

*As Amended by Senate Committee*

*Session of 2015*

**SENATE BILL No. 54**

By Committee on Financial Institutions and Insurance

1-22

1 AN ACT concerning insurance; pertaining to motor vehicle liability  
2 insurance; relating to mailing of notice of termination of coverage;  
3 amending K.S.A. 2014 Supp. 40-3118 and repealing the existing  
4 section.

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

7 Section 1. K.S.A. 2014 Supp. 40-3118 is hereby amended to read as  
8 follows: 40-3118. (a) No motor vehicle shall be registered or reregistered  
9 in this state unless the owner, at the time of registration, has in effect a  
10 policy of motor vehicle liability insurance covering such motor vehicle, as  
11 provided in this act, or is a self-insurer thereof, or the motor vehicle is  
12 used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and  
13 amendments thereto, in an approved driver training course by a school  
14 district or an accredited nonpublic school under an agreement with a motor  
15 vehicle dealer, and such policy of motor vehicle liability insurance is  
16 provided by the school district or accredited nonpublic school. As used in  
17 this section, the term "financial security" means such policy or self-  
18 insurance. The director shall require that the owner certify and provide  
19 verification of financial security, in the manner prescribed by K.S.A. 8-  
20 173, and amendments thereto, that the owner has such financial security,  
21 and the owner of each motor vehicle registered in this state shall maintain  
22 financial security continuously throughout the period of registration. In  
23 addition, when an owner certifies that such financial security is a motor  
24 vehicle liability insurance policy meeting the requirements of this act, the  
25 director may require that the owner or owner's insurance company produce  
26 records to prove the fact that such insurance was in effect at the time the  
27 vehicle was registered and has been maintained continuously from that  
28 date. Such records may be produced by displaying such records on a  
29 cellular phone or any other type of portable electronic device. Any person  
30 to whom such records are displayed on such cellular phone or other type of  
31 portable electronic device shall be prohibited from viewing any other  
32 content or information stored on such cellular phone or other type of  
33 portable electronic device. Failure to produce such records shall be prima  
34 facie evidence that no financial security exists with regard to the vehicle  
35 concerned. It shall be the duty of insurance companies, upon the request of  
36 the director, to notify the director within 30 calendar days of the date of

1 the receipt of such request by the director of any insurance that was not in  
2 effect on the date of registration and maintained continuously from that  
3 date.

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

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

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

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

43 (3) The company of the insured shall immediately mail notice to the

1 director whenever any policy required by this subsection to be on file with  
2 the division is terminated by the insured or the insurer for any reason. The  
3 receipt by the director of such termination shall be prima facie evidence  
4 that no financial security exists with regard to the person concerned.

5 (4) No cancellation notice shall be sent to the director if the insured  
6 adds or deletes a vehicle, adds or deletes a driver, renews a policy or is  
7 issued a new policy by the same company. No cancellation notice shall be  
8 sent to the director prior to the date the policy is terminated if the company  
9 allows a grace period for payment until such grace period has expired and  
10 the policy is actually terminated.

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

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

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

1 driving privileges of the owner of the vehicle.

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

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

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

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

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

1 administration.

2 (k) Whenever any person has made application for insurance  
3 coverage and such applicant has submitted payment or partial payment  
4 with such application, the insurance company, if payment accompanied the  
5 application and if insurance coverage is denied, shall refund the unearned  
6 portion of the payment to the applicant or agent. Such refund may:

7 (1) Accompany the notice of denial of coverage; or

8 (2) be separately returned in not more than 10 days from the date of  
9 such notice.

10 If payment did not accompany the application to the insurance  
11 company but was made to the agent, the agent shall refund the unearned  
12 portion of the payment to the applicant upon receipt of the company's  
13 notice of denial.

14 (l) For the purpose of this act, "declination of insurance coverage"  
15 means a final denial, in whole or in part, by an insurance company or  
16 agent of requested insurance coverage.

17 Sec. 2. K.S.A. 2014 Supp. 40-3118 is hereby repealed.

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