

HOUSE BILL No. 2791

By Committee on Transportation

2-7

AN ACT amending the Kansas automobile injury reparations act; concerning the reinstatement of driving privileges and vehicle registration; amending K.S.A. 40-3104 and repealing the existing section.

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

Section 1. K.S.A. 40-3104 is hereby amended to read as follows: 40-3104. (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of this act.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall attach a copy of the insurance verification form prescribed by the secretary of revenue to the copy of the citation forwarded to the court.

No citation shall be issued to any person for failure to provide proof of

1 financial security when evidence of financial security meeting the stan-
2 dards of subsection (e) is displayed upon demand of a law enforcement
3 officer. Whenever the authenticity of such evidence is questionable, the
4 law enforcement officer may initiate the preparation of the insurance
5 verification form prescribed by the secretary of revenue by recording
6 information from the evidence of financial security displayed. The officer
7 shall immediately forward the form to the department of revenue, and
8 the department shall proceed with verification in the manner prescribed
9 in the following paragraph. Upon return of a form indicating that insur-
10 ance was not in force on the date indicated on the form, the department
11 shall immediately forward a copy of the form to the law enforcement
12 officer initiating preparation of the form.

13 (e) Unless the insurance company subsequently submits an insurance
14 verification form indicating that insurance was not in force, no person
15 charged with violating subsections (b), (c) or (d) shall be convicted if such
16 person produces in court, within 10 days of the date of arrest or of issua-
17 nce of the citation, evidence of financial security for the motor vehicle
18 operated, which was valid at the time of arrest or of issuance of the ci-
19 tation. For the purpose of this subsection, evidence of financial security
20 shall be provided by a policy of motor vehicle liability insurance, an iden-
21 tification card or certificate of insurance issued to the policyholder by the
22 insurer which provides the name of the insurer, the policy number and
23 the effective and expiration dates of the policy, or a certificate of self-
24 insurance signed by the commissioner of insurance. Upon the production
25 in court of evidence of financial security, the court shall record the in-
26 formation displayed thereon on the insurance verification form prescribed
27 by the secretary of revenue, immediately forward such form to the de-
28 partment of revenue, and stay any further proceedings on the matter
29 pending a request from the prosecuting attorney that the matter be set
30 for trial. Upon receipt of such form the department shall mail the form
31 to the named insurance company for verification that insurance was in
32 force on the date indicated on the form. It shall be the duty of insurance
33 companies to notify the department within 30 calendar days of the receipt
34 of such forms of any insurance that was not in force on the date specified.
35 Upon return of any form to the department indicating that insurance was
36 not in force on such date, the department shall immediately forward a
37 copy of such form to the office of the prosecuting attorney or the city
38 clerk of the municipality in which such prosecution is pending when the
39 prosecuting attorney is not ascertainable. Receipt of any completed form
40 indicating that insurance was not in effect on the date specified shall be
41 prima facie evidence of failure to provide proof of financial security and
42 violation of this section. A request that the matter be set for trial shall be
43 made immediately following the receipt by the prosecuting attorney of a

1 copy of the form from the department of revenue indicating that insur-
2 ance was not in force. Any charge of violating subsection (b), (c) or (d)
3 shall be dismissed if no request for a trial setting has been made within
4 60 days of the date evidence of financial security was produced in court.

5 (f) Any person in whose name more than 25 motor vehicles are reg-
6 istered in Kansas may qualify as a self-insurer by obtaining a certificate
7 of self-insurance from the commissioner of insurance. The certificate of
8 self-insurance issued by the commissioner shall cover such owned vehi-
9 cles and those vehicles, registered in Kansas, leased to such person if the
10 lease agreement requires that motor vehicle liability insurance on the
11 vehicles be provided by the lessee. Upon application of any such person,
12 the commissioner of insurance may issue a certificate of self-insurance,
13 if the commissioner is satisfied that such person is possessed and will
14 continue to be possessed of ability to pay any liability imposed by law
15 against such person arising out of the ownership, operation, maintenance
16 or use of any motor vehicle described in this subsection. A self-insurer
17 shall provide liability coverage subject to the provisions of subsection (e)
18 of K.S.A. 40-3107, and amendments thereto, arising out of the ownership,
19 operation, maintenance or use of a self-insured motor vehicle in those
20 instances where the lessee or the rental driver, if not the lessee, does not
21 have a motor vehicle liability insurance policy or insurance coverage pur-
22 suant to a motor vehicle liability insurance policy or certificate of insur-
23 ance or such insurance policy for such leased or rented vehicle. Such
24 liability coverage shall be provided to any person operating a self-insured
25 motor vehicle with the expressed or implied consent of the self-insurer.

26 Upon notice and a hearing in accordance with the provisions of the
27 Kansas administrative procedure act, the commissioner of insurance may
28 cancel a certificate of self-insurance upon reasonable grounds. Failure to
29 provide liability coverage or personal injury protection benefits required
30 by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any
31 liability imposed by law arising out of the ownership, operation, mainte-
32 nance or use of a motor vehicle registered in such self-insurer's name, or
33 to otherwise comply with the requirements of this subsection shall con-
34 stitute reasonable grounds for the cancellation of a certificate of self-
35 insurance. Reasonable grounds shall not exist unless such objectionable
36 activity occurs with such frequency as to indicate a general business
37 practice.

38 Self-insureds shall investigate claims in a reasonably prompt manner,
39 handle such claims in a reasonable manner based on available information
40 and effectuate prompt, fair and equitable settlement of claims in which
41 liability has become reasonably clear.

42 As used in this subsection, "liability imposed by law" means the stated
43 limits of liability as provided under subsection (e) of K.S.A. 40-3107, and

1 amendments thereto.

2 Nothing in this subsection shall preclude a self-insurer from pursuing
3 all rights of subrogation against another person or persons.

4 (g) (1) Any person violating any provision of this section shall be
5 guilty of a class B misdemeanor and shall be subject to a fine of not less
6 than \$300 nor more than \$1,000 or confinement in the county jail for a
7 term of not more than six months, or both such fine and confinement.

8 (2) Any person convicted of violating any provision of this section
9 within three years of any such prior conviction shall be guilty of a class A
10 misdemeanor and shall be subject to a fine of not less than \$800 nor more
11 than \$2,500.

12 (h) In addition to any other penalties provided by this act for failure
13 to have or maintain financial security in effect, the director, upon receipt
14 of a report required by K.S.A. 8-1607 or 8-1611, and amendments
15 thereto, or a denial of such insurance by the insurance company listed on
16 the form prescribed by the secretary of revenue pursuant to subsection
17 (d) of this section, shall, upon notice and hearing as provided by K.S.A.
18 40-3118, and amendments thereto:

19 (1) Suspend:

20 (A) The license of each driver in any manner involved in the accident;

21 (B) the license of the owner of each motor vehicle involved in such
22 accident, unless the vehicle was stolen at the time of the accident, proof
23 of which must be established by the owner of the motor vehicle. Theft
24 by a member of the vehicle owner's immediate family under the age of
25 18 years shall not constitute a stolen vehicle for the purposes of this
26 section;

27 (C) if the driver is a nonresident, the privilege of operating a motor
28 vehicle within this state; or

29 (D) if such owner is a nonresident, the privilege of such owner to
30 operate or permit the operation within this state of any motor vehicle
31 owned by such owner; and

32 (2) revoke the registration of all vehicles owned by the owner of each
33 motor vehicle involved in such accident.

34 (i) The suspension or revocation requirements in subsection (h) shall
35 not apply:

36 (1) To the driver or owner if the owner had in effect at the time of
37 the accident an automobile liability policy as required by K.S.A. 40-3107,
38 and amendments thereto, with respect to the vehicle involved in the
39 accident;

40 (2) to the driver, if not the owner of the vehicle involved in the ac-
41 cident, if there was in effect at the time of the accident an automobile
42 liability policy with respect to such driver's driving of vehicles not owned
43 by such driver;

1 (3) to any self-insurer as defined by subsection (u) of K.S.A. 40-3103,
2 and amendments thereto;

3 (4) to the driver or owner of any vehicle involved in the accident
4 which was exempt from the provisions of this act pursuant to K.S.A. 40-
5 3105, and amendments thereto;

6 (5) to the owner of a vehicle described in subsection (a)(2).

7 (j) For the purposes of provisions (1) and (2) of subsection (i) of this
8 section, the director may require verification by an owner's or driver's
9 insurance company or agent thereof that there was in effect at the time
10 of the accident an automobile liability policy as required in this act.

11 Any suspension or revocation effected hereunder shall remain in effect
12 until:

13 (1) Satisfactory proof of financial security has been filed with the di-
14 rector as required by subsection (d) of K.S.A. 40-3118, and amendments
15 thereto, ~~and;~~

16 (2) *has paid the reinstatement fee herein prescribed; and*

17 (3) such person:

18 (A) Has been released from liability or is a party to an action to de-
19 termine liability pursuant to which the court temporarily stays such sus-
20 pension pending final disposition of such action;

21 (B) has entered into an agreement for the payment of damages, ~~or;~~

22 (C) has been finally adjudicated not to be liable in respect to such
23 accident and evidence of any such fact has been filed with the director
24 ~~and has paid the reinstatement fee herein prescribed;~~

25 (D) *the division can determine from the accident report that the per-*
26 *son is not liable in respect to such accident; or*

27 (E) *the other party to the accident cannot be identified or located.*

28 ~~Such~~ The reinstatement fee shall be \$100 except that if the registration
29 of a motor vehicle of any owner is revoked within one year following a
30 prior revocation of the registration of a motor vehicle of such owner under
31 the provisions of this act such fee shall be \$300.

32 (k) The provisions of this section shall not apply to motor carriers of
33 property or passengers regulated by the corporation commission of the
34 state of Kansas.

35 (l) The provisions of subsection (d) shall not apply to vehicle dealers,
36 as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being
37 offered for sale by such dealers.

38 Sec. 2. K.S.A. 40-3104 is hereby repealed.

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

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