

SENATE BILL No. 321

By Senators Teichman and D. Schmidt

1-3

9 AN ACT relating to the Kansas department of revenue; providing for the
10 development and implementation of an electronic motor vehicle fi-
11 nancial security verification system; amending K.S.A. 2005 Supp. 40-
12 3118 and repealing the existing section.
13

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

15 New Section 1. (a) The secretary of the department of revenue shall,
16 by January 1, 2008, develop and implement an electronic motor vehicle
17 financial security verification system for the real time verification of com-
18 pliance with the financial security requirements of K.S.A. 40-3101 et seq.,
19 and amendments thereto. The development of the electronic motor ve-
20 hicle financial security verification system shall be done in consultation
21 with the state commissioner of insurance, law enforcement agencies,
22 county agencies and insurance companies.

23 (b) In developing the electronic motor vehicle financial security ver-
24 ification system, the secretary of revenue shall take into consideration the
25 following:

- 26 (1) The likelihood the system would reduce the number of uninsured
27 motorists in the state;
- 28 (2) the reliability of the system;
- 29 (3) the cost-effectiveness of the system;
- 30 (4) privacy protections of the system; and
- 31 (5) data security and integrity of the system.

32 (c) The secretary of revenue is hereby authorized to adopt rules and
33 regulations necessary to carry out the provisions of this section.

34 (d) Notwithstanding the provisions of subsection (c) of K.S.A. 40-
35 3118, and amendments thereto, if the secretary of revenue is unable to
36 develop and implement the provisions of subsection (a) by January 1,
37 2008, then the provisions of this subsection shall become applicable. Ex-
38 cept with respect to policies expiring on the date specified therein or
39 specified in an endorsement or certificate made a part thereof, no motor
40 vehicle liability insurance policy, or any renewal thereof, shall be termi-
41 nated by the insured by either nonpayment of premium or at the request
42 of the named insured, unless the insurer mails the director notice of such
43 termination within 20 days after the date of termination for nonpayment

1 of premium or within 20 days after receipt by the insurer of a named
2 insured's request to cancel, and receipt of such notice by the director
3 shall constitute prima facie evidence that no financial security exists with
4 respect to each motor vehicle covered by such policy. Time of the effec-
5 tive date and hour of termination stated in the notice shall be the end of
6 the policy period.

7 Sec. 2. K.S.A. 2005 Supp. 40-3118 is hereby amended to read as
8 follows: 40-3118. (a) No motor vehicle shall be registered or reregistered
9 in this state unless the owner, at the time of registration, has in effect a
10 policy of motor vehicle liability insurance covering such motor vehicle, as
11 provided in this act, or is a self-insurer thereof, or the motor vehicle is
12 used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and
13 amendments thereto, in an approved driver training course by a school
14 district or an accredited nonpublic school under an agreement with a
15 motor vehicle dealer, and such policy of motor vehicle liability insurance
16 is provided by the school district or accredited nonpublic school. As used
17 in this section, the term "financial security" means such policy or self-
18 insurance. The director shall require that the owner certify and provide
19 verification of financial security, in the manner prescribed by K.S.A. 8-
20 173, and amendments thereto, that the owner has such financial security,
21 and the owner of each motor vehicle registered in this state shall maintain
22 financial security continuously throughout the period of registration. In
23 addition, when an owner certifies that such financial security is a motor
24 vehicle liability insurance policy meeting the requirements of this act, the
25 director may require that the owner or owner's insurance company pro-
26 duce records to prove the fact that such insurance was in effect at the
27 time the vehicle was registered and has been maintained continuously
28 from that date. Failure to produce such records shall be prima facie ev-
29 idence that no financial security exists with regard to the vehicle con-
30 cerned. It shall be the duty of insurance companies, upon the request of
31 the director, to notify the director within 30 calendar days of the date of
32 the receipt of such request by the director of any insurance that was not
33 in effect on the date of registration and maintained continuously from
34 that date.

35 (b) Except as otherwise provided in K.S.A. 40-276, 40-276a and 40-
36 277, and amendments thereto, and except for termination of insurance
37 resulting from nonpayment of premium or upon the request for cancel-
38 lation by the insured, no motor vehicle liability insurance policy, or any
39 renewal thereof, shall be terminated by cancellation or failure to renew
40 by the insurer until at least 30 days after mailing a notice of termination,
41 by certified or registered mail or United States post office certificate of
42 mailing, to the named insured at the latest address filed with the insurer
43 by or on behalf of the insured. Time of the effective date and hour of

1 termination stated in the notice shall become the end of the policy period.
2 Every such notice of termination sent to the insured for any cause what-
3 soever shall include on the face of the notice a statement that financial
4 security for every motor vehicle covered by the policy is required to be
5 maintained continuously throughout the registration period, that the op-
6 eration of any such motor vehicle without maintaining continuous finan-
7 cial security therefor is a class B misdemeanor and shall be subject to a
8 fine of not less than \$300 and not more than \$1,000 and that the regis-
9 tration for any such motor vehicle for which continuous financial security
10 is not provided is subject to suspension and the driver's license of the
11 owner thereof is subject to suspension.

12 (c) *Subject to the provisions of subsection (d) of section 1, and amend-*
13 *ments thereto*, the director of vehicles shall verify a sufficient number of
14 insurance certifications each calendar year as the director deems neces-
15 sary to insure compliance with the provisions of this act. The owner or
16 owner's insurance company shall verify the accuracy of any owner's cer-
17 tification upon request, as provided in subsection (a).

18 (d) In addition to any other requirements of this act, the director shall
19 require a person to acquire insurance and for such person's insurance
20 company to maintain on file with the division evidence of such insurance
21 for a period of one year when a person has been convicted in this or
22 another state of any of the violations enumerated in K.S.A. 8-285, and
23 amendments thereto.

24 The director shall also require any driver whose driving privileges have
25 been suspended pursuant to this section to maintain such evidence of
26 insurance as required above.

27 The company of the insured shall immediately mail notice to the di-
28 rector whenever any policy required by this subsection to be on file with
29 the division is terminated by the insured or the insurer for any reason.
30 The receipt by the director of such termination shall be prima facie evi-
31 dence that no financial security exists with regard to the person
32 concerned.

33 No cancellation notice shall be sent to the director if the insured adds
34 or deletes a vehicle, adds or deletes a driver, renews a policy or is issued
35 a new policy by the same company. No cancellation notice shall be sent
36 to the director prior to the date the policy is terminated if the company
37 allows a grace period for payment until such grace period has expired and
38 the policy is actually terminated.

39 For the purposes of this act, the term "conviction" includes pleading
40 guilty or *nolo contendere*, being convicted or being found guilty of any
41 violation enumerated in this subsection without regard to whether sen-
42 tence was suspended or probation granted. A forfeiture of bail, bond or
43 collateral deposited to secure a defendant's appearance in court, which

1 forfeiture has not been vacated, shall be equivalent to a conviction.

2 The requirements of this subsection shall apply whether or not such
3 person owns a motor vehicle.

4 (e) Whenever the director shall receive prima facie evidence, as pre-
5 scribed by this section, that continuous financial security covering any
6 motor vehicle registered in this state is not in effect, the director shall
7 notify the owner by registered or certified mail or United States post
8 office certificate of mailing that, at the end of 30 days after the notice is
9 mailed, the registration for such motor vehicle and the driving privileges
10 of the owner of the vehicle shall be suspended or revoked, pursuant to
11 such rules and regulations as the secretary of revenue shall adopt, unless
12 within 10 days after the notice is mailed: (1) Such owner shall demonstrate
13 proof of continuous financial security covering such vehicle to the satis-
14 faction of the director; or (2) such owner shall mail a written request
15 which is postmarked within 10 days after the notice is mailed requesting
16 a hearing with the director. Upon receipt of a timely request for a hearing,
17 the director shall afford such person an opportunity for hearing within
18 the time and in the manner provided in K.S.A. 8-255, and amendments
19 thereto. If, within the ten-day period or at the hearing, such owner is
20 unable to demonstrate proof of continuous financial security covering the
21 motor vehicle in question, the director shall revoke the registration of
22 such motor vehicle and suspend the driving privileges of the owner of
23 the vehicle.

24 (f) Whenever the registration of a motor vehicle or the driving priv-
25 ileges of the owner of the vehicle are suspended or revoked for failure of
26 the owner to maintain continuous financial security, such suspension or
27 revocation shall remain in effect until satisfactory proof of insurance has
28 been filed with the director as required by subsection (d) and a reinstat-
29 ement fee in the amount herein prescribed is paid to the division of ve-
30 hicles. Such reinstatement fee shall be in the amount of \$100 except that
31 if the registration of a motor vehicle of any owner is revoked within one
32 year following a prior revocation of the registration of a motor vehicle of
33 such owner under the provisions of this act such fee shall be in the amount
34 of \$300. The division of vehicles shall remit such fees to the state treasurer
35 in accordance with the provisions of K.S.A. 75-4215, and amendments
36 thereto. Upon receipt of each such remittance, the state treasurer shall
37 deposit the entire amount in the state treasury to the credit of the state
38 highway fund.

39 (g) In no case shall any motor vehicle, the registration of which has
40 been revoked for failure to have continuous financial security, be rere-
41 gistered in the name of the owner thereof, the owner's spouse, parent or
42 child or any member of the same household, until the owner complies
43 with subsection (f). In the event the registration plate has expired, no new

1 plate shall be issued until the motor vehicle owner complies with the
2 reinstatement requirements as required by this act.

3 (h) Evidence that an owner of a motor vehicle, registered or required
4 to be registered in this state, has operated or permitted such motor ve-
5 hicle to be operated in this state without having in force and effect the
6 financial security required by this act for such vehicle, together with proof
7 of records of the division of vehicles indicating that the owner did not
8 have such financial security, shall be prima facie evidence that the owner
9 did at the time and place alleged, operate or permit such motor vehicle
10 to be operated without having in full force and effect financial security
11 required by the provisions of this act.

12 (i) Any owner of a motor vehicle registered or required to be regis-
13 tered in this state who shall make a false certification concerning financial
14 security for the operation of such motor vehicle as required by this act,
15 shall be guilty of a class A misdemeanor. Any person, firm or corporation
16 giving false information to the director concerning another's financial se-
17 curity for the operation of a motor vehicle registered or required to be
18 registered in this state, knowing or having reason to believe that such
19 information is false, shall be guilty of a class A misdemeanor.

20 (j) The director shall administer and enforce the provisions of this act
21 relating to the registration of motor vehicles, and the secretary of revenue
22 shall adopt such rules and regulations as may be necessary for its
23 administration.

24 (k) Whenever any person has made application for insurance cover-
25 age and such applicant has submitted payment or partial payment with
26 such application, the insurance company, if payment accompanied the
27 application and if insurance coverage is denied, shall refund the unearned
28 portion of the payment to the applicant or agent with the notice of denial
29 of coverage. If payment did not accompany the application to the insur-
30 ance company but was made to the agent, the agent shall refund the
31 unearned portion of the payment to the applicant upon receipt of the
32 company's notice of denial.

33 (l) For the purpose of this act, "declination of insurance coverage"
34 means a final denial, in whole or in part, by an insurance company or
35 agent of requested insurance coverage.

36 Sec. 3. K.S.A. 2005 Supp. 40-3118 is hereby repealed.

37 Sec. 4. This act shall take effect and be in force from and after its
38 publication in the statute book.