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# Kansas Legislator Briefing Book 2015

## Financial Institutions and Insurance

### J-3 Uninsured Motorists

#### 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).

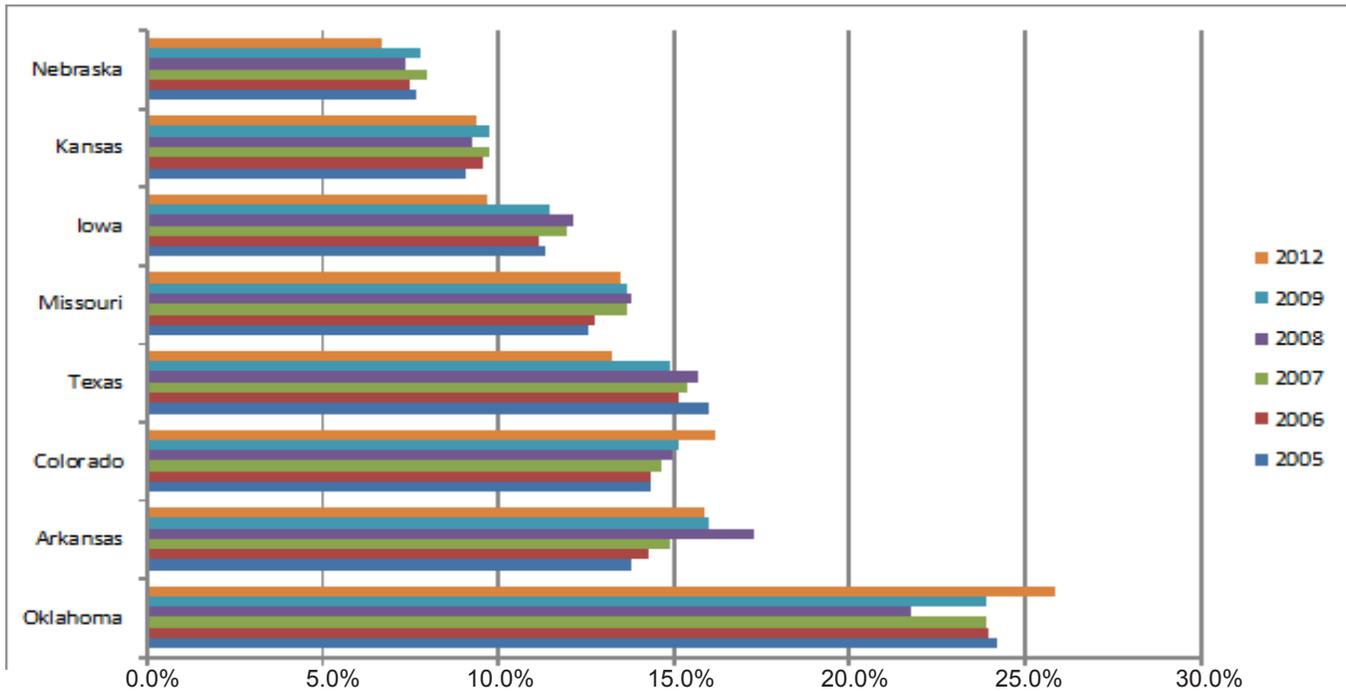
**How many motorists are uninsured?** No one knows for certain, in any state, and the answers depend on how the rate is measured. Cross-checking between records of insured vehicles and records of registered vehicles is one method, but that rate will not include vehicles that are not registered. The Insurance 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; 2012 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 a 1 percent change in the unemployment rate, up or down, changed the uninsured motorist rate by 0.75 percent. This could mean 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 financial responsibility for vehicles operated on public roadways; this may be through liability insurance or, under certain circumstances, self-insurance. Virginia also allows a person to pay a \$500 fee in lieu of proving insurance coverage.

### Rates of Uninsured Motorists Kansas and Nearby States 2005-2012



Sources: "Uninsured Motorists," 2008, 2011, and 2014 Editions, Insurance Research Council

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 2013 Supp. 40-3118).

- Proof must be provided. A driver must show proof of financial security in the event of a crash (KSA 2013 Supp. 8-1604(a)) and at any time requested by a law enforcement officer (KSA 2013 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 2013 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 2013 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 four 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.
- Make more people eligible to obtain insurance.

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 to allow 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 enacted similar provisions in 2013. The new laws have implementation dates ranging from November 2013 to January 2015. More information on those laws is available in article U-3, Driver’s License as Identification.

**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 California and 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 potentially has responsibility for securing proprietary data. States that have established databases in statute include Arkansas, Colorado, Georgia, Nebraska, New York, and Rhode Island.
- 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. Statutes in Alabama, Arkansas, Idaho, Mississippi, Montana, and West Virginia specify those states’ verification systems shall comply with IICMVA standards, and Nevada and Wyoming websites indicate those states use customized versions that meet IICMVA standards. Officials from Oklahoma also have reported using IICMVA verification.

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. 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, 2004-2013**

Violation	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Conviction for No Insurance	15,974	15,908	14,247	24,189	13,530	13,093	13,569	12,185	12,650	11,411
Warning Notice - Accident, No Insurance			6,943	6,497	6,571	4,867	7,058	6,024	5,888	5,336
Suspension Notice - Accident, No Insurance	4,000	7,369	4,318	4,243	4,027	3,236	4,619	4,129	3,816	3,240
Warning Notice - Fail to File/Lapse			25,896	32,643	29,563	25,678	27,630	23,183	4,912	9,852
Suspension Notice - Fail to File/Lapse	21,733	38,888	23,543	27,362	25,420	22,032	24,502	22,624	21,273	7,490
Warning notice - No proof at traffic stop										4,757
Suspension Notice - No proof at traffic stop										19,596
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	204,201
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	69,742
Evidence of insurance canceled (SR 26 forms)	33,842	33,142	36,447	36,580	41,504	35,742	35,012	39,596	32,253	37,646

Source: Kansas Department of Revenue. 2004 and 2005 statistics from testimony presented on 2006 SB 322; later statistics received directly from the agency.

A spike in "Suspension Notice - Fail to File/Lapse" in 2005 was caused by an effort to reduce a backlog, according to the Director of Vehicles at that time. Category groupings changed in 2012.

**What steps has Kansas considered and taken in the past few years to deter uninsured motorists?**

Bills have been introduced to require the state to identify uninsured motorists. SB 321 in the 2005-2006 biennium would have required a real-time, online insurance verification system to be implemented by January 1, 2008. In 2009-2010, SB 392, HB 2474, and House Sub. for SB 260 would have required the Department of Revenue, in consultation with the Insurance Commissioner, to implement a motor vehicle financial security verification and compliance system.

Bills have been introduced and one enacted to increase penalties. In 2011, SB 136 (now KSA 2013 Supp. 40-3130) was enacted to 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 coverage (“no pay, no play”). Bills to increase penalties under the Kansas Automobile Injury Reparations Act were introduced in the 2005-2006 and 2007-2008 biennia. Two bills that would have allowed vehicle impoundment or immobilization were introduced in 2007-2008.

More information on this topic is available in the article “Uninsured Motorists: Questions and Answers on State Approaches” available through the Kansas Legislative Research Department website. Appendix A to that article includes IRC rates of uninsured motorists for all states and information on selected statutory punishments for not maintaining coverage; Appendix B includes additional information on the bills summarized above and on additional related bills.

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