

MISSOURI SECTION

NOTES

MISSOURI'S MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

The great number of automobile accidents¹ has emphasized the need for additional legislation to provide adequate compensation for individuals involved in accidents.² The purpose of this Note is to discuss the new Missouri Motor Vehicle Safety-Responsibility Act of 1953 and some of the problems that may arise under it.

I

Three basic types of legislation have been formulated by the various state legislatures in order to reduce the number of uncompensated accidents. The first of these is the compulsory motor vehicle liability insurance plan. Under this plan, the operation of any vehicle not covered by liability insurance is prohibited upon state highways. At present the State of Massachusetts is the only state which has adopted this type of legislation.³ The compensatory insurance plan, which is not unlike the well known workmen's compensation plan, is a second type of legislation. It eliminates "fault" as the basis of liability. Each owner of a vehicle must present a certificate of "compensatory insurance" to the state in order to register his vehicle for operation within that state. Recovery for damages is based upon a graduated scale and is thereby limited. This plan has not been considered favorably because of its possible unconstitutionality, the difficulty of establishing a satisfactory rate scale to compensate for injuries, and the great cost of initiating such a plan.⁴ The third and most popular type of legislation is the so-called financial responsibility law. Laws of this

1. In 1952 alone 40,000 deaths and 1,250,000 injuries resulted from automobile accidents. NATIONAL SAFETY COUNCIL, ACCIDENT FACTS 60 (1952).

2. Braun, *The Need for Revision of Financial Responsibility Legislation*, 40 ILL. L. REV. 237 (1945); Grad, *Recent Developments in Automobile Accident Compensation*, 50 COL. L. REV. 300 (1950); James and Law, *Compensation for Automobile Accident Victims; A Story of Too Little and Too Late*, 26 CONN. B.J. 70 (1952); Smith, Dowling and Lilly, *Compensation for Automobile Accidents: A Symposium*, 32 COL. L. REV. 785 (1932) (This article is a summary of a Report made by the Committee to Study Compensation for Automobile Accidents to the Columbia University Council for Research in the Social Sciences.).

3. MASS. ANN. LAWS c. 90, § 34A-J; c. 175, § 113A-G (1946). All other states have rejected this type of law on the basis that it would be likely to result in increased litigation and that insurance rates would become subject to political determination. For a more detailed analysis of the hazards of such legislation, see Braun, *The Need for Revision of Financial Responsibility Legislation*, 40 ILL. L. REV. 237, 238 (1945); Note, 66 HARV. L. REV. 1300, 1307 (1953); Note, 33 IOWA L. REV. 522, 524 (1948).

4. See Note, 66 HARV. L. REV. 1300, 1308 (1953). This type of legislation was considered later in Note, 1953 U. OF ILL. LAW FORUM 263.

type at first merely required the posting of proof of future financial responsibility upon the non-payment of a judgment rendered against the operator or owner of the vehicle involved in an accident, or upon a criminal conviction of the owner or operator for violation of the motor vehicle laws.⁵ The penalty for failing to post such security as required was suspension of the certificate of registration and the operator's license. Beginning in 1937, it became evident to states using this type of legislation that it did not eliminate financially irresponsible drivers from the highway.⁶ Few injured persons were willing or financially able to secure a judgment against an irresponsible vehicle operator merely to have such an irresponsible operator's privilege of license suspended, when in turn, they themselves would receive no monetary relief. Almost all of these states enacted further legislation requiring the posting of security upon the occurrence of an accident in an amount sufficient to compensate for any reasonable judgment that might be rendered against the operator of either vehicle.⁷ This type of legislation was the basis of the new Missouri Act. Little doubt remains as to the constitutionality of this type of statute.⁸

Missouri's first move to combat the overwhelming number of uncompensated automobile accidents was the adoption of a Motor Vehicle Safety Responsibility Act in 1945.⁹ This act was of the type first adopted by many states. Its ineffectiveness is chiefly attributed to the fact that the act required proof of financial responsibility only after a judgment or after a criminal conviction under the motor vehicle law, and not immediately after an accident. Because of the inadequacy of this first act, the 67th General Assembly of Missouri passed the new Act effective August 29, 1953, which requires proof of financial responsibility to be posted by the owner or operator immediately following an accident. It also included the requirement of the 1945 act that an operator or owner who fails to satisfy a judgment or is convicted of certain offenses under the motor vehicle laws must post proof of future financial responsibility.¹⁰

5. See, e.g., MO. REV. STAT. §§ 303.010-303.340 (1949).

6. See note 2 *supra*. See also Marryott, *Automobile Accident and Financial Responsibility*, 1953 INS. L.J. 758, 761; Note, 1951 WASH. U.L.Q. 400, 407.

7. North Carolina and Arkansas enacted this type of law in 1953. This made a total of 44 states with this type of act. See Note, 31 N.C.L. REV. 420 (1953), and Note, 7 ARK. L. REV. 351 (1953). Of the remaining states Massachusetts has the compulsory insurance law and South Dakota, Kansas and New Mexico have the old "proof" type of Safety Responsibility Law requiring only future proof of financial responsibility upon failing to satisfy a judgment.

8. Reitz v. Mealey, 314 U.S. 33 (1941); State v. Stehlek, 262 Wis. 642, 56 N.W.2d 514 (1953); Collins, *Implementation of Public Policy Against the Financially Irresponsible Motorist*, 19 BROOKLYN L. REV. 11, 22 (1952); Note, 1950 WASH. U.L.Q. 400, 402; Note, 115 A.L.R. 1376 (1938).

9. MO. REV. STAT. §§ 303.010-303.340 (1949).

10. MO. H.B. 19, 67th Gen. Ass. (1953). In Vernon's Annotated Missouri Statutes certain sections appear in different order than that in which they appear in the Act as passed, and all the sections are numbered differently. See MO. ANN.

The new Act provides that the operator of a motor vehicle involved in an accident¹¹ must file a written report¹² with the State Director of Revenue within ten days after the accident, regardless of fault, if the accident involved personal injury, death, or property damage to any one person, including the operator himself, of more than one hundred dollars.¹³ The Act applies only to accidents occurring upon streets or highways as defined by the Act¹⁴ and only to motor vehicles which are designed for use upon a highway.¹⁵ The provisions of this statute do not apply to government or municipally owned vehicles.¹⁶ If the operator is not able to file the report within the ten days specified because of physical incapability, the duty to file the report falls upon the owner of the vehicle. If the operator is also the owner of the vehicle and is incapacitated by the accident, he may file a report when he recovers, if it is accompanied by a doctor's certificate certifying his prior physical incapacity.¹⁷ The requirement that such a report be filed has been held by the Supreme Court of the United States under a similar statute not to be a violation of the privilege against self-in-

STAT. c. 303 (Vernon 1953). This change could result in a different interpretation of the Act than was intended by the legislature. For example, the section requiring security to be posted, MO. ANN. STAT. § 303.030 (Vernon 1953), appears before the section requiring the operator to report all vehicle accidents covered by the Act. MO. ANN. STAT. § 303.040 (Vernon 1953).

11. The term "involved in an accident" has been interpreted by the Supreme Court of New York to include the operator of a vehicle which had made no contact with the damaged vehicle, but whose act of opening the door of his vehicle was a factor in the accident. *Baker v. Fletcher*, 191 Misc. 40, 79 N.Y.S.2d 580 (Sup. Ct. 1948).

12. This report is to be submitted on Form SR 1 entitled "Report of Motor Vehicle Accident" printed by the Department of Revenue. This form requires a complete description of the accident, including names, addresses, date and time of accident, those persons killed or injured and the approximate property damage. Form SR 21, which is attached to Form SR 1, provides for information pertaining to any insurance carried by the operator or owner of the vehicle involved in the accident. At this time (the filing of the report) the operator indicates whether he has security to satisfy the act. For a discussion of the function of Form SR 21, which is also used in Iowa, see *Hoosier Cas. Co. v. Fox*, 102 F. Supp. 214, 232 (N.D. Iowa 1952).

13. MO. ANN. STAT. § 303.040 (Vernon 1953). See *Steinberg v. Mealey*, 263 App. Div. 479, 33 N.Y.S.2d 650 (3d Dep't 1942) (A \$100.00 judgment for actual damages and \$15.00 in costs was held to be within the meaning of the act.).

14. MO. ANN. STAT. § 303.020(13) (Vernon 1953), defines "street or highway" as the ". . . entire width between property lines . . . when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic."

15. MO. ANN. STAT. § 303.020(5) (Vernon 1953), defines such vehicles as those ". . . designed for use upon a highway, including trailers . . . and every vehicle which is propelled by electric power obtained from overhead wires, but not operated upon rails."

16. MO. ANN. STAT. § 303.350 (Vernon 1953). See text supported by notes 57 and 58 *infra*. But see *City of St. Paul v. Hoffman*, 233 Minn. 76, 25 N.W.2d 661 (1946) (Held *drivers* of vehicles owned or operated by the city exempt from the provisions of the financial responsibility act).

17. MO. ANN. STAT. § 303.040 (Vernon 1953). Sec. 46 of Act V of the UNIFORM VEHICLE CODE recommends that occupants of the vehicle involved in an accident under the act be required to make out reports if the operator or owner is physically incapable of doing so.

crimination.¹⁸ Only the accident report is required if the operator or the owner had sufficient automobile liability insurance in effect at the time of the accident¹⁹ or if he qualifies as a self-insurer.²⁰ Nor is anything further required if the only injuries or damages were to the driver or owner himself, or if the car was legally parked or being driven by someone without the owner's express or implied consent at the time of the accident.²¹ This information must be set forth in the report of the accident.

If the operator or owner cannot relieve himself from further compliance with the Act at the time of reporting the accident by coming within the above provisions, he may still prevent the suspension of his operator's license and certificate of registration by filing satisfactory evidence with the Director of Revenue, within forty-five days after the receipt of the accident report by the Director, that he has been released from liability, finally adjudicated not to be liable, or has reached a settlement with the damaged party to pay the damages by installments.²² If the operator or owner does not file such information prior to twenty days from the date of receipt of the accident report by the Director, the Director must evaluate the damage caused by the accident and determine the amount of security to be posted by the parties. Such amount must be sufficient to pay any reasonable claim for death, injuries, or property damage which may arise from the accident, but it may not exceed the minimum insurance coverage required by the Act.²³

Upon failure of the operator or owner to deposit the required security within forty-five days after receipt by the Director of the accident report, the Director shall suspend the operator's license and the registration of the owner of the motor vehicle. This suspension is

18. *Reitz v. Mealey*, 314 U.S. 33 (1941). See also *Surtman v. Dignan*, 309 Mich. 270, 279, 15 N.W.2d 471, 474 (1944) (considers this specific problem).

19. MO. ANN. STAT. § 303.030(4) (Vernon 1953), qualified by § 303.030(5), which explains what the policy must cover. The need for and the approval of an "assigned risk" plan of insurance is recognized by this Act and the superintendent of insurance is authorized to approve such plans in order to provide insurance coverage for individuals who normally would be unable to secure such coverage because of their classification as "poor risks." MO. ANN. STAT. § 303.200 (Vernon 1953). Such a plan is now being used by many of the insurance companies of Missouri. This plan, as it applies to Missouri, is explained in detail in a pamphlet entitled "Missouri Automobile Assigned Risk Plan" distributed by the National Bureau of Casualty Underwriters, 60 John Street, New York 38, N.Y. and obtained locally at the Landreth Building, 320 N. Fourth Street, St. Louis 2, Missouri. For a general discussion of this plan as applied to motor vehicle safety responsibility laws see Russell, "Good Faith" and Motor Vehicle Assigned Risk Plans, 1952 *INS. L.J.* 397.

20. MO. ANN. STAT. § 303.220 (Vernon 1953). It has been held that such a certificate of self-insurance is not discriminatory and is a valid act of the legislature. *Escobedo v. State Department of Motor Vehicles*, 35 Cal. 2d 870, 876, 222 P.2d 1, 7 (1950). See text supported by notes 60 and 61 *infra*.

21. MO. ANN. STAT. § 303.070(1-3) (Vernon 1953).

22. MO. ANN. STAT. § 303.070(4) (Vernon 1953).

23. MO. ANN. STAT. § 303.030(1) (Vernon 1953).

conditioned upon the operator or owner receiving a notice of suspension stating the amount required as security, at least ten days prior to the effective date of the suspension.²⁴ It has been held under a similar act that such suspension does not require proof of any negligence,²⁵ nor is it necessary that there be a hearing before the suspension takes effect.²⁶ The title to a vehicle, however, probably cannot be suspended.²⁷

Once an operator's license or owner's registration has been suspended, it may be regained only by: (1) depositing the security required, or (2) obtaining a release of liability, or (3) final adjudication of non-liability, or (4) failure of the other party to bring an action for damages within one year from the date of the accident, or (5) filing evidence of a written agreement between the parties to pay damages by installments.²⁸ This portion of the Act cannot be defeated by a bad faith transfer or re-registration of the suspended vehicle in some other name, because such a transfer or re-registration must meet the approval of the Director of Revenue and not defeat the purpose of the Act.²⁹ The removal of the license plates along with the suspension of the registration certificate naturally prohibits any further operation of a vehicle the registration of which has been suspended.³⁰

It can readily be seen that this Act confers a great amount of power upon the Director of Revenue. He is to administer and enforce the provisions of the Act and make all rules and regulations necessary for its enforcement.³¹ This type of statute is not in violation of the Due Process Clause of the Fourteenth Amendment of the Constitution as an undue delegation of a judicial function to an administrative officer.³² It has also been held that the suspension or re-issue of an

24. MO. ANN. STAT. § 303.030(2) (Vernon 1953).

25. *Ballow v. Reeves*, 238 S.W.2d 141 (Ky. 1951).

26. *Escobedo v. State Department of Motor Vehicles*, 35 Cal. 2d 870, 222 P.2d 1 (1950) (No hearing necessary where statute provides for subsequent judicial review thereby satisfying due process.). It has been held, however, that such suspension must be based upon information secured by the director through the provided channel of an accident report. *Tavegia v. Bromley*, 67 Wyo. 93, 112, 214 P.2d 975, 982 (1950) (It should be noted that in this case there was in fact no death, injury or property damage in an amount required by the act.).

27. *Larr v. Dignan*, 317 Mich. 211, 26 N.W.2d 872 (1947).

28. MO. ANN. STAT. § 303.140 (Vernon 1953).

29. MO. ANN. STAT. § 303.320 (Vernon 1953). See *Garford Trucking Co. v. Hoffman*, 114 N.J.L. 522, 177 Atl. 882 (Sup. Ct. 1935).

30. MO. ANN. STAT. § 303.020 (Vernon 1953) defines "Registration" as registration certificates and license plates issued by the state.

31. MO. ANN. STAT. § 303.290(1) (Vernon 1953).

32. *Reitz v. Mealey*, 314 U.S. 33 (1941). See note 8 *supra*. In *State v. Stehlek*, 262 Wis 642, 56 N.W.2d 514 (1953) the court, in upholding the act as not being a delegation of judicial powers to an administrative officer, stated:

When the statutory grounds for suspension have come into being . . . the motor vehicle commissioner has no discretion. He is merely required to perform a ministerial function, and the only area in which some measure of discretion may be seemingly involved is the matter of fixing the amount of security which the licensee is required to post. . . .

Id. at 657, 56 N.W.2d at 522.

operator's license by the Director does not decide the question of negligence in any case.³³ The amount and form of security to be required of the operator is left to the Director's discretion, but in no case may it exceed the minimum requirements for insurance coverage.³⁴ The amount of security required may be reduced by the Director within six months after the date of the accident if he deems the required amount to be excessive.³⁵ The Director is required to provide for a hearing upon request in order that a depositor of security may question his orders or acts.³⁶ Any order or act by the Director is subject to review by writ of certiorari to the Circuit Court of Cole County, Missouri, which court may modify, affirm, or reverse the Director's order or decision in whole or in part.³⁷ This provision for review by a judicial body has been held to fulfill the requirements of due process and eliminates the necessity of a hearing before suspension of the operator's license and registration.³⁸

Securities deposited with the Director are placed in the State treasury and earmarked for the payment of any judgment that may be obtained against the depositor.³⁹ A similar provision in the Wisconsin statute has been construed to mean that the State Treasurer is merely custodian of these securities and that the Director of Revenue is the only person authorized to order the return of the deposit.⁴⁰ Under both the Wisconsin and the Missouri acts the securities are to be returned if there is no action taken against the depositor within one year after the date of the accident, or if a release is presented, or if there is an adjudication of non-liability.⁴¹

The new Act also provides that an operator or owner will be barred from operating a motor vehicle in the State of Missouri if he fails to satisfy a judgment rendered against him or is convicted of a violation of the motor vehicle laws.⁴² This is true even though the operator or owner has complied with the security requirements of the Act. If there is no report filed and the accident remains unknown to the Director prior to the rendition of a judgment against the operator or owner, upon failure to satisfy the judgment, the operator or owner will have his license and registration suspended. The clerk of the

33. *Larr v. Dignan*, 317 Mich. 211, 26 N.W.2d 872 (1947).

34. MO. ANN. STAT. § 303.050(1) (Vernon 1953). The maximum amount of security that may be required is established by § 303.030(5) which provides \$5,000.00 for injury to or death of one person, \$10,000.00 for injury to or death of two or more persons and \$2,000.00 for property damage.

35. MO. ANN. STAT. § 303.050(2) (Vernon 1953).

36. MO. ANN. STAT. § 303.290(1) (Vernon 1953).

37. MO. ANN. STAT. § 303.290(2) (Vernon 1953).

38. *State v. Stehlek*, 262 Wis. 642, 649, 56 N.W.2d 514, 518 (1953). See also *Doyle v. Kahl*, 46 N.W.2d 52 (Iowa 1951).

39. MO. ANN. STAT. § 303.060 (Vernon 1953).

40. 36 Att'y Gen. Op. 4 (Wis. 1947).

41. MO. ANN. STAT. § 303.060 (Vernon 1953). WIS. STAT. § 85.09(9) (1951).

42. MO. ANN. STAT. §§ 303.090 and 303.150 (Vernon 1953).

court rendering the judgment must notify the Director of Revenue in any case where the judgment is not satisfied within sixty days after it becomes final.⁴³ The Director must immediately suspend the operator or owner's license and vehicle registration.⁴⁴ These privileges cannot be regained until the judgment debtor pays the judgment in full or at least the amount required by the Act⁴⁵ and files proof of financial responsibility for future accidents.⁴⁶

Though a discharge in bankruptcy following the rendering of a judgment may legally discharge the debtor's obligation to pay the judgment, it in no way relieves the debtor of his duty to comply with this portion of the Act before he can regain his operating privileges and registration.⁴⁷

Upon the suspension or revocation of an individual's license, based on the receipt of a record of a conviction or a forfeiture of bail, even though there in fact has been no accident, the Director shall suspend the registration of all vehicles registered in the operator's name.⁴⁸ The privilege to operate these vehicles can be regained only by showing proof of future financial responsibility when the period of suspension under the motor vehicle laws has elapsed.⁴⁹

The penalties for violation of the new Act are more severe than those imposed by the 1945 act.⁵⁰ Failure to report an accident may be punishable by a fine not to exceed five hundred dollars and suspension of the operator's license.⁵¹ The new law provides for the suspension of a nonresident's operating privilege on the same basis provided for

43. MO. ANN. STAT. § 303.090 (Vernon 1953).

44. MO. ANN. STAT. § 303.100 (Vernon 1953).

45. MO. ANN. STAT. §§ 303.110 and 303.120 (Vernon 1953). MO. ANN. STAT. § 303.130 (Vernon 1953) provides that the judgment may be paid by installments. Failure to pay installments as agreed will result in the necessary posting of proof of financial responsibility as outlined by § 303.160.

46. MO. ANN. STAT. § 303.110 (Vernon 1953). MO. ANN. STAT. § 303.160 (Vernon 1953) provides that proof of financial responsibility is to be given by the filing of: (1) a certificate of insurance, (2) a bond, (3) a certificate of deposit of money or securities of the amount of \$1,200.00, or (4) a certificate of self-insurance.

47. MO. ANN. STAT. § 303.110 (Vernon 1953). The Financial Responsibility Act of New York, which contains a similar provision, has been held valid and enforceable even in light of § 17 of the Bankruptcy Act. *Reitz v. Mealey*, 314 U.S. 33 (1941). See also *De Vries v. Alger*, 329 Mich. 681, 44 N.W.2d 872 (1950); Note, 1951 WASH. U.L.Q. 400, 402.

48. MO. ANN. STAT. § 303.150 (Vernon 1953). MO. REV. STAT. § 302.270 (1949) lists the convictions which will result in revocation of a driver's license.

49. MO. ANN. STAT. § 303.160 (Vernon 1953). See note 46 *supra*.

50. MO. REV. STAT. §§ 303.320-303.340 (1949) of the old act classified all offenses as misdemeanors with no set amount of fine or term of imprisonment. MO. ANN. STAT. § 303.370 (Vernon 1953) describes four different offenses with their respective fines and sentences and adds a fifth penalty for any violation of the act not covered by this section.

51. MO. ANN. STAT. § 303.370(1) (Vernon 1953). *Straut v. Carpenter*, 92 N.H. 123, 26 A.2d 363 (1942) (Failure to report an accident is not excused because of ignorance of the financial responsibility laws.).

the suspension of a resident's license or registration.⁵² A resident of Missouri, who has an accident in another state with a similar motor vehicle safety responsibility act in effect, may lose his Missouri license and registration if he fails to comply with that state's requirements.⁵³

II

The Act states that if the operator or owner can show satisfactory evidence of a written agreement between the parties to pay all claimed injuries and damages (within twenty days of the receipt of the accident report by the Director), there will be no security required.⁵⁴ Likewise, if such evidence is presented to the Director prior to suspension (fourty-five days after the report is received by the Director), the security and suspension provisions will not apply.⁵⁵ If the operator or owner does not return his license or registration after it has been suspended, a peace officer will pick up the license and registration.⁵⁶ There is, however, no provision in the Act allowing this action to be delayed upon the submission of evidence that a settlement is being negotiated, but has not been reached prior to the forty-five day suspension date; the lack of such a provision may cause considerable inconvenience and undue harshness in the administration of the Act.

The Act states that it does not apply ". . . with respect to any motor vehicle owned by the state of Missouri, or any political subdivision of this state. . . ."⁵⁷ There is no express provision in the Act requiring or specifically relieving from compliance the operators of these vehicles, but the Attorney General's Office has ruled that members of the Police Department of Kansas City involved in accidents must comply with the Act.⁵⁸

Ownership of twenty-five registered motor vehicles may qualify an individual as a self-insurer under the Act, but does not entitle him to a certificate as such without further evidence of financial responsibility.⁵⁹ What further evidence is necessary to establish such financial responsibility is not specified. It is very possible that if the majority of the vehicles are in operation and therefore subject to an accident at any time, proof of ability to satisfy a series of adverse judgments rather than one or two might be required. The possibility that additional security will be required can be implied from the words, "[a

52. MO. ANN. STAT. §§ 303.080 and 303.090 (Vernon 1953).

53. MO. ANN. STAT. § 303.080(3) (Vernon 1953). *Nulter v. State Road Commission*, 119 W. Va. 312, 193 S.E. 549 (1937) (Upholds this type of statute as a regulation within the state because of an out-of-state occurrence, and not an extension of the police power beyond the state.).

54. MO. ANN. STAT. § 303.030 (Vernon 1953).

55. MO. ANN. STAT. § 303.070 (Vernon 1953).

56. MO. ANN. STAT. § 303.330 (Vernon 1953).

57. MO. ANN. STAT. § 303.350 (Vernon 1953).

58. Att'y Gen. Op. 72-54 (Mo. Jan. 11, 1954).

59. MO. ANN. STAT. § 303.220 (Vernon 1953).

self-insurer] will continue to be possessed of ability to pay judgments."⁶⁰ This proof may be established by evidence showing the assets and net worth of the prospective self-insurer, his insurance coverage, if any, and his past performance in satisfying judgments.⁶¹

The new Act provides that the *operating record* of any person subject to the Act may be secured from the Director upon request.⁶² No express restriction is placed on the use of this report as evidence in an action at law to recover damages. The Act expressly prohibits, however, the use of the *accident report* which is submitted by the operator or owner of a vehicle involved in an accident, as ". . . evidence of negligence or due care of either party, at the trial of an action at law to recover damages."⁶³ There is no provision in the Act, however, that these accident reports may not be secured from the Director and used in the preparation of a law suit. In view of the Missouri statute making records of motor vehicles open to the public⁶⁴ and in absence of a statute classifying the required accident reports as "confidential," it is very probable that such accident reports would be made available upon request. It has been held that a similar statute⁶⁵ prohibiting the reports to be used as evidence in an action at law did not prohibit the use of these reports to gather information where there was no "confidential" classification placed upon them.⁶⁶ This is especially true where the party requesting the report is directly or indirectly involved in the accident and makes his request in a reasonable and timely manner.⁶⁷ Opening such records to the public or even to the parties involved in the accident, however, would present difficulties to the over-

60. MO. ANN. STAT. § 303.220(2) (Vernon 1953).

61. Source: Personal interview with Mr. Lee G. Cass, Supervisor, Safety Responsibility Unit, Department of Revenue, Jefferson City, Missouri on February 1, 1954.

62. MO. ANN. STAT. § 303.300 (Vernon 1953). This section also lists the items to be included in such a report.

63. MO. ANN. STAT. § 303.310 (Vernon 1953).

64. MO. REV. STAT. § 301.350 (1949) provides that books and records relating to motor vehicles kept by the Director of Revenue shall be kept open to the public for inspection during business hours. State *ex rel.* Kavanaugh v. Henderson, Supt. of Liquor Control, 350 Mo. 968, 169 S.W.2d 389 (1943), holds that reports required of liquor distributors are to be open to public inspection and the court said, ". . . in all instances where, by law or regulation, a document is required to be filed in a public office, it is a public record and the public has a right to inspect it." MO. REV. STAT. § 302.120(2) (1949) provides that the Director of Revenue shall file all accident reports.

65. MD. ANN. CODE GEN. LAWS art. 66½, § 125 (1939) and MO. ANN. STAT. § 303.310 (Vernon 1953) (Both provide that accident reports shall not be used as evidence.)

66. Pressman v. Elgin, Comm. of Motor Vehicles, 187 Md. 446, 50 A.2d 560 (1947).

67. Pressman v. Elgin, Comm. of Motor Vehicles 187 Md. 446, 450, 50 A.2d 560, 564 (1947) (The operator's attorney is indirectly involved in the accident.). § 50 of Act V of the Uniform Vehicle Code and § 23, Art. III of the American Automobile Association Model Code both suggest that such reports be made "confidential," at least to the extent of excluding the general public from inspecting such reports.

all enforcement of the Act. To efficiently enforce the Act the Director must be cognizant of all possible facts of the accident in order to make an accurate determination of the amount of security to be required. If an operator or owner knows that the information he is submitting may be discovered by an adverse party in a damage suit and used as information upon which a case against him may be constructed, even though the accident record may not be presented as evidence in the actual trial, he may hesitate to give the necessary information required for the Director to make a complete determination of the facts. Not only would the public availability of such reports decrease their informative value, but the increased burden upon the Department of Revenue in making copies of such accident reports would decrease the efficiency of the Unit administering the Act.⁶⁸

The Act provides that a surety bond may be posted as proof of financial responsibility. The bond may be executed by a surety company authorized to do business in Missouri, or by two individuals owning Missouri realty with combined equities equal to twice the amount of security required by the Director. Such a realty bond must be approved by a judge of the circuit of the county in which the realty is located.⁶⁹ The Act further provides that if a judgment is rendered against the one bonded and is not satisfied within sixty days thereafter, the judgment creditor may bring an action against the sureties in the name of the State.⁷⁰ Though a judgment against the principal debtor would result in a lien upon his property, if all the requirements of recordation and notice are met,⁷¹ the Act does not provide that the judgment rendered against the principal should constitute a lien upon the realty of the sureties. The Missouri Motor Vehicle Safety Responsibility Act of 1945 contained an express provision creating such a lien⁷² at the time the bond was posted upon the realty of the sureties. The failure to include this provision creates a problem for a plaintiff in securing a judgment. May he join the sureties as parties to the original action against the principal, and thereby secure a lien on their property either by filing *lis pendens*, or upon the rendition of a judgment in his favor? Or does the wording of this section prohibit joinder of the principal and his sureties by stating that if a judgment against the principal is not satisfied within sixty days an action may be brought against the sureties in the name of the state? Other states protect the interest of the prospective judgment creditors with a provision to the effect that upon the acceptance of the real estate bond by the Director, a lien is created upon the realty of the sureties and con-

68. See note 74 *infra*.

69. MO. ANN. STAT. § 303.230 (1) (Vernon 1953).

70. MO. ANN. STAT. § 303.230 (2) (Vernon 1953).

71. MO. REV. STAT. §§ 511.350 and 511.500 (1949).

72. MO. REV. STAT. § 303.150 (5) (1949).

tinues until it is discharged by the state. When the judgment is not satisfied by the principal on the bond, the judgment creditor may bring an action, in the name of the state, to foreclose this lien upon the sureties' real estate.⁷³ The solution to this problem in Missouri lies in amending the new Act to include a similar provision.

CONCLUSION

The effectiveness of the new Motor Vehicle Safety Responsibility Act will, of course, depend a great deal upon its enforcement. The Department of Revenue has created a separate and distinct administrative body entitled the "Safety Responsibility Unit," the sole function of which is to administer the provisions of the Motor Vehicle Safety Responsibility Act.⁷⁴ At the beginning of 1954, after the Act had been in effect only four months, 25,000 accident reports had been received by this Unit. At the present time the Unit is receiving from 350 to 400 reports per day. These reports are screened and formed into "cases" dealing with each individual accident reported. As of January 1, 1954, 62% of the cases received have resulted in at least one suspension, either for failure to report the accident by one of the parties involved or failure to post security or give proof of financial responsibility.⁷⁵

73. OHIO CODE ANN. § 6298-75 (1952).

74. This Unit is composed of fifteen clerks, one supervisor and one assistant supervisor. The supervisor and his assistant make up the Administrative Section of the Unit. Correspondence is handled by a separate section known as the Correspondence Section. The actual administration of the Act and the handling of the reports has been divided into five stages. The reports sent in by the operators of vehicles involved in accidents come into the Incoming Mail and Matching Section where they are marked as to their date of receipt and combined with other reports of the same accident to form what is referred to as a "case." The "case" then goes to the Stenographic and Insurance Section where Form SR 21 is removed and sent to the designated insurance carrier for verification of the facts there alleged. At this point notice of suspension for failure to report an accident under § 303.030 is sent to all persons involved in the accident who have not reported it to the Director. If any of the operators involved in the accident have no insurance coverage the "case" then moves to the Evaluation Section where the Director or his authorized representative estimates the security to be required of the operator in compliance with the Act. After the required twenty days from the date of receipt of the report has elapsed, the notices of security to be posted are sent to the operators. If no evidence of settlement or security is posted within the forty-five days provided by the Act, the "case" is passed to the Suspension Section which issues the suspension notice demanding the return of the operator's license and registration along with the license plates. After the license registration certificate and identification plates are received by the Unit, the case passes to the Filing Section which makes the "case" a permanent record of the Unit's files. Here the "case" is kept to be used as evidence of all correspondence in case of a review requested by the operator of the motor vehicle. At the present time the Safety Responsibility Unit has prepared approximately twenty-five different forms for the necessary correspondence involved in the administration of the Safety Responsibility Act. These forms are for the use of operators filing the report or complying with the Act as well as for the use of the Unit in its correspondence. Source: Personal Interview with Mr. Lee G. Cass, Supervisor, Safety Responsibility Unit, Department of Revenue, Jefferson City, Missouri, on February 1, 1954.

75. Source: Personal Interview with Mr. Lee G. Cass, Supervisor, Safety Responsibility Unit, Department of Revenue, Jefferson City, Missouri, on February 1, 1954.

Though the Missouri Act is not a perfect solution to all problems,⁷⁶ it is a step toward the desired goal of compensation for all persons who are injured or suffer loss in automobile accidents. In states which have legislation similar to the new Missouri Act, over ninety per cent of the vehicles are insured⁷⁷ while in states with acts similar to the 1945 Missouri Act only fifty to seventy-nine per cent of the vehicles are covered by insurance.⁷⁸

The "future proof" requirement of the 1945 act was, in itself, inadequate. By adding the "security" requirement to the 1953 Act, the legislature attempted to correct this inadequacy. Proposed plans such as the unsatisfied judgment fund⁷⁹ and the limited compulsory plan⁸⁰ are all refinements upon the security type financial responsibility acts. All of these plans are attempts to achieve the complete coverage of the compulsory insurance plan of Massachusetts without incurring the hazards which accompany such an act.⁸¹ These plans have not been in use for a sufficient length of time for it to be ascertained whether they will accomplish the desired result. It is therefore submitted that the new Missouri Act should be given an adequate trial period before any substantial changes are adopted.

WILLIAM J. TATE.

76. For example, it does not protect the initial victim of an accident caused by a negligent motorist; nor does it provide compensation for the accident victim who is unable to obtain a judgment because of failure to satisfy the burden of proving negligence. See note 2 *supra*. See also Oppenheimer, *Insured to Kill; The Influence of Automobile Insurance on Accident Frequency*, 1953 INS. L.J. 14; Note, 1953 U. OF ILL. LAW FORUM 263.

77. Marryott, *Automobile Accidents and Financial Responsibility*, 1953 INS. L.J. 758, 760.

78. *Ibid.*

79. This plan provides a fund managed by the state out of which all non-collectable judgments will be paid. The money for such a fund will come from a fee charged all registrants of motor vehicles and insurance carriers of the state. See Marryott, *Automobile Accidents and Financial Responsibility*, 1953 INS. L.J. 758, 763; Note 66 HARV. L. REV. 1300, 1305 (1953).

80. See N.Y. VEHICLE AND TRAFFIC LAW §§ 11-a and 20-a (1952), which requires all operators of motor vehicles under the age of twenty-one years to carry liability insurance. Also see News and Opinions 1953 INS. L.J. 705, 709. For a complete discussion of all of the proposed and adopted plans to provide more protection for the motor vehicle operator against financially irresponsible operators, see *A Report to the Reader*, 1952 INS. L.J. 722.

81. See text at note 3 *supra*.