

## HOUSE BILL No. 2722

By Committee on Insurance

2-4

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AN ACT concerning motor vehicle insurance; pertaining to the display of proof of financial responsibility; amending K.S.A. 40-3104 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 40-3104 is hereby amended to read as follows: 40-3104. (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of this act.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(d) Any person operating a motor vehicle *registered in this state* upon a highway or upon property open to use by the public shall display, ~~upon demand,~~ evidence of financial security ~~to a law enforcement officer.~~ *Such evidence of financial security shall be displayed in a manner prescribed by the commissioner either in the left rear window or upon the license plate of the motor vehicle. Any operator of a motor vehicle which is not registered in this state shall, when otherwise lawfully stopped by a law enforcement officer, display proof of financial security upon demand.* The

1 law enforcement officer ~~shall~~ *may* issue a citation to any person who fails  
2 to display evidence of financial security upon ~~such~~ demand. ~~The law en-~~  
3 ~~forcement officer shall attach a copy of the insurance verification form~~  
4 ~~prescribed by the secretary of revenue to the copy of the citation for-~~  
5 ~~warded to the court.~~

6 ~~— No citation shall be issued to any person for failure to provide proof of~~  
7 ~~financial security when evidence of financial security meeting the stan-~~  
8 ~~dards of subsection (c) is displayed upon demand of a law enforcement~~  
9 ~~officer. Whenever the authenticity of such evidence is questionable, the~~  
10 ~~law enforcement officer may initiate the preparation of the insurance~~  
11 ~~verification form prescribed by the secretary of revenue by recording~~  
12 ~~information from the evidence of financial security displayed. The officer~~  
13 ~~shall immediately forward the form to the department of revenue, and~~  
14 ~~the department shall proceed with verification in the manner prescribed~~  
15 ~~in the following paragraph. Upon return of a form indicating that insur-~~  
16 ~~ance was not in force on the date indicated on the form, the department~~  
17 ~~shall immediately forward a copy of the form to the law enforcement~~  
18 ~~officer initiating preparation of the form. *The law enforcement officer*~~  
19 ~~*shall stop any vehicle registered in this state which does not display such*~~  
20 ~~*evidence of financial security as required by this section. If the operator*~~  
21 ~~*of the motor vehicle does not produce such evidence of financial security*~~  
22 ~~*during the stop, then the law enforcement officer shall forthwith cause*~~  
23 ~~*the vehicle to be towed and impounded at the owner's or operator's ex-*~~  
24 ~~*penditure until such evidence is produced. Upon obtaining evidence of finan-*~~  
25 ~~*cial security in accordance with this act, the owner or operator shall*~~  
26 ~~*produce such evidence of financial security to the judge or the judge's*~~  
27 ~~*designee in the court of competent jurisdiction. The judge or judge's de-*~~  
28 ~~*signee shall then provide the owner or operator of such motor vehicle with*~~  
29 ~~*a release order in a form prescribed by the commissioner. Upon presen-*~~  
30 ~~*tation of the release order and payment of the towing and storage charges,*~~  
31 ~~*the motor vehicle shall then be released to the person designated in the*~~  
32 ~~*release form. The commissioner is authorized to establish and publish*~~  
33 ~~*maximum rates for towing and storage for vehicles impounded pursuant*~~  
34 ~~*to this subsection. Any lien upon a vehicle for towing and storage charges*~~  
35 ~~*incurred as a result of a law enforcement ordered impoundment under*~~  
36 ~~*this section shall be subordinate to any lien of record previously filed with*~~  
37 ~~*the division of vehicles.*~~

38 (e) Unless the insurance company subsequently submits an insurance  
39 verification form indicating that insurance was not in force, no person  
40 charged with violating subsections (b), (c) or (d) shall be convicted if such  
41 person produces in court, within 10 days of the date of arrest or of issu-  
42 ance of the citation, evidence of financial security for the motor vehicle  
43 operated, which was valid at the time of arrest or of issuance of the ci-

1 tation. For the purpose of this subsection, evidence of financial security  
2 shall be provided by a policy of motor vehicle liability insurance, an iden-  
3 tification ~~card~~ *window placard or license plate placard, color coded for*  
4 *each three month calendar period*, or certificate of insurance issued to  
5 the policyholder by the insurer which provides the name of the insurer,  
6 the policy number and the effective and expiration dates of the policy, or  
7 a certificate of self-insurance signed by the commissioner of insurance.  
8 Upon the production in court of evidence of financial security, the court  
9 shall record the information displayed thereon on the insurance verifica-  
10 tion form prescribed by the secretary of revenue, immediately forward  
11 such form to the department of revenue, and stay any further proceedings  
12 on the matter pending a request from the prosecuting attorney that the  
13 matter be set for trial. Upon receipt of such form the department shall  
14 mail the form to the named insurance company for verification that in-  
15 surance was in force on the date indicated on the form. It shall be the  
16 duty of insurance companies to notify the department within 30 calendar  
17 days of the receipt of such forms of any insurance that was not in force  
18 on the date specified. Upon return of any form to the department indi-  
19 cating that insurance was not in force on such date, the department shall  
20 immediately forward a copy of such form to the office of the prosecuting  
21 attorney or the city clerk of the municipality in which such prosecution  
22 is pending when the prosecuting attorney is not ascertainable. Receipt of  
23 any completed form indicating that insurance was not in effect on the  
24 date specified shall be prima facie evidence of failure to provide proof of  
25 financial security and violation of this section. A request that the matter  
26 be set for trial shall be made immediately following the receipt by the  
27 prosecuting attorney of a copy of the form from the department of rev-  
28 enue indicating that insurance was not in force. Any charge of violating  
29 subsection (b), (c) or (d) shall be dismissed if no request for a trial setting  
30 has been made within 60 days of the date evidence of financial security  
31 was produced in court.

32 (f) Any person in whose name more than 25 motor vehicles are reg-  
33 istered in Kansas may qualify as a self-insurer by obtaining a certificate  
34 of self-insurance from the commissioner of insurance. The certificate of  
35 self-insurance issued by the commissioner shall cover such owned vehi-  
36 cles and those vehicles, registered in Kansas, leased to such person if the  
37 lease agreement requires that motor vehicle liability insurance on the  
38 vehicles be provided by the lessee. Upon application of any such person,  
39 the commissioner of insurance may issue a certificate of self-insurance,  
40 if the commissioner is satisfied that such person is possessed and will  
41 continue to be possessed of ability to pay any liability imposed by law  
42 against such person arising out of the ownership, operation, maintenance  
43 or use of any motor vehicle described in this subsection. A self-insurer

1 shall provide liability coverage subject to the provisions of subsection (e)  
2 of K.S.A. 40-3107, and amendments thereto, arising out of the ownership,  
3 operation, maintenance or use of a self-insured motor vehicle in those  
4 instances where the lessee or the rental driver, if not the lessee, does not  
5 have a motor vehicle liability insurance policy or insurance coverage pur-  
6 suant to a motor vehicle liability insurance policy or certificate of insur-  
7 ance or such insurance policy for such leased or rented vehicle. Such  
8 liability coverage shall be provided to any person operating a self-insured  
9 motor vehicle with the expressed or implied consent of the self-insurer.

10 Upon notice and a hearing in accordance with the provisions of the  
11 Kansas administrative procedure act, the commissioner of insurance may  
12 cancel a certificate of self-insurance upon reasonable grounds. Failure to  
13 provide liability coverage or personal injury protection benefits required  
14 by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any  
15 liability imposed by law arising out of the ownership, operation, mainte-  
16 nance or use of a motor vehicle registered in such self-insurer's name, or  
17 to otherwise comply with the requirements of this subsection shall con-  
18 stitute reasonable grounds for the cancellation of a certificate of self-  
19 insurance. Reasonable grounds shall not exist unless such objectionable  
20 activity occurs with such frequency as to indicate a general business  
21 practice.

22 Self-insureds shall investigate claims in a reasonably prompt manner,  
23 handle such claims in a reasonable manner based on available information  
24 and effectuate prompt, fair and equitable settlement of claims in which  
25 liability has become reasonably clear.

26 As used in this subsection, "liability imposed by law" means the stated  
27 limits of liability as provided under subsection (e) of K.S.A. 40-3107, and  
28 amendments thereto.

29 Nothing in this subsection shall preclude a self-insurer from pursuing  
30 all rights of subrogation against another person or persons.

31 (g) (1) Any person violating any provision of this section shall be  
32 guilty of a class B misdemeanor and shall be subject to a fine of not less  
33 than \$300 nor more than \$1,000 or confinement in the county jail for a  
34 term of not more than six months, or both such fine and confinement.

35 (2) Any person convicted of violating any provision of this section  
36 within three years of any such prior conviction shall be guilty of a class A  
37 misdemeanor and shall be subject to a fine of not less than \$800 nor more  
38 than \$2,500.

39 (h) In addition to any other penalties provided by this act for failure  
40 to have or maintain financial security in effect, the director, upon receipt  
41 of a report required by K.S.A. 8-1607 or 8-1611, and amendments  
42 thereto, or a denial of such insurance by the insurance company listed on  
43 the form prescribed by the secretary of revenue pursuant to subsection

1 (d) of this section, shall, upon notice and hearing as provided by K.S.A.  
2 40-3118, and amendments thereto:

3 (1) Suspend:

4 (A) The license of each driver in any manner involved in the accident;

5 (B) the license of the owner of each motor vehicle involved in such  
6 accident, unless the vehicle was stolen at the time of the accident, proof  
7 of which must be established by the owner of the motor vehicle. Theft  
8 by a member of the vehicle owner's immediate family under the age of  
9 18 years shall not constitute a stolen vehicle for the purposes of this  
10 section;

11 (C) if the driver is a nonresident, the privilege of operating a motor  
12 vehicle within this state; or

13 (D) if such owner is a nonresident, the privilege of such owner to  
14 operate or permit the operation within this state of any motor vehicle  
15 owned by such owner; and

16 (2) revoke the registration of all vehicles owned by the owner of each  
17 motor vehicle involved in such accident.

18 (i) The suspension or revocation requirements in subsection (h) shall  
19 not apply:

20 (1) To the driver or owner if the owner had in effect at the time of  
21 the accident an automobile liability policy as required by K.S.A. 40-3107,  
22 and amendments thereto, with respect to the vehicle involved in the  
23 accident;

24 (2) to the driver, if not the owner of the vehicle involved in the ac-  
25 cident, if there was in effect at the time of the accident an automobile  
26 liability policy with respect to such driver's driving of vehicles not owned  
27 by such driver;

28 (3) to any self-insurer as defined by subsection (u) of K.S.A. 40-3103,  
29 and amendments thereto;

30 (4) to the driver or owner of any vehicle involved in the accident  
31 which was exempt from the provisions of this act pursuant to K.S.A. 40-  
32 3105, and amendments thereto;

33 (5) to the owner of a vehicle described in subsection (a)(2).

34 (j) For the purposes of provisions (1) and (2) of subsection (i) of this  
35 section, the director may require verification by an owner's or driver's  
36 insurance company or agent thereof that there was in effect at the time  
37 of the accident an automobile liability policy as required in this act.

38 Any suspension or revocation effected hereunder shall remain in effect  
39 until satisfactory proof of financial security has been filed with the director  
40 as required by subsection (d) of K.S.A. 40-3118, and amendments thereto,  
41 and such person has been released from liability or is a party to an action  
42 to determine liability pursuant to which the court temporarily stays such  
43 suspension pending final disposition of such action, has entered into an

1 agreement for the payment of damages, or has been finally adjudicated  
2 not to be liable in respect to such accident and evidence of any such fact  
3 has been filed with the director and has paid the reinstatement fee herein  
4 prescribed. Such reinstatement fee shall be \$100 except that if the reg-  
5 istration of a motor vehicle of any owner is revoked within one year fol-  
6 lowing a prior revocation of the registration of a motor vehicle of such  
7 owner under the provisions of this act such fee shall be \$300.

8 (k) The provisions of this section shall not apply to motor carriers of  
9 property or passengers regulated by the corporation commission of the  
10 state of Kansas.

11 (l) The provisions of subsection (d) shall not apply to vehicle dealers,  
12 as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being  
13 offered for sale by such dealers.

14 Sec. 2. K.S.A. 40-3104 is hereby repealed.

15 Sec. 3. This act shall take effect and be in force from and after its  
16 publication in the statute book.

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