

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on February 28, 2006 in Room 234-N of the Capitol.

All members were present except:

James Barnett- excused
Karin Brownlee- excused
Pete Brungardt- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Bev Beam, Committee Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

The Chair called the meeting to order. The Chair said the hearing would continue on **(SB 322) - relating to the Kansas Automobile Injury Reparations Act; concerning certain penalties; providing for triple damages.**

The Chair said Stephanie Sharp had a bill in the House that dealt with what happens if a motorist doesn't pay damages. This bill concerns administrative procedure for revocation or actually suspension of the license if someone falls behind in their payments. She said Stephanie's bill originally had a similar procedure set up in the court but then it was changed to an administrative procedure with the Division of Motor Vehicles. That was amended into **(HB 2690)**. **(HB 2690)** did get on the floor but it was then amended into **(HB 2938)** which concerns motor vehicles and that did pass.

The chair said her intentions are to take Stephanie's proposals and put them into **(SB 322)**. I want to insert Stephanie's language into our bill plus, I want on Page 5 of our bill to make some amendments on the first second and third convictions. I have asked Ken to draw up some balloons setting out these amendments. Basically, in **(SB 322)**, I want to look at the convictions. On the first conviction, it would remain the same language as in the statutes now. On the second, I would incorporate some of Journey's language and on the third, I don't want to make it a severity level 9. I want to tie it to an off-grid felony that mirrors what the DUI laws are.

The Chair asked Ken to further explain the bill.

Mr. Wilke said per the Chair's wishes, he has written a balloon that would further amend **(SB 322)** as amended by this committee. Mr. Wilke gave the committee a line-by-line explanation of each change in the balloon. (Attachment 1)

Stephanie Sharps' bill creates an administrative mechanism for suspension of licenses if someone whose license is suspended is in an accident and they have agreed to pay damages for the other person's car, Mr. Wilke said. If they default, there is a notice that goes to the Motor Vehicle Department and the Motor Vehicle Department suspends the license. If they get back on track and current, then the license would be reinstated. But, if they default a second time, then that is it. This is strictly for someone driving without insurance who has damaged someone else.

Senator Schmidt said in order to understand, Stephanie's bill was amended in committee, then **(HB 2690)** was amended into **(HB 2938)**. The committee amendments were adopted, but **(HB 2690)**, which was her bill, did not go across the floor so her amendments, as adopted by the committee, were put into **(HB 2938)** as floor amendments. **(HB 2938)** originally dealt with driving while your license is revoked. Now we have **(SB 322)** and we are trying to put **(HB 2690)** into **(SB 322)** without the other things of **(HB 2938)**.

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 28, 2006 in Room 234-N of the Capitol.

Senator Barone asked for another recap. The amendments made by this committee dealing with first, second and third convictions all reside in subsection (g) of this particular statute. The amendments that Stephanie Sharp made are over in subsection (j), Mr. Wilke said.

Senator Wysong asked that when the committee works this bill that we have a finished document in front of us. Mr. Wilke said such a document would be provided.

The Chair asked the committee to think about this Bill and be ready to work it.

The meeting adjourned at 10:10 a.m. The next meeting of this Committee is scheduled for March 1, 2006.

1 or use of any motor vehicle described in this subsection. A self-insurer
 2 shall provide liability coverage subject to the provisions of subsection (e)
 3 of K.S.A. 40-3107, and amendments thereto, arising out of the ownership,
 4 operation, maintenance or use of a self-insured motor vehicle in those
 5 instances where the lessee or the rental driver, if not the lessee, does not
 6 have a motor vehicle liability insurance policy or insurance coverage pur-
 7 suant to a motor vehicle liability insurance policy or certificate of insur-
 8 ance or such insurance policy for such leased or rented vehicle. Such
 9 liability coverage shall be provided to any person operating a self-insured
 10 motor vehicle with the expressed or implied consent of the self-insurer.

11 Upon notice and a hearing in accordance with the provisions of the
 12 Kansas administrative procedure act, the commissioner of insurance may
 13 cancel a certificate of self-insurance upon reasonable grounds. Failure to
 14 provide liability coverage or personal injury protection benefits required
 15 by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any
 16 liability imposed by law arising out of the ownership, operation, mainte-
 17 nance or use of a motor vehicle registered in such self-insurer's name, or
 18 to otherwise comply with the requirements of this subsection shall con-
 19 stitute reasonable grounds for the cancellation of a certificate of self-
 20 insurance. Reasonable grounds shall not exist unless such objectionable
 21 activity occurs with such frequency as to indicate a general business
 22 practice.

23 Self-insureds shall investigate claims in a reasonably prompt manner,
 24 handle such claims in a reasonable manner based on available information
 25 and effectuate prompt, fair and equitable settlement of claims in which
 26 liability has become reasonably clear.

27 As used in this subsection, "liability imposed by law" means the stated
 28 limits of liability as provided under subsection (e) of K.S.A. 40-3107, and
 29 amendments thereto.

30 Nothing in this subsection shall preclude a self-insurer from pursuing
 31 all rights of subrogation against another person or persons.

32 (g) (1) ~~Any person violating~~ Upon a first conviction of a violation of
 33 any provision of this section, a person shall be guilty of a class B misde-
 34 meanor and shall be subject to a fine of not less than \$300 nor more than
 35 \$1,000 or confinement in the county jail for a term of not more than six
 36 months, or both such fine and confinement.

37 (2) ~~Any person convicted of violating~~ On a second conviction of a
 38 violation of any provision of this section ~~within three years of any such~~
 39 ~~prior conviction,~~ a person shall be guilty of a class A misdemeanor and
 40 shall be ~~subject to a fine of~~ not less than \$800 nor more than \$2,500.

41 (3) On a third or subsequent conviction of a violation of any provision
 42 of this section, a person shall be guilty of a ~~severity level 9,~~ nonperson
 43 felony.

an off-grid

within five years of any such prior conviction

fined

and sentenced to a term of not less than 10 consecutive days.
 No person sentenced under this provision shall be eligible for
 probation or parole until the term of imprisonment has been
 served.

Senate FI&I Committee
 Attachment 1-1
 February 28, 2006

Senate FI&I Committee
 Attachment 1-1
 February 28, 2006

1-2

1 (h) In addition to any other penalties provided by this act for failure
 2 to have or maintain financial security in effect, the director, upon receipt
 3 of a report required by K.S.A. 8-1607 or 8-1611, and amendments
 4 thereto, or a denial of such insurance by the insurance company listed on
 5 the form prescribed by the secretary of revenue pursuant to subsection
 6 (d) of this section, shall, upon notice and hearing as provided by K.S.A.
 7 40-3118, and amendments thereto:

8 (1) Suspend:

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

10 (B) the license of the owner of each motor vehicle involved in such
 11 accident, unless the vehicle was stolen at the time of the accident, proof
 12 of which must be established by the owner of the motor vehicle. Theft
 13 by a member of the vehicle owner's immediate family under the age of
 14 18 years shall not constitute a stolen vehicle for the purposes of this
 15 section;

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

18 (D) if such owner is a nonresident, the privilege of such owner to
 19 operate or permit the operation within this state of any motor vehicle
 20 owned by such owner; and

21 (2) revoke the registration of all vehicles owned by the owner of each
 22 motor vehicle involved in such accident.

23 (i) The suspension or revocation requirements in subsection (h) shall
 24 not apply:

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

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

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

35 (4) to the driver or owner of any vehicle involved in the accident
 36 which was exempt from the provisions of this act pursuant to K.S.A. 40-
 37 3105, and amendments thereto;

38 (5) to the owner of a vehicle described in subsection (a)(2). (1)

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

43 [Any suspension or revocation effected hereunder shall remain in effect]

1-2

1 [until satisfactory proof of financial security has been filed with the director
2 as required by subsection (d) of K.S.A. 40-3118, and amendments thereto,
3 and such person has been released from liability or is a party to an action
4 to determine liability pursuant to which the court temporarily stays such
5 suspension pending final disposition of such action, has entered into an
6 agreement for the payment of damages, or has been finally adjudicated
7 not to be liable in respect to such accident and evidence of any such fact
8 has been filed with the director and has paid the reinstatement fee herein
9 prescribed. Such reinstatement fee shall be \$100 except that if the reg-
10 istration of a motor vehicle of any owner is revoked within one year fol-
11 lowing a prior revocation of the registration of a motor vehicle of such
12 owner under the provisions of this act such fee shall be \$300.

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

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

19 Sec. 4 2. K.S.A. 40-3104 and ~~K.S.A. 2005 Supp. 21-3436~~ are is
20 hereby repealed.

21 Sec. 5 3. This act shall take effect and be in force from and after its
22 publication in the statute book.

[INSERT 1

1-3

1-3

1 ~~[(3) to any self insurer as defined by subsection (u) of K.S.A.~~
2 ~~40-3103, and amendments thereto;~~

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

6 ~~[(5) to the owner of a vehicle described in subsection (a)(2).~~

7 ~~[(j) (1) For the purposes of provisions (1) and (2) of subsection~~
8 ~~(i) of this section, the director may require verification by an~~
9 ~~owner's or driver's insurance company or agent thereof that there~~
10 ~~was in effect at the time of the accident an automobile liability~~
11 ~~policy as required in this act.~~

12 ~~[Any suspension or revocation effected hereunder shall remain in effect~~
13 ~~until satisfactory proof of financial security has been filed with the director~~
14 ~~as required by subsection (d) of K.S.A. 40-3118, and amendments thereto,~~
15 ~~and such person has been released from liability or is a party to an action~~
16 ~~to determine liability pursuant to which the court temporarily stays such~~
17 ~~suspension pending final disposition of such action, has entered into an~~
18 ~~agreement for the payment of damages, or has been finally adjudicated~~
19 ~~not to be liable in respect to such accident and evidence of any such fact~~
20 ~~has been filed with the director and has paid the reinstatement fee herein~~
21 ~~prescribed. Such reinstatement fee shall be \$100 except that if the reg-~~
22 ~~istration of a motor vehicle of any owner is revoked within one year fol-~~
23 ~~lowing a prior revocation of the registration of a motor vehicle of such~~
24 ~~owner under the provisions of this act such fee shall be \$300.~~

25 ~~[(2) Subject to the provisions of subsection (k), any suspension or~~
26 ~~revocation effected hereunder shall remain in effect until such person:~~

27 ~~[(A) Has filed satisfactory proof of financial security with the director~~
28 ~~as required by subsection (d) of K.S.A. 40-3118 and amendments thereto;~~

29 ~~[(B) has paid the reinstatement fee herein prescribed; and~~

30 ~~[(C) (i) has been released from liability;~~

31 ~~[(ii) is a party to an action to determine liability pursuant to which~~
32 ~~the court temporarily stays such suspension pending final disposition of~~
33 ~~such action;~~

34 ~~[(iii) has entered into an agreement for the payment of damages; or~~

35 ~~[(iv) has been finally adjudicated not to be liable in respect to such~~
36 ~~accident and evidence of any such fact has been filed with the director.~~

37 ~~[(3) The reinstatement fee shall be \$100 except that if the registration~~
38 ~~of a motor vehicle of any owner is revoked within one year following a~~
39 ~~prior revocation of the registration of a motor vehicle of such owner under~~
40 ~~the provisions of this act such fee shall be \$300.~~

41 ~~[(k) (1) Whenever any person whose license has been suspended or~~
42 ~~revoked pursuant to this section is involved in an accident and has entered~~
43 ~~into an agreement with any driver, or such driver's insurer, who has been~~

1-5

1 damaged or whose vehicle has been damaged to pay for such damage and
2 such person defaults on payments under such agreement, the driver or
3 the driver's insurer, as appropriate, shall notify the director within 60
4 days of the date of default.

5 [(2) Upon receipt of the notice of default, the director shall immedi-
6 ately suspend such person's license and registration. If such person is a
7 nonresident, the director shall immediately suspend such person's non-
8 resident's privilege to operate a motor vehicle in this state.

9 [(3) Except as provided in paragraph (4), such person's driver's li-
10 cense, registration and nonresident's operating privilege shall remain so
11 suspended and shall not be renewed, nor shall any such license or regis-
12 tration be thereafter issued in the name of such person, including any
13 such person not previously licensed, unless and until:

14 [(A) the director receives notice payments under the agreement re-
15 ferred to in paragraph (1) have been resumed and that payments under
16 such agreement are no longer in default;

17 [(B) such person has filed satisfactory proof of financial responsibility
18 with the director as required by subsection(d) of K.S.A. 40-3118 and
19 amendments thereto; and

20 [(C) the reinstatement fee required by subsection (j) has been paid.

21 [(4) Upon due notice to the director that the conditions of paragraph
22 (3) have been fulfilled, such person may obtain from the director an order
23 restoring such person's driver's license, registration and nonresident's op-
24 erating privilege to operate a motor vehicle in this state conditioned upon
25 such person's continued compliance with the agreement referred to in
26 paragraph (1).

27 [(5) In the event such person fails to make any further payment under
28 the agreement referred to in paragraph (1) when such payment is due,
29 the director, upon receipt of notice of such default, shall immediately
30 suspend the license, registration or nonresident's operating privilege of
31 such person until all payments have been made under the agreement re-
32 ferred to in paragraph (1). No suspension of such person's license, regis-
33 tration or nonresident's privilege to operate a motor vehicle in this state
34 shall be reinstated pursuant to paragraph (4).

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

38 ~~[(m) The provisions of subsection (d) shall not apply to ve-~~
39 ~~hicle dealers, as defined in K.S.A. 8-2401, and amendments~~
40 ~~thereto, for vehicles being offered for sale by such dealers.]~~

41 ~~Sec. 4. [5.] K.S.A. 8-262 and [8-267 [and 40-3104] and K.S.A.~~
42 ~~2005 Supp. 21-4704 are hereby repealed.~~

1-5