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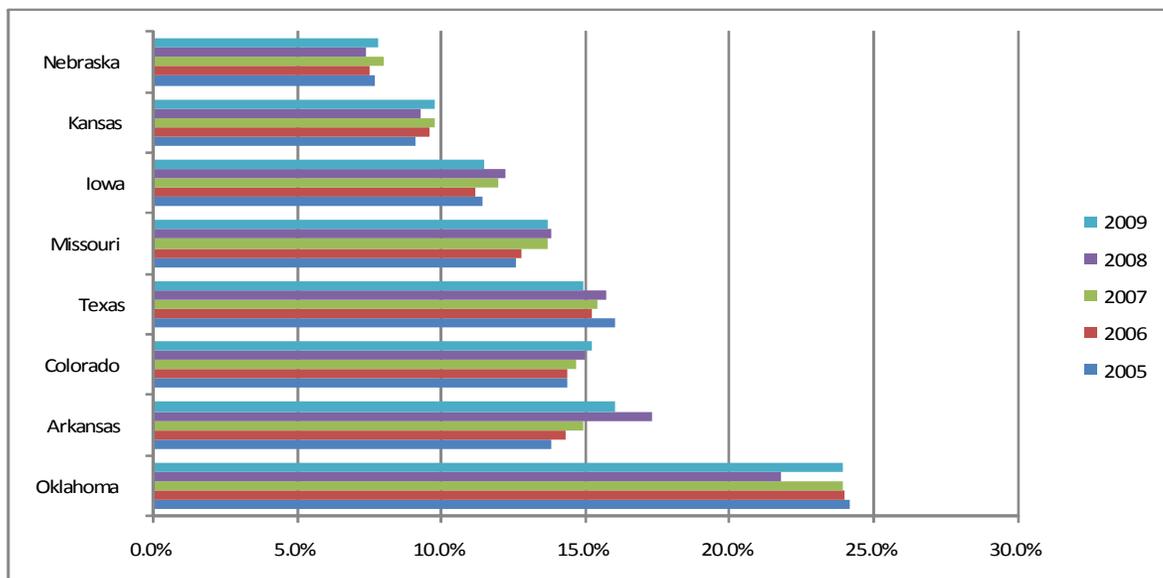
Uninsured Motorists: Basic Questions and Answers

What does “uninsured” mean when speaking of uninsured motorists? Kansas law requires that a vehicle operated on state highways be insured. Criteria differ from state to state, but in general the term “uninsured motorist” is applied to these groups:

- Motorists without insurance driving uninsured vehicles;
- Motorists with insurance driving uninsured vehicles;
- Motorists driving with insurance, but denied coverage;
- Motorists whose insurance carrier has become insolvent; and
- Unknown motorists who cause crashes, regardless of insurance (hit and run).

How many motorists are uninsured? No one knows for certain, in any state, and the answers depend on how the rate is measured. Cross-checking between records of insured vehicles and records of registered vehicles is one method, but that rate will not include vehicles that are not registered. The Insurance Research Council (IRC) periodically releases a rate that is based on uninsured motorist and bodily injury insurance claims. The graph on the next page shows trends for Kansas and nearby states; 2009 data were the most recent available when this report was written.

Rates of Uninsured Motorists, Kansas and Nearby States, 2005-2009



Sources: “Uninsured Motorists,” 2008 and 2011 Editions, Insurance Research Council

The IRC states that a 1 percent change in the unemployment rate, up or down, changed the uninsured motorist rate by 0.75 percent. This could mean that Kansas’ rate of uninsured motorists has declined slightly since 2009: the official unemployment rate published by the Department of Labor was 4.1 percent for 2007, 6.7 percent for 2009, and 5.9 percent for July 2013.

What does Kansas law say about motor vehicle insurance? All states require vehicles operated on public roadways to be insured, at a minimum for liability.

In Kansas a vehicle must be insured before it can be registered and the owner must “maintain financial security continuously throughout the period of registration.” (KSA 2010 Supp. 40-3118)

- Proof must be provided. A driver must show proof of financial security in the event of a crash (KSA 8-1604(a)) and at any time requested by a law enforcement officer (KSA 2010 Supp. 40-3104(d)). Also, the Director of Vehicles (at the Department of Revenue) is authorized to require a vehicle owner or the owner’s insurance

company to provide records proving the continuous coverage. Kansas law allows coverage to be proven at registration with various types of documents and, since 2001, on-line or electronically; (For registration purposes, the Director may verify insurance coverage on-line or electronically (KSA 2012 Supp. 8-173(d)). Since 2004, the Insurance Commissioner has been authorized to require companies to provide electronic verification. Proof of insurance may be displayed on a portable electronic device. (KSA 2013 Supp. 8-173(d)).

- Punishments include fines, jail time, and suspension or revocation of a driver’s license, vehicle registration, or both. In addition to fines of \$300 to \$1,000 for a first violation and \$800 to \$2,500 for a subsequent conviction within three years, a violator can be jailed for not more than six months. The Director of Vehicles may suspend a vehicle’s registration and its owner’s license when the Director has *prima facie* evidence that continuous financial security was not maintained. The reinstatement fee is \$100 (\$300 if

a subsequent violation within one year). (KSA 2013 Supp. 40-3104, 40-3118). In addition, under the terms of 2011 SB 136 (KSA 2012 Supp. 40-3130), an uninsured motorist operating a vehicle involved in a crash may not collect certain noneconomic damages (“no pay, no play”).

How can a state deter motorists from driving vehicles that are not insured? Research suggests states have taken combinations of three approaches:

- Create a culture of having insurance. While not all factors that create such a culture are known, researchers say there appear to be links to consistent enforcement.
- Make insurance more affordable. Approaches include the New Jersey “Basic” policy and California’s eligibility-restricted Low Cost Automobile Insurance Program.
- Punish those who have been found to have no insurance. However, researchers have not found a direct correlation between harsh statutory punishments and lower rates of uninsured motorists.

A driver’s license is required to get vehicle insurance in nearly all cases. Three states (New Mexico, Utah, and Washington) had law in place before 2013 that allows certain immigrants who cannot prove lawful presence to receive state-issued driving privilege cards and, with the cards, obtain motor vehicle insurance. An additional eight states (California, Colorado, Connecticut, Illinois, Maryland, Nevada, Oregon, and Vermont) plus Puerto Rico had enacted similar provisions in 2013 as of early October. The new laws have implementation dates ranging from November 2013 to January 2015.

How can insurance coverage be verified electronically? Approaches to electronic verification use one or both of two main approaches: (1) the state creates and maintains a database; or (2) the state checks against insurance companies’ data. Under either scenario, the state usually is assisted by a vendor to use the data to determine

whether a vehicle is insured. The state registration database, which contains information such as the vehicle identification number (VIN) and the owner’s name, is the link between the license plate number entered by a law enforcement officer, Division of Vehicles employee, or court employee and the information about the vehicle. Each approach has its advantages and disadvantages, and some states (such as Texas) have used combinations.

- If a state maintains a database (an approach in use for many years), all the data is in a single place and in a single format, and coverage will be listed regardless of whether the insured has changed companies. However, data lag behind company records, and there are no national standards. The state has responsibility for proprietary data.
- The Insurance Industry Committee on Motor Vehicle Administration (IICMVA) has established standards for on-line, real-time verification of insurance company records. Data are as current as a company’s files, and the company retains its data. “Real-time” is not defined consistently, but IICMVA standards require a participating insurance company to make data available at all times, allowing down time for maintenance. MV Verisol is a leading company in on-line verification using the IICMVA model; it gave a presentation to various committees during the 2010 Legislative Session. Alabama enacted a law in 2011 to require implementation of a verification system meeting IICMVA standards beginning January 1, 2013. Idaho, Minnesota, and Mississippi enacted similar legislation in 2012. Minnesota’s new system is to be fully operational by August 1, 2013; Idaho’s bill becomes effective July 1, 2015. Montana expanded its IICMVA model verification from use only by troopers in 2012 to use by all law enforcement and county treasurers in 2013.

What priorities for an electronic verification system have been determined for Kansas? In its third-year report, to the 2009 Legislature, Kansas’

Electronic Motor Vehicle Financial Security Verification Task Force (whose members included legislators and representatives of property and casualty and automobile insurers, the Kansas Insurance Department, the Kansas Department of Revenue, law enforcement, and consumers) cited four goals to serve as the framework for addressing electronic real-time verification:

- Assist the Director of Motor Vehicles and county treasurers in registration of motor vehicles in compliance with motor vehicle financial security law;
- Provide law enforcement officers with roadside information during traffic stops to determine whether vehicles are in compliance with motor vehicle financial security law;
- Provide greater assurance to the motoring public that other vehicles on the road are insured as required by law; and
- Offer convenient insurance policy interface and reporting for companies required to provide insurance policy information to the state.

A representative of the Kansas Department of Insurance, also representing members from the Department of Revenue, suggested twelve requirements for the system design. Those suggestions included access to information nationwide, not just for vehicles registered in Kansas; a system that is easily, reliably and accurately accessible from a patrol car and from fixed locations; and compatibility with nearly all state and insurance company systems. The suggested requirements also included that a new system be established legislatively.

How will one know whether an action the state takes reduces the rate of uninsured vehicles?

Measured rates would decrease. The rates measured could include the rate of registered vehicles for which insurance cannot be confirmed and the IRC-determined rate (based on claims). Also, violations for no insurance would decrease. The following table shows trends in violations related to no vehicle insurance from data kept by the Division of Vehicles.

| Kansas Violations Related to No Vehicle Insurance, 2004-2011 | | | | | | | | | |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Violation | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
| Conviction for No Insurance | 15,974 | 15,908 | 14,247 | 24,189 | 13,530 | 13,093 | 13,569 | 12,185 | 12,650 |
| Warning Notice - Accident, No Insurance | | | 6,943 | 6,497 | 6,571 | 4,867 | 7,058 | 6,024 | 5,888 |
| Suspension Notice - Accident, No Insurance | 4,000 | 7,369 | 4,318 | 4,243 | 4,027 | 3,236 | 4,619 | 4,129 | 3,816 |
| Warning Notice - Fail to File/Lapse | | | 25,896 | 32,643 | 29,563 | 25,678 | 27,630 | 23,183 | 21,886 |
| Suspension Notice - Fail to File/Lapse | 21,733 | 38,888 | 23,543 | 27,362 | 25,420 | 22,032 | 24,502 | 22,624 | 21,273 |
| Insurance Verification received from Courts and Law Enforcement | 110,401 | 119,714 | 128,420 | 110,652 | 103,924 | 114,593 | 141,406 | 108,808 | 146,830 |
| Evidence of Insurance Filings (SR 22 forms) | 69,746 | 77,351 | 87,891 | 80,642 | 82,687 | 71,759 | 65,847 | 76,736 | 63,157 |
| Evidence of insurance cancelled (SR 26 forms) | 33,842 | 33,142 | 36,447 | 36,580 | 41,504 | 35,742 | 35,012 | 39,596 | 32,253 |

Source: Kansas Department of Revenue.

What bills have been introduced in Kansas since 2005 to deter motorists from driving vehicles that are not insured? As noted above, a state can create a culture of having insurance, make insurance more affordable, and punish those who have been found to have no insurance. The table below summarizes recent bills related to uninsured motorists, in those categories; the reader should be aware that these categories may overlap within individual bills.

| Biennium | Bill Number | Summary | Disposition |
|---|---|---|--|
| Create a culture of having insurance | | | |
| 2005-2006 | SB 321 | Require a real-time, online insurance verification system, to be implemented by January 1, 2008. | Died in Senate committee |
| 2005-2006 2007-2008 | SCR 1619 (2006) SCR 1603 (2007) SCR 1616 (2008) | Authorize the Electronic Motor Vehicle Financial Security Verification System Task Force. | Enacted (Published reports are available.) |
| 2009-2010 | SB 392 and HB 2474 | Require the Department of Revenue, in consultation with the Insurance Commissioner, to implement an online motor vehicle financial security verification and compliance system, using a vendor. | SB died in Senate committee; HB – see House Sub. for SB 260 |
| 2009-2010 | SCR 1631 | Reactivate the task force studying design and implementation of an electronic motor vehicle financial security verification system. | Died in House committee |
| Make insurance more affordable | | | |
| No bills directly addressed affordability, but bills summarized elsewhere in this table could affect insurance affordability. | | | |
| Punishment | | | |
| 2005-2006 | SB 322 | Increase penalties under the Kansas Automobile Injury Reparations Act (KAIRA). | Died in House committee |
| 2005-2006 | HB 2305 | Limit on recovery of insurance amounts to an uninsured motorist who is injured (“no pay, no play”). | Failed on House Committee of the Whole vote |
| 2005-2006 | Sub. for HB 2690 | Address resuspension and revocation of driver’s licenses. | Portions (not including the penalty provisions) were placed into Sub. for HB 2706, which was enacted |
| 2005-2006 | HB 2755 | Same as HB 2305. | Died in House committee |
| 2007-2008 | SB 615 | Amendments to the KAIRA to require additional steps in prosecuting an uninsured motorist (UM), authorize a court to order vehicle impoundment or immobilization for up to 30 days, limit recovery for property damage if no financial security (proof of insurance) on the vehicle. | Died in House committee |
| 2007-2008 | HB 2378 | Prohibit the owner of an uninsured vehicle from recovering property damage to that vehicle in a crash with an insured vehicle. | Died in House committee |
| 2007-2008 | HB 2867 | Allow a court to order vehicle impoundment or immobilization for up to 30 days. | Died in House committee |
| 2009-2010 | House Sub. for SB 260 | Require the Department of Revenue, in consultation with the Insurance Commissioner, to implement a motor vehicle financial security verification and compliance system by March 1, 2011. | Died on general orders in the House |
| 2011 | SB 136 | Prohibit a cause of action for non-economic loss for anyone operating an uninsured vehicle who, at the time of the accident, had not maintained personal injury protection (PIP) coverage. | Enacted (KSA 40-3130) |

More detail on this topic is available in the article “Uninsured Motorists: Questions and Answers” available through the Kansas Legislative Research Department website, under “Capitol Ideas,” then “Transportation.” Appendix A to that article includes IRC rates of uninsured motorists for all states; Appendix B includes additional information on each of the bills summarized above.

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