Special Committee on Financial Institutions and Insurance

Uninsured Motorists

Conclusions and Recommendations

The Committee recognizes the complexities of the issues presented by staff, agency officials, and the convened panel. The Committee thanks the panelists for their input and recognizes the valuable commentary provided on the topic, including:

- Insurance verification methods;
- Incentives to lower rates of uninsured motorists;
- Penalties for non-compliance;
- Identification of unregistered vehicles, for which insurance is verified only when such vehicle is involved in an accident;
- Complexities of how automobile insurance is written for vehicles owned and insured by commercial entities;
- Verification systems in areas where uninsured motorists are concentrated;
- Current State processes for annual insurance verifications related to vehicle registration;
- Law enforcement processes for insurance verification and enforcement;
- Technology issues related to the current system and a potential real-time verification system; and
- The Division of Motor Vehicles (DMV) Modernization Project, which is near completion and is designed to replace aging mainframe systems used for driver licensing and motor vehicle titling and registration with a single computerized system.

The Committee requests its report be directed to the House and Senate Transportation Committees and recommended that interested agencies, parties, and conferees continue their communication on the topic and report when legislative action is appropriate. This would allow time to evaluate the impact of 2011 SB 136, the DMV Modernization Project, and the development and implementation of the State's new information technology (IT) infrastructure.

Proposed Legislation: None.

Background

The charge to the Special Committee on Financial Institutions and Insurance was to study, review and report on three assigned topics: uninsured motorists, criminal history record checks and fingerprinting requirements for certain financial services representatives,

and implementation of the Patient Protection and Affordable Care Act (PPACA) in Kansas.

On the subject of uninsured motorists, the Committee was directed to: Conduct a comprehensive study on the issue of uninsured motorists in Kansas, including methods to determine which vehicles are not insured. The study would include: (1) Determining what electronic method is best for Kansas in determining whether a vehicle is uninsured, including a review of electronic verification databases maintained by the state or direct queries of insurance company databases; (2) Review steps to encourage Kansans to purchase vehicle insurance, including a study of low cost basic liability policies as provided in selected other states; (3) Determine if additional penalties would be effective in prompting non-complying Kansans to acquire vehicle insurance; and (4) Study alternatives to address uninsured vehicles that also are not registered.

The topic was requested by the Senate Committee on Transportation and was assigned by the Legislative Coordinating Council for study and review.

Committee Activities

In September, the Committee received an overview of the assigned topic including an overview of the Kansas Legislature's prior study of and response to uninsured motorists, verification of auto insurance coverage, and verification requirements in other states from its Committee staff. The Committee received comment from the Assistant Insurance Commissioner on prior Electronic Motor Vehicle Financial Security Verification System Task Force findings. The Director, Division of Vehicles, Kansas Department of Revenue, provided an update on the Vehicle Information Processing System (VIPS) and reviewed the current procedures for verification of auto insurance coverage. A panel was convened and, after brief introductions and presentations, the Committee and panelists held a discussion on responding to uninsured motorists, including insurance verification methods, incentives to lower rates of uninsurance, penalties for non-compliance, and addressing unregistered vehicles. Panelists included representatives who have served or advised prior studies, including task forces, designed to review and respond to the issues created by uninsured motorists and verification of those uninsured motorists and their vehicles.

Topic Overview. Committee staff members reviewed previous legislation and task force reports and findings, current legislation, and statistics and concepts relating to reducing the Uninsured Motorist Rate (UMR) and verifying proof of auto insurance coverage. Information provided in a memorandum to the Committee indicated that the term "uninsured motorist" generally applies to these groups:

- Motorists without insurance driving uninsured vehicles;
- Motorists with insurance driving uninsured vehicles;
- Motorists driving with insurance, but denied coverage;
- Motorists whose insurance carrier has become insolvent; and
- Unknown motorists who cause crashes, regardless of insurance (hit and run).

Staff first highlighted past uninsured motorist legislation, from the 2005 Session to present. The analyst noted 2006 SCR 1619, the first of three enacted resolutions calling for a task force study of an electronic verification system (online insurance database system for verification of proof of insurance). The 2006 resolution followed the review of two bills, SB 321, which would have required a real-time, online insurance verification system with an

implementation deadline (January 1, 2008) for the Kansas Department of Revenue, and SB 322, which would have created a specific penalty for a third offense (failure to provide proof of insurance) and also would have increased fines. Staff provided copies of the three task force reports, highlighting the four goals to serve as the framework for addressing electronic real-time verification in the task force's third year report (to the 2009 Legislature):

- Assist the Director of Vehicles and county treasurers in registration of motor vehicles in compliance with motor vehicle financial security law;

- Provide law enforcement officers with roadside information during traffic stops to determine whether vehicles are in compliance with motor vehicle financial security law;

- Provide greater assurance to the motoring public that other vehicles on the road are insured as required by law; and

- Offer convenient insurance policy interface and reporting for companies required to provide insurance policy information to the state.

Staff next reported that two pieces of legislation were introduced during the 2011 Session:

HB 2291 was introduced and referred to the House Committee on Insurance, with no action taken, to date. This bill would amend current statutes to extend underinsured motorist coverage to "any occupant of the insured vehicle or their heirs at law." Additionally, these individuals would be permitted to recover from the owner or operator of another vehicle the same limits of the policy as are available to the owner of the vehicle they occupied at the time of the crash.

SB 136 provided that anyone operating an uninsured vehicle who, at the time of an auto accident, had not maintained personal injury protection (PIP) benefits coverage is prohibited from having a cause-of-action for non-economic loss. The House Committee amended the bill to include that this prohibition would not apply if the court found the person did not knowingly drive a motor vehicle without PIP coverage. This bill was enacted (Chapter 59, 2011 Session Laws).

Staff next addressed statistics and concepts associated with the issue of uninsured motorists, particularly reasons why persons are uninsured and methods utilized by other states to verify proof of auto insurance coverage. The analyst reported various methods are used in measuring "uninsured motorists" (UM) throughout the United States:

- Database methods comparing databases of registered vehicles to those of insured vehicles;

- Crash statistics;

- Law enforcement statistics; and

- Other types of measurements, such as a percentage determined by the insurance industry based on uninsured motorist and bodily injury claims.

The term "uninsured motorist" can be defined differently from state to state, thereby making measurements more complex. In 2009, the estimated UM rate (as measured by the insurance industry and based on insurance claims) in Kansas was 9.8 percent. Rates for nearby states were 23.9 percent in Oklahoma, 16 percent in Arkansas, 15.2 percent in Colorado, 14.9 percent in Texas, 13.7 percent in Missouri, 11.5 percent in Iowa, and 7.8 percent in Nebraska.

Staff noted that several states have implemented (or are in the process of implementing) electronic insurance verification systems. At the current time, whether UM rates

can be reduced by the use of such systems is unknown, due to system implementation (or systems in various stages of implementation) and the short utilization period (most implemented within the previous two to three years). With Kansas at 9.8 percent (ranked 39th lowest among the states) and Massachusetts at 4.5 percent (1st in the U.S.), Committee members inquired what percentage of improvement is reasonable to expect. Ms. Shelley responded that information is unknown based on available information.

Reports of Agency Officials. Assistant Insurance Commissioner Bob Tomlinson acknowledged the task force reports and commented that the task force was not reapproved due to three basic findings:

- *Data sources.* The Department of Revenue has data on vehicle registrations and it also receives data from insurance companies. When the task force last met, the Insurance Department requested time to rework the two data sources into compatibility.

- *Vendors.* No vendor had yet been able to demonstrate a proven record which recognized task force requirements for verification systems and was compatible with both Kansas uniqueness and Kansas data systems.

- *Addressing uninsured motorists.* The UM issues in Kansas generally are overstated and segmented in patterns which make a universal solution more difficult.

In response to the question of an optimal UM level, Mr. Tomlinson suggested a 5 percent UM rate for Kansas. However, rather than focusing on a target UM percentage, the Assistant Commissioner encouraged the Committee to take actions that add value, actions that are affordable, and actions that can be taken forward. Assistant Commissioner Tomlinson also discussed definitions of uninsured motorists, gaps in information access, insured motorists whose companies become insolvent, verification systems in concentrated UM areas, and various UM insurance coverage models. The Assistant Commissioner said in a response to a question that no process is currently in place to validate continuous auto insurance from the time of purchase to the next insurance policy expiration period, that there is no process in place. The conferee encouraged the Committee to consider the Task Force recommendations, including a real-time verification system supported by monthly insurance data collection submitted to the Kansas Division of Vehicles.

The Director, Division of Vehicles, Kansas Department of Revenue, then provided an update on the current insurance reporting and verification program and the Department's future data needs. The Director indicated that currently the state receives a "monthly book of business" from approximately 230 insurance companies (KAR 40-3-53), which is transmitted electronically into the computer system in the Transaction Set 811 reporting format. The Department requires five fields: vehicle identification number (VIN), policy number, policy transaction code, policy expiration date, and NAIC (National Association of Insurance Commissioners) number assigned to the insurance company. A real-time insurance database from which direct queries can be submitted does not exist. Therefore, annual insurance verifications at vehicle registration are handled manually. The conferee then discussed the process of matching insurance to a VIN, gaps created from the time the "book of business" is generated to when it is received and uploaded into the computer system, and other issues which would prevent an individual from successfully completing his or her annual vehicle registration and proof of insurance through internet connections. In response to an inquiry about the steps the Department has taken to gain compliance from insurance companies in submitting information (a voluntary process), The Director indicated that she will meet with various insurance companies to establish a

dialogue that would result in compliance. The Director stated that access to insurance company files for verification purposes is a priority for the Division when the modernization project is complete.

Panel Presentations. The Committee next held a panel discussion, bringing together former Task Force representatives – insurance agents, insurance company representatives, agency participants – to address the assigned topic and consider recommendations and general conclusions on the matter. The following summarizes the panelists' introductory comments and the informal discussion held.

Tony Kimmi, Farm Bureau Financial Services, and a member of the previous task forces, discussed electronic verification methods, steps to encourage Kansans to purchase vehicle insurance, effective penalties when insurance is not purchased, and alternatives that address uninsured vehicles. On the issue of electronic verification systems, Mr. Kimmi stated a concern that none of the implemented vendor systems had been shown to reduce the number of uninsured drivers; he said implemented systems in other states should be studied for effectiveness and cost prior to any system being put into operation in Kansas. With a modern computerized system in place, a reasonable next step would be to increase the frequency of company reporting to have more timely data available.

Ed Klumpp, representing the Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, and the Kansas Peace Officers Association, highlighted law enforcement's concern about non-compliance with the motor vehicle liability statutes and ordinances. The law enforcement representative distributed a flow chart detailing the motor vehicle liability insurance verification and enforcement process when an individual is involved in an accident or when an officer performs a traffic stop. The panelist described the vehicle liability insurance enforcement process as not having significantly changed in a number of years (for law enforcement); further, the process is typically a paper process requiring officers to duplicate the recording of the same information on the insurance verification forms, citations and accident reports. Mr. Klumpp also described the process as cumbersome, time consuming, and antiquated. The panelist encouraged the adoption of a real-time, electronic verification system; his testimony indicated that the best solution will include a nationwide effort and commitment by government and the insurance industry.

George Cooper, State Farm Insurance and Vice-Chairman of the Insurance Industry Committee on Motor Vehicle Administration (IICMVA), discussed the estimated percentage of UMs by state, various sampling methodologies, variances in complexity and data matching, and the lack of a definition of the term "real-time." He concluded that there is difficulty in determining a direct correlation between UM rates and the effectiveness of insurance verification programs. Mr. Cooper encouraged thoughtful study of potential impacts (implementing a verification system), including:

- A program should do no harm to law- abiding citizens;
- Careful consideration should be given to answering the question of whether such a program can be effective in reducing the UM rate;
- A program should not be exceedingly costly and complex for the state and for insurers to develop and maintain; and
- Lessons learned from other programs need to be carefully evaluated.

Marcy Ralston, Bureau Chief of Driver Control, Division of Vehicles, Kansas Department of Revenue, next encouraged the implementation of a real-time insurance verification system for the State of Kansas. She indicated the current

process is paper driven and outdated, resulting in increased staff hours spent sorting and verifying information. The conferee also recommended that the Committee consider not only the insured in its discussion, but also the uninsured and the need of the courts for simpler, computerized insurance verification.

Loren McGlade, Chartis, U.S., then discussed the impact of an insurance verification system on commercial customers. The panelist provided examples of how commercial customers register vehicles and discussed the complexities of how automobile insurance is written for vehicles owned and insured by commercial entities. The panelist encouraged Committee members to consider the costs of system requirements on business customers (fleet vehicles). Mr. McGlade encouraged consideration of the IICMVA webservice model, which provides real-time verification, is supported by companies holding the vast majority of policies, and is based on the concept of checking for coverage only when the state needs to confirm coverage such as at a traffic stop or during registration.

Lt. Scott Harrington, Kansas Highway Patrol (KHP), spoke about issues law enforcement officers face. The KHP representative indicated that, during a traffic stop, an individual may not have his or her driver's license. The current system queries Division of Vehicles data and allows the officer to verify the identity of the individual and validate the existence of a driver's license. The panelist indicated that, if a similar insurance verification process existed, law enforcement officers could improve their operational efficiencies in the field.

Jean Curry, an insurance agent and past task force member, spoke about the growing problem of UMs in the state. Ms. Curry indicated that, as the economy changes, multiple vehicles in one household may be uninsured. The increase in suspended and revoked drivers' licenses exacerbates the UM issue. The panelist encouraged consideration of actions, including how to assist those who cannot afford insurance. In addition, Ms. Curry suggested alternatives, such as community service, be considered rather than levying fines on an uninsured motorist.

Glen Yancey, Deputy Director of Information Services, Kansas Department of Revenue, next discussed technology issues and differences between the current system and any potential real-time verification system being proposed. Mr. Yancey indicated the problem was not technology; the problem stems from the components within technology: who owns the data, the cost of the system, how to ensure small companies are not penalized, who builds the system, how to share a system across large enterprises, and how data can become more accessible. The panelist said the current system works for registering a vehicle, but it does not work for law enforcement.

Panel Discussion. Following the formal presentations, the Chairperson opened discussion, beginning with a reference to earlier testimony stating Kansas' UM rate was 9.8 percent and asking whether further legislation was required. Following discussion, it was noted that Kansas does need something in place to utilize technology, which facilitates agency queries for current information. Discussion followed with further answers and opinions expressed as listed:

- Mr. McGlade said that a consistent standard should be developed. Wyoming and Nevada use a web-service system; Oklahoma has implemented a successful hybrid system (real-time and "book system"). In addition, from an insurance industry perspective, enforcement of mandatory or compulsory insurance laws should be limited to event-based situations.

- Law enforcement supports a more efficient and accurate method to validate mandatory insurance. The current system takes the equivalent of two full-time equivalent positions to process the approximately 141,000 verifications each year.

- Following a bid process for an electronic verification system in Oklahoma, the state decided to build the system in-house using its own technology at an initial cost of $160,000. In Oklahoma, the system is new and too few statistics exist to know whether UM rates or numbers have been reduced since system implementation. Maintenance costs for the Oklahoma system are managed by one full-time equivalent employee using three servers, which require maintenance funding.

- Insurance companies do not require photographs of the insured on his or her insurance card (similar to an individual's photograph appearing on a driver's license).

- In states where verification systems have been implemented, there are mixed opinions from smaller insurance companies. Some companies do not feel the additional cost returns value; others have embraced the implemented technology. In Oklahoma, where a hybrid system exists, some smaller companies are utilizing the "book of business" method.

- To ensure information is consistent, accurate, and expeditiously accessed by law enforcement, a verification system is required. Requirements to ensure availability of accurate information 24 hours a day, 7 days a week (24/7) include a messaging broker, which has the ability to interface (real time) with every insurance company licensed in Kansas for the purpose of verifying whether the company's system contains data about a specific vehicle; a web-based service component, so that a data query can be received from a validated, authenticated, outside system (*e.g.*, Department of Revenue, KHP, Kansas Bureau of Investigation) also is required. The purpose of an online verification system should be defined: is the system to support vehicle registration and insurance verification, or is the system designed for law enforcement utilization. With the Division of Vehicles' Modernization Project, additional capability can be added to the current system; however, the missing technology piece is the state's ability to query each insurance company's database, and a mechanism to require insurance companies to add the Division as an entity able to query the insurance company's database.

- Insurance verification for commercial customers should be considered, so that fleet vehicles do not appear to be uninsured in the system and those in compliance with Kansas statutes are not penalized.

- The positives to a real-time insurance verification system include:

  - Aids law enforcement in the field;

  - Reduces law enforcement manpower devoted to insurance verification;

  - Protects consumers from false positives; and

  - May reduce the number and rate of UMs in the State of Kansas.

- The negatives to a real-time insurance verification system include:

  - Additional cost to state budgets (minimal cost of $160,000);

  - Increases business cost to the insurance industry;

  - Impacts small insurance companies; and

  - May not reduce UMs in the State of Kansas enough to offset the cost.

- An online insurance verification system requires compliance; the cost to benefit ratio should be considered, as well as any value-added services.

Committee Discussion. In November, the Committee reviewed its charge, including the study topic on the issue of uninsured motorists. Committee members discussed the legislation passed during the 2011 Session (SB 136), as well as HB 2291, which currently is assigned to the House Committee on Insurance. SB 136 was designed to encourage more drivers to purchase auto insurance, as required by law, and to reduce the number of uninsured motorists on the road. A Committee member stated, since SB 136 went into effect July 1, 2011, there has not been enough time to evaluate whether the legislation has had the intended effect. Committee members also reviewed prior Motor Vehicle Task Force recommendations and stated goals.

Committee members recognized the valuable commentary heard from conferees on topics. Committee members noted Kansas' UM rate was 9.8 percent; the highest ranking state was Massachusetts at 4.5 percent. Consideration was given to the possibility that funding costs for a real-time, web-based verification system could outweigh the benefit of reducing the uninsured motorist ratio at the current time.

Conclusions and Recommendations

The Committee recognizes the complexities of the issues presented by staff, agency officials, and the convened panel. The Committee thanks the panelists for their input and recognizes the valuable commentary provided on the topic, including:

- Insurance verification methods;
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