

SESSION OF 2010

**SUPPLEMENTAL NOTE ON HOUSE
SUBSTITUTE FOR SENATE BILL NO. 260**

As Recommended by House Committee on
Insurance

Brief*

House Sub. for SB 260 would require the Secretary of Revenue, in consultation with the Insurance Commissioner, to implement a motor vehicle financial security verification and compliance system for the purpose of verifying compliance with the financial security verification system requirements of the Kansas Automobile Injury Reparations Act (KSA 40-3101 *et seq.*, verification of proof of auto insurance). The verification system is to be installed and fully operational by March 1, 2011, following a testing period of not less than nine months. Until this testing period is completed, no enforcement action would be allowed to be taken based on the system.

**Motor Vehicle Financial Security Verification and
Compliance System – System Design, Selection, and
Compliance**

The system that is established under the provisions of the bill cannot impose any additional monetary cost to any government agency, law enforcement agency, or the insurance industry in Kansas for implementation or maintenance and must be capable of being audited by an independent auditor and also must be the system most likely to:

- Reduce the number of uninsured motorists in this state;
- Operate reliably;
- Be cost-effective;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Sufficiently protect the privacy of the motor vehicle owners;
- Sufficiently safeguard the security and integrity of information provided by insurance companies;
- Identify and employ a method of compliance that improves public convenience; and,
- Provide information that is accurate and current.

The bill further specifies that the Secretary of Revenue, in consultation with the Insurance Commissioner, would be required to select and enter into a contract with an agent to develop, implement, operate, and maintain the system. The Secretary also would be authorized to adopt rules and regulations necessary to carry out the provisions for the system development and implementation.

The bill also would specify that the selected vendor could not:

- Be engaged in the business of providing or selling insurance;
- Directly or indirectly promote, endorse, advertise or otherwise solicit on behalf of any insurance company; or,
- Permit any insurance company to directly or indirectly promote, endorse, advertise, otherwise solicit in conjunction with any dissemination of, or the administration of, the motor vehicle financial security verification and compliance system.

The bill also would require insurance companies that provide motor vehicle liability insurance policies to comply with the provisions regarding the verification process established under the bill and to allow the selected vendor to carry out those provisions. The verification system that is adopted must be the sole and exclusive system for the verification and reporting of motor vehicle insurance in the state of Kansas.

Verification System – Information Submitted by Insurers, Use of Information

Among the provisions established for the verification system by the bill:

- *Verification of insurance, transmission.* The system would be required to utilize data reported by insurers and send requests to insurers for verification of insurance via services established by the insurers with enhancements, additions, and modification as required by the state agencies. The system would be required to include appropriate data security provisions and maintain a historical record of the system data for a period of no less than six months from the date of all requests and responses.
- *Access, response time.* The system must be accessible to authorized vendor personnel, the Department of Revenue, the courts, law enforcement, and any other entities authorized by the state, and it must be interfaced, wherever appropriate, with existing state systems. The vendor would be responsible for ensuring that the verification system responds to each requestor within a time period established by the state agencies.
- *Objectives, details and deadlines; guide.* The state agencies and the vendor would be required to consult with insurance industry representatives and private service providers to determine the objectives, details, and deadlines related to the system. The Department of Revenue would be required to publish for comment, and then issue, a detailed guide of its verification system. Both the Department and the vendor will be required to each maintain a contact person for insurers during the establishment, implementation, and operation of the system.
- *Compliance with, exemptions.* All property and casualty companies licensed to issue motor vehicle insurance

policies or authorized to do business in Kansas would be required to comply with the verification of vehicle insurance for every vehicle the company insures in Kansas, as required by the Department of Revenue, unless the company has been exempted. The bill also would specify that verification system requirements do not apply to vehicles insured under commercial auto coverage (voluntary participation is allowed).

- *Use of Information, Vendor; Confidentiality.* The vendor would be entitled only to information from insurance companies that is available at that time and determined by the Secretary of Revenue to be necessary to carry out the verification system provisions. Information obtained under these provisions is confidential and the vendor would only be permitted to use the information for a purpose authorized under the bill. The information would not be allowed to be used for a commercial purpose. The confidentiality provision created by the bill will expire on July 1, 2015, unless the legislature review and reenacts this provision pursuant to KSA 45-229 (Kansas Open Records Act) prior to July 1, 2015. Any person who knowingly uses information obtained under the verification system provisions for an unauthorized purpose, upon conviction, will be guilty of a class A misdemeanor.
- *Role of the State Agency; Vendor.* The appropriate state agencies, not the vendor, would be responsible for the issuance of tickets, sending notices to vehicle owners, suspension of vehicle registrations, and the collection of all fines and fees. The vendor would not be allowed to charge the State for the setup, implementation, testing, operation, and maintenance of the system but would be compensated as described under the bill.

The bill also would require the Department of Revenue, not more than six months after the insurance verification system has been in operation for two years, to report to the legislature as to the benefits and costs of the verification system to the State, insurers and the public and the

effectiveness of the program [system] in reducing the number of uninsured motor vehicles. The report would be required to include information gathered from and by the Kansas Insurance Department, the insurers, law enforcement and other users of the verification system. The bill also would provide that insurers will be immune from civil and administrative liability for good faith efforts to comply with the terms of the verification system requirements.

Amendment to Current Law

The bill also would amend the current law (KSA 2009 Supp. 8-173) governing the registration and renewal of vehicle registration to allow that proof of insurance may be verified on-line or electronically, in accordance with the motor vehicle verification system requirements established by the bill.

The bill will become effective upon publication in the *Kansas Register*.

Background

Kansas law currently requires individuals to provide verification of financial security (proof of insurance) in three circumstances:

- To law enforcement officers at a traffic stop (KSA 40-3104(d));
- To law enforcement officers at the scene of an auto accident (KSA 8-1604); and,
- When registering or renewing registration of a vehicle (KSA 40-3118, KSA 8-173).

The House Committee on Insurance recommended the introduction of a substitute bill. The substitute bill incorporates the provisions of 2010 HB 2474, as modified by the House Committee. The House Committee recommended

modifications to the bill that, among other things, removed the requirement for an on-line verification system and modified relevant provisions (including the deletion of provisions specific to the Insurance Industry Committee on Motor Vehicle Administration); established a testing period for the verification system; addressed the cost of the system (cost to the vendor and to the state, insurers, and law enforcement); changed the term “agent” to “vendor”; inserted a liability provision for insurers; allowed commercial insurers to participate in the system on a voluntary basis; and created a reporting requirement for the Department of Revenue (to the legislature). The original SB 260 contained provisions that would have enacted new law to provide that anyone who, at the time of an auto accident, has not maintained personal injury protection benefits coverage (pursuant to the Kansas Automobile Injury Reparations Act) would be prohibited from having a cause of action for the recovery of non-economic loss sustained as a result of the accident.

The fiscal note prepared by the Division of the Budget on the original version of HB 2474 states that Department of Revenue estimates the bill would increase expenditures from the State Highway Fund by approximately \$8.0 million. This amount includes \$5,250,000 in one-time expenditures for a feasibility study, design, and implementation costs and \$2,750,000 in annual expenditures for system maintenance, 24-hour support staff, and office space. However, the fiscal note continues, the Department indicates that the bill could not be implemented by its effective date of January 1, 2011, because the feasibility study and the bid process is estimated to take ten to twelve months and to design, develop, and implement the system would take an additional six months. The Department projects that the earliest possible implementation date would be closer to FY 2012. In addition, the cost estimate provided would be to modify the existing Vehicle Information Processing System [VIPS] and the on-line renewal systems. However, the note continues, the ongoing Division of Vehicles Modernization (DMV) Project will make both systems obsolete. Implementing the bill would require the Department to redo a portion of the

design of the DMV Project, adding costs to the project and possibly adding time necessary for completion.

The Kansas Insurance Department indicates that the costs associated with the bill would be negligible and could be absorbed within existing resources. Any fiscal effect associated with this bill is not included in *The FY 2011 Governor's Budget Report*.

A fiscal note was not available on the provisions (amended HB 2474) contained in the substitute bill.