

MINUTES OF THE House COMMITTEE ON InsuranceThe meeting was called to order by Chairman Rex Hoy at
Chairperson3:30 ~~am~~/p.m. on Wednesday, February 2, 1983 in room 521-S of the Capitol.All members were present except:
Rep. Turnquist and Rep. Webb, who were excused.

Committee staff present:

Wayne Morris, Legislative Research
Gordon Self, Revisor's Office
Mary Sorensen, Committee Secretary

Conferees appearing before the committee:

Rep. George Dean, Sponsor of HB 2111
Major Lee Stanley, Topeka Police Department
Sgt. Bill Jacobs, Kansas Highway Patrol
Steve Montgomery, Attorney for Division of Vehicles, Kansas Dept. of Revenue
Joe Wempe, Independent Insurance Agents of Kansas
Larry Smith, Western Insurance Companies of Fort Scott
Dennis McFall, Staff Attorney for Kansas Association of School Boards

Others present:

See (Attachment 1)

Due to the weather, the meeting scheduled for February 1, 1983, was postponed to February 2nd, and the meeting proceeded with the agenda as published for February 1st.

Chairman Hoy briefly summarized the eight bill requests presented by the Insurance Department on January 26th. Rep. Littlejohn moved that all eight bills be introduced and referred back to the Insurance Committee. Rep. Cribbs seconded. The motion carried. Chairman Hoy then asked if there was a motion to request a bill covering the four changes to the No-Fault law that was requested by L. M. Cornish on January 26th. Rep. Littlejohn moved this bill be requested and introduced. Rep. Cribbs seconded. The motion carried. Rep. Blumenthal asked about the bill requests of Clair Ewert and Illa Major, who were here representing a group of older citizens from the Johnson County area. Chairman Hoy said the committee would be going over that section of the law on Thursday and would consider what part of those requests were already in the law and what part might require further action.

Rep. Dean was introduced to speak on his bill, HB 2111, which deals with liability insurance. He passed around two letters from Wichita residents (Attachment 2) and (Attachment 3) concerning problems with drivers who do not carry liability insurance as the law requires. Rep. Dean said this bill is designed to change the burden of proof of insurance from the State to the individual. He mentioned the problem of people in Wichita going over to the State of Oklahoma and buying a license tag and not having insurance, and asked for support of his bill to close loopholes in the present law. In response to questions from Rep. Leary Johnson, Chairman Hoy explained that, under the present law, the police and the Highway Patrol cannot make an individual prove that he has insurance. Instead, they must prove that they had gone to every insurance company in existence and asked if that person had liability insurance, which would be very expensive, if it were possible to do so.

Wayne Morris, of Legislative Research, then briefed the committee on the present law, HB 2640, enacted in 1982, which relates to the administrative enforcement of the mandatory insurance requirements. He stated that, under the former law, insurance companies were required to notify the Division of Motor Vehicles when there was a termination of insurance coverages. HB 2640 deleted this requirement and required that the Director of Vehicles randomly select and verify the insurance certifications that are made by owners when vehicles are registered. He also summarized the other changes as a result of HB 2640 (Attachment 4).

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,
room 521-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 2, 1983

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Major Lee Stanley of the Topeka Police Department then testified in support of HB 2111. He stated that the present law doesn't require a person to show proof of insurance at the scene of an accident and if a person is charged with not having insurance as required by law, and the case goes to court, the person is not required to testify against himself, so the officer cannot prove there is no insurance and the case is thrown out. He would like a requirement that a card be carried, which could be shown to an officer upon request. Rep. Cribbs said if there was a card required it should show an expiration date.

Sgt. Bill Jacobs, representing the Kansas Highway Patrol, then testified in support of HB 2111. He presented a copy of his testimony (Attachment 5) for each committee member. He said the Highway Patrol would like to see some changes in HB 2111, and these changes were outlined in his testimony as subsections (i) through (l). He said that he had talked to Rep. Dean about these changes, and Rep. Dean was agreeable to them. Rep. Spaniol asked if the Highway Patrol contemplated checking insurance cards as well as drivers licenses when a road block was set up, and Sgt. Jacobs said it had not been discussed but might be a good idea.

Steve Montgomery, Attorney for the Division of Vehicles of the Department of Revenue, was next to testify in regard to HB 2111. He said John Smith, Chief of the Driver Control section, was with him to answer any questions. He said he thought it was important, as far as criminal penalties go, to address both the owner and the operator. He also thought the bill should be applicable to all vehicles required to be registered, not just to vehicles that are registered, and he thought Sgt. Jacobs' proposals should be considered as they do clear up some of the problems their department had with HB 2111.

Joe Wempe, of the Independent Insurance Agents of Kansas, asked to speak on HB 2111. He said that Larry Magill, of that association, had asked him to say that the independent insurance agents were neutral on this bill, but he was asked to point out, in line 106, the owner was given 10 days to produce evidence of insurance. In the case of a person away from home for some reason, it might be better to allow 15 or 20 days. He said they also felt, on line 120 (4), where it requires a statement that continuous coverage has been in force for such vehicle; that such a statement might be a little broad. They could state that coverage was in effect on a certain date, or for a certain period of time, but not necessarily "continuous".

Larry Smith, of the Western Insurance Companies of Forst Scott, then introduced himself, and asked the committee to look at other states which had enacted this type of legislation and find out about administrative costs that went with this type of legislation. He said that if an individual was determined to circumvent the law it could probably be done.

Dennis McFall, Staff Attorney with the Kansas Association of School Boards, then gave a brief explanation of HB 2117 and HB 2118, and passed around written testimony (Attachment 6). Chairman Hoy said there would be further discussion of these two bills at the Thursday meeting.

The meeting adjourned at 4:45 PM.

Attachment 2

DEAR Mr DEAN

This is to urge the passing of HB 2953*
Driving without car insurance.

The Kansas law says one must have valid car insurance to obtain a license tag and to operate a motor vehicle.

Personally, this is what happened to me. In November, 1978, I was involved in a traffic accident in which the other driver was cited for. On filling out the police accident report the other driver stated he had car insurance. Within the next few days we were informed he DID NOT have insurance, he had falsly written down a name.

The Wichita Police and Highway Patrol informed me nothing could be done, even though this man

- 1) Write False information on a police report
- 2) Obtained illegal license tags
- 3) Driving with illegal license tags
- 4) Driving with no car insurance

As a Kansas Voter and citizen I urge you to pass HB 2953* so other citizens may be protected.

Sincerely
Mary B Flory
3106 South Wichita
Wichita Ks 67217

January 27, 1982

Representative George Dean
Room 279-W
State Capitol
Topeka, Kansas

Dear George:

I know you are not my representative, but I want you to know what is contained in a letter we are sending to Norma Daniels and Ben Foster:

We just received our bill for automobile insurance. The increase was shocking!


We called our agent and he told us that the increase of approximately \$30.00 a car was due to legislative action. We are paying extra because 25% of all Kansas drivers carry no insurance.

I thought that all drivers were required to carry liability insurance. Surely, in this age of computers, the law requiring insurance could be enforced.

Uninsured motorists should have their cars impounded until they buy insurance. Kansas residents should not be allowed to buy their license plates in Oklahoma. If everyone was required to display a sticker in a window as proof that insurance has been purchased, it would be easy for law enforcement officers to spot-check parking lots, etc.

It is pure nonsense to penalize the law-abiding motorist by increasing the insurance premium to cover the lawless uninsured motorist.

Sincerely,



Elmer Hoyer
5901 Flagstaff
Wichita, Kansas 67220

Please pass the word, George. Tell Mozelle Clark and anyone else that is involved with this legislative decision that we are not happy with their decision.

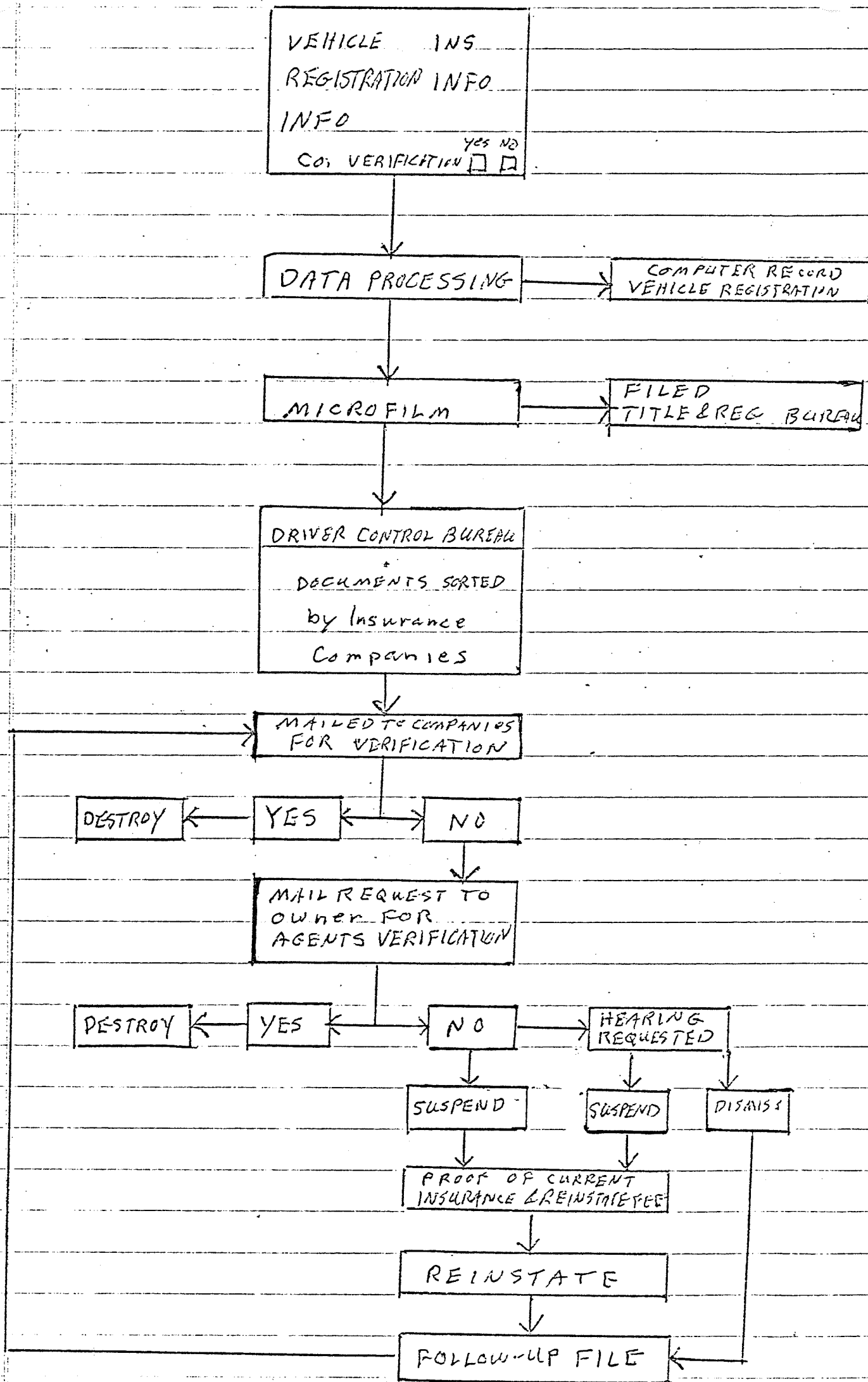
Enforcement of Motor Vehicle
Insurance Requirements

1982 H.B. 2640 amends K.S.A. 40-3118 relating to enforcement of the requirement that motor vehicle owners have in effect a motor vehicle liability insurance policy or be a self insurer. Three major changes:

1. delete the current requirement that insurers mail to the Director of Vehicles a notice of the termination of an owner's insurance policy and, in lieu of such notice, the Director will be required to randomly select and verify insurance certifications made by motor vehicle owners;
2. require suspension of both the registration and driving privileges of an owner who fails to maintain continuous financial security, unless such failure is beyond the reasonable control of the owner; and
3. authorize reinstatement of suspended registration and driving privileges only after proof of financial security and payment of a \$25 reinstatement fee have been made (the reinstatement fee for subsequent suspensions within one year will be \$75).

K.S.A. 40-3104 and K.S.A. 1981 Supp. 8-256 are also amended to conform to the above changes.

Re: 1982 H.B. 2640



SUMMARY OF TESTIMONY
BEFORE THE HOUSE COMMITTEE ON INSURANCE
1983 LEGISLATIVE SESSION

HOUSE BILL 2111

PRESENTED BY THE KANSAS HIGHWAY PATROL
(SERGEANT WILLIAM JACOBS)

February 2, 1983

APPEARED IN SUPPORT OF HOUSE BILL 2111

The Patrol supports this bill because it addresses an ongoing problem for law enforcement officers.

The present situation renders it virtually impossible for an officer on a routine check or at an accident scene to determine if a vehicle is properly insured. Although required by law to meet certain insurance requirements, operators have no obligation to furnish proof of the same. Even when registering a vehicle it is simply a form entry and proof is not required.

As presently written, the bill provides a person 10 days to furnish proof of insurance to a court of competent jurisdiction or the requesting officer. It appears charges would be filed after the fact. We feel processing this in the same manner as drivers licenses would better meet the need. The charge would be filed and dismissed after proof was furnished or adjudicated.

To this end, we would respectfully offer the following subsections (i) through (l) in amendment to the bill.

- " (i) It shall be unlawful for any person to commit any of the following acts: First: To operate, or for the owner thereof knowingly to permit the operation of an uninsured motor vehicle upon a highway or upon other property open to use by the public, unless such motor vehicle is expressly exempted from provisions of the Kansas Automobile Injury Reparations Act in K.S.A. 40-3015, as amended.
Second: To display or cause or permit to be displayed, or to have in possession any motor vehicle liability insurance policy, motor vehicle liability insurance certificate or certificate of self-insurance knowing the same to be fictitious or to have been cancelled, altered or issued upon knowingly concealing a material fact or otherwise committing a fraud in any application for such insurance or self-insurance.

Third: To operate a motor vehicle upon a highway of this state or upon other property open to use by the public without carrying either a certificate of motor vehicle liability insurance or a certificate of self-insurance issued by the commissioner of insurance.

Fourth: To operate a motor vehicle upon a highway of this state or upon other property open to use by the public and refuse to display the certificate of motor vehicle liability insurance or a certificate of self-insurance issued by the commissioner of insurance to and upon the request of a law enforcement officer or to and upon the request of any party in an accident involving said vehicle.

(j) The term "certificate of motor vehicle liability insurance" as used in subsection (i) means a document issued to a policyholder by the insurer, in a form approved by the commissioner of insurance, which document shall include the following information about the motor vehicle liability insurance policy:

- (1) The dates which the policy is in effect.
- (2) The names(s) of the person to whom issued.
- (3) The make, year and vehicle identification number of the insured vehicle.
- (4) The full name and address of the insurer and the issuing agent, if any.
- (5) The stated limits of liability of the policy or a statement that the limits of liability meet or exceed that which is required by the Kansas Automobile Injury Reparations Act in K.S.A. 40-3104, as amended.

(k) The term "certificate of self-insurance" as used in subsection (i) means a copy of the certificate of self-insurance as set forth in K.S.A. 40-3104 as amended.

(l) No person charged with violating subsection (i) shall be convicted if such person produces in court or the office of the arresting officer evidence of motor vehicle liability insurance or self-insurance coverage as required by K.S.A. 40-3104, as amended, for the motor vehicle operated and valid at the time of arrest. For the purpose of this subsection, evidence of financial security meeting the requirements of K.S.A. 40-3104, as amended, will be provided by the completion of a form prescribed by the commissioner of insurance which certifies that at the time of arrest, the motor vehicle was covered by motor vehicle liability insurance and which form is signed by the insurer, or an agent of the insurer or by the commissioner of insurance if a certificate of self insurance was in force."

As in the instance of a drivers license, persons would be required to do nothing more than furnish proof of something that is already required by law.



Testimony on H.B. 2117 and H.B. 2118

by

Dennis McFall, Staff Legal Counsel
Kansas Association of School Boards

February 1, 1983

I want to thank you for this opportunity to make a short explanatory statement concerning our support for H.B. 2117 and H.B. 2118.

With regard to the proposed repeal of the two sections of the Kansas Criminal Code relating to the making of insurance contracts, it is our position that the Conflicts of Interest statute (K.S.A. 75-4301 et seq.), passed in 1970, adequately protects the interests of the public insofar as there might be a conflict of interest between the public and private purposes of a public official who also is in the insurance business.

Our records show that approximately 40 school board members in the state are licensed insurance agents. The type of person who is an insurance agent is just the kind of person who can be a good school board member. Their understanding of financial matters, their logical, analytical approach to financial and other issues of school district policy, and their experience in dealing with constituents and clients from all segments of their communities, make their services valuable. As it now stands, the criminal code prevents a good board member, whose knowledge of local conditions and whose proximity to the school facilities and school administration provide a good basis for an excellent job of servicing the district

as an insurance account, from even being considered as the agent for the school district's business. This despite the fact that the Conflict of Interest statute recognizes the propriety of letting public officers do this kind of work so long as they are not involved in the decision to award such a contract to themselves.

Often the best (or only) insurance agent in town is also the kind of person who is willing to give his services to the community through school board work. The existing criminal code provision not only penalizes that board member by making him or her automatically ineligible to bid for the district's insurance business, but also may deprive the school district of the best insurance program. We don't know how many cases it simply deprives the school district of the services of a good person who cannot afford to sacrifice an opportunity to be considered for the district's insurance business, and so does not run for a school board position.

We support H.B. 2117, repealing K.S.A. 21-3907 and 21-3908.

With respect to H.B. 2118, we would like this amendment to K.S.A. 40-202, in order to clarify a subtle point of the insurance code which can be interpreted to prohibit even the most minor involvement of our Association in its efforts to help local school districts obtain the best insurance coverage for their budget dollar. The present financial crisis exposes more than ever the need to get the best coverage consistent with minimum expense of tax dollars. At the present time, the Kansas Association of School Boards has endorsed two insurance programs, to the benefit of taxpayers of the state of Kansas. One is a school board errors and omissions policy developed in conjunction with the National School Boards Association, underwritten by the National Union Fire Insurance Company. The other is a workers' compensation group policy, which provides for refunds of premiums--dividends-- to school districts in Kansas, based solely on the loss experience of the Kansas school district members of this safety group. One of the most effective ways of assisting the local taxing subdivisions to take advantage of this program is by communications from our office to the school districts in Kansas. This can be by way of newsletters, our Journal, or discussions at regional and state

meetings of administrators and board members. However, as the law now reads, it is unlawful for "any person, company, corporation or fraternal benefit society to . . . do any act toward transacting (the business of insurance, indemnity or suretyship . . ." (K.S.A. 40-214). While recognizing the need for careful legislative and administrative control over insurance activities in the state, we believe that the strict terms of the law, with which our Association wants to comply, is unnecessarily restrictive, to the detriment of the taxpayers of the school districts in Kansas.

We support passage of H.B. 2118.