§ 253. Service of summons on non-residents. 1. The use or operation by a non-resident of a vehicle in this state, or the use or operation in this state of a vehicle in the business of a non-resident, or the use or operation in this state of a vehicle owned by a non-resident if so used or operated with his permission, express or implied, shall be deemed equivalent to an appointment by such non-resident of the secretary of state to be his true and lawful attorney upon whom may be served the summons in any action against him, growing out of any accident or collision in which such non-resident may be involved while using or operating such vehicle in this state or in which such vehicle may be involved while being used or operated in this state in the business of such non-resident or with the permission, express or implied, of such non-resident owner; and such use or operation shall be deemed a signification of his agreement that any such summons against him which is so served shall be of the same legal force and validity as if served on him personally within the state and within the territorial jurisdiction of the court from which the summons issues, and that such appointment of the secretary of state shall be irrevocable and binding upon his executor or administrator. Where such non-resident has died prior to the commencement of an action brought pursuant to this section, service of process shall be made on the executor or administrator of such non-resident in the same manner and on the same notice as is provided in the case of the non-resident himself. Where an action has been duly commenced under the provisions of this section against a non-resident who dies thereafter, the court must allow the action to be continued against his executor or administrator upon motion with such notice as the court deems proper.

2. A summons in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons shall be made by mailing a copy thereof to the secretary of state at his office in the city of Albany, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and such service shall be sufficient service upon such non-resident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the plaintiff to the defendant by

certified mail or registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his certified mail or registered mail, in accordance with the rules and customs of the post-office department; or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail; or, if the registered or certified letter was returned to the post office unclaimed, the original envelope bearing a notation by the postal authorities of such mailing and return, an affidavit by or on behalf of the plaintiff that the summons was posted again by ordinary mail and proof of mailing certificate of ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the post-office department is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete when such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by the defendant or a person qualified to receive his certified mail or registered mail; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the secretary of state at his office in the city of Albany, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and by delivering a duplicate copy thereof with the complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, under-sheriff, deputy-sheriff or constable of the county or other political subdivision in which the personal service is made, or an officer authorized by the laws of this state, to take acknowledgements

of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or country where such service is made, or by a United States marshall or deputy United States marshall. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete when proof thereof is filed. The court in which the action is pending may order such extensions as may be necessary to afford the defendant reasonable opportunity to defend the action.

3. As used in this section, the term "vehicle" means a "motor vehicle," "motorcycle," "semitrailer," and "trailer" as defined in sections one hundred twenty-five, one hundred twenty-three, one hundred forty-three and one hundred fifty-six, respectively, of this chapter, whether or not such vehicles are used or operated upon a public highway.