

APPENDIX B, RECENT LEGISLATIVE PROPOSALS

UNINSURED MOTORIST LEGISLATION

2005-2006

- **2005 HB 2305.** The bill would have amended KSA 40-284, which deals with uninsured motorist coverage and underinsured motorists and liability protections. The bill would have removed the language that the insured may recover what the uninsured/underinsured motorist coverage exceeds in the bodily injury coverage of the other motorist. The language would have instead allowed the recovery to be to the limits of the amount of liability actually available to the injured insured. (Recommended by House Committee; failed on an HCOW vote.)
- **SB 321.** The bill would have required a real-time, online insurance verification system bill with an implementation deadline (January 1, 2008) for the Kansas Department of Revenue.
- **SB 322.** The bill was the first 2006 legislative review of the penalties under the Kansas Automobile Injury Reparations Act (KAIRA). Among provisions of the bill, as introduced, was the proposed amendment that a third offense of a motorist being uninsured would result in a felony charge (currently there is no specific penalty for a third offense). The bill also increased fines. Senate Committee amendments added the contents of **Sub. for HB 2690**. Discussion of both SB 321 and SB 322 led to the introduction of SCR 1619.
- **SCR 1619.** This resolution called for a task force study of an electronic verification system (online insurance database system for verification of proof of insurance). The 17-member task force was composed of insurance company representatives, legislators, and agency officials. The task force was to report its recommendations and conclusions on the feasibility of such system to the Legislature no later than the commencement of the 2007 Session. **[ENACTED]**
 - The Legislature again considered proposals to address uninsured motorists and amendments to current procedures and penalties. The resolutions reauthorizing the Electronic Motor Vehicle Financial Security Verification System Task Force, **2007 SCR 1603** and **2008 SCR 1616**, were enacted into law.
- **Sub. for HB 2690.** The bill addressed resuspension and revocation of drivers' licenses. The language was placed into SB 322, after it was approved by the Senate Committee on Financial Institutions and Insurance, and then placed in Senate Sub. for HB 2366. The conference report for Senate Sub. for HB 2366 was adopted by the first house. No action was taken by the second house. Sub. for HB 2690 previously had been incorporated, as a floor amendment, into HB 2938.

The language that passed through HB 2690-SB 322 and HB 2690-HB 2938 was placed into **Sub. for HB 2706** (conference report) which passed the Legislature. However, the proposed penalties (fine increases, third offense felony, imprisonment) were not enacted by the 2006 Legislature. **[ENACTED]**

- **HB 2755.** This bill was introduced by the House Insurance Committee during the 2006 Session, but did not have a hearing. The bill incorporated the language from 2005 HB 2305 (right to recovery).

2007-2008

- **SB 615.** The bill, as amended by the Senate Committee of the Whole, would have amended KAIRA to:
 - Require that a prosecution for permitting an uninsured motor vehicle to be operated on a highway, or failure to provide proof of financial security, be stayed if evidence of financial security is presented to the court, unless there is a request from the defense attorney to set the matter for trial;
 - Require that if the Department of Revenue indicates the insurance was not in force on the date in question, the Department would be required to deliver a certified copy to any defense attorney;
 - Require that all criminal proceedings would be stayed and eventually dismissed, if the person whose license is suspended or revoked and who is involved in an accident, enters into an agreement with any driver or driver's insurer to pay for such damage and fulfills the agreement within 12 months;
 - Require that all criminal proceedings would be reinstated if the person whose license is suspended or revoked and who is involved in an accident, enters into an agreement with any driver or driver's insurer to pay for such damage and defaults on the agreement;
 - Authorize a court to order that a convicted person's motor vehicle be impounded or immobilized for up to 30 days for failure to maintain financial security or liability insurance (see 2008 HB 2867);
 - Prohibit the owner of a motor vehicle from recovering the first \$5,000 of property damage to his or her motor vehicle if the owner failed to maintain financial security on the vehicle;
 - Exempt a lienholder from the prohibition from recovering for property damage to a motor vehicle; and
 - Require that any moneys not paid by insurance companies to the uninsured motorist would be required to be paid to the Attorney General for deposit into the Crime Victims Compensation Fund. (Adopted by Senate; Hearing in House Committee; died in Committee)
- **HB 2378.** The bill would have amended KAIRA to prohibit a vehicle owner from recovering property damage to the owner's vehicle if the owner did not have

insurance and was involved in an accident with an insured vehicle. In situations where the accident was the fault of the insured driver, recovery of property damage would have been prohibited for the uninsured vehicle. (2007 Committee hearing; died in Committee)

- **HB 2867.** The bill would have amended KAIRA to provide that the court, in addition to other penalties specified in current law, may order the convicted person's vehicle be impounded or immobilized up to 30 days for the failure to have or maintain financial security. The vehicle owner would be responsible for towing, impoundment, and storage fees. The court would have been required to consider, prior to impoundment, whether the impoundment would result in the loss of employment of the convicted person or member of the person's family or whether the owner or family member would be impaired from attending school or obtaining medical care. Provisions also were made for personal property retrieval and lease vehicles. (Introduced in 2008, died in Committee).

2009-2010

- **H. Sub. for SB 260** would have required the Secretary of Revenue, in consultation with the Insurance Commissioner, to implement a motor vehicle financial security verification and compliance system by March 1, 2011. The system, among other things, would have been required to utilize data reported by insurers and send requests to insurers for verification of insurance via services established by the insurers with enhancements, additions, and modification as required by the state agencies. The bill also would have required the Department of Revenue, after the system was operational for two years, to report to the Legislature regarding the benefits and costs of the verification system to the State, insurers, and the public and the effectiveness of the program [system] in reducing the number of uninsured motor vehicles. The substitute bill died on general orders in the House. **SB 260**, as amended by Senate Committee of the Whole, would have provided that anyone operating an uninsured vehicle who, at the time of auto accident, had not maintained personal injury protection (PIP) benefits coverage is prohibited from having a cause of action for non-economic loss. This provision would not have applied to persons who failed to maintain coverage for a period of 30 days or less and had maintained continuous coverage for at least one year prior to this coverage lapse. The bill also would have barred persons convicted of, or having pled guilty to, an alcohol or drug-related violation in connection with an auto accident from this recovery.
- **SB 392** and **HB 2474**, as introduced, were nearly identical bills directing the Secretary of Revenue, in consultation with the Insurance Commissioner, to develop and implement an on-line motor vehicle and financial security verification system. The bills did not specify the type of system to be utilized and instead required the Secretary to select and enter into a contract with a third party contractor to develop, implement, operate, and maintain the system. Insurance companies would have been required to submit policy information to this contractor on a daily basis. There was no committee action on SB 392; HB 2474 was modified by the House Committee on Insurance and recommended as H. Sub. for SB 260 (described above).
- **SCR 1631**, as amended by the Senate Committee of the Whole, would have reactivated the task force created by 2008 SCR 1616 to study the design and

implementation of an electronic motor vehicle financial security verification system. The bill passed the Senate and was referred to House Committee. The bill died in committee.

2011-2012

- **SB 136.** The bill provided that anyone operating an uninsured vehicle who, at the time of auto accident, had not maintained personal injury protection (PIP) benefits coverage is prohibited from having a cause of action for non-economic loss (see 2009 SB 260, as amended by SCOW). Amended by House Committee, the bill specified that this prohibition would not apply if the court finds that the person did not knowingly drive a motor vehicle that was without PIP coverage. **[ENACTED]**
- **HB 2291.** The bill would amend KSA 40-284 to extend underinsured motorist coverage to “any occupant of the insured vehicle or their heirs at law.” Additionally, these individuals would be permitted to recover from the owner or operator another vehicle the same limits of the policy as are available to the owner of the vehicle they are occupying. Current law pertains only to the policyholder (does not address the vehicle's occupants). The bill was referred to the House Committee on Insurance. No action, to date, has been taken on this matter.