ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 8672
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estimated total of 13 million transactions per year to be paid for by taxpayers and policyholders.

A Washington insurance official notes that although a short-term decrease in uninsured motorists has been experienced after passage of a compulsory law in other states, a few years later the percentage of uninsured motorists returns to about the same levels as before the laws were adopted --and the states are saddled with a new and expensive layer of bureaucracy with little or no public benefit.

The Washington Division of Motor Vehicle's estimates that Washington's uninsured driving population is approximately 10 percent, with 90 percent of drivers carrying at least the minimum limits of liability insurance. With nine out of 10 drivers already insured, one must ask if it is worth the additional costs to improve the level of insured motorists by only a few percentage points?

INEFFECTIVE

The Washington insurance industry believes that compulsory automobile insurance laws may sound like a good idea but are not effective and do not achieve their goal of protecting the public against uninsured motorists. Many members of the uninsured driving population still find ways to avoid a mandatory law. This fact is openly acknowledged by compulsory insurance states which still mandate the offering of uninsured motorist and, in some cases, personal injury protection coverages, an admission that compulsory laws are not doing away with uninsured motorists.

Supporters of the mandatory auto insurance concept traditionally are working from the gut-level feeling that all drivers have a moral obligation to be financially responsible for any damage or injury they

may inflict through their negligence behind the wheel of a motor vehicle. Since automobile liability insurance is the means by which many citizens pay damages of this nature, proponents of compulsory auto insurance believe it is the state's duty to force drivers into buying this coverage by outlawing driving without it.

It has proven extremely difficult to force drivers to purchase insurance they neither want, nor think that they need, to say nothing of the fact that many uninsured motorists either cannot afford it or regard it as an unnecessary expense. While liability insurance is designed to protect the insured from losing his assets and income if he causes an accident that harms someone else, drivers with no property, no savings, and little income have little or nothing to lose in a lawsuit; therefore there is little incentive to buy liability insurance.

A 1981 study by the All-Industry Research Advisory Council (AIRAC) asked households with one or more uninsured vehicles why the vehicles were not insured. Forty percent of the people surveyed by AIRAC listed cost considerations as the reason (the next major reason, "car not currently in use," was only 16 percent of the total responses). To be frankly realistic, requiring liability auto insurance purchases of people from low-income households will not compel them to do so. A report, Profile of Uninsured Motorists in California, disclosed that geographic areas with high rates of uninsureds had significantly lower median incomes and higher incidence of poverty level than areas with low rates of uninsured drivers.

The central argument in the case against compulsory auto insurance laws remains that they just don't work, and are viewed by many as an excercise in futility. In the 25 or 30 states which have at

one point or another experimented with such laws over the past several decades, every imaginable means of enforcement has been tried and retried with the same frustrating result -- little difference in the percentage of insured drivers. With extremely vigorous (and expensive) enforcement schemes, some states have boasted of reducing the uninsured motorist level to within five percent of all licensed drivers, but no one has ever claimed complete success. Estimates of the number of uninsureds in compulsory states still range anywhere from five to 15 percent, depending on the efforts of state regulatory and enforcement authorities.

Most compulsory insurance laws require motor vehicle owners to provide evidence of insurance upon registration of the vehicle. Some laws require this evidence to register and license vehicles. Other laws require a self-certification procedure under which motorists attest that they have purchased and will maintain the mandated coverage. Insurance certificates are rendered meaningless when the driver has a cancellation notice for non-payment of premium sitting at home. Insurance evidence could be falsified, vehicles can be registered out of state, or ownership can be transferred whenever necessary to avoid enforcement mechanisms.

Uninsured drivers who generally make up the uninsured motorist population are those who have no drivers license, do not register their vehicles, are driving stolen vehicles or are drivers in hit-and-run accidents. The attitudes of these people are such that they will use every means possible, with or without a mandatory law, to avoid paying

for liability insurance. In their eyes it is a useless and expensive product, which does not benefit them, but an unknown third party. Others that slip through the net include out-of-state drivers and new residents with vehicles still registered elsewhere. These are the traditional cadre of uninsured drivers and will continue to remain so, even after passing a compulsory law. Ultimately, the irresponsible driver is not going to carry insurance no matter how many certificates he's required to furnish.

Compulsory laws require insurance; they do not define hazardous drivers, and they do not provide a means to remove high-risk drivers from the road as present financial responsibility laws do.

A compulsory system, which by nature must maintain and police millions of pieces of paper each year, relies on random file checks and police spot checks for insured and uninsured drivers as a means of public enforcement. Such operations are wasteful and inefficient, squandering time and public money on the overwhelming percentage of motorists already insured.

When New York initiated a compulsory auto system it found itself immediately deluged with six million evidence of insurance forms and shortly became further swamped with changes of registration, cancellations and terminations of insurance, changes in insurance companies, name changes, etc. At one point it was estimated that 80 percent of the 25,000 registration revocation notices sent by the Department each month were incorrect or obsolete by the time they were mailed.

In 1974, New York switched to a self-certification system to cut the $7 million annual cost of enforcement, but according to recent

figures the self-certification system is still costing as much as $4 million annually and seems to have little effect. New York's uninsured motorist level today is estimated at more than 15 percent.

The director of the Traffic Safety Bureau in Pennsylvania (a compulsory state) admits that the 40,000 notices arriving each month from insurance companies on cancellations or lapses are just too much for his staff to handle.

The fiscal note attached to 1982's major compulsory auto proposal in Washington estimated an annual cost of $350,000, minimum. Though this compares favorably with annual budgets of over $4 million in other states, it is hard to rationalize implementing an uncertain system at even this price in a state where legislators are seriously concerned about cutting a thousand dollars wherever possible out of our current budget.

Enforcement, which is expensive, will always remain a problem in our tight fiscal environment. Washington would forseeably remain reluctant to commit already scarce crime-fighting resources to track down uninsured motorists. Highway patrolmen are already quite busy lessening the toll of highway injuries, deaths and property damage. It is doubtful that regulatory authorities have the financial resources to follow-up, identify, and punish the insurance-avoider.

The courts also must be identified as another stumbling block in enforcement of compulsory law. A majority of state compulsory laws provide for a fine and/or prison term for conviction of driving without insurance; but few, if any of those convicted are ever jailed for their crime and may bargain their way out of any conviction at all.

As you can see, the enforcement issue, particularly in a state already too financially strapped to spend the necessary millions on patrolling, remains a key problem. Some states have sought to avoid additional costs by omitting any provision for enforcement from compulsory laws and simply declare it unlawful to drive without insurance. However, the press and public are not long behind in demanding that a law, once passed, be strictly enforced, and the hue and cry begins all over again.

INCONVENIENT

After a compulsory automobile insurance law is enacted, legislators must answer to a public (90 percent of whom have insurance) now facing the yearly duties of providing proof of coverage in order to certify themselves and/or their vehicles, providing notices to appropriate government officials whenever they effect a change in their insurance status, carrying an additional form of identification with them whenever they drive, and in general dealing with the intrusion of another level of bureaucracy into their daily lives. This runs counter to current public sentiment regarding the extent of government regulation.

A November 1981 report by the Pennsylvania Department of Transportation found that the state received 185,547 cancellation or termination notices from insurers in 1980. However, only 4.8 percent of those responding to inquiries concerning their insurance status were found to be uninsured, meaning close to 200,000 responsible, insured motorists were unduly harassed by a state authority in its efforts to enforce the state's compulsory auto law.

In West Virginia, from October 1, 1981, through January 1982, the Department of Motor Vehicles mailed 196,000 notices of driver license cancellations. It is estimated that 95 percent of those notices went to persons who had never let their insurance policies lapse. To date, nearly 2,500 orders to the state police to pick up license plates for non-certification of insurance have been issued mistakenly because DMV cancellation notices and owners premium payments were crossing in the mail. According to officials in the West Virginia DMV, the law has resulted in a mountain of paperwork and has created unnecessary hassles for many premium-paying citizens. The West Virginia Legislature will spend at least two to three years on remedial legislation.

One prominent West Virginia legislator said, "I don't remember anything this legislature has ever passed that has upset citizens as much as the compulsory law has. Support for compulsory has dropped among my constituents."

Most compulsory laws require motor vehicle owners to provide evidence of insurance upon registration of the vehicle. Proof-of-insurance forms, such as certificates of insurance or prescribed identification cards are a constant nuisance for responsible drivers. Communications between the public, the insurance industry and regulators entangle in a confusing attempt to identify the uninsured registrant. With each additional transaction the likelihood that a form will be issued by mistake increases, and it is the responsible motorist who often falls prey to such administrative problems.

In the end, one must ask how much interference into the lives of the majority of our state's drivers will the public be willing to tolerate in trying to force more people to buy insurance?

THE CURRENT SITUATION IN WASHINGTON

Washington's current financial responsibility law requires that owners and drivers of motor vehicles either have liability insurance or have the ability to pay from their own finances for damages they may cause. If a motorist is involved in an accident and is found outside of this law, the state mandates a suspension of his license.

The 1981 Legislature gave the Washington Department of Licensing the authority to suspend motor vehicle registrations and also established stiff penalties for motorists who operate a vehicle with a suspended registration. Now, when an uninsured driver is unable to meet the expenses of an accident in which he is involved, he can lose both his driver's license and his vehicle registration. Under suspension of the vehicle registration, the driver-owner is now required to surrender the vehicle plates to the Washington Department of Licensing where they are destroyed. These are reinstated only after the driver makes arrangements to pay the damages and obtains proof of financial responsibility. Driving with a suspended vehicle registration is further punishable by imprisonment of up to five days and/or a fine of $550.

State law also requires insurance companies to offer "underinsured motorist coverage" under Chapter 48.22 RCW, which provides compensation to the innocent victim of a negligent motorist where the negligent motorist has either no insurance or inadequate coverage.

The 1981 Washington Legislature also provided for "underinsured property damage coverage" when it passed House Bill 254. This

requires insurers to offer protection for property damage caused by the underinsured motorist.

The above coverages are designed specifically to offset the risk of the driver who does not carry liability limits for automobile financial responsibility. At the same time, the Legislature also raised the minimum limits for automobile financial responsibility to $25,000 per person injured, $50,000 for all persons injured, and $10,000 for property damage occurring in a single accident.

ALTERNATIVES

Washington drivers now have the means to protect themselves from uninsured motorists. Tough financial responsibility laws, coupled with strict enforcement mechanisms, are the most efficient and least costly means of assuring adequate insurance protection for the majority of the driving population.

The Council would like to draw the reader's attention again to the recent remark of a Washington insurance official that the most effective route a motor vehicle operator can take to protect him or herself against the irresponsible motorist is to be sure his or her policy includes personal injury protection (PIP) and underinsured motorist (UM) insurance. If every insured vehicle had these coverages, as the vast majority do, careful drivers would be protected and only those who won't be persuaded to purchase coverage, would be without protection.

Estimates by Washington state officials are that more than 90 percent of motorists who purchase insurance for their cars have these two inexpensive coverages which give them full protection. The industry feels that these forms of protection are currently functioning extremely well.

By working with Washington's financial responsibility law, motorists are protected by a system that works more effectively, costs less, and involves fewer administrative and enforcement problems than found in compulsory liability systems.

Financial responsibility laws have other advantages over compulsory liability insurance laws. A compulsory law is directed at all motorists, regardless of traffic convictions or accident involvement. By comparison, the impact of financial responsibility laws is felt by only a limited group of motorists: those who are serious traffic offenders, those who cause major automobile accidents, and those who are financially irresponsible in reimbursing others for damages they caused. Washington's financial responsibility law does not affect drivers indiscriminately as would a compulsory insurance law, but only focuses on drivers who deserve close monitoring because of past driving traits.

Because good financial reponsibility laws don't apply to all drivers, the cost of enforcement is reduced and the great majority of responsible motorists are not harrassed by the multiplicity of government efforts to enforce a compulsory law.

Uninsured (or "underinsured" as it is now called in Washington) Motorist coverage (UM) is provided by insurance companies to pay for bodily injury damages to the policyholder caused by an uninsured, or underinsured, motorist. If the policyholders' car is struck by an uninsured, or underinsured, vehicle, the insured's loss is also covered by this feature. Every state with a compulsory liability insurance law also requires insurers to offer UM coverage, which indicates a basic mistrust in the effectiveness of compulsory insurance systems. By purchasing UM coverage, a vehicle owner is assuring that all drivers

and passengers in the insured auto will have protection against losses caused by an uninsured motorist or hit-and-run driver. Compulsory auto insurance cannot make this promise.

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The Washington Insurance Council also wishes to acknowledge research conducted on compulsory auto insurance by the Alliance of American Insurers, the American Insurance Association, the Insurance Information Institute and the National Association of Independent Insurers.

LEGAL OBLIGATIONS TO BUY INSURANCE

1. FINANCIAL RESPONSIBILITY LAWS

WHO IS AFFECTED?

In those states with financial responsibility laws, all drivers must be able to prove, either before or after an accident, financial ability to pay damages resulting from an actual or possible future accident. If they cannot, their drivers' licenses and auto registrations may be suspended, or their vehicles impounded, either for a specified time or until the damages from an accident have been paid.

HOW MUCH IS REQUIRED?

This varies from state to state. "Responsibility" may be established by showing proof of financial assets or proof of a liability insurance policy.

2. COMPULSORY LIABILITY INSURANCE

WHO IS AFFECTED?

In many states, liability coverage for bodily injury and property damage is required in order to register a car (but it is not a condition for obtaining a driver's license if the driver does not own a car).

HOW MUCH IS REQUIRED?

Each state establishes a minimum amount of insurance coverage that is required. Penalties for failure to have insurance coverage vary from state to state and may include fines, imprisonment, revocation of driver's license or car registration.

Jurisdictions which have forms of "first-party" auto insurance and the dates on which the laws originally became effective follow.

Compulsory first-party/liability insurance; some restrictions on lawsuits

Colorado, April 1, 1974	Kansas, January 1, 1974	New Jersey, January 1, 1973
Connecticut, January 1, 1973	Kentucky, July 1, 1975	New York, February 1, 1974
District of Columbia, September 18, 1982	Massachusetts, January 1, 1971	North Dakota, January 1, 1976
Georgia, March 1, 1975	Michigan, October 1, 1973	Pennsylvania, July 19, 1975
Hawaii, September 1, 1974	Minnesota, January 1, 1975	Utah, January 1, 1974

Compulsory first-party, optional liability insurance; some restrictions on lawsuits

Florida, January 1, 1972	Puerto Rico, 1970

Compulsory first-party and liability insurance; no restrictions on lawsuits

Delaware, January 1, 1972	Maryland, January 1, 1973	Oregon, January 1, 1972

Compulsory liability, optional first-party insurance; no restrictions on lawsuits

South Carolina, October 1, 1974

Insurance not compulsory; first-party benefits optional, no restrictions on lawsuits

Arkansas, July 1, 1974	South Dakota, January 1, 1972	Virginia, January 1, 1972
New Hampshire, October 1, 1971	Texas, August 27, 1973	

SOURCE: Insurance Information Institute, *Insurance Facts*, 1982-83 Edition, p. 78.

WASHINGTON INSURANCE COUNCIL, 1218 Third Avenue, Seattle, Washington 98101, 624-3927

Summary of

RAMIFICATIONS OF COMPULSORY AUTO INSURANCE

Costly:

One thing to bear in mind when contemplating such proposals is the cost inherent in the administration of compulsory auto insurance.

*- New York, Maryland and South Carolina annually have spent $4 million, $1.5 million, and $1.3 million respectively to administer compulsory insurance systems.

*- Estimates for the cost to the state as the central enforcement and monitoring agency, do not include estimates of costs to local governments.

*- Costs for enforcing a compulsory system are borne by all taxpayers, not just those who drive.

*- Significant new administrative costs to insurance companies are passed on to policyholders, at least in part.

*- Legislators may have to explain endorsement of legislation that adds new costs to an already overburdened state economy for a program of negligible value.

*- A compulsory insurance law in Washington could add a minimum of 10 million new paper transactions each year to be paid for by taxpayers and policyholders.

Inconvenient:

Compulsory laws always are an inconvenience to the vast majority of the driving public, forcing most drivers, who have always been financially responsible, to deal with the hassles of a new bureaucratic tangle.

*- The Pennsylvania Department of Transportation found that in 1980 only 4.8 percent of nearly 200,000 citizens who received inquiries from the state were found to be uninsured.

*- West Virginia drivers, from October 1981 through January 1982, received 196,000 license cancellation notices from the state, yet 95 percent of them had never let their policies lapse. To date, 2,500 orders to the West Virginia state police to pick up license plates have been mistakenly issued.

*- Compulsory laws mandate maintaining new forms of identification and registration, having to produce them whenever asked, and, in general, being subjected to treatment similar to the old high school technique of holding an entire class in detention to make sure one or two troublemakers are punished.

Ineffective:

Despite all efforts, the innocent driver may still be left in the lurch by the uninsured driver who historically escapes the various nets laid out by compulsory systems.

*- Such laws will not protect from: the operator of stolen vehicles, drivers from other states, drivers of unregistered vehicles, the dedicated insurance dodger who cancels a policy as soon as he has received an insurance certificate, the hit-and-run driver, etc.

*- The ineffectiveness of compulsory insurance laws is evidenced by other state legislatures, which, in passing compulsory systems, continue to keep the mandatory offering of uninsured motorist and personal injury protection coverages in their laws.

Alternatives:

There are currently available in Washington means to protect oneself from irresponsible drivers.

*- Tough financial responsibility laws that can help identify bad drivers ahead of time.

*- Mandatory offering of uninsured and underinsured motorist coverage available for a minimal charge.

*- Other approaches that avoid the excessive costs and frustrations compulsory laws generate.

*- Washington's insurance industry feels the best approach to the uninsured motorist lies in strengthening the enforcement of such cost-effective exisiting alternatives.

January 20, 1983

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STATE OF ARKANSAS
LEGISLATIVE COUNCIL
315 STATE CAPITOL
LITTLE ROCK
72201

COMPULSORY AUTO LIABILITY INSURANCE; ISSUES AND INFORMATION

A REPORT PUBLISHED
BY
THE BUREAU OF LEGISLATIVE RESEARCH

Staff Report 30-42
August 7, 1981

I Basic Types of Liability Laws

Five basic types of liability laws are now in force throughout the United States. The first is the Financial Responsibility law of which there are two types. Minimum requirements of financial responsibility are shown in terms of amount applicable to death or injury of one person, death or injury of more than one person, and property damage. Arkansas Statutes 74-1444 provides for limits of $10,000 for death or injury of one person, $20,000 for death or injury of more than one person, and $5,000 for property damage. The Security-type laws require that, following report of an accident, each driver or owner of the vehicles involved show his ability to pay any damages which may be charged to him in subsequent litigation or negotiation arising out of the accident. Arkansas Statute 75-1418 requires the driver of a vehicle involved in an accident causing damage in excess of two hundred and fifty dollars ($250.00) to report the accident to the Department of Revenue within thirty (30) days following the accident. Security must be posted at that time. Evidence of security can be provided in any of the following ways:

1. Showing that there was, at the time of the accident, an automobile liability policy in effect in at least the amounts prescribed by statute;
2. Posting a bond for those amounts;
3. Depositing with State authorities money or securities equalling the stipulated amounts;
4. Proving the person is self-insured.

The "Future-Proof Type" law requires a similar showing of financial responsibility be made by persons who have been convicted of certain serious traffic offenses or who have failed to pay a judgment against them for damages arising out of an accident. It should be noted that financial responsibility laws are not compulsory insurance. They provide that following certain occurrences, proof must be given of the ability to respond in damages. One of the ways to show proof is through evidence of an automobile liability insurance policy. Financial responsibility laws are invoked or become effective in any one of three situations.

1. Following an automobile accident involving bodily injury, or involving property damage to the property of any one person exceeding a stipulated amount. ($250.00 or more in Arkansas)

2. As a result of conviction for certain offenses (reckless driving) or for an excessive number of convictions.

3. Failure to pay final judgment arising from an accident.

For accidents, requirements usually call either for "security for the current accident" or for "security for the current accident plus proof of future financial responsibility".

A detailed summary of the financial responsibility laws of other states is contained in Table I.

A second type of liability law has been enacted in twenty-four (24) states. This is the so-called "No-Fault" type of automobile insurance statute. Under no-fault plans the owner of the vehicle looks to his own insurance company for reimbursement for damages which is sustained in an accident rather than having to go to court and prove that the other party caused the accident. Most plans cover only bodily injury, and not vehicle damage. Most plans specify a minimum amount or "threshold" below which tort suits for general damages are barred. Once the "threshold" amount is reached in terms of the damages suffered, the motorist is permitted to institute a suit to recover general damages. The no-fault insurance is usually compulsory. The no-fault plan in Arkansas is provided by attaching the Personal Injury Protection Endorsement (P.I.P.) to the policy. The Arkansas plan is optional, or "add-on" plan because an accident victim still retains the right to sue a negligent driver regardless of the amounts of benefits collected under the no-fault coverage. A summary of the basic provisions of the various no-fault laws in effect are contained in Table II.

A number of states have experimented with a third type of liability law, the so-called "Unsatisfied Judgment Funds". The state operated funds are commonly financed with fees from motorists who are unable to provide evidence of insurance when they register their vehicles, or from assessments levied on automobile insurance companies. New Jersey, New Mexico and North Dakota have this type of liability law.

A fourth type of liability law, "Uninsured Motorist Law", has been enacted in many states. These laws general require insurance companies to offer, as a part of their basic policy, coverage against potential damages by motorists who are not insured. A majority of states provide that uninsured motorist coverage is at the option of the insured. Arkansas is one of the "optional" states. Table III contains additional detail.

II COMPULSORY INSURANCE

A fifth type of liability law, "Compulsory Insurance", requires that motorists file proof of financial responsibility prior to annual vehicle registration as a condition of vehicle registration. Twenty-three (23) states have presently enacted statutes requiring liability insurance. Similar legislation was proposed in Arkansas at the Seventy-First General Assembly in 1977. House Bill 17 would have required compulsory liability insurance to the amount of at least ten thousand dollars ($10,000.00) on account of injury or death to any one person, twenty thousand dollars ($20,000.00) for more than one person, and five thousand dollars ($5,000.00) for property damage. The bill proposed that a certification of insurance be issued by the insurance company which was to be submitted to the Commissioner of Revenues at the time of registering a motor vehicle. Table IV contains detailed information on enforcement and certification procedures concerning compulsory liability insurance in the various states.

Comparative rate data in terms of comparing Arkansas with other states is a difficult task. States do not have the same liability limits and every state is unique in loss ratios and exposure. The rates for automobile insurance contained in Table V should therefore be looked at as representative rates in the various states.

TABLE I

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED P – Proof of future responsibility Sec – Security Sat – Satisfaction of judgment Figures – Number of years required			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	After Accident	After Conviction	After Judgment	
ALABAMA	No	10/20/5	$ 50	S – D&O	Yes	Yes	Yes	Verification*	S	P-3	Sat. & P-3	10
ALASKA	No	25/50/10	$200	S&P – D&O	No	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	10
ARIZONA	No	15/30/10	$300	S&P – D&O	Yes	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	10
ARKANSAS	No	10/20/5	$250	S&P – D&O	No	Yes	Yes	Verification	S	P-3	Sat. & P-3	10
CALIFORNIA	Yes*	15/30/5	$250	P – D&O	Yes	Yes	Yes	Verification	P-3	P-3	Sat. & P-3	10
COLORADO	Yes	15/30/5	$100	S&P – D&O	No	Yes	Yes	Verification	S&P-3	P-3	Sat. & P-3	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS — ACCIDENTS INVOKING LAWS: Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	INSURANCE IN EFFECT? Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	EVIDENCE REQUIRED — P – Proof of future responsibility; Sec – Security; Sat – Satisfaction of judgment; Figures – Number of years required: After Accident	After Conviction	After Judgment	Termination Notice to Department
CONNECTICUT	Yes	20/40/5	$400	S – D&O	No	Yes	Yes	Verification*	S[a]	P-3	Sat.	10
DELAWARE	Yes	10/20/5	$250	S – D&O	Yes	Yes	Yes	Verification	S[c]	P-3	Sat. & P-3	No prov.
DISTRICT OF COLUMBIA	No	10/20/5	$100	S – D&O	Yes	Yes	Yes	Verification	S	P-3	Sat. & P-3	10
FLORIDA	Yes	10/20/5	$500	S&P – D&O	Yes	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	10
GEORGIA	Yes	10/20/5	$100	S&P – D&O	Yes	Yes	Yes	Verification	S&P-1[b]	P-1[b]	Sat.	20
HAWAII	Yes	25/unlimited/10	$100	S – D&O	Yes	No	Yes	Verification	S	P-3	Sat. & P-3	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[a] If the providers of foreign motor vehicle financial responsibility law or motor vehicle compulsory insurance law requires insurance on greater limits, then the limits of the company's liability and the kinds of coverage afforded by the policy shall be as set forth in such law.

[b] Second time proof required it shall be maintained for 3 years.

[c] Security Deposit not required on the case of accident by licensed driver involved.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED (P – Proof of future responsibility; Sec – Security; Sat – Satisfaction of judgment; Figures – Number of years required)			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report	Verification required from insurer? (* - Only if policy not in effect)	After Accident	After Conviction	After Judgment	
IDAHO	Yes	10/20/5	$100	S – D&O[a]	Yes	Yes	Yes	Verification	S[a]	P-3	Sat. & P-3	10
ILLINOIS	No	10/20/5	$250	S – D&O	No	Yes	Yes	Verification*	S[b]	P-3	Sat. & P-3	10
INDIANA	No	15/30/10	$200	S&P – D&O[d]	Yes	No	Yes	Verification	S&P-2[c]	P-3	Sat. & P-3	10
IOWA	No	10/20/5	$250	S – D&O	Yes	No	Yes	Verification*	S	P-3	Sat. & P-3	10
KANSAS	Yes	15/30/5						Verification*				
KENTUCKY	Yes	10/20/5										10
LOUISIANA	No	5/10/1	$200	S&P – D&O[a]	Yes	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[a] When license restored after lapse of 1 year without suit, proof must be given for 3 years.
[b] Minimum security $250.
[c] Requirement of proof discretionary.
[d] Discretionary as to owner.
[e] Registration of owner not suspended unless not kept by liable.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED P – Proof of future responsibility Sec – Security Sat – Satisfaction of judgment Figures – Number of years required			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report	Verification required from insurer? (* - Only if policy not in effect)	After Accident	After Conviction	After Judgment	
MAINE	No	20/40/10	$200	S&P – D&O	No	Yes	Yes	Verification*	S&P-3[1]	P-3	Sat. & P-3	10
MARYLAND	Yes	20/40/5									Sat.	
MASSACHUSETTS	Yes	5/10/5									Sat. (P.D.)	
MICHIGAN	Yes	20/40/10								P-3	Sat. & P-3	10
MINNESOTA	Yes	25/50/10										
MISSISSIPPI	No	10/20/5	$100	S&P – D&O	Yes	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	5
MISSOURI	No	10/20/2	$100	S – D&O	No	Yes	Yes	Verification*	S	P-2	Sat. & P-2	10
MONTANA	No	25/50/5[2]								P-3	Sat. & P-3	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[1] Proof requirement may be waived 3 years after accident.

[2] Limits for certified policy. Policy with limits of 10/20/5 is sufficient to avoid suspension.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	After Accident	After Conviction	After Judgment	
NEBRASKA	No	15/30/5	$250	S&P – D	No	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	10
NEVADA	Yes	15/30/5	$250	S – D&O[a]	Yes	Yes	Yes	Verification*	S[a]	P-3	Sat. & P-3	10
NEW HAMPSHIRE	No	20/40/5	$300	S&P – D&O	No	Yes	Yes	Verification*	S&P-3	P-3[b]	Sat. & P-3	20
NEW JERSEY	Yes	15/30/5	$200	S – D&O[c]	Yes	Yes	Yes	Verification*	S[c]	P-3	Sat. & P-3	10
NEW MEXICO	No	15/30/5				Yes				P-3	Sat. & P-3	10
NEW YORK	Yes	10/20/5[d]	$200	S – D&O	Yes	Yes	Yes	No	S		Sat.	[b]

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[a] When license restored after lapse of 1 year without suit, proof must be given for 3 years.

[b] Requirement of proof is discretionary.
[c] Suspension is discretionary with Commissioner.

[d] Higher for some vehicles for hire.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS — ACCIDENTS INVOKING LAWS: Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	INSURANCE IN EFFECT?: Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	EVIDENCE REQUIRED (P – Proof of future responsibility; Sec – Security; Sat – Satisfaction of judgment; Figures – Number of years required): After Accident	After Conviction	After Judgment	Termination Notice to Department
NORTH CAROLINA	Yes	15/30/5	$200	S – D&O	No	Yes	Yes	Verification	S[a]		Sat.	20
NORTH DAKOTA	Yes	10/20/5	$200	S[b] – D	No[b]	Yes	Yes	Verification	S[b]	P-3	Sat. & P-3	10
OHIO	No	12.5/25/7.5	$150	S – D&O	Yes	Yes	Yes	Verification	S[c]	P-3	Sat. & P-3	10
OKLAHOMA	Yes	5/10/5	$100	S&P – D&O	Yes	No	Yes	Verification*	S&P-3[d]	P-3	Sat. & P-3[d]	10
OREGON	No	15/30/5	$200	P – D&O[e]	Yes	Yes	Yes	Verification*	P-5	P-3	Sat. & P-5	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[a] Exception only for failure to deposit security of more than $100. Appeal to court automatically stays suspension and court may exempt motorist not at fault.

[b] Adjudication of responsibility required as prerequisite to security. Prior to adjudication driver must supply security or proof.

[c] Minimum $300 security for bodily injury.

[d] In hardship cases court may modify amount of compliance with provisions of act.

[e] Employer liable, where operator is employee.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	After Accident	After Conviction	After Judgment	
									P – Proof of future responsibility Sec – Security Sat – Satisfaction of judgment Figures – Number of years required			
PENNSYLVANIA	Yes	15/30/5	$200	S – D&O	Yes	Yes	Yes	Verification*	S	P-3	Sat. & P-3	10
PUERTO RICO	No											
RHODE ISLAND	No[a]	25/50/10	$200[a]	S – D&O	Yes	Yes	Yes	Verification*	S	P-1	Sat. & P-1	10
SOUTH CAROLINA	Yes	15/30/5								P-5	Sat. & P-5	
SOUTH DAKOTA	No	15/30/5								P-3	Sat. & P-3	10
TENNESSEE	No	10/20/5	$200	S&P – D&O	Yes	Yes	Yes	Verification*	S[c] & P-3	P-3	Sat. & P-3	10
TEXAS	No	10/20/5	$250	S&P – D&O	No	Yes	Yes	Verification*	S[d] & P-5	P-5	Sat. & P-5	5

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is a misdemeanor and punishable by a fine up to $100.

[a] Minors owning motor vehicles must furnish proof before registration.

[b] Minimum reportable damage is $150.

[c] Minimum $500 security.

[d] Minimum $250 security.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS — ACCIDENTS INVOKING LAWS: Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	INSURANCE IN EFFECT? Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	EVIDENCE REQUIRED (P – Proof of future responsibility; Sec – Security; Sat – Satisfaction of judgment; Figures – Number of years required): After Accident	After Conviction	After Judgment	Termination Notice to Department
UTAH	Yes	15/30/5[a]	$200	S – D[b]	No	Yes	Yes	No	S	P-3	Sat. & P-3	10
VERMONT	No	10/20/5	$100	S&P – D	No	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	10
VIRGINIA	No	25/50/5	$250	P – O	Yes	No	Yes	Verification*	P-3	P-3	Sat. & P-3	20
VIRGIN ISLANDS	Yes	10/20/10 [c]										
WASHINGTON	No	15/30/5	$200	S&P – D&O	Yes	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	10
WEST VIRGINIA	No	10/20/5	$100	S – D&O	No	No	Yes	Verification*	S	P-3	Sat. & P-3	10
WISCONSIN	No	15/30/5	$200	S – D&O	No	Yes	Yes	Verification* [d]	S	P-3	Sat. & P-3	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[a] For proof of financial responsibility. It may be a single limit of $30,000.

[b] Owner subject to law if employer or driver, in that event registration is suspended.

[c] Higher for some vehicles.

[d] At request (permission, insurer may restrict report only by filing affidavit within 30 days after receipt

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED F – Proof of future respons bility Sec – Security Sat – Satisfaction of judgment Figures – Number of years required			Termination Notice to Insurance
			Minimum Property Damage	Required Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	After Accident	After Conviction	After Judgment	
WYOMING	No	10/20/5	$250	S – D&O	Yes	Yes	Yes	Verification	S	S	Sat.	10

[1] Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

Source: American Insurance Association, New York

State No-Fault Laws

	Effective Date	Purchase of First Party Benefits	Minimum Tort Liability Threshold[4]	Maximum First Party (No-Fault) Benefits				Property Damage
				Medical	Income Loss	Replacement Services	Survivors/Funeral Benefits	
ARKANSAS (Ark. Stat. Ann. §66-4914)	July 1, 1974	Optional	None	$2,000 if incurred within two years.	70% of lost income up to $140/wk., beginning 8 days after accident, for up to 52 wks.	Up to $70/wk. beginning 8 days after accident, for up to 52 wks.	$5,000	Under tort law.
COLORADO (Colo. Rev. Stat. §10-4-701)	April 1, 1974	Mandatory	$500	$25,000 if incurred within 3 years (additional $25,000 for rehabilitation)	Up to $125/wk. for up to 52 wks.	Up to $15/day for up to 52 wks.	$1,000	Under tort law.
CONNECTICUT (Conn. Gen Stat. Rev. §38-319)	January 1, 1973	Mandatory	$400	Limited only by total benefit limit.	85% of actual loss for income loss and replacement services up to $200/wk.		85% of actual loss for income loss & replacement services up to $200/wk funeral benefit: $2,000.	Under tort law.
				$5,000 overall maximum on first-party benefits				
DELAWARE (Del. Code Ann. tit. 21, §2118)	January 1, 1972	Mandatory	None, but amt. of no-fault benefits received can't be used as evidence in suits for general damages.	Limited only by total benefit limit, but must be incurred within two years.	100% of loss; no weekly maximum.	Limited only by total benefits limit.	Funeral benefit: $2,000.	Under tort law.
				$10,000 per person, $20,000 per accident overall maximum on first party benefits.				
FLORIDA (Fla. Stat. §627.730)	January 1, 1972 for original law. Present law effective October 1, 1976	Mandatory	No dollar threshold[1]	Limited only by total benefits limit.	85% of loss; no weekly maximum.	Limited only by total benefits limit.	Funeral benefit: $1,000.	Under tort law.
				$5,000 overall maximum on first-party benefits				
GEORGIA (Ga. Code Ann. §56-3401b)	March 1, 1975	Mandatory	$500	$2,500	85% of lost income up to $200/wk.	$20/day	Maximum wage loss and replacement services amounts. Funeral benefit: $1,000.	Under tort law.
				$5,000 overall maximum on first party benefits				
HAWAII (Hawaii Rev. Stat. §294-1)	September 1, 1974	Mandatory	Floating threshold set annually by insurance commissioner.	Limited only by total benefits limit.[2]	Up to $1000/month for income loss and replacement services.[2]		Up to $1000/month for income loss and replacement services. Funeral benefit: $1,500.	Under tort law.
				$15,000 overall maximum on first party benefits				

Source: National Conference of State Legislatures.

TABLE II (CONTINUED)

	Effective Date	Purchase of First Party Benefits	Minimum Tort Liability Threshold*	Maximum First Party (No-Fault) Benefits				
				Medical	Income Loss	Replacement Services	Survivors/Funeral Benefits	Property Damage
KANSAS (Kan. Stat. Ann. §40-3101)	January 1, 1974	Mandatory	$500	$2,000 (additional $2,000 for rehabilitation).	85% of lost income up to $650/month for 1 yr.	$12/day for one year.	Up to $650/month for lost income and $12/day for replacement services, less disability payments received, for up to 1 year. Funeral benefit: $1,000.	Under tort law.
KENTUCKY (Ky. Rev. Stat. Ann. §304.39-010)	July 1, 1975	3	$1,000	Limited only by total benefits limit.	85% of lost income (more if tax advantage is less than 15%) up to $200/wk.	Up to $200/wk.	Up to $200/wk. each for survivors' economic loss and survivors' replacement services loss. Funeral benefit: $1,000.	Under tort law.
	$10,000 overall maximum on first party benefits							
MARYLAND (Md. Code Ann. art. 48A, §538)	January 1, 1973	Mandatory	None	Limited only by total benefits limit, but must be incurred within 3 years.	100% of loss; no weekly maximum.	Limited only by total benefits limit; only for services usually performed by non-income-earners.	Funeral benefit: limited only by total benefits limit.	Under tort law.
	$2,500 overall maximum on first party benefits for expenses incurred within three years of accident.							
MASSACHUSETTS (Mass. Ann. Laws ch. 90, §§34A, 34M & ch. 231, §60)	January 1, 1971	Mandatory	$500	Limited only by total benefits limit, if incurred within 2 yrs.	Up to 75% of actual loss.	Limited only by total benefits limit; payments made to non-family members	Funeral benefit: limited only by total benefits limit.	Under tort law after [illegible] 1, 1977; prior to then, no liability for vehicle damage.
	$2,000 overall maximum on first party benefits							
MICHIGAN (Mich. Comp. Laws Ann. §500.3101)	October 1, 1973	Mandatory	No dollar threshold.[4]	Unlimited.	85% of lost income up to $1705/30 day period for up to 3 years; maximum amount adjusted annually for cost of living.	$20/day for 3 years.	Up to $1,000/30 day period for lost income and $20/day for replacement services, for up to 1 years. Funeral benefit: $1,000	No tort liability for vehicle damage.
MINNESOTA (Minn. Stat. §65B.41)	January 1, 1975	Mandatory	$2,000	$20,000	85% of lost income up to $200/week.	$15/day, beginning 8 days after accident.	Up to $200/wk. each for income loss and replacement services. Funeral benefit: $1,250.	Under tort law.
	$10,000 maximum for first party benefits other than medical							

	Effective Date	Purchase of First Party Benefits	Minimum Tort Liability Threshold[a]	Maximum First Party (No-Fault) Benefits				
				Medical	Income Loss	Replacement Services	Survivors/Funeral Benefits	Prope Dam
NEVADA (Nev. Rev. Stat. §698.010)	February 1, 1974	Mandatory	$750	Limited only by total benefits limit.	85% of lost income up to $175/ week.	Up to $18/day for up to 104/ weeks.	At least $5,000, but not more than 1 year's maximum disability benefits. Funeral benefits: $1,000	Under tor tem.
				$10,000 overall maximum on first party benefits				
NEW JERSEY (N.J. Stat. Ann. §39:6A-1)	January 1, 1973	Mandatory	$200	Unlimited.	100% of lost income up to $100/ wk. for 1 year.	Up to $12/day up to a maximum of $4380/person.	100% of lost income up to $100/ wk. and $12/day for replacement services. Up to difference between aggregate amount payable and amount received by victim Funeral benefit: $1,000.	Under tor tem.
NEW YORK (N.Y. Ins. Law §670)	February 1, 1974	Mandatory	$500	Limited only by total benefits limit.	80% of lost income up to $1000/ month for 3 yrs.	$25/day for 1 yr.	NONE.	Under tor tem.
				$50,000 overall maximum on first party benefits				
NORTH DAKOTA (N.D. Cent. Code Ann. §26-41-01)	January 1, 1976	Mandatory	$1,000	Limited only by total benefits limit.	85% of lost income up to $150/ week.	$15/day.	85% of lost income up to $150/ wk. and $15/day for replacement services. Funeral benefit: $1,000.	Under tor tem.
				$15,000 overall maximum on first party benefits				
OREGON (Ore. Rev. Stat. §743.800)	January 1, 1972 (Jan. 1, 1974 for current first party benefits.	Mandatory	None	$5,000, if incurred within 1 yr.	70% of lost income up to $750/ month for up to 52 weeks, only if victim is disabled at least 14 days.	Up to $18/day for up to 52 weeks, only if victim is disabled at least 14 days.	Funeral benefit: $1,000.	Under tor tem.
PENNSYLVANIA (Pa. Stat. Ann. tit. 40, §1009.101)	July 19, 1975	Mandatory	$750	Unlimited.	Up to $15,000.[b]	Up to $25/day for 1 year.	Income loss and replacement services benefits up to $5,000. Funeral benefit: $1,500	Under tor tem.

	Date	Benefits	Threshold*	Medical	Income Loss	Services	Benefits	Damages
SOUTH CAROLINA (S.C. Code Ann. §46-750.101)	October 1, 1974	Mandatory	None	Limited only by total benefits limit if incurred within 3 yrs	100% of lost income. No weekly limit.	Limited only by total benefits limit.	Funeral benefit: limited only by total benefits limit.	Under tort system.
				$1,000 overall maximum on first party benefits				
SOUTH DAKOTA (S.D. Comp Laws Ann. §58-23-6)	January 1, 1972	Optional	None	$2,000 if incurred within 2 yrs.	$60/wk. for up to 52 weeks, only if victim is disabled at least 14 days.	$30/wk. for up to 52 weeks, only if victim is disabled at least 14 days. Benefits to non-wage-earning named insureds only.	$10,000 death benefit if death occurs within 90 days of accident.	Under tort system.
TEXAS (Tex. Ins. Code Ann. art. 5.06-3)	August 26, 1973	Optional	None	Limited only by total benefits limit if incurred within 3 yrs.	100% of lost income; no weekly limit.	Limited only by total benefits limit. Payable only to non-wage-earners.	Limited only by total benefits limit.	Under tort system.
				$2,500 overall maximum on first party benefits				
UTAH (Utah Code Ann. §31-41-1)	January 1, 1974	Mandatory	$500	$2,000	85% of lost income up to $150/wk. for up to 52 weeks. 3-day waiting period which does not apply if disability lasts longer than 14 days.	$12/day for up to 365 days. 3-day waiting period which does not apply if disability lasts longer than 14 days.	$2,000 death benefit. Funeral benefit: $1,000.	Under tort system.
VIRGINIA (Va. Code Ann. §38.1-380.1)	July 1, 1972	Optional	None	$2,000 if incurred within 1 yr.	100% of lost income up to $100/week for up to 52 weeks.	None.	Funeral benefit: included in medical benefit.	Under tort system.
FEDERAL STANDARDS (S. 1301, 95th Session of Congress)		Mandatory	6	$100,000 (or $250,000 if disability lasts over 2 years)	7	7	$1000/both funeral & death benefit)	Under tort system.

*Refers to minimum amount of medical expenses necessary before victim can sue for general damages ("pain and suffering"); lawsuits allowed in all states for injuries resulting in death and permanent disability; some states allow lawsuits for one or more of the following: serious and permanent disfigurement; certain temporary disabilities; loss of body member; loss of certain bodily functions; certain fractures; or economic losses (other than medical) which exceed stated limits.

1. Florida-Victim cannot sue for general damages unless injury results in one of the following: death, loss of body member; permanent loss of bodily function; permanent injury other than scarring or disfigurement; significant permanent scarring or disfigurement; serious non-permanent injury that has a material bearing on the victim's ability to pursue his normal activity and life-style during all or substantially all of the 90 day period after the injury, if the effects of the injury are medically or scientifically demonstrable at the end of that period. Before 1976, Florida had a $1000 tort threshold.
2. Hawaii-Income loss not payable to public assistance recipients receiving free insurance.
3. Kentucky-Accident victim is not bound by tort restriction if 1) he has rejected the tort limitation in writing or 2) he is injured by a driver who has rejected the tort limitation in writing. Rejection bars recovery of first-party benefits.
4. Michigan-Victim can't sue for general damages unless injuries result in death, serious impairment of bodily function or serious permanent disfigurement.
5. Pennsylvania-Maximum monthly income loss benefit is $1000 times the relationship of the average Penn. per capita income to the average U.S. per capita income; or 100% of income loss if income is disclosed prior to accident.
6. Federal Standards-tort restrictions are the same as Michigan (#4 above), in addition to losses which exceed maximum first-party benefits.
7. Federal Standards-Monthly income benefit based on $1000 and replacement services based on $20/day; both figures are multiplied by the relationship of the average state per capita income to the average U.S. per capita income; or 100% of income loss if income is disclosed prior to accident; whichever is less. Maximum income benefit limited to 12 times monthly benefit; replacement services limited to 365 times daily benefit.

TABLE III

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May insured reject coverage?	Uninsured Motorist Fee	Applicable where insurer insolvent?	Other Provisions
ALABAMA	10/20		Yes†	None	No prov.	
ALASKA	25/50		Yes	None	No prov.	
ARIZONA	15/30		No	None	Yes	Optional coverage up to 3 times F.R. limits must be offered.
ARKANSAS	10/20		Yes	None	Yes	
CALIFORNIA	15/30		Yes† [a]	None	Yes	Failure to file evidence of financial responsibility under Financial Responsibility Law creates rebuttable presumption that vehicle was uninsured. Also covers where insurer denies liability or coverage.
COLORADO	15/30		Yes†	None	No prov.	

† If rejected, insurer need not offer coverage be renewal unless requested.

[a] To reject, a specified waiver form must be signed by the insured.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable when Insurer Insolvent?	Other Provisions
CONNECTICUT	20/40[a]		No	None	Yes	Arbitration optional with insured.
DELAWARE	10/20/5[b]	$250	Yes[f]	None	Yes	
DISTRICT OF COLUMBIA						
FLORIDA	10/30[a]		Yes[f]	None	Yes	"Uninsured motor vehicle" includes vehicle insured in lower limits.
GEORGIA	10/20/5[c]	$250	Yes[f]	None	Yes	Covers underinsured vehicles or where insurer denies coverage. Arbitration provision prohibited. Property damage coverage only for vehicle and contents. Uninsured motorist claims not barred by insured's application for discharge in bankruptcy, appointment of a trustee in bankruptcy or a discharge in bankruptcy.
HAWAII	10/20		Yes	None	No prov.	

[f] rejected, insurer need not offer coverage on renewal unless requested.
[a] Insured may obtain coverage up to 100/300.
[b] Insured may purchase limits equal to his liability injury limits, up to $300,000.
[c] Limits may be 25/50/10.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May insured reject coverage?	Uninsured Motorist Fee	Applicable where insurer insolvent?	Other Provisions
IDAHO	10/20		Yes[1]	None	Yes	
ILLINOIS	10/20		No	None	Yes	
INDIANA	15/30		Yes[1]	None	Yes	
IOWA	10/20		Yes[1]	None	Yes	
KANSAS	15/30		Yes[1]	None	Yes	
KENTUCKY	10/20[a]		Yes[1]	None	Yes	Also covers where vehicle underinsured or where insurer denies coverage.
LOUISIANA	[b]		Yes[1]	None	Yes	Arbitration optional with insured. "Uninsured motor vehicle" includes vehicles insured in lower limits.

[1] If rejected, insurer need not offer coverage on renewal unless requested.

[a] KRS § 304.20-110 provides that uninsured motorist coverage be provided in limits for bodily injury or death as set forth in KRS § 187.330, currently 10/20.

The Kentucky no-fault law repeals § 187.330 but requires liability coverage in amounts of 10/20/5. See § 304.39-110.

[b] In amounts equal to bodily injury limits, but insured may select lower limits.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May insured reject coverage?	Uninsured Motorist Fee	Applicable where insurer insolvent?	Other Provisions
MAINE	20/40/10		Yes	None	Yes	"Uninsured motor vehicles" includes vehicles insured in lower limits.
MARYLAND	20/40		No		Yes	Arbitration provision prohibited.
MASSACHUSETTS	5/10[a]		No	None	Yes	Also covers injuries caused by underinsured vehicles.
MICHIGAN				$46[b]		
MINNESOTA	25/50		No [1]	None	No prov.	
MISSISSIPPI	10/20		Yes[1]	None	Yes	"Uninsured motor vehicle" includes vehicle insured in lower limits. Requires contact in hit and run cases. Arbitration provision prohibited.
MISSOURI	10/20		No	None	Yes	
MONTANA	25/50		Yes[1]	None	No prov.	

[1] If rejected, insurer need not offer coverage on renewal unless requested.

[a] Insured may request higher limits up to policy's B.I. limits.
[b] Applies only to motorcycles.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May insured reject coverage?	Uninsured Motorist Fee	Applicable where insurer insolvent?	Other Provisions
NEBRASKA	15/30		Yes[1]	None	Yes	
NEVADA	15/30[a]		Yes[1]	None	Yes	Requires contact in hit and run cases. Also covers where insurer denies coverage.
NEW HAMPSHIRE	20/40[a]		No	None	Yes	
NEW JERSEY	15/30/5	$100	No	None	No prov.	
NEW MEXICO	15/30/5	$250	Yes[1]	None	No prov.	
NEW YORK	10/20		No	None	No prov.	Also covers where insurers denies liability or coverage.

[1] If rejected, insurer need not offer coverage on renewal unless requested.
[a] Insured may require limits equal to his liability coverage
[b] Notice to Commissioner of Motor Vehicles within 30 days of termination of policy.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where Insurer Insolvent?	Other Provisions
NORTH CAROLINA	15/30/5[a]	$100	Yes	None	Yes	Also covers underinsured vehicles, or where insurer denies coverage. Insurer may defend uninsured motorist.
NORTH DAKOTA	10/20		No	None	Yes	
OHIO	12.5/25		Yes[a]	None	Yes	Also covers where insurer denies coverage.
OKLAHOMA	5/10[b]		Yes	None	Yes	If agreement by arbitration is not reached within 3 months from demand for arbitration insured may sue for relief. "Stacking" of liability policies held required by Oklahoma Supreme Ct.
OREGON	10/20[b]		No	None	Yes	Coverage not required in policy covering trucks of combined weight and load capacity of more than 6000 lbs. operated by employees covered by workmen's compensation. Also covers where insurer denies coverage.

[a] If rejected, insurer need not offer coverage on renewal unless requested.
[a] Person who carries liability limits of at least 15/30 is entitled to 15/30 coverage.

[b] Optional higher limits up to $1, limits must be offered

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where insurer insolvent?	Other Provisions
PENNSYLVANIA	10/20		No	None	Yes	
PUERTO RICO						
RHODE ISLAND	10/20		Yes	None	Yes	
SOUTH CAROLINA	15/30/5	$200	No	None	Yes	Also covers where insurer denies coverage. Arbitration provision prohibited. Insurer may defend uninsured motorist. Requires contact in hit and run cases.
SOUTH DAKOTA	15/30[a]		No	None	Yes	Also covers where vehicle insured in lower limits.
TENNESSEE	10/20[a]		Yes[1]	None	Yes	Also covers where vehicle insured in lower limits. Provides for optional property damage coverage for damage in excess of $200. Requires contact in hit and run cases. Arbitration provision prohibited.
TEXAS	10/20		Yes[1]	None	Yes	

[1] If rejected, insurer need not offer coverage on renewal unless requested.

[a] Insured may request limits equal to bi liability limits.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorists Fee	Applicable where Insurer Insolvent?	Other Provisions
UTAH	15/30		Yes†	None	No prov.	
VERMONT	10/20		No	None	Yes	
VIRGINIA	25/50/5[a]	$200	No	$150	No prov.	Arbitration provision prohibited. Insurer may defend uninsured motorist. Also covers where insurer denies coverage. No coverage provided in policies primarily providing excess coverage.
VIRGIN ISLANDS						
WASHINGTON	15/30		Yes†	None	Yes	
WEST VIRGINIA	10/20/5	$300	No	None	Yes	Also covers where insurer denies coverage. Arbitration provision prohibited. Requires contact in hit and run cases.
WISCONSIN	15/30		No	None	Yes	Also covers vehicles insured in lower limits.

† If rejected, insurer need not offer coverage on renewal unless requested.

[a] Insured may require limits equal to own liability limits. Insurer must offer higher limits to maximum extent.

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required?	Verification Program	Termination Notification Requirements	Penalties
HAWAII	25/Un-limited/10	1974	Proof of insurance required when car is registered. Self-certification is permitted. (Proof of insurance cards are provided	None at present	Termination notice must be given County Dir. and Police Chief of appropriate county of registration prior to date of termination	Subject to following: Fine not to exceed $1,000 30 days imprisonment, loss of license or registration or combination of penalties
IDAHO	10/20/5	1975	Must display certificate of insurance to County Assessor at time of registration	None at present	Insurers must notify Dept. of Law Enforcement within seven days of the cancellation date. Insurers must secure approval of Dir. of Law Enforcement before cancelling during first 90 days after certification	Guilty of a misdemeanor to either operate a motor vehicle without the required security or to falsify a certificate of liability insurance
KANSAS	15/30/5	1974	Yes - self-certification at time of registration (ID cards are provided)	Yes - negative verification procedure (20 day notice)	Notice of Termination (except for non-pay) must be sent to Dir. of Motor Vehicles who may then revoke registration	Guilty of Class C Misdemeanor. Max. penalty $500 fine and one month jail sentence
KENTUCKY	10/20/5	1975	Yes - self-certification at time of registration	None at present	None	Shall be fined not less than $50 nor more than $500
MARYLAND	20/40/5	1973	Yes - certification of registration will not be issued until owner produces satisfactory evidence that specified security is in effect. Self-certification is in effect	Random verification positive procedure	Insurers are to immediately notify the Administrator of lapse in coverage, no certificate of registration can be suspended	Guilty of a misdemeanor - fine not more than $500. License & Vehicle suspension up to $40 penalty assessed by Motor Vehicle Administration

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required?	Verification Program	Termination Notification Requirements	Penalties
CALIFORNIA	15/30/5	1975	No	None at present	Termination Notice must be given to Commissioner	Fine up to $100
COLORADO	15/30/5	1974	None at present	None at present	Cancellation for cause after first 60 days - must be on a form which satisfies state requirements	Suspension of license after at-fault accident
CONNECTICUT	20/40/5	1973	Yes - self-certification at time of registration	Yes - negative verification procedure	None	1) Class C Misdemeanor - fine to $500 or jail sentence up to 3 months 2) Fine not more than $1,000
DELAWARE	10/20/5	1972	Yes - ID card or policy must be produced when vehicle is being inspected at safety lane	None at present	Termination Notice must be given to Commissioner	Misdemeanor. Fine not less than $300 nor more than $1,000. May be imprisoned for not more than six months
FLORIDA	10/20/5	1972	Yes - must show proof of insurance at time of vehicle inspection - ID cards are provided	None at present	Notice of termination of new business (first 6 months of policy period) are to be given to Bureau of Financ. Resp.	Misdemeanor and subject to revocation of license and/or vehicle registration. Fine up to $1,000 and/or up to one yr. imprisonment
GEORGIA	10/20/5	1975	Yes - self-certification at time of registration. In addition, evidence of insurance must be carried in all "affect" motor vehicles	Specific verification for Acc. and Serious Violations will be requested (20 day notice)	Insurer must notify Dept. of Public Safety within 5 days after effective date of cancellation	Guilty of a misdemeanor

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where insurer insolvent?	Other Provisions
UTAH	15/30		Yes[1]	None	No prov.	
VERMONT	10/20		No	None	Yes	
VIRGINIA	25/50/5[a]	$200	No	$150	No prov.	Arbitration provision prohibited. Insurer may defend uninsured motorist. Also covers where insurer denies coverage. No coverage provided in policies primarily providing excess coverage.
VIRGIN ISLANDS						
WASHINGTON	15/30		Yes[1]	None	Yes	
WEST VIRGINIA	10/20/5	$300	No	None	Yes	Also covers where insurer denies coverage. Arbitration provision prohibited. Requires contact in hit and run cases.
WISCONSIN	15/30		No	None	Yes	Also covers vehicles insured in lower limits.

[1] If rejected, insurer need not offer coverage on renewal unless requested.

[a] Insured may require limits equal to own liability limits. Insurer must offer higher limits in premium notice.

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required	Verification Program	Termination Notification Requirements	Penalties
CALIFORNIA	15/30/5	1975	No	None at present	Termination Notice must be given to Commissioner	Fine up to $100
COLORADO	15/30/5	1974	None at present	None at present	Cancellation for cause after first 60 days - must be on a form which satisfies state requirements	Suspension of license after at-fault accident
CONNECTICUT	20/40/5	1973	Yes - self-certification at time of registration	Yes - negative verification procedure	None	1) Class C Misdemeanor - fine to $500 or jail sentence up to 3 months 2) Fine not more than $1,000
DELAWARE	10/20/5	1972	Yes - ID card or policy must be produced when vehicle is being inspected at safety lane	None at present	Termination Notice must be given to Commissioner	Misdemeanor. Fine not less than $100 nor more than $1,000. May be imprisoned for not more than six months
FLORIDA	10/20/5	1972	Yes - must show proof of insurance at time of vehicle inspection - ID cards are provided	None at present	Notice of termination of new business (first 6 months of policy period) are to be given to Bureau of Finan. Resp.	Misdemeanor and subject to revocation of license and/ or vehicle registration. Fine up to $1,000 and/or up to one yr. imprisonment
GEORGIA	10/20/5	1975	Yes - self-certification at time of registration. In addition, evidence of insurance must be carried in all "affect" motor vehicles	Specific verification for Acc. and Serious Violations will be requested (20 day notice)	Insurer must notify Dept. of Public Safety within 5 days after effective date of cancellation	Guilty of a misdemeanor

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required?	Verification Program	Termination Notification Requirements	Penalties
MASSACHUSETTS	5/10/5	1927	Yes - must have certificate of insurance when registering motor vehicle	None at present	When policy is cancelled, copy is sent to Motor Vehicle Registrar who then revokes registration or asks for recertification	No penalties provided except for forging certificate (Up to $1,000 fine and/or up to one year in jail.)
MICHIGAN	20/40/10	1973	Yes - must have proof of insurance at time of registration. Utilization of ID card permitted when registering in person. Self-certification permitted when registering by mail	None at present	None	Fine not less than $100 nor more than $500 and/or imprisonment for not more than one year
MINNESOTA	25/50/10	1975	Yes - self-certification at time of registration	Random verification	Insurer must notify Comm. of Public Safety of policy cancellation within 10 days of coverage expiration. (Termination after 60 days for non-pay. of premium is not construed as cancellation.)	Guilty of a misdemeanor and will be subject to lic. and/or veh. registration revocation for a period of not less than 6 months
NEVADA	15/30/5	1974	Yes - self-certification at time of registration	None at present	None	None
NEW JERSEY	15/30/5	1973	Yes - must self certify at time of registration. Also must show proof of insurance at time of vehicle inspection - ID cards provided	None at present	Notice of termination must be given to Motor Vehicle Department if policy is cancelled within 6 months of original effective date	Fine not less than $50 nor more than $200 and/or imprisonment for a term of not less than 30 days nor more than 3 months. Must also forfeit right to operate a motor vehicle for 6 mos. Subsequent conviction results in 3 mos. imprisonment and forfeiture of right to operate a motor vehicle for 2 years

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required?	Verification Program	Termination Notification Requirements	Penalties
HAWAII	25/Unlimited/10	1974	Proof of insurance required when car is registered. Self-certification is permitted. (Proof of insurance cards are provided	None at present	Termination notice must be given County Dir. and Police Chief of appropriate county of registration prior to date of termination	Subject to following: Fine not to exceed $1,000 30 days imprisonment, loss of license or registration or combination of penalties
IDAHO	10/20/5	1975	Must display certificate of Insurance to County Assessor at time of registration	None at present	Insurers must notify Dept. of Law Enforcement within seven days of the cancellation date. Insurers must secure approval of Dir. of Law Enforcement before cancelling during first 90 days after certification	Guilty of a misdemeanor to either operate a motor vehicle without the required security or to falsify a certificate of liability insurance
KANSAS	15/30/5	1974	Yes - self-certification at time of registration (ID cards are provided)	Yes - negative verification procedure (20 day notice)	Notice of Termination (except for non-pay) must be sent to Dir. of Motor Vehicles who may then revoke registration	Guilty of Class C Misdemeanor. Max. penalty $500 fine and one month jail sentence
KENTUCKY	10/20/5	1975	Yes - self-certification at time of registration	None at present	None	Shall be fined not less than $50 nor more than $500
MARYLAND	20/40/5	1973	Yes - certification of registration will not be issued until owner produces satisfactory evidence that specified security is in effect. Self-certification is in effect	Random verification positive procedure	Insurers are to immediately notify the Administrator of lapse in coverage, so certificate of registration can be suspended	Guilty of a misdemeanor - fine not more than $500. License & Vehicle suspension up to $40 penalty assessed by Motor Vehicle Administration

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required?	Verification Program	Termination Notification Requirements	Penalties
SOUTH CAROLINA	15/30/5	1974	Yes - self-certification at time of registration	Random verification	Notification of the lapse or termination of insurance must be given to the Chief Highway Commissioner within 10 days following effective date of cancellation	Guilty of a misdemeanor, conviction of which will result in a fine of not more than $100 or imprisonment for not more than 30 days, also 30 days license suspension. Making false statement as to insurance is a misdemeanor and will result in a fine not less than $50 nor more than $100 or imprisonment for not less than 10 days nor more than 30 days. Also, conviction will result in revocation of lic. and denial of registration for 6 months
UTAH[1]	15/30/5	1974	Yes - self-certification at time of registration. Shall be required to exhibit evidence of security being in effect as a condition to obtain license plate for safety inspection. Evidence may be in form of ID card	Random verification	None	Guilty of a misdemeanor and loss of license and/or registration (Attorney General has ruled that false affirmation of insurance at time of registration will be treated as a felony.)

SOURCE: Insurance Department, State of Arkansas,
American Insurance Association, New York
Various State Statutes.

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required?	Verification Program	Termination Notification Requirements	Penalties
NEW YORK	10/20/5	1957	Yes - must have proof of financial responsibility when registering motor vehicle - ID cards are provided. Self-certification is permitted	Yes - random verification; negative procedure (30 day notice) Specific verification; positive procedure (20 day notice)	None	Fine not less than $100 nor more than $1,000 and/or be imprisoned for not more than one year. Revocation of license and/or registration for one year. Also possible impounding of vehicle. Also civil penalty of up to $300 assessed and collected by Motor Vehicle Department
NORTH CAROLINA	15/30/5	1958	Yes - self-certification at time of registration. However, Commissioner may require owner to produce record of financial responsibility	Yes - negative verification procedure (20 day notice)	Notice of termination must be given to Department of Motor Vehicles "forthwith"	60 days registration suspension and possible imposition of misdemeanor penalties
NORTH DAKOTA	10/20/5	1976	Yes - self-certification at time of registration	Yes - random verification	None	Revocation of registration
OKLAHOMA	5/10/5	1976	Yes - self-certification at time of registration	Yes - negative verification procedure (30 day notice)	Cancellation notices must be sent to Department of Public Safety	$100 fine
PENNSYLVANIA	15/30/5	1975	Yes - self-certification at time of registration ID cards are provided	Yes - negative verification procedure	Notice of termination must be given to Penn. Dept. of Transportation within first 6 mos. of a new business policy	Guilty of a misdemeanor which will result in a fine of not less than $100 or more than $500 or may be imprisoned for not more than 6 mos. or both

TABLE V

PRIVATE PASSENGER AUTOMOBILE PREMIUM COMPARISONS*

COMPANY	COVERAGE	STATE								
		[1]ARK 10/20/10	[2]COL 15/30/10	[3]MO 10/20/10	[4]CONN 20/40/10	[5]FLA 10/20/10	[6]OKL 10/20/10	[7]KANSAS 15/30/10	[8]GEORGIA 10/20/10	[9]S.C. 15/30/10
ISO	Liability	143	117	166	232	NA	135	105	128	153
	Comp.	36	45	48	38		36	54	30	29
	Coll.	121	119	171	152		102	90	116	95
	Total	300	281	385	422		273	249	274	277
ALL STATE	Liability	130	111	171	215	120	104	93	104	113
	Comp.	27	30	37	43	16	32	54	29	28
	Coll.	74	61	99	132	47	71	68	80	69
	Total	231	202	307	390	183	207	215	213	205
STATE FARM GROUP	Liability	99	93	127	NA	96	87	75	93	118
	Comp.	18	30	32		18	32	51	20	20
	Coll.	58	73	107		54	68	72	90	60
	Total	175	196	266		168	187	198	203	198

SOURCE: Insurance Services Office

1. Little Rock Territory
2. Denver Territory
3. Kansas City Territory
4. Hartford Territory
5. Orlando Territory
6. Tulsa Territory
7. Wichita Territory
8. Atlanta Territory
9. Columbia Territory

*Comparison of pleasure use, no youthful operator, annual premiums, physical damage, $50 deductible, comprehensive and $100 deductible collision.

DONALD E. WILLIAMS
COMMISSIONER

FRANK W. SENCINDIVER
DEPUTY COMMISSIONER

CHERYL F. CLARK
DRIVER SERVICES ADMINISTRATOR

COMMONWEALTH of VIRGINIA

Division of Motor Vehicles
2300 West Broad Street

MAIL ADDRESS
P. O. BOX 27412
RICHMOND, VIRGINIA 23269

Under the state law, motor vehicle owners must have an automobile liability insurance policy with a company licensed to do business in Virginia, or pay the uninsured motor vehicle fee of $200 at the time they purchase license plates or renew their decals. Insurance policies must provide a minimum liability coverage of $25,000 for injury or death of one person, $50,000 for injury or death of two or more people and $10,000 for property damage.

The uninsured motor vehicle fees collected are paid into a fund called the Uninsured Motorist Fund. The funds are distributed to the insurance companies as to the number of policies they write. The law provides that the Commissioner may expend from this fund an amount to be fixed by the Governor for the administration of the article.

The following is a summary of four methods that we use to monitor our insurance program in Virginia, along with copies of the Motor Vehicle Law that allows us to use these methods of monitoring.

1. FR422A, Insurance Confirmation Form, was designed by DMV to be issued by law enforcement agencies at a random road check. (§ 46.1-167.1)

   FR422A received ---------- 29,261
   FR422A orders issued ---------- 7,720

2. FR4A, Insurance Confirmation Form, issued to DMV by insurance companies when a company cancels policy within six months of issue date. (§ 46.1-513.1)

   FR4A received ---------- 120,415
   FR4A orders issued ---------- 17,099

3. FR300C, Citizen Accident Report, required when vehicle is involved in a reportable accident. Purpose is to confirm insurance (§ 46.1-167.4)

   Accident reports received ---------- 145,645
   Accident orders issued ---------- 21,269

4. FR1, Insurance Confirmation Form, issued by DMV requesting insurance information. (§ 46.1-167.1)

FR1 forms issued ----------	303
FR1 orders issued ----------	179

The above figures are based on fiscal year July 1, 1981, to June 30, 1982. They do not reflect the number of cases that were cancelled due to the owner of vehicles in question show they had the required insurance at the time of the possible violation of the law, but failed to notify DMV before the order was issued.

Our records indicate there were 3.9 million registered motor vehicles in Virginia during this period. During the same period 7,977 uninsured motor vehicle fees were paid at the time the vehicle was registered or re-registered.

MADD

MOTHERS AGAINST DRUNK DRIVERS
Fairbanks Northern Lights Chapter
P.O. Box 1167
Fairbanks, Alaska 99707-1167
(907) 456-3964

September 28, 1983

Senator Richard I. Eliason
Box 143
Sitka, Alaska 99835

Dear Senator Eliason,

I have enclosed a copy of the statutes and backup material on how the State of Virginia handled their insurance problem. I realize that we cannot, of course, adopt any one state's methods of doing things, but I thought that perhaps this information would be helpful to you in working out a solution to our problem here in the State of Alaska.

I was extremely impressed to read that they had approximately 3.9 million registered motor vehicles in the State of Virginia during fiscal year July 1, 1981 to June 30 ,1982, and only 7,977 uninsured motorists vehicle fees were collected.

Sincerely,

Barbara Gaston

Barbara Gaston, President
Fairbanks Northern Lights Chapter, MADD

1982 STATUTES

EFFECTIVE JULY 1, 1982

ARTICLE 2.

Driving Motor Vehicle, etc., While Intoxicated.

§ 18.2-266. Driving motor vehicle, engine, etc., while intoxicated. — It shall be unlawful for any person to drive or operate any motor vehicle, engine or train while under the influence of alcohol, or while under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature. For the purposes of this section, the term "motor vehicle" shall include pedal bicycles with helper motors, while operated on the public highways of this State. (Code 1950, § 18.1-54; 1960, c. 358; 1975, cc. 14, 15; 1977, c. 637.)

Cross references. — As to dismissal of one of dual charges for driving while intoxicated and reckless driving upon conviction of other charge, see § 19.2-294.1. As to incorporation of provisions of this article in local ordinances, see § 46.1-188. As to additional penalties for fourth conviction of violation of this section and certain other offenses, see § 46.1-423.1. As to revocation of license upon fourth conviction, see § 46.1-423.2. As to revocation of operator's license, see note to § 46.1-466. As to bringing person arrested for violation of this section before judicial officer, see note to § 52-21.

Law Review. — For survey of Virginia criminal law for the year 1975-1976, see 62 Va. L. Rev. 1400 (1976). For note discussing the defendant's right to independent analysis of the breathalyzer ampoule, see 21 Wm. & Mary L. Rev. 219 (1979). For note, "Criminal Procedure and Criminal Law: Virginia Supreme Court Decisions During the 70's," see 15 U. Rich. L. Rev. 585 (1981).

Construction. — In construing this section and §§ 18.2-270 through 18.2-273 consideration must be given to the words used, their relation to the subject matter in which they are used, the purposes for which the statute was intended, and the mischief sought to be suppressed. Commonwealth v. Ellett, 174 Va. 403, 4 S.E.2d 762 (1939).

The gravamen of the offense is driving while under the influence of alcohol, and the Commonwealth must establish both essential facts beyond a reasonable doubt to carry the burden of proof. Clemmer v. Commonwealth, 208 Va. 661, 159 S.E.2d 664 (1968).

This section and the "implied consent" statute are separate. — The "implied consent" statute § 18.2-268 and the drunken driving statute (this section) are not intricately related, but rather completely separate offenses with separate penalties. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

The defendant's contention at the trial that this section and § 18.2-268 should be read together by virtue of the decision of Russell v. Hammond, 200 Va. 600, 106 S.E.2d 626 (1959) has no merit. This section is a separate statute and is not cited in Russell v. Hammond as being read together with the blood test statutes. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

Driving an automobile means putting it in motion. Gallagher v. Commonwealth, 205 Va. 666, 139 S.E.2d 37 (1964).

But the word "operate" is not limited to moving the vehicle from one place to another. Gallagher v. Commonwealth, 205 Va. 666, 139 S.E.2d 37 (1964); Lyons v. City of Petersburg, 221 Va. 10, 266 S.E.2d 880 (1980).

The meaning of the word "operate" as used in this section is not limited to the movement of the vehicle. Nicolls v. Commonwealth, 212 Va. 257, 184 S.E.2d 9 (1971).

The word "operate" is not defined in this section, but the word "operator" is defined, in part, in § 46.1-1 (17) as "every person who drives or is in actual physical control of a motor vehicle," and this definition is approved for the purpose of determining whether one "operates" a motor vehicle within the meaning of this section. Nicolls v. Commonwealth, 212 Va. 257, 184 S.E.2d 9 (1971); Lyons v. City of Petersburg, 221 Va. 10, 266 S.E.2d 880 (1980).

"Operating" inoperable vehicle. — The contention that a defendant cannot be convicted of operating an inoperable vehicle is without merit, since a motor vehicle is defined in § 46.1-1 (15) as "every vehicle as herein defined which is self-propelled or designed for self-propulsion." Nicolls v. Commonwealth, 212 Va. 257, 184 S.E.2d 9 (1971).

Where defendant was arrested after the officer found him sitting at the steering wheel of his car, which was stuck in a ditch, with the motor running and the right rear wheel spinning, it was held that he was operating the vehicle and that his conviction was proper under this section, for it prohibits operation as well as driving of a vehicle while intoxicated. Gallagher v. Commonwealth, 205 Va. 666, 139 S.E.2d 37 (1964).

No automatic right to blood test. — It does not appear that a person arrested for driving under the influence has the automatic right to a blood test. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

Section 18.2-268 does not entitle one charged with a violation of this section to an automatic blood test. United States v. Fletcher, 344 F. Supp. 332 (E.D. Va. 1972).

Effect of refusal to take blood test. — The concept of the law is that a driver, if arrested under this section, may be asked to consent to taking the blood test and for an unreasonable refusal, the penalty of a suspended license would be imposed. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

Violation of section as negligence. — If defendant was driving his car while under the influence of intoxicants, he violated this section and that was negligence. Yet it was not his intoxication but his negligence that had to be the proximate cause of the mishap before there could be a finding against him because of his conduct in that respect. Bogstad v. Hope, 199 Va. 453, 100 S.E.2d 745 (1957).

One committing a homicide while violating this section may be convicted of involuntary manslaughter. Massie v. Commonwealth, 177 Va. 883, 15 S.E.2d 30 (1941).

There can be no conviction unless there is evidence tending to establish the agency

responsible for the erratic behavior of the accused. Miller v. Commonwealth, 214 Va. 689, 204 S.E.2d 268 (1974).

Degree of intoxication contemplated. — Under this section the burden is not upon the Commonwealth to prove that, while he was driving an automobile, accused was under the influence of intoxicants to such an extent that his ability to drive with safety to himself and others was thereby materially impaired. The test to be applied, in a prosecution under this section, is not merely the ability of the driver to operate the automobile with safety to himself and others, but whether or not he is under the influence of intoxicants at the time he is driving or running an atuomobile. Owens v. Commonwealth, 147 Va. 624, 136 S.E. 765 (1927).

The degree of intoxication is a circumstance relevant to a determination of the question whether, in light of all other circumstances, the act of driving an automobile was such an improper performance of a lawful act as to constitute negligence so gross and culpable as to indicate a callous disregard to human life. Beck v. Commonwealth, 216 Va. 1, 216 S.E.2d 8 (1975).

Person acquitted under section could be prosecuted for involuntary manslaughter. — The doctrine of collateral estoppel may not bar the prosecution for involuntary manslaughter of a person previously acquitted of driving under the influence of intoxicants, since the issue of intoxication is not necessarily dispositive of the crime of involuntary manslaughter. Simon v. Commonwealth, 220 Va. 412, 258 S.E.2d 567 (1979).

But evidence of intoxication barred. — Although the defendant could be tried for involuntary manslaughter, even though he previously had been acquitted of driving under the influence of intoxicants based upon failure of the Commonwealth to prove legal intoxication, since the issue of intoxication is not necessarily dispositive of the crime of involuntary manslaughter, the Commonwealth should have been barred, under the doctrine of collateral estoppel, from introducing in the manslaughter trial evidence to show that the defendant was intoxicated while operating the motor vehicle. Simon v. Commonwealth, 220 Va. 412, 258 S.E.2d 567 (1979).

Though consumption of alcohol could be shown. — If the Commonwealth elected to try a defendant who previously had been acquitted of the offense under this section for involuntary manslaughter, the Commonwealth would not be estopped from introducing evidence to show that the defendant consumed alcohol shortly before the accident in question, since the quantity of alcohol consumed by an automobile driver, even though not enough to cause legal intoxication, may be sufficient to impair his capacity to perceive the dangers with the clarity, make decisions with the prudence, and operate the vehicle with the skill and caution required by law. Simon v. Commonwealth, 220 Va. 412, 258 S.E.2d 567 (1979).

Criminal negligence. — Even when the evidence shows a level of intoxication lower than that necessary to a conviction for violation of this section, such evidence is germane to the question of criminal negligence. Beck v. Commonwealth, 216 Va. 1, 216 S.E.2d 8 (1975).

For a discussion of the applicability of Miranda warnings to motor vehicle offenses, see Clay v. Riddle, 541 F.2d 456 (4th Cir. 1976).

Question for jury. — In a prosecution for operating a motor vehicle while under the influence of intoxicants, there was evidence for the State that the defendant was intoxicated. The evidence given by the defendant and his witnesses was to the effect that he was not intoxicated. The resulting conflict in the evidence was for the jury to settle. Rodgers v. Commonwealth, 197 Va. 527, 90 S.E.2d 257 (1955).

Instruction defining intoxication. — In a prosecution for violation of this section, an instruction defining intoxication should be in the language of subsection (14) of § 4-2. Rodgers v. Commonwealth, 197 Va. 527, 90 S.E.2d 257 (1955), commented on in 12 Wash. & Lee L. Rev. 82 (1955).

In a prosecution for drunken driving, it was reversible error to instruct the jury that one is under the influence of intoxicating beverages if he has voluntarily taken an amount of such beverage "as to make him act differently from what he would have done if he had taken none." The instruction was not in accord with the statutory definition given in § 4-2 (14). Gardner v. Commonwealth, 195 Va. 945, 81 S.E.2d 614 (1954).

The burden is on the Commonwealth to prove that the defendant was under the influence of intoxicants, not on the defendant to prove that he was not. The Commonwealth's evidence must exclude every reasonable hypothesis of innocence. Until that is done the defendant is not required to explain or to offer evidence of his innocence. Clemmer v. Commonwealth, 208 Va. 661, 159 S.E.2d 664 (1968).

In order to convict the defendant, it is necessary that the Commonwealth establish two things: (1) that the defendant was operating or driving a motor vehicle, and (2) that he was under the influence of intoxicants at the time he was driving or operating it. Nicolls v. Commonwealth, 212 Va. 257, 184 S.E.2d 9 (1971).

The Commonwealth bears the burden of proving that the accused was driving under the influence of alcohol or other self-administered intoxicant. Miller v. Commonwealth, 214 Va. 689, 204 S.E.2d 252 (1974).

Confusing instruction properly refused. — It was not error to refuse an instruction that defendant might be thought guilty of reckless driving yet not be guilty of driving while drunk. This would have been confusing to the jury, directing their attention to an offense with which defendant was not charged. Mawyer v. Commonwealth, 203 Va. 898, 128 S.E.2d 433 (1962).

The evidence was sufficient to support defendant's conviction of driving under influence of intoxicants where defendant admitted having had two drinks, drove his car onto the shoulder of the road and again into the center lane, veered across the road when the trooper signalled him to stop then back again into a telephone pole, was unsteady on his feet when arrested and proposed to the officer that the charge be fixed. Doughty v. Commonwealth, 204 Va. 240, 129 S.E.2d 664 (1963).

Conviction was supported by the evidence where it was proved defendant drove his vehicle into the rear of a bus stopped for a red light, gave no explanation for the occurrence, denied he was driving his vehicle and made conflicting statements as to who was driving, had a strong odor of alcohol on his breath, and could not satisfactorily complete certain coordination tests administered by police at the scene. Holt v. City of Richmond, 204 Va. 364, 131 S.E.2d 394 (1963).

Evidence held insufficient to support conviction of driving under the influence of intoxicants. Fowlkes v. Commonwealth, 194 Va. 676, 74 S.E.2d 683 (1953).

Evidence establishing that defendant was intoxicated fifty-five minutes after being involved in an accident was not sufficient to support a jury finding that he was intoxicated at the time of the accident. Coffey v. Commonwealth, 202 Va. 185, 116 S.E.2d 257 (1960).

The manner in which the accident occurred, the appearance and behavior of defendant, and his bizarre conduct generally, constituted sufficient evidence to engender a probability of guilt. However, the evidence failed to establish that the drinking of alcohol or the self-administering of drugs caused this conduct, and, in its absence, the court of appeals was unable to conclude that beyond a reasonable doubt defendant operated his automobile under the influence of alcohol or some self-administered drug. Clemmer v. Commonwealth, 208 Va. 661, 159 S.E.2d 664 (1968).

The evidence was not such that one could infer from it a tacit admission by defendant that he had been drinking, or was under the influence of alcohol. Clemmer v. Commonwealth, 208 Va. 661, 159 S.E.2d 664 (1968).

Prosecution in federal court for driving while intoxicated on federal land. — The Assimilative Crimes Act of 1948, 18 U.S.C.A. § 13, makes applicable to a prosecution in a federal court for driving while intoxicated on a federal parkway within the territorial limits of Virginia the Virginia statute which prohibits one from driving an automobile while under the influence of alcohol and the Virginia statute (§ 18.2-270) which prescribes penalties for the offense. Kay v. United States, 255 F.2d 476 (4th Cir. 1958), commented on in 16 Wash. & Lee L. Rev. 62 (1959).

In a prosecution under the Assimilative Crimes Act for drunken driving on a military post in Virginia, the magistrate need not consider both the Virginia statutes, this section and § 18.2-268 together, but may consider this section as a separate offense and disregard any evidence as to blood tests with respect to a drunken driving charge. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

Applicability to driving on private roads. — In Valentine v. County of Brunswick, 202 Va. 696, 119 S.E.2d 486 (1961), it was held that a county ordinance similar to this section applied to driving on private roads as well as public highways.

Applied in Davis v. Commonwealth, 219 Va. 808, 252 S.E.2d 299 (1979).

§ 18.2-267. Analysis of breath to determine alcoholic content of blood. — (a) Any person who is suspected of a violation of § 18.2-266 shall be entitled, if such equipment be available, to have his breath analyzed to determine the probable alcoholic content of his blood. Such breath may be analyzed by any police officer of the Commonwealth, or of any county, city or town, or by any member of the sheriff's department of any county, in the normal discharge of his duties.

(b) The Department of General Services, Division of Consolidated Laboratory Services shall determine the proper method and equipment to be used in analyzing breath samples taken pursuant to this section and shall advise the respective police and sheriff's departments of the same.

(c) Any person who has been stopped by a police officer of the Commonwealth, or of any county, city or town, or by any member of the sheriff's department of any county and is suspected by such officer to be guilty of a violation of § 18.2-266, shall have the right to refuse to permit his breath to

be so analyzed, and his failure to permit such analysis shall not be evidence in any prosecution under § 18.2-266, provided, however, that nothing in this section shall be construed as limiting in any manner the provisions of § 18.2-268.

(d) Whenever the breath sample so taken and analyzed indicates that there is alcohol present in the blood of the person from whom the breath was taken, the officer may charge such person for the violation of § 18.2-266, or a similar ordinance of a county, city or town wherein the arrest is made. Any person so charged shall then be subject to the provisions of § 18.2-268, or of a similar ordinance of a county, city or town.

(e) The results of such breath analysis shall not be admitted into evidence in any prosecution under § 18.2-266, the purpose of this section being to permit a preliminary analysis of the alcoholic content of the blood of a person suspected of having violated the provisions of § 18.2-266.

(f) Police officers or members of any sheriff's department shall, upon stopping any person suspected of having violated the provisions of § 18.2-266, advise such person of his rights under the provisions of this section. (Code 1950, § 18.1-54.1; 1970, c. 511; 1975, cc. 14, 15; 1979, c. 717.)

Law Review. — For survey of Virginia law on criminal law and procedure for the year 1969-1970, see 56 Va. L. Rev. 1572 (1970). For survey of recent legislation on criminal law — breath test to determine alcoholic content of blood, see 5 U. Rich. L. Rev. 189 (1970). For comment on the admissibility of documentary evidence and the right to confrontation, see 12 Wm. & Mary L. Rev. 440 (1970).

§ 18.2-268. Use of chemical test to determine alcoholic content of blood; procedure; qualifications and liability of person withdrawing blood; costs; evidence; suspension of license for refusal to submit to test; localities authorized to adopt parallel provisions. — (a) As used in this section "license" means any operator's, chauffeur's or learner's permit or license authorizing the operation of a motor vehicle upon the highways.

(b) Any person whether licensed by Virginia or not, who operates a motor vehicle upon a public highway in this Commonwealth on and after January 1, 1973, shall be deemed thereby, as a condition of such operation, to have consented to have a sample of his blood or breath taken for a chemical test to determine the alcoholic content of his blood, if such person is arrested for violation of § 18.2-266 or of a similar ordinance of any county, city or town within two hours of the alleged offense. Any person so arrested shall elect to have either the breath or blood sample taken, but not both. It shall not be a matter of defense that either test is not available.

(c) If a person after being arrested for a violation of § 18.2-266 or of a similar ordinance of any county, city or town and after having been advised by the arresting officer that a person who operates a motor vehicle upon a public highway in this Commonwealth shall be deemed thereby, as a condition of such operation, to have consented to have a sample of his blood or breath taken for a chemical test to determine the alcoholic content of his blood, and that the unreasonable refusal to do so constitutes grounds for the revocation of the privilege of operating a motor vehicle upon the highways of this Commonwealth, then refuses to permit the taking of a sample of his blood or breath for such tests, the arresting officer shall take the person arrested before a committing magistrate and if he does again so refuse after having been further advised by such magistrate of the law requiring a blood or breath test to be taken and the penalty for refusal, and so declares again his refusal in writing upon a form provided by the Division of Consolidated Laboratory Services (hereinafter referred to as Division), or refuses or fails to so declare in writing and such fact is certified as prescribed in paragraph (j), then no blood or breath sample shall be taken even though he may thereafter request same.

(d) Only a physician, registered professional nurse, graduate laboratory technician or a technician or nurse designated by order of a circuit court acting upon the recommendation of a licensed physician, using soap and water to cleanse the part of the body from which the blood is taken and using instruments sterilized by the accepted steam sterilizer or some other sterilizer which will not affect the accuracy of the test, or using chemically clean sterile disposable syringes, shall withdraw blood for the purpose of determining the alcoholic content thereof. No civil liability shall attach to any person authorized to withdraw blood as provided herein as a result of the act of withdrawing blood from any person submitting thereto, provided the blood was withdrawn according to recognized medical procedures; and provided further that the foregoing shall not relieve any such person from liability for negligence in the withdrawing of any blood sample.

(d1) Portions of the blood sample so withdrawn shall be placed in each of two vials provided by the Division which vials shall be sealed and labeled by the person taking the sample or at his direction, showing on each the name of the accused, the name of the person taking the blood sample, and the date and time the blood sample was taken. The vials shall be placed in two containers provided by the Division, which containers shall be sealed so as not to allow tampering with the contents. The arresting or accompanying officer shall take possession of the two containers holding the vials as soon as the vials are placed in such containers and sealed, and shall transport or mail one of the vials forthwith to the Division. The officer taking possession of the other container (hereinafter referred to as second container) shall, immediately after taking possession of the second container give to the accused a form provided by the Division which shall set forth the procedure to obtain an independent analysis of the blood in the second container, and a list of those laboratories and their addresses, approved by the Division; such form shall contain a space for the accused or his counsel to direct the officer possessing such second container to forward that container to such approved laboratory for analysis, if desired. The officer having the second container, after delivery of the form referred to in the preceding sentence (unless at that time directed by the accused in writing on such form to forward the second container to an approved laboratory of the accused's choice, in which event the officer shall do so) shall deliver the second container to the chief police officer of the county, city or town in which the case will be heard, and the chief police officer who receives the same shall keep it in his possession for a period of seventy-two hours, during which time the accused or his counsel may, in writing, on the form provided hereinabove, direct the chief police officer having possession of the second container to mail it to the laboratory of the accused's choice chosen from the approved list. As used in this section, the term "chief police officer" shall mean the sheriff in any county not having a chief of police, the chief of police of any county having a chief of police, the chief of police of the city or the sergeant or chief of police of the town in which the charge will be heard.

(d2) The testing of the contents of the second container shall be made in the same manner as hereafter set forth concerning the procedure to be followed by the Division, and all procedures established herein for transmittal, testing and admission of the result in the trial of the case shall be the same as for the sample sent to the Division.

(d3) A fee not to exceed fifteen dollars shall be allowed the approved laboratory for making the analysis of the second blood sample which fee shall be paid out of the appropriation for criminal charges. If the person whose blood sample was withdrawn is subsequently convicted for violation of § 18.2-266, or of a similar ordinance of any county, city or town, the fee charged by the laboratory for testing the blood sample shall be taxed as part of the costs of the criminal case and shall be paid into the general fund of the State treasury.

(d4) If the chief police officer having possession of the second container is not directed as herein provided to mail it within seventy-two hours after receiving the container then the officer shall destroy such container.

(e) Upon receipt of the blood sample forwarded to the Division for analysis, the Division shall cause it to be examined for alcoholic content and the Director of the Division or his designated representative shall execute a certificate which shall indicate the name of the accused, the date, time and by whom the blood sample was received and examined, a statement that the container seal had not been broken or otherwise tampered with, a statement that the container was one provided by the Division and a statement of the alcoholic content of the sample. The certificate attached to the vial from which the blood sample examined was taken shall be returned to the clerk of the court in which the charge will be heard. The certificate attached to the container forwarded on behalf of the accused shall also be returned to the clerk of the court in which the charge will be heard, and, on motion of the accused, such certificate shall be admissible in evidence when attested by the pathologist or by the supervisor of the laboratory approved by the Division.

(f) When any blood sample taken in accordance with the provisions of this section is forwarded for analysis to the Division, a report of the results of such analysis shall be made and filed in that office. Upon proper identification of vial into which the blood sample was placed, the certificate as provided for in this section shall, when duly attested by the Director of the Division or his designated representative, be admissible in any court, in any criminal or civil proceeding, as evidence of the facts therein stated and of the results of such analysis.

(g) Upon the request of the person whose blood or breath sample was taken for a chemical test to determine the alcoholic content of his blood, the results of such test or tests shall be made available to him.

(h) A fee not exceeding ten dollars shall be allowed the person withdrawing a blood sample in accordance with this section, which fee shall be paid out of the appropriation for criminal charges. If the person whose blood sample was withdrawn is subsequently convicted for violation of § 18.2-266 or of a similar ordinance of any county, city or town, or is placed under the purview of a probational, educational, or rehabilitational program as set forth in § 18.2-271.1, the amount charged by the person withdrawing the sample shall be taxed as part of the costs of the criminal case and shall be paid into the general fund of the State treasury.

(i) In any trial for a violation of § 18.2-266 of the Code or of a similar ordinance of any county, city or town, this section shall not otherwise limit the introduction of any relevant evidence bearing upon any question at issue before the court, and the court shall, regardless of the result of the blood or breath test or tests, if any, consider such other relevant evidence of the condition of the accused as shall be admissible in evidence. The failure of an accused to permit a sample of his blood or breath to be taken for a chemical test to determine the alcoholic content of his blood is not evidence and shall not be subject to comment by the Commonwealth at the trial of the case, except in rebuttal; nor shall the fact that a blood or breath test had been offered the accused be evidence or the subject of comment by the Commonwealth, except in rebuttal.

(j) The form referred to in paragraph (c) shall contain a brief statement of the law requiring the taking of a blood or breath sample and the penalty for refusal, declaration of refusal and lines for the signature of the person from whom the blood or breath sample is sought, the date and the signature of a witness to the signing. If such person refuses or fails to execute such declaration, the committing justice, clerk or assistant clerk shall certify such fact, and that the committing justice, clerk or assistant clerk advised the person arrested that such refusal or failure, if found to be unreasonable, constitutes

grounds for the revocation of such person's license to drive. The committing or issuing justice, clerk or assistant clerk shall forthwith issue a warrant charging the person refusing to take the test to determine the alcoholic content of his blood, with violation of this section. The warrant shall be executed in the same manner as criminal warrants. Venue for the trial of the warrant shall lie in the court of the county or city in which the offense of driving under the influence of intoxicants is to be tried.

(k) The executed declaration of refusal or the certificate of the committing justice, as the case may be, shall be attached to the warrant and shall be forwarded by the committing justice, clerk or assistant clerk to the court in which the offense of driving under the influence of intoxicants shall be tried.

(l) When the court receives the declaration of refusal or certificate referred to in paragraph (k) together with the warrant charging the defendant with refusing to submit to having a sample of his blood or breath taken for the determination of the alcoholic content of his blood, the court shall fix a date for the trial of the warrant, at such time as the court shall designate, but subsequent to the defendant's criminal trial for driving under the influence of intoxicants.

(m) The declaration of refusal or certificate under paragraph (k), as the case may be, shall be prima facie evidence that the defendant refused to submit to the taking of a sample of his blood or breath to determine the alcoholic content of his blood as provided hereinabove. However, this shall not be deemed to prohibit the defendant from introducing on his behalf evidence of the basis for his refusal to submit to the taking of a sample of his blood or breath to determine the alcoholic content of his blood. The court shall determine the reasonableness of such refusal.

(n) If the court shall find the defendant guilty as charged in the warrant, the court shall suspend the defendant's license for a period of ninety days for a first offense and for six months for a second or subsequent offense or refusal within one year of the first or other such refusals; the time shall be computed as follows: the date of the first offense and the date of the second or subsequent offense; provided, that if the defendant shall plead guilty to a violation of § 18.2-266, or of a similar ordinance of a county, city or town, the court may dismiss the warrant.

(o) The court shall forward the defendant's license to the Commissioner of the Division of Motor Vehicles of Virginia as in other cases of similar nature for suspension of license unless, however, the defendant shall appeal his conviction in which case the court shall return the license to the defendant upon his appeal being perfected.

(p) The procedure for appeal and trial shall be the same as provided by law for misdemeanors; if requested by either party, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

(q) No person arrested for a violation of § 18.2-266 or a similar ordinance of any county, city or town shall be required to execute in favor of any person or corporation a waiver or release of liability in connection with the withdrawal of blood and as a condition precedent to the withdrawal of blood as provided for herein.

(r) The court or the jury trying the case shall determine the innocence or the guilt of the defendant from all the evidence concerning his condition at the time of the alleged offense.

(r1) Chemical analysis of a person's breath, to be considered valid under the provisions of this section, shall be performed by an individual possessing a valid license to conduct such tests, with a type of equipment and in accordance with the methods approved by the Division. Such breath-testing equipment shall be tested for its accuracy by the Division at least once every six months.

The Division is directed to establish a training program for all individuals who are to administer the breath tests, of at least forty hours of instruction in the operation of the breath-test equipment and the administration of such tests. Upon the successful completion of the training program the Division may issue a license to the individual operator indicating that he has completed the course and is authorized to conduct a breath-test analysis. Licenses previously issued by the State Health Commissioner shall continue to be valid until the expiration date.

Any individual conducting a breath test under the provisions of this section and as authorized by the Division shall issue a certificate which will indicate that the test was conducted in accordance with the manufacturer's specifications, the equipment on which the breath test was conducted has been tested within the past six months and has been found to be accurate, the name of the accused, the date, the time the sample was taken from the accused, the alcoholic content of the sample, and by whom the sample was examined. The certificate, as provided for in this section, when duly attested by the authorized individual conducting the breath test, shall be admissible in any court in any criminal or civil proceeding as evidence of the facts therein stated and of the results of such analysis. In no case may the officer making the arrest, or anyone with him at the time of the arrest, or anyone participating in the arrest of the accused, make the breath test or analyze the results thereof. A copy of such certificate shall be forthwith delivered to the accused.

(s) The steps herein set forth relating to the taking, handling, identification, and disposition of blood or breath samples are procedural in nature and not substantive. Substantial compliance therewith shall be deemed to be sufficient. Failure to comply with any one or more of such steps or portions thereof, or a variance in the results of the two blood tests shall not of itself be grounds for finding the defendant not guilty, but shall go to the weight of the evidence and shall be considered as set forth above with all the evidence in the case, provided that the defendant shall have the right to introduce evidence on his own behalf to show noncompliance with the aforesaid procedure or any part thereof, and that as a result his rights were prejudiced.

(t) The governing bodies of the several counties, cities and towns are authorized to adopt ordinances paralleling the provisions of (a) through (s) of this section. (Code 1950, § 18.1-55.1; 1964, c. 240; 1966, c. 635; 1970, c. 622; 1972, cc. 741, 756; 1973, c. 511; 1974, c. 591; 1975, cc. 14, 15, 587; 1977, cc. 638, 659; 1978, c. 593; 1979, cc. 717, 728; 1980, c. 553; 1981, c. 424.)

Editor's note. — Many of the cases in the following annotation were decided under repealed §§ 18.1-55 and 18.1-56, which covered the same subject matter as this section.

The 1981 amendment inserted "on motion of the accused" in the third sentence of subsection (e).

Law Review. — For comment on use of blood tests as evidence of intoxication in Virginia, see 18 Wash. & Lee L. Rev. 370 (1961). For note on Virginia's implied consent statute, a survey and appraisal, see 49 Va. L. Rev. 386 (1963). For note on the Virginia blood test statute discussing statistical methods of evaluating blood samples, see 56 Va. L. Rev. 349 (1970). For survey of Virginia law on criminal law and procedure for the year 1969-1970, see 56 Va. L. Rev. 1572 (1970). For survey of Virginia law on administrative law for the year 1969-1970, see 56 Va. L. Rev. 1603 (1970). For comment on the admissibility of documentary evidence and the right to confrontation, see 12 Wm. & Mary L. Rev. 440 (1970). For note comparing Virginia law with a model implied consent statute for drunken drivers, see 12 Wm. & Mary L. Rev. 654 (1971). For survey of Virginia law on criminal law for the year 1971-1972, see 58 Va. L. Rev. 1206 (1972). For survey of Virginia law on evidence for the year 1971-1972, see 58 Va. L. Rev. 1268 (1972). For survey of Virginia practice and pleading for the year 1975-1976, see 62 Va. L. Rev. 1460 (1976). For note discussing the defendant's right to independent analysis of the breathalyzer ampoule, see 21 Wm. & Mary L. Rev. 219 (1979).

Constitutionality. — See Shumate v. Commonwealth, 207 Va. 877, 153 S.E.2d 243 (1967).

Operation of vehicles is subject to reasonable regulation. — The right to operate a

motor vehicle on the highways of this State is not a property, or unrestrained right, but a privilege which is subject to reasonable regulation under the police power of the State in the interest of public safety and welfare. Walton v. City of Roanoke, 204 Va. 678, 133 S.E.2d 315 (1963).

Operation of a motor vehicle on a public highway is not a natural right but a conditional privilege, which may be suspended or revoked under the police power. The operator's license is not a contract or a property right in a constitutional sense. It is a privilege granted to those who are qualified, and it is withheld from those who are not. Deaner v. Commonwealth, 210 Va. 284, 170 S.E.2d 199 (1969).

The concept of the law is that a driver, if arrested under the drunk driving statute (§ 18.2-266), may be asked to consent to taking the test and for an unreasonable refusal, the penalty of a suspended license would be imposed. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

This section also known as the "implied consent" statute of Virginia, in essence provides that a person who uses the highways of Virginia may, when arrested for drunken driving under § 18.2-266, be required to take a blood test. If the driver unreasonably refuses to do so, then he shall be taken before a committing magistrate and if he refuses again, no blood test will be taken and his license may be suspended. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

This section is largely procedural. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

One of the obvious purposes of the statute was to prescribe a uniform procedure with adequate safeguards and to provide for proof of the result of the analysis without the necessity of producing as a witness every person through whose hands the sample may have passed in the completion of the established routine. Kay v. United States, 255 F.2d 476 (4th Cir. 1958).

Consent to take a blood test is given when a person operates a motor vehicle. Deaner v. Commonwealth, 210 Va. 285, 170 S.E.2d 199 (1969).

It is not a qualified consent and it is not a conditional consent, and therefore there can be no qualified refusal or conditional refusal to take the test. Deaner v. Commonwealth, 210 Va. 285, 170 S.E.2d 199 (1969).

The fact that under the Virginia statute an accused is afforded an opportunity to establish the reasonableness of his refusal does not operate to dilute the consent previously given, or convert that consent into a qualified or conditional one. The statute does excuse from taking the test one whose refusal is reasonable. An illustration is where a person's health would be endangered by the withdrawal of blood. Deaner v. Commonwealth, 210 Va. 285, 170 S.E.2d 199 (1969).

Implied consent not part of penalty. — The implied consent of one who operates a vehicle on the public highways of Virginia to take a blood test, in event he be charged with drunk driving, is not a part of the penalty or punishment inflicted for drunk driving. It is a measure flowing from the police power of the State designed to protect other users of State highways. Deaner v. Commonwealth, 210 Va. 285, 170 S.E.2d 199 (1969).

Section 18.2-266 is separate. — The "implied consent" statute (this section) and the drunken driving statute (§ 18.2-266) are not intricately related, but rather completely separate offenses with separate penalties. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

And need not be read together with this section. — The defendant's contention at the trial that § 18.2-266 and this section should be read together by virtue of the decision of Russell v. Hammond, 200 Va. 600, 106 S.E.2d 626 (1959) has no merit. Section 18.2-266 is a separate statute and is not cited in Russell v. Hammond as being read together with the blood test statutes. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

The blood test is a new and more objective test and definition. — As compared with the statutory definitional test of intoxication set out in § 4-2 (14), the blood test is a new and more objective test and definition for an accused who consents to a blood analysis. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

And serves to protect accused. — The chemical test serves the salutary purpose of protecting from unjust conviction accused persons who were not in fact intoxicated, by supplying a scientifically accurate method of determining the question. Walton v. City of Roanoke, 204 Va. 678, 133 S.E.2d 315 (1963).

But § 4-2 (14) provides for another test. — Even though this section provides a procedure for determining the alcoholic content of blood of one arrested for drunken driving, it is clear that this is not the only procedure for determining intoxication. In fact, § 4-2 (14) provides for another test. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

Even where a blood sample was taken but was invalid because not sufficiently identified, the defendant could be retried for drunken driving under the definition set forth in § 4-2 (14). United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

To support a conviction for drunk driving it is not necessary to take a blood test. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

There is no mandatory requirements that the blood test be given in all cases of drunken driving. This is borne out by subsection (i) of this section. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

And there is no automatic right to a blood test. — It does not appear that a person arrested for driving under the influence has the automatic right to a blood test. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

This section does not entitle one charged with a violation of § 18.2-266 to an automatic blood test. United States v. Fletcher, 344 F. Supp. 332 (E.D. Va. 1972).

Nor is a defendant compelled to submit to the blood test. He can refuse to submit, and his refusal will result at most only in a revocation of his privilege to drive, and then only if the refusal is found after fair trial to have been unreasonable. Walton v. City of Roanoke, 204 Va. 678, 133 S.E.2d 315 (1963).

If a driver unreasonably refuses to consent to a blood test when picked up on a drunken driving charge, he may be civilly liable and his license may be suspended for the unreasonable refusal. United States v. Gholson, 319 F. Supp. 499 (E.D. Va. 1970).

Hence constitutional prohibitions against self-incrimination are not violated. — Former § 18.1-55 did not violate the Virginia Constitution, as it did not compel testimony from defendant. Walton v. City of Roanoke, 204 Va. 678, 133 S.E.2d 315 (1963).

Because Fifth Amendment is not applicable. — The Fifth Amendment to the federal Constitution, even if applicable to the states, is limited to oral testimony and does not preclude the use of one's body or secretions therefrom or proof of the results of their chemical analyses. Walton v. City of Roanoke, 204 Va. 678, 133 S.E.2d 315 (1963).

There must be some reasonable factual basis for refusal to take the blood test, for example, endangerment of the health of the accused by the withdrawal of blood. Bailey v. Commonwealth, 215 Va. 130, 207 S.E.2d 828 (1974).

It is not reasonable to refuse a blood analysis solely because counsel advises not to take the test. Bailey v. Commonwealth, 215 Va. 130, 207 S.E.2d 828 (1974).

Nor due to lack of consultation with counsel. — An unwillingness to take the blood test without prior consultation with counsel is not a reasonable refusal. Coleman v. Commonwealth, 212 Va. 684, 187 S.E.2d 172 (1972); Bailey v. Commonwealth, 215 Va. 130, 207 S.E.2d 828 (1974).

Refusal based on reluctance to sign document implying agency. — A defendant's refusal, following an automobile accident, to sign the consent form required by a hospital before administration of a blood test did not constitute a refusal to submit to the blood test within the contemplation of subsection (c) of this section, where his refusal was based upon his reluctance to sign his name to a printed document whose contents implied that he had been the driver of the automobile, and not upon his unwillingness to submit to a blood test. Simon v. Commonwealth, 220 Va. 412, 258 S.E.2d 567 (1979).

No right to consult counsel. — For the Supreme Court to uphold the contention of defendant that his right to consult counsel before refusing or taking the blood test is a constitutional right, would virtually nullify the implied consent law. Deaner v. Commonwealth, 210 Va. 285, 170 S.E.2d 199 (1969).

The blood test prescribed by this section is a part of a civil and administrative proceeding and defendant had no right to condition his taking the test upon his ability first to consult with counsel. Deaner v. Commonwealth, 210 Va. 285, 170 S.E.2d 199 (1969).

A person charged with operating a motor vehicle while under the influence of intoxicants does not have a constitutional right to consult an attorney before deciding whether to take a blood test. Coleman v. Commonwealth, 212 Va. 684, 187 S.E.2d 172 (1972).

Denial of the right to consult with counsel before an accused decides whether to take a blood test does not impair an accused's right to a trial "by the law of the land" guaranteed by art. I, § 8, of the State Constitution. Law v. City of Danville, 212 Va. 702, 187 S.E.2d 197 (1972).

Because a proceeding relative to refusal to take a blood test is civil in nature, a person arrested for driving under the influence does not have a constitutional right to consult with counsel before deciding whether to submit to the test. Bailey v. Commonwealth, 215 Va. 130, 207 S.E.2d 828 (1974).

Independent civil and criminal proceedings. — An analysis of this section shows none of the indicia of a criminal prosecution. The criminal offense which gives rise to the procedure under the implied consent law is driving under the influence of alcohol or drugs. The same motor vehicle operation may give rise to two separate and distinct proceedings — one a civil and administrative procedure and the other a criminal action. Each action proceeds independently of the other and the outcome of one is of no consequence to the other. Deaner v. Commonwealth, 210 Va. 285, 170 S.E.2d 199 (1969).

There is nothing about the entire proceeding under this section that parallels the procedure in a criminal prosecution. Deaner v. Commonwealth, 210 Va. 285, 170 S.E.2d 199 (1969).

An administrative and civil proceeding is not converted into a criminal action merely because the procedural steps preliminary to trial, and incident to appeal, are the same as in a misde-

meanor case. Deaner v. Commonwealth, 210 Va. 285, 170 S.E.2d 199 (1969).

The blood test prescribed by this section is part of a civil rather than a criminal proceeding. Bailey v. Commonwealth, 215 Va. 130, 207 S.E.2d 828 (1974).

Certificate of committing justice that defendant refused to submit to test. — Under subsection (m), the certificate of the committing justice is made "prima facie evidence that the defendant refused to submit to the taking of a sample of his blood to determine the alcoholic content thereof." Lacking a certificate, the Commonwealth is not entitled to the benefit of subsection (m) of the statute; it may, however, prove the refusal by other evidence. Boggs v. Commonwealth, 212 Va. 658, 187 S.E.2d 204 (1972).

The warrant referred to by this section is obviously not a criminal warrant. It is in the nature of a writ or precept from a competent authority in pursuance of law, directing the doing of an act, and addressed to the officer or person competent to do the act. Deaner v. Commonwealth, 210 Va. 285, 170 S.E.2d 199 (1969).

This section directs that the warrant "be executed" in the same manner as a criminal warrant. This is to prescribe an appropriate method of serving notice on the accused. Deaner v. Commonwealth, 210 Va. 285, 170 S.E.2d 199 (1969).

Admission of the certificate does not deprive defendant of his right of confrontation by witnesses. Kay v. United States, 255 F.2d 476 (4th Cir. 1958).

And is admissible in federal court. — In a federal court, the certificate would be admissible under the provisions of 28 U.S.C.A. § 1732, as a writing made, pursuant to statutory requirement, in the regular performance of the official duty of the Chief Medical Examiner of Virginia (now the Director of the Division of Consolidated Laboratory Services). Kay v. United States, 255 F.2d 476 (4th Cir. 1958), commented on in 16 Wash. & Lee L. Rev. 62 (1959).

Certificate self-authenticating. — The General Assembly intended to spare the Commonwealth the prosecutorial and financial burdens of calling two public officers to testify in every drunk driving case involving breathalyzer test evidence. When the certificate contains what this section requires, this section makes the certificate self-authenticating for purposes of admissibility, and once the certificate is admitted, this section makes it evidence of the alcoholic content of the blood to be considered with all other evidence in the case. Stroupe v. Commonwealth, 215 Va. 243, 207 S.E.2d 894 (1974).

But the certificate is not conclusive evidence of the statutory regularity of the test. Stroupe v. Commonwealth, 215 Va. 243, 207 S.E.2d 894 (1974).

Relevant questions going to weight of certificate as evidence. — The questions as to the qualification of the person taking the sample, the possibility of contamination from the fact that the defendant's arm was wiped with alcohol before the needle was inserted into his vein and the effect, if any, of the presence of a white powder, described as an anti-coagulant, in the vial, are all relevant. Such questions, however, go to the weight of the evidence rather than to the initial admissibility of the certificate. If the proof established a material failure to follow the procedure required by statute, it may be that the certificate should be stricken from the record, but the proof here established no such failure. Kay v. United States, 255 F.2d 476 (4th Cir. 1958).

Failure to comply with subsection (s) goes to weight of evidence. — Subsection (s) of this section provides that the question of how blood is taken is procedural, and a failure to comply with the directed procedures goes to the weight of the evidence and is to be considered with all the evidence in the case, with the right to the defendant to show noncompliance and resulting prejudice. Shumate v. Commonwealth, 207 Va. 877, 153 S.E.2d 257 (1967).

With respect to regularity of the test, the statute affords the defendant the right to prove noncompliance with test procedures, but such proof would not defeat admissibility of the certificate but only affect its weight as evidence of the alcoholic content of his blood. Stroupe v. Commonwealth, 215 Va. 243, 207 S.E.2d 894 (1974).

But subsection (s) of this section does not change the ultimate burden of proof in a prosecution under this section. Shumate v. Commonwealth, 207 Va. 877, 153 S.E.2d 243 (1967).

Reasonable proof that the instrument was properly sterilized is essential in establishing the reliability of the test itself. Brush v. Commonwealth, 205 Va. 312, 136 S.E.2d 864 (1964).

In the absence of proof showing that the instrument used to withdraw defendant's blood was sterilized pursuant to the requirements of this section, the Commonwealth has not met the burden imposed upon it, and the certificates setting forth the alcoholic content of defendant's blood are not admissible. Brush v. Commonwealth, 205 Va. 312, 136 S.E.2d 864 (1964).

Proof that blood analyzed was that of defendant. — In a prosecution for operating a motor vehicle while under the influence of intoxicants, arising prior to the enactment of former §§ 18.1-55, 18.1-56 and 18.1-57, evi-

dence was held insufficient to establish beyond a reasonable doubt that the blood analyzed was that of defendant. Rodgers v. Commonwealth, 197 Va. 527, 90 S.E.2d 257 (1955).

Inconsistent date on certificate. — In a prosecution under a city ordinance paralleling former § 18.1-55, an inconsistent date on the Medical Examiner's (now Director's) certificate, which indicated that the blood was withdrawn from defendant the day before his arrest, caused the certificate to be inadmissible in evidence since the prosecution failed to show the inconsistency to be a typographical error. Lutz v. City of Richmond, 205 Va. 93, 135 S.E.2d 156 (1964).

Facts shown on a certificate raised a reasonable inference that a breath alcohol test was conducted on the type of equipment and in accordance with the methods approved by the State Health Commissioner. Calfee v. Commonwealth, 215 Va. 253, 208 S.E.2d 740 (1974).

Test given before defendant arrested. — Where defendant was offered and accepted a blood test within two hours of the offense, but was not arrested until he was released from the hospital several days later, the plain intent of former § 18.1-55 was complied with and evidence of the result of the test was properly admitted. Bowman v. Commonwealth, 201 Va. 656, 112 S.E.2d 887 (1960).

Testimony that accused refused to submit to blood test. — In a prosecution for drunken driving arising prior to the enactment of former §§ 18.1-55 and 18.1-56, it was held that to permit the arresting officer to testify that defendant at the time of the arrest refused to submit to a blood test did not violate defendant's constitutional privilege against self-incrimination. Gardner v. Commonwealth, 195 Va. 945, 81 S.E.2d 614 (1954), commented on in 12 Wash. & Lee L. Rev. 82 (1955).

Arresting officer. — Town policeman, called in by State trooper, held an arresting officer. Bowman v. Commonwealth, 201 Va. 656, 112 S.E.2d 887 (1960).

"Drunk-o-meter" test. — As to use of "drunk-o-meter" test in prosecution under county ordinance, see Ornohundro v. County of Arlington, 194 Va. 773, 75 S.E.2d 496 (1953).

Offense may not be prosecuted under federal Assimilative Crimes Act. — The offense of refusing to take a breathalyzer test may not be prosecuted under the federal Assimilative Crimes Act, since the proceeding under this section to suspend a driver's license for his refusal to submit to a test is administrative and civil, not criminal, in nature. United States v. Rowe, 599 F.2d 1319 (4th Cir. 1979).

This section is irrelevant to prosecutions under federal regulations. — See United States v. Eubanks, 435 F.2d 1261 (4th Cir. 1971).

Admissibility of test results in manslaughter trial after acquittal under § 18.2-266. — Where the prosecution would be estopped from introducing evidence of intoxication in a prosecution for involuntary manslaughter following acquittal of the defendant in a prosecution for driving under the influence of intoxicants on the basis of the failure of the Commonwealth to prove legal intoxication, the Commonwealth could not introduce into evidence the results of defendant's blood test, to prove that the defendant had been drinking before the accident in question, even though not estopped from proving that fact, since the prejudicial effect of the evidence would outweigh its probative value. If, however, the defendant presented evidence that he was not drinking before the accident, evidence of the test results would be competent on rebuttal, because its probative value would then outweigh its prejudicial effect. Simon v. Commonwealth, 220 Va. 412, 258 S.E.2d 567 (1979).

Entitled to new trial in circuit court. — By incorporating the "procedure for appeal" set forth in § 16.1-136 into this section, the General Assembly has declared that a person convicted in a court not of record of unreasonable refusal is entitled, on appeal, to a new trial by jury in the circuit court. Eames v. Town of Rocky Mount, 217 Va. 16, 225 S.E.2d 197 (1976).

Applied in Logan v. Shealy, 500 F. Supp. 502 (E.D. Va. 1980).

§ 18.2-269. Presumptions from alcoholic content of blood. — In any prosecution for a violation of § 18.2-266, or any similar ordinance of any county, city or town, the amount of alcohol in the blood of the accused at the time of the alleged offense as indicated by a chemical analysis of a sample of the accused's blood or breath to determine the alcoholic content of his blood in accordance with the provisions of § 18.2-266 shall give rise to the following rebuttable presumptions:

(1) If there was at that time 0.05 percent or less by weight by volume of alcohol in the accused's blood, it shall be presumed that the accused was not under the influence of alcoholic intoxicants;

(2) If there was at that time in excess of 0.05 percent but less than 0.10 percent by weight by volume of alcohol in the accused's blood, such facts shall

not give rise to any presumption that the accused was or was not under the influence of alcoholic intoxicants, but such facts may be considered with other competent evidence in determining the guilt or innocence of the accused;

(3) If there was at that time 0.10 percent or more by weight by volume of alcohol in the accused's blood, it shall be presumed that the accused was under the influence of alcoholic intoxicants. (Code 1950, § 18.1-57; 1960, c. 358; 1964, c. 240; 1966, c. 636; 1972, c. 757; 1973, c. 459; 1975, cc. 14, 15; 1977, c. 638.)

Law Review. — For note on the Virginia blood test statute discussing statistical methods of evaluating blood samples, see 56 Va. L. Rev. 349 (1970). For survey of Virginia law on criminal law for the year 1971-1972, see 58 Va. L. Rev. 1206 (1972). For survey of Virginia law on evidence for the year 1972-1973, see 59 Va. L. Rev. 1526 (1973). For survey of Virginia law on evidence for the year 1973-1974, see 60 Va. L. Rev. 1543 (1974). For note discussing the defendant's right to independent analysis of the breathalyzer ampoule, see 21 Wm. & Mary L. Rev. 219 (1979).

Constitutionality. — Consideration by the jury of the statutory presumptions created by this section does not deprive the defendant of any protected right. Kay v. United States, 255 F.2d 476 (4th Cir. 1958).

The presumption created by this section is rebuttable. It neither restricts the defendant in the presentation of his defense nor deprives him of the presumptions of innocence. Since wide experience has demonstrated the close connection between the presumed fact and the alcoholic content of the blood, there is no constitutional objection to the jury's consideration, with all of the other evidence, of the statutory presumption. Kay v. United States, 255 F.2d 476 (4th Cir. 1958).

§ 18.2-270. Penalty for driving while intoxicated; subsequent offense; prior conviction. — Any person violating any provision of § 18.2-266 shall be guilty of a Class 1 misdemeanor.

Any person convicted of a second offense within less than five years after a first offense under § 18.2-266 shall be punishable by a fine of not less than $200 nor more than $1,000 and by confinement in jail for not less than one month nor more than one year. Forty-eight hours of such confinement shall be a mandatory, minimum sentence not subject to suspension by the court. Any person convicted of a second offense within a period of five to ten years of a first offense under § 18.2-266 shall be punishable by a fine of not less than $200 nor more than $1,000 and by confinement in jail for not less than one month nor more than one year. Any person convicted of a third offense or subsequent offense within ten years of an offense under § 18.2-266 shall be punishable by a fine of not less than $500 nor more than $1,000 and by confinement in jail for not less than two months nor more than one year. Thirty days of such confinement shall be a mandatory, minimum sentence not subject to suspension by the court if the third or subsequent offense occurs within less than five years. Ten days of such confinement shall be a mandatory, minimum sentence not subject to suspension by the court if the third or subsequent offense occurs within a period of five to ten years of a first offense.

For the purpose of this section a conviction or finding of not innocent in the case of a juvenile under the provisions of § 18.2-266, former § 18.1-54 (formerly § 18-75), the ordinance of any county, city or town in this State or the laws of any other state substantially similar to the provisions of §§ 18.2-266 through 18.2-269 of this Code, shall be considered a prior conviction. (Code 1950, § 18.1-58; 1960, c. 358; 1962, c. 302; 1975, cc. 14, 15; 1982, c. 301.)

Cross reference. — As to application of this section in federal court, see note to § 18.2-266.

The 1982 amendment substituted "Class 1" for "Class 2" in the first paragraph, and rewrote the second paragraph.

Law Review. — For note on the Virginia blood test statute discussing statistical methods of evaluating blood samples, see 56 Va. L. Rev. 349 (1970).

The provisions of this section are dependent upon the nature of the charge contained in the warrant or indictment, and deal with the punishment to be fixed by the court or jury. Commonwealth v. Ellett, 174 Va. 403, 4 S.E.2d 762 (1939).

And to impose the heavier punishment prior offense must be charged. — The purpose of this section is to enable the court or jury to impose a heavier punishment when the accused is tried for and convicted of an offense charged as a second or subsequent offense. To effect this purpose, the prior offense must be charged and proven. Commonwealth v. Ellett, 174 Va. 403, 4 S.E.2d 762 (1939).

For the heavier punishment to be imposed by jury or a court trying a case without a jury, the prior offenses must be charged and proven. Calfee v. Commonwealth, 215 Va. 253, 208 S.E.2d 740 (1974).

The purposes of an allegation in a warrant or indictment that an accused has been previously convicted of a similar offense are to put him on notice that proof of his prior conviction will be introduced in evidence and to permit the imposition of a heavier punishment if the second or subsequent offense is proved. Calfee v. Commonwealth, 215 Va. 253, 208 S.E.2d 740 (1974).

Burden of showing similarity of foreign law. — Where defendant was convicted for a second and subsequent offense of driving under the influence of intoxicants, a prior conviction for drunk driving in North Carolina which was shown on a certified transcript of the defendant's driving record prepared by the Virginia Division of Motor Vehicles was insufficient to carry the Commonwealth's burden of proving substantial similarity and to shift to the defendant the burden of going forward with the evidence of dissimilarity. Rufty v. Commonwealth, 221 Va. 836, 275 S.E.2d 584 (1981).

Jury instructions necessary before prior conviction admissible. — A previous conviction of a similar offense is admissible when the jury is told that such evidence is admitted only for the purpose of fixing the quantum of punishment if the accused is found guilty and is not to be considered by them as evidence of guilt in the second or subsequent offense for which he is on trial. Calfee v. Commonwealth, 215 Va. 253, 208 S.E.2d 740 (1974).

Where a final order sentenced accused to thirty days instead of one month as stated in the verdict and presumably prescribed, in accordance with this section, by the town ordinance under which he was prosecuted, the judgment should be made to accord with the verdict in all necessary particulars on a retrial. Dickerson v. Town of Christiansburg, 201 Va. 342, 111 S.E.2d 292 (1959).

Evidence of prior conviction properly admitted. — Where the trial court instructed the jury that although the defendant had been previously convicted of a similar offense they should not consider this in determining his guilt or innocence of the charge they were then trying, and they were further instructed that in the event they found the defendant guilty as charged in the warrant they could consider the prior conviction in determining the quantum of his punishment, the trial court did not err in admitting evidence of defendant's prior conviction. Calfee v. Commonwealth, 215 Va. 253, 208 S.E.2d 740 (1974).

§ 18.2-271. Same; forfeiture of driver's license; suspension of sentence. -- Except as provided in § 18.2-271.1, the judgment of conviction if for a first offense under § 18.2-266, or for a similar offense under any county, city or town ordinance, shall of itself operate to deprive the person so convicted of the privilege to drive or operate any motor vehicle, engine or train in the Commonwealth for a period of six months from the date of such judgment. If such conviction is for a second or other subsequent offense (i) within five years of a first offense conviction under § 18.2-266 such person's license to operate a motor vehicle, engine or train shall be suspended for a period of three years or, (ii) within five to ten years of a first offense conviction under § 18.2-266 such person's license to operate a motor vehicle, engine or train shall be suspended for a period of two years from the date of the judgment of conviction. Any such period of license suspension, in any case shall run consecutively with any period of suspension for failure to permit a blood or breath sample to be taken as required by § 18.2-268. If any person has heretofore been convicted or found not innocent in the case of a juvenile of violating any similar act in the Commonwealth or any other state and thereafter is convicted of violating the provisions of § 18.2-266, such conviction or finding shall for the purpose of this section and § 18.2-270 be a subsequent offense and shall be punished accordingly. Six months of any license suspension or revocation imposed pursuant to this section for a first offense conviction may be suspended, in whole or in part by the court upon the entry of such person convicted into and the successful completion of a program pursuant to § 18.2-271.1. Upon a second conviction, the court may not suspend more than two years of such license suspension or

revocation if such second conviction occurred less than five years after a previous conviction under § 18.2-270, nor more than one year if such second conviction occurred five to ten years after a previous conviction. Upon a third conviction of a violation of § 18.2-266, such person shall not be eligible for participation in a program pursuant to § 18.2-271.1. (Code 1950, § 18.1-59; 1960, c. 358; 1962, c. 625; 1964, c. 240; 1972, c. 757; 1975, cc. 14, 15; 1982, c. 301.)

The 1982 amendment rewrote this section.

Law Review. — For survey of Virginia law on criminal law and procedure for the year 1969-1970, see 56 Va. L. Rev. 1572 (1970). For survey of Virginia law on criminal law for the year 1971-1972, see 58 Va. L. Rev. 1206 (1972).

Purpose. — The purpose of this section is to deprive the convicted person of the right to secure a permit to operate a vehicle for a specified time after he has been convicted once or more than once. Commonwealth v. Ellett, 174 Va. 403, 4 S.E.2d 762 (1939).

The purpose of §§ 18.2-266 and 18.2-270 through 18.2-273 is not only to punish drunken drivers, but to prevent such drivers from using the highways to the hazard of other citizens. Commonwealth v. Ellett, 174 Va. 403, 4 S.E.2d 762 (1939).

Provisions self-executing. — The provisions of this section become effective only after judgments of conviction, and then are self-executing. Commonwealth v. Ellett, 174 Va. 403, 4 S.E.2d 762 (1939).

The loss of the right to operate a vehicle is no part of the judgment of conviction, or the punishment fixed by the court or jury, and no action or order of the court or other officer is required to put it into effect. It is not dependent upon evidence necessary to convict. Evidence of conviction alone is essential. Commonwealth v. Ellett, 174 Va. 403, 4 S.E.2d 762 (1939).

"Subsequent offense" need not have been tried as a "second offense". — This section makes a conviction under § 18.2-266 following a conviction for the former violation of a similar act a "subsequent offense," whether or not it was tried as a "second offense." Commonwealth v. Ellett, 174 Va. 403, 4 S.E.2d 762 (1939).

§ 18.2-271.1. Probation, education and rehabilitation of person convicted; person convicted under law of another state. — (a) Any person convicted of a violation of § 18.2-266, or any ordinance of a county, city or town similar to the provisions thereof, or any second offense thereunder, may, with leave of court or upon court order, enter into an alcohol safety action program, or a driver alcohol rehabilitation program or such other alcohol rehabilitation program as may in the opinion of the court be best suited to the needs of such person, in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. In the determination of the eligibility of such person to enter such a program, the court shall consider his prior record of participation in any other alcohol rehabilitation program. If such person has never entered into or been committed to a driver alcohol safety action program or driver alcohol rehabilitation program or similar rehabilitation or education program, in keeping with the procedures provided for in this section, and upon motion of the accused or his counsel, the court shall give mature consideration to the needs of such person in determining whether he be allowed to enter such program.

(a1) The court shall require the person entering such program under the provisions of this section to pay a fee of $250, a reasonable portion of which as may be determined by the Director of the Department of Transportation Safety, but not to exceed twenty dollars, shall be forwarded to be deposited with the State Treasurer for expenditure by the Department of Transportation Safety for administration of driver alcohol rehabilitation programs, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for extended treatment under any such program may be charged.

(b) Upon conviction of a violation of § 18.2-266 or any ordinance of a county, city or town similar to the provisions thereof, the court shall impose sentence as authorized by §§ 18.2-270 and 18.2-271. Upon a finding that a person so convicted is eligible for participation in the program described herein, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to such program. The court may then proceed to issue an order in accordance with paragraph (b1a) of this section, if the court finds that the person so convicted is eligible for a restricted license. If the court finds that a person is not eligible for such program or subsequently that such person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered, in which event the revocation provisions of §§ 18.2-271 and 46.1-421 (a) shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Division of Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the Division of Motor Vehicles, upon receipt thereof, shall issue a restricted license. Appeals from any such disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for a rehearing, whichever is later.

(b1) Any person who has been convicted in another state of the violation of a law of such state substantially similar to the provisions of § 18.2-266, and whose privilege to operate a motor vehicle in this State is subject to revocation under the provisions of § 46.1-417, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection (a) of this section and that upon successful completion of such program his privilege to operate a motor vehicle in this State be restored or, if unrevoked, that any order of the Commissioner of the Division of Motor Vehicles revoking such privilege be stayed. If the court shall find that such person would have qualified therefor if he had been convicted in this State of a violation of § 18.2-266, the court may grant the petition and may suspend the period of license suspension or revocation imposed pursuant to § 46.1-417. Such suspension of sentence shall be conditioned upon the successful completion of a program by the petitioner. If such person has previously been convicted of a violation under § 18.2-266 or the laws of any other state substantially similar thereto, the court may suspend not more than two years of the sentence of license suspension or revocation imposed. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall impose a sentence of license suspension or revocation in accordance with the provisions of §§ 18.2-271 or 46.1-421 (a). A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Division of Motor Vehicles.

No period of suspension or license revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense in any state, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

(b1a) Whenever a person enters a program pursuant to this section, and such person's license to operate a motor vehicle, engine or train in the Commonwealth has been suspended or revoked, the court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any or all of the following purposes: (i) travel to and from his place of employment; or (ii) travel to an alcohol rehabilitation program entered pursuant to this paragraph; or (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary

incident of such employment. The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.1-425 and shall forward a copy of its order entered pursuant to this paragraph, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person, to the Commissioner of the Division of Motor Vehicles. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Division of Motor Vehicles of a restricted license. A copy of such order or, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 46.1-350.

(b2) The court shall have jurisdiction over any person entering such program under any provision of this section until such time as the case has been disposed of by either successful completion of the program or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not be less than ten days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds for revocation of such privilege. Notice of revocation under this paragraph shall be sent forthwith to the Commissioner of Motor Vehicles.

(c) The State Treasurer or any city or county is authorized to accept any gifts or bequests of money or property, and any grant, loan, service, payment or property from any source, including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests, grants, loans or payments shall be deposited in the separate fund provided in (a1) hereof.

(d) The Department of Transportation Safety, or any county, city, town, or cities or any combination thereof may establish and, if established, shall operate in accordance with the standards and criteria required by this subsection alcohol safety action programs or driver alcohol treatment and rehabilitation programs or driver alcohol education programs in connection with highway safety. The Department of Transportation Safety and the Department of Mental Health and Mental Retardation shall establish standards and criteria for the implementation and operation of such programs. The Department of Transportation Safety shall establish criteria for the modalities of administration of such programs, as well as public information, accounting procedures and allocation of funds. Funds paid to the State hereunder shall be utilized by the Department of Transportation Safety to offset the costs of state programs and local programs run in conjunction with any county, city or town. The Department of Transportation Safety shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the General Assembly.

(e) [Repealed.] (1975, c. 601; 1976, cc. 612, 691; 1977, c. 240; 1978, c. 352; 1979, c. 353; 1980, c. 589; 1981, c. 195; 1982, c. 301.)

The 1981 amendment deleted "not more than" preceding "200" in the first sentence of subsection (a1) and added the present second sentence of that subsection.

The 1982 amendment rewrote the first sentence of subsection (a); deleted "and, upon completion of the program successfully, whether the warrant should be amended as provided in (b) hereof" at the end of subsection (a); in subsection (a1), substituted "$250" for "two hundred dollars" in the first sentence, deleted the third sentence, relating to the payment of costs,

and inserted "to the costs of the proceeding" and deleted "such" preceding "fees" in the last sentence; rewrote subsections (b) and (b1); inserted subsection (b1a); added the last sentence of subsection (b2); and deleted subsection (e), relating to the court's authority to make lawful disposition of a charge in violation of § 18.2-266 or a similar local offense.

Recognition of the right of municipalities to deal with the subject. — This section clearly recognizes the power, which theretofore existed in the municipalities, to adopt ordinances declaring the offense of driving vehicles or conveyances, while intoxicated, as an offense against the municipality. Shaw v. City of Norfolk, 167 Va. 346, 189 S.E. 335 (1937). See § 15.1-132.

Discretion in assignments to alcohol programs. — The language "the court shall give mature consideration to the needs of such person in determining whether he be allowed to enter such program" imposes upon a court in a drunk-driving case the duty to give "good faith consideration" to a motion to assign the accused to an alcohol program authorized by this section. Midkiff v. Commonwealth, — Va. —, 286 S.E.2d 150 (1982).

§ 18.2-272. Driving after forfeiture of license. — If any person so convicted shall, during the time for which he is deprived of his right so to do, drive or operate any motor vehicle, engine or train in this State, he shall be guilty of a misdemeanor and shall be confined in jail not less than ten days nor more than six months and may in addition be fined not exceeding five hundred dollars; but nothing in this section or §§ 18.2-266, 18.2-270 or 18.2-271, shall be construed as conflicting with or repealing any ordinance or resolution of any city, town or county which restricts still further the right of such persons to drive or operate any such vehicle or conveyance. (Code 1950, § 18.1-60; 1960, c. 358; 1975, cc. 14, 15.)

§ 18.2-273. Report of conviction to Division of Motor Vehicles. — The clerk of every court of record and the judge of every court not of record shall, within thirty days after final conviction of any person in his court under the provisions of this article, report the fact thereof and the name, post-office address and street address of such person, together with the license plate number on the vehicle operated by such person to the Commissioner of the Division of Motor Vehicles who shall preserve a record thereof in his office. (Code 1950, § 18.1-61; 1960, c. 358; 1975, cc. 14, 15.)

The Commissioner of the Division of Motor Vehicles has no power to hear evidence to fix the measure of guilt, nor has he the right to disregard a judgment of conviction. Commonwealth v. Ellett, 174 Va. 403, 4 S.E.2d 762 (1939).

ARTICLE 3.

Revocation of Licenses; Additional Penalties.

§ 46.1-417. Required revocation for one year upon conviction or finding of guilty of certain offenses; exceptions thereto. — The Commissioner shall forthwith revoke, and not thereafter reissue during the period of one year, except as provided in §§ 18.2-271 or 18.2-271.1, the license of any person, resident or nonresident, upon receiving a record of his conviction or a record of his having been found guilty in the case of a juvenile of any of the following crimes, committed in violation of either a state law or a valid town, city or county ordinance paralleling and substantially conforming to a like state law and to all changes and amendments of it:

(a) Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle;

(b) Violation of the provisions of § 18.2-266 or § 18.2-272 or violation of a valid town, city or county ordinance paralleling and substantially conforming to §§ 18.2-266 to 18.2-273;

(b)(i) Upon receipt of a copy of an order entered by a general district court pursuant to the provisions of § 18.2-271.1 (b1) that a person whose license would otherwise be subject to revocation under the provisions of this section has entered a program under the provision of § 18.2-271.1, the Commissioner shall not revoke such license, or having revoked it, shall forthwith withdraw his order of revocation and any order of suspension of registration certificates and plates under the provisions of § 46.1-418. In the event the Commissioner shall receive a copy of an order from the court revoking or suspending the privilege of such person to operate a motor vehicle, the Commissioner shall then revoke or suspend such license and suspend such registration and plates pursuant to this section and § 46.1-418;

(c) Perjury or the making of a false affidavit to the Division under this chapter or any other law of this State requiring the registration of motor vehicles or regulating their operation on highways, or the making of a false statement to the Division on any application for an operator's or chauffeur's license;

(d) 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 is used;

(e) [Repealed.]

(f) Failure to stop and disclose his identity at the scene of the accident, on the part of a driver of a motor vehicle involved in an accident resulting in the death of or injury to another person. (Code 1950, § 46-416; 1958, cc. 496, 541; 1960, c. 364; 1966, c. 238; 1974, c. 453; 1976, cc. 612, 691; 1982, c. 301.)

The 1982 amendment substituted "§§ 18.2-271 or 18.2-271.1" for "§ 18.2-271" and "guilty" for "not innocent" in the introductory paragraph, inserted "or suspended" and "or suspend" in the second sentence of subdivision (b)(i) and deleted the last sentence of subdivision (b)(i), relating to the purging of records.

§ 46.1-418. Suspension of registration certificates and plates upon suspension or revocation of operator's license. — Whenever the Commissioner under any law of this State suspends or revokes the operator's or chauffeur's license of any person upon receiving record of his conviction he shall also suspend all of the registration certificates and registration plates issued for any motor vehicle registered in the name as owner of the person so convicted, except that he shall not suspend such registration certificate or registration plates, notwithstanding any provisions of law to the contrary, in the event the owner has previously given, or gives and thereafter maintains, proof of his financial responsibility in the future in the manner specified in this chapter with respect to each and every motor vehicle owned and registered by such person. In this event it shall be lawful for said vehicle or vehicles to be operated during this period of suspension by any duly licensed driver when so authorized by the owner of same. (Code 1950, § 46-59; 1958, c. 541; 1975, c. 458.)

§ 46.1-421. Revocation of license upon conviction of driving while under the influence of drugs, intoxicants, etc.; exception. — (a) The Commissioner shall forthwith revoke and not thereafter reissue for three years the operator's or chauffeur's license of any person upon receiving a record of a conviction of such person for a violation of the provisions of § 18.2-266 pertaining to driving under the influence of drugs or intoxicants or of § 18.2-272 pertaining to driving while the driver's license has been forfeited for a conviction under § 18.2-266, or upon receiving a record of a conviction for a violation of a federal law, or law of any other state or a valid ordinance of any city, town or county of this State, or of any other state similar to § 18.2-266 or 18.2-272, either of such convictions being subsequent to a prior conviction for a violation of a federal law, law of any other state or town, city or county or ordinance of any other state similar to § 18.2-266 or 18.2-272 as the case may be or of the provisions of § 18.2-266 or 18.2-272; provided that the subsequent violation has been committed within ten years from the prior violation; provided, that if the Commissioner has received a copy of an order as provided in § 18.2-271.1, he shall not revoke such license, but shall proceed as provided in § 46.1-417.

(b) Notwithstanding any other provision of law, the Commissioner shall forthwith revoke and not thereafter reissue the operator's or chauffeur's license of any person upon receiving a record of a third conviction of such person for a violation of the provisions of § 18.2-266 pertaining to driving while under the influence of drugs or intoxicants, or a federal law, or law of any other state or a valid ordinance of any city, town, or county of this State, similar to § 18.2-266, notwithstanding the length of time between violations; provided, however, that each of said convictions occurs after July one, nineteen hundred sixty-four. At the expiration of ten years from the date of the revocation hereunder, such person may petition the circuit court in the county or city wherein such person resides, and for good cause shown, such license may in the discretion of the court be restored on such terms and conditions as the court may prescribe.

(c) Any person who has had his operator's or chauffeur's license revoked in accordance with subsection (b) above may, after the expiration of five years from the date of such revocation, petition the circuit court of his residence for restoration of his privilege to operate a motor vehicle in this State. Upon such petition, the court may, in its discretion, restore to such person such privilege, if the court is satisfied from the evidence presented that: (i) at the time of such previous convictions, the petitioner was addicted to or psychologically dependent upon the use of alcohol or other drugs; (ii) at the time of the hearing on the petition, he is no longer addicted to or psychologically dependent upon the use of alcohol or such other drugs; and (iii) the defendant does not constitute a threat to the safety and welfare of himself or others with regard to the operation of a motor vehicle. (Code 1950, § 46-417; 1958, c. 541; 1960, c. 364; 1964, c. 194; 1968, c. 561; 1976, cc. 359, 612, 691.)

Applied in Scott v. Hill, 407 F. Supp. 391 (E.D. Va. 1976).

ANALYSIS OF AUTOMOBILE NO FAULT STATUTES

The material contained in this publication is the result of an effort undertaken by the Casualty and Automobile Division of GAB. It is an attempt to analyze only "Pure No Fault Statutes", that is, those statutes which restrict or limit the right to recover for "pain and suffering". Additional jurisdictions have purported "No Fault Statutes", but these statutes do not restrict or limit the right to recover for pain and suffering.

In this publication, we have attempted to utilize the statutory language as much as possible. Obviously, for the sake of clarity, we did have to deviate from this rule in certain instances. It should be recognized that there are ongoing judicial and insurance department interpretations that will have an impact upon the practical application of the statutes. Should you have a need for ar[illegible] information, or an interpretation, it is suggested that you can contact the GAB [illegible]gional Casualty Supervisor in the involved jurisdiction. He can be located through your GAB Office Directory.

The ranks of Pure No Fault States have been reduced to (15) by Nevada's repeal of their "No Fault Act" effective 1-1-80. The Florida Act's section on "Limitation on Right to Damages", has been found unconstitutional by the Florida Fifth District Court of Appeals and will be reviewed by the Florida Supreme Court. If upheld, this would remove Florida from the ranks of the Pure No Fault States.

The Federal "Omnibus Reconciliation Act of 1980" amended Section 1862 (b) of the Social Security Act. This amendment, effective December 5, 1980, indicates that Medicare is to be excess where payment for Health Care Services can be made under automobile liability or No Fault Insurance. This has created a conflict with the language of many of the State No Fault Acts.

GAB Business Services, Inc.
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