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Constitutionality of the Alcohol Blood Test

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which could apply in these non-estoppel situations, the court has only perpetuated uncertainty in this area of commercial transactions and postponed for a later case a resolution of issues which must be made.

If the Texas Supreme Court decides to ignore the statutory mandate—and is allowed to do so—it appears that banks will be able to induce corporations to enter ultra vires transactions and to enforce the terms of the contracts only if the corporation receives a benefit from the transaction. However, since courts have been rather lenient in finding "substantial benefits," until an expressly prohibitive statute similar to section 42 of the model act[66] is enacted in Texas or until the courts declare that corporate loans to its officers are against public policy, the banks will still be relatively free to continue the practice of requiring such loans.

Steven C. Salch

Constitutionality of the Alcohol Blood Test

Schmerber was involved in an automobile accident when the car he was driving struck a tree. He was observed by a police officer at the scene of the accident as he was being placed in the ambulance. At the hospital the officer placed Schmerber under arrest. Then, without having obtained a search warrant, the officer asked him to agree to a blood test. He initially consented but later objected on advice of counsel. Nevertheless the blood sample was taken by a hospital physician, the results of the test being admitted into evidence at trial. Schmerber was convicted of driving while intoxicated.[1] The highest state court affirmed the conviction,[2] and the Supreme Court granted certiorari. *Held, affirmed*: The taking of a blood sample upon probable cause, over the defendant's objection based on reliance of counsel's advice, is not a denial of due process of law, of the privilege against self-incrimination, of the privilege against unreasonable search and seizure, or of the right to counsel. *Schmerber v. California,* 384 U.S. 757 (1966).

[66] See note 36 *supra.*

[1] CALIFORNIA VEHICLE CODE ANN. § 23102(a) (1959) provides in pertinent part, "It is unlawful for any person who is under the influence of intoxicating liquor . . . to drive any vehicle on any highway. . . ." The offense is a misdemeanor.

[2] The judgment of the appellate department of the California superior court was the judgment of the highest court of the state since certification to the California district court of appeals was denied.

I. Constitutional Criteria for Admissibility of Physical Evidence

A. *Federal Standards*

The Supreme Court first considered the constitutionality of the alcohol blood test in *Breithaupt v. Abram*,[3] holding that the taking of blood against the will of an individual did not violate due process of law. The defendant had been involved in an automobile accident, and while he was unconscious at the hospital, the blood sample had been withdrawn. In affirming his conviction for involuntary manslaughter, the Court balanced the interests of society against individual rights in the following language:

> As against the right of the individual that his person be held inviolable, even as against so small an intrusion as is involved in applying a blood test of the kind to which millions of Americans submit as a matter of course nearly every day, must be set the interests of society in the scientific determination of intoxication, one of the great causes of mortal hazards on the road . . . . Furthermore, since our criminal law is to no small extent justified by the assumption of deterrence, the individual's right to immunity . . . is far outweighed by the value of [the test's] deterrent effect. . . .[4]

In deciding the due process issue, the Court accepted the "shock the conscience" test laid down in *Rochin v. California*,[5] a case concerned with the forcible use of a stomach pump to extract narcotic pills from the stomach of the suspect. The *Rochin* Court had concluded that "the course of the proceedings by agents of the government to obtain evidence was bound to offend even hardened sensibilities."[6] The conviction had been set aside because use of the stomach pump "shocked the conscience" and was "brutal" and "offensive." But in *Breithaupt* the Court refused to attach these labels to the taking of blood.

The Court in *Breithaupt* did not consider whether the blood test violated the privilege against self-incrimination, since the fifth amendment had not yet been absorbed into the due process clause of the fourteenth amendment and thus made applicable to the states.[7] The

[3] 352 U.S. 432 (1957).

[4] *Id.* at 439.

[5] 342 U.S. 165 (1952). In laying down the test the Court stated:

> Regard for the requirements of the Due Process Clause inescapably imposes upon this Court an exercise of judgment upon the whole course of the proceedings (resulting in a conviction) in order to ascertain whether they offend the canons of decency and fairness which express the notions of justice of English-speaking people toward those charged with heinous offenses. *Id.* at 169.

[6] 342 U.S. 165, 172 (1952).

[7] On the subject of incorporation see Black's dissenting opinion in Adamson v. California, 332 U.S. 46, 92 (1947). *Contra*, Fairman, *Does the Fourteenth Amendment Incorporate the Bill of Rights? The Original Understanding*, 2 STAN. L. REV. 5 (1949). See also Note, 19 Sw. L.J. 632 (1965).

contention that use of an individual's body or physical actions as evidence, *i.e.*, the use of physical evidence,[8] is a violation of the fifth amendment privilege against self-incrimination has, for the most part, been rejected in federal courts[9] due to the Supreme Court's holding in *Holt v. United States*.[10] In that case the accused, prior to trial and over his protest, had put on a blouse left by the criminal. Evidence of this act and the fact that the blouse fitted him had resulted in his conviction. Mr. Justice Holmes, speaking for the Court, stated, "the prohibition of the fifth amendment against compelling a man to give evidence against himself is limited to the use of physical or moral compulsion to extort communications from him and *not* an exclusion of his body as evidence when it is material."[11] The distinction which the courts have drawn in admitting into evidence fingerprints, photographs, and identifying characteristics is that they do not call upon the accused as a witness, *i.e.*, upon his testimonial capacity. What is obtained from the accused is not testimony *about* his body but evidence *from* his body.[12]

The Court in *Breithaupt* did not rule on the constitutionality of the blood test in light of the fourth amendment privilege against unreasonable search and seizure. The Court applied the rule laid down in *Wolf v. Colorado*[13] that in a prosecution in a state court for a state crime, the fourteenth amendment does not forbid the admission of evidence obtained by an unreasonable search and seizure. In cases dealing with bodily invasions, the fourth amendment privilege against unreasonable search and seizure has been a neglected defense. The issue of the constitutionality of searches and seizures involving houses, papers, and effects has received wide treatment by the Court.[14] But these cases are not sufficiently on point in the case of bodily invasion.

Search of the person of an accused without a search warrant when the accused is legally arrested may be permitted[15] for two reasons:

[8] "Physical evidence" as the term will be used in this Note, will refer to organic evidence extracted from within or taken from the surface of the suspect's body.

[9] See, *e.g.*, Robertson v. United States, 282 F.2d 648 (6th Cir. 1960) (standing for purpose of identification); Hartzell v. United States, 72 F.2d 569 (8th Cir. 1934) (signature); United States v. Kelley, 55 F.2d 67 (2d Cir. 1932) (fingerprinting); Neely v. United States, 2 F.2d 849 (4th Cir. 1924) (removal of coat to show arm); United States v. Nesmith, 121 F. Supp. 758 (D.D.C. 1954) (urine specimen); United States v. Sorrentino, 78 F. Supp. 425 (D. Pa. 1948) (standing for purpose of identification).

[10] 218 U.S. 245 (1910).

[11] *Id.* at 245. (Emphasis added.)

[12] 8 WIGMORE, EVIDENCE § 2265, at 386 (McNaughton rev. 1961).

[13] 338 U.S. 25 (1949).

[14] See, *e.g.*, Weeks v. United States, 232 U.S. 383 (1914); Essgee Co. v. United States, 262 U.S. 151 (1923); Olmstead v. United States, 277 U.S. 438 (1928); Trupiano v. United States, 334 U.S. 699 (1948); Lawn v. United States, 355 U.S. 339 (1958); Henry v. United States, 361 U.S. 98 (1959); Abel v. United States, 362 U.S. 217 (1960).

[15] See, *e.g.*, Weeks v. United States, 232 U.S. 383 (1914).

first, there may be the danger of concealed weapons, and, second, there may be a danger of the destruction of evidence under the direct control of the accused.[16] Further, it is recognized that once a search of the arrested person is permissible, it would be both impractical and unnecessary to the enforcement of the fourth amendment's purpose to attempt to confine the search to weapons or destructible evidence alone.[17] However valid these considerations, the Court had not been called upon to consider their applicability to intrusions beyond the body surface prior to *Schmerber*.

B. *Texas Standards*

Texas courts have dealt only with the argument that use of a suspect's body in evidence is self-incriminatory. The development of Texas case law was, until 1956, a continual vacillation concerning Wigmore's theory of "testimonial compulsion"[18] (*i.e.*, unless some attempt is made to secure a communication—written, oral, or otherwise —upon which reliance is to be placed as involving the accused's consciousness of the facts and the operation of his mind in expressing it, the demand made on him is not testimonial).

The trend was originally in favor of the liberal use of physical evidence with the admission of compulsory fingerprints,[19] the placement of feet in tracks left by the criminal,[20] and the use of an enema to dislodge stolen rings.[21] *Apodaca v. State*,[22] however, reversed the trend. The defendant, suspected of being intoxicated, was forced to walk a straight line, to make sudden turns, to hold out his hand and try to touch his nose, and to furnish a urine specimen. The court held that

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[16] Preston v. United States, 376 U.S. 364 (1964); United States v. Rabinowitz, 339 U.S. 56, 68 (1950) (dissenting opinion of Frankfurter, J.).

[17] People v. Chiagles, 237 N.Y. 193, 197, 142 N.E. 583, 584 (1923).

[18] 8 WIGMORE, EVIDENCE § 2265, at 386-87 (McNaughton rev. 1961):

> If an accused were to refuse to be removed from the jail to the courtroom for trial, claiming he was privileged not to expose his features for identification, it is not difficult to conceive the judicial reception which would be given to such a claim. And yet no less a claim is the logical consequence of the argument that has been frequently presented and occasionally sanctioned in applying the privilege to proof of bodily features of the accused.
>
> The limit of the privilege should be plain. From the general principle it results that an inspection of the bodily features by the tribunal or witnesses does not violate the privilege. . . . That he may in such cases be required to take off his shoes or roll up his sleeve is immaterial unless all bodily actions are synonymous with testimonial utterance. . . . Not compulsion alone is the component idea of the privilege, but testimonial compulsion. Moreover, a practical consideration applies to this class of evidence. When the person's body, its marks and traits, itself is an issue, there is ordinarily no other or better evidence available for the prosecutor.

[19] McGarry v. State, 82 Tex. Crim. 597, 200 S.W. 527 (1918).

[20] Chase v. State, 97 Tex. Crim. 349, 261 S.W. 574 (1924).

[21] Ash v. State, 139 Tex. Crim. 420, 141 S.W.2d 341 (1940).

[22] 140 Tex. Crim. 593, 146 S.W.2d 381 (1941).

the actions violated his privilege against self-incrimination and reversed the conviction for driving while intoxicated. Gradually the court began to whittle away at the strong lines it had drawn in *Apodaca*. Motion pictures of the defendant driving while intoxicated,[23] scrapings under fingernails,[24] results of a paraffin test to determine nitrate contents on the hand of the suspect,[25] and speech for identification[26] were admitted and held not to violate the self-incrimination privilege. In *Jones v. State*[27] the court stated that the proper distinction to be made in cases involving the use of the body in evidence was that the defendant could not be required to "perform acts which might be used to *support* opinions of his condition,"[28] though compulsion might be used "for the purpose of obtaining proof of existing facts."[29]

Since the percentage of alcohol in a person's blood is as much a fact in existence as the size and shape of his feet or the type of fingerprints he makes, a compulsory chemical intoxication test would not seem to violate the self-incrimination privilege of the Texas Constitution.[30] But in *Trammel v. State*[31] the Texas Court of Criminal Appeals ruled against the admissibility of blood test results obtained without consent. After being injured in an accident, the defendant was taken to a hospital. A blood specimen was taken from his arm, and there was no evidence that the defendant was conscious at the time. At the trial, the defendant objected to the introduction of the blood test results on the ground that the state had failed to prove that the sample was taken with his consent. On appeal, the conviction was reversed, and the court stated: "The state having failed to show that the specimen was taken with the consent of the appellant, the testimony of . . . [the expert witness] was not admissible."[32] The Texas

[23] Housewright v. State, 154 Tex. Crim. 101, 225 S.W.2d 417 (1950).
[24] Coleman v. State, 151 Tex. Crim. 582, 209 S.W.2d 925 (1948).
[25] Henson v. State, 159 Tex. Crim. 647, 266 S.W.2d 864 (1954).
[26] Johnson v. State, 318 S.W.2d 76 (1958).
[27] 159 Tex. Crim. 29, 261 S.W.2d 161 (1952), *cert. denied*, 246 U.S. 830 (1953).
[28] *Id.* at 163. (Emphasis added.).
[29] *Id.* at 163.
[30] TEXAS CONST. art. 1, § 10. "In all criminal prosecutions the accused . . . shall not be compelled to give evidence against himself. . . ."
[31] 287 S.W.2d 487 (Tex. Crim. App. 1956). *But see*, Hartman v. Harder, 322 S.W.2d 555 (Tex. Civ. App. 1959).
[32] 287 S.W.2d 487, 488 (1956). In Texas evidence of a motorist's refusal to consent to a blood test is not admissible against him. See, *e.g.*, Cardwell v. State, 156 Tex. Crim. 457, 243 S.W.2d 702 (1951). In *Trammel*, the Court quoted from Brown v. State, 240 S.W.2d 310 (1951), which held that when consent is given by the defendant, admission of the blood test results would violate neither the Texas Constitution nor the federal constitution. The issue in *Brown*, however, was whether the blood sample on which the analysis was performed was the same sample the defendant had given. In the absence of proof by the state that the sample belonged to the defendant, the conviction was reversed, in spite of the defendant's consent.

Court of Criminal Appeals, then, took a more protective position concerning alcohol blood tests than did the Supreme Court in *Breithaupt* one year later.

II. THE SCHMERBER RATIONALE

The four constitutional violations alleged in *Schmerber* were violation of the due process clause of the fourteenth amendment, violation of the fifth amendment privilege against self-incrimination, violation of the fourth amendment privilege against unreasonable search and seizure, and violation of the sixth amendment right to counsel. Only two were dwelt upon at length by the Court. The due process argument was dismissed by applying the *Rochin* "shock the conscience" test and affirming *Breithaupt's* rationale that there was nothing brutal or offensive about the blood test. The right to counsel argument, predicated on the fact that counsel's advice had been ignored by the police, was rejected on the grounds that Schmerber had no privilege to be free of the blood test, and therefore no greater right to assert the privilege because erroneously advised to do so by counsel.[33]

As a result of *Malloy v. Hogan*[34] the Court was faced with deciding the constitutionality of the blood test in light of the fifth amendment privilege against self-incrimination. In order to conclude that admitting the "guilty blood" of a person into evidence is not self-incrimination, the Court first had to define what constituted self-incrimination. While denying that it was adopting Wigmore's theory of "testimonial compulsion,"[35] the Court stated that the privilege protects an accused only from being compelled to testify against himself or otherwise provide the state with evidence of a testimonial or communicative nature.[36] The Court then qualified its rather broad state-

[33] It is interesting to speculate what the Court would have ruled on the right to counsel argument had Schmerber *not* been advised by counsel previous to the taking of the blood sample. The recent decision of Miranda v. Arizona, 384 U.S. 436 (1966) defined very strict limits within which the police may take *oral* statements of a defendant in the absence of counsel. See note 46 *infra*. However, the taking of a blood sample does not involve oral testimony; therefore, the *Miranda* rules are not applicable. The question of when the right to counsel attaches in situations not involving oral statements by the defendant remains to be answered. An answer appears to be forthcoming. The Court has recently granted certiorari in a case involving the absence of counsel's advice at the time the defendant was placed in a line-up. United States v. Wade, 358 F.2d 557 (1966), *cert. granted*, 35 U.S.L. WEEK 3109 (1966).

[34] 378 U.S. 1 (1964). The fifth amendment's exception from compulsory self-incrimination is protected by the fourteenth amendment against abridgement by the states.

[35] See note 18 *supra*.

[36] A dissent suggests that the report of the blood test was "testimonial" or "communicative" because the test was performed in order to obtain the testimony of others, communicating to the jury facts about petitioner's condition. Of course, all evidence received in court is "testimonial" or "communicative" as these words are thus used. But the fifth amendment relates only to acts on the part of the person to whom the privilege applies,

ment by excluding from this rule lie detector tests which measure changes in body functions during interrogation and which may be directed to eliciting responses which are essentially testimonial. The Court did not point out that the results of lie detector tests are usually inadmissible in court *not* on constitutional grounds but because of the fallibility of the machine.[37]

In its exclusion of the blood test from the self-incrimination privilege, the Court further pointed out that the defendant's participation was completely passive and indicated that because he did not have to open his mouth during the whole process, the possibility of any testimony was excluded. The Court conceded that the blood test is an incriminating product of compulsion[38] and that without the defendant's participation, no matter how passive and silent, there would be no positive proof of guilt. Should the defendant protest violently to the taking of the blood sample, and the police use force reminiscent of *Rochin,* the Court still maintained that the amount of force involved would make no difference. In sum, the Court relied completely on the idea of physical as opposed to testimonial evidence, essentially Wigmore's theory, in deciding that the blood test was not within the self-incrimination privilege.

The most difficult argument to answer was the question of the constitutionality of the search and seizure. The Court in *Breithaupt* had avoided the issue because the rule excluding evidence derived from an unreasonable search and seizure was not, at the time, binding on the states.[39] The Court in *Schmerber* stated that with respect to intrusions into the human body, it was writing on a clean slate;[40] therefore, cases dealing with limitations on the kind of property which may or may not be seized under warrant were of no help. The case law dealing with procedures for search and seizure did, however, apply. Beginning with the assumption that the self-incrimination clause did not bar intrusion into the body, the Court defined the proper function of the fourth amendment: to constrain not against all intrusions, as such, but against those made in an improper manner and those which were unjustified or unreasonable. The issues in *Schmerber* were whether the police were justified in taking the blood test without first obtaining a search warrant and whether the procedures employed in taking the

and the Court used these words subject to the same limitation. The terms as the Court used them do not apply to evidence of acts non-communicative in nature as to the person asserting the privilege, even though, as here, such acts are compelled to obtain the testimony of others.

[37] 20 AM. JUR. EVIDENCE § 762 (1939). Annot., 23 A.L.R.2d 1306 (1952).

[38] Schmerber v. California, 384 U.S. 757 (1966).

[39] Wolf v. Colorado, 338 U.S. 25 (1949) was overruled by Mapp. v. Ohio, 367 U.S. 335 (1963).

[40] 384 U.S. 757 (1966).

blood were reasonable. To both issues the Court ruled affirmatively. Although police generally are required to obtain search warrants from judicial officers,[41] under exceptional circumstances they are relieved of this duty.[42] The officer was found to have had probable cause to suspect that Schmerber was intoxicated as a result of observing him at the scene of the accident and later at the hospital. In addition, the Court recognized that the alcohol content in a person's body diminishes rapidly, and in order to ascertain as nearly as possible the amount of alcohol in Schmerber's body at the time of the accident, the sample had to be taken immediately.[43] The Court was satisfied that the procedures employed by the doctor in a sterile environment were reasonable and the test itself was proper under the circumstances. Therefore, the policeman had a right to order the test, and there was no unreasonable search and seizure.

III. Conclusion

Although the Court completely refuted all of the constitutional arguments asserted by the petitioner, there still remains the possibility that the decision was based on policy considerations not elucidated in the opinion. Coming on the heels of *Miranda v. Arizona*[44] the holding in *Schmerber* may seem at first glance out of step with the Court's protective attitude toward individual rights in cases involving criminal prosecutions.[45] Of course, inherent in *Schmerber* is the underlying consideration of carnage on our national highways resulting from

[41] Johnson v. United States, 333 U.S. 10 (1947).

[42] See notes 16 and 17 *supra*.

[43] The Court was told, "[T]he percentage of alcohol in the blood begins to diminish shortly after drinking stops, as the body functions to eliminate it from the system. Particularly in a case such as this, where time had to be taken to bring the accused to the hospital and to investigate the scene of the accident, there was no time to seek out a magistrate and secure a warrant." 384 U.S. 757, 770-71 (1966).

[44] 384 U.S. 436 (1966). *Miranda* exemplifies the lengths to which the Court has been willing to go to protect the accused from *verbal* incrimination. The case dealt specifically with what is termed "custodial interrogation" by law enforcement officers. In *Miranda*, however, there was no question concerning the use of the defendant's person or actions in evidence against him. In reversing the conviction, the Court held that the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards to secure the privilege against self-incrimination. The case is illustrative of the element of testimonial compulsion, the lack of which in *Schmerber* contributed largely to the Court's holding.

[45] *E.g.*, Pointer v. Texas, 380 U.S. 400 (1965) (sixth amendment guarantee of right of confrontation to accused made obligatory on the states through fourteenth amendment), Note, 19 Sw. L.J. 632 (1965); Malloy v. Hogan, 378 U.S. 1 (1964); Mapp v. Ohio, 367 U.S. 643 (1963); Gideon v. Wainright, 372 U.S. 335 (1963) (sixth amendment right to counsel made obligatory on the states through the fourteenth amendment), Note, 18 Sw. L.J. 284 (1964); Robinson v. California, 370 U.S. 660 (1962) (eighth amendment prohibition of cruel and unusual punishment applied to states through fourteenth); Griffin v. Illinois, 351 U.S. 12 (1956) (indigent's right to trial transcript free of charge for appeal purposes secured).

drunken driving and the deterrent effect of compelled blood tests, matters dwelled on at length in *Breithaupt*. Moreover, through a blood test, the proof of an individual's guilt or innocence can be determined in a matter of minutes by a test which is clinically infallible.[46]

Realizing the growing death rate on our national highways, many state legislatures have passed statutes specifically dealing with the problem of driving while intoxicated and the alcohol blood test.[47] However, Texas still appears to give greater effect to the self-incrimination privilege contained in its constitution than the United States Supreme Court gives to the fifth amendment self-incrimination privilege. In answer to a query regarding the effect of *Schmerber* on the present Texas law, Attorney General Waggoner Carr sent a Memorandum to Department of Public Safety Director Homer Garrison in which he stated that the *Schmerber* decision does not alter the fact

[46] Contrary to popular belief, the amount of alcohol consumed is not the only factor in determining the degree of intoxication. Medical research shows that symptoms usually associated with drunkenness are produced solely by alcohol reaching the brain's nerve centers. This means, of course, that direct measurement of intoxication is impossible without an autopsy. But scientists have established (1) that the alcohol content of the brain is correlative to the percentage of alcohol in the blood and (2) that the blood-alcohol ratio is reflected in the blood, saliva, and breath. It is upon these experimentally proven theories that chemical intoxication tests are based.

The validity of these tests is often questioned because of the aphorism that different persons vary in their reaction to alcohol. However, this is explainable by the process of absorption. After alcohol is swallowed, it is absorbed slowly through the walls of the stomach and small intestine and thence into the blood stream to be distributed throughout the body. Some who can "hold" their liquor have a lower percentage of alcohol in their blood at any given time because they either absorb the alcohol at a slower rate or eliminate it more quickly than others do. Chemical intoxication tests make allowances for individual variations to a large extent by measuring the alcoholic concentration of the blood, thereby indicating the actual impairment of the imbiber's faculties whether subject is a heavy or moderate drinker. 35 TEXAS L. REV. 813, 813-32 (1957). See also Ladd & Gibson, *The Medico-Legal Aspects of the Blood Test To Determine Intoxication*, 29 VA. L. REV. 749 (1943); Leonard, *Test for Intoxication*, 38 J. CRIM. L., C.&P.S. 533 (1948); 2 SYRACUSE L. REV. 92 (1950); Comment, 51 MICH. L. REV. 72 (1952); Comment, 29 CONN. B.J. 147 (1955).

[47] Forty-seven states use chemical tests, including blood test, to aid in the determination of intoxication in cases involving charges of driving while intoxicated. Twenty-three of these states sanction the use of the test by statute. These, for the most part, have been patterned after § 11-902 of the UNIFORM VEHICLE CODE prepared by the National Committee on Uniform Laws and Ordinances. This section makes it unlawful to operate a motor vehicle while under the influence of intoxicating liquor. The finding of the presence of a certain percentage of alcohol by weight in the blood of a person gives rise to the presumption that he was under the influence of intoxicating liquor. The twenty-three provisions include: ARIZ. REV. STAT. ANN., tit. 28, § 28-692 (1956); DEL. CODE ANN., tit. 11, § 3507 (1964); GA. CODE ANN., tit. 68, § 68-1625 (1957); IDAHO CODE, tit. 49, § 49-110.2 (1953); BURNS IND. STAT. ANN., tit. 47, § 47-2003 (1965); KAN. STAT. ANN., ch. 8, §§ 8-1001-07 (1955); KY. REV. STAT. ANN., § 189.520 (1955); ME. REV. STAT. ANN., tit. 29, § 1312 (1964); MINN. STAT. ANN., § 169.121 (1960); NEBR. REV. STAT., ch. 39, §§ 39-727.01-.09 (1960); N.H. REV. STAT. ANN., tit. 21, ch. 262-A:63 (1966); N.J. STAT. ANN., tit. 39, § 39.4-50 (1961); MCKINNEY'S N.Y. LAWS, VEHICLE AND TRAFFIC LAW, art. 32, § 1194 (1960); N.D. CENTURY CODE ANN., ch. 39-20, § 39-20-01 (1961); ORE. REV. STAT., tit. 39, § 483.634 (1965); S.C. CODE, tit. 46, § 46-344 (1962); S.D. CODE, tit. 44, §§ 44.0302-1, 44.0302-2 (1960); TENN. CODE ANN., tit. 59, §§ 59-1032, 59-1033 (1955); UTAH CODE ANN., tit. 41, §§ 41-6-44, 41-6-44.10 (1960); VA. CODE ANN., tit. 18.1, §§ 18.1-54-18.1-61 (1963); WASH. REV. CODE, tit. 46, § 46.56.010 (1962); WIS. STAT. ANN., tit. 30, § 325.235 (1958); WYO. STAT., tit. 31, § 31-129 (1957).