

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:37 A.M. on February 25, 2008, in Room 123-S of the Capitol.

All members were present except:

Terry Bruce - excused
Donald Betts arrived, 9:38 A.M.
David Haley arrived, 9:38 A.M.
Phil Journey arrived, 9:38 A.M.
Derek Schmidt - excused

Committee staff present:

Bruce Kinzie, Office of Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Karen Clowers, Committee Assistant

Conferees

Matt Goddard, Heartland Community Bankers

Others attending:

See attached list.

The Chairman opened the hearing on **SB 582–Driving under the influence, ignition interlock and impoundment of vehicle.**

Bruce Kinzie, staff revisor, reviewed the bill.

There being no conferees, the hearing on **SB 582** was closed.

The hearing on **SB 615–Motor vehicles, failure to maintain financial security** was opened.

Senator Umbarger provided background on the bill indicating it was a “work in progress” following two years of interim work on the problem of individuals canceling insurance after obtaining license plates with the required proof of insurance. This has become an increasing problem, the goal of the bill is to provide an incentive to individuals for retaining insurance on motor vehicles.

Matt Goddard spoke in support, stating uninsured motorists on Kansas roads have become a serious problem (Attachment 1). He had concern that **SB 615** does not distinguish between the automobile of an uninsured motorist and the collateral the automobile represents and recommended an amendment attached to his testimony which protects the security interest of a lender.

Written testimony in opposition to **SB 615** was submitted by:

Callie Denton Hartle, Kansas Association for Justice (Attachment 2)

There being no further conferees, the hearing on **SB 615** was closed.

The Chairman called for final action on **SB 427–No statute of limitations for certain sex offenses.** The Chairman reviewed the bill.

Senator Donovan moved, Senator Umbarger seconded, to amend SB 427 on page 1, line 28, by inserting the word “in” after “ as defined”. Motion carried.

Senator Vratil moved, Senator Goodwin seconded, to amend SB 427 on page 2, line 26, by changing the word “and” to “or”. Motion failed.

Senator Donovan moved, Senator Umbarger seconded, a technical amendment to SB 427 on page 1, line 26, changing “K.S.A. 21-3056” to “K.S.A. 21-3506”. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:37 A.M. on February 25, 2008, in Room 123-S of the Capitol.

Senator Allen moved, Senator Betts seconded, to amend **SB 427** on page, line 20, by inserting the language “two or more of the following four factors are present.” Following discussion, the motion was withdrawn.

Senator Journey moved, Senator Donovan seconded, to refer **SB 427** to the Judicial Council.

Senator Goodwin made a substitute motion, Senator Allen seconded, to recommend **SB 427** as amended, favorably for passage. Motion failed.

Back on Senator Journey’s motion. Motion carried.

The Chairman called for final action on **SB 495–Restricting transfer of offenders to DOC with 10 or less days remaining on sentence**. Senator Vratil reviewed the bill.

Senator Journey moved, Senator Haley seconded, to amend **SB 495** by changing the time frame from 10 to 30 days. Following discussion, Senator Journey amended his motion to change the time frame from 10 to 20 days, Senator Haley agreed. Motion carried.

Senator Journey moved, Senator Donovan seconded, to recommend **SB 495** as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 545–Health insurance coverage information for children in divorce action**. Senator Vratil reviewed the bill and the proposed amendments from Mark Gleeson, Office of Judicial Administration offered during Mr. Gleeson’s testimony on February 18.

Senator Donovan moved, Senator Goodwin seconded, to amend **SB 545** as proposed by Mark Gleeson. Motion carried.

Senator Journey moved, Senator Betts seconded, to recommend **SB 545** as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 565–The state fair board, employees, background investigations**. Senator Vratil reviewed the bill and distributed a proposed amendment from the State Fair Board (Attachment 3). Bruce Kinzie, staff revisor, reviewed the amendment. The Chairman indicated the amendment changes the bill significantly so to give time to the committee to review it, **SB 565** will be taken up at a later date.

The meeting adjourned at 10:30 A.M. The next scheduled meeting is February 26, 2008.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: February 25 '08

NAME	REPRESENTING
Whitney Jamm	Ks Bar Assn.
Jenine Wright	KDHE
Jared Davis	
Chadwick	
Alyssa Phelps	PAGE Blue Valley Middle
Harold Phelps	Self Bucyrus Ks
Karl Wagner	Kearney & Associates
Jay Kramer	CARTER GROUP
Pete Bodyk	KDOT
Barb Coxant	KDOA
Patricia May	Prinjer, Smith
Shamika Stamps	KAAAC
Irene Caballero	KH LAAC
Dave Dayroult	KIOGA
Tim Madden	KDOC
Ed Klumpp	KACP & KPOA
Callie Hurtle	KS Assn for Justice



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To: Senate Judiciary Committee

From: Matthew Goddard
Heartland Community Bankers Association

Date: February 25, 2008

Re: Senate Bill No. 615

The Heartland Community Bankers Association appreciates the opportunity to suggest an amendment to Senate Bill 615 to the Senate Judiciary Committee.

The bill prohibits the owner of a motor vehicle from recovering the first \$5,000 of property damage to his or her motor vehicle if the owner has failed to maintain financial security on the vehicle. HCBA recognizes the serious problem of uninsured motorists on our roads and highways but we have one concern with SB 615 that we feel needs to be addressed. Attached is a balloon amendment that addresses our concern.

Senate Bill 615 does not distinguish between the automobile of an uninsured motorist and the collateral the automobile represents to a lender. Accordingly, the attached amendment would protect the holder of a perfected security interest. With the adoption of this amendment, a lender with a perfected security interest would still be able to recover the first \$5,000 in property damage to its collateral.

Financial institutions and any other entities that make a car loan attempt to protect their security interest in the vehicle by requiring the owner to carry comprehensive insurance. This includes making sure they are included as a loss payee on the insurance policy. Unfortunately, on rare occasions, the insurance may lapse or be canceled and the lender is not in a position to immediately force place coverage. This may be due to the amount of time it takes for the insurer to process the notification and mail it or it may be for other reasons. Regardless of the reason, auto lenders make every available effort to make sure the vehicle that serves as collateral for a loan is fully insured.

The attached amendment would protect the security interest a lender has in the motor vehicle in the event that the owner is uninsured and involved in an accident. If the lien holder were not able to recover the first \$5,000 in property damage, the losses resulting from the reduced value of the collateral would be passed on to other borrowers.

We respectfully request the Senate Judiciary Committee adopt the attached amendment to SB 615.

Thank you.

1-2

1 court shall consider, but not be limited to, the following:

2 (A) Whether the impoundment or immobilization of the motor vehicle

3 would result in the loss of employment by the convicted person or a mem-

4 ber of such person's family; and

5 (B) whether the ability of the convicted person or a member of such

6 person's family to attend school or obtain medical care would be impaired.

7 (3) Any personal property in a vehicle impounded or immobilized

8 pursuant to this subsection may be retrieved prior to or during the period

9 of such impoundment or immobilization.

10 (4) As used in this subsection, the convicted person's motor vehicle

11 shall include any vehicle leased by such person. If the lease on the con-

12 victed person's motor vehicle subject to impoundment or immobilization

13 expires in less than 30 days from the date of the impoundment or im-

14 mobilization, the time of impoundment or immobilization of such vehicle

15 shall be the amount of time remaining on the lease.

16 (m) The owner of a motor vehicle shall not recover the first \$5,000 of

17 property damage to such owner's motor vehicle, if the owner has failed

18 to have or to maintain financial security on such motor vehicle and is

19 involved in an accident with a motor vehicle which has in effect financial

20 security, even if such accident was the fault of the driver of the motor

21 vehicle having financial security in effect.

22 ~~(n)~~ (n) The provisions of this section shall not apply to motor carriers

23 of property or passengers regulated by the corporation commission of the

24 state of Kansas.

25 ~~(o)~~ (o) The provisions of subsection (d) shall not apply to vehicle

26 dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehi-

27 cles being offered for sale by such dealers.

28 Sec. 3. K.S.A. 2007 Supp. 8-1021 and 40-3104 are hereby repealed.

29 Sec. 4. This act shall take effect and be in force from and after its

30 publication in the statute book.

Nothing in this section shall be prevent any holder of a perfected security interest from recovering for any property damage to a motor vehicle.



Your rights. Our mission.

To: Senator John Vratil, Chairman
Members of the Senate Judiciary Committee

From: Callie Denton Hartle

Date: February 25, 2008

Re: SB 615, Concerning the Kansas Automobile Injury Reparations Act;
failure to maintain financial security--**OPPOSE**

The Kansas Association for Justice is a statewide, nonprofit organization of attorneys that serve Kansans seeking justice. I appreciate the opportunity to provide testimony on behalf of KsAJ. KsAJ is opposed to SB 615.

The purpose of the Kansas Automobile Injury Reparations Act is to provide a means of compensating persons promptly for accidental bodily injury arising out of the ownership, operation, maintenance or use of motor vehicles in lieu of liability for damages. SB 615 increases the penalties for failing to maintain insurance coverage in compliance with the Act.

First and foremost, KsAJ acknowledges that proper enforcement is necessary to ensure compliance with the requirement to maintain insurance coverage. However KsAJ members are concerned that the new penalties are not carefully tailored and will not result in greater compliance. KsAJ members' experience is that uninsured motorists fail to buy and maintain the required auto coverage not because of flagrant disrespect for the law, because they can't afford insurance—they are poor.

We believe most uninsured motorists would buy insurance if they could afford it. Instead, they must risk violating the law in order to meet their daily obligations of getting to work, getting their children to and from school, and seeking health care. It is not a situation that anyone would choose. For these people, the enhanced penalties in SB 615 will likely not increase their compliance with the law, since the penalties do not address the reason they are uninsured.

Senate Judiciary

2-25-08

Attachment 2

The Act already contains significant penalties for failure to maintain the required coverage: fines and court costs, potential jail time and suspension of both the license of the driver and of the owner of the vehicle until damages are paid. Now, if an uninsured motorist loses their license or is jailed and cannot get to work, they risk losing their job—a significant punishment and deterrent. We believe the current penalties and their natural consequences are appropriately tailored not only to incentivize compliance but to punish noncompliance.

KsAJ is also concerned about the inherent unfairness of allowing a negligent driver to profit for hitting an uninsured motorist. The bill penalizes a vehicle owner for failing to maintain financial security by eliminating the first \$5,000 of property damage coverage, even if the damage occurred in an accident the uninsured motorist doesn't cause. Failing to maintain proper insurance is a crime, and there are appropriate penalties. But eliminating the right to recover damages caused by another's negligence is an unnecessary taking of property rights and goes beyond the scope of a reasonable punishment.

KsAJ members believe the Kansas Automobile Injury Reparations Act no longer protects Kansans in the way it once did, or in the way it was intended. But the discussion must start not with increased penalties, but with an assessment of whether the benefit limits are sufficient to provide reasonable compensation to persons injured in an auto accident.

For example, the minimum automobile liability limits were set at \$15,000 in 1974, and increased to \$25,000 in 1981. The limits have not kept pace with inflation: based on the consumer price index, \$25,000 in 1981 is equal to \$61,741.50 today. Likewise, the PIP medical limit has remained at \$4,500. Again, based on the consumer price index, this limit is now worth \$11,113.47. KsAJ members represent clients who have no health insurance. When they are in an accident, this amount is all they have to pay for their treatment.

We look forward to participating in a broader discussion of how to make the Kansas Automobile Injury Reparations Act a law that better achieves its stated purpose. However, we must respectfully request that the committee oppose SB 615.

Thank you for the opportunity to provide you with our testimony.

SENATE BILL No. 565

By Committee on Judiciary

2-6

Proposed Amendment

Prepared by Office of Revisor of Statutes
February 25, 2008

Senate Judiciary

2-25-08
Attachment 3

9 AN ACT relating to the state fair board; concerning background inves-
10 tigations for certain employees; amending K.S.A. 2-205 and repealing
11 the existing section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2-205 is hereby amended to read as follows: 2-205.

15 (a) (1) All moneys received by the state fair board through the operation
16 of the state fair and from any and all other sources directly related to the
17 operation of the state fair shall be remitted to the state treasurer in ac-
18 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.
19 Upon receipt of each such remittance, the state treasurer shall deposit
20 the entire amount in the state treasury to the credit of the state fair fee
21 fund, which is hereby created.

22 (2) During each fiscal year, moneys in the state fair fee fund, and
23 appropriations for the operation of the state fair from the state general
24 fund made for the state fair, or the state fair board, may be transferred
25 from the state treasury to a bank in Reno county, Kansas, to the account
26 of the state fair board, upon vouchers of the state fair board, to establish
27 the state fair board local bank account. The moneys in the state fair board
28 local bank account may be used by the state fair board:

29 (A) In operating and conducting a state fair, including but not by way
30 of limitation, the payment of labor, salaries of part-time employees, prizes
31 and awards and as provided by this section; and

32 (B) in operating and promoting nonfair days events. The state trea-
33 surer and the director of accounts and reports are authorized and directed
34 to honor all such vouchers and orders of the state fair board, and to make
35 such transfers as directed.

36 (3) (A) During each fiscal year, the state fair board may expend mon-
37 eys on deposit to its credit in the state fair board local bank account, for
38 the operation and promotion of the state fair and nonfair days events, by
39 approved vouchers directed to the treasurer of the state fair board and
40 by the issuance of checks by the treasurer of the board to the persons
41 entitled thereto as shown upon such vouchers. All such expenditures may
42 be made without compliance with any of the provisions of any act con-
43 tained in article 37 of chapter 75 of the Kansas Statutes Annotated, and

3-2

1 amendments thereto.

2 (B) During the period beginning May 1 and extending to October 31
3 of each year, the state fair board may employ labor and personnel in
4 conjunction with the current operation of the state fair, without compli-
5 ance with the provisions of any act contained in article 29 of chapter 75
6 of the Kansas Statutes Annotated, and amendments thereto. *The state
7 fair board may conduct ~~criminal and background investigations for such
8 employees.~~ This authority to employ shall not be construed as authorizing
9 the board to employ its normal classified service employees on a different
10 basis for all or any part of that six-month period.*

11 (4) On or before each June 30, all unencumbered moneys on deposit
12 to the credit of the state fair board in the state fair board local bank
13 account shall be transferred back to the state treasury to the credit of the
14 state fair fee fund or appropriation from the state general fund according
15 as each may be entitled. All moneys in the state fair fee fund may be used
16 for the payment of checks drawn against the state fair board local bank
17 account upon vouchers drawn by the state fair board. Upon the close of
18 accounts for each fiscal year, the state fair board shall submit a full and
19 complete object classification report for such fiscal year on all moneys
20 collected by and expended by the state fair board to the director of ac-
21 counts and reports.

22 (b) All moneys received by the state fair board through the operation
23 and promotion of nonfair days events shall be deposited in the state fair
24 board local bank account for use for nonfair days events by the state fair
25 board and as provided by this section. All expenses incurred in the op-
26 eration and promotion of nonfair days events shall be paid from the state
27 fair board local bank account by issuance of checks by the treasurer of
28 the state fair board or a person designated by such treasurer.

29 (c) The state fair board local bank account required for use in oper-
30 ating and promoting the state fair or nonfair days events under this section
31 shall be awarded to a bank in Reno county, Kansas, by the pooled money
32 investment board under a written agreement in accordance with proce-
33 dures for state bank accounts under K.S.A. 75-4217, and amendments
34 thereto, and shall be secured by pledge of securities in the manner pre-
35 scribed for state bank accounts under K.S.A. 75-4218, and amendments
36 thereto, and in the amount prescribed for fee agency accounts under that
37 statute.

38 (d) (1) Upon request of the state fair board, the director of accounts
39 and reports shall authorize the state fair board to establish a change fund
40 for the purposes of the state fair for use on those days not designated as
41 official state fair days in an amount of not to exceed \$15,000 to be main-
42 tained in the form of cash. For the purposes of establishing such change
43 fund, moneys may be withdrawn from moneys available therefor in the

a check of the internet site maintained by the Kansas bureau of investigation concerning registered offenders prior to employing such persons. The board is authorized to use such information to determine such person's fitness for employment. The state fair board or any employees thereof, shall not be liable for civil damages to any person refused employment or discharged from employment by reason of the board complying with this paragraph