

Uniform Conflict of Laws (Traffic Accidents) Act

(1970 Proceedings, pages 40, 263)

1. In this Act

Interpretation

- (a) “accident” means an accident that involves one or more vehicles and is connected with traffic on a highway;
- (b) “highway” means any place or way, including any structure forming part thereof, which the public is ordinarily, or a number of persons are, entitled or permitted to use for the passage of vehicles, with or without fee or charge therefor, and includes all the space between the boundary lines of any right of way or land taken, acquired or used therefor, and includes
 - (i) a privately owned area designed and intended and primarily used for the parking of vehicles and the necessary passageways thereon, and
 - (ii) a publicly owned area designed and intended to be used exclusively for the parking of vehicles and the necessary passageways thereon;
- (c) “pedestrian” includes any person who, at the place of the accident, was not carried on a vehicle;
- (d) “state” includes a province of Canada and a territorial entity of a state, if this entity has its own legal system in respect of tortious liability arising from an accident; and
- (e) “vehicle” means a device, whether motorized or not, in, upon or by which a person or thing is or may be transported or drawn upon a highway, except a device used exclusively upon stationary rails or tracks.

(2) A reference to the laws of a state shall be read as a reference to its internal laws excluding the conflict rules. Reference to state laws

(3) A reference to the registration of a vehicle shall be read as a reference to its registration at the time of the accident in question. Reference to vehicle registration

(4) A reference to chattels carried on a vehicle shall be read as a reference to chattels lying, standing or resting on any part of the vehicle. References to chattels

Purpose of Act

2. (1) Subject to subsection (2) and to section 11, this Act determines the law applicable to tortious liability arising from an accident.

Where Act does not apply

- (2) This Act does not apply
- (a) to the liability of manufacturers, sellers or repairers of vehicles;
 - (b) to the liability arising out of a breach of duty to maintain a highway or attaching to the ownership, occupation, possession or control of land;
 - (c) to vicarious liability other than that of the owner of a vehicle, of a principal, or of a master;
 - (d) to an action by or against a person who caused or contributed to an accident for contribution, indemnity or any other relief over;
 - (e) to an action for contribution or indemnity from, or any other relief over against, an insurer or a subrogation action by an insurer; or
 - (f) to an action by or against a person administering a workmen's compensation fund, a social insurance or similar scheme, by or against an unsatisfied judgment fund or any person administering a similar fund, or to any exemption from liability provided by the law governing these persons, institutions, funds or bodies.

Where law of state where accident occurred applicable

3. Subject to sections 4, 5, 6 and 7, the law applicable under section 2 is the law of the state where the accident occurred.

Where law of state of registration of vehicle applicable

- 4. (1)** Where
- (a) one vehicle is involved in the accident and is registered in a state other than the state where the accident occurred, or, where more than one vehicle is involved, each is registered in the same state being a state other than the state where the accident occurred; and
 - (b) each pedestrian, if any, who caused or contributed to the accident has his habitual residence in the state mentioned in clause (a), whether or not he is also a victim of the accident,

the law of the state of registration, subject to section 7, determines

- (c) liability to the driver, owner or any other person having control of, or a proprietary interest in, the vehicle, if at least one of these persons has his habitual residence within the state of registration;
- (d) liability to a passenger whose habitual residence is in a state other than the state where the accident occurred, but not necessarily in the state mentioned in clause (a); and
- (e) liability to a pedestrian whose habitual residence is in the state mentioned in clause (a).

(2) Where there are two or more victims, the applicable law is determined separately for each of them.

5. (1) The liability mentioned in section 4(1)(c) includes liability for damage to chattels carried on the vehicle other than chattels mentioned in subsection (2). Liability extended

(2) The liability mentioned in section 4(1)(d) includes liability for damage to chattels that are carried on the vehicle and that are either owned by the passenger or have been entrusted to his care. Idem

(3) The liability mentioned in section 4(1)(e) includes liability for damage to chattels owned by the pedestrian whether or not the chattels were carried on a vehicle. Idem

6. Liability for damage to chattels not carried on a vehicle at the time of the accident, except those mentioned in section 5(3), is governed by the law of the state where the accident occurred. Chattels not on vehicle

7. The law of the state where a vehicle was habitually stationed at the time of the accident applies, instead of the law mentioned in section 4(1), where Where law of state where vehicle habitually stationed applicable

- (a) the vehicle is registered in more than one state or is not registered at all; or
- (b) at the time of the accident, none of the persons mentioned in section 4(1)(c) had his habitual residence in the state of registration.

8. The law applicable under section 2 determines, in particular, What is determined under applicable law

- (a) the existence of liability and its extent;
- (b) the grounds for exemption from liability, any limitation of liability and any division of liability;

- (c) the existence and kind of injury or damage for which damages may be claimed;
- (d) the amount of damages;
- (e) the question whether a right to damages may be assigned or inherited;
- (f) the persons who have suffered injury or damage and who may claim damages in their own right;
- (g) the liability of a principal or master for the acts of his agent or servant; and
- (h) rules of prescription and limitation, including rules relating to the commencement of a period of prescription or limitation, and the interruption and suspension of that period.

"insurer" defined

9. (1) In this section "insurer" means an insurer of the person alleged to be liable.

Where direct action lies

(2) Where the law applicable under section 2 is the law of the state where the accident occurred, a direct action against an insurer lies if such action is authorized by that law or by the law governing the insurance policy.

Idem

(3) Where the law applicable under section 2 is the law of the state of registration, a direct action against an insurer lies if such action is authorized by that law, the law of the state where the accident occurred or by the law governing the insurance policy.

Traffic rules

10. The law of the state where the accident occurred and in force at that time determines the rules relating to the control and safety of traffic.

Applicable law must conform to public policy

11. No law that would be applicable under this Act applies if its application is manifestly contrary to public policy.
