

Report of the Electronic Motor Vehicle Financial Security Verification System Task Force to the 2007 Kansas Legislature

CHAIRPERSON: Insurance Commissioner Sandy Praeger

VICE-CHAIRPERSON: Senator Chris Steineger

LEGISLATIVE MEMBERS: Senators Ruth Teichman and Chris Steineger; and Representatives Tom Sawyer and John Faber

NON-LEGISLATIVE MEMBERS:

Brad Miller, Farmers Alliance Mutual Insurance Company, McPherson, Kansas
KAPCIC representative

Tony Kimmi, Farm Bureau Mutual Insurance Company, Manhattan, Kansas
KAPCIC representative

Don Cleasby, Property Casualty Insurers Association of America, Des Plaines, Illinois
PCI representative

George Cooper, State Farm Insurance Companies, Bloomington, Illinois
NAMIC representative

Lonny Claycamp, Insurance Planning Inc., Hays, Kansas
KAIA representative

Ginny Boyles, ACE-INA Group, Philadelphia, Pennsylvania
AIA representative

Lee Wright, Farmers Insurance Group, Overland Park, Kansas
Farmers Insurance Group representative

Captain Joe Herridge, Kansas Highway Patrol, Wichita, Kansas
nominated by Governor's Office

Gavin Wittman, Educational Credit Union, Topeka, Kansas
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Carmen Alldritt, Director of Vehicles, Department of Revenue, Topeka, Kansas

Tim Blevins, Chief Information Officer, Department of Revenue, Topeka, Kansas

January 2007

Electronic Motor Vehicle Financial Security Verification System Task Force

A RESPONSE TO UNINSURED MOTORISTS

CONCLUSIONS AND RECOMMENDATIONS

The Task Force recommends a **reauthorization of 2006 SCR 1619** to continue its work in addressing the design and implementation of an electronic motor vehicle financial security verification system with real time capabilities for verification. In its discussion of the criteria established by 2006 SCR 1619 and the necessity for a reauthorization of the Task Force resolution, the Task Force determined that it was necessary to continue its work to:

- **Find Kansas-specific solutions to our Uninsured Motorist Rate (UMR) and related issues.** Those solutions should incorporate the best practices and recommendations outlined by the NAIC (National Association of Insurance Commissioners) to achieve the most effective change. Those best practices include: Technology; Reporting Options for Insurers; Accurate Data; Accessibility; Enforcement; Privacy and Confidentiality; Protection of Citizens; Data Ownership; Commercial Insurance; Measurements; Vendor Neutrality; Collaboration; and NAIC/AAMVA (American Association of Motor Vehicle Administrators) Involvement.
- **Review the current system used to track and report uninsured motorists and the resulting enforcement.** It is imperative that consideration be given to the information provided by representatives of Kansas' law enforcement community and insurance industry representatives. In particular, the Task Force needs to determine: if more frequent reporting or reporting with multiple criteria (VIN and policy number) by insurance companies to the Kansas Department of Revenue is appropriate; whether jail time effective in reducing the UMR; and how best to utilize the current and planned technologies available to the Department and to law enforcement.
- **Define "real time" as the term applies to verification of auto insurance coverage.** The Task Force believes that "real time" is critical and an essential variable in the design and implementation of an effective system for Kansas. "Real time" is now defined in terms of when the vehicle registration database is searched—at the time of renewal. The Task Force needs to further study this variable as it applies to law enforcement at the roadside and the potential costs and efficiencies, including time, associated with any new reporting requirements to drivers, law enforcement, state agencies, and to insurance companies in Kansas.
- **Integrate any systems created by the implementation of the REAL ID Act.** The Task Force notes that the federal REAL ID Act will create a number of requirements and associated costs for the states, including those for the state Division of Motor Vehicles. The Task Force believes there is the potential to integrate any new system, including an electronic verification system for proof of auto insurance, into those systems required under the REAL ID Act. The Task Force encourages a continued dialogue with the Kansas Department of Revenue to achieve, if, upon further study, a new system, a more efficient and integrated system and avoid any duplication of effort.

- **Reflect on the feasibility study being conducted by the Kansas Department of Revenue.** The Task Force believes it is essential to review the Kansas Department of Revenue feasibility study for the design of the new VIPS (Vehicle Information Processing System) which is anticipated as early as May 2006. This study serves as an important tool in determining the integration of an insurance verification database with other data available to the Department. The study, at a minimum, should be reviewed in terms of costs and efficiencies and the benefits to law enforcement and drivers.

BACKGROUND

The 2006 Legislature considered several proposals to address uninsured motorists' issues. During its review, the Legislature passed **SCR 1619** that called for the creation of a task force to study the design of an electronic motor vehicle financial verification system for real time verification of compliance with the financial security requirements of KSA 40-3401 *et seq.* to combat uninsured motorists.

The resolution stated that the design of an electronic motor vehicle financial security verification system needs to include the following factors:

- The likelihood the system would reduce the number of uninsured motorists in the state;
- The likelihood the system would aid law enforcement in the identification of uninsured motorists in this state;
- The reliability of the system;
- The cost-effectiveness of the system;
- Privacy protections of the system;
- Data security and integrity of the system; and
- Any other issue related to the proper design and implementation of the system.

The 17 members of the Task Force were appointed as follows:

- The Insurance Commissioner or designated representative;
- The Secretary of Revenue or designated representative;
- The Director of the Division of Motor Vehicles or designated representative;
- Four legislators - one member each appointed by the Senate President, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader;
- One member representing a domestic property and casualty insurance company appointed by the Insurance Commissioner from a list submitted by the Kansas Association of Property and Casualty Insurance Companies;
- One member representing a foreign property and casualty insurance company appointed by the Insurance Commissioner from a list submitted by the Kansas Association of Property and Casualty Insurance Companies;
- One member representing foreign stock insurance companies appointed by the Insurance Commissioner from a list submitted by the American Insurance Association;
- One member representing automobile insurance companies appointed by the Insurance Commissioner from a list of

the top six automobile insurance premium writers in Kansas;

- One member representing a property and casualty company appointed by the Insurance Commissioner from a list submitted by the Property Casualty Insurers Association of America;
- One member representing a property and casualty company appointed by the Insurance Commissioner from a list submitted by the National Association of Mutual Insurance Companies;
- One member representing the Kansas licensed insurance agents appointed by the Insurance Commissioner from a list submitted by the Kansas Association of Insurance Agents;
- Two members appointed by the Governor representing law enforcement; and
- One member appointed by the Governor representing the consumer interests.

A report that contains the results of the Task Force's study and its recommendations and conclusions was required to be transmitted to the Speaker of the House of Representatives, the Senate President, the Chairperson of the House Insurance Committee, and the Chairperson of the Senate Financial Institutions and Insurance Committee no later than the convening of the 2007 Kansas Legislature.

TASK FORCE ACTIVITIES

The Task Force conducted its meetings in the State Capitol on Thursday, December 14, 2006, and Wednesday, January 3, 2007. Task Force meetings included testimony from representatives of the Kansas Insurance Department, the Kansas Department of Revenue, the Kansas Highway Patrol, other law enforcement agencies, insurance companies, the National Association of

Insurance Commissioners (NAIC) and Insurance Vehicle Identification Network, and the Kansas Hispanic and Latino Affairs Commission.

During its December meeting, the Task Force members discussed the charge posed by the 2006 resolution. Chairperson Praeger stated the common goal for the Task Force: gathering the information necessary to understand the benefits and desirability of establishing an electronic verification system.

Jim Newins, Kansas Insurance Department, provided an overview of Kansas' uninsured motorist population and comparative information about other states' experiences. Newins cited the Insurance Research Council's (IRC) Uninsured Motorist Studies, published in 1999 and 2006. In the earlier study, Kansas had an uninsured motorist rate (UMR) of 9.0 percent; the national average was 14.0 percent. In the later study, Kansas followed a nationwide trend, according to the IRC, as its UMR increased to 13 percent; the nationwide average grew to 14.6 percent. Newins also provided the Task Force with comparative state data on the impact of penalties for driving uninsured and the impact of other states' methods designed to deter the uninsured motorist population. Utah, which maintains an electronic database, experienced no change in its UMR between 1999 and 2006. North Carolina which uses insurance checkpoints (much like sobriety checkpoints) and has an electronic database for verifying insurance status, saw an increase in its UMR from 6 percent to 8 percent.

Task Force member Carmen Alldritt, Director of Vehicles, Kansas Department of Revenue, discussed the Department's perspective, indicating that time is needed to determine the best solution and the goal in this process should be real-time insurance verification. Alldritt noted that the Department is working on replacing its VIPS (Vehicle Information Processing System) and that it would be appropriate to interface an

electronic real-time verification system within the new VIPS. Alldritt and Marcy Ralston, Driver Control Bureau, also advised the Task Force on the current insurance verification system. Currently, insurance companies submit their entire book of business on the third Friday of every month, and the information is available to law enforcement and the courts two weeks after submission. The database works on a Vehicle Identification Number (VIN) registration matching system. However, there currently is no interface between the driver's license database and the vehicle registration database. KDOR representatives noted that while the database is not online, the technology is present to integrate it into an online system. It also was noted that the agency is planning to hire a consultant for a VIPS feasibility study and anticipates a report by May 2007, with a goal to have the new VIPS in place by 2010.

The Task Force discussed the nature of "real time" and whether a system was currently available that would provide secure transfer of data in a more meaningful time frame. It was determined that the definition of "real time" needs to be established to assist the Department in its efforts. Implementation costs also were discussed, including the cost to the Department (and State) and to insurance companies charged with providing the data.

Task Force member Joe Herridge, Kansas Highway Patrol, provided a discussion of the Kansas motor vehicle liability insurance law as it applies to law enforcement. Herridge responded to the "real time" discussion, noting that law enforcement and the cited motorist would benefit from a real time verification roadside, saving time at the stop and in court. A similar efficiency would be realized during crash investigations. Herridge noted that an electronic insurance database would assist officers in determining what enforcement action would be taken against a driver who has a suspended license for the failure to provide proof of insurance. Herridge cited additional benefits to making an accessible roadside "real time" database:

the tool should compel more people to carry valid insurance and reduce the number of uninsured motorists; and, it should improve officer safety, by reducing the time and exposure to traffic as well as the violator. Task force members noted that enforcement should be a component of the design and implementation of the new system. (An overview of the current law requirements for providing proof of insurance, including the related penalties, follows at the conclusion of the summary from the January 3 meeting).

Rick Wilborn, Farmers Alliance Insurance Companies, offered the perspective of a domestic company, noting that Kansas' UMR is extremely low compared to surrounding and other states. Wilborn highlighted other states' solutions to the uninsured motorist problem and indicated that solutions such as compulsory auto insurance, "no-pay, no play" legislation (person is limited to damages they can recover if the individual fails to maintain the minimum required coverage), and electronic verification systems address "uninsured out of state drivers" or persons that now drive without current registration. Wilborn instead recommended that a more uniform, multi-state cost effective approach should be considered and noted that the NAIC has recently approved an uninsured motorist standards report.

Sheriff Randy L. Rogers, Legislative Chair, Kansas Sheriff's Association, next addressed the Task Force and indicated that a survey of Kansas sheriffs revealed that generally, the sheriffs believe that increased jail time, increased fines, and longer license suspension periods would not be effective solutions. Rogers encouraged the Task Force to seek creative solutions such as the suspension of vehicle registrations, seizure of vehicles not insured with a period of time to secure current insurance, and possible vehicle forfeiture for repeat offenders. Rogers concluded his testimony by noting that sheriffs are concerned about increasing jail time, as county jails statewide are being increasingly overcrowded. The Task Force inquired about the use of an insurance

checkpoint. Sheriff Rogers indicated that a funding source would be needed to compensate law enforcement's overtime and personnel costs.

In January, the Task Force heard from Scott Lakin, NAIC and Insurance Vehicle Identification Network representative. Lakin noted that a number of states are working to address issues associated with uninsured motorists. Lakin, a former state insurance commissioner, informed the Task Force that opportunities exist with the federal REAL ID Act, especially in the areas of the database systems created and compliance required at the state level.

The Task Force noted the NAIC Property and Casualty Insurance (C) Committee report, *Standards for Monitoring Compulsory Auto Insurance and Financial Responsibility Laws* (December 2006), which outlines best practices and specific recommendations to states and the industry in the implementation of solution(s) that achieve effective change, including:

- Technology
- Reporting Options for Insurers
- Accurate Data
- Accessibility
- Enforcement
- Privacy and Confidentiality
- Protection of Citizens
- Data Ownership
- Commercial Insurance
- Measurements
- Vendor Neutrality
- Collaboration
- NAIC/AAMVA Involvement

It also was reported that the NAIC has interest in developing a computer program and database tracking system for states. Lakin noted that states to monitor for effectiveness of uninsured motorist solutions include Florida, Colorado, Ohio, Minnesota, and Alabama.

Elias Garcia, Executive Director, Kansas Hispanic and Latino Affairs Commission, addressed the issue of enforcement as it applies to a specific population. Garcia noted the activities of the Racial Profiling Task Force created by 2005 H. Sub. for SB 77. Garcia also noted the use of a Driving Privilege Card, issued by the State of Utah to not only undocumented immigrants but to foreign students and individuals without Social Security Numbers, as an effective tool for reducing the number of uninsured motorists and hit-and-run accidents. Garcia asked the Task Force to consider immigration as a substantive issue that would add to the complexity of addressing uninsured motorists.

Conferee David Snyder, Vice President and Assistant General Counsel for the American Insurance Association (AIA), asked the Task Force to consider if there is a problem requiring a solution. Snyder presented three alternative solutions: random verification; database matching; and charity event-based system (Insurance Industry Commission on Motor Vehicle Administration model). If a new system is determined by the Task Force as necessary, Snyder suggested that the event-based system be implemented. The event-based system advantages highlighted include:

- Data matching problems are reduced or eliminated;
- Available 24 hours, 7 days a week to DMV and law enforcement agencies;
- Now spreading (Wyoming and Oklahoma laws) and being implemented in Florida;
- System can identify hard core violators and focus on them for special treatment; and
- Same needs for collaboration/cooperation among the state, any vendors and insurers.

Snyder noted that it is not clear if any new system would improve compliance in Kansas, but if the Task Force recommends moving forward on a system implementation, it needs to provide for realistic requirements and time frame, exclude commercial insureds unless there is a clear case of “need,” and implement the event-based model if a new system is necessary.

Toni Roberts, Kansas Department of Revenue, next provided information to the Task Force about the current interaction between insurance companies and the Department. Roberts discussed that data provided by the companies is used at the time of online vehicle registration renewal. During online renewal, the database is used to match the vehicle identification number (VIN). Roberts noted that if the Task Force recommends changes to the data requirements for matching, it will need to take into account the Drivers Privacy Protection Act that currently has 14 exceptions for providing information. Answering a Task Force member’s question, Roberts noted that about 25 percent of the registration and insurance company data do not match VIN and error reports are provided. It was reported that currently about 5 percent of the public utilize online renewal for vehicle registration. Task Force members discussed additional criteria for the current data format, including more frequent submission of the insurance companies’ book for business and creating a secondary match criteria to the VIN, such as a policy number. It also was noted by a Department representative that the data currently is loaded at the time of renewal, but could be captured on a monthly basis.

Ed Klumpp, Kansas Chiefs of Police, expressed support for the efforts of the Task Force. Klumpp noted that the current accident reporting process is time consuming for local law enforcement, with officers required to record the vehicle make and model and VIN information on three separate occasions. Better enforcement and compliance, Klumpp indicated, would lead

to a reduction in hit-and-run accidents. Klumpp also encouraged the Task Force to look at available resources, such as the Kansas Criminal Justice Information System (KCJIS) and the Electronic Ticketing Information System, with a goal to reduce duplication and keep equipment in patrol cars at a limit. Klumpp noted that the Kansas Highway Patrol and the Kansas Department of Transportation are working together to write accident reporting software.

Task Force member Ginny Boyles, Product Manager, Commercial Automobile, ACE USA, defined commercial automobile coverage and discussed the differences in commercial and personal automobile coverages and the variance from commercial insurer to insurer. Boyles noted that a reliance on the VIN reporting for commercial insureds creates room for error, as commercial liability coverage is written as applicable to all automobiles owned, leased, or borrowed by that insured during the policy term. Boyles urged the Task Force to consider an exemption for commercially insured vehicles from any new reporting system.

The Task Force then discussed its charge and made recommendations for its report to the 2007 Legislature. Those recommendations appear at the conclusion of this report.

Current Law Requirements—Proof of Insurance

Kansas law requires individuals to provide verification of financial security (proof of insurance) in three circumstances:

- To law enforcement officers at a traffic stop (KSA 40-3104(d));
- To law enforcement officers at the scene of an auto accident (KSA 8-1604); and
- When registering or renewing registration of a vehicle (KSA 40-3118, KSA 8-173).

Valid insurance consists of an automobile insurance policy containing:

- Bodily Injury Liability;
- Property Damage Liability;
- Personal Injury Protection Benefits (Kansas No-Fault); and
- Uninsured/Underinsured Motorist Protection.

Insured drivers are required to purchase coverage for potential accidents with uninsured motorists (KSA 40-284). The minimum limits on coverage for this protection are \$25,000/person bodily injury and \$50,000/accident bodily injury.

The Kansas County Treasurer's Association provides an online list detailing the currently accepted physical forms of valid proof of insurance:

- Insurance card issued by an insurance company listing the vehicle identification number and expiration date;
- Policy of insurance with expiration date;
- Binder of insurance (30 days);
- Motor carrier identification number issued by State Corporation Commission listing expiration date;
- Fleet insurance card with expiration date;
- For vehicles in driver's education programs: dealership contract and copy of motor vehicle liability insurance policy issued to school district or accredited nonpublic school listing expiration date; and
- For mail renewal: photocopy of any of the above listed items.

Penalties under Kansas Law

The Kansas Automobile Injury Reparations Act outlines the penalties associated with failure to provide evidence of financial security. According to KSA 40-3104(g), failure to produce evidence of financial verification results in a \$300 to

\$1,000 fine and a class B misdemeanor charge for a first offense, and a \$800 to \$2,500 fine and class A misdemeanor charge for a subsequent offense within three years. There is no penalty specified for a third offense.

KSA 40-3104(h) outlines suspension of a driver's licence and revocation of a vehicle registration for both resident and non-resident drivers and vehicle owners. Effective July 1, 2006, Sub. for HB 2706, among other things, amends KSA 40-3104(j) and (k) to include specific provisions for the revocation of driver's license and registration, particularly reinstating licences requiring proof of insurance.

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