§ 318. Revocation of registrations, drivers' licenses and non-resident privileges. 1. (a) Except as otherwise provided in this subdivision, the commissioner, upon receipt of evidence that proof of financial security for any motor vehicle, other than a motorcycle or a motor vehicle registered with registration plates of this state issued in the year corresponding to the model year date in which the vehicle was manufactured pursuant to schedule G of subdivision seven of section four hundred one of this chapter, registered in this state is no longer in effect shall suspend the registration of such vehicle and the driver's license of the registrant, in accordance with the provisions of subdivision one-a of this section.

(b) Such motor vehicle shall not be registered or reregistered in the name of such person, or in any other name where the commissioner has reasonable grounds to believe that such registration or reregistration will have the effect of defeating the purposes of this article, and no other motor vehicle shall be registered in the name of such person during the period of such suspension.

(c) Suspension shall not be made under this subdivision upon the basis of a lapse or termination of insurance if the registration certificate and number plates of the motor vehicle are surrendered prior to the time at which the termination of insurance becomes effective. Such surrender shall be made to such officers of the department as the commissioner shall direct, but the registrant at his option may surrender the registration and number plates to any county clerk who is acting as an agent of the commissioner pursuant to section two hundred five of this chapter. Such county clerk may accept a surrender of registration and number plates and require the payment of a fee of one dollar whether such surrender is made before or after the effective date of termination of insurance. The county clerk shall retain any such fee which may have been collected, and shall return such registration certificates and number plates, or dispose of the same, only as prescribed by the commissioner. For the purposes of this section the expiration of a registration without renewal of such registration shall be deemed to be a surrender of registration as of the date of expiration.

(d) Suspension shall not be made under this subdivision upon the basis of a lapse or termination of insurance if the vehicle has been, or will be, prior to the date of such lapse or termination, removed from the

United States in North America and the Dominion of Canada for the purpose of international traffic, provided that the owner of such vehicle, prior to the date of such lapse or termination, has filed with the commissioner a statement, in a form prescribed by him, indicating that the vehicle has been, or will be, so removed, and agreeing to notify the commissioner immediately upon return of the vehicle to the United States in North America or the Dominion of Canada. Upon receipt of the foregoing statement the commissioner shall restrict the use of the registration to such international traffic until new proof of financial security has been secured for the vehicle.

(e) Suspension need not be made under this subdivision upon the basis of a lapse or termination of insurance if the period of time during which the motor vehicle remained both registered and uninsured was not more than seven days. The commissioner shall promulgate regulations governing the conditions under which suspension action may be withheld pursuant to this paragraph.

1-a. (a) The suspension of a registration provided in subdivision one of this section shall take effect on the date specified in the order of suspension and shall remain in effect until the registration certificate and number plates of the motor vehicle have been surrendered to the commissioner and thereafter for a period of time equal to the time from the date of termination of financial security to the date of such surrender or to the date upon which subsequent financial security was obtained or to the date on which the registrant no longer had an insurable interest in the vehicle.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, an order of suspension issued pursuant to paragraph (a) or (e) of this subdivision may be terminated if the registrant pays to the commissioner a civil penalty in the amount of eight dollars for each day up to thirty days for which financial security was not in effect, plus ten dollars for each day from the thirty-first to the sixtieth day for which financial security was not in effect, plus twelve dollars for each day from the sixty-first to the ninetieth day for which financial security was not in effect. Of each ten dollar penalty collected, eight dollars will be deposited in the general fund and two dollars shall be deposited in the dedicated highway and bridge trust fund established

pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. Of each twelve dollar penalty collected, eight dollars will be deposited into the general fund and four dollars shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. The foregoing provision shall apply only once during any thirty-six month period and only if the registrant surrendered the certificate of registration and number plates to the commissioner not more than ninety days from the date of termination of financial security or submits to the commissioner new proof of financial security which took effect not more than ninety days from the termination of financial security.

(c) No number plates shall be returned to the registrant until proof of financial security is submitted to the commissioner.

(d) The provisions of this subdivision relating to termination of suspension upon payment of a civil penalty shall be applicable to a registrant only one time during any three year period.

(e) If a registrant has not surrendered his certificate of registration and number plates or obtained financial security within ninety days from the date of termination of financial security, the commissioner shall suspend the driver's license of any such registrant. Such suspension shall take effect on the date specified in such order and shall remain in effect from the date of surrender of such license and thereafter for the period of time of the suspension of the registrant's registration.

(g) Any civil penalty paid pursuant to paragraph (b) of this subdivision shall be separate and distinct from any civil penalty assessed pursuant to subdivision five of section three hundred nineteen of this chapter.

2. (a) The commissioner upon receipt of evidence that the owner of a motor vehicle registered in this state, or an unregistered motor

vehicle, has operated, or permitted such motor vehicle to be operated upon the public highways of this or any other state while proof of financial security was not in effect with respect to such vehicle, shall revoke the registration, if any, of the vehicle and the driver's license, if any, of such owner.

(b) Such motor vehicle shall not be registered in the name of such person, or in any other name where the commissioner has reasonable grounds to believe that such registration will have the effect of defeating the purpose of this article, and no other motor vehicle shall be registered in the name of such person, nor any driver's license issued to such person, for a period of one year from the date of such revocation.

3. (a) The commissioner, upon receipt of evidence that a person, other than the owner, has operated upon the public highways of this state a motor vehicle registered in this state, or an unregistered motor vehicle, with knowledge that proof of financial security was not in effect with respect to such vehicle, shall revoke the driver's license of such person, or if he is a non-resident, the non-resident driving privileges of such person.

(b) No new driver's license shall be issued, or non-resident driving privilege restored to such person for a period of one year from the date of such revocation.

(c) This subdivision shall not apply to any person who at the time of operation of such motor vehicle had in effect an operator's policy of liability insurance, as hereinafter defined, with respect to his operation of such vehicle or to a police officer or member of the state police who is compelled to assume the custody and operation of a motor vehicle of another because such motor vehicle was (1) stolen from or lost by the owner, (2) abandoned, either by the owner or any other person with or without the owner's consent, (3) is being operated by a person disabled so as not to be able to operate it properly, or (4) is being operated by an intoxicated person.

4. (a) The commissioner, upon receipt of evidence that the owner of a motor vehicle not registered in this state has operated or permitted such motor vehicle to be operated upon the public highways of this state

while proof of financial security was not in effect with respect to such vehicle, shall revoke such person's privilege to operate any motor vehicle in this state and the privilege of the operation within this state of any motor vehicle owned by him.

(b) Such non-resident privileges shall not be restored for a period of one year from the date of such revocation.

5. (a) The commissioner, upon receipt of evidence that a person, other than the owner of the vehicle, has operated upon the public highways of this state a motor vehicle not registered in this state, with knowledge that proof of financial security was not in effect with respect to such vehicle shall revoke the driver's license of such person, or if he is a non-resident, the non-resident privileges of such person.

(b) No new driver's license shall be issued, or non-resident privilege restored to such person for a period of one year from the date of such revocation.

(c) This subdivision shall not apply to any person who at the time of operation of such motor vehicle had in effect an operator's policy of liability insurance, as hereinafter defined, with respect to his operation of such motor vehicle or to a police officer or member of the state police who is compelled to assume the custody and operation of a motor vehicle of another because such motor vehicle was (1) stolen from or lost by the owner, (2) abandoned, either by the owner or any other person with or without the owner's consent, (3) is being operated by a person disabled so as not to be able to operate it properly, or (4) is being operated by an intoxicated person.

6. Notice of revocation pursuant to this section may be given to the owner of a vehicle registered in this state or to a driver licensed in this state, by mailing the same to such owner or licensee at the address contained in the certificate of registration for the vehicle owned by such person or to the address contained on his or her driving license or to the current address provided by the United States postal service.

7. Failure of such owner or licensee to deliver a certificate of registration, number plates or driver's license to the commissioner after revocation thereof or as otherwise provided in section three

hundred twelve shall constitute a misdemeanor.

8. An operator's policy of liability insurance, as used in this section, shall mean a policy issued by an insurance carrier duly authorized to transact business in the state which shall insure the person named therein as insured, against loss from the liability imposed upon him by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the use by him of any motor vehicle not owned by him, subject to the same minimum provisions and approval required by subdivision four of section three hundred eleven of this chapter, with respect to an owner's policy of liability insurance. With respect to a non-resident, such policy may also be issued by a non-admitted insurance carrier provided the requirements of this article with respect to issuance of an owner's policy of liability insurance by such carrier have been met.

9. (a) If a motor vehicle has been involved in an accident, and its registration or the driver's license of its operator, or both, have been revoked pursuant to this section, then neither such vehicle nor any other motor vehicle shall be registered or reregistered in the name of its owner or of any other person legally responsible for its use, nor shall any driver's license be issued to such owner, person or operator until one year has passed since the date of such revocation and, as the case may be, the commissioner has received the payments and evidence required by paragraph (c) below.

(b) If a motor vehicle not registered in this state is involved in an accident in this state and the privilege of its operation within this state has been revoked, then neither its owner, any person legally responsible for its use nor its operator shall exercise the privilege of the operation of such vehicle within this state or the privilege of operation within this state of any motor vehicle, until one year has passed since the date of revocation and, as the case may be, the commissioner has received the payments and evidence as required in (c) below.

(c) The payments and evidence referred to in paragraphs (a) and (b) above shall be evidence, satisfactory to the commissioner,

(1) That no cause of action based upon such accident against such owner, person legally responsible or operator has been commenced within a period of one year from the date of the accident or a release thereof has been given to such owner, person or operator, or

(2) That no judgment arising out of such cause of action for amounts within the limits stated in paragraph (a) of subdivision four of section three hundred eleven against such owner, person or operator remains unsatisfied, except that such registration and licensing privileges may be restored on compliance with the procedures permitting the payment of a judgment in installments provided in section three hundred thirty-four and

(3) That all civil penalties required to be paid to the department pursuant to the provisions of subdivision five of section three hundred nineteen of this chapter have been paid.

10. The provisions of subdivision seven of section five hundred ten of this chapter shall apply to a revocation under this article.

11. (a) Where the license or privileges of any person, or the registration of a motor vehicle registered in his name, has been suspended or revoked under article six of this chapter, and the motor vehicle accident indemnification corporation or an insurer has paid any amount towards satisfaction of a judgment against such person, or has obtained a judgment against such person as a result of payments made to third parties such license, privileges or registration shall be suspended, or the suspension or revocation thereof shall be continued, as provided in this subdivision.

(b) If the license, privileges or registration of such person has not been restored, the suspension or revocation thereof shall be continued pending the satisfaction of the requirements of paragraph (d) of this subdivision.

(c) If the license, privileges or registration of such person has been restored, the commissioner shall suspend such license or privilege, and may suspend such registration, pending the satisfaction of the requirements of paragraph (d) of this subdivision.

(d) Such suspensions and revocations shall be continued until such person has repaid to the corporation or to such insurer any amount so

paid by it together with interest thereon at six per centum per annum from the date of such payment, unless such person submits to the procedure provided for the payment of judgments in installments under section three hundred thirty-four of this chapter.

(e) A discharge in bankruptcy shall not relieve a person of the penalties and disabilities provided in this article.

12. (a) If the owner or operator of a motor vehicle in any manner involved in an accident occurring in this state resulting in death or bodily injuries to any person fails to produce satisfactory evidence as proof of financial security within forty-eight hours after the accident, the motor vehicle shall be subject to impoundment and any peace officer, acting pursuant to his special duties, or any police officer is authorized to impound and store such motor vehicle. If said motor vehicle is subject to impoundment and is not so impounded, the owner or his representative shall cause said motor vehicle to be stored in a public garage or storage place in this state as selected by the owner or representative and shall continue such storage for the period of time provided in this section. The aforementioned storage shall constitute "impoundment" within the meaning of this section. The cost of storage of any such impounded motor vehicle shall be borne by the owner. So long as the impoundment is in force no person shall remove the impounded vehicle or permit it to be removed from its place of impoundment except upon the order of the commissioner.

(b) Immediately upon impoundment, the owner or his representative shall:

1. Notify the bailee of the impounded motor vehicle of the fact that the same is stored as an impounded vehicle,

2. Notify the commissioner in writing of the street address and city or municipality where said motor vehicle is stored, and

3. If the owner is a resident of this state, return the registration certificate and registration plates with respect to such motor vehicle to the commissioner.

If the owner or his representative fails to store said motor vehicle as required by subdivision (a) and fails to return such registration certificate and registration plates, the commissioner is authorized to direct any peace officer acting pursuant to his special duties, or police officer to impound and store said motor vehicle at the expense of the owner and to take possession of the registration certificate and registration plates and return the same to the commissioner of motor vehicles.

(c) The impoundment shall continue until (1) there is a final disposition of the claim for death or bodily injury of the person, resulting from the accident in which said motor vehicle was involved, by payment of a judgment or settlement by the owner, or by a final judgment in his favor, or (2) one year has elapsed since the date of the accident and no filing has been made pursuant to section five thousand two hundred eight of the insurance law, or (3) a release of the motor vehicle upon order of the commissioner. The commissioner may order the release of said motor vehicle upon the depositing with the commissioner of taxation and finance of security or a bond in such form and amount as may be approved by the commissioner. If said motor vehicle is not released from impoundment after the lapse of one year, the commissioner may dispose of it by public sale and remit the proceeds from the sale to the commissioner of taxation and finance to be held pending the final disposition of the claim.

(d) If repairs to an impounded motor vehicle are desired by the owner, he, with the permission of the commissioner, may authorize the motor vehicle to be taken to such repair shop or garage as he may select for the purpose of having it repaired at the owner's expense. Upon completion of such repairs, the motor vehicle shall be impounded as provided in subdivision (a).

Where the commissioner is satisfied by such evidence as he deems sufficient, that any motor vehicle is so damaged that it cannot be restored to operable condition, he may, in his discretion, upon such conditions as he deems proper, consent to the release of said motor vehicle from impoundment.

(e) No owner of a motor vehicle subject to impoundment hereunder shall transfer title to said motor vehicle nor his interest therein unless he

furnishes to the commissioner security, in an amount which the commissioner is satisfied is equivalent to the value of said vehicle or his interest therein.

(f) Nothing herein contained shall affect the rights or remedies of any person holding a prior valid lien on an impounded vehicle, including the right to take possession, existing at the effective date of this section or the right of the bailee to a lien for storage of the impounded vehicle; provided, that such person shall, after the sale of such vehicle for the satisfaction of any liens thereon, remit to the commissioner as deposits of security under this article on behalf of the former owner or purchaser of such vehicle any sums which such owner or purchaser would otherwise be entitled to receive.

(g) Any person who wilfully violates any of the provisions of this subdivision shall, in addition to any other penalty provided by law, be liable to the people of this state for a penalty in an amount not less than one hundred dollars nor more than one thousand dollars for each violation.

13. (a) Subject to the provisions of paragraph (b), no revocation or suspension order shall be issued pursuant to this section, or if such revocation or suspension order has been issued, it shall be terminated, if the commissioner shall determine that the person involved was not aware of the fact that financial security was not in effect and the failure to have such financial security in effect was caused solely by the negligence or malfeasance of a person other than such person.

(b) The burden of proving lack of knowledge that financial security was not in effect and that such failure resulted solely from the negligence or malfeasance of another shall be upon the person seeking to avoid revocation or suspension action. Such facts shall be established by clear and convincing evidence, either by the submission of affidavits or at a hearing called in the discretion of the commissioner.

14. No registration and/or license, which has been revoked pursuant to this section because the holder was convicted of driving without insurance in violation of subdivision one of section three hundred nineteen of this chapter, shall be restored until all civil penalties, required to be paid to the department pursuant to the provisions of

subdivision five of section three hundred nineteen of this chapter, have been paid.

15. Notwithstanding any provisions of this section, a restricted use license or privilege of operating a motor vehicle in this state may be issued to a person who has had his license or such privilege revoked or suspended pursuant to any provision of this section in accordance with article twenty-one-A of this chapter.