1940 Supplement

To

Mason's Minnesota Statutes

1927

(1927 to 1940)

(Superseding Mason's 1931, 1934, 1936 and 1938 Supplements)

Containing the text of the acts of the *1929, 1931, 1933, 1935, 1937* and *1939* General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.

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duties and obligations as are by this act vested in or imposed upon the corporation referred to in Section 2 of this act. Every municipality in which an armory may be constructed as provided in Section 12 of this act, and every governing body of and every other governmental agency in every such municipality, shall have like powers and privileges and be subject to like duties and obligations as are by this act vested in or imposed upon the respective cities, governing bodies, and other governmental agencies referred to in Sections 1 to 11 of this act, inclusive. All the provisions of this act relating to the construction of armories in the cities referred to in Section 1 of this act and to all other matters connected therewith, shall, so far as applicable, and not otherwise provided herein, apply to the construction of armories in the municipalities referred to in Section 12 of this act to all other matters connected therewith, and for such purposes the term "city" as used in Sections 1 to 11, inclusive, of this act shall be construed to refer to the municipalities referred to in Section 12 of this act, and the terms "commission" and "corporation" as used in Sections 1 to 11, inclusive, of this act, shall be construed to refer to the commission and corporation referred to in Section 13 of this act; provided, however, as follows:

(a) The total cost to the corporation of each armory constructed as provided in Section 12 of this act, including the site, building, and equipment, shall not exceed $75,000.00 for each unit of the national guard or naval militia to be quartered therein, and the total amount of bonds issued on account of each such armory shall not exceed the amount of such cost.

(b) The adjutant general may pay under the provisions of subdivision (d) of Section 5 of this act on account of each armory constructed as provided by Section 12 of this act an amount not exceeding $2,000.00 per year for each unit of the national guard or naval militia quartered in such armory.

(c) The corporation created under Section 13 of this act shall never be subject to an indebtedness on account of any armory constructed as provided by Section 12 of this act in excess of the cost of such armory as provided by this section, nor to a total indebtedness in excess of the aggregate cost of all armories so constructed.

(d) The treasurer of the corporation created under Section 13 of this act shall give a bond to the corporation in such sum and with such surety as the corporation may determine, conditioned in like manner as the bonds of treasurers of public bodies, to be approved and filed as the corporation may determine.

(e) The corporation created under Section 13 of this act may designate one or more state or national banks as depositories of its funds, and may provide, upon such conditions as the corporation may determine, that the treasurer of the corporation shall be exempt from personal liability for loss of funds deposited in any such depository due to the insolvency or other acts or omissions of such depository. (Laws 1931, c. 398, §14; Laws 1933, c. 332, §8; Mar. 11, 1935, c. 40, §2.)

Act Apr. 20, 1933, cited, adds sections 12, 13 and 14 to Act 1931, c. 398. The enacting part provides that the words "this act" shall be deemed to refer to the amended act as amended.

Commisison cannot borow from one fund to finance a different armory. Op. Atty. Gen. (310b), Mar. 2, 1936.

NAVAL MILITIA

2520. Naval Militia not to exceed eight companies. —The Naval Militia shall consist of not to exceed eight divisions or companies and a squadron of air service, organized into such number of battalions as the tactical situation may require. ('99, c. 355; '05, c. 34, §1; '09, c. 389, §1; G. S. '13, §2473; '15, c. 353, §1; Apr. 23, 1929, c. 296.)

(e) The corporation created under Section 13 of this act may designate one or more state or national banks as depositories of its funds, and may provide, upon such conditions as the corporation may determine, that the treasurer of the corporation shall be exempt from personal liability for loss of funds deposited in any such depository due to the insolvency or other acts or omissions of such depository. (Added as §14, Laws 1931, c. 398, by Act Apr. 20, 1933, c. 332, §8; Mar. 11, 1935, c. 40, §2.)

WAR RECORDS

2535–1. Minnesota War Records Commission discontinued.

Op. Atty. Gen. (523g-17), May 2, 1934; note under § 4326(g)(1).

CHAPTER 13

Roads

GENERAL HIGHWAY ACT

2542. Scope of act.

175M583, 222NW385; note under §2554.

U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.

A village approving plans of construction by state highway commissioner of a trunk highway upon a village street and authorizing a change of grade according to such plan, makes itself liable for the damage caused abutting property by such change, in the absence of assumption of such liability by the state. 178M144, 226 NW398.

Followed in Foss v. M., 178M430, 227NW357.

State cannot reimburse county out of trunk highway fund amount expended for right of way for new road built by county and later designated and taken over by state as trunk highway. State v. Babcock, 186M132, 242NW474. See Dun. Dig. 8452.

There is no statutory provision by which one town can compel another to maintain its half of a town line road where there has been no agreement for the division of the road for purpose of maintenance, the only remedy being application to the county board under §2607. Op. Atty. Gen., June 27, 1930.

Where "state rural highway" was established and constructed under Laws 1911, ch. 254, and was later designated as a temporary trunk highway and was turned back to county by state under §2554(4)(a) the highway could not revert to its former status of "state rural highway" but became a county road that could not be turned over to town to be maintained by it, except pursuant to §2582. Op. Atty. Gen. (377a-15), Nov. 7, 1935.

3. "County roads."

Order that portion of road within county should be set aside by the county for "opening and maintenance" simply had the effect of imposing upon the county the duty of opening the road, and upon the towns through which the road passes the duty of maintaining same. Op. Atty. Gen., Mar. 27, 1931.

4. "Town roads."

Petitioner for whose primary benefit a cartway is established cannot treat it as a strictly private way, and cannot keep the public off it. Op. Atty. Gen., June 10, 1931.

Town board has control over all town roads, including bridge culverts. Op. Atty. Gen., June 13, 1933.

2543. "Road" and "Highway" defined.

Op. Atty. Gen., July 19, 1930; note under §2552.

Includes part of interstate bridge. Op. Atty. Gen., Apr. 11, 1929.

Where road extending into two counties over bridge across river, forming boundary between counties, was designated as a state aid road by both counties, each county is chargeable for the maintenance of that portion of the bridge within its territorial limits and no more, though county may expend money, if it desires, in the maintenance of bridge or road in another county. Op. Atty. Gen., Aug. 18, 1930.

Cartways may not be established between two parcels of land where it would not connect with a public road. Op. Atty. Gen. (377b-1), Sept. 28, 1934.

Commissioner of highways may install lights on trunk highways at intersections in cities and villages and pay for cost out of highway funds. Op. Atty. Gen. (229e-3), Feb. 3, 1937.

2544. Width of Roads.

Land taken for a public cartway is taken for a public *purpose although the one to whose land the cartway* extends has other access to a public highway. 175M395, 221NW527.

Judicial road on county line remained open for entire width, though only part of width was constructed. Op. Atty. Gen., June 21, 1933.

2545. Width of bridges and culverts.—All bridges and culverts, and approaches thereto, on any road hereafter established or improved, except cartways, shall be at least twenty (20) feet wide; and when such bridge in its construction or repair shall be raised three feet or more above the level of the bank on either side of any river, stream, gully or ravine, then such bridge and approaches shall be at least twenty-four (24) feet wide and provided with substantial railings. (As amended Apr. 20, 1939, c. 314.)

2546. Width and clearance of railroad bridges.—Whenever any railroad company shall hereafter construct, or substantially reconstruct, a bridge over a public highway, the same shall be constructed so as to leave a clear opening for the highway at least twenty-eight (28) feet wide and at least fourteen (14) feet clear space from the surface of the highway to the bottom of the bridge; provided, however, that the requirement for the clear opening for the highway may be modified by the Commissioner of Highways upon plans approved by him. (As amended Apr. 21, 1939, c. 393.)

Negligence of railroad in failing to comply with this statute held not the proximate cause of death of automobilist. 171M486, 214NW763.

A railroad company owes common-law duty to provide overhead or underground crossing when reasonably necessary for public travel upon a highway. Murphy v. G., 189M109, 248NW715. See Dun. Dig. 8120.

A railroad company which constructs an overhead *bridge in accordance with statute, with a center pier* which is approved by highway commissioner, does not have duty of caring for a reflector placed upon said pier to warn a traveler on highway. Murphy v. G., 189 M109, 248NW715. See Dun. Dig. 8120, 8121.

Whether driver of automobile striking middle pier of railroad bridge on which there was a defective reflector was guilty of contributory negligence, held for jury. Murphy v. G., 189M109, 248NW715. See Dun. Dig. 8169.

Proximate cause of accident was skidding of car and not unlawful position of pier, following Lind v. Great Northern R. Co., 171Minn486, 214NW763. Lundstrom v. G., 294M624, 261NW465. See Dun. Dig. 8121.

2547. Width and clearance of railroad bridges.—Any bridge hereafter constructed on any public highway over the tracks of any railroad, shall be at least twenty-four (24) feet wide and the approaches thereto shall be at least twenty-eight (28) feet wide and the grade of such approach shall not exceed five (5) feet rise in a hundred (100) feet. Such bridge shall leave a clear space above the railroad rails of at least twenty-one (21) feet measured vertically; provided, however, that the requirements for the width of the bridge and for the width of the approach may be modified by the Commissioner of Highways upon plans approved by him. (As amended Apr. 21, 1939, c. 392.)

2549. Trunk highways.

A village approving plans of construction by state highway commissioner of a trunk highway upon a village street and authorizing a change of grade according to such plan, makes itself liable for the damage caused abutting property by such change, in the absence of assumption of such liability by the state. 178M144, 226 NW398.

Followed in Foss v. M., 178M430, 227NW357.

State's ownership of easement for highway purposes is a sufficient title to support an application for an injunction. State v. Nelson, 189M87, 248NW751. See Dun. Dig. 4155, 4157, 4180.

Supervision and control by highway commissioner over trunk highway was not limited to traveled portion only, but extended to entire right of way. Otten v. B., 198M 356, 270NW133. See Dun. Dig. 8452.

Where county under plan approved by state highway department constructed underpass under trunk highway for use of an ice company, leaving open excavation on each side of paved portion of highway, into which a pedestrian fell in the night time, the ice company was not liable, being under no duty to take precautions or protective measures for safety of traveling public. Id. See Dun. Dig. 8547.

Village council has no legal authority or power to grant privilege to individuals of installing gasoline curb pump on state trunk highway, and a village would be liable for any injuries caused by such an obstruction to one who was in exercise of due care. Op. Atty. Gen. (396g-9), Jan. 8, 1935.

Where highway department takes over part of city street in which a street railway is operating, a renewal of franchise is a matter to be settled as between commissioner of highways, city and street railway. Op. Atty. Gen. (396c-17), July 17, 1936.

2550. State aid roads.

In absence of agreement, county rather than city must pay for improvement of state aid road running through city of fourth class. Op. Atty. Gen. (377b-8), Aug. 8, 1938.

County may not turn over fund to a village for construction by village of a state aid road. Op. Atty. Gen. (379c-11), June 15, 1939.

2551. County roads.

Attempt to travel on highway after notice that it is out of repair is not necessarily negligence. Campion v. C., 202M136, 277NW422. See Dun. Dig. 4156.

A town board may not appropriate or expend moneys for the maintenance of a county aid road. Op. Atty. Gen., Aug. 21, 1929.

It is duty of town to construct and maintain ap*proaches to bridge constructed under §2606.* Op. Atty. Gen., Aug. 21, 1929.

County is not liable for injuries arising from collision of automobile with tree which blew down in the highway, or for the negligence of a snowplow driver in backing into an automobile. Op. Atty. Gen., Feb. 6, 1930.

Order that portion of road within county should be set aside by the county for "opening and maintenance" simply had the effect of imposing upon the county the duty of opening the road, and upon the towns through which the road passes the duty of maintaining same. Op. Atty. Gen., Mar. 27, 1931.

If county board contemplates construction of a gravel road, such road will not be considered as having been constructed until gravel has been applied, but county need not gravel where petition is only for laying out of a road. Op. Atty. Gen., Aug. 11, 1932.

County in maintaining highways is exercising a governmental function and is not liable to private parties for negligence of employees occurring during course of such work. Op. Atty. Gen. (125a-29), May 9, 1934.

Where County board established a road in a town in 1908 and township did a little grading but never completed road, it is now the duty of the county and not the township to complete such road, notwithstanding Laws 1913, c. 235, and R. L. 1905, §1168. Op. Atty. Gen. (380a-1), Sept. 28, 1934.

*County is not liable for injuries to truck driver sus*tained on account of defects in county bridge. Op. Atty. Gen. (107b-6), Nov. 14, 1934.

County is not liable for operator of county road graders working upon roads without lights and on left side of road. Op. Atty. Gen. (107b-4), Dec. 3, 1934.

County would be liable for negligence of WPA workers burning grass on county highway, permitting fire to spread to property of abutting owner, if county was in control of the project. Op. Atty. Gen. (844-5), June 8, 1936.

County is not liable for negligence of its agent in operating county highway equipment, but county may in its discretion pay premiums on insurance policy for protection of individual driver. Op. Atty. Gen. (125a-61), Mar. 17, 1937.

County was liable to telephone company for negligence of its employees in setting fire to poles while burning weeds on county aid road. Op. Atty. Gen. (125a-29), June 30, 1939.

2552. Town roads.

U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.

Op. Atty. Gen., May 23, 1929; note under §2569.

There is no statutory provision by which one town can compel another to maintain its half of a town line road where there has been no agreement for the division of the road for purpose of maintenance, the only remedy being application to the county board under §2607. Op. Atty. Gen., June 27, 1930.

If the town board, acting in good faith, replaces a culvert or bridge 14 ft. wide by a cement culvert 48 inches in diameter, the members of the board are not personally liable for injury to surrounding property by insufficiency of the drainage, but the town may be liable in damages for any injury resulting. Op. Atty. Gen., July 19, 1930.

Where county board advertised for bids for graveling a highway as a county road, when it was in fact a town road, it was without authority to proceed with the contract, and was not liable to the contractor for refusing to execute the contract. Op. Atty. Gen., Sept. 8, 1930.

Where county board has designated a county aid road and electors of town have voted the amount required of them, county board cannot thereafter withdraw. Op. Atty. Gen., May 11, 1931.

County constructing a county aid road in a township was liable for death of farmer in adjoining field caused by blasting stump, if its officers or agents were negligent. Op. Atty. Gen., Sept. 26, 1932.
Op. Atty. Gen., Sept. 26, 1932.
Side road in abandoned village is a town or county road and town may remove fence erected thereon. Op. Atty. Gen., Apr. 28, 1933.
Town board has control over all town roads including bridge culverts. Op. Atty. Gen., June 13, 1933.
Town owes no duty to improve and maintain platted highways in an unincorporated community until the same have been accepted. Op. Atty. Gen., Mar. 1, 1934.

A town is not liable for damages resulting from negligence of officers in repairs, but officer may be personally liable. Op. Atty. Gen. (377a-3), July 24, 1936.
Cost of constructing town roads is imposed upon township. Op. Atty. Gen. (377b-10(f)), Oct. 20, 1936.

Duty to construct and repair bridges on town roads rests with township, though county is authorized to appropriate money to towns in aid of construction and maintenance. Op. Atty. Gen. (377b-10(h)), June 3, 1938.

It is duty of town and not county to construct culvert on town road to prevent overflow of adjoining land resulting from raising of grade of road by earth taken from county ditch. Op. Atty. Gen., (377a-3), Aug. 16, 1938.

2552-1. Town clerks to report miles of highway.—On or before June first, 1931, and on or before June first of every odd-numbered year thereafter, the clerk of each township shall file with the county auditor of his county a verified written statement showing the number of miles of public highways within the township under the supervision and jurisdiction of the town board. (Act Apr. 9, 1931, c. 131, §1.)

2552-2. County auditor to report to commissioner of highways.—On or before September first, 1931, and on or before September first of each odd-numbered year thereafter, the county auditor of the several counties shall make and file with the commissioner of highways a verified written statement showing the number of miles of public highways within the county, other than trunk highways, whether under the jurisdiction of the county or the towns therein. (Act Apr. 9, 1931, c. 131, §2.)

2553. Commissioner of highways.—Sub. 1. The office of the Commissioner of highways, the incumbent whereof shall have the powers, duties and privileges herein declared, is hereby created; the term of such office shall be four years and the governor of the state with the consent of the senate shall appoint a suitable person thereto. The Commissioner of Highways shall be subject to removal by the Governor only for malfeasance or nonfeasance in office, and shall be entitled to written notice of the charges against him, and allowed a reasonable opportunity to be heard thereon. Until the appointment and qualification of the first commissioner of highways under this act, the commissioner of highways previous to the passage of this act shall act as commissioner of highways hereunder. (As amended Apr. 17, 1937, c. 262, §1.)

Sub. 2. The commissioner of highways shall devote his entire time to the performance of his official duties and shall receive as compensation therefor a yearly salary of six thousand seven hundred fifty dollars, payable semi-monthly. (As amended Apr. 17, 1937, c. 262, §2.)

Sub. 3. * * * *

Sub. 4. The commissioner of highways shall appoint an assistant commissioner of highways who shall be an experienced highway engineer. The salary of the assistant commissioner of highways shall be fixed by the commissioner of highways, but in an amount not to exceed the sum of six thousand dollars per year payable semi-monthly.

Such assistant shall devote all his time to the duties of his office and in case of the inability for any cause of the commissioner of highways to act, the assistant commissioner of highways shall act as such commissioner of highways with all his powers and duties.

Except when so acting as commissioner of highways, the assistant and second assistant shall be subject to the direction and orders of the commissioner of highways.

Such assistant shall, before entering upon the performance of his official duties, give bond to the state to be approved by the governor in the penal sum of ten thousand dollars, conditioned for the faithful performance of his duties. If a surety company bond is given, the premium thereon may be paid from the funds available for the payment of the expenses of the highway department; provided, however, that the amount of such premium so paid shall be approved as to amount by the state treasurer. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of the said assistant in the performance of his official duties may maintain an action on such bond for the recovery of damages so sustained.

The commissioner of highways is hereby authorized to employ such skilled and unskilled help and employees as may be necessary for the performance of his duties under this act, the same to be on such terms and for such compensation as he may deem just and proper. Provided no greater sum shall be paid to employees belonging to the following classes than as herein specified.

For Bookkeepers, not to exceed $3,000.00
For Stenographers, not to exceed 1,500.00
For Draftsmen, not to exceed 2,400.00

Provided that the total annual expense for the highway department, exclusive of all outside employees and assistants and engineering and inspection work, shall not exceed the sum of One Hundred and Fifty Thousand ($150,000) Dollars per annum. None of such help or employees shall be required to possess any other qualifications than may be prescribed by the commissioner of highways.

Said commissioner of highways, assistant, and such help and employees as may be so from time to time appointed or employed shall constitute and be known as the highway department.

Each of such help employees as may be determined and designated by the commissioner of highways shall, before entering upon the duties of his office or employment, give bond to the state in such penal sum as may be determined upon by the commissioner of highways, to be approved by the governor and conditioned for the faithful performance of his duties. If a surety company bond is given, the premium thereon may be paid from the trunk highway fund. The state, the several governmental subdivisions thereof, and any person damaged by any wrongful act or omission of said help or employees in the performance of his official duties may maintain an action on his bond for the recovery of the damages so sustained. (As amended Apr. 17, 1937, c. 262, §3.)

Sub. 5. * * * *

Payment of claims on bridge on T. H. No. 218. Laws 1939, c. 396.
Payment of other claims against highway department. Laws 1939, c. 397.

Where tax delinquent land was condemned for state highway and state warrants for damages were issued jointly to owner and county, and thereafter land became forfeited to state for taxes, county auditor should not endorse warrants to private owners until ordered to do so by court. Op. Atty. Gen. (450f-6), Aug. 30, 1937.

2554. Powers of Commissioner of Highways.—Sub. 1. The commissioner of highways is empowered to carry out the provisions of Section 1 of Article 16, of the constitution of the state, and is hereby authorized to acquire by purchase, gift, or condemnation as provided by statute all necessary right of way needed in laying out and constructing the trunk highway system, and to locate, construct, reconstruct, improve and maintain such trunk highway system, to contract on an equitable basis with railroad companies for the construction of bridges and approaches necessary for the separation of grades at points of intersection between railroads and trunk highways, to let all necessary contracts therefor, and to purchase all needed road material, machinery, tools and supplies necessary for the construction and maintenance thereof, and to purchase or rent grounds and

buildings, necessary for the storing and housing of such material, machinery, tools and supplies; and in carrying out the provisions of said Section 1, of Article 16 of the constitution of the state, is hereby authorized to expend out of trunk highway funds such portions thereof as may be available for the purposes herein provided, and there is hereby appropriated, annually, from such fund the entire amount thereof or so much as shall be necessary for the location, construction, reconstruction, improvement and maintenance of the trunk highway system including the cost of acquiring title to any needed right of way, and the cost of purchasing or renting grounds and buildings for such storage and housing, the purchase of the necessary road material, tools, machinery and supplies for the construction and maintenance of said trunk highway system and for the compensation of all persons employed and the necessary expenses incurred in the execution of such work, such expenditures to be made as provided in this act. The Commissioner of Highways shall continue under the provisions of Chapter 426, Laws of 1925 as amended [§53-36]. Where any trunk highway runs to any interstate water forming the boundary between Minnesota and any other state and there connects with any interstate bridge across such boundary water or runs into any city or village situated on such water boundary and intersects any street thereof adjacent to and connecting with any such bridge, in every such case all that part of any such bridge within the limits of this state shall be considered as a part of such trunk highway system except where any such bridge is owned by a private person or corporation or is operated as toll bridge and said commissioner is authorized and directed to cooperate with the duly authorized authorities of such adjoining state in the maintenance, repair, construction and reconstruction of any such bridge. (As amended Apr. 17, 1937, c. 262, §4.)

Sub. 2. On the first Tuesday of April of each year it shall be the duty of the commissioner of highways, state auditor and state treasurer following the transfer to the trunk highway fund of any surplus remaining in the trunk highway sinking fund, as provided in this act, to set aside from the total sum in said fund—

1. The proportion of expense of the highway department to be borne by the trunk highway fund authorized by section 12 of this act, not to exceed One Hundred Fifty Thousand ($150,000) Dollars.

2. The proportion of the trunk highway fund provided by this act to be set aside for maintenance.

3. Such sum as may be found necessary for the payment of interest and principal on trunk highway bonds of the State of Minnesota or bonds issued by the State of Minnesota to take up maturing county bonds or county bonds assumed by the state under Article 16 of the constitution.

4. Such sum as may be necessary to equal the total sum of the federal aid received from the United States Government for road purposes in Minnesota.

Any sum remaining in the trunk highway fund after setting aside the sums hereinbefore mentioned together with the sum set aside to meet the government aid, and the total amount received as government aid, excepting such portion of government aid as may be required to make connections on the federal aid system with adjoining states, shall constitute the portion of trunk highway fund available for construction purposes for that year. The highway commissioner is hereby authorized to use during the ensuing year for hard surface construction on the trunk highway not to exceed 20 per cent of such construction fund, provided that the commissioner of highways, may, in his discretion, if the provisions of federal aid should so require as a condition precedent to receiving such aid, use an additional amount from such fund not to exceed, in any event, an additional thirteen and one-third per cent from such construction fund in any one year. The remainder of such construction fund shall be used by the commissioner on the trunk highway system for the acquisition of right of way and for construction purposes on the trunk highway system, provided the same shall be expended among the various sections of the state in equitable proportions as far as practicable in the construction of said unfinished portions of the trunk highway. Provided further, that the commissioner of highways shall have authority to use for construction purposes on the unfinished portions of the trunk highway system any portion of the funds set aside as herein provided that shall not be needed as a part of the fund so set aside, and is further authorized to use any portion of the trunk highway fund, set aside for maintenance in any one county, for construction purposes in such county when not needed for maintenance therein. (As amended Apr. 17, 1937, c. 262, §5.)

Sub. 3. * * * * *

Sub. 4. (a). The Commissioner of Highways shall by order or orders designate such temporary trunk highway or highways, and when the final and definite location of any trunk highway or portion thereof has been by him determined, he shall designate the same by order or orders. Provided, that when the County Board of any county interested asks for a public hearing with reference to the final location of any Trunk Highway, a hearing shall be held by the Commissioner within the section, county or counties interested before making any such final location. Copies of such order or orders shall be certified by the Commissioner of Highways to the county auditor or auditors and the county register or registers of deeds, or in event of Torrens or registered property, the registrar of titles, of the county or counties wherein such highways are located.

Said county auditor or auditors and the county register or registers of deeds, or in event of Torrens or registered property, the registrar of titles, shall receive and file any and all such order or orders or certified copies thereof and shall immediately number and index same and shall enter in permanent index books the number given to each and every such order or orders or certified copies thereof, together with the number given such order or orders by the Commissioner of Highways. No such order or orders or certified copies thereof shall be removed from the office or offices wherein filed. Such counties or subdivisions thereof shall thereupon be relieved from responsibilities and duties thereon, provided that in case the final location should be other than the location of the temporary trunk highway, the portion of such temporary location which is not included in the final location shall, upon notice from the Commissioner of Highways, revert to the county or subdivision thereof originally charged with the care thereof. (As amended Mar. 25, 1935, c. 63, §1.)

Orders to be filed and entered.—Any orders previously certified by the Commissioner of Highways to the county auditor or auditors shall be filed and entered in said permanent index book by said county register or register of deeds.

The Commissioner of Highways shall also furnish to the county register or registers of deeds, or in event of Torrens or registered property, the county registrar or registrars of titles, certified copies of all previous order or orders which shall all be filed and entered in proper index books by such registers of deeds and/or registrars of titles as herein above provided. (Added by Act Mar. 25, 1935, c. 63, §2.)

Sec. 3 of Act Mar. 25, 1935, cited, provides that the act shall take effect from its passage.

Sub. 5. (a) The Commissioner of Highways shall adopt a suitable marking design with which he shall mark or blaze the routes so selected, and as the definite final location of each route is opened to traffic the markings shall be changed to such location.

(b) In order to coordinate the markings of the various existing routes, together with new routes

which hereby are or may be added, and in order to avoid duplication in numbers used on interstate routes, the Commissioner of Highways is authorized to revise and consolidate the marking and numbering of the routes within the system from time to time, provided that whenever the Commissioner of Highways does so revise the marking and/or numbering he shall prepare a map showing the existing routes and identifying numbers and also the routes and identifying numbers or design of the revised system. That said map shall be authenticated by a certificate of the Commissioner of Highways certifying the same as being the map showing the revised markings under the provisions of this Act. Said map and certificate shall be filed in the office of the Secretary of State and a duplicate thereof shall be filed in the office of the Commissioner of Highways. Said map shall thereafter govern the identification of the several routes or portions thereof in the trunk highway system, and all proceedings, records and accounts thereafter shall be governed accordingly. Proceedings pending and under way at the time such map is filed shall cite both the old and new identifications. (As amended Apr. 22, 1933, c. 440, §3.)

Sub. 6. The Commissioner of Highways may conduct the work or any part thereof, incidental to the construction and maintenance of the trunk highways by labor employed therefor or by contract. In cases of construction work, the Commissioner of Highways shall first advertise for bids for contracts and if no satisfactory bids are received, he shall have the right to reject all bids and re-advertise or do the work by labor employed therefor. When work is to be let under contract he shall publish a notice to that effect, for three successive weeks prior to the date such bids are to be received, in such local newspaper or other periodicals as may be deemed advisable, provided that in case of emergency requiring immediate action, contract may be awarded without published notice.

Emergency shall be defined as the doing of such work on the highways of the State of Minnesota as is necessary for immediate action in order to maintain existing highways in a passable condition. Provided, no emergency shall be declared to exist except upon the written authority of the highway commissioner or his deputy. (As amended Apr. 26, 1937, c. 490, §1; Apr. 15, 1939, c. 277.)

Sub. 7-17. * * * * *

Sub. 18. (a). The Commissioner of Highways is hereby authorized to employ and designate not to exceed 108 persons during the calendar year 1939 and thereafter not to exceed 116 persons to enforce the provisions of the laws relating to the protection of and use of trunk highways, who shall have upon all trunk highways the same powers with respect to the enforcement of laws relating to crimes, as sheriffs, constables, and police officers have within their respective jurisdictions, so far as may be necessary for the protection of life and property upon such trunk highways. Under instructions and regulations of the Commissioner of Highways, said employees shall cooperate with all sheriffs and other police officers, and to that end are authorized to exercise the powers herein conferred upon all trunk highways and, for the purpose of continuing pursuit from such trunk highways of offenders thereon, upon all public highways connecting and traversing such trunk highways, provided that said employees shall have no power or authority in connection with strikes or industrial disputes. Employees thus employed and designated shall subscribe an oath and furnish a bond running to the State of Minnesota, said bond to be approved and filed in the office of the Secretary of State. (As amended Apr. 27, 1935, c. 304; Apr. 22, 1939, c. 400.)

(b) All fines, from traffic law violations, collected from persons apprehended or arrested by such employees, shall be paid into the state treasury and shall be credited to a separate fund hereby established for that purpose. Out of such fund shall first be paid to counties all costs and expenses incurred by them in the prosecution and punishment of persons so arrested and for which such counties have not been reimbursed by the payment of such costs and expenses by the person prosecuted, and so much of said fund as shall be necessary for the making of such reimbursement is hereby appropriated therefor. Such payment shall be made by the state treasurer upon the claim of the county verified by the county auditor. On the first day of each calendar month the moneys remaining in such fund shall be credited to that part of the trunk highway fund which is set apart for maintenance purpose; and so much of said maintenance fund as shall be necessary for the salaries and maintenance of such employes is hereby appropriated for that purpose.

(c) Each such employee shall receive a salary of not less than $150.00 per month and shall receive an annual raise of $5.00 per month for each succeeding year of employment, such term of employment to be computed from commencement of employment by such individual employee, except that the salary of no employee shall exceed the sum of $180.00 per month. Each one of not to exceed eight assistant supervisors shall receive a salary of not less than $180.00 per month and shall receive an annual raise of $5.00 per month for each succeeding year of service, the term of employment of such assistant supervisors to be computed from commencement of employment of such individual assistant supervisor, except that the salary of no such assistant supervisor shall exceed the sum of $2400.00 per year. The salary of one chief supervisor shall be in such amounts as may be fixed by the Commissioner of Highways, but not to exceed $4000.00 per year. (Added by Act Apr. 24, 1929, c. 355, §1; Mar. 7, 1931, c. 44, §1; Apr. 27, 1935, c. 304; Feb. 17, 1937, c. 30, §1.)

Sub. 19. Whenever a state trunk highway route is so located that in order to properly connect the designated objectives it is advisable to construct and maintain the said highway across a portion of an adjoining state, the Commissioner of Highways is authorized to expend trunk highway funds therfor in the same manner as other expenditures for trunk highway purposes are made. (Added by Act Apr. 22, 1933, c. 440, §5.)

Sub. 20. The Commissioner of Highways is authorized to cooperate with the United States government or any duly constituted agency, bureau or department thereof in supervising construction, maintenance and/or improvements of public highways within the state of Minnesota.

The Commissioner of Highways is authorized when requested by the United States Government, or any agency, bureau or department thereof, to act in disbursing and accounting of federal and other funds for such public highways or projects, provided, the total cost of such projects has been made available by the United States Government, or any duly constituted agency or bureau thereof or obligated by any other agency, either public or private in whose behalf the work is undertaken. (Added by Act Mar. 12, 1935, c. 42, §1; Apr. 2, 1937, c. 135, §1; Apr. 20, 1939, c. 313.)

Explanatory note.—The title and enacting clause of Laws 1937, c. 135, purports to amend "Laws of 1935, Chapter 42, Section 20," etc. While this description is inaccurate, the defect may not be sufficient to render the act invalid.

Act Apr. 20, 1939, c. 313, by its title and enacting part, purports to amend section "2554-20." There is no section "2554-20" in Mason's Minn. St., but the subject-matter corresponds to subdivision 20 of §2554. Whether the amendment is valid is a close judicial question.

Sub. 21. The Commissioner of Highways may at the request of any county board or the governing body of any political subdivision of the state, any governmental agency, school district, or public sanatorium, furnish and operate snow removal equipment and furnish necessary men to operate such equipment to remove snow upon public highways other than trunk highways in this state; provided, however, that upon completion of such work the state of Min-

nesota shall have a claim against the county, city, village, borough, town or school district, requesting such snow removal to reimburse the trunk highway fund, and the Commissioner of Highways is hereby directed to file a verified claim and to collect it against the political subdivision, governmental agency, school district or public sanatorium, in the manner provided by law in the case of other claims against such governmental subdivision or agency. (As amended Laws 1929, c. 355, §1; Laws 1931, c. 44, §1; Laws 1933, c. 440, §5; Laws 1935-1936 Ex. Ses., c. 17, §1; Apr. 2, 1937, c. 131, §1.)

Explanatory note.—Laws 1937, c. 131, purports, in its title and enacting clause to amend "section 2554," as amended, "to read as follows:" followed by "Subdivision 21" and the paragraph last above set out. It seems obvious, however, that the legislative intent was merely to amend Subdivision 21 of the section as added by Chap. 17 of the 1935 Extra Session.

The title of Act Apr. 22, 1933, c. 440, does not specifically include the addition of subdivision (19) to this section. For title of act see §2662-2½, post.

State of Minnesota held without power, in absence of consent of Secretary of the Interior, to condemn for highway purposes allotted Indian lands in the Grand Portage Reservation. U. S. v. State of Minnesota, (CCA8), 95F (2d)468. Aff'd, 59SCR292.

U. S. district attorney could not waive necessity for such consent. Id.

The amount of traffic on a highway is an element to be considered as bearing upon loss of time and convenience to one whose land is divided by such highway. 171M369, 214NW653.

When a permanent trunk highway is located by the Highway Commissioner the practicable road along the general location is not thereby vacated, but reverts to the control of the county or town board as the case may be. 171M369, 214NW653.

Jury properly permitted to determine acreage involved in determining damages, and verdict held not excessive. 171M369, 214NW653.

Subdivisions 3 and 4 of section 13, ch. 323, L. 1921, are entirely consistent with the provisions of Constitution, article 16. 175M103, 220NW408.

Laws 1925, c. 426 (§§53-1, et seq.) modifies and amends the prior Highway Act to the extent of placing the making of contracts for constructing state highways under the control of the commission of administration and finance. 175M583, 222NW285.

The Railroad and Warehouse Commission may require the construction of an overhead or underground crossing and divide the cost between the railroad company and the highway department. Where a highway is carried over railroad tracks by a bridge, the railroad company may be required to construct the bridge and approaches, but not a part of the highway outside both bridge and approaches. 176M501, 223NW915.

A village approving plans of construction by state highway commissioner of a trunk highway upon a village street and authorizing a change of grade according to such plan, makes itself liable for the damage caused abutting property by such change, in the absence of assumption of such liability by the state. 178M144, 226 NW398.

Followed in Foss v. M., 178M430, 227NW357.

The duties imposed on the Commissioner require the exercise of judgment and discretion and he is not personally liable in absence of corruption or malice. 179M 263, 228NW916.

An enlargement by the court against objection of condemnation proceedings to include easements over lands or lots not sought in the state's petition, is an unwarranted interference with properly delegated legislative functions. State v. Erickson, 185M60, 239NW908. See Dun. Dig. 4158(71).

The highway commissioner's order designating the permanent re-routing of a trunk highway does not in itself constitute a taking of the property within the designated route. It is the exercise of a legislative function constitutionally delegated to the commissioner by the Legislature and is conclusive on the courts as to the necessity of the taking. State v. Erickson, 185M 60, 239NW908. See Dun. Dig. 4158(71).

When state institutes a condemnation for a right of way for a trunk highway and omits to include a tract of land which it uses and damages as a part of general project, owner may have such land included in condemnation proceeding and this is not prevented because state cannot be sued nor because defendant might petition legislature for compensation. State v. Stanley, 183 M390, 247NW509. See Dun. Dig. 3014, 3027, 8831.

Where commissioner of highways trespasses upon or appropriates land outside right of way, he becomes liable to owner thereof for damage thereto. Nelson v. B., 188M584, 248NW49. See Dun. Dig. 8001.

Act relieved villages from responsibility for highways after they have been taken over by state highway department and have become part of trunk system, and village is not liable for injuries to travelers resulting from improper maintenance. Lundstrom v. G., 194M624, 261NW465. See Dun. Dig. 6818.

Where state intervenes and joins plaintiffs in suits in equity by taxpayers to cancel contracts for paving of state trunk highways, entered into by commissioner of highways, and for injunctions to restrain contractors and commissioner from proceeding with carrying out of such contracts, and for purpose of recovering for state moneys illegally paid out or to be paid out under such contracts, state subjects itself to jurisdiction of court and may be required by court to pay to plaintiffs, taxpayers, out of funds recovered and saved to state, reasonable and necessary expenditures and attorneys' fees incurred by such plaintiffs in carrying on litigation. Regan v. B., 196M243, 264NW803. See Dun. Dig. 8452.

Allowance of $60,000 to attorney saving the state and taxpayers $390,000 was not excessive. Id.

Fact that court directed payment of attorneys' fees to attorneys instead of to them for plaintiffs was not error nor important. Id.

A village which approves the plans of constructing by the state highway commissioner of a trunk highway, and authorizes a change of grade according to such plans, makes itself liable for the damage caused abutting property. Op. Atty. Gen., Oct. 15, 1930.

Moneys in the trunk highway maintenance fund may be used to erect buildings to be used for office space, garage, sleeping quarters, and rest rooms for highway patrolmen when on and off duty. Op. Atty. Gen., Jan. 16, 1932.

Where it is sought to obtain right of way for road through village, through township and through unorganized territory, it is necessary to institute three separate proceedings: one by town, one by village and one by county. Op. Atty. Gen., June 1, 1932.

Action of commissioner of highways in making order for acquisition of lands for highways is final and binding upon the state auditor and all others, including the courts, until set aside by judicial proceedings, such as certiorari, instituted directly to review, correct or set aside order of commission. Op. Atty. Gen. (2291-1), Dec. 31, 1934.

Commissioner of highways may install lights on trunk highways at intersections in cities and villages and pay for cost out of highway funds. Op. Atty. Gen. (229e-3), Feb. 3, 1937.

Commissioner has power to purchase land adjacent to present central office building for purpose of providing room for expansion and pay for same out of trunk highway fund. Op. Atty. Gen. (229g), May 27, 1938.

Sub. 1.

Finding that one who in name of contractor, accepted in writing order from subcontractor to pay to plaintiff bank money coming on an estimate for work done on a highway contract, had authority so to do is sustained by evidence. Farmers State Bank v. A., 195M475, 263NW 443. See Dun. Dig. 156.

Question being as to payment out of "highway fund" for private property sought to be purchased by highway commissioner near, but not part of, right of way of a trunk highway, and there being no formal action by commissioner indicating purpose for which property in question was to be acquired or used, attempted purchase was void and beyond statutory power of highway commissioner. State v. Werder, 200M148, 273NW714. See Dun. Dig. 8452.

Commissioner of highways may legally enter into agreement with proper authorities of the U. S. concerning maintenance, repairs, and reconstruction of highways within the Fort Snelling Reservation, including bridge constructed by war department over Mississippi river. Op. Atty. Gen. (229k), Feb. 15, 1938.

Sub. 2.

$360,000 appropriated annually from trunk highway sinking fund to Revenue fund of state. Laws 1933, c. 110.

Sub. 4.

A city is not liable for injuries received on a trunk highway lying within the city even though it has undertaken to remove snow therefrom unless it is guilty of some affirmative act. Op. Atty. Gen., Feb. 3, 1932.

Highway used as temporary state trunk highway reverts to county of subdivision thereof on construction of new trunk highway. Op. Atty. Gen., Mar. 26, 1933.

Duty and liability of city for accident occurring on state trunk highway by operating snow plow. Op. Atty. Gen. (844b-8), Apr. 30, 1936.

City is not liable for portion of street constituting part of trunk highway and under the control of the commissioner of highways. Op. Atty. Gen. (396c-17), July 7, 1936.

Sub. 4. (a).

When the state relinquishes a road used as a temporary location for a trunk highway for a more permanent location, that portion so relinquished takes on its former status. Op. Atty. Gen. (377a-15), Aug. 1, 1934.

Where "state rural highway" was established and constructed under Laws 1911, ch. 254, and was later designated as a temporary trunk highway and was turned back to county by state under §2554(4)(a) the highway could not revert to its former status of "state rural highway" but became a county road that could not be turned over to town to be maintained by it, except pursuant to §2582. Op. Atty. Gen. (377a-15), Nov. 7, 1935.

Sub. 6.
A demand by taxpayers upon state officials to bring actions to annul and cancel invalid highway contracts held not necessary.. Regan v. B., 188M192, 247NW12. See Dun. Dig. 4480.

Payment of automobile license fees and of state gasoline tax gives taxpayer a special interest in honest expenditure of highway funds entitling him to maintain an action to restrain payment of such funds upon void contracts. Regan v. B., 188M192, 247NW12. See Dun. Dig. 4480, 7316.

State officers could not lawfully stipulate that a void contract should be performed and a percentage of contract price be paid from state funds. Regan v. B., 188M 192, 247NW12. See Dun. Dig. 8828.

"Emergency", permitting letting of contract without published notice means a situation such that state will suffer serious loss if usual published notice is given. Op. Atty. Gen. (707a-13), Aug. 31, 1938.

Required notice before letting of contract for trunk highway construction work and before making purchases of materials, machinery, and supplies, is governed by §2554(6) rather than §53-10. Id.

Sub. 17.
Contracts being void, there could not be arbitration. Regan v. B., 188M192, 247NW12. See Dun. Dig. 487a, 500.

Sub. 18.
Cash deposited as bail by persons arrested by officers of the state motor patrol, and forfeited when they do not appear for trial, should be paid to the state treasurer and not the county treasurer. Op. Atty. Gen., Jan. 27, 1931.

Fines traceable to prosecutions by highway patrolman may be remitted by judge to municipal treasurer and by treasurer remitted to state. Op. Atty. Gen. (199b-4), Aug. 12, 1936.

Authority of highway patrolmen is limited to crimes actually committed upon highway in their presence or in their immediate presence and to a limited extent to crimes committed outside of their presence where patrolmen are called upon by other police authorities to render assistance or in cases involving violations of traffic laws, but they have no authority to arrest a party after lapse of 5 months on suspicion that he was a hit and run driver, or to pick up such party for questioning purposes. Op. Atty. Gen. (229a-7), Mar. 1, 1937.

(18) (a).
Highway patrolman has no authority over crime committed elsewhere than upon trunk highways and which do not relate to an offense against trunk highway laws, and acts only as a private citizen in assisting some other police agency in connection with a crime not related to trunk highways, and he is not protected by compensation insurance if killed while so engaged. Op. Atty. Gen. (229k-1), March 20, 1939.

(18)(b).
It is duty of state treasurer upon receipt of proper invoices from counties to make reimbursements, but such invoices must be audited and approved first by highway department. Op. Atty. Gen. (199b-3), Mar. 3, 1938.

County should be reimbursed for court costs, cost of boarding prisoners, fees of jurors actually serving on highway patrol cases, and any direct expense in connection with arrest and prosecution. Id.

Where a patrolman arrests or apprehends a violator upon trunk highway, regardless of fact as to whether or not he signs complaint, any fines collected from violator should be paid to state treasury. Op. Atty. Gen. (199b-4), Mar. 24, 1938.

2554–½. State patrolman may be discharged—when.—Every person employed and designated as a state highway patrolman under and pursuant to the provisions of Laws 1929, chapter 355 [§2554], and acts amendatory thereof, after six months of continuous employment, shall continue in service and hold his position without demotion, until suspended, demoted or discharged in the manner hereinafter provided for one or more of the causes specified in section 2 hereof. (Act Apr. 24, 1935, c. 254, §1.)

Civil service, see §254-57(1)(p).

Assistant supervisors come within provisions of civil service act. Op. Atty. Gen. (229a-7), July 20, 1937.

2554–½a. Causes.—Causes for suspension, demotion or discharge shall be:

(1) Conviction of any criminal offense in any court of competent jurisdiction subsequent to the commencement of such employment.

(2) Neglect of duty or wilful violation or disobedience of orders or rules.

(3) Inefficiency in performing duties.

(4) Immoral conduct or conduct injurious to the public welfare, or conduct unbecoming an officer.

(5) Incapacity or partial incapacity affecting his normal ability to perform his official duties. (Act Apr. 24, 1935, c. 254, §2.)

2554–½b. Charges to be made in writing.—The charge or charges against any such state employe shall be made in writing and shall be signed and sworn to by the person making the same, which written charge or charges shall be filed with the commissioner of highways. Upon the filing of same, if the commissioner shall be of the opinion that such charge or charges constitute a ground for suspension, demotion or discharge, he shall order a hearing to be had thereon, and fix a time for such hearing. Otherwise, he shall dismiss such charge or charges. At least ten days before the time appointed for the said hearing, written notice specifying the charge or charges filed and stating the name of the person making the charge or charges shall be served on said employe personally or by leaving a copy thereof at the usual place of abode of such employe, with some person of suitable age and discretion, then residing therein. If the said commissioner of highways orders a hearing, he may suspend such employe pending his decision to be made after such hearing. (Act Apr. 24, 1935, c. 254, §3.)

2554–½c. Commissioner may compel attendance of witnesses.—The commissioner of highways shall have power to compel the attendance of witnesses at any such hearing and to examine them under oath and to require the production of books, papers and other evidence at any such hearing and for that purpose may issue subpoenas and cause the same to be served and executed in any part of the state. The employe accused shall be entitled to be confronted with the witnesses against him and have an opportunity to cross-examine the same and to introduce at such hearing testimony in his own behalf, and shall be entitled to be represented by counsel at such hearing. The commissioner of highways within 25 days after such hearing shall render his decision in writing and file the same in his office. If after such hearing he finds that any such charge made against such state employe is true, he may punish the offending party by reprimand, suspension without pay, demotion or dismissal. (Act Apr. 24, 1935, c. 254, §4.)

2554–½d. Right of appeal.—Any such state employe who is so suspended, demoted or dismissed may have such decision or determination of the commissioner of highways reviewed by a writ of certiorari in the district court of the county where such state employe resides. If such decision or determination of the commissioner of highways shall be finally rejected or modified by the court, the said state employe shall be reinstated in his position and the commissioner of highways shall pay to the said state employe so suspended out of the funds of the state and salary or wages withheld from him pending the determination of the charge or charges or as may be directed by the court. If upon any such hearing the said commissioner of highways shall find the charge or charges made against such state employe are not true or shall dismiss such charges after such hearing, the said state employe shall be reinstated in his position and any salary or wages withheld from such state employe pending the determination or decision of the commissioner upon such charges shall be paid to the said state employe by the commissioner of highways out of state funds. (Act Apr. 24, 1935, c. 254, §5.)

2554–½e. Application of act.—This act shall apply to all persons employed and designated under and pursuant to Laws 1929, Chapter 355, and acts amendatory thereof, except the chief supervisor of the state highway patrol. (Act Apr. 24, 1935, c. 254, §6.)

2554-1. Relinquishment of highway easements.—The governor in behalf of the state may, upon recommendation of the commissioner of highways and upon repayment to the state for deposit in the trunk highway fund of any moneys paid for the acquisition thereof, relinquish and quitclaim to the fee owner or owners any easement or portion thereof owned but no longer needed by the state for trunk highway right

of way purposes, or may quitclaim to any person the fee title to any lands owned by the state for trunk highway right of way purposes, but no longer needed for such purposes; provided, however, that whenever less than the entire easement or part of the fee title of any such land owned by the state is to be relinquished and quitclaimed, the amount of moneys so to be repaid or paid to the state shall not be a less proportion of the consideration paid therefor by the state than the proportion of the area or estate of the part so to be relinquished and quitclaimed bears to the area or state of the entire easement or estate. (Act Apr. 22, 1929, c. 287, §1.)

2554-2. [Repealed.]

Repealed Jan. 27, 1936, Sp. Ses., 1935-36, c. 100, §2.

Act Jan. 27, 1936, Ex. Ses., c. 100, §1, appropriates $1,800,000 out of trunk highway sinking fund to be available for fiscal year ending June 30, 1936.

2554-3. Highway commissioner may designate toll bridge as part of temporary trunk highway system.— The Commissioner of Highways, if and when he shall deem and determine that it is to the best interests of the public and necessary in the location, construction, improvement or maintenance of any trunk highway, is hereby authorized and empowered to designate by order, as a part of the temporary trunk highway system, any toll bridge situated wholly within this state, and to acquire by purchase, gift or condemnation, as provided by statute, such public rights or easement on behalf of the State of Minnesota, in, to or over any such toll bridge as will enable the public to use any such bridge for highway traffic free of toll. (Apr. 14, 1937, c. 218, §1.)

Sec. 2 of Act Apr. 14, 1937, cited, provides that the Act shall take effect from its passage.

2557. Construction and maintenance of trunk highways in cities and villages.— * * * * * * *

Sub. 3. The commissioner of highways for and on behalf of the state is hereby authorized to enter into agreements to make settlement with municipalities for the construction, improvement and for maintenance of trunk highways within the limits of such municipalities, and such municipalities are hereby authorized to undertake and perform such work and to enter into agreements with the state for the performance and responsibility of such work upon such terms as may be agreed upon and the said commissioner is further authorized to make settlement with and pay to such municipalities for benefits which have accrued to any trunk highway by reason of the construction, improvement and maintenance heretofore done, made or furnished by such municipalities within their limits. (Added by Act Apr. 22, 1933, c. 440, §4; Apr. 13, 1939, c. 225.)

A village approving plans of construction by state highway commissioner of a trunk highway upon a village street and authorizing a change of grade according to such plan, makes itself liable for the damage caused abutting property by such change in the absence of assumption of such liability by the state. Maguire v. Village of Crosby, 178M144, 226NW398.

Followed in Foss v. M., 178M430, 227NW357.

It is duty of municipality maintaining a bridge to use ordinary care to make it safe for reasonably anticipated ordinary travel but not extraordinary and unanticipated use. Tracey v. C., 185M380, 241NW390. See Dun. Dig. 1120.

In action against city, proximate cause of car going through railing of bridge held collision of two cars and not method of maintaining bridge. Tracey v. C., 185M 380, 241NW390.

Where trunk highway through city was entirely new construction over land not theretofore dedicated as a public street, municipality was under no duty to light and keep it in repair, but the city may construct special improvements, such as sidewalks, curbs, sewers, etc., along, but not within the right of way of the trunk highway. Op. Atty. Gen., Oct. 15, 1930.

Village may construct curbing and gutters for trunk highway and pay for the same with certificates of indebtedness, but if it issues bonds there must be vote of electors, and improvement may be paid out of general fund without assessment against abutting owners. Op. Atty. Gen. (476a-4), Aug. 29, 1935.

A village is not liable for any injury resulting from failure to properly maintain trunk highway, at least where village does not affirmatively create a dangerous condition. Op. Atty. Gen. (844b-6), Jan. 27, 1936.

Section applies uniformly to all cities throughout the state, and city of Pipestone, operating under home rule charter, may do paving and pay for it out of general funds. Op. Atty. Gen. (379c-14), Apr. 15, 1936.

City of Pipestone under its charter may issue bonds to carry out agreement with the state highway commissioner for improvement of street without vote of electors, but resolution authorizing bonds must receive 4/5 vote of all members of council. Op. Atty. Gen. (36c-7), June 6, 1936.

City may pay for its share of improvement of trunk highway out of any available funds. Op. Atty. Gen. (59a-22), Feb. 5, 1937.

(1).

If city enters into contract with highway department for construction of street, a warrant to pay for this work may be issued without any additional resolutions. Op. Atty. Gen. (63b-19), Oct. 23, 1937.

2558. Public utilities and work on trunk highways.

It is duty of railroad to construct and maintain roadbeds and approaches where track crosses trunk highway on grade. Engstrom v. D., 190M208, 251NW134. See Dun. Dig. 8119.

2558-1. Logging railroads across highways.

This act is valid. Otterstetter v. S., 143M442, 174NW 305; Town of Kinghurst v. I., 174M305, 219NW172.

2559. State road and bridge fund—Apportionment. Taken from Amend 1941-C 161

Sub. 1. For the purpose of state aid in the construction and improvement of public highways, there shall hereafter be levied annually on all taxable property of the state a tax of one mill on each dollar of valuation, to be collected in the same manner as other state taxes, and the money so raised, together with all moneys accruing from the income derived from investments in the internal improvement land fund, or that may hereafter accrue to said fund, and all funds accruing to the state road and bridge fund, however provided, shall constitute the general state road and bridge fund.

Sub. 2. On or before the first Tuesday in April of each year, the commissioner of highways, the state treasurer and the state auditor shall estimate the probable sum of money that will accrue to the state road and bridge fund during the current year and after first setting asside therefrom an amount not exceeding $50,000 for a reserve maintenance fund, to be expended as hereinafter provided, shall apportion the balance of the state road and bridge fund among the different counties of the state and the commissioner of highways shall immediately send a statement of such apportionment to the state auditor and to the county auditor of each county, showing the amount apportioned to each county for expenditure during such year. The amount so apportioned to each county shall be paid by the state to the county auditor of each of said counties out of the state road and bridge fund in the manner provided by law.

Sub. 3. Not less than one per cent nor more than three per cent of the state road and bridge fund available in any year and remaining after setting aside the funds hereinbefore provided for, shall be apportioned to any county.

Sub. 4. The amount so apportioned to each of the counties as hereinbefore provided shall be expended by the county board of each county in constructing, improving and maintaining county aid and state aid roads therein in conformity with the provisions of law now existing governing such expenditure on county aid and state aid roads, provided that at least 40 per cent of the money so apportioned to each county shall be used for maintenance of state aid road and bridges therein.

Sub. 5. That any state aid heretofore apportioned to any county, but not yet paid over to such county, shall be paid to such county when and as soon as said state aid shall become due and payable under existing law notwithstanding any provision in this Act. ('21, c. 323, §18; Feb. 16, 1929, c. 22; Apr. 1, 1933, c. 142.)

County may not purchase out of its road and bridge fund a garage building in which to house highway trucks. Op. Atty. Gen. (125a-40), June 5, 1939.

County may use a small part of gas tax money to construct a shelter for road machinery if reasonably neces-

sary and provided no suitable space is available at a reasonable rental. Op. Atty. Gen. (107B-16), June 12, 1939.

2560. Designation state aid roads—Revocation.

Evidence does not show road to have been designated a state-aid road under §2560, so as to be immune to town board action under §2583. Peterson v. B., 199M455, 272NW391. See Dun. Dig. 8455.

A city may be reimbursed by a county out of special state aid paid to it by the State for the paving of a State aid road running through the city. Op. Atty. Gen., Apr. 16, 1931.

To alter state aid road additional easements may be acquired under Laws 1929, c. 155, and petition and hearing as provided by §2582, but decision authorizing change in location must be made by joint action of county board and commissioner of highways. Op. Atty. Gen., Feb. 14, 1933.

On relocation of state aid road vacted portion returns to its original status as a county road in absence of declaration by county board as to its status. Op. Atty. Gen., Feb. 14, 1933.

State Aid parkways may be designated by county board within corporate limits of city of fourth class. Op. Atty. Gen. (379c-11), Mar. 5, 1935.

(2).

County may not turn over fund to a village for construction by village of a state aid road. Op. Atty. Gen. (379c-11), June 15, 1939.

(4).

In absence of agreement, county rather than city must pay for improvement of state aid road running through city of fourth class. Op. Atty. Gen. (377b-8), Aug. 8, 1938.

2560-1. County boards may acquire land in certain cases.—Whenever in the discretion of the county board of any county it is determined that an easement across additional lands is needed for the purpose of altering and existing state aid or county aid road in cases where the general course of such road is not materially altered the county board shall have power to acquire such easement by purchase or gift or by condemnation in accordance with the provisions of General Statutes 1923, Chapter 41, as amended. (Act Apr. 11, 1929, c. 155.)

Op. Atty. Gen., Feb. 14, 1933; note under §2560.

Plan for improvement of state aid road held not to alter general course of road, and court acquired jurisdiction. County of Otter Tail v. N., 187M277, 245NW 427.

Board may pay for easement by building driveway for grantor. Op. Atty. Gen. (377B-2), May 29, 1939.

2561. Designation of road on county line a state aid road.—Whenever there is an established road running along or near the common boundary line or lines of two or more counties, the county boards of two or more of such counties may make application to the commissioner of highways for the designation of such road as a state aid road. The commissioner of highways shall then investigate the desirability of such designation, and, if he shall decide that is is desirable so to do, shall so designate such road and determine and fix the part of the cost of the improvement and maintenance thereof to be paid by each of the counties abutting upon and adjoining such road. ('21, c. 323, §20; Apr. 17, 1929, c. 216.)

2562. Maintenance of state aid roads.

(1).

In absence of agreement, county rather than city must pay for improvement of state aid road running through city of fourth class. Op. Atty. Gen. (377b-8), Aug. 8, 1938.

2563. Procedure for constructing, etc.

This section is not applicable to the expenditure of money under Laws 1929, c. 283, post, §§2720-88 to 2720-99, relating to distribution of gasoline tax. Op. Atty. Gen., May 1, 1930.

A county may pay the reasonable value of graveling jobs on state aid roads even though contracts were let without advertising for bids. Op. Atty. Gen., Sept. 26, 1931.

Section relates only to work done by contract, and county board may have county road work done by day labor and hire necessary machinery at a stipulated rate per hour, though no purchase of materials in excess of $500 may be made without first advertising for bids, but contracts for construction in excess of $500 may not be made under guise of day labor work without first calling for bids. Op. Atty. Gen. (707a-1), Sept. 29, 1937.

2564. State aid for roads.—After any county board shall have completed any work on a state aid road for which state aid is claimed, the auditor of such county shall make a statement to the commissioner of highways showing the location, nature and cost of such work, and shall also submit a detailed report from the county highway engineer in charge showing all such details concerning the same as may be required by the commissioner of highways. On receipt thereof the said commissioner of highways shall proceed to examine such reports, and if he finds the same satisfactory and that the work has been done in substantial compliance with the plans and specifications therefor, and the contract therefor, if any, he shall certify the same to the state auditor who shall issue a warrant for the state's share thereof as shown by said report, payable to the treasurer of such county, but in no case shall said warrant, with all other warrants, exceed the amounts allotted to such county. Provided that every county which has constructed or improved any state rural highway pursuant to Laws 1911, Chapter 254 [Mason's Minn. St., 1927, §2620-14, note], and has issued its bonds to provide funds for the payment of the cost thereof, which during any year fails to avail itself of any funds allotted to it out of the general state road and bridge fund by the construction, improvement or maintenance of state aid roads, but which shall pay the principal of or interest on such bonds or any part thereof, shall be entitled to receive from the general state road and bridge fund for the benefit of its county road and bridge fund, the same amount as it would have received had the amount so paid been expended for the construction, improvement or maintenance of state aid roads within such county. Whenever any such county shall make any such payment the auditor thereof shall certify the fact of such payment, the date and amount thereof to the state auditor who shall thereupon issue and transmit to the treasurer of such county a warrant for such amount. The proceeds thereof shall be placed in the county road and bridge fund and shall be disbursed in the same manner as other county funds are disbursed but only for the payment of the cost of constructing and maintaining state aid roads.

Provided, that the State Auditor shall not issue any such warrant to said county until the Commissioner of Highways shall certify to said State Auditor that said county is entitled to receive any such payment out of said state-aid road and bridge fund, and for the purpose of furnishing said Commissioner of Highways proper information, the County Auditor of any such county shall certify the fact of such payment, the date and amount thereof, to said Commissioner of Highways in the same manner as to the State Auditor. ('21, c. 323, §23; Apr. 25, 1931, c. 356.)

2564-1. Interstate bridges connecting state trunk highway system with systems of adjoining states—Purpose of law.

Acquisition by certain cities of toll bridges across interstate waters. Laws 1939, c. 316.

2564-14. Counties may pay bonds in certain cases.—That where a village has heretofore issued and sold, or shall hereafter issue and sell, its bonds to defray the cost of constructing a bridge across a river constituting at such place the boundary line between this state and another state, and the highway of which the portion of said bridge within this state is a part has been or shall be, after the issue of such bonds, made a state aid road, the county within which such portion of said bridge is located is hereby authorized to appropriate money from its road and bridge fund, not exceeding the sum of $20,000, to pay said bonds. (Act Mar. 30, 1929, c. 114.)

2564-15. Bridges over stream forming state boundary—Municipalities may unite.—Counties, towns, cities and villages bordering upon streams of water which form the boundary line of this state may construct and maintain foot and wagon bridges across any such stream the same as if such stream was wholly within the limits of the county, town, city or village constructing the same; and any such local subdivision

within which such bridge may be desired may singly or in conjunction with other such subdivisions unite in the construction and maintenance of said bridge with any one or more of the local subdivisions in the adjoining state or province into which any such bridge may extend; provided, that in such construction and maintenance the rights of adjoining states and provinces shall in no wise be infringed. ('07, c. 399, §1.)

Omitted from 1923 and 1927 compilations as not of general application.

2564-16. Bridges over navigable river forming state boundary—Appropriation by county board of not over one-half cost—Proceedings.—Whenever one-half the resident taxpayers of any county, whose county line is the boundary line of a state, as appears by the last preceding assessment roll of such county, shall petition the board of county commissioners of such county, praying for an appropriation to build a bridge across any navigable river on the line of any such county, when the county line is the boundary line of a state, setting forth therein the location of such bridge as near as may be, its estimated cost and the necessity therefor to accommodate the general traveling public, the manner in which it is proposed to pay for such structure, and the time when it will be completed, such petition to be duly verified by the affidavits of at least fifteen of the petitioners therein named, it shall be the duty of the board of county commissioners to publish a notice in the official paper of the county, once each week for three consecutive weeks, briefly stating the object of such petition and that the same will be heard and considered at the next regular meeting of such board. At the time appointed for the hearing of such petition, the board of county commissioners shall investigate the need of such bridge, and if they find the same to be necessary shall, by resolution duly entered upon the minutes of the board, appropriate towards the building of such bridge, from the county treasury a sum not exceeding one-half of the estimated cost of such bridge to be paid as hereinafter provided; provided, however, the appropriation hereinbefore mentioned shall be upon condition that a sufficient bond be given, conditioned that the remaining one-half or more, as the case may be, of the cost of such bridge will be paid: provided, further, that the consent of the general government to span such river shall first have been obtained. ('09, c. 425, §1.)

Omitted from 1923 and 1927 compilations as not of general application.

2564-17. Same—Committee to confer with neighboring state or municipality, etc.—If the remaining one-half of the cost of such bridge shall be made up by an appropriation from any neighboring state or by a municipality in this state, to be expended under a commission or through any other agency, the board of county commissioners shall appoint a committee from its own number, of three or more, to meet such other municipal agency, confer with its members and advise and assist in the accomplishment of such improvement in the best possible manner, and when the work is completed and approved jointly by such agency and committee, which approval shall be in writing and duly reported to such board and recorded in the minutes thereof, the board shall thereupon direct the county auditor to draw his warrant upon the treasurer in favor of the contractor for the amount due him from such county. ('09, c. 425, §2.)

2564-18. Same—Bonds, when may be issued—Tax levy.—When one-half or such other proportion as may be, of the cost of such improvement shall be provided for by any municipality within this state, it shall be lawful for such municipal corporation, by a majority vote of the legal voters thereof after ten days' notice, to meet the necessary expense by the issuance of bonds bearing interest not to exceed seven per cent per annum and not to run longer than twenty years after the date of issue, nor to be sold for less than par value, interest payable semi-annually; provided, that the limit of indebtedness of such corporation prescribed in the constitution is not hereby exceeded. In case the limit of indebtedness of such municipality would be thereby exceeded, then it shall be lawful for such municipality to make a sufficient tax levy for general purposes to meet the necessary expenditure in the construction of such bridge, and when the same shall be completed and accepted the share of the cost thereof to be borne by such municipality shall be paid out of the general fund by orders drawn in the usual form and manner. ('09, c. 425, §3.)

2564-19. Same—Not more than one wagon bridge—Limit of cost.—Not more than one wagon bridge across a navigable river in each county shall be built under this article, and the total cost of such bridge shall in no case exceed the sum of fifty thousand dollars. ('09, c. 425, §4.)

2564-20. Designation of state aid parkways—powers of county board.—The County Board of any county may, with the consent of the Commissioner of Highways and the Commissioner of Conservation, designate any established road or specified portion thereof, including portions lying within an established public park or public recreational area, in its county, as a state aid parkway, which said road connects with a trunk highway and a public park or public recreational center outside the corporate limits of any borough, village or city, and construct, reconstruct, improve and maintain the same in accordance with the regulations of the commissioner of highways relative to state aid parkways. (Act Jan. 9, 1934, Ex. Ses., c. 61, §1; Apr. 21, 1939, c. 357.)

What constitutes "public recreational center" is question of fact not to be determined by attorney general. Op. Atty. Gen. (330a-5), Oct. 29, 1934.

Legislature intended to leave question of determining advisability of establishment of state aid parkways to discretion of commissioner of highways and commissioner of conservation. Id.

State Aid parkways may be designated by county board within corporate limits of city of fourth class. Op. Atty. Gen. (379c-11), Mar. 5, 1935.

2564-21. Same—Constructed under state aid road laws.—State Aid Parkways shall be constructed, reconstructed, improved and maintained in the same manner and under the same laws as State Aid roads are now constructed, reconstructed, improved and maintained pursuant to the Laws of 1921, Chapter 323, Section 9, the same being Mason's Minnesota Statutes of 1927, Section 2550; Laws of 1921, Chapter 323, Section 18, the same being Mason's Minnesota Statutes of 1927, Section 2559, as amended by Laws of 1933, Chapter 142; Laws of 1921, Chapter 323, Section 19, the same being Mason's Minnesota Statutes of 1927, Section 2560; Laws of 1921, Chapter 323, Section 20, the same being Mason's Minnesota Statutes of 1927, Section 2561, as amended by Laws of 1929, Chapter 216; Laws of 1921, Chapter 323, Section 21, the same being Mason's Minnesota Statutes of 1927, Section 2562; Laws of 1921, Chapter 323, Section 22, the same being Mason's Minnesota Statutes of 1927, Section 2563; Laws of 1921, Chapter 323, Section 23, the same being Mason's Minnesota Statutes of 1927, Section 2564, as amended by Laws of 1931, Chapter 356; and said laws are hereby made a part of this Act. (Act Jan. 9, 1934, Ex. Ses., c. 61, §2.)

2564-22. Same—term "state aid road" to apply to state aid parkway.—Wherever the words, "State Aid Road" or "State Aid Roads," or either of them, appear in the provisions of the existing laws applicable to State Aid roads as herein designated in Section 2 of this Act, they shall, for the purposes of this Act, be deemed to include State Aid Parkway or Parkways. (Act. Jan. 9, 1934, Ex. Ses., c. 61, §3.)

Sec. 4 of Act Jan. 9, 1934, cited, provides that the act shall take effect from its passage.

2565. Powers of County Board. * * * * * * * * * *

Sub. 2. The county board of any county may appropriate from its road and bridge fund to any town, village, borough or city of the third or fourth class in its county, such sums of money as are available and which it deems advisable to aid such towns, villages, boroughs or cities of the third or fourth class in the construction and maintenance of roads, streets or bridges therein, and such appropriations may be directly expended by the county board, upon such roads, streets or bridges as shall be designated by the governing body of such towns, villages, boroughs or cities of the third and fourth class; provided, that in counties having a population of two hundred twenty-five thousand (225,000) inhabitants or over, such county aid may be expended in accordance with the provisions of Chapter 164, Laws of 1905, as amended by Chapter 208, Laws of 1909. Provided, further, that no village, borough, or city of the third or fourth class shall receive an appropriation hereunder exceeding 20 per cent of the annual tax levy for road and bridge purposes paid by such village, borough or city of third or fourth class. (21, c. 323, §24; '23, c. 439, §4; Apr. 13, 1929, c. 179.)

* * * *

Act authorizing county board of certain counties to pay actual personal or property damages sustained by reason of negligence of county highway engineer or other county employe in leaving county road in dangerous condition for public travel. Laws 1931, c. 41.

Act authorizing board of county commissioners and county board of education for unorganized territory in certain counties to indemnify employes against liability in operating motor vehicle. Laws 1931, c. 42.

Includes interstate bridges. Op. Atty. Gen., Apr. 11, 1929.

There is no limit upon the amount which a county can appropriate from its road and bridge fund to a town to aid in the construction of roads. Op. Atty. Gen., June 6, 1929.

There is no limit upon the amount which county can appropriate to a town. Op. Atty. Gen., June 6, 1929.

County board may appropriate moneys from the county road and bridge fund to aid in the construction and maintenance of roads designated as county aid roads under Laws 1929, c. 283. Op. Atty. Gen., Dec. 20, 1929.

Where road extending into two counties over bridge across river, forming boundary between counties, was designated as a state aid road by both counties, each county is chargeable for the maintenance of that portion of the bridge within its territorial limits, and no more, though county may expend money, it it desires, in the maintenance of bridge or road in another county. Op. Atty. Gen., Aug. 18, 1930.

Under this section as amended by Laws 1929, c. 179, where county board advertised for bids for graveling a highway as a county road, when it was in fact a town road, it was without authority to proceed with the contract, and was not liable to the contractor for refusing to execute the contract. Op., Atty. Gen., Sept. 8, 1930.

Safety isles on University Avenue in St. Paul constitute an integral part of the street itself, and the county may lawfully expend funds to assist in rearranging and remodeling them. Op. Atty. Gen., Feb. 26, 1931.

County may not appropriate funds for improvement of street in city of second class. Op. Atty. Gen., July 6, 1933.

Department of conservation should first get proper permission from local authorities before proceeding to clear right of way or develop road bed in connection with emergency conservation work. Op. Atty. Gen. (377a-4), Aug. 26, 1935.

Duty to construct and repair bridges on town roads rests with township, though county is authorized to appropriate money to towns in aid of construction and maintenance. Op. Atty. Gen. (377b-10(h)), June 3, 1938.

Sub. 1.

One, who at the request of individual members of county board traveled and registered unemployed under the public relief works' program could be allowed compensation and expenses out of road and bridge fund. Op. Atty. Gen., Dec. 9, 1933.

County board and highway engineer may appropriate money out of road and bridge fund for furnishing of food and shelter to men employed on county roads. Op. Atty. Gen., Dec. 27, 1933.

County board may appropriate money out of road and bridge fund for PWA and CWA checkers or timekeepers in connection with employment of poor persons on county roads where such employment is under supervision of county board and county highway engineer. Op. Atty. Gen., Jan. 11, 1934.

County board may appropriate money out of road and bridge fund for incidental expenses in connection with road work performed in co-operation with federal and state CWA program. Op. Atty. Gen., Mar. 2, 1934.

Sub. 2.

County board could not rescind appropriation of money to township for town roads without consent of town. Op. Atty. Gen., Mar. 3, 1933.

Cost of constructing town roads is imposed upon township. Op. Atty. Gen. (377b-10(f)), Oct. 20, 1936.

County board may appropriate funds for removal of snow from town road which may be expended either by towns or directly by county board. Op. Atty. Gen. (107b-16), Dec. 15, 1936.

Sub. 5.—Tax levy.

Cited in connection with holding that Laws 1927, c. 147, is valid. 171M312, 213NW914.

Moneys in road and bridge fund raised pursuant to §2565, subd. 5, may be transferred or borrowed from such fund to pay for an addition to the court house pursuant to §668, subd. 7, provided that the county board determines there is a surplus in such fund beyond needs of current year by unanimous action. Op. Atty. Gen. (107b-16), Sept. 29, 1934.

Duty of public to care for the poor is absolute and any fund may be transferred to poor fund, except where they are held for a specific purpose imposed by law, and money in road and bridge fund raised pursuant to §2565(5) may be transferred, but a different rule applies with reference to gas tax money received pursuant to Laws 1929, c. 283. Op. Atty. Gen. (107a-12), July 3, 1935.

2565-1. Appropriations from county road and bridge fund for bridges in certain municipalities.—Whenever the council of any village, borough, or city of the fourth class, or city of the third class, may determine that it is necessary to build or improve any bridge or bridges including approaches thereto and any dam or retaining works connected therewith, upon or forming a part of streets, or highways either wholly or partly within its limits, the county board shall appropriate such money as may be necessary therefor from the county road and bridge fund, not exceeding during any year the amount of taxes paid into the county road and bridge fund during the preceding year, on property within the corporate limits of said village or city. Such appropriation shall be made upon the petition of the council, which petition shall be filed by the council with the county board prior to the fixing by said board of the annual county tax levy. The county shall determine the plans and specifications, shall let all necessary contracts, shall have charge of construction, and upon its request warrants in payment thereof shall be issued by the chairman of the board and county auditor from time to time as the construction work proceeds. Any unpaid balance may be paid or advanced by the village or city. On petition of the council, the appropriations of the county board, during not to exceed three successive years, may be made to apply on the construction of the same items and to repay any money advanced by the village or city in the construction thereof. Provided, that this section shall not limit the authority of the county board to appropriate and expend money under the provisions of Mason's Minnesota Statutes of 1927, Section 2565. Provided, further, that none of the provisions of this act shall be construed to be mandatory as applied to any village or city whose assessed valuation exceeds $500.00 per capita of its population. ('25, c. 232, §1; Apr. 29, 1935, c. 343.)

2565-4. County board may appropriate money to cities in certain cases.—The county board of any county in this state now or hereafter having a population of not less than 225,000 inhabitants nor more than 330,000 inhabitants shall appropriate annually from its Road and Bridge Fund to towns, villages and cities of the third or fourth class in its county, the sum of $40,000 to aid such towns, villages or cities of the third or fourth class in the construction and maintenance of town roads, streets or bridges therein, and such appropriation shall be apportioned in the following manner, to-wit: 65 per cent thereof equally to each town and 35 per cent thereof to villages and cities of the third or fourth class proportionately according to the assessed valuation of all property for taxation, exclusive of money and credits in said villages or cities of the third or fourth class and shall be expended by any such county board under its supervision and control, upon town roads, streets, or bridges as shall be designated by the gov-

erning body of any such towns, villages and cities of the third or fourth class therein. (Act Apr. 20, 1931, c. 264, §1.)

County may not add five per cent "handling charge" to actual cost of work done in village, unless it represents actual expenditure by county. Op. Atty. Gen., June 15, 1932.

Village council is to select streets, bridges, etc., upon which money is to be expended. Op. Atty. Gen., June 15, 1932.

Authority of village council is limited to selection of particular street or bridge upon which money appropriated by county board may be expended, and employment, supervision and control over those making improvement is under control of county board. Op. Atty. Gen., Aug. 4, 1932.

2565-5. All laws and parts of laws inconsistent herewith are repealed. (Act Apr. 20, 1931, c. 264, §2.)

2565-6. County boards may levy annual tax on unorganized territory for road and bridge purpose not to exceed fifteen mills on the dollar.—The county boards of the several counties in which there may be situated any territory not organized for township purposes are hereby authorized to, and they may in their discretion, annually levy a tax for road and bridge purposes on all the real and personal property in such unorganized territory, exclusive of moneys and credits taxed under the provisions of Chapter 285, Laws 1911, not exceeding, however, fifteen mills on the dollar of the assessed value of such property. Such tax, if levied, shall be additional to the tax which the counties are authorized to levy for county road and bridge purposes. ('15, c. 44, §1.)

Omitted from 1923 and 1927 compilations as being local or special.

Power of county board to levy taxes for payment of general operating expenses of dissolved territory. Op. Atty. Gen. (427h), Feb. 27, 1937.

2565-7. Duty of auditor in extending the tax levy.—If any county board deems it desirable to levy such a tax on such property, it may at the time it levies the county taxes, by resolution reciting such fact, determine the amount so to be levied in each congressional township of such unorganized territory for the then current year. It shall be the duty of the auditor to extend such tax so levied upon the tax books of the county, at the same time and in the same manner as other taxes for county purposes are extended, as to property in such unorganized territory, and the same shall be collected and the payment thereof enforced at the same time and in the same manner as other county taxes on such property, and with like penalties for non-payment at the time prescribed by law ('15, c. 44, §2.)

2565-8. Collected amount to be set apart as a separate road and bridge fund.—Such tax, when collected, shall be set apart in separate funds in the county treasury; such funds shall be designated in such a manner as to describe each thereof as the road and bridge fund for the congressional township the property of which is so taxed to create such fund. ('15, c. 44, §3.)

2565-9. Expenditure of fund in adjoining or other townships authorized.—Such fund shall be expended under the direction of the county board for the construction, improvement, maintenance and repair of roads and bridges in the congressional township the property of which was so taxed to create such fund. Provided, however, that such fund, in any county having not less than thirty-five nor more than forty congressional townships and having an assessed valuation of not less than sixteen million or more than twenty million dollars, may be expended in any adjoining organized or unorganized township, or portion thereof, upon a petition being presented to the county board, signed by a majority of the resident taxpayers of said unorganized township from which said petition emanates, requesting that all or part of said money so collected in said unorganized township, shall be expended in the adjoining organized or unorganized township, or portion thereof. Provided, further, that such fund in any county having not less than ninety-five nor more than one hundred and five full and fractional townships and having an assessed valuation of not less than three million dollars nor more than five million dollars, exclusive of moneys and credits, may be expended in any organized or unorganized township or portion thereof in such county upon resolution by the county board. ('15, c. 44, §4; '19, c. 528, §1; July 14, 1937, Sp. Ses., c. 30.)

The fund authorized by this act must be used in the congressional township, the property of which was taxed to create a fund, §2578 being inapplicable. Op. Atty. Gen., June 18, 1930, over-ruling Op. Atty. Gen., Oct. 8, 1925.

2565-10. Tax levy.—The tax above provided for may be levied on all or a part of the unorganized territory in any county, provided, however, that no part of such organized territory less than a congressional township shall be so taxed. ('15, c. 44, §5; '19, c. 528, §2.)

2569. County highway engineer.

Sub. 1. The county board of each county shall appoint and employ as hereinafter provided a county highway engineer, who shall have charge of the highway work of the county and the forces employed thereon, and who shall make and prepare all surveys, estimates, plans and specifications which are required of him. Such county highway engineer may be removed by the county board during the term of office for which he is appointed, only for incompetency or misconduct shown after a hearing upon due notice, upon stated charges. The burden of proving incompetency or misconduct shall rest upon the party alleging the same.

Sub. 2. Such county highway engineer may be selected from a list of eligible, competent highway engineers which list shall be submitted by the commissioner of highways to the county board when a vacancy exists. He shall be appointed at the first meeting of the county board in May of the year in which the term of office shall expire, and shall be appointed for a term of two years, provided, that when a new county highway engineer is appointed he may be appointed for one year only, and thereafter his appointment shall be made as hereinbefore set forth. The county highway engineer shall be a citizen of the state of Minnesota, and must have resided therein for not less than three years immediately preceding the date of his appointment. The salary of the county highway engineer shall be fixed by the county board and be payable the same as other county officers are paid. His salary shall not be reduced during his term of office, provided, however, that the salary of the county highway engineer may be reduced in the same proportion as the salary of the county board in such county.

Sub. 3. The county highway engineer shall devote his entire time to his official duties, and shall before entering upon the duties of his office, give bond to the state in the penal sum of $3,000, to be approved and filed in the same manner as are the bonds of the other county officers. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of said county highway engineer in the performance of his official duties, may maintain an action on his bond for the recovery of the damages so sustained.

Sub. 4. The county highway engineer shall prepare and submit to the county board at its regular meetings in July, a report of all expenditures and work done since the last report, and an estimate of probable expenditures for the balance of the year. He shall also prepare and submit, prior to the time the levy for county road and bridge purposes is made, a recommendation with estimates of cost, of work which he considers necessary or advisable for the following year.

Sub. 5. Within 30 days after the completion of a construction job, and once each month on other work, he shall submit a report thereof to the county board and to the commissioner of highways, and shall submit such other reports as the rules and regulations of the commissioner of highways shall require.

Sub. 6. On or before January 1st, of each year the county highway engineer shall prepare a complete report covering the highway work of the county, and submit one copy to the county board and one copy to the commissioner of highways.

Sub. 7. In all cases where any other engineer or surveyor is now charged by law with, duties in connection with, and supervision of road or highway work for the county he is hereby relieved at the expiration of his present term, and the county highway engineer at that time is expressly charged with, and he shall then assume such duties, provided that the duties of the county highway engineer as specified in this section shall be performed by the county surveyor in all counties in the state having a population of not less than 225,000 or more than 400,000, provided, however, this act shall not apply to any county whose population according to the 1930 Federal census was not less than 24,000 nor more than 26,000, and whose valuation was not less than $7,500,000 nor more than $9,000,000, exclusive of monies and credits and exclusive of homestead exemptions and which counties contain not less than 40 nor more than 45 full and fractional townships. (As amended Apr. 15, 1937, c. 232, §1.)

Laws 1929, c. 20, §2, fixes salary of engineer at $2,600, and 9 cents mileage, and not to exceed $4,000 for clerk hire, in counties with 41 to 43 congressional townships and population of 25,000 to 30,000. As to mileage see §§254-47, 254-48.

Act Apr. 21, 1933, c. 432, §9, effective May 1, 1933, amends §12 of Laws 1925, c. 91, by making the salary of the engineer not to exceed $2,112 per year, 5 cents mileage, and not exceeding $1,500 for clerk hire.

Salaries, fees and clerk hire in counties having 41 to 43 townships and valuation of $6,000,000 to $12,000,000 and population of 25,000 to 30,000. Laws 1939, c. 99.

A county highway engineer under §2569 is not within the operation of§§4368, 4369, known as the Soldiers' Preference Employment Act. State v. Walleen, 185M329, 241 NW318. See Dun. Dig. 7986(9).

Where an insurer issued a liability policy to a county containing an omnibus clause by terms of which insurance covered an employee while driving county's automobile with its consent, insurer, for lack of interest in that question, will not be heard to question right of county to permit its employee to use automobile. Schultz v. K., 204M585, 284NW782. See Dun. Dig. 4480, 7582.

Salary of engineer is not limited to $3,000 but is to be fixed by county board. He may be provided with automobile and assistants. Op. Atty. Gen., Feb. 23, 1929.

County highway engineer has no right, with or without the consent of the county board, to perform services for other municipalities, even though the county receives the compensation therefor. Op. Atty. Gen., Apr. 23, 1929.

Engineer may do no work outside the official duties prescribed by this section and Laws 1929, c. 283, §6 at least during the usual working hours. Op. Atty. Gen., May 23, 1929.

County engineer must assist in construction and maintenance of town roads without charge, if required by county board. Op. Atty. Gen., May 23, 1929.

This provision of law is mandatory and applies to St. Louis County. Op. Atty. Gen., Dec. 21, 1931.

Office of county highway engineer is mandatory and not permissive. Op. Atty. Gen., Feb. 8, 1933.

County board has no authority to appoint county surveyor as highway engineer. Op. Atty. Gen., Feb. 8, 1933.

In order to obtain state aid, it is not necessary to have county engineer who is registered in state and who is graduate of accredited university. Op. Atty. Gen., Mar. 4, 1933.

It is mandatory upon county board to select highway engineer from list furnished by commissioner of highways. Op. Atty. Gen., Mar. 8, 1933.

Expenses of county highway engineer outside of county on trip necessary to cooperate with state and federal governments in carrying out relief programs may be paid by the county, if such trip were first authorized by the county board, and the engineer was designated its agent in the matter. Op Atty. Gen. (125a-31), Jan. 24, 1935.

Term of office of highway engineer must be indefinite and county board has power to remove an engineer at its pleasure and without hearing. Op. Atty Gen. (122b), Feb. 6, 1935.

This section as amended by Laws 1937, c. 232, applies to counties with less than $400,000 inhabitants. Op. Atty. Gen. (229f), Feb. 2, 1938.

(2).

It is mandatory that county highway engineer be selected from list of eligibles furnished by commissioner of highways. Op. Atty Gen. (229f), Feb. 4, 1935.

Salary of engineer may be increased during his term of appointment. Op. Atty. Gen. (122b), May 9, 1938.

(3).

Office of county highway engineer and that of surveyor are incompatible and may not be occupied by same person. Op. Atty. Gen. (358a-7), Jan. 26, 1935.

Offices of county highway engineer and county surveyor are incompatible, and approval and filing of county highway engineer bond by one who has already qualified as county surveyor constitutes an election to vacate latter office. Op. Atty. Gen. (358a-7), Jan. 31, 1935.

Offices of assistant county engineer and county surveyor are not incompatible. Op. Atty. Gen. (358a-7), July 29, 1936.

2569-3. Same—Bond.

Engineer may be required to furnish new bond for each term for which he is appointed. Op. Atty. Gen., Mar. 17, 1934.

2569-7. Same—Road and highway duties of other county engineers or surveyors transferred to.

Act Apr. 5, 1933, c. 159, authorizes organized towns with more than 15,000 population, assessed valuation of over $70,000,000 and over 200 miles of town roads, to create department of highway engineers.

2571. Power of town board.

Act Ex. Ses., Dec. 27, 1933, c. 28, authorizes supervisors of towns having more than 15,000 population, assessed valuation of over $70,000,000, and 200 miles of town roads, to create department of highway engineers. Repeals Laws 1933, c. 159. Omitted as local.

U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.

Op. Atty. Gen., Aug. 21, 1929; note under §2551.

Duties of town supervisors in the general maintenance, repair and improvement of town roads are discretionary. 175M34, 220NW166.

Where discretion of town supervisors with respect to the opening of a road has been exercised in an arbitrary and capricious manner, the court may exercise control, but it must be made to appear that there are not only available funds but also sufficient available funds to do whatever else may, in the reasonable judgment of the board, be needful on the other town roads. 175M34, 220NW166.

Lack of proof of proper attendance by members of town boards did not preclude recovery for construction and repair of a town line road. Lindgren v. T., 187M31, 244NW70. See Dun. Dig. 6704.

Under Laws Extra Session 1933-1934, c. 28, §1, town board of town coming within act may employ an attorney upon a monthly or yearly basis with a stipulated monthly salary. Op. Atty. Gen. (434a-1), Apr. 20, 1934.

Department of conservation should first get proper permission from local authorities before proceeding to clear right of way or develop road bed in connection with emergency conservation work. Op. Atty. Gen. (377a-4), Aug. 26, 1935.

Electors have no authority to set aside funds from tax levy to be made in future years for purpose of purchasing road equipment, but may issue bonds in proper case under Laws 1905, ch. 64. Op. Atty. Gen. (377b-10), Mar. 19, 1937.

Town board may purchase snow removal equipment without vote of electors, if there is sufficient money on hand, plus taxes levied and in process of collection, for such purpose. Op. Atty. Gen. (434a-5), Mar. 20, 1937.

Town board could hire an automobile at rate of five cents per mile and 35 cents per hour for driver for purpose of inspecting its 100 miles of town highway. Op. Atty. Gen. (437a-8), April 18, 1939.

(1).

Side road in abandoned village is a town or county road and town may remove fence, erected thereon. Op. Atty. Gen., Apr. 28, 1933.

2571-3. Transfer of funds validated.—Where the Board of County Commissioners, in any county containing any unorganized townships in which a tax has been levied and collected for dragging roads in such unorganized townships, has heretofore by resolution transferred such funds to the ditch funds and applied the same in payment of road benefits assessed against said townships on account of ditches, such action of the County Board is legalized, validated and made effective. (Act Apr. 10, 1933, c. 207.)

2572. Town bonds for paving.

Ordinarily graveling a road is not a "permanent improvement" within this section for which bonds may be issued, but such graveling may be of such a character as to come within the statute. Op. Atty. Gen., May 14, 1930.

2573. Taxation for road purposes by towns.

Maximum levy for road and bridge purposes is governed by §2573, and not §2060 or §2067. Op. Atty. Gen., Nov. 19, 1929.

Electors may increase levy for town road and bridge purposes at a special meeting duly called. Op. Atty. Gen., June 10, 1931.

Towns no longer have authority to vote a labor tax to be worked out on town roads. Op. Atty. Gen., June 16, 1931.

Maximum levy which may be made by a town for road and bridge purposes is now governed by §2573 and not by subsection 3 of §2060. Op. Atty. Gen. (519k), Aug. 14, 1934.

Whether "emergency" exists is matter for determination of town board in first instance. Op. Atty. Gen. (442a-17), Oct. 13, 1934.

Where town and village are not separate election districts, voters of village may vote on road matters. Op. Atty. Gen. (434b-27), Mar. 13, 1935.

In enacting Laws 1937, c. 379, amending §2060(3), legislature did not intend to repeal tax limitation provision found in §§2573, 2067 or 1006. Op. Atty. Gen. (519o), Nov. 1, 1937.

(b).

This section is controlling over §§2060 and 2067 with respect to maximum levy. Op. Atty. Gen. (519k), Dec. 19, 1936.

Town levy for town road drainage is subject to maximum limitations contained in §2573(b) and §2580(a). Op. Atty. Gen. (519o), Feb. 9, 1937.

(c).

Town board has no authority to make levy not exceeding two mills without vote of people. Op. Atty. Gen., Mar. 27, 1933.

Tax levy for road and bridge purposes limited by §2060-2 where such statute is applicable, and may be exceeded only when necessary to provide funds to pay minimum corporate expenses. Op. Atty. Gen. (519a), Aug. 21, 1936.

Whether an emergency would be created by reason of fact that road could be completed as a Works Progress Administration Project provided township had contributed a "small part of the expense" is a question of fact for determination by the town board. Op. Atty. Gen. (519k), Oct. 21, 1937.

Whether exhaustion of township funds and necessity for snow removal constitutes an emergency is a question of fact. Op. Atty. Gen. (519o), Jan. 13, 1938.

2574. Town dragging fund and tax.

Town road overseers are to be appointed by town board. Op. Atty. Gen., Sept. 25, 1933.

2575. Town road overseer.—Each town shall constitute one road district, except when otherwise provided. When directed so to do by the voters of the town at the annual town meeting, the town board shall divide each town into as many road districts, not exceeding four, as shall be directed by the voters at the annual town meeting. Provided, that if a town constitutes but one road district, the road overseer may appoint one or more competent assistants subject to the approval of the town board. It shall be the duty of the town board to appoint a road overseer for each district, who shall have charge, under the supervision of the town board of the construction of all town roads in his district and the maintenance of all town and county roads therein. Provided, however, that the voters at the annual town meeting may, if the question is proposed by any voter at any time during the business hour of said meeting, determine whether to elect or appoint the road overseer, in the same manner as other town business is transacted, and said determination shall continue in force until changed by the voters at a subsequent town meeting. If the determination be to elect said road overseer, he shall be elected by a ballot at said meeting and annually at each annual town meeting thereafter until said determination is changed; and, in a town which is divided into two or more road districts, the voters of each road district shall elect a road overseer for such district. No member of the town board shall be eligible for appointment or election as town or district road overseer. Should any person elected as a road overseer fail, neglect or refuse to qualify as such within 12 days after his election, or if a vacancy occurs in said office, then the town board shall appoint a road overseer for the unexpired term and until his successor qualifies. A road overseer shall be a voter of the town or district for which appointed or elected. The compensation of the road overseer may be fixed by the annual town meeting for the time actually employed in the performance of his duties. Before entering upon his duties he shall give a bond to the town, sureties to be approved by the town board, in the sum of two hundred and fifty ($250.00) dollars, conditioned for the faithful discharge of his duties and to return to the faithful discharge of his duties and to return to the town all the property of the town which may come into his custody. The overseer, if appointed, shall hold office at the pleasure of the town board.

Provided, that such road overseer shall have no jurisdiction over county roads in any county which now has or hereafter may have a population of one hundred fifty thousand (150,000) inhabitants.

Whenever any public road in a town becomes obstructed or unsafe from any cause, the overseer shall immediately repair such road, and render his account therefor to the town board, in case of a town or county road, and to the county board in case of a state aid road. (As amended Apr. 22, 1937, c. 353, §1.)

U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.

This section repeals or supersedes §1074 relating to election of road overseer. Op. Atty. Gen., Mar. 18, 1930.

Division of a township into more than one road district does not continue from year to year unless authorized by vote of electors at each annual township meeting. Op. Atty. Gen., Mar. 17, 1933.

A road overseer may not sell gravel to town. Op. Atty. Gen., June 6, 1933.

Township road overseer may employ and use own team in repair of town roads but compensation therefor must be fixed and allowed by town board. Op. Atty. Gen., June 30, 1933.

Town road overseers are appointed by town board and are not elected at annual town meeting. Op. Atty. Gen. (381a), March 22, 1939.

2576. Lighting of highways.

Town board may contract for lighting of public highway. Op. Atty. Gen., May 24, 1933, June 1, 1933.

Town board has power to enter into contract running for five years for lighting of public highways if such period is reasonable under all surrounding circumstances. Op. Atty. Gen. (377b-10(h)), Apr. 24, 1935.

2577. Expense of township line roads.

Provision as to joinder in expense of constructing bridge applies only in drainage proceedings. 175M243, 221NW3.

2578. Improvement of ferries by municipalities.

This section is not applicable to the tax authorized to be levied by Laws 1915, c. 44, as amended by Laws 1919, c. 528, set forth herein as §§2565-4 to 2565-8. Op. Atty. Gen., June 18, 1930.

Village of Lyle may lawfully contribute to the cost of improvement and maintenance of a county aid road leading into the village. Op. Atty. Gen., Aug. 22, 1930.

A village may construct a road without its boundaries only at places where a road exists, and village may not purchase right of way upon which to improve or maintain roads outside of its limits. Op. Atty. Gen., Apr. 13, 1933.

A village may construct a road without its boundaries only at places where a road exists. Op. Atty. Gen., Apr. 13, 1933.

Cartway may be constructed for benefit of landowners in adjoining township, cost of land taken to be paid for by such benefited owners, and cost of construction and maintenance to be paid by town. Op. Atty. Gen. (434a-7), May 8, 1936.

Village may expend funds in improvement of township road lying beyond corporate limits, provided road is within limits of state and leads into village. Op. Atty. Gen. (476b-13), July 9, 1937.

2580. Town Road Drainage Tax.—

(a) In any town wherein the voters shall at the annual town meeting, vote as hereinafter provided to authorize the town board so to do, the town board may levy and assess on the real and personal property in the town, other than moneys and credits taxed under the provisions of Chapter 285, Laws 1911, a tax not to exceed in amount ten mills on the dollar of the assessed value of such property, which tax so levied shall be known as the "Town Road Drainage Tax". Such tax shall be additional to all other taxes which the town is or may hereafter be authorized to levy and the amount of such tax so levied and collected shall be deemed to have been levied and collected for road and bridge purposes within the meaning of any law limiting the amount of taxes which may be levied or voted at the annual town meeting.

Provided, that in towns having an assessed valuation of not less than one million nor more than eight million dollars ($8,000,000.00) and which otherwise come under the provisions of Chapter 293, Laws of 1933 [§§1108-4 to 1108-15], the amount of such tax so levied and collected shall not be deemed to have been levied and collected for road and bridge purposes within the meaning of any law limiting the amount of taxes which may be levied or voted at the annual town meeting. (As amended Apr. 24, 1937, c. 402, §1.)

(b) * * * *

Town levy for town road drainage is subject to maximum limitations contained in §2573(b) and §2580(a). Op. Atty. Gen. (519o), Feb. 9, 1937.

2581. Establishment of road by judicial proceedings.

Decision denying petition need not be sustained by evidence practically conclusive against the propriety of establishing a road. 176M94, 222NW578.

The power to establish a highway on the line between two counties is vested by statute in the district court. Its final order establishing the highway has the force and effect of a judgment. The county boards cannot nullify the court's action by inaction; they must comply with it. Hauschild v. C., 182M123, 233NW827. See Dun. Dig. 8474(68).

Order of court confirming award of damages of commissioners in establishment of a judicial road is a judgment and limitation does not run against right of landowner to recover damages until 10 years after entry. Blue Earth County v. W., 196M501, 265NW329. See Dun. Dig. 5150.

Where there was an order of court confirming an award of damages in proceeding to establish a judicial road, court had jurisdiction, in a subsequent proceeding by a county to deposit part of the damages in court pending settlement of conflicting claim thereto, to enter judgment against county ordering it to pay remainder of award to certain landowner, as against objection that landowner's remedy should have been by mandamus. Id. See Dun. Dig. 5754.

In establishment of a judicial road, order of court confirming award of damages by commissioner amounted to and in effect was a judgment, and it was not within power of county board to nullify court's order by inaction. Id. See Dun. Dig. 8476.

County cannot abandon proceeding for establishment of judicial road after court makes order establishing the road. Id.

Where county petitioned court to interplead various claimants of a portion of damages due by county in establishment of a judicial road, court had jurisdiction to order entry of judgment requiring county to comply with prior order of confirmation of original award of damages, court having jurisdiction of the parties and of the subject matter at time issues were made and trial had. Id.

County boards of adjoining counties are not authorized by law to lay out a road on the boundary line between them, but they must proceed under this section. Op. Atty. Gen., Feb. 24, 1930.

Roads may be established in unorganized towns pursuant to either of §§2581, 2582, and 2586. Op. Atty. Gen., Apr. 14, 1932.

Town boards of two towns situated in adjoining counties have authority to establish a road between such towns on line between such counties and are authorized to maintain their proportionate shares, at least where they have have been kept in repair and worked for 15 years by such towns. Op. Atty. Gen. (377b-10(d), Feb. 17, 1938.

County board has no authority to turn judicial roads back to township. Op. Atty. Gen. (377b-5), Apr. 27, 1938.

2582. Establishment, alteration, or vacation by county boards.

Op. Atty. Gen., Apr. 14, 1932; note under §2581.

Petition altering existing road between given points held, within jurisdiction of county board though part altered was only in one town. Nelson v. Nicollet County, 154M358, 191NW913. See Dun. Dig. 8468.

When a permanent trunk highway is located by the Highway Commissioner the practicable road along the general location is not thereby vacated, but reverts to the control of the county or town board as the case may be. 171M369, 214NW653.

Where award of damages in county highway proceeding was made to administrator of deceased owner, county was liable to make payment again to mortgagee of record, mortgage having been foreclosed and there being a deficiency. Stemper v. C., 187M135, 244NW690. See Dun. Dig. 3076.

Taxpayer has no right to appeal from action of county board in designating town road as a county aid road pursuant to Laws 1929. Op. Atty. Gen., Aug. 31, 1929.

On petition for change of highway the board has a reasonable discretion in varying the route proposed in the petition and may retain a portion of the road which the petition asks to have changed. Op. Atty. Gen., Feb. 6, 1930.

A county board denying a petition for the vacation of a county road at one meeting may not reconsider its action and grant the petition at another meeting. Op. Atty. Gen., July 23, 1931.

On relocation of state aid road vacated portion returns to its original status as a county road in absence of declaration by county board as to its status. Op. Atty. Gen., Feb. 14, 1933.

To alter state aid road additional easements may be acquired under Laws 1929, c. 155, and petition and hearing as provided by §2582, but decision authorizing change in location must be made by joint action of county board and commissioner of highways. Op. Atty. Gen., Feb. 14, 1933.

Judicial road on county line remained open for entire width, though only part of width was constructed. Op. Atty. Gen., June 21, 1933.

Where in 1889 an order was made in regular proceedings establishing a county road on a section line, and road as made and traveled deviated from established part of way, because a grove of trees planted by an abutting owner was on section line, the passage of time and use of deviation did not prevent county from straightening the highway, but abutting owner should be given 10 days' notice of intent to remove trees. Op. Atty. Gen. (229l), Oct. 30, 1935.

Where "state rural highway" was established and constructed under Laws 1911, ch. 254, and was later designated as a temporary trunk highway and was turned back to county by state under §2554(4)(a) the highway could not revert to its former status of "state rural highway" but became a county road that could not be turned over to town to be maintained by it, except pursuant to §2582. Op. Atty. Gen. (377a-15), Nov. 7, 1935.

Roads may be established along section line in either unorganized or dissolved township under either §2582 or §2586, and procedure relating to assessment of damages in either case is found in §2582, while §2588 prescribes procedure relative to appeal in both cases. Op. Atty. Gen. (377b-10(d)), Dec. 20, 1935.

County board may proceed under this section for purposes of establishing county road over land forfeited to state for nonpayment of taxes, but if road runs through any state park or state forest consent must be obtained from commissioner of forestry. Op. Atty. Gen. (377b-2), Mar. 18, 1937.

County board has right to repeal or rescind a resolution designating a road if no vested rights are thereby interfered with. Op. Atty. Gen. (377b-2), Oct. 7, 1937.

Tax commission is not authorized to execute easement for county highway purposes on tax forfeited lands, but county should resort to eminent domain. Op. Atty. Gen. (700a-3), Apr. 13, 1938.

County board desiring to establish road more than four rods wide should proceed under §2582 and not under §6537 et seq, no statute limiting roads to four rods in width. Op. Atty. Gen. (817N), May 29, 1939.

Persons entitled to compensation in eminent domain. —mortgagor and mortgagee. 17MinnLawRev92.

Subd. 4.

Town road connecting with other town roads can be vacated only by county board. Op. Atty. Gen., Feb. 26, 1929.

Attempted vacation proceedings were void where county board did not obtain consent of village council. Op. Atty. Gen., May 26, 1933.

County may establish road to lake shore. Op. Atty. Gen., Aug. 15, 1933.

If road is to be established in unorganized township, a petition must be filed by landowner, unless such new road is on the township line. Op. Atty. Gen. (377b10(d)), Apr. 18, 1934.

Copy of resolution of village council is not required except in cases where road lies partly in unplatted portion of village. Op. Atty. Gen. (377a-15), Sept. 24, 1938.

Subd. 5.

Committee must meet at time and place fixed in order and notice of the board. Op. Atty. Gen. (377b-10(d)), Mar. 27, 1936.

Subd. 8.

County board may proceed with opening of road pending appeal by landowner. Op. Atty. Gen. (377b-10(d)), Mar. 27, 1936.

Subd. 9.

If county board contemplates construction of a gravel road, such road will not be considered as having been constructed until gravel has been applied, but county need not gravel where petition is only for laying out of a road. Op. Atty. Gen., Aug. 11, 1932.

Granting of petition to alter road by vacating a portion of it and constructing a new piece to bridge gap caused by vacation would require that new part of road be graveled if old road was graveled. Op. Atty. Gen. (380a-1), July 27, 1937.

2582-1. Opening and improvement of highways leading to Meandered Lakes.—Whenever a petition signed by fifty freeholders of the county is presented to the county board, wherein it appears that (a) there is a meandered lake or navigable stream running between two meandered bodies of water within

the county which is not accessible to the general public by reason of the fact that there is no public highway leading up to the same, and (b) that the establishment and opening of a county road of not more than one mile in length and sixty-six feet in width would connect such lake or navigable stream with a public highway and would afford the general public a means of access to such lake or stream, it may be the duty of such board, if after an investigation it finds the statement in the petition to be true, to adopt a resolution establishing a public highway not more than one mile long nor sixty-six feet wide, at some location to be designated by it, so as to connect such lake or stream with some previously established and traveled highway, and to that end the several county boards shall have power to acquire any land, or any easement or interest therein deemed necessary, including the right to acquire the fee of the land to the width of the road only at the point where the road meets the lake by purchase, gift or condemnation proceedings. (Act Apr. 9, 1929, c. 142.)

County may establish road to lake shore. Op. Atty. Gen., Aug. 15, 1933.

County may construct a road not longer than one mile to connect a meandered lake or navigable stream with some previously established highway. Op. Atty. Gen. (379c-7), March 31, 1939.

2583. Establishment, alteration, or vacation by town boards.

Validating act, see Laws 1937, Sp. Ses., c. 24.

Act July 15, 1937, Sp. Ses., c. 52, provides for vacation of certain town roads in counties having 21,000 to 26,000 population, assessed valuation, exclusive of moneys and credits, of $12,000,000 to $15,000,000, and 30 to 32 townships.

In proceeding before town board to establish a road in part over lands held by the Government in trust for certain Indians to whom the land has been allotted, a property owner not interested in such lands cannot question the jurisdiction of the board, in view of Mason's U. S. Code, title 25, §311. 175M168, 220NW419.

When a person having easement to travel over a strip of ground improves it as a road it does not follow that he is to be paid damages when such strip of land is included in a public road. 175M168, 220NW419.

Evidence sustains finding that owner of land, through which town board laid a public road, waived service of notice by appearing specially and objecting to jurisdiction of board, but participating in proceedings and presenting manner in which road would be a detriment and damage to his farm. Peterson v. B., 199M455, 272NW391. See Dun. Dig. 482, 8954.

Evidence does not show road to have been designated a state-aid road under §2560, so as to be immune to town board action under §2583. Id. See Dun. Dig. 8455.

Facts found held not to show that by inaction town board had denied a petition for same road within one year prior to granting of the petition. Id. See Dun. Dig. 8459.

The 20 day term for filing final order under subd. 6, begins to run from date of hearing. Op. Atty. Gen., July 23, 1929.

Town board has right to make settlement with landowners for damages without making final order, but this is limited to cases where road is established on petition and hearing. Op. Atty. Gen., July 23, 1929.

Procedure by town board for vacation of town road, stated. Op. Atty. Gen., Jan. 30, 1930.

Where petition to town board for vacation of town road was denied merely because it did not contain the requisite number of signers, there was no denial of the petition on its merits, and a new petition may be filed within one year. Op. Atty. Gen., Apr. 3, 1930.

Where town road was established along a section line and it is not probable that the road will be constructed in the near future, no action on the part of the town board is necessary to entitle land owners to continue to use the land until the road is actually constructed. Op. Atty. Gen., May 13, 1931.

Township cannot acquire right of way to road by outright purchase and deed. Op. Atty. Gen., Apr. 14, 1932.

Laws, 1933, c. 228, is supplementary to this section and provides an additional method of petitioning town board. Op. Atty. Gen., Apr. 29, 1933.

A town board can lawfully establish a town road pursuant to §2583, or a cartway pursuant to §2585(1), for a distance of less than a mile extending from a public highway to a shore of a lake that is not meandered. Op. Atty. Gen. (377b-10(d)), Sept. 7, 1934.

Town board cannot alter or vacate road designated county aid road. Op. Atty. Gen. (380b-2), May 1, 1935.

Where a town without petition or order straightens an old road, the old road also remains a legal road until vacated in manner provided by law. Op. Atty. Gen. (377 a-3), July 24, 1936.

Question whether a public highway should be vacated is legislative and determination of local governing body cannot be disturbed unless it acts arbitrarily or against best interests of community. Op. Atty. Gen. (377b-10 (k)), June 13, 1938.

Township may vacate township road which has been rendered useless for public travel by reason of construction of a state highway without becoming liable for damages to a power company maintaining a line on such road. Op. Atty. Gen. (624c-14), Jan. 27, 1939.

A township may construct a road upon proper petition to connect state highway with a lake. Op. Atty. Gen. (379c-7), March 31, 1939.

A township road established as a two rods road and maintained as a public road for 30 years could not be widened into a four rod road without following procedure provided in this section. Op. Atty. Gen. (379c-13d), June 26, 1939.

Subd. 1.

Op. Atty. Gen., Feb. 26, 1929; note under §2582.

Form of petition and procedure thereunder. Op. Atty. Gen. (377a-7), Mar. 25, 1935.

Subd. 5.

Op. Atty. Gen. (377b10(d)), Aug. 13, 1934; note under §2588(5).

Party or parties affected are not entitled to recover anything in compensation for excess benefits. Op. Atty. Gen. (377b-10(d)), Jan. 22, 1935.

Subd. 6.

Requirement for filing award of damages within five days is directory, and not mandatory, and failure to file within five days does not invalidate proceedings. Op. Atty. Gen., Aug. 7, 1930.

It is mandatory that order be filed within 20 days of date in order to become effective. Op. Atty. Gen. (379c-1), Sept. 28, 1934.

Proceedings are of no effect where board failed to make and file order establishing road within period prescribed. Op. Atty. Gen. (377b-10(d)), July 2, 1935.

Property owner owning lands on both sides of section line cannot compel town board to construct and maintain cattle pass at expense of town. Id.

Subd. 8.

173M572, 218NW115; note under §2585.

2584. Dedication of land for road.

Common-law dedication, see §2590.

Township cannot acquire right of way to road by outright purchase and deed. Op. Atty. Gen., Apr. 14, 1932.

Road vacated did not become public road because landowners conveyed by quitclaim deed, and several farmers used road for thirty years, without supervision by municipality, it not appearing that town board accepted conveyances. Op. Atty. Gen., Apr. 29, 1932.

(1).

A public highway may still be created by common law dedication. Op. Atty. Gen. (379c-13(b)), July 12, 1935.

2585. Cartways. * * * * * * * * * * * * * * * * *

Sub. 1. Any town board may establish a cartway two rods wide and not more than three rods wide on petition of not less than five voters, freeholders of such town. All their proceedings shall be the same as provided in this act establishing town roads. The cost and expense thereof and the damage awarded for lands taken therefor, shall be paid by the town, as is the case of town roads, and a record of such cartway shall be filed with the town clerk; provided, that, when a road or cartway is established which will not be a continuous road from one highway to another not more than one-half of the damages to the land through which it passes may be assessed against the person or persons benefited thereby. ('21, c. 323, §45; '23, c. 439, §8; Apr. 24, 1929, c. 336.)

Sub. 2. * * * * *

Sub. 3. Any town board may expend road or bridge funds upon a legally established cartway the same as on town roads if, in the judgment of such board, the public interests require it. Provided, however, that where any town board has refused to allocate funds for the upkeep of a cartway, then upon the petition of ten taxpayers of the township, the town board shall present for the approval of the voters, after due notice, at the annual town meeting such petition for allocation of funds, and at such town meeting the electors of said town shall allow or reject such petition. If the majority of those voting approve said petition for allocation of funds, then the town board shall expend road and bridge funds for such cartway. (As amended Apr. 14, 1937, c. 208, §1.)

Petitions to district court for cartways. Laws 1939, c. 347.

That two persons who were especially accommodated by cartway signed an agreement to open and maintain

the same at their own expense did not tend to show collusion on part of town board. 173M448, 217NW499.

Evidence held to show that taking of land for cartway was for a public use and town board had jurisdiction. 173M448, 217NW499.

Evidence held not to support finding that town board acted arbitrarily. 173M448, 217NW499.

A cartway established under subdivision one is a public highway and not a private road, and it matters not that the principal benefit inures to one individual. The question as to whether the cartway should be established is one of policy legislative in its nature. Adverse judgment in a prior proceeding under Subdivision 2, did not make the matter res adjudicata after passage of one year. Action of town board was not arbitrary simply because one member thereof had, prior to the hearing, acquired full knowledge as to conditions. 173 M572, 218NW115.

A claim that there was no public necessity for the cartway does not go to the jurisdiction of the town board but presents a question for that board to determine. 175M395, 221NW527.

Where a petition asks for the laying out of a public highway and cartway two rods wide, the proceeding must be considered under this section. 175M395, 221NW 527.

Taxpayer participating in proceedings, held estopped to assert that notices were defective. 181M192, 231NW 924. See Dun. Dig. 3217.

Amount of damages to farm by cartway was properly determined as of time of trial on appeal. Burns v. T., 186M588, 243NW74.

Verdict for compensation for damage to farm by cartway, held not excessive. Burns v. T., 186M588, 243NW 74.

Finding of a legal cartway, which owners of neither farm could obstruct, located over plaintiff's land, is not inconsistent with location of true boundary line directly west thereof; such way being a mere easement over plaintiff's land and beneficial to defendants. Lenzmeier v. E., 199M10, 270NW677. See Dun. Dig. 8467a.

Where owner of farm has no access to a public highway except over lands of others, he is entitled to a cartway though he has been able to gain access to a public road by means of a private road of others, to which he has neither prescriptive nor granted right. Kroyer v. B., 202M41, 277NW234. See Dun. Dig. 8467a.

On improvement of a cartway established under this section it is not rendered a road four rods wide by dedication under §2590. Op. Atty. Gen., May 21, 1930.

If a cartway is established, under subdivision 2, for the benefit of one person, the amount of damages must be paid by that person. Op. Atty. Gen., Mar. 10, 1931.

Owner of an island which is sometimes accessible to the mainland over the bottom of a lake has no absolute right to demand that township construct for him a cartway affording access to a public road. Op. Atty. Gen., Dec. 9, 1931.

Town board may establish cartway three rods wide from public highway to meandered lake on petition signed by five freeholders of town. Op. Atty. Gen., Apr. 5, 1932.

Where township laid out four-rod road to connect at each end with public road, but no work was ever done on road, except one living on road worked out his poll tax on one-half of it, such road is still town road of width specified, and not cartway. Op. Atty. Gen., July 26, 1932.

A town board can lawfully establish a town road pursuant to §2583, or a cartway pursuant to §2585(1), for a distance of less than a mile extending from a public highway to a shore of a lake that is not meandered. Op. Atty. Gen. (377b-10(d)), Sept. 7, 1934.

Where three persons out of five who have signed petition withdraw their names prior to time action is taken, town board is without jurisdiction to establish cartway. Op. Atty. Gen. (377b-1), June 3, 1937.

Where a high bank lies between land and a public highway adjoining it so that it is impossible to make a successful grade to the highway, town board may establish a cartway over land owned by another person. Op. Atty. Gen. (377b-1), June 23, 1938.

(3) County board may entertain petition for repair of cartway notwithstanding refusal of electors at annual meeting to allocate funds for upkeep of such cartway. Op. Atty. Gen. (377b-1), Aug. 17, 1938.

(1).

Op. Atty. Gen. (377b-10(e))(631h), July 5, 1934; note under §7250.

Op. Atty. Gen. (377b10(d)), Aug. 13, 1934; note under §2588(5).

(2).

Several owners of tracts aggregating more than five acres may join in a petition for a cartway. Watson v. B., 185M111, 239NW913. See Dun. Dig. 8459, 8467(a).

Town boards are required to afford egress by cartway to a public road where practicable. Watson v. B., 185M 111, 239NW913. See Dun. Dig. 8459, 8467(a).

"Damages" does not include the expense of constructing the cartway, but merely damages which are awarded for the taking of the land involved. Op. Atty. Gen., Mar. 12, 1931.

Petitioner for whose primary benefit a cartway is established cannot treat it as a strictly private way, and cannot keep the public off it. Op. Atty. Gen., June 10, 1931.

Petitioner for cartway must pay damages and town is not liable therefor. Op. Atty. Gen., July 1, 1933.

Cartways may not be established between two parcels of land where it would not connect with a public road. Op. Atty. Gen. (377b-1), Sept. 28, 1934.

Cartway may be constructed for benefit of landowners in adjoining township, cost of land taken to be paid for by such benefited owners, and cost of construction and maintenance to be paid by town. Op. Atty. Gen. (434a-7), May 8, 1936.

It cannot be said as matter of law that town board is without authority to establish cartway because petitioner owns a strip of land one rod wide leading to a public highway, it being a question of fact that a one-rod road is reasonably sufficient. Op. Atty. Gen. (377b-1), June 30, 1936.

If one cannot compel town board to furnish him an additional cartway, he cannot require board to maintain an existing one-rod road. Id.

(3).

It is duty of town board out of town funds to maintain a cartway accessible to public. Op. Atty. Gen. (377b-1), Apr. 28, 1936.

2585-3. Portage defined.—A portage, as used in this Act, shall be a passage way, two rods in width, extending from one navigable water to another navigable water or from a navigable water to a public highway. (Act Apr. 22, 1933, c. 424, §1.)

2585-4. Petition to establish portage.—Ten or more freeholders of any county may petition the County Board to establish a portage in such county. Such petition shall set forth with reasonable definiteness the point of beginning and the point of termination of such portage. Thereupon, at its next meeting, if the County Board shall decide that such petition is reasonable, it shall order a public hearing thereon and shall designate in such order the time and place for such hearing. At least 30 days before the time set for such hearing it shall cause posted notice of the time and place thereof to be given in a public place in the court house and in two public places in each town through which such proposed portage shall pass. (Act Apr. 22, 1933, c. 424, §2.)

2585-5. Hearing on petition.—At such hearing the County Board shall hear all parties interested as to the necessity for such portage and as to the cost of acquiring the land necessary for such portage. (Act Apr. 22, 1933, c. 424, §3.)

2585-6. Survey to be made.—In case the County Board, after such hearing, shall conclude that such a portage would be of sufficient public advantage, it shall order the County Surveyor or the County Highway Engineer to determine the most practicable course for such a portage, to survey such course and to submit an estimate as to the cost of constructing such a portage. In case the cost of construction shall appear to the Board to be commensurate with the public advantages to be derived from such portage it shall declare the portage established, setting forth definitely in such order the point of beginning, the course and the point of termination of such portage. (Act Apr. 22, 1933, c. 424, §4.)

2585-7. Damages.—The damages sustained by reason of establishing, altering or vacating any portage may be ascertained by the agreement of the owners and the County Board; and, unless such agreement is made, or the owners release in writing, all claim to damages, the same shall be assessed and awarded before such portage is opened, worked, used, altered or vacated. Every such agreement and release shall be filed with the county auditor and shall be final as to the matters therein contained. In ascertaining the damages which will be sustained by any owner, the board shall determine the money value of the benefits which the establishment, alteration or vacation, as the case may be, will confer, and deduct such value, if any, from the damages, if any, and award the difference, if any, as damages. (Act Apr. 22, 1933, c. 424, §5.)

2585-8. Boards shall establish portage.—If the petition be granted, the board shall provide for the lay-

ing out and construction of such portage, in the case of the establishment of a new portage or the alteration of an existing portage or portages, and carrying into effect the vacation of an existing portage or portages, when such action is petitioned for. (Act Apr. 22, 1933, c. 424, §6.)

2585-9. Damage to be paid by county.—All damages resulting from the establishment, alteration or vacation of any portage shall be paid by the county. (Act Apr. 22, 1933, c. 424, §7.)

2585-10. Appeal to district court.—Any person aggrieved by the decision of a County Board establishing, altering or vacating or refusing to establish, alter or vacate any portage, or by any award of damages made by such County Board, may appeal therefrom to the district court of such county within 30 days after such award is made. (Act Apr. 22, 1933, c. 424, §8.)

2585-11. May be altered or vacated.—A public portage may be altered or vacated in the same manner as it may be established. (Act Apr. 22, 1933, c. 424, §9.)

Act is constitutional. Op. Atty. Gen. (125a-63), May 6, 1937.

2585-12. Cartways crossing township line—Appointment of appraisers.—Whenever a petition praying that a cartway two rods wide is signed and presented to one of the judges of the district court of the county in which the land of the petitioner or petitioners is situated, praying for the establishment of a cartway from the land of such petitioner or petitioners over the land of another or others so as to connect with a public highway, where such cartway commences in one township and terminates in another township, such judge is hereby authorized to appoint three appraisers to examine the route of such proposed cartway, determine the cost of the construction thereof on and over lands other than that belonging to the petitioner or petitioners, and assess the damages, including the cost of the right of way, that may be caused to the lands of others on and over which said cartway is proposed to be established and laid out. (Act Apr. 21, 1939, c. 347, §1.)

2585-13. Same—Contents of petition.—Such petition shall be signed by the owner or owners of any tract of land not less than ten acres in area and which is improved and actually used and occupied as the exclusive place of residence by the owner or owners thereof for farming or agricultural purposes, and which tract has no access to a public highway excepting on or over the lands of others, and the right to travel over which has not been lawfully acquired. Such petition shall describe the course of such cartway, commencing from some designated point on the land of the petitioner or petitioners, and the point of intersection with the public highway; it shall also describe the lands of others over which such cartway is to be established, the names of the owners and occupants thereof; it shall also set forth the area in the tract of land owned by the petitioner or petitioners, that it is used exclusively for farming or agricultural purposes, its improvements, and that it is the exclusive place of residence of such petitioner or petitioners with his or their family or families, if any; and that such tract is without any access to the public highway excepting on or over the lands of others, and over which the petitioner or petitioners have not acquired the right to travel; together with a statement of the reasonable value of the tract of land owned by such petitioner or petitioners and which is so sought to be connected by the cartway. (Act Apr. 21, 1939, c. 347, §2.)

2585-14. Same—Order on petition.—Upon the filing of such petition in the office of the clerk of the district court of the county the same shall be immediately presented to one of the district court judges thereof, who shall thereupon make and file an order appointing three disinterested freeholders who are not residents of any of the townships in or through which such proposed cartway is to be established and laid out; he shall in such order fix the time and place of the meeting of such appraisers, require that they shall take and subscribe an oath for the faithful performance of their duties and cause the same to be filed in the office of the clerk of such court; require that they shall examine the route of such proposed cartway; determine and assess the damages on account of the establishment and opening of such cartway, including the value of the land taken for right of way separately in each township; and determine also the cost of the construction of such cartway on and over the lands of others than that of the petitioner or petitioners, separately as to each township; and require that such appraisers shall make a full and complete report of their findings and assessments or awards to the judge of such court at a time and place specified in the order of their appointment, and in addition thereto that they shall also find and determine whether the route of such proposed cartway is practical and feasible and the least expensive of any route that may furnish an outlet from the tract of the owner or owners to a public highway. (Act Apr. 21, 1939, c. 347, §3.)

2585-15. Same—Notice—Service.—The petitioner or petitioners shall cause personal service of such order to be made upon each occupant of the land on or over which such cartway is proposed to be located and established at least ten days before the meeting of the appraisers, and also cause ten days' posted notice thereof to be given in each of the townships in which the proposed cartway is sought to be located and established, and file one copy thereof in the office of the township clerk of each of the townships in which any part of such cartway is proposed to be located, and furnish due proof of such service, posting and filing. (Act Apr. 21, 1939, c. 347, §4.)

2585-16. Same—Duty of appraisers.—That thereupon it shall be the duty of the said appraisers to proceed with the performance of their duties as required of them in and by the order of their appointment, and they shall hear all persons interested both for and against the establishment of such cartway and make report of their findings and assessments within the time and in the manner provided by the order of the court. (Act Apr. 21, 1939, c. 347, §5.)

2585-17. Same—Judge to order road constructed.—If upon the hearing of the report of such appraisers, and of all persons interested for or against the establishment of such cartway, the district judge shall find therefrom that the report of the appraisers is correct, and if such appraisers shall have determined by their report that the route of such proposed cartway is practical and feasible and the least expensive of any route that may furnish an outlet from the tract of the owner or owners to the public highway, then he shall make an order establishing such cartway, and he shall order the same to be constructed by the respective townships in which such cartway is established as to that part of such cartway situated within each respective township; and also order the payment of the damages including the cost of the right of way to be paid by such townships for that part thereof assessed separately to lands in each township respectively, less one-third of such damages and cost of the right of way, which one-third shall be paid by the petitioner or petitioners. That a certified copy of such order, upon its becoming final as hereinafter provided, shall be filed in the office of the county auditor of such county, and one in the office of the clerk of each of the townships affected. (Act Apr. 21, 1939, c. 347, §6.)

2585-18. Same—May demand jury trial.—That the owner of any land on or over which such cartway is established, may demand a jury trial as to the amount of damages including cost of right of way

awarded by the appraisers for the establishment of such cartway thereon or thereover, by filing in the office of the clerk of such court, within 10 days after the entry of such order, a written demand therefor, a [sic] specifying therein wherein such owner deems himself aggrieved by the order establishing such highway, and furnishing to the county in which such proceedings are pending a bond in the sum of $250.00, conditioned that the demandant shall prosecute such demand with dispatch, and in case the amount of the damages is not increased that he will pay all the costs and disbursements of the petitioner assessed as the result of such trial. That if no such demand is filed the order of such district court establishing such cartway shall become final; and in the event of a demand for a jury trial, such order shall become final 30 days after the entry of judgment on the verdict of the jury therein, unless the time shall be extended for cause by an order made and filed in the proceedings by the judge of such court. (Act Apr. 21, 1939, c. 347, §7.)

2585-19. Same—Cost to be deposited with clerk of district court.—That the townships shall not be required to proceed with the construction of such cartway until there shall have been deposited in the office of the clerk of the district court, for the benefit of those entitled thereto, the amount which such petitioner or petitioners shall be required to pay as his or their share of the damages and cost of right of way as finally determined. (Act Apr. 21, 1939, c. 347, §8.)

2586. Section line roads.

Op. Atty. Gen., Apr. 14, 1932; note under §2586.

If road is to be established in unorganized township, a petition must be filed by landowner, unless such new road is on the township line. Op. Atty. Gen. (377b10(d)), Apr. 18, 1934.

Roads may be established along section line in either unorganized or dissolved township under either §2582 or §2586, and procedure relating to assessment of damages in either case is found in §2582, while §2588 prescribes procedure relative to appeal in both cases. Op. Atty. Gen. (377b-10(d)), Dec. 20, 1935.

Original established right of way remains public property for highway purposes, and fact that road was not maintained exactly on section line for a few years did not prevent straightening of road without payment of damages to adjoining owners. Op. Atty. Gen. (377b-10 (d), July 15, 1938.

2587. Roads on town line.

Two towns may agree to maintain jointly a bridge upon a part of the road assigned to one of them. 175 M243, 221NW3.

Evidence held not to sustain a finding that an agreement was made for joint maintenance of a bridge. 175 M243, 221NW3.

Record held to establish laying out of highway and its nonabandonment. Freeman v. P., 286NW299. See Dun. Dig. 8461.

Where a bridge on a town line road is washed out, the question whether the two towns shall contribute to the expense of replacing the bridge depends on the agreement by which the two towns divided the road for purpose of maintenance. Op. Atty. Gen., July 3, 1930.

Where townships agree upon maintenance of a township line road, and state takes over a portion of the road maintained by one of the townships, the division must stand as it was before the taking over of the road by the state, in the absence of a new agreement between the townships, especially where the road is on a county line. Op. Atty. Gen., May 5, 1931.

Survey by county some years previous to petition for town line road is no indication that county assumes any control. Op. Atty. Gen., May 12, 1932.

Petition for town line road is jurisdictional and defects should be pointed out by board to signers. Op. Atty. Gen., May 12, 1932.

Voters in incorporated village within town are not voters of town and are not eligible to sign petition for town line road. Op. Atty. Gen., May 12, 1932.

Signers of petition for town line road may be residents of either town, and must be voters residing within three miles of proposed road. Op. Atty. Gen., May 12, 1932.

Either town receiving petition for town line road should immediately notify town board of adjoining town and suggest time for joint meeting. Op. Atty. Gen., May 12, 1932.

There is no law or method of enforcing collection of upkeep and maintenance of state line road. Op. Atty. Gen. (377E), June 30, 1934.

Town boards of two towns situated in adjoining counties have authority to establish a road between such towns on line between such counties and are authorized to maintain their proportionate shares, at least where they have been kept in repair and worked for 15 years by such towns. Op. Atty. Gen. (337b-10(d), Feb. 17, 1938.

2588. Appeal.

Validating act, see Laws 1937, Sp. Ses., c. 24.

Form of judgment allowing compensation for cartway through land held in proper form. Burns v. T., 186M 588, 243NW74.

Roads may be established along section line in either unorganized or dissolved township under either §2582 or §2586, and procedure relating to assessment of damages in either case is found in §2582, while §2588 prescribes procedure relative to appeal in both cases. Op. Atty. Gen. (377b-10(d)), Dec. 20, 1935.

(5).

A town board may not proceed with construction of a cartway pending determination of appeal. Op. Atty. Gen. (377b-10(d)), Aug. 13, 1934.

2590. Dedication by user.

Op. Atty. Gen. (377b-10(e)), (631h), July 5, 1934; note under §7250.

Evidence held to justify finding of a public road by common-law dedication. 183M393, 236NW706. See Dun. Dig. 2655(41).

Common-law dedication of a roadway is established by proof of long-continued public use under such circumstances that the knowledge and assent of the owners, known or unknown, may be presumed. Metalak v. R., 184M260, 238NW478. See Dun. Dig. 2646.

This section is not applicable to the opening of a road four rods wide along the route of a cartway established by an order of the town board making it two rods wide. Op. Atty. Gen., May 21, 1930.

A road constructed and maintained by a town within the limits of a village became established by user irrespective of the right of the town to construct and maintain the same. Op. Atty. Gen., Mar. 22, 1932.

Township cannot acquire right of way to road by outright purchase and deed. Op. Atty. Gen., Apr. 14, 1932.

Road vacated did not become public road because landowners conveyed by quitclaim deed, and several farmers used road for thirty years, without supervision by municipality, it not appearing that town board accepted conveyances. Op. Atty. Gen., Apr. 29, 1932.

This statute is applicable to streets as well as roads but width of village street must be governed by width as shown upon recorded plat dedicating such street, and such street need not be sixty-six feet in width. Op. Atty. Gen., June 29, 1932.

There was no dedication to width of four rods where cartway was laid out, constructed and continuously kept in repair within a width of one rod. Op. Atty. Gen. (379c-1), Sept. 28, 1934.

Whether there has been a dedication by user is a question of fact. Op. Atty. Gen. (379c-13(b)), July 12, 1935.

When a road is established by user or common-law dedication, its width in absence of a statute is measured by the user. Op. Atty. Gen. (377a-4), Aug. 26, 1935.

This section relates to establishment of roads by user and not to roads or streets laid out by order of town board, village or city council. Op. Atty. Gen. (377c), Nov. 2, 1936.

Where a road is established by user property owner at any time before expiration of six-year period has a right to object to use of his property for highway purposes. Id.

Town boards of two towns situated in adjoining counties have authority to establish a road between such towns on line between such counties and are authorized to maintain their proportionate shares, at least where they have been kept in repair and worked for 15 years by such towns. Op. Atty. Gen. (337b-10(d), Feb. 17, 1938.

This section relates to establishment of roads by user and not to roads or streets laid out by order of town board, and there was no dedication of a four rod road where a two rod road was established in first instance under statutes. Op. Atty. Gen. (379c-13d), June 26, 1939.

2592. Alteration of road.

Order of board establishing alteration of road vacates the unused part of the old road after lapse of two years. Nelson v. Nicollet County, 154M358, 191NW913. See Dun. Dig. 8467.

When a permanent trunk highway is located by the Highway Commissioner the practicable road along the general location is not thereby vacated, but reverts to the control of the county or town board as the case may be. 171M369, 214NW653.

On petition for change of highway the board has a reasonable discretion in varying the route proposed in the petition and may retain a portion of the road which the petition asks to have changed. Op. Atty. Gen., Feb. 6, 1930.

2595. Contracts for bridges and roads.

Township could not let a valid contract for work on bridge where price exceeded $500, unless plans and specifications were on file with the town clerk when bids were called for, and there could not be a recovery, on a quantum meruit or otherwise, where there was also no bond filed on execution of the contract. 172M259, 214NW 888.

This section is applicable to the construction of county aid roads. Op. Atty. Gen., May 1, 1930

Where a town, without advertisement for bids, and without formal contract, accepted the offer of a contractor to improve a road, the contract was illegal, but there was a contract for services within the $500.00 limitation. Op. Atty. Gen., May 19, 1930.

Great inconvenience to the public from the collapse of a bridge will not warrant a county in dispensing with the statutory requirement of three weeks' publication and reception of bids under this section. Op. Atty. Gen., June 19, 1931.

County board having rejected all bids for seasonal culverts, it may not reconsider them, but must readvertise. Op. Atty. Gen., June 4, 1932.

Where two culverts are to be used as one conduit, county board may not separate purchase so as to avoid necessity of advertising for bids. Op. Atty. Gen., June 4, 1932.

Town board in advertising for bids for graveling roads may not limit eligible bidders to county. Op. Atty. Gen., Mar. 21, 1933.

In advertising for bids for bridge work, §2595, rather than §991, should be followed. Op. Atty. Gen. (125a-17), May 7, 1937.

This section relates only to work which is done by contract and has no application to work done by day labor, and if bridge is to be constructed by day labor and cost of material will not exceed $500, it will not be necessary for county to advertise for bids. Id.

Mower County is not required to advertise for bids in purchasing material and employing day labor in connection with repair and construction of bridges. Op. Atty. Gen. (642a-3), Sept. 13, 1938.

(2).

Subdivision has no application to work done by day labor or per hour, but does apply to a machine which, of necessity, will cost more than $500 to complete work. Op. Atty. Gen., June 10, 1933.

Section relates only to work done by contract, and county board may have county road work done by day labor and hire necessary machinery at a stipulated rate per hour, though no purchase of materials in excess of $500 may be made without first advertising for bids, but contracts for construction in excess of $500 may not be made under guise of day labor work without first calling for bids. Op. Atty. Gen. (707a-1), Sept. 29, 1937.

2596-1. Counties may pay for gasoline, etc., under certain conditions.—Whenever gasoline and oil has been furnished to a contractor in the construction of a county road and such contractor is insolvent and the bonding company issuing such contractor's bond is in the hands of a receiver, the county constructing such road may in its discretion pay for such gasoline and oil in the same manner as other county claims, provided, however, that the provisions herein contained shall not be interpreted or construed as being mandatory in any manner or thing whatsoever upon the county board of such county. (Act Apr. 4, 1933, c. 154.)

2597. Warning signs by contractors.

Independent school district may not publish proceedings in newspaper outside district circulating within district, where there is a paper published in district. Op. Atty. Gen., Jan. 26, 1933.

2600. Drainage of roads.

U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.

Towns in the improvement and maintenance of public highways are without authority substantially to change or interfere with the operation of duly established drainage systems. 174M317, 219NW158.

Question being as to payment out of "highway fund" for private property sought to be purchased by highway commissioner near, but not part of, right of way of a trunk highway, and there being no formal action by commissioner indicating purpose for which property in question was to be acquired or used, attempted purchase was void and beyond statutory power of highway commissioner. State v. Werder, 200M148, 273NW714. See Dun. Dig. 8452.

Town road drainage ditches may be constructed and maintained over lands of another. Op. Atty. Gen. (377b-10(c)), Dec. 3, 1936.

2604. Bridges over ditches.

Separation of privately owned farms from highway by construction of ditch is an element of damage taken into consideration by viewers at time ditch is constructed, and cost of construction and maintenance must be borne by private landowners, except that burden will fall upon municipality to extent that it has received damages for that purpose, and until exhaustion of the award. Op. Atty. Gen. (125a-41), July 30, 1937; Op. Atty. Gen. (642b-8), Aug. 16, 1937.

Duty to construct bridges or culverts over drainage ditches is imposed on property owners, and over road ditches on municipality. Op. Atty. Gen. (148a-8), Aug. 24, 1937.

2605. Bridges over state drainage ditches.

Rebuilding of bridges is to be done by county over state or county ditches. Op. Atty. Gen., July 5, 1933.

2606. Reconstruction, repair, etc., notices, tax levies, etc.

Includes interstate bridge. Op. Atty. Gen., Apr. 11, 1929.

It is duty of town to construct and maintain approaches to a bridge constructed on a county road under this section. Op. Atty. Gen., Aug. 21, 1929.

Duty to construct and repair bridges on town roads rests with township, though county is authorized to appropriate money to towns in aid of construction and maintenance. Op. Atty. Gen. (377b-10(h)), June 3, 1938.

2607. Impassable roads—Complaint by freeholders.—Sub. 1. Whenever a complaint in writing to the county board of the county reciting that a described road in or on the line of a town therein is neglected by the town charged by law with its maintenance and repair, or that a legally established road in or on the line of the town has not been constructed or opened, when the cost of opening and constructing such legally established road shall not exceed the sum of $1000.00 per mile, and that by reason of such neglect such road is not reasonably passable, and which said complaint is signed by five or more freeholders of said town or of an adjoining town in said county, the county board shall by resolution fix a time and place when and where it will consider the complaint, and thereupon the county auditor shall mail a copy of the complaint, together with a notice of the time and place when and where the county board will meet to consider the complaint, to the town clerk of the town, and shall also notify the persons signing the complaint of the time and place of such meeting. At the designated time and place the county board shall consider such complaint and hear and consider such testimony as may be offered by the officers of the town, or the persons filing the complaint, relative to the truth of the matters therein set forth. The chairman of the board or the presiding officer thereof may administer oaths to witnesses and require them to testify under oath. ('21, c. 323, §67; '23, c. 349, §13; Act. Feb. 19, 1929, c. 24, §1; Act Mar. 6, 1931, c. 40.) * * *

U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.

There is no statutory provision by which one town can compel another to maintain its half of a town line road where there has been no agreement for the division of the road for purpose of maintenance, the only remedy being application to the county board under §2607. Op. Atty. Gen., June 27, 1930.

It is town board out of town funds to maintain a cartway accessible to public. Op. Atty. Gen. (377b-1), Apr. 28, 1936.

A binding contract may be entered into between two towns located in different counties dividing county line highway into districts to be maintained by respective towns. Op. Atty. Gen. (434a-7), Nov. 2, 1936.

County board may entertain petition for repair of cartway notwithstanding refusal of electors at annual meeting to allocate funds for upkeep of such cartway. Op. Atty. Gen. (377b-1), Aug. 17, 1938.

School may not provide transportation of children by roundabout roads and then collect from township failing to keep township road in passable condition. Op. Atty. Gen. (377b-10(h)), Oct. 27, 1938.

Township may be compelled to keep roads in necessary repair, and reasonably passable. Id.

(1).

Op. Atty. Gen., Jan. 24, 1934; note under §2615(1).

2608. Seeding along highways.

One not injured by obstruction in a manner different from injury to general public cannot sue. 179M475, 229 NW583.

Landowners and tenants are permitted to use their portion of right-of-way of a public road in so far as such use does not interfere with use of road as public highway. Op. Atty. Gen. (240 l), June 12, 1936.

2609. Hedges and trees.—Sub. (1) The town boards of supervisors, as to town and county roads, outside the corporate limits of cities and villages, the county boards as to state aid and county aid roads, and the commissioner of highways as to trunk highways, are hereby given the right and power to determine upon the necessity and order the cutting down of hedges and trees within the road limits after

having given ten days' written notice to the owner or owners of the abutting land, and an opportunity to be heard. Provided, that trees, other than willow trees shall not be so cut down unless such trees, or hedges, or either of them, interfere with keeping the surface of the road in good order, or cause the snow to drift onto or accumulate upon said road in quantities that materially obstruct travel. The said boards and commissioner, respectively, shall also have power to properly mark or light dangerous places on the public highways, and take such measures as may be necessary to protect travel thereon. ('21, c. 323, §69; Apr. 24, 1929, c. 329; Apr. 13, 1931, c. 153.)

Sub. (2) When the respective board or the commissioner of highways shall determine that such cutting down of hedges or trees within the limits of such roads in necessary, or that same would aid materially in keeping such roads in repair or free from snow, it shall notify the owner or owners of the abutting lands by written notice of such decision, and order the trees or hedges cut down within thirty days after such notice. If the said owner or owners fail or refuse to comply with such notice and order within the time specified, the said board or commissioner of highways shall have the power to cause such trees or hedges to be cut down. The timber and wood of such trees shall belong to the said owner or owners of the abutting land; provided, they pay the expense of cutting down said trees or hedges and remove the same from the roadside within said thirty days. If such timber or wood is not removed within said time, the board or commissioner of highways, as the case may be, shall have the power to sell or dispose of the same or destroy it if it cannot be sold, and if sold, shall pay the proceeds thereof to the owner or owners of the abutting lands after deducting the costs of such cutting and sale.

Sub. (3) The town boards of supervisors and the county boards are hereby granted the further right and power to appropriate and pay out of their respective road and bridge fund, or from any other fund available, the cost of cutting down such trees and hedges and the removal or destruction of the same, if done at public expense, and the cost of marking or lighting dangerous places on said highways.

Sub. (4) Any person aggrieved by any determination or order of a town board of supervisors or county board of county commissioners, ordering or refusing to order the cutting down or removal of such hedges or trees may appeal therefrom within thirty days after the filing of such order or determination to the District Court of the county, by filing with the clerk of such court a bond in the sum of not less than $250.00 approved by the Judge or by the court commissioner or auditor of such county, conditioned to pay all costs arising from such appeal, in case the determination or order is sustained, and by service upon the chairman of the town board, or upon the chairman of the county board, in case of such order made by a county board, of a notice of appeal stating briefly the grounds of appeal and signed by the party appealing or his attorney, and filing same with proof of service with the clerk of court of said county. Such appeal shall be entered upon the calendar for trial at the next general term of the court occurring more than 20 days after the appeal is perfected. Such appeal and matter shall be tried de novo in such court and either party shall be entitled to a jury trial upon demand. ('21, c. 323, §69; Apr. 24, 1929, c. 329; Apr. 13, 1931, c. 153; Dec. 23, 1933, Ex. Sess., c. 19.)

Discretion of town board declaring necessity for cutting down hedges and trees, cannot be controlled by mandamus. 177M372, 225NW296.

Following Powell v. Township of Carlos, 177M372, 225 NW296, and construing c. 329, Laws 1929, it is held that a court may not control the exercise of the discretion of the town board in determining what hedges and trees should be cut down within the road limits of a township highway. Wagner v. T., 182M571, 235NW27. See Dun. Dig. 8455.

Where county under plan approved by state highway department constructed underpass under trunk highway for use of an ice company, leaving open excavation on each side of paved portion of highway, into which a pedestrian fell in the night time, the ice company was not liable, being under no duty to take precautions or protective measures for safety of traveling public. Otten v. B., 198M356, 270NW133. See Dun. Dig. 8452.

County board is without power to order removal of trees and hedges from judicial highways, such power resting in town board. Op. Atty. Gen., Feb. 11, 1929.

But of course county in constructing highway may remove obstructions that interfere. Op. Atty. Gen., Feb. 28, 1929.

Moorhead city ordinance respecting trees and grass plots along the public streets, and the cutting of weeds and grass, held faulty as to compelling a man to cut grass on a street or alley. Op. Atty. Gen., Apr. 10, 1931.

This section applies only to the removal of trees from the right of way of an existing road, and has no application to the establishment of town roads under section 2583; and town board in the latter case may remove the trees, giving the timber to the abutting owner without making any charge for the cutting. Op. Atty. Gen., June 18, 1931.

Where in 1889 an order was made in regular proceedings establishing a county road on a section line, and road as made and traveled deviated from established part of way, because a grove of trees planted by an abutting owner was on section line, the passage of time and use of deviation did not prevent county from straightening the highway, but abutting owner should be given 10 days' notice of intent to remove trees. Op. Atty. Gen. (229i), Oct. 30, 1935.

Commissioner of highways may install lights on trunk highways at intersections in cities and villages and pay for cost out of highway funds. Op. Atty. Gen. (229e-3), Feb. 3, 1937.

2610. Tunnels under roads.—Every owner of land on both sides of a public road may tunnel under such road to permit stock to pass from one side to the other, but he shall, at his own expense, construct such tunnel so as not to endanger the public in the use of the such road. Before constructing such tunnel, the land owner shall obtain from the town board of the town in which it is located, if the road is a town road, or from the county board of the county in which it is located, if the road is a county or state aid or county aid road, or from the commission of highways, if the road is a trunk highway, an approval of the place, the kind of tunnel, and the manner of its construction. Bridges over tunnels shall be not less than sixteen feet wide, properly protected with railings, and constructed of such materials as shall be agreed upon by the respective board or commissioner of highways, as the case may be, and if, within one year after the construction of such bridge, the board or commissioner of highways, as the case may be, shall deem it or its appurtenances insecure, it may cause the same to be put in the proper condition at the expense of its owner, and, whenever said board or commissioner of highways shall deem the tunnel out of repair, it may cause the necessary repairs to be made at the expense of such owner. In either case the reasonable cost of such repairs shall be certified to the county auditor and by him assessed upon the land in the same manner as the road taxes. Provided, that when any such public road is not on a section or sectional subdivision line, the owner of the lands on both sides of such road shall be permitted to construct an appropriate tunnel to be approved as aforesaid, which tunnel the owner shall maintain at his own expense for the first year and which shall be thereafter maintained by the town, county, or state, as the case may be. Provided further that whenever the board of county commissioners of any county, as to any county state aid or county aid road therein, or the town board of any town, as to any town road therein, shall determine that the construction of such a tunnel is necessary for the safety and welfare of the public, such board may cause such tunnel to be constructed and maintained at the expense of the county or town, as the case may be or may contract with the abutting land owners for the equitable division of the cost of construction and maintenance thereof between such land

owners and the county or town. ('21, c. 323, §70; Apr. 13, 1931, c. 147, §1.)

Under street. 179M495, 229NW794.

County cannot expend public funds to construct a cattle pass under a highway for owner of lands on both sides of highway. Op. Atty. Gen., May 28, 1929.

Property owner owning lands on both sides of section line cannot compel town board to construct and maintain cattle pass at expense of town. Op. Atty. Gen. (377b-10(d)), July 2, 1935.

Contract of town to construct and maintain cattle pass in perpetuity is void and of no effect. Op. Atty. Gen. (377a-2), June 8, 1937.

2612. Town and county boards to construct culverts.

This section is not applicable to a highway constructed along the banks of an established drain, and the town is not required to construct bridges over the drain to give access to the highway. Op. Atty. Gen., July 19, 1930.

An abutting owner is entitled to a suitable culvert and to have it kept in good condition at expense of town. Op. Atty. Gen., Aug. 28, 1933.

Where township reconstructs town road, it is required to furnish culvert and also make fill for driveway. Op. Atty. Gen. (434a-7), July 29, 1937.

Separation of privately owned farms from highway by construction of ditch is an element of damage taken into consideration by viewers at time ditch is constructed, and cost of construction and maintenance must be borne by private landowners, except that burden will fall upon municipality to extent that it has received damages for that purpose, and until exhaustion of the award. Op. Atty. Gen. (125a-41), July 30, 1937; Op. Atty. Gen. (642b-8), Aug. 16, 1937.

Duty to construct bridges or culverts over drainage ditches is imposed on property owners, and over road ditches on municipality. Op. Atty. Gen. (148a-8), Aug. 24, 1937.

It is duty of town board to replace culverts in farm approaches taken out at time of regrading road. Op. Atty. Gen. (148a-8), Dec. 15, 1938.

2613. Condemnation of gravel beds.

Act Mar. 9, 1939, c. 58, provides that counties having real and personal property of the value of $40,000,000 to $45,000,000, population of 20,000 to 25,000, and 30 townships, may purchase or condemn land not exceeding 80 acres containing road surfacing material with right of way thereto.

A purchase of a quarter section of land in separate twenty acre tracts for use by the county to supply gravel would violate this section. Op. Atty. Gen., Apr. 25, 1931.

It is not necessary for a county to advertise for bids in purchasing a particular tract of land for gravel purposes. Op. Atty. Gen. (125a-41), July 30, 1937.

County may buy land forfeited to state for a gravel pit. Op. Atty. Gen. (425c-10), Mar. 24, 1938.

County board may not purchase or condemn property outside of territorial limits of county for a gravel pit. Op. Atty. Gen. (817h), Feb. 25, 1939.

2614. Special railroad rates for road materials.

Since commission considered distance factor, it was unnecessary on appeal to consider whether it is mandatory that distance be considered in fixing rates. Hallett Const. Co. v. F., 191M335, 254NW435. See Dun. Dig. 8082a.

2615. Obstruction of or damage to highways.

The construction and maintenance of a logging railroad across a highway under Mason's Minn. Stat., 1927, §2558-1, etc., is not an unlawful obstruction under this section. 174M305, 219NW172.

In action to recover damages by one stumbling or tripping on door mat lying on sidewalk in front of defendant's property, it was proper to receive in evidence ordinances of the city making it unlawful to obstruct or incumber sidewalks. McCartney v. St. Paul, 181M555, 233NW465. See Dun. Dig. 6845, 6976.

In action for injuries in tripping over door mat in front of defendant's property, jury had right to draw from the evidence the inference that the mat was either put there by defendant or that he permitted it to remain there, though there was no direct evidence. McCartney v. St. Paul, 181M555, 233NW465. See Dun. Dig. 3447, 6845, 7042.

In action for injuries to motorist, colliding with unguarded concrete mixer placed in road to guard a partially newly constructed culvert, evidence held sufficient to sustain finding of negligence of defendant. Wicker v. N., 183M79, 235NW630. See Dun. Dig. 4179(92).

Owner of fee in a highway can use it only in a way that is compatible with public travel thereon. State v. Nelson, 189M87, 248NW751. See Dun. Dig. 4157.

Side road in abandoned village is a town or county road and town may remove fence erected thereon. Op. Atty. Gen., Apr. 28, 1933.

(1).

Fishing or loitering on a bridge is not prohibited, but dangers incident thereto may be obviated possibly under this section. Op. Atty. Gen., July 24, 1931.

If township cut brush along right of way and piled it on right of way along main traveled part of highway with result that snow accumulated in large quantities on adjoining land and thereby blocked a driveway to a farmhouse, township could be compelled to remove the brush and snow. Op. Atty. Gen., Jan. 24, 1934.

There is no statutory provisions requiring outlet of a private draining system emptying into ditch along a town road to be any certain distance from right-of-way, but such outlet or water emptying therefrom must not obstruct public highway or ditch. Op. Atty. Gen. (602h), Aug. 13, 1938.

2616. Moving buildings over roads.

Power company held not liable for injury to employe who climbed to the top of a road-building machine and came in contact with a power wire. 178M604, 228NW 332.

2617. Removal of snow.

Op. Atty. Gen., Jan. 24, 1934; note under §2615(1).

It is not duty of county board while removing snow from roads to open up driveways and entrances to side roads. Op. Atty. Gen. (377a-11), April 19, 1939.

There is no other statutory provision for a levy by a county for snow removal purposes than the 10 mill levy for road and bridge purposes, and county commissioners cannot make a levy against any township for removal of snow from township roads, but there is no legal objection to township entering into a contract with county for snow removal and expending available money. Op. Atty. Gen. (377a-11), July 14, 1939.

2619. Repeal.

Neither Laws 1913, c. 235, nor Laws 1921, c. 323, repealed Special Laws 1885, c. 175, requiring Mower County to build and maintain all bridges therein. State v. County of Mower, 185M390, 241NW60.

Laws 1913, c. 235, §91, and Laws 1921, c. 323, repealed Laws 1913, c. 75. Op. Atty. Gen., June 18, 1931.

Where county board established a road in a town in 1908 and township did a little grading but never completed road, it is now the duty of the county and not the township to complete such road, notwithstanding Laws 1913, c. 235, and R. L. 1905, §1168. Op. Atty. Gen. (380a-1), Sept. 28, 1934.

2620-1. Certain counties to improve roads outside of county.—That in any county of this state now or hereafter having a total assessed valuation of all its taxable property as fixed by the State Tax Commission of more than $220,000,000, and less than $375,000,000 exclusive of moneys and credits, and an area of less than 5,000 square miles, the board of county commissioners shall have authority to appropriate and expend upon any road, highway or bridge located upon or immediately adjacent to the boundary line between any city of the first class and any other city or village within such county, such sum or sums of money from the county road and bridge fund as said board shall deem proper for building, repairing or otherwise improving any road or highway, including the construction and repairing of any bridge thereon. ('25, c. 255, §1; Apr. 15, 1929, c. 189, §2.)

Sec. 1 of Act Apr. 15, 1929, c. 189, amends the title to Chapter 255, General Laws 1925, to read as follows: "An act authorizing the board of county commissioners of counties of this state having a total assessed valuation of more than $220,000,000, and less than $375,000,000, exclusive of money and credits, and the area of less than 5,000 square miles, to appropriate and expend money from the county road and bridge fund upon any road, highway or bridge located upon or immediately adjacent to the boundary line between any city of the first class and any other city or village within such county, and to acquire by purchase or condemnation right-of-way therefor."

2620-2. Same—Appropriations by county boards.—In the event said board of county commissioners shall determine to grade, pave or otherwise improve any road or highway, or construct or repair any bridge upon or immediately adjacent to the boundary line between any city of the first class and any other city or village within such county, and it shall be deemed that such improvement of such road, highway or bridge can be more economically and better done by having the work of such improvement done by any such city of the first class such board of county commissioners is hereby authorized to appropriate and pay to any such city of the first class such amount of money as it shall deem necessary to be expended by the county for such purpose in such city or in the city or village adjoining; provided that if any such road, highway or bridge so improved is upon a bound-

ary line between any city or village and a city of the first class operating under a home rule charter within such county, and such road, highway or bridge is partly within such city of the first class, the amount so appropriated by said county shall not exceed one-half the cost of any such improvement as estimated by the county highway engineer of any such county. ('25, c. 255, §2; Apr. 15, 1929, c. 189, §2.)

2620-3. Same—Appropriations in special fund.—Said amount so appropriated and paid to any such city of the first class shall be set apart in a fund for the improvement of any such road, highway or bridge, or may be paid to any fund raised or to be raised under any proceeding authorized by the charter of any such city for improvement of any such road, highway or bridge, and shall be expended from such fund in the same manner as other funds therein. ('25, c. 255, §3; Apr. 15, 1929, c. 189, §3.)

2620-4. Same—Appropriations not invalid.—Such appropriation shall not be declared invalid because the same shall be more or less than one-half the total cost of such improvement as finally determined. ('25, c. 255, §4; Apr. 15, 1929, c. 189, §4.)

2620-4½. Acquisition of right of way.—Any county board coming within the provisions of this act shall have authority in the name of the county to purchase or condemn lands for the right-of-way of such road, highway or bridge under the provisions of Chapter 41, General Statutes 1923. (Act Apr. 15, 1929, c. 189, §5.)

2620-5. Funding and payment of outstanding indebtedness.

Act (2620-5 to 2620-13) does not violate Const. Art. 4, §§33, 34, being remedial in character and intended to provide temporary relief for an unusual condition. 171 M312, 213NW914.

2620-7. Same—Tax levy to pay bonds.

Ten-mill levy for road and bridge fund was lawfully made where its proceeds went to pay interest and principal due upon bonds issued pursuant to act. State v. Keyes, 188M79, 246NW547. See Dun. Dig. 2285, 9239.

2620-9. County board to determine amount necessary.—Such county board shall annually, at its meeting on the second Monday in July, 1927, and at its meeting on the first Monday in January in each succeeding year, determine the amount of funds which will be available during the current year for road and bridge purposes, from the proceeds of the tax levy lawfully made therefor in the preceding year and from state aid and from other sources known to be due and payable into the county treasury for such purposes during such year, and shall thereupon, at such meeting, make and spread on its minutes a definite budget of the expenditures made and to be made and indebtedness incurred and to be incurred for road and bridge purposes during such year, which expenditures and indebtedness shall in no case exceed the aggregate amount of revenues so determined to be available for such year, providing, however, that in counties having an area of 2500 square miles and an assessed valuation of more than $10,000,000.00 and less than $30,000,000.00, exclusive of moneys and credits when any item of new road machinery, which will be available over a period of years, is purchased on bids, costing $4,000 and less than $6,000, that the payment thereof may, by the issuance of two warrants, be spread over a period of two years, one half of the aggregate amount as represented by one warrant to be charged to and paid out of the funds determined and available in the year such item is purchased and the balance as represented by the second warrant to be charged to and paid out of the funds determined and available for the following year, and provided further that if the cost of the such item of road machinery is in excess of $6,000, that the payment thereof may, by the issuance of three warrants, be spread over a period of three years, one third of the aggregate amount, as represented by one warrant, to be paid out of the funds determined and available for the year in which said item is purchased, one third of said aggregate amount as represented by the second warrant to be paid out of and charged to the funds available and determined for the following year and the balance of one third of the aggregate, as represented by the third warrant, to be paid out of and charged to the funds determined available for the second year following the date of such purchase; provided, further, that the total cost of all road machinery purchased under this act shall not exceed the sum of $75,000, and that no warrants not payable in the year of their issue shall be issued subsequent to January 1, 1933. Such budget shall first allot, and there shall be first payable out of the receipts for such year, so much of the road and bridge floating indebtedness of the county, including amounts borrowed from any other fund or funds, as is not retired by the bond issue hereinbefore authorized, together with interest thereon. There shall then be allotted not less than one-fifth of the anticipated current tax collections annually for maintenance and not less than one-twenty-fifth of the anticipated current tax collections annually for an emergency fund, and what remains may be allotted to be expended on new construction for the year, which allotment shall include the payment of any amount remaining to be paid on outstanding construction contracts, completed or uncompleted. As nearly as may be, a specific program of new construction shall then be determined upon the amount to be expended on each item determined and allotted; and no change in such program shall be made, nor additional expenditures made or indebtedness incurred, which shall cause to be diverted to other purposes any part of the amount herein required to be allotted for payment of outstanding indebtedness, and for maintenance and emergency funds, nor which shall cause the expenditures made or indebtedness incurred by the county for all the purposes aforesaid in any year to exceed the total revenues of the county determined, as aforesaid, to be available for such year. The emergency fund may be used to pay for extraordinary repairs or replacements occasioned by emergency which could not be anticipated when the budget was made. ('27, c. 147, §5; Apr. 25, 1931, c. 337, §1.)

2620-17. Definitions.—The words, "Town Road" and "Town Roads" shall mean those roads and cartways which have heretofore been or which hereafter may be established, constructed and improved under the authority of the several town boards, and also all roads lying wholly within one township and not within the limits of any city or village including roads therein established by use. (Act Apr. 13, 1933, c. 228, §1.)

2620-18. Town boards to alter, vacate and abandon roads.—The several town boards may alter, vacate and abandon any town road upon petition of all the owners and occupants of all the land contiguous thereto. Said petition shall be filed with the town clerk and proceedings thereon by the town board shall be in conformity with the provisions of Section 2583 of Mason's Minnesota Statutes of 1927 as far as the same are applicable. (Act Apr. 13, 1933, c. 228, §2.)

This act is supplementary to §2583 and provides an additional method of petitioning town board. Op. Atty. Gen., Apr. 29, 1933.

Town board cannot vacate alley dedicated by plat unless it has recognized it as a public highway and has assumed duty to maintain it. Op. Atty. Gen. (434b-(13d)), Feb. 25, 1937.

2620-19. Inconsistent acts repealed.—All Laws, Acts or parts thereof inconsistent herewith are hereby repealed. (Act Apr. 13, 1933, c. 228, §3.)

2620-20. County Board may reimburse other municipalities in certain cases.—That the Board of County Commissioners of any county may when petitioned in writing therefor reimburse any borough, village or city of the fourth class for expenditures made by it subsequent to 1915 in the grading, construction or gravelling of a street or road within the limits of said borough, village or city, which street or road was a continuation of a State Aid Road and which street or road was subsequently designated as a part of the State Aid Road system of that county, to an amount, however, of not to exceed $2000 for any one municipality. (Act Feb. 15, 1935, c. 12, §1.)

Sec. 2 of Act Feb. 15, 1935, cited, provides that the act shall take effect from its "passage, approval and publication."

Safety isles on University Avenue in St. Paul constitute an integral part of the street itself, and the county may lawfully expend funds to assist in rearranging and remodeling them. Op. Atty. Gen., Feb. 26, 1931.

County board is vested with discretion in determining whether or not to make reimbursement and amount of reimbursement. Op. Atty. Gen. (377b-8), Nov. 6, 1936.

LOCAL AND SPECIAL ACTS

Laws 1929, c. 145, vacates road established by Sp. Laws 1879, c. 247.

Counties containing first class city in which is located more than 96% of taxable property according to assessed valuation authorized to expend from road and bridge fund money for installation of stop and go signs on city streets. Laws 1929, c. 284.

1931, c. 41, authorizes county board in counties having over 200,000 inhabitants, and area of over 5,000 square miles, to adjust claims for injuries.

Laws 1931, c. 59, authorizes counties with population of not less than 28,000, and not more than 28,500, to build and rebuild bridges costing less than $300 on certain roads. The act is repealed and re-enacted by Laws 1931, c. 87, and made to apply to bridges costing "more than $300."

Laws 1931, c. 297, authorizes counties having assessed valuation of over $350,000,000 and bonded indebtedness of not over $6,000,000 to improve roads and bridges to establish connection between trunk highways which are more than ten miles apart.

Laws 1933, c. 398, amends the title and section 1 of Laws 1931, c. 297, to make the act apply to counties having assessed valuation of not less than $310,000,000, exclusive of moneys and credits.

Laws 1937, c. 173, provides that in counties having assessed value of $280,000,000 to $290,000,000, and population of 515,000 to 520,000, the townships therein may assess property for cost of sprinkling or oiling dusty roads.

Act 1915, c. 44, as amended by Laws 1919, c. 528, mentioned in note is set forth herein as §§2565-4 to 2565-8.

Laws 1909, c. 435 (G. S. 1913, §2594), is no longer in force. Op. Atty. Gen., Nov. 5, 1930.

Laws 1923, c. 129, §1, relating to roads to meandered lakes, was amended by Laws 1929, c. 142.

Laws 1931, c. 111, limits scope of Laws 1915, c. 44, as amended by Laws 1919, c. 528.

Laws 1931, c. 111, §2, is constitutional. Op. Atty. Gen. (82), May 1, 1935.

Laws 1931, c. 113, authorizes issuance of state bonds to amount of $10,000,000 in 1931, and a like amount in 1932.

Laws Sp. Ses., 1935-36, c. 96, authorizes commissioner of highways to pay special assessments in cities or villages having 4600 to 5300 population and assessed valuation of $2,300,000 to $2,400,000, total payment not to exceed $4,000.

Laws Sp. Ses., 1935-36, c. 98, authorizes issuance of trunk highway bonds in 1936 to amount of $2,650,000.

Act Apr. 23, 1937, c. 377, provides that in counties with population of 175,000 to 225,000, and having area of over 5,000 square miles, county board may remove snow from roads under certain conditions.

Act Apr. 20, 1939, c. 318, amending Laws '19, c. 66. Compensation of county road engineers and their employees in St. Louis County.

GENERAL PROVISIONS APPLICABLE TO ALL ROADS

2641-17. Same—tax levy.

Laws 1929, c. 116, authorizes counties with bonded debt of not to exceed $7,500,000, and assessed valuation of not less than $200,000,000, 96% of which is in cities, to issue bonds or certificates of indebtedness not exceeding $6,000,000, for roads, streets, bridges and parkways.

The evidence supports the finding that money paid to the city of St. Paul by Ramsey County was an advancement, and not an outright payment of part of the cost of a street improvement. Assessment of Benefits, Etc., 182M183, 233NW861. See Dun. Dig. 2242(27).

2652. Counties to be reimbursed, etc.

Laws 1929, c. 412, authorizes issue of bonds by the state to take up maturing county bonds during the years 1930, 1931, 1932.

Act authorizing issuance and sale of trunk highway bonds under art. 16, §4, of the constitution. Laws 1931, c. 113.

Act relating to reimbursement of counties for moneys expended by them subsequent to Sept. 1, 1924, in permanently improving trunk highways. Laws 1931, c. 168.

Laws 1933, c. 390, provides for reimbursement from trunk highway fund of municipalities and private persons and corporations for expense and damages incurred in connection with construction of roads.

Act Ex. Ses., Dec. 21, 1933, c. 7, appropriates $50,000 to reimburse Rice county on account of construction of viaduct in Faribault on trunk highway No. 21. Omitted as of local application only.

2653. State to reimburse municipalities for moneys expended on trunk highways.

State cannot reimburse county out of trunk highway fund amount expended for right of way for new road built by county and later designated and taken over by state as trunk highway. State v. Babcock, 186M132, 242 NW474. See Dun. Dig. 8452.

2660-1. Reimbursement of counties by state, etc.

Similar acts were passed at the 46th and 47th sessions. See Laws 1929, c. 122, and Laws 1931, c. 67.

State cannot reimburse county out of trunk highway fund amount expended for right of way for new road built by county and later designated and taken over by state as trunk highway. State v. Babcock. 186M132, 242NW474. See Dun. Dig. 8452.

2660-2. Same—purpose of and restrictions on reimbursement.

Counties may not be reimbursed for the cost of acquiring rights-of-way, except where additional land is acquired and incidental and essential to the particular permanent improvement for which reimbursement is claimed. Op. Atty. Gen., June 11, 1931.

2660-5. Reimbursement of counties by state for expenditures in permanently improving trunk highways subsequent to April 10, 1921.

State cannot reimburse county out of trunk highway fund amount expended for right of way for new road built by county and later designated and taken over by state as trunk highway. State v. Babcock, 186M132, 242 NW474. See Dun. Dig. 8452.

2660-8. Reimbursement of counties by state for expenditures in permanently improving trunk highways.

State cannot reimburse county out of trunk highway fund amount expended for right of way for new road built by county and later designated and taken over by state as trunk highway. State v. Babcock, 186M132, 242NW474. See Dun. Dig. 8452.

2661. Trunk highway number 71.—There is hereby added to the Trunk Highway System and created and established hereby new routes as follows, to-wit:

Route No. 71. Beginning at a point on Route No. 27 in Little Falls, thence extending in a northeasterly direction to a point on Route No. 1 at or near Moose Lake; affording Little Falls, Onamia, Isle, McGrath and Moose Lake a reasonable means of communication each with the other and other places within the State. (Superseded by Act Apr. 22, 1933, c. 440, §1.)

2662-1. Trunk Highway No. 72 established.—There is hereby added to the trunk highway system and created and established an additional route, to be known as Route No. 72, which shall begin at a point on Route No. 4 northeasterly of Bemidji and extend thence in a northerly direction to a point on Route No. 11 easterly of Beaudette, affording Bemidji, Waskish, Beaudette, and intervening and adjacent communities, a reasonable means of communication each with the other and other places within the state. ('23, c. 427, §1; Mar. 26, 1929, c. 86.)

2662-2½. Additional trunk highways created.—There is hereby added to the Trunk Highway System and created and established hereby new routes as follows, to-wit:

Route No. 73. Beginning at a point on Route No. 20 at or near Zumbrota, thence extending in an easterly direction to a point on Route No. 3; affording Zumbrota, Mazeppa, Zumbro Falls and Wabasha a reasonable means of communication each with the other and other places within the State.

Route No. 74. Beginning at a point on Route No. 3 at or near Weaver, thence extending in a south-

westerly direction to a point on Route No. 9 at or near Spring Valley; affording Weaver, St. Charles, Chatfield and Spring Valley a reasonable means of communication each with the other and other places within the State.

Route No. 75. Beginning at a point on Route No. 3 in Winona, thence extending in a northeasterly direction to a point on the line between the states of Minnesota and Wisconsin.

Route No. 76. Beginning at a point on Route No. 43 at or near Wilson, thence extending in a southeasterly direction to a point on the line between the states of Minnesota and Iowa; affording Wilson, Houston and Caledonia a reasonable means of communication each with the other and other places within the State.

Route No. 77. Beginning at a point on Route No. 43 at or near Rushford, thence extending in a westerly direction to a point on Route No. 56 at or near Hayfield; affording Rushford, Chatfield, Stewartville, and Hayfield a reasonable means of communication each with the other and other places within the State.

Route No. 78. Beginning at a point on Route No. 9 at or near Rushford, thence extending in a southerly direction to a point on Route No. 44 at or near Mabel.

Route No. 79. Beginning at a point on Route No. 20 at or near Harmony, thence extending in a southerly direction to the line between the States of Minnesota and Iowa.

Route No. 80. Beginning at a point on Route No. 9 southerly of Wykoff, thence extending in an easterly direction to a point on Route No. 20 at or near Preston.

Route No. 81. Beginning at a point on Route No. 9 easterly of Austin, thence extending in a southeasterly direction to a point on Route No. 59 easterly of LeRoy.

Route No. 82. Beginning at a point on Route No. 40 at or near Blooming Prairie, thence extending in a westerly direction to a point on Route No. 15; affording Blooming Prairie, Ellendale, Mapleton, and St. James a reasonable means of communication each with the other and other places within the State.

Route No. 83. Beginning at a point on Route No. 5 westerly of Mankato, thence extending in a northwesterly direction to a point on Route No. 15 southerly of New Ulm.

Route No. 84. Beginning at a point on Route No. 7 at or near Sleepy Eye, thence extending in a southerly direction to the line between the States of Minnesota and Iowa; affording Sleepy Eye, St. James, and Sherburne a reasonable means of communication each with the other and other places within the State.

Route No. 85. Beginning at a point on Route No. 16 at or near Windom, thence extending in a southwesterly direction to a point on the line between the States of Minnesota and Iowa at or near Bigelow; affording Windom, Worthington, and Bigelow a reasonable means of communication each with the other and other places within the State.

Route No. 86. Beginning at a point on the line between the States of Minnesota and Iowa southerly of Lakefield, thence extending northerly through Lakefield to a point on Route No. 85 as herein established westerly of Windom.

Route No. 87. Beginning at a point on Route No. 9 southerly of Wells, thence extending in a southerly direction through Kiester to a point on the line between the States of Minnesota and Iowa.

Route No. 88. Beginning at a point on the line between the States of Minnesota and South Dakota, and Route No. 9, thence extending in a northeasterly direction to a point on Route No. 12 at or near Montevideo; affording Jasper, Pipestone, Marshall, and Montevideo a reasonable means of communication each with the other and other places within the State.

Route No. 89. Beginning at a point on Route No. 6 at or near Pipestone, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 90. Beginning at a point on Route No. 6 at or near Ivanhoe, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 91. Beginning at a point on the line between the States of Minnesota and Iowa southerly of Adrian, thence extending in a northerly direction to a point on Route No. 88 as herein established at or near Russell; affording Adrian, Lake Wilson, and Russell a reasonable means of communication each with the other and other places within the State.

Route No. 92. Beginning at a point on Route No. 17 westerly of Currie, thence extending in an easterly direction to a point on Route No. 84; affording Currie and Jeffers a reasonable means of communication each with the other and other places within the State.

Route No. 93. Beginning at a point on Route No. 4 at or near Redwood Falls, thence extending in a southeasterly direction to a point on Route No. 70 at or near Sleepy Eye.

Route No. 94. Beginning at a point on Route No. 3 northerly of Hastings, thence extending in a southeasterly direction to a point on the line between the States of Minnesota and Wisconsin.

Route No. 95. Beginning at a point on Route No. 94 as herein established at Point Douglas, thence extending in a northerly direction through Bayport and Stillwater to a point on Route No. 46 at or near Taylors Falls.

Route No. 96. Beginning at a point on Route No. 95 as herein established at or near Stillwater, thence extending in a westerly direction to a point on Route *No. 63 at or near New Brighton.*

Route No. 97. Beginning at a point on Route No. 1 at or near Forest Lake, thence extending in an easterly direction to a point on Route No. 95 as herein established.

Route No. 98. Beginning at a point on Route No. 1 at or near Forest Lake, thence extending in a northeasterly direction to a point on Route No. 46.

Route No. 99. Beginning at a point on Route No. 21 east of Le Center, thence extending in an easterly direction to a point on Route No. 21 near General Shields Lake.

Route No. 100. Beginning at a point on Route No. 22 at or near Gaylord, thence extending in an easterly direction to a point on Route No. 3 westerly of Red Wing; affording Gaylord, Henderson, New Prague, Northfield, Cannon Falls, and Red Wing a reasonable means of communication each with the other and other places within the State.

Route No. 101. Beginning at a point on Route No. 1 at or near Faribault, thence extending in a northerly direction to a point on Route No. 50.

Route No. 102. Beginning at the present terminus of Route No. 1 on the southerly limits of the City of St. Paul, thence extending in a northerly direction through the City of St. Paul to the point of beginning of Route No. 1 on the northerly limits of the city of St. Paul.

Route No. 103. Beginning at the present terminus of Route No. 1 on the westerly limits of the City of Duluth, thence extending in a northeasterly direction to the present point of beginning of Route No. 1 on the northerly limits of the City of Duluth.

Route No. 104. Beginning at the present terminus of Route No. 3 on the easterly limits of the City of St. Paul, thence extending in a northwesterly direction through the cities of St. Paul and Minneapolis to the present point of beginning of Route No. 3 on the westerly limits of the City of Minneapolis.

Route No. 105. Beginning at a point on the southerly limits of the City of Minneapolis, thence extending in a northeasterly direction through Minneapolis to a point at the beginning of Route No. 5 on the northerly limits of the City of Minneapolis.

Route No. 106. Beginning at a point on Route No. 8 in the westerly limits of the City of Duluth, thence extending in a southeasterly direction through Duluth to a point at the water's edge of St. Louise Bay and there terminating.

Route No. 107. Beginning at the present terminus of Route No. 10 on the westerly limits of the City of Minneapolis, thence extending in an easterly direction to a point on Route No. 104 as herein established.

Route No. 108. Beginning at the present terminus of Route No. 12 on the easterly limits of the City of St. Paul, thence extending in a westerly direction through the cities of St. Paul and Minneapolis to a point on the westerly limits of the City of Minneapolis, connecting with Route No. 12.

Route No. 109. Beginning at the present terminus of Route No. 45 on the easterly limits of the City of St. Paul, thence extending into St. Paul in a southwesterly direction to connect with Route No. 102 as herein established.

Route No. 110. Beginning at the present terminus of Route No. 50 on the southerly limits of the City of Minneapolis, thence extending through Minneapolis and northerly to a point on Route No. 2 at or near Aitkin, affording Minneapolis, Anoka, Ogilvie, Isle and Aitkin a reasonable means of communication each with the other and other places within the State.

Route No. 111. Beginning at the present terminus of Route No. 52 on the westerly limits of the United States Military Reservation at Fort Snelling, thence extending in a northeasterly direction through the Military Reservation into the City of St. Paul to connect with Route No. 102 as herein established.

Route No. 112. Beginning at the present terminus of Route No. 53 on the southerly limits of the City of South St. Paul, thence extending through South St. Paul into the City of St. Paul to connect with Route No. 102 as herein established.

Route No. 113. Beginning at a point on the northerly limits of the City of St. Paul, thence extending in a southeasterly direction into St. Paul to connect with Route No. 104 as herein established.

Route No. 114. Beginning at the present terminus of Route No. 63 on the northerly and easterly limits of the City of Minneapolis, thence extending into Minneapolis in a southwesterly direction to connect with Route No. 105 as herein established.

Route No. 115. Beginning at a point on Route No. 112 as herein established in St. Paul thence extending in a southerly direction to a point on Route No. 1 southerly of Wescott.

Route No. 116. Beginning at a point on Route No. 104 as herein established in the City of Minneapolis, thence extending in a southeasterly direction to a point on Route No. 53, thence extending in a southerly direction to a point on Route No. 21 at or near Kenyon; affording Minneapolis, Mendota, Hampton, and Kenyon a reasonable means of communication each with the other and other places within the State.

Route No. 117. Beginning at a point on Route No. 100 as herein established easterly of New Prague, thence extending in a northeasterly direction and crossing the Mississippi River easterly of the City of South St. Paul, thence extending in a northerly direction to a point on Route No. 1 at or near White Bear.

Route No. 118. Beginning at a point on Route No. 45 southwesterly of Stillwater, thence extending in a westerly direction to a point on Route No. 105 as herein established in Minneapolis.

Route No. 119. Beginning at a point on Route No. 49 at or near Clara City, thence extending in an easterly direction to a point on Route No. 12 at or near Excelsior; affording Clara City, Hutchinson, and Excelsior a reasonable means of communication each with the other and other places within the State.

Route No. 120. Beginning at a point on Route No. 119 as herein established at or near St. Bonifacius, thence extending in a northeasterly direction to a point on Route No. 10.

Route No. 121. Beginning at a point on Route No. 22 at or near Gaylord, thence extending in a northeasterly direction to a point on Route No. 5; affording Gaylord, Norwood, and Victoria a reasonable means of communication each with the other and other places within the State.

Route No. 122. Beginning at a point on Route No. 5 in Mankato, thence extending in a northwesterly direction through Nicollet to a point on Route No. 22, southerly of Gaylord.

Route No. 123. Beginning at a point on Route No. 5 in Le Sueur, thence extending in a southeasterly direction to a point on Route No. 21.

Route No. 124. Beginning at a point on Route No. 39 at or near Wells, thence extending in a southeasterly direction to a point on Route No. 9 at or near Alden.

Route No. 125. Beginning at a point on Route No. 111 as herein established north of the Mississippi River, thence extending in a northerly direction to a point on Route No. 63.

Route No. 126. Beginning at a point on Route No. 104 as herein established in St. Paul at or near Rice Street, thence extending in a northerly direction to a point on Route No. 63.

Route No. 127. Beginning at a point on Route No. 1 in the southwesterly portion of White Bear, thence extending in a northeasterly direction to a point on Route No. 1 near Bald Eagle Junction, this Route to be a substitute for the present location of Route No. 1 between said points.

Route No. 128. Beginning at the present terminus of Route No. 57 in Mantorville, thence extending in a northerly direction through Wanamingo to a point on Route No. 20.

Route No. 129. Beginning at a point on Route No. 24 at or near St. Cloud, thence extending in a southeasterly direction to a point on Route No. 110 as herein established northerly of Minneapolis; affording St. Cloud, Clearwater, and Monticello a reasonable means of communication each with the other and other places within the State.

Route No. 130. Beginning at a point on Route No. 3 northwesterly of Minneapolis, thence extending in a southerly direction to a point on Route No. 52.

Route No. 131. Beginning at a point on Route No. 37 at or near Randall, thence in an easterly direction to a point on Route No. 27.

Route No. 132. Beginning at a point on Route No. 27 at or near St. Cloud, thence extending in an easterly direction to a point on Route No. 46 at Taylors Falls; affording St. Cloud, Princeton, Cambridge and Taylors Falls a reasonable means of communication each with the other and other places within the state.

Route No. 133. Beginning at a point on Route No. 5 northerly of Braham, thence extending in an easterly direction to a point on the line between the States of Minnesota and Wisconsin.

Route No. 134. Beginning at a point on Route No. 5 southerly of Grasston, thence extending in a northerly direction to a point on Route No. 23.

Route No. 135. Beginning at a point on Route No. 28 westerly of Little Falls, thence extending in a westerly and southwesterly direction to a point on Route No. 3 at Osakis; affording Little Falls, Long Prairie, and Osakis a reasonable means of communication each with the other and other places within the State.

Route No. 136. Beginning at a point on Route No. 8 norwesterly of Bemidji, thence extending in a northwesterly direction to a point on Route No. 11 at or near Roseau.

Route No. 137. Beginning at a point on Route No. 18 northwesterly of Garrison, thence extending in a northerly direction to a point on Route No. 34 at or near Remer; affording Garrison, Deerwood, Crosby,

and Remer a reasonable means of communication each with the other and other places within the State.

Route No. 138. Beginning at a point on Route No. 19 northerly of Walker, thence extending in a northwesterly direction to a point on Route No. 4.

Route No. 139. Beginning at a point on Route No. 19 at or near Pine River, thence extending in a northeasterly direction to a point on Route No. 34.

Route No. 140. Beginning at a point on Route No. 11 at or near Baudette, thence extending in a northerly direction to Lake of the Woods.

Route No. 141. Beginning at a point on Route No. 28 at or near Sauk Center, thence extending in a southerly direction to a point on Route No. 4.

Route No. 142. Beginning at a point on Route No. 4 at or near Paynesville, thence extending in a northwesterly direction to a point on the line between the States of Minnesota and North Dakota; affording Paynesville, Glenwood, and Elbow Lake a reasonable means of communication each with the other and other places within the State.

Route No. 143. Beginning at a point on Route No. 10 westerly of Pennock, thence extending in a northerly direction to a point on Route No. 142 as herein established.

Route No. 144. Beginning at a point on Route No. 6 at or near Madison, thence extending in a northeasterly and northerly direction to a point on Route No. 142 as herein established at or near Barrett; affording Madison, Appleton, Morris, and Barrett a reasonable means of communication each with the other and other places within the State.

Route No. 145. Beginning at a point on Route No. 10 at or near Willmar, thence extending in a westerly direction to a point on Route No. 144 as herein established.

Route No. 146. Beginning at a point on Route No. 49, thence extending in a southerly direction through Maynard to a point on Route No. 12.

Route No. 147. Beginning at a point on Route No. 66 at or near Appleton, thence extending in a northwesterly direction to a point on Route No. 6.

Route No. 148. Beginning at a point on Route No. 6 at or near Ortonville, thence extending in a northwesterly direction to a point on Route No. 28.

Route No. 149. Beginning at a point on Route No. 148 as herein established at Ortonville, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 150. Beginning at a point on Route No. 12 at or near Hector, thence extending in a northerly direction to a point on Route No. 4 at or near Paynesville; affording Hector, Grove City, and Paynesville a reasonable means of communication each with the other and other places within the State.

Route No. 151. Beginning at a point on Route No. 24 southerly of Kimball, thence extending in a southerly direction to a point on Route No. 14 at or near Winthrop; affording Kimball, Hutchinson and Winthrop a reasonable means of communication each with the other and other places within the State.

Route No. 152. Beginning at a point on Route No. 10 at or near Herman, thence extending in a northwesterly direction to a point on Route No. 3 southerof Breckenridge.

Route No. 153. Beginning at a point on Route No. 3 at or near Evansville, thence extending in a northwesterly direction to a point on Route No. 6 southerly of Fergus Falls.

Route No. 154. Beginning at a point on Route No. 6 at or near Canby, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 155. Beginning at a point on Route No. 12 southerly of Madison, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 156. Beginning at a point on Route No. 104 as herein established in the City of Minneapolis at the easterly end of Washington Avenue, thence extending in a northwesterly and northerly direction to a point on Route No. 62 easterly of the Great Northern Railway.

Route No. 157. Beginning at a point on Route No. 35 on the north side of Mille Lacs Lake, thence extending in an easterly direction to a point on Route No. 110 as herein established.

Route No. 158. Beginning at a point on Route No. 11 at International Falls, thence extending in an easterly direction to Black Bay.

Route No. 159. Beginning at a point on Route No. 5 at or near Swan River, thence extending in a northerly direction to a point on Route No. 4, at or near Little Fork; affording Swan River, Nashwauk, and Little Fork a reasonable means of communication each with the other and other places within the State.

Route No. 160. Beginning at a point on Route No. 35 at or near Tower, thence extending in a westerly direction to a point on Route No. 136 as herein established southerly of Red Lake.

Route No. 161. Beginning at a point on Route No. 3 in Red Wing, thence extending in a northerly direction to a point on the line between the States of Minnesota and Wisconsin.

Route No. 162. Beginning at a point on Route No. 34 at or near Remer, thence extending in an easterly direction to a point on Route No. 8.

Route No. 163. Beginning at a point on Route No. 1 at or near Moose Lake, thence extending in a northerly direction to a point on Route No. 11 southerly of Orr; affording Moose Lake, Cromwell, Floodwood, Hibbing, Chisholm, and Orr a reasonable means of communication each with the other and other places within the State.

Route No. 164. Beginning at a point on Route No. 1, thence extending in a northerly direction through Cloquet to a point on Route No. 11.

Route No. 165. Beginning at a point on Route No. 8 westerly of Deer River, thence extending in a northwesterly direction to a point on Route No. 4.

Route No. 166. Beginning at a point on Route No. 35 at Ely, thence extending in a southeasterly direction to a point on Route No. 1.

Route No. 167. Beginning at a point on Route No. 11 northerly of Virginia, thence extending in a northeasterly direction to a point on Route No. 160 as herein established westerly of Tower.

Route No. 168. Beginning at a point on Route No. 4 near Itasca State Park, thence in a northwesterly direction to a point on Route No. 31 at Mahnomen.

Route No. 169. Beginning at point on Route No. 8 at or near Bagley, thence extending in a southerly direction to a point on Route No. 168 as herein established.

Route No. 170. Beginning at a point on Route No. 32 at or near Thief River Falls, thence extending in an easterly direction to a point on Route No. 136 as herein established.

Route No. 171. Beginning at a point on Route No. 6 near St. Vincent, thence extending in a westerly direction to a point on the line between the States of Minnesota and North Dakota.

Route No. 172. Beginning at a point on Route No. 6 at or near Donaldson, thence extending in a westerly direction to a point on the line between the States of Minnesota and North Dakota.

Route No. 173. Beginning at a point on Route No. 6 at or near Warren, thence extending in a westerly direction to a point on the line between the States of Minnesota and North Dakota.

Route No. 174. Beginning at a point on Route No. 8 at or near Erskine, thence extending in a northwesterly direction to a point on Route No. 6 southerly of Noyes.

Route No. 175. Beginning at a point on Route No. 8 at or near Crookston, thence extending in a

southerly direction to a point on Route No. 6 northerly of Hendrum.

Route No. 176. Beginning at a point on Route No. 175 as herein established at or near Halstad, thence extending in a westerly direction to a point on the line between the States of Minnesota and North Dakota.

Route No. 177. Beginning at a point on Route No. 32 southerly of Red Falls, thence extending in a southerly direction to a point on Route No. 182.

Route No. 178. Beginning at a point on Route No. 6 near Crookston, thence extending in a southeasterly direction to a point on Route No. 177 as herein established at or near Fertile.

Route No. 179. Beginning at a point on Route No. 6 at or near Ada, thence extending in a southerly direction to a point on Route No. 64 at or near Barnsville.

Route No. 180. Beginning at a point on Route No. 153 as herein established at or near Ashby, thence extending in a northeasterly direction to a point on Route No. 181 as herein established at or near Otter Tail.

Route No. 181. Beginning at a point on Route No. 36 at or near Henning, thence extending in a northwesterly direction to a point on Route No. 2 at or near Perham.

Route No. 182. Beginning at a point on Route No. 30 at or near Lake Lizzie, thence extending in a westerly direction to a point on Route No. 64 at or near Barnesville.

Route No. 183. Beginning at a point on Route No. 36 east of Henning, thence extending in an easterly direction to a point on Route No. 2 at or near Staples.

Route No. 184. Beginning at a point on Route No. 29 at or near Deer Creek, thence extending in a northerly direction to a point on Route No. 2.

Route No. 185. Beginning at a point on Route No. 1 at Sandstone, thence extending in a northeasterly direction to a point on Route No. 103 as herein established in Duluth.

Route No. 186. Beginning at a point on Route No. 110 as herein established, thence extending in an easterly direction to a point on Route No. 185 as herein established at or near Askov; affording Isle, Finlayson, and Askov a reasonable means of communication each with the other and other places within the State.

Route No. 187. Beginning at a point on Route No. 18 at or near Elk River, thence extending in a southerly direction to a point on Route No. 117 as herein established.

Route No. 188. Beginning at a point on Route No. 69 at Buffalo, thence extending in an easterly direction to a point on Route No. 110 as herein established.

Route No. 189. Beginning at a point on Route No. 5 southerly of Mora, thence extending in a southerly direction to a point on Route No. 132 as herein established.

Route No. 190. Beginning at a point on Route No. 6 at or near Wheaton, thence extending in a southwesterly direction to a point on Route No. 28 at or near Browns Valley.

Route No. 191. Beginning at a point on Route No. 190 as herein established southwesterly of Wheaton, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 192. Beginning at a point on Route No. 1 at or near Hinckley, thence extending in an easterly direction to the line between the States of Minnesota and Wisconsin.

Route No. 193. Beginning at a point on Route No. 2 at or near Motley, thence extending in a northerly direction to a point on Route No. 34 westerly of Walker.

Route No. 194. Beginning at a point on Route No. 117 as herein established at or near Mendota, thence extending in a northeasterly direction to a point on Route No. 102 as herein established.

Route No. 195. Beginning at a point on Route No. 1 at or near Albert Lea, thence extending in a southwesterly direction to a point on the line between the States of Minnesota and Iowa.

Route No. 196. Beginning at a point on Route No. 8 at or near Grand Rapids, thence extending in a northerly direction to a point on Route No. 160 as herein established; affording Grand Rapids and Big Fork a reasonable means of communication each with the other and other places within the State.

Route No. 197. Beginning at a point on Route No. 4 southerly of Park Rapids, thence extending in an easterly direction to a point on Route No. 139 as herein established easterly of Backus.

Route No. 198. Beginning at a point on Route No. 9 at or near LaCrescent, thence extending in a southerly direction to a point on the line between the States of Minnesota and Iowa.

Route No. 199. Beginning at a point on Route No. 9 at or near Austin, thence extending in a southwesterly direction to a point on the line between the States of Minnesota and Iowa.

Route No. 200. Beginning at a point on Route No. 4 at or near Itasca State Park, thence extending in a westerly direction to a point on Route No. 30 at or near Waubon.

Route No. 201. Beginning at a point on Route No. 82, as herein established, near Waldorf, thence extending in a northwesterly direction to a point on Route No. 39 at or near Mankato.

Route No. 202. Beginning at a point on Route No. 11 at or near Eveleth, thence extending in a northeasterly direction to a point on Route No. 35 at Gilbert.

Route No. 203. Beginning at a point on Route No. 11 westerly of Duluth, thence extending in a southeasterly direction through Proctor and Duluth to the water's edge at St. Louis Bay, and there terminating.

Route No. 204. Beginning at a point on Route No. 11, westerly of Duluth, thence extending in a southeasterly direction to a point on Route No. 103, as herein established in Duluth.

Route No. 205. Beginning at a point on Route No. 54 easterly of Herman, thence extending in an easterly direction to a point on Route No. 29, at or near Alexandria.

Route No. 206. Beginning at a point on Route No. 30, at or near Pelican Rapids, thence extending in an easterly direction to a point on Route No. 181, as herein established, southerly of Perham.

Route No. 207. Beginning at a point on Route No. 2, at or near Frazee, thence extending in an easterly direction to a point on Route No. 4 at or near Menahga.

Route No. 208. Beginning at a point on Route No. 28, at or near Starbuck, thence extending in a northerly direction to a point on Route No. 3, at or near Garfield.

Route No. 209. Beginning at a point on Route No. 3, at or near Becker, thence extending in a northerly direction to a point on Route No. 18, at or near Brainerd, affording Becker, Foley, Gilman, Pierz and Brainerd a reasonable means of communication each with the other and other places within the State.

Route No. 210. Beginning at a point on Route No. 10 at or near Benson, thence extending in an easterly direction to a point on Route No. 4 at or near New London.

Route No. 211. Beginning at a point on Route No. 64 at or near Barnesville, thence extending in a southwesterly direction to a point on Route No. 3 at or near Breckenridge. (Act Apr. 22, 1933, c. 440, §1.)

Act Apr. 22, 1933, cited, is entitled: "An act to add new routes to the Trunk Highway System of Minnesota; for the amendment of Mason's Minnesota Statutes of

1927, Section 2554, Subdivision 5, Section 2557 and Section 2554, as amended, and for other purposes, all relating to the Trunk Highway System."

The following preamble precedes the enacting clause *of Act Apr. 22, 1933, cited:*

"WHEREAS, subsequent to the adoption of Article 16 of the Constitution of Minnesota at least 75 per cent of the total number of the miles of the routes embraced in the trunk highway system as specified in said Article 16 of the Constitution of Minnesota have been constructed and permanently improved, and

WHEREAS, the funds available for the construction, improvement and maintenance of the additional routes of the highway system as hereinafter set forth are sufficient therefor in addition to the construction and maintenance of the several routes specifically described in said Article 16 of the Constitution of Minnesota, and

WHEREAS, the Legislature is in such case authorized to add new routes to said trunk highway system, therefore:".

2662-2½a. Same—funds available.—That funds are available for the construction, improvement and maintenance of the additional routes of said trunk highway system hereinbefore set forth, sufficient therefor, in addition to the construction and maintenance of the several routes specifically described in said Article 16 of the Constitution of the State of Minnesota, and the said additional routes hereinbefore described are each and all hereof added to said trunk highway system pursuant to the power and authority vested in the Legislature under said Article 16 of the State Constitution. (Act Apr. 22, 1933, c. 440, §2.)

2662-2½b. Same—location—deviations—powers of commissioners.—The Commissioner of Highways is hereby authorized and empowered to specifically and definitely locate each of the foregoing described routes but in so locating the same he shall not deviate from the starting points or terminals as set forth herein, nor shall there be any deviation from the various villages and cities named therein through which such routes shall pass. All of the provisions of existing law defining the powers and duties of the Commissioner of Highways with reference to the temporary and permanent location of trunk highways and other highway matters are hereby conferred upon said Commissioner of Highways with respect to the foregoing routes. (Act Apr. 22, 1933, c. 440, §6.)

2662-2½c. Same—separability clause.—In the event that any provision or paragraph or part of this Act shall be questioned in any court and shall be held to be invalid the remainder of said Act shall not be invalidated but shall remain in full force and effect. (Act Apr. 22, 1933, c. 440, §7.)

2662-3. The Capitol Highway established.—The following route between the City of St. Paul and the south boundary of the State of Minnesota is hereby named and designated "The Capitol Highway," to-wit :

Beginning at the intersection of University Avenue, and Highway No. 62, in Anoka County, thence southerly along University Avenue through Minneapolis, and thence southerly along University Avenue and Robert Street through St. Paul, thence southerly along South Robert Street through West St. Paul to a point at or near the northeast quarter-corner of Section 19, Township 27, Range 22, thence southeasterly and southerly to a point at or near the southeast corner of Section 35, Township 113, Range 19, thence southerly, traversing in part the line between Rice and Goodhue Counties, to Trunk highway No. 21, thence southeasterly on said Highway to Trunk Highway No. 56, thence southerly on Trunk Highway No. 56 through Dodge Center to Trunk Highway No. 9, thence east on Trunk Highway No. 9 to the northeast corner of Section 2, Township 102, Range 17; thence in a southeasterly direction along Mower County State Aid Road "A" to a point on the Iowa State line at or near the center of Section 34, Township 101, Range 14. ('27, c. 235; Apr. 9, 1931, c. 126, §1.)

2662-4. Colvill Memorial Highway established.—That the following described highway be known as the Colvill Memorial Highway:

Beginning at Gaylord and running thence in an easterly direction through Lonsdale, Northfield and Cannon Falls, terminating at the City of Red Wing. (Act Apr. 21, 1933, c. 353.)

2662-5. Floyd B. Olson Memorial Highway.—The following described highway shall be known as the Floyd B. Olson Memorial Highway:

That statutory route No. 55, when permanently established, shall thereafter be known as the Floyd B. Olson Memorial Highway, in addition to its statutory number. (April 24, 1937, c. 458.)

MOTOR VEHICLES

2672. Definitions.—Wherever in this Act the following terms are used they shall be construed to have the meaning herein ascribed to them:

"Application for Registration" shall have the same meaning as "listing for taxation," and when a motor vehicle is registered it is also listed.

Trucks used for transporting things other than passengers shall be classified and taxed as follows:

Class T trucks shall include all trucks, tractors, truck-tractors, semi-trailers and trailers used exclusively by the owner of such truck to transport agricultural, horticultural, dairy and other farm products including live stock, produced by the owner of the truck from the farm to market, and to transport property and supplies to the farm of the owner, and trucks used in rendering occasional accommodation service for others in transporting farm products from a farm to market or supplies to a farm, or a farmers' co-operative even though the same be paid for, where such truck is owned by a person not engaged in the transportation business.

Class X trucks shall include all trucks, tractors, truck-tractors, semi-trailers and trailers used exclusively in transporting property within the zone circumscribed by a line running parallel to the corporate limits of any city or village or contiguous cities and/or villages and 35 miles distant therefrom. The permitted zone of operation shall be a zone in which the postoffice address of the licensee is located unless at the time of application for license he designates some other zone. The postoffice address of the owner or the zone selected for operation shall be stencilled by the owner in a conspicuous place on said motor vehicle. The X truck may be used by the owner thereof outside the zone for the purpose of transporting agricultural, horticultural, dairy and other farm products, including live stock produced by the owner of the truck from the farm to market and to transport property and supplies to the farm of the owner of the truck. Class X trucks shall also include, trucks, tractors, truck-tractors, semi-trailers and trailers operating on any highway in the state, engaged exclusively in transporting logs and other like forest products, or materials used in highway construction, or contractors' outfits to the place where work is to be performed and/or vehicles used exclusively as service or repair cards going to or from the place rendering aid and assistance to the disabled motor vehicle. The situs of an X truck may be changed by the owner thereof on application.

Class Y trucks shall include all trucks, tractors, truck-tractors, semi-trailers and trailers not included under Class T or Class X.

"Commercial Passenger Transportation" shall mean the carriage of passengers for hire between points not wholly within the limits of the same city, village or borough, provided that bus lines operating wholly within two or more contiguous cities, villages or boroughs, or between a city and a village, or villages contiguous thereto, and local bus lines carrying passengers from a railroad station from or to places in the vicinity thereof shall not be construed to be engaged in commercial passenger transportation.

"Highway." Any public thoroughfare for vehicles, including streets in cities, villages and boroughs.

"Motor Vehicles." Any self-propelled vehicle not operated exclusively upon railroad tracks, and any vehicle propelled or drawn by a self-propelled vehicle.

"Owner." Any person, firm, association or corporation owning or renting a motor vehicle, or having the exclusive use thereof, under a lease or otherwise, for a period of greater than 30 days.

"Tractor." Any motor vehicle designed or used for drawing other vehicles but having no provision for carrying loads independently.

"Truck-tractor." Any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"Trailer." Any vehicle designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

"Semi-Trailer." A vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight or that of its load rests upon and is carried by the towing vehicle.

"Truck." Any motor vehicle designed or used principally for carrying things other than passengers and includes a motor vehicle to which has been added a cabinet box, platform, rack or other equipment for the purpose of carrying merchandise other than the person or effects of the passenger.

"Unloaded weight" shall mean the actual weight of the vehicle fully equipped without a load.

"Gross weight" shall mean the actual unloaded weight of the vehicle, either a truck, tractor, truck-tractor, semi-trailer or trailer, fully equipped for service plus the weight of the maximum load which the applicant has elected to carry on such vehicle.

"Registrar." The registrar of motor vehicles designed in this Act.

"Sworn statement." Any statement required by or made pursuant to the provisions of this Act, made under oath administered by an officer authorized to administer oaths.

"Dealer." Any person, firm or corporation regularly engaged in the business of manufacturing, or selling, purchasing and generally dealing in new and unused motor vehicles having an established place of business for the sale, trade and display of new and unused motor vehicles and having in its, his or their possession new and unused motor vehicles for the purpose of sale or trade. ('21, c. 461, §1; '25, c. 299, §1; '27, c. 165, §1; '29, c. 432; Apr. 20, 1931, c. 217, §1; Apr. 20, 1933, c. 344, §1.)

Sec. 6 of Act Apr. 20, 1933, cited, provides that the act shall take effect Jan. 1, 1934. See §2684-7a as to construction of act.

283US57, 51SCR354, aff'g 180M241, 230NW572.

The tax imposed hereunder is a lien tax, and is a property tax including an inseparable element of privilege tax. 173M72, 216NW542.

Refund of motor vehicle registration tax paid. 173 M98, 216NW541.

This act is valid as applied to soldier stationed on federal military reservation and who owns and drives an automobile for his own purposes on the highways of the state outside the reservation. 180M241, 230NW 572.

It is not contradicting terms of a bill of sale or conveyance to prove by parol that it was intended to transfer title merely as security. Holmes v. L., 201M44, 275 NW416. See Dun. Dig. 4167a.

Registration of a motor vehicle does not establish and determine title to a vehicle registered, and parol evidence is admissible to show that title is different than that appearing from registration. Bolton-Swanby Co. v. O., 201M162, 275NW855. See Dun. Dig. 3390.

Where alleged title in a party appears to be part of an arrangement between the parties for purposes other than bona fide ownership by person ostensibly holding the title, trier of fact may look through form to substance of transaction and say that semblance of ownership is not the reality. Flaugh v. E., 202M615, 279NW582. See Dun. Dig. 4167a.

Registration is prima facie but not conclusive evidence of title in party in whose name car is registered; but if there is evidence of other ownership, it presents a fact question for jury. Id. See Dun. Dig. 4167a.

Classification of and tax on truck not used in 1933 by owner who registered in 1932 must be determined by "use" made of truck by purchaser in 1933. Op. Atty. Gen., July 18, 1933.

Laws 1933, c. 344, is not applicable to registration of motor vehicles for year 1933. Op. Atty. Gen., May 11, 1933.

Affidavit that converted Ford roadster was used only for personal use in going to and from cabin was insufficient to entitle owner to refund or to registration in "T" class. Op. Atty. Gen., Aug. 30, 1933.

Truck used exclusively for carrying passengers should be registered as a "motor vehicle for carrying passengers" and rate of tax therefor is 2.4%, providing such vehicle is not engaged in "commercial transportation of passengers." Op. Atty. Gen., Jan. 12, 1934.

A farmer may in addition to his own use, transport farm products and livestock for others and charge therefor and still come under Class T where he is not engaged in transportation business. Op. Atty. Gen., Jan. 16, 1934.

If drayman hauls any kind of property within his permitted zone of operation with his Class X truck, he cannot operate the truck hauling logs outside of his regular zone unless he takes truck out of Class X. Id.

Phrase "like forest products" means raw forest products on first haul from forest where they were produced. Id.

Any contractor may register his truck in Class X providing it is used exclusively in transporting contractor's outfit to place where work is to be performed and "outfits" does not include materials that go into construction project itself. Id.

A nonresident may register his truck in X Class and establish a thirty-five-mile zone in Minnesota contiguous to state boundaries for purpose of doing interstate hauling. Id.

A farmer from a neighboring state may register his truck in T Class for purpose, in addition to hauling his own goods, of performing occasional accommodation service for his laborers and cooperatives. Id.

Class X trucks used exclusively for rural mail route purposes are exempt from requirement of stenciling of name and address of owner, prohibited by federal regulation. Op. Atty. Gen., Jan. 23, 1934.

Owner of X truck may designate as center of thirty-five-mile zone a city or village which is not place out of which truck operates or has his orders. Op. Atty. Gen., Jan. 26, 1934.

Neither an X truck nor an X trailer may be operated outside thirty-five-mile zone in private construction projects of owner who is not a contractor. Id.

Zone should be determined by extending lines parallel to city or village corporate limits and should extend thirty-five miles out of town until they intersect. Id.

Thirty-five-mile zone includes corporate limits of cities and contiguous cities if part thereof is within thirty-five-mile zone. Op. Atty. Gen., Jan. 29, 1934.

Truck is entitled to X classification where truck owner has contract to deliver road culverts for manufacturers and also hauls cord wood, fence posts or other raw forest products on first haul from forest where produced. Op. Atty. Gen., Feb. 2, 1934.

It is permissible for a trucker to operate a combination consisting of a tractor registered in Class Y interstate and a semi-trailer registered in Class X within permitted zone of operation of trailer at time trailer is engaged in interstate hauling, but if trailer is not at time engaged in interstate hauling, but is engaged in intrastate hauling, then Class Y interstate tractor is not engaged exclusively in transporting property in interstate commerce within meaning of section and such combination is not permissible. Op. Atty. Gen., Feb. 6, 1934.

Truck owned by a co-operative livestock association may be registered in class T providing association is not engaged in transportation business. Op. Atty. Gen., Feb. 13, 1934.

It is proper to register private school busses in T class at rate of 2.4% with prescribed truck minimums, which for a portion of the year are used as farm trucks. Op. Atty. Gen., Feb. 15, 1934.

It is proper to register private school busses in the X class at rate of 3.4% with prescribed truck minimums where for portion of year they are used as X trucks. Id.

A privately owned school bus used for no other purpose during the year is entitled to be classed at rate of 2.4% with passenger car minimum. Id.

Auxiliary wheels used by telephone companies to support end of long poles while transported should be registered for taxation as "semi-trailers." Op. Atty. Gen., Mar. 19, 1934.

A class X truck or school bus may be operated outside of its permitted thirty-five-mile zone, children not being "passengers for hire." Op. Atty. Gen., Mar. 22, 1934.

Rule applicable to registration of trucks owned by cooperative association is not applicable to trucks owned by members of a group of farmers who take turns of hauling products of such farmers for a consideration. Op. Atty. Gen. (6331-4), Apr. 4, 1934.

Truck owned by cooperative creamery association used in hauling products from its cooperative creamery

to market was properly registered in Class X. Op. Atty. Gen. (632e-36), June 6, 1934.

Trucks owned by operators of fur farms used only for transporting farm products of one of the farms to the other farms were properly registered as Class T trucks. Op. Atty. Gen. (632e-35), June 11, 1934.

This section is constitutional. Op. Atty. Gen. (632e-34), June 12, 1934.

Whether pleasure motor vehicles used for delivery of merchandise are subject to registration as trucks is a question of fact to be determined from all facts surrounding each particular case, the "used" being the determining factor. Op. Atty. Gen. (633j-1), July 2, 1934.

Class T truck converted from passenger vehicle after Jan. 1, 1935, may be registered and taxed as such for that year. Op. Atty. Gen. (632e-35), Feb. 5, 1935.

Truck owned by traveling circus may be registered in class X. Op. Atty. Gen. (632e-36), July 19, 1935.

Trackless trolley cars are not motor vehicles within registration and taxation law. Op. Atty. Gen. (632e-1), July 22, 1935.

Trackless trolleys are not motor vehicles within registration and license law. Op. Atty. Gen. (632e-1), Sept. 3, 1935.

Class "T" truck could be used for incidental purpose of hauling from farm salvage from a saw mill and excess lumber not needed for farm use, mill having been constructed for purpose of making lumber for farm use. Op. Atty. Gen. (632e-35), June 27, 1936.

Class T trucks leased to a livestock shipping association for a period greater than 30 days and registered as provided may be used to transport supplies to farmers' cooperatives as "occasional accommodation service." Op. Atty. Gen. (632e-35), Oct. 29, 1936.

Livestock association cannot use its truck in "X" class transporting livestock for hire of non-members beyond 35 miles zone limit. Id.

Farmer cannot lease his "X" truck on part time basis to cooperative shipping association and carry on a general trucking business with it, when it is not in use by the association and operating beyond zone limits hauling for hire the farm products of other farmers. Id.

There is no provision which provides a rate of tax on passenger motor vehicles drawing trailers used for hire. Op. Atty. Gen. (633j), May 22, 1937.

A two-wheel utility trailer weighing 485 pounds and used two or three times a week to make quick deliveries of merchandise by a wholesale company, when it is hauled behind one of regular passenger automobiles belonging to company, and capable of hauling three-fourths of a ton or more, may be registered in the "Z" class at rate of 2.2% as trailer used with a "pleasure" vehicle, and need not be registered in the "Y" or "X" or "T" class. Id.

A co-operative trucking association whose members are other co-operative associations, all of whose voting stock is owned by farmers, is entitled to register and operate its truck under a class "T" classification, providing it is not engaged in transportation business and providing members are limited to farmers and truck is used for transporting farm products including livestock produced on farms of its members from farms to market, and such truck may be used to transport property and supplies to farms of its members, and render occasional accommodation service for others in transporting farm products to market or supplies to a farm or a farmers' co-operative, even though same be paid for. Op. Atty. Gen. (632e-35), June 17, 1937.

Farmer is not entitled to operate truck under Class T registration when it is also used for hauling under contract for hire. Op. Atty. Gen. (632e-35), July 13, 1937.

Provision "Class X trucks shall also include trucks engaged exclusively in transporting materials used in highway construction or contractors' outfits" does not apply to a Class X truck of a transfer company used exclusively in carrying elevating graders, road tractors, etc., for a county beyond 35-mile zone. Op. Atty. Gen. (632e-36), July 28, 1937.

Private vehicles used exclusively for carrying mail are subject to state motor vehicle licenses, in proper classifications, same as all other motor vehicles, and a truck registered under class X may be operated only within 35 mile zone. Op. Atty. Gen. (632e-36), May 16, 1938.

A motor vehicle registered in "YI" class may not be converted to an "X" registration if it has at any time during year operated beyond 35 mile zone. Op. Atty. Gen. (632e-37), June 22, 1938.

Where ordinary farm tractor is used by owner for hauling farm wagon to canning factory, tractor must be registered as a class T truck and wagon must be registered as a trailer. Op. Atty. Gen. (632e-32), Aug. 12, 1938.

Thirty-five mile zone is determined by extending lines parallel to corporate limits of municipality and 35 miles distant therefrom until they intersect, resulting in an area identical in outline to municipality. Op. Atty. Gen. (633a-13), Dec. 17, 1938.

"Used exclusively" in transporting property within a specified zone, means to exclusion of any other use. Op. Atty. Gen., (532e-36), Sept. 8, 1939.

A purchaser of a used truck on which Class "Y" tax has been paid for a full year may apply for a Class "X" registration and have unearned portion of Class "Y" tax applied on amount due from him for a Class "X" registration, and thus get advantage of tax previously paid, and is not required to pay any additional tax. Op. Atty. Gen. (632e-36), Sept. 8, 1939.

Class "T" trucks do not include a motor vehicle which a farmer uses to deliver minnows. Op. Atty. Gen. (632E-35), June 6, 1939.

2673. ~~Vehicles exempt from motor vehicle license.~~ Vehicles owned and used solely in the transaction of official business by representatives of foreign powers, by the federal government, the State or any political sub-division thereof, or vehicles owned and used exclusively by educational institutions and used solely in the transportation of pupils to and from such institutions, shall be exempt from the provisions of this Act requiring payment of tax or registration fees, but all such vehicles except those owned by the Federal Government, municipal fire apparatus, police patrols and ambulances, the general appearance of which is unmistakable, shall be registered as herein required and shall display tax exempt number plates furnished by the registrar at cost, provided, however, in the case of vehicles used in general police work the pleasure vehicles classification license number plates shall be displayed and furnished by the registrar at cost; but the exemption herein provided shall not apply to any vehicles, except such vehicles used in general police work, unless the name of the State Department or the political sub-division owning such vehicle shall be plainly printed on both sides thereof. Provided, however, that the owner of any such vehicle, desiring to come under the foregoing exemption provisions shall first notify the Chief of the State Trunk Highway Patrol who shall provide suitable seals and cause the same to be affixed to any such vehicle. Tractors used solely for agricultural purposes, for drawing threshing machinery or for road work other than hauling material, implements of husbandry temporarily moved upon the highway, road rollers and trailers of not more than two wheels with a gross weight of load and vehicle not exceeding 3,000 pounds used only with pleasure vehicles and not employed in the transportation of passengers or property for hire shall not be taxed as motor vehicles using the public streets and highways and shall be exempt from the provisions of this Act, except that all trailers thus exempt shall be registered as herein required and shall display identification plates furnished by the registrar at cost. Motor vehicles, which are used only for the purpose of carrying sawing machines, well drilling machines, feed grinders and corn shellers temporarily attached to them, shall be subject to the registration tax as herein provided, but the machine so attached shall not be subject to this tax but shall be listed for taxation as personal property as provided by law. Motor vehicles, which are used only for the purpose of carrying sawing machines, well drilling machines or corn shellers permanently attached to them shall not be subject to the registration tax as herein provided, but shall be listed for taxation as personal property as provided by law. Motor vehicles which during any calendar year have not been operated on a public highway shall be exempt from the provisions of this Act requiring registration payment of tax and penalties for nonpayment thereof, provided that the owner of any such vehicle shall first file his verified written application with the Registrar of Motor Vehicles, correctly describing such vehicle. Nothing herein shall be construed as repealing or modifying Laws 1929, Chapter 361 ~~[§§2673-2, 2673-3]~~, or Laws 1931, Chapters 217 ~~[§§2672, 2686 to 2686-3]~~ and 220, ~~[§§2684-1 to 2684-7]~~. ('21, c. 461, §2; '23, c. 418, §2; Mar. 6, 1931, c. 39, §1; Apr. 17, 1933, c. 298; Apr. 21, 1939, c. 349, §1.)

Sec. 2 of Laws 1931, c. 39, makes act effective on its passage.

Op. Atty. Gen. (632e-9), June 9, 1934; note under § 2682.

Automobile owned by soldier stationed at Fort Snelling and used for his own purposes on the highways of the state outside the reservation, held subject to tax. 180M241, 230NW572, aff'd 283US57, 51SCR354.

The amendment by Laws 1933, c. 298, was intended to apply to registration of motor vehicles for taxation for

year 1933 and was not retroactive to any prior year. Op. Atty. Gen., Apr. 29, 1933.

Under amendment by Laws 1933, c. 298, a church high-school bus is exempt from registration tax. Id.

Owners entitled to exemption from payment under Laws 1933, c. 298, but who paid tax before passage thereof are not entitled to a refund without legislative appropriation. Id.

Phrase "during any calendar year" has reference to any 12-month period from January 1 to December 31. Id.

If owner at beginning of year makes verified written application indicating that he does not intend to use car, but on September 1 determines to place vehicle in operation, he must pay tax for whole year. Id.

A vehicle last used and registered in 1931 and stored during 1932 may not be registered in 1933 without paying judgment for taxes and penalties for 1932. Id.

A car reported as junked in 1930 cannot be reregistered in 1933 without payment of tax and penalties for years 1931 and 1932, though extensive repairs are contemplated. Id.

Second hand motor vehicles on hand for sale by licensed dealers are exempt if dealer shall first file his application for exemption. Id.

Unlicensed dealers dealing excessively in used cars are entitled to avail themselves of provisions relating to exemption. Id.

Trucks being towed to and from railroad tracks are not being operated on a public highway. Op. Atty. Gen., June 13, 1933.

Where owner, not a farmer, registered truck for 1932 in "X" class but was not operated during that year and was not used in 1933 until purchased by farmer, farmer is entitled to a class "T" registration. Op. Atty. Gen., June 27, 1933.

A carpenter who in 1932 had registered in "X" class truck converted from passenger vehicle by addition of box for carrying tools could have his vehicle registered as a roadster in 1933 where he took off the box on April 29, 1933, no use having been made of the truck before that date. Id.

Laws 1933, c. 298, applies to registration of motor vehicles for taxation for year 1933 and is not retroactive to any prior year. Op. Atty. Gen., Apr. 29, 1933.

Secretary of state cannot make refund of tax paid before passage of Laws 1933, c. 298, on a bus used by church high school solely for transporting pupils. Id.

A church school bus used solely for transportation of pupils must be registered but is exempt from taxation. Id.

"During any calendar year" has reference to 12-month period from Jan. 1 to Dec. 31, both dates inclusive. Id.

Owner of stored vehicle may file his verified written application for exemption at any time prior to judgment against him for non-payment of tax. Id.

One filing application for exemption but later in September deciding to use car must pay whole tax for year *together with penalties.* Id.

A vehicle not used since 1931 may not be registered for 1933 without having taxes and penalties for 1932 paid. Id.

Reference in Laws 1933, c. 298, to Laws 1929, c. 361, is of no effect, such act being held unconstitutional. Id.

Second hand motor vehicles on hand for sale by licensed dealers are exempted from taxation for entire year upon proper application. Id.

Dealers in used cars are entitled to exemption, though they may not be licensed under present law. Id.

One registering vehicle after passage of Laws 1933, c. 298, under which he was entitled to exemption, is entitled to refund. Op. Atty. Gen., June 2, 1933.

Vehicles owned and used exclusively by educational institution solely for transportation of pupils are exempt from license tax. Op. Atty. Gen., Nov. 10, 1933.

Laws 1933, c. 298, does not repeal and is not in conflict with §2687 with respect to exemption of second hand cars from tax while being transported by dealer. Op. Atty. Gen., Feb. 2, 1934.

Where city traded a truck registered in tax exempt classification to apply on a newly purchased truck, old truck did not become subject to any tax for the year while in hands of dealer for sale. Op. Atty. Gen., Feb. 2, 1934.

School bus purchased by an educational institution from a private owner during a calendar year is exempt from tax if it was not operated by the private owner at any time during the year. Op. Atty. Gen. (632e-12), Apr. 3, 1934.

Official North Dakota highway truck could go through this state with furniture belonging to an employee of the state highway without special permit. Op. Atty. Gen. (632c-14), Apr. 13, 1934.

Motor vehicles leased to federal government for its official business are not exempt from tax. Op. Atty. Gen. (632e-12), May 18, 1934.

Bus used by Bible university to transport students and occasional visitors to camp for religious conferences is exempt from tax, though fare is charged to passengers to cover operating charge. Op. Atty. Gen. (632e-12), May 21, 1934.

Dealer who has registered new unused motor vehicles with payment of tax to avoid necessity of paying personal property tax on them is not entitled to refund of such tax even if vehicle is permanently removed from the state without having been used on the streets and highways. Op. Atty. Gen. (632e-24), June 8, 1934.

Refund of tax paid for 1934 may be made where owner of vehicle, without having used it upon the streets and highways during the year, decides to discard it permanently. Op. Atty. Gen. (632e-24), June 11, 1934.

Vehicle operated on private property only and not on any public street or highway during year is exempt from motor vehicle tax. Op. Atty. Gen. (632e-12), June 11, 1934.

Rate of tax for first half year on truck not used nor registered, during 1934 prior to July 1, but sold on July 1 by record owner to purchaser whose employment of such truck is such that a higher rate of tax is required than that under which it was last registered by record owner of January 1, should be based on basic rate of 2.4% which is basic rate for all motor vehicles. Op. Atty. Gen. (632E), Aug. 2, 1934.

A used vehicle which has not been operated on the highways during the year, may be driven out of the state by a nonresident, or by one becoming a nonresident, on plates issued by another state. Op. Atty. Gen. (632c), Feb. 6, 1936.

Where in 1934 a criminal drove a car into Minnesota and criminal was shot by police and police held car and registered it in 1935 as tax exempt, administrator of estate of criminal recovered possession of the car and sold it, secretary of state cannot now collect from administrator of the estate or any subsequent purchaser, taxes and arrears for year 1935. Op. Atty. Gen. (632e-39), Mar. 5, 1936.

Privately owned trucks bearing North Dakota license plates operating upon highways engaged in transporting property for hire are not entitled to any more extensive reciprocity privileges than privately owned trucks operated in private industry, and fact that such trucks are employed in WPA project cannot be classified as an error which would entitle owners to a refund. Op. Atty. Gen. (633g-2), Sept. 23, 1936.

Dog ambulance owned and used by Humane Society of St. Paul is not exempt from motor vehicle license tax. Op. Atty. Gen. (632e-12), Apr. 5, 1937.

Private vehicles used exclusively for carrying mail are subject to state motor vehicle licenses, in proper classifications, same as all other motor vehicles, and a truck registered under class X may be operated only within 35 mile zone. Op. Atty. Gen. (632e-36), May 16, 1938.

Motor truck owned by county agricultural association is not exempt from registration tax. Op. Atty. Gen. (632e-12), May 23, 1938.

Combination motor vehicle and feed grinder permanently attached to motor vehicle is subject to motor vehicle tax, but is exempt from personal property tax. Op. Atty. Gen. (632e-2), Aug. 1, 1938.

Where ordinary farm tractor is used by owner for hauling farm wagon to canning factory, tractor must be registered as a class T truck and wagon must be registered as a trailer. Op. Atty. Gen. (632e-32), Aug. 12, 1938.

2673-2. Taxation of motor vehicles.—Motor vehicles using the public highways of this state and owned by companies whose property in this state is taxed on the basis of gross earnings shall be registered and taxed as provided for the registration and taxation of motor vehicles by Laws 1921, Chapter 461 [Mason's Minn. Stat., 1927, §§2672 to 2699], as now or hereafter amended. (Act Apr. 24, 1929, c. 361, §1.)

Laws 1929, c. 361, impliedly amending Mason's Minn. Stat., §2268, and excluding from the gross earnings tax the license tax on vehicles used on the highways, is unconstitutional. 180M268, 230NW815.

2673-3. Gross earnings tax not to apply.—The tax on basis of gross earnings paid by such company shall be in lieu of all other taxes upon its property as now provided by law, except motor vehicles using the public highways of this state. (Act Apr. 24, 1929, c. 361, §2.)

2673-4. *Certain motor vehicles exempted from taxation.* [Repealed.]

Amended Apr. 1, 1933, c. 139.
Repealed Apr. 21, 1939, c. 349, §2.

2674. Rate of tax.—(a) Motor vehicles, except as set forth in Section 2 hereof, using the public streets or highways in the State of Minnesota shall be taxed in lieu of all other taxes thereon, except wheelage taxes, so-called, which may be imposed by any borough, city or village, as provided by law, and shall be privileged to use the public streets and highways, on the basis and at the rates for each calendar year as follows:

Motor vehicles for carrying passengers and hearses .....2.2 per cent of value.

Provided that the minimum tax on all passenger motor vehicles under 2,000 pounds weight except as hereinafter provided shall be .....$5.00 and the

minimum tax on all passenger motor vehicles 2,000 pounds and over in weight shall be ..... $7.50.

Two-wheel trailers of less than 1,000 pounds capacity, used only with pleasure vehicles, and not employed in the transportation of passengers or goods for hire, shall not be subject to taxation as motor vehicles.

The tax on Class "T" trucks with carrying capacity of less than 2,000 pounds, shall be 1.2 per cent on the base value.

The tax on Class "T" trucks with carrying capacity of 2,000 pounds and less than 3,000 pounds, shall be 1.44 per cent on the base value.

The tax on Class "T" trucks with carrying capacity of 3,000 pounds and over, shall be 2.4 per cent on the base value.

Provided, however, that the tax on Class "T" trucks with carrying capacity of less than 3,000 pounds shall be 1.92 per cent on the base value during the first and second years of vehicle life.

Provided that the minimum tax on all Class T and X trucks and tractors of one ton and under manufacturers' rated carrying or hauling capacity shall be $7.50 except that the minimum tax, on trucks converted from passenger vehicles, including those converted by the factory or a dealer by adding a pick-up box to a passenger vehicle before it was used as a passenger vehicle, shall be the same as the minimum on the passenger vehicle from which they were converted and the minimum tax on all trucks and tractors of over one ton and under two tons manufacturers' rated carrying or hauling capacity shall be $15.00 and minimum tax on all trucks and tractors of two tons or over and under three tons manufacturers' rated carrying or hauling capacity shall be $30.00 and the minimum tax on all trucks and tractors of three tons or over and under four tons manufacturers' rated carrying or hauling capacity shall be $60.00 and the minimum tax on all trucks and tractors of four tons or over and under five tons manufacturers' rated carrying or hauling capacity shall be $85.00 and the minimum tax on all trucks and tractors of five tons and over and under six tons manufacturers' rated carrying or hauling capacity shall be $125.00 and the minimum tax on all trucks and tractors of six tons and over manufacturers' rated carrying or hauling capacity shall be $150.00, and the minimum tax on trailers and semi-trailers shall be $2.00 for each ton or fraction thereof of such capacity.

The tax on Class T trucks as defined shall be 2.4% on the base value.

The tax on Class X trucks as defined shall be 3.4% on the base value.

The tax on Class Y trucks used in intrastate commerce shall be as provided in section (a)-1 hereof.

The tax on Class Y trucks used exclusively in interstate commerce shall be as provided in Section (a)-3 hereof.

Buses and carriers of passengers for hire engaged in commercial passenger transportation, other than taxicabs and vehicles engaged in livery business shall pay an annual gross weight use tax which on a new vehicle for the first and second years shall be four times the tax paid by a Y truck of the same gross weight and said tax shall be determined in the manner provided for Class Y trucks as set forth in Sections (a)-1 and (a)-2 hereof, for the third and fourth years of the life of such vehicle the tax shall be three times the tax paid by Y truck of the same gross weight as the bus, for the fifth year of the life of such vehicle the tax shall be two times the tax paid by Y trucks of the same gross weight as the bus, for the sixth year of the life of such vehicle the tax shall be one and one-half times the tax paid by Y trucks of the same gross weight as the bus; for every year of the life of the vehicle after the sixth year the minimum tax on all commercial passenger busses of over 25 passenger seating capacity shall be $350.00 and on those of 25 passenger and less and over five passenger seating capacity, other than taxicabs and vehicles engaged in livery business, shall be $250.00. This section shall not apply to vehicles for the year 1939 on which the tax has been paid.

Motorcycles without side car....$3.00. Motorcycles, side car additional....$2.00.

Motor vehicles specially equipped for operation over snow and used exclusively for such purpose.... $3.00 if weighing one ton or less, and an additional $2.00 for each additional ton or fraction thereof.

Value until the end of the first calendar year of vehicle life construing the year of the model designation as the first year of such life shall be construed to mean the "base price for taxation" as hereinafter defined.

For the purpose of fixing a base price for taxation from which depreciation in value at a fixed percentum per annum can be computed, such price is defined as follows:

The base price for taxation of a motor vehicle of which a similar or corresponding model, as defined in Section 21 of this Act, was being manufactured on October 1 preceding the year for which the tax is levied, shall be the manufacturers' list price of such similar or corresponding model in effect on such October 1. The base price for taxation of a motor vehicle of which no such similar [or] corresponding model was manufactured until after such October 1 shall be the manufacturers' list price at the factory when the vehicle taxed was first manufactured. The base price for taxation of a motor vehicle of which no such similar or corresponding model has been manufactured since a time prior to such October 1 shall be the price fixed by the Registrar as a reasonable manufacturers' list price at the factory on such October 1 if such vehicle has been then manufactured at prevailing costs.

After the first year of vehicle life the base value for taxation purposes shall be reduced as follows: ten per cent the second year, and 15 per cent the third and each succeeding year thereafter, but in no event shall such tax be reduced below the minimum.

When a motor vehicle shall become first subject to taxation between June 30 and October 1, the tax for the remainder of the calendar year shall be one-half the tax for a whole year.

When a motor vehicle shall become first subject to taxation after September 30 and on or before December 31, the tax for the remainder of the calendar year shall be one-fourth the tax for a whole year. (As amended Apr. 17, 1935, c. 161, §1; Apr. 14, 1939, c. 253, §1; Apr. 21, 1939, c. 388.)

(a)-1. Class Y trucks. The tax on a tractor, or truck-tractor shall be determined by the actual unloaded weight of the vehicle. The tax on a semi-trailer, trailer or truck shall be based on the gross weight of such vehicle. The gross weight shall be the actual unloaded weight of the vehicle plus the weight of the maximum load which the applicant has elected to carry in such vehicle and for which such vehicle has been licensed. This tax shall be known as a "gross weight use tax." The gross weight use tax on each vehicle shall be as follows:

Where the gross weight of the vehicle is 6,000 pounds or less $25.00

Where the gross weight of the vehicle is over 6,000 pounds and less than 20,000 pounds the tax shall be $25.00 plus an additional tax of $15.00 for each 2,000 pounds of weight or major part thereof in excess of 6,000 pounds.

Where the gross weight of the vehicle is over 20,000 pounds and less than 30,000 pounds, the tax shall be $130.00 plus an additional tax of $40.00 each ton, or major part thereof in excess of 20,000 pounds.

Where the gross weight of the vehicle is over 30,000 pounds, the tax shall be $330.00 plus an additional tax of $75.00 for each 2,000 pounds or major part thereof in excess of 30,000 pounds.

(a)-2. The applicant for a Y license shall state in writing upon oath, among other things, the unloaded weight for such vehicle and the maximum load which the applicant proposes to carry thereon and such vehicle shall be licensed to carry as the maximum legal load the loadweight so selected, and no vehicle shall exceed such authorized loadweight by more than 1000 pounds. The gross weight of the vehicle for which such license tax is paid shall be stencilled in a conspicuous place on said vehicle by the owner thereof and the weght of a tractor or truck-tractor shall be likewise stencilled in a conspicuous place thereon.

The Registrar of Motor Vehicles shall cancel the certificate of registration and/or license plate issued by him upon conviction of the owner of such vehicle for transporting a loadweight exceeding the authorized loadweight by more than 1000 pounds. No certificate of registration and/or license plate shall thereafter be issued to operate such vehicle during such year except upon payment of a tax based on the gross load weight said vehicle was transporting at the time such offense was committed and the tax so to be paid shall be subject to a proportionate tax as provided herein.

The tax imposed on class Y trucks in each instance shall be increased 50% on a motor vehicle not equipped wholly with pneumatic tires.

(a)-3. No truck, tractor, truck-tractor, semi-trailer or trailer shall be operated on the highways of this state engaged exclusively in transporting property in interstate commerce or between this state and any province in the Dominion of Canada unless such vehicle has been registered and a license plate of a distinctive color issued therefor by the Registrar of Motor Vehicles, and shall have stencilled thereon the unloaded weight. Provided, that this section shall not apply to a motor vehicle exclusively engaged in transporting commerce from a state or from any province in the Dominion of Canada exclusively upon the streets of any city or village in the State of Minnesota. The applicant shall pay therefor a registration fee of $5.00 for each such vehicle and, in addition thereto a truck mile tax as compensation for the use of the highways, which said tax shall be based upon the unloaded weight of the vehicle and the distance that such vehicle travels on the highways of this state. The tax on each such motor vehicle or combination of vehicles shall be ascertained by multiplying the number of miles traveled by each of such vehicles on the highways of this state by the rate per mile as provided herein.

The tax on a combination of a truck-tractor and semi-trailer and/or a tractor and trailer, shall be determined by adding together the unloaded weight of both the truck-tractor and semi-trailer and/or tractor and trailer. The combined weight of the vehicles so ascertained shall determine the unloaded weight of such combination of vehicles for the purpose of computing such tax. Where a trailer is not attached directly to a tractor it shall be subject to a truck mile tax based on the unloaded weight of such trailer.

The truck mile tax shall be determined as follows:

Vehicle or combination of vehicles having an unloaded weight of not to exceed 3 tons	¼c per mi.
Vehicle or combination of vehicles having an unloaded weight of 3 tons and not exceeding 4 tons	½c per mi.
Vehicle or combination of vehicles having an unloaded weight of 4 tons and not exceeding 5 tons	¾c per mi.
Vehicle or combination of vehicles having an unloaded weight of 5 tons and not exceeding 6 tons	1c per mi.
Vehicle or combination of vehicles having an unloaded weight of 6 tons and not exceeding 7 tons	1¼c per mi.
Vehicle or combination of vehicles having an unloaded weight of 7 tons and not exceeding 8 tons	2c per mi.
Vehicle or combination of vehicles having an unloaded weight of 8 tons and not exceeding 9 tons	2½c per mi.
Vehicle or combination of vehicles having an unloaded weight of 9 to 10 tons	3c per mi.
Any vehicle or combination of vehicle having an unloaded weight of more than 10 tons	4c per mi.

The owner of any motor vehicle subject to tax provided for in this section may, if he so elects, pay as a tax on any such vehicle the tax provided for in Section A-1, chapter 344, Laws 1933 [this section] in lieu of the tax herein provided.

(a)-4. The Registrar of Motor Vehicles shall furnish to the owner of such vehicle appropriate blank forms on which to report the miles which said motor vehicle travels on the highways of this state. The owner of such vehicle shall file with such Registrar of Motor Vehicles daily reports of such mileage traveled in Minnesota, if any, and shall keep such other records and furnish such information as said Registrar of Motor Vehicles may require. The Registrar of Motor Vehicles is authorized to require that any tractor, truck-tractor, semi-trailer, trailer or truck be equipped with a mechanical device approved by him to register the miles traveled by such motor vehicle, and such motor vehicle, including all appliances and all the books and records of said owner, shall be subject to inspection at any time by the Registrar of Motor Vehicles.

The owner of every motor vehicle subject to the truck-mile tax shall, on or before the 15th of each month, pay to the Registrar of Motor Vehicles the truck-mile tax due and payable for the preceding month. At the time of the payment of such tax, such owner shall file with the Registrar under oath upon a form prescribed by the Registrar, a report showing the truck miles operated during the preceding month and such other information as may be required. If the vehicle was not operated over the highways of this state during such month, the report should so state.

The Registrar of Motor Vehicles shall not issue a license plate under this section to a contract carrier and/or common carrier for motor vehicles operated as such in inter-state commerce under the terms of this act until and unless such owner of such motor vehicle engaged as a common carrier and/or contract carrier, shall have first fully complied with the terms of Chapter 170, Laws of 1933, as amended by Chapter 392, Laws of 1933 [§§5015-20 to 5015-44], and shall have first obtained from the Railroad and Warehouse Commission the requisite permit by paying the fee therefor and depositing the public liability policy or bond as provided by said Chapter 170, Laws of 1933.

The Registrar of Motor Vehicles shall likewise not issue a license plate to the owner of a motor vehicle engaged as a common carrier or contract carrier until the owner of said motor vehicle so engaged has submitted and presented to said Registrar satisfactory evidence as to such owner's compliance with the terms and conditions of Chapter 170, Laws of 1933, as amended by Chapter 397, Laws of 1933 [5015-20 to 5015-44], relating to the permit from the Railroad and Warehouse Commission, and the payment of the fee therein and the depositing of public liability insurance or bond as required by said laws.

Provided, further, that every owner of a motor vehicle subject to the provisions of this act, Subdivision (a)-3 and (a)-4 hereof, shall also deposit with said Registrar of Motor Vehicles the sum of $50.00 for each and every motor vehicle required to be registered hereunder as security that the owner of said motor vehicle will pay the tax due hereunder and make such reports as required herein or as may

be required by the Registrar of Motor Vehicles. The combination of a truck-tractor and semi-trailer and/or a tractor and trailer, shall, for the purposes of such deposit of $50.00 herein provided for, be regarded and considered as one motor vehicle.

Provided further that any common or contract carrier operating a Motor Vehicle or Motor Vehicles in inter-state commerce subject to the provisions of this Act may file with the Registrar in lieu of said deposit of $50.00 a surety bond in a sum not less than $200.00 conditioned that such common carrier or contract carrier will pay all taxes due hereunder for the operation of the Motor Vehicle or Vehicles in the service of said common or contract carrier on the public highways of Minnesota, and will make such reports as required herein or as may be required by the Registrar.

If the owner of such motor vehicle or such common carrier or contract carrier shall fail to file the required reports and pay the tax, if any, within 10 days after the required time for filing such reports, the Registrar of Motor Vehicles shall promptly, upon the expiration of said ten-day period, declare a forfeiture of the whole of said $50.00 deposit for each motor vehicle or such bond to the State and should said sum of $50.00 or the penalty of such bond be insufficient to fully pay the truck-mile tax then due, an action shall be brought in the name of the State of Minnesota to recover the deficiency thereof.

If the owner of such vehicle shall fail to file the required reports or pay the tax within the time required, the Registrar of Motor Vehicles shall also cancel and take up the license plate issued on such vehicle and notify the Railroad and Warehouse Commission of such action. (As amended Apr. 29, 1935, c. 310; Apr. 22, 1937, c. 346, §1.)

(a)-5. A Declaration of Tax Policy. It is hereby declared that the use of heavy motor vehicles on the highways has added and will add materially to the construction and maintenance cost of such highways; that the use of such heavy vehicles has resulted in the construction of more expensive highways than would have been required by passenger automobiles or farm-to-market trucks; that the operation of such heavy motor vehicles is imposing an unjust share of the cost and maintenance of highways upon pleasure passenger automobiles; that the imposition of such unjust taxes both on liquid motor fuel used and for such highway construction and maintenance costs has made it necessary and just that the taxation of such heavy motor vehicles be increased as here provided for, and a proportionate reduction made in the taxes imposed on passenger automobiles. (As amended Apr. 24, 1929, c. 330, §1; Apr. 15, 1931, c. 167; Apr. 20, 1933, c. 344, §2.)

* * * * * * *

Sec. 6 of Act Apr. 20, 1933, cited, provides that the act shall take effect Jan. 1, 1934. See §2684-7a as to construction of act.

(b) Motor Vehicles not subject to taxation as provided in the foregoing section, but subject to taxation as personal property within the State of Minnesota, shall be assessed and valued at 33⅓ per cent of the true and full value thereof and to be taxed at the rate and in the manner provided by law for the taxation of ordinary personal property; provided, that, if the person against whom any tax has been levied on the ad valorem basis because of any motor vehicle shall, during the calendar year for which such tax is levied, be also taxed under the provisions of this act, then and in that event, upon proper showing, the Minnesota Tax Commission shall grant to the person against whom said ad valorem tax was levied, such reduction or abatement of assessed valuation or taxes as was occasioned by the so-called ad valorem tax imposed, and provided further that, if said ad valorem tax upon any automobile has been assessed against a dealer in new and unused motor vehicles, and the tax imposed by this act for the required period is thereafter paid by the owner, then and in that event, upon proper showing, the Minnesota Tax Commission, upon the application of said dealer, shall grant to such dealer against whom said ad valorem tax was levied such reduction or abatement of assessed valuation or taxes as was occasioned by the so-called ad valorem tax imposed. ('21, c. 461, §3; '23, c. 418, §3; Mar. 14, 1931, c. 58.)

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Explanatory note.—The title of Laws 1937, c. 346, purports to amend "section 2, subdivision (a)-4, chapter 344, Laws of 1933, as amended by chapter 310, Laws of 1935, the same being an amendment to subdivision (a) of section 2674, Mason's Minnesota Statutes of 1927," etc. The enacting clause reads the same except that the figures "2674" appear as "2644." The defect may be immaterial in view of the other correct descriptive words and figures.

Citizen and resident of the state must pay motor vehicle tax therein, although he spends the major portion of the year with his car in another state. 176M183, 222 NW918.

New and unused motor vehicles in hands of a dealer on May 1, which are not sold or used during the year, are not subject to the motor vehicle tax, but are taxable as personal property upon the basis of 33 1/3 per cent of actual value. 178M300, 227NW43.

Such vehicles, when sold after May 1, become subject to the motor vehicle tax, but the dealer, by paying the motor vehicle tax thereon and adding the amount to the price, does not become entitled to a reduction of abatement of his assessed ad valorem tax under subd. (b). 178M300, 227NW43.

This section as amended by c. 58, Laws 1931, relating to the taxation of automobiles of dealers in new and unused motor vehicles, is valid, and does not offend any constitutional provision. City of Minneapolis v. A., 188M 167, 246NW660. See Dun. Dig. 9143.

A non-resident coming into state and deciding to reside here on Dec. 2, 1932, must pay license for 1932. Op. Atty. Gen., Feb. 27, 1933.

Laws 1933, c. 344, is not applicable to 1933 registration. Op. Atty. Gen., May 11, 1933.

Registrar shall not issue license plates to an owner of several vehicles engaged exclusively in transporting property in interstate commerce unless owner files a separate surety bond of not less than $200 for each vehicle or a blanket bond in aggregate amount for all the vehicles on the basis of $200 per vehicle. Op. Atty. Gen. (632a-16), Apr. 17, 1934.

Class Y interstate trailer engaged in interstate commerce is subject to truck mile tax under (a)-3 and may be attached to and drawn by a truck-tractor which is registered in Class Y intrastate under (a)-1. Op. Atty. Gen. (632e-28), June 18, 1934.

Class Y interstate trailer engaged in interstate commerce held subject to truck mile tax under subdivision (a)-3, and may be attached to and drawn by a truck-tractor which is registered in Class Y intrastate under subdivision (a)-1, and rate of tax on trailer is to be determined by weight of trailer alone and not by combined weight of trailer and Class Y intrastate truck-tractor. Op. Atty. Gen. (632e-38), June 26, 1934.

A truck of a cooperative creamery association used only to go to the farms of its patrons and pick up the cream and haul it to the creamery may not be registered in the T Class. Op. Atty. Gen. (632e-35), June 27, 1934.

When owner of a vehicle operated on highways and registered pursuant to subdivision (a)-3, prior to July 1st elects to register same under subdivision (a)-1 and pay the "gross weight use tax" instead of the "truck mile tax" therefor, amount of "gross weight use tax" must be based on whole period that vehicle was operated, but owner may have credit where he has paid in "Y" (interstate), including $5 registration fee and truck mile tax, only when the amount of the taxes so to be paid does not exceed the amount of the tax required for the "Y" (intrastate) classification. Op. Atty. Gen. (633h-5), July 9, 1934.

Rate of tax for first half year on truck not used, nor registered, during 1934 prior to July 1, but sold on July 1 by record owner to purchaser whose employment of such truck is such that a higher rate of tax is required than that under which it was last registered by record owner of January 1, should be based on basic rate of 2.4% which is basic rate for all motor vehicles. Op. Atty. Gen. (632E), Aug. 2, 1934.

In addition to fact that membership in a cooperative is limited to producers of livestock only, in order to entitle such a cooperative to register their trucks in T classification, it cannot be engaged at any time during calendar year in transportation business, though trucks may be used in rendering occasional accommodation service for others in transporting farm products to market or supplies to a farm, even though same be paid for. Op. Atty. Gen. (632e-35), Jan. 30, 1935.

Fee of $5 required to be paid under subdivision (a)-3 at time of application for registration of a vehicle engaged in interstate commerce is not a "tax" within meaning of phrase "the tax due hereunder" as that phrase is used in the subdivision (a)-4, and registrar cannot collect such $5 fee from surety on bond. Op. Atty. Gen. (632e-14), Mar. 20, 1935.

Laws 1935, c. 161, applies to the year 1935 and subsequent years. Op. Atty. Gen. (632e-24), Apr. 22, 1935.

It is duty of secretary of state to collect additional tax where vehicle has paid tax in full at time of payment but subsequent statute has increased tax for such year. Op. Atty. Gen. (632d), Apr. 26, 1935.

Motor vehicles registered in truck mile tax classification but operated between two points in the state in transporting property are not engaged in transporting property in interstate commerce. Op. Atty. Gen. (632e-14), Mar. 24, 1936.

House trailers used for pleasure purposes only and towed by ordinary type of pleasure passenger motor vehicle are subject to same rate of tax as pleasure vehicle. Op. Atty. Gen. (632e-33), June 16, 1937.

Manufacturers retail list price in effect Oct. 1, 1937, at factory for vehicles listed in statements should be used as "base price" for computing registration tax for 1938. Op. Atty. Gen. (632a-25), Nov. 4, 1937.

Manufacturers retail list price in effect Oct. 1, 1937, at factory for vehicles listed in statements should be used as "base price" for computing registration tax for 1938. Id.

Where owner of vehicle was convicted in Jan., 1938, for carrying a greater load than the 1937 Y registration allowed, but obtained a license in the YI class before secretary of state was notified of the arrest and conviction, registration must be converted to Y class with payment of gross-weight-use tax on basis of load carried at time of arrest. Op. Atty. Gen. (632e-37), Mar. 29, 1938.

Use of 1937 Y plates by owner before Feb. 15, 1938, does not preclude possibility of owner to register vehicle for year 1938 in another class carrying a lower tax rate, providing vehicle has not been used during year 1938 outside of use permitted in lower tax rate class sought by owner. Id.

A vehicle never leaving state but meeting incoming trucks from other states and distributing merchandise which is unloaded directly to it may be registered as engaged in transporting property in interstate commerce so as to be entitled to registration in truck-mile-tax class. Op. Atty. Gen. (632e-14), Apr. 19, 1938.

Trucks owned by resident or nonresident traveling circus may be registered in Class X. Op. Atty. Gen. (632e-36), June 8, 1938.

Combination motor vehicle and feed grinder permanently attached to motor vehicle is subject to motor vehicle tax, but is exempt from personal property tax. Op. Atty. Gen. (632e-2), Aug. 1, 1938.

Gas driven scooters with two wheels are to be treated as motor cycles, and if they have three wheels they are to be treated as a motor cycle with a side car. Op. Atty. Gen. (632), May 3, 1939.

Where owner of YZ truck is convicted in municipal court for carrying overweight and appeals to district court and vehicle is sold to another owner, registrar may not cancel certificate of registration and license plates and collect additional tax based upon gross load weight transported at time of alleged offense, there being no final judgment of conviction. Op. Atty. Gen. (633a-15), May 11, 1939.

Refund can only be made by state auditor on vouchers of Secretary of State pursuant to Laws 1939, c. 431, Art. III, §19. Op. Atty. Gen. (632e-24), August 4, 1939.

Busses not actually delivered but still in hands of manufacturer or warehousemen on July 1, were only subject to half tax. Op. Atty. Gen. (632e), August 5, 1939.

A purchaser of a used truck on which Class "Y" tax has been paid for a full year may apply for a Class "X" registration and have unearned portion of Class "Y" tax applied on amount due from him for a Class "X" registration, and thus get advantage of tax previously paid, and is not required to pay any additional tax. Op. Atty. Gen. (632e-36), Sept. 8, 1939.

(a).

Truck used exclusively for carrying passengers should be registered as a "motor vehicle for carrying passengers" and rate of tax therefor is 2.4%, providing such vehicle is not engaged in "commercial transportation of passengers." Op. Atty. Gen., Jan. 12, 1934.

An owner who wishes to change from Class T to Class X may have credit for tax paid in T Class. Op. Atty. Gen., Jan. 16, 1934.

Owner wishing to change from Class X to Class Y intrastate may have credit for tax paid in Class X. Id.

An owner who wishes to change from Class Y (interstate) to Y (intrastate) may have credit for what he has already paid, including $5 fee and truck mile tax only when amount of tax so to be paid does not exceed amount of tax required for the Y (intrastate) classification, as no refunds may be made. Id.

If owner wishes to increase his permitted load, he may do so by paying only the additional tax due on account of such additional load and the new gross weight is properly stenciled in a conspicuous place on his vehicle. Id.

When a registration is revoked on account of violation of registration laws, owner of vehicle forfeits amount of tax he has paid as a penalty for the violation, except when he makes application for reregistration, he should be given credit for tax theretofore paid for the unloaded vehicle, but no certificate or license plate should issue except upon payment of a tax based on gross load weight his vehicle was transporting at time offense was committed and tax to be paid shall be subject to a proportionate tax, which has reference to part of year, second half or fourth quarter. Id.

There is a permitted overload of 1000 pounds regardless of selected load and tax paid, but such overload is based upon selected maximum notwithstanding greater maximum could have been selected without increase in tax. Id.

Trucks engaged exclusively in transporting commerce in interstate or international commerce only upon streets of municipality in this state are exempt from provisions of §(a)-3, but owner must pay permit fee. Op. Atty. Gen., Jan. 19, 1934.

Bond given to secure payment of truck mile tax may be cancelled upon transfer of ownership of truck or upon destruction or dismantiling of same or upon permanent removal from state. Op. Atty. Gen., Mar. 8, 1934.

There is no provision which provides a rate of tax on passenger motor vehicles drawing trailers used for hire. Op. Atty. Gen. (633j), May 22, 1937.

A two-wheel utility trailer weighing 485 pounds and used two or three times a week to make quick deliveries of merchandise by a wholesale company, when it is hauled behind one of regular passenger automobiles belonging to company, and capable of hauling three-fourths of a ton or more, may be registered in the "Z" class at rate of 2.2% as trailer used with a "pleasure" vehicle, and need not be registered in the "Y" or "X" or "T" class. Id.

(a) (2).

Fifty per cent supertax for solid tires affects both the gross weight use tax (Y intrastate) and the truck-mile tax (Y interstate). Op. Atty. Gen., Jan. 16, 1934.

If a vehicle having a 1937 Y license is operated under that license in 1938, before application for registration for year 1938 is required to be filed with registrar, and carries a load in excess of that permitted by its license, it becomes subject to penalty, and no certificate of registration in the X or T class may thereafter be issued for 1938, though vehicle would otherwise be eligible for such registration. Op. Atty. Gen. (632a-16), June 15, 1938.

(a) (4).

A blanket bond may be used to cover a fleet of trucks, but it should properly identify and describe each vehicle and part of total amount intended for each respective vehicle not less than $200. Op. Atty. Gen., Dec. 14, 1933.

Owner depositing $50 cash prior to effective date of Laws 1937, c. 346, may not deposit $200 surety bond in lieu thereof and have $50 cash returned to him. Op. Atty. Gen. (632e-24), July 23, 1937.

(c).

October 1 dealer holding truck last registered in 1932 should pay tax at rate of 2.4% without issue of plates and not in "X" or "Y" class rate. Op. Atty.. Gen., Apr. 18, 1933.

(f).

City of Sleepy Eye has no authority to require a license of an auto transportation company to use its streets. Op. Atty. Gen., Oct. 13, 1930.

2674a. Application of amending act.—This act shall apply to and govern motor vehicle taxes for the year 1939, whether paid prior to or after the passage of this act; and in case any person shall have paid the tax upon a motor vehicle in excess of the amount required in section 1 hereof, he shall be entitled to a refund of such excess, and the secretary of state is authorized to pay all such refunds. (Act Apr. 14, 1939, c. 253, §2.)

2674-½. License taxes on motor vehicles reduced. [Repealed.]

Consisted of Act Apr. 8, 1933, c. 163, §1.

Repealed Apr. 17, 1935, c. 161, §3. See §2674-½d.

Registration tax on farm truck converted from Model T Ford is $5, while tax on truck in class "X" converted from Model T Ford is $10. Op. Atty. Gen., Apr. 11, 1933.

A building contractor with one-ton truck registered in 1932 in "X" class with payment of $15 must register it for 1933 in "X" class. Op. Atty. Gen., Apr. 18, 1933.

Contractor with one-ton truck and four-ton truck must register four-ton truck in "X" class at rate of 3.4%, though it is stored for year. Id.

A transfer company owning some trucks registered in "X" class and some in "Y" class could register in "X" class an unused truck registered in 1932 in "Y" class. Id.

Bus company registering busses in "B" and "C" classes during 1932 could register a stored "C" class bus in "B" class in 1933. Id.

Owner of truck converted from passenger car weighing more than 2,000 pounds must register it in "X" class in 1933, though it is only used by owner's family for running errands. Id.

October 1 dealer holding truck last registered in 1932 should pay tax at rate of 2.4% without issue of plates and not in "X" or "Y" class rate. Id.

Where dealer obtained truck in 1932 registered in "X" class and in May, 1933, sold it to truck gardener, it should be registered in "T" class at rate of 2.4% in 1933, but if sold to building contractor, it must be registered in "X" class, and if sold to a commercial freighter it

should be registered in "Y" class, and if not sold at all should be taxed at rate of 2.4% on October 1, 1933. Id.

Farmer owning two trucks registered in 1932 in "X" class could register both in "T" class and pay $7.50 each upon storing one of them for the year 1933. Op. Atty. Gen., Apr. 19, 1933.

If used truck in possession of dealer is one that should be registered under minimum tax provisions, such truck shall be registered at rate of tax of such minimum provisions. Op. Atty. Gen., Apr. 20, 1933.

Passenger motor vehicles engaged in transportation of passengers for hire are not subject to license tax reduction. Op. Atty. Gen., May 6,

Sheriff's car used as family car and also to convey prisoners from place to place is not engaged in transportation of passengers for hire and is entitled to reduced rate, though sheriff is paid mileage expenses. Op. Atty. Gen., May 31, 1933.

Family car used to transport owner's and his neighbor's children to school, children paying for gasoline in return for courtesy, is not engaged in transportation of passengers for hire. Id.

Affidavit that converted Ford roadster was used only for personal use in going to and from cabin was insufficient to entitle owner to refund or to registration in "T" class. Op. Atty. Gen., Aug. 30, 1933.

Reduction applies to school busses not engaged in transportation of passengers other than pupils. Op. Atty. Gen., Feb. 15, 1934.

Registration tax on passenger motor vehicles will return to 1932 rate beginning Jan. 1, 1935, while the reduced tax on certin class T trucks will continue in 1935 and until changed by legislature. Op. Atty. Gen. (632E-1), Dec. 10, 1934.

Class T truck converted from passenger vehicle after Jan. 1, 1935, may be registered and taxed as such for that year. Op. Atty. Gen. (632e-35), Feb. 5, 1935.

2674-½a. Certain refunds authorized. [Repealed.]

Consisted of Act Apr. 8, 1933, c. 163, §2.
Repealed Apr. 17, 1935, c. 161, §3. See §2674-½d.

Refunds may be paid out of current receipts by secretary of state. Op. Atty. Gen., Apr. 19, 1933.

2674-½b. May be paid any time before April 30 without penalty. [Repealed.]

Consisted of Act Apr. 8, 1933, c. 163, §3.
Repealed by Act Apr. 17, 1935, c. 161, §1. See §2674-½d.

2674-½bb.

Registration of motor vehicles to be before March 15 for year 1937. Feb. 16, 1937, c. 28.

2674-½c. Refunds.—This act shall apply to and govern motor vehicle taxes for the year 1935, whether paid prior to or after the passage of this act; and in case any person shall have paid the tax upon a motor vehicle in excess of the amount required in Section 1 hereof, he shall be entitled to a refund of such excess, and the secretary of state is authorized to pay all such refunds. (Act Apr. 17, 1935, c. 161, §2.)

2674-½d. Inconsistent acts repealed.—Laws 1933, Chapter 163, is hereby repealed, and all other acts and parts of acts inconsistent herewith, are hereby modified, amended or superseded so far as necessary to give full force and effect to the provisions of this act. (Act Apr. 17, 1935, c. 161, §3.)

2674-1. Companies, etc., paying gross earnings taxes required to pay motor vehicle taxes.

This act is unconstitutional. 173M72, 216NW542.

2674-4. Taxation of certain motor vehicles.—Motor vehicles using the public streets and highways of this state and owned by companies paying taxes under gross earnings system of taxation shall be registered and taxed as provided for the registration and taxation of motor vehicles by Mason's Minnesota Statutes of 1927, Sections 2672 to 2704, inclusive, as now or hereafter amended, notwithstanding the fact that earnings from such vehicles may be included in the earnings of such companies upon which such gross earnings taxes are computed and all provisions of said sections are hereby made applicable to the enforcement and collection of the tax herein provided for. (Act Apr. 21, 1933, c. 360, §1.)

2674-5. To include 1933 tax.—The provisions of this Act, which provide for a motor vehicle tax, are intended to include and shall be deemed to include the imposition of such tax for the year 1933 on the motor vehicles described in Section 1 of this Act, and the said tax for the year 1933 shall be paid on all such motor vehicles including those which prior to the passage of this act may have been registered for the year 1933 without the payment of such tax. (Act Apr. 21, 1933, c. 360, §2.)

2674-6. Application of act.—If this act shall be held invalid as to any company charged with the payment of taxes on a gross earnings basis under existing laws it shall be valid nevertheless as applied to any other company included under its provisions. (Act Apr. 21, 1933, c. 360, §3.)

2674-7. Provisions separable.—If any section or part of this act shall be declared to be unconstitutional or invalid for any reason the remainder of this act shall not be affected thereby. (Act Apr. 21, 1933, c. 360, §4.)

2675. Motor vehicles to be registered—etc.

The Motor Vehicle Registration Tax Law, held valid and applicable to vehicles owned by members of the military forces of the United States residing on the Fort Snelling military reservation and using the highways of the state for their personal business and pleasure. 283US57, 51SCR354, aff'g 180M281, 230NW572. See Dun. Dig. 4167a, 9576d.

Wife was not liable for negligence of her husband in driving a car registered in her name. Cewe v. S., 182M 126, 233NW805. See Dun. Dig. 5834b.

In the statutes requiring the registration of automobiles, there is nothing to exempt conditional sales contracts covering motor cars from the ordinary effect of the recording acts. Drew v. F., 185M133, 240NW114. See Dun. Dig. 4167a.

The tax must be paid in cash and a county contractor who has failed to pay the tax cannot assign to the state a portion of the compensation due him from the county. Op. Atty. Gen., July 22, 1930.

2676. Owner shall list offenses.—(a) Every owner of any motor vehicle in this state, not exempted by Section 2 or Section 14 hereof, shall on or before February 15th, in each calendar year and in any event as soon after January 1st as he shall become the owner thereof, file with the registrar on a blank provided by him, a listing for taxation and application for the registration of such vehicle, stating the name and address of the owner, and the nature of his ownership, the name and address of the person from whom purchased, name of manufacturer, name of motor vehicle, year manufactured, year and number of the model, engine and car number, type of body, the list price thereof at the factory, the weight of the vehicle in pounds, and its rated load carrying capacity or seating capacity, the number of cylinders, and such other informations as the registrar may require. The said owner shall make an oath or affirmation before some officer authorized by law to administer oaths or affirmations that the statements made are correct and true; and any false statement wilfully and knowingly made in regard thereto shall be deemed perjury and punished accordingly; provided, however, that such listing for taxation and application for registration need not be sworn to when the applicant is listing the same vehicle for taxation and registration for the second or any succeeding time. The listing and application for registration by dealers or manufacturers' agents within the state, of motor vehicles received for sale or use within the state shall be accepted as compliance with the requirements of this act imposed upon the manufacturer.

(b) Upon the installation of any new motor or the addition or change of type of any body in or upon any registered motor vehicle, the owner shall file with the registrar a new application setting forth such change, together with the payment of any additional tax to which the motor vehicle by such change has become subject, and shall apply for a revision of the registration made.

(c) It shall be unlawful for any person

1. To display or cause to be displayed or to have in his possession any cancelled, revoked, suspended or fraudulently obtained or stolen registration plates.

2. To lend his registration plates to any person or knowlingly to permit the use thereof by another.

3. To display or represent as one's own any registration plates not issued to him, provided, however, this shall not apply to any legal change of ownership of the motor vehicle to which the plates are attached.

4. To fail or refuse to surrender to the department upon its lawful demand any registration plates which have been revoked, cancelled or suspended by proper authority.

5. To use a false or fictitious name or address or description of the motor vehicle, engine number or serial number in any application for registration of a motor vehicle or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application.

(d) It shall be a misdemeanor for any person to violate any of the provisions of this act unless such violation is by this act or other laws of this State declared to be a felony or gross misdemeanor. (As amended Apr. 26, 1937, c. 431, §1.)

Sec. 2 of Act Apr. 26, 1937, cited, provides that the Act shall take effect from its passage.

Act Mar. 20, 1933, c. 103, fixes Apr. 15 as date for payment of tax for 1933.

Sworn statement of car dealer in registration of a car that it was absolute owner of a car in possession of salesman was a persuasive admission that would credit claim that saleman was absolute owner under a conditional sales contract, as affecting liability of sales agency arising out of negligence. Flaugh v. E., 202M615, 279NW582. See Dun. Dig. 3408.

2677. Registrar shall issue registration certificate.

The judgment in replevin for a return was right because there was no proper proof of ownership of the automobile taken from the possession of the defendant, who did not claim under the vendee in the conditional sales contract. 181M477, 233NW18. See Dun. Dig. 8652.

Registration of a motor vehicle does not establish and determine title to a vehicle registered, and parol evidence is admissible to show that title is different than that appearing from registration. Bolton-Swanby Co. v. O., 201M162, 275NW855. See Dun. Dig. 3390.

2679. Registrar to register only on proof of ownership.

181M477, 233NW18; note under §2677.

Lien for delinquent taxes may be enforced against dealer who has purchased vehicle from one who was record owner at time tax became delinquent. Op. Atty. Gen. (520h), Feb. 2, 1938.

2680. Certificate to expire on Dec. 31.

If a vehicle having a 1937 Y license is operated under that license in 1938, before application for registration for year 1938 is required to be filed with registrar, and carries a load in excess of that permitted by its license, it becomes subject to penalty, and no certificate of registration in the X or T class may thereafter be issued for 1938, though vehicle would otherwise be eligible for such registration. Op. Atty. Gen. (632a-16), June 15, 1938.

2681. Transfer of ownership, destruction, etc.

Report of sale filed by dealer with secretary of state may be varied and contradicted by parol evidence to show true ownership of vehicle referred to in report. Bolton-Swanby Co. v. O., 201M162, 275NW855. See Dun. Dig. 3390, 4167a.

Statute requiring registration of motor vehicles does not establish an exclusive method of transferring title to an automobile. Davis v. G., 201M156, 275NW858. See Dun. Dig. 4167a.

Duties of secretary of state as registrar are no way affected by governor's executive order concerning foreclosure of mortgages on farm machinery. Op. Atty. Gen., Mar. 25, 1933.

Where car was reported junked in 1930 and was taken off tax list and owner decided in 1933 to overhaul it, he cannot reregister vehicle in 1933 without payment of tax and penalties for 1931 and 1932. Op. Atty. Gen., Apr. 29, 1933.

Where deceased owner of automobile leaves insane widow and children, there can be no transfer of registration or ownership by the children, but guardian must be appointed for widow. Op. Atty. Gen. (632a-21), Sept. 7, 1938.

(a).

It is possible to transfer YI registration to dealer taking vehicle in trade and allow him to hold it under such registration so that no further tax will accrue so long as dealer does not operate it, except as he is permitted to do so under his dealer's demonstration plates, and if vehicle is purchased from dealer by one who wishes to continue operation in interstate class with payment in truck-mile class, the YI registration may be transferred to new purchaser meeting requirement of cash deposit or guarantee bond, and if new owner wishes to use vehicle in interstate commerce or intrastate commerce in Y class, (in the gross-weight-use tax class) new purchaser would be obliged to pay Y tax for whole year, with certain allowance for what may already have been paid by owner who originally registered it in Y class, and if new owner wishes to operate vehcile in T class or X class, he would be permitted to register in one of those classes upon payment of annual tax for those classes, the proportionate allowance depending upon date of purchase as provided by law for vehicles' first becoming subject to tax between last day of June and first day of Oct., and between last day of Sept. and first day of next year. Op. Atty. Gen. (632e-37), Apr. 22, 1938.

2682. Refunds.—After the tax upon any motor vehicle shall have been paid for any year, refund shall be made only for errors made in computing the tax or fees and for the error on the part of an owner who may in error have registered a motor vehicle that was not before, nor at the time of such registration, nor at any time thereafter during the current past year, subject to such tax in this state provided that after more than two years after such tax was paid no refund shall be made for any tax paid on any vehicle exempted from taxation by reason of non-use as provided by Section 2673 Mason's Minnesota Statutes as amended. Such refundment shall be made from any fund in possession of the registrar and shall be deducted from his monthly report to the state auditor. A detailed report of such refundment shall accompany the report. The former owner of a transferred vehicle by an assignment in writing indorsed upon his registration certificate and delivered to the registrar within the time provided herein may sell and assign to the new owner thereof the right to have the tax paid by him accredited to such new owner who duly registers such vehicle. Any owner whose vehicle shall be destroyed or permanently removed from the state, shall be entitled to deduct from any tax which shall become thereafter due during the same year from such owner upon another vehicle one-half the annual tax theretofore paid on such vehicle, if the motor vehicle is permanently destroyed or removed from the state before July 1 and one-quarter of the annual tax theretofore paid on such vehicle if it is permanently destroyed or removed from the state after June 30 but before October 1. No refund, however, shall be made if the vehicle is not permanently destroyed or removed from the state until after September 30.

If in registering a motor vehicle from the tax on which the registrant may justly claim an allowance because of a tax previously paid by him in the same year upon another motor vehicle, destroyed or permanently removed from the state after such payment, the registrant shall fail to take advantage of this provision for such reduction, he shall be entitled to a cash refund in the amount of the allowance which he might have been allowed if he had applied for it at the time of the registration of such second vehicle, and the registrar may make such refund in accordance with the provisions of this section. ('21, c. 461, §11; '23, c. 418, §11; Apr. 16, 1931, c. 174; Apr. 11, 1935, c. 142, §1.)

Sec. 2 of Act Apr. 11, 1935, cited, provides that the act shall take effect from its passage.

Act Mar. 2, 1937, c. 44, authorizes refundment of penalties on delayed 1937 registrations.

Act Feb. 17, 1937, c. 32, authorizes the secretary of state to deduct specified sums from license revenues collected to reimburse himself for losses incurred from defaults of licensees during years 1931 to 1936.

Op. Atty. Gen. (632e-37), Apr. 22, 1938: note under §2681(a).

Express Company paying its property tax upon the gross earning basis held entitled to refund of motor vehicle tax paid. 173M98, 216NW541.

Owners entitled to exemption from payment under Laws 1933, c. 298 [§2673], but who paid tax before passage thereof are not entitled to a refund without legislative appropriation. Op. Atty. Gen., Apr. 29, 1933.

Owner of automobile is entitled to refund of license fees where his car was stolen while outside state. Op. Atty. Gen., June 27, 1933.

Secretary of state cannot make refund of tax paid before passage of Laws 1933, c. 298, on a bus used by church high school solely for transporting pupils. Op. Atty. Gen., Apr. 29, 1933.

One registering vehicle after passage of Laws 1933, c. 298, under which he was entitled to exemption, is entitled to refund. Op. Atty. Gen., June 2, 1933.

One seeking change of classification from Y truck to X truck on ground of mistake in registration must clearly show that his truck has not been operated outside of permitted thirty-five-mile zone at any time during year. Op. Atty. Gen., Feb. 1, 1934.

One who paid registration tax on automobile which he presented to police department to enable them to combat crime wave, before ever having used the car during the year, was not entitled to refund. Op. Atty. Gen. (632e-24), Apr. 17, 1934.

On conversion of a registration from the X Class to the Y Class, no refund of difference between higher tax paid for X registration and lower tax paid for Y registration can be made. Op. Atty. Gen. (632e-24), Apr. 24, 1934.

Refund of registration tax erroneously collected in rush of business on trucks which were not to be used within the state during the year should be refunded. Op. Atty. Gen. (632e-24), Apr. 28, 1934.

One who took out an X license with intent to use truck for hauling gravel but did not use it for that purpose was entitled to refund on having X license exchanged for T license. Op. Atty. Gen. (632e-24), May 19, 1934.

Registration for 1934 may be cancelled and refund of tax paid for motor vehicle destroyed by fire before having been used on streets and highways at any time during such year. Op. Atty. Gen. (632e-9), June 9, 1934.

Owner of truck is not entitled to a refund of portions of taxes paid for error in computing gross weight of certain truck and the tax paid therefor. Op. Atty. Gen. (632e-24), June 27, 1934.

Refund not to be made of tax paid by dealer for purpose of avoiding duplicate taxation, though vehicle was not used on highways until after July 5. Op. Atty. Gen. (632E-24), July 31, 1934.

Failure on part of owner of vehicle to apply for and secure a permit as provided for in §2720-37 was not an error within intent of §2682, and such owner is not entitled to a refund because he is unable to carry the weight upon which taxes were based. Op. Atty. Gen. (632e-24), Feb. 21, 1935.

Truck mile tax paid by an owner of a class YI interstate vehicle is not payment of "annual tax theretofore paid" and registrar has no authority to allow credit to an owner for a portion of tax paid by owner when he removed vehicle permanently from state. Op. Atty. Gen. (633L-5), Mar. 7, 1935.

Fee of $5 paid under Laws 1933, c. 344, §2, at time of application for registration is payment of "annual tax theretofore paid." Id.

Refund by reason of nonuse of vehicle may not be had for a particular year on an application made more than two years after date of payment of taxes for such year. Op. Atty. Gen. (632e-24), May 22, 1935.

Credit for tax paid on vehicle in gross-weight-use tax classifications on registration of another vehicle during same year in truck-mile tax classification, first truck having been destroyed. Op. Atty. Gen. (632e-24), Mar. 11, 1936.

Privately owned trucks bearing North Dakota license plates operating upon highways engaged in transporting property for hire are not entitled to any more extensive reciprocity privileges than privately owned trucks operated in private industry, and fact that such trucks are employed in WPA project cannot be classified as an error which would entitle owners to a refund. Op. Atty. Gen. (633g-2), Sept. 23, 1936.

Reimbursement of Secretary of State of losses on uncollectible checks and counterfeit money paid on motor vehicle registration. Feb. 17, 1937, c. 32.

Law passed by legislature on February 15, and approved by governor on February 16, extending time for payment of taxes, did not authorize secretary of state to make refunds of penalties collected on February 16. Op. Atty. Gen. (632e-24), Feb. 23, 1937.

Credit accruing on tax paid on any number of motor vehicles permanently removed from state may be combined and applied toward payment of tax on one or more motor vehicles thereafter subject to tax during same year and registered by owner of vehicles permanently removed. Op. Atty. Gen. (632e-4), Sept. 6, 1938.

2683. Registrations subject to suspension.

Financial responsibility act does not prevent registrar from registering and collecting annual registration tax for motor vehicle belonging to person whose driver's license has been suspended or revoked, but it does prohibit registrar from issuing license plates to such person until such time as he has established his financial responsibility. Op. Atty. Gen. (291f), Oct. 8, 1934.

2684. Passenger motor vehicles from other states. [Repealed.]

Repealed by Act Apr. 29, 1935, c. 355, §4.

Op. Atty. Gen., June 16, 1933; note under §2684-1.

Citizen and resident of the state must pay motor vehicle tax therein, although he spends the major portion of the year with his car in another state. 176M183, 222 NW918.

Does not apply to member of military force at Fort Snelling owning and operating an automobile for his own purposes on the highways of the state outside the reservation. 180M241, 230NW572, aff'd 283US57, 51SCR 354.

Chartered motor busses from state of Washington must pay registration tax while going through Minnesota to Chicago, but busses from Oregon, Idaho and North Dakota are not required to pay registration tax. Op. Atty. Gen., Apr. 20, 1933.

2684-1. Reciprocal permission to non-resident auto owners.—Any resident of any state, District of Columbia, Canadian province or other foreign power, who owns and is duly licensed under the laws of his own state or country to operate a motor vehicle upon the highways thereof, may also operate such motor vehicle personally or by his authorized driver upon the streets and highways of townships, boroughs, villages, and cities in this state, subject to the following conditions and limitations:

First. Upon condition that the exemptions provided by this act as hereinafter limited shall be operative as to a motor vehicle owned by a non-resident only to the extent that under the laws of the state or Canadian province of his residence (or that under the laws of the District of Columbia or other foreign power if that is his residence) like exemptions and privileges are granted to motor vehicles registered under the laws and owned by residents of Minnesota. (As amended Apr. 29, 1935, c. 355, §1; Mar. 24, 1937, c. 97, §1.)

Second. Upon condition that any such motor vehicle so operated in this State by any such non-resident at all times shall carry and display all license number plates or like insignia required by the laws of the home state or country of said non-resident.

Third. Upon condition that such non-resident motor vehicle owner shall first file with the registrar of motor vehicles in this State an instrument in writing, subscribed by him and duly acknowledged before a notary public or other officer with like authority, setting forth the name and address of the owner and of each person having any interest in such motor vehicle, the name and address of the person from whom such motor vehicle was purchased or acquired, the name of the manufacturer and of the motor vehicle if it has a name, the year when manufactured, the serial number or other number and model identifying such motor vehicle, the weight in pounds of such motor vehicle and the number of cylinders of the motor engine. Said written instrument shall also contain substantially the following:

"The undersigned owner of the above described motor vehicle hereby consents and agrees that the use and operation of said motor vehicle inside the state of Minnesota shall always be subject to all the laws, ordinances, rules and regulations applicable to like operation thereof by a citizen and resident of the state of Minnesota except as it may be expressly provided otherwise by the laws of Minnesota. The undersigned owner hereby consents to be sued or otherwise proceeded against, either civilly or criminally, at any place in Minnesota where the above described motor vehicle is operated, upon any claim or cause of action arising from such operation in the same number as a Minnesota citizen and resident owner and operator of a like motor vehicle might be sued or proceeded against in like circumstances. And in any such civil proceedings, legal process and other notices or papers may be served upon the undersigned owner of the above described motor vehicle by depositing a copy thereof in the United States mails, properly enveloped, sealed, postage prepaid, and addressed to the undersigned owner at his above stated address or at such other address as he may have later filed in writing supplementary to this agreement. Such service shall be deemed personal service, and shall have the same force and effect as like process or notice served personally upon a motor vehicle owner residing in and being a citizen of the state of Minnesota." ('27, c. 94, §1; Apr. 20, 1931, c. 220, §1; Apr. 29, 1935, c. 355, §1.)

The title and enacting part of Act Apr. 29, 1935, c. 355, §1, purports to amend "section 2684-1," and then sets out the opening paragraph and the "First" condition, without reference to or setting out of the rest of the section. It

does not seen to have been the legislative intent to repeal the part of the section not set out.

The judgment in replevin for a return was right because there was no proper proof of ownership of the automobile taken from the possession of the defendant, who did not claim under the vendee in the conditional sales contract. 181M477, 233NW18. See Dun. Dig. 8652.

Where resident of Minnesota moved to Iowa in December and applied for auto license but did not move car from Minnesota until May and obtained no permit to operate car in Minnesota, she must register in Minnesota. Op. Atty. Gen., June 16, 1933.

Reciprocal privilege may be interpreted to apply to a foreign motor vehicle dealer who wishes to operate a motor vehicle owned by him and bearing dealer's plate of his own state upon highways of this state for purposes other than selling, soliciting or advertising sale of motor vehicles as a motor vehicle dealer. Op. Atty. Gen. (632c), Sept. 26, 1935.

A used vehicle which has not been operated on the highways during the year, may be driven out of the state by a nonresident, or by one becoming a nonresident, on plates issued by another state. Op. Atty. Gen. (632c), Feb. 6, 1936.

Certain Iowa monument company not excluded from reciprocity privileges by reason of provisions of §2684-6. Op. Atty. Gen. (632c-7), May 11, 1936.

State of Minnesota may not disregard Wisconsin mileage tax and reciprocate solely on basis of Wisconsin registration tax, but Wisconsin vehicles of type not required to pay mileage tax, may be permitted to come into Minnesota under reciprocal agreement without paying Minnesota motor vehicle license tax. Op. Atty. Gen. (632c-6), Aug. 28, 1937.

Secretary of state cannot revoke permit issued to nonresident owners of a truck merely on information that truck has been used in violation of game and fish laws. Op. Atty. Gen. (632c), June 28, 1938.

Lessee of a motor vehicle is not entitled to reciprocity. Op. Atty. Gen. (632c), Aug. 23, 1938.

2684-2. Registrar of motor vehicles to issue permit.—As soon as any non-resident motor vehicle owner entitled to the privileges herein extended shall have complied with the provisions hereof the registrar of motor vehicles shall issue to him a certificate stating that he is entitled to operate such motor vehicle within this state for and during such time as he continues to own such motor vehicle with license to operate the same in his own state or country; but subject nevertheless, to suspension, revocation, or cancellation for any cause that would justify similar action with respect to any motor vehicle license or registration issued to any citizen or resident of this state. Within seven days from the date when any change shall have been made in the ownership, or foreign license or number plates, of any motor vehicle operating in this state under a certificate as above provided, said certificate shall be surrendered to the registrar of motor vehicles and such change shall be noted thereon, or a new certificate issued under the same conditions as the original. Such certificate shall be prima facie evidence that the motor vehicle therein described may be lawfully operated in this state.

Any foreign motor vehicle operating at any time without such certificate shall be subject to seizure and the driver thereof to arrest by any law enforcing officer of this state; and upon conviction of such driver for operating in this state without license, such motor vehicle may be sold in the same manner as on execution sale for debt and the proceeds may be applied to satisfy any penalty or fine imposed and to pay any costs or expenses incurred in connection with such arrest, seizure, and sale. ('27, c. 94, §2; Apr. 20, 1931, c. 220, §2; Apr. 29, 1935, c. 355, §2.)

Where license is revoked following conviction for driving while under influence of intoxicating liquor and person convicted removes from state, and purchases a car in another state and obtains a driver's license there, he is at all times subsequent thereto guilty of violating laws of the state, though he has a permit under the reciprocity laws. Op. Atty. Gen. (291k), Aug. 19, 1938.

2684-3. Penalties for fraudulent registration.—Any person who files any statement or written instrument hereinabove required, knowing that the same is false or fraudulent in whole or in part, shall be guilty of a felony; and such felony shall be deemed to have been committed at the time when and place where such false or fraudulent statement was filed in this state. ('27, c. 94, §3; Apr. 20, 1931, c. 220, §3.)

2684-4. Registrar to promulgate rules.—The registrar of motor vehicles may promulgate such rules and regulations, from time to time, as may be reasonably necessary to accomplish the purpose of this Act. ('27, c. 94, §4; Apr. 20, 1931, c. 220, §4.)

2684-5. Act to be subordinate to treaties.—The provisions of this enactment relating to motor vehicle traffic between Minnesota and Canadian provinces shall be subordinate to all the laws, treaties, agreements, and policies of the respective national governments primarily controlling said international boundary line; and all privileges extended by this Act to Canadian motor vehicle owners shall be deemed abridged accordingly, and shall not be substantially greater than the privileges available to similarly situated Minnesota motor vehicle owners operating across said international boundary line. ('27, c. 94, §5; Apr. 20, 1931, c. 220, §5.)

2684-6. Application of act.—This Act shall not apply to a passenger motor vehicle owned by a resident of any State, District of Columbia, or any Canadian Province temporarily residing in this State while regularly employed therein under contract for a term of six months or more, nor to a passenger motor vehicle used to haul for hire except such a vehicle that may be owned and registered in another state, the District of Columbia, or any Canadian Province, and chartered for an occasional trip into or through Minnesota without taking on any additional passengers in this State.

The reciprocity provision of the act shall not apply to trucks, tractors, truck-tractors, semi-trailers and combinations of such vehicles engaged in transporting property for hire. The reciprocal provisions of *this act shall apply to the owner of a truck* exclusively used in transporting agricultural, horticultural, dairy and other farm products including livestock, which the owner of the truck has produced or raised and such truck is used to transport such products from the farm to market and to transport property and supplies to the farm of the owner, and trucks used in rendering occasional accommodation service for others in transporting farm products from a farm to market or supplies to the farm even though the same may be paid for where such vehicle is owned by a person not engaged in the transportation business. "Occasional" shall be construed to mean a special, individual round trip not to exceed however two such trips a month for any one such vehicle.

Every non-resident, including any foreign corporation carrying on business within this State and owning and regularly operating in such business any motor vehicle within this State shall be required to register each such vehicle and pay the same tax and penalties, if any, therefor, as is required with reference to like vehicles owned by residents of Minnesota.

The reciprocity privileges provided by this Act shall apply also to a motor vehicle exclusively engaged in transporting commerce from a State or from any province in the Dominion of Canada exclusively upon the streets of any city or village in the State of Minnesota. ('27, c. 94, §6; Apr. 20, 1931, c. 220, §6; Apr. 29, 1935, c. 355, §3.)

Sec. 4 of Act Apr. 29, 1935, cited, repeals §§2684, 2684-7. Sec. 5 provides that the act shall take effect from its passage.

Laws 1935, c. 355, §3, indicates a legislative intent to amend §2684-7 and not this section. Op. Atty. Gen. (632c), May 29, 1935.

Privately owned trucks bearing North Dakota license plates operating upon highways engaged in transporting property for hire are not entitled to any more extensive reciprocity privileges than privately owned trucks operated in private industry, and fact that such trucks are employed in WPA project cannot be classified as an error which would entitle owners to a refund. Op. Atty. Gen. (633g-2), Sept. 23, 1936.

An owner advertising for passengers who will pay for gasoline, oil and other expenses of the trip in exchange for transportation is soliciting transportation of passengers for hire. Op. Atty Gen. (632a-23), Dec. 7, 1936.

2684-7. Does not apply to non-resident. [Repealed.]

Amended Apr. 24, 1929, c. 363; Apr. 20, 1931, c. 220, §7; Apr. 20, 1933, c. 344, §4.

Repealed by Act Apr. 29, 1935, c. 355, §4.
Op. Atty. Gen., Apr. 20, 1933; note under §2684.
Truck owner of another state is not engaged in "commercial transportation" where he merely exchanges services with a truck owner in this state on basis of exchange of courtesy. Op. Atty. Gen., July 8, 1933.
Laws 1933, c. 344, is not applicable to 1933 registration. Op. Atty. Gen., May 11, 1933.
Reciprocity provisions apply to an Iowa congregation using their truck without charge to move their new minister's household goods from Minnesota to their church in Iowa, and to an Iowa hide concern coming to Minnesota to haul out hide bought here. Op. Atty. Gen. (632c), May 29, 1935.

Reciprocity provisions do not apply to an Iowa bakery making regular deliveries to a line of customers in Minnesota, or an Iowa packing plant maintaining place of temporary storage in Minnesota from which meats are distributed to a line of regular customers in Minnesota, or an Iowa wholesale house sending out its traveling salesmen in Minnesota territory to take orders for its merchandise, nor a Texas carnival company playing a line of county fairs in Minnesota using its own trucks to transport its equipment and personnel in going from fair to fair. Id.
Laws 1935, c. 355, §3, although purporting to amend §2684-6, indicates a legislative intent to amend this section. Id.

2684-7a. Application of act.—This Act shall not be construed as in any manner changing or modifying any Act passed at this session of the Legislature that relates solely to taxation of passenger motor vehicles or to Class "T" trucks. (Act Apr. 20, 1933, c. 344, §5.)

2684-7b. Effective January 1, 1934.—This Act shall take effect and be in force from and after January 1, 1934. (Act Apr. 20, 1933, c. 344, §6.)

2684-8. Service of process on non-residents.

Note.—This section and section 2720-105, appear to be in conflict, and this section is probably superseded in part.

The provision of this section as to service of process is not unconstitutional as denying due process of law, but the provision limiting the right to continuances is discriminatory against non-residents, and is invalid but the invalidity of the latter provision does not affect the rest of the section. Jones v. Paxton, (DC-Minn), 27F(2d) 364.

This section is constitutional, and the word "process" is construed as including a summons, and the duties imposed upon the plaintiff may be performed by those who act for him, although there must be a strict compliance with the statutes. 177M90, 224NW694.
This section is constitutional. 181M4, 231NW714.

2684-9. Non-resident dealers in motor vehicles must register vehicles and pay tax.—Every dealer in used, or second-hand, motor vehicles who is a non-resident of the state of Minnesota or who does not have a permanent place of business in this state, and every person, firm or corporation who brings any used, or second-hand motor vehicle into the state of Minnesota for the purpose of sale or resale except as a trade-in on a new motor vehicle or as a trade-in on another used or second hand car of greater value when the vehicle so brought into this state for the purpose of sale or resale, shall within ten days from the date of entry of said motor vehicle into the limits of the state of Minnesota, file with the registrar of motor vehicles on a blank provided by him a listing for taxation and application for the registration of such vehicle, and shall pay the motor vehicle tax thereon as provided by law. Said registration and payment of tax shall be made in the same manner as is now provided by law for the registration of motor vehicles previously registered in another state. Applicant shall before said used or second-hand motor vehicle is put upon a used car lot for sale or offered for sale, or sold, execute a bond with a surety company duly authorized to do business in the state of Minnesota as a surety thereon, payable to the state of Minnesota for the use and benefit of the purchaser and his vendees, conditioned to pay all loss, damages and expenses that may be sustained by the purchaser, or vendees, that may be occasioned by reason of the failure of the title of such vendor or by reason of any fraudulent misrepresentations or breaches of warranty as to freedom from liens, quality, condition, use or value of the motor vehicle being so sold. Said bond shall be in the full amount of the sale price of such motor vehicle but in no event to exceed the sum of $1000 and shall be filed with the registrar of motor vehicles of the state of Minnesota by the vendor and be approved by him as to the amount, form and as to the solvency of the surety, and for which service by said registrar of motor vehicles, the vendor shall pay a fee of five dollars for each bond so filed and approved, which fees shall be paid into the state treasury to the credit of the general revenue fund. Said bond shall carry a provision that no suit or action thereon shall be brought or maintained unless the same be instituted within one year from the date of the execution of said bond. (Act Apr. 15, 17, 1939, c. 284, §1.)

Act is constitutional. Op. Atty. Gen. (633a-1), April 13, 1939.
Registrar cannot deny registration to an applicant who has bought a foreign state car from a foreign state dealer, though dealer has not posted bond, car not being brought into state for purposes of sale or resale. Op. Atty. Gen. (632a-8), April 25, 1939.
"Sale price", is price fixed by dealer for the car and may be either more or less than the price for which it is actually sold, and if dealer sells car for higher price than amount of bond he has posted, he need not increase amount of bond, but registrar, as a condition to registering car, must inquire as to amount of sale price and check to see that bond covers amount of sale price. Id.
Where year for which bond has been posted is in large part expired at time of sale, dealer need not arrange to extend period of bond. Id.
Act is not retrospective and does not affect foreign used cars brought into state for sale before act became effective. Id.
This act limits operation of §2687, and it is necessary for Minnesota dealer who brings a foreign used car into state for purpose of sale to register it. Id.
Filing of bond is an integral part of application for registration and is condition precedent to registration and issuance of number plates. Id.
When a person not known to be a dealer brings a foreign car into state and applies for registration, registrar must ascertain, as a condition to registration, whether vehicle is brought into state for use or for sale and as to whether it was purchased from a foreign state dealer. Id.
Out of state car repossessed by Minnesota resident and brought into state for sale or resale must be registered in accordance with this act. Opp. Atty. Gen. (632a-7), May 25, 1939.
More than one foreign used motor vehicle may be traded in and be exempt from bond requirement, in absence of attempt to evade act. Op. Atty. Gen. (632a-8), June 6, 1939.

2684-10. Must deliver certificate to purchaser.—Every person, firm or corporation upon the sale and delivery of any used, or second-hand, motor vehicle shall, within 24 hours thereof, deliver to the vendee, and endorsed according to law, a registration certificate issued for said motor vehicle by the registrar of motor vehicles of the state of Minnesota. (Act Apr. 17, 1939, c. 284, §2.)

Act applies to every person, firm or corporation who brings a motor vehicle, used or second hand, into state for purposes of sale or resale no matter what their other business may be. Op. Atty. Gen. (632a-8), April 25, 1939.

Section is not applicable to used or second hand cars of domestic origin, but only to used and second hand cars as described in §1. Op. Atty. Gen. Id.

2684-11. Seller not to maintain action unless vehicle is registered.—No action, nor right of action to recover any such motor vehicle, nor any part of the selling price thereof, shall be maintained in the courts of this state by any dealer or vendor, his successors or assigns, in any case wherein such vendor or dealer shall have failed to comply with the terms and provisions of this act, and in addition thereto, such vendor or dealer, upon conviction for the violation of any of the provisions of this act, shall be deemed guilty of a misdemeanor. Provided, however, that this section shall not apply to the holder of a note or notes representing a portion of the purchase price of such motor vehicle when the owner thereof was and is a bona fide purchaser of said note or notes, before maturity, for value and without knowledge that the vendor of such vehicle has not complied with this act. (Act Apr. 17, 1939, c. 284, §3.)

2684-12. Definitions.—The terms "dealer" and "vendor" herein used shall be construed to include every

individual, partnership, corporation or trust whose business in whole or in part, is that of selling new or used motor vehicles, or both, and likewise shall be construed to include every agent, representative, or consignee of any such dealer as defined above as fully as if same had been herein expressly set out, except that no agent, representative or consignee of such dealer or vendor shall be required to make and file the said bond if such dealer or vendor for whom such agent, representative or consignee acts fully complies, in each instance, with the provisions of this act. (Act Apr. 17, 1939, c. 284, §4.)

2684-13. Provisions severable.—If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation of the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered. (Act Apr. 17, 1939, c. 284, §5.)

2686. Manufacturers and dealers in motor vehicles must be licensed.—(a) No person, co-partnership or corporation shall engage in the business, either exclusively or in addition to any other occupation, of selling motor vehicles, new or used, or shall offer to sell, solicit or advertise the sale of motor vehicles, new or used, without first having acquired a license therefor as hereinafter provided. Application for such license and renewal thereof, shall be made to the registrar of motor vehicles, shall be in writing, and duly verified by oath. The applicant shall submit such information as said registrar may require, upon blanks provided by the registrar for such purpose. No application shall be granted nor a license issued to anyone, until and unless the applicant shall furnish proof satisfactory to the registrar of the following:

1. That the applicant has an established place of business. An established place of business when used in this act shall mean a permanent enclosed building or structure either owned in fee or leased at which a permanent business of bartering, trading and selling of motor vehicles will be carried on as such in good faith and not for the purpose of evading this act. Said place of business shall not mean residences, tents, temporary stands or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement.

2. That if the applicant desires to sell, solicit or advertise the sale of new and unused motor vehicles, he must have a bona fide contract or franchise in effect with a manufacturer or distributor of the motor vehicle, or motor vehicles, he proposes to deal in.

(b) If a license is granted, the licensee may be permitted to use unimproved lots and premises for sale, storage and display of motor vehicles; provided, however, that such unimproved lots and premises must be located within the county of the established place of business of the applicant.

If the applicant desires to set up an established place of business, as hereinbefore defined, in more than one county in this state, said applicant shall secure separate license for each county. No license for such additional county shall be issued until the registrar shall have been furnished with proof that the applicant has an established place of business as hereinbefore defined, in such additional county, and has otherwise complied with the requirements of this act for securing of license in the initial county.

If the licensee desires to remove from the established place of business occupied when the license is granted, to a new location, he shall first secure from the registrar of motor vehicles permission to do so. He shall be required to furnish proof satisfactory to the registrar that the premises to which he proposes to remove conform to the requirements of section 1, subdivision (a) hereof.

(c) The registrar shall grant or deny the application for such license within 60 days after the filing of the application. If said application is granted, said registrar shall license the applicant as a motor vehicle dealer for the remainder of the calendar year, and issue a certificate of license therefor as the registrar may provide upon which shall be placed a distinguishing number of identification of such dealer. Each application for such license, and application for the renewal thereof, shall be accompanied by the sum of $20.00, which shall be paid into the state treasury and credited to the general revenue fund. Such license, unless sooner revoked as hereinafter provided, shall, upon the furnishing of proof as in the initial application herein provided for, satisfactory to the registrar, be renewed by the registrar annually upon application by the dealer and upon the making of all listings, registrations, notices and reports required by the Registrar, and upon the payment of all taxes, fees, and arrears due from such dealer.

(d) Such license may be revoked by the registrar of motor vehicles upon proof satisfactory to him of either of the following:

(1) Violations of any of the provisions of the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2672 to 2674-7, inclusive, or Sections 2676, or 2682; 2684-1 to 2684-6, inclusive, 2689, 2690, and 2692 or Mason's Minnesota Statutes of 1927, Sections 2675, 2677 to 2681, inclusive, or 2683, 2687, 2688, 2694; or any of the provisions of this act.

(2) Violation of or refusal to comply with the requests and order of the motor vehicle registrar.

(3) Failure to make or provide to the registrar all listings, notices and reports required by him.

(4) Failure to pay to the registrar all taxes, fees, and arrears due from and by such dealer.

(5) Failure to duly apply for renewal of license provided for herein.

(6) Revocation of previous license, of which the records of the registrar relating thereto shall be prima facie evidence of such previous revocation.

(7) Failure of continued occupancy of an established place of business as defined herein.

(8) Sale of a new and unused current model motor vehicle other than the make of motor vehicle described in the franchise or contract filed with the original application or renewal thereof, without permission from the registrar.

(9) Sale of a new and unused current model motor vehicle to anyone except for consumer use, or to a dealer duly licensed to sell the same make of motor vehicle.

(10) Material misstatement or misrepresentation in application for license or renewal thereof.

(e) The registrar shall issue to every motor vehicle dealer, upon a request from such motor vehicle dealer licensed as provided in subsection (a) hereof, one pair of number plates displaying a general distinguishing number upon the payment of five dollars to the registrar of motor vehicles. The registrar shall also issue to such motor vehicle dealer such additional pair of such number plates as said motor vehicle dealer may request, upon the payment of such motor vehicle dealer to the registrar of the sum of five dollars for each additional pair. Motor vehicles, new and used, bearing such number plates owned by such motor vehicle dealer, may be driven upon the streets and highways of this state by such motor vehicle dealer, or any employee of such motor vehicle dealer, for demonstration purposes, or for any purpose whatsoever, including the personal use of such motor vehicle dealer or his employee. Motor vehicles, new or used, owned by such motor vehicle dealer and bearing such number plates, may be driven upon the streets and highways for demonstration purposes by any prospective buyer thereof for a period of forty-eight hours. Any motor truck, new or used, owned by such motor vehicle dealer and bearing said motor vehicle dealer's number plates may be driven upon the streets and highways of this State, for demonstration purposes by any prospective buyer for a period of seven days. Upon the delivery of such

motor vehicle or motor truck, new or used, to said prospective buyer for said demonstration purposes, said motor vehicle dealer shall deliver to said prospective buyer a card or certificate giving the name and address of said motor vehicle dealer, the name and address of such prospective buyer, and the date and hour of such delivery. Such card or certificate shall be in such form as the Registrar may provide to the motor vehicle dealer for such purpose, and shall be carried by such prospective buyer while driving said motor vehicle or motor truck.

(f) Every licensed dealer in motor vehicles, as above defined, may make application upon a blank provided by the registrar for that purpose for a general distinguishing number for use upon all new motor vehicles being transported from the dealer's source of supply, or other place of storage, to his place of business, or to another place of storage, or from one dealer to another. A general distinguishing number shall be assigned by the Registrar to such dealer for such purpose, and the Registrar shall then issue to said dealer such number of pairs of such plates as the dealer may request, upon the payment by said dealer to said Registrar of the sum of two dollars per pair. Such plates shall be known as "in transit" plates. The registrar may issue such "in transit" plates, upon the payment of the sum of two dollars to said registrar, to dealers duly licensed in other States or Provinces upon information furnished him in such manner as he may prescribe, and which satisfies him that persons or companies applying therefor are duly licensed dealers under the laws of such States or Provinces.

(g) The registrar of motor vehicles, upon his own motion or upon the complaint of another, shall prepare and cause to be served upon the licensee complained of, a written notice or complaint setting forth, in substance, the violations charged, and shall require said licensee to appear at the time and place fixed therein before said Registrar or authorized deputy, and show cause why his license should not be revoked.

The registrar shall, at the time and place fixed in said notice, proceed to hear and determine the matter on its merits. If the said registrar shall find the existence of any of the causes for revocation as set forth in Section (d) above, and shall determine that the licensee's license should be revoked, he shall make a written order to that effect, and a copy of such order shall be served upon such licensee in the manner provided by law for the service of summons in a civil action. Upon such revocation, if it be a motor vehicle dealer, he shall immediately return to the registrar all number plates, including any "in transit" plates, in his possession.

(h) Any party or person aggrieved by such order of revocation may appeal therefrom to any district court of the state within 15 days after the service of a copy of such order upon the dealer complained of by the service of a written notice of appeal upon said registrar. The person serving such notice of appeal shall, within five days after the service thereof, file the same, with proof of service thereof, with the clerk of the court to which such appeal is taken, and thereupon said district court shall have jurisdiction over said appeal and the same shall be entered upon the records of said district court and shall be tried therein according to the rules relating to the trial of civil actions insofar as the same are applicable. The complainant before the registrar, if there was one, otherwise the registrar of motor vehicles, shall be designated as the "Complainant", and the dealer complained of shall be designated as the "Defendant." No further pleadings than those filed before the registrar shall be necessary. The findings of fact of the registrar shall be prima facie evidence of the matters therein stated, and the order shall be prima facie reasonable, and the burden of proof upon all issues raised by the appeal shall be on the appellant. If said court shall determine that the order appealed from is lawful and reasonable, it shall be affirmed and the order enforced as provided by law. If it shall be determined that the order is unlawful or unreasonable it shall be vacated and set aside. Such appeal shall not stay or supersede the order appealed from unless the court, upon an examination of said order and the return made on said appeal, and after giving defendant notice and opportunity to be heard, shall so direct. When no appeal is taken from such order, the parties affected thereby shall be deemed to have waived the rights to have the merits of such controversy reviewed by a court, and there shall thereafter be no trial of the merits or re-examination of the facts by any district court to which application may be made from a writ to enforce the same.

(i) Any party to an appeal or other proceeding in the district court under the provisions of this Act may appeal from the final judgment, or from any final order therein, to the Supreme Court in the same cases and manner as in civil action.

(j) The registrar is hereby authorized to enforce this act and he may also appoint under his hand a sufficient number of persons amongst his several employees, said additional employees however not to exceed three in number, to act as inspectors and investigators and who when so appointed, shall have full authority to enforce this act. Before entering upon their official duties, the oath of appointment of each of said additional employees shall be filed in the office of the Secretary of State. The registrar, his inspectors or investigators, when traveling or otherwise pursuing their duties outside the office of the Registrar, shall be paid for their actual expenses incurred out of the same funds as other employees of the registrar of motor vehicles.

(k) The registrar shall have, and is hereby granted full authority to issue subpoenas requiring the attendance of witnesses before him, production of books, papers and other documents, articles or instruments, and compel the disclosure by such witnesses of all facts known to them relative to the matter under investigation, and shall have full authority to administer oaths and to take testimony. All parties disobeying the orders of subpoenas of said registrar shall be guilty of contempt, as in proceedings in district courts of the state, and may be punished in like manner.

(*l*) Any person, co-partnership, or corporation, domestic or foreign, and any officer, or director, or employee of a corporation, domestic or foreign, who shall violate or neglect, fail or refuse to comply with any of the provisions of this act shall be guilty of a misdemeanor.

(m) The provisions of this act are hereby declared to be severable. If one provision hereof shall be found by the decision of a court of competent jurisdiction to be invalid such decision shall not affect the validity of the other provisions of this act. ('21, c. 461, §15; '23, c. 418, §15; Apr. 20, 1931, c. 217, §2; Apr. 11, 1935, c. 143, §1; Apr. 24, 1935, c. 271; Apr. 13, 1939, c. 209.)

Sec. 2 of Act Apr. 11, 1935, cited, provides that the act shall take effect from its passage.

A licensed dealer or his employe may not drive vehicles for the personal use of the owner or employe or for other than demonstration purposes. Op. Atty. Gen., Dec. 31, 1931.

An automobile dealer must have a separate license for each established place of business. Op. Atty. Gen., Dec. 31, 1931.

It is obligatory upon a licensed dealer to puchase at least one set of dealer's plates. Op. Atty. Gen., Dec. 31, 1931.

Agent for foreign dealer may not come into state and sell vehicles for such dealer unless it has acquired a license and has established a place of business and has complied with Laws 1935, c. 200, §2. Op. Atty. Gen. (632a-8), June 10, 1935.

A salesman working for a motor vehicle dealer residing in another town, and soliciting business, delivery to be made from store of established dealer would seem to be a salesman and not a motor vehicle dealer, but it is the duty of the registrar of motor vehicles to determine questions of fact. Op. Atty. Gen. (632a-8), July 25, 1935.

Use of word "vehicles" in plural in definition of a motor vehicle dealer does not demand that dealer must have at least two cars on hand for sale. Op. Atty. Gen. (632a-8), Sept. 17, 1935.

Dealer having more than one established place of business may operate under one license. Op. Atty. Gen. (632 e-5), Sept. 20, 1935.

Statute sets up certain standards of qualification but does not exclude those whose business in motor vehicles is incidental or minor to their interest in some other business. Op. Atty. Gen. (632a-8), Mar. 16, 1936.

Statute contemplates that applicants for motor vehicle dealers' licenses have in their possession motor vehicles for purpose of trade or sale. Id.

Words "established place of business" do not necessarily mean a building and may include a vacant lot if dealer's occupancy seems to indicate a fair degree of permanency. Id.

Registrar may accept $40 in payment for dealer's licenses that dealer should have had for years 1935 and 1936. Op. Atty. Gen. (632e-5), Aug. 16, 1937.

City of Morris is not authorized to enact an ordinance providing for licensing of second hand automobile dealers. Op. Atty. Gen. (59a-32), Dec. 21, 1937.

County board has no authority to license or regulate dealers in second hand automobiles. Op. Atty. Gen. (290), Mar. 17, 1938.

City may not provide for licensing of used car dealers in absence of statutory or charter authority, and could under no circumstances discriminate in favor of established dealers or extract an unreasonable license fee. Op. Atty. Gen. (59a-32), Dec. 28, 1938.

2686-1. Inconsistent acts repealed.—All acts, or parts of acts, inconsistent herewith, are hereby repealed, except it is expressly understood Section 2695, Mason's Statutes of 1927, providing for penalties for violation of the Motor Vehicle Registration law shall also apply to Sections 2672 and 2686, Mason's Statutes of 1927 as hereby amended. (Act Apr. 20, 1931, c. 217, §3.)

2686-2. Provisions separable.—The various provisions of this Act shall be severable and if any part or provision shall be held to be invalid, it shall not be held to invalidate any other part or provision hereof. (Act Apr. 20, 1931, c. 217, §4.)

2686-3. Effective January 1, 1932.—This act shall take effect and be in force from and after January 1st, 1932, except the provisions of subsection (d) of Section 2 relating to "in transit" plates which shall be in force and effect from and after its passage. (Act Apr. 20, 1931, c. 217, §5.)

2687. All machines must be registered—Exceptions.

Laws 1933, c. 298 (§2673), does not repeal and is not in conflict with §2687 with respect to exemption of second hand cars from tax while being transported by dealer. Op. Atty. Gen., Feb. 2, 1934.

Laws 1939, c. 284, limits the operation of this section and it will be necessary for Minnesota dealer who brings a foreign used car into the state for purpose of sale to register it. Op. Atty. Gen. (632a-8), April 25, 1939.

Busses not actually delivered but still in hands of manufacturer or warehousemen on July 1, were only subject to half tax. Op. Atty. Gen. (632e), August 5, 1939.

2689. Transfer of ownership—Procedure—fees.—Every owner or transferor of a motor vehicle who fails or delays for more than seven days to surrender the registration certificate and existing number plates as herein provided, before he shall be entitled to sell and assign his right to have the tax paid by him credited to the transferee as herein provided, shall pay to the registrar a fee of 25 cents for each day not exceeding two days, and if such delay shall continue for 30 days thereafter, then 50 cents per month for each month or fraction thereof, not exceeding four months of such delay; and every owner or person charged with the duty to register a motor vehicle or pay any tax hereunder who fails or delays for more than seven days to register the same or pay such taxes as herein provided shall, before he shall be entitled to complete his registration as herein provided, pay to the registrar, a like fee. A filing with, or delivery to, the registrar of any application, notice, certificate or plates as required by this Act shall be construed to be within the requirements of this Act if made to the registrar or his deputy at an office maintained therefor, or if deposited in the mail or with a carrier by express with postage or carriage charge prepaid, and properly addressed to the registrar within seven days after the transfer of ownership or other occurrence upon which this Act provides for such filing or delivery. ('21, c. 461, §19; '23, c. 418, §19; Laws 1929, c. 330, §2; Feb. 17, 1931, c. 17, §1; Apr. 15, 1933, c. 245.)

Sec. 2 of Act Feb. 17, 1931, c. 17, provides that the act shall take effect from and after its passage.

Op. Atty. Gen. (632e-37), Apr. 22, 1938: note under §2681(a).

There is no statutory authority for change of registration merely upon affidavit of compliance with §§8363-2, 8363-3, relating to repossession of cars under conditional sales contracts. Op. Atty. Gen. (632d), April 26, 1939.

Affidavit of mailing held insufficient. Op. Atty. Gen. (632a-7), April 27, 1939.

2690. Date payable.—The tax required under this Act to be paid upon a motor vehicle shall become due as soon as such vehicle shall first use the public streets or highways in the state, and upon January 1st in each year thereafter. Taxes due upon January 1st shall be paid upon transfer of ownership in the vehicle, and in any event on or before February 15th and shall be delinquent after February 15th unless paid. Taxes falling due between February 15th and December 31st shall become delinquent upon the expiration of three days after the same become due, unless paid. Provided, if the tax assessed under Section (a)-1 amounts to more than $200 the amount thereof in excess of $200 may be paid in two equal installments in the year for which such vehicle is licensed, the due date of the first installment shall be at the termination of one-half of the period for which such license is to run and of the second installment shall be 60 days prior to the expiration of such license. All taxes imposed under the provisions of this Act shall be deemed the personal obligation of the registered owner and the amount of such tax, including added penalties for the non-payment thereof, shall be a first lien upon the vehicle taxed, paramount and superior to all other liens thereon whether previously or subsequently accruing thereon; and in addition to any other remedy herein prescribed, the state shall have a right of action against the owner for the recovery of the amount of any delinquent tax thereon, including the penalties accruing because of the nonpayment thereof or for the enforcement of the tax lien thereon hereby declared, or both, in any court of competent jurisdiction. The county attorney of the county in which such motor vehicle is owned shall perform such service in the matter of the commencement and prosecution of such suit or in the prosecution of any other remedy for the enforcement of such tax as the Attorney General may require. ('21, c. 461, §19; '23, c. 418, §19; Apr. 20, 1933, c. 344, §3.)

Sec. 6 of Act Apr. 20, 1933, cited, provides that the act shall take effect Jan. 1, 1934. See §2684-7a as to construction of act.

This section is not enumerated in the title of the act, and the amendment is probably unconstitutional.

Act Feb. 2, 1933, c. 9, relates to payment of tax for the year 1933. It is omitted as temporary.

Acts Feb. 8, 1935, c. 4; Mar. 13, 1935, c. 45; Apr. 13, 1935, c. 160, relate to payment of tax for 1935. They are omitted as temporary.

Laws 1937, c. 28, makes 1937 tax payable Mar. 15, 1937.

Law passed by legislature on February 15 and approved by governor on February 16, extending time for payment of taxes, did not authorize secretary of state to make refunds of penalties collected on February 16. Op. Atty. Gen. (632e-24), Feb. 23, 1937.

Lien for delinquent taxes may be enforced against dealer who has purchased vehicle from one who was record owner at time tax become delinquent. Op. Atty. Gen. (520h), Feb. 2, 1938.

2691. [Repealed.]

This section, being '21, c. 461, §20; amended '23, c. 418, §20; Apr. 24, 1929, c. 335, was repealed Mar. 31, 1937, c. 120, effective from its passage.

Act Mar. 20, 1933, c. 103, postpones to second Monday in September as date for certification under this section as far as year 1933 is concerned.

Acts Feb. 8, 1935, c. 4; Mar. 13, 1935, c. 45; Apr. 13, 1935, c. 160, fix time for certification for 1935. They are omitted as temporary.

Subdivision 12 applies to every county in the state in which the clerk is entitled to compensation by way

of fees of any kind in addition to an annual salary. Op. Atty. Gen., July 17, 1929.

Sheriff is not entitled to compensation for mileage but to a reimbursement in proceedings to collect delinquent motor vehicle taxes where no collections are made. Op. Atty. Gen., Sept. 29, 1933.

Where executive council enters into compromise and settlement of judgment for license tax, it is duty of registrar to remit cost to clerk of court. Op. Atty. Gen. (928c-9), June 29, 1934.

Registrar has no authority to waive interest on judgment for delinquent motor vehicle registration tax. Op. Atty. Gen. (632e-7), Sept. 11, 1935.

Repeal of this section by Laws 1937, ch. 120, stopped all proceedings for collection of delinquent motor vehicle registration taxes, but under §2690, prosecutions of such proceedings may be continued by county attorney upon authorization by attorney general. Op. Atty. Gen. (632e-7), May 10, 1937.

2692. Manufacturers to file statement.—Every manufacturer of a motor vehicle sold or offered for sale within this state, either by the manufacturer, distributor, dealer or any other person, shall, on or before the first day of October in each year, file in the office of the registrar a sworn statement showing the various models manufactured by him, and the retail list price, rated carrying capacity and manufacturer's shipping weight of each model being manufactured October 1 of that year; and shall also file with the registrar, in such form as manufacturers usually use for advertising, complete specifications of the construction of each model that has been manufactured by him. Upon each change in such price, carrying capacity or weight and upon the manufacture of each new model thereafter, such manufacturer shall in like manner file a new statement setting forth such change. Models shall be deemed similar if substantially alike and of the same make. Models shall be deemed to be corresponding models, for the purpose of taxation under Section 3 of this act, if of the same make and having approximately the same weight and type of body and chassis and the same style and size of motor. The registrar may refuse to register any new or first hand vehicle in this state unless the manufacturer thereof has furnished to the registrar the sworn statement herein provided, for the model of the motor vehicle that is offered for registration. Such list price, rated carrying capacity and listed weight of the vehicle, as set forth in the manufacturer's statement shall be the price, weight or carrying capacity on which the tax of a motor vehicle shall be computed under section 3 of this act unless grossly at variance with fact. In all instances in which there have been added to a complete vehicle additional parts, equipment or accessories not included in the factory list price upon which the tax is computed in accordance with the requirements of section 3 of this act, the reasonable cost thereof, if amounting in the aggregate to more than $50, shall be added to the list price upon which the tax is computed. Such added parts, equipment or accessories to the extent in value of $50 shall be exempt from taxation. The registrar shall have authority to fix the value, carrying capacity and weight of any rebuilt or foreign car or any car on which a record of the list price, carrying capacity or weight is not available in his office. ('21, c. 461, §21; '23, c. 418, §21; '25, c. 299, §5; Apr. 24, 1929, c. 330, §3.)

All accessories included by manufacturer in retail sale price at factory should be included in base price. Op. Atty. Gen. (632a-25), Nov. 4, 1937.

2693 Secretary of state to be registrar.—(a) The Secretary of State shall be the registrar of motor vehicles of the State of Minnesota, and it shall be his duty to exercise all the powers granted to and perform all the duties imposed upon him by this act. The Secretary of State in his discretion may employ not to exceed eight persons as inspectors, to obtain information and report to the registrar regarding motor vehicles subject to taxation under this act upon which the tax has not ben paid, and to present suitable complaints to courts of competent jurisdiction. (As amended Apr. 14, 1939, c. 259.)

(b) * * * *

Deputy registrars of motor vehicles are not liable for funds after depositing them in a bank designated by the state as a state depository. Op. Atty. Gen. (632a-17), Apr. 22, 1935.

It is duty of secretary of state to collect additional tax where vehicle has paid tax in full at time of payment but subsequent statute has increased tax for such year. Op. Atty. Gen. (632d), Apr. 25, 1935.

Laws 1939, c. 259, became effective immediately upon passage, and secretary of state in his discretion could immediately proceed with inspection of motor vehicle licenses and pay therefor out of available fund without waiting for an appropriation or the beginning of the next fiscal year. Op. Atty. Gen. (632a-19), April 28, 1939.

Inspectors have no power of arrest other than that of a private citizen. Op. Atty. Gen. (632a), May 19, 1939.

2695. Violations—penalties.

See §2686-1 making this section applicable to §§2672, 2685, as amended.

2697. Same.

Local police officer may take action with respect to vehicles bearing improper license plate. Op. Atty. Gen. (847a-1), June 25, 1937.

2703. Size and form of plates.—Such number plates shall be substantially of the following size and form, namely: A plate or placard of metal, enamel, or other suitable material, approximately five and five-eighths inches wide and approximately 12 inches long, the length to vary with the number of digits in the number. On the body of such plate there shall be the distinctive registration number assigned to the vehicle in figures approximately three inches high, each stroke of which shall be of such width as will be most conducive to legibility. A letter or letters similar in size to the figures may be used as a part of the registration number at the beginning thereof to indicate class of registration. Below the registration number there shall be the year of registration number and the word "Minnesota" in characters three-fourths of an inch high. Motorcycles shall be assigned plates of substantially the same design, but three inches wide and seven inches long with such proportionate reduction in size of letters and numerals as may be necessary. Dealers' number plates shall be of substantially the same size and design as passenger vehicle and truck plates. (As amended Apr. 12, 1939, c. 213, §1.)

2703-1. Same—Effective date of amending act.—This act shall be in effect for plates to be issued for the year 1940 and succeeding years. (Act Apr. 12, 1939, c. 213, §2.)

2705. Lights—Mufflers—Road rules—[Repealed].

Evidence held to support finding that there was negligence in parking without lights and that one running into parked vehicle was not contributorily negligent. 171 M366, 214NW55.

The court erred in charging that a motor vehicle left standing on a highway after it has been disabled is not operated thereon so as to require it to have lights lit after dark, as prescribed by this section, but such error held not prejudicial where the only issue was as to whether plaintiff, who was assisting the owner of the disabled car but who was not responsible for the condition of the light, was guilty of contributory negligence in going in front of the car at the time he was injured by collision of defendant's car from the rear. 172M493, 215NW861.

2708. Parking and driving rules—[Repealed].

172M493, 215NW861; notes, §2705.

2709. New rates of speed for motor vehicles in congested districts—[Repealed].

One recklessly killing another while driving an automobile while intoxicated could be convicted of murder in the third degree. 171M414, 214NW280.

2711. Local regulations prohibited—Exceptions—[Repealed].

City is liable for injuries caused by dangerous conditions in roadway in park used as way from one public highway to another. 172M76, 214NW774.

2712. Board of automobile examiners, etc.

Superseded by §§2712-1 to 2712-8.

2712-1. Chauffeurs' licenses.—No person shall drive a motor vehicle as a chauffeur upon any public highway in this state unless he be licensed by the secretary of state as provided by this act, except that a non-resident chauffeur, registered under the

provisions of the law of the country, state, territory or district of his residence, operating such motor vehicle temporarily within this state not more than 60 days in any one year, and while wearing the badge assigned to him as such chauffeur in the country, state, territory or district of his residence, shall be exempt from such license requirements. No person, whether licensed or not, who is an habitual user of narcotics or who is under the influence of intoxicating liquors or narcotics, shall drive any vehicle upon any highway.

The term chauffeur, as used in this act, shall mean and shall include:

1. Every person, including the owner, who operates a motor vehicle while it is in use as a carrier of persons or property for hire.

2. Every person who is employed for the principal purpose of operating a passenger vehicle.

3. Every employee who in the course of his employment operates upon the streets or highways, a truck, tractor or truck-tractor belonging to another, with the exception of those light cars classified as trucks which are only used to carry tools, repairs or light materials used by the driver in his employment, and trucks registered in the "T" class when operated by members of the family of the owner.

4. Every person who drives a school bus transporting school children. (Act Apr. 26, 1929, c. 433, §1; Apr. 22, 1939, c. 426, §1.)

A chauffeur's license is required for truck drivers engaged in president's emergency conservation work only where they are driving vehicle belonging to another and only in case operation is principal purpose for which they are employed. Op. Atty. Gen., July 6, 1933.

Trucks used for purpose of transporting men to and *from work in government emergency conservation work* come within police regulations provided for public safety upon highways. Op. Atty. Gen., July 18, 1933.

Trucks operated in federal emergency conservation work are subject to state highway regulations. Op. Atty. Gen., July 18, 1933.

Chauffeur must have a chauffeur's license even though he has a driver's license. Op. Atty. Gen. (635d), Oct. 24, 1935.

Driver of a school bus is chauffeur. Id.

Father transporting his own children in his motor vehicle is not included as requiring a license, even though he receives isolated state aid. Op. Atty. Gen. (635d), Nov. 16, 1935.

Driver operating a truck belonging to another does not need a license unless operating truck is principal purpose for which he is employed. Op. Atty. Gen. (635b), Apr. 22, 1938.

Person employed by mining company to operate truck on their own property and not upon public highways need not obtain license. Op. Atty. Gen. (635d), May 2, 1938.

Whether driver of a truck used solely for purpose of delivering milk, milk products, butter and eggs, must have a chauffeur's license depends upon whether operation of truck constitutes principal purpose of his employment. Op. Atty. Gen. (635b), June 11, 1938.

Milk truck drivers employed for principal purpose of selling and delivering milk are not "chauffeurs". Op. Atty. Gen. (635b), June 23, 1938.

Trackless trolley drivers and operators thereof are not chauffeurs. Op. Atty. Gen. (635B), Feb. 27, 1939.

City employee driving truck owned by city and connected with municipal light and power plant must have license. Op. Atty. Gen. (635l), July 11, 1939.

2712-2. Licensing of chauffeurs.—The secretary of state shall establish a chauffeurs' license division in the motor vehicle department of his office for the purpose of ascertaining and determining the qualifications of applicants for chauffeurs' licenses, and shall conduct examinations of applicants for such license at such times and places as he shall designate, and shall issue licenses only to such applicants as shall be found to have a practical knowledge of the construction, mechanism and operation of motor vehicles and a sufficient knowledge of the traffic laws of this state, and other needful qualifications, to enable him to drive with safety, and he may appoint such examiners and other employees as may be necessary in the conduct of the license division so established. Any deputy registrar of motor vehicles may be appointed by the secretary of state to conduct chauffeurs' examinations and any deputy registrar not serving on a stated salary when so appointed shall be allowed and paid fifty cents ($0.50) for each examinee for the first examination given to such examinee by him under such appointment to be paid by the secretary of the state out of the same fund and in the same manner that salaries are paid to other employees serving in the chauffeurs' license division of the Motor Vehicle Department, such payment to be in addition to the fees allowed to such deputy as provided by law for registering motor vehicles. (Act Apr. 26, 1929, c. 433, §2; Apr. 18, 1931, c. 196; Apr. 22, 1939, c. 426.)

2712-3. Shall provide badges.—The secretary of state shall provide every person licensed hereunder with a suitable badge to be worn by him attached conspicuously upon the outside of his clothing at all times while he is engaged in service as a chauffeur, and no licensed chauffeur shall voluntarily permit another person to possess and use the badge so provided, nor shall any person, while driving or operating a motor vehicle, use any license or badge belonging to another. (Act Apr. 26, 1929, c. 433, §3; Apr. 22, 1939, c. 426.)

2712-4. Shall expire on December 31 of each year.—All chauffeurs' licenses issued hereunder shall expire at midnight on December 31 of the year for which they are issued, but may be renewed without examination, but no renewal of a license issued before November 1, in any year shall be granted unless application for such renewal is made during the month of November of the year for which the license was issued; provided, however, that such license may be renewed at any time within 30 days after the expiration thereof without examination upon payment of the regular license fee and an additional charge of one dollar as penalty. (Act Apr. 26, 1929, c. 433, §4; Apr. 29, 1935, c. 327; Apr. 22, 1939, c. 426.)

Applications for renewal of license without examination may be made in January. Op. Atty. Gen. (635d), Jan. 22, 1936.

Local police officer may take action with respect to vehicles bearing improper license plate. Op. Atty. Gen. (847a-1), June 25, 1937.

2712-5. Applications and examinations.—Applications for examination and license hereunder shall be in writing upon such forms and shall contain such needed information as the secretary of state may prescribe, and shall be accompanied by the payment of an examination and license fee of one dollar and fifty cents, except that the fee for a renewal license shall be one dollar. The state treasurer shall maintain a separate fund known as a chauffeurs' license fund, in which all fees so received shall be credited, and the amount necessary for payment of salaries and expenses in connection with this act is hereby appropriated. No fees that have been paid into this fund shall be refunded, but the secretary of state in his discretion, upon proper application within three months thereafter, may grant one re-examination without additional fee to a person who has been refused a license on a previous application. Any balance remaining in this fund at the end of the calendar year, after the payment of employees' salaries and other expenses of the license division shall be transferred to and deposited in the general fund. (Act Apr. 26, 1929, c. 433, §5; Apr. 22, 1939, c. 426.)

Reenacted without change by Act Apr. 22, 1939, cited. No fees paid into chauffeurs' license fund are to be refunded. Op. Atty. Gen., Jan. 22, 1934.

2712-6. Revocation of licenses.—For sufficient cause upon complaint and after hearing, or upon report of conviction by any court in this state of violation of any provision of the Highway Traffic Regulation Act, or upon report of conviction of any offense in any other State or in any Province of the Dominion of Canada, which, if committed in this State, would be cause of revocation, the Secretary of State may revoke the license of any chauffeur who, in the judgment of the secretary of state, should not be permitted to continue as a licensed chauffeur.

Any court in which the conviction is had, shall revoke the chauffeur's license upon the chauffeur's conviction of any of the following offenses:

(a) Manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle while under the influence of intoxicating liquor or narcotic drug;

(c) 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;

(d) Conviction of forfeiture of bail upon three charges of reckless driving all within the preceding twelve months;

(e) Conviction of a driver of a motor vehicle, involved in an accident resulting in the death or injury of another person, upon a charge of failing to stop and disclose his identity at the scene of the accident.

Upon conviction of a licensed chauffeur of any other violation of provisions of the Highway Traffic regulation Act, or of a violation of any provision of this Act, the court in which such conviction is had may order that such chauffeur's license be revoked forthwith.

A revocation of a chauffeur's license by a court shall be for a period of three, six, nine or twelve months, the length of period to be determined in each particular case by the court on the basis of the seriousness of the offense and the interest of public safety and welfare.

If and when a court revokes a chauffeur's license, the court shall require such chauffeur to surrender to the court his chauffeur's badge and, when so surrendered, shall return it to the office of the secretary of state with the order of revocation and a synopsis of the proceedings.

When at least three months have elapsed of a longer period for which a chauffeur's license has been revoked by a court, and if the chauffeur's livelihood depends upon his employment as a licensed chauffeur, the secretary of state may, upon recommendation by the court that revoked the license, issue a limited license to such chauffeur. The secretary of state in issuing such limited license may impose such conditions and limitations as in his judgment are necessary in the interest of public safety and welfare, including examination as to the chauffeur's qualifications and proof of financial responsibility covering the vehicle or vehicles to be operated. Such license may be limited to the operation of particular vehicles, to particular classes of operation, and to particular conditions of traffic.

The badge issued as evidence of a limited chauffeur's license shall be of a special design to distinguish it from the regular unlimited chauffeur's license and, for the information of enforcement officers, the chauffeur operating under such license shall carry on his person at all times when operating a motor vehicle a certificate issued by the secretary of state indicating the limitations of such license. (Act Apr. 26, 1929, c. 433, §6; Apr. 22, 1939, c. 426.)

Secretary of state has authority to issue a new license and badge upon payment of required fee of $1.50 to a chauffeur whose license was previously revoked during the year, but applicant must again qualify and renewal is discretionary with secretary. Op. Atty. Gen. (635d), July 10, 1934.

It is not necessary for secretary to call hearing before he can revoke a license when chauffeur has been convicted by a court of competent jurisdiction and secretary has report of court's proceeding, including order of revocation. Op. Atty. Gen. (635d), May 20, 1938.

2712-7. Violation a misdemeanor.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor. (Act Apr. 26, 1929, c. 433, §7; Apr. 22, 1939, c. 426.)

2712-8. Inconsistent act repealed.—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. (Act Apr. 26, 1929, c. 433, §8; Apr. 22, 1939, c. 426.)

Sec. 9 of Act Apr. 22, 1939, cited, provides that the act shall take effect from its passage.

2715. Tampering with or damaging vehicle, etc.—Any person who shall tamper with a motor vehicle without the permission of the owner, or who shall, without authority of the person in charge, climb upon or into any automobile, whether while the same is in motion or at rest, or hurl stones or any other missiles at the same, or the occupants thereof, or shall, while such motor vehicle is at rest and unattended, attempt to manipulate any of the levers, starting devices, brakes or machinery thereof, or set such motor vehicle in motion, or otherwise damage or interfere with the same, or shall place upon any street, avenue or highway of this state any glass, tacks, nails or other articles tending to injure automobile tires, shall be guilty of a misdemeanor. (As amended Mar. 31, 1939, c. 119.)

Person hiring young man to put emery dust and waste in oil tank of automobile, resulting in damage, may be prosecuted under this section. Op. Atty. Gen., Mar. 4, 1933.

This section does not limit §2717(1). Op. Atty. Gen. (494a-1), Apr. 20, 1935.

2717-1. Unauthorized driving, etc., of automobiles —Punishment.—No person shall drive, operate or use a motor vehicle without the permission of the owner or of his agent in charge and control thereof. Any person so doing shall be guilty of a felony and punished therefor by imprisonment in the state prison for not more than five years or by imprisonment in the county jail for not exceeding one year or by a fine of not more than $500.00. (As amended Mar. 6, 1939, c. 50.)

(1).

This subdivision is not limited by §2715. Op. Atty. Gen. (494a-1), Apr. 20, 1935.

Aeroplane is not a motor vehicle under this section. Op. Atty. Gen. (494b-20), Aug. 23, 1937.

2717-1. Unauthorized driving, etc., of automobiles —Punishment.

179M167, 228NW605.

2719. [Repealed.]

Repealed Apr. 25, 1931, c. 377.

2720. [Repealed.]

Repealed Apr. 25, 1931, c. 377.

UNIFORM HIGHWAY TRAFFIC ACT

TITLE I.—DEFINITION OF TERMS

2720-1. [Repealed.]

Repealed. Apr. 26, 1937, c. 464, §144.

Definition of terms in Highway Traffic Regulation Act, see §2720-151.

A tractor is a motor vehicle within this act. Johnson v. B., 184M576, 239NW772.

(m).

Where owner lets vehicle and driver for hire, the hirer is liable for the negligence of the driver if he has exclusive control over him, but he may have control of the driver for certain purposes and the owner may retain control over him for other purposes. 175M438, 221 NW716.

TITLE II.—OPERATION OF VEHICLES RULES OF THE ROAD

2720-2. [Repealed.]

Repealed. Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-176.

Whether defendant prosecuted for manslaughter was driving while intoxicated, held for jury. 179M1, 228NW 171.

An ordinance of the city of St. Paul providing for the punishment of a person convicted of driving an automobile while under the influence of intoxicating liquor is valid. State v. Hughes, 182M144, 233NW784. See Dun. Dig. 4167b, 4165.

Evidence held to sustain conviction for driving automobile while intoxicated. State v. Reilly, 184M266, 238 NW492. See Dun. Dig. 4167l.

In prosecution for driving while intoxicated there was no improper qualification of requested instruction of which defendant could complain where counsel stated that court had failed to comment on defendant's condition, and court then told jury that defendant's condition after this wreck is a matter for your consideration together with all the other evidence in the case, counsel making no further suggestion or objection and taking no exception to any part of the charge, and there being no request by either party for any charge. State v. Winberg, 196M135, 264NW578. See Dun. Dig. 4167 l.

Evidence held to sustain finding beyond reasonable doubt that defendant was driving car at time of accident and was intoxicated. Id.

Passenger in truck driven by 16-year-old son with driver's license held not guilty of contributory negligence

at intersection of trunk highways. Findley v. B., 199M 197, 271NW449. See Dun. Dig. 4612a.

Evidence made a jury issue of pleaded contributory negligence, in that, with knowledge that defendant had consumed intoxicating liquor, plaintiff guest remained a passenger in truck. Gudbrandsen v. P., 199M220, 271 NW465. See Dun. Dig. 7028, 7038.

In a prosecution for driving a car while intoxicated, refusal to permit defendant to testify that it was his custom to hire drivers, was not error, being at most an offer of proof on a collateral issue, though defendant claimed that he was not driving car at time of alleged offense and so testified. City of Duluth v. L., 199M470, 272NW389. See Dun. Dig. 3241.

In prosecution for driving while intoxicated evidence held sufficient to sustain finding that defendant was driving at time of accident and was under influence of liquor. Id. See Dun. Dig. 4167 l.

Evidence held not sufficient to submit issue of husband's intoxication to jury in action by wife for injuries in automobile collision. Olson v. K., 199M493, 272NW 381. See Dun. Dig. 4167 l.

One charged with offense of operating a motor vehicle while under influence of intoxicating liquor in violation of city ordinance is not entitled to a jury trial in municipal court of St. Paul, though conviction involves a fine of $100 or imprisonment for 90 days, and incidentally involves revocation of driver's license, and although at time of passage of ordinance, there existed a statute covering same subject matter which entitled violator to a jury trial. State v. Parks, 199M622, 273NW233. See Dun. Dig. 2472, 5235.

In action by passenger in automobile for personal injuries in which defense was contributory negligence in riding with one under influence of intoxicating liquor, court did not err in reading statute making driving while under influence of liquor a crime. Vondrashek v. D., 200M530, 274NW609. See Dun. Dig. 4167*l*.

The headnote in the session laws was not a part of the law as passed, and this section forbids minors under 15 years to drive vehicles. Op. Atty. Gen., May 27, 1931.

2720-3. [Repealed.]

Repealed. Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see 2720-177.

1. In general.

Where an automobile driver is confronted with an emergency not brought about by his own negligence he is not chargeable with negligence in not adopting the better method of handling the car. Liggett & Myers Tob. Co. v. D. (CCA8), 66F(2d)678.

Ordinary care in the operation of an automobile is that degree of care which a reasonably prudent man would exercise in view of all of the surrounding circumstances. Id.

Injury to pedestrian upon sidewalk. 177M42, 224NW 255.

Injury to pedestrian walking on shoulder of highway. 178M382, 227NW207.

Driver of car, held not negligent as to a child who coasted from a terrace at the side of the street. Phillips v. H., 179M108, 228NW350.

Negligence as to boy on bicycle, held not shown. 179 M578, 229NW881.

It is not due care to depend on the exercise of care by another when such care is accompanied by danger. 181 M492, 233NW239. See Dun. Dig. 7022.

Allegation that driver negligently ran car upon and against plaintiff is a sufficient charge of actionable negligence, in the absence of any motion to make the complaint more definite and certain. Saunders v. Y., 182M 62, 233NW599. See Dun. Dig. 4166(42), 7058(25), 7718 (15).

Wife was not liable for negligence of her husband in driving a car registered in her name. Cewe v. S., 182M 126, 233NW805. See Dun. Dig. 5834b.

In action for personal injuries received when defendant's bus struck parked car, moving another car upon pedestrian, court properly denied defendant's motion for judgment notwithstanding verdict or new trial. Flanagan v. T., 184M219, 238NW326. See Dun. Dig. 4167n.

In the absence of evidence as to how truck ran down child in alley, court properly dismissed case at close of plaintiff's testimony. O'Neil v. C., 184M354, 238NW632. See Dun. Dig. 4167(64).

Patch of sand and gravel washed onto pavement held not direct or proximate cause of collision occurring when plaintiff turned out to avoid it. Hamilton v. V., 184M580, 239NW659. See Dun. Dig. 6999.

Truck drivers do not possess special or superior rights on the highways. Montague v. L., 194M546, 261NW188. See Dun. Dig. 4164e.

Where defendant drove his automobile at a high rate of speed and failed to turn out to avoid striking decedent, a pedestrian, negligence was for jury. Anderson v. K., 196M578, 265NW821. See Dun. Dig. 4166, 4171.

Where children are known or may reasonably be expected to be in vicinity, a high degree of vigilance is required of driver, to measure up to standard of what law regards as ordinary care. Carlson v. S., 273NW665. See Dun. Dig. 6980.

In action for injury to bicycle rider 6 years and 10 months old struck by truck in paved alley, evidence held not to justify submission of willful or wanton negligence on part of truck driver. Id. See Dun. Dig. 7036.

In separate suits arising out of same automobile collision by which passengers and driver of one of automobiles sought to recover damages of owner of other court had inherent power, over objection of all plaintiffs, to order action tried together. Remswick v. M., 274NW 179. See Dun. Dig. 91.

Willful negligence embraces conduct where infringement of another's right is not only intended but also it is foreseen that conduct pursued will result in such invasion. Hanson v. H., 202M381, 279NW227. See Dun. Dig. 7036.

Driver of an automobile has a right to assume that other automobile drivers will obey the law. Draxton v. K., 203M161, 280NW288. See Dun. Dig. 4162a.

A high degree of vigilance is required of a truck driver proceeding through a narrow alley frequented by children at play. Otterness v. H., 204M88, 282NW687. See Dun. Dig. 4167e.

While an automobile is not technically a dangerous instrumentality, it yet has such propensities for injury that care required of operator is always commensurate thereto. Dreyer v. O., 285NW707. See Dun. Dig. 4167b.

Village may make act prohibited by §2720-61 misdemeanor under a village ordinance. Op. Atty. Gen. (266b-11), Apr. 20, 1937.

Degree of care required of an infant defendant. 15 MinnLawRev834.

Violation of statute or ordinance as negligence or evidence of negligence. 19MinnLawRev666.

2. Injury to guest or other occupant.

A host driver of an automobile owes his guest a duty to exercise ordinary care not to increase the danger or add a new one to those assumed when he entered the car, and, when the guest enters the car, he accepts it in its existing condition, except as to latent defects known to the driver, and he likewise accepts the driver with his habits of driving so far as known to him, with such skill in operating the car as he actually possesses. Liggett & Myers Tob. Co. v. D. (CCA8), 66F(2d)678.

Evidence held to show negligence of driver of automobile causing injury to guest riding with him. 181M 338, 232NW344. See Dun. Dig. 6975a.

The defendant did not recklessly operate his auto within Iowa Code 1927, §5026-b1, making a driver liable when his reckless operation causes injury to his guest, and the court rightly directed a verdict in his favor. Marquart v. M., 181M504, 233NW309. See Dun. Dig. 6975a.

Contributory negligence of guest in automobile held for jury. Engholm v. N., 184M349, 238NW795. See Dun. Dig. 7038.

Evidence sustains finding that defendant was negligent in closing front door of automobile when plaintiff was getting in at rear door, as a result of which plaintiff's hand was injured. Wildes v. W., 188M441, 247NW 508.

Testimony of plaintiff guest in car that driver did all he could to keep car on road when loose gravel was struck, held to absolve driver from negligence. White v. C., 189M300, 249NW328.

Automobile host driving at night at a speed 15 miles in excess of speed limit and colliding with an unlighted truck due to skidding when turning into loose gravel, held not guilty of gross negligence as to guest within meaning of South Dakota Rev. Code, 1919, §801. Dakins v. B., 195M91, 261NW870.

Evidence held to justify application of this statute where passenger in taxicab was injured while alighting as a result of automobile coming from behind and striking taxicab which stopped in such a position that vehicle from behind could not pass because of car rails and icy ruts. Paulos v. K., 195M603, 263NW913. See Dun. Dig. 4167(62).

It is law of Wisconsin that duty which automobile driver owes to a gratuitous passenger is only that of licensor to licensee. Cosgrove v. M., 196M6, 264NW134. See Dun. Dig. 6975a.

Host was not liable to guest for injury resulting from collision with car suddenly leaving opposing line of traffic. Id.

In action against automobile host, whether defendant was guilty of negligence in driving so that his wheels struck a washout, held for jury. Caulfield v. M., 196M 339, 265NW24. See Dun. Dig. 6975a.

Contributory negligence of guest in defendant's car held for jury. Miller v. J., 196M438, 265NW324. See Dun. Dig. 6975a.

Failure to protest against speed did not raise issue. Hartel v. W., 196M465, 265NW282. See Dun. Dig. 6975a.

Whether truckman transporting goods for hire was guilty of negligence in driving 35 miles per hour over rough pavement and making quick turn while plaintiff was on platform of truck holding trunk and baggage, and whether plaintiff was guilty of contributory negligence, held for jury. Wells v. W., 197M464, 267NW379. See Dun. Dig. 4162a.

In action under South Dakota guest passenger statute, evidence held not to justify a finding of gross negligence. Thorsness v. W., 198M270, 269NW637. See Dun. Dig. 6975a.

There was no negligence as to a guest in colliding with a horse that came suddenly up out of a ditch and

on to highway. Manos v. N., 198M347, 269NW839. See Dun. Dig. 4167r.

In action by guest against host for injuries in three-car collision, negligence held for jury. Dehen v. B., 198 M522, 270NW602. See Dun. Dig. 6975a.

Evidence of negligence in allowing running board of cab to become heavily coated with ice held to justify verdict in favor of injured passenger. Finney v. N., 198M554, 270NW592. See Dun. Dig. 1291a.

Negligence of driver of automobile as to aged guest who fell out of improperly closed door, held for jury. Jude v. J., 199M217, 271NW475. See Dun. Dig. 6975a.

In gratuitous bailment, if lender of automobile knows of defects in it, rendering it dangerous for purpose for which it is ordinarily used, or for which he is aware it is intended, he is bound to communicate information of such defects to bailee, and if he does not do so, and bailee is injured, bailor is liable; but he is not liable for injuries due to defects of which he was not aware. Blom v. M., 199M506, 272NW599. See Dun. Dig. 6974.

Statement in charge that passenger in automobile is not necessarily negligent if a nap is taken or eyes closed was not misleading or improper. Vondrashek v. D., 200M 530, 274NW609. See Dun. Dig. 7026a.

In action in Minnesota by guest passenger against host for injuries received in Wisconsin, Wisconsin law relative to rights, duties, and responsibilities of a guest passenger has no bearing where there is no charge of contributory negligence nor claim that accident was due to any defect in defendant's car or that he was an unskilled driver. Barndt v. S., 202M82, 277NW363. See Dun. Dig. 6975a.

In action by guest against host for injuries received in head-on collision, evidence that other car was driven by an intoxicated person and was weaving from side to side and that defendant did not reduce his speed or turn to the extreme right of highway held to sustain finding of negligence. Id. See Dun. Dig. 6975a.

Owner of automobile may be negligent as to a guest in using worn or damaged tires, but guest assumes such risk as arises from punctures and blowouts of new tires. Lestico v. K., 204M125, 283NW122. See Dun. Dig. 6975a.

Where there was evidence that sudden deflation by puncture of an almost new tire was sole cause of accident (and no evidence of negligence in respect to tire), there should have been instruction that if the deflation was sole cause of accident, owner driver was not liable to guest. Id. See Dun. Dig. 6975a.

A passenger who by agreement in advance shares with owner of an automobile expense of gasoline and oil, on a journey which has for all tourists a common purpose, held not a "guest" within purview of Florida statute. Teders v. R., 286NW353. See Dun. Dig. 6975a.

In action by guest, evidence held to sustain finding that host was guilty of negligence in a head-on collision in proceeding knowing that his car was out of control. Hinman v. G., 286NW364. See Dun. Dig. 4163, 6975a.

Where evidence as a matter of law shows that defendant so carelessly and negligently operated his automobile in which plaintiff was riding that it left road and overturned seriously injuring plaintiff, court rightly instructed jury to return a verdict for plaintiff. Wenger v. V., 286NW885. See Dun. Dig. 6975a.

Joint enterprise as affecting negligence. 20MinnLaw Rev401.

2½. Persons liable in general.

Wife riding with husband as guest was not liable for his violation of statute or his negligence. Krinke v. G., 187M595, 246NW376. See Dun. Dig. 4167b, 6983a.

In three car collision evidence held not to show that drivers of two of the cars were engaged in a joint enterprise of racing. Peterson v. F., 192M360, 256NW901. See Dun. Dig. 4167o.

Though wife cannot maintain an action against her husband for a tort committed by him against the person of the wife, action by administrator of a child is not an action by wife against husband, and administrator may recover for death of child, though wife of defendant is sole beneficiary. Albrecht v. P., 192M557, 257NW377. See Dun. Dig. 2608, 4288.

Immunity of husband from suit in tort on part of his wife does not inure to benefit of owner of automobile driven by husband. Miller v. J., 196M438, 265NW324. See Dun. Dig. 4288(25).

Evidence held to sustain verdict based upon fact that operator of defendant's automobile at time of accident was using same with defendant's permission. Steinle v. B., 198M424, 270NW139. See Dun. Dig. 6976.

Where negligence of several combine to produce injuries to another, any or all of authors of such negligent cause may be held to liability for entire harmful result directly flowing therefrom. Findley v. B., 199M197, 271 NW449. See Dun. Dig. 7006.

Where negligence of several combine to produce injuries to another, any or all of authors of such negligent cause may be held to liability for entire harmful result directly flowing therefrom. Thorstad v. D., 199M 543, 273NW255. See Dun. Dig. 9643.

Where two negligent causes combine to produce injuries, neither author can escape liability because he is responsible for only one of them. Kulla v. E., 203M105, 280NW16. See Dun. Dig. 7006.

County is not liable for operator of county road graders working upon roads without lights and on left side of road. Op. Atty. Gen. (107b-4), Dec. 3, 1934.

Municipality is not liable for negligence in operation of fire apparatus in absence of statute. Op. Atty. Gen. (688h), Aug. 27, 1936.

2¾. Acts in emergency.

One suddenly confronted by a peril, through no fault of his own, who, in attempt to escape, does not choose best or safest way, should not be held negligent because of such choice, unless it was so hazardous that ordinarily prudent person would not have made it under similar conditions. Cosgrove v. M., 196M6, 264NW134. See Dun. Dig. 7020.

In action for injuries received by automobile driver colliding with carcass of horse in the nighttime, truck driver who ran into and killed horse and left it on the highway held confronted with an emergency and was not negligent as a matter of law in attempting to swerve around horse instead of applying his brakes, and he was not negligent in failing to arrange for removal of horse or placing a warning of its presence where he was very badly injured and required prompt medical attention to save his life. Wedel v. J., 196M170, 264NW689. See Dun. Dig. 7020.

An automobile driver may not claim benefit of rule justifying a loss of control caused by emergency or traffic hazard when that condition is created by his own negligent acts, as where he travels at high speed on icy pavement. Ind v. B., 198M217, 269NW638. See Dun. Dig. 7020.

Where milk truck driver traveling along a paved alley observed boy riding his bicycle off driveway on to alley, headed in his direction and directly in front and near to him, question of sudden emergency should have been submitted to jury. Carlson v. S., 200M177, 273NW665. See Dun. Dig. 7020.

One suddenly confronted by a peril, through no fault of his own, who in attempt to escape does not choose best or safest way, should not be held negligent because of such choice unless it was so hazardous that ordinarily prudent person would not have made it under similar conditions. Farwell v. S., 203M392, 281NW526. See Dun. Dig. 7020.

Where injured plaintiff and other workmen were engaged around a truck in melting and pouring tar into cracks on only one-half of highway, and there was no splashing of tar when large piece was slid into kettle, there was nothing requiring an instruction as to conduct of a motorist in case of emergency arising in employment. Bylund v. C., 203M484, 281NW873. See Dun. Dig. 7020.

There is a distinction between "emergency" and "distracting circumstances", though frequently same facts will be susceptible to application of both rules. Dreyer v. O., 286NW707. See Dun. Dig. 7020.

There can be no "distracting circumstances" to excuse what is otherwise negligence unless there is also another observed danger from which attention may be distracted. Id. See Dun. Dig. 7020.

"Distracting circumstances" are absent ordinarily unless there is an observed and moving or movable object (such as an automobile, children, etc.) which of itself may reasonably be considered to threaten danger. Id. See Dun. Dig. 7020.

In an emergency, not caused by his own negligence, and in an endeavor to avoid a known danger, one may injure a person whose presence was theretofore unknown and escape liability if circumstances of emergency allow conduct to be considered exercise of due care. Id. See Dun. Dig. 7020.

3. Respondeat superior.

Ride given by employee of corporate defendant in personal injury action, to persons other than co-employees, as known by both his superior and plaintiff, held evidence that employee had apparent authority to take guests and that plaintiff relied upon such authority. De Parcq v. L., (USCCA8), 81F(2d)777. Cert. den., 298US680, 56SCR 947.

Employer is not liable for injury to guest invited to ride by the employee, such invitation being outside the scope of his employment. Liggett & Myers Tob. Co. v. D. (CCA8), 66F(2d)678.

It would be otherwise if the employer authorized such invitation. Id.

Evidence that driver of automobile which collided with and injured plaintiff was employee of defendant, held insufficient for jury. P. F. Collier & Son v. H., (USCCA 8), 72F(2d)625. See Dun. Dig. 4167o, 5841.

Evidence, held to show that tank wagon, in which plaintiff was riding when injured, was being operated in the interest of the owner. Plaintiff's contributory negligence was a question for the jury. 181M245, 232NW 38. See Dun. Dig. 5840, 7033.

Act of defendant's employe in inviting person to ride in car, held outside scope of employment and employer was not liable for injury to person so invited. 181M366, 232NW626. See Dun. Dig. 5843.

The evidence sustains findings of court that driver of automobile was a servant, but that, at the time of the accident involved, the car was not being operated in the course, nor within the scope, of his employment. 181 M437, 232NW790. See Dun. Dig. 5833, 5834.

Where driver of another's car had departed from the scope of her employment for purposes personal to herself when a collision occurred, owner was not liable.

Lund v. O., 183M515, 237NW188. See Dun. Dig. 5833, 5843.

Mother owning automobile for family puposes was liable for negligence of her son while driving. Pearson v. N., 184M560, 239NW602. See Dun. Dig. 5834b.

Evidence held to show that driver of rental car was not a volunteer but was acting in furtherance of car owner's business. Paulson v. C., 185M419, 241NW678. See Dun. Dig. 5834e.

Owner is not liable for negligent operation of his automobile while used by employe for his own pleasure. Lausche v. D., 185M635, 243NW52. See Dun. Dig. 5833.

Family car doctrine was applicable to injury to guest of son of owner who was driving car. Nicol v. G., 188M 69, 247NW8. See Dun. Dig. 5834b.

Owner of automobile maintained for convenience and pleasure of family was liable for negligence of nephew of wife, selected as driver by wife, while he was driving his wife's niece to school. Schreder v. L., 190M264, 251 NW513. See Dun. Dig. 5834b.

In action for death of child evidence held to sustain finding that driver of truck was servant of oil station owner though truck belonged to another employee. Wagstrom v. J., 192M220, 255NW822. See Dun. Dig. 5840.

Presumption of agency of driver of automobile arising from ownership of car has no weight where uncontradicted evidence shows that accident happened on holiday while driver was returning from another city where he had been visiting his father ill in a hospital and late at night. Wenell v. S., 194M368, 260NW503. See Dun. Dig. 5839.

Whether traveling salesman driving his own car after supper with friends was within scope of his employment when one of friends was killed, held for jury. Vogel v. N., 196M509, 265NW350. See Dun. Dig. 5834.

A farmer who also did some trucking as a side line held not an independent contractor in assisting in getting a car out of ditch. Szyperski v. S., 198M154, 269NW401. See Dun. Dig. 5835.

Where a servant without authority from master permits stranger to assist him in his work for master and stranger in presence of servant and with his consent negligently does such work, master is liable for such negligence. Id. See Dun. Dig. 5857.

Inference that a car owned by an employer, and being driven by an employee, is being operated with authority and in business of employer, is rebuttable. Ewer v. C., 199M73, 271NW101. See Dun. Dig. 5834a.

Evidence held not to sustain verdicts that car which jumped plaintiffs was being driven with express or implied consent of owners. Id. See Dun. Dig. 5840.

When master intrusts performance of an act to a servant, he is liable for negligence of one who, though not a servant of master, in presence of his servant and with his consent, negligently does act which was intrusted to servant. Guild v. M., 199M141, 271NW332. See Dun. Dig. 5834, 5842, 5857.

Burning of brush near highway was not such an ultra hazardous activity that risk cuold not have been eliminated by exercise of a high degree of care, and highway contractor was not liable for negligence of persons employed by him to burn brush in such a manner that smoke passed over highway and resulted in collision of motor vehicles. Becker v. N., 200M272, 274NW180. See Dun. Dig. 5835.

Whether salesman of car dealer had implied authority to let a prospective purchaser take car for demonstration purposes and to invite a friend, the plaintiff, to ride with him without becoming a trespasser, held for jury. Holmes v. L., 201M44, 275NW416. See Dun. Dig. 5834a.

Work of burning brush near state highway was not necessarily so hazardous to public that principal contractor must provide either in contract or otherwise that special precautions would be taken by independent contractor, though such independent contractor was negligent in permitting smoke to cross highway in such manner as to cause collision of vehicles thereon. Becker v. N., 200M272, 275NW510. See Dun. Dig. 5835.

In action against owner of automobile for negligence of driver, issue being whether driver had consent of defendant to use car, testimony of defendant's witness who was with driver both before and after accident was rightly excluded. Neeson v. M., 202M234, 277NW916. See Dun. Dig. 731d, 5834.

Evidence held to sustain finding that employer and owner of automobile had waived rule prohibiting carrying of passengers in so far as transportation of salesmen off duty was concerned. Pettit v. S., 203M270, 281NW44. See Dun. Dig. 5833.

Statutory liability of owners for negligence of persons operating automobiles with owner's consent. 21MinnLaw Rev823.

Joint enterprise. 23MinnLawRev666.

4. Contributory negligence.

Guest in automobile, held not contributorily negligent. Waggoner v. G., 180M391, 231NW10(2).

Person stepping into highway from vehicle without looking for passing vehicles, held contributorily negligent. 181M41, 231NW242.

Automobile driver, held guilty of contributory negligence in colliding with street car. 180M505, 231NW246.

A child of eight and one-half years cannot be held negligent as a matter of law. 181M376, 232NW630. See Dun. Dig. 7029.

Contributory negligence of child nine years old. 181 M386, 232NW712. See Dun. Dig. 7029.

In automobile collision case, burden is on defendant to establish plaintiff's contributory negligence. Peterson v. D., 184M213, 238NW324. See Dun. Dig. 4167-o.

A guest passenger, riding in the back seat of an automobile driven by an apparently competent driver, is not bound to be on the alert to discover dangers which the driver may not happen to discover. Burgess v. C., 184 M384, 238NW798. See Dun. Dig. 7038.

Driver of automobile on a dark drizzly night colliding with an unlighted truck held not guilty of contributory negligence as a matter of law. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167c.

Driver of automobile going off of highway by reason of improper parking of a truck held not guilty of contributory negligence as matter of law. Ball v. G., 185M105, 240NW100. See Dun. Dig. 4171a.

In action for death of pedestrian struck by automobile on paved highway, held that there was no evidence justifying an instruction on avoidance of injury to one imperiled. Boyer v. J., 185M221, 240NW538. See Dun. Dig. 4166, 4167n, 7017.

Pedestrian held not guilty of negligence as matter of law who looked both ways before stepping off curb and then walked rapidly across street without looking further. Plante v. P., 186M280, 243NW64. See Dun. Dig. 4167n.

Passengers in an automobile have right to assume that drivers of others cars will use ordinary care and comply with regulations. Jacobsen v. A., 188M179, 246 NW670. See Dun. Dig. 4167o, 7026a.

Evidence held not to require finding that guest entering rear door of automobile was negligent in placing hand on front door jamb. Wildes v. W., 188M441, 247NW 508.

While there is not any traffic law directly requiring an automobile to slow up at highway intersection where there are no obstructions or traffic signs, it does not follow that a motorist may approach and enter an intersection heedlessly, at high speed, without looking to see if other cars are ahead of him, right-of-way rule not going to that extent. Guthrie v. B., 192M434, 256NW898. See Dun. Dig. 4164e.

Plaintiff's action in climbing on hood of moving truck on which he was riding held not to render him guilty of contributory negligence, since his action in no way contributed to, were a substantial factor in, or a material element to, happening of a collision with defendant's car which resulted in his injuries. Guile v. G., 192M548, 257 NW649. See Dun. Dig. 4167o, 7027.

Guest in automobile in front seat may be found guilty of contributory negligence where she permits driver to travel recklessly and fails to warn him of an approaching vehicle. Farnham v. P., 293M222, 258NW293. See Dun. Dig. 7038.

A railroad company cannot be charged with negligence for failure to protect its train temporarily stopped, in night-time, on a grade crossing over a city street, from *being run into by automobiles, city maintaining* powerful electric lights on either side of two grade crossings, lights being about 160 feet apart, crossings about 104 feet apart, with an overhead bridge between. Ausen v. M., 193M316, 258NW511. See Dun. Dig. 8174.

Contributory negligence is always question of fact, unless reasonable minds could reach but one conclusion. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 7033, 7048.

Negligence of defendant automobile driver did not excuse plaintiff from exercising due care but was a circumstance for consideration of jury in determining plaintiff's contributory negligence. Id. See Dun. Dig. 4167o.

Plaintiff, in riding on forepart of truck, held not to assume risk of a collision with another car, though he assumed risks ordinarily attendant upon riding on outside of truck. See Dun. Dig. 4167o, 7041a.

Contributory negligence on part of mother of a child seven years old, which was killed by an automobile on a public highway held question of fact for jury. Dickey v. H., 195M292, 262NW869. See Dun. Dig. 4166.

Where, in action for wrongful death, representative of estate of deceased would be sole beneficiary of any recovery, his contributory negligence bars recovery against defendant whose negligence caused death. Jenson v. G., 195M556, 263NW624. See Dun. Dig. 2616(6).

In action by passenger against taxicab company for injury received when taxicab stopped to permit plaintiff to alight and taxicab was struck by another vehicle from rear because it stopped in such a position that car in rear could not pass or stop because of car rails and icy ruts, court held properly to have refused to submit defense of contributory negligence. Paulos v. K., 195M 603, 263NW913. See Dun. Dig. 1291a.

Whether a child just past age of six was chargeable with contributory negligence was for jury. Eckhardt v. H., 196M270, 264NW776. See Dun. Dig. 7029.

As to contributory negligence of guest in an automobile, no issue could arise from mere fact that plaintiff did not protest against a speed of 50 to 60 miles an hour, and there was no fact issue as to assumption of risk. Hartel v. W., 196M465, 265NW282. See Dun. Dig. 6975a.

Evidence held insufficient to sustain finding of contributory negligence of pedestrian. Cogin v. I., 196M493, 265NW315. See Dun. Dig. 4167n.

Whether deceased driver of automobile was guilty of contributory negligence in colliding with defendant's car, held for jury. Vogel v. N., 196M509, 265NW350. See Dun. Dig. 2616.

Where there was evidence that a pedestrian, fatally injured while crossing a street in heavy traffic, was standing still, possibly waiting for defendants' motortruck to pass in front of him, and that truck suddenly turned toward him so far as to run him down, contributory negligence does not appear as matter of law. Hoppe v. P., 196M538, 265NW338. See Dun. Dig. 4167n.

Where decedent, in attempting to cross a highway upon which automobiles were approaching from both directions, reached center line of highway safely and then, under stress of excitement, stepped into path of nearest car, contributory negligence was for jury. Anderson v. K., 196M578, 265NW821. See Dun. Dig. 4166, 7020.

Where through negligence of another a person is suddenly placed in a position of great and imminent peril, he is not chargeable as a matter of law with contributory negligence if he puts himself into a position of still greater peril and is injured. Id.

Contributory negligence of deceased driver of car in night time in colliding with truck which had just pulled car out of ditch, blocking highway, held for jury. Szyperski v. S., 198M154, 269NW401. See Dun. Dig. 4164c.

One need not anticipate negligence of another until he becomes aware of such negligence. Pearson v. N., 198 M303, 269NW643. See Dun. Dig. 7022.

Whether filling station operator assumed risk or was guilty of contributory negligence in getting into a place of danger while holding a light for men repairing a truck on highway held for jury. Guild v. M., 199M141, 271NW 332. See Dun. Dig. 4166.

Evidence made a jury issue of pleaded contributory negligence, in that, with knowledge that defendant had consumed intoxicating liquor, plaintiff guest remained a passenger in truck. Gudbrandsen v. P., 199M220, 271 NW465. See Dun. Dig. 7023, 7028.

Automobile guest's act in placing hand upon door latch handle was not a material element in happening of accident and did not contribute to collision by street car from rear, and defense of contributory negligence was erroneously submitted to jury. Larsen v. M., 199M501, 272 NW595. See Dun. Dig. 7015.

An inexperienced driver as gratuitous bailee of an automobile having a "grabby" clutch, held not guilty of contributory negligence with respect to injury suffered by him in accident caused by defects. Blom v. M., 199M 506, 272NW599. See Dun. Dig. 7019.

One cannot recover damages for an injury to commission of which he has directly contributed, and it matters not whether contribution consists in his participation in direct cause of injury, or in his omission of duty, which, if performed, would not have prevented it. Thorstad v. D., 199M543, 273NW255. See Dun. Dig. 7012. (37a 38, 39.)

Rule that a child is bound to use such reasonable care as one of his age and mental capacity is capable of using, and his failure to do so is negligence, is applicable to a child 6 years and 10 months old. Carlson v. S., 200 M177, 273NW665. See Dun. Dig. 7029.

Willful or wanton negligence of a truck driver establishes liability irrespective of contributory negligence. Id. See Dun. Dig. 7036.

To hold a person's recovery barred by his own negligence, there must be a causal connection between act of negligence and happening of accident. Butcher v. T., 200M262, 273NW706. See Dun. Dig. 7015.

A child under 7 years may be charged with contributory negligence. Forseth v. D., 202M447, 278NW904. See Dun. Dig. 7029.

Where injury complained of is caused by defendant's intentional invasion of plaintiff's right of unobstructed travel on a public highway, plaintiff's contributory negligence is no defense. Hanson v. H., 202M381, 279NW227. See Dun. Dig. 4168.

City employee picking up old block paving near car tracks had a right to assume that street cars would be driven through area with care commensurate to circumstances, and until he observed otherwise he had a right to rely upon gongs or whistles being sounded and upon cars being driven at such a moderate rate of speed as to permit almost instantaneous stoppage thereof. Peterson v. M., 202M630, 279NW588. See Dun. Dig. 9026.

Intoxication of a pedestrian does not constitute contributory negligence of itself, but an intoxicated person is required to exercise same degree of care as that required of a sober person. Olstad v. F., 204M118, 282NW 694. See Dun. Dig. 7028.

Sleeping of guest while riding in automobile as contributory negligence. 17MinnLawRev222.

Loss distribution by comparative negligence. 21Minn LawRevl.

Contributory negligence and casual relation and apportionment of damages. 22MinnLawRev410.

4¼. Imputed contributory negligence.

Negligence of driver does not bar recovery by guest for injuries received in collision, unless it was a sole, independent and intervening cause of collision. Brown v. M., 191M81, 251NW5. See Dun. Dig. 7038.

Negligence on part of automobile driver does not preclude recovery by passenger or guest when injured person was not himself contributorily negligent. Luck v. M., 191M503, 254NW609. See Dun. Dig. 7038.

Whether negligence of driver of money truck, if any, can be imputed to plaintiff, held to depend upon whether plaintiff had control of driver's actions. Guile v. G., 192 M548, 257NW649. See Dun. Dig. 4167o, 7038.

Garage man and one assisting him merely as a matter of accommodation in removing a wrecked car from highway were not engaged in a joint enterprise, and negligence of garage man in violating flare statute could not be imputed to person accommodating him. Peterson v. N., 193M400, 258NW729. See Dun. Dig. 7037.

Authority of plaintiff to control driver of money truck is a factor to be considered in determining contributory negligence, and only in this sense can driver's negligence be said to be imputed to plaintiff. Guile v. G., 197M635, 268NW418. See Dun. Dig. 4167o, 7038.

Negligence of driver of automobile was not imputable to gratuitous passenger having no control over manner of operation. Faltico v. M., 198M88, 268NW857. See Dun. Dig. 7038.

An instruction that if defendant's driver was negligent and his negligence caused injury, it did not matter that plaintiff's husband was also negligent or that his negligence combined with negligence of defendant's driver, was proper where negligence of husband was not imputable to plaintiff. Olson v. .K, 199M493, 272NW381. See Dun. Dig. 4167m, 7038.

Where a husband is driving his automobile with his wife as passenger, his negligence cannot be imputed to wife on basis of joint venture unless it is shown that wife jointly controlled, or had right to join in controlling, driving of automobile at time of collision. Id. See Dun. Dig. 7037.

An inference that husband is acting as agent or servant of his wife in driving her in his automobile to a doctor for medical attention does not arise from fact of marital relation alone, nor from fact that husband acts at wife's request. Id. See Dun. Dig. 7039.

There was no evidence of driver's negligence that could be imputed to plaintiff, hence no error in refusing to submit question of a joint enterprise to jury. Nelson v. G., 201M198, 275NW612. See Dun. Dig. 7037.

A passenger having no control over automobile or driver is not answerable for driver's negligence in parking automobile despite fact that passenger pushed car while driver performed this maneuver. Allanson v. C., 203M93, 280NW6. See Dun. Dig. 7038.

In event action is by one of coadventurers against a negligent third party, if representative of coadventurers be contributorily negligent, such negligence would be imputed to others and would bar right of recovery. Murphy v. K., 204M269, 283NW389. See Dun. Dig. 7037.

While ownership of the car or other instrumentality used is an important circumstance and leads to a strong inference that the passenger has been invited as a matter of accommodation and as such has no right to control, yet this is by no means a conclusive presumption, as affecting existence of a joint enterprise. Id. See Dun. Dig. 7037.

Parties cannot be said to be engaged in a joint enterprise, unless there be a community of interest in objects or purposes of undertaking, and an equal right to direct and govern movements and conduct of each other with respect thereto. Id. See Dun. Dig. 7037.

4½. Proximate cause.

Krinke v. G., 187M595, 246NW376.

Standing of disabled car upon highway, held not proximate cause of injury to guest in another car which turned over when attempting to pass. Geisen v. L., 185 M479, 242NW8. See Dun. Dig. 4171a, 6999.

In action for injuries to passengers in truck which left road and overturned, evidence held not to show that loose grease cup on spindle near front wheel and axle interfered with steering or caused truck to leave highway. Cullen v. P., 191M136, 253NW117. See Dun. Dig. 1291a.

Where two cars hit a third car but neither of first two cars hit other, held, that driver of second car, though negligent, is not liable for injuries sustained by a passenger in first car, since his actions were not a material element or a substantial factor in causing injury to such passenger. Peterson v. F., 192M360, 256NW901. See Dun. Dig. 4167o.

In action for death of passenger in automobile, evidence held to justify finding that accident and not heart disease was proximate cause of death. Albrecht v. P., 192M557, 257NW377. See Dun. Dig. 2620.

Negligence of driver is not imputed to passenger. Erickson v. K., 195M623, 262NW56. See Dun. Dig. 7038.

If automobile driver was negligent in striking horses on shoulder while being led by deceased pedestrian, such negligence was proximate cause of death whether deceased ws struck by car or was struck down by horses struck by car. Raths v. S., 195M225, 262NW563. See Dun. Dig. 7003.

Where plaintiff was injured at night by driving his automobile against carcass of a horse which had just been killed in a collision with a truck, jury might find that negligence permitting of horse at large was a proximate cause of injury to plaintiff. Wedel v. J., 196M170, 264NW689. See Dun. Dig. 4167r.

Finding that fracture on right side of head of pedestrian was result of being struck by swinging gate on

truck passing on his left held not inherently improbable. Schmidt v. R., 196M612, 265NW816. See Dun. Dig. 7011.

If occurrence of intervening cause might reasonably have been anticipated, such intervening cause will not interrupt connection between original cause and injury. Ferraro v. T., 197M5, 265NW829. See Dun. Dig. 4162a(87).

Negligence of one renting car in continuing to operate it upon highway after discovering defects in car is not such intervening negligence as to relieve livery company of negligence in renting defective car. Id. See Dun. Dig. 4167m, 7005.

Proof of causal connection must be something more than consistent with plaintiff's theory of how accident happened. Bauer v. M., 197M352, 267NW206. See Dun. Dig. 7000.

In action by prospective purchaser of car, injured when car started swaying and weaving and collided with a truck, evidence held too uncertain to warrant finding of negligence against dealer in permitting car to be driven with defective shock absorbers without oil. Id. See Dun. Dig. 7047(72).

Whether negligence of plaintiff in climbing from left front fender to right front fender of a money truck colliding with a car pulling out from curb had any causal connection with collision held for jury. Gulle v. G., 197M 635, 268NW418. See Dun. Dig. 4167o, 7038.

Evidence held not to support a finding that lobar pneumonia, from which plaintiff's intestate died, was caused by collision, occurring over five weeks prior to pneumonia, connection as proximate cause lacking as a matter of law. Honer v. N., 198M55, 268NW852. See Dun. Dig. 4167o.

Medical evidence held to sufficiently connect paralysis with fall received while entering cab. Finney v. N., 198 M554, 270NW592. See Dun. Dig. 3327.

There was no reversible error in court's definition of "proximate cause," and, in absence of any objection or exception thereto at time of trial, plaintiff cannot now raise that point. Dehen v. B., 198M522, 270NW602. See Dun. Dig. 7000.

Whether inadequate blocking of wheels of truck being repaired on highway was proximate cause of injury to filling station operator holding light, held for jury. Guild v. M., 199M141, 271NW332. See Dun. Dig. 7002, 7003.

Where two negligent causes combine to produce injuries, neither author can escape liability because he is responsible for only one of them. Id. See Dun. Dig. 7006, 7007.

A guest passenger is required to exercise ordinary care for his own safety, but that does not mean that he has to assume responsibility for management of car. Thorstad v. D., 199M543, 273NW255. See Dun. Dig. 4167o, 7038.

In action for injuries arising out of collision between bus and truck, involving also negligence of third party burning brush so that smoke crossed highway, court did not err in charging that jury must find that negligence, if any, of bus driver, was proximate cause of accident and by that it meant immediate direct cause without interposition of any other efficient cause, was proper where there was abundant evidence to sustain finding of interposition of an efficient cause sufficient to insulate bus driver's negligence, if any. Becker v. N., 200M272, 274 NW180. See Dun. Dig. 7006.

In collision between bus and truck, it was proper to charge that if jury found that negligence of driver of truck was sole proximate cause of accident, they could not find a verdict against bus company and driver. Id. See Dun. Dig. 9783.

4½. Proximate cause.

It was error to strike out testimony that defendant drove truck upon wrong side of pavement and head-on against another truck, causing two trucks to interlock and create a dengerous obstruction in highway against which an ambulance, carrying plaintiff, collided, seriously injuring him. Johnson v. S., 200M428, 274NW404. See Dun. Dig. 7003.

A wife riding as a passenger of her husband in his automobile is not guilty of contributory negligence as a matter of law for failing to see a train standing across highway, obscured by railroad's negligence, nor is husband's negligence to be imputed to her because of marital relation. Munkel v. C., 202M264, 278NW41. See Dun. Dig. 7038.

When a person intentionally and unlawfully impedes another in the lawful exercise of a right, effort of other to exercise his right is not a superseding cause of resulting damage or harm. Hanson v. H., 202M381, 279 NW227. See Dun. Dig. 7003.

A superseding cause is an act of a third person or other force which by its intervention prevents actor from being liable for harm to another which his antecedent negligence is a substantial factor in bringing about. Shuster v. V., 203M76, 279NW841. See Dun. Dig. 7005.

Where injury is caused by concurrent negligence of several persons, negligence of each is deemed a proximate cause of injury and each is liable for all resultant damages. Kulla v. E., 203M105, 280NW16. See Dun. Dig. 7006.

Negligence is not ground for recovery unless it is proximate cause of injury. Weinstein v. S., 204M189, 283 NW127. See Dun. Dig. 6999.

Minnesota court on proximate cause. 21MinnLawRev19.

5. Pleading.

Complaint held not to limit charge of negligence against automobile driver to failure to give warning. 181M506, 233NW237. See Dun. Dig. 7058.

Failure of complaint to cover certain ground of negligence was immaterial where both parties introduced evidence thereon without objection. Dziewcznski v. L., 193M580, 259NW65. See Dun. Dig. 7675.

6. Evidence.

In an action for injuries received by a guest riding in an automobile plaintiff has burden of proving actionable negligence. Liggett & Myers Tob. Co. v. D. (CCA8), 66F (2d)678.

Where proven facts give equal support to each of two inconsistent inferences arising from an automobile accident, judgment must go against the party upon whom rests the burden of sustaining one of these inferences as against the other. Id.

Evidence sustained finding that driving of motor car so as to project over edge of bridge sidewalk and strike pedestrian was negligence. Tuttle v. W., 178M353, 227 NW203.

Evidence held to sustain finding of negligence as to pedestrian crossing street at point not an intersection. Hollander v. D., 181M376, 232NW630. See Dun. Dig. 4167n.

It was not error to receive in evidence photographs for limited purpose of showing width of street and location of objects at place of accident which had remained unchanged, although some of photographs incidentally showed a guard constructed since accident. McKnight v. C., 181M450, 232NW795. See Dun. Dig. 3237a, 3260, 7055.

Verdict against plaintiff struck by bus while making "U" turn, held unassailable. Smith v. T., 181M554, 233 NW316. See Dun. Dig. 4164c.

In actions by husband and wife for injuries suffered in automobile accident, verdict for defendants held supported by evidence. Arvidson v. S., 183M446, 237NW12.

Evidence held not to support a verdict and judgment for a defendant, in an automobile collision case, who was driving in a dense fog, on the wrong side of a trunk highway, from twenty to thirty miles an hour, without slackening of speed, headlights on, or other precaution to avoid accident. Salera v. S., 183M478, 237NW180. See Dun. Dig. 41670.

In automobile collision case, evidence held to sustain verdict that proximate cause of death was injury received in collision. Kieffer v. S., 184M205, 238NW331.

The rate of speed of an automobile within four miles of the place of collision is admissible as bearing upon the claim of speed at the time of the accident. Quinn v. Z., 184M589, 239NW902. See Dun. Dig. 3253.

Evidence held to sustain finding that parking of truck in violation of this section was negligence and proximate cause of injury to occupant of another automobile going off of the highway. Ball v. G., 185M105, 240NW 100. See Dun. Dig. 4171a.

Court erred in automobile case in charging that burden rested upon plaintiff to satisfy jury that she was not contributorily negligent. Naylor v. M., 185M514, 241NW674. See Dun. Dig. 7032.

In action by director and president of defendant corporation to recover damages for injuries received in accident while riding in corporation automobile, verdict for defendant held justified by evidence. Hamre v. H., 186M77, 242NW377. See Dun. Dig. 6975a.

Proof of ownership of automobile and that one so using car is employe of owner, justifies inference that car is being operated in business of owner. Lausche v. D., 185M635, 243NW52. See Dun. Dig. 5840.

It was error for plaintiff to show injuries received by third person riding in on-coming automobile which was struck by defendant's car after it struck plaintiff boy. Campbell v. S., 186M293, 243NW142. See Dun. Dig. 3253.

Evidence held to show negligence of truck driver and freedom of boy struck thereby from contributory negligence. Ludwig v. H., 187M315, 245NW371. See Dun. Dig. 4167m.

Evidence held to sustain finding of negligence of motorist in collision at intersection. Krinke v. G., 187M 595, 246NW376. See Dun. Dig. 4167o.

Physical facts in automobile collision held not to necessarily contradict defendant's theory of case. Dickinson v. L., 188M130, 246NW669. See Dun. Dig. 3473, 4167o.

In action for death of guest in automobile where his companion, the owner's son, disappeared, it was error to exclude testimony to effect that horn on car was tooted. Nicol v. G., 188M69, 247NW8. See Dun. Dig. 3234.

Evidence held sufficient to sustain finding that negligence was proximate cause of death of guest in automobile where there were no eye witnesses and driver disappeared. Nicol v. G., 188M69, 247NW8. See Dun. Dig. 4167b, 7056a.

Evidence held sufficient to sustain finding that missing car owner's son was driving car at time of accident resulting in death of guest. Nicol v. G., 188M69, 247NW8. See Dun. Dig. 5840.

Evidence held not to show negligence of truck driver in head-on collision with car in snow. Foster v. G., 188 M552, 247NW801. See Dun. Dig. 4167o.

Evidence held not to require finding that guest in automobile was guilty of contributory negligence. Anderson v. A., 188M602, 248NW35. See Dun. Dig. 7033.

In automobile collision case, evidence that defendant's driver was convicted of offense while driving intoxicated was inadmissible. Mills v. H., 189M193, 248NW705. See Dun. Dig. 5156(62).

Automobile guest suing host has burden of establishing negligence causing injury. White v. C., 189M300, 249NW328.

Testimony of eyewitnesses to a fatal accident does not make inapplicable presumption against contributory negligence. Jasinuk v. L., 189M594, 250NW568. See Dun. Dig. 2616, 3431.

In action against taxicab company for death of pedestrian, evidence held to show title of car in defendant as against contention it had been sold to driver. Id.

Finding that driver of car in which plaintiff's intestate was riding was not guilty of negligence, held supported by evidence. Harris v. R., 189M599, 250NW577. See Dun. Dig. 7026a.

Evidence held to sustain finding that passenger in automobile struck by defendant's automobile at intersection was free from contributory negligence. Johnston v. S., 190M269, 251NW525. See Dun. Dig. 7026a.

Physical facts, consisting of markings left by collision on cars, track marks on highway, and position of cars, after accident, were proper for consideration of jury. Romann v. B., 190M419, 252NW80. See Dun. Dig. 4167o(1).

In action for injuries in automobile collision burden of proof on issue of negligence is for plaintiff. McIlvaine v. D., 190M401, 252NW234. See Dun. Dig. 4167o.

Presumption of due care of deceased automobile driver held so overcome by testimony of eye witnesses as to justify judgment notwithstanding verdict for plaintiff. Williams v. J., 191M16, 252NW658. See Dun. Dig. 7032.

In action for death in automobile collision, defendants have burden of proving contributory negligence pleaded. Id.

There is presumption that one killed in automobile collision was in exercise of due care. Id.

In automobile collision case, evidence that there was a keg of liquor and a bottle containing a few drops of liquor in back of one automobile was properly admitted. Kouri v. O., 191M101, 253NW98. See Dun. Dig. 4167o.

In automobile collision case, plaintiff has burden of proving that defendant was guilty of negligence. McGerty v. N., 191M443, 254NW601. See Dun. Dig. 7043.

Burden of proof to show contributory negligence of plaintiff in automobile collision case is upon defendant. Matz v. K., 191M580, 254NW912. See Dun. Dig. 4167o, 7032.

Evidence that plaintiff previously had received workmen's compensation for injury now sued for should not be admitted on new trial if evidence there produced is same as on first trial. Guile v. G., 192M548, 257NW649. See Dun. Dig. 454.

Burden is upon defendant to prove contributory negligence of plaintiff by mere preponderance of the evidence. Farnham v. P., 193M222, 258NW293. See Dun. Dig. 7169.

It was error to receive in evidence a copy of a police report made by officer called to scene of accident. Duffey v. C., 193M358, 258NW744. See Dun. Dig. 3348.

Burden is upon defendant to establish an injured plaintiff's contributory negligence, and unless evidence conclusively establishes it such issue is for jury. Oxborough v. M., 294M335, 260NW305. See Dun. Dig. 2616, 7032.

In action for death of pedestrian killed while leading horses upon shoulder of paved highway, witnesses who examined locus in quo morning of next day were properly permitted to testify as to tracks of horses along shoulder and across ditch about where accident occurred, and as to skid tracks of a car, it being sufficient that such foundation as situation permits be laid. Raths v. S., 195 M225, 262NW563. See Dun. Dig. 3313.

Defendants have burden of proof on issue of contributory negligence. Anderson v. K., 196M578, 265NW821. See Dun. Dig. 7043.

In action by prospective purchaser of car, injured while driving car due to swaying and weaving and collision with a truck, burden of proof rested on plaintiff to prove that dealer was guilty of negligence and that such negligence was a proximate cause of accident. Bauer v. M., 197M352, 267NW206. See Dun. Dig. 7043.

In action for death of one caught upon door handle of moving automobile, evidence held not to support a verdict for plaintiff. Markgraf v. M., 197M571, 267NW515. See Dun. Dig. 4166.

A very strong presumption arises that deceased exercised due care to save himself from personal injury or death, and the question is always one of fact for jury unless undisputed evidence so conclusively and unmistakenly rebuts presumption that honest and fair-minded men could not reasonably draw different conclusions therefrom. Szyperski v. S., 198M154, 269NW401. See Dun. Dig. 2616.

Where violation of a statute proximately causes an injury, such violation is negligence per se unless excusable or justifiable. Elkins v. M., 199M63, 271NW914. See Dun. Dig. 4162a.

Request to instruct "that the violation of a statute merely creates a rebuttable presumption of fact and does not constitute negligence or contributory negligence as a matter of law," held properly refused. Timmerman v. M., 199M376, 271NW697. See Dun. Dig. 4162a.

Where driver of automobile was killed in a collision at a street intersection, with a street-car, presumption of due care of plaintiff's decedent is conclusively overcome by evidence which discloses that as a matter of law his negligence contributed to cause his death. Geldert v. B., 200M332, 274NW245. See Dun. Dig. 2616(12).

In action for injuries suffered by car owner when he attempted to enter car on request of garage mechanic while it was several feet from floor on hydraulic hoist, court did not err in receiving plaintiff's testimony that at a prior time he had at same mechanic's request safely entered same car on same hoist at same elevation. Bisping v. K., 202M19, 277NW255. See Dun. Dig. 3252, 3253.

In action by car owner against garage for injuries received when plaintiff attempted to enter car on request of mechanic while it was elevated several feet upon hydraulic hoist, car tipping over, court did not err in excluding testimony that rules and instructions of garage corporation strictly prohibited any one from entering a car when elevated on a hoist, plaintiff having no knowledge of such rules or instructions. Id. See Dun. Dig. 5839a.

Defendant has burden of establishing contributory negligence. Forseth v. D., 202M447, 278NW904. See Dun. Dig. 7032.

It was not error to receive in evidence testimony of a witness who did not see the collision as to speed of the defendant's automobile a second or two before accident and at a point a block from place of collision. Spencer v. J., 203M402, 281NW879. See Dun. Dig. 3322a.

In an action for injuries to a pedestrian resulting in her death, evidence that she was under influence of intoxicating liquor should have been admitted in evidence where there was some evidence that she was walking on pavement and jury might have concluded that her mental condition led her to do what a sober person would not have done in exercise of care. Olstad v. F., 204M118, 282NW694. See Dun. Dig. 7028.

7. Res ipsa loquitur.

No inference of negligence arises from the happening of an accident in the operation of an automobile. Liggett & Myers Tob. Co. v. D. (CCA8), 66F(2d)678.

In action for death of passenger in automobile, where defendant's explanation was open to repudiation, it was not error to submit the rule of res ipsa loquitur. 181 M506, 233NW237. See Dun. Dig. 7044.

Rule of res ipsa loquitur was applicable where car turned over at curve killing guest and driver disappeared. Nicol v. G., 188M69, 247NW8. See Dun. Dig. 4167e, 7044.

Doctrine of res ipsa loquitur is that when a thing, which has caused an injury, is shown to be under management of defendant charged with negligence, and accident is such as in ordinary course of things would not happen if those who have control use proper care, accident itself affords reasonable evidence, in absence of explanation by defendant, that it arose from want of care. Borg & Powers Furn. Co. v. C., 294M305, 260NW 316. See Dun. Dig. 7044.

Where agency of injury is not shown and is not within knowledge or reach of plaintiff, doctrine of res ipsa loquitur applies, and an unsuccessful attempt by plaintiff to show cause of injury does not weaken or displace presumption of negligence on part of defendant. Id. See Dun. Dig. 7044.

Where defendant, a common carrier of passengers, owned and operated both vehicles involved in a collision causing injury to the plaintiff, jury could draw an inference that collision occurred due to defendant's negligence under doctrine of res ipsa loquitur. Birdsall v. D., 197M411, 267NW363. See Dun. Dig. 1296.

Procedural effect of res ipsa loquitur. 20MinnLawRev 241.

8. Questions for jury.

In action by guest for injuries in automobile accident evidence of negligence of driver in handling car after suddenly discovering loose gravel ahead, held insufficient to present a question for the jury. Liggett & Myers Tob. Co. v. D. (CCA8), 66F(2d)678.

In personal injury action, evidence on the question of whether the corporate defendant had waived its rule against the carriage of passengers in its automobile by its employees, held sufficient for jury, and refusal to submit the question was error. De Parcq v. L. (USCCA8), 81 F(2d)777. Cert. den. 298US680, 56SCR947.

Contributory negligence of pedestrian held for jury. 173M138, 216NW605.

In a triangular automobile collision, negligence held for jury. 176M383, 223NW603.

Negligence with respect to driving automobile over intersection in blinding snowstorm, held for jury. 179M 332, 229NW341.

Contributory negligence of motorcyclist at intersection, held for jury. 179M123, 228NW752.

Negligence and contributory negligence of persons involved in collision at intersection, held for jury. 179M 332, 229NW341.

Negligence and contributory negligence in case of injury to pedestrian, held for jury. 179M528, 229NW784.

Negligence in letting out clutch while occupant of automobile was alighting, held for jury. 180M433, 230 NW888.

Whether independent contractor using his own automobile in transporting his own tools and those of his employer was acting as an employe of the latter, held a

question for the jury. 181M240, 232NW43. See Dun. Dig. 5841.

Whether automobile driver standing in street jacking up his car was guilty of contributory negligence, held for jury. 181M259, 232NW264. See Dun. Dig. 4167n, 7033.

Negligence of driver of automobile as to pedestrian in street at intersection, held question for jury. 181M 386, 232NW712. See Dun. Dig. 4167n.

Whether employe of defendant was acting in the scope of his employment when causing an injury, through the negligent driving of an automobile, held for jury. 181M386, 232NW712. See Dun. Dig. 5841.

Contributing negligence of pedestrian struck by motorist while crossing street at other than cross walk held for jury. Heikkinen v. C., 183M146, 235NW879. See *Dun. Dig. 4167n.*

Negligence of motorist striking pedestrian between cross walks held for jury. Heikkinen v. C., 183M146, 235NW879. See Dun. Dig. 4167n.

Whether driver of automobile turning over on a highway and injuring guests was negligent held for jury. Martin v. S., 183M356, 236NW312. See Dun. Dig. 4167b.

Contributory negligence of driver in collision at street intersection held for jury. Hustvet v. K., 184M222, 238 NW330. See Dun. Dig. 4167-o.

In action for personal injuries received when defendant's bus struck parked car, *moving another car upon* pedestrian, court properly denied defendant's motion for judgment notwithstanding verdict or new trial. Flanagan v. T., 184M219, 238NW326. See Dun. Dig. 4167n.

Negligence and contributory negligence in an automobile collision at street intersection held for jury. Kieffer v. S., 184M205, 238NW331. See Dun. Dig. 4167-o.

Where an automobile is being driven on an extremely slippery tarvia or bithulithic paved road, it is a question for the jury whether the driver is guilty of negligence in throwing out his clutch and violently applying his brakes to prevent a collision with cattle on a steep descent. Burgess v. C., 184M384, 238NW798. See Dun. Dig. 4167b.

Contributory negligence of pedestrian struck by automobile held for jury. Horsman v. B., 184M514, 239NW 250. See Dun. Dig. 4171(75).

Negligence of automobile driver striking pedestrian held for jury. Horsman v. B., 184M514, 239NW250. See Dun. Dig. 4171(75).

Contributory negligence in collision between automobile and bus held for jury. Pearson v. N., 184M560, 239NW602. See Dun. Dig. 7033.

Negligence and contributory negligence at highway intersection held for jury. Quinn v. Z., 184M589, 239NW 902. See Dun. Dig. 4164d, e, f.

Negligence of automobile driver and contributory negligence of pedestrian struck on pavement held for jury. Boyer v. J., 185M221, 240NW538. See Dun. Dig. 4166, 4167n.

In action by pedestrian struck by taxicab, negligence and contributory negligence held for jury. Russell v. W., 185M537, 241NW589. See Dun. Dig. 4166.

Whether employe was using automobile within scope of employment at time of accident, held for jury. Lausche v. D., 185M635, 243NW52. See Dun. Dig. 5841.

Negligence of automobilist striking bicycle in nighttime, held for jury. Campbell v. S., 186M293, 243NW142. See Dun. Dig. 4167p.

Whether salesman driving automobile was acting in course of employment at time of accident, held for jury. Marcel v. C., 186M336, 243NW265. See Dun. Dig. 5841.

In guest's action, whether driver was negligent in *traveling thirty miles per hour on wet pavement* in nighttime, held for jury. Sandberg v. D., 186M377, 243 NW385.

Whether at time of accident defendant was owner of truck and driver its agent, held for jury. Ludwig v. H., 187M315, 245NW371. See Dun. Dig. 5841.

Contributory negligence of plaintiff in automobile collision, held for jury. Eckman v. L., 187M437, 245NW638. See Dun. Dig. 4167b, 7033.

Negligence of motorist colliding with rear of plaintiff's car making left turn on to highway and then right turn into gateway, held for jury. Hansen v. L., 187M 389, 245NW835. See Dun. Dig. 4167f.

Evidence held insufficient to raise jury question as to contributory negligence of guest in automobile which collided with car which turned to left. Hall v. G., 188 M20, 246NW466. See Dun. Dig. 4167o.

In collision of motor vehicles at a highway intersection when a high wind and dust raised by moving cars rendered visibility difficult and uncertain, plaintiff's contributory negligence was properly left to jury. Carlson v. S., 188M204, 246NW746. See Dun. Dig. 4167o.

Contributory negligence of plaintiff in collision of meeting automobiles, held for jury. Herrick v. N., 188 M241, 246NW881. See Dun. Dig. 4167o.

Negligence and contributory negligence held for jury in action involving collision between automobile and pedestrian at wet intersection. Wiester v. K., 188M341, 247NW237. See Dun. Dig. 4167n.

Whether one driving his own truck was employe of elevator company with respect to negligence in driving, held for jury. Bayerkohler v. C., 189M22, 248NW294. See Dun. Dig. 5841.

Whether automobile guest was negligent in failing to warn defendant driver of approaching train or otherwise, held for jury. Christensen v. P., 189M548, 250NW 363. See Dun. Dig. 7038, n. 36.

Contributory negligence of pedestrian crossing street *between intersections, held for jury. Jasinuk v. L., 189* M594, 250NW568. See Dun. Dig. 4167n.

Whether driver of automobile in which intestate was riding when killed was agent of such intestate, held for jury. Harris v. R., 189M599, 250NW577. See Dun. Dig. 7033.

In action against street railway for injuries in collision with automobile, negligence and contributory negligence held for jury. Holt v. S., 190M441, 252NW76. See Dun. Dig. 9023a.

In automobile collision case, court must submit question *of defendant's negligence to jury unless* evidence conclusively establishes such negligence as matter of law or unless a verdict in defendant's favor would be manifestly against weight of evidence. McIlvaine v. D., 190M401, 252NW234. See Dun. Dig. 4167o.

Gross negligence of driver of automobile who went to sleep and injured gratuitous guest, held for jury. Hardgrove v. B., 190M523, 252NW334. See Dun. Dig. 4167b, 6975a.

Contributory negligence of guest in automobile, held for jury. Id. See Dun. Dig. 6970, 7012.

Whether driver of truck which left highway and overturned injuring passengers was negligent, held for jury. Cullen v. P., 191M136, 253NW117. See Dun. Dig. 1291a.

It is only in the clearest cases, where facts are undisputed and it is plain that all reasonable men can draw but one conclusion from them, that question of contributory negligence becomes one of law. Guthrie v. B., 192M434, 256NW898. See Dun. Dig. 7033.

Evidence as to icy condition of street and an obstruction therein made it a jury question whether failure to *stop automobile before it came in contact with rear of* street car, about to stop, was excusable. Jannette v. M., 193M153, 258NW31. See Dun. Dig. 4167i, 7011.

In action for death of one killed while, as a matter of accommodation, assisting a garage man in removing an overturned car, negligence of defendant in striking wreck and contributory negligence held for jury. Peterson v. N., 193M400, 258NW729. See Dun. Dig. 7033, 7048.

In four car collision wherein plaintiff's car contacted a light car and a truck, light car owner was properly ordered judgment notwithstanding verdict, but such order was properly denied as to owner of truck. Paulson v. F., 294M507, 261NW183. See Dun. Dig. 4164.

In action for death of a pedestrian killed while leading team of horses upon right shoulder of highway in nighttime, negligence and contributory negligence held for jury. Raths v. S., 195M225, 262NW563. See Dun. Dig. 4167r.

In reviewing a verdict, supreme court cannot count witnesses or weigh their testimony, but is governed by what is obvious to an unprejudiced mind sitting in judgment, and if physical or demonstrable facts are such as to negate truthfulness or reliability of testimony of a witness, a verdict based on such testimony is without foundation and must be set aside. Cosgrove v. M., 196M 6, 264NW134. See Dun. Dig. 7160a, 9764, 10344.

Where there is no evidence from which jury might reasonably infer contributory negligence, it is prejudicial error to submit that question to jury. Cogin v. I., 196M 493, 265NW315. See Dun. Dig. 9781(35).

Defense of contributory negligence is generally an issue of fact and not to be determined as a matter of law unless evidence is such that reasonable men can draw but one conclusion. Vogel v. N., 196M509, 265NW350. See Dun. Dig. 7033.

Finding that fracture on right side of head of pedestrian was result of being struck by swinging gate on truck passing on his left held not inherently improbable. Schmidt v. R., 196M612, 265NW816. See Dun. Dig. 4167n.

Verdict exonerating one defendant and finding liability as to other held not perverse where evidence justified finding that latter was guilty of negligence proximately causing fatal injuries to plaintiff's intestate. Szyperski v. S., 198M154, 269NW401. See Dun. Dig. 7161.

Whether filling station operator holding light for per*sons repairing truck on highway was an invitee or a* volunteer, held for jury. Guild v. M., 199M141, 271NW 332. See Dun. Dig. 5834, 7023.

Defendant's negligence and plaintiff's contributory negligence held properly submitted to the jury in death of pedestrian crossing highway. Bird v. J., 199M252, 272 NW168. See Dun. Dig. 4167n.

Automobile guest's act in placing hand upon door latch handle was not a material element in happening of accident and did not contribute to collision by street car from rear, and defense of contributory negligence was erroneously submitted to jury. Larsen v. M., 199M501, 272 NW595. See Dun. Dig. 7015.

Negligence of milk truck driver striking boy riding bicycle in paved alley held for jury. Carlson v. S., 200 M177, 273NW665. See Dun. Dig. 6980.

8. Questions for jury.

Where deceased truck driver stopped truck ten feet from curb and at an angle with timbers extending out of back towards center of highway and was on pavement near to or in front of cab at time defendant's car struck timbers, without any explanation of stoppage, contribu-

tory negligence of truck driver was question for jury. Hack v. J., 201M9, 275NW381. See Dun. Dig. 7033.

In action by car owner against garage for injuries suffered when he attempted to enter car while several feet above floor on hydraulic hoist, car tipping over, negligence, contributory negligence, and assumption of risk, held for jury. Bisping v. K., 202M19, 277NW255. See Dun. Dig. 5841.

Where automobile was driven between 40 and 45 miles an hour, in excess of statutory rate of speed in free wheeling on a snow-covered, slippery, tarvia-surfaced highway, so that it skidded 380 feet, went off road, and knocked down an eight-inch tree, driver's negligence is for jury. McKeown v. A., 202M595, 279NW402. See Dun. Dig. 4167e.

Negligence of street railway in striking city employee removing blocks from pavement and contributory negligence of employee held for jury. Peterson v. M., 202M 630, 279NW588. See Dun. Dig. 9013.

Plaintiff was not negligent as a matter of law in standing at night on shoulder six feet from traveled portion of highway and eight feet behind parked car. Allanson v. C., 203M93, 280NW6. See Dun. Dig. 4166.

Question as to what constitutes proximate cause of an injury is usually one for jury; and, unless evidence is conclusive, is to be determined by them in exercise of practical common sense rather than by application of abstract definitions. Kulla v. E., 203M105, 280NW16. See Dun. Dig. 7011(33).

Where no causal connection was shown between speed and accident, question of speed was properly withdrawn from jury. Draxton v. K., 203M161, 280NW288. See Dun. Dig. 4167e.

Argument based upon host's admission that he made no effort to apply his brakes when there was a sudden deflation of a rear tire was properly addressed to triers of fact. Lestico v. K., 204M125, 283NW122. See Dun. Dig. 6975a.

It cannot be concluded as a matter of common or judicial knowledge that deflation of a left rear tire could not have caused swerving to right, whether sudden or otherwise. See Dun. Dig. 7011.

Negligence of motorist and contributory negligence of plaintiff in getting out on left side of car parked at right curb, which was too high to permit opening of right door, held for jury. Judge v. E., 204M589, 284NW 788. See Dun. Dig. 4167b.

Contributory negligence of bicycle rider six years and 10 months old, struck by milk truck in paved alley, held for jury. Id. See Dun. Dig. 7029.

Whether or not a city is negligent in permitting large fine trees to remain in the street, placing upon them glass discs which reflect a red color, and whether automobilist running into them is guilty of contributory negligence are questions for a jury. Op. Atty. Gen., Nov. 13, 1931.

9. Instructions.

Instruction, held insufficient to present issue of contributory negligence. 180M395, 230NW895.

Instruction that contributory negligence contributing "in the slightest degree to the injury" is erroneous. 181 M180, 232NW3. See Dun. Dig. 7015.

In action by pedestrian against automobile driver, charge as to proximate cause held sufficient. 181M506, 233NW237. See Dun. Dig. 6999.

There was no error in giving the jury the statutory rules of the road, including those requiring adequate lights and brakes, even though there was no specific claim of their violation. 181M492, 233NW239. See Dun. Dig. 9781(35).

Instructions as to the relative statutory rights of a pedestrian and an automobile driver between street intersections were free from error. Heikkinen v. C., 183M146, 235NW879. See Dun. Dig. 4167n.

In automobile collision, evidence held not to warrant requested instruction relating to defendant's conduct in case of an emergency. Zobel v. B., 184M172, 238NW49. See Dun. Dig. 4167-o.

Instruction as to emergency in automobile collision case held applicable to questions presented by evidence. Stoker v. A., 184M339, 238NW685. See Dun. Dig. 4167b.

Where defense was that foot accelerator stuck, creating an emergency, and it appeared that it had stuck several times previously without effort to repair, it was not error to refuse to charge that negligence could not be found in failing to use due care to repair. Stoker v. A., 184M339, 238NW685. See Dun. Dig. 7048.

Instruction as to negligence and contributory negligence with reference to this statute held erroneous. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167c.

It was not error to instruct the jury as to the provisions of the Uniform Highway Traffic Act mentioned bearing upon the issues of negligence and contributory negligence. Ball v. G., 185M105, 240NW100. See Dun. Dig. 4171a.

Instruction on unavoidable accident in automobile case held improper under the evidence. Naylor v. M., 185M514, 241NW674. See Dun. Dig. 4167n.

Where plaintiff claimed that injury occurred on crosswalk and defendant that it occurred in street, provisions of this section were properly given to jury. Borowski v. S., 188M102, 246NW540. See Dun. Dig. 4167n.

It was not error to refuse to charge that automobile driver was negligent if he failed to see what was clearly visible in road, where there was no issue as to failure to see object. Dickinson v. L., 188M130, 246NW669. See Dun. Dig. 9781.

In action for injuries to pedestrian at intersection, court properly refused to give instruction concerning skidding of car on wet pavement, because it assumed defendant was traveling at reasonable and proper speed and that conditions were "ordinary." Wiester v. K., 188M341, 247NW237. See Dun. Dig. 9774.

In action by passenger in one car for injuries received in collision with defendant's car, instructions as to imputed negligence and effect of defendant's negligence, held sufficient and court did not err in refusing to give requested instructions thereon. McIlvaine v. D., 190M 401, 252NW234. See Dun. Dig. 7040.

Plaintiff, a passenger on street car standing on rear platform ready to alight, was thrown against sides of platform and injured. Evidence made it a jury question whether she lost her balance from sudden stopping of street car or from impact of automobile against rear doors of street car; hence plaintiff was not entitled to an instruction that street car company, not a party to the action, was free from negligence. Jannette v. M., 193M 153, 258NW31. See Dun. Dig. 4167l, 7000.

In action by guest against host, evidence held not to justify jury in finding driver negligent from mere fact that she drove on to freshly oiled half of road to avoid meeting a car traveling on dry half of roadway. Johnson v. T., 195M107, 261NW859. See Dun. Dig. 4163.

It was error to refuse to read to jury Mason's Minn. St. 1927, §2720-3(a). Kunkel v. P., 197M107, 266NW441. See Dun. Dig. 4164e.

Remarks indicating doubt of application by which court prefaced reading of Mason's Minn. St. 1927, §2720-4(a), were improper. Id. See Dun. Dig. 4167e.

Where court charged that violation of statutory provisions, duly read to jury, was negligence, necessity for any further charge as to distinction between common-law negligence and violation of statutory duty was unnecessary. Dehen v. B., 198M522, 270NW602. See Dun. Dig. 4162a.

Instruction as to contributory negligence of a person stepping from behind car into path of traffic held applicable though car from which he had stepped had moved some distance at time he started to cross highway. Bird v. J., 199M252, 272NW168. See Dun. Dig. 4167n.

Charge that defendant had right to assume that no adult person in his right sense would step from behind a parked automobile without any precaution to avoid traffic was not erroneous on ground that plaintiff was mentally deficient, where court submitted question of intelligence and stated that insturction was not to apply if plaintiff was found mentally deficient. Id.

Statement of trial court introductory to instruction on traffic statutes, held not improper. Timmerman v. M., 199M376, 271NW697. See Dun. Dig. 4162a.

In a collision between two automobiles in intersection of two highways, an instruction correctly defining negligence and contributory negligence and properly placing burden of proof of latter on defendant, and, as a summary, stating, if jury found from all evidence that defendant was negligent proximately causing plaintiff's injuries and that plaintiff was free from contributory negligence, verdict would be for plaintiff; if they did not so find verdict should be for defendant, held not erroneous nor misleading. Ames v. C., 200M92, 273NW361. See Dun. Dig. 9783.

Instruction in substance that if defendant truck driver discovered child on bicycle in position of danger in time to avoid accident and failed to exercise ordinary or reasonable care to prevent injury, verdict should be for plaintiff even though child was guilty of contributory negligence, in effect was a submission of a charge of willful or wanton negligence, and must be supported by evidence of such negligence. Carlson v. S., 200M177, 273 NW665. See Dun. Dig. 7020.

In action for injuries arising out of collision between bus and truck, involving also negligence of third party burning brush so that smoke crossed highway, court did not err in charging that jury must find that negligence, if any, of bus driver was proximate cause of accident and by that it meant immediate direct cause without interposition of any other efficient cause, was proper where there was abundant evidence to sustain finding of interposition of an efficient cause sufficient to insulate bus driver's negligence, if any. Becker v. N., 200M272, 274NW 180. See Dun. Dig. 7006.

In automobile collision case, where defendant counterclaimed, criticism of defendant that there was a third verdict in case with respect to effect of negligence of both contributing to accident was without merit, where jury could not misunderstand what was required of them under the circumstances. Ranwick v. N., 202M415, 278NW 589. See Dun. Dig. 9781.

Where there was evidence that accident was due to sudden deflation of a tire which was almost new, jury should have been instructed that there is no liability to guest for "pure accident." Lestico v. K., 204M125, 283NW 122. See Dun. Dig. 6975a.

In action by guest for injuries received when tire blew out, jury should have been instructed that, whatever the speed, if it was not a proximate cause, and did not contribute as a substantial factor, there would be no liability. Id. See Dun. Dig. 7008.

10. Verdict.

In action for death in automobile accident based upon alleged concurring negligence of two defendants, verdict for plaintiff was not supported by evidence where only one of defendants may have been negligent and identity of wrongdoer was not shown. Yager v. H., 186M71, 242 NW469. See Dun. Dig. 4167m.

In action against automobile livery company renting defective car and driver of such car, a verdict for the driver did not make perverse verdict against livery company. Ferraro v. T., 197M5, 265NW829. See Dun. Dig. 4167m.

Motion of a defendant in a personal injury action for a directed verdict should be granted only in cases where evidence against plaintiff is clear, whether basis of motion be want of negligence in defendant or contributory negligence in the plaintiff. Jude v. J., 199M217, 271NW 475. See Dun. Dig. 7048.

2720-4. [Repealed.]

Repealed. Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-178.

172M591, 216NW537.

Collision of automobile and pedestrian on highway. 174M577, 219NW912.

Statute merely creates a rebuttable presumption of fact. 175M449, 221NW715.

Plaintiff was not bound to anticipate that truck driver would be negligent. 175M449, 221NW715.

Testimony as to speed of truck approaching witness was admissible, its weight being for the jury. 175M449, 221NW715.

Where no defect in brakes had been charged, it was not important that court refused to permit defendant's driver to testify that brakes were in good condition after the accident. 175M449, 221NW715.

Guest in automobile held not guilty of contributory negligence as matter of law in remaining in car driven at a dangerous rate. 177M95, 224NW462.

Negligence in striking towed car on icy street held jury question. Barnhardt v. H., 178M400, 227NW356.

Whether plaintiff traveling 35 miles per hour at night was guilty of contributory negligence in running into unlighted truck parked on the highway, held for jury. 180M252, 230NW776.

Prima facie effect of similar South Dakota law construed. Berlin v. K., 183M278, 236NW307. See Dun. Dig. 8821, 8937a(99), 8956.

Contributory negligence of truck driver in colliding with a car suddenly stopping on pavement without signal, held for jury. Peterson D., 184M314, 238NW324. See Dun. Dig. 4167-e(82).

Contributory negligence of guest in automobile held for jury. Engholm v. N., 184M349, 238NW795. See Dun. Dig. 7038.

Driver of car colliding with bus near intersection held guilty of contributory negligence as matter of law. Engholm v. N., 184M349, 238NW795. See Dun. Dig. 4167o.

Negligence of bus driver colliding with car near intersection held for jury. Engholm v. N., 184M349, 238NW 795. See Dun. Dig. 4167f.

Driver of automobile on a dark drizzly night colliding with an unlighted truck held not guilty of contributory negligence as a matter of law. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167c.

Negligence and contributory negligence at highway intersection held for jury. Quinn v. Z., 184M589, 239NW 902. See Dun. Dig. 4164d, e, f.

The rate of speed of an automobile within four miles of the place of collision is admissible as bearing upon the claim of speed at the time of the accident. Quinn v. Z., 184M589, 239NW902. See Dun. Dig. 3253.

Where plaintiff claimed that injury occurred on crosswalk and defendant that it occurred in street, provisions of this section were properly given to jury. Borowski v. S., 188M102, 246NW540. See Dun. Dig. 4167n.

In action for death of guest in automobile which ran in ditch and overturned when tire blew out, negligence of driver held for jury. Anderson v. A., 188M602, 248NW 35. See Dun. Dig. 4167e.

In action for death of pedestrian killed while leading team of horses upon right shoulder of highway in the nighttime, negligence and contributory negligence held for jury. Raths v. S., 195M225, 262NW563. See Dun. Dig. 4167e.

Negligence of truck driver colliding with truck standing on highway and leaving less than thirteen feet of pavement for passing on a foggy night, held for jury. Golden v. G., 195M354, 263NW103. See Dun. Dig. 4167dd.

In action for injuries received by automobile driver colliding with carcass of horse in the night time, truck driver who ran into and killed horse and left it on the highway held confronted with an emergency and was not negligent as a matter of law in attempting to swerve around horse instead of applying his brakes, and he was not negligent in failing to arrange for removal of horse or placing a warning of its presence where he was very badly injured and required prompt medical attention to save his life. Wedel v. J., 196M170, 264NW689. See Dun. Dig. 4167r.

Whether motorist running into carcass of dead horse in night time was guilty of contributory negligence, held for jury. Id.

In action for injuries by guest in automobile, whether defendant was guilty of negligence in driving at an excessive speed in view of conditions, held for jury. Caulfield v. M., 196M339, 265NW24. See Dun. Dig. 6975a.

In action by guest, circumstances held such that jury might find that defendant was driving in excess of 45 miles per hour, justifying court in stating statutory rule as to presumption of negligence. Id.

As to contributory negligence of guest in an automobile, no issue could arise from mere fact that plaintiff did not protest against a speed of 50 to 60 miles an hour, and there was no fact issue as to assumption of risk. Hartel v. W., 196M465, 265NW282. See Dun. Dig. 7026a.

Evidence held insufficient to sustain finding of contributory negligence of pedestrian at intersection. Cogin v. I., 196M493, 265NW315. See Dun. Dig. 4166.

Whether person driving car at night was guilty of contributory negligence in running into a dark car standing on highway, held for jury. Vogel v. N., 196M509, 265 NW350. See Dun. Dig. 4167e.

If court deems it proper to call attention to law which declares that a driver forfeits right of way at an intersection if he enters it without coming to a full stop where there is a stop sign, he should also call attention to law that a driver who enters an intersection at a forbidden speed also forfeits his right of way. Kunkel v. P., 197M 107, 266NW441. See Dun. Dig. 4164f.

Whether guest was guilty of contributory negligence in riding in front seat of car driven at 80 miles an hour held for jury. Holmes v. L., 201M44, 275NW416. See Dun. Dig. 4167e, 7026a.

In head-on collision between automobile and bus in narrow cut through snow bank, wherein driver of automobile was in difficulty trying to get out of rut, negligence of bus driver in failing to sooner apply his brakes, and contributory negligence of other driver held for jury. Turnmire v. J., 202M307, 278NW159. See Dun. Dig. 4167e.

Where automobile was driven between 40 and 45 miles an hour, in excess of statutory rate of speed in free wheeling on a snow-covered, slippery, tarvia-surfaced highway, so that it skidded 380 feet, went off road, and knocked down an eight-inch tree, driver's negligence is for jury. McKeown v. A., 202M595, 279NW402. See Dun. Dig. 4167e.

It is primarily for trial judge in his sound discretion to determine whether circumstances are such that evidence of speed of an automobile at a distance from place of accident should or should not be received. Spencer v. J., 203M402, 281NW879. See Dun. Dig. 9714.

(a).

Instruction as to negligence and contributory negligence with reference to this statute held erroneous. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167e.

Evidence sufficiently established negligence of automobile driver, and absolved passenger in street car from any contributory negligence. Fox v. M., 190M343, 251NW 916. See Dun. Dig. 7026a.

Where two automobiles collided at a street intersection and a passenger in one was injured, evidence sustains verdict as against each driver, and neither was entitled to a directed verdict or to judgment non obstante. Kemerer v. K., 198M316, 269NW832. See Dun. Dig. 4167e.

Where motorist failed to discover substantial obstruction to travel which was within range of illumination of his headlights until it was impossible to avoid a collision with it, his contributory negligence held for jury, where distracting circumstance was present. Twa v. N., 201M234, 275NW846. See Dun. Dig. 7020.

Whether it was negligent to drive car between 25 and 30 miles per hour over icy winding roads held for jury. Shuster v. V., 203M76, 279NW841. See Dun. Dig. 4167e.

Whether speed of fifty miles per hour constituted negligence held for jury. Spencer v. J., 203M402, 281NW 879. See Dun. Dig. 4167e.

In a case of a head on collision, a fact issue as to defendant's negligence is presented by evidence that defendant drove his automobile at a speed of 20 or 25 miles per hour following about 35 or 40 feet behind a truck in loose snow on highway, with his left wheels in a rut on his left side of road and with his vision obscured by a cloud of snow thrown into air by truck. Johnson v. R., 285NW536. See Dun. Dig. 4167e.

(b).

Speed in excess of rate by statute made prima facie greater than reasonable and proper does not constitute negligence or contributory negligence as a matter of law. Tully v. F., 191M84, 253NW22. See Dun. Dig. 4167e.

Statute simply makes driving a motor vehicle in excess of the statutory speed limit a prima facie violation of statute. Bird v. J., 199M252, 272NW168. See Dun. Dig. 4167e.

An obstruction of the driver's view, includes all obstructions without qualification as to kind, source or permanency, and may include temporary accumulations of snow and other materials upon windshield as well as permanent structures such as buildings and embankments by roadside which cut off view. Larson v. L., 204 M80, 282NW669. See Dun. Dig. 4167e.

Whether truck driver proceeded down an alley frequented by children at a negligent rate of speed and without warning held for jury. Otterness v. H., 204M88, 282NW687. See Dun. Dig. 4167e.

In absence of exceptional circumstances it is not negligence as matter of law for a motorist to proceed into a cloud of smoke without first stopping. Young v. G., 204M122, 282NW691. See Dun. Dig. 4167e.

In collision of truck with tractor trailer making left turn, negligence of truck driver with respect to speed, and contributory negligence of driver of tractor trailer, held for jury. Ryan v. I., 204M189, 283NW129. See Dun. Dig. 4167e.

(b) (3).

Prima facie presumption of unreasonable speed may be overcome by circumstances. Hustvet v. K., 184M222, 238 NW330. See Dun. Dig. 4167e.

Evidence held to justify finding that one driving on arterial was guilty of negligence in driving at an unreasonable rate of speed and striking car crossing arterial. Johnston v. S., 190M269, 251NW525. See Dun. Dig. 4167o.

While there is not any traffic law directly requiring an automobile to slow up at highway intersection where there are no obstructions or traffic signs, it does not follow that a motorist may approach and enter an intersection heedlessly, at high speed, without looking to see if other cars are ahead of him, right-of-way rule not going to that extent. Guthrie v. B., 192M434, 256NW898. See Dun. Dig. 4167e.

Whether plaintiff was traveling at a speed greater than was reasonable, and hence negligent, and whether such negligence was a proximate cause of accident, were questions of fact for jury. Duffey v. C., 193M580, 258NW 744. See Dun. Dig. 4167e, 7048.

Court erred in not giving to jury, at plaintiff's request, statutory definition of an obstructed view of a highway intersection and speed at which to approach such intersection. Kunkel v. P., 197M107, 266NW441. See Dun. Dig. 4167e.

Passenger in truck struck at intersection of trunk highways while driving on arterial with stop sign protection, held free of contributory negligence as matter of law. Findley v. B., 199M197, 271NW449. See Dun. Dig. 4164f.

Where no causal connection was shown between speed and accident, question of speed was properly withdrawn from jury. Draxton v. K., 203M161, 280NW288. See Dun. Dig. 4167e.

Speed in excess of that provided by statute cannot be a basis for recovery unless it is proximate cause of injury, and speed was not proximate cause of collision of sled with rear end of automobile at intersection. Id.

(b) (4).

Bus driver slowing down to speed of 15 or 20 miles per hour and turning on lights and keeping to right of center line of road while passing through smoke from burning brush was entitled to assume that driver of any car coming from other direction would likewise slow down, put on lights and keep to his own side of road. Becker v. N., 200M272, 274NW180. See Dun. Dig. 4164(b).

This statute was not applicable to a bus driving through smoke from burning brush, or if applicable, its violation was not proximate cause of collision with a truck driving rapidly through smoke on center of highway. Id. See Dun. Dig. 4167e.

Statute does not have reference to obstruction of view by a car ahead which the driver of the car is trying to pass. 212Iowa1061, 237NW487. See Dun. Dig. 4167e.

(b) (5).

Ordinary stop sign on a side street, before it enters or intersects a through street or highway, is not a "traffic control device." Buchanan v. M., 196M520, 265NW 319. See Dun. Dig. 4167e.

(b) (7).

Evidence of negligence held sufficient to support a verdict against both defendants through whose acts plaintiff's ward was injured. Fryklind v. J., 190M356, 252NW232. See Dun. Dig. 4167o.

Any error of court in not submitting to jury question of whether automobile collision occurred within residential portion of village was immaterial if plaintiff was guilty of contributory negligence as matter of law regardless of violation of speed regulation by defendant. Faber v. H., 294M321, 260NW500. See Dun. Dig. 424.

Whether it was negligence in a sparsely settled portion of a city to travel in excess of 20 miles per hour, and to run off an unfinished fill in highway, held for jury. Wilson v. C., 196M532, 265NW438. See Dun. Dig. 6838.

Evidence that accident occurred in a rural community fails to show that it is within residence portion of a municipality. Bird v. J., 199M252, 272NW168. See Dun. Dig. 4167e.

2720-5. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Instructions held to state substantially duty of one approaching a railway crossing in an automobile. Polchow v. C., 199M1, 270NW673. See Dun. Dig. 8187.

Similar provisions of Highway Traffic Regulation Act, see §2720-211.

2720-6. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Provisions reenacted, see §2720-268.

2720-7. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-180.

2720-8. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-200.

Fireman on fire truck and driver were not engaged in "joint enterprise" and negligence of driver was not imputed to such fireman. Right of way rule under §23, c. 416, Laws 1925, was not intended to and did not apply to fire apparatus. 173M265, 217NW130.

(a).

An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4167h, 4168, 4173.

2720-9. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-182.

Salera v. S., 183M478, 237NW180; note under §2720-3.

Engholm v. N., 184M349, 238NW795; note under §2720-4.

Whether truck was on wrong side of road at intersection, held for jury. 175M449, 221NW715.

Guest in automobile having no share in its control at the time being, was not engaged in a "joint enterprise." 177M249, 225NW98.

Negligence of automobile driver traveling in sleet and rain at 35 miles per hour and injuring guest when hitting a depression, and contributory negligence of guest, held for jury. 177M249, 225NW98.

An emergency may excuse compliance with this section. 180M163, 230NW580.

Negligence, held for jury, and evidence, held to sustain verdict for plaintiff. 181M4, 231NW714.

Driver on righthand side of street backing his car into the curb for parking, held not violating this section. 181M259, 232NW264. See Dun. Dig. 4164a.

Evidence held to show that defendant's automobile was proceeding on the wrong side of the highway and that his negligence in that respect was the proximate cause of injury to plaintiff. 18M400, 232NW710. See Dun. Dig. 4164a.

It was not error to refuse defendant's request for an instruction that he had a right to assume that the driver of an approaching car would give him half of the road. 181M492, 233NW239. See Dun. Dig. 7022.

Evidence sustained finding of negligence in rounding sharp turn on left side at high speed. Honkomp v. M., 182M404, 234NW638. See Dun. Dig. 4167g.

The evidence sustains a finding that driver of an automobile was traveling on wrong side of street and that his so doing was the proximate cause of an injury to a minor child. Peterson v. M., 182M532, 235NW15. See Dun. Dig. 4164a.

Driver of slow moving vehicle on paved highway is not required to travel upon shoulder, though in good condition. Stone v. S., 189M47, 248NW285. See Dun. Dig. 4164b(12, 13).

Driver of wagon on pavement struck by automobile attempting to pass, held not guilty of contributory negligence as matter of law. Id.

In head-on collision between automobiles, negligence and contributory negligence, held for jury. Romann v. B., 190M419, 252NW80. See Dun. Dig. 4164a.

Where plaintiff's tire blew out and he brought his car to stop near center of pavement and was struck by defendant's car from front, negligence and contributory negligence held for jury. Spates v. G., 190M596, 252NW835. See Dun. Dig. 4167o.

In action for death of child, whether defendant drove automobile on wrong side of traveled highway held for jury. Dickey v. H., 195M292, 262NW869. See Dun. Dig. 4164b.

Which of two drivers was on wrong side of highway in head-on collision held for jury. Keefe v. K., 198M147, 269NW105. See Dun. Dig. 4164a.

Driver of car in night time had right to expect that his lane of traffic was clear, absent statutory or other adequate warning. Szyperski v. S., 198M154, 269NW401. See Dun. Dig. 4164a.

This section held properly read to jury in action by guest passenger driven through fog. Thorstad v. D., 199 M543, 273NW255. See Dun. Dig. 4164a.

In collision between a bus and a truck in a cloud of smoke, bus driver's negligence held for jury. Becker v. N., 200M272, 274NW180. See Dun. Dig. 4167o.

In head-on collision in fog, negligence of defendant truck driver who claimed that an emergency existed because he discovered an unlighted car parked on his side of highway and suddenly turned to left, held for jury. Farwell v. S., 203M392, 281NW526. See Dun. Dig. 4163.

In action against railroad which negligently started fire on right of way causing cloud of smoke to cross parallel highway, fact that plaintiff's decedent was on wrong side of road at time of collision in cloud of smoke did not render him guilty of contributory negligence as

a matter of law. Young v. G., 204M122, 282NW691. See Dun. Dig. 4164b.

Plaintiff had burden of proving that his being upon wrong side of highway was not due to any negligence or lack of care on his part, and that defendant after discovering him in that position could have avoided collision by exercise of due care. Raymond v. K., 204M220, 283NW119. See Dun. Dig. 4164a.

On slippery day fact that plaintiff's car against his will and in spite of his efforts, skidded and landed upon wrong side of pavement is not conclusive proof of his negligence or contributory negligence. Id. See Dun. Dig. 4164a.

Plaintiff's contributory negligence is a fact issue where she was on her right hand side of road and did not see defendant's car enveloped in a cloud of snow in time to avoid collision, if that were possible. Johnson v. R., 285NW536. See Dun. Dig. 4163.

2720-10. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-186.

Right of automobilist to assume this section would be obeyed. Krueger v. S., 178M619, 227NW50.

Evidence held to show that defendant's automobile was proceeding on the wrong side of the highway and that his negligence in that respect was the proximate cause of injury to plaintiff. 181M400, 232NW710. See Dun. Dig. 4164a.

2720-11. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Provision reenacted, see §2720-183.

Spates v. G., 191M1, 252NW835; note under §2720-9.

Johnson v. R., 285NW536; note under §2720-4(a).

Where evidence as to whether a truck which collided with car of plaintiff's intestate was on right side of highway was sharply conflicting, question was for jury, though uncontradicted evidence showed that there were marks of truck wheels on right hand shoulder of highway. Elzig v. G., (USCCA8), 91F(2d)434.

Negligence and contributory negligence in collision by cars traveling in opposite directions, question of fact and not of law. 176M619, 224NW256.

Horseback rider struck by an automobile on wrong side of road in course of repair, held guilty of contributory negligence as matter of law. 177M523, 225NW 651.

This section may be departed from in an emergency. 180M163, 230NW580.

Evidence held to show that defendant's automobile was proceeding on the wrong side of the highway and that his negligence in that respect was the proximate cause of injury to plaintiff. 181M400, 232NW710. See Dun. Dig. 4164a.

In action by guest against host for injuries received in head-on collision, contributory negligence of plaintiff held for jury. Farnham v. P., 193M222, 258NW293. See Dun. Dig. 7026a.

In action by guest against host for injuries received in head-on collision, negligence of hose and other motorist held for jury. Id. See Dun. Dig. 7011.

Whether an emergency existed which warranted truck driver turning to left side of highway was a fact question for the jury. Oxborough v. M., 194M335, 260NW305. See Dun. Dig. 7020.

Evidence sustains verdict that defendant's negligent driving of a truck caused it to collide head on with a car in which plaintiff was a passenger to his injury. Erickson v. K., 195M164, 262NW56. See Dun. Dig. 4164b.

Negligence and contributory negligence in a head-on collision held for jury. Prescott v. S., 197M325, 267NW 251. See Dun. Dig. 4164a.

Evidence held insufficient to raise question for jury as to negligence of truck driver in collision with passenger car on an icy pavement, either by reason of failure to stop completely when he saw car out of control or in failing to realize that car would certainly dart across pavement after going straight for some distance on wide shoulder. Ind v. B., 198M217, 269NW638. See Dun. Dig. 4163.

Question as to who was on wrong side of road held for jury, notwithstanding physical facts and position of cars after accident. Tri-State Transfer Co. v. N., 198M 537, 270NW684. See Dun. Dig. 4163.

In action for death caused by a head-on collision between decedent's car and a street car it was a question for jury whether mortorman kept a proper and reasonable lookout, and also whether decedent, traveling on left-hand portion of street because he was unable to extricate his car from ruts formed near rails was himself negligent. Elkins v. M., 199M63, 270NW914. See Dun. Dig. 4163.

In collision between cars traveling in opposite directions on arterial when car in which plaintiff's decedent was riding turned to left in front of other car, evidence held to require direction of verdict for defendant. Laiti v. M., 199M167, 271NW481. See Dun. Dig. 4164a.

In collision between motor vehicle in long narrow cut through snowdrift, court rightly refused to charge that evidence conclusively established fact that defendant's vehicle entered cut first and was entitled to right of way as a matter of law, where evidence was not conclusive on this point. Turnmire v. J., 202M307, 278NW 159. See Dun. Dig. 4164a.

Where there was a large snowbank on an S-shaped curve in a paved highway and snow plow had made a single cut 8 ft. wide through drift and snow so covered pavement and shoulders that it was impossible to see exact location of pavement, path and ruts through cut formed highway. Id.

In head-on collision between automobile and bus in narrow cut through snow bank, wherein driver of automobile was in difficulty trying to get out of rut, negligence of bus driver in failing to sooner apply his brakes, and contributory negligence of other driver held for jury. Id.

Evidence held to sustain finding that driving on left side of highway was proximate cause of collision with another car notwithstanding that actual contact was on defendant's side of the highway, and that defendant was liable to his guests though other driver was negligent. Shuster v. V., 203M76, 279NW841. See Dun. Dig. 7005.

In action by passenger in automobile against owner of truck in head-on collision, evidence held to warrant verdict for plaintiff on theory that both drivers were negligent. Kulla v. E., 203M105, 280NW16. See Dun. Dig. 4163.

2720-12. [Repealed.]

Similar provisions of Highway Traffic Regulation Act, see §2720-184.

Where plaintiff claimed that injury occurred on crosswalk and defendant that it occurred in street, provisions of this section were properly given to jury. Borowski v. S., 188M102, 246NW540. See Dun. Dig. 4167n.

Repealed Apr. 26, 1937, c. 464, §144.

This section held properly read to jury in action by guest passenger driven through fog. Thorstad v. D., 199 M543, 273NW255. See Dun. Dig. 4167n.

2720-13. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-186.

(a).

Statute is applicable where a driver undertakes to pass a standing or parked car when headed in same direction. Geisen v. L., 185M479, 242NW8. See Dun. Dig. 4164, 4167o.

Evidence held not to support a finding that lobar pneumonia, from which plintiff's intestate died, was caused by collision, occurring over five weeks prior to pneumonia, connection as proximate cause lacking as a matter of law. Honer v. N., 198M55, 268NW852. See Dun. Dig. 4164.

(b).

Whether the passing of another car on a curve contributed as a proximate cause to injuries of a guest in the car being passed held for jury. Dux v. R., 182M611, 235NW383. See Dun. Dig. 4167g.

Statute does not have reference to obstruction of view by a car ahead which the driver of the car is trying to pass. 212Iowa1061, 237NW487. See Dun. Dig. 4167e.

2720-14. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-184.

Automobilist attempting to pass truck between the truck and a streetcar traveling in the opposite direction held guilty of contributory negligence as a matter of law. Reddy v. R., 182M139, 233NW853. See Dun. Dig. 4164.

It is not due care to rely on the anticipated conduct of others when such reliance is attended by obvious danger. Reddy v. R., 182M139, 233NW853. See Dun. Dig. 6970(83), (84).

In the absence of evidence that he knew of plaintiff's danger, a defendant cannot be charged with willful negligence. Reddy v. R., 182M139, 233NW853. See Dun. Dig. 7036.

Statute does not require that signal be given by driver of overtaking vehicle. Dziewczynski v. L., 193M580, 259 NW65. See Dun. Dig. 4167h.

Court, after instructing that there is no statute law requiring driver of a motor vehicle to give a signal upon overtaking and passing another vehicle from rear, should have, under circumstances, submitted to jury question whether ordinary care required a warning. Id. See Dun. Dig. 4167h.

2720-15. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-189.

In a triangular automobile collision, negligence held for jury. 176M383, 223NW603.

Contributory negligence of truck driver in colliding with a car suddenly stopping on pavement without signal, held for jury. Peterson v. D., 184M213, 238NW 324. See Dun. Dig. 4167o.

(a).

Spates v. G., 191M1, 252NW835; note under §2720-9.

Johnson v. R., 285NW536; note under §2720-4(a).

Evidence of negligence held sufficient to support a verdict against both defendants through whose acts

plaintiff's ward was injured. Fryklind v. J., 190M356, 252NW232.

Evidence as to icy condition of street and an obstruction therein made it a jury question whether failure to stop automobile before it came in contact with rear of street car, about to stop, was excusable. Jannette v. M. 193M153, 258NW31. See Dun. Dig. 4167i, 7011.

This section held properly read to jury in action by guest passenger driven through fog. Thorstad v. D., 199 M543, 273NW255. See Dun. Dig. 4167n.

Whether motorist following within 50 feet of truck and running into it when it stopped, or almost stopped, preparatory to a left turn, and without a timely signal, was guilty of contributory negligence, held for jury. Martini v. J., 204M556, 284NW433. See Dun. Dig. 4167e.

2720-16. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-190.

172M591, 216NW537.

Engholm v. N., 184M349, 238NW795; note under §2720-4.

Evidence held to sustain recovery of damages in automobile collision. 176M83, 222NW580.

Automobilist making left turn and colliding with automobile coming from his right, held guilty of contributory negligence. 176M299, 233NW145.

Whether driver making left turn was guilty of contributory negligence held for jury. Fulweiler v. T., 184 M519, 239NW609. See Dun. Dig. 4167f(96).

Woman swinging to left to make right turn in driveway, held guilty of contributory negligence, when struck by overtaking car. Jovaag v. O., 189M315, 249NW676. See Dun. Dig. 4164a.

Evidence held to support finding that defendant was free from negligence in making left turn. McGerty v. N., 191M443, 254NW601. See Dun. Dig. 4167f.

Where two automobiles collided at a street intersection and a passenger in one was injured, evidence sustains verdict as against each driver, and neither was entitled to a directed verdict or to judgment non obstante. Kemerer v. K., 198M316, 269NW832. See Dun. Dig. 4164e.

Statute refers only to turns made off one highway on to another intersecting highway and cannot be construed to apply to a turn made on a highway because of a curve in it. Laiti v. M., 199M167, 271NW481. See Dun. Dig. 4162a.

Driver may be found guilty of negligence in running down a pedestrian in act of diagonally crossing a street intersection by showing that pedestrian was visible, that driver failed to observe him, made a left turn cutting corner, and failed to sound reasonable warning, in violation of statute. Reier v. H., 202M154, 277NW405. See Dun. Dig. 4167n.

Whether plaintiff failed to stay as near center of intersection as practicable, held for jury. Spencer v. J., 203 M402, 281NW879. See Dun. Dig. 4167f.

(n).

Mahan v. M., 185M94, 239NW914; note under §2720-17.

Automobile driver striking left side of on-coming car while making left turn in private driveway was guilty of contributory negligence as a matter of law. Faber v. H., 294M321, 260NW500. See Dun. Dig. 4167f.

2720-17. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §§2720-193, 2720-194.

172M591, 216NW537.

Negligence in turning after extending arm, and negligence of defendant coming up from rear in automobile, held to present question for jury. 179M86, 228NW347.

Evidence held to support verdict in favor of automobile driver, who, while making a left turn, was struck from the rear by an approaching automobile resulting in injury to person riding in the rear car. 181M275, 232 NW326. See Duh. Dig. 4167f.

Evidence held to sustain finding of negligence by truck driver in turning into path of vehicle approaching from the rear, and to negative existence of emergency excusing conduct. 181M406, 232NW715. See Dun. Dig. 4164c.

Negligence of automobile driver stopping suddenly without signal, held for jury. Peterson v. D., 184M213, 238NW324. See Dun. Dig. 4167h(1).

Contributory negligence of truck driver in colliding with a car suddenly stopping on pavement without signal, held for jury. Peterson v. D., 184M213, 238NW 324. See Dun. Dig. 4167-o.

An incomplete statement of a statutory road rule, given by the court in its charge, held not such as to mislead the jury or to prejudice the plaintiff. Pearson v. N., 184M560, 239NW602. See Dun. Dig. 4162a.

Whether driver making left turn was guilty of contributory negligence held for jury. Fulweiler v. T., 184 M519, 239NW609. See Dun. Dig. 4167h(99).

New trial was warranted where charge was confusing and did not state the law applicable. Le Tourneau v. J., 185M46, 239NW768. See Dun. Dig. 7165.

An automobile driver who stopped car less than 50 feet from intersection to let off passenger was not guilty of negligence as a matter of law in not extending hand 50 feet before he reached intersection. Mahan v. M., 185 M94, 239NW914. See Dun. Dig. 4167h.

Evidence held to support verdict for injured guest against driver of vehicle overturning when passing standing car. Geisen v. L., 185M479, 242NW8. See Dun. Dig. 6975a.

Court properly charged jury that driver of any vehicle, before turning from a direct line, should first see that movement can be made in safety. Geisen v. L., 185M479, 242NW8. See Dun. Dig. 4167b.

Contributory negligence of one turning to right off highway without giving signal, held for jury. Hanson v. L., 187M389, 245NW835. See Dun. Dig. 4167h.

Woman swinging to left before making right turn into driveway was guilty of contributory negligence in not seeing that her abrupt change of direction could be made in safety. Jovaag v. O., 189M315, 249NW676. See Dun. Dig. 4164a.

Requirement that driver extend left hand before he stops, does not apply to his stopping in obedience to a semaphore. Turnbloom v. C., 189M588, 250NW570. See Dun. Dig. 4167h.

Evidence of negligence held sufficient to support a verdict against both defendants through whose acts plaintiff's ward was injured. Fryklind v. J., 190M356, 252NW232.

Whether defendant in pulling out from parking space along curb negligently failed to signal as required by statute, held for jury. Gulle v. G., 192M548, 257NW649. See Dun. Dig. 4167h, 7011.

Whether defendant negligently failed to look back before pulling out from curb, held for jury. Id.

Owner of a truck, which stops on a street car track in obedience to a semaphore signal at an intersection, is not liable to a passenger on an approaching street car who is injured by a sudden stop made by street car to avoid collision with truck. Herman v. M., 193M557, 259NW64. See Dun. Dig. 4167h.

In action for injuries received when defendant's car crashed into back of plaintiff's car which had stopped for semaphore, negligence and contributory negligence, held for jury. Fredhom v. S., 193M569, 259NW80. See Dun. Dig. 4167h.

Negligence and contributory negligence held for jury in collision while plaintiff was making left turn into private driveway. Jenson v. G., 195M556, 263NW624. See Dun. Dig. 4167h.

Failure to extend hand indicating left turn at intersection was immaterial where defendant did not see plaintiff's car until it was within 50 feet of him and he then immediately applied the brakes so as to lock wheels of his car. Williams v. R., 196M397, 265NW270. See Dun. Dig. 4167h.

Whether driver was negligent in suddenly backing diagonally parked car from snow bank into traveled portion of street, held for jury. Stock v. F., 197M399, 267NW368. See Dun. Dig. 4167h.

Instruction as to audible signals with respect to other vehicles held not prejudicial. Useman v. M., 198M79, 268 NW866. See Dun. Dig. 4167h.

In action by one injured while riding as a passenger in a street car, in a collision with a coal truck, making left turn, evidence sustained a verdict against both defendants. Id. See Dun. Dig. 4167f.

Whether defendant's stopping his vehicle was proximate cause of collision between two other vehicles held for jury. Fleenor v. R., 198M163, 269NW370. See Dun. Dig. 4171a.

When it is practicable to park on shoulder, a driver is forbidden to park on main traveled highway, and even a momentary stop is a violation of law. Id.

Where two automobiles collided at a street intersection and a passenger in one was injured, evidence sustains verdict as against each driver, and neither was entitled to a directed verdict or to judgment non obstante. Kemerer v. K., 198M316, 269NW832. See Dun. Dig. 4164e.

Record supports a verdict that city employee was negligent in backing a road grader by which minor plaintiff was injured. McCarthy v. C., 201M276, 276NW1. See Dun. Dig. 6844.

Driver may be found guilty of negligence in running down a pedestrian in act of diagonally crossing a street intersection by showing that pedestrian was available, that driver failed to observe him, made a left turn cutting corner, and failed to sound reasonable warning, in violation of statute. Reier v. H., 202M154, 277NW405. See Dun. Dig. 4167n.

It was for jury to determine whether plaintiff's failure to signal before making a turn proximately caused accident. Spencer v. J., 203M402, 281NW879. See Dun. Dig. 4167h.

In collision of truck with tractor trailer making left turn, negligence of truck driver with respect to speed, and contributory negligence of driver of tractor trailer, held for jury. Ryan v. I., 204M177, 283NW129. See Dun. Dig. 4167h.

Whether motorist following within 50 feet of truck and running into it when it stopped, or almost stopped, preparatory to a left turn, and without a timely signal, was guilty of contributory negligence, held for jury. Martini v. J., 204M556, 284NW433. See Dun. Dig. 4164.

2720-18. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §§2720-196, 2720-197.

Krinke v. G., 187M595, 246NW376; note under §2720-48(a).

Defendants held not to so indisputably have the right of way that plaintiff on that account was guilty of contributory negligence as a matter of law in attempting to cross an intersection ahead of the defendant's car. Glynn v. K., 60F(2d)406, rev'g 47F(2d)281.

Prior to passage of this law automobilists and pedestrians had equal rights at street intersections. 172M134, 215NW198.

One driving a vehicle and approaching a trunk highway where her view is obstructed must have her car under control, and in view of the right of way statute must watch out for cars coming from the right and there is a presumption of negligence if she fails to see a car approaching in plain sight, and mere failure to see the car does not overcome the presumption. 173M31, 216NW 254.

If automobile entered crossing first it had the right of way over street car. 173M186, 217NW99.

The doctrine of "Res ipsa loquitur" has no application when all the facts attending an accident are disclosed in the evidence. 173M215, 217NW102.

Contributory negligence of automobile driver is not imputed to passenger. 173M237, 217NW125; 173M402, 217 NW377.

Negligence and contributory negligence held for jury. 173M622, 217NW485; 173M439, 217NW493.

That a collision occurs in broad daylight at street intersections between two automobiles coming at right angles in and of itself gives right to an inference that at least one of the drivers was negligent. 175M623, 221 NW680.

Whether plaintiff reached intersection first and whether defendant was on wrong side of road, held for jury. 175M449, 221NW715.

Collision at intersection between well-traveled highway and a side road. Maker v. J., 176M285, 223NW137.

Automobilist making left turn and colliding with automobile coming from his right, held guilty of contributory negligence. 176M299, 223NW145.

Findings of negligence and contributory negligence sustained. Amon v. N., 176M410, 223NW456.

Negligence of automobilist as to passengers, held for jury, though he had qualified right of way. 177M222, 225NW85.

Right of way as between automobiles. Krueger v. S., 178M619, 227NW50.

Automobilist entering intersection without seeing car to right guilty of contributory negligence. 178M426, 227 NW350.

Automobilist having stopped his car in obedience to a "stop" sign has the right of way over traffic from his left; but he is not thereby justified in taking close chances. 178M540, 227NW854.

Evidence held not to establish contributory negligence on part of motorcyclist. 179M123, 228NW752.

Where a city street coincidental with a trunk highway leaves such highway and swerves slightly to the left, while the trunk highway turns to the right at an angle of 70 degrees, there is an "intersection" within this subdivision within the requirement as to signalling for a left-hand turn. 180M509, 231NW202.

A pedestrian is not negligent as a matter of law in crossing a street at a point not an intersection. 181M 376, 232NW630. See Dun. Dig. 4167n.

Contributory negligence of street car passenger in alighting and passing behind car, held for jury. 181M 277, 232NW265. See Dun. Dig. 4167i, 4167n, 7033.

The fact that plaintiff was crossing the street at a place other than a crossing or crosswalk did not absolve the driver of the automobile from his duty to exercise ordinary care, nor make the plaintiff guilty of contributory negligence as a matter of law. Saunders v. Y., 182M62, 233NW599. See Dun. Dig. 4166(51).

In action by guest, negligence of drivers of both colliding cars held established by evidence. Lund v. O., 182M204, 234NW310. See Dun. Dig. 4164e.

Evidence sustains a finding of the jury that the driver was negligent in failing to keep a lookout and avoid injuring minor. Peterson v. M., 182M532, 235NW15. See Dun. Dig. 4167n.

The evidence did not require a finding that the minor was negligent as a matter of law because she did not look and see the approaching car. Peterson v. M., 182 M532, 235NW15. See Dun. Dig. 4167n.

Negligence of automobile driver and contributory negligence of pedestrian child, held for jury. Harkness v. Z., 182M594, 235NW281. See Dun. Dig. 4167n, 7011, 7033.

Whether either driver of car in which plaintiffs were passengers or driver of car colliding with it were guilty of negligence, held for jury. Dux v. R., 182M611, 235 NW383. See Dun. Dig. 4167a.

In action for injuries in collision at intersection, evidence held to sustain finding that defendant had right of way. Free Press Co. v. B., 183M286, 236NW306. See Dun. Dig. 4167-o.

Prima facie presumption of unreasonable speed created by §2720-4 may be so overcome by circumstances that the statutory right of way is not lost by the vehicle approaching from the right. Hustvet v. K., 184M222, 238NW330. See Dun. Dig. 4167e.

Contributory negligence of driver in collision at street intersection held for jury. Hustvet v. K., 184M222, 238 NW330. See Dun. Dig. 4167-o.

Whether driver making left turn was guilty of contributory negligence held for jury. Fulweiler v. T., 184 M519, 239NW609. See Dun. Dig. 4167h(3).

It was not error to receive testimony as to the conditions at the place of the accident on the day following. Quinn v. Z., 189M589, 239NW902. See Dun. Dig. 3252.

Negligence and contributory negligence at highway intersection held for jury. Quinn v. Z., 189M589, 239NW 902. See Dun. Dig. 4164d, e, f.

The rate of speed of an automobile within four miles of the place of collision is admissible as bearing upon the claim of speed at the time of the accident. Quinn v. Z., 189M589, 239NW902. See Dun. Dig. 3253.

Court did not err in refusing to instruct that subdivision (c) is not decisive or important unless one of parties saw other in time to avert collision. Plante v. P., 186M280, 243NW64. See Dun. Dig. 4164e.

Where plaintiff claimed that injury occurred on crosswalk and defendant that it occurred in street, provisions of this section were properly given to jury. Borowski v. S., 188M102, 246NW540. See Dun. Dig. 4167n.

In action for injuries to pedestrian at slippery intersection, evidence held not to call for instruction that if defendant was prevented from obeying statute by skidding of car, his violation was excusable. Wiester v. K., 188M341, 247NW237. See Dun. Dig. 4162a.

One starting across trunk highway at unobstructed crossing without looking after starting was guilty of contributory negligence as matter of law where struck by truck coming from right. Hermanson v. S., 188M455, 247NW581. See Dun. Dig. 4167n.

Whether pedestrian is guilty of contributory negligence in crossing street against traffic signal, held for jury. Larson v. F., 189M536, 250NW449. See Dun. Dig. 4167n.

Evidence that plaintiff was in intersection appreciable time before defendant approached from right at an excessive rate of speed, held to require submission of contributory negligence to jury. Henjum v. S., 190M 378, 252NW227. See Dun. Dig. 4164e.

Negligence of one colliding with another coming from his left at intersection, held for jury. Id.

In automobile collision at intersection, evidence held not to show defendant guilty of negligence as matter of law. McIlvaine v. D., 190M401, 252NW234. See Dun. Dig. 4167o.

Automobile driver entering intersection slowly and colliding with car coming from his right at high speed, held guilty of contributory negligence as matter of law. Mozes v. B., 190M568, 252NW420. See Dun. Dig. 4164e.

In action for death in accident at intersection, defendant held first in intersection to such extent as to acquire right of priority, though coming in from decedent's left. Williams v. J., 191M16, 252NW658. See Dun. Dig. 4164e.

Contributory negligence in automobile collision at intersection of two country roads, held for jury. Matz v. K., 191M580, 254NW912. See Dun. Dig. 4167o, 7033.

Automobile driver was not required to anticipate that another driver would enter intersection at an excessive and unlawful rate of speed. Id.

Driver of car first entering intersection had a right to assume that car coming from the right half a block away would permit her to clear the intersection in safety. Reynolds v. G., 192M37, 255NW249. See Dun. Dig. 4164e.

Whether driver entering intersection and struck by car coming from the right after passing center of street was guilty of contributory negligence, held for jury. Reynolds v. G., 192M37, 255NW249. See Dun. Dig. 4164e.

Whether automobile driver who stopped momentarily at highway intersection and looked to right and saw another car approaching and then proceeded across intersection without again looking was guilty of contributory negligence, held for jury. Guthrie v. B., 192 M434, 256NW898. See Dun. Dig. 4164e.

While there is not any traffic law directly requiring an automobile to slow up at highway intersection where there are no obstructions or traffic signs, it does not follow that a motorist may approach and enter an intersection heedlessly, at high speed, without looking to see if other cars are ahead of him, right-of-way rule not going to that extent. Id.

Negligence and contributory negligence in a collision at street intersection held for jury. Johnston v. J., 193 M298, 258NW433. See Dun. Dig. 4164e, 7048.

Automobile driver coming from right and colliding in intersection was guilty of contributory negligence as a matter of law where he did not see defendant's automobile until it was within three feet of him, intersection being unobstructed and there being no distracting circumstances. Underdown v. T., 193M260, 258NW502. See Dun. Dig. 4164e, 7048.

An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4167h, 4168, 4173.

Plaintiff having entered the intersection first had the right of way, and had right to assume that driver of approaching car from the right would exercise ordinary

care unless and until he became aware of contrary. Duffey v. C., 193M358, 258NW744. See Dun. Dig. 4164e.

Whether defendant was negligent in collision at street intersection held for jury. Kidd v. M., 193M617, 259NW 546. See Dun. Dig. 4167o(96).

Motorist on the left upon entering intersection first had right of way and could assume, until and unless he became aware to contrary, that driver of truck approaching from his right would exercise ordinary care. Montague v. L., 194M546, 261NW188. See Dun. Dig. 4164e.

Truck driver's negligence and plaintiff's contributory negligence at intersection held for jury. Id.

In action for death of wife in a collision at highway intersection, contributory negligence of plaintiff held for jury. Duncanson v. J., 195M347, 263NW92. See Dun. Dig. 4164e.

Evidence held sufficient to sustain findings that collision between gravel truck and automobile at intersection was proximate result of negligence of truck driver. Id.

In action by motorcycle driver for injuries received in collision at intersection with truck coming from the right, evidence held to sustain finding that truck driver was not negligent and that plaintiff was guilty of contributory negligence. Wetterlind v. H., 195M426, 263NW 462. See Dun. Dig. 4164e.

In action for damages to plaintiff in collision at intersection with car coming from right, negligence of defendant and contributory negligence of plaintiff held for jury, plaintiff being first in the intersection. Nye v. B., 196M330, 265NW300. See Dun. Dig. 4164e.

Driver first reaching intersection has right to assume that car coming from his right will slow down and avoid entering intersection at same time. Id.

Negligence and contributory negligence at intersection held for jury. Williams v. R., 196M397, 265NW270. See Dun. Dig. 4164e.

Plaintiff's failure to see defendant's laundry truck approaching a street intersection over a bridge on her right and to avoid resulting collision with her car held not to constitute contributory negligence as matter of law. Overly v. T., 196M413, 265NW268. See Dun. Dig. 4164e.

Pedestrian all ready on intersection had right to assume within reasonable limits that automobile driver would observe law and yield right of way, until and unless it became apparent that driver would not do so. Cogin v. L., 196M493, 265NW315. See Dun. Dig. 4166.

Burden of proof on issue of contributory negligence of pedestrian at intersection rested upon automobile driver. Id.

Evidence held insufficient to sustain finding of contributory negligence of pedestrian at intersection. Id.

Fact that pedestrian had right of way did not absolve her from exercising ordinary care for her own safety. Id.

In a collision at a right-angle highway intersection between an automobile driven by plaintiff's husband and one driven by defendant, defendant's negligence as a contributory cause of collision was for jury. Kunkel v. P., 197M107, 266NW441. See Dun. Dig. 4164e.

Court erred in not giving to jury, at plaintiff's request, statutory definition of an obstructed view of a highway intersection and speed at which to approach such intersection. Id.

It was error to refuse to read to jury Mason's Minn. St. 1927, §2720-3(a). Id.

Remarks indicating doubt of application by which court prefaced reading of Mason's Minn. St. 1927, §§2720-4(a), were improper. Id.

If court deems it proper to call attention to law which declares that a driver forfeits right of way at an intersection if he enters it without coming to a full stop where there is a stop sign, he should also call attention to law that a driver who enters an intersection at a forbidden speed also forfeits his right of way. Id. See Dun. Dig. 4164f.

Whether defendant used care in ascertaining approach and speed of vehicle at intersection when proceeding across, held for jury. Draxten v. B., 197M511, 267NW 498. See Dun. Dig. 4164e.

Instructions of trial court with reference to duties of respective defendants in approaching intersection examined and held not prejudicial to either party. Useman v. M., 198M79, 268NW866. See Dun. Dig. 4164e.

Where motorist on trunk highway approaching county road looked to his left a sufficient distance to see that no one was nearer to crossing than he or that no one was presenting "reasonable danger of collision," he could direct his vigilance in other directions and should not be held as a matter of law to be guilty of contributory negligence because he does not observe a more distant fast approaching vehicle which wrongfully failed to yield him right of way. Pearson v. N., 198M303, 269 NW643. See Dun. Dig. 4164f.

One need not anticipate negligence of another until he become aware of such negligence. Id. See Dun. Dig. 7022.

Action arising out of a collision between an automobile and a street car, just as former was about across street car tracks, testimony indicating that street car was at a stop taking on or discharging passengers as plaintiff approached tracks to cross them and from a dead stop, raised question of fact for jury. Drown v. M., 199M193, 271NW586. See Dun. Dig. 4164d.

Evidence as to operation of automobiles involved in collision at obstructed intersection in a city and as to character of damages to automobiles held to sustain finding of negligence on part of defendant and no contributory negligence. Timmerman v. M., 199M376, 271NW697. See Dun. Dig. 4164e.

Where motorist, immediately before entering a highway intersection, observed defendants' bus some 150 to 200 feet approaching from right, started to cross same, and was struck by bus when nearly across intersection, questions of negligence and contributory negligence were for jury. Ernst v. U., 199M489, 272NW385. See Dun. Dig. 4164e.

In action for damages in collision between automobile and street car coming from right, evidence held to sustain finding that motorman was negligent in failing to maintain a proper lookout at intersection. Lacheck v. D., 199M519, 273NW366. See Dun. Dig. 4164e.

Conceding that plaintiff was guilty of negligence in not looking to his left before driving his car into a street intersection, held that there was sufficient doubt of causal connection to take case to jury. Butcher v. T., 200M262, 273NW706. See Dun. Dig. 7015.

Motorist, who claimed to have looked both to his right and left before entering street intersection at which his view was not obstructed, there being no distracting circumstances, but who failed to observe defendants' automobile until it was only 10 feet away, held, as matter of law, contributorily negligent. Gotzian v. W., 201M38, 275NW372. See Dun. Dig. 4164e.

Where inferences which may be drawn from evidence are conflicting, negligence and contributory negligence of motorists involved in a collision at an intersection are fact questions for determination of jury. Bayers v. B., 201M546, 277NW239. See Dun. Dig. 4164e.

In collision between street car and automobile at intersection, negligence and contributory negligence held for jury. Drown v. M., 202M66, 277NW423. See Dun. Dig. 4164d.

In collision between truck and automobile at intersection, contributory negligence of plaintiff held for jury. Peterson v. R., 202M320, 278NW471. See Dun. Dig. 4164e.

Where two streets came together and intersected with a cross street, and traffic on the two streets was stopped by traffic officer, ordinary care required crew of street car, on signal to go, to observe traffic on left of street car before making right turn in such manner that swinging overhang of back of car damaged an automobile which could not move because of delay of automobile ahead in starting. Charles P. Anderson v. S., 203M119, 280 NW3. See Dun. Dig. 4164e, 4167g.

Negligence and contributory negligence in injury to pedestrian on cross-walk at intersection held for jury. Johnson v. M., 203M128, 280NW177. See Dun. Dig. 4166.

Pedestrian reaching center of intersection before automobile entered it had right of way on cross-walk. Id.

Motorcycle rider colliding with truck at intersection coming from right was not guilty of contributory negligence as matter of law. Hennek v. L., 203M154, 280NW 180. See Dun. Dig. 4164e.

In action for injuries to boy injured when sled collided with rear part of car at intersection, both parties being concealed from one another by snowbanks, court did not err in failing to submit to jury question whether defendant had car under proper control. Draxton v. K., 203M 161, 280NW288. See Dun. Dig. 4164e.

In action for injuries to boy in collision with car at intersection, court properly instructed that defendant had right to assume that persons on street would not violate city ordinance respecting coasting and sliding. Id. See Dun. Dig. 4167e.

A driver of a motor vehicle is guilty of contributory negligence as a matter of law if he enters an intersecting highway when, to his right, he sees another automobile approaching intersection at such high speed that an ordinarily prudent person would realize imminence of a collision, and there is no indication of an intention to slacken speed or yield right of way. Haeg v. S., 202M425, 281NW261. See Dun. Dig. 4164e.

(a).

If a driver upon arterial highway travels at an unlawful speed across a street intersection, he forfeits right of way which he might otherwise have. Johnston v. S., 190M269, 251NW525. See Dun. Dig. 4167e.

Instruction that it is duty of one to left to yield right of way was prejudicial and misleading where there was evidence indicating that one having right of way had forfeited it by unlawful speed. Draxten v. B., 197M511, 267NW498. See Dun. Dig. 4164e.

(b).

Evidence held to sustain verdict denying recovery to guest in automobile injured on a left turn. Mahan v. M., 185M94, 239NW914. See Dun. Dig. 4164(e)(17).

Negligence and contributory negligence in collision with right side of plaintiff's car while making left turn into private driveway held for jury. Ranwick v. N., 202 M415, 278NW589. See Dun. Dig. 4167h.

(c).

Contributory negligence of pedestrian struck by automobile while on proper crosswalk is generally for jury. Bolster v. C., 188M364, 247NW250. See Dun. Dig. 4167n.

Fact that pedestrian was first upon crossing did not absolve him from duty of exercising ordinary care. Id.

Where plaintiff alighted from his car, parked on right-hand side of a city street at an intersection, passed in front of his own car and into lane of southbound traffic without looking to north to see whether cars were approaching from that direction, he was guilty of contributory negligence as matter of law, notwithstanding that he did glance to north through rear window of his own automobile before alighting therefrom. Murray v. J., 195 M153, 262NW152. See Dun. Dig. 4164e.

That plaintiff had pedestrian's right of way at crossing did not relieve him from duty of exercising due care to avoid injury. Id. See Dun. Dig. 4166.

Driver may be found guilty of negligence in running down pedestrian in act of diagonally crossing a street intersection by showing that pedestrian was visible, that driver failed to observe him, made a left turn cutting corner, and failed to sound reasonable warning, in violation of statute. Reier v. H., 202M154, 277NW405. See Dun. Dig. 4167n.

A pedestrian's duty to exercise due care for his own safety in crossing a street does not require him as a matter of law to look more than once. Id. See Dun. Dig. 4167n.

It was a question for jury whether a proper lookout ahead by driver would have disclosed plaintiff's peril in time to avoid injuring him, evidence being conflicting as to distance between bus and boy as he stepped into street, and also as to presence of parked cars interfering with driver's view ahead. Forseth v. D., 202M447, 278NW904. See Dun. Dig. 4166.

Since children of tender years are apt to run out into streets without regard to ordinary crossings in residence districts, and have no conception of right of way or knowledge of legal regulations of traffic, drivers of vehicles must use due care for their safety. Id. See Dun. Dig. 6980.

After court in charge had limited negligence claimed by plaintiff to failure to keep a proper lookout ahead, any subsequent reference to negligence could not have been understood by jury as submitting any other negligence than as first limited. Id. See Dun. Dig. 9781.

2720-19. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §§2720-199, 2720-200.

Teamster driving across street and struck by street car held guilty of contributory negligence. La Barre v. S., 185M514, 241NW674. See Dun. Dig. 9026.

(a).

Defendant held not guilty of negligence, as a matter of law, for failure to yield right of way to an automobile which collided with his car as latter had just emerged from a private driveway and was stopped with its front wheels just over the edge of the highway; it appearing also that defendant had observed and was taking care to avoid collision with another car coming from opposite direction and that car which collided with him was going at a very high rate of speed and just before collision might have been concealed from defendant's view in a depression in highway. Hardware Mut. Casualty Co. v. A., 191M158, 253NW374. See Dun. Dig. 4167b.

(b).

An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4168, 4173.

2720-20. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-200.

(a).

An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4167h, 4168, 4173.

2720-21. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-215.

One who has stopped at "thru" street has the right of way over traffic coming from his left; but he is not thereby justified in taking close chances. 178M540, 227NW854.

After a driver has stopped for a boulevard sign, he has same right at intersection that he would have at any unmarked intersection. Jacobsen v. A., 188M179, 246 NW670. See Dun. Dig. 4167b.

Passengers in automobile which ignored stop sign at arterial, held not guilty of contributory negligence. Jacobsen v. A., 188M179, 246NW670. See Dun. Dig. 7038, 7040.

Protection of arterial streets or highways with stop signs does not require drivers of cars which enter arterial street to do so at their peril but only to exercise ordinary care. Johnston v. S., 190M269, 251NW525. See Dun. Dig. 4167o.

Operators of cars upon arterial streets protected by stop signs are bound to drive with reasonable care as respects traffic entering from cross streets. Id. See Dun. Dig. 4167o.

After a car has stopped for an arterial highway in response to stop sign, usual rules in regard to right of way and speed prevail. Id. See Dun. Dig. 4167o.

In action for damages to building and property resulting from collision between two motor vehicles at intersection where there was a stop and go sign, question as to which of motor vehicle drivers was negligent, held for jury. Waldron v. P., 191M302, 253NW894. See Dun. Dig. 4067o.

Automobile driver momentarily stopping at highway intersection had right to assume that one coming from right a block away would see her in plain view ahead of him at and in intersection. Guthrie v. B., 192M434, 256NW898. See Dun. Dig. 4164e.

An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4167h, 4168, 4173.

If court deems it proper to call attention to law which declares that a driver forfeits right of way at an intersection if he enters it without coming to a full stop where there is a stop sign, he should also call attention to law that a driver who enters an intersection at a forbidden speed also forfeits his right of way. Kunkel v. P., 197M107, 266NW441. See Dun. Dig. 4167e.

Whether defendant negligently failed to stop in obedience to stop sign, held for jury. Draxton v. B., 197M511, 267NW498. See Dun. Dig. 4164e.

Where motorist on trunk highway approaching county road looked to his left a sufficient distance to see that no one was nearer to crossing than he or that no one was presenting "reasonable danger of collision," he could direct his vigilance in other directions and should not be held as a matter of law to be guilty of contributory negligence because he does not observe a more distant fast approaching vehicle which wrongfully failed to yield him right of way. Pearson v. N., 198M303, 269NW643. See Dun. Dig. 7022.

One driving at 35 miles an hour through a stop sign at intersection of trunk highways was guilty of negligence as a matter of law. Findley v. B., 199M197, 271NW 449. See Dun. Dig. 4164f.

2720-22. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, §§2720-208, 2720-209.

Automobile driving abreast of moving street car, held not charged with notice that such street car was "about to stop" by the mere fact that it reduced its speed on approaching a crossing. Pierce v. Sanden (CCA8), 29F (2d)87.

(a).

It was error to refuse to qualify an instruction that boy by passing street car on left violated law and was guilty of negligence, by stating that, if boy was ten to fifteen feet in front of car before it started, then his violation of statute could not be considered as contributing to his injury. Newton v. M., 186M439, 243NW 684. See Dun. Dig. 4167i.

(b).

Evidence sufficiently established negligence of automobile driver, and absolved passenger in street car from any contributory negligence. Fox v. M., 190M343, 251NW 916. See Dun. Dig. 7026a.

Evidence as to icy condition of street and an obstruction therein made it a jury question whether failure to stop automobile before it came in contact with rear of street car, about to stop, was excusable. Jannette v. M., 193M153, 258NW31. See Dun. Dig. 4167i, 7011.

Laws 1925, ch. 416, §19.—Automobile traveling abreast of street car is not "approaching" the street car, and the car is not "about to stop" merely because it reduces its speed on approaching a crossing. Pierce v. Sanden (CCA8), 29F(2d)87.

One seeking to board a street car is not absolved from all care for his own protection merely because of the statutory duty imposed on the driver of passing automobile, and this is particularly true where the automobile is driving abreast of the moving street car so as to render this section inapplicable. Id.

When street car stops before reaching crossing owing to presence of another car in front of it, and it is apparent that the rear car intends to discharge passengers, it is the duty of a vehicle back of it to stop as required by the statute, there being no safety zone at that spot. Wawin Coal Co. v. Orr (CCA8), 33F(2d)27.

2720-23. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-210.

2720-24. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §§2720-217, 2720-218.

Precautions to be taken by motor trucks and busses when parked on trunk highways. Laws 1933, c. 252.

Court properly charged that it was negligence to park car on left side of road. 178M465, 227NW493.

Whether parking on left side of road with headlights lit was proximate cause of injury to another held for jury. 178M465, 227NW493.

Where highway is tarviated it must be left open for the required width on the paved portion. 180M116, 230 NW270.

Defendant parking truck on highway at night without lights, held negligent as to driver of automobile running into truck. 180M252, 230NW776.

Negligence and contributory negligence, held for jury. 181M32, 231NW244.

Driver of automobile going off of highway by reason of improper parking of a truck held not guilty of contributory negligence as matter of law. Ball v. G., 185 M105, 240NW100. See Dun. Dig. 4171a.

Evidence held to sustain finding that parking of truck in violation of this section was negligence and proximate cause of injury to occupant of another automobile going off of the highway. Ball v. G., 185M105, 240NW 100. See Dun. Dig. 4171a.

Unless excusable or justifiable, one violating statute is liable for injury proximately resulting. Martin v. T., 187M529, 246NW6. See Dun. Dig. 4162a, 4167b.

Evidence held not to require finding that plaintiff was contributorily negligent in parking his car and in what he did preparatory to replacing tire. Lund v. S., 187M 577, 246NW116. See Dun. Dig. 4167b, 4171a.

The evidence sustains a finding that defendant negligently drove his auto against plaintiff's auto, which plaintiff had parked on the side of a highway to replace a punctured tire. Lund v. S., 187M577, 246NW116. See Dun. Dig. 4167b, 4171a.

Evidence held to justify finding of negligence in not keeping truck so equipped that tire change could be made without parking on pavement. Brown v. M., 190M 81, 251NW5. See Dun. Dig. 4171a.

Driver of truck making tire change and also driver of another truck assisting, held both negligent in not leaving statutory clearance and in not setting out flare or giving other adequate warning to approaching traffic. Id. See Dun. Dig. 4167.

Negligence of truck driver colliding with truck standing on highway and leaving less than thirteen feet of pavement for passing on a foggy night, held for jury. Golden v. G., 195M354, 263NW103. See Dun. Dig. 4167dd.

When it is practicable to park on shoulder, a driver is forbidden to park on main traveled highway, and even a momentary stop is a violation of law. Fleenor v. R., 198M163, 269NW370. See Dun. Dig. 4171a.

Whether defendant's stopping his vehicle was proximate cause of collision between two other vehicles held for jury. Id.

Contributory negligence of deceased driver of car in night time in colliding with truck which had just pulled car out of ditch, blocking highway, held for jury. Szyperski v. S., 198M154, 269NW401. See Dun. Dig. 4164.

Whether truck driver and driver of automobile which truck just pulled out of ditch in the night time, blocking road, were guilty of negligence with respect to approaching car, held for jury. Id. See Dun. Dig. 4164a.

Court properly refused to give plaintiff's request to charge jury that §2720-54½ was applicable to issues, evidence not justifying finding that defendant's truck was "parked" or "left standing" upon highway at time of accident. Hartwell v. P., 198M488, 270NW570. See Dun. Dig. 4171a.

This section held properly read to jury in action by guest passenger driven through fog. Thorstad v. D., 199 M543, 273NW255. See Dun. Dig. 4167b, 4171a.

Where deceased truck driver stopped truck ten feet from curb and at an angle with timbers extending out of back toward center of highway and was on pavement near to or in front of cab at time defendant's car struck timbers, without any explanation of stoppage, contributory negligence of truck driver was question for jury. Hack v. J., 201M9, 275NW381. See Dun. Dig. 4171a.

Jury might reasonably find that violation of plaintiff's rights was proximate cause of damage where evidence would support findings that plaintiff was traveling at a lawful speed, turned into left lane of highway to pass a truck ahead of him in a lawful manner, was compelled to turn back into right lane because of defendant's obstruction of highway, and that as a result his truck collided with other truck and was damaged. Hanson v. H., 202M381, 279NW227. See Dun. Dig. 4168, 7002.

Plaintiff was not negligent as a matter of law in standing at night on shoulder six feet from traveled portion of highway and eight feet behind parked car. Allanson v. C., 203M93, 280NW6. See Dun. Dig. 4166.

A passenger having no control over automobile or driver is not answerable for driver's negligence in parking automobile despite fact that passenger pushed car while driver performed this maneuver. Id. See Dun. Dig. 7038.

(a).

This section held not applicable to injury to passenger in taxicab resulting from collision of automobile from rear when taxicab stopped at a place where vehicle coming from behind would be unable to pass because of car rails and icy ruts. Paulos v. K., 195M603, 263NW913. See Dun. Dig. 4171a.

(a).

Instruction as to negligence and contributory negligence with reference to this statute held erroneous. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4171a.

This subdivision held not unreasonable as applied to a certain highway. Ball v. G., 185M105, 240NW100. See Dun. Dig. 4171a.

(c).

The words, "impossible to avoid stopping and temporarily leaving such vehicle in such position," mean that car must be disabled to extent that it is not reasonably practicable to move it so as to leave fifteen feet for free passage of other cars. Geisen v. L., 185M479, 242NW 8. See Dun. Dig. 4171a.

Standing of disabled car upon highway, held not proximate cause of injury to guest in another car which turned over when attempting to pass. Geisen v. L., 185 M479, 242NW8.

Car with condenser burned out was disabled as a matter of law. Geisen v. L., 185M479, 242NW8.

2720-25. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, §2720-219.

2720-26. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, §2720-221.

Where question was whether defendants ought to have anticipated that car would start down grade, evidence that car had been parked at same place in same manner many times previously without starting was admissible. 173M250, 217NW127.

Doctrine of res ipsa loquitur applied where a taxicab rolled backwards down hill, driverless, and crashed into and broke a plate glass window. Borg & Powers Furn. Co. v. C., 294M305, 260NW316. See Dun. Dig. 7044, 7047.

2720-27. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-223.

2720-28. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §§2720-206, 2720-224, 2720-232.

2720-29. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, §§2720-168 to 2720-170.

2720-30. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Duty and liability of city for accident occurring on state trunk highway by operating snow plow. Op. Atty. Gen. (844b-8), Apr. 30, 1936.

2720-31. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-31.

A tractor at time of accident held "actually engaged in work upon the surface of a highway." Johnson v. B., 184M576, 239NW772.

The exception contained in section 2720-31 applies to all of the provisions of the Uniform Highway Traffic Act, including §2720-47. Johnson v. B., 184M576, 239NW 772. See Dun. Dig. 4162a.

An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4167h, 4168, 4173.

2720-32. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-158.

Ordinance prohibiting use of streets passing through school grounds in daytime, held no defense by village to action for injuries resulting from obstruction by chain, but presence of chains was not negligence as matter of law. 180M407, 231NW14.

An ordinance of the city of St. Paul providing for the punishment of a person convicted of driving an automobile while under the influence of intoxicating liquor is valid. State v. Hughes, 182M144, 233NW874. See Dun. Dig. 4165.

Act leaves regulation of traffic by means of control devices such as semaphores to municipalities. Turnbloom v. C., 189M588, 250NW570. See Dun. Dig. 4165.

City may not require semi-annual inspection of automobiles and payment of fee therefor and prohibit operation of vehicles not displaying certificate of inspection. Op. Atty. Gen. (632a-22), July 29, 1935.

(c).
Power of city to prohibit operation of noisy automobiles between certain hours, discussed. Op. Atty. Gen., Aug. 16, 1932.
City of Stillwater has authority to limit weight of commercial vehicles on such of its streets as are not trunk highways. Op. Atty. Gen. (59a-32), Aug. 16, 1935.

2720-33. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-157.
An ordinance of the city of St. Paul providing for the punishment of a person convicted of driving an automobile while under the influence of intoxicating liquor is valid. State v. Hughes, 182M144, 233NW874. See Dun. Dig. 4165.

TITLE III

THE SIZE WEIGHT, CONSTRUCTION AND EQUIPMENT OF VEHICLES

2720-34. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-219.

2720-35. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §§2720-270 to 2720-272.
Court correctly charged that, if excessive width of truck did not cause or contribute to cause accident, then that fact was not material. Kouri v. O., 191M101, 253NW98. See Dun. Dig. 4167.
Requested instruction embodying statutory language was properly refused under evidence establishing conclusively that alleged offending vehicle did not exceed authorized width, though there may have been a protruding plank. Ohad v. R., 197M483, 267NW490. See Dun. Dig. 4167c.

2720-36. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-238.

2720-37. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-278.
Failure on part of owner of vehicle to apply for and secure a permit as provided for in §2720-37 was not an error within intent of §2682, and such owner is not entitled to a refund because he is unable to carry the weight upon which taxes were based. Op. Atty. Gen. (632e-24), Feb. 21, 1935.
City of Stillwater has authority to limit weight of commercial vehicles on such of its streets as are not trunk highways. Op. Atty. Gen. (59a-32), Aug. 16, 1935.

2720-38. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-277.

2720-39. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-278.

2720-40. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-279.
School districts in operation of busses must comply with regulations under this section. Op. Atty. Gen. (377a-9), Apr. 4, 1935.

2720-41. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-261.

2720-42. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-274.
In action for damages in automobile accident occurring when trailer struck plaintiff's car while defendant was attempting to pass, evidence held to render it error not to instruct as to whipping of trailer. Dziewczynski v. L., 193M580, 259NW65. See Dun. Dig. 4167o.

2720-42a. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-272.

2720-43. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-255.
It was not error to refuse to read statute as to brakes of motor vehicles, there being no evidence of faulty brakes or of negligence of driver in their application. Forseth v. D., 202M447, 278NW904. See Dun. Dig. 9774.
Person operating motor vehicle with defective brakes commits a misdemeanor. Op. Atty. Gen. (494b-23), Jan. 28, 1937.

2720-44. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-257.
Failure to sound horn before overtaking pedestrian on highway held only ground upon which charge of negligence could rest. Boyer v. J., 185M221, 240NW538. See Dun. Dig. 4167b(71).
Driver may be found guilty of negligence in running down pedestrian in act of diagonally crossing a street intersection by showing that pedestrian was visible, that driver failed to observe him, made a left turn cutting corner, and failed to sound reasonable warning, in violation of statute. Reier v. H., 202M154, 277NW405. See Dun. Dig. 4167n.

2720-45. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-259.
Instruction as to negligence and contributory negligence with reference to this statute held erroneous. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167c.

2720-46. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-260.

2720-47. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-258.
The exception contained in §2720-31 applies to all of the provisions of the Uniform Highway Traffic Act, including §2720-47. Johnson v. B., 184M576, 239NW772. See Dun. Dig. 4162a.

2720-48. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §§2720-235, 2720-236, 2720-240.
Laws 1929, c. 407, §4, amends this section by adding thereto subdivision (g).
Failure of plaintiff to have his headlights lighted or to stop within the distance in which he could see an object ahead of him, held not as a matter of law the proximate cause of injury from negligence of defendant in proceeding on wrong side of road. 181M400, 232NW 710. See Dun. Dig. 4164a.
There is no statute requiring persons leading animals on shoulders of paved highways to carry a light after dark. Raths v. S., 195M225, 262NW563. See Dun. Dig. 4167c.
(a).
Burden of proving excuse or justification for violation is upon automobile driver. Martin v. T., 187M529, 246 NW6. See Dun. Dig. 4162a.
Evidence sustains a finding that automobile was parked on highway without a rear light. Martin v. T., 187M539, 246NW6. See Dun. Dig. 4162a, 4167c, 4171a.
Evidence did not require a finding that plaintiff was guilty of contributory negligence in colliding with parked car as he came from rear. Martin v. T., 187M529, 246 NW6. See Dun. Dig. 4171a.
Violation of this section and §§2720-24, 2720-54 may be excusable or justifiable if, without fault on part of driver, automobile is compelled to be parked on highway without rear light. Martin v. T., 187M529, 246NW6. See Dun. Dig. 4171a.
Unless excusable or justifiable, one violating statute is liable for injury proximately resulting. Martin v. T., 187M529, 246NW6. See Dun. Dig. 6976.
Whether failure to have headlights lighted was proximate cause of collision at intersection at which plaintiff had right of way, held for jury. Krinke v. G., 187M 595, 246NW376. See Dun. Dig. 4164e.
A driver who fails to have his headlights lighted a half hour after sunset is liable as a matter of law for result proximately coming therefrom; and, if such failure contributes to his injury, he cannot recover. Krinke v. G., 187M595, 246NW376. See Dun. Dig. 4167c.
Driver with headlights tilted down so that he could only see 30 feet ahead was guilty of contributory negligence in striking a stalled truck. Orrvar v. M., 189M306, 249NW42. See Dun. Dig. 4167(c).
It is duty of automobile drivers to have their lamps lighted a half hour after sunset. Romann v. B., 190M419, 252NW80. See Dun. Dig. 4167c.
Where a freight train of 86 cars is passing over a highway crossing in night time and an automobile, traveling from 35 to 45 miles per hour, runs into nineteenth car from the end, failure to sound statutory bell and whistle signals cannot be considered a proximate cause of collision. Sullivan v. B., 286NW350. See Dun. Dig. 4167c.
(b).
Even though guest was negligent in riding in car operated without proper headlights required by statute,

it was question for jury whether her negligence or assumption of risk proximately contributed to or caused injury when car left highway. White v. C., 189M300, 249 NW328.

Commissioner of Highways has authority to insist that vehicles using the highway be equipped as provided in subsection (b) throughout the day. Op. Atty. Gen., Sept. 3, 1931.

(e).

Defendant held negligent in parking truck without light in highway and liable for injuries and damage resulting from car running into it. 180M252, 230NW776.

In action to recover damages for injuries received when plaintiff's automobile overtook and collided with defendant's unlighted truck, plaintiff's alleged contributory negligence did not appear as matter of law. Brown v. R., 186M321, 243NW112. See Dun. Dig. 4167c.

(f).

Failure to have bicycle equipped with lamps or reflectors was negligence as matter of law. Campbell v. S., 186M293, 243NW142. See Dun. Dig. 4167c.

(g).

In action for death of a pedestrian killed while leading team of horses upon right shoulder of highway in the night time, negligence and contributory negligence held for jury. Raths v. S., 195M225, 262NW563. See Dun. Dig. 4166.

If automobile driver was negligent in striking horses on shoulder while being led by deceased pedestrian, such negligence was proximate cause of death whether deceased was struck by car or was struck down by horses struck by car. Id. See Dun. Dig. 4167c.

2720-49. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §§2720-242, 2720-243.

2720-50. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-247.

Contributory negligence of motorist colliding with concrete mixer left in highway to guard a partially newly constructed culvert, held for jury. Wicker v. N., 183M79, 235NW630. See Dun. Dig. 7033(2).

Evidence held insufficient to support any finding that wife riding with motorist was guilty of contributory negligence when motorist ran into unlighted concrete mixer in highway. Id.

Driver of automobile on a dark drizzly night colliding with an unlighted truck held not guilty of contributory negligence as a matter of law. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167c.

In action for death of a pedestrian killed while leading team of horses upon right shoulder of highway in the night time, negligence and contributory negligence held for jury. Raths v. S., 195M225, 262NW563. See Dun. Dig. 4167r.

Truck driver was not bound to have head lights that would reveal animals at large beyond traveled highway. Wedel v. J., 196M170, 264NW689. See Dun. Dig. 4167c.

Where motorist failed to discover substantial obstruction to travel which was within range of illumination of his headlights until it was impossible to avoid a collision with it, his contributory negligence held for jury, where distracting circumstance was present. Twa v. N., 201M234, 275NW846. See Dun. Dig. 7020.

2720-51. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

2720-52. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §§2720-252, 2720-253.

2720-53. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-266.

2720-54. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-239.

Contributory negligence of one running into an unlighted truck held for the jury. 174M105, 218NW249.

Evidence held to sustain finding of negligence on part of operator of truck standing on pavement without rear light. 174M105, 218NW249.

Negligence and contributory negligence affecting recovery for injuries from collision with unlighted parked car, held for jury. 181M32, 231NW244.

Liability insurer of truck violating this section, compelled to pay damages to guest in a touring car held not entitled to contribution from the owner of the touring car, though both the owner of the truck and the driver of the touring car were negligent. Fidelity & Casualty Co. v. C., 183M182, 236NW618. See Dun. Dig. 1924.

Instruction as to negligence and contributory negligence with reference to this statute held erroneous. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167c.

In action for injuries growing out of collision with rear end of standing unlighted truck, negligence of defendant held for jury. Olson v. P., 185M571, 242NW283. See Dun. Dig. 4167c.

Whether negligence of driver of automobile colliding with rear of unlighted standing truck was sole proximate cause of guest's injury, held for jury. Olson v. P., 185M571, 242NW283. See Dun. Dig. 4167c, 6999.

In action for injuries to guest in automobile against operator of unlighted truck standing on highway, whether plaintiff was guilty of contributory negligence, held for jury. Olson v. P., 185M571, 242NW283. See Dun. Dig. 6975a, 7026a.

Unless excusable or justifiable, one violating statute is liable for injury proximately resulting. Martin v. T., 187M529, 246NW6. See Dun. Dig. 6976.

One participating in changing tire on automobile inexcusably parked near center line of pavement without tail light was guilty of contributory negligence as matter of law. Dragotis v. K., 190M128, 250NW804. See Dun. Dig. 4167o, n. 16.

Contributory negligence of one participating in changing tire on automobile inexcusably parked near center of pavement without tail light was a contributing proximate cause notwithstanding he was not struck by oncoming car but by parked car propelled against him. Id. See Dun. Dig. 4167o, n. 16.

Guest in car which collided with unlighted trailer parked on highway at night, held not guilty of contributory negligence as matter of law. Brown v. M., 190M 81, 251NW5. See Dun. Dig. 7038.

Where truck was parked on pavement at night to change tire and driver was assisted by driver of another truck, who also parked on pavement without lights, held that cause of collision could not be held as matter of law to have been negligence of either truck driver so as to relieve employer of other. Id.

It was a question for jury whether plaintiff who, on a stormy night on a slippery street, drove his car into rear of a truck parked diagonally without lights, was guilty of contributory negligence. Tully v. F., 191M84, 253NW22. See Dun. Dig. 4167c, 4167o.

2720-54½. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144, post §2720-294, but the repeal makes reference only to Laws 1933, c. 252, and the amendatory act of Jan. 24, 1936, Ex. Sess. 1936, c. 71, is not mentioned, but as the repealing act is a revision of Laws 1927, c. 412, the Uniform Highway Traffic Act, the act of Jan. 27, 1936, amending this section is probably impliedly repealed, especially in view of §10929.

Similar provisions of Highway Traffic Regulation Act, see §2720-264.

Garage man and one assisting him merely as a matter of accommodation in removing a wrecked car from highway were not engaged in a joint enterprise, and negligence of garage man in violating flare statute could not be imputed to person accommodating him. Peterson v. N., 193M400, 258NW729. See Dun. Dig. 7037.

Court properly refused to give plaintiff's request to charge jury that section was applicable to issues, evidence not justifying finding that defendant's truck was "parked" or "left standing" upon highway at time of accident. Hartwell v. P., 198M488, 270NW570. See Dun. Dig. 4171a.

Although drivers of trucks were both injured in a collision, and automobile in which plaintiff was riding collided with hazard created, whether driver of truck was guilty of negligence in failing to carry flares or in failing to get them out, and such negligence was proximate cause of injury, held for jury. Johnson v. S., 200M 428, 274NW404. See Dun. Dig. 4167c.

It was error to permit an employee in state highway patrol department to testify that fuses prescribed by section were impractical and that highway department had approved a different kind. Id.

Evidence of failure to warn other travelers by means of flares of presence of disabled bus parked on highway, and of relief bus standing on pavement for a longer period than resonably necessary to effect traffic maneuver in which it was engaged, held to justify trial court in giving substance of this section with regard to busses "parked" on highway at night. Twa v. N., 201M234, 275 NW846. See Dun. Dig. 4171a.

Trucks operating in city exclusively are not required to carry flags, flares and fuses. Op. Atty. Gen., Aug. 19, 1933.

2720-55. [Repealed.]

Repealed Apr. 26, 1937, c. 464, §144.

Similar provisions of Highway Traffic Regulation Act, see §2720-250.

Volunteer fire department when using fire equipment in connection with active service of the department may equip its vehicles with red or green lights visible from the front. Op. Atty. Gen., Feb. 6, 1933.

Privately owned automobiles of members of volunteer fire department may use red and green lights. Op. Atty. Gen., Apr. 5, 1933.

TITLE IV

HIGHWAY TRAFFIC SIGNS

2720-56. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-160.
A railroad company which constructs an overhead bridge in accordance with statute, with a center pier which is approved by highway commissioner, does not have duty of caring for a reflector placed upon said pier to warn a traveler on highway. Murphy v. G., 189M109, 248NW715. See Dun. Dig. 8120, 8121.

2720-57. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-161.

2720-58. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-166.

2720-59. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act see §2720-59.

TITLE V

PENALTIES

2720-60. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-281.
Person operating motor vehicle with defective brakes commits a misdemeanor. Op. Atty. Gen. (494b-23), Jan. 28, 1937.

2720-61. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
This section is not void for uncertainty as to the *meaning of the words "under the influence of intoxicating* liquor." 176M164, 222NW909.
Admissibility and sufficiency of evidence. 176M164, 222 NW909.

Instruction defining offense in words of statute, held sufficient. 176M164, 222NW909.
Violation is a gross misdemeanor of which justice of peace has no jurisdiction. State v. Kartak, 195M188, 262 NW221. See Dun. Dig. 5340.

Evidence held sufficient to sustain conviction of driving while intoxicated. State v. Traver, 198M237, 269NW 393. See Dun. Dig. 4167*l*.
Manner in which automobile accidents happen has some bearing upon issue of defendant's condition as to intoxication. Id.

Justice of peace cannot enter order forbidding person convicted to drive or operate a motor vehicle. Op. Atty. Gen. (266b-11), Apr. 20, 1937.
Village may make act prohibited by this section misdemeanor under ordinance. Id.

(b).
A justice of the peace is without authority to enter an order under section revoking a driver's license for a period of one year. Op. Atty. Gen. (266B-24), April 4, 1939.

2720-62. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §§2720-168, 2720-169.

TITLE VI

PROCEDURE UPON ARREST. REPORTS

2720-63. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §§2720-284 to 2720-286.

2720-64. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Similar provisions of Highway Traffic Regulation Act, see §2720-290.

TITLE VII

EFFECT OF AND SHORT TITLE OF ACT

2720-65. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Provision reenacted, see §2720-291.

2720-66. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.

2720-67. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.
Provision reenacted, see §2720-293.

2720-68, 2720-69. [Repealed.]
Repealed Apr. 26, 1937, c. 464, §144.

TAX ON GASOLINE, ETC., USED FOR MOTOR OR OTHER VEHICLES ON HIGHWAYS

2720-70. Definitions.
* * * *
(a) "Gasoline" includes all gasoline, distillate, benzine, naptha, benzol, liberty fuel, and other volatile and inflammable liquids used or useful in producing or generating power for propelling motor or other vehicles used on the public highways of this state, *but does not include the product commonly* known as kerosene oil. For the purpose of calculating the tax imposed by this Act, the term "gasoline" as herein defined shall be construed to include any lubricating oil or other petroleum products inter-mixed with any of the said liquids although said lubricating oil or other petroleum products may not be used or useful in producing or generating power for propelling motor or other vehicles used on the public highways of this state. (As amended Jan. 6, 1934, Ex. Ses., c. 51, §1.)
* * * *
(d) "Distributor" means and includes every person, partnership, company, joint stock company, corporation or association of persons, however organized, who brings or causes to be brought gasoline into this state or any other petroleum product by or through pipe lines, trucks, barrels, tank cars, or in carload lots, for storage, sale, distribution, or use therein, and every person, partnership, company, joint stock company, corporation, or association of persons, however organized, who produces, refines, manufactures or compounds gasoline or any other petroleum products in this state for storage, sale, distribution or use therein. (As amended Apr. 22, 1933, c. 417, §1.)
* * * *
Sec. 2 of Act Jan. 6, 1934, cited, provides that the act shall take effect from its passage.
Mixing of non-taxable petroleum products with taxable petroleum products prohibited. Laws 1939, c. 408.
175M276, 221NW6.
The gasoline tax law does not permit a rebate or refund of taxes on gasoline used by county or other municipal subdivision of the state, except taxes paid on gasoline which is used for the purposes other than in a motor vehicle, such as gasoline used in road work other than hauling material. Op. Atty. Gen., May 28, 1931.
Municipality is not exempt from payment of tax on gas, except when used solely for road work other than hauling material. Op. Atty. Gen., Mar. 1, 1933.
Diesel motor fuel used in machinery operated for purpose of constructing or maintaining public highways is "gasoline" subject to tax. Op. Atty. Gen. (324e), Aug. 31, 1937.
(b).
Gas used by department of rural credit to propel motor vehicles by it on public highways is not exempt from tax. Op. Atty. Gen., Jan. 17, 1934.
Tax paid for gasoline used in tractor hauling material in a gravel pit and out upon public highways should be refunded. Op. Atty. Gen. (324k), Nov. 8, 1935.
Tax should be reimbursed to a person for gasoline consumed in a feed grinder mounted on a truck where same motor was used for power to propel truck and to operate feed grinder, being a "tractor used solely for *agricultural purposes." Op. Atty. Gen. (324q), Mar.* 11, 1938.

2720-71. Excise tax on gasoline.—There is hereby imposed an excise tax of four cents per gallon on all gasoline used in producing or generating power for propelling motor vehicles used on the public highways of this state. Said tax shall be payable at the times, in the manner; and by the persons hereinafter specified, provided that one cent per gallon of said tax shall be effective only to September 1st, 1940, and on said date said tax shall revert to three cents per gallon. ('25, c. 297, §2; Apr. 24, 1929, c. 310, §1; *Apr. 23, 1937, c. 383, §1; Apr. 21, 1939, c. 350.)*
Gasoline used by state armory commission is not exempt from tax. Op. Atty. Gen. (324e), May 11, 1936.
Gasoline sold by distributors and dealers upon which former three cents per gallon rate of tax has been imposed, and which has been or in due course will be certified to the auditor, shall not be subject to increased rate and may not be collected from consumer. Op. Atty. Gen. (324g), Apr. 23, 1937.
Tax levied by state is a sales tax within purview of federal highway act of June 16, 1936, and not an occupation tax, and such tax must be paid for gasoline used by

officers at pavilions on army reservation for other than exclusive government purposes. Op. Atty. Gen. (379a-3), Nov. 30, 1937.

2720-71½. Gasoline distributors to report to oil inspector.—It shall be the duty of every distributor and of every person who sells gasoline to report to the Chief Oil Inspector the number of gallons of gasoline in his possession at the time this act takes effect, and the inspector shall thereupon determine and certify as herein provided the tax on account of such tax as is hereby imposed. (Act Apr. 24, 1929, c. 310, §2.)

Sec. 3 of Act Apr. 24, 1929, c. 310, provides that the act shall take effect May 1, 1929.

No duty is imposed to determine and certify one cent per gallon increased tax on stocks of inspected and tax certified gasoline in possession of distributors and sellers on effective date of Laws 1937, c. 383. Op. Atty. Gen. (324g), Dec. 7, 1937.

2720-72. Certified statements by chief oil inspector of oils inspected—Mailing—Tax—Evaporation and loss—Adjustments—Payment of taxes due inspector—Time for.—On or before the fifteenth day of each month the inspector shall cause to be mailed to each person for whom he inspected gasoline as required by the oil inspection laws of this state during the next preceding calendar month, a certified statement of the date of and number of gallons included in each inspection, the aggregate number of gallons inspected and the amount of tax payable on account thereof; provided, however, that in computing such tax a deduction of three per cent of the quantity of gasoline inspected shall be allowed for evaporation and loss; provided further that each person for whom gasoline has been inspected as herein provided for and to whom the three per cent tax deduction has been allowed for evaporation and loss shall at the time of settlement submit satisfactory evidence that one-third of such three per cent deduction from the tax shall have been paid or credited to retail service stations or other retail distributors on all quantities of gasoline bought or consigned to them for storage or sale. The inspector may make therein proper adjustment, either by addition, or deduction, for errors occurring in any previous statement. There shall be noted upon the records of the inspector the date of the mailing of such statement, which record shall be conclusive evidence of the proper mailing thereof. There may be included in such statement the amount due for oil inspection fees for the same period. The amount of tax and fees shown on such statement shall be paid to the inspector on or before the 25th day of the same month in which the statement is so mailed; provided, however, that if in the opinion and discretion of the chief oil inspector, the financial condition of the distributor is such as to render the extension of credit unsound and it appears he is, or will be unable to pay said tax on the due date, then and in that event the chief oil inspector, upon the advice of the attorney general may immediately take such action, civilly or otherwise, as the circumstances may warrant, to conserve out of the distributor's assets sufficient money or property to pay the claim for gasoline taxes payable at such time. ('25, c. 297, §3; '27, c. 434, §1; Apr. 17, 1935, c. 202; Apr. 26, 1937, c. 476, §1.)

There is no authority for demanding payment in advance of the 15th of the succeeding month, even though chief oil inspector may have reason to suspect that there will be difficulty in enforcing a collection. Op. Atty. Gen., Feb. 29, 1932.

This section refers to ordinary losses incident to normal handling of gasoline and not to unusual or occasional losses caused by accident or destruction of extraordinary quantities of gasoline, and claim for reimbursement for losses occasioned by breaking of pipes or leaking of tanks may be approved when supported by proper affidavits. Op. Atty. Gen. (324b), June 4, 1937.

Affidavit by distributor might be considered as "satisfactory evidence" of payment or credit to retail distributor. Op. Atty. Gen. (324b), Sept. 13, 1937.

Where distributor failed to furnish satisfactory proof of payment or credit to retailer, no further allowances for evaporation and loss can be made until retirement has been met. Id.

Payment of one-third of 3 per cent deduction may be made in merchandise if acceptable by retail stations. Op. Atty. Gen. (324q), July 15, 1938.

2720-74. Penalty and interest on non-payment of tax—Lien—Time of attachment.—In case any tax imposed hereunder is not paid when due, a penalty of ten per cent of the amount thereof shall immediately accrue, and thereafter said tax and penalty shall bear interest at the rate of one per cent per month until the same is paid. The tax imposed hereunder and the penalties and interest thereon shall be a lien upon all and singular the property, estate and effects of the distributor or person from whom it is due, and shall take precedence of all demands and judgments against, and of all liens and encumbrances upon the property of, such distributor or person. The lien herein referred to shall attach to the aforesaid property from the date of the inspection of said gasoline. (As amended Apr. 26, 1937, c. 476, §2.)

2720-75. Chief inspector to certify unpaid taxes to Attorney General.—(a) On or before the twenty-fifth day of each month, the chief oil inspector shall deliver to the attorney general a certified statement of the amount due from each person, partnership, association, corporation or licensee hereunder whose excise taxes are delinquent. Such statement shall give the address of the persons, partnership, association, corporation or licensee owing such tax, the month for which the tax is due, the date of delinquency and such other information as may be required by the Attorney General. It shall be the duty of the Attorney General upon receipt of any such statement to bring an action in the district court of Ramsey County or of the county in which the delinquent licensee or taxpayer resides, to recover the amount of such tax with penalty, interest, costs and disbursements. The judgment of the court when so obtained shall draw interest at the rate of one per cent per month and shall be enforceable in the manner provided by law for the enforcement of judgments obtained in civil actions.

(b) No inspection shall be made for any person, partnership, association, corporation or licensee whose tax has been certified to the Attorney General.

(c) No person, partnership, association, corporation or licensee shall sell gasoline to any distributor for whom inspections may not be made by reason of delinquency in the payment of any tax due under this Act. ('25, c. 497, §7; '27, c. 434, §5; Apr. 22, 1933, c. 417, §2.)

Requirements of this section are not affected by receivership. Op. Atty. Gen., Jan. 10, 1934.

In view of Laws 1933, c. 413, §19(9)(d), the appropriation act, attorney general is entitled to reimbursement from oil inspection division for costs and disbursements and other expenses incurred in connection with delinquent gas tax cases certified by oil inspection division. Op. Atty. Gen. (324q), Feb. 8, 1935.

2720-77. Reports by distributors, etc.

In a transaction involving sale of gasoline between two licensed distributors, it is duty of distributor who sells gasoline to pay tax. Op. Atty. Gen. (324), Apr. 28, 1936.

2720-78. Gasoline deemed intended for use in motor vehicles—Fiduciary relation of certain collectors—Violation of duties—Embezzlement.—All gasoline inspected for unloading in this state and all gasoline produced in or brought into this state shall be deemed to be intended for use in motor vehicles in this state, and every person who pays the tax imposed by this act shall be deemed to have paid the same for and on behalf of the person using such gasoline in motor vehicles in this state. If the person directly or indirectly paying said tax shall not in fact use said gasoline in motor vehicles in this state, but shall sell or otherwise dispose of the same except for use as provided in Section 11 of this act, he is hereby authorized to collect from the person to whom said gasoline is so sold or disposed of the tax so paid by him, and is hereby required upon request to make, sign and deliver to such person an invoice of such sale or disposition. The authorization for the collection of gasoline taxes by persons other than the chief oil inspector or his deputies for and in behalf of the State of Minnesota, shall be deemed to es-

tablish a fiduciary relation, for the violation of which, in failure to make payment when due and payable, the person so authorized to collect gasoline taxes, shall be deemed guilty of embezzlement, and punished accordingly. (As amended Apr. 26, 1937, c. 476, §3.)

2720-79. Reimbursements in certain cases—penalties for false statement.—Any person who shall buy and use gasoline for any purpose other than use in motor vehicles or for use in machinery operated for the purpose of constructing, reconstructing or maintaining the public highways of this state, and who shall have paid any excise tax required by this act to be paid directly or indirectly through the amount of such tax being included in the price of such gasoline or otherwise, shall be reimbursed and repaid the amount of such tax paid by him upon presenting to the inspector a verified claim in such form and containing such information as the inspector shall require and accompanied by the original invoice thereof, which claim shall set forth the total amount of such gasoline so purchased and used by him other than in motor vehicles, or for use in machinery operated for the purpose of constructing, reconstructing or maintaining the public highways of this state, and shall state when and for what purpose the same was used. If the inspector be satisfied that the claimant is entitled to payment, he shall approve the claim. Upon the approval of any such claim the inspector shall draw his check on the gas tax account payable to the person entitled thereto. No such repayment shall be made unless the claim and invoice shall be presented to the inspector within four months from the date of such purchase.

Every person who shall make any false statement in any claim or invoice presented to the inspector, or who shall knowingly present to the inspector any claim or invoice containing any false statement, or shall collect, or cause to be paid to him or to any other person any such refund without being entitled thereto, shall forfeit the full amount of such claim and be guilty of a misdemeanor. ('25, c. 297, §10; '27, c. 434, §6; Apr. 19, 1929, c. 257, §1; Apr. 23, 1937, c. 376, §1.)

Farm tractor fuel defined. Laws 1939, c. 114.

No refund for truck hauling snow plows, etc.; but a refund for tractors hauling snow plows, etc. Op. Atty. Gen., June 1, 1929.

City entitled to refund for gasoline used in stationary engines, but not for that used in fire trucks, street sprinklers or a utility truck. Op. Atty. Gen., July 18, 1929.

The gasoline tax law does not permit a rebate or refund of taxes on gasoline used by county or other municipal subdivision of the state except taxes paid on gasoline which is used for purposes other than in a motor vehicle, such as gasoline used in road work other than hauling material. Op. Atty. Gen., May 28, 1931.

No refundment is made to person who has paid gas tax to bulk dealer when latter has failed to pay such tax to state. Op. Atty. Gen., Nov. 29, 1933.

Gas used by department of rural credit to propel motor vehicles by it on public highways is not exempt from tax. Op. Atty. Gen., Jan. 17, 1934.

Gasoline taxes will not be refunded to owners of trucks and busses doing an interstate business by reason of fact that adjoining state has instituted a new system of taxing such vehicles on gasoline used on highways of that state which was purchased in some other state. Op. Atty. Gen. (324i), Dec. 20, 1934.

State departments are not exempt from payment of tax. Op. Atty. Gen. (324m), Apr. 26, 1935.

Tax paid for gasoline used in tractor hauling material in a gravel pit and not upon public highways should be refunded. Op. Atty. Gen. (324k), Nov. 8, 1935.

Section 2720-72 refers to ordinary losses incident to normal handling of gasoline and not to unusual or occasional losses caused by breaking of pipes or overflowing or leaking of tanks, and claims for reimbursement for extraordinary losses may be approved when supported by proper affidavits. Op. Atty. Gen. (324b), June 4, 1937.

No refund can be made for gasoline used in machinery operated for constructing, reconstructing or maintaining public highways. Op. Atty. Gen. (324k), Aug. 6, 1937.

There can be no refund of tax paid on gasoline used in operating machinery in construction or maintenance of highway. Op. Atty. Gen. (324k), Sept. 8, 1937.

Persons who have paid tax on gasoline consumed in operating machinery for purpose of processing or conveying sand and gravel, rock or other road building material used for purpose of constructing and maintaining public highways are not entitled to reimbursement. Op. Atty. Gen. (324k), Sept. 24, 1937.

Chief oil inspector has power to promulgate a regulation that no claim for a refund of gasoline tax will be paid unless full deduction for automobile and truck use is taken from total gallonage indicated by sales tickets and invoices supporting claim and that claimant must designate total gallonage used by automobiles or trucks during time within which exempted use is claimed, listing names and addresses of vendors or resellers of gasoline, amount purchased from each one during said period, and a speedometer reading for period on all motor vehicles used by claimant. Op. Atty. Gen. (324k), Oct. 25, 1937.

No refunds may be made on gasoline used in machinery operated by municipality for purpose of constructing, reconstructing and maintaining public highways. Op. Atty. Gen. (324k), Dec. 28, 1937.

Tax should be reimbursed to a person for gasoline consumed in a feed grinder mounted on a truck where same motor was used for power to propel truck and to operate feed grinder, being a "tractor used solely for agricultural purposes." Op. Atty. Gen. (324q), Mar. 11, 1938.

"Original invoice" means first written account of a sale and purchase given or issued by seller to buyer of any merchandise or property. Op. Atty. Gen. (324q), May 4, 1938.

Question of what further proof should be submitted in support of claims for reimbursement may be met by adoption of rules and regulations under §2720-85. Id.

2720-79½. Distributors to report the amount on hand.—It shall be the duty of every distributor and of every person who sells gasoline to report to the inspector the number of gallons of gasoline in his possession at the time this act takes effect, and the inspector shall thereupon determine and certify as herein provided the additional tax on account of such gasoline which is hereby imposed. (Act Apr. 19, 1929, c. 257, §2.)

2720-80. Gasoline used by United States not subject to tax—Refunds.

Does not extend exemption from tax in favor of United States postal special delivery messenger. Op. Atty. Gen., Jan. 3, 1934.

Owner of truck operating under contract with civil works administration of federal government is not entitled to refund on gasoline used. Op. Atty. Gen., Mar. 17, 1934.

Exemption from tax does not extend to state director of national emergency council who uses gasoline in an automobile which is driven from her home to place of employment. Op. Atty. Gen. (324e-1), June 28, 1934.

Gasoline used by National Guard during emergency is not exempt from tax. Op. Atty. Gen. (414a-3), Aug. 7, 1934.

State Emergency Relief Administration may purchase gasoline without paying state tax only to the extent that federal money is being used. Op. Atty. Gen. (324f), Jan. 14, 1935.

Gasoline used by state armory commission is not exempt from tax. Op. Atty. Gen. (324e), May 11, 1936.

Statute does not require that refund claimed by federal land bank shall be in any particular form or that inspector shall prescribe form in which claim shall be made. Op. Atty. Gen. (324k), Aug. 8, 1936.

Tax levied by state is a sales tax within purview of federal highway act of June 16, 1936, and not an occupation tax, and such tax must be paid for gasoline used by officers at pavilions on army reservation for other than exclusive government purposes. Op. Atty. Gen. (379a-3), Nov. 30, 1937.

Oath may not be administered by a postmaster on claim for gasoline tax refund. Op. Atty. Gen. (834), Jan. 16, 1939.

2720-81. Gasoline used in foreign or interstate commerce—Refunds.—Neither this act nor any of the provisions hereof shall apply to or be construed to apply to foreign or interstate commerce, except in so far as the same may be permitted under the Constitution and the laws of the United States.

No tax shall become due hereunder on account of gasoline until the same shall have come to rest in this state and is held for sale, distribution or use therein, or on account of gasoline exported from this state; provided, however, that no tax shall become due hereunder on account of gasoline brought into the state by boat or barge or other like form of transportation and delivered at a marine terminal in this state for storage, or brought into the state by pipeline and delivered at a pipeline terminal or tank farm in this state for storage, until the same shall have been loaded (1) into tank cars, ships or barges, tank trucks,

tank wagons or other types of transportation equipment, containers or facilities at such marine or pipeline terminal or tank farm for ultimate destination within this state, or (2) placed in any tank or other container from which any sales or deliveries not involving transportation are made directly.

If through error or otherwise any person shall cause to be inspected gasoline in interstate commerce, or gasoline exported from this state, and if he shall within twenty days of the date of such inspection make verified report of the facts to the inspector, no tax shall be certified or collected on account thereof.

If through error or otherwise a tax shall have been imposed and paid on account of gasoline in interstate commerce or gasoline exported from the state, the same shall be refunded pursuant to the refund provisions hereof or by immediate adjustment in accordance with the provisions of Mason's Minnesota Statutes of 1927, Section 2720-72 of this act. (As amended Apr. 20, 1939, c. 308.)

2720-83. [Repealed.]
Repealed Apr. 22, 1933, c. 417, §3.

2720-85. Rules and regulations by inspector—Powers and duties of inspector—Powers of Director of Standards.
Chief oil inspector has power to promulgate a regulation that no claim for a refund of gasoline tax will be paid unless full deduction for automobile and truck use is taken from total gallonage indicated by sales tickets and invoices supporting claim and that claimant must designate total gallonage used by automobiles or trucks during time within which exempted use is claimed, listing names and addresses of vendors or resellers of gasoline, amount purchased from each one during said period, and a speedometer reading for period on all motor vehicles used by claimant. Op. Atty. Gen. (324k), Oct. 25, 1937.
Question of what further proof than those provided for in §2720-79 should be submitted to board of claims for reimbursement of gasoline taxes can be met by adoption and promulgation of suitable and reasonable regulations. Op. Atty. Gen. (324q), May 4, 1938.

2720-86. Dealers must be licensed.—No person shall engage in or purport to be engaged in or hold himself out as being engaged in the business of buying or selling petroleum products as a Distributor unless he shall be licensed to carry on such business by the Chief Oil Inspector. (Act Apr. 22, 1933, c. 417, §4.)
Laws 1933, c. 417, §9, renumbers §2720-86, Mason's Minn. Stat. 1927, as §2720-91.

2720-87. Unlicensed dealers shall not be inspected.—No inspections shall be made for any person, partnership, association or corporation, subject to the provisions of this Act, not having a license within ninety days from the passage of this Act. (Act Apr. 22, 1933, c. 417, §5.)
Laws 1933, c. 417, §9, renumbers §2720-87, Mason's Minn. Stat. 1927, as §2720-92.

2720-88. Licenses.—License to engage in the business of handling petroleum products as hereinabove referred to shall be issued by the Chief Oil Inspector to any responsible person, partnership, association or corporation which shall apply therefor, and shall pay to the Chief Oil Inspector at the time of making application for license and annually thereafter a license fee of one dollar and further comply with the conditions herein provided, to-wit:

(a) The application shall be in writing and under oath and shall set forth the place or places where the applicant intends to carry on the business for which the license is desired; the kind and estimated volume of business to be done, the volume of business done during the preceding year, if any; the full names and addresses of persons constituting the firm, partnership, association or corporation, as the case may be.

(b) The Chief Oil Inspector shall examine the application submitted by each person, partnership, association or corporation. The Chief Oil Inspector shall require the applicant or licensee to execute and file with the Chief Oil Inspector, a bond to the State of Minnesota with corporate sureties to be approved by the Chief Oil Inspector, in such amount as hereinafter provided, the form to be fixed by the Chief Oil Inspector and approved by the Attorney General conditioned for the payment when due of all gasoline excise taxes, revenue inspection fees and penalties and accrued interest arising in the ordinary course of business or by reason of any delinquent moneys which may be due the Chief Oil Inspector of the State of Minnesota and such bond to cover any and all places of business within the State where petroleum products are distributed by the distributor or licensee. All licenses and bonds executed and delivered hereunder shall be for the duration of one year, expiring May 31st. The bond herein required shall be in twice the amount of the monthly average of the amount of gasoline excise taxes paid by the applicant during the year immediately preceding. As to new applicants the amount of such bond shall be twice the amount of the estimated average amount of gasoline excise taxes anticipated to be paid by such applicant. If any licensee desires to be exempt from furnishing such bond as hereinbefore provided he shall furnish an itemized financial statement showing the assets and the liabilities of the applicant and if it shall appear to the Chief Oil Inspector from the financial statement or otherwise that the applicant is financially responsible then the Chief Oil Inspector may exempt such applicant from furnishing such bond until the Chief Oil Inspector otherwise orders.

(c) Whenever the licensee shall sell, dispose of or discontinue his business during the term of his license, he shall at the time such action is taken, notify the Chief Oil Inspector in writing and shall surrender his license. (Act Apr. 22, 1933, c. 417, §6.)
Added to Mason's Minn. Stat., 1927, by Laws 1933, c. 417, §6. Former §2720-88 in 1931 Supp. is renumbered §2720-92a.
Requirements of this section are not affected by receivership. Op. Atty. Gen., Jan. 10, 1934.
License fee must be returned if application is rejected. Op. Atty. Gen. (324h), Mar. 10, 1937.
Term "responsible person" includes suitability, experience and integrity of applicant as well as financial responsibility. Op. Atty. Gen. (325a-5), Oct. 12, 1937.
Applicants are not entitled as matter of right to be exempted from furnishing bonds upon order of chief oil inspector. Op. Atty. Gen. (325a-6), Nov. 22, 1937.

2720-89. May require additional bonds.—The Chief Oil Inspector, whenever he is of the opinion that any bond heretofore given by any licensee is inadequate an amount as determined by this act for the protection of the State, may require the licensee to give an additional bond in such amount as he may determine and direct the bond to be approved by the Chief Oil Inspector and conditioned as heretofore set forth. (Act Apr. 22, 1933, c. 417, §7; Apr. 26, 1937, c. 476, §4.)
Added to Mason's Minn. Stat., 1927, by Laws 1933, c. 417, §7. Former §2720-89 is renumbered §2720-92b.

2720-90. May make regulations.—The Chief Oil Inspector may issue regulations not inconsistent with law to assist in the enforcement of this act. Such regulations shall have the full force and effect of law when duly promulgated. The Chief Oil Inspector may exercise the authority vested in him under other laws to assist in the enforcement of this Act. (Act Apr. 22, 1933, c. 417, §8.)
Added to Mason's Minn. Stat., 1927, by Laws 1933, c. 417, §8. Former §2720-90 is renumbered §2720-92c.

2720-91. Penalty for violation.—Any person who fails or refuses to comply with any of the provisions of this Act shall be guilty of gross misdemeanor. (Act Apr. 22, 1933, c. 417, §10.)
Former §2720-91 is renumbered §2720-92d.
Distributor may be guilty of a gross misdemeanor for failure to submit "satisfactory evidence" required by §2720-72 or under reasonable administrative rule. Op. Atty. Gen. (324b), Sept. 13, 1937.

2720-92a. Apportionment of gasoline tax funds.—All moneys accruing to the state road and bridge fund from taxes imposed on the use of gasoline under authority of Section 5 of Article 9 of the constitution shall be distributed and used in the manner and for

the purposes hereinafter set forth. (Act Apr. 22, 1929, c. 283, §1.)

This section was numbered 2720-88 in Mason's 1931 Supplement. It is renumbered 2720-92a to conform to change in numbering made by Laws 1933, c. 417.

Duty of public to care for the poor is absolute and any fund may be transferred to poor fund, except where they are held for a specific purpose imposed by law, and money in road and bridge fund raised pursuant to §2565(5) may be transferred, but a different rule applies with reference to gas tax money received pursuant to Laws 1929, c. 283. Op. Atty. Gen. (107a-12), July 3, 1935.

2720-92b. State Auditor, State Highway Commissioner to apportion funds.—On or before the first Tuesday in April of each year the commissioner of highways, the state treasurer and the state auditor shall estimate the probable sum of money that will accrue during the current calendar year to the state road and bridge fund from such tax and shall apportion such sum among the several counties of the state as herein provided and the commissioner of highways shall forthwith send a statement of such apportionment to the state auditor and to the county auditor of each county showing the amount apportioned to each county during such year. (Act Apr. 22, 1929, c. 283, §2.)

This section was numbered 2720-89 in Mason's 1931 Supplement. It is renumbered 2720-92b to conform to change in numbering made by Laws 1933, c. 417.

County may issue warrants in anticipation of gasoline tax as estimated and apportioned by state officers. Op. Atty. Gen., Sept. 23, 1933.

2720-92c. State Auditor to draw his warrant.—The state auditor shall on August 1 of each year draw his warrant on the state road and bridge fund in favor of each county for the amount to which such county is entitled under said apportionment out of the receipts from such tax during the first half of the current calendar year and shall on February 1 of each year draw his warrant on the state road and bridge fund in favor of each county for the amount to which such county is entitled under said apportionment out of the receipts from such tax during the last half of the next preceding calendar year. (Act Apr. 22, 1929, c. 283, §3.)

This section was numbered 2720-90 in Mason's 1931 Supplement. It is renumbered 2720-92c to conform to change in numbering made by Laws 1933, c. 417.

2720-92d. Limitations of amount to each county.—Not less than three-fourths of one per cent nor more than three per cent of the moneys accruing to the state road and bridge fund from such tax shall be apportioned to any one county in any one year. In the making of such apportionment regard shall be had to the mileage of county and town roads and the traffic needs and conditions of the respective counties. (Act Apr. 22, 1929, c. 283, §4.)

This section was numbered 2720-91 in Mason's 1931 Supplement. It is renumbered 2720-92d to conform to renumbering made by Laws 1933, c. 417.

2720-92e. County board to designate county aid roads.—The county board of each county is hereby authorized to designate as a county aid road any county or town road therein and any portion of a county line or town line road with the construction and maintenance of which such county or any town therein is charged, but no state aid road, except a State Aid Parkway, shall be designated as a county aid road. Such designation shall be evidenced by resolution of the county board and by an order signed by the chairman thereof and countersigned by the county auditor, which order shall be filed in the office of the county auditor. Such designation may by like resolution and order be revoked at any time.

All county aid roads shall be constructed, improved and maintained by the county. A certified copy of the resolution either designating or revoking a county aid road shall be filed with the commissioner of highways. Provided that the County Board of any County may designate as a county aid road any road situate in the unplatted portion of any village in said county by a resolution adopted by unanimous vote of such Board. Such designation may by resolution and order adopted by a majority vote, be revoked at any time. (Act Apr. 22, 1929, c. 283, §5; Jan. 9, 1934, Ex. Sess., c. 60, §1.)

This section was numbered 2720-92 in Mason's 1931 Supplement. It is renumbered 2720-92e to conform to renumbering made by Laws 1933, c. 417.

Sec. 2 of Act Jan. 9, 1934, cited, provides that the act shall take effect from its passage.

Op. Atty. Gen., Aug. 21, 1929; note under §2551.

Op. Atty. Gen., Apr. 28, 1933; note under §2720-93.

Taxpayer has no right to appeal from action of county board in designating a town road as a county aid road. Op. Atty. Gen., Aug. 31, 1929.

Roads designated as county aid roads prior to passage of this act must be redesignated as such gasoline tax cannot be used to pay expenses of maintaining roads prior to designation. Op. Atty. Gen., Sept. 20, 1929.

Employment of town supervisor on county aid road is not prohibited by §1096, Mason's Stat. Op. Atty. Gen., May 3, 1930.

Under this section, construed with section eight, the county board may designate a small portion of a road with a view of building a bridge under this act. Op. Atty. Gen., June 16, 1930.

A county board has authority to buy a right of way and construct a new road, and if a township refuses to contribute the amount fixed by the county board, board would be justified in refusing to build the road. Op. Atty. Gen., Mar. 17, 1931.

The amendment made by Laws 1931, c. 221, applies only to county aid roads designated as such subsequent to its approval, and an agreement of town made in March to pay approximately three-tenths of cost of a road must stand. Op. Atty. Gen., Oct. 1, 1931.

State Aid parkways may be designated by county board within corporate limits of city of fourth class. Op. Atty. Gen. (379c-11), Mar. 5, 1935.

Judicial road may be dseignated as county aid road. Op. Atty. Gen. (377b-4), Mar. 27, 1935.

Town board cannot alter or vacate road designated county aid road. Op. Atty. Gen. (380b-2), May 1, 1935.

County board may designate as a county aid road a road recently established by township board along a section line and not along a town or county line. Op. Atty. Gen. (380b-2), Sept. 25, 1935.

Materials in town road designated as county aid road, such as culverts, belong to county. Op. Atty. Gen. (377b-4), Nov. 7, 1935.

2720-93. Use and disposition of gas tax.—The moneys apportioned to each county under the provisions hereof and not used to pay interest or principal on county road or bridge bonds as hereinafter provided, shall be used solely in the construction, improvement and maintenance of county aid roads therein, including bridges, culverts and other structures appurtenant to such county aid roads, and shall be expended by the county board on such county aid roads as it shall determine and in the manner herein provided. All county aid roads constructed under the provisions of this act shall be constructed under the supervision and according to plans and specifications made by the county highway engineer, filed with the county auditor and approved by the county board. Provided that in any county where 40 per cent or more of the real estate taxes for any year are unpaid on the date that taxes for said year become delinquent according to law, the county board of such county may, in the year such taxes become delinquent, use at least 50 per cent of the moneys so appropriated to said county for the purpose of paying any part of the interest or principal on bonds or warrants heretofore or hereafter issued by the county for road or bridge purposes.

Provided, further, that in any county having an assessed valuation of less than $750,000.00 the county board, by unanimous vote and with the approval thereof by the village council of any village of said county, may designate as a county aid road any street, streets, or parts of streets within the platted or unplatted portion of any such village, and may appropriate such sums of money for improving the same as they may, on motion, determine. Provided, further, that the county board by a majority vote may rescind said designation. (Act Apr. 22, 1929, c. 283, §6; Apr. 20, 1933, c. 325, §1; Apr. 1, 1935, c. 96; Mar. 25, 1937, c. 111, §1; Apr. 21, 1939, c. 366, §1.)

Subject to limitations of section 7 of Laws 1929, c. 283, gasoline tax money may be used in buying graders and other road equipment. Op. Atty. Gen., June 1, 1929.

Mason's 1927 Statutes, §2563, relating to plans and specifications, is not applicable to this act. Op. Atty. Gen., May 1, 1930.

Mason's 1927 Statutes, §2595, is applicable to the construction of county aid roads. Id.

There is no legal objection to the county board fixing a reasonable rate for the use of its road machinery on county aid roads and charging the county aid roads funds with such amount and crediting same to the road and bridge fund. Op. Atty. Gen., May 12, 1930.

The provision requiring that county aid roads shall be constructed under the supervision and according to plans and specifications made by the county highway engineer are mandatory. Op. Atty. Gen., June 28, 1930.

Moneys from the road and bridge fund of a county may be used to further the construction, improvement and maintenance of county aid roads. Op. Atty. Gen., Nov. 27, 1931.

County appointing its elected county surveyor as county highway engineer is not entitled to state aid. Op. Atty. Gen., Feb. 8, 1933.

Laws 1933, c. 325, amending Laws 1929, c. 283, by authorizing, and in certain cases compelling, use of money distributed to counties from gasoline taxes, for payment of principal and interest of county road or bridge bonds, is constitutional. Op. Atty. Gen., Mar. 29, 1933.

County cannot delegate authority to construct, improve and maintain county aid roads to townships. Op. Atty. Gen., Apr. 28, 1933.

A snow plow may be purchased out of moneys received by county representing proceeds of gasoline tax paid into road and bridge fund, but this equipment cannot be used on state aid or other roads except county aid roads. Op. Atty. Gen., Nov. 3, 1933.

Necessary engineering expenses of county engineer in surveying and preparing land for county aid road may be paid out of fund derived from gasoline tax. Op. Atty. Gen. (380b-1), Jan. 21, 1935.

Gas tax moneys may be used in construction of judicial road redesignated by county as county aid roads. Op. Atty. Gen. (377b-4), Mar. 27, 1935.

Insofar as Laws 1937, c. 366 (amending §§2720-94 and 2720-95), is in conflict with Laws 1937, c. 111 (amending §2720-93), such chapter 366 must control and it is within discretion of county board to distribute to the towns of the county any amount not to exceed remainder of moneys left after complying with §2720-94 and such amount not exceeding maximum limits is entirely within discretion of county board, so it should make any distribution to township on basis of mileage of county and town roads and traffic needs and conditions. Op. Atty. Gen. (388b-4), Aug. 18, 1937.

County board is not authorized to designate as a county aid road, streets, or highways within platted portion of a village, and may not expend moneys apportioned to county in constructing or improving such streets or highways, except in counties having an assessed valuation of less than $750,000. Op. Atty. Gen. (377b-4), Mar. 17, 1938.

2720-94. County board may apportion funds.—Of the moneys so apportioned to each county and not used to pay interest or principal on county road or bridge bonds or warrants as provided in Section 6 of this Act [§2720-93], fifty per cent thereof shall be devoted to the construction and maintenance of county aid roads by the county board and shall be expended by the county board in the various towns of the county substantially according to the mileage, traffic needs and conditions of county aid roads within each town within the county. Provided, however, that moneys so apportioned may also be expended on state aid roads when and if necessary or desired to match or supplement federal funds allotted to the counties for the construction, reconstruction, maintenance or improvement of state aid roads.

The town board of any town may appropriate to the county, moneys out of its road and bridge fund, or from its share of the gas tax moneys distributed to such town as hereinafter provided, and any moneys so appropriated shall be expended by the county in the construction and maintenance of county aid roads within such town. (Act Apr. 22, 1929, c. 283, §7; Apr. 20, 1933, c. 325, §2; Apr. 23, 1937, c. 366, §1.)

Op. Atty. Gen., Mar. 29, 1933; note under §2720-93.

While a town must ordinarily pay for the cost of construction of a county aid road it cannot be compelled to contribute to the maintenance of the road after it has been constructed. Op. Atty. Gen., Feb. 18, 1930.

A township cannot expend any town funds in the construction or graveling of county aid roads, even under an agreement that the county board will later reimburse it when it obtains funds, though a township may appropriate money from its road and bridge fund to the county to be expended by the county. Op. Atty. Gen., Oct. 23, 1931.

Gas tax fund may be used to pay cost of constructing garage to house road machinery to be used on county aid roads. Op. Atty. Gen. (107b-16), June 5, 1935.

Insofar as Laws 1937, c. 366 (amending §§2720-94 and 2720-95), is in conflict with Laws 1937, c. 111 (amending §2720-93), such chapter 366 must control and it is within discretion of county board to distribute to towns of county any amount not to exceed remainder of moneys left after complying with §2720-94 and such amount not exceeding maximum limits is entirely within discretion of county board, so it should make any distribution to townships on basis of mileage of county and town roads and traffic needs and conditions. Op. Atty. Gen. (388b-4), Aug. 18, 1937.

County may not use any part of gasoline tax moneys apportioned to it to oil or otherwise improve streets within platted portion of a village unless they have been designated as a state aid road under §2560 and are used to match or supplement federal funds allotted to county for construction, or maintenance of state aid roads. Op. Atty. Gen. (377b-4), Mar. 17, 1938.

2720-94a. Emergency act.—This act is hereby declared to be an emergency measure and shall be in force and effect until April 20, 1941. Every law now in force inconsistent herewith is hereby suspended until April 20, 1941. (Act Apr. 20, 1933, c. 325, §3; Mar. 11, 1935, c. 39; Apr. 5, 1937, c. 168, §1; Apr. 21, 1939, c. 366, §2.)

2720-94b. Disposition of gasoline tax—Apportionment to cities and villages in certain cases.—That in any county of this state now or hereafter having an assessed valuation not to exceed $16,000,000 and a population of not to exceed 36,000 inhabitants, the County Board of any such county may appropriate and pay, as hereinafter provided, out of any such county's annual share or allotment of the excise tax on gasoline, to any city or village in any such county having within its corporate limits a public bridge crossing a navigable river, an amount not to exceed 10% of any such county's annual share of said gasoline tax allotment. Such annual appropriation as hereinbefore provided, shall be made only for the purpose of retiring and paying serial bonds and interest due annually, issued by any such city or village prior to February 1st, 1919, to pay for the construction of any such bridge. Provided, however, that the total principal amount of said existing unpaid bonds issued for such purpose does not exceed the sum of $25,000. (Act Apr. 25, 1935, c. 299, §1.)

Sec. 2 of Act Apr. 25, 1935, cited, provides that the act shall take effect from its passage.

2720-95. Distribution of gasoline tax by county boards to towns.—The remainder of the moneys so apportioned to each county may be distributed to the towns of said county other than unorganized townships in the manner hereinafter set forth but subject to the provisions of Section 2571, Mason's Minnesota Statutes, 1927, if such distribution be made by the direction of the county board then, on or before February 1st and August 1st of each year, the County Board in each of the counties of this state shall meet for the purpose of apportioning fifty per cent of the amount of such moneys as shall be represented in the State warrant issued by the State Auditor to such county and shall apportion said amount to the several towns throughout their county, basing such apportionment upon the mileage of the county and town roads, the traffic needs and conditions, and the cost of construction and maintenance of roads in the respective towns in said county; and the County Auditor of said county shall forthwith send the statement of such apportionment to the chairman of the Town Board and the town clerk of each of said towns showing the amount apportioned to each town of said county and shall also send his warrant for such amount to the town treasurer of each town. Such moneys allotted to towns shall be expended for construction and maintenance of the town roads within the respective towns under the supervision of the Town Board or an appointee of the Town Board or may be expended under the supervision and according to plans and specifications of the County Highway Engineer if requested by the Town Board, who, in such case, shall act in a supervisory capacity as

directed by the Town Boards in the construction or maintenance of such roads within such town as shall be specified by such Town Board, provided, however, that none of said monies so allotted shall be expended for the purchase of road equipment or machinery. Provided further, that in the event the remainder of the monies so apportioned to each county is not distributed to the towns of any such county, the county board shall use and devote such remainder in the construction, improvement and maintenance of county aid roads in any such county in accordance with the provisions of Sections 6 and 7, Chapter 283, Laws 1929 as amended. (Laws 1929, c. 283, §8; Apr. 20, 1931, c. 221, §1; Apr. 23, 1937, c. 366, §2.)

The county board may designate a small portion of a road merely for the purpose of building a bridge with the aid of town funds. Op. Atty. Gen., June 16, 1930.

While the voters of a township must consent to the amount of a tax levy for roads and bridges, the town board, if it has funds on hand authorized by the voters, may appropriate same under this section without a vote of the people. Op. Atty. Gen., June 30, 1930.

Township may not borrow money in anticipation of future payments from gasoline tax. Op. Atty. Gen., Mar. 11, 1931.

After town meeting has voted to levy tax for construction of county aid roads, county auditor must extend the same and county board cannot waive the contribution. Op. Atty. Gen., Apr. 27, 1931.

After townships have actually paid money into the county treasury as contribution toward cost of constructing county aid roads, the county board is powerless to refund it. Op. Atty. Gen., Apr. 27, 1931.

Laws 1931, c. 221, amending this section cannot be given retroactive effect and applies only to county aid roads designated as such subsequent to the approval of the act on Apr. 20, 1931. Op. Atty. Gen., May 12, 1931.

Town cannot reimburse individual who has voluntarily contributed improvement of county aid road. Op. Atty. Gen., Mar. 2, 1934.

Terms of section with respect to contribution by township are exclusive and must be complied with. Op. Atty. Gen. (377b-3), Mar. 27, 1935.

Where after passage of Laws 1931, c. 221, county board required town to contribute in excess of 20% of cost of construction and improvement of county aid roads, such township is entitled to reimbursement for excess payments made. Op. Atty. Gen. (324d), Aug. 2, 1935.

County board has authority to buy right of way and construct a new road as a county aid road along a section line and ask township to contribute full purchase price paid for right of way, providing it does not exceed 20% of the construction and maintenance, but it is not mandatory on town to contribute, in which case county board need not designate road as a county aid road. Op. Atty. Gen. (380b-2), Sept. 25, 1935.

Where township prior to enactment of Laws 1931, c. 221, paid in excess of 20% of cost of a county aid road which was actually constructed after effective date of such act, it is not entitled to reimbursement for such excess payments. Op. Atty. Gen. (377b-3), Oct. 20, 1936.

Where township prior to passage of Laws 1931, c. 221, arranged with county to pay 30% of construction of highway, but made no payment until after passage of that law, township is bound by its agreement. Id.

Neither electors of a town nor town board has anything directly to say as to what road or roads shall be designated by county board on which money is to be expended. Op. Atty. Gen. (434b-13(a)), Mar. 19, 1937.

Insofar as Laws 1937, c. 366 (amending §§2720-94 and 2720-95), is in conflict with Laws 1937, c. 111 (amending §2720-93), such chapter 366 must control and it is within discretion of county board to distribute to the towns of the county any amount not to exceed remainder of moneys left after complying with §2720-94 and such amount not exceeding maximum limits is entirely within discretion of county board, so it should make any distribution to townships on basis of mileage of county and town roads and traffic needs and conditions. Op. Atty. Gen. (388b-4), Aug. 18, 1937.

It is duty of each town to accept its share of distributions, but it may appropriate money so received to county to be used in construction and maintenance of county aid roads within the town. Op. Atty. Gen. (324d), Dec. 27, 1937.

County boards should base apportionment of money to townships upon mileage of county and town roads, traffic needs and conditions, and cost of construction and maintenance in respective towns, and it is not mandatory that a township which has more county roads and less township roads than another township should receive a less amount of money. Op. Atty. Gen. (377b-10h), Dec. 27, 1937.

It is within discretion of county board to distribute various towns remainder of moneys left after complying with §2720-94. Op. Atty. Gen. (377b-10h), Dec. 27, 1937.

It is mandatory upon county highway engineer to prepare plans and specifications when requested by town board, and approval of county board is not necessary. Op. Atty. Gen. (122b-5), June 6, 1938.

Cost of preparing plans and specifications by county highway engineer may not be charged against township. Id.

It is not mandatory for county board to distribute 50% of amount of money apportioned to county from gas tax money, and any amount not exceeding 50% may be distributed to township. Op. Atty. Gen. (377B-2), Jan. 28, 1939.

In view of Laws 1939, c. 366, this section is in full force and effect and grants county board authority to turn over to township 50% of so-called gasoline tax money. Op. Atty. Gen. (324d), June 9, 1939.

Distribution of gas tax money to towns is discretionary, and county may refuse to make division in any particular year. Id.

While county has wide discretion in apportioning money among townships, and its distribution of gas money would not be set aside by a court except for an abuse of discretion, its decision should not be made contingent upon any contribution by the towns. Op. Atty. Gen. (324d), June 14, 1939.

2720-96. Unorganized townships.—Unorganized townships shall for the purposes of this act be deemed to be towns, and the county board shall as to such unorganized townships perform the duties and functions of the town board of organized townships. (Act Apr. 22, 1929, c. 283, §9.)

2720-97. To be credited to County Road and Bridge Fund in certain counties.—All moneys apportioned under the provisions of this act to counties having a population of more than 200,000 shall be credited to the county road and bridge fund of such county and shall be appropriated and expended by such county upon public highways exclusive of trunk highways within such county, in such amounts as the county board of said county shall deem advisable, for the purposes and in the manner in which other moneys accruing to such fund may be appropriated and expended and such appropriations and expenditures shall not be limited or restricted by the provisions of Sections 5, 6, 7, 8 and 9 [§§2720-92 to 2720-96] of this act. (Act Apr. 22, 1929, c. 283, §10.)

2720-98. Provisions severable.—If any section, sentence, clause or phrase of this act is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this act. (Act Apr. 22, 1929, c. 283, §11.)

2720-99.—All acts and parts of acts inconsistent with the provisions hereof are hereby repealed. (Act Apr. 22, 1929, c. 283, §12.)

FARM TRACTOR FUEL

2720-100. Definitions.—The words, terms and phrases in this act are for the purpose hereof defined as follows:

(a) "Farm tractor fuel", by whatever name called, means and includes any liquid prepared, advertised, offered for sale, sold for use as or used for the generation of power for the propulsion of tractors, that when tested by the methods of the petroleum division of the bureau of mines, United States Government, and the American Society for Testing Material (A. S. T. M.) meets the following specifications:

1. Shall be free from water and suspended matter.

2. The initial boiling point shall not be lower than 225 degrees Fahrenheit.

3. When ten per cent has been recovered in the receiver the temperature shall not be lower than 276 degrees Fahrenheit.

4. When 95 per cent has been recovered in the receiver the temperature shall not be lower than 464 degrees Fahrenheit.

5. The end point shall not be higher than 540 degrees Fahrenheit.

6. The color of farm tractor fuel shall be not lighter than minus sixteen Saybolt. If the natural color of the product is less than this reading a sufficient quantity of suitable dye shall be added to give the required color as herein prescribed. (Act Mar. 31, 1939, c. 114, §1.)

2720-100a. Oil inspection division to make rules and regulations.—The oil inspection division of the department of agriculture, dairy and food, shall have the power and authority to make all reasonable rules and regulations necessary for the enforcement of this act. (Act Mar. 31, 1939, c. 114, §2.)

2720-100b. Farm tractor fuel to be inspected.—All farm tractor fuel, as defined herein, shall be subject to the laws of the state of Minnesota with reference to the inspection of petroleum products, and shall be subject to the same fees for inspection as is provided for in the inspection of gasoline and kerosene. (Act Mar. 31, 1939, c. 114, §3.)

2720-100c. Not to be subject to tax.—Farm tractor fuel, as herein defined, may be inshipped into and sold in the state of Minnesota and shall not be subject to the Minnesota state gasoline tax; provided, however, that when any such tractor fuel is used to propel any vehicle upon the highways of the state of Minnesota, or for use in machinery operated for the purpose of constructing, reconstructing, or maintaining the public highways, the product will then be considered gasoline for purposes of taxation and shall be taxed in accordance with existing laws and/or rules and regulations issued by the chief oil inspector. (Act Mar. 31, 1939, c. 114, §4.)

2720-100d. Blending prohibited.—Blending of this fuel with taxable petroleum products is prohibited. (Act Mar. 31, 1939, c. 114, §5.)

2720-100e. Violations—penalties.—Failure to comply with the provisions of this act shall be deemed a gross misdemeanor and also sufficient cause for cancellation of the distributor's license. (Act Mar. 31, 1939, c. 114, §6.)

2720-100f. Effective April 15, 1939.—This act shall take effect and be in force from and after April 15th, 1939. (Act Mar. 31, 1939, c. 114, §7.)

SAFETY RESPONSIBILITY ACT

2720-101. Definitions.—The following words as used in this Act shall have the following meanings:

(a) The singular shall include the plural; the masculine shall include the feminine and neuter as requisite;

(b) "Commissioner" shall mean Commissioner of Highways acting directly or through his duly authorized officers and agents.

(c) "Person" shall include individuals, partnerships, corporations, receivers, referees, trustees, executors and administrators, and the owner of any motor vehicle as requisite; but shall not include the state or any political subdivision thereof;

(d) "Motor Vehicle" shall include trailers, motorcycles, tractors, and every vehicle which is self-propelled.

(e) "Province" means any province of the Dominion of Canada.

(f) "Chauffeur" every person who is employed for the principal purpose of operating a motor vehicle, and every person who drives a motor vehicle while in use as a public or common carrier of persons or property. (Act Apr. 21, 1933, c. 351, §1.)

Selander v. F., 195M310, 262NW874; note under §2720-104.

2720-102. Drivers license forfeited when.—The right and permission of any person to operate a motor vehicle, and the license of any person to operate a motor vehicle, who shall be final order or judgment of any Court of competent jurisdiction have been convicted of, or shall have forfeited any bond or collateral given for, a violation of any of the following offenses hereafter committed; to-wit:

(a) Manslaughter resulting from the operation of a motor vehicle.

(b) Driving a vehicle while under the influence of intoxicating liquor or narcotic drug.

(c) 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.

(d) Conviction or forfeiture of bail upon three charges of reckless driving all within the preceding twelve months.

(e) Conviction of a driver of a motor vehicle, involved in an accident resulting in the death or injury of another person, upon a charge of failing to stop and disclose his identity at the scene of the accident;

(f) An offense in any other State or in any Province of the Dominion of Canada, which, if committed in this State, would be in violation, as aforesaid, of any of the above specified provisions of the laws of this State; shall be revoked by the commissioner, and shall not at any time thereafter be renewed, nor shall he be thereafter permitted or licensed to operate any motor vehicle until he shall have given proof of his ability to respond in damages for any liability thereafter incurred resulting from the ownership or operation of a motor vehicle and arising by reason of personal injury to or death of any one person in the amount of at least Five Thousand Dollars ($5,000.00), and subject to the aforesaid limit for each person injured or killed of at least Ten Thousand Dollars ($10,000.00), for such injury to or death of two or more persons in any one accident, and for damage to property of at least One Thousand Dollars ($1,000.00) resulting from any one accident. Such proof in said amounts shall be furnished for each motor vehicle owned or registered by any such person. If any such person shall fail to furnish said proof, his right and permission to operate a motor vehicle and his license to operate a motor vehicle shall be and remain revoked and shall not at any time thereafter be renewed. If such person shall not be a resident of this State the privilege of operating any motor vehicle in this State and the privilege of operation within the State of any motor vehicle owned by him shall be withdrawn and shall remain so withdrawn until he shall have furnished such proof. It shall be the duty of the Clerk of the Court, or of the Court where it has no clerk, in which any such judgment or order is rendered or other such action taken to forward immediately to the Commissioner a certified copy or transcript thereof, and such certified copy shall be prima facie evidence of the conviction, plea or forfeiture therein stated. In the event that such person appears to be a non-resident of this State, the Commissioner shall transmit a copy of such certified copy or transcript, certified to by him to the officer in charge of the issuance of the vehicle operators licenses and registration certificates of the State or Province of which such person appears to be a resident; provided, however, that if it shall be established to the satisfaction of the Commissioner, that any person, whether a resident or non-resident of this State, who shall have been convicted, pleaded guilty or forfeited bail or collateral, as aforesaid was, upon the occasion of the offense upon which such conviction, plea or forfeiture was based a chauffeur, or motor vehicle operator, however designated, in the employ of the owner of the motor vehicle involved in such offense or a member of the immediate family or household of the owner of such motor vehicle, then and in that event, if the person in whose name such motor vehicle is registered shall give proof of ability to respond in damages in accordance with the provisions of this Act, which proof shall be accepted, such chauffeur or other person, as aforesaid, shall be relieved of the necessity of giving such proof in his own behalf, provided further, however, that such chauffeur or motor vehicle operator shall also furnish proof of financial responsibility as in this Act provided for all motor vehicles registered in his name or owned by him. (Act Apr. 21, 1933, c. 351, §2; Apr. 26, 1937, c. 473, §1.)

Sec. 3 of Act Apr. 26, 1937, cited, provides that the Act shall take effect from its passage.

One whose license has been canceled because of conviction on charge of driving when intoxicated may not again be granted a license under §2720-136 without showing ability to comply with this section. Halverson v. E., 202M232, 277NW535. See Dun. Dig. 4167a.

Financial responsibility act does not prevent registrar from registering and collecting annual registration tax for motor vehicle belonging to person whose driver's license has been suspended or revoked, but it does prohibit registrar from issuing license plates to such person until such time time as he has established his financial responsibility. Op. Atty. Gen. (291f), Oct. 8, 1934.

Where license is revoked following conviction for driving while under influence of intoxicating liquor and person convicted removes from state, and purchases a car in another state and obtains a driver's license there, he is at all times subsequent thereto guilty of violating laws of the state, though he has a permit under the reciprocity laws. Op. Atty. Gen. (291k), Aug. 19, 1938.

Nothwithstanding Laws 1939, c. 430, amending §2720-176, or Laws 1939, c. 401, §17, it is still compulsory upon commissioner of highway, or head of license bureau, to revoke driver's license for any of the grounds specified in this section. Op. Atty. Gen. (291f), Sept. 12, 1939.

2720-103. Drivers license suspended when.—The right and permission of any person to operate a motor vehicle and license of any person to operate a motor vehicle, in the event of his failure to satisfy every judgment which shall have become final by expiration, without appeal, of the time within which appeal might have been perfected or by final affirmance on appeal, rendered against him by a court of competent jurisdiction in this or any other State, or the District of Columbia, or in the District Court of the United States, for damages on account of personal injury or damages to property in excess of One Hundred ($100.00) Dollars, resulting from the ownership or operation hereafter of a motor vehicle, shall be forthwith suspended by the Commissioner, upon receiving a certified copy or transcript of such final judgment from the court in which the same was rendered, showing such judgment or judgments to have been still unsatisfied more than thirty days after the same became final, and shall remain so suspended and shall not be renewed until the said person gives proof of his ability to respond in damages for future accidents as required by this Act. It shall be the duty of the court in which any such judgment is rendered to forward immediately after the expiration of said thirty days to the Commissioner a certified copy of such judgment or a transcript thereof. In the event the defendant is a non-resident it shall be the duty of the Commissioner to transmit to the officer in charge of the issuance of operators' permits or registration certificates of the State of which the defendant is a resident a certified copy of said judgment.

If any such motor vehicle owner or operator shall not be a resident of this state, the right, privilege, permission and license of operating any motor vehicle within the State shall be withdrawn and withheld while any final judgment against him shall be unstayed and unsatisfied for more than thirty (30) days and shall not again be renewed, nor shall any permit, operators' or chauffeurs' license be issued to him until every such judgment shall be stayed, satisfied or discharged, as herein provided, and until he shall have given proof of his ability to respond in damages for future accidents as required by Section Two (2) of this Act. (Act Apr. 21, 1933, c. 351, §3.)

2720-104. Motor vehicles operated with permission of owner.—Whenever any motor vehicle, after this Act becomes effective, shall be operated upon any public street or highway of this State, by any person other than the owner, with the consent of the owner express or implied, the operator thereof shall in case of accident, be deemed the agent of the owner of such motor vehicle in the operation thereof. (Act Apr. 21, 1933, c. 351, §4.)

Failure of manager of farm to make effort to obtain return of farm trailer loaned by son of owner of farm without manager's consent held not an implied consent of use of trailer by the borrower. Selander v. F., 195M310, 262NW874. See Dun. Dig. 212.

Lending of trailer on farm for convenience of borrower was not within apparent scope of authority of manager of farm. Id.

Son of owner of farm under management of an employee held without authority to bind father by loan of trailer used on the farm. Id.

Immunity of husband from suit in tort on part of his wife does not inure to benefit of owner of automobile driven by husband. Miller v. J., 196M438, 265NW324.

Evidence held to sustain verdict based upon fact that operator of defendant's automobile at time of accident was using same with defendant's permission. Steinle v. B., 198M424, 270NW139. See Dun. Dig. 6976.

Where an employee uses his employer's truck for purposes outside scope of his employment without more than an implied consent or permission to use it within such scope, does not impose a liability upon employer. Abbey v. N., 199M41, 271NW122. See Dun. Dig. 5834a.

Inference that a car owned by an employer, and being driven by an employee, is being operated with authority and in business of employer, is rebuttable. Ewer v. C., 199M78, 271NW101. See Dun. Dig. 5834a.

Evidence held not to sustain verdicts that car which injured plaintiffs was being driven with express or implied consent of owners. Id. See Dun. Dig. 5840.

Wisconsin courts are required to take judicial notice of this law, but will not give it effect with respect to accident occurring in Wisconsin. Zowin v. P., 225Wis 120, 273NW466.

While statute uses word "agent," it does not attempt to make liability a part of an agency contract and so make it contractual. Id.

It is competent to show that conveyance of title of an automobile was given and accepted merely as security, and that transferee is not owner. Holmes v. L., 201M44, 275NW416. See Dun. Dig. 4167a.

Section is constitutional. Id. See Dun. Dig. 5834a.

Whether salesman of car dealer had implied authority to let a prospective purchaser take car for demonstration purposes and to invite a friend, the plaintiff, to ride with him without becoming a trespasser, held for jury. Id.

Presumption of agency goes no farther than prima facie proof thereof. Id.

Where testimony of driver of car that he had permission to use it to take his parents on a brief visit, but was to have car back before dark, was uncontradicted, court properly dismissed as to owner of car with respect to an accident after dark while driver was on pleasure trip. Krahmer v. V., 201M272, 276NW218. See Dun. Dig. 6976.

Previous use of car on one occasion with express consent cannot be construed as evidence of implied consent to use it for same or other purposes at a subsequent time. Id.

It must appear, not only that operator had owner's consent to use vehicle at time he took it, but also that such consent existed at time and place accident occurred. Patterson-Stocking, Inc. v. D., 201M308, 276NW737. See Dun. Dig. 6976.

Upon issue of whether driver had consent of owner to operate at time and place an accident occurred, a witness who heard instructions of owner, given to operator at time latter took motor vehicle, may testify as to what they were for purpose of showing extent of consent given, and such instructions are not hearsay, but are part of issue of consent and admissible as original evidence. Patterson-Stocking, Inc. v. D., 201M308, 276NW737. See Dun. Dig. 3287.

Evidence held to sustain a finding that defendants consented to operation of their automobile by another. Martin v. N., 201M469, 276NW739. See Dun. Dig. 6976.

Whether owner consented to car being operated upon a public highway by another is a question of fact or of fact and law, and consent may be inferred from all facts and circumstances of case. Koski v. M., 201M549, 277NW 229. See Dun. Dig. 5841.

Where a boy falsely represented that he had financial resources and desired to purchase an automobile, and obtained consent of dealer to drive car to hotel to show to his father, but instead went on a ride with friends, sales agency was not liable for his negligence while on ride. Roehrich v. H., 201M586, 277NW274.

Dealer in new and used cars was not liable for negligence of salesman while driving used car for general purpose of interviewing prospective customers of other cars, contrary to instructions that used cars should only be used to demonstrate particular car to prospective purchaser interested in that car, although salesman was allowed utter freedom in using new car which he was required to own. Ranthum v. F., 202M209, 277NW547. See Dun. Dig. 212.

Consent to use vehicle may be of a limited and restricted nature, and owner is not responsible by virtue of statute for driver's negligence if vehicle is used outside limits of consent given, and consent must exist at time and place accident occurs. Id. See Dun. Dig. 212.

Evidence held to sustain finding that car was being driven with consent of owner. Neeson v. M., 202M234, 277 NW916. See Dun. Dig. 212.

In action against owner of automobile for negligence of driver, issue being whether driver had consent of defendant to use car, testimony of defendant's witness who was with driver both before and after accident was rightly excluded. Id. See Dun. Dig. 212, 731d.

Corporation is responsible for negligent operation of its car by an officer having permission to use it for a fishing trip. Santee v. H., 202M361, 278NW520. See Dun. Dig. 5834a.

Since operating comprehends parking, consent to operating includes parking as well. Flaugh v. E., 202M 615, 279NW582. See Dun. Dig. 5834a.

Consent being present, contention of owner that he is liable because driver was an independent contractor and not a employee is of no consequence. Id. See Dun. Dig. 5834a.

It is sufficient to charge owner with responsibility if it appears that automobile was operated upon highway with owner's consent. Id. See Dun. Dig. 5834a.

If owner is employer of driver, consent is to be determined, not by scope of employment, but by consent actually given by owner. Id. See Dun. Dig. 5834a.

Where alleged title in a party appears to be part of an arrangement between the parties for purposes other than bona fide ownership by person ostensibly holding the title, trier of fact may look through form to substance of transaction and say that semblance of ownership is not the reality. Id. See Dun. Dig. 4167a.

Registration is prima facie but not conclusive evidence of title in party in whose name car is registered; but if there is evidence of other ownership, it presents a fact question for jury. Id. See Dun. Dig. 4167a.

Scope of the employment is not determinative, but test is rather whether use was within consent. Anderson v. S., 204M337, 283NW571. See Dun. Dig. 5833.

It was assumed that safety responsibility act did not apply to a collision on a logging road. Wicklund v. N., 287NW7. See Dun. Dig. 5833.

Power of state to make non-resident owner liable for negligence of borrower of car. 18MinnLawRev350.

Cases on similar statutes in other states. 19MinnLaw Rev241.

Statutory liability of owners for negligence of persons operating automobiles with owner's consent. 21MinnLaw Rev823.

Owners' consent obtained by fraud. 23MinnLawRev86.

Construction of "permission" in omnibus coverage clause. 23MinnLawRev227.

2720-105. Non-resident owner to be responsible.—The use and operation by a non-resident or his agent of a motor vehicle upon and over the highways of the State of Minnesota, shall be deemed an appointment by such non-resident of the Commissioner of the State of Minnesota, to be his true and lawful attorney upon whom may be served all legal processes in any action or proceeding against him, growing out of such use or operation of a motor vehicle over the highways of this State, resulting in damages or loss to person or property, and said use or operation shall be a signification of his agreement that any such process in any action against him which is so served, shall be of the same legal force and validity as if served upon him personally. Service of such process shall be made by serving a copy thereof upon the Commissioner or by filing such copy in his office, together with payment of a fee of $2.00 and such service shall be sufficient service upon the said non-resident; provided, that notice of such service and a copy of the process are within ten days thereafter sent by mail by the plaintiff to the defendant at his last known address and that the plaintiff's affidavit of compliance with the provisions of this Act are attached to the summons.

The court in which the action is pending may order such continuance as may be necessary to afford the defendant reasonable opportunity to defend any such action, not exceeding ninety days from the date of the filing of the action in such court. The fee of two dollars paid by the plaintiff to the commissioner at the time of service of such proceedings shall be taxed in his cost if he prevails in the suit. The said Commissioner shall keep a record of all such processes so served which shall show the day and hour of such service. (Act Apr. 21, 1933, c. 351, §5.)

Note.—This section conflicts with §2684-8 and seems to supersede it in part.

2720-106. Certificate as to responsibility—bond.—Proof of ability to respond in damages when required by this Act may be evidenced by the written certificate or certificates of any insurance carrier duly authorized to do business within the State, that it has issued to or for the benefit of the person named therein a motor vehicle liability policy or policies as defined in this Act, which, at the date of said certificate or certificates, is in full force and effect, and designating therein by explicit description or by other appropriate reference all motor vehicles with respect to which coverage is granted by the policy certified to. The Commissioner shall not accept any certificate or certificates unless the same shall cover all motor vehicles registered in the name of the person furnishing such proof. Additional certificates as aforesaid shall be required as a condition precedent to the registration of any additional motor vehicle or motor vehicles in the name of such person required to furnish proof as aforesaid. Said certificate or certificates shall certify that the motor vehicle liability policy or policies therein cited shall not be cancelled or expire except as hereinafter provided. If such person be a non-resident, a certificate as aforesaid of an insurance carrier authorized to transact business in the State or Province in which the motor vehicle described in such certificate is registered, or if none be described, then in the State or Province in which the insured resides shall be accepted.

The Commissioner shall be notified of the cancellation or expiration of any motor vehicle liability policy of insurance certified under the provisions of this Act at least ten days before the effective date of such cancellation or expiration. In the absence of such notice of cancellation or expiration said policy of insurance shall remain in full force and effect. Additional evidence of ability to respond in damages shall be furnished the Commissioner at any time upon his demand.

Such proof may also be the bond of a surety company, duly authorized to do business within the State, or a bond with individual sureties, each owning unencumbered real estate, same to be scheduled in the bond, approved by the Commissioner, which said bond shall be conditioned for the payment of the amounts specified in Section 2 hereof, and shall not be cancellable except after ten days' written notice to the Commissioner. Such bond shall constitute a lien in favor of the State upon the real estate of any surety, which lien shall exist in favor of and be enforced by any holder of any final judgment on account of damage to property over One Hundred ($100.00) Dollars in amount, or injury to any person or persons caused by the operation of such person's motor vehicle, upon the filing of notice to that effect by the Commissioner in the office of the Register of Deeds in the county in the State where such real estate shall be located.

Such proof of ability to respond in damages may also be evidence presented to the Commissioner of a deposit by such person with the State Treasurer who shall give his receipt therefor, of a sum of money or collateral the amount of which money or collateral shall be Eleven Thousand ($11,000.00) Dollars. But the Treasurer shall not accept a deposit of money or collateral where any judgment or judgments, theretofore recovered against such person as a result of damages arising from the operation of any motor vehicle, shall not have been paid in full. (Act Apr. 21, 1933, c. 351, §6.)

2720-107. Commissioner or treasurer to hold bond.—Such bond, money or collateral shall be held by the Commissioner or Treasurer to satisfy, in accordance with the provisions of this Act any execution issued against such person in any suit arising out of damage caused by the operation of any motor vehicle owned or operated by such person. Money or collateral so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages, including injury to property, and personal injury or death, as a result of the operation of a motor vehicle. If a final judgment rendered against the principal on the surety or real estate bond shall not be satisfied within thirty days after its rendition, the judgment creditor may, for his own use and benefit and at his sole expense, bring

an action against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed said bond. (Act Apr. 21, 1933, c. 351, §7.)

2720-108. Commissioner to furnish record.—The Commissioner shall upon request furnish any insurer, person, or surety company a certified abstract of the operating record of any person subject to the provisions of this Act, which abstract shall fully designate the motor vehicle registered in the name of such person, and if there shall be no record of any conviction of such person as herein provided, the Commissioner shall so certify. The Commissioner shall collect for each such certificate the sum of One ($1.00) Dollar. (Act Apr. 21, 1933, c. 351, §8.)

2720-109. Commissioner to furnish information.—The Commissioner shall furnish any person who may have been injured in person or property by any motor vehicle, upon written request, with all information or record in his office pertaining to the evidence of the ability of any operator or owner of any motor vehicle to respond in damages. (Act Apr. 21, 1933, c. 351, §9.)

2720-110. License to be returned to commissioner, when.—Any operator or any owner, whose operator's permit, permission or license to operate a motor vehicle shall have been suspended, revoked, or withdrawn as herein provided, or whose policy of insurance or surety bond shall have been cancelled or terminated, or who shall neglect to furnish additional evidence of ability to respond in damages upon request of the Commissioner shall immediately return to the Commissioner his operator's license. If any person shall fail to return to said Commissioner his operator's license, said Commissioner shall forthwith direct any sheriff or other official having police authority to secure possession thereof and to return the same to the office of the Commissioner. Any person failing to return such operator's license, and any person operating a motor vehicle in violation of any of the provisions of this Act shall be guilty of a misdemeanor. (Act Apr. 21, 1933, c. 351, §10.)

2720-111. Commissioner to cancel bond.—The Commissioner may cancel such bond or return such evidence of insurance, or the Treasurer may, with the consent of the Commissioner return such money or collateral to the person furnishing the same, provided three years shall have elapsed since the filing of such evidence or the making of such deposit, during which period any such person shall not have been convicted of any of the offenses or violated any provisions of the Motor Vehicle Laws specified in Section 2 of this Act, and provided no suit or judgment for damages as aforesaid, arising from the ownership, maintenance, or operation hereafter of a motor vehicle shall then be outstanding or unsatisfied against such person. The Commissioner may direct the return of any money or collateral to the person who furnished the same upon the acceptance and substitution of other evidence of his ability to respond in damages, or at any time after three years from the expiration of any registration or license issued to such person, or at any time in the event of the death or insanity of the person required to furnish such proof, provided no written notice shall have been filed with the Commissioner stating that such suit has been brought against such person by reason of the ownership, maintenance or operation of a motor vehicle and upon the filing by such person with the Commissioner of an affidavit that he has abandoned his residence in this State, or that he has made a bona fide sale of any and all motor vehicles owned by him, and does not intend to own or operate any motor vehicle in this State for a period of one or more years. (Act Apr. 21, 1933, c. 351, §11.)

Operator convicted of driving while under influence of intoxicating liquor must continue to file proof of financial responsibility for three years from date of filing of first proof, and thereafter at discretion of commissioner of highways. Op. Atty. Gen. (291k), Aug. 29, 1938.

2720-112. Forgery a felony.—Any person who shall forge, or without authority sign any evidence of ability to respond in damages as required by this Act or by the Commissioner in the administration of this Act shall be guilty of a felony. (Act Apr. 21, 1933, c. 351, §12.)

2720-113. Motor vehicle liability policy.—"Motor vehicle liability policy," as used in this Act shall be taken to mean a policy of liability insurance issued by an insurance carrier, authorized to transact business in this State, or issued by an insurance carrier authorized to transact business in the State or Province in which the motor vehicle therein described is registered, or if none be described, then in the State in which the insured resides, to the person therein named as insured, which policy shall designate, by explicit description or by appropriate reference, all motor vehicles with respect to which coverage is intended to be granted by said policy, and shall insure the insured named therein against the loss from the liability imposed upon such insured by the law for injury to or the death of any person, other than such person or persons as may be covered, as respects such injury or death by any workman's compensation law, or damage to property except property of others in charge of the insured or the insured's employees growing out of the maintenance, use or operation of any such motor vehicle within the continental limits of the United States of America or in the Dominion of Canada; or which policy shall, in the alternative, insure the person therein named as insured against loss from the liability imposed by law upon such insured for injury to or death of any person, other than such person or persons as may be covered as respects such injury or death by workmen's compensation law, and or damage to property except property of others in charge of the insured or the insured's employees, or other agents, growing out of the maintenance, operation or use by such insured of any motor vehicle, except a motor vehicle registered in the name of such insured, and occurring while such insured is personally in control, as driver or occupant, of such motor vehicle within the continental limits of the United States of America, or the Dominion of Canada, in either case, to the amount or limit of Five Thousand ($5,000.00) Dollars exclusive of interest and costs, on account of injury to or death of any person, and subject to the same limit as respects injury to or death of one person of Ten Thousand ($10,000.00) Dollars exclusive of interest and costs, on account of any one accident resulting in injury to or death of more than one person: and of One Thousand ($1,000.00) Dollars for damage to property of others as herein provided resulting from any one accident or a binder pending the issuance of any such policy or an endorsement to an existing policy both as hereinafter provided; provided that this Section shall not be construed as preventing such insurance carrier from granting in a "Motor Vehicle Liability Policy" any lawful coverage in excess of or in addition to the coverage herein provided for nor from embodying in such policy any agreements, provisions or stipulations not contrary to the provisions of this Act and not otherwise contrary to law. And provided further that separate concurrent polices whether issued by one or several carriers, covering respectively (a) personal injury or death as aforesaid, and (b) property damage shall be termed, "Motor Vehicle Liability Policy" within the meaning of this Act. (Act Apr. 21, 1933, c. 351, §13.)

2720-114. Copy of policies to be filed with commissioner of insurance.—Except as herein otherwise provided, no motor vehicle liability policy shall be issued or delivered in this State until a copy of the

form of policy shall have been on file with the Commissioner of Insurance for at least thirty (30) days, unless sooner approved in writing by the Commissioner of Insurance, nor if within said period of thirty (30) days the Commissioner of Insurance shall have notified the carrier in writing that in his opinion specifying the reasons therefor the form of policy does not comply with the laws of the State. The Commissioner of Insurance shall approve any form of policy which discloses the name, address and business of the insured, the coverage afforded by such policy, the premium charged therefor, the policy period, the limits of liability and the agreement that the insurance thereunder is provided in accordance with the coverage defined in this Section and is subject to all the provisions of this Act. (Act Apr. 21, 1933, c. 351, §14.)

Commissioner of insurance has no authority to fix, approve, or regulate automobile insurance rates. Op. Atty. Gen. (250B), May 19, 1939.

2720-115. Provisions of policy.—Every such motor vehicle liability policy shall be subject to the following provisions, which need not be contained therein.

(a) The satisfaction by the insured of the final judgment for such loss or damage shall not be a condition precedent to the right of the carrier to make payment on account of such loss or damage.

The policy may provide that the insured, or any other person covered by the policy shall reimburse the insurance carrier for payments made on account of any accident, claim or suit involving a breach of terms, provisions or conditions of the policy, and further if the policy shall provide for limits in excess of the limits designated in this Act, the insurance carrier may plead against any plaintiff, with respect to the amount of such excess limits of liability, any defenses which it may be entitled to plead against the insured. Any such policy may further provide for the pro-rating of the insurance thereunder with other applicable vaild and collectible insurance.

(b) The policy, the written application, if any, and any rider or endorsement which shall not conflict with the provisions of this Act shall constitute the entire contract between the parties.

(c) The insurance carrier shall, upon the request of the insured, deliver to the insured for filing or at the request of the insured shall file direct, with the Commissioner, an appropriate certificate as set forth in Section 6 hereof.

(d) Any carrier authorized to issue motor vehicle liability policies as provided for in this Act, may, pending the issue of such a policy, execute an agreement, to be known as a binder, or may, in lieu of such a policy, issue an endorsement to an existing policy; each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. (Act Apr. 21, 1933, c. 351, §15.)

2720-116. Reserve liability.—Any carrier authorized to issue motor vehicle liability policies as provided for in this Act, shall compute its reserve liability for financial statement purposes in the manner prescribed for this type of insurance in Section 3304, Mason's Minnesota Statutes of 1927, upon premiums derived from rates which have received the approval of the Commissioner of Insurance. (Act Apr. 21, 1933, c. 351, §16.)

Section 2720-116 gives commissioner of insurance authority to approve rate for "motor vehicle liability policies" in light of requisite reserves set out in §3304, but does not give authority to approve rates for other types of liability policies. Op. Atty. Gen. (249B-3), July 6, 1939.

2720-117. To be cited as Safety Responsibility Act.—This Act may be cited as the Safety Responsibility Act. (Act Apr. 21, 1933, c. 351, §17.)

2720-118. Commissioner to make rules and regulations.—The Commissioner shall make rules and regulations necessary for the administration of this Act. (Act Apr. 21, 1933, c. 351, §18.)

2720-119. Not restrictive.—Nothing herein shall be construed as preventing the plaintiff in any action at law from relying for security upon the other processes provided by law. (Act Apr. 21, 1933, c. 351, §19.)

2720-120. Provisions separable.—If any part, subdivision, or section of this Act shall be deemed unconstitutional, the validity of its remaining provisions shall not be affected thereby. (Act Apr. 21, 1933, c. 351, §20.)

2720-121. Acts supplemental.—This Act shall in no respect be considered as a repeal of any of the provisions of the State Motor Vehicle Law, but shall be construed as supplemental thereto. (Act Apr. 21, 1933, c. 351, §21.)

Financial responsibility act does not prevent registrar from registering and collecting annual registration tax for motor vehicle belonging to person whose driver's license has been suspended or revoked, but it does prohibit registrar from issuing license plates to such person until such time as he has established his financial responsibility. Op. Atty. Gen. (291f), Oct. 8, 1934.

2720-122. Effective March 1, 1934.—This Act shall take effect and be in force from and after the first (1st) day of March, 1934. (Act Apr. 21, 1933, c. 351, §22.)

DRIVERS LICENSE

2720-123 to 2720-141 [Repealed Apr. 22, 1939, c. 401, §32, post §2720-146e.]

The repealed act consisted of Act Apr. 21, 1933, c. 352, §§1-19.

ANNOTATIONS UNDER REPEALED SECTIONS

2720-123. Definitions.
See §2720-142, post.
2720-124. Driver's licenses.
See §2720-143, post.

Statute is not invalid because license is issued as a matter of course upon application. Giacomo v. S., 203M 185, 280NW653.

An insurance policy from which liability is excluded while automobile is driven or operated by a person violating any law as to driving license does not cover an accident occurring while automobile is driven by one who does not have a driver's license. Id. See Dun. Dig. 4875c.

Violation of a law which became effective after policy was issued comes within exclusion clause. Id.

Minor under 15 years of age cannot be authorized to drive though accompanied by licensed owner. Op. Atty. Gen. (291j), Dec. 4, 1937.

License cannot be granted to a person under fifteen years of age, and a person under that age operating a vehicle violates the law. Op. Atty. Gen. (291j), Feb. 21, 1938.

No license can be granted to a person under 15 years of age, and person under that age driving a motor vehicle upon the public highways is guilty of a misdemeanor. Op. Atty. Gen. (291j), Mar. 23, 1938.

2720-125. Exemptions.
See §2720-144, post.
2720-126. Commissioner of highways to administer act.
See §2720-145k, post.
2720-127. Clerk of court may receive applications.
See §2720-144c, post.

Clerk of district court is authorized to appoint men in banks and stores in various towns in county to accept applications for motor vehicle licenses. Op. Atty. Gen., Nov. 10, 1933.

In counties where fees received are to be paid into county treasury, fees collected in connection with automobile driver's licenses must also be paid into county treasury, but county board may appropriate sufficient funds to provide for additional clerk hire incident to performance of duties imposed in connection with issuing of such licenses, not to exceed probable income. Op. Atty. Gen., Jan. 15, 1934.

In all counties where salary of district court is paid partially on a fee basis, clerk may retain all fees collected by him in connection with issuance of automobile driver's licenses and he need not include such fees in his report to county board. Id.

2720-128. Persons under fifteen years of age not to be licensed.
See §2720-144a, post.
2720-129. Non-residents need not have licenses.
See §2720-145, post.
2720-130. Must carry certificate.
See §2720-144e, post.
2720-131. Courts to certify convictions to commissioner.
See §2720-145a, post.
2720-132. Commissioner to revoke license.
See §2720-145b, post.

One charged with offense of operating a motor vehicle while under influence of intoxicating liquor in violation of city ordinance is not entitled to a jury trial in municipal court of St. Paul, though conviction involves a fine of $100 or imprisonment for 90 days, and incidentally involves revocation of driver's license, and although at time of passage of ordinance, there existed a statute covering same subject matter which entitled violator to a jury trial. State v. Parks, 199M622, 273NW233. See Dun. Dig. 2472, 5235.

City cannot enact ordinance providing for revocation of driver's license issued under state law. Op. Attv. Gen. (59a-32), Jan. 27, 1938.

Where license is revoked following conviction for driving while under influence of intoxicating liquor and person convicted removes from state, and purchases a car in another state and obtains a driver's license there, he is at all times subsequent thereto guilty of violating laws of the state, though he has a permit under the reciprocity laws. Op. Atty. Gen. (291k), Aug. 19, 1938.

2720-133. Commissioner may suspend license.

See §2720-145c.

Financial responsibility act does not prevent registrar from registering and collecting annual registration tax for motor vehicle belonging to person whose driver's license has been suspended or revoked, but it does prohibit registrar from issuing license plates to such person until such time as he has established his financial responsibility. Op. Atty. Gen. (291f), Oct. 8, 1934.

Commissioner upon suspending license may not issue a restricted license because suspension deprives operator of ability to earn a livelihood. Op. Atty. Gen. (291f), Mar. 5, 1935.

2720-134. Must notify licensee.

See §2720-145c(b), post.

2720-135. Suspended licensee may appeal to court.

See §2720-145d, post.

2720-136. May apply for new license after one year.

One whose license has been canceled because of conviction on charge of driving when intoxicated may not again be granted a license without showing ability to comply with §2720-102. Halverson v. E., 202M232, 277NW 535. See Dun. Dig. 4167a.

2720-137. Misdemeanor to operate motor vehicle after suspension of license.

See §2720-145h, post.

2720-138. Fees to be paid into state treasury.

See §2720-146a, post.

Fees need not be reported under §976 of the statutes. Op. Atty. Gen., July 22, 1933.

Commissioner of highways could purchase equipment and supplies for driver's license division on a deferred payment plan in anticipation of fees to be collected. Op. Atty. Gen., Sept. 12, 1933.

2720-139. Commissioner may appoint agent.

See §2720-146, post.

2720-140. Provisions severable.

See §2720-146d.

DRIVERS LICENSE LAW

2720-142. Definitions.—The following words and phrases when used in this act, shall for the purpose of this act, have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning.

(a) "Vehicle". Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor Vehicle". Every vehicle which is self-propelled and any vehicle propelled or drawn by a self-propelled vehicle, and not deriving its power from overhead wires.

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

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

(e) "Driver". Every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway.

(f) "Chauffeur". Every person who is employed for the principal purpose of operating a motor vehicle and every person who drives a motor vehicle while in use as a carrier of persons or property for hire.

(g) "Owner". Any person, firm, co-partnership, association or corporation who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this act.

(h) "Non-resident". Every person who is not a resident of this state.

(i) "Street" or "Highway". The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purpose of vehicular traffic.

(j) "Commissioner". The Commissioner of highdays of the State of Minnesota, acting directly or through his duly authorized agents.

(k) "Department". The department of highways of the state acting directly or through its duly authorized officers and agents. (Act Apr. 22, 1939, c. 401, §1.)

See §2720-123, ante.

2720-143. Motor vehicle drivers license.—No person, except those hereinafter expressly exempted, shall operate or drive any motor vehicle upon any street or highway in this state unless such person has a valid license as a driver under the provisions of this act. (Act Apr. 22, 1939, c. 401, §2.)

See §2720-124, ante.

2720-144. Who are exempt.—The following persons are exempt from license hereunder:

(1) Persons licensed as chauffeurs under the laws of the state of Minnesota;

(2) Any person while driving or operating a motor vehicle in the service of the Army, Navy, or Marine Corps of the United States;

(3) Any person while driving or operating any farm tractor, or implement of husbandry temporarily operated or moved on a highway;

(4) A non-resident who is at least 15 years of age and who has in his immediate possession a valid driver's license issued to him in his home state or country may operate a motor vehicle in this state only as a driver;

(5) Any non-resident who is at least 18 years of age, whose home state or country does not require the licensing of drivers may operate a motor vehicle as a driver only, for a period of not more than 90 days in any calendar year if the motor vehicle so operated is duly registered for the current calendar year in the home state or country of such non-resident. (Act Apr. 22, 1939, c. 401, §3.)

See §2720-125, ante.

2720-144a. Who may not receive drivers license.—The department shall not issue a driver's license hereunder:

(1) To any person who is under the age of 15 years; nor to any person under 18 years unless the application for license is approved by the father of the applicant, if the father is living and has custody of the applicant, otherwise by the mother or guardian having the custody of such minor, or in the event a person under the age of eighteen has no living father, mother or guardian, the license shall not be issued to such person unless his application therefor is approved by his employer.

(2) To any person whose license has been suspended during the period of suspension.

(3) To any person whose license has been revoked until the expiration of one year after the last conviction for violation of this act or any law or ordinance regulating traffic upon the public streets or highways except upon order of the district court, and then only upon furnishing proof of financial responsibility as required in the safety responsibility act.

(4) To any person who is an habitual drunkard as determined by competent authority or is addicted to the use of narcotic drugs.

(5) To any person who has previously been adjudged insane or an idiot, epileptic or feeble-minded

and who has not at the time of making application been restored to competency by judicial decree or released from a hospital for the insane or feeble-minded upon a certificate of the superintendent that such person is competent, nor then unless the department is satisfied that such person is competent to operate a motor vehicle with safety to persons or property.

(6) To any person who is required by this act to take an examination, unless such person shall have successfully passed such examination.

(7) To any person who is required under the provisions of the safety responsibility laws of this state to deposit proof of financial responsibility and who has not deposited such proof.

(8) To any person when the commissioner has good cause to believe that the operation of a motor vehicle on the highways by such person would be inimical to public safety or welfare.

(9) To any person when, in the opinion of the commissioner, such person is afflicted with or suffering from such physical or mental disability or disease as will affect such person in a manner to prevent him from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways; nor to a person who is unable to read and understand official signs regulating, warning and directing traffic. (Act Apr. 22, 1939, c. 401, §4.)

See §2720-128, ante.

2720-144b. Instruction permits.—Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a driver's license under this act, may apply for an instruction permit, and the department shall issue such permit, entitling the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the highways for a period of 60 days, but such person must be accompanied by a licensed driver or chauffeur who is actually occupying a seat beside the driver. (Act Apr. 22, 1939, c. 401, §5.)

2720-144c. Forms of application.—(a) Every application for an instruction permit or for a driver's license or for a duplicate license or for a renewal of a driver's license shall be made upon a form furnished by the department, and every said application shall be accompanied by the fee prescribed in subdivision (b) hereof.

(b) The fee for an instruction permit shall be 35 cents. The fee for a driver's license shall be 35 cents. The fee for a restricted license shall be 35 cents. The fee for a duplicate license shall be 35 cents.

(c) Every said application shall state the full name, date of birth, sex and residence address of the applicant and briefly describe the applicant and shall state whether or not the applicant has theretofore been licensed as a driver, and if so, when and by what state or country and whether any such license has ever been suspended or revoked, or whether an application has ever been refused and if so, the date of, and reason for such suspension, revocation or refusal, together with such facts pertaining to the applicant and his ability to operate a motor vehicle with safety, as may be required by the commissioner, and such application shall be in the form prepared by the commissioner.

(d) Any applicant for an instruction permit, a driver's license, restricted license or duplicate license may file his application with a clerk of the district court. Such clerk shall and is hereby authorized to receive and accept such application. To cover all expense involved in receiving, accepting and forwarding to the department applications and fees, the clerk of the district court shall retain ten (10) cents of the fee collected with each application, provided that in all counties of this state where the clerk of the district court receives a stated salary and no fees, the ten (10) cents allowed to be retained by the clerk of the district court shall be paid into the county treasury and credited to the general revenue fund of said county. The clerk of court shall forward all applications and fees less the amount herein allowed to be retained for expense, to the department within fifteen (15) days of the receipt by him. The clerks of the district courts may appoint agents to assist in accepting applications, but the clerks shall require every such agent to forward to the clerk by whom he is appointed all applications accepted and fees collected by him. The clerks of court shall be responsible for the acts of agents appointed by them and for the forwarding to the department of all applications accepted and all fees collected by such agents and by themselves. (Act Apr. 22, 1939, c. 401, §6.)

See §2720-127, ante.

2720-144d. Department shall issue licenses.—The department shall, upon the payment of the required fee, issue to every applicant qualifying therefor a license as applied for, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature with pen and ink. No license shall be valid until it has been so signed by the licensee. (Act Apr. 22, 1939, c. 401, §7.)

2720-144e. Licensee to have license in possession.—(a) Every licensee shall have his license in his immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a justice of peace, a peace officer, an authorized representative of the department, or by an officer authorized by law to enforce the laws relating to the operation of motor vehicles on public streets and highways, and the licensee shall, upon request of any such officer, write his name in the presence of such officer in order that the identity of the licensee may be determined. (Act Apr. 22, 1939, c. 401, §8.)

See §2720-130, ante.

2720-144f. Commissioner may impose restrictions.—(a) The commissioner shall have the authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability or such other restrictions applicable to the licensee as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee. The commissioner may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same, but the licensee shall be entitled to a hearing as provided herein.

(b) It shall be unlawful for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him. (Act Apr. 22, 1939, c. 401, §9.)

2720-144g. Duplicate licenses.—In the event that an instruction permit or driver's license issued under the provisions of this act is lost or destroyed, or becomes illegible, the person to whom the same was issued shall obtain a duplicate thereof, furnishing proof satisfactory to the department that such permit or license has been lost or destroyed or has become illegible and make payment of the required fee. (Act Apr. 22, 1939, c. 401, §10.)

2720-144h. Change of address.—Whenever any person, after applying for or receiving a driver's license, shall change his permanent domicile from the address named in such application or in the license issued to him, or, shall change his or her name by marriage or otherwise, such person shall, within fifteen days thereafter, make application for a duplicate driver's license upon a form furnished by the department; such application for duplicate license shall show both the licensee's old address and his new address or his former name and new name as the case may be. Such application for a duplicate license, upon change of address or change of name, shall be accompanied by all certificates of driver's license then in the possession of the applicant together with the required fee. (Act Apr. 22, 1939, c. 401, §11.)

2720-144i. Licenses to be filed in alphabetical order.—(a) The department shall file every application for a license received by it and shall maintain suitable indices containing, in alphabetical order:

(1) All applications denied and on each thereof the reason for such denial;

(2) All applications granted; and

(3) The name of every person whose license has been suspended or revoked by the department and after each such name the reasons for such action.

(b) The department shall also file all accident reports and abstracts of court records of convictions received by it under the laws of this state and its political subdivision and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which he has been involved shall be readily ascertainable and available for the consideration of the department upon any application for renewal of license and the revocation, suspension or limitation of licenses.

(c) The department may cause the application for driver's licenses and instruction permits, and records in connection therewith, to be destroyed one year after the period for which issued, except that the driver's record pertaining to revocations, suspensions, convictions and accidents shall be cumulative and kept for a period of at least five years. (Act Apr. 22, 1939, c. 401, §12.)

2720-144j. May require examination.—(a) The commissioner may in his discretion, require an examination by such agencies as the commissioner may direct of any applicant for an instruction permit or driver's license, or of any licensed driver, to determine incompetency, physical or mental disability or disease, or any other condition which might affect such applicant or driver from exercising reasonable and ordinary control over a motor vehicle. If as a result of such examination the commissioner has reason to believe that such applicant or driver is an unsafe person to operate a motor vehicle upon the public highways, he may refuse to grant such applicant a license or he may cancel the driver's license of such person. The commissioner shall forthwith notify such person by order in writing of such refusal to grant such license or cancellation thereof.

(b) For failure or refusal of any applicant or licensee to submit to such examinations as may be required by the commissioner, the commissioner may refuse to grant such applicant a license or he may cancel the driver's license of such licensee. (Act Apr. 22, 1939, c. 401, §13.)

2720-144k. May cancel licenses.—(a) The commissioner shall have authority to cancel any driver's license upon determination that the licensee was not entitled to the issuance thereof hereunder or that said licensee failed to give the required or correct information in his application or committed any fraud or deceit in making such application.

(b) Upon such cancellation, the licensee shall immediately surrender the license so cancelled to the department. (Act Apr. 22, 1939, c. 401, §14.)

2720-145. Non-resident permits.—(a) The privilege of driving a motor vehicle on the highways of this state given to a non-resident hereunder shall be subject to the suspension or revocation by the commissioner in like manner and for like cause as a driver's license issued hereunder may be suspended or revoked.

(b) The commissioner is further authorized, upon receiving a record of conviction in this state of a non-resident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident. (Act Apr. 22, 1939, c. 401, §15.)

See §2720-129, ante.

2720-145a. Courts to report to commissioner.—(a) Every court including district, municipal, and justice of the peace courts having jurisdiction over offenses committed under this act or any other law of this state regulating the operation of motor vehicles on streets or highways, shall forward to the department within ten (10) days a record of the conviction or plea of guilty or forfeiture of bail of any person in said court for a violation of any of said laws except parking violations, and may recommend the suspension of the driver's license of the person so convicted, and the commissioner is hereby authorized to suspend such license as recommended by such court, without a hearing as provided herein.

(b) Every court having jurisdiction over offenses committed under any city or village ordinance regulating the operation of motor vehicles on streets or highways shall forward to the department within ten days a record of the conviction or plea of guilty or forfeiture of bail of any person in said court for a violation of any of said ordinances, except parking ordinances, and may recommend the suspension of the driver's license of the person so convicted, and the commissioner is hereby authorized to suspend such license as recommended by such court, without a hearing.

(c) For the purpose of this act the term "conviction" shall mean a final conviction either after trial or upon a plea of guilty. Also, for the purposes of this act a forfeiture of cash or collateral deposited to guarantee a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(d) Whenever any person is convicted as herein defined of any offense for which this act makes mandatory the revocation of the driver's license of such person by the department, or when any person is convicted of any offense for which the court in which such conviction is had recommends the suspension of the driver's license of such person, the court in which such conviction is had shall require the surrender to it of all driver's licenses then held by the person so convicted and the court shall thereupon forward the same together with a record of such conviction to the department.

(e) Whenever any judge of a juvenile court or any of its duly authorized agents shall determine formally or informally that any person under the age of 18 years has violated any of the provisions of this act or any other law of this state or ordinances of political subdivisions thereof regulating the operation of motor vehicles on streets and highways, except parking violations, such judge or duly authorized agent shall immediately report such determination to the department and may recommend the suspension of the driver's license of such person, and the commissioner is hereby authorized to suspend such license, without a hearing. (Act Apr. 22, 1939, c. 401, §16.)

See §2720-131, ante.

2720-145b. Revocation of licenses.—(a) The department shall forthwith revoke the license of any driver upon receiving a record of such driver's conviction of any of the following offenses:

(1) Manslaughter or criminal negligence resulting from the operation of a motor vehicle.

(2) Operating a motor vehicle while under the influence of intoxicating liquor or narcotic drug.

(3) Any felony in the commission of which a motor vehicle was used.

(4) Failure to stop and disclose identity and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another.

(5) Perjury or the making of a false affidavit or statement to the department under this act or under any other law relating to the ownership or operation of a motor vehicle.

(6) Conviction, plea of guilty or forfeiture of bail not vacated, upon three charges of careless or reckless driving, or illegal speeding committed within a period of 12 months.

(7) Conviction of an offense in another state which if committed in this state would be grounds for the revocation of the driver's license.

(b) Whenever any judge of a juvenile court or any of its duly authorized agents determine formally or informally that any person under the age of 18 years has committed any offense defined in this section such judge or duly authorized agent shall immediately report such determination to the department and the commissioner shall immediately revoke the license of said person.

(c) Whenever any person shall be committed to any institution as an inebriate by a Court of Competent Jurisdiction the court or clerk thereof shall immediately notify the commissioner of such action and the Commissioner shall forthwith revoke the driver's license of such person. (Act Apr. 22, 1939, c. 401, §17.)

See §2720-132, ante.

It is still compulsory upon commissioner of highways, and head of his license bureau, to revoke driver's license for any of the grounds specified in §2720-102, notwithstanding Laws 1939, c. 430, amending §2720-176. Op. Atty. Gen. (291f), Sept. 12, 1939.

This section is superseded by Laws 1939, c. 430, amending §2720-176, in prosecutions for driving while under influence of liquor or narcotics, but revocation of a driver's license is still compulsory on conviction under an ordinance for the same offense. Op. Atty. Gen. (291f), May 12, 1939.

2720-145c. Suspension of licenses.—(a) The commissioner shall have authority to and may suspend the license of any driver without preliminary hearing upon a showing by department records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation of license is required upon conviction; or

(2) Has been involved as a negligent driver in any accident resulting in the death or personal injury of another or serious property damage; or

(3) Is an habitually reckless or negligent driver of a motor vehicle; or

(4) Is an habitual violator of the traffic laws; or

(5) Is incompetent to drive a motor vehicle; or

(6) Has permitted an unlawful or fraudulent use of such license; or

(7) Has committed an offense in another state which if committed in this state would be grounds for suspension.

(b) Upon suspending the license of any person as hereinbefore in this section authorized the department shall immediately notify the licensee in writing, by depositing in the United States Post Office said notice addressed to the licensee at his last known address with postage prepaid thereon, and said licensee's written request shall afford him an opportunity for a hearing within not to exceed 20 days after receipt of such request in the county wherein the licensee resides unless the department and the licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his duly authorized agent may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the department shall either rescind its order of suspension or, good cause appearing therefor, may extend the suspension of such license or revoke such license. The department shall not suspend a license for a period of more than one year. (Act Apr. 22, 1939, c. 401, §18.)

See §§2720-133, 2720-134, ante.

2720-145d. Petition for re-instatement of licenses.—Any person whose driver's license has been refused, revoked, suspended or cancelled by the commissioner may file a petition for a hearing in the matter in the district court in the county wherein such person shall reside, and in the case of a nonresident, in the district court in any county, and such court is hereby vested with jurisdiction, and it shall be its duty to set the matter for hearing upon fifteen days written notice to the commissioner, and thereupon to take testimony and examine into the facts of the case to determine whether the petitioner is entitled to a license or is subject to revocation, suspension, cancellation, or refusal of license under the provisions of this act and shall render judgment accordingly. Said petition shall be heard by the court without a jury and may be heard in or out of term. The commissioner may appear in person or by his agents or representatives and may present his evidence upon said hearing by affidavit by himself, his agents or representatives. The petitioner may present his evidence by affidavit except that said petitioner must be present in person at such hearing for the purpose of cross-examination. If, and in the event the department shall be sustained in these proceedings the petitioner shall have no further right to make further petition to any court for the purpose of obtaining a driver's license until after the expiration of one year after the date of such hearing. (Act Apr. 22, 1939, c. 401, §19.)

See §2720-135, ante.

This section differs from former section 2720-136 in making it possible for a person convicted of an offense under §2720-102 to apply to a judge of district court for restoration of his license without waiting a full year as formerly. Op. Atty. Gen. (291f), Sept. 12, 1939.

2720-145e. Licenses must be surrendered.—The commissioner upon suspending or revoking a license shall require that all license certificates issued to the licensee shall be surrendered to and be retained by the department except that at the end of a period of suspension the license certificate shall be returned to the licensee. Upon demand for surrender of a license by the commissioner, the licensee shall immediately forward said license certificates to the department.

Any resident or non-resident whose driver's license or right or privilege to operate a motor vehicle in this state has been suspended, revoked, or cancelled, as provided in this act, shall not operate a motor vehicle in this state under a license, permit or registration certificate issued by any other jurisdiction or otherwise during such suspension, or after such revocation until a new license is obtained when and as permitted under this act. (Act Apr. 22, 1939, c. 401, §20.)

2720-145f. Copies to be received in evidence.—Copies of any of the files or records of the department certified by the commissioner, as being true copies, shall be received in evidence in any court in this state with the same force and effect as the originals. (Act Apr. 22, 1939, c. 401, §21.)

2720-145g. Unlawful acts.—It shall be unlawful for any person:

(1) To display or cause or permit to be displayed or have in his possession any cancelled, revoked, suspended, fictitious or fraudulently altered driver's license; or

(2) To lend his driver's license to any other person or knowingly permit the use thereof by another; or

(3) To display or represent as one's own any driver's license not issued to him; or

(4) To fail or refuse to surrender to the department upon its lawful demand any driver's license which has been suspended, revoked, or cancelled; or

(5) To use a false or fictitious name in any application for a driver's license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application. (Act Apr. 22, 1939, c. 401, §22.)

2720-145h. Driving without license to be misdemeanor.—Any person whose driver's license or driving privilege has been cancelled, suspended or revoked as provided in this act, and who shall operate any motor vehicle upon the streets or highways in this

state while such license or privilege is cancelled, suspended or revoked shall be guilty of a misdemeanor. (Act Apr. 22, 1939, c. 401, §23.)
See §2720-137, ante.

2720-145i. Shall not rent motor vehicle to unlicensed driver.—No person shall rent or lease a motor vehicle to any other person unless the latter person is then duly licensed hereunder or, in the case of a non-resident, then duly licensed under the law of the state or country of his residence except a nonresident whose home state or country does not require that a driver be licensed. (Act Apr. 22, 1939, c. 401, §24.)

2720-145j. Violations misdemeanor. — Exceptions.—It shall be a misdemeanor for any person to violate any of the provisions of this act unless such violation is by this act or other laws of this state declared to be a felony, or gross misdemeanor. (Act Apr. 22, 1939, c. 401, §25.)

2720-145k. Commissioner to enforce act.—The commissioner shall be charged with the responsibility for the administration and execution of this act. (Act Apr. 22, 1939, c. 401, §26.)
See §2720-126, ante.

2720-146. Agents of commissioner.—Any duties required of, or powers conferred on the commissioner under the provisions of this act may be done and performed or exercised by any of his duly authorized agents. (Act Apr. 22, 1939, c. 401, §27.)
See §2720-139, ante.

2720-146a. Moneys to be paid into state treasury.—All money received under the provisions of this act shall be paid into the state treasury and shall be credited to an operator's license fund and the entire amount or so much thereof, as shall be necessary for the expense of the administration of this Act, is hereby appropriated for that purpose. (Act Apr. 22, 1939, c. 401, §28.)
See §2720-138, ante.

2720-146b. Licensees not required to obtain new licenses.—Persons who are now duly licensed as drivers by the State of Minnesota shall not be required to obtain a new license under this act unless and until their permanent domiciles are changed. (Act Apr. 22, 1939, c. 401, §29.)

2720-146c. Drivers license law.—This act may be cited as the driver's license law. (Act Apr. 22, 1939, c. 401, §30.)

2720-146d. Provisions severable.—If any part or parts of this act shall be held to be unconstitutional such unconstitutionality shall not affect the validity of the remaining parts of this act. The legislature hereby declares that it would have passed the remaining parts of this act if it had known that such part or parts thereof would be declared unconstitutional. (Act Apr. 22, 1939, c. 401, §31.)
See §2720-140, ante.

2720-146e. Law repealed.—Chapter 352, Laws 1933 is hereby repealed. Any and all other acts or part of acts inconsistent with the provisions of this act are hereby suspended and/or repealed in the measure necessary to give this act full force and effect. (Act Apr. 22, 1939, c. 401, §32.)

HIGHWAY TRAFFIC REGULATION ACT

ARTICLE I

WORDS AND PHRASES DEFINED

2720-151. Definitions.—The following words and phrases when used in this act shall, for the purpose of this act, have the meanings respectively ascribed to them in this article.

(1) "Vehicle." Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle." Every vehicle which is self-propelled and not deriving its power from overhead wires.

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

(4) "Authorized emergency vehicle." Vehicles of the fire department, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the commissioner or the chief of police of an incorporated city, and equipped and identified according to law.

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

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

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

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

(9) "Trailer." Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(10) "Semi-trailer." Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(11) "Pneumatic tire." Every tire in which compressed air is designed to support the load.

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

(13) "Metal tire." Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(14) "Railroad." A carrier of persons or property upon cars, other than street cars, operated upon stationary rails.

(15) "Railroad train." A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars.

(16) "Street car." A car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.

(17) "Trackless trolley car." Every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated on rails.

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

(19) "Flammable liquid." Any liquid which has a flash point of 70 degrees F., or less, as determined by a tagliabue or equivalent closed cup test device.

(20) "Commissioner." The commissioner of highways of this state, acting directly or thru his duly authorized officers and agents.

(21) "Department." The department of highways of this state, acting directly or thru its duly authorized officers and agents.

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

(23) "Pedestrian." Any person afoot.

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

(25) "Owner." A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortagor shall be deemed the owner for the purpose of this act. (As amended July 14, 1937, Sp. Ses., c. 38, §1.)

(26) "Police officer." Every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

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

(28) "Street or highway." The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

(30) "Roadway." That portion of a highway improved, designed, or ordinarily used for vehicular travel.

(31) "One-way roadway." A street or roadway designated and sign-posted for one-way traffic and on which all vehicles are required to move in one indicated direction.

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

(33) "Laned highway." A highway the roadway of which is divided into three or more clearly marked lanes for vehicular traffic.

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

(35) "Intersection." The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another, at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(36) "Crosswalk." (a) That portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections.

(b) Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(37) "Safety zone." The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times set apart as a safety zone.

(38) "Business district." The territory contiguous to and including a highway when 50 per cent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

(39) "Residence district." The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

(40) "Official traffic control devices." All signs, signals, markings, and devices not inconsistent with this act placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

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

(42) "Railroad sign or signal." Any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(43) "Traffic." Pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances either singly or together while using any highway for purposes of travel.

(44) "Right-of-way." The privilege of the immediate use of highway.

(45) "Gross weight." The unloaded weight of a vehicle and/or the unloaded weight of a truck-tractor and semi-trailer combination, plus the weight of the load. (Apr. 26, 1937, c. 464, §1.)

(46) "Custom Service Vehicles." All vehicles used as well-drilling machine, wood-sawing machine, cement mixer, rock crusher, road grader, ditch diggers, or elevating graders, and similar service equipment. (Added Apr. 22, 1939, c. 430, §1.)

(47) "Motor Vehicle Dealer". Any person engaged in the business of manufacturing or selling new and unused motor vehicles, or used motor vehicles, or both, having an established place of business for the sale, trade, and display of such motor vehicles, and having in his possession motor vehicles for the purpose of sale or trade. (Apr. 26, 1937, c. 464, §1; July 14, 1937, Sp. Ses., c. 38, §1; Subdivisions (46) and (47) added Apr. 22, 1939, c. 430, §1.)

Definition of terms in prior law, see §2720-1.

ARTICLE II

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

2720-152. Obedience to and effect of traffic laws.—The provisions of this act relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

1. Where a different place is specifically referred to in a given section.

2. The provisions of Articles IV and V shall apply upon highways and elsewhere thruout the state. (Apr. 26, 1937, c. 464, §2.)

Except as specifically provided in the Highway Traffic Regulation Act the common law prevails and a driver is not barred from recovery simply because he is making a movement not specifically authorized, and not forbidden by the act. Carlson v. P., 284NW847. See Dun. Dig. 4162a.

2720-153. Violations a misdemeanor.—It is unlawful and, unless otherwise declared in this act with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this act. (Apr. 26, 1937, c. 464, §3.)

2720-154. Must not refuse to obey order.—No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control, or regulate traffic. (Apr. 26, 1937, c. 464, §4.)

2720-155. Application of act.—(a) The provisions of this act applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles

owned or operated by the United States, this state or any county, city, town, district, or ony other political subdivision of the state, subject to such specific exceptions as are set forth in this act with reference to authorized emergency vehicles.

(b) The driver of any authorized emergency vehicle when responding to an emergency call upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety but may proceed cautiously past such red or stop sign or signal after sounding siren and displaying red lights.

(c) No driver of any authorized emergency vehicle shall assume any special privilege under this act except when such vehicle is operated in response to any emergency call or in the immediate pursuit of an actual or suspected violator of the law.

(d) The provisions of this act shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the roadway of a highway but shall apply to such persons and vehicles when traveling to or from such work.

(e) Street cars and trackless trolley cars, except where otherwise specifically provided, shall be governed by the same rules and regulations as provided in this act for vehicles and motor vehicles, only in so far as such regulations apply to speed, stopping at thru streets and railroad tracks, and obeying signals of traffic control devices and rights-of-way, and shall be entitled to the same rights and benefits of this act, as to warning, turning and stopping signals and rights-of-way, as any vehicle or motor vehicle in the streets and highways of this state. (Apr. 26, 1937, c. 464, §5; July 14, 1937, Sp. Ses., c. 38, §1.)

Similar provisions of former law and annotations, see §2720-31.

2720-156. Bicycles and horse drawn vehicles to come under act.—Every person riding a bicycle or an animal or driving any animal drawing a vehicle upon a roadway shall be subject to the provisions of this act applicable to the driver of a vehicle, except those provisions of this act which by their nature can have no application. (Apr. 26, 1937, c. 464, §6.)

2720-157. Uniform in application.—The provisions of this act shall be applicable and uniform thruout this state and in all political subdivisions and municipalities therein and no local authority shall enact or enforce any rule or regulation in conflict with the provisions of this act unless expressly authorized herein. Local authorities may, however, adopt traffic regulations which are not in conflict with the provisions of this act. (Apr. 26, 1937, c. 464, §7.)

Similar provisions of former law and annotations, see §2720-33.

Minneapolis city ordinance requiring fuel dealers to obtain liability insurance as a condition precedent to obtaining a license to make deliveries is valid. Sverkerson v. C., 204M388, 283NW555. See Dun. Dig. 4165.

City ordinance requiring fuel dealers to carry liability insurance did not conflict with this act. Id. See Dun. Dig. 6752.

2720-158. Not to restrict local authorities.—(a) The provisions of this act shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and with the consent of the commissioner with respect to state trunk highways, within the corporate limits of a municipality or within the limits of a town in a county in this state now having, or which may hereafter have, a population of 500,000 or more inhabitants and a land area of not more than 600 square miles, and within the reasonable exercise of the police power from:

1. Regulating the standing or parking of vehicles;
2. Regulating traffic by means of police officers or traffic control signals;
3. Regulating or prohibiting processions or assemblages on the highways;
4. Designating particular highways as one-way roadways and requiring that all vehicles thereon be moved in one specific direction;
5. Designating any highway as a thru highway and requiring that all vehicles stop before entering or crossing the same or designating any intersection as a stop intersection and requiring all vehicles to stop at one or more entrances to such intersections;
6. Restricting the use of highways as authorized in Article XVI of this act.

(b) No ordinance or regulation enacted under subdivisions 4, 5, or 6 of this section shall be effective until signs giving notice of such local traffic regulations are posted upon and kept posted upon or at the entrances to the highway or part thereof affected as may be most appropriate. (Apr. 26, 1937, c. 464, §8; Apr. 21, 1939, c. 359.)

Similar provisions of former law and annotations, see §2720-32.

Sverkerson v. C., 204M388, 283NW555; note under §2720-157.

Matter of parking trucks on streets of city and use of tarvia treated streets by tractors with lugs and newly shod horses and heavy machinery are matters of local regulation. Op. Atty. Gen. (396c-9), May 22, 1937.

Ordinance authorizing angle parking must be approved by highway department. Op. Atty. Gen. (396c-9), Aug. 10, 1938.

Laws 1939, c. 359, is self executing so as to enable town board of township to enact ordinance regulating traffic within limits prescribed. Op. Atty. Gen. (989a-18), May 9, 1939.

Fines collected for violation of ordinances or by-laws of a town regulating traffic on town roads must be paid into county treasury. Op. Atty. Gen. (989B-4), May 20, 1939.

Upon favorable vote of electors of town, supervisors may employ police officers to enforce bylaws regulating traffic on town roads. Id.

Laws 1939, c. 359, amending this section, does not in itself grant any new power to a town in Hennepin County, but removes restrictions on its right to regulate streets and highways which existed under uniform highway act, and a town having platted portions on which reside 1200 or more people is granted such specific powers by §§1003 and 1004, of Mason's Statutes. Op. Atty. Gen. (989B-4), July 13, 1939.

2720-159. Not to apply to private road-ways.—Nothing in this act shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use, or from requiring other or different or additional conditions than those specified in this act, or otherwise regulating such use as may seem best to such owner. (Apr. 26, 1937, c. 464, §9.)

ARTICLE III

TRAFFIC SIGNS, SIGNALS, AND MARKINGS

2720-160. Traffic signs, signals, and markings.—The commissioner shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this act for use upon highways within this state. Such uniform system shall correlate with and so far as possible conform to the system then current as approved by the American Association of State Highway Officials. (Apr. 26, 1937, c. 464, §10.)

Similar provisions of former law and annotations, see §2720-56.

2720-161. Commissioner to place signs and traffic control devices on trunk highways.—(a) The commissioner shall place and maintain such traffic-control devices, conforming to the manual and specifications, upon all state trunk highways as he shall deem necessary to indicate and to carry out the provisions of this act or to regulate, warn, or guide traffic; provided, however, said commissioner may construct and maintain signs at the entrance of each city, village or borough, which sign shall have placed thereon the name of the city, village or borough and the population thereof.

(b) No other authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the commissioner except by the latter's permission. (Apr. 26, 1937, c. 464, §11; Apr. 22, 1939, c. 413.)

Similar provisions of former law, see §2720-57.

2720-162. Local authorities shall place and maintain traffic control devices in municipalities.—Local authorities in their respective jurisdictions shall place and maintain such traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this act or local traffic ordinances or to regulate, warn, or guide traffic. All such traffic-control devices hereafter erected shall conform to the state manual and specifications. (Apr. 26, 1937, c. 464, §12.)

2720-163. All persons to observe traffic-control device.—No driver of a vehicle or motorman of a street car or pedestrian or person riding an animal or bicycle shall disobey the instructions of any official traffic-control device placed in accordance with the provisions of this act, unless at the time otherwise directed by a police officer. (Apr. 26, 1937, c. 464, §13.)

2720-164. Colors for devices.—Whenever traffic is controlled by traffic-control signals exhibiting the words "Go" "Caution", or "Stop" or exhibiting different colored lights successively one at a time the following colors only shall be used and said terms and lights shall indicate as follows:

(a) Green alone or "Go"

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

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

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

1. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but vehicles within the intersection may be driven cautiously thru the intersection.

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

(c) Red alone or "Stop"

1. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line and shall remain standing until green or "Go" is shown alone.

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

(d) Red with green arrow.

1. Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall not interfere with other traffic or endanger pedestrians lawfully within a crosswalk.

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

(e) The motorman of any street car shall obey the above signals as applicable to vehicles. (Apr. 26, 1937, c. 464, §14.)

2720-165. Flashing signs.—Whenever flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows:

1. Flashing red (stop signal). When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

2. Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed thru the intersection or past such signal only with caution. (Apr. 26, 1937, c. 464, §15.)

2720-166. Placing of unauthorized signs prohibited.—(a) No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(b) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highways is hereby empowered to remove the same or cause it to be removed without notice. (Apr. 26, 1937, c. 464, §16.)

Similar provisions of former law, see §2720-58.

2720-167. Unlawful to alter, deface, or remove signs.—No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof. (Apr. 26, 1937, c. 464, §17.)

Similar provisions of former law, see §2720-59.

ARTICLE IV

ACCIDENTS

2720-168. Accidents.—(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled all requirements of this Act as to the giving of information. Every such stop shall be made without obstructing traffic more than necessary.

(b) Any person failing to stop or to comply with said requirements under such circumstances shall upon conviction be punished by imprisonment for not less than ten days nor more than 90 days or by fine of not less than $10.00 nor more than $100.00.

(c) The commissioner shall revoke the driver's license of the person so convicted. (Apr. 26, 1937, c. 464, §18.)

Similar provisions of former law, see §§2720-29 and 2720-62.

It is not mandatory upon a justice of the peace or judge of any court to secure possession of driver's license for purpose of forwarding it to commissioner of highways, but court in its sentence may require immediate surrender to court. Op. Atty. Gen. (291f), Aug. 19, 1938.

Revocation of license, §2712-6.

2720-169. Driver to stop at scene of accident.—The driver of any vehicle involved in an accident to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of this Act as to the giving of information. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor. (Apr. 26, 1937, c. 464, §19.)

Similar provisions of former law, see §§2720-29 and 2720-62.

2720-170. Shall give names and addresses.—The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person

shall stop and give his name, address and the registration number of the vehicle he is driving and shall upon request and if available exhibit his driver's or chauffeur's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person. (Apr. 26, 1937, c. 464, §20; Apr. 22, 1939, c. 430, §2.)

Similar provisions of former law, see §2720-29.

2720-171. Shall report collision with unattended vehicle.—The driver of any vehicle which collides with and damages any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the driver or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall report the same to a police officer. (Apr. 26, 1937, c. 464, §21.)

2720-172. Shall notify owner of property damage.—The driver of any vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his driver's or chauffeur's license and shall make report of such accident when and as required by the provisions of this Act. (Apr. 26, 1937, c. 464, §22.)

2720-173. Report of accidents to police and highway department—Confidential.—Subdivision 1. The driver of a vehicle involved in an accident resulting in injury to or death of any person shall, after compliance with the provisions of the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2720-168, 2720-169, 2720-170 and 2720-171, by the quickest means of communication give notice of such accident to the local police department if such accident occurs within a municipality, otherwise he shall in like manner give notice to the office of the sheriff of the county.

Subdivision 2. The driver of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of $50.00 or more shall, within 24 hours forward a written report of such accident to the commissioner.

Subdivision 3. Every law enforcement officer who in the regular course of duty, investigates a motor vehicle accident of which report must be made as required in this section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses, shall, within 24 hours after completing such investigation, forward a written report of such accident to the Commissioner.

Subdivision 4. The department shall prepare and upon request supply to police departments, coroners, sheriffs, garages and other suitable agencies or individuals, forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by persons involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the causes, conditions then existing, and the persons and vehicles involved.

Subdivision 5. Every accident report required to be made in writing shall be made on the appropriate form approved by the department and shall contain all of the information required therein unless not available.

Subdivision 6. Every coroner or other official performing like functions shall report in writing to the department the death of any person within his jurisdiction as the result of an accident involving a motor vehicle and the circumstances of such accident. Such report shall be made within five days after such death.

Subdivision 7. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been struck by any bullet, shall immediately report to the local police or sheriff and to the Commissioner within 24 hours after such motor vehicle is received, giving the engine number, registration number and the name and address of the owner or operator of such vehicle.

Subdivision 8. All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and shall be for the confidential use of the department for accident prevention purposes, except that the department may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident. No such report or contents thereof shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any person who has, or claims to have, made such a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such report be made to the department. Disclosing any information contained in any accident report except as provided herein is unlawful and a misdemeanor. (Apr. 26, 1937, c. 464, §23; Apr. 22, 1939, c. 430, §3.)

2720-174. Department to tabulate and analyze reports.—The department shall tabulate and may analyze all accident reports and shall publish annually or at more frequent intervals statistical information based thereon as to the number and circumstances of traffic accidents. (Apr. 26, 1937, c. 464, §24.)

ARTICLE V

CRIMINAL NEGLIGENCE, DRIVING WHILE INTOXICATED, AND RECKLESS DRIVING

2720-175. Criminal negligence defined.—(a) Any person who by operating or driving a vehicle of any kind in a reckless or grossly negligent manner causes a human being to be killed, under circumstances not constituting murder in the first, second or third degree or manslaughter in the first or second degree, is guilty of criminal negligence in the operation of a vehicle resulting in death.

(b) A person convicted of the crime defined by subsection (a) hereof, shall be punished by imprisonment in the State Penal Institutions for a term not exceeding five years, or in the workhouse or county jail for not more than one year, or by a fine of not more than $1,000.00, or by both a fine and imprisonment in the State Penal Institutions or a fine and imprisonment in the workhouse or county jail.

(c) The commissioner shall revoke the driver's license and the secretary of state shall revoke the chauffeur's license of any person convicted of the crime of criminal negligence in the operation of a vehicle resulting in the death of a human being. (Apr. 26, 1937, c. 464, §25.)

2720-176. Persons under influence of drugs or liquor prohibited from driving vehicle.—(a) It is unlawful and punishable as provided in subdivision (b) of this section for any person who is an habitual user of narcotic drugs or any person who is under the influence of intoxicating liquor or narcotic drugs to drive or operate any vehicle within this state.

(b) Every person who is convicted of a violation of this section shall be punished by imprisonment for not less than ten days nor more 90 days, or by fine of not less than $10.00, nor more than $100.00. On a second or subsequent conviction he shall be punished by imprisonment for not less than 30 days nor more than 90 days, or a fine of not less than $25.00 nor more than $100.00. Upon a first conviction of any person hereunder the commissioner shall

revoke his driver's license when and as such revocation is recommended by the court before which such conviction was had. Upon a second or subsequent conviction of any person under this section, the commissioner shall revoke his driver's license. Any person whose driver's license has been revoked, refused, suspended or cancelled may file a petition for a hearing in the matter in the District Court in the county wherein such person is residing, for the purpose of having said license reinstated in the discretion of said District Court. (Apr. 26, 1937, c. 464, §26; Apr. 22, 1939, c. 430, §4.)

Similar provision of former law and annotations, see §2720-2.

This section, as amended by Laws 1939, c. 430, supersedes Laws 1939, c. 401, §17(a), in so far as compulsory revocation of driver's license for driving while under influence of liquor or narcotics is involved in connection with prosecution under state laws, but revocation of a driver's license is still compulsory on convictions under an ordinance for the same offense. Op. Atty. Gen. (291f), May 12, 1939.

Laws 1939, c. 430, apparently attempted to modify effect of a conviction of drivers while under influence of liquor, but did not fully accomplish that purpose for reason that Laws 1933, c. 351, (§2720-101 to §2720-122), is not changed or amended or referred to. Op. Atty. Gen. (291f), Sept. 12, 1939.

2720-177. What is reckless driving—penalty.—(a) Any person who drives any vehicle in such a manner as to indicate either a willful or a wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) Every person convicted of reckless driving shall be punished upon a first conviction by imprisonment for a period of not less than ten days nor more than 90 days, or by a fine of not less than $10.00 nor more than $100.00, and on a second or subsequent conviction shall be punished by imprisonment for not less than 30 days nor more than 90 days, or by a fine of not less than $25.00 nor more than $100.00. (Apr. 26, 1937, c. 464, §27.)

(c) Any person who shall operate or halt any vehicle upon any street or highway carelessly or heedlessly in disregard of the rights or the safety of others or in a manner so as to endanger or be likely to endanger any person or property is guilty of careless driving. (Apr. 26, 1937, c. 464, §27; Apr. 22, 1939, c. 430, §5.)

Similar provisions of former law and annotations, see §2720-3.

ARTICLE VI

SPEED RESTRICTIONS

2720-178. Speed limitations.—(a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so restricted as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(b) Where no special hazard exists the following speeds shall be lawful but any speeds in excess of said limits shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful; except that any speed limit within any municipality shall be an absolute speed limit and any speed in excess thereof shall be unlawful.

1. 30 miles per hour in any municipality;
2. 60 miles per hour in other locations during the daytime.
3. 50 miles per hour in such other locations during the nightime.

Daytime means from a half hour before sunrise to a half hour after sunset except at any time when due to weather or other conditions there is not sufficient light to render clearly discernible persons and vehicles at a distance of 500 feet. Nightime means at any other hour or at any time when due to weather or other conditions there is not sufficient light to render clearly discernible persons and vehicles at a distance of 500 feet.

(c) The driver of every vehicle shall, consistent with the requirements drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exists with respect to pedestrians or other traffic or by reason or weather or highway conditions.

(d) Whenever the commissioner shall determine upon the basis of an engineering and traffic investigation that any speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist on any trunk highway or upon any part thereof, said commissioner may erect appropriate signs designating a reasonable and safe speed limit thereat which shall be effective when such appropriate signs giving notice thereof are erected.

(e) Whenever local authorities within their respective jurisdiction shall have reason to believe that the existing speed limit upon any street or highway or part thereof not a part of the trunk highway system is greater or less than is reasonable or safe under conditions existing they may request the commissioner of highways to authorize, upon the basis of an engineering and traffic investigation, the erection of appropriate signs designating what speed is reasonable and safe, and the commissioner does hereby have authority to authorize the erection of such signs designating a reasonable and safe speed limit thereat which shall be effective when such appropriate signs giving notice thereof are erected by authority of the commissioner. Alteration of speed limits on streets and highways shall be made only upon authority of the commissioner.

(f) In every charge of violation of any speed regulation in this act the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed limit applicable within the district or at the location.

(g) The provisions of this act declaring speed limitation shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident. (Apr. 26, 1937, c. 464, §28; Apr. 22, 1939, c. 430, §6.)

Similar provisions of former law and annotations, see §2720-4.

It is error to instruct that statute shifts burden of proof, incidence of statute being merely upon burden of next producing evidence. Lestico v. K., 204M125, 283NW 122. See Dun. Dig. 4167e.

Whether motorist was guilty of negligence in running into a car backing across highway in a maneuver to throw lights upon car needing repairs held for jury. Carlson v. P., 284NW847. See Dun. Dig. 4167e.

Contributory negligence of motorist crashing into rear end of unlighted truck temporarily parked on pavement held for jury, in view of blending of truck with surrounding conditions and distracting meeting lights. Johnson v. K., 285NW881. See Dun. Dig. 4167e.

Driving at night when snow is falling at a speed of 35 to 40 miles per hour over a road with which driver is unacquainted, but which his passenger has warned him has bad or tricky turns, is negligence as a matter of law. Wenger v. V., 286NW885. See Dun. Dig. 4167e.

Any speeds in excess of limits shall be prima facie evidence that it is unlawful, except that any speed limit within a municipality shall be an absolute speed limit. Op. Atty. Gen. (989a-19), May 9, 1939.

(a).

Inability to stop within range of vision is negligence as a matter of law. 22MinnLawRev877.

(h).

Plaintiff held chargeable with contributory negligence as a matter of law in that, in daylight, he drove his automobile into the intersection of two graveled and well-traveled highways without knowing that he was approaching a crossroad. Dreyer v. O., 285NW707. See Dun. Dig. 4164e.

In action for injuries received when crashing into rear of truck temporarily parked on highway, evidence held not to justify giving of this subsection in instructions. Johnson v. K., 285NW881. See Dun. Dig. 4167e.

2720-179. Shall not impede traffic.—No person shall drive a motor vehicle at such a slow speed as

to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

Police officers are hereby authorized to enforce this provision by directions to drivers, and in the event of apparent willful disobedience to this provision and refusal to comply with direction of an officer in accordance herewith the continued slow operation by a driver shall be a misdemeanor. (Apr. 26, 1937, c. 464, §29.)

2720-180. Speed on bridges.—(a) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is sign-posted as provided in this section.

(b) The commissioner upon request from any local authority shall, or upon his own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if he shall thereupon find that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this act, the commissioner shall determine and declare the maximum speed of vehicles which such structure can withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained at a distance of 100 feet before each end of such structure.

(c) Upon the trial of any person charged with a violation of this section, proof of said determination of the maximum speed by said commissioner and the existence of said signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure. (Apr. 26, 1937, c. 464, §30.)

Similar provisions of former law, see §2720-7.

2720-181. Exceptions.—The speed limitations set forth in this article shall not apply to authorized emergency vehicles when responding to emergency calls providing the drivers thereof sound audible signal by siren, and two lighted red lights are displayed to the front. This provision shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street, nor shall it protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others. (Apr. 26, 1937, c. 464, §31.)

ARTICLE VII

DRIVING ON RIGHT SIDE OF ROADWAY—OVERTAKING AND PASSING, ETC.

2720-182. Driving.—Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

2. When the right half of a roadway is closed to traffic while under construction or repair;

3. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or

4. Upon a roadway designated and sign-posted for one-way traffic as a one-way roadway. (Apr. 26, 1937, c. 464, §32.)

Similar provisions of former law and annotations, see §2720-9.

In head-on, as in other collision cases, question of negligence is one of fact for jury, where evidence shows that driver might have avoided collision by exercise of due care. Hinman v. G., 286NW364. See Dun. Dig. 4163.

2720-183. Shall pass on right side.—Drivers of vehicles proceeding in opposite directions shall pass each other to the right and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main traveled portion of the roadway as nearly as possible. (Apr. 26, 1937, c. 464, §33.)

Similar provisions of former law and annotations, see §2720-11.

2720-184. Rules for passing.—The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated:

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible warning and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (Apr. 26, 1937, c. 464, §34.)

Similar provisions of former law and annotations, see §§2720-12 and 2720-14.

2720-185. Same.—(a) The driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

(b) The driver of a vehicle may overtake and, allowing sufficient clearance, pass another vehicle proceeding in the same direction either upon the left or upon the right on a roadway with unobstructed pavement of sufficient width for four or more lines of moving traffic when such movement can be made in safety. (Apr. 26, 1937, c. 464, §35.)

2720-186. Same.—(a) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of on-coming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction.

(b) Except on a one-way roadway, no vehicle shall, in overtaking and passing another vehicle or at any other time, be driven to the left half of the roadway under the following condition:

1. When approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed within a distance of 700 feet;

2. When approaching within 100 feet of any under pass or tunnel or when approaching within 100 feet of or traversing any intersection of railroad grade crossing;

3. Where official signs are in place prohibiting passing, or a distinctive center line is marked, which distinctive line also so prohibits passing as declared in the manual of traffic control devices adopted by the commissioner. (Apr. 26, 1937, c. 464, §36; Apr. 22, 1939, c. 430, §7.)

Similar provisions of former law and annotations, see §§2720-10 and 2720-13.

2720-187. One way highways.—(a) Upon a roadway designated and sign-posted for one-way traffic as a one-way roadway, a vehicle shall be driven only in the direction designated.

(b) A vehicle passing around a rotary traffic island shall be driven only to the right of such island. (Apr. 26, 1937, c. 464, §37.)

2720-188. Three-way roadways.—Whenever any roadway has been divided into three or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(a) A vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved

from such lane until the driver has first ascertained that such movement can be made with safety.

(b) Upon a roadway which is not a one-way roadway and which is divided into three lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of such allocation. The left lane of a three lane roadway, which is not a one-way roadway, shall not be used for overtaking and passing another vehicle.

(c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign. (Apr. 26, 1937, c. 464, §38.)

2720-189. Distance between vehicles.—(a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the conditions of the highway.

(b) The driver of any motor vehicle drawing another vehicle, or the driver of any motor truck, when traveling upon a roadway outside of a business or residence district shall not follow within 150 feet of another vehicle. The provisions of this subdivision shall not be construed to prevent overtaking and passing nor shall the same apply upon any lane specially designated for use by motor trucks. (Apr. 26, 1937, c. 464, §39.)

Similar provisions of former law and annotations, see §2720-15.

(a).

Martini v. J., 204M556, 284NW433; note under §2720-15(a).

ARTICLE VIII

TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

2720-190. Signals.—The driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.

(b) Approach for a left turn on other than one-way roadways shall be made in that portion of the right half of the roadway nearest the center line thereof and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.

(c) Approach for a left turn from a two-way roadway into a one-way roadway shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection. A left turn from a one-way roadway into a two-way roadway shall be made by passing to the right of the center line of the roadway being entered upon leaving the intersection.

(d) Local authorities in their respective jurisdictions may cause markers, buttons, or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons, or signs. (Apr. 26, 1937, c. 464, §40.)

Similar provisions of former law and annotations, see §2720-16.

2720-191. Turning on highways.—No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 1,000 feet. (Apr. 26, 1937, c. 464, §41; Apr. 22, 1939, c. 430, §8.)

2720-192. Starting parked car.—No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety. (Apr. 26, 1937, c. 464, §42.)

2720-193. Turning on highways.—(a) No person shall turn a vehicle from a direct course upon a highway unless and until such movement can be made with reasonable safety and then only after giving a clearly audible warning by sounding the horn if any pedestrian may be affected by such movement or after giving an appropriate signal in the manner hereinafter provided in the event any other vehicle may be affected by such movement.

(b) A signal of intention to turn left shall be given continuously during not less than the last 75 feet traveled by the vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear unless there is a good and sufficient reason for not being able to do so. (Apr. 26, 1937, c. 464, §43.)

Similar provisions of former law and annotations, see §2720-17.

Whether person backing car across highway in the night time in maneuvering so as to throw his lights on a car that he was about to repair was guilty of contributory negligence held for jury. Carlson v. P., 284NW 847. See Dun. Dig. 4167b.

2720-194. Methods of signalling.—The signals herein required shall be given either by means of the land and arm or by a signal lamp or signal device of a type approved by the commissioner, but when a vehicle is so constructed or loaded that a hand and arm signal would not be visible in normal sunlight and at night both to the front and rear of such vehicle then said signals must be given by such a lamp or device. (Apr. 26, 1937, c. 464, §44.)

Similar provisions of former law and annotations, see §2720-17.

2720-195. Hand signals.—Whenever the signal is given by means of the hand and arm the driver shall indicate his intention to start, stop, or turn by extending the hand and arm horizontally from and beyond the left side of the vehicle. (Apr. 26, 1937, c. 464, §45.)

ARTICLE IX

RIGHT-OF-WAY

2720-196. Right of way.—(a) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

(b) When two vehicles enter an intersection from different highways at approximately the same time the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(c) The foregoing rules are modified at thru highways and otherwise as hereinafter stated in this article.

(d) The driver of any vehicle or street car traveling at an unlawful speed shall forfeit any right-of-way which he might otherwise have hereunder. (Apr. 26, 1937, c. 464, §46.)

Similar provisions of former law and annotations, see §2720-18.

Contributory negligence of motorist whose car was hit from his left by truck, was reasonably negatived by presence on or near intersection of four other cars, three approaching from plaintiff's front and one coming from his right and turning ahead of him. Evert v. S., 285NW892. See Dun. Dig. 4164e.

2720-197. Right-of-way at intersections.—The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having given a signal when and as

required by this act, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn. (Apr. 26, 1937, c. 464, §47.)

Similar provisions of former law and annotations, see §2720-18.

Plaintiff held chargeable with contributory negligence as a matter of law in that, in daylight, he drove his automobile into the intersection of two graveled and well-traveled highways without knowing that he was approaching a crossroad. Dreyer v. O., 285NW707. See Dun. Dig. 4164e.

2720-198. Thru highways.—(a) The driver of a vehicle shall stop as required by this act at the entrance to a thru highway and shall yield the right-of-way to other vehicles which have entered the intersection from said thru highway or which are approaching so closely on said thru highway as to constitute an immediate hazard, but said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection on said thru highway shall yield the right-of-way to the vehicles so proceeding into or across the thru highway.

(b) The driver of a vehicle shall likewise stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at one or more entrances thereto altho not a part of a thru highway and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed. (Apr. 26, 1937, c. 464, §48.)

2720-199. Driver entering highway shall yield right-of-way.—The driver of a vehicle entering or crossing a highway from a private road or driveway shall yield the right-of-way to all vehicles approaching on said highway. (Apr. 26, 1937, c. 464, §49.)

Similar provisions of former law and annotations, see §2720-19.

2720-200. Emergency vehicle to have right-of-way.—(a) Upon the immediate approach of an authorized emergency vehicle, when the driver is giving audible signal by siren, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

2720-200(b).—Upon the approach of an authorized emergency vehicle, as above stated, the motorman of every street car and the operator of every trackless trolley car shall immediately stop such car clear of any intersection and keep it in such position and keep the doors and gates of such street car or trackless trolley car closed until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (Apr. 26, 1937, c. 464, §50; Apr. 22, 1939, c. 430, §9.)

(c) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highways. (Apr. 26, 1937, c. 464, §50.)

Similar provisions of former law and annotations, see §§2720-8, 2720-19, 2720-20.

2720-201. Funeral processions to have right-of-way.—Whenever any funeral procession identifies itself by using regular lights on all cars and by keeping all cars in close formation, the driver of every other vehicle, except an emergency vehicle, shall yield the right-of-way. (Apr. 26, 1937, c. 464, §51.)

ARTICLE X

PEDESTRIANS' RIGHTS AND DUTIES

2720-202. Pedestrians' right and duties.—Pedestrians shall be subject to traffic-control signals at intersections as heretofore declared in this act, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this article. (Apr. 26, 1937, c. 464, §52.)

2720-203. Pedestrians to have right-of-way in certain cases.—(a) Where traffic-control signals are not in place or in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this article.

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(c) It shall be unlawful for any person to drive a motor vehicle through a column of school children crossing a street or highway or past a member of a school safety patrol created in accordance with Chapter 23, Laws of 1933, [§§2883-3 to 2883-5] while such member of a school safety patrol is directing the movement of children across a street or highway and while said school safety patrol member is holding his official signal in the stop position. (Apr. 26, 1937, c. 464, §53; Apr. 22, 1939, c. 430, §10.)

2720-204. Pedestrians not crossing at crosswalks to yield right-of-way.—(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(d) Notwithstanding the provisions of this section every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (Apr. 26, 1937, c. 464, §54.)

2720-205. To cross on right half of crosswalks.—Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (Apr. 26, 1937, c. 464, §55.)

2720-206. Not to solicit rides.—No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle. (Apr. 26, 1937, c. 464, §56.)

Similar provisions of former law, see §2720-28.

2720-207. Must walk on left side of roadway.—Pedestrians when walking along a roadway shall walk near the left side of the roadway, giving way to oncoming traffic. (Apr. 26, 1937, c. 464, §57.)

ARTICLE XI

STREET CARS AND SAFETY ZONES

2720-208. Passing street cars.—(a) The driver of a vehicle shall not overtake and pass upon the left nor drive upon the left side of any street car proceeding in the same direction, whether such street car is actually in motion or temporarily at rest except:

1. When so directed by a police officer;
2. When upon a one-way street; or
3. When upon a street where the tracks are so located as to prevent compliance with this section.

(b) The driver of any vehicle when permitted to overtake and pass upon the left of a street car which has stopped for the purpose of receiving or dis-

charging any passenger shall reduce speed and may proceed only upon exercising due caution for pedestrians and shall accord pedestrians the right-of-way when required by other sections of this act. (Apr. 26, 1937, c. 464, §58.)

Similar provisions of former law and annotations, see §2720-22.

2720-209. Shall stop ten feet from street cars.—The driver of a vehicle overtaking upon the right any street car stopped or about to stop for the purpose of receiving or discharging any passenger shall stop such vehicle at least ten feet to the rear of the nearest running board or door of such street car and thereupon remain standing until all passengers have boarded such car or upon alighting have reached a place of safety, except that where a safety zone has been established a vehicle need not be brought to a stop before passing any such street car but may proceed past such car at a speed not greater than is reasonable and proper and with due caution for the safety of pedestrians. Provided the pedestrian going to and from a street car shall have the right-of-way over all vehicles and motor vehicles. (Apr. 26, 1937, c. 464, §59.)

Similar provisions of former law and annotations, see §2720-22.

2720-210. Shall not drive through safety zones.—No vehicle shall at any time be driven thru a safety zone. (Apr. 26, 1937, c. 464, §60.)

Similar provisions of former law, see §2720-23.

ARTICLE XII

SPECIAL STOPS REQUIRED

2720-211. Special stops.—(a) Whenever any person driving a vehicle approaches a railroad grade crossing and a clearly visible electric or mechanical signal device gives warning of the immediate approach of a train, the driver of such vehicle shall stop not less than ten feet from the nearest track of such railroad and shall not proceed until he can do so safely.

(b) The driver of a vehicle shall stop and remain standing and not traverse such a grade crossing when a crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a train. (Apr. 26, 1937, c. 464, §61.)

Similar provisions of former law, see §2720-5.

2720-212. Railroad and warehouse commission to mark dangerous crossings.—The railroad and warehouse commission is hereby authorized to designate particularly dangerous highway grade crossings of railroads and to order stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within 50 feet but not less than ten feet from the nearest track of such grade crossing and shall proceed only upon exercising due care. (Apr. 26, 1937, c. 464, §62.)

2720-213. Drivers of certain vehicles must stop.—(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle not less than ten feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. (As amended July 14, 1937, Sp. Ses., c. 38, §1.)

(b) No stop need be made at any such crossing where a police officer or a traffic-control signal directs traffic to proceed.

(c) This section shall not apply at street railway grade crossings within a business or residence district. (Apr. 26, 1937, c. 464, §63.)

2720-214. Crossing railroad tracks with certain equipment.—(a) No person shall operate or move any caterpillar tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of six or less miles per hour or a vertical body or load clearance of less than nine inches above the level surface of a roadway upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than ten feet nor more than 50 feet from the nearest rail of such railway and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(c) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. (Apr. 26, 1937, c. 464, §64.)

2720-215. Designation of thru highways.—(a) The commissioner with reference to state trunk highways, and local authorities with reference to other highway under their jurisdiction may designate thru highways by erecting stop signs at entrances thereto or may designate any intersection as a stop intersection by erecting like signs at one or more entrances to such intersection; provided, that local authorities, with the consent of the commissioner may designate thru highways and/or stop intersections on state trunk highways.

(b) Every driver of a vehicle and every motorman of a street car shall stop at such sign or at a clearly marked stop line before entering an intersection except when directed to proceed by a police officer or traffic control signal. (Apr. 26, 1937, c. 464, §65; Apr. 22, 1939, s. 430, §11.)

Similar provisions of former law and annotations, see §2720-21.

2720-216. Shall stop before reaching sidewalks.—The driver of a vehicle within a business or residence district emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across any alleyway or private driveway. (Apr. 26, 1937, c. 464, §66.)

ARTICLE XIII

STOPPING, STANDING AND PARKING

2720-217. Stopping, standing and parking.—(a) Upon any highway outside of a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled part of the highway when it is practical to stop, park, or so leave such vehicle off such part of said highway, but in every event a clear and unobstructed width of at least 20 feet of such part of the highway opposite such standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle be available from a distance of 200 feet in each direction upon such highway.

(b) This section shall not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a highway in such a manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position. (Apr. 26, 1937, c. 464, §67.)

Similar provisions of former law and annotations, see §2720-24.

Section applies only to highways outside of a business or residence district. Bartley v. F., 285NW484. See Dun. Dig. 4171a.

In action for injuries received when crashing into rear of a truck temporarily parked upon pavement, court properly refused instruction concerning disablement, fog,

or the emergency rule, there being no evidence warranting it. Johnson v. K., 285NW881. See Dun. Dig. 9774.

Contributory negligence of motorist crashing into rear end of unlighted truck temporarily parked on pavement held for jury, in view of blending of truck with surrounding conditions and distracting meeting lights. Id. See Dun. Dig. 4171a.

2720-218. Police officials may move cars.—(a) Whenever any police officer finds a vehicle standing upon a highway in violation of any of the foregoing provisions of this article such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or improved or main traveled part of such highway.

(b) Whenever any police officer finds a vehicle unattended upon any street or high-way or upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle and remove the same to the nearest convenient garage or other place of safety. (Apr. 26, 1937, c. 464, §68; Apr. 22, 1939, c. 430, §12.)

Similar provisions of former law and annotations, see §2720-24.

Automobile abandoned on city street, owner being unknown, may be removed by city officials to a local garage for storage or safe keeping, and later be sold for storage charges under unclaimed property statute or motor vehicle storage lien statute. Op. Atty. Gen. (632a), Dec. 2, 1937.

2720-219. Where stops are prohibited.—(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within 10 feet of a fire hydrant;
5. On a crosswalk;
6. Within 20 feet of a crosswalk at an intersection;
7. Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
8. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
9. Within 50 feet of the nearest rail of a railroad crossing;
10. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign-posted;
11. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;
12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel, except as otherwise provided by ordinance;
14. At any place where official signs prohibit stopping.

(b) No person shall move a vehicle not owned by such person into any prohibited area or away from a curb such distance as is unlawful.

(c) No person shall, for camping purposes, leave or park a house trailer on or within the limits of any highway or on any highway right-of-way, except where signs are erected designating the place as a camp site. (Apr. 26, 1937, c. 464, §69; July 14, 1937, Ex. Ses., c. 38, §1.)

(d) No person shall stop or park a vehicle on a street or highway when directed or ordered to proceed by any peace officer invested by law with authority to direct, control or regulate traffic. (Apr. 26, 1937, c. 464, §69; July 14, 1937, Ex. Ses., c. 38, §1; Apr. 22, 1939, c. 430, §13.)

Similar provisions of former law, see §§2720-25 and 2720-34.

2720-220. Parking on roadway.—Except where angle parking is permitted by local ordinance every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be so stopped or parked with the right-hand wheels of such vehicle parallel with and within 12 inches of the right-hand curb, provided that such exception shall only apply to a state trunk highway after approval by the commissioner. Otherwise upon all streets and highways every vehicle stopped or parked shall be so stopped or parked parallel with and to the right of the paved or improved or main traveled part of such street or highway. (Apr. 26, 1937, c. 464, §70; July 14, 1937, Ex. Ses., c. 38, §1; Apr. 22, 1939, c. 430, §14.)

Trial court was not justified in directing a verdict in favor of defendant where evidence was sufficient to enable jury reasonably to conclude that defendant was negligent in parking truck on highway and that such negligence was a proximate cause of injury to plaintiff, who was riding as a guest in car which ran into truck. Bartley v. F., 285NW484. See Dun. Dig. 4171a.

Apart from the statute, there is a common law duty on part of operator of a truck or automobile to use due care, requirements of statute being cumulative. Id. See Dun. Dig. 4171a.

Section supersedes prior city ordinance permitting or requiring angle parking. Op. Atty. Gen. (59a-32), July 27, 1937.

Ordinance authorizing angle parking must be approved by highway department. Op. Atty. Gen. (396c-9), Aug. 10, 1938.

ARTICLE XIV

MISCELLANEOUS RULES

2720-221. Brakes must be set.—No person driving or in charge of a motor vehicle shall permit it to stand unattended without effectively setting the brake thereon and turning the front wheels to the curb or side of the highway. (Apr. 26, 1937, c. 464, §71.)

Similar provisions of former law and annotations, see §2720-26.

2720-222. Restrictions on loads.—(a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle or street car shall ride in such position as to interfere with the driver's or motorman's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle or street car. (Apr. 26, 1937, c. 464, §72.)

2720-223. To drive on right side of highways.—The driver of a motor vehicle traveling thru defiles or canyons or on mountain highways shall hold such motor vehicle under control and as near the right-hand edge of the highway as reasonably possible and, upon approaching any curve where the view is obstructed within a distance of 200 feet along the highway, shall give audible warning with the horn of such motor vehicle. (Apr. 26, 1937, c. 464, §73.)

Similar provisions of former law, see §2720-27.

2720-224. Coasting.—(a) The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears of such vehicle in neutral.

(b) The driver of a commercial motor vehicle when traveling upon a down grade shall not coast with the clutch disengaged. (Apr. 26, 1937, c. 464, §74.)

Similar provisions of former law, see §2720-28.

2720-225. Following fire apparatus.—The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (Apr. 26, 1937, c. 464, §75.)

2720-226. Must not cross fire hose.—No street car or vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway, or street car track, to be used at any fire or alarm of fire, without the consent of the fire department official in command. (Apr. 26, 1937, c. 464, §76.)

2720-227. Refuse on highway.—(a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal, or vehicle upon such highway.

(b) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. (Apr. 26, 1937, c. 464, §77.)

2720-228. Swinging gate, loading rack or partition on trucks prohibited.—No truck shall be operated on any highway with gate, loading rack, or partition carried in any manner on any part of the exterior of the truck, unless the top and bottom of such gate, loading rack or partition is securely attached to the truck so as to prevent swinging or becoming loose. (Apr. 26, 1937, c. 464, §78; July 14, 1937, Sp. Ses., c. 38, §3.)

2720-229. Tail-board or tail-gate not to be left hanging.—No truck shall be driven or parked on any highway with tail-gate or tail-board hanging down or projecting from the vehicle except while such vehicle is being loaded or unloaded, and except when a load thereon extends beyond the tail-gate or tail-board, rendering impossible the closing thereof. (Apr. 26, 1937, c. 464, §79.)

A trucker may have tail-gate of his truck projecting when transporting articles which are longer than body of truck; but not when articles may be loaded in body of truck, in which situation he must of necessity limit his load so that he can close tail-gate. State v. Gettins, 285NW533. See Dun. Dig. 4167b.

"Impossible" means wholly impracticable under the circumstances and not created or attributable to the party. Id. See Dun. Dig. 4167b.

2720-230. Passing school busses.—(a) The driver of a vehicle upon a highway outside of a business or residence district upon meeting or overtaking any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall come to a complete stop and shall not resume motion until the school bus has completed loading or unloading passengers. (Apr. 26, 1937, c. 464, §80; Apr. 22, 1939, c. 430, §15.)

(b) This section shall be applicable only in the event the school bus shall bear upon the front and rear thereon a plainly visible sign containing the words "school bus" in letters not less than six inches in height, which can be removed or covered when the vehicle is not in use as a school bus. (Apr. 26, 1937, c. 464, §80.)

2720-231. Commissioner to govern design and color of school busses.—The commissioner shall adopt and enforce regulations not inconsistent with this act to govern the design, color and operation of all school buses used for the transportation of school children when owned and operated by any school district or privately owned and operated under contract with any school district in this state and such regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to said regulations. (Apr. 26, 1937, c. 464, §81.)

2720-232. Shall not hitch behind motor vehicles.—No person shall hitch a toboggan, hand sled, bicycle or other similar device onto any motor vehicle, street car or trackless trolley car while being used on a highway. (Apr. 26, 1937, c. 464, §82.)

Similar provisions of former law, see §2720-28.

ARTICLE XV

EQUIPMENT

2720-233. Certain vehicles forbidden on highway.—(a) It is a misdemeanor for any person to drive or for the owner to cause or knowingly permit to be driven on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this act, or which is equipped in any manner in violation of this act, or for any person to do any act forbidden or fail to perform any act required under this act.

(b) The provisions of this act with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable. (Apr. 26, 1937, c. 464, §83; Apr. 22, 1939, c. 430, §16.)

(a).

Vehicles operated only during hours of daylight are required to have equipment provided by this article. Op. Atty. Gen. (632a-22), Aug. 1, 1938.

2720-234. Vehicle lights.—(a) Every vehicle upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise and at other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as hereinafter stated.

(b) Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the time stated in subdivision (a) of this section upon a straight level unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated and unless otherwise specified the location of lamps and devices shall refer to the centers of such lamps or devices. (Apr. 26, 1937, c. 464, §84.)

(b).

Sullivan v. B., 286NW350; note under §2720-246(a).

2720-235. Head-lights.—(a) Every motor vehicle other than a motorcycle shall be equipped with two head lamps, no more, no less, one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this article.

(b) Every motorcycle shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of this article. (Apr. 26, 1937, c. 464, §85.)

Similar provisions of former law and annotations, see §2720-48.

Where defendant testified that his lights would reveal an object 100 feet ahead of the car and was given plenty of opportunity to add to this distance but did not do so, it was proper to permit jury to determine whether his lights conformed to statutory standard and whether their failure to do so had causal connection with his failure to see plaintiff's car. Carlson v. P., 284NW847. See Dun. Dig. 4167c.

Vehicles operated only during hours of daylight are required to have headlamps. Op. Atty. Gen. (632a-22), Aug. 1, 1938.

2720-236. Rear-lights.—(a) Every motor vehicle and every vehicle which is being drawn at the end of a train of vehicles shall be equipped with a lighted rear lamp, exhibiting a red light plainly visible from a distance of 500 feet to the rear. On and after January 1, 1938, no person shall sell or operate any new motor vehicle, trailer or semi-trailer unless the rear lamp thereon shall be mounted and located on

the rear within 20 inches from extreme left edge and not less than 24 inches nor more than 60 inches from the surface upon which the vehicle stands unless the use or construction of the vehicle would make such location impracticable.

(b) Either such rear lamp or separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. When the rear license plate is illuminated by an electric lamp other than the required rear lamp, said two lamps shall be turned on or off only by the same control switch at all times whenever head lamps are lighted.

(c). On and after January 1, 1938, every new motor vehicle, trailer, or semi-trailer hereafter sold and every such vehicle hereafter operated on a highway shall also carry at the rear, either as a part of the rear lamp or separately, a reflector. Every such reflector shall be of a type approved by the commissioner and shall be mounted as close as is practicable to the extreme left edge of the vehicle at a height not more than 60 inches nor less than 24 inches above the surface upon which the vehicle stands. Every such reflector shall be so designed and maintained as to be visible at night from all distances within 300 feet to 50 feet from such vehicle, except that on a commercial vehicle the reflector shall be visible from all distances within 500 feet to 50 feet from such vehicle, when directly in front of a motor vehicle displaying lawfully lighted head lamps. (Apr. 26, 1937, c. 464, §86.)

Similar provisions of former law and annotations, see §2720-48.

Exclusion of evidence as to condition of tail light of truck following accident was not prejudicial where it was unlikely that jury attributed any importance to whether or not tail light was burning in view of evidence indicating that a large woman was standing back of the truck at the time of the accident. Johnson v. K., 285NW881. See Dun. Dig. 4167c.

Contributory negligence of motorist crashing into rear end of unlighted truck temporarily parked on pavement held for jury, in view of blending of truck with surrounding conditions and distracting meeting lights. Id. See Dun. Dig. 4167c.

Vehicles operated during hours of daylight are required to have rear lamps. Op. Atty. Gen. (632a-22), Aug. 1, 1938.

2720-237. Must be equipped within sixty days.—Within 60 days after the effective date of this act every motor vehicle or motor drawn vehicle designed or used for the transportation of property, or for the transportation of passengers for compensation, shall display lighted lamps as required in this section.

1. Every such vehicle having a width including load thereon at any part in excess of 80 inches shall be equipped with four clearance lamps, two located on the front at opposite sides and not more than 6 inches from the extreme outer edge of the vehicle or load, displaying a white or amber light visible from a distance of 500 feet to the front of the vehicle and two located on the rear on opposite sides not more than 6 inches from the extreme outer edge of the vehicle or load, displaying a red light visible from a distance of 500 feet to the rear of the vehicle. The front clearance lamps shall be located at a height of not less than 24 inches above the head lamp centers. The rear clearance lamps shall be in addition to the red rear lamp hereinbefore required.

2. Every such vehicle or combination of such vehicles which exceeds 30 feet in overall length shall be equipped with at least four side marker lamps, one on each side near the front and one on each side near the rear. Such lamps shall be at a height of not less than 24 inches above the surface upon which the vehicle stands. Said lamps near the front shall display a white or amber light and lamps near the rear shall display a red light, each visible from a distance of 500 feet to the side of the vehicle on which it is located. If the clearance lamps on the right and left sides of the vehicle as hereinbefore required display lights visible from a distance of 500 feet at right angles to the right and left side respectively of the vehicle, they shall be deemed to meet the requirements as to marker lamps, provided an additional marker lamp, white or amber, is displayed approximately midway between the above specified marker lamps. (Apr. 26, 1937, c. 464, §87.)

2720-238. Lights and flags at end of load.—Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times when lighted lamps on vehicles are required in this act, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The light or lantern required under this section shall be in addition to the rear light required upon every vehicle. At any time when no lights are required there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 16 inches square. (Apr. 26, 1937, c. 464, §88.)

Similar provisions of former law, see §2720-36.

2720-239. Lights for parked vehicles.—Whenever a vehicle is parked or stopped upon a highway or shoulder adjacent thereto, whether attended or unattended during the times when lighted lamps on vehicles are required in this act, such vehicle shall be equipped with one or more lamps located near the extreme outer edge of the vehicle which shall exhibit a white light on the roadway side visible from a distance of 500 feet to the front of such vehicle and a red light visible from a distance of 500 feet to the rear, except that local authorities may provide by ordinance that no lights need be displayed upon any such vehicle when stopped or parked in accordance with local parking regulations upon a highway where there is sufficient light to clearly reveal any person or object within a distance of 500 feet upon such highway. Any lighted head lamps upon a parked vehicle shall be depressed or dimmed. (Apr. 26, 1937, c. 464, §89.)

Similar provisions of former law and annotations, see §2720-54.

2720-240. Bicycles must have lights.—Every bicycle shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 500 feet to the rear, except that an approved reflector meeting the minimum requirements of this act may be used in lieu of a rear light. (Apr. 26, 1937, c. 464, §90; Apr. 22, 1939, c. 430, §17.)

Similar provisions of former law and annotations, see §2720-48.

2720-241. Horse drawn vehicles must have lights.—All vehicles, including animal-drawn vehicles and including those specifically excepted in this article with respect to equipment and not hereinbefore specifically required to be equipped with lamps, shall at the times when lighted lamps on vehicles are required in this act be equipped with one or more lighted lamps or lanterns projecting a white light visible from a distance of 500 feet to the front and to the rear, mounted on the roadway side of the vehicle, except that reflectors meeting the maximum requirements of this act may be used in lieu of the lights required in this section. (Apr. 26, 1937, c. 464, §91.)

2720-242. May have spot lights.—(a) Any motor vehicle may be equipped with not to exceed two spot lamps and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high intensity portion of the beam will be directed on the road surface to the left of the center of the vehicle nor more than 100 feet ahead of the vehicle upon which said lamps are mounted.

(b) Any motor vehicle may be equipped with not to exceed three auxiliary driving lamps mounted on the front at a height of not more than 42 inches nor less than 12 inches above the level surface upon

which the vehicle stands, and every such auxiliary driving lamp or lamps shall meet the requirements and limitations set forth in this article. (Apr. 26, 1937, c. 464, §92.)

Similar provisions of former law, see §2720-49.

2720-243. Signal lights.—(a) Any vehicle may be equipped, and when a signal lamp or device is required under this act, shall be equipped with a signal lamp or signal device which is so constructed and located on the vehicle as to give an adequate signal of intention to stop which shall be red or yellow in color and signals of intention to turn to the right or left which shall be red or yellow in color, all of which signals shall be plainly visible and understandable in normal sunlight and at night from a distance of 100 feet to the front and rear but shall not project a glaring or dazzling light, except that a stop signal need be visible only from the rear.

(b) All mechanical signal devices shall be self-illuminated when in use at the times when lighted lamps on vehicles are required in this act. (Apr. 26, 1937, c. 464, §93.)

Similar provisions of former law, see §2720-49.

2720-244. Identification lights.—Any vehicle or combination of vehicles may be equipped with identification lamps on the front displaying three amber or white lights and identification lamps on the rear displaying three red lights, and when so equipped the lights in each such group shall be evenly spaced not less than six nor more than 12 inches apart, along a horizontal line as near the top of the vehicle as practicable and said lights shall be visible from a distance of 500 feet to the front and rear respectively of the vehicle. (Apr. 26, 1937, c. 464, §94.)

2720-245. Fender lights.—(a) Any vehicle may be equipped with not more than two side cowl or fender lamps, one on each side which shall emit a white light without glare.

(b) Any vehicle may be equipped with not more than one running board courtesy lamp on each side thereof which shall emit a white or yellow light without glare.

(c) Any vehicle may be equipped with a back-up lamp either separately or in combination with another lamp, except that no such back-up lamp shall be continuously lighted when the vehicle is in forward motion, nor shall it project a glaring light. (Apr. 26, 1937, c. 464, §95.)

2720-246. Must be equipped with lights after January 1, 1938.—On and after January 1, 1938, except as hereinafter provided, the head lamps, or the auxiliary driving lamps, or combinations thereof, on motor vehicles shall be so arranged that the driver may select at will between distributions of light projected to different elevations, subject to the following requirements and limitations:

(a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.

(b) There shall be a lowermost distribution of light, or composite beam, so aimed that when the vehicle is fully loaded none of the high intensity portion of the beam shall project higher than a level which is five inches below the level of the center of the lamps from which it comes at a distance of 25 feet ahead.

(c) All road lighting beams shall be so aimed and of sufficient intensity to reveal a person or vehicle at a distance of at least 100 feet ahead.

(d) All road lighting equipment manufactured and installed on and after January 1, 1938, shall be so arranged that whenever any beam is used which is not in conformity with paragraph (b) of this section, means shall be provided for indicating to the driver when such beams are being used. (Apr. 26, 1937, c. 464, §96; July 14, 1937, Sp. Ses., c. 38, §1.)

(a).

Where a freight train of 86 cars is passing over a highway crossing in night time and an automobile, traveling at from 35 to 45 miles per hour, runs into nineteenth car from the end, failure to sound statutory bell and whistle signals cannot be considered a proximate cause of collision. Sullivan v. B., 286NW350. See Dun. Dig. 4167c.

2720-247. Composite lights.—(a) Whenever a motor vehicle is being operated on a highway or shoulder adjacent thereto during the times when lighted lamps on vehicles are required in this act, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations.

(b) Whenever the driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver, and in no case shall the high intensity portion of the beam be aimed higher than the level which is five inches below the level of the center of the lamp from which it comes at a distance of 25 feet ahead, and in no case higher than a level of 42 inches above the level upon which the vehicle stands at a distance of 75 and more feet ahead, except that a beam which is aimed higher than these levels to the right of the prolongation of the extreme left side of the vehicle may be used for meeting other vehicles on relatively straight highways provided that no part of that portion of the beam which rises higher than these levels is projected to the left of the center of the highway except momentarily. (Apr. 26, 1937, c. 464, §97.)

Similar provisions of former law and annotations, see §2720-50.

2720-248. Certain lights prohibited after January 1, 1938.—Head lamps arranged to provide a single distribution of light not supplemented by auxiliary driving lamps shall be permitted on motor vehicles manufactured and sold prior to January 1, 1938, in lieu of multiple-beam road lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

1. The head lamps shall be so aimed that when the vehicle is fully loaded none of the high intensity portion of the lamp beam rises above a horizontal plane passing thru the head lamp centers parallel to the level surface upon which the vehicle stands, and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 and more feet ahead.

2. The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet. (Apr. 26, 1937, c. 464, §98.)

2720-249. Number of lights.—(a) At all times when lighted lamps on vehicles are required in this act, at least two lighted head lamps shall be displayed one on each side at the front of every motor vehicle other than a motorcycle, provided that under adverse weather conditions two lighted auxiliary lamps one on each side at the front of the vehicle may be used in lieu of two lighted head lamps, except when such vehicle is parked subject to the regulations governing lights on parked vehicles. (Apr. 26, 1937, c 464, §99; Apr. 22, 1939, c. 430, §18.)

(b) Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps, spot lamps or any other lamps on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

(c) The maximum beam candle power from any combination of lamps used at any time for road

lighting shall not exceed that authorized by the commissioner. (Apr. 26, 1937, c. 464, §99.)

2720-250. Certain lights prohibited.—(a) Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps or auxiliary driving lamps which projects a beam of light of an intensity greater than 300 candle power shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) No vehicle shall be equipped, nor shall any person drive or move any vehicle or equipment upon any highway with any lamp or device displaying a red light or any colored light other than those required or permitted in this act unless otherwise authorized by the commissioner. This section shall not apply to authorized emergency vehicles or road machinery. Emergency vehicles shall be equipped with not less than two red lights to the front thereof which shall be lighted when on emergency trips but which shall not be lighted when using the highways at other times.

(c) Flashing lights are prohibited on vehicles, except as a means for indicating a turn or stop. (Apr. 26, 1937, c. 464, §100.)

Similar provisions of former law and annotations, see §2720-55.

2720-251. Commissioner to enforce provisions for lights.—The commissioner is hereby authorized and required to adopt and enforce standard specifications as to the amount, color and direction of light to be emitted by lighting devices for compliance with the requirements and limitations of this act. (Apr. 26, 1937, c. 464, §101.)

2720-252. Commissioner must approve lighting apparatus.—(a) No person shall have for sale, sell or offer for sale for use upon or as a part of the equipment of a vehicle, trailer or semi-trailer or use upon any such vehicle any head lamp, auxiliary driving lamp, rear lamp, signal lamp, spot lamp, clearance lamp, marker lamp or reflector, or parts of any of the foregoing, unless of a type which has been submitted to the commissioner and approved by him.

(b) No person shall have for sale, sell or offer for sale for use upon or as a part of the equipment of a vehicle, trailer or semi-trailer any lamp or device mentioned in this section which has been approved by the commissioner unless such lamp or device bears thereon the trade-mark or name under which it is approved so as to be legible when installed.

(c) No person shall use upon any vehicle, trailer or semi-trailer any lamps mentioned in this section unless said lamps are equipped with bulbs of a type approved by the commissioner having a rated candle power and are mounted and adjusted as to focus and aim in accordance with instructions of the commissioner. (Apr. 26, 1937, c. 464, §102.)

Similar provisions of former law, see §2720-52.

2720-253. Same.—1. The commissioner is hereby authorized to approve or disapprove lighting devices.

2. The commissioner is hereby required to approve or disapprove any lighting device, of a type on which approval is specifically required in this act, within a reasonable time after such device has been submitted.

3. The commissioner is further authorized to set up the procedure which shall be followed when any device is submitted for approval.

4. The commissioner is authorized to set and collect a reasonable fee for the testing and approval of all types of devices upon which approval is required in this act. Such fee may be sufficient in amount to reimburse the department for all costs connected with such test and approval.

5. The commissioner upon approving any such lamp or device shall issue to the applicant a certificate of approval together with any instructions determined by him.

6. The commissioner shall publish lists of all lamps and devices by name and type which have been approved by him, together with instructions as to the permissible candle power rating of the bulbs which he has determined for use therein and such other instructions as to adjustment as the commissioner may deem necessary. (Apr. 26, 1937, c. 464, §103.)

Similar provisions of former law, see §2720-52.

2720-254. Commissioner may hold hearings.—When the commissioner has reason to believe that an approved device as being sold commercially does not comply with the requirements of this act, he may, after giving 30 days' previous notice to the person holding the certificate of approval for such device in this state, conduct a hearing upon the question of compliance of said approved device. After said hearing the commissioner shall determine whether said approved device meets the requirements of this act. If said device does not meet the requirements of this act he shall give notice to the person holding the certificate of approval for such device in this state.

If at the expiration of 90 days after such notice the person holding the certificate of approval for such device has failed to satisfy the commissioner that said approved device as thereafter to be sold meets the requirements of this act, the commissioner shall suspend or revoke the approval issued therefor until or unless such device is resubmitted to and re-tested by an authorized testing agency and is found to meet the requirements of this act, and may require that all said devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this act. The commissioner may at the time of the re-test purchase in the open market and submit to the testing agency one or more sets of such approved devices, and if such device upon such re-test fails to meet the requirements of this act, the commissioner may refuse to renew the certificate of approval of such device. (Apr. 26, 1937, c. 464, §104.)

2720-255. Brakes.—1. Every motor vehicle, other than a motorcycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

2. Every motorcycle, and bicycle with motor attached, when operated upon a highway shall be equipped with at least one brake, which may be operated by hand or foot.

3. Every trailer, semi-trailer or other vehicle of a gross weight of 1,500 pounds or more when drawn or pulled upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of a towing motor vehicle from its cab, excepting trailers owned by farmers when transporting agricultural products produced on the owner's farm or supplies back to the farm of the owner of the trailer, and except custom service vehicles drawn by motor vehicles equipped with brakes capable of stopping both vehicles within that distance required by law for vehicles equipped with 4-wheel brakes, and except trailers or semi-trailers when used, by retail dealers, delivering implements of husbandry, providing the gross weight of such trailer or semi-trailer when drawn by a pleasure vehicle shall not exceed 3,000 pounds or when drawn by a truck or tractor shall not exceed 6,000 pounds. (Apr. 26, 1937, c. 464, §105; July 14, 1937, Sp. Ses., c. 38, §2; Apr. 22, 1939, c. 430, §19.)

4. Every new motor vehicle trailer, or semi-trailer hereafter sold in this state and operated upon the highways shall be equipped with service brakes upon all wheels of every such vehicle, except any motorcycle and except that any semi-trailer of less than 1,000 pounds gross weight need not be equipped with brakes; provided that a third wheel, of a swivel type, on a house trailer need not be equipped with brakes. (Apr. 26, 1937, c. 464, §105; July 14, 1937, Sp. Ses., c. 38, §2.)

Similar provisions of former law, see §2720-43.

2720-256. Same.—1. The service brakes upon any motor vehicle or combination of vehicles shall be adequate to stop such vehicle or vehicles when traveling 20 miles per hour within a distance of 30 feet when upon dry asphalt or concrete pavement surface free from loose material where the grade does not exceed one per cent.

2. Under the above conditions the hand brake shall be adequate to stop such vehicle or vehicles within a distance of 55 feet and said hand brake shall be adequate to hold such vehicle or vehicles stationary on any grade upon which operated. (As amended July 14, 1937, Sp. Ses., c. 38, §1.)

3. Under the above conditions the service brakes upon a motor vehicle equipped with two-wheel brakes only, and when permitted hereunder, shall be adequate to stop the vehicle within a distance of 40 feet and the hand brake adequate to stop the vehicle within a distance of 55 feet.

4. All braking distances specified in this section shall apply to all vehicles mentioned, whether such vehicles are not loaded or are loaded to the maximum capacity permitted under this act.

5. All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (Apr. 26, 1937, c. 464, §106.)

2720-257. Horns.—(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this subdivision. It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. All authorized emergency vehicles shall be equipped with a siren capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the department, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when necessary to warn pedestrians and other drivers of the approach thereof. (Apr. 26, 1937, c. 464, §107.)

Similar provisions of former law and annotations, see §2720-44.

Stop lights and sirens may properly be placed on game wardens' private cars. Op. Atty. Gen. (208i), Sept. 1, 1937.

2720-258. Mufflers.—Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and no person shall use a muffler cutout, by-pass or similar device upon a motor vehicle on a street or highway. Every motor vehicle shall at all times be equipped with such parts and equipment so arranged and kept in such state of repair as to prevent carbon monoxide gas from entering the interior of the vehicle. (Apr. 26, 1937, c. 464, §108; Apr. 22, 1939, c. 430, §20.)

Similar provisions of former law and annotations, see §2720-47.

2720-259. Rear view mirrors.—Every motor vehicle which is so constructed, loaded or connected with another vehicle as to obstruct the driver's view to the rear thereof from the driver's position shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of such vehicle. (Apr. 26, 1937, c. 464, §109.)

Similar provisions of former law and annotations, see §2720-45.

2720-260. Windshields.—(a) No person shall drive or operate any motor vehicle with a windshield cracked or discolored to an extent to limit or obscure proper vision or with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be so displayed by law.

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

(c) No person shall drive any motor vehicle with the windshield covered with steam or frost to such an extent as to prevent proper vision. (Apr. 26, 1937, c. 464, §110; Apr. 22, 1939, c. 430, §21.)

Similar provisions of former law, see §2720-46.

2720-261. Solid rubber tires.—(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No person shall operate or move on any highway any motor vehicle, trailer, or semi-trailer having any metal tire in contact with the roadway, except in case of emergency.

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

(d) The commissioner and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this act. (Apr. 26, 1937, c. 464, §111.)

Similar provisions of former law, see §2720-41.

2720-262. Bumpers and reflectors.—All motor vehicles shall be equipped with front and rear bumpers or with front bumpers and with rear reflectors as herein provided and all trailers and semi-trailers weighing more than 1,500 pounds shall be equipped with rear bumpers or with rear reflectors as herein provided. Such bumpers shall be securely attached to the frame thereof, and shall extend beyond the extreme front and rear points respectively of such vehicles. The center point of such bumpers shall be not more than 20 inches nor less than 14 inches from the ground when the vehicle is unloaded, provided that two rigid cross-bars may be attached to any bumper to extend it so that it will reach into a point within the required height from the ground. (Apr. 26, 1937, c. 464, §112; Apr. 22, 1939, c. 430, §22.)

2720-263. Safety glass required.—(a) On and after six months from the adoption of this act no person shall sell any new motor vehicle nor shall any new motor vehicle be registered thereafter which is designed or used for the purpose of transporting passengers for compensation or as a school bus unless such vehicle is equipped with safety glass wherever glass is used in doors, windows, and windshields.

(b) On and after one year from the adoption of this act no person shall sell any new motor vehicle nor shall any new motor vehicle be registered thereafter unless such vehicle is equipped with safety glass wherever glass is used in doors, windows and windshields.

(c) The term "saftey glass" shall mean any product composed of glass, or other material as may be approved by the commissioner, so manufactured, fabricated, or treated as substantially to prevent shattering and flying of the glass when struck or broken.

(d) All glass replacements in doors, windows, windshields or partitions of motor vehicles on or after one year from the adoption of this act shall be made with materials meeting the requirements of this act for safety glass if glass is used therefor. (Apr. 26, 1937, c. 464, §113.)

2720-264. Certain vehicles to have at least three lights.—(a) No person shall operate any bus, motor truck or tractor except farm tractors upon a highway outside of a business or residence district at any time from a half hour after sunset to a half hour before sunrise unless there shall be carried in such vehicle a sufficient number of flares, not less than three, or electric lanterns or other signals capable of continuously producing three warning lights each visible from a distance of at least 500 feet for a period of at least 12 hours, except that a motor vehicle transporting flammables may carry reflectors in place of the other signals above mentioned.

Every such flare, lantern, signal, or reflector shall be of a type approved by the commissioner and he shall publish lists of those devices which he has approved as adequate for the purposes of this section. (Apr. 26, 1937, c. 464, §114; Apr. 22, 1939, c. 430, §23.)

(b) Whenever any motor truck or tractor or bus is disabled during the period when lighted lamps must be displayed on vehicles and such motor truck cannot immediately be removed from the main traveled portion of a highway outside of a business district, the driver or other person in charge of such vehicle shall cause such flares, lanterns, or other signals to be lighted and placed as warning lights upon the highway, one at a distance of approximately 100 feet in advance of such vehicle, one at a distance of approximately 100 feet to the rear of the vehicle and the third upon the roadway side of the vehicle, except that if the vehicle is transporting flammables three reflectors may be so placed in lieu of such other signals and no open burning flare shall be placed adjacent to any such last mentioned vehicle.

(c) No person shall at any time operate a motor truck transporting explosives as a cargo or part of a cargo upon a highway unless it carries flares or electric lanterns as herein required, but such flares or electric lanterns must be capable of producing a light and shall be displayed upon the roadway when and as required in this section.

(d) No person shall operate any motor truck or tractor upon a highway outside of a business or residence district unless there shall be carried in such vehicle a sufficient number of yellow or orange colored flags, not less than three, of a size approximately 24 inches by 24 inches, which must be displayed at any time from a half hour before sunrise to a half hour after sunset under circumstances which would require the use of warning lights at night and in the manner and position governing the use of warning lights as prescribed herein. (Apr. 26, 1937, c. 464, §114.)

Similar provisions of former law and annotations, see §2720-54½.

2720-265. Explosives.—Any person operating any vehicle transporting any explosives as a cargo or part of a cargo upon a highway shall at all times comply with the provisions of this section.

(a) Said vehicle shall be marked or placarded on each side and the rear with the word "Explosives" in letters not less than eight inches high.

(b) Every said vehicle shall be equipped with fire extinguishers of a type and number approved by the commissioner, filled and ready for immediate use and placed at a convenient point on the vehicle so used.

(c) The commissioner is hereby authorized and directed to promulgate such additional regulations governing the transportation of explosives and other dangerous articles by vehicles upon the highways as he shall deem advisable for the protection of the public. (Apr. 26, 1937, c. 464, §115.)

2720-266. Adjusting headlights.—(a) The commissioner is hereby authorized and required to designate, furnish instructions to and to supervise official stations for adjusting head lamps and auxiliary driving lamps to conform with the provisions of this act. When head lamps and auxiliary driving lamps have been adjusted in conformity with the instructions issued by the commissioner a certificate of adjustment shall be issued to the driver of the motor vehicle on forms issued in duplicate by the commissioner showing date of issue, registration number of the motor vehicle, owner's name, make of vehicle and official designation of the adjusting station.

(b) The driver of any motor vehicle equipped with approved head lamps, auxiliary driving lamps, rear lamps or signal lamps, who is arrested upon a charge that such lamps are improperly adjusted or are equipped with bulbs of a candlepower not approved for use therewith, shall be allowed 48 hours within which to bring such lamps into conformance with requirements of this act. It shall be a defense to any such charge that the person arrested produce in court or submit to the prosecuting attorney a certificate from an official adjusting station showing that within 48 hours after such arrest, such lamps have been made to conform with the requirements of this act. (Apr. 26, 1937, c. 464, §116.)

Similar provisions of former law, see §2720-53.

2720-267. Motor vehicle testing stations.—Every municipality in the state, regardless of how organized, shall have the power to acquire, erect, establish, equip, operate and maintain motor vehicle testing stations for the purpose of testing and inspecting motor vehicles using the public streets of any such municipality, to finance and pay for the same out of the proceeds of the collection of fees charged for such inspection. Any municipality may pass and by proper penalties enforce ordinances for said purpose and by such ordinances:

(a) Require the attendance of such motor vehicles at such testing station for the purpose of inspection, at such time as shall be deemed reasonable after due notice thereof shall first have been given to the owner of such motor vehicle or his agent; provided that any owner of five or more commercial vehicles having testing equipment and facilities meeting the requirements of the municipality may be exempted from the requirements of attendance at such testing station;

(b) Require the payment of inspection fees, but such fees shall not exceed the amount of 50 cents for any one inspection or one dollar for any one year;

(c) Provide free inspections as often as the owner desires between compulsory inspection periods;

(d) Provide for the issuance of an inspection certificate and require the same to be displayed on the windshield of such motor vehicle in the lower right corner thereof, and in such manner as not to obstruct the driver's view;

(e) Prohibit the operation on the public streets of such municipality of any motor vehicle which shall not have been submitted for inspection within a reasonable time after notice of such required inspection shall have been given to the owner of such motor vehicle or his agent, or any motor vehicle which shall be found to be in a faulty or unsafe condition or in violation of any city ordinance or state law, and now having a proper inspection certificate properly displayed.

No inspection as herein provided shall be required of any owner of a vehicle who is not a resident of the municipality operating and maintaining said motor vehicle testing station.

In making any such inspection or tests, no additional or different mechanical requirements than those provided by state law shall be imposed upon or against a motor vehicle or the owner thereof, or his agent, in order to entitle such vehicle to an inspection certificate, but no such certificate shall be issued or attached to any vehicle until and unless such vehicle shall, upon such inspection, be found to comply with the terms of the state law. (Apr. 26, 1937, c. 464, §117.)

(c) (2).

Provision exempting non-resident of city from inspection at testing station is constitutional. Op. Atty. Gen. (632a-14), Oct. 27, 1937.

2720-268. Vehicles must be registered.—No person shall operate or drive a motor vehicle on any highway unless such vehicle shall have been registered in accordance with the laws of this state and shall have the number plates for the current year only, as assigned to it by the registrar of motor vehicles, conspicuously displayed thereon in such manner that the view thereof shall not be obstructed. If the vehicle be a motorcycle, motorcycle side-car, trailer or semi-trailer, one such plate shall be displayed on the rear thereof, if it be any other kind of motor vehicle, one such plate shall be displayed on the front and one on the rear thereof; securely fastened so as to prevent the same from swinging. It shall be the duty of the person driving the motor vehicle to keep said plate legible and unobstructed and free from grease, dust, or other blurring material so that the lettering thereon shall be plainly visible at all times. (Apr. 26, 1937, c. 464, §118.)

Former law, see §2720-6.

Novelty humorous license plates are not unlawful unless they obstruct view of official number plates. Op. Atty. Gen. (632a-16), August 8, 1939.

ARTICLE XVI

SIZE, WEIGHT AND LOAD

2720-269. Size, weight and load.—(a) It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or vehicles of a size or weight exceeding the limitations stated in this article or otherwise in violation of this article, and the maximum size and weight of vehicles herein specified shall be lawful thruout this state, and local authorities shall have no power or authority to alter said limitations except as express authority may be granted in this article.

(b) The provisions of this article governing size, weight, and load shall not apply to fire apparatus, or to implements of husbandry temporarily moved upon a highway, or to loads of loose hay or corn stalks if transported by a horse-drawn vehicle or drawn by a farm tractor, or to a vehicle operated under the terms of a special permit issued as herein provided. (Act Apr. 26, 1937, c. 464, §119; July 14, 1937, Sp. Ses., c. 45, §1; Feb. 18, 1939, c. 23, §1.)

Sec. 2 of Act July 14, 1937, cited, provides that the act shall take effect from its passage.

2720-270. Width of vehicle or load.—(a) The total outside width of any vehicle or the load thereon shall not exceed eight feet except that the outside width of a farm tractor shall not exceed nine feet and except as otherwise provided in this section.

(b) The total outside width of a trackless trolley car or passenger motor bus, operated exclusively in any city or village, or contiguous cities or villages, in this state shall not exceed nine feet.

(c) The total outside width of loads of forest products when loaded crossways shall not exceed ~~100~~ inches, provided the load is securely bound with a chain attached to front and rear of the loading platform of the vehicle and the sides of each load are covered with woven wire securely fastened at front and rear so as to prevent pieces slipping out on either side and so as to hold the load securely in place. (Apr. 26, 1937, c. 464, §120; Feb. 18, 1939, c. 23, §2; Apr. 22, 1939, c. 430, §24.)

Subdivision (c) was added by Act Feb. 18, 1939, cited.

Similar provisions of former law and annotations, see §2720-35.

2720-271. Load on passenger vehicles.—No passenger-type vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof. (Apr. 26, 1937, c. 464, §121.)

Similar provisions of former law and annotations, see §2720-35.

2720-272. Height and length of vehicle and load.—(a) No vehicle unladen or with load shall exceed a height of 12 feet six inches.

(b) No vehicle shall exceed a length of 40 feet extreme overall dimensions, inclusive of front and rear bumpers, except that the governing body of any city or village is hereby authorized by ordinance to provide for the maximum length of any motor vehicle, or combination of motor vehicles, or the number of vehicles that may be fastened together, and which may be operated upon the streets or highways of said city, and provided, however, that such ordinance shall not prescribe a length less than that permitted by state law. Any such motor vehicle operated in compliance with such ordinance on the streets or highways of such city shall not be deemed to be in violation of this act. A truck tractor and semi-trailer shall be regarded as one vehicle for the purpose of determining lawful length.

(c) No combination of vehicles coupled together shall consist of more than two units and no such combination of vehicles shall exceed a total length of 40 feet, provided that this limitation shall not apply to the transportation of telegraph poles, telephone poles, electric light and power poles or piling, and subject to the following further exceptions: Said length limitations shall not apply to vehicles when transporting pipe, or other objects by a public utility when required for emergency or repair of public service facilities or when operated under special permit as provided in this act, but in respect to night transportation every such vehicle and the load thereon shall be equipped with a sufficient number of clearance lamps and marker lamps on both sides and upon the extreme ends of any projecting load to clearly mark the dimensions of such load. (Apr. 26, 1937, c. 464, §122; Apr. 22, 1939, c. 430, §25.)

(d) The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, shall not extend more than three feet beyond the front wheels of such vehicle or the front bumper of such vehicle if it is equipped with such a bumper. (Apr. 26, 1937, c. 464, §122.)

Similar provisions of former law and annotations, see §§2720-35 and 2720-42a.

Editorial note.—The title of Act Apr. 22, 1939, cited, omits this section from the enumeration of sections to be amended.

Contributory negligence of a ten year old girl catching ride on tongue of second wagon coupled together and drawn by a farm tractor held for jury. Middaugh v. W., 203M456, 281NW818. See Dun. Dig. 7029.

2720-273. Loading of vehicles.—No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of

its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway. (Apr. 26, 1937, c. 464, §123.)

2720-274. Weight of trailers.—(a) The unladen weight of any trailer other than a house trailer shall not exceed 2,000 pounds nor shall the gross weight of any house trailer, or any other trailer, including the weight of the trailer and the load, exceed 6,000 pounds, except when operated under special permit as provided in this act.

(b) When one vehicle is towing another the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby and said drawbar or other connection shall not exceed 15 feet from one vehicle to the other except the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered.

(c) When one vehicle is towing another and the connection consists of a chain, rope, or cable, there shall be displayed upon such connection a white flag or cloth not less than 12 inches square.

(d) Every trailer or semi-trailer shall be hitched to the motor vehicle furnishing the tractive power for it by a device approved by the commissioner as safe. (Apr. 26, 1937, c. 464, §124; Apr. 22, 1939, c. 430, §26.)

Similar provisions of former law and annotations, see §2720-42.

2720-275. Limit of weight upon vehicles.—The gross weight upon any wheel or axle of a vehicle shall not exceed the following:

1. When the vehicle is equipped with pneumatic tires and with axles spaced eight feet or more apart, 9,000 pounds on a wheel or 18,000 pounds on an axle.

2. No vehicle equipped with pneumatic tires and with axles spaced less than 8 feet apart and driven on any highway shall have a maximum wheel weight unladen or with load in excess of 6,000 pounds, or an axle weight in excess of 12,000 pounds.

3. When a vehicle is equipped with solid rubber or cushion tires, 60 per cent of the weight permitted for wheels on vehicles equipped with pneumatic tires.

4. The provisions of this section shall not apply to vehicles operated exclusively in any city or village, or contiguous cities or villages in this state. (Apr. 26, 1937, c. 464, §125.)

2720-276. Limit of load over bridges.—Subject to the limitations upon wheel and axle loads prescribed in this act, the gross weight of any vehicle or combination of vehicles driven onto or over a bridge on any highway shall not exceed the safe capacity of said bridge, as may be indicated by warning posted on said bridge. (Apr. 26, 1937, c. 464, §126.)

2720-277. Weighing vehicles.—(a) Any police officer having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same either by means of portable or stationary scales and may require that such vehicle be driven to the nearest public scales in the event such scales are within two miles.

(b) Whenever an officer upon weighing a vehicle and load, as above provided, determines that the weight is unlawful, such officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle to such limit as permitted under this act. All material so unloaded shall be cared for by the owner or driver of such vehicle at the risk of such owner or driver.

(c) Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this section, shall be guilty of a misdemeanor. (Apr. 26, 1937, c. 464, §127.)

Similar provisions of former law, see §2720-38.

2720-278. Special permits for moving vehicles.—(a) The commissioner with respect to highways under his jurisdiction and local authorities with respect to highways under their jurisdiction may, in their discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this act or otherwise not in conformity with the provisions of this act upon any highway under the jurisdiction of the party granting such permit and for the maintenance of which said party is responsible.

(b) The application for any such permit shall specifically describe the vehicle or vehicles and load to be moved and the particular highways for which permit to so use is requested, and the time of the trip for which such permit is requested.

(c) The commissioner or local authority is authorized to issue or withhold such permit at his discretion; or, if such permit is issued, to limit or prescribe conditions of operation of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(d) Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting such permit, and no person shall violate any of the terms or conditions of such special permit. (Apr. 26, 1937, c. 464, §128.)

Similar provisions of former law and annotations, see §§2720-37 and 2720-39.

2720-279. Restrictions on loads during certain seasons.—(a) Local authorities with respect to highways under their jurisdiction may prohibit the operation of vehicles upon any such highway or impose restrictions as to the weight of vehicles to be operated upon any such highway, whenever any said highway by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

(b) The local authority enacting any such prohibition or restriction shall erect or cause to be erected and maintained signs plainly indicating the prohibition or restriction at each end of that portion of any highway affected thereby, and the prohibition or restriction shall not be effective unless and until such signs are erected and maintained.

(c) Municipalities with respect to highways under their jurisdiction may also, by ordinance, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof, on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

(d) The commissioner shall likewise have authority as hereinabove granted to local authorities to determine and to impose prohibitions or restrictions as to the weight of vehicles operated upon any highway under the jurisdiction of said commissioner, and such restrictions shall be effective when signs giving notice thereof are erected upon the highway or portion of any highway affected by such action. (Apr. 26, 1937, c. 464, §129.)

Similar provisions of former law and annotations, see §2720-40.

2720-280. Shall be liable for damages.—(a) Any person driving any vehicle, object, or contrivance upon any highway or highway structure shall be liable for all damage which said highway or structure may sustain as a result of any illegal operation, driving, or moving of such vehicle, object, or contrivance, or as a result of operation, driving or moving any vehicle, object, or contrivance weighing in excess of the maximum weight in this act but authorized by a special permit issued as provided in this article.

(b) Whenever such driver is not the owner of such vehicle, object, or contrivance, but is so operating, driving, or moving the same with the express or implied permission of said owner, then said owner and driver shall be jointly and severally liable for any such damage.

(c) Such damage may be recovered in a civil action brought by the authorities in control of such highway or highway structure. (Apr. 26, 1937, c. 464, §130.)

ARTICLE XVII

PENALTIES

2720-281. Penalties.—(a) It is a misdemeanor for any person to violate any of the provisions of this act unless such violation is by this act or other law of this state declared to be a gross misdemeanor or a felony.

(b) Every person convicted of a misdemeanor for a violation of any of the provisions of this act for which another penalty is not provided, shall be punished by a fine of not more than $100.00 or by imprisonment of not more than 90 days.

(c) Whenever a person is arrested for any violation of this act or any violation of a city or village ordinance regulating traffic, the court before whom such matter is heard shall determine the driver's record of such person from the commissioner before hearing or considering such matter and the expense incident to the procurement of such information shall be taxable as costs upon conviction. (Apr. 26, 1937, c. 464, §131; Apr. 22, 1939, c. 430, §27.)

Similar provisions of former law, see §2720-60.

ARTICLE XVIII

PARTIES, PROCEDURE UPON ARREST AND REPORTS IN CRIMINAL CASES

2720-282. Who may be guilty of offenses.—Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of, any act declared herein to be a crime, whether individually or in connection with one or more other persons or as principal, agent, or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly, or wilfully induces, causes, coerces, requires, permits, or directs another to violate any provision of this act is likewise guilty of such offense. (Apr. 26, 1937, c. 464, §132.)

2720-283. Owner liable.—It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law. (Apr. 26, 1937, c. 464, §133.)

2720-284. Procedure upon arrest.—Whenever any person is arrested for any violation of this act punishable as a misdemeanor, the arrested person shall be immediately taken before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offenses and is nearest or most accessible with reference to the place where said arrest is made, in any of the following cases:

1. When a person arrested demands an immediate appearance before a magistrate;

2. When a person is arrested and charged with an offense under this act causing or contributing to an accident resulting in injury or death to any person;

3. When the person is arrested upon a charge of negligent homicide;

4. When the person is arrested upon a charge of failure to stop in the event of an accident causing death, personal injuries, or damage to property;

5. In any other event when the person arrested refused to give his written promise to appear in court as hereinafter provided. (Apr. 26, 1937, c. 464, §134; Apr. 22, 1939, c. 430, §28.)

Similar provisions of former law, see §2720-63.

Person charged with an offense, as a matter of right, is entitled to be brought before a magistrate in town in which offense charged is alleged to have been committed only in cases where such person has not been taken before a magistrate within county nearest or most accessible to place of arrest. Op. Atty. Gen. (266b-23), Mar. 29, 1938.

2720-285. Officer to make report.—(a) Whenever a person is arrested for any violation of this act punishable as a misdemeanor, and such person is not immediately taken before a magistrate the arresting officer shall prepare in duplicate written notice to appear in court containing the name and address of such person, his driver's license or chauffeur's license number, the license of his vehicle, if any, the offense charged, and the time and place when and where such person shall appear in court.

(b) The place specified in said notice to appear must be before a magistrate within the town if there be a magistrate within said town, otherwise within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense.

(c) The arrested person in order to secure release, as provided in this section, must give his written promise so to appear in court by signing in duplicate the written notice prepared by the arresting officer. The original of said notice shall be retained by said officers and the copy thereof delivered to the person arrested. Thereupon, said officer shall forthwith release the person arrested from custody. (Apr. 26, 1937, c. 464, §135; Apr. 22, 1939, c. 430, §29.)

Similar provisions of former law, see §63.

2720-286. Failure to appear a misdemeanor.—(a) Any person wilfully violating his written promise to appear in court, given as provided in this article, is guilty of a misdemeanor provided he is found guilty of the charge upon which he was originally arrested.

(b) A written promise to appear in court may be complied with by an appearance by counsel. (Apr. 26, 1937, c. 464, §136.)

Similar provisions of former law, see §2720-63.

2720-287. Arrest without warrant.—The foregoing provisions of this article shall govern all police officers in making arrests without a warrant for violations of this act for offenses committed in their presence, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and presecution of a person for an offense of like grade. (Apr. 26, 1937, c. 464, §137.)

2720-288. Records not admissible as evidence.—No record of the conviction of any person for any violation of this act shall be admissible as evidence in any court in any civil action. (Apr. 26, 1937, c. 464, §138.)

2720-289. Conviction not to affect credibility as a witness.—The conviction of a person upon a charge of violating any provision of this act or other traffic regulation less than a felony shall not affect or impair the credibility of such person as a witness in any civil or criminal proceeding. (Apr. 26, 1937, c. 464, §139.)

2720-290. Records of violations.—(a) Every magistrate or judge of a court not of record and every clerk of a court of record shall keep a full record of every case in which a person is charged with any violation of this act or of any other law, or city or village ordinance, regulating the operation of vehicles on highways.

(b) Within ten days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this act or other law, or city or village ordinance, regulating the operation of vehicles on highways every said magistrate of the court or clerk of the court of record in which such conviction was had or bail was forfeited shall prepare and immediately forward to the department an abstract of the record of said court covering the case in which said person was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct.

(c) Said abstract must be made upon a form furnished by the department and shall include the name and address of the party charged, the driver's license number or chauffeur's license number of the person involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail forfeited and the amount of the fine or forfeiture as the case may be.

(d) Every court of record shall also forward a like report to the department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(e) The failure, refusal or neglect of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be ground for removal therefrom. (Apr. 26, 1937, c. 464, §140.)

Similar provisions of former law, see §2720-64.

ARTICLE XIX

EFFECT OF AND SHORT TITLE OF ACT

2720-291. Effect and interpretation of law.—(a) This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(b) In all civil actions, a violation of any of the provisions of this act by either or any of the parties to such action or actions shall not be negligence per se but shall be prima facie evidence of negligence only. (Apr. 26, 1937, c. 464, §141; Apr. 22, 1939, c. 430, §30.)

Similar provision of former law, see §2720-65.

2720-292. Highway traffic regulation act.—This act may be cited as the Highway Traffic Regulation Act. (Apr. 26, 1937, c. 464, §142.)

2720-293. Provisions severable.—If any part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act. The legislature hereby declares it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional. (Apr. 26, 1937, c. 464, §143.)

Similar provisions of former law, see §2720-67.

2720-294. Laws and inconsistent acts repealed.—Laws 1925, Chapter 336, Section 8; Laws 1927, Chapter 412; Laws 1929, Chapters 158, 390 and 407; Laws 1931, Chapters 128 and 402; Laws 1933, Chapters 225 and 252; Laws 1935, Chapters 224 and 389, are hereby repealed; and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed to the extent of such inconsistency. (Apr. 26, 1937, c. 464, §144.)

CHAPTER 13A

Vessels Navigating Lakes and Rivers

MOTOR BOATS

2740-1. Definition.—The words "motor boat" where used in this act shall include every vessel propelled by machinery, except tug and/or tow boats propelled by steam and operated upon any lakes or streams of this state, except lakes and streams situated in whole or in part north of the north line of township 52 as the same extends due west across the state and excepting likewise all waters constituting the boundary between the State of Minnesota and any other state. (Act Mar. 26, 1931, c. 88, §1.)

2740-2. Speed of motor boats.—*No motor boat* under the provisions of this chapter shall be operated at a speed greater than is reasonable and proper having due regard to the safety of other boats and persons. (Act Mar. 26, 1931, c. 88, §2.)

2740-3. Must have mufflers.—Every motor boat under the provisions of this chapter propelled by an internal combustion engine shall at all times be so equipped as to completely and effectually "muffle" and silence the sound of the explosions of such engine by diverting its exhaust under water, or otherwise. It shall be unlawful to operate any such motor boat so propelled by an internal combustion engine with the muffler or cut-out open on any navigable or public waters in this state other than international waters, waters constituting the boundary between the State of Minnesota and any other state, except while such motor boat is actually competing in a race licensed to be held pursuant to section 4 [§2740-4] hereof. (Act Mar. 26, 1931, c. 88, §3.)

2740-4. Mufflers may be open in races.—Such motor boats may be operated with mufflers or cut-outs open while actually competing in any race licensed to be held by the council or other governing body of the city, village, or town adjacent or nearest to that portion of the body of water on which such race is to be held. (Act Mar. 26, 1931, c. 88, §4.)

2740-5. Owner to report accidents.—Within 48 hours after a motor boat meets with an accident involving personal injury or loss of life, it shall be the duty of the owner or the person in charge of such motor boat to prepare a written report, setting forth the details of the casualty, which report shall be forwarded by mail or otherwise to the sheriff of the county in which the accident occurred. (Act Mar. 26, 1931, c. 88, §5.)

2740-6. Inconsistent acts repealed.—All prior acts or parts of prior acts inconsistent with the provisions of this act are hereby repealed. (Act Mar. 26, 1931, c. 88, §6.)

2740-7. Violation—penalties.—Any person who violates any section of this act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or imprisonment not exceeding thirty days, or both. (Act Mar. 26, 1931, c. 88, §7.)

2740-8. Effective July 1, 1931.—This act shall take effect and be in force from and after July 1st, 1931. (Act Mar. 26, 1931, c. 88, §8.)

INSPECTION AND LICENSING

2740-11. Intercounty commission; powers.—The County Boards of Commissioners of any counties, which counties are contiguous to or have within their borders an inland lake having a water area of at least 250 square miles may by joint action