

Approved: February 20, 1996  
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Bill Bryant at 3:30 p.m. on February 15, 1996 in Room 527S-of the Capitol.

All members were present except: Representative Tom Sawyer  
Representative Brenda Landwehr

Committee staff present: Bill Wolff, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Betty McBride, Department of Motor Vehicles  
Representative Cindy Empson  
John W. Smith, Department of Motor Vehicles  
Linda DeCoursey, Kansas Insurance Department  
Darrell Richardson, Kansas Insurance Department

Others attending: See attached list

Betty McBride, Director of the Vehicles, Division of Motor Vehicles of the Department of Revenue, presented an investigative report regarding the development of an automobile liability insurance verification system (Attachment 1). Mrs. McBride explained the four options considered by the Division:

1. Comprehensive insurance system interfacing with KDLS (Kansas Drivers License Service) and VIPS (Vehicle Information Processing System). Upon application for a drivers license, the system would be checked and without current insurance, a drivers license would not be issued. Vehicle registration would also be contingent upon current insurance. The unique identifier for both systems would be SSN (social security number) which would have to be statutorily mandated by the state. The public would strongly oppose such legislation. Start-up costs would be \$55,300 not including telecommunications and annual processing costs.
2. Comprehensive insurance system interfacing with VIPS. Identifier would be the vehicle identification number (18 digits) which could lead to a high error rate due to the inability to match VIN's thus creating a large manual workload. Start-up costs would be \$38,400.
3. Cancellation system interfacing with KDLS & VIPS. Cancellation and new policy information only would be transmitted. Lapse in coverage would cause licensure suspension and vehicle registration revocation. SSN/FEIN (Federal identification number) would link KDLS and VIPS. Start-up cost of \$28,400.
4. Cancellation system interfacing with VIPS. Cancellation and new policy information only would be transmitted. Lapse in coverage would cause licensure suspension and vehicle registration revocation. Dependent upon VIN number. Start-up cost is \$16,000.

Current manpower in the division cannot handle additional workload if SSN or VIN are used within a system due to the high error rate.

Uninsured motorists are a small percentage (5% or between 100,000 and 200,000) of Kansas drivers. Solution is contingent upon cooperation from the insurance industry and the establishment of a unique identifier to tie the computer systems together. The key factor is enforcement and short of impounding the vehicle, an uninsured motorist will continue to drive without a valid license or vehicle registration. The VIP system has reached its limitations.

**Hearing on HB 2691 - Motor vehicles, proof of financial security**

Representative Cindy Empson explained the bill as changing from 20 days to 10 days the time for a person to show proof of liability after an arrest or citation (Attachment 2). It shortens the time for a person to request a

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
Room 527S-Statehouse, at 3:30 a.m. on February 15, 1996.

hearing after conviction and states that if the owner cannot show proof of continuous financial security his license is to be suspended.

John Smith, Division of Motor Vehicles, reviewed proposed changes in the law (Attachment 3). One of the changes would be to revoke the tag of the arrested not to suspend as this is causing record keeping problems and it only costs \$2.00 to have the tag replaced.

The Committee discussed the problem of persons purchasing liability insurance in order to register a vehicle and then canceling it the same or next day. Some insurance companies sell insurance by the month and it is difficult to track the uninsured until they have been delinquent for two months. It is not plausible to require the purchase of insurance by the year due to the expense when registering and tagging a vehicle. Some states have started confiscating uninsured vehicles and it has become a nightmare due to storage and record keeping problems. Kansas ranks low in insurance rates compared to other states. Hearing dates for person found to be without vehicle insurance are scheduled 10 days after the hearing notices are mailed. Even though the only question asked at the hearing is if the person involved in the accident or receiving the ticket had insurance at the time of the incident, a hearing officer who is an attorney is required to conduct the hearing. A severe shortage of hearing officers is causing two people from the Topeka office to travel throughout the state to meet the needs. There is a backlog of hearings as these hearing officers are also required to provide administrative hearings for those with DUI arrests refusing to take the alcohol or drug test. Most hearing officers are very willing to work out some type of arrangement if the person involved in the incident has never been arrested before for this violation. The current law is for chronic uninsureds. Many of the people found to be uninsured are discovered through their involvement in accidents.

Mr. Smith was asked to work with Revisor Bruce Kinzie in the development of a balloon amendment for the bill and present it to the Committee at a later date.

Linda DeCoursey of the Insurance Department presented comments regarding the participation of the Department in the development of the report presented by the Division of Vehicles (Attachment 4). She suggested that before a verification system is adopted, the following criteria be examined:

1. Kansas has a low uninsured population. The 5% do, however, appear to be the ones involved in a high percentage of accidents. In the case of accidents involving uninsured motorists, the insured motorist's insurance pays for the entire cost of the damages to the insured's car and driver.
2. Reducing uninsured motorist population is enforcement of laws. The NAIC recommends the strict enforcement of laws including mandatory and significant fines for first time offenders. (Included in the testimony are samples of what other states are doing to address the enforcement issue).
3. Institute a program for impoundment of tags or vehicles. This would require either hiring more Highway Patrol personnel to remove the tags or the implementation of the "bounty hunter" system used in Florida. This utilizes and authorizes recovery agents, repossessioners, or private investigators to seize license plates of vehicles known not to have insurance.

Darrell Richardson of the Consumers Division of the Kansas Insurance Department reported that the problem of uninsured motorists is worsening in the metropolitan areas. He recommends that the minimum be a 3 month insurance payment plan so 30 day notices could be implemented.

Representative Dawson moved for the approval of the February 12 minutes. The motion was seconded by Representative Correll. Motion carried.

The meeting was adjourned at 4:50 p.m. The next meeting is scheduled for February 19, 1996.





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Division of Vehicles

MEMORANDUM

TO: The Honorable Rep. William M. Bryant  
Chairman, Financial Institutions & Insurance Comm.

FROM: Betty McBride  
Director of Vehicles *Betty McBride*

DATE: October 12, 1995

RE: Automobile Liability Insurance Verification System

This report is in response to your letter requesting a cooperative investigation by the Departments of Administration, Insurance, and Revenue regarding the development of an automobile liability insurance verification system. At issue is the feasibility of such a system to identify and reduce the number of uninsured Kansas motorists.

The Department of Revenue has coordinated this effort, working closely with the Department of Insurance and representatives of the insurance industry in Kansas. Four options were considered as systems solutions with programming costs ranging from \$55,300 to \$16,100, not including telecommunications and annual processing costs. These options are listed below:

Option 1: Comprehensive insurance system interfacing with KDLS and VIPS

This option would contain a master file of current statewide policy information, which is updated by the insurance companies on a regular basis. Upon application for a drivers license, the system would be checked, and without current insurance a drivers license would not be issued. Vehicle registration would also be contingent upon current insurance.

Critical to the development and success of a comprehensive system is a unique identifier that can match the data between systems. It is not feasible to use name, address, and DOB because a person may not have this information in identical format in each of the different systems. SSN is the obvious choice, and while KDLS does have the ability to capture SSN and some drivers have chosen to use their SSN, it is not mandatory. Also, VIPS does not currently capture SSN. A statute change would have to be made to mandate SSN be supplied for drivers license and vehicle registration purposes. Such a proposal would be strongly opposed by the general public.

Information Systems has estimated the start-up costs for this option of be \$55,300, not including telecommunications and annual processing costs.

*John D. LaFaver*  
*Attachment 1*  
*2-15-96*

## Option 2: Comprehensive insurance system interfacing with VIPS

It was suggested that a match between VIPS and insurance company data could be run using the vehicle identification number (VIN). Vehicle registration would be contingent upon current insurance. While in theory this may sound feasible, use of the VIN as the match criteria was a concern, due to the length of the number. It is likely there would be a high error rate due to the inability to match VINs, creating a large manual workload, unable to be absorbed with current staff. IS has estimated the cost to develop this system at \$38,400.

## Option 3: Cancellation system interfacing with KDLS & VIPS

In this scenario, cancellation and new policy information only would be transmitted. A lapse in coverage would cause a license suspension and vehicle registration revocation. This system would be dependent upon the capture and use of the SSN/FEIN to link KDLS and VIPS. The estimated IS start-up cost is \$28,400.

## Option 4: Cancellation system interfacing with VIPS

Cancellation and new policy information only would be transmitted. A lapse in coverage would cause a revocation of the vehicle registration. This system would be dependent upon the accurate capture of the VIN. The estimated IS start-up cost is \$16,100.

It is apparent in each of the options that the key to a successful system is a unique identifying number to cross match data between driver license, vehicle registration, and insurance industry records. This is also a major obstacle, because one does not currently exist. While SSN seems a likely choice, it is not mandated for either licensing or registration purposes, and is also not required by the insurance industry. As stated earlier, a statute change would be needed.

## Insurance Industry

The Department of Insurance coordinated a meeting with industry representatives to hear their suggestions for possible solutions. Bill Sneed with State Farm served as spokesperson for the group. He stated that while the industry was not necessarily opposed to the idea of a verification system, and are willing to work with the State, the real issue in their opinion is enforcement. Without adequate law enforcement of the existing insurance statutes, a new computer system alone is not the answer. Also of great concern is the adverse impact a mandated computer system would place on small independent agents.

Information was presented at the meeting which concluded that the uninsured motorist problem in Kansas is not critical. Specifically, the report stated:

- Kansas' uninsured motorist population is very small compared to other states. Based on NAI statistics, it ranks the 5th lowest out of 47 jurisdictions for which information is available. The uninsured motorist population is approximately one-third the size of the national average.
- Kansas has very favorable uninsured motorist claim frequency experience compared to other states with compulsory liability insurance laws and the nation as a whole. The trend in the rate of claims incurred in Kansas is almost flat over the five year period reviewed. Claim frequency for other states has risen substantially.
- Auto insurers are incurring very little lost dollars for uninsured motorist coverage in Kansas, as its uninsured motorist loss cost is extremely small compared to other states.

A copy of this report is attached (Attachment 1). Also discussed at this meeting were other state efforts to establish a similar system. Virginia, Utah, & New York have attempted to establish a system, but with little or no success. They have been plagued with high implementation costs, high error rates, and little or no effect on lowering the uninsured motorist rate.

## Other Concerns

The Department is concerned with the possibility of a high error rate if a system is implemented due to records that don't match up when using either SSN or VIN. Errors would have to be handled and researched manually, creating a great workload for the Division, which could not be absorbed with current staffing.

## Summary

In summary, the problem of uninsured motorists is always a serious problem; however, in Kansas it appears to be a small percentage of the driving population. The challenge in trying to reduce it even further is one of cost and method, realizing that the problem will never completely be eliminated. A solution will be contingent upon cooperation from the insurance industry, and without a unique identifier to tie the different computer systems together, a systems solution is not possible. It is the general consensus of the group that a key factor is increased enforcement, and short of impounding the vehicle, an uninsured motorist will continue to drive without a valid license or vehicle registration.

cc: John LaFaver, Secretary of Revenue  
Kathleen Sebelius, Insurance Commissioner  
Sheila Frahm, Secretary of Administration  
Tom Wilder, Dept. of Insurance  
Dave Shrader, KDOR

**KANSAS VS. OTHER STATES:  
UNINSURED MOTORIST INSURANCE EXPERIENCE**

This document has been prepared to offer statistical evidence that Kansas' uninsured motorist population is not as severe as those in other states, and that its uninsured motorist loss experience is quite favorable compared to other states. The source of the figures shown is the NAII database, representing about 47% of the personal automobile premium volume. The tables shown compare Kansas to all states or to various states with compulsory liability insurance laws. Kansas, too, has a compulsory law that requires drivers to purchase liability insurance.

**I. KANSAS HAS A VERY LOW U.M. POPULATION; IN FACT, IT IS  
MORE FAVORABLE THAN MOST OTHER STATES**

Table I sets forth individual state ratios of uninsured motorist (U.M.) claim frequency to bodily injury liability (B.I.) claim frequency, reflecting the latest available experience (1992) from NAII. These ratios provide a fairly good indication of the percentage of accidents involving uninsured motorists and may, therefore, be used as a proxy to measure the extent of the uninsured motorist problem. California, New York, Massachusetts and South Carolina are not listed because the U.M. and B.I. data in California is not comparable to each other, and B.I. data for New York is not readily accessible. In addition, NAII does not collect automobile insurance statistics for the last two states.

Of the forty-seven jurisdictions shown below, Kansas ranks #43, with a U.M.-to-B.I. claim frequency ratio of 7.7%. In other words, there are 42 states, including the District of Columbia, whose uninsured motorist population is greater than Kansas. Kansas' U.M. population is much lower than the nation as a whole (about 20%). The vast majority of people living in this state already have liability insurance.

TABLE I  
Estimated Uninsured Motorist Population  
and State Ranking

<u>Rank</u>	<u>State</u>	<u>1992 Ratio of UM-to-BI Claim Frequency</u>	<u>Rank</u>	<u>State</u>	<u>1992 Ratio of UM-to-BI Claim Frequency</u>
5	Alabama	28.4%	31	Montana	10.5%
7	Alaska	23.1	44	Nebraska	7.1
21	Arizona	14.3	14	Nevada	16.5
34	Arkansas	10.4	38	New Hampshire	9.5
1	Colorado	34.8	41	New Jersey	8.9
19	Connecticut	14.4	4	New Mexico	30.1
13	Delaware	16.7	46	North Carolina	4.6
10	Dist. of Col.	19.8	42	North Dakota	7.7
26	Florida	12.1	18	Ohio	15.3
20	Georgia	14.3	6	Oklahoma	25.0
35	Hawaii	10.2	12	Oregon	17.4
40	Idaho	9.1	28	Pennsylvania	11.4
30	Illinois	10.6	2	Rhode Island	33.7
16	Indiana	16.0	45	South Dakota	5.6
33	Iowa	10.4	9	Tennessee	20.7
43	Kansas	7.7	8	Texas	21.2
23	Kentucky	13.4	32	Utah	10.5
22	Louisiana	13.5	39	Vermont	9.5
47	Maine	4.2	17	Virginia	15.5
25	Maryland	12.5	11	Washington	19.6
27	Michigan	11.9	37	West Virginia	9.6
15	Minnesota	16.3	29	Wisconsin	10.6
3	Mississippi	32.1	36	Wyoming	10.1
24	Missouri	13.1		Countrywide	20.4

Source: NAIH

II. UNINSURED MOTORIST CLAIM FREQUENCY EXPERIENCE IN KANSAS IS  
FAVORABLE COMPARED TO OTHER STATES

A more in-depth look at uninsured motorist loss experience is shown in Table II. Shown here are trends in uninsured and underinsured motorists (U.M./U.I.M.) claim frequency of Kansas versus various states whose compulsory liability insurance laws became effective sometime between 1983 and 1985 and the nation as a whole. This period was chosen because of the ready availability of trend data from 1983 to 1987. Although claim frequencies involving uninsured motorists still continue to rise for the most part, Kansas' claim frequency is very low compared



to other compulsory insurance states and the countrywide average. Kansas' relatively low frequency demonstrates that its uninsured motorist problem is not that severe, since only 5 claims out of 10,000 insured vehicles were incurred in the late 1980s. Certainly, it is less of a problem than in the eight compulsory states shown below.

TABLE II  
Trends in U.M./U.I.M. Claim Frequency  
(Per 10,000 Ins. Vehicles)

	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987*</u>
Alaska	22	16	31	38	45
Arizona	23	25	29	31	33
D.C.	66	131	95	89	107
Indiana	26	26	37	48	42
<b>Kansas</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>5</b>	<b>5</b>
New Mexico	46	48	51	60	64
Ohio	14	13	15	16	17
Vermont	4	6	24	92	88
Wyoming	4	5	6	6	5
Countrywide	21	22	27	30	29

\* Data for 1987 is evaluated as of 15 months only, whereas data for all previous years is evaluated as of 27 months. Hence, claim frequency figures for 1987 are most likely understated.

Source: NAI

III. UNINSURED MOTORIST LOSS COST EXPERIENCE IN MANY COMPULSORY STATES IS WORSE THAN KANSAS

Presented in Table III is the trend in U.M. loss costs for bodily injury coverage for Kansas compared to selected states having a mandatory requirement. The period shown is 1990 through 1992. The loss cost is the combination of the claim frequency and average claim cost; it represents the average incurred loss per U.M.-insured vehicle. Similar to the comparison of claim frequency experience for U.M./U.I.M., Kansas has extremely low U.M. (B.I.) loss costs relative to other compulsory states. This further indicates that the uninsured motorist population in Kansas does not create a critical problem in terms of insurance losses.

TABLE III  
Kansas vs. Compulsory States  
U.M. (Bodily Injury) Loss Cost Experience

	<u>1990</u>	<u>1991</u>	<u>1992*</u>
Kansas	\$ 2.73	\$ 6.13	\$ 4.12
Arizona	\$31.22	\$31.51	\$20.33
Connecticut	32.10	34.95	33.50
Delaware	19.82	20.11	18.50
Dist. of Col.	38.78	47.50	40.76
Louisiana	27.22	28.56	24.36
Nevada	30.13	32.11	25.96
New Mexico	28.05	28.63	29.00
Oklahoma	21.45	26.34	25.55
Pennsylvania	22.56	18.52	12.56

\* Data for 1992 is evaluated as of 15 months only, whereas data for all previous years is evaluated as of 27 months. Hence, loss cost figures for 1992 are most likely understated.

Source: NAIH

#### IV. CONCLUSION

In conclusion, there is relatively little uninsured motorist problem in Kansas. Its uninsured motorist population is one of the lowest in the nation, almost a third of the countrywide average. Very few uninsured motorist claims are incurred by residents of this state, compared to other states with a compulsory liability law. Moreover, the average U.M. loss amount which insurance companies incur per insured vehicle is significantly lower than other states.

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STATE OF KANSAS



TOPEKA

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FEBRUARY 15, 1996

TO: HOUSE FINANCIAL INSTITUTIONS AND INSURANCE

RE: HB 2691

Mr. Chairman, Member of the Committee, thank you for allowing me to appear before you today in support of HB 2691. This bill changes from 20 days to 10 days the time for a person to show proof of liability after an arrest or citation. It also shortens the time for a person to request a hearing after conviction and clearly states that if the owner cannot show proof of continuous financial security his license is to be suspended.

I introduced this bill because of an incident one of my constituents contacted me about this summer. Her daughter was involved in a two car accident last February 14, (1995). The man who hit her was cited for failure to yield and no liability insurance. This should have been pretty cut and dry, as the law clearly states that no motor vehicle shall be registered or re-registered unless the owner has in effect a liability

*House File*

*Attachment 2*

*2-15-96*

insurance policy covering such vehicle. However, five months after the accident, when the mother first contacted me, this gentleman still had a valid license and was still driving. He had also made no effort to pay for the damages to the girl's car.

When I got involved, I had multiple contacts with John Smith from the driver Control Bureau and he helped me work out some changes to our current laws that he believed would help alleviate this problem in the future. He also has some additional changes with which I have no problem but I will let him explain them.

If we are going to have mandatory liability laws, we should make enforcement and penalties easy to enact. I ask for your favorable support of HB 2691.

Section 1. K.S.A. 8-1604 is hereby amended to read as follows: 8-1604

(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person, or damage to any vehicle or other property which is driven or attended by any person, shall give such person's name, address and the registration number of the vehicle such person is driving, and upon request shall exhibit such person's license or permit to drive, the name of the company with which there is in effect a policy of motor vehicle liability insurance covering the vehicle involved in the accident and the policy number of such policy to any person injured in such accident or to the driver or occupant of or person attending any vehicle or other property damaged in such accident, and shall give such information and upon request exhibit such license or permit and the name of the insurer and policy number, to any police officer at the scene of the accident or who is investigating the accident and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person.

(b) In the event that none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (a) of this section, and no police officer is present, the driver of any vehicle involved in such accident after fulfilling all other requirements of K.S.A. 8-1602, and amendments thereto, and subsection (a) of this section, insofar as possible on such person's part to be performed, shall forthwith report such accident to the nearest office of a duly authorized police authority and submit thereto the information specified in subsection (a) of this section.

(c) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with failing to provide the name of such person's insurance company and policy number as required in subsection (a), shall be convicted if such person produces in court, within ~~20~~ 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, make and year of vehicle and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Upon the production in court of evidence of financial security, the court shall 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 stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. 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

*House File*  
*Attachment 3*  
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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 request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge hereunder shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court. (effective 7-1-88)

Sec. 2. K.S.A. 1995 Supp. 40-3104 is hereby amended to read as follows: (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of this act.

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

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall attach a copy of the insurance verification form prescribed by the secretary of revenue to the copy of the citation forwarded to the court.

No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was

not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c) or (d) shall be convicted if such person produces in court, within 20 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Upon the production in court of evidence of financial security, the court shall 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 stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. 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 request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge of violating subsection (b), (c) or (d) shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

(f) Any person in whose name more than 25 motor vehicles are registered in Kansas may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner of insurance. The certificate of self-insurance issued by the commissioner shall cover such owned vehicles and those vehicles, registered in Kansas, leased to such person if the lease agreement requires that motor vehicle liability insurance on the vehicles be provided by the lessee. Upon application of any such person, the commissioner of insurance may issue a certificate of self-insurance, if the commissioner is satisfied that such person is possessed and will continue to be possessed of ability to pay any judgment obtained against such person arising out of the ownership, operation, maintenance or use of any motor vehicle described in this subsection.

Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may

cancel a certificate of self-insurance upon reasonable grounds. Failure to pay any judgment against a self-insurer, arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, within 30 days after such judgment shall have become final, shall constitute reasonable grounds for the cancellation of a certificate of self-insurance.

(g)(1) Any person violating any provision of this section shall be guilty of a class B misdemeanor and shall be subject to a fine of not less than \$200 nor more than \$1,000 or confinement in the county jail for a term of not more than six months, or both such fine and confinement. (2) Any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a class A misdemeanor.

(h) In addition to any other penalties provided by this act for failure to have or maintain financial security in effect, the director, upon receipt of a report required by K.S.A. 8-1607 or 8-1611, and amendments thereto, or a denial of such insurance by the insurance company listed on the form prescribed by the secretary of revenue pursuant to subsection (d) of this section, shall, upon notice and hearing as provided by K.S.A. 40-3118, and amendments thereto, suspend:

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

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

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

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

(5) if such owner is a nonresident, the privilege of such owner to operate or permit the operation within this state of any motor vehicle owned by such owner. (i) The suspension requirements in subsection (h) shall not apply:

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

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

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

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

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



Any suspension *or revocation* effected hereunder shall remain in effect until satisfactory proof of financial security has been filed with the director as required by subsection (d) of K.S.A. 40-3118, and amendments thereto, and such person has been released from liability or is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action, ~~has entered into an agreement for the payment of damages,~~ *has entered into an agreement for the payment of damages* or has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director and has paid the reinstatement fee herein prescribed. Such reinstatement fee shall be \$25 except that if the registration of a motor vehicle of any owner is ~~suspended~~ *revoked* within one year following a prior suspension of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be \$75.

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

(l) the provisions of subsection (d) shall not apply to vehicle dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being offered for sale by such dealers. (effective 7-1-94)

Sec. 3 K.S.A. 40-3118 is hereby amended to read as follows: 40-3118

(a) No motor vehicle shall be registered or reregistered in this state unless the owner, at the time of registration, has in effect a policy of motor vehicle liability insurance covering such motor vehicle, as provided in this act, or is a self-insurer thereof, or the motor vehicle is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such policy of motor vehicle liability insurance is provided by the school district or accredited nonpublic school. As used in this section, the term "financial security" means such policy or self-insurance. The director shall require that the owner certify that the owner has such financial security, and the owner of each motor vehicle registered in this state shall maintain financial security continuously throughout the period of registration. When an owner certifies that such financial security is a motor vehicle liability insurance policy meeting the requirements of this act, the director may require that the owner or owner's insurance company produce records to prove the fact that such insurance was in effect at the time the vehicle was registered and has been maintained continuously from that date. Failure to produce such records shall be prima facie evidence that no financial security exists with regard to the vehicle concerned. It shall be the duty of insurance companies, upon the request of the director, to notify the director within 30 calendar days of the date of the receipt of such request by the director of any insurance that was not in effect on the date of registration and maintained continuously from that date.

(b) Except as otherwise provided in K.S.A. 40-276, 40-276a and 40-277, and amendments thereto, and except for termination of insurance resulting from non-payment of premium or upon the request for cancellation by the insured, no motor vehicle liability insurance policy, or any renewal thereof, shall be terminated by cancellation or failure to renew by the insurer until at least 30 days after mailing a notice of termination, by certified or registered mail or United States post office certificate of

mailing, to the named insured at the latest address filed with the insurer by or on behalf of the insured. Time of the effective date and hour of termination stated in the notice shall become the end of the policy period. Every such notice of termination sent to the insured for any cause whatsoever shall include on the face of the notice a statement that financial security for every motor vehicle covered by the policy is required to be maintained continuously throughout the registration period, that the operation of any such motor vehicle without maintaining continuous financial security therefor is a class B misdemeanor and that the registration for any such motor vehicle for which continuous financial security is not provided is subject to suspension and the driver's license of the owner thereof is subject to suspension.

(c) The director of vehicles shall verify a sufficient number of insurance certifications each calendar year as the director deems necessary to insure compliance with the provisions of this act. The owner or owner's insurance company shall verify the accuracy of any owner's certification upon request, as provided in subsection (a).

(d) In addition to any other requirements of this act, the director shall require a person to acquire insurance and for such person's insurance company to maintain on file with the division evidence of such insurance for a period of three one years from the date such person's driving privileges are otherwise eligible to be reinstated after such when a person has been convicted in this or another state of any of the following violations enumerated in K.S. A 8-285:

~~(1) Vehicular homicide, as defined by K.S.A. 21-3405 and amendments thereto, or as prohibited by any ordinance of any city in this state or any law of another state which is in substantial conformity with that statute;~~

~~(2) violating K.S.A. 8-1567 and amendments thereto, or violating an ordinance of any city in this state or any law of another state, which ordinance or law declares to be unlawful the acts prohibited by that statute;~~

~~(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262 and amendments thereto, or as prohibited by any ordinance of any city in this state or any law of another state which is in substantial conformity with that statute;~~

~~(4) any crime punishable as a felony, if a motor vehicle was used in the perpetration of the crime;~~

~~(5) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602 through 8-1604, and amendments thereto, or required by any ordinance of any city in this state or a law of another state which is in substantial conformity with those statutes; and~~

~~(6) violating the provisions of K.S.A. 40-3104 and amendments thereto, relating to motor vehicle liability insurance coverage or an ordinance of any city in this state which is in substantial conformity with such statute.~~

The director shall also require any driver whose driving privileges have been suspended pursuant to this section or K.S.A. 40-3104 and amendments thereto to maintain such evidence of insurance as required above. The company of the insured shall immediately mail notice to the director whenever any policy required by this subsection to be on file with the division is terminated by the insured or the insurer for any reason. The

*100,000 on file + different to track  
Major change  
notice of violation / fine as long as he is insured.*

receipt by the director of such termination shall be prima facie evidence that no financial security exists with regard to the person concerned.

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

*New*

For the purposes of this act, the term "conviction" includes pleading guilty or nolo contendere, being convicted or being found guilty of any violation enumerated in this subsection without regard to whether sentence was suspended or probation granted. A forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. ~~Also entering into a diversion agreement in lieu of further eriminal proceedings on a complaint alleging a violation of the offense described in paragraph (2) of this subsection shall constitute a conviction for the purpose of this act.~~

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

(e) Whenever the director shall receive prima facie evidence, as prescribed by this section, that continuous financial security covering any motor vehicle registered in this state is not in effect, the director shall notify the owner by registered or certified mail or United States post office certificate of mailing that, at the end of 30 days after the notice is mailed, the registration for such motor vehicle and the driving privileges of the owner of the vehicle shall be suspended, pursuant to such rules and regulations as the secretary of revenue shall adopt, unless: (1) Within the thirty-day period, such owner shall demonstrate proof of continuous financial security covering such vehicle to the satisfaction of the director; or (2) within the thirty-day period such owner shall request a hearing with the director. Upon receipt of a timely request for a hearing, the director shall afford such person an opportunity for hearing within the time and in the manner provided in K.S.A. 8-255 and amendments thereto. If, within the thirty-day period or at the hearing, such owner is unable to demonstrate proof of continuous financial security covering the motor vehicle in question, the director shall suspend the registration of such motor vehicle and the driving privileges of the owner of the vehicle, unless the failure is due to a cause beyond the reasonable control of the owner upon proof deemed satisfactory by the director.

(f) Whenever the registration of a motor vehicle or the driving privileges of the owner of the vehicle are suspended for failure of the owner to maintain continuous financial security, such suspension shall remain in effect until satisfactory proof of insurance has been filed with the director as required by subsection (d) and a reinstatement fee in the amount herein prescribed is paid to the division of vehicles. Such reinstatement fee shall be in the amount of \$25 except that if the registration of a motor vehicle of any owner is suspended within one year following a prior suspension of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be in the amount of \$75. The division of vehicles shall, at least monthly, deposit such fees with the state treasurer, who shall credit such moneys to the state highway fund.

(g) In no case shall any motor vehicle, the registration of which has been suspended for failure to have continuous financial security, be reregistered in the name of the owner thereof, the owner's spouse, parent or child or any member of the same household, until the owner complies with subsection

(f). In the event the registration plate has expired, no new plate shall be issued until the motor vehicle owner complies with the reinstatement requirements as required by this act.

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

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

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

(k) Whenever any person has made application for insurance coverage and such applicant has submitted payment or partial payment with such application, the insurance company, if payment accompanied the application and if insurance coverage is denied, shall refund the unearned portion of the payment to the applicant or agent with the notice of denial of coverage. If payment did not accompany the application to the insurance company but was made to the agent, the agent shall refund the unearned portion of the payment to the applicant upon receipt of the company's notice of denial.

(l) For the purpose of this act, "declination of insurance coverage" means a final denial, in whole or in part, by an insurance company or agent of requested insurance coverage. (effective 4-23-87)

Sec. 4 K.S.A. 8-1604 and 40-3118 and K.S.A. 1995 Supp. 40-3104 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.



Kathleen Sebelius  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

TO: House Committee on Financial Institutions and Insurance

FROM: Linda De Coursey, Coordinator  
Government and Public Affairs

RE: Comments regarding the Automobile Liability Insurance Verification System

Mr. Chairman and members of the Committee:

Thank you for allowing me the opportunity to make a few comments regarding the Automobile Liability Insurance Verification System.

As you know, the Kansas Insurance Department participated with the Division of Vehicles and representatives of the insurance industry in studying a verification system for Kansas as was suggested in HB 2188. We do concur with the report of that study in that a verification system would not be cost effective for the state to implement.

We respectfully ask the House Committee on Financial Institutions and Insurance to consider the following points when making a decision whether to consider a verification system for Kansas:

**Kansas has a low uninsured population:** Even though 5% of the motorist population in Kansas are uninsured motorists, that translates to quite a few people (100,000 to 200,000) driving around at risk. And, they do appear to be involved in accidents. The Consumers Assistance Division of the Department receives many calls from consumers being involved in accidents with

*House File*

*Attachment 4*

*2-15-96*

an uninsured motorists. When these uninsured drivers are involved in an accident, it causes double injury to the other motorist--not only does the wreck cause damage to the insured's car and the driver, but the insurance policy of the insured motorist pays for the entire cost of the damages.

**Reducing uninsured motorist population is enforcement of laws:** It does little good to have laws which require mandatory insurance with no enforcement until there is an accident. In some areas, police routinely ask motorists for proof of insurance; in other areas of the state, it doesn't happen. Some county clerks ask for an insurance card when tags are renewed; others allow forms to be mailed and insurance information may be verified.

If drivers cannot provide proof of insurance, they face penalties of up to \$1,000 and a maximum six month jail term. Anyone convicted of a second offense, within three years, faces fines of up to \$2,500 and a maximum one-year jail term. Plus, conviction on a charge of driving without insurance triggers an automatic suspension of the offender's driver's license.

The National Association of Insurance Commissioners studied uninsured motorists in 1989 and asserted that strict enforcement of laws, including mandatory and significant fines for first time offenders was the key in keeping uninsured motorists off the roads. Attached to the written testimony are a few examples of what other states are doing with regard to enforcement.

**Institute a program for impoundment of tags or vehicles.** This is an option, however, the law in Kansas prior to the passage of the "no-fault" law required insurance companies to report to the Division of Vehicles when drivers canceled their insurance. The Highway Patrol was then notified and sent to remove license tags from the uninsured cars. The Legislature repealed that statute in the 1980s because of various problems, including the fact that reports were often incorrect, so tags were taken from motorists who had valid insurance. The Highway Patrol

complained that they did not have sufficient staff to remove license tags and handle their other duties. Perhaps we can consider what Florida has implemented recently--a "bounty hunter" system to remove license tags from uninsured motorist cars.

Again, thank you for the opportunity to share our comments and concerns with you about the verification system. Hopefully, we can come up with a reasonable solution. It will take inter-agency cooperation, and the willingness to monitor and enforce the law.

Attachment 1

**Enforcement efforts in other states for violation of mandatory and financial responsibility laws.**

**Statutes and regulations.**

Other states have pursued and implemented aggressive legislation to decrease the number of uninsured motorists on their roads. The following are some recently enacted laws to increase the enforcement of mandatory auto liability insurance and/or financial responsibility laws:

**OHIO:** Ohio's new uninsured motorist law became effective in April of 1995. Although the law is technically a financial responsibility law, it has some compulsory auto liability insurance features. For a first offense of failure to produce proof of insurance, the minimum penalty is a 90 day license suspension and a \$75 license reinstatement fee. For multiple offenses, suspension of license for up to a year is possible and the reinstatement fee is \$250 for the second offense and \$500 for third and subsequent offenses. There is a \$50 penalty for failure to surrender a driver's license, license plates, or registration. Also, drivers who fail to show proof may be required to maintain special high risk insurance for five years. In addition, law enforcement officers must ask for proof of insurance when citing for traffic violations and drivers must bring proof of insurance to court or face the 90 day license suspension. And as of October 20, drivers must carry an insurance ID card or other written proof of insurance at all times. Prior to the new law, Ohio had 15.3% uninsured motorists (1992).

**ILLINOIS:** Illinois' mandatory insurance law became effective January 1, 1991 and was permanently extended January 1, 1994. Uninsured vehicles are detected through routine traffic stops and questionnaires sent to randomly selected registered vehicles by the secretary of state. License plates are suspended if the questionnaire is not returned or if the driver had no auto liability insurance as of the date listed on the questionnaire. There is a minimum fine of \$500 for driving without insurance and \$1000 for driving a vehicle while its registration is suspended for non-insurance. Vehicle registrations for all the owners of uninsured vehicles are suspended pending proof of insurance and a \$100 reinstatement fee. Repeat offenders must also pay a \$100 reinstatement fee and receive a four-month suspension of vehicle registration. License plates



may be confiscated from vehicles driven while registration is suspended due to failure to insure. In 1987 19% of Illinois' motorists were uninsured.

**FLORIDA:** Florida law permits law enforcement officers to impound or immobilize cars for a second arrest for driving without a license if the first license revocation was due to driving without insurance. Proof of insurance is necessary to recover the vehicle. In selected counties a temporary experiment is being conducted in which recovery agents (repossessors) or private investigators can seize license plates of vehicles known not to have insurance. In 1985, 31% of Florida's motorists were uninsured.

**UTAH:** Utah has recently established a database that coordinates auto policy holder data with driver's licenses and registrations. Insurance information is updated monthly by insurers. The information from the database is used in two ways: law enforcement officers screen motorists on routine traffic stops and also a comparison of records is made and warning letters are sent to uninsured motorists. The database was established by InsureRite (Richard Kasteler, president, 801-531-0731) and is administered by Utah's Division of Motor Vehicles. According to your June 27, 1995 notes from a meeting with Betty McBride, Bill Sneed and Pamela Edwards, the system may have 90-97% accuracy and will cost \$1 million to fund (\$1.00 per registration). A lawsuit has been filed in response to the establishment of the database claiming that the state's demand for insurance information is unconstitutional because it seeks to seize insurance companies' intellectual property. Utah had a 6% rate of uninsured motorists in 1988 but according to Holly Derum of InsureRite that rate had risen to 25% uninsured prior to the establishment of the database.

**Pending legislation.**

**ALABAMA:** A bill making auto liability insurance mandatory was recently introduced with the following penalties: \$1000 fine and automatic suspension of drivers license and registration for failure to produce proof of insurance. The projected cost of enforcement is \$3 million. Forty percent of Alabama's motorists are uninsured.

**LOUISIANA:** New legislation would implement fines of \$1000, license suspension, and a possible six month jail term for drivers who lie about being insured. Twenty to forty percent of Louisiana's motorists are uninsured.

**NEW MEXICO:** A new bill would allow law enforcement officers to remove license plates and impound vehicles involved in accidents. New Mexico has a 50% uninsured motorist rate.

**CALIFORNIA:** A bill to increase enforcement of California's financial responsibility law would require drivers to produce proof of insurance when they register or renew registration of their auto or when requested by a police officer. Failure to produce proof would result in fines and impoundment for the first offense and impoundment for the second offense. Insurers would be required to notify the Division of Motor Vehicles when policies are issued, renewed, or canceled. California has a 28-30% uninsured motorist rate.

**CALIFORNIA, DELAWARE, MICHIGAN, AND EIGHT OTHER STATES:** "No pay, no play" legislation would bar uninsured motorists involved in accidents from bringing lawsuits for pain and suffering.