

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m. ~~p.m.~~ on February 27, 1985 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Myrta Anderson, Legislative Research
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Mike Germann, Kansas Railroad Association
Ed Schaub, Southwestern Bell Telephone
Ron Todd, Kansas Insurance Department
Sen. James Francisco
Homer Cowan, The Western Insurance Companies

The meeting was called to order by Sen. Harder, Vice Chairman, in the temporary absence of the Chairman.

The minutes of February 26 were approved.

The hearing began on SB 293 relating to motor vehicle insurance with the testimony of Mike Germann, Kansas Railroad Association, in support of it. (See Attachment I.)

Sen. Werts asked what the significance is of lines 187-190 on page 5 of the bill. Mr. Germann answered that Section 2, which includes these lines, was designed to deal with an owner of an out-of-state vehicle who is operating under insurance out of state. It allows him to say he is self-insured in another state, and this insurance should be acceptable for Kansas purposes.

Ed Schaub, Southwestern Bell Telephone, appeared in support of SB 293 not from any great economical impact the current law has on his company but as a logical approach. His company leases from 15 to 18 automobiles and must purchase insurance on them currently, but they would like to be able to bring them under their self-insured umbrella.

Sen. Harder asked Mr. Todd of the Insurance Department if there have been many questions regarding lease vehicles. Mr. Todd said that there have been some and that the Department worked with the bill and has no objections to it.

The hearing on SB 293 was concluded.

The hearing on SB 205 began with the testimony of Sen. James Francisco, the author of the bill. He said that he had had the bill introduced at the request of Fred Dunn and several others from his district. He passed out copies of a letter from Mr. Dunn to the Insurance Commissioner explaining the situation and problem (See Attachment II) and copies of the Insurance Commissioner's response indicating that Mr. Dunn could not collect on his insurance policy (See Attachment III). Sen. Francisco said that the bill may concern just an isolated case, but, on the other hand, it may be necessary to insure fairness to policyholders of the state. He noted that this would not be the first amendment to this statute since it has been amended two times in the last three years.

The chairman questioned the wording found on line 94 of the bill in that he feels that it is possible that it is requiring double coverage on vehicles. Sen. Francisco said that this, of course, was not his intent and that the language is confusing to him also. He felt Mr. Dunn's problem deserved its chance to be heard and is sympathetic with him; and he had used the particular statute mentioned in the Insurance Commissioner's letter.

The chairman said that he was uncertain how to address the problem and asked Mr. Todd to answer committee questions. Sen. Reilly asked how frequent this problem is occurring.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on February 27, 1985.

Mr. Todd said that it has happened before, even before the exclusion in the statute was made. He added that he is not sure that the wording in the bill would catch the situation because it deals with an insured in another company, and this particular problem was with insurance with the same company.

Homer Cowan, The Western Insurance Companies, appeared in opposition to SB 205. He explained that the loss described by Mr. Dunn would be covered if it is possible to prove the daughter's ownership of the car. If, however, it is covered on the same policy with Mr. Dunn, it would not be covered. He feels that somebody did not push the investigation far enough and that the case should be reopened. He also informed the committee that this statute has been amended twice only because it was necessary to put back exclusions which were left out when the no-fault law was enacted. He concluded that this is not a loss that happens often, but if it is put in this exclusion, it will.

Sen. Francisco stated then if this amendment he had offered does not correct the situation, at least it shows that the present statute needs to be clarified, especially since the Insurance Commissioner interpreted it to say the daughter was not covered, but Mr. Cowan interprets that she is. With this, the hearing on SB 205 was concluded.

The chairman reminded the committee of the hearing on SB 283 concerning preferred provider agreements in which there was a sizable amount of confusion although no one disagreed with the concept. For this reason, he assigned SB 283 to the Insurance Subcommittee consisting of Senators Reilly, Gordon and Gannon, for study and recommendation.

Mr. Todd spoke on SB 285 saying that the amendment offered by Mr. Parker would cause a problem. He said that the exclusion was not needed in Kansas to do what Mr. Parker was talking about. Furthermore, it is not possible to do this because federal statutes preempt state laws in regard to ERISA. Mr. Todd had visited with Mr. Parker after the hearing and felt that Mr. Parker may no longer have this objection.

Sen. Strick asked Mr. Todd for an explanation of ERISA. Mr. Todd explained that it is a federal law that sets up federal guidelines and control over employer's pension and insurance plans and preempts state law with regard to insurance and banking.

The chairman asked the committee if it wished to act on SB 285. Sen. Harder made a motion to report SB 285 favorably. Sen. Karr seconded the motion, and it carried.

The chairman called for action on SB 293. Sen. Gordon made a motion to report SB 293 favorably. Sen. Reilly seconded the motion, and it carried.

The chairman informed the committee that he had the information which had been requested from the Insurance Department regarding SB 173 dealing with nonrenewal and cancellation of homeowner's policies. The report indicated that about 5% of cancellation claims do relate to this type of claim. Of the four sample companies shown, one had five complaints, and the others had one complaint each. Sen. Warren asked if the cancellation meant that the person would have difficulty in getting another homeowner's policy. The chairman said that he was not certain, but he feels that there would not be problems in getting another homeowner's policy as there could be with auto insurance, especially on newer homes. The chairman said that, in his opinion, the bill is not necessary. The information from the Insurance Department is available for any committee member to review. Action will be taken on the bill at a later date.

The chairman announced that he is having staff work on an amendment to SB 123 to include a type of indexing. The need for the bill is not pressing, and many feel that there is no need to act on it now.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE NAME ADDRESS REPRESENTING

2/27/85	Ed Schaub	Topeka	SWBT
	David Hanson	"	Ks Assoc Prop & Cas Cos
	HOMER Cowan	Ft Scott.	The Western Ins Co's
	Ron Todd	Topeka	INS. Dept.
	Jan Ellen Doyle	Wichita	Ks Credit Union League
	Jerel Wright	Topeka	KCUU
	DENNIS DEAN	"	SEN. WERTS' INTERN

KANSAS RAILROAD ASSOCIATION

SUITE 605, 109 WEST NINTH STREET
P.O. BOX 1738
TOPEKA, KANSAS 66628
February 27, 1985

913-232-5805

PATRICK R. HUBBELL
SPECIAL REPRESENTATIVE-PUBLIC AFFAIRS

MICHAEL C. GERMANN, J. D.
LEGISLATIVE REPRESENTATIVE

MR. CHAIRMAN AND MEMBERS OF THE SENATE FINANCIAL
INSTITUTIONS AND INSURANCE COMMITTEE:

My name is Mike Germann. I appear today on behalf of
the Kansas Railroad Association in support of Senate Bill
293.

The Kansas Automobile Injury Reparations Act (the Act)
places insuring responsibility on the owner of a motor
vehicle. The term "owner," as defined by the Act, does not
include a lessee under a lease which is not intended to
create a security interest. Whether a lease is intended to
create a security interest is not always clear and can cause
a problem in the area of self-insurance.

Senate Bill 293 would resolve the problem by treating
all leases the same for self-insurance purposes. The new
language in section 1 eliminates the problem for in-state
self-insurers, and the new language in section 2 eliminates
the problem for out-of-state self-insurers.

We urge the Committee to report Senate Bill 293
favorably. I will try to answer any questions which you may
have.

2/27/85
Attachment I

511 W. 4th St.
Haysville, Kansas 67060
August 8, 1984

296-27071

Mr. Fletcher Bell, Insurance Commissioner
Kansas Insurance Department
420 S.W. 9th St.
Topeka, Kansas 66612

Dear Mr. Bell:

I am writing you because I have been impressed in the past by your fairness and interest regarding the people of Kansas while maintaining good relations with valued insurers in the state. For this reason, I believe that the set of circumstances I wish to relate needs attention by you and your department so that the general public will be made aware of the potential for harm and to request legislation to prevent arbitrary actions by insurers based upon technicalities.

The particulars are as follows:

On Monday, August 6, 1984, I had the embarrassing experience of backing my car out of the drive and striking my daughter's car which was parked across the street opposite of our drive (she doesn't usually park there!).

In reporting this to my insurer, American Family, I was told that my insurance would not pay for the damage to my daughter's car; the reason was that my name was on her title. The facts are that the car is hers as evidenced by her auto tag (SG C BECKY D), the auto loan is in her name, the insurance policy is in her name (same insurer).

The only reason my name is on the registration was a matter of convenience in obtaining licenses (Becky is a student, living at home, and the personalized license plate was a Christmas present).

The insurer's representative even stated "... because your name is on the title, her insurance will have to pay." (Becky is billed for her insurance separately and at a different time than the two vehicles which my wife and I own.) Supposedly, the fact that Becky's insurance has a large deductible was not considered by the insurer.

I called the Wichita office of the Insurance Department, and the man said, "That's right! That's the law!"

I would like you to consider or address the following:

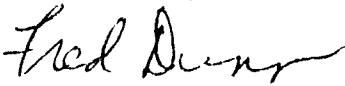
1. Is this the law or a ruling by your department? (The insurer recognized the vehicle as my daughter's because the policy was issued and billed to her!)

2/27/85
Attachment II

2. Is the public interest truly served when true intent and purpose is set aside for a technicality? (I did the damage, but my daughter has to pay.)
3. Shouldn't the public be made aware of the possibilities of a situation of this type? (Many families have "and/or" vehicle registrations for convenience of registration and licensing. Do they know the dangers of this?)
4. If payment by the insurer is based on vehicle registration, why aren't the insurers required to write vehicle policies in the names of all of the registered owners?

I hope that you will answer these questions and that I will be hearing from you regarding this particular incident.

Thank you,



Fred Dunn

cc: Gov. John Carlin
Atty. Gen. Robert Stephan
Sen. James Francisco
Rep. Kent Ott

Enc. (1) Copy of loan coupon and insurance billing

CODE ACCT. NO. NAME TERM PAYMT NO
 300394556 REBECCA DUNN 24 24

IMPORTANT

This bill contains account party number

REMIT GROSS PAYMENT AFTER DATE SHOWN	
APRIL THIS DATE	PAY THIS AMOUNT

NET PAYMENT	
THIS PAYMENT IS IN THE AMOUNT OF	
SEP-25-84	

SCHEDULED BALANCE BEFORE THIS PAYMENT

FOR OFFICE USE ONLY

AMT \$	
AMT \$	
TOTAL \$	

HAYSVILLE STATE BANK
 INFORMATION CONCERNING YOUR LAST
 PAYMENT AMOUNT WILL BE SENT TO YOU
 PRIOR TO YOUR DUE DATE

**AMERICAN FAMILY MUTUAL INSURANCE COMPANY
 MADISON, WISCONSIN**

PREMIUM DUE for the period of time
 03-30-84 09-30-84

ROBERT E SARVER
 2127 W 21ST STE B
 WICHITA KS 67203
 PHONE 316-832-1370

SEE POLICY FOR COVERAGE DATA AND LIMITS
 PLEASE READ THE OTHER SIDE OF THIS NOTICE

DUNN, REBECCA A
 511 W 4TH ST
 HAYSVILLE KS 67060

AUTO POLICY

POLICY NUMBER	15-008698-01	
74 FORD MUST CLASS	C-3Y	TERR 44
50/100/50 BODILY INJURY/PROPERTY DAMAGE LIABILITY		98.20
50/100 UNINSURED/UNDERINSURED MOTORIST BODILY INJURY		5.50
5,000 MED. EXPENSE	2.60	COMPREHENSIVE 24.30
250 DED COLLISION	42.10	PERSONAL INJURY PROT 13.10
		TOTAL PREMIUM 185.80
MULTIPLE VEHICLE 2 AND GOOD STUDENT DISCOUNTS APPLY		

11 - 1110

October 30, 1984

Mr. Fred Dunn
511 West 4th Street
Haysville, KS 67060

Department File No. 08404347
(American Family Mutual Insurance
Company)

Dear Mr. Dunn:

We have now received a response from American Family Insurance Group in connection with the complaint you filed with this department. I do apologize for the delay in writing this letter to you. However, the consumer representative to whom your file was assigned left the department and we are now working through her files.

The company verified for us the facts as stated in your letter. The company has confirmed that the claims adjuster did explain to you that the damages to the 1974 Mustang (your daughter's car) would have to be paid for under the collision coverage provided for that vehicle, because of the fact you are the titled owner on that vehicle. The company told you the reason for this was you are the owner of the vehicle which inflicted the damage and also the co-owner of the vehicle which suffered the damage and that you could not make a claim against yourself under the insurance policy issued to you. The company also noted this Mustang is insured under a policy with the company, as well as another policy which insures your 1979 Oldsmobile. A multi-car discount was applied in assessing premiums to be paid for the insurance on the Mustang, as well as the Oldsmobile.

In your initial complaint letter to us you addressed a number of questions to us regarding the legality of this company's position. First let me state the insurance policy on your '79 Oldsmobile does in fact exclude coverage for damages done to the Mustang. You ask in your initial complaint letter whether this was by law or because of a ruling made by this department. The exclusion provided in your Oldsmobile policy is specifically provided for by Kansas law. The statute in question provides that any insurer may exclude coverage for "any damages to property owned by, rented to, or in charge of or transported by an insured...." K.S.A. 40-3107.

You had also asked whether the public interest was served if the "true intent and purpose is set aside for a technicality?" Of course, the true intent and purpose of the statute has not been set aside for any technicality, therefore, the question would appear to be moot.

2/27/85
Attachment III

Mr. Fred Dunn
Page 2
October 29, 1984

You also ask whether the public should be made aware of the possibilities of situations of this type. Of course, the obvious answer to that question is that all of us are presumed to know the law in this state. I know this is a response which may appear to be facile. However, the public is presumed to know that joint interest and common interest ownership in a motor vehicle makes each of the named persons on the title an "owner" of that vehicle. While it is true that the full ramifications of that ownership interest may not be fully known by all citizens, ie. such ownership may affect insurance protection; nonetheless we are all presumed to know this exists.

You also ask whether insurers aren't required to write vehicle policies in the names of all the registered owners of a vehicle, if payments by the insurer are to be based upon vehicle registration. Presently the statutes of Kansas do not require this. One of the reasons such a statute does not exist is the increased administrative costs to insurers and insureds if such a requirement were to be mandated by statute. As it now exists, any person may contact an insurance agent and place coverage for their vehicle, merely by telling the insurance agent that they own the vehicle. If the law required disclosure of all ownership interests, and verification of this by insurers, quick and easy placement of coverage would be impeded to some degree. I presume the legislature feels this is uncalled for without evidence that a significant number of problems exist in this area. Frankly, this type of situation really does not arise that often.

I hope this information has adequately responded to the questions raised in your initial complaint letter.

Very truly yours,

Fletcher Bell
Commissioner of Insurance

Robert L. Kennedy, Jr.
Supervisor and Attorney
Consumer Assistance Division

R.L.K:mdc
4026

