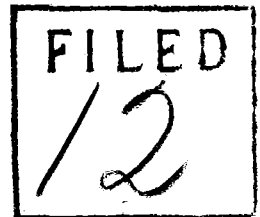


SECRETARY OF STATE: Proposed plan approved of handling service of process on nonresident operators of automobiles, growing out of civil actions in this state.

July 8, 1941

49-9

Honorable Dwight H. Brown
Secretary of State
State Capitol Building
Jefferson City, Missouri



Dear Sir:

We are in receipt of your letter of July 3, 1941, wherein you state as follows:

"Please find attached copy of Senate Bill 67, which was approved by the Governor on June 26th, and bears an emergency clause. There seems to be an error in punctuation on page 3, Sec. 5, line 10. It is thus in the original bill, signed by the Governor.

"Inasmuch as the law is in effect, I want to prepare a routine of handling such service of process. I plan to have a book printed with copy such as attached hereto. At the time I am served, I will fill out the three copies, two on detachable white paper and the third our permanent bound-in record. I will detach and mail the top copy. Later, if the case actually goes to trial, I will use the second white copy, executing the affidavit. The yellow copy, containing notice and affidavit, will be the permanent record and sole record.

"May I request your informal advice as to above plan? If you approve, I shall order the printed book."

July 8, 1941

The proposed plan, which you enclosed in your letter, reads as follows:

"(EMBLEM)

OFFICE OF SECRETARY OF STATE
JEFFERSON CITY

To	<u>Name of defendant</u>	<u>Last known residence or place of abode</u>
	<u>Name of defendant</u>	<u>Last known residence or place of abode</u>
	<u>Name of defendant</u>	<u>Last known residence or place of abode</u>
	<u>Name of defendant</u>	<u>Last known residence or place of abode</u>

"You will take notice that original process in suit against you, a copy of which is hereto attached was duly served upon you at Jefferson City, Cole County, Missouri, by serving same on the Secretary of State of the State of Missouri, or his Chief Clerk.

"Dated at Jefferson City, Missouri, this
___ day of _____, 194_.

(SEAL OF
SECRETARY
OF STATE)

Plaintiff

By Attorney for Plaintiff

Mailed by restricted registered United States mail "Deliver to Addressee Only". Process was served on Secretary of State or Chief Clerk on ___ at ___
date hour

" A F F I D A V I T

"State of Missouri)
County of Cole) ss

"The undersigned, Dwight H. Brown,
Secretary of State of the State of
Missouri, or his Chief Clerk, J. R.
Holman, hereby makes oath and certifies
that the original of above notice to
defendant was mailed at the United
States Postoffice in Jefferson City,
Missouri, by restricted registered
mail which carried on the face thereof
in a conspicuous place where it will
not be obliterated the endorsement,
'Deliver to Addressee Only', and which
also required a return receipt or a
statement by the Postal authorities
that the addressee refused to receive
and receipt for such mail, and that
said notice was thus mailed on
_____, 194_. Attached
hereto is the return receipt therefor,
or the notice of refusal of addressee
to receive and receipt for such mail,
or the statement from postal authorities
that addressee could not be found.

"Subscribed and sworn to before me at my
office in Jefferson City, Cole County,
Missouri, this ____ day of _____,
194_.

Notary Public.

Form SB-67. Law approved by Governor of
Missouri, June 26, 1941, Senate Bill."

July 8, 1941

The relevant portions of Senate Bill 67 are herein set out:

"Section 5. Service of process under this act shall be made by serving a copy thereof, together with a copy of the petition, upon the Secretary of State of the State of Missouri at his office in Cole County, Missouri, or in the absence of the Secretary of State, upon his Chief Clerk at his office in Cole County, Missouri, together with a fee of \$1.00 and such service shall be sufficient service upon said non-resident, provided that within fifteen days after said service upon the Secretary of State, or upon his Chief Clerk, as herein provided. The Secretary of State shall immediately mail to the defendant, and to each of the defendants, if there be more than one by restricted, registered mail, addressed to the defendant at his last known address, residence, or place of abode, a notification of said service of process upon the Secretary of State, or his Chief Clerk as herein provided; provided, however, that the court, or judge thereof in vacation, may, upon good cause shown, by order extend such time for notification.

"Section 6. The notification provided for in Section 5 hereof shall be substantially in the following form, to-wit:

"To (here insert the name of each defendant and his residence, the last known place of abode as definitely as known,) You will take notice that original process in suit against you, a copy of which is hereto attached was duly served

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upon you at Jefferson City, Cole
County, Missouri, by serving same
on the Secretary of State of the
State of Missouri, or his Chief
Clerk. Dated at,
Missouri, this day of,
19...

.....
(Plaintiff)

.....
(By Attorney for Plaintiff)

"Section 7. The term 'Restricted,
Registered Mail' means mail which
carries on the face thereof in a
conspicuous place, where it will not
be obliterated, the endorsement,
'Deliver to Addressee Only', and
which also requires a return receipt
or a statement by the Postal authorities
that the addressee refused to receive
and receipt for such mail.

* * * * *

"Section 9. Proof of the mailing or
personal delivery of said notification
to such non-resident by an adult person
not an officer serving same shall be
made by affidavit of the party doing
said acts. All affidavits of service
shall be endorsed upon or attached to
the original papers to which they relate
and including the returned registry
receipt shall be forthwith filed with
the Court in which such action is filed
and pending.

* * * * *

"Section 13. It shall be the duty of
the Secretary of State to keep a record

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of all process served upon him, or his Chief Clerk, under the provisions of this act, which record will show the day and hour of service of every such process."

We have examined your proposed plan, as hereinabove set out, for handling service of process on nonresident owners, users and operators of motor vehicles and trailers having civil actions brought against them in this state, and are of the opinion that said proposed plan is in conformance with Senate Bill 67 of the Sixty-first General Assembly.

Respectfully submitted,

MAX WASSERMAN
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General

MW:VC