

SENATE BILL No. 340

By Committee on Financial Institutions and Insurance

1-10

1 AN ACT concerning insurance; relating to insurance laws and
2 enforcement thereof; removing automobile club from the definition of
3 person; amending K.S.A. 2023 Supp. 40-2,125 and repealing the
4 existing section.

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

7 Section 1. K.S.A. 2023 Supp. 40-2,125 is hereby amended to read as
8 follows: 40-2,125. (a) If the commissioner determines after notice and
9 opportunity for a hearing that any person has engaged or is engaging in
10 any act or practice constituting a violation of any provision of Kansas
11 insurance statutes or any rule and regulation or order thereunder, the
12 commissioner may in the exercise of discretion, order any one or more of
13 the following:

14 (1) Payment of a monetary penalty of not more than \$1,000 for each
15 and every act or violation, unless the person knew or reasonably should
16 have known such person was in violation of the Kansas insurance statutes
17 or any rule and regulation or order thereunder, in which case the penalty
18 shall be not more than \$2,000 for each and every act or violation;

19 (2) suspension or revocation of the person's license or certificate if
20 such person knew or reasonably should have known that such person was
21 in violation of the Kansas insurance statutes or any rule and regulation or
22 order thereunder; or

23 (3) that such person cease and desist from the unlawful act or practice
24 and take such affirmative action as in the judgment of the commissioner
25 will carry out the purposes of the violated or potentially violated provision.

26 (b) If any person fails to file any report or other information with the
27 commissioner as required by statute or fails to respond to any proper
28 inquiry of the commissioner, the commissioner, after notice and
29 opportunity for hearing, may impose a civil penalty of up to \$1,000, for
30 each violation or act, along with an additional penalty of up to \$500 for
31 each week thereafter that such report or other information is not provided
32 to the commissioner.

33 (c) If the commissioner makes written findings of fact that there is a
34 situation involving an immediate danger to the public health, safety or
35 welfare or the public interest will be irreparably harmed by delay in
36 issuing an order under subsection (a)(3), the commissioner may issue an

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1 emergency temporary cease and desist order. Such order, even when not an
2 order within the meaning of K.S.A. 77-502, and amendments thereto, shall
3 be subject to the same procedures as an emergency order issued under
4 K.S.A. 77-536, and amendments thereto. Upon the entry of such an order,
5 the commissioner shall promptly notify the person subject to the order
6 that: (1) It has been entered; (2) the reasons therefor; and (3) that upon
7 written request within 15 days after service of the order the matter will be
8 set for a hearing which shall be conducted in accordance with the
9 provisions of the Kansas administrative procedure act. If no hearing is
10 requested and none is ordered by the commissioner, the order will remain
11 in effect until it is modified or vacated by the commissioner. If a hearing is
12 requested or ordered, the commissioner, after notice of and opportunity for
13 hearing to the person subject to the order, shall by written findings of fact
14 and conclusions of law vacate, modify or make permanent the order.

(d) For purposes of this section:

16 (1) "Person" means any individual, corporation, association,
17 partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal
18 benefit society and any other legal entity engaged in the business of
19 insurance, rating organization, third party administrator, nonprofit dental
20 service corporation, nonprofit medical and hospital service corporation,
21 ~~attorney-at-law~~, premium financing company, health maintenance
22 organization, insurance holding company, mortgage guaranty insurance
23 company, risk retention or purchasing group, prepaid legal and dental
24 service plan, captive insurance company, automobile self-insurer or
25 reinsurance intermediary and any other legal entity under the jurisdiction
26 of the commissioner. The term "person" does not include insurance agents
27 and brokers as such terms are defined in K.S.A. 40-4902, and amendments
28 thereto.

29 (2) "Commissioner" means the commissioner of insurance of this
30 state.

31 Sec. 2. K.S.A. 2023 Supp. 40-2.125 is hereby repealed.

32 Sec. 3. This act shall take effect and be in force from and after its
33 publication in the ~~statute book~~ Kansas register