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Adminsitration of the Wyoming Financial Responsibility Act

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NOTES

ADMINISTRATION OF THE WYOMING FINANCIAL RESPONSIBILITY ACT

Tavegia became involved in an automobile accident on a Wyoming highway with one Burns. A report of the accident was filed with J. R. Bromley, State High Superintendent of Wyoming, who, acting under the Motor Vehicle Safety-Responsibility Act,¹ sent Tavegia a notice giving him ten days in which to furnish proof of financial responsibility with his office. Tavegia failed to comply with the requirements of this notice and fifteen days later, the superintendent issued a notice suspending Tavegia's driver's license, his motor vehicle registration certificate and his license plates. Tavegia then petitioned the District Court of Weston County for a review of the order of suspension under the provisions of the Wyo. Sess. Laws 1947, c. 160, sec. 2b. The petition contained the facts relating to the accident, alleged that the plaintiff was without fault, and that certain portions of the act were unconstitutional. The defendant demurred to the petition on the ground that the facts failed to state a cause of action. The demurrer was overruled and when the defendant preferred to stand upon his demurrer, judgment was given for the plaintiff. The district court ordered that the defendant be restrained from enforcing the order

1. Wyo. Sess. Laws 1947 c. 160, Wyo. Comp. Stat. 1945, sec. 60-1601 et. seq.

of suspension and that Tavegia's license plates, his motor vehicle registration certificate and his driver's license be reissued. The defendant appealed to the Supreme Court of Wyoming. *Held*, that since the record did not show that the superintendent had sufficient evidence to prove that the accident resulted in bodily injury or death or damage to the property of any one person in excess of fifty dollars, he was not authorized to act at all under the statute. The court, on viewing the plaintiff's petition, reached the conclusion that the plaintiff was not at fault, despite the fact that the superintendent claimed that the district court had no authority to pass upon the merits of either the plaintiff's petition or the highway superintendent's action and that the plaintiff should be required to bring another action to determine who was at fault,² and the court pointed out that since Burns was not made a party, "that the determination made in this case is not binding on Burns." Affirmed, *Tavegia v. Bromley*, 214 P. (2d) 975 (Wyo. 1950).

The main question which has been raised in regard to the effect of the decision of the *Tavegia* case is whether or not the imposing of a duty on the highway superintendent to determine fault or possible fault before he can evoke the financial responsibility requirements has the effect of destroying the administrative efficacy to such an extent as to prevent adequate enforcement of the Wyoming Motor Vehicle Safety-Responsibility Act. The attorney general's office of Wyoming designated this case as the one which "takes the teeth out of the financial responsibility statutes," contending that the holding provisions of the act need not be complied with unless actual guilt of responsibility in the accident is determined renders the law unworkable because the effect of the decision is that the highway superintendent is set up as a judge who has to go out and investigate the case and determine the guilt before the financial responsibility requirements can be invoked.³ Because of a lack of funds and personnel, it has been the contention of some that the answer to the question is an obvious yes.

Other states, which have responsibility laws for operators of motor vehicles, have avoided the difficulties raised by an imposing of a duty on the administrator of their acts to determine fault prior to invoking the financial responsibility provisions in various ways. The occurrence of an accident, without regard to fault or a charge of fault by the highway commissioner, has been declared sufficient to give the commissioner the power to invoke the financial provisions of the New Hampshire financial responsibility act.⁴ By statute, the commissioner's duty to suspend only upon a provisional judicial finding of negligence, or upon his own investigation leading to such a finding, no longer exists. The Supreme Court of New Hampshire has stated that provisional findings of fault are inde-

2. *Tavegia v. Bromley*, (-Wyo.-) 214 P. (2d) 975, 984 (1950).

3. *Wyoming State Tribune*, February 23, 1950, p. 1, col. 1.

4. *Rosenblum v. Griffin*, 89 N.H. 314, 197 A. 701 (1938).

cisive and much less so are charges or claims of fault. The New York financial responsibility act provides that the commissioner suspend the operator's license within a specified time after receiving a report of the accident and then stipulates that the security furnished will be applicable only to the payment of a judgment against the depositor for damages arising out of the accident in question at law in a court of that state begun not later than one year after the date of such accident.⁵ This provision would seem to relieve the commissioner of the duty of making a preliminary finding of fault prior to enforcing the financial provisions of the act inasmuch as the question of negligence would not arise until the operator is sued for damages resulting from the accident. Wisconsin passed a financial responsibility act in which, it is said, fault is ignored as a test for suspension because the law pre-supposes negligence in the accident and requires each driver or owner, as the case warrants, to comply in one or the other statutory manner as provided for by the act.⁶ The Wisconsin statute has also been construed to provide that a determination of liability can only be obtained in an action in which the operators involved are parties.⁷ This statute is substantially the same as the Wyoming statute, and when the Wisconsin statute is viewed in the light of the purpose of such statutes, to provide for financially sound drivers, it would seem to be more acceptable than the construction which was placed on the Wyoming act by the Supreme Court of Wyoming.

Some of the states have avoided imposing such a duty on the administrator of their financial responsibility acts by basing the operation of their laws on one or more of the following provisions: requiring proof of financial responsibility following conviction of violating certain motor vehicle laws; requiring proof of financial responsibility following the non-payment of motor vehicle accident judgments; suspension of rights to operate automobiles until there has been a satisfaction of such judgments; a provision requiring either satisfaction of judgment or proof of ability to respond in damages for future accidents following a judgment; requiring satisfaction of judgment and proof of financial responsibility for future accidents following non-payment of a judgment; or requiring that proof of financial responsibility be filed following convictions for violations of traffic laws.⁸

New Jersey requires proof of financial responsibility when any person, while operating a motor vehicle, has been concerned in a motor vehicle accident resulting in the death of or injury to a person, or damage to property to the extent of at least one hundred dollars except where the person, in the commissioner's opinion, is not at fault for causing the accident.⁹ Vermont requires proof of financial responsibility from the

5. New York Vehicle and Traffic Law, McK. Consol. Laws, Art. 6a, sec. 94e, subsecs. a & c (1941).

6. (1947) Wis. L. Rev. 146.

7. *Ibid.*

8. 3 Law & Contem. Prob. 505 (1936).

9. Revised Statutes of New Jersey c. 6, sec. 39:6-1 (1937).

owner and operator of a motor vehicle which is involved in an accident in which a person is killed or injured or from which damages to such motor vehicle or to any other property to the extent of seventy-five dollars or more results when it appears to the commissioner, after a full investigation, that the operator of the vehicle was at fault.¹⁰ These states are the only ones found which require the administrator to make a finding of fault before he can enforce the financial provisions of the act.

The purpose of the financial responsibility laws are to place every person who may be found legally responsible for damages arising from an automobile accident in a position to pay such damages and this purpose is to be accomplished by requiring proof of ability to respond in damages from those who may be likely to cause harm. Drivers who should be required to be financially competent have been classified by the financial responsibility laws; and the administrators of those acts should not be impeded from segregating those drivers as quickly as possible. It is therefore contended that the imposing of a duty upon an administrator to make a provisional finding of fault before enforcing the financial provisions of such acts runs contra to the purposes of those acts, and this contention is supported by the fact that all but three states, which have such laws, have seen fit not to impose such a duty upon the administrators of their laws. The primary objective of the state is to see that the purpose of the act is achieved and it is not to argue questions of negligence with those persons who should be required to furnish proof of financial responsibility. However, the principal case has imposed such a duty upon the state highway superintendent of Wyoming and because of a lack of funds and personnel necessary to carry out this duty, the claim that the act has been made unworkable from an administrative viewpoint cannot be denied. The result of the decision in this case would seem to enable an operator who has had his license revoked for failure to file proof of financial responsibility as required by the act to file a petition to have the order reviewed, and because the superintendent does not have the funds or personnel to make a preliminary finding of fault, the operator will be given a judgment on non-liability by default and the order of suspension will be rescinded. The cure would seem to be either an increase in funds and personnel to aid carrying out such investigations or the elimination of fault or possible fault from the operation of the financial responsibility act.

DAVID A. SCOTT.

MENTAL ANGUISH IN PERSONAL INJURY CASES

The fundamental law of damages in personal injury cases allows the jury to fix such sum as will reasonably compensate the injured party for

10. Public Laws of Vermont c. 213 sec. 5190 subsec. 3 (1933).