

Approved February 10, 1988
Date

MINUTES OF THE HOUSE COMMITTEE ON INSURANCE

The meeting was called to order by REPRESENTATIVE DALE SPRAGUE at
Chairperson

3:30 XX a.m./p.m. on FEBRUARY 3, 1988 in room 531-N of the Capitol.

All members were present except:

Representative Harper - excused
Representative Shauf - excused

Committee staff present:

Emalene Correll, Research Department
Chris Courtwright, Research Department
Bill Edds, Revisor of Statutes Office
Nancy Wolff, Secretary

Conferees appearing before the committee:

Dick Brock, Insurance Department
Brian Larue, Kansas Municipal Judges Association
Lt. Bill Jacobs, Kansas Highway Patrol
John Smith, Department of Motor Vehicles

The meeting was called to order by the Chairman.

Hearings were then held on House Bill 2633 which relates to proof of auto liability insurance.

Chris Courtwright, Legislative Research Department gave a brief review of Interim Committee Proposal No. 45 which led to the formulation of House Bill 2633. (Exhibit I)

Dick Brock, Kansas Insurance Department, gave testimony in support of House Bill 2633. He stated that there are administrative problems in enforcing the statutes, but felt they could be dealt with. He stated that you can enact laws and try to administer laws but there will always be a hard core pocket of uninsured motorists. He stated that it is important that all loopholes are plugged. He also said that Kansas has between 5% and 8% uninsured motorists which is one of the best in the country. Mr. Brock said that he understands that if a person has an accident while driving uninsured, the driver's license shall be suspended and the registration of all vehicles owned by that person shall be suspended until such time that he can file proof of liability insurance with the Division of Vehicles.

Brian Larue, testifying on behalf of the Kansas Municipal Judges Association, appeared in favor of the bill. He stated that the association feels that it will catch more violators. He also expressed the opinion that the expiration date of liability insurance on the insurance cards would be most beneficial. The bill would require that the DC86 be returned directly to the courts that administer the laws to allow better enforcement. The penalty for driving without insurance would be increased to from \$100 to \$1,000 with a possible 6 months imprisonment. The bill still allows flexibility in the sentencing of violators.

Lt. Bill Jacobs, Kansas Highway Patrol appeared in support of HB ²⁶³³~~2630~~. He stated that the bill is the result of a task force meeting several times in late 1987 to recommend changes to the current laws that require mandatory vehicle liability coverage. (Exhibit II)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON INSURANCE

room 531-N, Statehouse, at 3:30 P.M. a.m./p.m. on FEBRUARY 3, 1988, 19

John Smith, Chief Administrator for Driver Control for the State of Kansas testified in favor of HB ~~2386~~. He presented language for amendments to the bill. (Exhibit III) 2633

There were no opponents appearing with regard to HB 2633 and the hearings were concluded.

Dick Brock, Kansas Insurance Department, asked that a committee bill be requested in conjunction with the Departments Explanatory Memorandum for Legislative Proposal No. 2. This proposal was the result of an Agent's Licensing Study Group relative to a comprehensive study of Kansas laws. The groups work concluded in November of 1987. (Exhibit IV) Representative Turnquist made a motion that the committee introduce the bill and the motion was seconded by Representative Brown. The motion carried.

Representative Bryant made a motion that the minutes of the January 27, 1988 meeting be approved as written. Representative Cribbs seconded the motion. The motion carried.

The meeting was adjourned at 4:55 p.m.

**RE: PROPOSAL NO. 45 -- COMPULSORY AUTOMOBILE
LIABILITY INSURANCE**

Proposal No. 45 directs the Special Committee on Judiciary to explore statutory and nonstatutory measures designed to clarify and expedite current administrative procedures of the automobile liability insurance law.

The proposal grew out of a report by the Ad Hoc Committee on Compulsory Automobile Liability Insurance, which held several meetings over the summer to study problems in the enforcement and administration of Kansas' compulsory law. The ad hoc committee, composed of representatives from all groups comprising the current administrative system, was formed at the recommendation of Representative Dale Sprague, Chairman of the House Committee on Insurance, in response to complaints about the effectiveness of the administrative system and to 1987 H.B. 2193, which would have required insurance cards presented for proof of financial security to contain the expiration date of the policy.

Background

Kansas is one of 14 states that mandates liability insurance and also limits lawsuits, operating under a so-called "modified" no-fault plan. All 14 have some type of verbal tort threshold, or description of certain injuries serious enough that the victim retains the right to sue. Eleven of the 14 jurisdictions also have a monetary tort threshold, or amount of incurred medical expenses beyond which a victim also retains the right to bring a cause of action in tort.

K.S.A. 40-3104 requires owners of motor vehicles to provide liability insurance and operators to provide law enforcement officers with proof of insurance or other financial security upon demand. Persons with more than 25 vehicles registered in Kansas may qualify as

* Bill accompanies this report.

self-insurers and obtain a certificate from the Insurance Commissioner that satisfies the financial security requirement.

Evidence of financial security also may be demonstrated by a liability insurance policy, an identification card or certificate of insurance providing the name of the insurer and a policy number, or the completion of an insurance verification form prescribed by the Secretary of Revenue ("DC-66") signed by the insurer or an agent of the insurer certifying that coverage was in effect on the date in question.

Motor carriers regulated by the State Corporation Commission are exempted from the provisions of K.S.A. 40-3104, as are motor vehicles owned by the federal government, any state or any political subdivision of any state; an implement of husbandry or special mobile equipment operated only incidentally on highways or property open to the public; vehicles operated on a highway only for the purpose of crossing such highway; and nonhighway vehicles for which nonhighway certificates of title have been issued. In addition, dealers of new and used vehicles are exempted from the requirement that persons operating a motor vehicle display proof of financial security upon demand when such vehicle is being offered for sale. 1987 H.B. 2147 exempted owners from the mandatory insurance requirement when the vehicles are included under qualifying self-insurance plans approved by state agencies. H.B. 2403 exempted owners of vehicles used in approved driver training courses when such insurance is provided by the school district or accredited nonpublic school.

H.B. 2193 would have required insurance cards presented for proof of financial security to contain the expiration date of the policy in addition to the policy number and other required information. The bill was reported adversely by the House Committee on Insurance.

Administrative Procedures and Enforcement

K.S.A. 40-3118 requires owners, at the time of registration, to certify that they have financial security. Such security also must be certified by owners when vehicle registrations are renewed. The Director of Vehicles, Department of Revenue, is required to verify a sufficient number of certifications each year to insure compliance with the provisions of the statute.

K.S.A. 1986 Supp. 8-1604 similarly requires drivers involved in accidents to prove financial security. Persons failing to prove financial security after an accident (or upon demand as provided in K.S.A. 40-3104) may avoid conviction by producing evidence that financial security was in effect on the date in question within 20 days after the arrest. Failure of the owner or the owner's company to furnish records to prove continuous financial security is deemed to be prima facie evidence that no such financial security exists.

When the Director receives prima facie evidence of the lack of continuous financial security, the Director is to notify the owner that after 30 days the owner's registration and driving privileges are to be suspended. The owner thus has 30 days to prove financial security or to request a hearing. If such proof is not produced and a hearing is not requested, the Director must suspend the owner's registration and driving privileges. Such suspension is to remain in effect until both a \$25 reinstatement fee is paid and the owner obtains insurance. A second suspension within a year requires a \$75 reinstatement fee. Owners may request a hearing and suspension may be avoided if the failure to maintain financial security is shown to be due to a cause beyond the reasonable control of the owner.

In summary, the administrative enforcement involves checking insurance certifications and determining proof of financial security following accidents. Administrative penalties include suspension of registration and driving privileges, and the payment of a reinstatement fee.

Criminal Procedures and Penalties

K.S.A. 40-3104 and 40-3118 also impose strict criminal penalties for failure to maintain financial security. Under K.S.A. 40-3104, persons who fail to have financial security are deemed guilty of a class B misdemeanor, which carries a penalty of up to six months in jail or up to a \$1,000 fine. Those convicted of a second violation within three years of a prior conviction are guilty of a class A misdemeanor, which carries a sentence of up to one year in jail or up to a \$2,500 fine. Similarly, under K.S.A. 40-3118, persons who make a false certification of insurance are guilty of a class B misdemeanor.

Recent Legislative History

Prior to January 1, 1983, insurance companies were required to notify the Director every time an owner's insurance policy was cancelled. One complaint about this method of enforcement was that persons who never had a policy could escape detection, absent involvement in an accident.

With the enactment of 1982 H.B. 2640, the notice of termination requirement was repealed, and the Director was required to randomly select and verify insurance certifications made by owners. The bill also required the suspension of registration and driving privileges of owners failing to maintain continuous financial security and established the reinstatement fees.

As well as enacting the requirements that proof of financial security be shown after accidents or upon demand of a law enforcement officer, 1984 H.B. 2614 removed the requirement that the Director randomly select insurance certifications for verification, and required instead that insurance companies, for three years after an insured is convicted of certain vehicular crimes (including driving without financial security), notify the Director of any policy termination for that driver.

S.B. 293, enacted in 1985, stipulated that certificates of self-insurance can cover leased vehicles as well as owned vehicles, provided the lease agreement requires that insurance be provided by the lessee.

The exemption for new vehicle dealers from the "on demand" provisions of K.S.A. 40-3104 was extended to used vehicle dealers as well, with the passage of 1986 S.B. 674.

Committee Activity

Staff presented the report and recommendations from the ad hoc committee which are designed to clarify the procedures that should be followed under K.S.A. 40-3104 and reduce confusion over the law. Included in the report was information from the Division of Vehicles

that many law enforcement officers and other personnel had not been sending the DC-66 forms to the Division for verification after proof of insurance had been requested.

Another problem was, while the Division had been initiating administrative procedures and penalties after proof of insurance had been denied by insurance companies, such denials were not brought to the attention of local prosecutors so criminal proceedings could be initiated. This lack of communication had not only led to avoidance of criminal prosecution under the statute, but also to other problems created when licenses had been suspended by the Division (due in some cases to errors in transmission between the Division and insurance companies), and the drivers were unaware that the evidence of financial security they demonstrated did not necessarily clear them from the administrative procedures and penalties initiated after such evidence of financial security had been denied.

The ad hoc committee also recommended legislation similar to 1985 H.B. 2490 that would allow insurance companies to cancel liability coverage for persons who enter into diversionary agreements after being charged with driving under the influence of alcohol or drugs.

Conclusions and Recommendations

The Committee requested that most of the statutory recommendations of the ad hoc committee be drafted for further consideration, including suggestions to require the Division to return DC-66 forms denied by insurance companies to prosecuting attorneys; to require that insurance cards contain the effective and expiration dates of the policy; to allow persons unable to demonstrate evidence of financial security to provide such evidence only in court; and to create a minimum \$100 fine for violation of the statute.

Another recommendation would require the Division to return DC-66 forms denied by insurance companies to the law enforcement officers when statutorily acceptable evidence of financial security had been initially demonstrated by drivers. The officers would be required to issue citations when drivers were unable to demonstrate such evidence upon demand. The completion of the DC-66 form by the owner's

insurance company or agent would no longer be considered acceptable evidence of financial security. All of the above recommendations are contained in __B. _____, which accompanies this report.

The Special Committee on Judiciary considered the recommendation of the ad hoc committee regarding H.B. 2490 that would allow diversion to be a conviction for insurance purposes, but rejects this recommendation.

The Special Committee on Judiciary notes that most of the recommendations of the ad hoc committee are designed to fine tune the present administrative system and that compliance rates indicate that Kansas' compulsory law is functioning better than similar laws in other states.

Respectfully submitted,

November 30, 1987

Rep. Robert Wunsch, Chairperson
Special Committee on Judiciary

Sen. Robert Frey, Vice-
Chairperson
Sen. Richard Bond
Sen. Jeanne Hoferer
Sen. Audrey Langworthy
Sen. William Mulich
Sen. Nancy Parrish

Rep. Joan Adam
Rep. Edwin Bideau
Rep. Arthur Douville
Rep. Connie Ames Kennard
Rep. Michael O'Neal
Rep. William R. Roy
Rep. Vincent Snowbarger
Rep. John Solbach
Rep. Dale Sprague

SUMMARY OF TESTIMONY

Before the House Committee on Insurance

February 3, 1988

Presented by the Kansas Highway Patrol

(Lieutenant Bill Jacobs)

Appeared in Support of House Bill 2633

The Kansas Highway Patrol supports House Bill 2633. The bill is a result of a task force meeting several times in late 1987 to recommend changes to the current laws that require mandatory vehicle liability coverage.

The bill has four major changes that the Patrol feels will help streamline the process of enforcement by all concerned.

The bill would require that the effective and expiration dates of the insurance policy be placed on the identification card or certificate when used as proof of insurance. This would certainly not eliminate a card or certificate being used when a policy has been terminated, but it will serve to limit the time that a fraudulent card or certificate could be used.

The bill would also eliminate the office of the arresting officer from the process of dismissing a charge of "no insurance" when an individual produces evidence of insurance after the fact of being charged. It would require that the accused furnish the evidence to the proper court. The bill also places time restraints on the prosecutors to file charges if the evidence so indicates, and on the court to dismiss if valid.

The bill directs the Department of Revenue to return any insurance verification form that indicates an individual does not have insurance to an officer that suspicious evidence produced is fictitious and the officer initiates a verification form.

The bill also establishes a minimum fine for failing to have liability insurance as required. This should serve as a deterrent to those that are tempted to operate vehicles without the required insurance.



KANSAS DEPARTMENT OF REVENUE

Division of Vehicles

Robert B. Docking State Office Building

Topeka, Kansas 66626-0001

TO: House Insurance Committee

FROM: Harley T. Duncan
Secretary of Revenue

DATE: February 3, 1988

RE: HOUSE BILL NO. 2633

The following changes to House Bill No. 2633 are recommended by the Department of Revenue.

LINE 0080 - It is felt the 45 day requirement may be too short of a time to be effective. The insurance information has to be processed by the court and mailed to the division which then must process the documents and mail them to the applicable insurance companies. The companies then have 30 days to process the documents and return denials of coverage to the division. The division will then have to sort the documents, initiate suspension action and return to the applicable court.

LINE 0127 - After the words "such demand" through line 0150 should be deleted. If the person does not provide evidence of insurance at the scene, the officer cannot complete an insurance form since the information is not available. The person would have to produce evidence of insurance in court. The court would then furnish that information to the division.

Language needs to be added to K.S.A. 8-1604(c) and K.S.A. 40-3104 (d) requiring the court to record the insurance information and forward it to the division.

The department also suggests that subparagraph (d) of K.S.A. 40-3118 be re-written to require the division to verify the insurance of those persons convicted of the offenses cited in that paragraph rather than requiring such persons to have their company file evidence of insurance based solely on the conviction. If coverage is confirmed no further action would be taken. Only those persons who have been identified as not having insurance would be subject to this requirement.

HTD/bmh

Explanatory Memorandum For
Legislative Proposal No. 2

Legislative Proposal No. 2 is the result of an Agent's Licensing Study Group. This study group began a comprehensive study of Kansas laws, regulations and procedures relating to agents licensing last spring and concluded its work in November of 1987. The proposal suggests some rather significant changes which can be summarized as follows:

- (1) Introduces a "single license" concept whereby licensed agents would be authorized to act either as the agent of an insurance company or as an agent for an insured. Currently, this can be done but two licenses are required i.e. an agent's license and a broker's license. (Under this proposal, the broker's law, Article 37 of Chapter 40, Kansas Statutes Annotated, would be repealed.)
- (2) Require the licensing of insurance agencies as well as individual insurance agents.
- (3) Permit insurance companies to certify insurance agencies to represent them and, by so doing, automatically authorize each agent to act as their representative.
- (4) Permit new agents or agencies to transact business immediately upon appointment by an insurance company rather than await confirmation of certification from the Insurance Department.
- (5) Initiate an annual continuing education requirement for all insurance agents. These provisions would require each agent to complete eight hours of approved educational activities to retain a property/casualty license and/or a separate eight hours to retain authority to transact life/A&H and/or variable contracts business. Agents authorized only for crop insurance would be subject to a one hour annual continuing education requirement.
- (6) Authorize the commissioner to delegate responsibility for the development and conduct of agent's licensing examinations to outside firms and establish an examination fee commensurate with the cost.

Enactment of this proposal should add to the professional stature and competence of Kansas insurance agents.

LEGISLATIVE PROPOSAL NO. 2

1 AN ACT relating to insurance; insurance agents; licensing;
2 qualifications; examination; certification; continuing education; amending
3 K.S.A. 40-239, 40-240, 40-241 and 40-241i and repealing the existing
4 sections; also repealing K.S.A. 40-240a, 40-240b, 40-240c, 40-240d, 40-240e
5 and 40-3701 through 40-3713.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

6 Section 1. K.S.A. 40-239 is hereby amended to read as follows:
7 40-239. An insurance agent is hereby defined to be an individual,
8 corporation, association, partnership or other legal entity authorized in
9 writing, by any insurance company lawfully qualified to transact the
10 business of insurance, suretyship or indemnity in this state, to negotiate
11 or effect contracts of insurance, suretyship or indemnity on behalf of any
12 such insurance company; or any member of a ~~copartnership~~ partnership or
13 association, or any stockholder, officer or agent of a corporation,
14 permitted by law to negotiate or effect such contracts, where said
15 ~~copartnership~~ partnership, association or corporation holds a direct agency
16 appointment from any insurance company. All such agents shall thereby
17 become liable to all the duties, requirements, liabilities and penalties as
18 provided in this code.

19 Sec. 2. K.S.A. 40-240 is hereby amended to read as follows: 40-240.

20 (a) Any person desiring as agent to engage in the insurance business, as
21 herein set out, shall first apply to the commissioner of insurance of this
22 state, in the manner hereinafter prescribed, for an insurance agent's
23 license, authorizing such agent to engage in and transact such business.
24 The applicant for such license shall file with the commissioner of insurance
25 such applicant's written application for a license authorizing the applicant
26 to engage in the insurance business and the applicant shall make sworn
27 answers to such interrogatories as the commissioner of insurance may require
28 on uniform forms and supplements prepared by the commissioner. A
29 nonrefundable fee in the amount of \$ shall accompany such application.
30 Such applicant if an individual shall establish:

31 ~~(a)~~ (1) That the applicant is a graduate of an accredited four-year
32 high school or its equivalent. This requirement shall not apply to any
33 person holding a valid agent's license as of July 1, 1971, or a full-time
34 student enrolled in an accredited high school in this state while and to the
35 extent such student is participating in an insurance project sponsored by a
36 bona fide junior achievement program;

37 ~~(b)~~ (2) that the applicant is of good business reputation and is worthy
38 of a license.

39 (b) Corporations, associations, partnerships, sole proprietorships and
40 other legal entities acting as insurance agents and holding a direct agency
41 appointment from an insurance company or companies are required to obtain an
42 insurance agent's license. Application for such license shall be made to
43 the commissioner on a form prescribed by him or her. Before granting the
44 license, the commissioner shall determine that:

45 (1) Each officer, director, partner and employee of the applicant who
46 is acting as an insurance agent is licensed as an insurance agent;

47 (2) has disclosed to the insurance department all officers, directors
48 and partners whether or not they are licensed as insurance agents;

49 (3) has disclosed to the insurance department all officers, directors,
50 partners and employees who are licensed as insurance agents; and

51 (4) has designated a licensed officer or partner responsible for the
52 organization's compliance with the insurance laws and rules and regulations
53 of this state.

54 (c) The insurance department may require any documents reasonably
55 necessary to verify the information contained in the application.

56 (d)(1) Agents licensed pursuant to section 2(b) of this act shall
57 advise the commissioner of any officers, directors, partners or employees
58 who are licensed as individual insurance agents and are not disclosed at the
59 time application is made for a license within fifteen working days of their
60 affiliation with the licensee. Failure to provide the commissioner with
61 such information shall subject the licensee to a monetary penalty of \$10 per
62 day for each working day the required information is late subject to a
63 maximum of \$300 per person per licensing year.

64 (2) Officers, directors, partners or employees disclosed at the time of
65 the original application or reported thereafter whose affiliation with the
66 licensee is terminated shall be reported to the commissioner within 30 days

67 of the effective date of termination. Failure to report such termination
68 shall subject the licensee to the penalty prescribed in paragraph (1) of
69 this subsection.

70 Sec. 3. K.S.A. 40-241 is hereby amended to read as follows: 40-241.
71 If the commissioner of insurance is satisfied that the applicant for an
72 agent's license is of good business reputation and is otherwise qualified in
73 the line of business, the applicant if an individual shall be given a
74 ~~written~~ an examination by the commissioner or his or her designee to
75 determine whether such applicant possesses the competence and knowledge of
76 the kinds of insurance and transactions under the license applied for, of
77 the duties and responsibilities of such a license and of the pertinent
78 provisions of the laws of this state. The applicant shall be tested on each
79 class or subclassification of insurance which may be written. An
80 examination fee prescribed in rules and regulations adopted by the
81 commissioner ~~in an amount not to exceed \$25~~ shall be paid by the applicant
82 and shall be required for each class of insurance for each attempt to pass
83 the examination. Such examination fee shall be in addition to the
84 certification fee required under K.S.A. 40-252, and amendments thereto.
85 There shall be ~~three~~ five classes of insurance for the purposes of this act:

- 86 (1) ~~Life, including;~~
87 (2) health and accident;
88 ~~(2)~~ (3) casualty and allied lines;
89 ~~(3)~~ (4) fire property and allied lines;
90 (5) variable contracts.

91 The commissioner of insurance shall establish rules and regulations with
92 respect to the scope, subclassification, type and conduct of such written
93 examination. Examinations shall be given to applicants ~~as follows:--Class~~
94 ~~one examinations~~ at least twice a month in Topeka, Kansas, and at least
95 quarterly in other convenient locations in the state of Kansas; ~~class two~~
96 ~~and three examinations not more frequently than twice a month in Topeka,~~
97 ~~Kansas, and concurrently in other convenient locations in the state of~~
98 ~~Kansas.~~ The commissioner shall publish or arrange for the publication of
99 information and material which applicants can use to prepare for such
100 written examination. One or more rating organizations, advisory
101 organizations or other associations may be designated by the commissioner to
102 assist in, or assume responsibility for, distribution of the study manuals

103 to applicants and other interested parties. Persons purchasing the study
104 manual shall be charged a reasonable fee established or approved by the
105 commissioner. In the event the publication and distribution of the study
106 material or the development and conduct of examinations is delegated to
107 private firms, organizations or associations and the state incurs no expense
108 or obligation, the provisions of K.S.A. 75-3738 to 75-3744, inclusive, and
109 amendments thereto, shall not apply. If the commissioner of insurance finds
110 that the individual applicant is trustworthy, competent and has
111 satisfactorily completed the written examination, the commissioner shall
112 forthwith issue to the applicant a license as an insurance agent but the
113 issuance of such license shall confer no authority to transact business in
114 this state until the agent has been certified by a company pursuant to
115 K.S.A. 40-2411 and amendments thereto. If ~~the~~ such applicant fails to
116 satisfactorily complete the written examination, ~~such~~ the examination may be
117 retaken following a waiting period of not less than ~~14~~ seven days from the
118 date of the last attempt. If the applicant again fails to satisfactorily
119 complete the written examination, it may be retaken following another
120 waiting period of not less than seven days from the date of the most recent
121 attempt. Thereafter, the examination may be retaken following a waiting
122 period of not less than six months from the date of the most recent
123 attempt. The certification and examination fee shall not be returned for
124 any reason and the examination fee shall be forfeited if the applicant fails
125 to appear for the examination or fails to notify the commissioner or his or
126 her designee by certified mail of their inability to appear at least three
127 working days prior to the scheduled examination date. ~~No insurance agent~~
128 ~~shall be required to take an examination for continuation of the agent's~~
129 ~~license for any class or subclassification of business which the agent was~~
130 ~~certified to write prior to May 1, 1963, or for which the agent has~~
131 ~~previously been examined by the commissioner of insurance.~~ The commissioner
132 of insurance shall keep a permanent record of all agents' licenses issued
133 and the insurance companies that the respective agents were certified to
134 represent under such licenses for a period of 10 years.

135 Sec. 4. K.S.A. 40-2401 is hereby amended to read as follows: 40-2411.

136 (a) Any company authorized to transact business in this state may, upon
137 determining that the agent is of good business reputation and, if an
138 individual, has had experience in insurance or will immediately receive a

139 course of instruction in insurance and on the policies and policy forms of
140 such company, certify such agent as the agent of the company under the
141 license in effect for the agent. The certification shall be made to the
142 commissioner on a form prescribed by the commissioner ~~immediately upon~~
143 within 15 days of appointment of the agent by the company, and shall be
144 accompanied by the certification fees set forth in K.S.A. 40-252, and
145 amendments thereto; . Such appointment shall be effective immediately and
146 shall remain in effect until May 1, unless the commissioner is notified to
147 the contrary or the license of the certified agent is terminated. The
148 certification fee shall not be returned for any reason and failure of the
149 company to certify an agent within 15 working days of his or her appointment
150 shall subject the company to a penalty of not less than \$25 per calendar day
151 from the date of appointment to the date proper certification is recorded by
152 the insurance department.

153 (b) Certification of other than an individual agent will automatically
154 include each licensed insurance agent who is an officer, director, partner,
155 employee or otherwise legally associated with the corporation, association,
156 partnership or other legal entity appointed by the company. The required
157 annual certification fee shall be paid for each licensed agent certified by
158 the company at the time of the original certification of the agency and any
159 continuation thereof.

160 ~~(b)~~ (c) With respect to insurance on growing crops, evidence
161 satisfactory to the commissioner that the agent is qualified to transact
162 insurance in accordance with standards or procedures established by any
163 branch of the federal government shall be deemed to be the equivalent of
164 certification by a company.

165 New Sec. 5. Any resident of this state holding a valid insurance
166 agent's license shall be authorized to negotiate contracts of insurance,
167 place risks, solicit, countersign or effect contracts of insurance as an
168 agent for an insured other than himself or herself and not as an agent of an
169 insurance company or any other type of insurance carrier. When acting as an
170 agent for an insured, the insurance agent may transact business with
171 admitted insurers and a fee may be charged for the services provided
172 separate and apart from any commission paid by an insurer if a written
173 contract describing or setting forth the agreement between the insured and
174 the insurance agent is in effect. Any person who is certified to represent

175 the insurance company whose policy is being negotiated shall be deemed to be
176 acting as an agent for the company unless a written agreement otherwise
177 describing the relationship between the insured and the agent is in effect.

178 New Sec. 6. (a) For purposes of this section, the following terms
179 shall mean:

180 (1) "Annual due date" means March 31, 1989 and March 31 of each year
181 thereafter.

182 (2) "Approved subject" or "approved course" means any educational
183 presentation involving insurance fundamentals, insurance law, insurance
184 policies and coverage, insurance needs, insurance risk management, or other
185 areas, which is offered in a class, seminar or other similar form of
186 instruction, and which has been approved by the commissioner under this
187 chapter as expanding skills and knowledge obtained prior to initial
188 licensure or developing new and relevant skills and knowledge.

189 (3) "C.E.C." means continuing education credit. One C.E.C. is 50 to 60
190 minutes of each clock hour of instruction or the C.E.C. value assigned by
191 the commissioner. The C.E.C. values will be assigned in whole units. The
192 commissioner will assign a C.E.C. value to each approved subject on a
193 case-by-case basis.

194 (b)(1) Every licensed agent who is an individual and holds a property
195 casualty qualification shall annually obtain a minimum of eight C.E.C.'s in
196 courses certified as property/casualty.

197 (2) Every licensed agent who is an individual and holds a life,
198 accident/health, or variable contracts qualification shall annually complete
199 eight C.E.C.'s in courses certified as life, accident and health, or
200 variable contracts.

201 (3) Every licensed agent who is an individual and holds a crop only
202 qualification shall annually obtain a minimum of one C.E.C. in courses
203 certified as crop under the property and casualty category.

204 (c) Individual agents who hold licenses with both a property/casualty
205 qualification and a life, accident and health, or variable contracts
206 qualification and who earn C.E.C.'s from courses certified by the
207 commissioner as qualifying for credit in any class, may apply those C.E.C.'s
208 toward either the property/casualty continuing education requirement or to
209 the life, A/H, and variable contracts continuing education requirement.
210 However, a C.E.C. applied to satisfy the annual property/casualty

211 requirement may not also be applied to satisfy the annual requirement for
212 life, accident and health, or variable contracts, and vice versa.

213 (d) An instructor of an approved subject is entitled to the same credit
214 as a student completing the study.

215 (e) If an individual agent completes more than the annual requirement
216 of accredited continuing education courses in a single year by passing an
217 examination part leading to a recognized professional designation, the agent
218 may accumulate and carry-over to the next year up to the equivalent of the
219 annual requirement for the type of license qualification held.

220 (f)(1) All individual agents who have been licensed for more than one
221 year must, on or before the annual due date, file a report with the
222 commissioner that they have met the continuing education requirements for
223 the previous calendar year. Every individual agent shall maintain a record
224 of all courses attended along with a certificate of attendance, for three
225 years after the date of attendance.

226 (2) A newly licensed individual agent shall have the remainder of the
227 calendar year in which he or she is initially licensed plus the next
228 calendar year to comply with the C.E.C. requirements.

229 (3) If the required report showing proof of continuing education
230 completion is not furnished by the annual due date, then the individual
231 agent's qualification and corresponding license(s) will not be renewed by
232 the commissioner.

233 (4) An applicant for an individual agent's license who previously held
234 a license which terminated because of failure to meet continuing education
235 requirements and who seeks to be relicensed must pass the examination
236 required for issuance of the new qualification and license and provide
237 evidence that appropriate C.E.C.'s have been completed for the prior year.

238 (5) Upon written application by an individual agent, the commissioner
239 may, in cases involving medical hardship or military service, extend the
240 time within which to fulfill the minimum continuing educational
241 requirements, not to exceed 180 days.

242 (g)(1) A course, program of study, or subject must be submitted to and
243 certified by the commissioner in order to qualify for purposes of continuing
244 education.

245 (2) The following information shall be furnished with each request for
246 certification:

- 247 (A) Name of provider or sponsoring organization;
248 (B) course title;
249 (C) date course will be offered;
250 (D) location where course will be offered;
251 (E) outline of the course including a schedule of times when subjects
252 will be presented;
253 (F) names and qualifications of instructors;
254 (G) number of C.E.C.'s requested; and
255 (H) a nonrefundable fee in the amount of \$50 per course or a
256 nonrefundable fee in the amount of \$250 per year for all courses.

257 (3) Upon receipt of such information, the commissioner will grant or
258 deny certification as an approved subject and will indicate the number of
259 C.E.C.'s that will be recognized for the subject. Each approved subject or
260 course will be assigned by the commissioner to one or both of the following
261 classes:

- 262 (A) Property and casualty insurance contracts or
263 (B) life insurance contracts (including annuity and variable contracts)
264 and accident/health insurance contracts.

265 (4) A course or subject must have a value of at least one C.E.C.

266 (5) A provider seeking approval of a course for continuing education
267 credit shall provide for the issuance of a certificate of attendance to each
268 person who attends a course offered by it. The certificate shall be signed
269 by either the course instructor or the provider's authorized
270 representative. Providers shall also maintain a list of all persons who
271 attend courses offered by them for continuing education credit for at least
272 seven years from the date the courses are offered.

273 (6) A course may be approved after a program of study has been held if
274 the required material is furnished within 60 days after the program was
275 completed and prior to the annual due date.

276 (7) The commissioner may grant approval to specific programs of study
277 that have appropriate merit, such as programs with broad national or
278 regional recognition, notwithstanding the lack of a request for
279 certification. The fee prescribed by subsection (g)(2)(H) of this section
280 shall not apply to approvals granted hereunder.

281 (h) The commissioner will provide, upon request, a list of all approved
282 continuing education courses currently available to the public.

283 (i) Independent study. An individual agent who studies independently
284 for an insurance examination, other than an agent's examination, approved by
285 the commissioner and who passes an independently monitored examination, will
286 receive credit for the C.E.C.'s assigned by the commissioner as recognition
287 for the approved subject. No other credit will be given for independent
288 study.

289 New Sec. 7. The commissioner is hereby authorized to adopt such rules
290 and regulations as may be necessary to carry out the provisions of this act.

291 Sec. 8. K.S.A. 40-239, 40-240, 40-240a, 40-240b, 40-240c, 40-240d,
292 40-240e, 40-241, 40-241i and 40-3701 through 40-3713 are hereby repealed.

293 Sec. 9. Sections 3 and 5 of this act shall take effect and be in force
294 from and after their publication in the statute book. The remaining
295 sections shall take effect and be in force from and after May 1, 1989.