

**HOUSE BILL No. 2634**

By Representative Hodge

2-12

1 AN ACT concerning insurance; relating to motor vehicle liability  
2 insurance coverage; removing minimum fine requirement; amending  
3 K.S.A. 2019 Supp. 40-3104 and repealing the existing section.  
4

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

6 Section 1. K.S.A. 2019 Supp. 40-3104 is hereby amended to read as  
7 follows: 40-3104. (a) Every owner shall provide motor vehicle liability  
8 insurance coverage in accordance with the provisions of this act for every  
9 motor vehicle owned by such person, unless such motor vehicle: (1) Is  
10 included under an approved self-insurance plan as provided in subsection  
11 (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-  
12 4005, and amendments thereto, in an approved driver training course by a  
13 school district or an accredited nonpublic school under an agreement with  
14 a motor vehicle dealer, and such motor vehicle liability insurance coverage  
15 is provided by the school district or accredited nonpublic school; (3) is  
16 included under a qualified plan of self-insurance approved by an agency of  
17 the state in which such motor vehicle is registered and the form prescribed  
18 in ~~subsection (b) of~~ K.S.A. 40-3106(b), and amendments thereto, has been  
19 filed; or (4) is expressly exempted from the provisions of this act.

20 (b) An owner of an uninsured motor vehicle shall not permit the  
21 operation thereof upon a highway or upon property open to use by the  
22 public, unless such motor vehicle is expressly exempted from the  
23 provisions of this act.

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

27 (d) (1) Any person operating a motor vehicle upon a highway or upon  
28 property open to use by the public shall display, upon demand, evidence of  
29 financial security to a law enforcement officer. Such evidence of financial  
30 security ~~which~~ *that* meets the requirements of subsection (e) may be  
31 displayed on a cellular phone or any other type of portable electronic  
32 device. The law enforcement officer to whom such evidence of financial  
33 security is displayed shall view only such evidence of financial  
34 responsibility. Such law enforcement officer shall be prohibited from  
35 viewing any other content or information stored on such cellular phone or  
36 other type of portable electronic device. The law enforcement officer shall

1 issue a citation to any person who fails to display evidence of financial  
2 security upon such demand. The law enforcement officer shall transmit a  
3 copy of the insurance verification form prescribed by the secretary of  
4 revenue with the copy of the citation transmitted to the court.

5 (2) No citation shall be issued to any person for failure to provide  
6 proof of financial security when evidence of financial security meeting the  
7 standards of subsection (e) is displayed upon demand of a law enforcement  
8 officer. Whenever the authenticity of such evidence is questionable, the  
9 law enforcement officer may initiate the preparation of the insurance  
10 verification form prescribed by the secretary of revenue by recording  
11 information from the evidence of financial security displayed. The officer  
12 shall immediately forward the form to the department of revenue, and the  
13 department shall proceed with verification in the manner prescribed in the  
14 following paragraph. Upon return of a form indicating that insurance was  
15 not in force on the date indicated on the form, the department shall  
16 immediately forward a copy of the form to the law enforcement officer  
17 initiating preparation of the form.

18 (e) Unless the insurance company subsequently submits an insurance  
19 verification form indicating that insurance was not in force, no person  
20 charged with violating subsection (b), (c) or (d) shall be convicted if such  
21 person produces in court, within 10 days of the date of arrest or of issuance  
22 of the citation, evidence of financial security for the motor vehicle  
23 operated, which was valid at the time of arrest or of issuance of the  
24 citation. Such evidence of financial security may be produced by  
25 displaying such information on a cellular phone or any other type of  
26 portable electronic device. Any person to whom such evidence of financial  
27 security is displayed on a cellular phone or any other type of portable  
28 electronic device shall be prohibited from viewing any other content or  
29 information stored on such cellular phone or other type of portable  
30 electronic device. For the purpose of this subsection, evidence of financial  
31 security shall be provided by a policy of motor vehicle liability insurance,  
32 an identification card or certificate of insurance issued to the policyholder  
33 by the insurer which provides the name of the insurer, the policy number,  
34 make and year of the vehicle and the effective and expiration dates of the  
35 policy, or a certificate of self-insurance signed by the commissioner of  
36 insurance. Upon the production in court of evidence of financial security,  
37 the court shall record the information displayed thereon on the insurance  
38 verification form prescribed by the secretary of revenue, immediately  
39 forward such form to the department of revenue, and stay any further  
40 proceedings on the matter pending a request from the prosecuting attorney  
41 that the matter be set for trial. Upon receipt of such form the department  
42 shall mail the form to the named insurance company for verification that  
43 insurance was in force on the date indicated on the form. It shall be the

1 duty of insurance companies to notify the department within 30 calendar  
2 days of the receipt of such forms of any insurance that was not in force on  
3 the date specified. Upon return of any form to the department indicating  
4 that insurance was not in force on such date, the department shall  
5 immediately forward a copy of such form to the office of the prosecuting  
6 attorney or the city clerk of the municipality in which such prosecution is  
7 pending when the prosecuting attorney is not ascertainable. Receipt of any  
8 completed form indicating that insurance was not in effect on the date  
9 specified shall be prima facie evidence of failure to provide proof of  
10 financial security and violation of this section. A request that the matter be  
11 set for trial shall be made immediately following the receipt by the  
12 prosecuting attorney of a copy of the form from the department of revenue  
13 indicating that insurance was not in force. Any charge of violating  
14 subsection (b), (c) or (d) shall be dismissed if no request for a trial setting  
15 has been made within 60 days of the date evidence of financial security  
16 was produced in court.

17 (f) Any person in whose name more than 25 motor vehicles are  
18 registered in Kansas may qualify as a self-insurer by obtaining a certificate  
19 of self-insurance from the commissioner of insurance. The certificate of  
20 self-insurance issued by the commissioner shall cover such owned vehicles  
21 and those vehicles, registered in Kansas, leased to such person if the lease  
22 agreement requires that motor vehicle liability insurance on the vehicles be  
23 provided by the lessee. Upon application of any such person, the  
24 commissioner of insurance may issue a certificate of self-insurance, if the  
25 commissioner is satisfied that such person is possessed and will continue  
26 to be possessed of ability to pay any liability imposed by law against such  
27 person arising out of the ownership, operation, maintenance or use of any  
28 motor vehicle described in this subsection. A self-insurer shall provide  
29 liability coverage subject to the provisions of ~~subsection (c) of~~ K.S.A. 40-  
30 3107(e), and amendments thereto, arising out of the ownership, operation,  
31 maintenance or use of a self-insured motor vehicle in those instances  
32 where the lessee or the rental driver, if not the lessee, does not have a  
33 motor vehicle liability insurance policy or insurance coverage pursuant to  
34 a motor vehicle liability insurance policy or certificate of insurance or such  
35 insurance policy for such leased or rented vehicle. Such liability coverage  
36 shall be provided to any person operating a self-insured motor vehicle with  
37 the expressed or implied consent of the self-insurer.

38 Upon notice and a hearing in accordance with the provisions of the  
39 Kansas administrative procedure act, the commissioner of insurance may  
40 cancel a certificate of self-insurance upon reasonable grounds. Failure to  
41 provide liability coverage or personal injury protection benefits required  
42 by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any  
43 liability imposed by law arising out of the ownership, operation,

1 maintenance or use of a motor vehicle registered in such self-insurer's  
2 name, or to otherwise comply with the requirements of this subsection  
3 shall constitute reasonable grounds for the cancellation of a certificate of  
4 self-insurance. Reasonable grounds shall not exist unless such  
5 objectionable activity occurs with such frequency as to indicate a general  
6 business practice.

7 Self-insureds shall investigate claims in a reasonably prompt manner,  
8 handle such claims in a reasonable manner based on available information  
9 and effectuate prompt, fair and equitable settlement of claims in which  
10 liability has become reasonably clear.

11 As used in this subsection, "liability imposed by law" means the stated  
12 limits of liability as provided under ~~subsection (e)~~ of K.S.A. 40-3107(e),  
13 and amendments thereto.

14 Nothing in this subsection shall preclude a self-insurer from pursuing  
15 all rights of subrogation against another person or persons.

16 (g) (1) Any person violating any provision of this section shall be  
17 guilty of a class B misdemeanor and shall be subject to a fine of not ~~less~~  
18 ~~than \$300~~ nor more than \$1,000 or confinement in the county jail for a  
19 term of not more than six months, or both such fine and confinement.

20 (2) Any person convicted of violating any provision of this section  
21 within three years of any such prior conviction shall be guilty of a class A  
22 misdemeanor and shall be subject to a fine of not ~~less than \$800~~ nor  
23 than \$2,500.

24 (h) In addition to any other penalties provided by this act for failure  
25 to have or maintain financial security in effect, the director, upon receipt of  
26 a report required by K.S.A. 8-1607 or 8-1611, and amendments thereto, or  
27 a denial of such insurance by the insurance company listed on the form  
28 prescribed by the secretary of revenue pursuant to subsection (d) of this  
29 section, shall, upon notice and hearing as provided by K.S.A. 40-3118, and  
30 amendments thereto:

31 (1) Suspend:

32 (A) The license of each driver in any manner involved in the  
33 accident;

34 (B) the license of the owner of each motor vehicle involved in such  
35 accident, unless the vehicle was stolen at the time of the accident, proof of  
36 which must be established by the owner of the motor vehicle. Theft by a  
37 member of the vehicle owner's immediate family under the age of 18 years  
38 shall not constitute a stolen vehicle for the purposes of this section;

39 (C) if the driver is a nonresident, the privilege of operating a motor  
40 vehicle within this state; or

41 (D) if such owner is a nonresident, the privilege of such owner to  
42 operate or permit the operation within this state of any motor vehicle  
43 owned by such owner; and

1 (2) revoke the registration of all vehicles owned by the owner of each  
2 motor vehicle involved in such accident.

3 (i) The suspension or revocation requirements in subsection (h) shall  
4 not apply:

5 (1) To the driver or owner if the owner had in effect at the time of the  
6 accident an automobile liability policy as required by K.S.A. 40-3107, and  
7 amendments thereto, with respect to the vehicle involved in the accident;

8 (2) to the driver, if not the owner of the vehicle involved in the  
9 accident, if there was in effect at the time of the accident an automobile  
10 liability policy with respect to such driver's driving of vehicles not owned  
11 by such driver;

12 (3) to any self-insurer as defined by ~~subsection (u)~~ of K.S.A. 40-  
13 3103(u), and amendments thereto;

14 (4) to the driver or owner of any vehicle involved in the accident  
15 which was exempt from the provisions of this act pursuant to K.S.A. 40-  
16 3105, and amendments thereto;

17 (5) to the owner of a vehicle described in subsection (a)(2).

18 (j) (1) For the purposes of ~~provisions (1) and (2)~~ of subsection (i) of  
19 ~~this section (1) and (2)~~, the director may require verification by an owner's  
20 or driver's insurance company or agent thereof that there was in effect at  
21 the time of the accident an automobile liability policy as required in this  
22 act.

23 (2) Subject to the provisions of subsection (k), any suspension or  
24 revocation effected hereunder shall remain in effect until such person:

25 (A) Has filed satisfactory proof of financial security with the director  
26 as required by ~~subsection (d)~~ of K.S.A. 40-3118(d), and amendments  
27 thereto;

28 (B) has paid the reinstatement fee herein prescribed; and

29 (C) (i) has been released from liability;

30 (ii) is a party to an action to determine liability pursuant to which the  
31 court temporarily stays such suspension pending final disposition of such  
32 action;

33 (iii) has entered into an agreement for the payment of damages; or

34 (iv) has been finally adjudicated not to be liable in respect to such  
35 accident, and evidence of any such fact has been filed with the director.

36 (3) The reinstatement fee shall be \$100 except that if the registration  
37 of a motor vehicle of any owner is revoked within one year following a  
38 prior revocation of the registration of a motor vehicle of such owner under  
39 the provisions of this act such fee shall be \$300.

40 (k) (1) Whenever any person whose license has been suspended or  
41 revoked pursuant to this section is involved in an accident and has entered  
42 into an agreement with any driver, or such driver's insurer, who has been  
43 damaged or whose vehicle has been damaged to pay for such damage and

1 such person defaults on payments under such agreement, the driver or the  
2 driver's insurer, as appropriate, shall notify the director within 60 days of  
3 the date of default.

4 (2) Upon receipt of the notice of default, the director shall  
5 immediately suspend such person's license and registration. If such person  
6 is a nonresident, the director shall immediately suspend such nonresident's  
7 privilege to operate a motor vehicle in this state.

8 (3) Except as provided in paragraph (4), such person's driver's  
9 license, registration and nonresident's operating privilege shall remain so  
10 suspended and shall not be renewed, nor shall any such license or  
11 registration be thereafter issued in the name of such person, including any  
12 such person not previously licensed, unless and until:

13 (A) The director receives notice payments under the agreement  
14 referred to in paragraph (1) have been resumed and that payments under  
15 such agreement are no longer in default;

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

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

20 (4) Upon due notice to the director that the conditions of paragraph  
21 (3) have been fulfilled, such person may obtain from the director an order  
22 restoring such person's driver's license, registration and nonresident's  
23 operating privilege to operate a motor vehicle in this state conditioned  
24 upon such person's continued compliance with the agreement referred to in  
25 paragraph (1).

26 (5) In the event such person fails to make any further payment under  
27 the agreement referred to in paragraph (1) when such payment is due, the  
28 director, upon receipt of notice of such default, shall immediately suspend  
29 the license, registration or nonresident's operating privilege of such person  
30 until all payments have been made under the agreement referred to in  
31 paragraph (1). No suspension of such person's license, registration or  
32 nonresident's privilege to operate a motor vehicle in this state shall be  
33 reinstated pursuant to paragraph (4).

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

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

40 Sec. 2. K.S.A. 2019 Supp. 40-3104 is hereby repealed.

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