

HOUSE INSURANCE
MINUTES OF THE COMMITTEE ON

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

3:30 XX FEBRUARY 29, 1988 in room 531-N of the Capitol.
a.m./p.m. on

All members were present except: Representative Gross, excused
Representative Cribbs, excused

Committee staff present:

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

Conferees appearing before the committee:

The meeting was called to order by the Chairman.

The committee held discussion and action on a number of bills that had been heard previously in the committee.

The first bill to be discussed was House Bill 2722 which would require regulated companies and organizations to undergo certain audits and file reports to the commissioner of insurance. Representative Neufeld made the motion that House Bill 2722 be passed and Representative Littlejohn seconded the motion. The motion passed.

The committee then took up House Bill 2723 which would require insurance companies to pay fees relative to computer costs for the examination of such companies. Representative Sawyer made the motion that House Bill 2723 be passed and Representative Turnquist seconded the motion. The motion passed.

Bill Edds, Revisor of Statutes office reviewed the balloon draft of House Bill 2933 relating to collision damage waiver contracts in connection with the rental of motor vehicles. (Exhibit I) Representative Turnquist made a motion that House Bill 2933 be amended by the balloon version and Representative Hoy seconded the motion. Following discussion, the motion passed.

Representative Beauchamp made a conceptual motion that, in the proper place, the language be added 'that rates be filed with the Consumer Protection Division of the Attorney General's Office and that any change of rates must also be filed on all collision damage waivers. Representative Turnquist seconded the motion. The motion failed.

Representative Sawyer made a conceptual motion that on House Bill 2933 to add another sentence that would cause rental agencies, in their advertising to place language that would tell consumers as to the amount of bond that must be posted if the collision damage waiver is declined. Representative Neufeld seconded the motion. The motion passed.

Representative Turnquist made a motion that House Bill 2933 be passed as amended and Representative Hoy seconded the motion. The motion passed.

The committee then discussed House Bill 2633 which would set forth guidelines for uninsured drivers and penalties for not having liability insurance. (Exhibit II) Bill Edds, Revisor of Statutes office reviewed the balloon copy of the bill. Representative Sawyer made a motion that House Bill 2633 be amended by the balloon copy and be passed as amended. Representative Bryant seconded the motion. The motion passed.

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 531N, Statehouse, at 3:30 ~~a.~~^xm./p.m. on February 29, 1988

The chairman then called for committee discussion on House Bill 2871 which would remove the requirement for individuals on diversion to carry liability insurance while not owning a vehicle. Representative Hoy made a motion that House Bill 2871 be not passed and Representative Neufeld seconded the motion. The motion passed.

The meeting was adjourned.

VISITORS TO HOUSE INSURANCE COMMITTEE

DATE: 2-29-88

NAME

REPRESENTING

Lee WRIGHT

FARMERS INS. GROUP

Lt. Bill JACOBS

K.H.P.

LARRY MAGILL

IIAK

Lori Callahan

Am. Emv. Assoc.

HOUSE BILL No. 2933

By Representatives Turnquist, Hoy, Brady, Freeman, Heine-
mann, Patrick, Reardon, Sawyer, Spaniol and Sprague

2-10

0018 AN ACT relating to the licensure and regulation of persons or
0019 organizations offering collision damage waiver contracts in
0020 connection with the rental of motor vehicles; prescribing
0021 contract forms and provision requirements; prescribing pen-
0022 alties for violations.

advertisement, sale or offering for sale of

for contractual provisions

providing that certain acts are deceptive acts
and practices under the Kansas consumer protec-
tion act; amending K.S.A. 50-626 and repealing
the existing section

0023 Be it enacted by the Legislature of the State of Kansas:

0024 Section 1. This act shall be known and may be cited as the
0025 Kansas collision damage waiver act.

Sections 1 through 5, inclusive, of

for a period of 60 days or less

0026 Sec. 2. This act shall apply to all persons in the business of
0027 leasing rental motor vehicles from locations in this state under an
0028 agreement which imposes upon the lessee an obligation to pay
0029 for any damages caused to the leased vehicle. The provisions of
0030 this act apply solely to the collision damage waiver portion of the
0031 rental agreement.

0032 Sec. 3. (a) "Collision damage waiver" means any contract or
0033 contractual provision, whether separate from or a part of a motor
0034 vehicle rental agreement, whereby the lessor agrees for a charge,
0035 to waive any and all claims against the lessee for any damage to
0036 the rental motor vehicle during the term of the rental agreement.

0037 (b) "Commissioner" means the commissioner of insurance.

0038 (c) "Lessor" means any person or organization in the busi-
0039 ness of providing rental motor vehicles to the public.

0040 (d) "Lessee" means any person or organization obtaining the
0041 use of a rental motor vehicle from a lessor under the terms of a
0042 rental agreement.

for a period of 60 days or less

0043 (e) "Rental agreement" means any written agreement setting
0044 forth the terms and conditions governing the use of the rental
0045 motor vehicle by the lessee.

EXHIBIT I

0046 (f) "Rental motor vehicle" means a private passenger type
0047 vehicle or commercial type vehicle which, upon execution of a
0048 rental agreement, is made available to a lessee for the lessee's
0049 use.

0050 ~~Sec. 4. (a) No lessor shall issue or offer to issue a collision~~
0051 ~~damage waiver in this state until a license has been granted by~~
0052 ~~the commissioner as provided in this act. Application for a~~
0053 ~~license shall be made in writing, in a form prescribed by the~~
0054 ~~commissioner, and shall be accompanied by an application fee of~~
0055 ~~\$100.~~

0056 (b) A lessor of rental motor vehicles with one or more loca-
0057 tions within the state shall not be required to obtain more than
0058 ~~one license.~~

0059 ~~Sec. 5. Each license issued in accordance with this act shall~~
0060 ~~be renewable annually on the license anniversary date. No such~~
0061 ~~renewal license shall be issued unless and until the lessor has~~
0062 ~~paid the renewal fee of \$100.~~

0063 ~~Sec. 6. (a) No lessor shall deliver or issue for delivery in this~~
0064 ~~state a rental motor vehicle agreement containing a collision~~
0065 ~~damage waiver unless such agreement is filed with the commis-~~
0066 ~~sioner at least 30 days prior to its effective date and the commis-~~
0067 ~~sioner has not disapproved the collision damage waiver portion~~
0068 ~~of such agreement within such 30 days.~~

0069 ~~(b) No collision damage waiver shall be approved unless:~~

0070 (1) It is written in simple and readable words with common
0071 meanings and is understandable;

0072 (2) the terms of the collision damage waiver are prominently
0073 displayed including, but not limited to, any conditions and
0074 exclusions applicable to the collision damage waiver. The colli-
0075 sion damage waiver may exclude the following:

0076 (A) Damages caused intentionally by the lessee or as a result
0077 of lessee's willful or wanton misconduct;

0078 (B) driving while intoxicated or under the influence of any
0079 drug, or the combined influence of alcohol and any drug; and

0080 (C) damages caused while engaging in any speed contest;

0081 (3) all restrictions, conditions or provisions in or endorsed on
0082 a collision damage waiver shall be printed in type as large as

4

:

damages caused by

0083 ~~brevier~~ or ten point type, or be written in pen and ink or
 0084 typewritten in or on such agreement; but nothing contained in
 0085 this section shall relate or apply to photographic copies of appli-
 0086 cations or parts thereof, attached to or made part of such agree-
 0087 ment;

0088 (4) the collision damage waiver includes a statement of the
 0089 total charge for the ~~period in question~~; and

0090 (5) the agreement containing the collision damage waiver
 0091 displays the following notice on the face of the agreement, set
 0092 apart and in boldface type and in no smaller print than 10 point
 0093 type:

0094 NOTICE: THIS CONTRACT OFFERS, FOR AN ADDI-
 0095 TIONAL CHARGE, A COLLISION DAMAGE WAIVER TO
 0096 COVER YOUR RESPONSIBILITY FOR DAMAGE TO THE
 0097 VEHICLE. BEFORE DECIDING WHETHER TO PUR-
 0098 CHASE THE COLLISION DAMAGE WAIVER, YOU MAY
 0099 WISH TO DETERMINE WHETHER YOUR OWN AUTOMO-
 0100 BILE INSURANCE AFFORDS YOU COVERAGE FOR DAM-
 0101 AGE TO THE RENTAL VEHICLE AND THE AMOUNT OF
 0102 THE DEDUCTIBLE UNDER YOUR OWN INSURANCE
 0103 COVERAGE. THE PURCHASE OF THIS COLLISION DAM-
 0104 AGE WAIVER IS NOT MANDATORY AND MAY BE
 0105 WAIVED.

0106 ~~Sec. 7. (a) Every lessor licensed pursuant to this act shall file~~
 0107 ~~with the commission all rates and supplementary rate informa-~~
 0108 ~~tion and all charges and amendments thereof made by it for use~~
 0109 ~~in this state 30 days prior to its effective date.~~

0110 (b) The rates filed pursuant to this section shall not be ex-
 0111 cessive or unfairly discriminatory. All rates shall be made in
 0112 accordance with the following provisions:

0113 (1) Due consideration shall be given to past and prospective
 0114 collision loss experience within and outside the particular lo-
 0115 cale;

0116 (2) consideration may be given to past and prospective colli-
 0117 sion loss experience of the private insurance industry for the
 0118 locale;

0119 ~~(3) expenses may include marginal expenses of the lessor~~

waiver

0120 ~~attributable to the sale and direct administration of the collision~~
 0121 ~~damage waiver component, as well as a reasonable overhead~~
 0122 ~~expense;~~

0123 (4) a reasonable overhead expense shall be the total overhead
 0124 for the covered location multiplied by the ratio of collision
 0125 damage waiver revenues to the total revenue for the location.
 0126 The cost of the vehicles to be rented shall not be considered an
 0127 overhead expense.

0128 (c) No lessor shall make or issue a collision damage waiver
 0129 except in accordance with the filings which are in effect for such
 0130 lessor. No lessor or any officer, employee, or other representative
 0131 thereof shall charge or receive any fee, compensation or consid-
 0132 eration for the collision damage waiver which is not included in
 0133 ~~the rate in effect for such lessor.~~

0134 ~~Sec. 8. The commissioner may order any lessor licensed~~
 0135 ~~pursuant to this act, or its officials and representatives to cease~~
 0136 ~~and desist from engaging in the following unfair trade practices:~~

0137 (a) The making of any false or misleading statements either
 0138 orally or in writing, in connection with the sale, offer to sell, or
 0139 advertisement of a collision damage waiver;

0140 (b) the omission of any material statement in connection with
 0141 the sale, offer to sell, or advertisement of a collision damage
 0142 waiver, which under the circumstances should have been made
 0143 in order to make the statements that were made not misleading;

0144 (c) the making of any statement that the purchase of a colli-
 0145 sion damage waiver is mandatory;

0146 (d) the failure to provide proper disclosure that the purchase
 0147 of a collision damage waiver may be duplicative of the lessee's
 0148 automobile insurance contract.

0149 ~~Sec. 9. Except as otherwise specifically provided in this act,~~
 0150 ~~none of the other provisions of chapter 40 of the Kansas Statutes~~
 0151 ~~Annotated shall apply to collision damage waivers. None of the~~
 0152 ~~provisions of this act shall apply to the issuance of collision~~
 0153 ~~insurance underwritten by an insurer authorized to transact~~
 0154 ~~property and casualty business in this state. No lessor to whom~~
 0155 ~~this act applies shall be compelled to join or contribute finan-~~
 0156 ~~cially to any plan, pool, association or guaranty or insolvency~~

5. The commission of any deceptive act or practice in the advertisement or sales of collision damage waivers is prohibited. The following are deceptive acts or practices when conducted by a lessor or its officials or representatives

(e) The failure to disclose in a clear and conspicuous manner in any advertisement for a rental motor vehicle which provides price information relating to a rental agreement that a collision damage waiver is available, if true, and that it is not mandatory. The advertisement shall state the cost of the collision damage waiver in a clear and conspicuous manner.

0157 ~~fund in this state.~~

0158 Sec. 10. Any lessor found by the commissioner after notice
0159 and hearing to have violated or attempted to violate any provi-
0160 sion of this act, may be ordered to pay a penalty. The issuance,
0161 procurement or negotiation of a single collision damage waiver
0162 shall be deemed a separate violation. A penalty not to exceed
0163 \$500 may be imposed for each violation provided that the pen-
0164 alty imposed for a series of violations shall be no less than \$500
0165 and no more than \$10,000. An additional penalty, not to exceed
0166 \$2,500 may be imposed for each violation in which the commis-
0167 sioner finds that there was a knowing violation of this act. The
0168 commissioner shall have the right to suspend or revoke or refuse
0169 to renew the license of any lessor for violation of any of the
0170 provisions of this act.

0171 Sec. 11. Upon revoking the license of any lessor the com-
0172 missioner may communicate the fact to the attorney general,
0173 whose duty shall be to commence and prosecute an action in the
0174 proper court to enjoin the same from doing or transacting busi-
0175 ~~ness in this state.~~

INSERT Sec. 6. & 7.

8

0176 Sec. 12. This act shall take effect and be in force from and
0177 after January 1, 1989, and its publication in the statute book.

Sec. 6. K.S.A. 50-626 is hereby amended to read as follows:
50-626. (a) No supplier shall engage in any deceptive act or practice in connection with a consumer transaction.

(b) Deceptive acts and practices include, but are not limited to, the following, each of which is hereby declared to be a violation of this act:

(1) Representations made knowingly or with reason to know that:

(A) Property or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have;

(B) the supplier has a sponsorship, approval, status, affiliation or connection that he or she does not have;

(C) property is original or new, if such property has been deteriorated, altered, reconditioned, repossessed or is second-hand or otherwise used to an extent that is materially different from the representation;

(D) property or services are of particular standard, quality, grade, style or model, if they are of another which differs materially from the representation; or

(E) the consumer will receive a rebate, discount or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if receipt of benefit is contingent on an event occurring after the consumer enters into the transaction;

(2) the intentional use, in any oral or written representation, of exaggeration, innuendo or ambiguity as to a material fact;

(3) the intentional failure to state a material fact, or the intentional concealment, suppression or omission of a material fact, whether or not any person has in fact been misled;

(4) disparaging the property, services or business of another by making, knowingly or with reason to know, false or misleading representations of material facts;

(5) offering property or services without intent to sell them;

(6) offering property or services without intent to supply

reasonable, expectable public demand, unless the offer discloses the limitation;

(7) making false or misleading representations, knowingly or with reason to know, of fact concerning the reason for, existence of or amounts of price reductions, or the price in comparison to prices of competitors or one's own price at a past or future time;

(8) falsely stating, knowingly or with reason to know, that a consumer transaction involves consumer rights, remedies or obligations;

(9) falsely stating, knowingly or with reason to know, that services, replacements or repairs are needed;

(10) falsely stating, knowingly or with reason to know, the reasons for offering or supplying property or services at sale or discount prices;

(11) any deceptive act or practice listed in section 5 of this act.

Sec. 7. K.S.A. 50-626 is hereby repealed.

HOUSE BILL No. 2633

By Special Committee on Judiciary

Re Proposal No. 45

12-17

0017 AN ACT relating to motor vehicle liability insurance; concerning
0018 the duty to provide information of liability insurance and
0019 proof of financial security; amending K.S.A. 1987 Supp. 8-
0020 1604 and 40-3104 and repealing the existing sections.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 1987 Supp. 8-1604 is hereby amended to
0023 read as follows: 8-1604. (a) The driver of any vehicle involved in
0024 an accident resulting in injury to or death of any person, or
0025 damage to any vehicle or other property which is driven or
0026 attended by any person, shall give such person's name, address
0027 and the registration number of the vehicle such person is driv-
0028 ing, and upon request shall exhibit such person's license or
0029 permit to drive, the name of the company with which there is in
0030 effect a policy of motor vehicle liability insurance covering the
0031 vehicle involved in the accident and the policy number of such
0032 policy to any person injured in such accident or to the driver or
0033 occupant of or person attending any vehicle or other property
0034 damaged in such accident, and shall give such information and
0035 upon request exhibit such license or permit and the name of the
0036 insurer and policy number, to any police officer at the scene of
0037 the accident or who is investigating the accident and shall render
0038 to any person injured in such accident reasonable assistance,
0039 including the carrying, or the making of arrangements for the
0040 carrying of such person to a physician, surgeon or hospital for
0041 medical or surgical treatment if it is apparent that such treatment
0042 is necessary, or if such carrying is requested by the injured
0043 person.

0044 (b) In the event that none of the persons specified are in

0045 condition to receive the information to which they otherwise
 0046 would be entitled under subsection (a) of this section, and no
 0047 police officer is present, the driver of any vehicle involved in
 0048 such accident after fulfilling all other requirements of K.S.A.
 0049 8-1602, and amendments thereto, and subsection (a) of this
 0050 section, insofar as possible on such person's part to be per-
 0051 formed, shall forthwith report such accident to the nearest office
 0052 of a duly authorized police authority and submit thereto the
 0053 information specified in subsection (a) of this section.

0054 (c) *Unless the insurance company subsequently submits an*
 0055 *insurance verification form indicating that insurance was not in*
 0056 *force, no person charged with failing to provide the name of such*
 0057 *person's insurance company and policy number as required in*
 0058 *subsection (a), shall be convicted if such person produces in*
 0059 *court or in the office of the arresting officer, within 20 days of the*
 0060 *date of arrest or of issuance of the citation, evidence of financial*
 0061 *security for the motor vehicle operated, which was valid at the*
 0062 *time of arrest or of issuance of the citation. For the purpose of*
 0063 *this subsection, evidence of financial security shall be provided*
 0064 *by a policy of motor vehicle liability insurance, an identification*
 0065 *card or certificate of insurance issued to the policyholder by the*
 0066 *insurer which provides the name of the insurer and, the policy*
 0067 *number and the effective and expiration dates of the policy, or a*
 0068 *certificate of self-insurance signed by the commissioner of in-*
 0069 *surance or the completion of a form prescribed by the secretary*
 0070 *of revenue signed by the insurer or an agent of the insurer*
 0071 *certifying that at the time of arrest the motor vehicle was covered*
 0072 *by motor vehicle liability insurance. Upon the production in*
 0073 *court of evidence of financial security, the court shall stay any*
 0074 *further proceedings on the matter pending a request from the*
 0075 *prosecuting attorney that the matter be set for trial. Such a*
 0076 *request shall be made immediately following the receipt by the*
 0077 *prosecuting attorney of a copy of the form from the department*
 0078 *of revenue indicating that insurance was not in force. Any*
 0079 *charge hereunder shall be dismissed if no request for a trial*
 0080 *setting has been made within 45 days of the date evidence of*
 0081 *financial security was produced in court.*

record the information displayed thereon on the insurance verification ^{form}
 prescribed by the secretary of revenue, immediately forward such form
 to the department of revenue, and

Upon receipt of such form the department shall mail the form to
 the named insurance company for verification that insurance was
 in force on the date indicated on the form. It shall be the duty
 of insurance companies to notify the department within 30
 calendar days of the receipt of such forms of any insurance that
 was not in force on the date specified. Upon return of any form
 to the department indicating that insurance was not in force on
 such date, the department shall immediately forward a copy of
 such form to the office of the prosecuting attorney or the city
 clerk of the municipality in which such prosecution is pending
 when the prosecuting attorney is not ascertainable. Receipt of
 any completed form indicating that insurance was not in effect on
 the date specified shall be prima facie evidence of failure to
 provide proof of financial security and violation of this
 section. A

that the matter be set for trial

0082 When the evidence of financial security provided by the
0083 owner is an insurance policy, an identification card or certificate
0084 of insurance or a certificate of self-insurance, the information
0085 will be recorded by the office of the arresting officer or the court
0086 on the form prescribed by the secretary of revenue as authorized
0087 by this subsection and forwarded immediately to the department
0088 of revenue. When evidence of insurance is provided by the
0089 owner on the form prescribed by this subsection such form will
0090 also be forwarded immediately to the department.

0091 Upon receipt of such form, the department will mail the form
0092 to the named insurance company for verification that such in-
0093 surance was in force on the date stated. It shall be the duty of
0094 insurance companies to notify the department within 30 calendar
0095 days of the receipt of such forms of any insurance that was not in
0096 force on the date stated.

0097 Sec. 2. K.S.A. 1987 Supp. 40-3104 is hereby amended to read
0098 as follows: 40-3104. (a) Every owner shall provide motor vehicle
0099 liability insurance coverage in accordance with the provisions of
0100 this act for every motor vehicle owned by such person, unless
0101 such motor vehicle: (1) Is included under an approved self-in-
0102 surance plan as provided in subsection (f); (2) is used as a driver
0103 training motor vehicle, as defined in K.S.A. 72-5015, and
0104 amendments thereto, in an approved driver training course by a
0105 school district or an accredited nonpublic school under an
0106 agreement with a motor vehicle dealer, and such motor vehicle
0107 liability insurance coverage is provided by the school district or
0108 accredited nonpublic school; (3) is included under a qualified
0109 plan of self-insurance approved by an agency of the state in
0110 which such motor vehicle is registered and the form prescribed
0111 in subsection (b) of K.S.A. 40-3106, and amendments thereto, has
0112 been filed; or (4) is expressly exempted from the provisions of
0113 this act.

0114 (b) An owner of an uninsured motor vehicle shall not permit
0115 the operation thereof upon a highway or upon property open to
0116 use by the public, unless such motor vehicle is expressly ex-
0117 empted from the provisions of this act.

0118 (c) No person shall knowingly drive an uninsured motor

0119 vehicle upon a highway or upon property open to use by the
0120 public, unless such motor vehicle is expressly exempted from
0121 the provisions of this act.

0122 (d) Any person operating a motor vehicle upon a highway or
0123 upon property open to use by the public shall display, upon
0124 demand, evidence of financial security to a law enforcement
0125 officer. *The law enforcement officer shall issue a citation to any*
0126 *person who fails to display evidence of financial security upon*
0127 *such demand. Upon such failure the law enforcement officer*
0128 *shall also initiate the preparation of an insurance verification*
0129 *form to be signed by the insurer or an agent of the insurer*
0130 *certifying that the motor vehicle was covered by motor vehicle*
0131 *liability insurance at the time of such demand. The insurance*
0132 *verification form shall be prescribed by the secretary of reve-*
0133 *nu.* The law enforcement officer shall attach a copy of the
0134 insurance verification form to the copy of the citation for-
0135 warded to the court ~~and immediately forward the remainder of~~
0136 ~~the form to the department of revenue. Upon receipt of such~~
0137 ~~form the department shall mail the form to the named insurance~~
0138 ~~company for verification that insurance was in force on the date~~
0139 ~~specified. It shall be the duty of insurance companies to notify~~
0140 ~~the department within 30 calendar days of the receipt of such~~
0141 ~~forms of any insurance that was not in force on the date~~
0142 ~~specified. Upon return of any form to the department indicating~~
0143 ~~that insurance was not in force on such date, the department~~
0144 ~~shall immediately forward a copy of such form to the office of~~
0145 ~~the prosecuting attorney or the city clerk of the municipality in~~
0146 ~~which such prosecution is pending when the prosecuting attor-~~
0147 ~~ney is not ascertainable. Receipt of any completed form indi-~~
0148 ~~cating that insurance was not in effect on the date specified~~
0149 ~~shall be prima facie evidence of failure to provide proof of~~
0150 ~~financial security and violation of this section.~~

prescribed by the secretary of revenue.

0151 No citation shall be issued to any person for failure to provide
0152 proof of financial security when evidence of financial security
0153 meeting the standards of subsection (e) is displayed upon de-
0154 mand of a law enforcement officer. Whenever the authenticity
0155 of such evidence is questionable, the law enforcement officer

0156 may initiate the preparation of the insurance verification form
 0157 prescribed by the secretary of revenue by recording information
 0158 from the evidence of financial security displayed. The officer
 0159 shall immediately forward the form to the department of reve-
 0160 nue, and the department shall proceed with verification in the
 0161 manner prescribed in the ~~preceding~~ paragraph. Upon return of
 0162 a form indicating that insurance was not in force on the date
 0163 indicated on the form, the department shall immediately for-
 0164 ward a copy of the form to the law enforcement officer initiating
 0165 preparation of the form.

0166 (e) Unless the insurance company subsequently submits an
 0167 insurance verification form indicating that insurance was not in
 0168 force, no person charged with violating subsections (b), (c) or (d)
 0169 shall be convicted if such person produces in court or in the
 0170 office of the arresting officer, within 20 days of the date of arrest
 0171 or of issuance of the citation, evidence of financial security for
 0172 the motor vehicle operated, which was valid at the time of arrest
 0173 or of issuance of the citation. For the purpose of this subsection,
 0174 evidence of financial security shall be provided by a policy of
 0175 motor vehicle liability insurance, an identification card or certifi-
 0176 cate of insurance issued to the policyholder by the insurer
 0177 which provides the name of the insurer and, the policy number,
 0178 and the effective and expiration dates of the policy, or a certifi-
 0179 cate of self-insurance signed by the commissioner of insurance or
 0180 the completion of a form prescribed by the secretary of revenue
 0181 signed by the insurer or an agent of the insurer certifying that at
 0182 the time of arrest the motor vehicle was covered by motor
 0183 vehicle liability insurance. Upon the production in court of
 0184 evidence of financial security, the court shall stay any further
 0185 proceedings on the matter pending a request from the prose-
 0186 cuting attorney that the matter be set for trial. Such a request
 0187 shall be made immediately following the receipt by the prose-
 0188 cuting attorney of a copy of the form from the department of
 0189 revenue indicating that insurance was not in force. Any charge
 0190 of violating subsection (b), (c) or (d) shall be dismissed if no
 0191 request for a trial setting has been made within 45 days of the
 0192 date evidence of financial security was produced in court.

following

record the information displayed thereon on the insurance verification form, immediately forward such form to the department of revenue, and

Upon receipt of such form the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A

that the matter be set for trial

0193 When the evidence of financial security provided by the
0194 owner is an insurance policy, an identification card or certificate
0195 of insurance or a certificate of self-insurance, the information
0196 will be recorded by the office of the arresting officer or the court
0197 on the form prescribed by the secretary of revenue as authorized
0198 by this subsection and forwarded immediately to the department
0199 of revenue. When evidence of insurance is provided by the
0200 owner on the form prescribed by this subsection such form will
0201 also be forwarded immediately to the department.

0202 Upon receipt of such form, the department will mail the form
0203 to the named insurance company for verification that such in-
0204 surance was in force on the date stated. It shall be the duty of
0205 insurance companies to notify the department within 30 calendar
0206 days of the receipt of such forms of any insurance that was not in
0207 force on the date stated.

0208 (f) Any person in whose name more than 25 motor vehicles
0209 are registered in Kansas may qualify as a self-insurer by obtain-
0210 ing a certificate of self-insurance from the commissioner of
0211 insurance. The certificate of self-insurance issued by the com-
0212 missioner shall cover such owned vehicles and those vehicles,
0213 registered in Kansas, leased to such person if the lease agree-
0214 ment requires that motor vehicle liability insurance on the vehi-
0215 cles be provided by the lessee. Upon application of any such
0216 person, the commissioner of insurance may issue a certificate of
0217 self-insurance, if the commissioner is satisfied that such person
0218 is possessed and will continue to be possessed of ability to pay
0219 any judgment obtained against such person arising out of the
0220 ownership, operation, maintenance or use of any motor vehicle
0221 described in this subsection.

0222 Upon not less than five days' notice and a hearing pursuant to
0223 such notice, the commissioner of insurance may cancel a certifi-
0224 cate of self-insurance upon reasonable grounds. Failure to pay
0225 any judgment against a self-insurer, arising out of the ownership,
0226 operation, maintenance or use of a motor vehicle registered in
0227 such self-insurer's name, within 30 days after such judgment
0228 shall have become final, shall constitute reasonable grounds for
0229 the cancellation of a certificate of self-insurance.

0230 (g) Any person violating any provision of this section shall be
0231 guilty of a class B misdemeanor *and shall be subject to a fine of*
0232 *not less than \$100 nor more than \$1,000 or confinement in the*
0233 *county jail for a term of not more than six months, or both such*
0234 *fine and confinement, except that any person convicted of vio-*
0235 *lating any provision of this section within three years of any such*
0236 *prior conviction shall be guilty of a class A misdemeanor.*

0237 (h) In addition to any other penalties provided by this act for
0238 failure to have or maintain financial security in effect, the direc-
0239 tor, upon receipt of a report required by K.S.A. 8-1607 or 8-1611,
0240 and amendments thereto, or a denial of such insurance by the
0241 insurance company listed on the form prescribed by the secre-
0242 tary of revenue pursuant to subsection ~~(e)~~ (d) of this section ~~and~~
0243 ~~K.S.A. 8-1604, and amendments thereto,~~ shall, upon notice and
0244 hearing as provided by K.S.A. 40-3118, and amendments thereto,
0245 suspend:

0246 (1) The license of each driver in any manner involved in the
0247 accident;

0248 (2) the license of the owner of each motor vehicle involved in
0249 such accident, unless the vehicle was stolen at the time of the
0250 accident, proof of which must be established by the owner of the
0251 motor vehicle. Theft by a member of the vehicle owner's imme-
0252 diate family under the age of 18 years shall not constitute a stolen
0253 vehicle for the purposes of this section;

0254 (3) the registrations of all vehicles owned by the owner of
0255 each motor vehicle involved in such accident;

0256 (4) if the driver is a nonresident, the privilege of operating a
0257 motor vehicle within this state; or

0258 (5) if such owner is a nonresident, the privilege of such
0259 owner to operate or permit the operation within this state of any
0260 motor vehicle owned by such owner.

0261 (i) The suspension requirements in subsection (h) shall not
0262 apply:

0263 (1) To the driver or owner if the owner had in effect at the
0264 time of the accident an automobile liability policy as required by
0265 K.S.A. 40-3107, and amendments thereto, with respect to the
0266 vehicle involved in the accident;

0267 (2) to the driver, if not the owner of the vehicle involved in
0268 the accident, if there was in effect at the time of the accident an
0269 automobile liability policy with respect to such driver's driving
0270 of vehicles not owned by such driver;

0271 (3) to any self-insurer as defined by subsection (u) of K.S.A.
0272 40-3103, and amendments thereto;

0273 (4) to the driver or owner of any vehicle involved in the
0274 accident which was exempt from the provisions of this act pur-
0275 suant to K.S.A. 40-3105, and amendments thereto;

0276 (5) to the owner of a vehicle described in subsection (a)(2).

0277 (j) For the purposes of provisions (1) and (2) of subsection (i)
0278 of this section, the director may require verification by an
0279 owner's or driver's insurance company or agent thereof that there
0280 was in effect at the time of the accident an automobile liability
0281 policy as required in this act.

0282 Any suspension effected hereunder shall remain in effect until
0283 satisfactory proof of financial security has been filed with the
0284 director as required by subsection (d) of K.S.A. 40-3118, and
0285 amendments thereto, and such person has been released from
0286 liability, has entered into an agreement for the payment of
0287 damages, *or* has been finally adjudicated not to be liable in
0288 respect to such accident and evidence of any such fact has been
0289 filed with the director and has paid the reinstatement fee herein
0290 prescribed. Such reinstatement fee shall be \$25 except that if the
0291 registration of a motor vehicle of any owner is suspended within
0292 one year following a prior suspension of the registration of a
0293 motor vehicle of such owner under the provisions of this act such
0294 fee shall be \$75.

0295 (k) The provisions of this section shall not apply to motor
0296 carriers of property or passengers regulated by the corporation
0297 commission of the state of Kansas.

0298 (l) The provisions of subsection (d) shall not apply to vehicle
0299 dealers, as defined in K.S.A. 8-2401, and amendments thereto,
0300 for vehicles being offered for sale by such dealers.

0301 Sec. 3. K.S.A. 1987 Supp. 8-1604 and 40-3104 are hereby
0302 repealed.

0303 Sec. 4. This act shall take effect and be in force from and
0304 after its publication in the statute book.