

## SENATE BILL No. 517

By Senator Faust-Goudeau

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9 AN ACT amending the Kansas automobile injury reparation act; con-  
10 cerning certain reinstatement fees; amending K.S.A. 2009 Supp. 40-  
11 3104 and 40-3118 and repealing the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2009 Supp. 40-3104 is hereby amended to read as  
15 follows: 40-3104. (a) Every owner shall provide motor vehicle liability  
16 insurance coverage in accordance with the provisions of this act for every  
17 motor vehicle owned by such person, unless such motor vehicle: (1) Is  
18 included under an approved self-insurance plan as provided in subsection  
19 (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-  
20 5015, and amendments thereto, in an approved driver training course by  
21 a school district or an accredited nonpublic school under an agreement  
22 with a motor vehicle dealer, and such motor vehicle liability insurance  
23 coverage is provided by the school district or accredited nonpublic school;  
24 (3) is included under a qualified plan of self-insurance approved by an  
25 agency of the state in which such motor vehicle is registered and the form  
26 prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto,  
27 has been filed; or (4) is expressly exempted from the provisions of this  
28 act.

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

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

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

43 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 issu-  
17 ance 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) (1) For the purposes of provisions (1) and (2) of subsection (i) of  
8 this 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 (2) Subject to the provisions of subsection (k), any suspension or rev-  
12 ocation effected hereunder shall remain in effect until such person:
- 13 (A) Has filed satisfactory proof of financial security with the director  
14 as required by subsection (d) of K.S.A. 40-3118 and amendments thereto;
- 15 (B) has paid the reinstatement fee herein prescribed; and
- 16 (C) (i) has been released from liability;
- 17 (ii) is a party to an action to determine liability pursuant to which the  
18 court temporarily stays such suspension pending final disposition of such  
19 action;
- 20 (iii) has entered into an agreement for the payment of damages; or
- 21 (iv) has been finally adjudicated not to be liable in respect to such  
22 accident and evidence of any such fact has been filed with the director.
- 23 (3) The reinstatement fee shall be ~~\$100~~ \$25 except that if the regis-  
24 tration of a motor vehicle of any owner is revoked within ~~one year~~ six  
25 months following a prior revocation of the registration of a motor vehicle  
26 of such owner under the provisions of this act such fee shall be \$300.
- 27 (k) (1) Whenever any person whose license has been suspended or  
28 revoked pursuant to this section is involved in an accident and has entered  
29 into an agreement with any driver, or such driver's insurer, who has been  
30 damaged or whose vehicle has been damaged to pay for such damage and  
31 such person defaults on payments under such agreement, the driver or  
32 the driver's insurer, as appropriate, shall notify the director within 60 days  
33 of the date of default.
- 34 (2) Upon receipt of the notice of default, the director shall immedi-  
35 ately suspend such person's license and registration. If such person is a  
36 nonresident, the director shall immediately suspend such nonresident's  
37 privilege to operate a motor vehicle in this state.
- 38 (3) Except as provided in paragraph (4), such person's driver's li-  
39 cense, registration and nonresident's operating privilege shall remain so  
40 suspended and shall not be renewed, nor shall any such license or reg-  
41 istration be thereafter issued in the name of such person, including any  
42 such person not previously licensed, unless and until:
- 43 (A) The director receives notice payments under the agreement re-

1 referred to in paragraph (1) have been resumed and that payments under  
2 such agreement are no longer in default;

3 (B) such person has filed satisfactory proof of financial responsibility  
4 with the director as required by subsection (d) of K.S.A. 40-3118, and  
5 amendments thereto; and

6 (C) the reinstatement fee required by subsection (j) has been paid.

7 (4) Upon due notice to the director that the conditions of paragraph  
8 (3) have been fulfilled, such person may obtain from the director an order  
9 restoring such person's driver's license, registration and nonresident's op-  
10 erating privilege to operate a motor vehicle in this state conditioned upon  
11 such person's continued compliance with the agreement referred to in  
12 paragraph (1).

13 (5) In the event such person fails to make any further payment under  
14 the agreement referred to in paragraph (1) when such payment is due,  
15 the director, upon receipt of notice of such default, shall immediately  
16 suspend the license, registration or nonresident's operating privilege of  
17 such person until all payments have been made under the agreement  
18 referred to in paragraph (1). No suspension of such person's license, reg-  
19 istration or nonresident's privilege to operate a motor vehicle in this state  
20 shall be reinstated pursuant to paragraph (4).

21 (l) The provisions of this section shall not apply to motor carriers of  
22 property or passengers regulated by the corporation commission of the  
23 state of Kansas.

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

27 Sec. 2. K.S.A. 2009 Supp. 40-3118 is hereby amended to read as  
28 follows: 40-3118. (a) No motor vehicle shall be registered or reregistered  
29 in this state unless the owner, at the time of registration, has in effect a  
30 policy of motor vehicle liability insurance covering such motor vehicle, as  
31 provided in this act, or is a self-insurer thereof, or the motor vehicle is  
32 used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and  
33 amendments thereto, in an approved driver training course by a school  
34 district or an accredited nonpublic school under an agreement with a  
35 motor vehicle dealer, and such policy of motor vehicle liability insurance  
36 is provided by the school district or accredited nonpublic school. As used  
37 in this section, the term "financial security" means such policy or self-  
38 insurance. The director shall require that the owner certify and provide  
39 verification of financial security, in the manner prescribed by K.S.A. 8-  
40 173, and amendments thereto, that the owner has such financial security,  
41 and the owner of each motor vehicle registered in this state shall maintain  
42 financial security continuously throughout the period of registration. In  
43 addition, when an owner certifies that such financial security is a motor

1 vehicle liability insurance policy meeting the requirements of this act, the  
2 director may require that the owner or owner's insurance company pro-  
3 duce records to prove the fact that such insurance was in effect at the  
4 time the vehicle was registered and has been maintained continuously  
5 from that date. Failure to produce such records shall be prima facie ev-  
6 idence that no financial security exists with regard to the vehicle con-  
7 cerned. It shall be the duty of insurance companies, upon the request of  
8 the director, to notify the director within 30 calendar days of the date of  
9 the receipt of such request by the director of any insurance that was not  
10 in effect on the date of registration and maintained continuously from  
11 that date.

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

32 (c) The director of vehicles shall verify a sufficient number of insur-  
33 ance certifications each calendar year as the director deems necessary to  
34 insure compliance with the provisions of this act. The owner or owner's  
35 insurance company shall verify the accuracy of any owner's certification  
36 upon request, as provided in subsection (a).

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

43 The director shall also require any driver whose driving privileges have

1 been suspended pursuant to this section to maintain such evidence of  
2 insurance as required above.

3 The company of the insured shall immediately mail notice to the di-  
4 rector whenever any policy required by this subsection to be on file with  
5 the division is terminated by the insured or the insurer for any reason.  
6 The receipt by the director of such termination shall be prima facie evi-  
7 dence that no financial security exists with regard to the person  
8 concerned.

9 No cancellation notice shall be sent to the director if the insured adds  
10 or deletes a vehicle, adds or deletes a driver, renews a policy or is issued  
11 a new policy by the same company. No cancellation notice shall be sent  
12 to the director prior to the date the policy is terminated if the company  
13 allows a grace period for payment until such grace period has expired and  
14 the policy is actually terminated.

15 For the purposes of this act, the term "conviction" includes pleading  
16 guilty or *nolo contendere*, being convicted or being found guilty of any  
17 violation enumerated in this subsection without regard to whether sen-  
18 tence was suspended or probation granted. A forfeiture of bail, bond or  
19 collateral deposited to secure a defendant's appearance in court, which  
20 forfeiture has not been vacated, shall be equivalent to a conviction.

21 The requirements of this subsection shall apply whether or not such  
22 person owns a motor vehicle.

23 (e) Whenever the director shall receive prima facie evidence, as pre-  
24 scribed by this section, that continuous financial security covering any  
25 motor vehicle registered in this state is not in effect, the director shall  
26 notify the owner by registered or certified mail or United States post  
27 office certificate of mailing that, at the end of 30 days after the notice is  
28 mailed, the registration for such motor vehicle and the driving privileges  
29 of the owner of the vehicle shall be suspended or revoked, pursuant to  
30 such rules and regulations as the secretary of revenue shall adopt, unless  
31 within 10 days after the notice is mailed: (1) Such owner shall demonstrate  
32 proof of continuous financial security covering such vehicle to the satis-  
33 faction of the director; or (2) such owner shall mail a written request  
34 which is postmarked within 10 days after the notice is mailed requesting  
35 a hearing with the director. Upon receipt of a timely request for a hearing,  
36 the director shall afford such person an opportunity for hearing within  
37 the time and in the manner provided in K.S.A. 8-255, and amendments  
38 thereto. If, within the ten-day period or at the hearing, such owner is  
39 unable to demonstrate proof of continuous financial security covering the  
40 motor vehicle in question, the director shall revoke the registration of  
41 such motor vehicle and suspend the driving privileges of the owner of  
42 the vehicle.

43 (f) Whenever the registration of a motor vehicle or the driving priv-



1 iliges of the owner of the vehicle are suspended or revoked for failure of  
2 the owner to maintain continuous financial security, such suspension or  
3 revocation shall remain in effect until satisfactory proof of insurance has  
4 been filed with the director as required by subsection (d) and a reinstatement  
5 fee in the amount herein prescribed is paid to the division of vehicles.  
6 Such reinstatement fee shall be in the amount of ~~\$100~~ \$25 except  
7 that if the registration of a motor vehicle of any owner is revoked within  
8 ~~one year~~ *six months* following a prior revocation of the registration of a  
9 motor vehicle of such owner under the provisions of this act such fee  
10 shall be in the amount of \$300. The division of vehicles shall remit such  
11 fees to the state treasurer in accordance with the provisions of K.S.A. 75-  
12 4215, and amendments thereto. Upon receipt of each such remittance,  
13 the state treasurer shall deposit the entire amount in the state treasury  
14 to the credit of the state highway fund.

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

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

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

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

43 (k) Whenever any person has made application for insurance cover-

1 age and such applicant has submitted payment or partial payment with  
2 such application, the insurance company, if payment accompanied the  
3 application and if insurance coverage is denied, shall refund the unearned  
4 portion of the payment to the applicant or agent with the notice of denial  
5 of coverage. If payment did not accompany the application to the insur-  
6 ance company but was made to the agent, the agent shall refund the  
7 unearned portion of the payment to the applicant upon receipt of the  
8 company's notice of denial.

9 (l) 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. 3. K.S.A. 2009 Supp. 40-3104 and 40-3118 are hereby repealed.

13 Sec. 4. This act shall take effect and be in force from and after its  
14 publication in the statute book.