AN ACT concerning insurance; relating to the Kansas automobile injury reparations act; pertaining to owner's failure to maintain financial security; penalties and impoundment procedures; amending K.S.A. 2018 Supp. 40-3104 and repealing the existing section.

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

Section 1. K.S.A. 2018 Supp. 40-3104 is hereby amended to read as follows: 40-3104. (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-4005, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106(b), and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of this act.

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

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

(d) (1) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. Such evidence of financial security—which that meets the requirements of subsection (e) may be displayed on a cellular phone or any other type of portable electronic device. The law enforcement officer to whom such evidence of financial security is displayed shall view only such evidence of financial responsibility. Such law enforcement officer shall be prohibited from viewing any other content or information stored on such cellular phone or
other type of portable electronic device. The law enforcement officer shall
issue a citation to any person who fails to display evidence of financial
security upon such demand. The law enforcement officer shall transmit a
copy of the insurance verification form prescribed by the secretary of
revenue with the copy of the citation transmitted to the court.

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

(e) Unless the insurance company subsequently submits an insurance
verification form indicating that insurance was not in force, no person
charged with violating subsection (b), (c) or (d) shall be convicted if such
person produces in court, within 10 days of the date of arrest or of issuance
of the citation, evidence of financial security for the motor vehicle
operated, which was valid at the time of arrest or of issuance of the
citation. Such evidence of financial security may be produced by
displaying such information on a cellular phone or any other type of
portable electronic device. Any person to whom such evidence of financial
security is displayed on a cellular phone or any other type of portable
electronic device shall be prohibited from viewing any other content or
information stored on such cellular phone or other type of portable
electronic device. For the purpose of this subsection, evidence of financial
security shall be provided by a policy of motor vehicle liability insurance,
an identification card or certificate of insurance issued to the policyholder
by the insurer which provides the name of the insurer, the policy number,
make and year of the vehicle and the effective and expiration dates of the
policy, or a certificate of self-insurance signed by the commissioner of
insurance. Upon the production in court of evidence of financial security,
the court shall record the information displayed thereon on the insurance
verification form prescribed by the secretary of revenue, immediately
forward such form to the department of revenue, and stay any further
proceedings on the matter pending a request from the prosecuting attorney
that the matter be set for trial. Upon receipt of such form the department
shall mail the form to the named insurance company for verification that
insurance was in force on the date indicated on the form. It shall be the
duty of insurance companies to notify the department within 30 calendar
days of the receipt of such forms of any insurance that was not in force on
the date specified. Upon return of any form to the department indicating
that insurance was not in force on such date, the department shall
immediately forward a copy of such form to the office of the prosecuting
attorney or the city clerk of the municipality in which such prosecution is
pending when the prosecuting attorney is not ascertainable. Receipt of any
completed form indicating that insurance was not in effect on the date
specified shall be prima facie evidence of failure to provide proof of
financial security and violation of this section. A request that the matter be
set for trial shall be made immediately following the receipt by the
prosecuting attorney of a copy of the form from the department of revenue
indicating that insurance was not in force. Any charge of violating
subsection (b), (c) or (d) shall be dismissed if no request for a trial setting
has been made within 60 days of the date evidence of financial security
was produced in court.

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

Upon notice and a hearing in accordance with the provisions of the
Kansas administrative procedure act, the commissioner of insurance may
cancel a certificate of self-insurance upon reasonable grounds. Failure to
provide liability coverage or personal injury protection benefits required
by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any
liability imposed by law arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, or to otherwise comply with the requirements of this subsection shall constitute reasonable grounds for the cancellation of a certificate of self-insurance. Reasonable grounds shall not exist unless such objectionable activity occurs with such frequency as to indicate a general business practice.

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

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

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

(g) (1) Any person violating any provision of this section shall be guilty of a class B misdemeanor and shall be subject to a fine of not less than $300 $1,000 nor more than $1,000 $2,500 or confinement in the county jail for a term of not more than six months, or both such fine and confinement.

(2) Any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a class A misdemeanor and shall be subject to a fine of not less than $800 $2,500 nor more than $2,500 $5,000.

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

(1) Suspend:
   (A) The license of each driver in any manner involved in the accident;
   (B) the license of the owner of each motor vehicle involved in such accident, unless the vehicle was stolen at the time of the accident, proof of which must be established by the owner of the motor vehicle. Theft by a member of the vehicle owner's immediate family under the age of 18 years shall not constitute a stolen vehicle for the purposes of this section;
   (C) if the driver is a nonresident, the privilege of operating a motor vehicle within this state; or
   (D) if such owner is a nonresident, the privilege of such owner to
operate or permit the operation within this state of any motor vehicle
owned by such owner; and
(2) revoke the registration of all vehicles owned by the owner of each
motor vehicle involved in such accident.

(i) The suspension or revocation requirements in subsection (h) shall
not apply:
(1) To the driver or owner if the owner had in effect at the time of the
accident an automobile liability policy as required by K.S.A. 40-3107, and
amendments thereto, with respect to the vehicle involved in the accident;
(2) to the driver, if not the owner of the vehicle involved in the
accident, if there was in effect at the time of the accident an automobile
liability policy with respect to such driver's driving of vehicles not owned
by such driver;
(3) to any self-insurer as defined by subsection (u) of K.S.A. 40-
3103(u), and amendments thereto;
(4) to the driver or owner of any vehicle involved in the accident
which was exempt from the provisions of this act pursuant to K.S.A. 40-
3105, and amendments thereto;
(5) to the owner of a vehicle described in subsection (a)(2).

(j) (1) For the purposes of provisions (1) and (2) of subsection
subsections (i) of this section (1) and (2), the director may require
verification by an owner's or driver's insurance company or agent thereof
that there was in effect at the time of the accident an automobile liability
policy as required in this act.
(2) Subject to the provisions of subsection (k), any suspension or
revocation effected hereunder shall remain in effect until such person:
(A) Has filed satisfactory proof of financial security with the director
as required by subsection (d) of K.S.A. 40-3118(d), and amendments
thereto;
(B) has paid the reinstatement fee herein prescribed; and
(C) (i) has been released from liability;
(ii) is a party to an action to determine liability pursuant to which the
court temporarily stays such suspension pending final disposition of such
action;
(iii) has entered into an agreement for the payment of damages; or
(iv) has been finally adjudicated not to be liable in respect to such
accident and evidence of any such fact has been filed with the director.
(3) The reinstatement fee shall be $100 except that if the registration
of a motor vehicle of any owner is revoked within one year following a
prior revocation of the registration of a motor vehicle of such owner under
the provisions of this act such fee shall be $300.
(k) (1) Whenever any person whose license has been suspended or
revoked pursuant to this section is involved in an accident and has entered
into an agreement with any driver, or such 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 such agreement, the driver or the
driver's insurer, as appropriate, shall notify the director within 60 days of
the date of default.

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

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

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

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

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

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

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

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

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

(n) (1) In addition to any other penalty under this section, if a person
is convicted of violating the provisions of this section within two years of a
prior conviction of violating the provisions of this section, the prosecuting
attorney may seek and the court may order the impoundment of such
person's motor vehicle until such person provides credible evidence that
such person has obtained a motor vehicle liability insurance policy that
satisfies the provisions of K.S.A. 40-3107, and amendments thereto. Once
such person provides credible evidence of a motor vehicle liability
insurance policy for the impounded vehicle, such person may retrieve the
impounded vehicle after having paid for the cost of towing, storage or any
other fees relating to the impoundment of such vehicle.

(2) If the uninsured motorist does not claim such uninsured motorist's
vehicle within 60 days, such vehicle shall be sold at auction to recover the
costs of towing, storage and any other fees relating to the impoundment of
such vehicle, and any proceeds obtained in excess of such fees shall be
distributed to such uninsured motorist, unless such vehicle was involved in
an accident and the fault of driver thereof is greater than that of the driver
of every other vehicle involved in the accident, then the proceeds from
such sale in excess of the such fees, if any, shall be distributed in equal
amounts to the driver of every other motor vehicle involved in the
accident.

(3) If the uninsured motorist was driving a stolen motor vehicle, then
the provisions of this subsection shall not apply to such motor vehicle or to
the true owner thereof.

Sec. 2. K.S.A. 2018 Supp. 40-3104 is hereby repealed.

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