fuel tank.—Any owner or operator of a motor vehicle who imports motor vehicle fuel into this state in the fuel tank or tanks of a motor vehicle in a quantity exceeding the capacity of the fuel tank or tanks of that vehicle, according to the manufacturer's stock specifications thereof, shall, upon demand of the superintendent or his authorized agent, pay to the superintendent or his agent on such excess motor vehicle fuel the license tax required to be paid by distributors. Any person who violates any provision of this section is guilty of a misdemeanor. [R. C. 1928, § 1678b as added by Laws 1931 (1st S. S.), ch. 16, § 1, p. 50; 1933, ch. 80, § 1, p. 321; 1941, ch. 109, § 2, p. 230.]

Compiler's Note.

Section 3 of Laws 1941, ch. 109 is compiled herein as § 66-401.

Amendment.

The 1941 amendment substituted the word "imports" for the words "shall import," the words "a motor vehicle" for the words "or in any other container in or drawn by such vehicle," the word "that" for the word "such" after the words "tanks of," and deleted the word "vehicle" before the word "superintend-

beginning of the third sentence of subsection (a) and added subsection (c).

Emergencies.

Section 2 of Laws 1943, ch. 44 declared an emergency. Approved March 12, 1943.

Section 2 of Laws 1952, ch. 142 declared an emergency. Approved March 26, 1952.

ent" and the word "duly" before the word "authorized" in the first sentence. In the second sentence the word "violates" was substituted for the word "violating," the words "any provision" were substituted for the words "the provisions" and the word "is" was substituted for the words "shall be."

Section to Section Reference.

This section is referred to in § 66-1002.

ARTICLE 4—DEFINITIONS AND PENALTIES

SECTION.

66-401. Definitions.
66-401a. Resident.

SECTION.

66-402—66-403. [Repealed.]
66-405. [Repealed.]

66-401. Definitions.—In this article, and in section 47-125 to 47-127, inclusive, articles 1, 2 and 3, chapter 59, and articles 1, 2 and 3 of this chapter [§§ 59-101—59-312, 66-201—66-264, 66-301—66-325] (articles 1 to 6, inclusive, and articles 8 and 9, Revised Code of 1928), unless the context otherwise requires:

"Department" means Arizona highway department;

"Commission" means state highway commission;

"State engineer" means state highway engineer;

"Vehicle division" means division of motor vehicles of the department;

"Vehicle superintendent" or "superintendent" means superintendent of vehicle division;

"Board" means any county board of supervisors;

"Local authority" means any county, municipal, or other local board or body having authority of law to adopt local police regulations;

"State route" means any right of way, whether actually used as a

highway or not construction of

"State highway" and designated state;

"County highway" maintained by a county

"Highway" means use of the public travel, and including bankments, reticulations, same and within

"Improved highway" or asphaltic highway not less than 18 inches sand, or grave natural soil;

"Private road" means grounds not open to travel;

"Right of way" means highways;

"Intersection" means the lateral curl or more highway one crosses the

"Safety zone" means highway for travel marked or indicated times when set

"Business district" means when fifty [50] of one-fourth business;

"Resident district" means comprising a block of one-fourth dwellings and

"Vehicle" means property is or but does not include upon stationary laws relating bicycle or riding

"Motor vehicle" means poses of the license fuel the term state which is

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highway or not, designated by the commission as a location for the construction of a state highway;

"State highway" means any state route, or portion thereof, accepted and designated by the commission as such, and maintained by the state;

"County highway" means any public road constructed and maintained by a county;

"Highway" means any way, road, or place of any nature open to the use of the public as a matter of right for the purpose of vehicular travel, and includes culverts, sluices, drains, ditches, waterways, embankments, retaining walls, trees, shrubs, and fences along or upon the same and within the right of way;

"Improved highway" means a highway paved with cement concrete or asphaltic concrete, or having a hard surface and distinct roadway not less than four [4] inches thick, made up of a mixture of rock, sand, or gravel, bound together by an artificial binder other than natural soil;

"Private road or driveway" means any road or driveway upon private grounds not open to the use of the public for purposes of vehicular travel;

"Right of way" means the privilege of the immediate use of the highways;

"Intersection" means the area embraced within the prolongation of the lateral curb lines or, if none, the lateral boundary lines of two [2] or more highways which join one another at an angle, whether or not one crosses the other;

"Safety zone" means 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 when set apart as a safety zone;

"Business district" means the territory contiguous to a highway when fifty [50] per cent or more of the frontage thereon, for a distance of one-fourth of a mile or more, is occupied by buildings in use for business;

"Resident district" means the territory contiguous to a highway not comprising a business district when the frontage thereon, for a distance of one-fourth of a mile or more, is mainly occupied by dwellings, or by dwellings and buildings in use for business;

"Vehicle" means any device in, upon, or by which any person or property is or may be transported or drawn upon a public highway; but does not include devices moved by human power or used exclusively upon stationary rails or tracks, except that, for the purposes of the laws relating to the operation of vehicles and rules of the road, a bicycle or ridden animal shall be deemed to be a vehicle;

"Motor vehicle" means any self-propelled vehicle, but for the purposes of the laws relating to the imposition of a tax upon motor vehicle fuel the term means any vehicle operated upon the highways of this state which is propelled by the use of motor vehicle fuel;

"Motorcycle" means any motor vehicle designed to travel on not more than three [3] wheels in contact with the ground, but does not

include any vehicle included within the definition of "tractor" in this section;

"Truck" means any motor vehicle designed or used primarily for the carriage of property other than the effects of the driver or passengers, and includes a motor vehicle to which has been added a box, platform, or other equipment for such carriage;

"Truck tractor" means any motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load so drawn;

"Farm tractor" means any motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry;

"Road tractor" means any motor vehicle designed and used for drawing other vehicles and not so constructed as to carry a load independently, or any part of the weight of a vehicle or load so drawn:

"Trailer" means any vehicle without motive power, designed for carrying property or passengers wholly on its own structure, and for being drawn by a motor vehicle;

"Semi-trailer" means any vehicle of the trailer type used in conjunction with a motor vehicle, and so designed that some part of its own weight and that of its own load rests upon or is carried by another vehicle;

"Specially constructed vehicle" means any vehicle not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles;

"Essential parts" means integral and body parts, the removal, alteration, or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle;

"Reconstructed vehicle" means any vehicle which has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models, and types, or which, if originally otherwise constructed, has 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;

"Foreign vehicle" means any motor vehicle, trailer, or semi-trailer 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;

"Pneumatic tire" means any tire inflated with compressed air;

"Solid rubber tire" means any tire made of rubber other than a pneumatic tire;

"Metal tire" means any tire the surface of which in contact with the highway is wholly or partly of metal or other hard, non-resilient material;

"Owner" means a person who holds the legal title to a vehicle; and if the vehicle is the subject of a lease or agreement for the conditional sale 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 if the mortgagor of a vehicle is entitled to possession, such lessee, conditional vendee, or mortgagor shall be deemed the owner;

"Dealer" means any person engaged in the business of buying, selling, or exchanging motor vehicles, trailers, or semi-trailers, and having an established place of business;

"Manufacturer" means any person engaged in the business of manufacturing motor vehicles, trailers, or semi-trailers;

"Distributor" means any person who refines, manufactures, produces, compounds, blends, or imports motor vehicle fuel in the original package or container or otherwise, and includes every person importing motor vehicle fuel by means of a pipe line or in any other manner, but does not include persons importing motor vehicle fuel in the fuel tank of a motor vehicle;

"Operator" means any person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway;

"Chauffeur" means any person who operates a motor vehicle while in use as a public or common carrier, or any person who, in the course of his employment, drives a vehicle of which he is not the owner for the purpose of transportation of persons or property;

"Motor vehicle fuel" means any inflammable liquid other than kerosene, by whatever name known or sold, which is used or usable in motor vehicles, either alone or when mixed, blended, or compounded, for the propulsion thereof upon the highways;

"Service station" means a place operated primarily for the purpose of delivering motor vehicle fuel into the fuel tanks of motor vehicles;

"Budget" means the annual highway program prepared by the commission. [Laws 1927 (4th S. S.), ch. 2, subch. 1, § 2, p. 8; rev., R. C. 1928, § 1686; Laws 1931, ch. 100, § 6, p. 265; 1931 (1st S. S.), ch. 16, § 2, p. 50; 1941, ch. 109, § 3, p. 230.]

Compiler's Note.

Sections 1 and 2 of Laws 1941, ch. 109 are compiled herein as §§ 66-320, 66-323.

Amendment.

The only material change made by the 1941 amendment was in the definition of "motor vehicle fuel," which formerly read as follows: "Motor vehicle fuel" shall mean and include any inflammable liquid, by whatsoever name such liquid may be known or sold, which is used or usable in motor vehicles, either alone or when mixed, blended or compounded, for the propulsion thereof upon the public highways, including (but the following enumeration shall be without prejudice to the generality of the foregoing definition) kerosene, benzol, and all kinds of naphthas."

66-401a. Resident.—[a] Resident for the purpose of registration and operation of motor vehicles, shall include but not be limited to the following:

(1) Any person, except a tourist, or out-of-state student, who owns, leases or rents a place within the state and occupies same as a place of residence, or any person who, regardless of domicile, remains in the state for a consecutive period of six [6] months or more.

Effective Date.

Section 4 of Laws 1941, ch. 109 provided that the act should take effect July 1, 1941.

Public Highways.

Since a detour must be considered as having the status of a public highway, it is the duty of a highway contractor in possession and control of the highway, to give due notice of the closing of a detour to traffic. *Breedon v. White*, 62 Ariz. 256, 156 Pac. (2d) 904.

"Vehicle" Defined.

The definition of "vehicle" in this section, including all animal-drawn vehicles and ridden animals and bicycles, extends to the use of the word "vehicle" in § 66-402. *State v. Stewart*, 57 Ariz. 82, 111 Pac. (2d) 70.

(2) Any person who engages in a trade, profession, or occupation in this state or who accepts employment in other than seasonal agricultural work.

(3) Any person placing children in a public school without the payment of non-resident tuition.

(4) Any person who declares himself to be a resident of Arizona for purposes of obtaining at resident rates any state license or tuition fees at any educational institution maintained by public funds.

(5) Any individual, partnership, company, firm, corporation or association which maintains a main office, branch office, or warehouse facilities in the state, and which bases and operates motor vehicles in the state.

(6) Any individual, partnership, company, firm, corporation or association which operates motor vehicles in intrastate haul.

(b) **Nonresident.** Every person who is not a resident of this state as defined in (a). [Code 1939, § 66-401a as added by Laws 1952, ch. 52, § 1.]

Title of Act.

An act relating to motor vehicles; defining a resident for purpose of vehicle registration and operation; and amending article 4, chapter 66, Arizona Code of 1939, by adding section 66-401a. [Laws 1952, ch. 52.]

Emergency.

Section 2 of Laws 1952, ch. 52 declared an emergency. Approved March 18, 1952.

66-402—66-403. [Repealed.]

Compiler's Note.

Sections 66-402—66-403 (Laws 1927 (4th S. S.), ch. 2, subch. 6, § 1; R. C. 1928, § 1688; Laws 1935, ch. 33, § 1 and

Laws 1927 (4th S. S.), ch. 2, subch. 6, § 2; R. C. 1928, § 1689) were repealed by Laws 1950 (1st S. S.), ch. 3, § 181. For present provisions, see §§ 66-156, 66-157.

66-405. [Repealed.]

Compiler's Note.

Section 66-405 (Laws 1927 (4th S. S.), ch. 2, subch. 6, § 3; R. C. 1928, 1690) was

repealed by Laws 1950 (1st S. S.), ch. 3, § 181. For present law, see § 66-168.

ARTICLE 5—REGULATION OF PUBLIC HIGHWAY TRANSPORTATION

SECTION.

66-502. Carriers regulated.
66-502a. Maximum number in school bus.
66-507. Contract motor carrier—Extent of regulations—Permits—Application therefor.
66-513a. A. C. C. plates.

SECTION.

66-513b. Fees—Disposition.
66-513c. Inspectors.
66-513d. Cancellation of registration.
66-518. License tax.
66-519. Certificate and permit holders.
66-531. Penalties.

66-501. Definition of terms.

Cross-Reference.

See note, § 66-401. *Breedon v. White*, 62 Ariz. 256, 156 Pac. (2d) 904.

In General.

"Highway" as defined in this section includes streets and public ways of cities and towns. *Phoenix v. Sun Valley Bus Lines, Inc.*, 64 Ariz. 319, 170 Pac. (2d) 289.

Application.

This article pertains to the regulation of common and private carriers operating motor vehicles upon the state's highways. *Winkler Trucking Co. v. McAhren*, 60 Ariz. 225, 133 Pac. (2d) 757.

The charter of the city of Phoenix authorizing it to regulate or prohibit traffic and sales in its streets does not abrogate the power of the corporation

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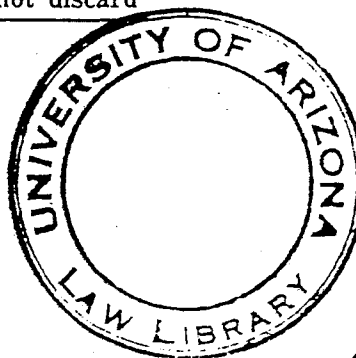
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CHAPTER 66—MOTOR VEHICLES

ARTICLE.

1. USE OF HIGHWAYS BY VEHICLES, §§ 66-153g, 66-153r, 66-174i, 66-174m, 66-174t, 66-174u, 66-190—66-195.
2. MOTOR VEHICLE DIVISION, §§ 66-204, 66-207a [LAW 2], 66-208b, 66-222, 66-225, 66-25G, 66-25Ga, 66-269d.
3. MOTOR VEHICLE FUEL TAX, § 66-320.

ARTICLE.

9. MOTOR VEHICLE LICENSE TAX, § 66-901.
11. MOTOR VEHICLE DEALERS, MOTOR DEALERS AND WRECKERS, § 66-1101.
13. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT, §§ 66-1305, 66-1306.
14. STATE-OWNED VEHICLES, §§ 66-1401—66-1410. [REPEALED.]

ARTICLE 1—USE OF HIGHWAYS BY VEHICLES

SECTION.

- 66-153g. Traffic control signal legend.
 66-153r. Written reports of accidents.
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SECTION.

- 66-190. Definitions.
 66-191. Abandoned and seized motor vehicles—Report.
 66-192. Notice of sale.
 66-193. Cars left in storage may be sold at advertised sale.
 66-194. Payment of storage.
 66-195. Disposition of proceeds of sale.

66-151a. Definitions—In general.

Emergency Vehicle.

Private passenger car proceeding to hospital with passenger needing emergency treatment and following police

escort was not an emergency vehicle, under former law, § 66-105. *West v. Cruz*, 75 Ariz. 13, 251 Pac. (2d) 311.

66-153g. Traffic control signal legend.—Whenever traffic is controlled by traffic control signals exhibiting the words "go", "caution", or "stop", or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and said terms and light shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) Green alone or "go":

1. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either of such turns. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent cross walk at the time such signal is exhibited.

Pedestrians facing the signal may proceed across the roadway within any marked or unmarked cross walk.

(b) Yellow alone or "caution" when shown following the green or "go" signal:

1. Vehicular traffic facing the signal is thereby warned that the red or "stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "stop" signal is exhibited.

2. Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right of way to all vehicles.

(c) Red alone or "stop":

1. Vehicular traffic facing the signal shall stop before entering the cross walk on the near side of the intersection or, if there is no cross walk, then before entering the intersection, and shall remain standing until green or "go" is shown alone, except as provided in paragraph 2.

2. The driver of a vehicle which is stopped as close as practicable at the entrance to the cross walk on the near side of the intersection or, if there is no cross walk, then at the entrance to the intersection, in obedience to a red or "stop" signal, may make a right turn, but shall yield the right of way to pedestrians and other traffic proceeding as directed by the signal. Local authorities may by ordinance prohibit any such right turn against a red or "stop" signal at any intersection within a central traffic district as defined by ordinance, or within any business district, or at any intersection outside of a central traffic district or business district when a sign is erected at such intersection prohibiting a right turn against a red or "stop" signal.

(d) Red with green arrow:

1. Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a cross walk and to other traffic lawfully using the intersection.

2. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(e) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal. [Laws 1950 (1st S. S.), ch. 3, § 34; 1953, ch. 129, § 1.]

Title of Act.

An act relating to vehicular traffic; defining traffic signals, and amending section 66-153g, Arizona Code of 1939. [Laws 1953, ch. 129.]

Amendment.

In paragraph (c)1 the 1953 amendment substituted "if there is no cross

walk" for "if none" and added at the end of the paragraph the words "except as provided in paragraph 2." Paragraph (c)2 was inserted by the 1953 amendment and replaced a paragraph reading, "No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic."

66-153r. Written reports of accidents.—(a) The driver of a vehicle involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of one hundred dollars (\$100.00) or more shall within 5 days after such accident, forward a written report of such accident to the department.

(b) The department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is

insufficient in the opinion of the department and may require witnesses of accidents to render reports to the department.

(c) Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident of which report must be made as required in this section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within 24 hours after completing such investigation, forward a written report of such accident to the department. [Laws 1950 (1st S. S.), ch. 3, § 45; 1954, ch. 83, § 1.]

Title of Act.

An act relating to the use of highways by vehicles; providing for written reports of accidents thereon; and amending § 66-135r, Arizona Code of 1939, as amended. [Laws 1953, ch. 83.]

Amendment.

The 1954 amendment in subsection (a) increased the amount of total property damage from "\$50 or more" to "\$100 or more."

66-156. Persons under the influence of intoxicating liquor or of drugs.

Punishment.

This section making it unlawful and punishable to drive a vehicle while under the influence of intoxicating liquor, and § 66-157 making it unlawful and punishable to drive a vehicle in wilful or wanton disregard for safety of persons or property are not unconstitutional on the ground that penalties are included in the respective acts, since title of both acts provide for imposition of penalties. State v. Harold, 74 Ariz. 210, 246 Pac. (2d) 178.

Legislature was justified under the police power in punishing driving of vehicle within the state while under the influence of intoxicating liquor or in wilful or wanton disregard for safety of others. State v. Harold, 74 Ariz. 210, 246 Pac. (2d) 178.

Increasing punishment on second offense for driving while intoxicated from a maximum fine of \$300 to \$1,000, and confinement from a maximum of six months to 12 months did not constitute cruel and unusual punishment. State v. Harold, 74 Ariz. 210, 246 Pac. (2d) 178.

Under § 66-156 court may exercise general power to suspend sentences conferred by § 44-2222 as it has discretion as to extent of punishment. State v. Bigelow, 76 Ariz. 13, 258 Pac. (2d) 409.

A court must either impose one of the sentences as fixed by statute or sus-

pend the imposition of such sentence; it has no authority to impose a sentence providing for intermittent incarceration in jail. State v. Bigelow, 76 Ariz. 13, 258 Pac. (2d) 409.

Drunkometer Test.

Provisions of this section creating certain standards as to percentage content of alcohol revealed by chemical analysis and raising certain statutory presumptions did not require defendant to give evidence against himself in violation of Const., art. 2, § 10, since defendant was not required to take tests of any kind. State v. Harold, 74 Ariz. 210, 246 Pac. (2d) 178.

Where graduate chemist testified that he rechecked chemicals following drunkometer test and found that contents were the same as when he placed them in the respective bottles such evidence established control of the chemicals at the time the test was made. State v. Warren, 75 Ariz. 123, 252 Pac. (2d) 781.

Objection to drunkometer test on the ground that test was not properly controlled throughout various steps was not preserved where objection in trial court was based on ground that defendant did not voluntarily consent to taking of test. State v. Warren, 75 Ariz. 123, 252 Pac. (2d) 781.

66-157. Reckless driving.

Validity of Penalties.

Legislature was justified under the police power in punishing driving of vehicle within the state while under the influence of intoxicating liquor or in wilful or wanton disregard for safety of others. State v. Harold, 74 Ariz. 210, 246 Pac. (2d) 178.

Section 66-156 making it unlawful and punishable to drive a vehicle while

under the influence of intoxicating liquor, and this section making it unlawful and punishable to drive a vehicle in wilful or wanton disregard for safety of persons or property is not unconstitutional on the ground that penalties are included in the respective acts, since title of both acts provide for imposition of penalties. State v. Harold, 74 Ariz. 210, 246 Pac. (2d) 178.

66-164j. Operation of vehicles on approach of authorized emergency vehicles.

Private Vehicles.

Where south bound vehicle with passenger for hospital was proceeding 200 feet behind police escort who was blowing siren and flashing red light a north

bound vehicle was not negligent under former law, § 66-113, in proceeding north with green light after police escort had passed. *West v. Cruz*, 75 Ariz. 13, 251 Pac. (2d) 311.

66-168. Obedience to signal indicating approach of train.

Negligence.

Operation of train at excessive speed through town did not constitute wanton negligence where traffic lights were

flashing and traffic bells were ringing at crossing. *Southern Pac. Co. v. Baca*, 77 Ariz. 173, 268 Pac. (2d) 968.

66-171. Stopping, standing, or parking outside of business or residence district.

Urban Areas.

Restriction against parking on highway in former § 66-116 did not apply to

business or residential sections within a city. *Kelly v. Anderson*, 74 Ariz. 364, 249 Pac. (2d) 833.

66-173a. When lighted lamps are required.

Section to Section Reference.

This section is referred to in § 66-174m.

66-174g. Lamps on parked vehicles.

Lighted Areas.

Restriction against parking on a highway without lights does not apply if area of parking is lighted sufficiently

to reveal parked vehicle for a distance of 200 feet. *Kelly v. Anderson*, 74 Ariz. 364, 249 Pac. (2d) 833.

66-174l. Multiple-beam road-lighting equipment.—Except as hereinafter provided, the head lamps or the auxiliary driving lamp, or the auxiliary passing lamp, or combinations thereof, on motor vehicles other than a motorcycle or motor-driven cycle shall be so arranged that selection may be made between distributions of light projected to different elevations, subject to the following requirements and limitations:

(a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred fifty [350] feet ahead for all conditions of loading.

(b) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred [100] feet ahead; and under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(c) Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in this state after January 1, 1955, which has multiple-beam road lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped. [Laws 1950 (1st S. S.), ch. 3, § 135; 1954, ch. 36, § 1.]

Title of Act.

An act relating to motor vehicles; prescribing the standards for road lighting equipment of motor vehicles, and amending §§ 66-174l, 66-174m, 66-174t, and 66-174u, Arizona Code of 1939. [Laws 1954, ch. 36.]

Amendment.

The 1954 amendment in the first paragraph substituted the words, "selection may be made," for the words, "the driver may select at will"; in subsection (a) the amendment deleted the second sentence which read: "The maximum intensity of this uppermost distribution of light or composite beam 1 degree of arc or more above the horizontal level of the lamps when the vehicle is not loaded shall not exceed 8,000 apparent candlepower, and at no other point of the distribution of light or composite beam shall there be an intensity of more than 75,000 apparent candlepower"; in subsection (b) the amendment substituted that part of the subsection following the words, "so aimed," for items 1-3 which read: "1. When the vehicle is not loaded, none of the high-intensity portion of the light which is directed to the left of the prolongation of the extreme left side of the vehicle shall, at a distance of 25 feet ahead, project higher than a level of 8 inches below the level of the center of the lamp from which it comes.

"2. When the vehicle is not loaded, none of the high-intensity portion of the light which is directed to the right of the prolongation of the extreme left side of the vehicle shall, at a distance of 25 feet ahead, project higher than a level of 3 inches below the level of the center of the lamp from which it comes.

"3. In no event shall any of the high intensity of such lower-most distribution of light or composite beam project higher than a level of 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead."

The amendment deleted subsection "c" and "d" which read: "(c) Where one [1] intermediate beam is provided, the beam on the left side of the road shall be in conformity with item 1 of paragraph (b) of this section except when arranged in accordance with the practice specified in paragraph (e).

"(d) All headlighting beams shall be aimed and of sufficient intensity to reveal a person or vehicle at a distance of at least 100 feet ahead."

The amendment relettered former subsection (e) as subsection (c) and changed the date from January 1, 1951, to January 1, 1955.

Section to Section Reference.

This section is referred to in § 66-174m.

66-174m. Use of multiple-beam road-lighting equipment. — (a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section 66-173a, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(b) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred [500] feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light or composite beam specified in subsection (b) of section 66-174l shall be deemed to avoid glare at all times, regardless of road contour and loading.

(c) Whenever the driver of a vehicle follows another vehicle within two hundred [200] feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this act other than the uppermost distribution of light specified in subsection (a) of section 66-174l. [Laws 1950 (1st S. S.), ch. 3, § 137; 1954, ch. 36, § 2.]

Amendment.

The 1954 amendment in subsection (b) substituted the last sentence which was formerly the second paragraph of subsection (c) for the words, "and in

no case shall the high-intensity portion which is projected to the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a

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distance of 25 feet ahead, and in no case higher than a level of 42 inches above the level upon which the vehicle stands at a distance of 75 feet ahead"; and in subsection (c) the amendment substituted the words, "follows another vehicle within two hundred [200] feet to the rear, except when engaged in the act of overtaking and passing," for the words, "overtakes another vehicle proceeding in the same direction and within 200 feet."

66-174t. Selling or using lamps or equipment.—(a) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semi-trailer or use upon any such vehicle any head lamp, auxiliary driving lamp, rear lamp, signal lamp, or reflector which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the department and approved by them.

(b) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semi-trailer any lamp or device mentioned in this section which has been approved by the department unless such lamp or device bears thereon the trade-mark or name under which it is approved so as to be legible when installed.

(c) No person shall use upon any motor vehicle, trailer, or semi-trailer any lamps mentioned in this section unless said lamps are mounted and adjusted as to focus and aim in accordance with instructions of the department. [Laws 1950 (1st S. S.), ch. 3, § 141; 1954, ch. 36, § 3.]

Amendment.

The 1954 amendment in subsection (c) deleted the words, "equipped with bulbs of a rated candlepower and are," following the words, "unless said lamps are."

66-174u. Authority of department with reference to lighting devices.—(a) The department is hereby authorized to approve or disapprove lighting devices, promulgate rules and enforce regulations and specifications for the approval of such lighting devices, their installation and aiming, within the standards prescribed in this article.

(b) The department is hereby required to approve or disapprove any lighting device, of a type on which approval is specifically required in this act [§§ 66-151—66-189], within a reasonable time after such device has been submitted.

(c) The department is further authorized to set up the procedure which shall be followed when any device is submitted for approval.

(d) The department upon approving any such lamp or device shall issue to the applicant a certificate of approval together with any instructions determined by them.

(e) The department shall publish lists of all lamps and devices by name and type which have been approved by them. [Laws 1950 (1st S. S.), ch. 3, § 142; 1954, ch. 36, § 4.]

Amendment.

The 1954 amendment in subsection (a) added the remainder of the subsection beginning with the words, "promulgate rules and enforce."

In subsection (c) the amendment deleted from the end thereof the words, "together with instructions as to the permissible candlepower rating of the bulbs which they have determined for

use therein and such other instructions as to adjustment as the department may deem necessary."

Subsection (f) was deleted by the amendment, which read: "Any person desiring approval of a device shall submit to the department two (2) sets of each type of device upon which approval is desired, together with a certificate of the United States bureau of

standards or to such other recognized testing laboratories, satisfactory to the department, as to the compliance of such type device with provisions of this act as to lighting performance.

If at the expiration of 90 days after such notice the person holding the certificate of approval for such device has failed to satisfy the department that said approved device as thereafter to be sold meets the requirements of this act, the department shall suspend or revoke the approval issued therefor until or unless such device is resubmitted to and retested by an author-

ized testing agency and is found to meet the requirements of this act, and may require that all said devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this act. The department may at the time of the retest purchase in the open market and submit to a testing one [1] or more sets of such approved devices, and if such device upon retest fails to meet the requirements of this act, the department may refuse to renew the certificate of approval of such device."

66-186. Penalties for misdemeanor.

Cited:

Southern Pac. Co. v. Baca, 77 Ariz. 173, 268 Pac. (2d) 968.

66-190. Definitions.—In this act, unless the context otherwise requires:

"Lost, stolen, abandoned, or otherwise unclaimed vehicles" shall mean any vehicle, trailer, or semi-trailer of a type subject to registration under this chapter, which has been abandoned on any public highway or elsewhere within the state. Evidence that a vehicle was left unattended for a period of thirty-six (36) hours within the right of way of any highway, road, street, or other public thoroughfare, shall be prima facie evidence of abandonment;

"officer" shall mean a police officer or other law enforcement officer;

"superintendent" shall mean the superintendent of the motor vehicle division, Arizona state highway department;

"state vehicle registration agency" shall mean the agency or department of any state which has charge of the records of motor vehicle registration in such state. [Laws 1952, ch. 24, § 1; 1953, ch. 70, § 1.]

Title of Act.

An act relating to the disposition of lost, stolen, abandoned or otherwise unclaimed vehicles; providing for notice of sale and sale thereof and the disposition of the proceeds therefrom; providing for forfeiture of storage charges; amending sections 66-190, 66-

191, 66-192, 66-193, 66-194 and 66-195, Arizona Code of 1939. [Laws 1953, ch. 70.]

Amendment.

The 1953 amendment completely revised the contents of this section. For previous text, see 1952 supplement.

66-191. Abandoned and seized motor vehicles—Report.—Any officer having knowledge or custody of any vehicle which is either lost, stolen, abandoned, or otherwise unclaimed, or of any vehicle which has been seized pursuant to law or removed from the right of way of any highway, road, street, or other public thoroughfare, by order of an Arizona highway patrolman, sheriff's officer, or city policeman, and which has been held for a period of sixty (60) days or more, where no claim has been made for the return or possession thereof by any person legally entitled thereto, shall report same to the superintendent for the purpose of disposal by public auction and sale, in accordance with this act. Such report shall contain a complete description of the vehicle, the vehicle license or registration

number, if any, the circumstances of the officer's removal or custody, and such other information as the superintendent shall require. [Laws 1952, ch. 24, § 2; 1953, ch. 70, § 2.]

Amendment.

The 1953 amendment substantially rewrote this section. For previous text, see 1952 supplement.

66-192. Notice of sale.—(a) The superintendent shall, upon receipt of a report as hereinabove required, make a search of the records of the state highway department, or in the event a vehicle appears to be registered in another state, make official inquiry to the state vehicle registration agency of such state, to ascertain the name and address of the owner and/or lien holder of such vehicle.

1. Upon receipt of information disclosing the name and address of such owner and/or lien holder, the superintendent shall, no less than thirty (30) days prior to the date of taking such action hereunder, give to such owner and/or lien holder, notice of his intention to sell such vehicle, by registered mail and request a return registry receipt.

2. In the event the records of the state highway department fail to disclose the name and address of the owner and/or lien holder and there appears to be no registered holder in another state, or in the event the superintendent does not within fifteen (15) days receive a return registry receipt when there has been a mailing as hereinabove required, then notice of the superintendent's intention to sell shall be published in a newspaper of general circulation in the county in which such vehicle was found or seized, once a week for four successive weeks. Such notice shall include a complete description of the vehicle and the place and date such vehicle was found, seized or taken into possession.

(b) If at the expiration of thirty (30) days from the mailing of the registered notice, or upon the expiration of thirty (30) days from the first publication, the said vehicle remains unclaimed, the superintendent or his agent may sell the said vehicle at public auction to the highest bidder upon notice of sale published in one issue of a newspaper of general circulation in the county in which such vehicle will be sold. Such notice shall include a complete description of the vehicle to be sold and the time, place and date of sale, which date shall not be sooner than five (5) nor more than ten (10) days following the date of such publication. The purchaser at said sale shall be entitled to, and the superintendent shall issue a certificate of title free and clear of all liens or encumbrances upon compliance with the provisions of this act. [Laws 1952, ch. 24, § 3; 1953, ch. 70, § 3.]

Amendment.

The 1953 amendment substantially rewrote this section. For previous text, see 1952 supplement.

66-193. Cars left in storage may be sold at advertised sale.—Any vehicle left in a public garage or parking lot for storage more than thirty (30) days, where the same has not been left under a contract of storage and has not, during such period, been removed by the

person leaving same, shall be an abandoned vehicle and shall be reported by the party in possession of the same to the superintendent. Any garage keeper failing to report such fact to the superintendent and tender delivery to him of such vehicle at the end of the succeeding thirty (30) days, shall thereby forfeit any claims for storage of such vehicle. All such vehicles considered abandoned by being left in a public garage or parking lot shall be disposed of in accordance with the procedure prescribed in section 66-192, Arizona Code of 1939, for abandoned vehicles. [Laws 1952, ch. 24, § 4; 1953, ch. 70, § 4.]

Amendment. state highway commission" in two places.
The 1953 amendment substituted "superintendent" for "secretary of the

66-194. Payment of storage.—Upon proof by the party in possession of an abandoned motor vehicle that notice of the abandonment has been given and tender of delivery of the same has been made at the time and in the manner as provided by law, such party shall be entitled to be paid a reasonable amount for storage of said vehicle from the proceeds of the sale as prescribed in section 66-192, Arizona Code of 1939. [Laws 1952, ch. 24, § 5; 1953, ch. 70, § 5.]

Amendment. vided, however, said storage claim shall not impair any other lien or conditional sale of record at the time the notice required in section 4 is given to the secretary of the state highway commission."
The 1953 amendment substituted the final part of the section, beginning with "a reasonable amount for storage" for the words "for storage and such payment shall be a claim prior to the claims of all other lien holders; pro-

66-195. Disposition of proceeds of sale.—Any surplus accruing from said sale after deducting the costs arising from the sale of such vehicle, i.e. towing, storage, advertising and selling same, shall be held for the owner for a period of thirty (30) days and if not claimed by the expiration thereof shall be deposited: 1. with the state treasurer to the credit of the state highway fund, if custody of the motor vehicle was in the superintendent of the motor vehicle division, the superintendent of the highway patrol or the secretary of the state highway commission; 2. with the county treasurer, to the credit of the county general fund, if in the custody of the sheriff, or, 3. in the general fund of the municipality if in the custody of the chief of police. [Laws 1952, ch. 24, § 6; 1953, ch. 70, § 6.]

Amendment. Emergency.
The 1953 amendment made no change in this section. Section 7 of Laws 1953, ch. 70, declared an emergency. Approved March 26, 1953.

ARTICLE 2—MOTOR VEHICLE DIVISION

SECTION.
66-204. Registration of motor vehicles.
66-207a. [Law 2.] Temporary registration of vehicles.
66-208b. Plates for amateur radio operators.
66-222. Dealers' number plates.
66-225. Registration of vehicles of nonresidents.

SECTION.
66-256. Fees—License tax on commercial vehicles.
66-256a. Optional registration and licensing of truck tractors.
66-269d. Liability of owner or donor for negligence or willful misconduct of unlicensed minor under eighteen.

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66-204. Registration of motor vehicles.—(a) Every owner of a motor vehicle, trailer or semi-trailer, before the same is operated upon any highway in this state, shall apply to the vehicle division for a certificate of title thereto and the registration thereof.

(b) When an application, accompanied by the proper fee, has been made as herein required, such vehicle may be operated pending completion of the registration thereof, but during such period there shall be displayed, as evidence of said application, two [2] "drive-out" number plates of a distinctive type, which shall be supplied by the county assessor, attached to the front and rear of the vehicle. At the expiration of fifteen [15] days said plates shall be surrendered and regular license plates affixed. Any assessor issuing "drive-out" plates shall, on the day of the issuance thereof, notify the local peace officers and the nearest highway patrolman, and failure to do so shall constitute a misdemeanor. On the sixteenth [16th] day after the issuance of any such plates, if the same be not surrendered, any officer shall seize and impound said vehicle and hold it until the regular license plates are procured and placed thereon, and the owner of such vehicle shall be guilty of a misdemeanor, except that in the case of a foreign registration or other emergency, the division shall have the right to extend said time so as to allow time for clearance of title and registration.

(c) This section shall not apply to farm tractors, trailers used solely in the operation of a farm for transporting the unprocessed fiber or forage products thereof and not used to transport property or persons for hire, road-rollers, or road machinery temporarily operating or moved upon the highway, nor to any owner permitted to operate a vehicle under special provision relating to lienholders, manufacturers, dealers, and nonresidents.

(d) A person owning or operating a trailer as described in subsection (c) shall so notify the county assessor, and it shall be the duty of the assessor to assess such trailer. The assessor shall furnish the owner with a metal tag or plate showing that the trailer has been duly assessed, which tag or plate shall be conspicuously displayed on the rear of the trailer. The cost of the tag or plate shall be borne by the owner of the trailer. Any person who violates a provision of this subsection is guilty of a misdemeanor. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 8, p. 33; R. C. 1928, § 1632; Laws 1937, ch. 67, § 2, p. 234; 1954, ch. 139, § 1.]

Title of Act.

An act relating to trailers; providing that farm trailers need not have a certificate of title or be registered; providing for assessment thereof; prescribing a penalty; and amending § 66-204, Arizona Code of 1939. [Laws 1954, ch. 139.]

"This section shall not apply to farm tractors, road-rollers, or road machinery temporarily operating or moved upon the highway, nor to any owner permitted to operate a vehicle under special provision relating to lienholders, manufacturers, dealers and nonresidents"; the 1954 amendment added subsection (d).

Amendment.

Prior to the 1954 amendment subsection (c) read:

66-205. Application for certificate of title.

Dealer.

The term "dealer" in § 66-205 is not limited to dealers licensed and regis-

tered under the laws of the state of Arizona so that refusal of the Arizona motor vehicle division to issue certifi-

ates of title to petitioner for vehicles acquired from out-of-state dealer was improper. McCarrell v. Lane, 76 Ariz. 67, 258 Pac. (2d) 988.

66-206. Register to be kept—Certificate of title.

Dealer.

The term "dealer" in § 66-205 is not limited to dealers licensed and registered under the laws of the state of Arizona so that refusal of the Arizona

motor vehicle division to issue certificates of title to petitioner for vehicles acquired from out-of-state dealer was improper. McCarrell v. Lane, 76 Ariz. 67, 258 Pac. (2d) 988.

66-207a. [Law 2.] Temporary registration of vehicles.—The vehicle superintendent may furnish to licensed motor vehicle dealers temporary registration plates or markers which may be issued by such dealers, subject to the limitations and conditions hereinafter set forth.

(a) A dealer shall not issue, assign or deliver temporary registration plates or markers to anyone other than a bona fide purchaser of a vehicle which is not registered for the current year, nor shall a dealer issue temporary plates or markers unless previous to or at the same time the purchaser executes an application for a certificate of title and an application for annual registration of the vehicle. Such application for certificate of title, accompanied by the prescribed fees, and such application for registration accompanied by the prescribed fees, shall be forthwith forwarded by the dealer as the agent of the purchaser to the vehicle superintendent and the county assessor, respectively.

(b) No dealer shall issue temporary registration plates or markers unless the application for a certificate of title is accompanied by either a manufacturer's certificate of origin properly assigned by a licensed new motor vehicle dealer, or a properly signed-off Arizona certificate of title.

(c) Every dealer who has been furnished temporary registration plates or markers shall maintain, in permanent form a record of all temporary registration plates or markers delivered to him, and shall also maintain, in permanent form, a record of all temporary registration plates or markers issued by him, and in addition thereto shall maintain, in permanent form, a record of any other information pertaining to the receipt or the issuance of temporary registration plates or markers that the superintendent may require. Each record shall be kept for at least a period of three years from the date of entry of such record. Every dealer shall allow full and free access to such records during regular business hours to duly authorized representatives of the vehicle superintendent.

(d) Every dealer who issues temporary registration plates or markers shall on the day that he issues such plates or markers send to the motor vehicle division a copy of the temporary registration plates or markers, which shall constitute a written notice of such transfer.

(e) A dealer shall not lend to anyone, or use on any vehicle that he may own, temporary registration plates or markers. It shall be unlawful for any person to issue any temporary registration plate or marker, or plates or markers, containing any mis-statement of fact or knowingly insert any false information upon the face thereof.

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(f) Every person who issues temporary registration plates or markers shall affix or insert, clearly and indelibly, on the face of each temporary registration plate or marker the date of issuance and the expiration, make, motor and serial number of the vehicle for which issued.

(g) If the superintendent finds that the provision of this section or the directions of the superintendent are not being complied with by the dealer, he may suspend, after a hearing, the right of a dealer to issue temporary registration plates or markers.

(h) Temporary registration plates or markers shall expire and become void upon the receipt of the annual registration plates, or upon the expiration of thirty days from the date of issuance. Every person to whom temporary registration plates or markers have been issued shall permanently destroy such temporary registration plates or markers immediately upon receiving the annual registration plates; provided, that if the annual registration plates are not received within thirty days from the issuance of the temporary registration plates or markers, the owner shall, notwithstanding, immediately upon the expiration of such thirty day period, permanently destroy the temporary registration plates or markers.

(i) The superintendent shall have the power to make such rules and regulations not inconsistent herewith, as he shall deem necessary for the purpose of carrying out the provisions of this section. [Code 1939, § 66-207a, as added by Laws 1953, ch. 53, § 1.]

Compiler's Note.

The compiler has designated this section as "Law 2" to distinguish it from the section enacted by Laws 1951, ch. 23, and also designated as § 66-207a. There was in the 1953 act no apparent intent to repeal, amend, or supersede the 1951 act.

Title of Act.

An act relating to motor vehicles, trailers and semi-trailers; amending article 2, chapter 66, Arizona Code of 1939, by adding section 66-207a, and amending sections 66-222 and 66-256, Arizona Code of 1939. [Laws 1953, ch. 53.]

66-208. Number plates.

Section to Section Reference.

This section is referred to in § 66-208b.

66-208b. Plates for amateur radio operators. — (a) Any owner of a private motor vehicle who is a resident of the state and in all respects qualified to receive motor vehicle number plates as provided by section 66-208, Arizona Code of 1939, and who owns and holds an unrevoked and unexpired amateur radio station license issued by the federal communications commission, shall, upon application, accompanied by proof of ownership of such amateur radio station license and payment of an additional fee of three dollars [\$3.00], be issued number plates upon which shall be inscribed the official identifying amateur radio call letters of the applicant, as assigned by the federal communications commission. Such plates to be in addition to the numbered plates as prescribed by section 66-208, Arizona Code of 1939.

(b) Call letter license plates shall be provided each year in the same color combination as that used for the numbered plates prescribed by section 66-208, Arizona Code of 1939, and may be legally displayed in place of number plates as prescribed in section 66-208, Arizona Code of 1939, and will remain the property of the licensee

and shall not be transferable. [Code 1939, § 66-208b, as added by Laws 1954, ch. 19, § 1.]

Title of Act.

An act relating to motor vehicles; providing for distinctive number plates for operators of amateur radio stations, and amending art. 2, ch. 66, Arizona Code of 1939, by adding § 66-208b. [Laws 1954, ch. 19.]

Emergency.

Section 2 of Laws 1954, ch. 19, declared an emergency. Approved March 10, 1954.

66-222. Dealers' number plates.—A manufacturer or dealer owning any vehicle of a type otherwise required to be registered may operate the same without registering it, provided that there shall be displayed upon such vehicle in the manner prescribed in section 66-209 a special plate or plates issued to such owner as herein provided. This provision shall not apply to work or service vehicles owned by a manufacturer or licensed dealer. Any manufacturer or licensed dealer may make application to the division, upon a form provided for such purpose, for a dealer's certificate containing a general distinguishing number, and for one or more pairs of special plates or single special plates appropriate to various types of vehicles. The applicant at the time of making such application shall, if a manufacturer, submit such proof of his status as a bona fide manufacturer as may reasonably be required by the division, and if a dealer in new motor vehicles, trailers or semi-trailers, shall submit satisfactory proof that he is a duly authorized distributor or dealer for a manufacturer. The division, upon granting any such application, shall issue to the applicant a certificate containing the applicant's name and address and the general distinguishing number assigned to him, and shall also issue special plates as applied for. Every plate or pair of plates so issued shall contain a number or symbol identifying the same from every other plate or pair of plates issued to the same manufacturer or dealer. The right to use any special plate issued as provided herein for any calendar year shall terminate at midnight on December 31 of each year. Every manufacturer or dealer shall keep a written record of the vehicles upon which such special plate or plates are used, and the time during which each plate or pair of plates is used upon a particular vehicle. Such record shall be open to the inspection of the division, any officer or agent thereof, any member of the highway patrol, or any peace officer. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 22; rev., R. C. 1928, § 1644; Laws 1937, ch. 67, § 19; 1953, ch. 53, § 2.]

Amendment.

The 1953 amendment combined the two subsections and deleted from the first sentence of the section the words "within a distance of fifty miles from

the manufacturer's or dealer's place of business, and for the sole purpose of moving, testing, demonstrating or selling said vehicle" which appeared before "operate the same."

66-225. Registration of vehicles of nonresidents.—(a) Except as hereinafter provided, every foreign vehicle owned by a nonresident and operated in the state for the transportation of passengers or property for compensation or in the business of a nonresident carried on in this state, or for the transportation of property, shall be registered and licensed in the same manner as is required in the case

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of motor vehicles, trailers or semi-trailers, not theretofore registered or licensed.

(b) In case it is desired to operate any such vehicle in this state for a period less than the full registration year, if such vehicle is duly registered and licensed under the laws of any other state or country, the owner may make application to the vehicle division in the manner and form prescribed, for the registration and licensing of such vehicle for periods of one [1], two [2] or three [3] months. A thirty [30] day registration and license application shall be accompanied by an amount equal to twelve and a half per cent [12½%] of the full annual registration and unladen weight fees. A sixty [60] day registration and license application shall be accompanied by an amount equal to twenty-two per cent [22%] of the full annual registration and unladen weight fees. A ninety [90] day registration and license application shall be accompanied by an amount equal to thirty per cent [30%] of the full annual registration and unladen weight fees. The full annual registration and unladen weight fees shall be those applicable to the applicant's vehicle prescribed by section 66-256. The minimum fee for such licensing and registration shall be three dollars fifty cents (\$3.50). No application will be accepted for a fraction of any of the periods set forth above, but such licenses may be issued without restriction as to number or sequence.

(c) The vehicle division, if satisfied as to the facts stated in the application, shall register and license the vehicle for the period named and assigned an appropriate certificate or license, which shall at all times be displayed upon the vehicle in the manner prescribed by the division, while the same is being operated or driven upon any highway of the state.

(d) If any nonresident owner of a foreign vehicle is apprehended while operating such vehicle in this state beyond the period specified in his certificate or license, without application for renewal thereof, no further thirty [30], sixty [60] or ninety [90] day certificate or license will be issued such person during the registration year in which the violation took place, and such nonresident owner shall apply for, and obtain, the registration of the vehicle and pay the fees for the registration year.

(e) A nonresident owner of a foreign vehicle registered and licensed in a state adjoining Arizona, being used in this state for other than the transportation of passengers or property for compensation or in the business of a nonresident carried on in this state, shall not be required to pay the registration and unladen weight fees prescribed in section 66-256, provided the nonresident owner and vehicle are domiciled within twenty-five [25] miles of the Arizona border, and that the state in which the owner has his residence and in which such vehicle is registered exempts from the payment of registration and unladen fees like vehicles from this state.

(f) An owner seeking exemption as provided in subsection (e) shall apply to the motor vehicle division for a special registration permit, setting forth that the vehicle is to be used within this state for other than the transportation of passengers or property for compensation or in the business of a nonresident carried on in this

state, and supplying such other information as the division may require, and shall make affidavit thereto. If satisfied that the applicant is entitled to exemption, the motor vehicle division shall issue a special permit to operate, which shall be distinctive in form, show the date issued, a brief description of the vehicle, and a statement that the owner has procured registration of such vehicle as a nonresident. Said permit shall be valid for the period for which the registration plate was issued by the state of which the owner is a resident.

(g) Every foreign vehicle owned by a nonresident and operated in this state other than for the transportation of passengers or property for compensation, or for the transportation of property, or in the business of a nonresident carried on in this state, shall be registered within ten [10] days after the beginning of operation in the state in like manner as vehicles owned by residents, and no fee shall be charged for such registration, nor shall any number plates be assigned to such vehicle, but the vehicle division shall issue to such nonresident owner a permit distinctive in form, containing the date issued, a brief description of the vehicle and a statement that the owner has procured registration of the vehicle as a nonresident. No such nonresident owner shall operate any such vehicle upon the highways of this state, either before or while it is registered as provided in this section, unless there be displayed thereon the registration number plates assigned to the vehicle for the current calendar year, by the state or country of which the owner is a resident, nor unless the permit prescribed by this subsection is displayed on the windshield of the vehicle in the manner prescribed by the division. Such permit shall be valid for the period for which the registration plate was issued by the state of which the owner is a resident. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 24, p. 33; rev., R. C. 1928, § 1646; Laws 1931, ch. 100, § 4, p. 265; 1931 (1st S. S.), ch. 14, § 1, p. 44; 1937, ch. 67, § 21, p. 234; 1951, ch. 113, § 1; 1954, ch. 131, § 1.]

Title of Act.

An act relating to motor vehicles; providing for the registration of foreign vehicles owned by nonresidents, and amending § 66-225, Arizona Code of 1939. [Laws 1954, ch. 131.]

Amendment.

Prior to the 1954 amendment subsection (b) read: "In case it is desired to operate any such vehicle in this state for a period not to exceed three [3] months in any registration year, if such vehicle is duly registered and licensed under the laws of any other state or country, the owner may make application to the vehicle division in the manner and form prescribed for the registration and licensing of such vehicles for the period of time during which it is desired to operate the same in this state. The application shall be accompanied by an amount equal to one-tenth [1/10] of the full annual registration and unladen weight fees applicable to the vehicle as prescribed by § 66-256,

for each month or fraction thereof that the vehicle is to be so operated in this state. The minimum fee for such licensing and registration shall be three dollars fifty cents [\$3.50]. The vehicle division, if satisfied as to the facts stated in the application, shall register and license the vehicle for the period named and assign an appropriate certificate or license, which shall at all times be displayed upon the vehicle in the manner prescribed by the division, while the same is being operated or driven upon any highway of the state. If any such vehicle is operated in the state beyond the period for which such certificate or license is issued, the owner shall apply for and obtain the registration of the vehicle, and pay the fees for the remaining portion of the registration year."

The amendment inserted subsections (c) and (d) and relettered former subsections (c) as (e), (d) as (f), and (e) as (g).

66-256. Fees—License tax on commercial vehicles.—(a) The following fees shall be paid to the vehicle division:

1. For each original certificate of title, one dollar;
2. for each certificate of title on sale or transfer, one dollar;
3. for a duplicate certificate of title, the original of which is lost or destroyed and is satisfactorily accounted for, fifty cents;
4. for each registration card upon transfer of registration, fifty cents;
5. for a duplicate registration card, fifty cents;
6. for a duplicate of any permit, fifty cents;
7. for filing each application for dealer's or wrecker's license, five dollars;
8. for each dealer's or wrecker's license when issued, three dollars;
9. for filing each application for a chauffeur's license, one dollar;
10. for each original operator's license other than owners, fifty cents;
11. for each operator's license issued under the provisions of section 66-247, for which a fee is thereby required to be paid, fifty cents;
12. for each duplicate chauffeur's or operator's license, fifty cents;
13. for each chauffeur's badge to replace lost badge, one dollar;
14. for filing each application to make or stamp special engine number, one dollar;
15. for each identification plate bearing serial or identification number to be affixed to any vehicle, one dollar;
16. for approving each type of reflector, electric lantern, flare, fire extinguisher, or mechanical signal, five dollars;
17. for each number plate or pair of number plates to replace lost, destroyed or mutilated plates, one dollar;
18. for each original plate or plates issued to a dealer, three dollars and fifty cents;
19. for each additional plate or pair of plates issued to a dealer, one dollar;
20. for the registration of any motor vehicle, trailer or semi-trailer, if registered prior to July 1, three dollars and fifty cents; if registered after July 1, two dollars;
21. for filing any conditional sales contract, conditional lease, chattel mortgage or other lien or encumbrance, or title retention instrument, or any other instrument affecting or evidencing title to, ownership of, or reservation of title to any motor vehicle, trailer or semi-trailer, seventy-five cents;
22. for filing any assignment or satisfaction or release of any conditional sales contract, conditional release, chattel mortgage or other title retention instrument, or any other instrument affecting or evidencing title to, ownership of or reservation of title to any motor vehicle, trailer or semi-trailer, twenty-five cents.

(b) In addition to the required registration fee, there shall be paid at the time of application for registration an unladen weight fee on each motor vehicle, trailer or semi-trailer designed, used or maintained primarily for the transportation of passengers for compensation, or for the transportation of property, including hearses, ambulances and other vehicles used by a mortician in the conduct of his business, and motor vehicles rented without drivers, when such

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vehicles are equipped wholly with pneumatic tires, in accordance with the following schedule:

For vehicles with two axles, 1. two thousand nine hundred to four thousand pounds unladen weight, thirty-five cents per cwt.; 2. four thousand to six thousand pounds, fifty cents per cwt.; 3. six thousand to eight thousand pounds, sixty-five cents per cwt.; 4. eight thousand to ten thousand pounds, seventy-five cents per cwt.; 5. ten thousand to twelve thousand pounds, one dollar per cwt.; 6. twelve thousand pounds or over, one dollar per cwt.; 7. maximum fee, one hundred twenty dollars.

For vehicles with three axles, 8. two thousand nine hundred to four thousand pounds, forty cents per cwt.; 9. four thousand to six thousand pounds, sixty-five cents per cwt.; 10. six thousand to eight thousand pounds, eighty cents per cwt.; 11. eight thousand to ten thousand pounds, one dollar per cwt.; 12. ten thousand to twelve thousand pounds, one dollar and thirty-five cents per cwt.; 13. twelve thousand pounds or over, one dollar and sixty cents per cwt.; 14. maximum fee, one hundred eighty-five dollars.

Provided, however, that motor vehicles, trailers or semi-trailers owned and operated by religious institutions used exclusively for the transportation of property produced and distributed for charitable purposes and without compensation, shall be exempt from the unladen weight fee hereinabove provided. For the purposes of this act "religious institution" means a recognized organization having an established place of meeting for religious worship, and which holds regular meetings for such purposes at least once each week in not less than five cities or towns in the state.

(c) In addition to the required registration fee, there shall be paid, at the time of application for registration on each motor vehicle designed and used primarily for the transportation of passengers for compensation or for the transportation of property, when equipped wholly with pneumatic tires and weighing, when unladen, less than twenty-nine hundred pounds, two dollars; and on each trailer or semi-trailer, when equipped wholly with pneumatic tires and weighing, when unladen, less than twenty-nine hundred pounds but more than one thousand pounds, two dollars.

(d) When any vehicle referred to in subdivision twenty-two hereof or any motor vehicle referred to in subdivision twenty-three hereof is equipped with two or more solid tires, the unladen weight fee therein specified shall be twice the amount specified for such vehicles if equipped wholly with pneumatic tires.

(e) Upon any registration issued after the beginning of the registration year, the unladen weight fees herein prescribed shall be reduced by one-twelfth for each month which shall have elapsed since the beginning of the registration year.

(f) The unladen weight of any vehicle shall be the weight of such vehicle when unladen and fully equipped and ready for service, and shall be evidenced by a sworn statement of the applicant for registration, accompanied by a verified certificate of weight duly issued by a public weighmaster. Such sworn statement or certificate shall be subject to verification by the vehicle division, or any of its officers or agents. A major fraction of one hundred pounds shall be considered as one hundred pounds and a minor fraction of one

hundred pounds shall not be counted in determining the unladen weight of any vehicle.

(g) All moneys received from the taxes herein provided shall be immediately transferred by the officer collecting the same to the superintendent, and by him to the state treasurer, who shall immediately credit the same to the state highway fund. [Laws 1927 (4th S. S.), ch. 2, subch. 4, § 5 in part; rev., R. C. 1928, § 1672; Laws 1931, ch. 100, § 5; 1931 (1st S. S.), ch. 1, § 1; 1937, ch. 67, § 25; 1953, ch. 53, § 3; 1953, ch. 121, § 1.]

Title of Act.

An act relating to motor vehicles; prescribing registration and other fees; exempting religious institutions; and amending section 66-256, Arizona Code of 1939. [Laws 1953, ch. 121.]

Amendments.

This section was amended by both chapter 53 and chapter 121 of Laws 1953. Chapter 53, which contained no emergency clause, substituted for paragraphs 18 and 19 of subsection (a) in the previous text the following: "18. for the first two number plates or the first two pairs of number plates issued to a dealer other than a dealer in motorcycles, twenty-five dollars, and for the first two number plates issued to a dealer in motorcycles, ten dollars; 19. for each additional number plate or pair of number plates issued to a

dealer other than a dealer in motorcycles, five dollars, and for each additional number plate issued to a dealer in motorcycles, two dollars and fifty cents."

Chapter 121 of Laws 1953, which did contain an emergency clause, restored paragraphs 18 and 19 of subsection (a) to the 1937 version, as set out above. In addition Chapter 121 inserted the final section of subsection (b) pertaining to religious institutions.

Emergency.

Section 2 of Laws 1953, ch. 121, declared an emergency. Approved April 1, 1953.

Section to Section Reference.

This section is referred to in § 66-225.

66-256a. Optional registration and licensing of truck tractors.—

(a) The owner of any motor vehicle which is propelled by a power supplying unit (hereinafter called a truck tractor) and which is intended for use on the highways of this state in a combination or combinations with one [1] or more trailing vehicles may, at his option and in lieu of registration and payment of fees otherwise prescribed by law, register and license such vehicle and the trailing vehicles to be towed by it at any time in the following manner:

1. By paying the registration, plate and unladen weight fees required for such truck tractor under the provisions of section 66-256, and,

2. By paying an unladen weight fee equal to one and one-half [1½] times the maximum unladen weight fee prescribed by section 66-256, in addition to the registration fee, for the maximum number of trailing vehicles intended to be towed by such truck tractor in this state at any one [1] time.

(b) Each truck tractor registered and licensed under the optional provision of this section shall receive and have affixed thereto the registration plates for such truck tractor and the maximum size and number of trailing units to be towed thereby at any one [1] time, and all trailing units towed thereby shall be deemed to be fully registered and licensed for operation in this state without the affixing of any license plate or plates and regardless of any license plate or plates that may be affixed thereto; and without the payment of any additional fee or fees, the owner of such truck tractor, if he so desires, may be issued a distinctive plate for each trailing vehicle to be affixed to the rear thereof, which will constitute full registra-

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tion and license for operation of such trailing vehicles only when used in combination with a truck tractor properly registered under this section; provided, however, that trailing units which are subject to the payment of a license tax under the provisions of article 9, section 11, Constitution of Arizona, shall be required to procure and affix the distinctive plate to each such unit. [Code 1939, § 66-256a, as added by Laws 1954, ch. 39, § 1.]

Title of Act.

An act relating to the licensing of motor vehicles; authorizing an alternative method of licensing truck tractors and trailing units, and amending art. 2, ch. 66, Arizona Code of 1939, by adding § 66-256a. [Laws 1954, ch. 39.]

Effective Date.

Section 2 of Laws 1954, ch. 39, reads: "This act shall become effective July 1, 1954."

66-269a. Application of minors.

Parent Liability.

A mother was not liable for the negligence of her underage son in driving an automobile where she did not

sign an application for a license for the son. *Gustafson v. Rajkovich*, 76 Ariz. 280, 263 Pac. (2d) 540.

66-269d. Liability of owner or donor for negligence or willful misconduct of unlicensed minor under eighteen.—Every owner of a motor vehicle causing or knowingly permitting an unlicensed minor under the age of eighteen [18] years to drive such vehicle upon a highway, and any person giving or furnishing a motor vehicle to such unlicensed minor, shall be jointly and severally liable with such minor for any damages caused by the negligence or willful misconduct of such minor in driving such vehicle. [Code 1939, § 66-269d, as added by Laws 1954, ch. 99, § 1.]

Title of Act.

An act relating to financial liability for minor drivers; providing that car owners are responsible for negligence of minors operating a car without a driver's license, and amending art. 2,

ch. 66, Arizona Code of 1939, by adding § 66-269d. [Laws 1954, ch. 99.]

Emergency.

Section 2 of Laws 1954, ch. 99, declared an emergency. Approved April 3, 1954.

ARTICLE 3—MOTOR VEHICLE FUEL TAX

SECTION.

66-320. Refund on fuel exported or not used in vehicle.

66-301. Amount of tax—When payable—Distribution.

Section to Section Reference.

Sections 66-301—66-325, are referred to in § 73-1329.

66-320. Refund on fuel exported or not used in vehicle.—(a) When motor vehicle fuel is sold to a person who claims that he will be entitled to a refund of the tax hereunder, by reason of the fact that the motor vehicle fuel is not for use in a motor vehicle, the seller shall make out in triplicate, on a form prescribed by the superintendent, an invoice setting forth the name and address of the purchaser, the number of gallons of motor vehicle fuel so sold, and such other information as the superintendent shall require. When the claim that the tax is refundable is based upon the fact that the motor vehicle fuel was used in aircraft, that fact shall be stated on the invoice. The seller shall give the original of the invoice to the

purchaser, at the time of sale, and shall mail the duplicate to the superintendent not later than Tuesday of the week next succeeding the sale. Any person entitled to a refund of the motor vehicle fuel tax shall be reimbursed under the following conditions:

1. Application for refund shall be filed with the superintendent within six [6] months from the date of purchase or invoice of the motor vehicle fuel with respect to which refund is claimed, and not thereafter.

2. The application shall be in the form prescribed and furnished by the superintendent, and shall state the quantity of motor vehicle fuel with respect to which refund is claimed, the purpose for which used, the date of purchase, and from whom purchased, and shall contain such other information as the superintendent shall require. The original invoice or an acceptable duplicate showing the purchase shall accompany the application.

3. In the case of a claim for refund on account of motor vehicle fuel exported, the claimant shall make satisfactory proof of export to the superintendent and shall file the claim within three [3] months from the date of export. The claim shall be in such form and contain such information as the superintendent may require. The original invoice or an acceptable duplicate shall accompany the claim.

4. Any person or distributor at the time he delivers motor vehicle fuel which will not be used on the highways, shall color such fuel so delivered with a coloring matter to be prescribed and furnished by the superintendent in the manner prescribed by the superintendent. No charge shall be made for such coloring matter. The seller and buyer shall at the time of delivery of such fuel sign the invoice provided for in this act certifying that the fuel covered by such invoice has been colored. Provided, however, the superintendent may in his discretion in writing exempt the coloring of any fuel which coloring may detract from its use and provided further that motor vehicle fuel to be exported shall be exempt from coloring. It shall be unlawful for any person to operate a motor vehicle on the highways using motor vehicle fuel which has been colored as provided and the superintendent or his authorized agents shall have the right to take samples of fuel from fuel tanks of motor vehicles in the enforcement of these provisions. Any person who violates any of these provisions, in addition to other penalties prescribed by law, shall not be allowed any refund on any motor vehicle fuel purchased during the six [6] months succeeding the date the superintendent advises such person by mail of the superintendent's discovery of such offense. Any person whose right to refunds is so suspended may institute an action in the superior court of Maricopa County to set aside such suspension.

(b) The conditions set forth in subsection (a) having been fully complied with, the superintendent shall determine the amount of refund due and shall certify and refund that amount.

(c) In the case of sales of motor vehicle fuel upon invoices stating that such fuel was used in aircraft, if applications for refund of the taxes upon such sales be not filed within the time provided in this section, then the superintendent shall determine from the copies of the invoices received by him under the provisions of subsection (a) of this section the amount of such unclaimed and unrefunded taxes,

and shall transmit such unclaimed and unrefunded taxes to the state treasurer, to be by him credited to the state aviation fund established by chapter 45, session laws of Arizona, 1950, first special session [§§ 48-144—48-148]. [R. C. 1928, § 1677c; Laws 1931 (1st S. S.), ch. 16, § 1, p. 50; 1933, ch. 11, § 1, p. 12; 1941, ch. 109, § 1, p. 230; 1943, ch. 441, § 1, p. 94; 1952, ch. 142, § 1; 1954, ch. 55, § 1.]

Title of Act.

An act relating to motor vehicle fuel tax; providing that applications for refund need not be made under oath, and amending § 66-320, Arizona Code of 1939. [Laws 1954, ch. 55.]

Amendments.

The 1954 amendment in subsection

(a) paragraph (2) deleted the words, "shall be sworn to" following the words, "form prescribed and furnished by the superintendent," in the first sentence; and deleted the former second sentence which read: "No fee shall be charged or collected for taking the acknowledgment of an applicant for refund of the license tax on any motor vehicle fuel."

ARTICLE 4—DEFINITIONS AND PENALTIES

66-401. Definitions.

Inspection Not Prerequisite.

Inspection of motor vehicles is not a prerequisite to issuance of certificates of title therefor so that petitioner who was not seeking license registrations for his vehicles was not required to allege

that his vehicles have been inspected in action to mandate Arizona motor vehicle division to issue certificates of title on autos acquired out-of-state. *McCarrell v. Lane*, 76 Ariz. 67, 258 Pac. (2d) 988.

ARTICLE 5—REGULATION OF PUBLIC HIGHWAY TRANSPORTATION

SECTION.

66-518. License tax.

66-506. Common motor carrier certificates—Application therefor.

Assignment of Certificate.

Commission erred in approving assignment of certificate from "dump truck" business located at Phoenix to assignees located at Tucson where designated headquarters under certificate

was Phoenix and where there was no evidence as to whether service of objecting trucker at Tucson was adequate and sufficient. *Gibbons v. Arizona Corp. Comm.*, 75 Ariz. 214, 254 Pac. (2d) 1024.

66-511. Assignment and revocation of certificates—Permits.

Adequate and Sufficient.

Commission erred in approving assignment of certificate from "dump truck" business located at Phoenix to assignees located at Tucson where designated headquarters under certificate was Phoenix and where there was no evidence as to whether service of objecting trucker at Tucson was adequate and sufficient. *Gibbons v. Arizona Corp. Comm.*, 75 Ariz. 214, 254 Pac. (2d) 1024.

Trial de Novo.

A proceeding to review order of commission approving transfer of a certificate is a trial de novo hence court can consider evidence not heard by commission. *Gibbons v. Arizona Corp. Comm.*, 75 Ariz. 214, 254 Pac. (2d) 1024.

66-512. Abandonment of privileges granted.

Lapse of Operations.

Lapse of operations under certificate does not automatically constitute an abandonment. *Gibbons v. Arizona Corp. Comm.*, 75 Ariz. 214, 254 Pac. (2d) 1024.

Commission did not abuse its discretion in ruling that there was no

abandonment where certificate holder though operating truck business in California had made reports, maintained bond, kept a truck at state residence, and maintained a mailing address. *Gibbons v. Arizona Corp. Comm.*, 75 Ariz. 214, 254 Pac. (2d) 1024.

1955
SUPPLEMENT

1955 SUPPLEMENT

ARIZONA CODE 1939

INCLUDING VOLUMES 1-6

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PUBLISHER'S NOTE

This supplement includes the annotations to Arizona Code, 1939, from Volume 270, second series, through Volume 281, second series, of the Pacific Reporter.

Amendments to acts and new laws enacted at the 1955 session are compiled and will be found under their appropriate section numbers.

Section numbers printed in black face type either refer to sections of the original volume or permanent supplements thereto or to new acts not included therein.

Chapter and article analyses, in this supplement, carry only laws that have been amended or new laws. Old sections that carry nothing but annotations are not included in the analyses.

**ADJOURNMENT DATES OF SESSIONS OF
LEGISLATURE**

1955 April 2, 1955

CHAPTER 66—MOTOR VEHICLES

ARTICLE.

1. USE OF HIGHWAYS BY VEHICLES, §§ 66-185m, 66-186.
2. MOTOR VEHICLE DIVISION, §§ 66-201, 66-208c, 66-208d, 66-208e, 66-212, 66-219a, 66-219b, 66-219c, 66-225, 66-256, 66-269, 66-271.

ARTICLE.

5. REGULATION OF PUBLIC HIGHWAY TRANSPORTATION, §§ 66-501, 66-521, 66-526a.

ARTICLE 1—USE OF HIGHWAYS BY VEHICLES

SECTION.

66-185m. Public and school owned vehicles—Repainting before operation by private owners.

SECTION.

66-186. Penalties for misdemeanors.

66-151. Definition of words and phrases.

Section to Section Reference.

Sections 66-151—66-189 are referred to in § 66-186.

66-156. Persons under the influence of intoxicating liquor or of drugs.

Construction.

While former statute made only "driving" while under the influence of intoxicating liquor or narcotic drugs a misdemeanor, new law makes "being in actual physical control" of a vehicle a misdemeanor as well, as it is added in the disjunctive to the retained reference to "driving," and a person "passed out" or asleep at the wheel of a car whose motor was running although the car was not moving was held to be "in actual physical control." State v. Webb, 78 Ariz. 8, 274 Pac. (2d) 338.

Statute making either "driving" or "being in actual physical control" of a vehicle while under the influence of intoxicating liquor or narcotic drugs is to be construed according to the fair import of its terms with a view to effect its object and to promote justice and the rule of the common law that penal statutes are to be strictly construed has no application. State v. Webb, 78 Ariz. 8, 274 Pac. (2d) 338.

Drunkometer Test.

Instruction that if jury believed beyond reasonable doubt that there was 0.15 per cent or more by weight of alcohol in the defendant's blood at time of taking of blood-alcohol test it shall

66-157. Reckless driving.

Prior Convictions.

Trial court properly did not consider evidence of commission of prior offenses where no instruction was given on issue to the jury who merely re-

be presumed that the defendant was under the influence of intoxicating liquor did not violate due process clauses of the federal and state constitutions nor relieve the state of proving guilt beyond a reasonable doubt. State v. Childress, 78 Ariz. 1, 274 Pac. (2d) 333.

Instructions.

Instructions on the statutory presumptions arising from proof of alcoholic content of the blood did not convey to the jury the trial judge's personal opinion as to the truth or falsity of any evidence as he was merely performing his mandatory duty of instructing the jury upon the law of the case, and trial judge's giving of such instruction did not amount to a comment on the evidence. State v. Childress, 78 Ariz. 1, 274 Pac. (2d) 333.

Prior Convictions.

Trial court properly did not consider evidence of commission of prior offenses where no instruction was given on issue to the jury who merely returned finding that defendant was guilty of driving under influence of intoxicating liquor. State v. Johnson, 78 Ariz. 211, 277 Pac. (2d) 1020.

turned finding that defendant was guilty of driving under influence of intoxicating liquor and reckless driving. State v. Johnson, 78 Ariz. 211, 277 Pac. (2d) 1020.

66-175. Brakes.**Instructions.**

With no direct evidence indicating that brakes on automobile were faulty, it was incorrect to instruct the jury on

matters concerning minimum brake requirements. *Eldredge v. Miller*, 78 Ariz. 140, 277 Pac. (2d) 239.

66-185g. Single-axle load limit.**Section to Section Reference.**

Sections 66-185g, 66-185h are referred to in § 66-186.

66-185m. Public and school owned vehicles—Repainting before operation by private owners.—Any motor vehicle, painted yellow, owned or operated by this state or any county, city, town or political subdivision of the state, or any school district or school, shall, if sold or transferred to a private owner, be repainted a different color and all official painted insignia be obliterated by such private owner before it may be driven on the public highways of this state. [Code 1939, § 66-185m, as added by Laws 1955, ch. 105, § 1.]

Title of Act.

An act relating to public and school owned motor vehicles painted yellow; requiring repainting before operation

on the public highways by private owners, and amending art. 1, ch. 66, Arizona Code of 1939, by adding § 66-185m. [Laws 1955, ch. 105.]

66-186. Penalties for misdemeanors.—(a) It is a misdemeanor for any person to violate any of the provisions of sections 66-151 to 66-189, unless such violation is by this act or other law of this state declared to be a felony.

(b) Every person convicted of a misdemeanor for a violation of any of the provisions of sections 66-151 to 66-189 for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not more than one hundred dollars [\$100] or by imprisonment for not more than ten [10] days; for a second such conviction within one [1] year thereafter such person shall be punished by a fine of not more than two hundred dollars [\$200] or by imprisonment for not more than twenty [20] days, or by both such fine and imprisonment; upon a third or subsequent conviction within one [1] year after the last conviction such person shall be punished by a fine of not more than three hundred dollars [\$300] or by imprisonment for not more than six [6] months, or by both such fine and imprisonment.

(c) A person convicted of violating any provision of sections 66-185g or 66-185h shall be punished by a fine, the maximum of which shall be three hundred dollars [\$300] and the minimum as set forth in the following table:

If the excess weight is:	The minimum fine shall be:
1,000 to 1,500 pounds	\$30.00
1,501 to 2,000	35.00
2,001 to 2,500	55.00
2,501 to 3,000	70.00
3,001 to 3,500	85.00
3,501 to 4,000	100.00
4,001 to 4,500	120.00
4,501 to 4,750	140.00
4,751 to 5,000	160.00

5,001 to 5,250	180.00
5,251 to 5,500	205.00
5,501 to 5,750	230.00
5,751 to 6,000	255.00
6,001 and over	280.00

(d) A person convicted of violating any provision of sections 66-185g or 66-185h may, in addition to the fine provided for in subsection (c) of this section, be punished by imprisonment for not to exceed six months.

(e) If the officer finds that the person has violated only the axle weight limitation and not the total weight limitation, the officer shall request the driver to reload the vehicle to comply with the axle weight limitation. If the driver so complies he shall not be subject to arrest or fine. If the driver does not comply with the request of the officer to reload, the driver shall be subject to arrest and fine as provided in subsections (c), (d), and (f) of this section.

(f) When a person is arrested for violating either section 66-185g or 66-185h, the arresting officer may take the person immediately before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense, provided a person taken before a justice of peace shall be taken before the nearest or most accessible with reference to the place where said arrest is made.

(g) Any fee, fine, forfeiture or penalty collected for violation of sections 66-185g or 66-185h shall be paid immediately by the officer or court collecting or receiving same to the state treasurer, who shall credit it to the state highway fund. However, in each case in which a fee, fine or penalty is collected, the sum of ten dollars as costs shall be deducted from the amount collected and deposited in the county treasury of the county in which the violation occurred. [Laws 1950 (1st S. S.), ch. 3, p. 169; 1955, ch. 134, § 1.]

Title of Act.

An act relating to the Uniform Act regulating traffic on highways; making violation of certain provisions thereof a misdemeanor; providing for disposition of fines, and amending § 66-186, Arizona Code of 1939. [Laws 1955, ch. 134.]

Amendments.

The 1955 amendment added subsections "c" through "g".

Emergency.

Section 2 of Laws 1955, ch. 134 declared an emergency. Approved April 12, 1955.

ARTICLE 2—MOTOR VEHICLE DIVISION

SECTION.

66-201. Motor vehicle division.
 66-208c. Special license plates for vehicles of historic value.
 66-208d. Safety requirements.
 66-208e. Old certificates of title to be retained.
 66-212. Transfer of ownership by operation of law.
 66-219a. Surety bond for engine rebuilders.

SECTION.

66-219b. Engine identification.
 66-219c. Bill of sale.
 66-225. Registration of vehicles of nonresidents.
 66-256. Fees—License tax on commercial vehicles.
 66-269. Application for license or instruction permit.
 66-271. Licenses issued to operators and chauffeurs.

66-201. Motor vehicle division.—(a) The highway department shall maintain a division of motor vehicles. The state engineer, subject to the approval of the commission, shall appoint a vehicle superintendent to be the head of such division.

(b) The vehicle division shall maintain an office in the capital, and such other offices as the duties of the division may require. The superintendent may, with the consent of the state engineer, appoint a chief clerk and such other employees as the business of the division may demand.

(c) The superintendent, and such officers, agents and employees of the division as he may designate, are denominated peace officers for the enforcement of all laws the enforcement or administration of which is vested in the superintendent or in the division. The powers of the superintendent, officers, agents and employees as peace officers are strictly limited to the enforcement of motor vehicle laws and regulations, and within such limits shall be co-extensive with the like authority of regular peace officers of the state or of the municipalities thereof, and may be exercised throughout the state.

(d) The superintendent shall prescribe rules and regulations for carrying out the provisions of this act, shall designate the necessary agencies for such purpose, and shall prepare and deliver to such agencies all forms required therefor.

(e) The superintendent, chief clerk, and such officers, agents and employees of the division as the superintendent shall designate, shall have power to administer oaths and acknowledge signatures, without fee, in any matter connected with the administration of any law the enforcement of which is vested in the superintendent of the division. The superintendent shall issue to all persons designated by him to administer oaths and acknowledge signatures a certificate of authority so to do, the original of which shall be filed in the division and a copy in the office of the secretary of state.

(f) The assessor of each county is constituted an agent of the division for the performance of acts and duties delegated to him. The several county assessors may establish such outlets for the issuance of licenses as may be necessary, and the outlets and offices maintained by such county assessors are constituted county offices of the division. One dollar [\$1.00] of each original registration fee shall be remitted to the county treasurer of the county in which such registration fee is collected, and placed in a special fund for the use of the assessor in carrying out the duties imposed upon him by this act. Claims against said fund shall be allowed and paid in the same manner as claims against the county are allowed and paid. The board of supervisors may order the transfer of all or any unexpended part of said fund received during a previous fiscal year into the fund for the maintenance and construction of county highways. All moneys received from the taxes herein imposed, except the portion retained for the assessor's special fund, shall be immediately transferred by the collecting officer to the superintendent, and by him to the state treasurer, who shall credit the same to the state highway fund. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 1-4, p. 33; cons. & rev., R. C. 1928, § 1629; Laws 1937, ch. 67, § 1, p. 234; 1955, ch. 65, § 1.]

Title of Act.

An act relating to motor vehicles; increasing assessor's portion of registration fee for office expenses; increasing fee for registration of vehicles and amending §§ 66-201, 66-225, and 66-256,

Arizona Code of 1939. [Laws 1955, ch. 65.]

Amendments.

The 1955 amendment in subsection (f) divided the former first sentence

into two sentences and inserted at the beginning of the second sentence the words, "The several county assessors may establish such outlets for the issuance of licenses as may be necessary,

and the outlets." The amendment increased fee remitted to the county treasurer from "50 cents" to "one dollar."

66-208a. One number plate, tabs and windshield stickers.

Section to Section Reference.

This section is referred to in § 208c.

66-208c. Special license plates for vehicles of historic value.—Notwithstanding any other provision of the laws of Arizona, any owner of a motor vehicle of the age of thirty-five [35] years or more from the date of manufacture, operated or moved over the highway primarily for the purpose of historical exhibition or other similar purpose, shall upon application in the manner and at the time prescribed by the motor vehicle division, be issued special license plates for such motor vehicles in lieu of the regular license plates issued by such division. In addition to the payment of all other fees required by law, the applicant shall pay such fee for the issuance of such special plates as may be prescribed by the division. The registration numbers and special license plates assigned to such motor vehicles shall be manufactured from Arizona copper, and shall run in separate numerical series commencing with "Horseless Carriage No. 1" and the plates shall be of a distinguishing color. Upon renewal of registration of such motor vehicles for the year 1955 and thereafter every fifth [5th] year they shall be issued new special license plates. During each intervening four-year period the department shall annually issue symbols or devices as provided in section 66-208a, Arizona Code of 1939. [Laws 1955, ch. 98, § 1.]

Title of Act.

An act relating to motor vehicles; defining vehicles of historic value, providing for license plates therefor, for

safety equipment thereon, for photostating certificates of title thereof, and for the use of the same upon public highways. [Laws 1955, ch. 98.]

66-208d. Safety requirements.—Any other statute to the contrary notwithstanding, a motor vehicle of historic value shall be deemed to comply with the safety requirements of the laws of Arizona relating to motor vehicles if the original safety equipment placed thereon by the maker thereof is in good operating condition or if such original equipment has been replaced by equipment equal to, or more efficient than such original equipment, and provided such motor vehicle is used only for the purposes described herein. [Laws 1955, ch. 98, § 2.]

66-208e. Old certificates of title to be retained.—(a) The owner of a motor vehicle of historic value may retain the old cancelled certificate of title provided:

1. Application for new title is granted;
2. thirty-five [35] years or more have expired since the date of issuance thereof;
3. the old title is marked "cancelled" on its face;
4. a photostatic copy is made of the cancelled certificate of title paid for by the applicant.

(b) The photostatic copy shall be deemed to be the original for purposes of cancelled title records of the motor vehicle division. [Laws 1955, ch. 98, § 3.]

66-212. **Transfer of ownership by operation of law.**—(a) Whenever the title or interest of an owner in or to a registered vehicle shall pass to another otherwise than by voluntary transfer, the transferees [transferee] shall, within ten [10] days after the passing of such title or interest, secure a transfer of registration to himself, and (upon proper application and presentation of the last certificate of title, if available, and such instruments or documents of authority, or certified copies thereof as may be sufficient or required by law to evidence or effect a transfer of title or interest in or to chattels in such case) a new certificate of title.

(b) When a motor vehicle has been forfeited to the federal government and is sold at public auction pursuant to the terms of federal law, the purchaser at the sale shall take title free of any liens or encumbrances if federal law so provides. He shall register the motor vehicle within ten [10] days after the sale and a certificate of title shall be issued to him without any reference to liens or encumbrances upon presentation of the evidence of title acquired at the federal sale.

(c) Where the title or interest of an owner in or to a registered vehicle shall pass to another through notice and sale under the conditions contained in a chattel mortgage, conditional sale, or other evidence of lien, or under the authority given by statute in cases arising under sections 62-401 and 62-402 the transferee may secure a transfer of registration to himself, and a new certificate of title, upon presenting satisfactory evidence to the division that the sale of said vehicle was fairly and lawfully conducted in conformity with all requirements of law after due notice given to the former owner.

(d) An administrator, executor, trustee or other representative of the owner, or a peace officer, or any person repossessing a vehicle under the terms of a conditional sales contract, lease, chattel mortgage or other security agreement, or a purchaser at a sale foreclosing a lien, or the assignee or legal representative of any such person, may operate a vehicle from the place of repossession or place where formerly kept to a garage or place of storage, in the county or state where the contract was recorded or where the one repossessing the same resides, or to any other garage or place of storage not exceeding seventy-five [75] miles from the place of repossession or place where formerly kept by the owner, either upon displaying upon such vehicle the number plates assigned thereto, or without number plates attached thereto but under a written permit first obtained from the vehicle division or the local police authorities having jurisdiction over such highways, and upon displaying in plain sight upon such vehicle a placard bearing the name and address of the person authorizing such movement, and plainly readable from a distance of one hundred [100] feet during daylight. [Laws 1927 (4th S. S.), ch. 2, subch. 3, §§ 17, 19, p. 33; cons. & rev., R. C. 1928, § 1640; Laws 1931, ch. 100, § 3, p. 265; 1937, ch. 67, § 10, p. 234; 1955, ch. 54, § 1.]

Compiler's Note.

The bracketed word "transferee" was inserted by the compiler, and the words appearing in parentheses so appeared in the act.

Title of Act.

An act relating to motor vehicles; providing that certain vehicles sold at public auction shall pass to purchasers free of liens and encumbrances, and

amending § 66-212, Arizona Code of 1939. [Laws 1955, ch. 54.]

Amendments.

The 1955 amendment substituted subsections (b) and (c) for former subsection (b) which read: "Where the title or interest of an owner in and to a registered vehicle shall pass to another through notice and sale under the conditions contained in a chattel mortgage, conditional sale, or other evidence of lien, or under the authority given by

statute in cases arising under sections 2042 and 2043, Revised Code of 1928 [§§ 62-401 and 62-402], the transferee may secure a transfer of registration to himself, and a new certificate of title, upon presenting satisfactory evidence to the division that the sale of said vehicle was fairly and lawfully conducted in conformity with all requirements of law after due notice given to the former owner." The amendment relettered former subsection (c) as subsection (d).

66-219a. Surety bond for engine rebuilders.—Any person or firm desiring to file a five thousand dollar [\$5,000] bond indemnifying the superintendent of the division of motor vehicles and the owner of any engine which may prove to have been stolen shall be permitted to clear rebuilt motors on a bill of sale of a type issued or approved by the division. The bill of sale shall provide additional space for endorsement of subsequent agents or purchasers who may purchase such rebuilt engines for installation in motor vehicles of a type subject to registration in this state. [Laws 1955, ch. 13, § 1.]

Title of Act.

An act relating to motor vehicles; and providing for rebuilding of motors. [Laws 1955, ch. 13.]

66-219b. Engine identification.—Every bonded rebuilder shall be subject to the following:

1. No bonded rebuilder shall remove, alter or change an original motor number from any motor vehicle engine or motor.

2. A bonded rebuilder who desires to add his own identification number on a block already numbered may do so in some place that will be covered with another part when the engine assembly is complete so that this additional number will not be confused with the original number stamped on the engine.

3. A bonded rebuilder who receives a motor or engine which has never been stamped with an identification number shall, upon reconditioning said motor or engine, stamp thereon in the space designated, the identification letters and numbers furnished him by the division of motor vehicles at the time of filing his bond. A bonded rebuilder shall not add any additional numbers or letters to the numbers and letters assigned to him by the division of motor vehicles.

4. A bonded rebuilder who receives a motor or engine on which the number originally stamped upon the same has been mutilated, defaced, destroyed or removed, shall immediately report the fact to the nearest office of the motor vehicle division and comply with the provisions of section 66-219, Arizona Code of 1939. [Laws 1955, ch. 13, § 2.]

66-219c. Bill of sale.—All motors rebuilt by bonded motor rebuilders shall, upon sale to a dealer or individual, be accompanied by a bill of sale. Motors purchased or received in exchange by motor rebuilders shall be accompanied by a bill of sale from the owner thereof. [Laws 1955, ch. 13, § 3.]

66-225. Registration of vehicles of nonresidents.—(a) Except as hereinafter provided, every foreign vehicle owned by a nonresident and operated in the state for the transportation of passengers or property for compensation or in the business of a nonresident carried on in this state, or for the transportation of property, shall be registered and licensed in the same manner as is required in the case of motor vehicles, trailers or semi-trailers, not theretofore registered or licensed.

(b) In case it is desired to operate any such vehicle in this state for a period less than the full registration year, if such vehicle is duly registered and licensed under the laws of any other state or country, the owner may make application to the vehicle division in the manner and form prescribed, for the registration and licensing of such vehicle for the periods, of one [1], two [2] or three [3] months. A thirty-day registration and license application shall be accompanied by an amount equal to twelve and a half per cent [$12\frac{1}{2}\%$] of the full annual registration and unladen weight fees. A sixty-day registration and license application shall be accompanied by an amount equal to twenty-two per cent [22%] of the full annual registration and unladen weight fees. A ninety-day registration and license application shall be accompanied by an amount equal to thirty per cent [30%] of the full annual registration and unladen weight fees. The full annual registration and unladen weight fees shall be those applicable to the applicant's vehicle prescribed by section 66-256. The minimum fee for such licensing and registration shall be four dollars [\$4.00]. No application will be accepted for a fraction of any of the periods set forth above, but such licenses may be issued without restriction as to number or sequence.

(c) The vehicle division, if satisfied as to the facts stated in the application, shall register and license the vehicle for the period named and assign an appropriate certificate or license, which shall at all times be displayed upon the vehicle in the manner prescribed by the division, while the same is being operated or driven upon any highway of the state.

(d) If any nonresident owner of a foreign vehicle is apprehended while operating such vehicle in this state beyond the period specified in his certificate or license, without application for renewal thereof, no further thirty, sixty or ninety-day certificate or license will be issued such person during the registration year in which the violation took place, and such nonresident owner shall apply for, and obtain, the registration of the vehicle and pay the fees for the registration year.

(e) A nonresident owner of a foreign vehicle registered and licensed in a state adjoining Arizona, being used in this state for other than the transportation of passengers or property for compensation or in the business of a nonresident carried on in this state, shall not be required to pay the registration and unladen weight fees prescribed in section 66-256, provided the nonresident owner and vehicle are domiciled within twenty-five [25] miles of the Arizona border, and that the state in which the owner has his residence and in which such vehicle is registered exempts from the payment of registration and unladen fees like vehicles from this state.

(f) An owner seeking exemption as provided in subsection (e) shall apply to the motor vehicle division for a special registration permit, setting forth that the vehicle is to be used within this state for other than the transportation of passengers or property for compensation or in the business of a nonresident carried on in this state, and supplying such other information as the division may require, and shall make affidavit thereto. If satisfied that the applicant is entitled to exemption, the motor vehicles division shall issue a special permit to operate, which shall be distinctive in form, show the date issued, a brief description of the vehicle, and a statement that the owner has procured registration of such vehicle as a nonresident. Said permit shall be valid for the period for which the registration plate was issued by the state of which the owner is a resident.

(g) Every foreign vehicle owned by a nonresident and operated in this state other than for the transportation of passengers or property for compensation, or for the transportation of property, or in the business of a nonresident carried on in this state, shall be registered within ten [10] days after the beginning of operation in the state in like manner as vehicles owned by residents, and no fee shall be charged for such registration, nor shall any number plates be assigned to such vehicle, but the vehicle division shall issue to such nonresident owner a permit distinctive in form, containing the date issued, a brief description of the vehicle and a statement that the owner has procured registration of the vehicle as a nonresident. No such nonresident owner shall operate any such vehicle upon the highways of this state, either before or while it is registered as provided in this section, unless there be displayed thereon the registration number plates assigned to the vehicle for the current calendar year, by the state or country of which the owner is a resident, nor unless the permit prescribed by this subsection is displayed on the windshield of the vehicle in the manner prescribed by the division. Such permit shall be valid for the period for which the registration plate was issued by the state of which the owner is a resident. [Laws 1927 (4th S. S.), ch. 2, subch. 3, § 24, p. 33; rev., R. C. 1928, § 1646; Laws 1931, ch. 100, § 4, p. 265; 1931 (1st S. S.), ch. 14, § 1, p. 44; 1937, ch. 67, § 21, p. 234; 1951, ch. 113, § 1; 1954, ch. 131, § 1; 1955, ch. 65, § 2.]

Amendments.

The 1955 amendment in subsection (b) increased the fee for licensing and registration from \$3.50 to \$4.00.

66-256. Fees—License tax on commercial vehicles.—(a) The following fees shall be paid to the vehicle division:

1. For each original certificate of title, one dollar [\$1.00];
2. for each certificate of title on sale or transfer, one dollar [\$1.00];
3. for a duplicate certificate of title, the original of which is lost or destroyed and is satisfactorily accounted for, fifty cents [50c];
4. for each registration card upon transfer registration, fifty cents [50c];
5. for a duplicate registration card, fifty cents [50c];

6. for a duplicate of any permit, fifty cents [50c];
7. for filing each application to make or stamp special engine number, one dollar [\$1.00];
8. for each identification plate bearing serial or identification number to be affixed to any vehicle, one dollar [\$1.00];
9. for approving each type of reflector, electric lantern, flare, fire extinguisher, mechanical signal, head lamps, auxiliary driving lamps, signal lamps or rear lamps, five dollars [\$5.00];
10. for each number plate or pair of number plates to replace lost, destroyed or mutilated plates, one dollar [\$1.00];
11. for the first two [2] number plates or the first two [2] pairs of number plates issued to a dealer other than a dealer in motorcycles, twenty-five dollars and fifty cents [\$25.50], and for the first two [2] number plates issued to a dealer in motorcycles, ten dollars and fifty cents [\$10.50];
12. for each additional number plate or pair of number plates issued to a dealer other than a dealer in motorcycles, five dollars [\$5.00], and for each additional number plate issued to a dealer in motorcycles, two dollars and fifty cents [\$2.50];
13. for the registration of any motor vehicle, trailer or semi-trailer, if registered prior to July 1, four dollars [\$4.00]; if registered after July 1, two dollars and fifty cents [\$2.50];
14. for filing any conditional sales contract, conditional lease, chattel mortgage or other lien or encumbrance, or title retention instrument, or any other instrument affecting or evidencing title to, ownership of, or reservation of title to any motor vehicle, trailer or semi-trailer, seventy-five cents [75c];
15. for filing any assignment or satisfaction or release of any conditional sales contract, conditional release, chattel mortgage or other title retention instrument, or any other instrument affecting or evidencing title to, ownership of or reservation of title to any motor vehicle, trailer or semi-trailer, twenty-five cents [25c].

(b) In addition to the required registration fee, there shall be paid at the time of application for registration an unladen weight fee on each motor vehicle, trailer or semi-trailer designed, used or maintained primarily for the transportation of passengers for compensation, or for the transportation of property, including hearses, ambulances and other vehicles used by a mortician in the conduct of his business, and motor vehicles rented without drivers, when such vehicles are equipped wholly with pneumatic tires, in accordance with the following schedule:

For vehicles with two [2] axles, 1. two thousand nine hundred [2,900] to four thousand [4,000] pounds unladen weight, thirty-five cents [35c] per cwt.; 2. four thousand [4,000] to six thousand [6,000] pounds, fifty cents [50c] per cwt.; 3. six thousand [6,000] to eight thousand [8,000] pounds, sixty-five cents [65c] per cwt.; 4. eight thousand [8,000] to ten thousand [10,000] pounds, seventy-five cents [75c] per cwt.; 5. ten thousand [10,000] to twelve thousand [12,000] pounds, one dollar [\$1.00] per cwt.; 6. twelve thousand [12,000] pounds or over, one dollar [\$1.00] per cwt.; 7. maximum fee, one hundred twenty dollars [\$120].

For vehicles with three [3] axles, 8. two thousand nine hundred [2,900] to four thousand [4,000] pounds, forty cents [40c] per cwt.;

9. four thousand [4,000] to six thousand [6,000] pounds, sixty-five cents [65c] per cwt.; 10. six thousand [6,000] to eight thousand [8,000] pounds, eighty cents [80c] per cwt.; 11. eight thousand [8,000] to ten thousand [10,000] pounds, one dollar [\$1.00] per cwt.; 12. ten thousand [10,000] to twelve thousand [12,000] pounds, one dollar thirty-five cents [\$1.35] per cwt.; 13. twelve thousand [12,000] pounds or over, one dollar sixty cents [\$1.60] per cwt.; 14. maximum fee, one hundred eighty-five dollars [\$185].

Provided, however, that motor vehicles, trailers or semi-trailers owned and operated by religious institutions used exclusively for the transportation of property produced and distributed for charitable purposes and without compensation, shall be exempt from the unladen weight fee hereinabove provided. For the purposes of this act "religious institution" means a recognized organization having an established place of meeting for religious worship, and which holds regular meetings for such purposes at least once each week in not less than five [5] cities or towns in the state.

(c) In addition to the required registration fee, there shall be paid, at the time of application for registration on each motor vehicle designed and used primarily for the transportation of passengers for compensation or for the transportation of property, when equipped wholly with pneumatic tires and weighing, when unladen, less than twenty-nine hundred [2,900] pounds, two dollars [\$2.00]; and on each trailer or semi-trailer, when equipped wholly with pneumatic tires and weighing, when unladen, less than twenty-nine hundred [2,900] pounds but more than one thousand [1,000] pounds, two dollars [\$2.00].

(d) When any vehicle referred to in subdivisions (b) and (c) hereof is equipped with two [2] or more solid tires, the unladen weight fee therein specified shall be twice the amount specified for such vehicles if equipped wholly with pneumatic tires.

(e) Upon any registration issued after the beginning of the registration year, the unladen weight fees herein prescribed shall be reduced by one-twelfth [1/12] for each month which shall have elapsed since the beginning of the registration year.

(f) The unladen weight of any vehicle shall be the weight of such vehicle when unladen and fully equipped and ready for service, and shall be evidenced by a sworn statement of the applicant for registration, accompanied by a verified certificate of weight duly issued by a public weighmaster. Such sworn statement or certificate shall be subject to verification by the vehicle division, or any of its officers or agents. A major fraction of one hundred [100] pounds shall be considered as one hundred [100] pounds and a minor fraction of one hundred [100] pounds shall not be counted in determining the unladen weight of any vehicle.

(g) All moneys received from the taxes herein provided shall be immediately transferred by the officer collecting the same to the superintendent, and by him to the state treasurer, who shall immediately credit the same to the state highway fund. [Laws 1927 (4th S. S.), ch. 2, subch. 4, § 5 in part; rev., R. C. 1928, § 1672; Laws 1931, ch. 100, § 5; 1931 (1st S. S.), ch. 1, § 1; 1937, ch. 67, § 25; 1953, ch. 53, § 3; 1953, ch. 121, § 1; 1955, ch. 65, § 3.]

Amendments.

The 1955 amendment deleted in subsection (a) items 7 to 13, which read:

"7. for filing each application for dealer's or wrecker's license, five dollars;

"8. for each dealer's or wrecker's license when issued, three dollars;

"9. for filing each application for a chauffeur's license, one dollar;

"10. for each original operator's license other than owners, fifty cents;

"11. for each operator's license issued under the provisions of section 66-247, for which a fee is thereby required to be paid, fifty cents;

"12. for each duplicate chauffeur's or operator's license, fifty cents;

"13. for each chauffeur's badge to replace lost badge, one dollar."

The amendment renumbered the items formerly numbered from 14 to 22 as

items 7 to 15 respectively. Prior to the amendment the present items 11-13 read:

"11. for each original plate or plates issued to a dealer, three dollars and fifty cents;

"12. for each additional plate or pair or plates issued to a dealer, one dollar;

"13. for the registration of any motor vehicle, trailer or semi-trailer, if registered prior to July 1, three dollars and fifty cents; if registered after July 1, two dollars;"

In subsection (d) the amendment substituted "(b) and (c)" for the words, "twenty-two hereof or any motor vehicle referred to in subdivision twenty-three," following the words, "referred to in subdivision."

Section to Section Reference.

This section is referred to in § 62-225.

66-269. Application for license or instruction permit.—(a) Every application for an instruction permit or for an operator's or chauffeur's license shall be made on a form furnished by the department.

(b) An application fee of two dollars [\$2.00] shall be charged every applicant for an operator's or chauffeur's license, or for an instruction permit to be issued under the provisions of subsection (a) of section 66-268. An application fee of fifty cents [50c] shall be charged for an instruction permit issued under the provisions of subsection (b) of section 66-268. Payment of the fee required by this section entitles the applicant to not more than three [3] attempts to pass the examination within a period of six [6] months from the date of the application. No refund of an application fee may be made.

(c) Every application shall state the full name, date of birth, sex, and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as an operator or chauffeur, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal. [Laws 1951, ch. 115, § 7; 1955, ch. 56, § 1.]

Title of Act.

An act relating to motor vehicles; prescribing rules and fees for issuance of operators' and chauffeurs' licenses, and for instruction permits, and amending §§ 66-269 and 66-271, Arizona Code of 1939. [Laws 1955, ch. 56.]

read: "Every application shall be accompanied by a \$2.00 fee and payment of such fee shall entitle the applicant to not more than three [3] attempts to pass the examination within a period of six [6] months from the date of application." The amendment inserted subsection (b) and relettered former subsection (b) as subsection (c).

Amendment.

The 1955 amendment in subsection (a) deleted the second sentence which

66-271. Licenses issued to operators and chauffeurs.—(a) The department shall issue to every applicant qualifying therefor an operator's or chauffeur's license as applied for, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature

with pen and ink immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee. [Laws 1951, ch. 115, § 12; 1955, ch. 56, § 2.]

Amendment.

The 1955 amendment in the first sentence deleted the words, "upon payment of \$2.00," following the words, "The department shall."

Emergency.

Section 3 of Laws 1955, ch. 56, declared an emergency. Approved March 18, 1955.

ARTICLE 4—DEFINITIONS AND PENALTIES

66-401. Definitions.

Section to Section Reference.

Sections 62-401, 62-402 are referred to in § 66-212.

ARTICLE 5—REGULATION OF PUBLIC HIGHWAY TRANSPORTATION

SECTION.

66-501. Definitions.
66-521. Reports from private motor carriers and persons leasing certain vehicles.

SECTION.

66-526a. Private motor carrier manifests required—Inspection—Exception.

66-501. Definitions.—(a) In this act, unless the context otherwise requires:

1. "Motor vehicle" means any automobile, truck, truck tractor, trailer, semi-trailer, motor bus, or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting persons or property.
2. "Public highway" means any public street, alley, road, highway or thoroughfare of any kind used by the public, or open to the use of the public as a matter of right for the purpose of vehicular travel.
3. "Commission" means the Arizona corporation commission.
4. "Common motor carrier of property" means any person engaged in the transportation on any public highway by motor vehicle of property for compensation as a common carrier.
5. "Common motor carrier of passengers" means any person engaged in the transportation on any public highway by motor vehicle of passengers for compensation as a common carrier.
6. "Contract motor carrier of property" means any person engaged in the transportation by motor vehicle of property, for compensation, on any public highway, and not included in the term common motor carrier of property, and, for the purpose of taxation, the owner of any motor vehicle in excess of 6,000 pounds unladen weight who leases, licenses, or by any other arrangement permits the use of such vehicle by any other (other than a common or contract carrier subject to tax herein) for the transportation of property upon the public highway for compensation or in the furtherance of any commercial or industrial enterprise.
7. "Contract motor carrier of passengers" means any person engaged in the transportation on any public highway by motor vehicle of passengers for compensation, and not included in the term common motor carrier of passengers.
8. "Motor carrier" means any common motor carrier of property or passengers or any contract motor carrier of property or passengers.

9. "Private motor carrier" means any person not included in the term "common motor carrier" or "contract motor carrier" who transports, by any motor vehicle in excess of 6,000 pounds unladen weight, property of which such person is the owner, lessee or bailee, when such transportation is for the purpose of sale, lease, rent or bailment, or in the furtherance of any commercial enterprise; provided, however, ownership of the property transported shall not be accepted as sufficient proof of a private motor carrier operation if the carrier is in fact engaged in the transportation of property for hire, compensation or remuneration, or if such transportation operations are conducted for profit and not merely as an incident to a commercial enterprise.

10. "Superintendent" means the superintendent of the motor vehicle division, Arizona state highway department.

(b) The transportation for more than one [1] consignor, or to more than three [3] consignees, by any motor carrier, shall be prima facie evidence that such motor carrier is acting as a common carrier. [Laws 1933, ch. 100, § 1, p. 472; 1955, ch. 135, § 1.]

Title of Act.

An act defining vehicles leased for transportation on public highways for compensation as contract motor carriers for the purpose of taxation; requiring private motor carriers leasing such vehicles to file report; requiring private motor carriers to have manifest in vehicles; amending §§ 66-501 and 66-521, Arizona Code of 1939, and amending art. 5, ch. 66, Arizona Code of 1939, by adding § 66-526a. [Laws 1955, ch. 135.]

Amendment.

The 1955 amendment divided the section into subsections (a) and (b), and

divided subsection (a) into 10 numbered items. Item 6 prior to amendment read: "Contract motor carrier of property shall mean any person engaged in the transportation on any public highway by motor vehicle of property, for compensation, and not included in the term common motor carrier of property." Item 9 prior to amendment read: "Private motor carrier shall mean any person, other than a common motor carrier or contract motor carrier, who shall engage in the transportation of property on any public highway in the furtherance of any private commercial enterprise."

66-506. Common motor carrier certificates—Application therefor.

Cancellation Order Final.

Corporation commission cannot rescind its order under § 66-520 cancelling certificate of public convenience for failure to pay taxes, since cancellation order is final, and carrier can only obtain a new certificate by filing petition in conformance with provisions of this section. Tucson Warehouse & Transfer Co. v. Al's Transfer, Inc., 77 Ariz. 323, 271 Pac. (2d) 477.

Jurisdiction of Commission.

The jurisdictional fact of whether and to what extent the existing common carrier is rendering the service contemplated by the applicant for certificate of convenience and necessity must be determined by the corporation commission, which cannot ignore the jurisdictional fact and leave it for determination by the superior court. Whitfield Transp. v. Tucson Warehouse & Transfer Co., 78 Ariz. 136, 276 Pac. (2d) 954.

Purpose of Statute.

Purpose of the statute is to eliminate competition. Whitfield Transp. v. Tucson Warehouse and Transfer Co., 78 Ariz. 136, 276 Pac. (2d) 954.

Territory Already Served.

Where an existing common carrier is serving a territory no other competing certificate of convenience and necessity shall issue without first giving the existing carrier an opportunity to render such service as the commission might determine to be adequate and satisfactory and the opportunity and subsequent failure to render the prescribed service are essential jurisdictional facts to empower the issuance of the second certificate. Whitfield Transp. v. Tucson Warehouse & Transfer Co., 78 Ariz. 136, 276 Pac. (2d) 954.

66-520. Failure to file report or pay tax.**Cancelling Certificate.**

Constitutional power granted corporation commission to rescind its orders does not apply to order cancelling certificate of common carrier for failure to pay taxes and file reports under this section. *Tuscon Warehouse & Transfer Co. v. Al's Transfer*, 77 Ariz. 323, 271 Pac. (2d) 477.

Corporation commission cannot rescind its order under this section cancelling certificate of public convenience for failure to pay taxes, since cancellation order is final, and carrier can only obtain a new certificate by filing petition in conformance with provisions of § 66-506. *Tuscon Warehouse & Transfer Co. v. Al's Transfer*, 77 Ariz. 323, 271 Pac. (2d) 477.

66-521. Reports from private motor carriers and persons leasing certain vehicles.—Every private motor carrier as defined herein and every owner of a motor vehicle in excess of 6,000 pounds unladen weight who leases, licenses, or by any other arrangement permits the use of such vehicle by anyone (other than a common or contract carrier subject to tax herein) for the transportation of property upon the public highway for compensation or in the furtherance of any commercial or industrial enterprise shall on or before the twentieth day of each month file with the superintendent for the next preceding calendar month a verified report on the forms prescribed by him showing the total number of such leased vehicles and each vehicle of more than 6,000 pounds of unladen weight operated by such carrier, a particular description of each vehicle operated, the amount of money paid the owner for such leased vehicle the previous month, if any, and such other information as the superintendent may require. [Laws 1933, ch. 100, § 19, p. 472; 1955, ch. 135, § 2.]

Amendment.

Prior to the 1955 amendment this section read: "Every private motor carrier shall on or before the fifteenth day of each month file with the superintendent for the next preceding calendar month a verified report on the

forms prescribed by him showing the total number of vehicles operated by such carrier, a particular description of each vehicle operated, the total mileage travelled by each vehicle for such month, and such other information as the superintendent may require."

66-526a. Private motor carrier manifests required—Inspection—Exception.—Every private motor carrier shall at all times have in his possession on the vehicle in which property is being transported, a manifest in such form as may be prescribed by the superintendent of motor vehicles, showing the ownership of property aboard, the point of origin, including the name and address of the person from whom acquired, the point of delivery, the date of shipment of each separate item of property aboard, a statement of the amount of compensation received, or to be received, if any, for transporting such property, together with such additional information as may be prescribed by the superintendent of motor vehicles. All such manifests may be inspected by the vehicle superintendent or his agents at any time. Any business having a warehouse or other storage facility wherein merchandise of such business is stored, when delivering such merchandise in trucks owned by such business may, in place of the manifest provided for herein, use the delivery instructions or other similar document regularly issued by such business to the drivers of such trucks. [Code 1939, § 65-526a, as added by Laws 1955, ch. 135, § 3.]

ARTICLE 9—MOTOR VEHICLE LICENSE TAX

66-901. Distribution of vehicle license tax.

Section to Section Reference.

This section is referred to in § 54-608a.

ORDINANCE OF THE PAPAGO COUNCIL

ORD. NO. 51

WHEREAS, The Traffic Rules and Regulations adopted from Title 66 of the Arizona Code Annotated in Resolution Number 842 have not been rewritten or modified to specifically apply to the Papago Reservation; and

WHEREAS, it has been the policy of the Papago Council to revise the Law and Order Code from time to time in order to provide greater traffic safety; and

WHEREAS, it has been shown that the Papago Reservation is in need of its own Traffic Regulations particularly suited to the Papago Tribe in order to provide for the safety and welfare of the Papago People; and

NOW THEREFORE BE IT RESOLVED THAT: Resolution Number 842 be amended as follows:

That Section 66-156 of the Arizona Code Annotated, dealing with Driving While Under the Influence of Liquor or Drugs is HEREBY REPEALED and is no longer a part of Chapter V of the Law and Order Code. Any other Resolution or Ordinance of the Papago Council that conflicts with, or modified, or amends this Ordinance is, HEREBY EXPRESSLY REPEALED AND REVOKED.

BE IT FURTHER RESOLVED that the following Sections be added to Chapter V of the Law and Order Code of the Papago Tribe:

Persons Under the Influence of Intoxicating Liquor or Drugs

Section A. It is unlawful and punishable as provided in Paragraph H for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of any vehicle within the boundaries of the Papago, San Xavier or Gila Bend reservations.

Section B. In the trial of any Civil or Criminal action for a violation of Paragraph A. the amount of alcohol in the defendant's blood at the time alleged as shown by Chemical Analysis of the defendant's blood or breath, shall give rise to the following presumptions:

1. If there was at that time .05 per cent or less by weight of alcohol in defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor.
2. If there was at that time an excess of .05 per cent alcohol but less than .10 percent alcohol in defendant's blood, such fact shall not give rise to any presumption that the Defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.
3. If there was at that time .10 percent or more by weight of alcohol in the defendant's blood it shall be presumed that the defendant was under the influence of intoxicating liquor.

Section C. The Court may hear any competent evidence bearing upon the questions of whether or not the defendant was under the influence of intoxicating liquor.

Section D. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred cubic centimeters of blood.

Section E. Chemical Analysis of a person's breath shall only be made by persons qualified and trained to make such tests and authorized to do so by the Chief of Police.

Section F. Chemical analysis of a person's blood shall only be made by a physician, registered nurse or other qualified person authorized by the Public Health Service to make such tests.

Section G. It is unlawful and punishable as provided in paragraph H of this ordinance for any person to operate a motor vehicle within the boundaries of the Papago, San Xavier or Gila Bend reservations, while under the influence of narcotic drugs or any drug which renders such person incapable of driving safely. It is no defense that such drug was prescribed by a physician.

Section H. Punishment. A person convicted of a violation of this Ordinance shall be punished upon the first conviction by a fine not to exceed three hundred dollars, or by imprisonment not to exceed six (6) months or both. Upon a second or subsequent conviction under this Ordinance, the court may require under its sole discretion, that the Operator's or Chauffeur's license of such convicted person be surrendered to the court for a period not to exceed one year and to restrict the driver, in addition to a fine or imprisonment set forth above. Furthermore, the court in its sole discretion, upon a conviction under this Ordinance, may require such convicted person to undergo counseling from an appropriate Agency, such as Mental Health or Alcoholics Anonymous.

Section I. The court may, upon pronouncement of a jail sentence as provided in Section H of this Ordinance, provided that if the defendant is employed he may continue in such employment for not more than twelve hours a day, six (6) days a week, and the remaining day, days or parts of days shall be spent in jail until his sentence is served. He shall be allowed out of jail only long enough to complete his actual employment and no longer.

The foregoing Ordinance was duly enacted by the Papago Council on the 3rd day of January, 1975, at a meeting at which a quorum was present with a vote of 16 for, 2 against 2 not voting and 2 absent, pursuant to the authority vested in the Papago Council by Section 2 (h) Article V of the Constitution and By-laws of the Papago Tribe, ratified by the Tribe on December 12, 1936 and approved by the Secretary of the Interior on January 6, 1937 pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984). Said Resolution is effective as of the date of its approval by the Superintendent of the Papago Agency and is not subject to review by the Secretary of the Interior.

THE PAPAGO COUNCIL

/s/ Jacob A. Escalante
Jacob A. Escalante, Chairman

Attest:

/s/ Delma Garcia, Secretary

Approved: January 9, 1975

/s/ Joseph M. Lucero,

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Compiling Traffic Laws Within the Traffic Code of the Tohono O'odham Nation
and Referring to the Domestic Affairs Committee for Review)

RESOLUTION NO. 05-361

1 **WHEREAS, the Legislative Council is vested with the power "to enact criminal and civil laws**
2 **governing the conduct of any person within the Tohono O'odham Nation" and to**
3 **provide laws "to promote, protect and provide for public health, peace, morals,**
4 **education and general welfare of the Tohono O'odham Nation and its members"**
5 **(Constitution of the Tohono O'odham Nation, Article VI, Section 1(c)(6) and 1(c)(2));**
6 **and**

7 **WHEREAS, in 1945 the Papago Tribal Council enacted thirty-six criminal laws as Chapter 5 of the**
8 **Law and Order Code of the Papago Tribe; and**

9 **WHEREAS, in 1955 the Tribal Council adopted numerous Arizona traffic statutes, including the**
10 **then-current Arizona driving under the influence ("DUI") statute, as the traffic laws**
11 **of Papago Tribe (Resolution No. 842); and**

12 **WHEREAS, in 1975 the Tribal Council (1) enacted Ordinance No. 51, thereby repealing the Arizona**
13 **DUI law adopted in 1955 and replacing it with a new DUI law, and (2) enacted**
14 **speeding restrictions pursuant to Ordinance No. 52; and**

15 **WHEREAS, the Tribe's traffic laws were never compiled within a single traffic code but were**
16 **instead added to Chapter 5 of the Law and Order Code; and**

17 **WHEREAS, the criminal laws originally enacted in 1945 as Sections 1-36 of Law and Order Code**
18 **Chapter 5 were repealed and replaced by the Nation's Criminal Code in 1985 pursuant**
19 **to Ordinance No. 02-85; and**

20 **WHEREAS, Ordinance No. 02-85 also repealed laws conflicting with the Criminal Code but did not**
21 **repeal the traffic laws added to Law and Order Code Chapter 5 after its enactment in**
22 **1945; and**

23 **WHEREAS, there is a need to organize the Nation's traffic laws into a single, separate volume of**
24 **laws known as the Traffic Code of the Tohono O'odham Nation ("Traffic Code") and to**
25 **update and otherwise revise these laws; and**

26 **WHEREAS, the importance of updating the Nation's traffic laws has been highlighted by**
27 **members of the Nation and, particularly, by surviving family members of DUI victims**
28 **who have expressed concern regarding the Nation's DUI sentencing provisions and**
29 **who have recommended that Ordinance No. 51 be amended; and**

RESOLUTION NO. 05-361

(Compiling Traffic Laws Within the Traffic Code of the Tohono O'odham Nation and Referring to the Domestic Affairs Committee for Review)

Page 2 of 4

1 **WHEREAS, concern has also been expressed that the Nation does not have a seatbelt or child**
2 **restraint law despite the fact that these laws have proven effective in reducing the**
3 **number of traffic fatalities and serious injuries to children and adults in other**
4 **jurisdictions; and**

5 **WHEREAS, the Domestic Affairs Committee is vested with the power to "draft, review and make**
6 **recommendations on proposed laws, ordinances, or resolutions" and exercises**
7 **jurisdiction over the "enactment of civil and criminal laws" (Plan of Operation for**
8 **Domestic Affairs Committee, Article III.B.5. and C.2(b)); and**

9 **WHEREAS, it is in the Nation's best interest to both enact the Traffic Code and refer the Traffic**
10 **Code to the Domestic Affairs Committee to be updated and otherwise amended in a**
11 **manner that will protect public health, safety, and welfare.**

12 **NOW, THEREFORE, BE IT RESOLVED that the Legislative Council hereby enacts the Traffic**
13 **Code of the Tohono O'odham Nation, which shall be comprised of (1) the provisions**
14 **of Ordinance No. 52 and (2) the Arizona traffic laws incorporated and enacted as laws**
15 **of the Tohono O'odham Nation (then known as the Papago Tribe) pursuant to**
16 **Resolution No. 842, as revised by Ordinance No. 51.**

17 **BE IT FURTHER RESOLVED that each provision of the Traffic Code shall stand separate and**
18 **independent of every other provision. If any provision of the Traffic Code or its**
19 **application to any person or circumstance is held invalid by a court of competent**
20 **jurisdiction, the invalidity shall not affect any other provisions or applications of the**
21 **Traffic Code which can be given effect without the invalid provision or application,**
22 **and to this end the provisions of the Traffic Code are severable.**

23 **BE IT FINALLY RESOLVED that the Tohono O'odham Nation Legislative Council hereby**
24 **directs the Domestic Affairs Committee to review the Traffic Code and to make**
25 **recommendations to the Council within 90 days for enacting new and updated traffic**
26 **laws, including but not limited to seatbelt and child restraint laws and revisions to**
27 **the Nation's DUI law.**

28 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 27TH, Day**
29 **of JUNE, 2005 at a meeting at which a quorum was present with a vote of 2,347.45 FOR; 93.35**
30 **AGAINST; -0- NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by**
31 **Section 1 (c)(1), 1(c)(2), 1(c)(6), and 1(l) of Article VI of the Constitution of the Tohono 'Odham**
32 **Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting**
33 **Deputy Assistant Secretary- Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16**
34 **of the Act of June 18, 1934 (48 Stat. 984).**

RESOLUTION NO. 05-361

(Compiling Traffic Laws Within the Traffic Code of the Tohono O'odham Nation and Referring to the Domestic Affairs Committee for Review)

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

Evelyn B. Juan Manuel
Evelyn B. Juan Manuel, Legislative Chairwoman

30th day of June, 2005

ATTEST:

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

30th day of June, 2005.

Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the 30th day of June, 2005 at 11:45 o'clock, A.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon her approval or upon her failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Evelyn B. Juan Manuel
Evelyn B. Juan Manuel, Legislative Chairwoman

APPROVED

on the 5 day of July, 2005

DISAPPROVED

at 11:35 o'clock, A.M.

Vivian Juan-Saunders
VIVIAN JUAN-SAUNDERS, CHAIRWOMAN
TOHONO O'ODHAM NATION

RESOLUTION NO. 05-361

(Compiling Traffic Laws Within the Traffic Code of the Tohono O'odham Nation and Referring to the Domestic Affairs Committee for Review)

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Returned to the Legislative Secretary on the 05th day of

July, 2005, at 11:46 o'clock, A.M.

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary