

SENATE BILL No. 321

By Committee on Financial Institutions and Insurance

1-29

1 AN ACT concerning insurance; relating to the return of premiums separate
2 from the notice of denial of coverage; amending K.S.A. 2013 Supp. 40-
3 3118 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2013 Supp. 40-3118 is hereby amended to read as
7 follows: 40-3118. (a) No motor vehicle shall be registered or reregistered
8 in this state unless the owner, at the time of registration, has in effect a
9 policy of motor vehicle liability insurance covering such motor vehicle, as
10 provided in this act, or is a self-insurer thereof, or the motor vehicle is
11 used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and
12 amendments thereto, in an approved driver training course by a school
13 district or an accredited nonpublic school under an agreement with a motor
14 vehicle dealer, and such policy of motor vehicle liability insurance is
15 provided by the school district or accredited nonpublic school. As used in
16 this section, the term "financial security" means such policy or self-
17 insurance. The director shall require that the owner certify and provide
18 verification of financial security, in the manner prescribed by K.S.A. 8-
19 173, and amendments thereto, that the owner has such financial security,
20 and the owner of each motor vehicle registered in this state shall maintain
21 financial security continuously throughout the period of registration. In
22 addition, when an owner certifies that such financial security is a motor
23 vehicle liability insurance policy meeting the requirements of this act, the
24 director may require that the owner or owner's insurance company produce
25 records to prove the fact that such insurance was in effect at the time the
26 vehicle was registered and has been maintained continuously from that
27 date. Such records may be produced by displaying such records on a
28 cellular phone or any other type of portable electronic device. Any person
29 to whom such records are displayed on such cellular phone or other type of
30 portable electronic device shall be prohibited from viewing any other
31 content or information stored on such cellular phone or other type of
32 portable electronic device. Failure to produce such records shall be prima
33 facie evidence that no financial security exists with regard to the vehicle
34 concerned. It shall be the duty of insurance companies, upon the request of
35 the director, to notify the director within 30 calendar days of the date of the
36 receipt of such request by the director of any insurance that was not in

1 effect on the date of registration and maintained continuously from that
2 date.

3 (b) Except as otherwise provided in K.S.A. 40-276, 40-276a and 40-
4 277, and amendments thereto, and except for termination of insurance
5 resulting from nonpayment of premium or upon the request for
6 cancellation by the insured, no motor vehicle liability insurance policy, or
7 any renewal thereof, shall be terminated by cancellation or failure to renew
8 by the insurer until at least 30 days after mailing a notice of termination,
9 by certified or registered mail or United States post office certificate of
10 mailing, to the named insured at the latest address filed with the insurer by
11 or on behalf of the insured. Time of the effective date and hour of
12 termination stated in the notice shall become the end of the policy period.
13 Every such notice of termination sent to the insured for any cause
14 whatsoever shall include on the face of the notice a statement that financial
15 security for every motor vehicle covered by the policy is required to be
16 maintained continuously throughout the registration period, that the
17 operation of any such motor vehicle without maintaining continuous
18 financial security therefor is a class B misdemeanor and shall be subject to
19 a fine of not less than \$300 and not more than \$1,000 and that the
20 registration for any such motor vehicle for which continuous financial
21 security is not provided is subject to suspension and the driver's license of
22 the owner thereof is subject to suspension.

23 (c) The director of vehicles shall verify a sufficient number of
24 insurance certifications each calendar year as the director deems necessary
25 to insure compliance with the provisions of this act. The owner or owner's
26 insurance company shall verify the accuracy of any owner's certification
27 upon request, as provided in subsection (a).

28 (d) (1) In addition to any other requirements of this act, the director
29 shall require a person to acquire insurance and for such person's insurance
30 company to maintain on file with the division evidence of such insurance
31 for a period of one year when a person has been convicted in this or
32 another state of any of the violations enumerated in K.S.A. 8-285, and
33 amendments thereto.

34 (2) The director shall also require any driver whose driving privileges
35 have been suspended pursuant to this section to maintain such evidence of
36 insurance as required above.

37 (3) The company of the insured shall immediately mail notice to the
38 director whenever any policy required by this subsection to be on file with
39 the division is terminated by the insured or the insurer for any reason. The
40 receipt by the director of such termination shall be prima facie evidence
41 that no financial security exists with regard to the person concerned.

42 (4) No cancellation notice shall be sent to the director if the insured
43 adds or deletes a vehicle, adds or deletes a driver, renews a policy or is

1 issued a new policy by the same company. No cancellation notice shall be
2 sent to the director prior to the date the policy is terminated if the company
3 allows a grace period for payment until such grace period has expired and
4 the policy is actually terminated.

5 (5) For the purposes of this act, the term "conviction" includes
6 pleading guilty or nolo contendere, being convicted or being found guilty
7 of any violation enumerated in this subsection without regard to whether
8 sentence was suspended or probation granted. A forfeiture of bail, bond or
9 collateral deposited to secure a defendant's appearance in court, which
10 forfeiture has not been vacated, shall be equivalent to a conviction.

11 (6) The requirements of this subsection shall apply whether or not
12 such person owns a motor vehicle.

13 (e) Whenever the director shall receive prima facie evidence, as
14 prescribed by this section, that continuous financial security covering any
15 motor vehicle registered in this state is not in effect, the director shall
16 notify the owner by registered or certified mail or United States post office
17 certificate of mailing that, at the end of 30 days after the notice is mailed,
18 the registration for such motor vehicle and the driving privileges of the
19 owner of the vehicle shall be suspended or revoked, pursuant to such rules
20 and regulations as the secretary of revenue shall adopt, unless within 10
21 days after the notice is mailed: (1) Such owner shall demonstrate proof of
22 continuous financial security covering such vehicle to the satisfaction of
23 the director. Such proof of continuous financial security may be provided
24 by the owner by displaying such proof on a cellular phone or other
25 portable electronic device; or (2) such owner shall mail a written request
26 which is postmarked within 10 days after the notice is mailed requesting a
27 hearing with the director. Any person to whom such proof of continuous
28 financial security is displayed on a cellular phone or other portable
29 electronic device shall view only such evidence of continuous financial
30 security. Such person shall be prohibited from viewing any other content
31 or information stored on such cellular phone or other portable electronic
32 device. Upon receipt of a timely request for a hearing, the director shall
33 afford such person an opportunity for hearing within the time and in the
34 manner provided in K.S.A. 8-255, and amendments thereto. If, within the
35 ten-day period or at the hearing, such owner is unable to demonstrate proof
36 of continuous financial security covering the motor vehicle in question, the
37 director shall revoke the registration of such motor vehicle and suspend the
38 driving privileges of the owner of the vehicle.

39 (f) Whenever the registration of a motor vehicle or the driving
40 privileges of the owner of the vehicle are suspended or revoked for failure
41 of the owner to maintain continuous financial security, such suspension or
42 revocation shall remain in effect until satisfactory proof of insurance has
43 been filed with the director as required by subsection (d) and a

1 reinstatement fee in the amount herein prescribed is paid to the division of
2 vehicles. Such reinstatement fee shall be in the amount of \$100 except that
3 if the registration of a motor vehicle of any owner is revoked within one
4 year following a prior revocation of the registration of a motor vehicle of
5 such owner under the provisions of this act such fee shall be in the amount
6 of \$300. The division of vehicles shall remit such fees to the state treasurer
7 in accordance with the provisions of K.S.A. 75-4215, and amendments
8 thereto. Upon receipt of each such remittance, the state treasurer shall
9 deposit the entire amount in the state treasury to the credit of the state
10 highway fund.

11 (g) In no case shall any motor vehicle, the registration of which has
12 been revoked for failure to have continuous financial security, be
13 reregistered in the name of the owner thereof, the owner's spouse, parent
14 or child or any member of the same household, until the owner complies
15 with subsection (f). In the event the registration plate has expired, no new
16 plate shall be issued until the motor vehicle owner complies with the
17 reinstatement requirements as required by this act.

18 (h) Evidence that an owner of a motor vehicle, registered or required
19 to be registered in this state, has operated or permitted such motor vehicle
20 to be operated in this state without having in force and effect the financial
21 security required by this act for such vehicle, together with proof of
22 records of the division of vehicles indicating that the owner did not have
23 such financial security, shall be prima facie evidence that the owner did at
24 the time and place alleged, operate or permit such motor vehicle to be
25 operated without having in full force and effect financial security required
26 by the provisions of this act.

27 (i) Any owner of a motor vehicle registered or required to be
28 registered in this state who shall make a false certification concerning
29 financial security for the operation of such motor vehicle as required by
30 this act, shall be guilty of a class A misdemeanor. Any person, firm or
31 corporation giving false information to the director concerning another's
32 financial security for the operation of a motor vehicle registered or
33 required to be registered in this state, knowing or having reason to believe
34 that such information is false, shall be guilty of a class A misdemeanor.

35 (j) The director shall administer and enforce the provisions of this act
36 relating to the registration of motor vehicles, and the secretary of revenue
37 shall adopt such rules and regulations as may be necessary for its
38 administration.

39 (k) Whenever any person has made application for insurance
40 coverage and such applicant has submitted payment or partial payment
41 with such application, the insurance company, if payment accompanied the
42 application and if insurance coverage is denied, shall refund the unearned
43 portion of the payment to the applicant or agent ~~with the notice of denial~~

1 of coverage. *Such refund may:*

2 (1) *Accompany the notice of denial of coverage; or*

3 (2) *be separately returned in not more than 10 days from the date of*
4 *such notice.*

5 If payment did not accompany the application to the insurance
6 company but was made to the agent, the agent shall refund the unearned
7 portion of the payment to the applicant upon receipt of the company's
8 notice of denial.

9 (1) For the purpose of this act, "declination of insurance coverage"
10 means a final denial, in whole or in part, by an insurance company or
11 agent of requested insurance coverage.

12 Sec. 2. K.S.A. 2013 Supp. 40-3118 is hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after its
14 publication in the statute book.