

As Amended by House Committee

Session of 2016

HOUSE BILL No. 2446

By 2015 Special Committee on Insurance

1-11

1 AN ACT concerning insurance; relating to motor vehicle liability
2 insurance; increasing minimum policy limit for property damage;
3 amending K.S.A. 40-3107 and repealing the existing section.
4

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

6 Section 1. K.S.A. 40-3107 is hereby amended to read as follows: 40-
7 3107. Every policy of motor vehicle liability insurance issued **or renewed**
8 **on or after January 1, 2017**, by an insurer to an owner residing in this
9 state shall:

10 (a) Designate by explicit description or by appropriate reference of all
11 vehicles with respect to which coverage is to be granted;

12 (b) insure the person named and any other person, as insured, using
13 any such vehicle with the expressed or implied consent of such named
14 insured, against loss from the liability imposed by law for damages arising
15 out of the ownership, maintenance or use of any such vehicle within the
16 United States of America or the Dominion of Canada, subject to the limits
17 stated in such policy;

18 (c) state the name and address of the named insured, the coverage
19 afforded by the policy, the premium charged and the policy period;

20 (d) contain an agreement or be endorsed that insurance is provided in
21 accordance with the coverage required by this act;

22 (e) contain stated limits of liability, exclusive of interest and costs,
23 with respect to each vehicle for which coverage is granted, not less than
24 \$25,000 because of bodily injury to, or death of, one person in any one
25 accident and, subject to the limit for one person, to a limit of not less than
26 \$50,000 because of bodily injury to, or death of, two or more persons in
27 any one accident, and to a limit of not less than ~~\$10,000~~\$25,000 because
28 of harm to or destruction of property of others in any one accident;

29 (f) include personal injury protection benefits to the named insured,
30 relatives residing in the same household, persons operating the insured
31 motor vehicle, passengers in such motor vehicle and other persons struck
32 by such motor vehicle and suffering bodily injury while not an occupant of
33 a motor vehicle, not exceeding the limits prescribed for each of such
34 benefits, for loss sustained by any such person as a result of injury. The
35 owner of a motorcycle, as defined by K.S.A. 8-1438, and amendments
36 thereto or motor-driven cycle, defined by K.S.A. 8-1439, and amendments

1 thereto, who is the named insured, shall have the right to reject in writing
2 insurance coverage including such benefits for injury to a person which
3 occurs while the named insured is operating or is a passenger on such
4 motorcycle or motor-driven cycle; and unless the named insured requests
5 such coverage in writing, such coverage need not be provided in or
6 supplemental to a renewal policy when the named insured has rejected the
7 coverage in connection with a policy previously issued by the same
8 insurer. The fact that the insured has rejected such coverage shall not cause
9 such motorcycle or motor-driven cycle to be an uninsured motor vehicle;

10 (g) notwithstanding any omitted or inconsistent language, any
11 contract of insurance which an insurer represents as or which purports to
12 be a motor vehicle liability insurance policy meeting the requirements of
13 this act shall be construed to obligate the insurer to meet all the mandatory
14 requirements and obligations of this act;

15 (h) notwithstanding any other provision contained in this section, any
16 insurer may exclude coverage required by subsections (a), (b), (c) and (d)
17 of this section while any insured vehicles are:

18 (1) Rented to others or used to carry persons for a charge, however,
19 such exclusion shall not apply to the use of a private passenger car on a
20 share the expense basis; *or*

21 (2) being repaired, serviced or used by any person employed or
22 engaged in any way in the automobile business. This does not apply to the
23 named insured, spouse or relative residents; or the agents, employers,
24 employees or partners of the named insured, spouse or resident relative;
25 and

26 (i) in addition to the provisions of subsection (h) and notwithstanding
27 any other provision contained in subsections (a), (b), (c) and (d) of this
28 section, any insurer may exclude coverage:

29 (1) For any damages for which the United States government might
30 be liable for the insured's use of the vehicle;

31 (2) for any damages to property owned by, rented to, or in charge of
32 or transported by an insured, however, this exclusion shall not apply to
33 coverage for a rented residence or rented private garage;

34 (3) for any obligation of an insured, or the insured's insurer under any
35 type of workers' compensation or disability or similar law;

36 (4) for liability assumed by an insured under any contract or
37 agreement;

38 (5) if two or more vehicle liability policies apply to the same
39 accident, the total limits of liability under all such policies shall not exceed
40 that of the policy with the highest limit of liability;

41 (6) for any damages arising from an intentional act;

42 (7) for any damages to any person who would be covered for such
43 damages under a nuclear energy liability policy;

1 (8) for any obligation of the insured to indemnify another for
2 damages resulting from bodily injury to the insured's employee by
3 accident arising out of and in the course of such employee's employment;

4 (9) for bodily injury to any fellow employee of the insured arising out
5 of and in the course of such employee's employment;

6 (10) for bodily injury or property damage resulting from the handling
7 of property:

8 (A) Before it is moved from the place where it is accepted by the
9 insured for movement into or onto the covered auto; or

10 (B) after it is moved from the covered auto to the place where it is
11 finally delivered by the insured;

12 (11) for bodily injury or property damage resulting from the
13 movement of property by a mechanical device, other than a hand truck, not
14 attached to the covered auto; and

15 (12) for bodily injury or property damage caused by the dumping,
16 discharge or escape of irritants, pollutants or contaminants; however, this
17 exclusion does not apply if the discharge is sudden and accidental.

18 **(j) Commencing with the 2026 legislative interim period, and at**
19 **least every 10 years thereafter, a legislative interim study committee**
20 **shall study the issue of whether the minimum limits of liability in**
21 **subsection (e) should be adjusted.**

22 Sec. 2. K.S.A. 40-3107 is hereby repealed.

23 Sec. 3. This act shall take effect and be in force from and after
24 **January 1, 2017, and** its publication in the statute book.