

Approved: March 21, 2011

Date

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:35 p.m. on March 16, 2011, in Room 152-S of the Capitol.

All members were present except:

Representative Montgomery - Excused

Committee staff present:

David Wiese, Office of the Revisor of Statutes

Ken Wilke, Office of the Revisor of Statutes

Melissa Calderwood, Legislative Research Department

Cindy Lash, Kansas Legislative Research Department

Sue Fowler, Committee Assistant

Conferees appearing before the Committee:

Others attending:

See attached list.

Representative Grant moved without objection to pass the March 14, 2011 committee minutes as written.

Discussion and action on:

SB 179 **Kansas life and health guaranty association act**

Melissa Calderwood, Kansas Legislative Research Department, gave a brief overview on **SB 179**.

Representative Billinger moved to pass SB 179 favorably. Seconded by Representative Grant. Motion passed.

SB 136 **No cause of action for recovery of certain losses while operating an uninsured motor vehicle**

Melissa Calderwood, Kansas Legislative Research Department, gave a brief overview on **SB 136**.

Representative Davis, (Attachment 1), moved to amend SB 136. Seconded by Representative Grant. Motion Passed. Representative Grant moved to pass SB 136 favorably as amended. Seconded by Representative Hermanson. Motion passed.

SB 85 **Removal of mandatory participation requirements for group life insurance**

Melissa Calderwood, Kansas Legislative Research Department, gave a brief overview on **SB 85**.

Representative Hermanson, (Attachment 2), moved to adopt the balloon amendment proposed for SB 85. Seconded by Representative Burroughs. Motion passed. Representative Brown moved to table SB 85. Seconded by Representative Fawcett. Motion failed. Representative Hermanson moved to pass SB 85 as amended. Seconded by Representative Grant. Motion passed.

Meeting adjourned at 4:40 p.m.

[illegible]

Representing

GBA
KS Assn for Justice
KID
AIR / Am Fam
KATA

SENATE BILL No. 136

By Committee on Financial Institutions and Insurance

2-8

1 AN ACT concerning insurance; relating to the recovery of economic or
2 noneconomic loss sustained as a result of an accident while operating
3 an uninsured motor vehicle.
4

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

6 Section 1. (a) Any person who, at the time of an automobile accident
7 resulting in injuries to that person, is required but fails to maintain
8 personal injury protection benefits coverage mandated by the Kansas
9 automobile injury reparations act, article 31 of chapter 40 of the Kansas
10 Statutes Annotated, and amendments thereto, shall have no cause of
11 action for recovery of noneconomic loss sustained as a result of an

12 accident while operating an uninsured automobile. The provisions of this
13 subsection shall not apply to any person who at the time of an automobile
14 accident has failed to maintain coverage for a period of ~~30~~ days or less
15 and who had maintained continuous coverage for at least one year
16 immediately prior to such failure to maintain coverage.

17 (b) Any person who is convicted of, or pleads guilty to, a violation
18 of K.S.A. 8-1014 or 8-1567, and amendments thereto, or a similar
19 violation of law in another state or an ordinance of any city, or resolution
20 of any county, in connection with an accident, shall have no cause of
21 action for recovery of noneconomic loss sustained as a result of the
22 accident.

23 (c) The provisions of this section shall apply to a cause of action
24 arising on and after the effective date of this act.

25 Sec. 2. This act shall take effect and be in force from and after its
26 publication in the statute book.
27

The provisions of this subsection shall not apply and a cause of action for non-economic loss may be maintained if the court finds by clear and convincing evidence that the person bringing the cause of action did not knowingly drive a motor vehicle that was without personal injury protection benefits coverage mandated by the Kansas automobile injury reparations act, article 31 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto. *at the time of the accident*

1 unions for the benefit of persons other than the employers or the unions,
2 subject to the following requirements:

3 (a) The persons eligible for insurance shall be all of the employees
4 of the employers or all of the members of the unions, or all of any class or
5 classes thereof determined by conditions pertaining to their employment,
6 or to membership in the unions, or to both. The policy may provide that
7 the term "employees" shall include retired employees and the individual
8 proprietor or partners if any employer is an individual proprietor or a
9 partnership. No director of a corporate employer shall be eligible for
10 insurance under the policy unless such person is otherwise eligible as a
11 bona fide employee of the corporation by performing services other than
12 the usual duties of a director. No individual proprietor or partner shall be
13 eligible for insurance under the policy unless the proprietor or partner is
14 actively engaged in and devotes a substantial part of their time to the
15 conduct of the business of the proprietor or partnership. The policy may
16 provide that the term "employees" shall include the trustees or their
17 employees, or both, if their duties are principally connected with such
18 trusteeship.

19 (b) The premium for the policy ~~shall~~ may be paid by the trustees
20 either wholly from funds contributed by the employer or employers of the
21 insured persons, or by the union or unions, or by both, or partly from such
22 funds and partly from funds contributed by the insured employees *or*
23 *wholly from funds contributed by the employees or members at their*
24 *option. No policy shall be issued on which the entire premium is to be*
25 *derived from funds contributed by the insured persons.* The policy shall
26 insure all eligible persons, or all except any as to whom evidence of
27 individual insurability is not satisfactory to the insurer *or except those*
28 *who reject coverage in writing.*

29 (c) ~~The policy shall cover at date of issue at least 100 persons and~~
30 ~~not less than an average of five persons per employer unit.~~ (d) The
31 amounts of insurance under the policy shall be based upon some plan
32 precluding individual selection either by the insured persons or by the
33 policyholder, employers, or union.

34 ~~(e)~~ (d) The requirements of paragraphs (b) and (d) of this subsection
35 governing employer contributions and amounts of insurance shall not
36 apply to a voluntary term life insurance policy issued on a group basis.]

37 (5) A policy issued to an association which has been organized and
38 is maintained for purposes other than that of obtaining insurance, insuring
39 at least 25 members, employees, or employees of members of the
40 association for the benefit of persons other than the association or its
41 officers. The term "employees" as used herein shall be deemed to include
42 retired employees. The premiums for the policies shall be paid by the
43 policyholder, either wholly from association funds, or funds contributed

1 by the members of such association or by employees of such members or
2 any combination thereof. The amounts of insurance under the policy shall
3 be based upon some plan precluding individual selection either by the
4 insured person or by the association or by the member.

5 (6) Any policy issued pursuant to this section may be extended to
6 insure the employees against loss due to the death of their spouses, their
7 children, their grandchildren, their spouse's children, their spouse's
8 grandchildren, their parents, their spouse's parents, or any class or classes
9 thereof, subject to the following requirements:

10 (a) The premium for the insurance ~~shall~~may be paid by the
11 policyholder, either from the employer's funds or from funds contributed
12 by the insured employees, or from both. ~~If any part of the premium is to~~
13 ~~be derived from funds contributed by the insured employees, the~~
14 ~~insurance with respect to spouses, their children, their grandchildren,~~
15 ~~their spouse's children, their spouse's grandchildren, their parents and~~
16 ~~their spouse's parents may be placed in force only if at least 75% of the~~
17 ~~then eligible employees, excluding any as to whose family members'~~
18 ~~evidence of insurability is not satisfactory to the insurer, elect to make the~~
19 ~~required contribution.~~ If no part of the premium is to be derived from
20 funds contributed by the employees, all eligible employees, excluding
21 any as to whose family members' evidence of insurability is not
22 satisfactory to the insurer, shall be insured with respect to their spouses,
23 their children, their grandchildren, their spouse's children, their spouse's
24 grandchildren, their parents, their spouse's parents.

25 (b) ~~The amounts of insurance shall be based upon some plan~~
26 ~~precluding individual selection either by the employees or by the~~
27 ~~policyholder, or employer and shall not exceed with respect to any~~
28 ~~spouse, child or parent 50% of the insurance on the life of such insured~~
29 ~~employee covering an employee's spouse, their children, their~~
30 ~~grandchildren, their spouse's children, their spouse's grandchildren, their~~
31 ~~parents or their spouse's parents shall not exceed 100% of the amount of~~
32 ~~insurance on the life of the insured employee.~~

33 (c) Upon termination of the insurance with respect to the spouse of
34 an employee by reason of the employee's termination of employment or
35 death, the spouse insured pursuant to this section shall have the same
36 conversion rights as to the insurance on such spouse's life as is provided
37 for the employee under K.S.A. 40-434, and amendments thereto.

38 (d) Notwithstanding the provisions of K.S.A. 40-434, and (c)
39 amendments thereto only one certificate need be issued for delivery to an
40 insured person if a statement concerning any dependent's coverage is
41 included in such certificate.

42 (e) ~~The requirements of paragraphs (a) and (b) of this subsection~~
43 ~~governing participation, contribution by an employer and amounts of~~