

Judiciary No. 1.
February 14, 1927.

House File No. 197. ✓
BY KNUTSON: ✓

A BILL FOR

An Act to require the giving of security conditioned to pay damages caused by the operation of motor vehicles, to fix and declare the rights, duties and responsibilities, civil and criminal, of the parties concerned, and to declare a rule of evidence relative to the operation of motor vehicles.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Any person who may be materially injured in his
2 person or property through the operation of a motor vehicle,
3 or the husband, wife, relative, guardian, employee, executor,
4 administrator, agent, or attorney of such person, may, without
5 filing fee, at any time within ninety days after the occurrence
6 of such injury, and in vacation or term time, file in the office
7 of the clerk of the district court of the county in which the
8 injury was received or of the county in which one or more of
9 the persons who are alleged to be responsible for said injury
10 reside, an application for an order which shall require the
11 person or persons alleged to be responsible for said injury
12 to give security conditioned to pay any judgment which may
13 be recovered because of said injury.

1 Sec. 2. Said application shall briefly set forth:

- 2 1. The occurrence out of which the injury arose.
- 3 2. The general nature of the injuries suffered by the person
4 on whose behalf the application is made.
- 5 3. The name and residence of the person who was injured.

6 4. The names and residences of all persons who it is claimed
7 are responsible for said injury.

8 5. A general allegation that the person injured was not
9 negligent and that the parties claimed to be responsible for
10 the injury were negligent on the said occasion, and that such
11 negligence was the proximate cause of the injury, or such other
12 general allegation of fact as will on its face show liability.

13 6. An allegation of the fair amount of damages which have been
14 caused by or which will probably result from said injury.

1 Sec. 3. The application shall be sworn to by some person who
2 has knowledge of the facts.

1 Sec. 4. The time and place of the hearing on said application
2 shall be fixed by the court or judge by a written order, or by
3 telegraph or telephone message.

1 Sec. 5. Notice of the time and place of hearing before the
2 court or judge on said application shall be personally served at
3 any place within the state upon all persons who are alleged to be
4 responsible for said injury, in the manner in which original notices
5 in civil cases are required to be served.

1 Sec. 6. Persons may appear in said proceedings in person or by
2 attorney.

1 Sec. 7. The court or judge shall have full authority, on such
2 notice and service as may be deemed fit, to cause parties to be
3 brought into the proceedings other than those brought in under the
4 original application.

1 Sec. 8. At the time and place set for the hearing, which may

2 be in term time or vacation, the court or judge may proceed as to
3 all parties then served or who appear, and continue the hearing
4 as to those not served.

1 Sec. 9. The application shall be deemed denied without any
2 formal pleading to that effect.

1 Sec. 10. The court or judge may order such continuances as may
2 seem necessary, and may change the place of final hearing to suit
3 the convenience of the parties.

1 Sec. 11. The court or judge shall summarily hear the application.
2 The issue shall be whether all or some of the persons then
3 before the court by service or appearance, are probably liable
4 in damages for the injury suffered by the person on whose behalf
5 the application is made.

1 Sec. 12. No holding or order on such application shall be
2 deemed an adjudication of any issue thereafter arising in any
3 action growing out of the occurrence in which the injury was
4 received.

1 Sec. 13. The testimony received may be taken in shorthand
2 at the expense of the party who desires such taking. All
3 witnesses shall be paid by the party calling them.

1 Sec. 14. If the court or judge finds the affirmative of the
2 said issue, an order shall be entered which shall require the
3 person or persons who are found probably to be liable for said
4 material injury to furnish, within such time as the court may
5 designate, security conditioned for the payment of any final
6 judgment which may be obtained against them or any of them

7 because of the said injury.

1 Sec. 15. The court may order and require the security to
2 be given for the joint benefit of two or more injured persons.

1 Sec. 16. Should the court or judge be of the opinion, from
2 the testimony presented, that a jury might fairly find that
3 either of the two injured and contending parties was responsible
4 for the injury suffered by the other, then and in such case, each
5 party may be ordered to give security in favor of the other and
6 conditioned as heretofore provided.

1 Sec. 17 No security shall be ordered in favor of a party
2 who in the opinion of the court or judge fails to show that he
3 was materially injured.

1 Sec. 18. No such security shall be liable to the satisfaction
2 of a judgment against a party other than the principal in said
3 security. This section shall not be construed to relieve a
4 surety from liability on any security on which he is surety
5 for a person against whom judgment is rendered.

1 Sec. 19. The order which requires or which refuses to
2 require such security shall be final and no appeal shall lie
3 therefrom.

1 Sec. 20. The security so required shall not exceed the sum
2 of ten thousand dollars (\$10,000.00).

1 Sec. 21. The court or judge shall make all necessary orders
2 for the custody and preservation of the security given and
3 approved.

1 Sec. 22. The security so given shall be subject to the

2 approval of the court or judge and may consist of :

3 1. A deposit of money, or

4 2. Personal assets of any nature.

5 3. A personal bond signed by the principal and by at least
6 two personal sureties, or

7 4. A bond signed by the principal and any indemnity insurance
8 company authorized to do business in this state.

1 Sec. 23. Security in any form given hereunder shall be deemed
2 given and held conditional to satisfy any judgment subsequently
3 rendered against the principal in said security, anything in
4 said security to the contrary notwithstanding.

1 Sec. 24. The owner or operator of the motor vehicle which
2 is alleged to have caused the injury, may, even though not named
3 in said application, appear before the court or judge prior to
4 or at the time of said hearing, and show to the satisfaction of
5 the court or judge that an automobile liability insurance policy
6 covering personal injury or death in the amount of at least ten
7 thousand dollars (\$10,000.00) was in force and covering said
8 motor vehicle at the time of the occasion in question, and in
9 such case, if the court or judge is satisfied that such security
10 is fairly adequate, the application for security shall be
11 summarily dismissed upon the depositing of such policy with the
12 court or judge.

1 Sec. 25. Any person may appear in said hearing and, without
2 pleadings, show that he was injured on the occasion in question,
3 and that a party to the proceedings is responsible for such

4 injury, and may orally or in writing pray for an order for the
5 security herein authorized and the prayer shall be granted or
6 refused as in other cases herein provided.

1 Sec. 26. The failure of any person to give the security
2 ordered shall not be deemed a contempt of court, but such
3 failure shall constitute a revocation of the registration and
4 license of such person to operate a motor vehicle in this state
5 until such security is given.

1 Sec. 27. The failure of the owner of the motor vehicle which
2 is alleged to have caused the injury, to give the security when
3 required, shall render unlawful the operation, thereafter, of
4 said car within the state of Iowa, unless the operator show that
5 he did not know of such order or did not know that the order had
6 not been complied with.

1 Sec. 28. The disability imposed by the two preceding sections
2 shall be deemed automatically cancelled by the subsequent
3 rendition of a final verdict which in legal effect exculpates
4 the party in question from responsibility for said injury.

1 Sec. 29. In case security is ordered and given, the failure
2 to commence, within six months after such injury was received,
3 an action to recover damages because of such injury, shall
4 automatically cancel such security.

1 Sec. 30. Execution on a judgment obtained because of said
2 injury may be levied upon any cash, or government, municipal,
3 or corporate bond, stock, or other tangible assets which has
4 been deposited as security aforesaid.

1 Sec. 31. Action on a surety bond which is deposited as
2 security may be commenced within six months after the judgment
3 obtained for said injury has become final, anything in said bond
4 to the contrary notwithstanding.

1 Sec. 32. Any person who deposits any tangible asset as
2 security with knowledge that he has no authority to make such
3 deposit, and any person who knowingly makes any false representa-
4 tion relative to the existence of liability insurance on said
5 motor vehicle at the time of an occurrence in question, shall be
6 imprisoned in the penitentiary or the men's or the women's
7 reformatory for a period not exceeding three (3) years.

1 Sec. 33. Any person who files an application under this
2 chapter for security on behalf of any person other than himself
3 without being authorized so to do shall be guilty of a misde-
4 meanor.

1 Sec. 34. For the purpose of this chapter, unless otherwise
2 provided herein, the term :

3 1. "Person" shall, in addition to its ordinary meaning, embrace
4 a partnership or a corporation.

5 2. "Motor vehicle" shall have the same meaning as is provided
6 in the chapter of the code entitled "Motor vehicles and law of
7 road".

1 Sec. 35. This act shall not apply to the government, or to
2 any municipality thereof, nor to the operation of motor vehicles
3 by any steam, electric, or street car line as a part of its line
4 or system.

1 Sec. 36. It shall be presumed that the operation in this
2 state of a motor vehicle by a person who is not the owner of
3 such vehicle is with the express or implied consent of such
4 owner.

1 Sec. 37 The code editor is directed to insert the preceding
2 section in the chapter of the code entitled "Motor vehicles and
3 law of road."

1 Sec. 38. This chapter shall take effect on the first day
2 of January, 1928.