

SESSION OF 2006

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR
SENATE BILL NO. 322**

As Amended by Senate Committee of the Whole

Brief*

Sub. for SB 322 would amend the Kansas Automobile Injury Reparations Act to allow for an additional penalty for third and subsequent violations and to clarify the penalties in current law for individuals who are convicted of failure to provide proof of financial security, which is defined as the requirement to carry motor vehicle liability insurance coverage while operating a motor vehicle. Specifically, the bill would provide that upon:

- A first conviction of a violation, the person would be guilty of a Class B misdemeanor. The individual would be subject to a fine, as provided by current law, of not less than \$300 but not more than \$1,000 or confinement in the county jail for a term not to exceed six months or both fine and confinement; and
- A second or subsequent conviction of a violation within five years of a prior conviction, the person would be guilty of a Class A misdemeanor. The individual would be fined, as provided by current law, not less than \$800 but not more than \$2,500.

The bill would remove current law provisions for reinstatement of an individual's driver's license by providing satisfactory proof of financial security. Specifically, the bill would amend current law requirements to allow a license to remain suspended or revoked until the individual has:

- Filed satisfactory proof of financial security with the Director of Vehicles as required by subsection(d) of KSA 40-3118;
- Paid the reinstatement fee; and
- Been released from liability, is a party to an action to determine

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

liability pursuant to which the court temporarily stays such suspension pending the final disposition of the action, has entered into an agreement for the payment of damages, or has been finally adjudicated not to be liable in respect to the accident and evidence of any such fact has been filed with the director.

The bill also would provide that the reinstatement fee is to be \$100, with an exception that if the registration of the motor vehicle owner is revoked within one year following a prior revocation of the owner's registration, the fee would be \$300.

The bill also would include provisions that whenever an individual involved in an accident whose license has been suspended or revoked pursuant to this act and has entered into an agreement with any driver, or the driver's insurer, who has been damaged or whose vehicle has been damaged to pay for such damage and such person defaults on payments under the agreement, the driver or the driver's insurer is to notify the director within 60 days of the default date. Upon the receipt of the default notice, the director would be required to immediately suspend the person's license and registration. If the person is a nonresident, the director is to immediately suspend the person's nonresident privilege to operate a motor vehicle in this state.

The person's driver's license, registration, and the nonresident's operating privilege would remain suspended and not renewed, and no license or registration would be issued in the name of this individual, including any person not previously licensed, unless and until:

- The director receives notice that payments under the agreement between the drivers, and if applicable, the driver's insurer, have been resumed and the payments are no longer in default;
- Such person has filed satisfactory proof of financial responsibility; and
- The reinstatement fee has been paid.

Upon the due notice to the director that these conditions have been met, the person would be permitted to obtain, from the director, an order restoring the person's driver's license, registration and nonresident's operating privilege to operate a motor vehicle in Kansas. The restoration would be conditional upon the person's continued compliance with the agreement.

In the event the person fails to make any further payment under the agreement when such payment is due, the director upon receipt of the default notice, is to immediately suspend the license, registration or nonresident's operating privilege of the person until all payments have been made under the agreement.

Background

The bill was requested by Senators Teichman and Derek Schmidt. The Kansas Trial Lawyers Association appeared in support of the bill and indicated that the bill would serve as a reasonable mechanism for encouraging Kansans to get and maintain minimum auto insurance coverage and comply with KSA 40-3104. The Committee also received information from the Driver Control Bureau, Kansas Department of Revenue, and the Insured Vehicle Identification Network.

State Farm Insurance Companies was opposed to the bill, as introduced, and encouraged the Committee to enact legislation that would allow a task force to evaluate uninsured motorist issues that were raised by both 2006 SB 321 and SB 322. A task force resolution, SCR 1619, was passed by the Senate Committee.

The Senate Committee on Financial Institutions and Insurance amended the bill to remove language allowing for the recovery of triple damages by plaintiffs and to remove language that would have allowed the failure to have or maintain financial security to be considered an inherently dangerous felony under a proposed requirement for convictions of a third or subsequent violation of provisions of the Kansas Automobile Injury Reparations Act.

The Senate Committee on Financial Institutions and Insurance considered its previous action on the bill and recommended the introduction of a substitute bill. Provisions not included in the previous Committee bill include clarification of the requirements for a second conviction and sentencing requirements for a third and subsequent violation. The sentencing requirements mirror those for individuals convicted of a Driving Under the Influence, pursuant to KSA 2005 Supp. 8-1567. In addition, the substitute bill inserts the language of Sub. for HB 2690 to address requirements for reinstatement of a suspended or revoked driver's license.

The Senate Committee of the Whole amended the bill to remove the provisions for third and subsequent convictions. The bill, as amended, provides penalties for first convictions and second or subsequent convictions.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill indicates that passage of the bill, based on information provided by the Kansas Sentencing Commission, would result in an increase in the number of probation sentences imposed, the number of prison admissions, and the number of prison beds needed due to the establishment of a new severity level 9, nonperson felony. However, the Kansas Sentencing Commission indicates that it has no data upon which to base an estimate of the fiscal effect associated with the passage of the bill.