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Review of Pennsylvania Legislation 1939 - Motor Vehicles Amendments to the Motor Vehicle Code

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VII. MOTOR VEHICLES¹a. *Amendments To The Motor Vehicle Code*

A number of important changes have been made in the Motor Vehicle Code^{1a} by the 1939 Legislature.² The most notable of these amendments are here summarized.

Section 203 of the Motor Vehicle Code has been amended in two respects: to provide that motor vehicles in the C, D, and E classes, under section 707, those having a seating capacity of more than eight, will not be required to have the engine number listed, first, on the certificate of title, or, second, on the registration cards. The reason for this is that since commercial vehicles of these types have a longevity far in excess of the life of the original engine, under the former law undue hardship was imposed upon owners of such vehicles in changing certificates and registration cards each time new or re-built motors were installed.

Section 203 is further amended to provide that certificates of title, showing liens or encumbrances, shall be adequate notice thereof without a transfer of possession of the vehicle.

This amendment was introduced to meet the decision in *Kaufmann and Baer v. Monroe Motor Line Transportation, Inc.*,³ in which it was held that a similar provision heretofore inserted in section 208 of the Code applied only to changes of ownership by operation of law and judicial sales. The amendment, we believe, makes the certificate of title showing a lien a chattel mortgage binding upon all creditors and purchasers.

To Section 210 is added sub-section (j), granting to the Secretary authority to cancel certificates of title for abandoned or wrecked vehicles which are authorized to be junked.

Section 213 now requires that certificates of title to motor vehicles, having a seating capacity of eight, or less, shall indicate if the vehicle has ever been used as a taxicab or for carrying passengers "for hire." This amendment is inserted as a protection to purchasers who might otherwise buy automobiles used as taxicabs, in the belief that those automobiles had only had the normal use given privately owned and operated vehicles.

Heretofore it has been a common practice among certain dealers in used cars to re-upholster and re-paint taxicabs, after a year's service on the streets, and having removed such other traces as might identify the car as a former taxicab, offer it for sale to the general public as a bargain in the used car market. Since the automobile under these circumstances is not usually more than a year old, and therefore not out of model, many persons found themselves victims of smart sales-

¹See also "Public Utilities," *infra*.

^{1a}Act of May 1, 1929, P. L. 905, 75 PURD. STATS. (Pa.) 1, *et. seq.*

²Act of June 27, 1939, P. L. 1135.

³124 Pa. Super. 27, 187 Atl. 296 (1936).

manship and camouflage. It was to guard against just such practices as this that the taxicab registration amendment was added to the Motor Vehicle Code.

Section 401 is amended so that farm vehicles, which are exempt from registration, may be operated upon highways connecting the farm or farms and the nearest official inspection station for the purposes of inspection.

The definition of "resident" has been added to the Code, thereby substituting an affirmative definition for the negative one heretofore existing under the heading "non-resident."

Under Section 409, sub-section (e), the reciprocity agreements now inure to the benefit of all non-residents who comply with the provision of the laws of the country, or state, of their residence.

Section 411, sub-section (b), provides now that, where a request is made to change registration plates from one motor vehicle to another, by the same person, it must be accompanied by the appropriate fee, and sub-section (d), directs that immediately upon receipt of the transfer registration card the owner shall return the original card.

Section 502, treating with dealers' plates, has been amended to allow not more than three officers of so-called closed corporations, and members of their family and regular employes, to operate under such tags for personal pleasure. Thus, this privilege heretofore enjoyed by dealers engaged in business under their own names has been extended to the small corporation.

Under Section 601, a specific provision has been inserted, regulating the operation of motor vehicles so that none may disregard the provisions of restricted licenses.

Section 615, sub-section (b) (7), gives the Secretary of Revenue an additional right to suspend the license of anyone involved in an accident who fails to appear after having been notified to attend a hearing. And Section 615.1, sub-section (f), brings within the same provision, applicants for operators' licenses or learners' permits, while Section 616 now extends the right of appeal in such cases.

Section 802, sub-section (b), provides that auxiliary driving lamps shall not be used in substitution of head lamps, except under conditions of rain or fog, rendering disadvantageous the use of head lamps. And under such circumstances Section 1002, sub-section (b) (5), now fixes the maximum speed at thirty-five miles per hour. By amendment, Section (c) (3), there is added the provision that after November 1, 1939, all vehicles equipped with electrical signal devices, whether required or not, shall have them of a type approved by the Secretary.

Section 813, sub-section (b), now relieves an inspection station certificate holder from the suspension of his certificate of appointment, where an employe, without his knowledge or consent, violates any of the provisions of the Act in reference to the inspection of vehicles. And in the event of a suspension under any of the terms of the Act, it allows the certificate holder a right of appeal to

the Court of Common Pleas. But violations by certificate holders must now be punished by revocation of appointment.

Under Section 823, motor vehicles determined by the Department to be exempt from the provisions of the Code relating to lights, are limited to operation on highways between sunrise and sunset.

Under Section 823, sub-section (i), school busses operated over regular routes on scheduled service, under authority of the Public Utility Commission, need not secure certificates of inspection from the State Council of Education and the Commissioner of the Pennsylvania Motor Police. They must, of course, carry regular inspection cards and meet all of the Departmental regulations.

Under Section 825, all commercial vehicles transporting inflammable liquids and explosives must now have at least one fire extinguisher of approved type.

Section 829 makes it unlawful for any person to operate a vehicle, or vehicles, upon the highway with the tires showing breaker strip, cushion, gum or fabric. This new provision is believed to be a real safety measure, since the records reveal many accidents to be caused by faulty and worn out tires. The provision is somewhat tempered by sub-section (b), which provides that upon notification by any police officer that tires do not conform to this requirement, a period of forty-eight hours will be allowed for adjustment or repair, and if such is not effected within that period of time, a summary conviction may ensue.

Under Section 1002 the speed limit for non-commercial vehicles and the R and S commercial types, unless otherwise restricted, is fifty miles an hour, for motor busses and omnibusses, forty-five miles an hour, for commercial motor vehicles and truck tractors of the S, T, and U classes, forty miles an hour, for those of the V and W classes thirty-five miles an hour, and for all other commercial motor vehicles, including combinations, thirty miles an hour.

No motor vehicle operator, under sub-section (b), Section 1023, may now knowingly permit any person to hang or ride on the outside or rear of his vehicle.

Section 1033, which was perhaps the most controversial paragraph in the whole Code, has been again amended to restrict vehicle carriers having two levels from operating on the roads after January 1, 1942. It also provides that after that date no vehicle may operate on the highway carrying another vehicle, any part of which is at a height of more than 115 inches from the ground. And because it was felt they were highly dangerous, no carrier may now be operated which carries the weight of a car directly over the cab of the carrier vehicle, or directly over the head of its operator.

Section 1201 is amended to provide in case of information charging a violation of the Code, that the defendant must be taken to the nearest available magistrate, or where two or more magistrates are substantially the same distance from the place of the arrest, to either.

There is added in Section 1211, a provision that those arrested on days other than Sunday shall be given an immediate hearing, or the opportunity of waiving a hearing and entering bail, and those arrested on a Sunday shall be given the op-

portunity of entering bail. In the event bail is entered, a hearing must be had not more than ten days from the day of the arrest.

Section 1220 (c) now furnishes the mechanics for the destruction of abandoned or wrecked vehicles.

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b. Amendments To The Uniform Automobile Liability Security Act¹

The 1939 Session of the Legislature made several changes in the Uniform Automobile Liability Security Act, more commonly known as the Financial Responsibility Act, which it is believed will be helpful to the motorists of the Commonwealth. These changes, which were made by the Act of June 24, 1939, P.L. 1075,² mitigate some of the severity of this statute without encroaching upon its protective features.

Section 8 of the Act originally provided that an operator's license should not be reissued to any person, who within the twelve months preceding his application for renewal had negligently caused injuries or damages exceeding \$100.00 to any other person, until such operator had established financial responsibility in the manner required in the Act. Where the amount of the damages or injuries exceeded \$100.00, the negligence of the operator would be presumed. The operator, however, upon his request, would be given the opportunity of a hearing before a representative of the Secretary of Revenue. If he exculpated himself, his operator's license would be reissued without further requirement. However, if he was unable to overcome the presumption of negligence, his operator's license could only be reinstated after he had shown his financial responsibility. It is notable, however, that there was nothing in this section that would keep off the highways a person who had been found to be negligent at such hearing, if such person could find an insurance company that would vouch for him. Under this section, the all-important qualification was the means to respond in damages to possible future claims. The 1937 Legislature concluded that a person who had voluntarily paid all claims against him, arising from a motor vehicle accident, had satisfactorily shown his ability and disposition to satisfy possible claims based upon future accidents. It accordingly provided that Section 8 should not apply to a person who had, in such manner, demonstrated his character and financial worth.

It should be apparent, also, that by this means the Legislature encouraged the settlement of some claims founded upon motor vehicle accidents.

The idea that Section 8 was designed primarily to assure the financial re-

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¹See McHugh, *After the Automobile Accident in Pennsylvania*, 41 DICK. L. REV. 213. 275 PURD. STARS. (Pa.) § 1260.