

SESSION OF 2008

SUPPLEMENTAL NOTE ON SENATE BILL NO. 615

As Amended by Senate Committee of the Whole

Brief*

SB 615, as further amended, would amend the Kansas Automobile Injury Reparations Act (KAIRA). The bill would:

- Require that a prosecution for permitting an uninsured motor vehicle to be operated on a highway, or failure to provide proof of financial security, be stayed if evidence of financial security is presented to the court, unless there is a request from the defense attorney to set the matter for trial;
- Require that if the Department of Revenue (KDOR) indicates the insurance was not in force on the date in question, KDOR would be required to deliver a certified copy to any defense attorney;
- Require that all criminal proceedings would be stayed and eventually dismissed, if the person whose license is suspended or revoked and who is involved in an accident, enters into an agreement with any driver or driver's insurer to pay for such damage and fulfills the agreement within 12 months;
- Require that all criminal proceedings would be reinstated if the person whose license is suspended or revoked and who is involved in an accident, enters into an agreement with any driver or driver's insurer to pay for such damage and defaults on the agreement;
- Authorize a court to order that a convicted person's motor vehicle be impounded or immobilized for up to 30 days for failure to maintain financial security or liability insurance;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Prior to impounding or immobilizing a motor vehicle, the court would be required to consider whether it would cause the owner or a member of the owner's family to experience a loss of employment or whether someone would be impaired from seeking medical care or attending school;
 - The owner would be allowed to retrieve personal property from the motor vehicle prior to or during the impoundment or immobilization;
 - If the motor vehicle is leased, and the lease would expire prior to the expiration of the impoundment or immobilization period, the motor vehicle could be removed at the end of the lease.
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- Prohibit the owner of a motor vehicle from recovering the first \$5,000 of property damage to his or her motor vehicle if the owner failed to maintain financial security on the vehicle;
 - Exempt a lienholder from the prohibition from recovering for property damage to a motor vehicle; and
 - Require that any moneys not paid by insurance companies to the uninsured motorist would be required to be paid to the Attorney General for deposit into the Crime Victims Compensation Fund.

Background

The proponent of the bill was Matthew Goddard, Heartland Community Bankers Association. Mr. Goddard suggested the bill be amended to distinguish between the automobile of an uninsured motorist and the collateral the automobile represents to a lender. He provided the Senate Committee with a balloon amendment which would provide that a lender, with a perfected

security interest, would be able to recover the first \$5,000 in property damage to its collateral.

The opponent of the bill was Callie Denton Hartle, Kansas Association for Justice. Ms. Denton Hartle testified the purpose of the purpose of KAIRA is to provide a means of compensating persons promptly for accidental bodily injury arising out of the ownership, operation, maintenance, or use of motor vehicles in lieu of liability for damages. She opined that most uninsured motorists would buy insurance if they could afford it. She also opined that the enhanced penalties in the bill will likely not increase uninsured motorists' compliance with the law.

The Senate Committee on Judiciary amended the bill to clarify that the provisions of the bill do not prevent a lienholder from recovering for any property damage to a motor vehicle.

The Senate Committee of the Whole amended the bill to:

- Require that a prosecution for permitting an uninsured motor vehicle to be operated on a highway, or failure to provide proof of financial security, be stayed if evidence of financial security is presented to the court, unless there is a request from the defense attorney to set the matter for trial;
- Require that if the Department of Revenue (KDOR) indicates the insurance was not in force on the date in question, KDOR would be required to deliver a certified copy to any defense attorney;
- Require that all criminal proceedings would be stayed and eventually dismissed, if the person whose license is suspended or revoked and who is involved in an accident, enters into an agreement with any driver or driver's insurer to pay for such damage and fulfills the agreement within 12 months;
- Require that all criminal proceedings would be reinstated if the person whose license is suspended or revoked and who is involved in an accident, enters into an agreement with any

driver or driver's insurer to pay for such damage and defaults on the agreement; and

- Require that any moneys not paid by insurance companies to the uninsured motorist would be required to be paid to the Attorney General for deposit into the Crime Victims Compensation Fund.

The fiscal note from the Division of Budget on the bill, as introduced, indicates passage of the bill would have no fiscal effect on either the Department of Insurance or the Office of Judicial Administration.