Kansas Real Time Motor Vehicle Insurance Verification Act; Pilot Programs; Reporting; Enforcement; Third-party Administrators; Additional; SB 42

SB 42 makes various changes to the Insurance Code of the State of Kansas, including:

- Enacting the Kansas Real Time Motor Vehicle Insurance Verification Act to require the Commissioner of Insurance (Commissioner) to establish a web-based system for online verification of motor vehicle insurance and require motor vehicle insurers to cooperate with the Commissioner to establish and maintain the system as specified in the Act;

- Establishing a response time for insurance agents and insurers to respond to inquiries from the Kansas Department of Insurance (Department) and add the failure to respond to such inquiries to the list of actions that could lead to action against an agent or insurer's license;

- Allowing for an extension of one-year pilot programs or testing periods with approval from the Commissioner for a specific period of time determined by the Commissioner;

- Amending certain reporting requirements for the Commissioner;

- Amending the definition of "person" in statute regarding enforcement of insurance law;

- Amending law related to title insurance agent audits, surety bonds, and controlled business;

- Amending the Third Party Administrators Act to require third-party administrators (administrators) to maintain a separate fiduciary account for each payor and prohibit co-mingling of funds; and

- Making conforming amendments.

Kansas Real Time Motor Vehicle Insurance Verification Act

Definitions

The bill defines various terms as used in the Kansas Real Time Motor Vehicle Insurance Verification Act (Act), including:

- "Commercial vehicle coverage" means any coverage provided to an insured, regardless of the number of vehicles covered, under a commercial coverage form and rated from a commercial manual approved by the Department; and

- "Insurance verification system" means the web-based system for online verification of motor vehicle liability insurance.

Insurance Verification System

The bill directs the Commissioner to establish an online verification of motor vehicle insurance system (system). The bill requires the system to be web-based, supersede any other verification system requirements, and be the only system in Kansas for this purpose. The Commissioner also has the authority to adopt reasonable and necessary rules and regulations to effectuate the provisions of the Act.

Insurance Verification System Technical Capabilities

The bill creates requirements for the system, including the ability to:

- Transmit requests to insurers for verification of coverage and receive responses from insurance company systems. The bill requires insurance company systems to respond to each request for verification with a prescribed response upon evaluation of the data provided in such request;

- Ensure the data is secured in accordance with applicable data privacy protection laws;

- Be used for verification of motor vehicle liability insurance as prescribed by state law and accessible to authorized personnel and entities authorized by state or federal privacy laws;

- Interface wherever appropriate with existing state systems; and

- Include multiple data elements for greater matching accuracy, limited to:
  - Insurer National Association of Insurance Commissioners company code number;
  - Vehicle identification number;
  - Policy number;
  - Verification date; or
  - Other information as required by the Commissioner or Kansas Department of Revenue (KDOR).

Acquisition

The bill permits the Commissioner to conduct a competitive bid and contract process to purchase the system from a private service provider that has successfully implemented similar systems in other states.

Funding Source

The bill requires the Department to provide the funding for implementation, ongoing maintenance, and enhancement of the system from the Insurance Department Regulation Service Fund.

System Information Exchange

The bill directs insurers to cooperate with the Commissioner and KDOR to establish and maintain the system. Insurer systems are permitted reasonable system downtime with proper notice, and enforcement fees would not be charged during downtime or when the system is not available due to emergency situations, outside attack, or other unexpected outages outside the insurer's control as determined by KDOR.

The bill requires each property and casualty insurance company licensed to issue motor vehicle liability insurance or authorized to do business in Kansas to provide verification through the system for vehicles registered in Kansas and allow the company to use a third-party vendor.

The bill allows commercial motor vehicle insurers to participate in the system voluntarily.

The bill also provides insurers with immunity from civil and administrative liability for good faith efforts to comply with the Act.

Alternative Verification

The bill authorizes the Commissioner to establish, through rules and regulations, an alternative verification method for insurers that insure 1,000 or fewer vehicles in Kansas.

Confidentiality of Information

The bill establishes that all information and data provided by the insurance companies to the system, including all reports, responses, or other information generated for purposes on the system, are confidential by law and privileged. The information is not subject to the Kansas Open Records Act or subject to discovery or admissible as evidence in any private civil action.

Effective Date

The bill requires the system to be fully operational no later than July 1, 2026, following a testing period of no less than nine months. Enforcement action based on system information will not be permitted until the testing period has successfully been completed.

Law Enforcement Stops

The bill prohibits establishing compliance through the system as a primary cause for law enforcement to stop a vehicle.

Permitted Use

The online verification established through the Act may be used as proof of insurance for vehicle registration purposes.

Response to Department Inquiries

The bill amends a statute regarding unfair methods of competition and unfair and deceptive acts or practices to require agents and insurers to respond to an inquiry from the Department within 14 calendar days.

The bill adds the failure of an insurer to respond to an inquiry from the Department to the list of actions that could lead the Commissioner to deny, suspend, revoke, or refuse a new license or application for license.

Extension of Pilot or Testing Period

The bill allows the insurer or producer to request an extension on a one-year pilot or testing period for a value-added product or service from the Commissioner for additional time to determine if the value-added product or service meets the required criteria. The bill authorizes the Commissioner to grant such extension, with the specified time of the extension to be determined by the Commissioner.

Reporting Requirements

The bill removes the requirement that the Commissioner provide an annual report to the Governor regarding the general conduct and condition of insurance companies, including fraternal benefit societies doing business in the state. The Commissioner is required to publish the report on the Department website.

The bill also removes outdated language requiring the Commissioner to report to the Governor and the Legislature regarding the development of uniform electronic data interchange formats and standards.

Definition of "Person"

The bill amends the definition of "person" for purposes of enforcement of insurance law to remove references to specific entities already included under "any legal entity under the jurisdiction of the Commissioner."

Title Agent Audit Report Available by Request

The bill removes the requirement that each title insurance agent in the state submit a copy of its annual audit report made of its escrow, settlement, and closing deposit accounts to the Commissioner within 30 days of the end of a calendar year. The bill instead requires that annual audit reports of title insurance agents be available upon request. These provisions become effective on January 1, 2026.

Surety Bonds

The bill requires any title insurance agent who handles escrow, settlement, or closing accounts to file with the Commissioner documentation of a $100,000 surety bond or irrevocable letter of credit, regardless of the population of the county or counties the agent serves. This provision becomes effective on January 1, 2026.

Controlled Business Exemption

The bill removes the controlled business exemption for a title insurer or title agent for transactions in counties that have a population of 10,000 or less. This provision becomes effective on January 1, 2026.

Third-party Administrators

The bill amends the Third Party Administrators Act to require third-party administrators (administrators) to maintain a separate fiduciary account for each payor and prohibit co-mingling of funds, either collected or held, in a fiduciary account by the administrator on behalf of multiple payors.

[*Note:* Continuing law requires all insurance charges, premiums, collateral, and loss reimbursements collected by an administrator on behalf of or for a payor, and the return of premiums or collateral received from a payor, to be held by the administrator in a fiduciary capacity. The funds are to be immediately remitted to the person or persons entitled to such funds or deposited promptly in a fiduciary account established and maintained by the administrator in a federally or state-insured financial institution.]

The bill requires an administrator to disclose to the Commissioner any bankruptcy petition filed by or on behalf of the administrator pursuant to Chapter 9 or Chapter 11 of the U.S. Bankruptcy Code at the time such filing is made.