

**SENATE BILL No. 492**

By Committee on Ways and Means

3-8

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1 AN ACT concerning insurance; relating to motor vehicle liability  
2 insurance; notification of cancellation of policy; amending K.S.A. 2015  
3 Supp. 40-3118 and repealing the existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2015 Supp. 40-3118 is hereby amended to read as  
7 follows: 40-3118. (a) No motor vehicle shall be registered or reregistered  
8 in this state unless the owner, at the time of registration, has in effect a  
9 policy of motor vehicle liability insurance covering such motor vehicle, as  
10 provided in this act, or is a self-insurer thereof, or the motor vehicle is  
11 used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and  
12 amendments thereto, in an approved driver training course by a school  
13 district or an accredited nonpublic school under an agreement with a motor  
14 vehicle dealer, and such policy of motor vehicle liability insurance is  
15 provided by the school district or accredited nonpublic school. As used in  
16 this section, the term "financial security" means such policy or self-  
17 insurance. The director shall require that the owner certify and provide  
18 verification of financial security, in the manner prescribed by K.S.A. 8-  
19 173, and amendments thereto, that the owner has such financial security,  
20 and the owner of each motor vehicle registered in this state shall maintain  
21 financial security continuously throughout the period of registration. In  
22 addition, when an owner certifies that such financial security is a motor  
23 vehicle liability insurance policy meeting the requirements of this act, the  
24 director may require that the owner or owner's insurance company produce  
25 records to prove the fact that such insurance was in effect at the time the  
26 vehicle was registered and has been maintained continuously from that  
27 date. Such records may be produced by displaying such records on a  
28 cellular phone or any other type of portable electronic device. Any person  
29 to whom such records are displayed on such cellular phone or other type of  
30 portable electronic device shall be prohibited from viewing any other  
31 content or information stored on such cellular phone or other type of  
32 portable electronic device. Failure to produce such records shall be prima  
33 facie evidence that no financial security exists with regard to the vehicle  
34 concerned. ~~It shall be the duty of insurance companies, upon the request of~~  
35 ~~the director, to notify the director within 30 calendar days of the date of the~~  
36 ~~receipt of such request by the director of any insurance that was not in~~

1 ~~effect on the date of registration and maintained continuously from that~~  
2 ~~date.~~

3 (b) Except as otherwise provided in K.S.A. 40-276, 40-276a and 40-  
4 277, and amendments thereto, and except for termination of insurance  
5 resulting from nonpayment of premium or upon the request for  
6 cancellation by the insured, no motor vehicle liability insurance policy, or  
7 any renewal thereof, shall be terminated by cancellation or failure to renew  
8 by the insurer until at least 30 days after mailing a notice of termination,  
9 by certified or registered mail, United States post office certificate of  
10 mailing, or any other mail tracking method currently used, approved or  
11 accepted by the United States postal service to the named insured at the  
12 latest address filed with the insurer by or on behalf of the insured. Time of  
13 the effective date and hour of termination stated in the notice shall become  
14 the end of the policy period. *The company of the insured shall immediately*  
15 *provide cancellation notice to the director of vehicles by acceptable*  
16 *electronic means, which may include, but not be limited to, computer,*  
17 *email or telephone, whenever any policy required by this section is*  
18 *terminated by the insured or the insurer for any reason.* Every such notice  
19 of termination sent to the insured for any cause whatsoever shall include  
20 on the face of the notice a statement that financial security for every motor  
21 vehicle covered by the policy is required to be maintained continuously  
22 throughout the registration period, that the operation of any such motor  
23 vehicle without maintaining continuous financial security therefor is a  
24 class B misdemeanor and shall be subject to a fine of not less than \$300  
25 and not more than \$1,000 and that the registration for any such motor  
26 vehicle for which continuous financial security is not provided is subject to  
27 suspension and the driver's license of the owner thereof is subject to  
28 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. *This*  
3 *requirement is in addition to the electronic notification requirement set*  
4 *forth in subsection (i).* The receipt by the director of such *electronic or*  
5 *other notice of* termination shall be prima facie evidence that no financial  
6 security exists with regard to the person concerned.

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

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

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

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

1 of continuous financial security covering the motor vehicle in question, the  
2 director shall revoke the registration of such motor vehicle and suspend the  
3 driving privileges of the owner of the vehicle.

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

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

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

35 (i) (1) *The division of vehicles shall establish and maintain an online*  
36 *insurance verification system which shall provide real time verification 24*  
37 *hours a day, seven days a week, with the exception of scheduled down*  
38 *time, for system maintenance of the insurance status or change in*  
39 *insurance status required by this section. The system shall be electronic*  
40 *and consistent with the insurance industry committee on motor vehicle*  
41 *administration (IICMVA) standards and may be developed and maintained*  
42 *by a third-party vendor. Funding to develop and maintain the system shall*  
43 *be provided by the levying of a surcharge by the department of insurance*

1 upon the motor vehicle liability insurance premium required by this  
2 section. The surcharge shall be determined by the director of vehicles and  
3 collected by the department of insurance and shall be remitted to the state  
4 treasurer who shall credit the entire amount to the division of vehicles  
5 operating fund.

6 (2) The commissioner of insurance shall require as a condition for  
7 writing a policy of motor vehicle liability insurance in this state that  
8 insurance carriers report to the division of vehicles all data and in the  
9 form and in the time frame specified by the division. Notwithstanding any  
10 other provision of law to the contrary, the commissioner of insurance shall  
11 administer and enforce the provisions of this paragraph. The department  
12 of revenue shall notify the commissioner of insurance of any and all  
13 known violations by an insurer failing to comply with the reporting  
14 requirements.

15 (j) Any owner of a motor vehicle registered or required to be  
16 registered in this state who shall make a false certification concerning  
17 financial security for the operation of such motor vehicle as required by  
18 this act, shall be guilty of a class A misdemeanor. Any person, firm or  
19 corporation giving false information to the director concerning another's  
20 financial security for the operation of a motor vehicle registered or  
21 required to be registered in this state, knowing or having reason to believe  
22 that such information is false, shall be guilty of a class A misdemeanor.

23 ~~(k)~~ The director shall administer and enforce the provisions of this  
24 act relating to the registration of motor vehicles, and the secretary of  
25 revenue shall adopt such rules and regulations as may be necessary for its  
26 administration.

27 ~~(l)~~ Whenever any person has made application for insurance  
28 coverage and such applicant has submitted payment or partial payment  
29 with such application, the insurance company, if payment accompanied the  
30 application and if insurance coverage is denied, shall refund the unearned  
31 portion of the payment to the applicant or agent. Such refund may:

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

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

35 If payment did not accompany the application to the insurance  
36 company but was made to the agent, the agent shall refund the unearned  
37 portion of the payment to the applicant upon receipt of the company's  
38 notice of denial.

39 ~~(m)~~ For the purpose of this act, "declination of insurance coverage"  
40 means a final denial, in whole or in part, by an insurance company or  
41 agent of requested insurance coverage.

42 Sec. 2. K.S.A. 2015 Supp. 40-3118 is hereby repealed.

43 Sec. 3. This act shall take effect and be in force from and after July 1,

- 1 2018, and its publication in the statute book.