UNINSURED MOTORISTS: QUESTIONS AND ANSWERS ON STATE APPROACHES

By one insurance industry estimate¹, more than nine percent of Kansas motorists and one in eight motorists across the country are not covered by insurance. The same report estimates $2.6 billion was paid to cover uninsured motorist claims for bodily injury in 2012, up 75.0 percent from 2003 to 2012. (The amount does not include claims for property damage.)

Public policy must determine how to address the potential harm to the public as a result. Over the past ten years, the Kansas Legislature has considered a number of policy options to try to reduce the number of uninsured motorists in Kansas, and in 2006, 2007, and 2008, it authorized task forces to look at the design of a system for electronic verification of automobile insurance coverage. This memorandum provides information on some of the policy choices confronting lawmakers and other policymakers who seek to reduce the rate and number of uninsured motorists in the state. Questions introduce each section.

- How is “uninsured motorist” defined?
- Is automobile insurance required in Kansas?
- How can a state deter motorists from driving vehicles that are not insured?
- How does the state determine whether a vehicle is uninsured?
- How can insurance coverage be verified electronically?
- What priorities for a verification system already have been determined for Kansas?
- In 2010, several vendors of electronic motor vehicle insurance verification systems gave presentations to Kansas legislative committees. What did those vendors present?
- After it has been determined that a vehicle was not insured, what actions do states take to punish violators and encourage purchase of vehicle insurance?
- What bills regarding detection or punishment of motorists driving uninsured vehicles have become law in Kansas in recent years?
- How will one know whether an action the state takes reduces the rate of uninsured vehicles?

¹ Uninsured Motorists, 2014 Edition. Insurance Research Council (a division of the American Institute for Chartered Property Casualty Underwriters), August 2014
How is “uninsured motorist” defined? Kansas law (KSA 40-3104) requires a vehicle’s owner insure the vehicle. 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).

Is automobile insurance required in Kansas? Kansas is among 49 states that require vehicles operated on public roadways to be insured, through a commercial policy or, under certain circumstances, self-insurance. (Virginia allows a person who registers an uninsured vehicle to pay a $500 fee.\(^2\) KSA 2013 Supp. 40-3118 requires both a vehicle be insured before it can be registered and the owner “maintain financial security continuously throughout the period of registration.” Other statutes require the driver to 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 (Department of Revenue) is authorized to require a vehicle owner or the owner’s insurance company to provide records proving the continuous coverage (KSA 2013 Supp. 40-3118(a)).

How can a state increase the proportion of vehicles that are insured? The literature suggests states have taken combinations of four approaches:

- **Create a culture of having insurance.** The rate of vehicle insurance is higher in some areas than in others despite other demographic similarities; it is simply the norm in some areas to have insurance. Researchers have not determined why this is true, but they say there appear to be links to consistent enforcement; a motorist is more likely to buy insurance if that motorist knows there is a good chance of being identified as having no vehicle insurance and therefore likely to face penalties such as losing registration or driving privileges. In 2010, officials in Georgia and South Carolina reported automatic letters regarding lapses in vehicle insurance had helped to change attitudes regarding keeping vehicles insured. Rhode Island law added provisions for automatic checking for coverage and notification in 2013. There also appear to be links to whether insurance is affordable.

- **Make insurance more affordable.** Programs such as the California Low Cost Automobile Insurance Program appear to increase the number of households with insurance. That program’s participants must have a household income of less than 250.0 percent of the official poverty rate and must have good driving records. (The official poverty income for a family of four in the 48 contiguous states for 2014 is $23,850; 250.0 percent of that figure is $59,625.) The program’s Basic Liability Policy provides these coverages:
  - Bodily Injury liability per person—$10,000;
  - Bodily Injury liability per accident—$20,000; and
  - Property Damage liability per accident—$3,000.

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\(^2\) Virginia Code Ann. § 46.2-706
Optional Coverages are available for additional charge:

- Medical Payments per person—$1,000;
- Uninsured Motorist Bodily Injury per person—$10,000; and
- Uninsured Motorist Bodily Injury per accident—$20,000.

The value of the insured vehicle cannot exceed $25,000. Eligibility was expanded in 2014 to cover drivers with fewer than three years of driving experience.

New Jersey offers two programs to make vehicle insurance affordable.

- The Basic Program, available to those of any income level, provides $5,000 property damage liability and personal injury coverage of $15,000 per person. Bodily injury coverage is available as an option. Uninsured motorist coverage is not an option in New Jersey’s Basic Program.

- The Special Automobile Insurance Policy is an initiative to help make limited auto insurance coverage available to drivers who are eligible for federal Medicaid with hospitalization. Such drivers may obtain a medical coverage-only policy at a cost of $365 a year. However, this policy does not provide liability, collision, comprehensive, uninsured, or underinsured motorist coverage.

- Punish those who have been found to have no insurance. Specific state approaches to punishment will be discussed later in this memorandum and in Appendix A, Estimated Rates of Uninsured Motorists. Researchers have not found a direct correlation between strict statutes and lower rates of uninsured motorists. The literature reflects some speculation about the correlation between penalties and enforcement.

- Allow those who cannot prove lawful presence in the United States the documentation needed to buy insurance. Nearly always, a driver’s license is required to obtain vehicle insurance. Eight states enacted law in 2013 (California, Colorado, Connecticut, Illinois, Maine, Maryland, Nevada, Oregon, and Vermont) to authorize driver’s licenses, identification cards, or both to those who do not provide satisfactory documentary evidence the applicant has lawful immigration status or a valid Social Security number, the District of Columbia authorized such credentials early in 2014, and three other states (New Mexico, Utah, and Washington) had such authorization in place before 2013. Delaware, in early 2014, established the Undocumented Motorist Safety and Insurance Task Force to study and make recommendations on this topic. Proponents of these laws cited as benefits testing of the document-holder regarding driving safety laws and that such documents would allow more people to be insured. The laws vary in eligibility requirements and privileges associated with the document.

How does the state determine whether a vehicle is uninsured? A state must verify insurance against insurance company records. A state that wants to determine whether a vehicle is insured must decide how often it wants to verify coverage, i.e., whether a vehicle is insured at all points in time or only at specific points in time, such as at registration and when the vehicle is involved in a crash.
- Laws in many states including Kansas allow a motorist to verify insurance simply by producing a card from an insurance company showing the vehicle is insured (KSA 2010 Supp. 40-3104(e)). States’ motor vehicle departments have reported increasing problems with fraudulent cards and with motorists paying for insurance and then canceling that insurance but keeping the card. States also allow motorists to produce additional types of paperwork under certain circumstances, such as a receipt when the insurance was recently purchased. As of July 2014, 37 states including Kansas allow proof of insurance to be shown using an electronic device such as a cellular phone.\(^3\)

- Many states including Kansas require an insurance company doing business in the state to submit its “book of business” showing policyholders and insured vehicles.

- States may call insurance companies or agents directly, a time-consuming verification method. In Kansas, this could mean Division of Vehicles or county treasurer employees making those calls.

**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 insurance companies maintain their own data. More detail about each approach is provided below. 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. Some states that have adopted either type of electronic verification make separate accommodations to receive data from companies with few customers in the state (generally, fewer than 500) using means such as submission of a spreadsheet; other states require all companies doing vehicle insurance business in the state to submit information using specified electronic formats.

- **The state creates and maintains the database.** In this model, insurance companies must submit information about their customers to the state, at intervals determined by the state. The state then places information from all the companies into a single database and queries that database.

**Advantages:**

- All data are in one place, in one format.
- A vehicle will show up as insured even if the customer has changed insurers.
- Because matches use multiple data elements, records do not need to match exactly. For example, programs will match records for “Robert” and “Bob” or records in which a zero has been replaced by an O. Alphanumeric matching problems are relatively common in VINS between insurance company and state registration records.
- This type of matching has been used for many years.

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\(^3\) http://www.insurancejournal.com/news/east/2014/06/26/333018.htm
Disadvantages:

○ Generally, only registered vehicles appear in the database.

○ Data lag insurance company records. By the time data are packaged into the format required by the state, shipped, and formatted, even electronically, the data are outdated by anywhere from a few hours to weeks. Kansas is among the states that currently require insurance companies to submit records monthly.

○ Each state has determined its own data requirements; there are no national standards. Therefore, each insurance company must adjust its data to meet the needs of each state to which it must submit information.

○ Insurance companies resist release of their data, because of concerns regarding the security of company and policyholder data.

○ The state has responsibility for the security of proprietary data.

○ Databases to verify insurance are considered to be old technology.

Example: California requires each insurer to electronically report any issued policy within 30 days of the effective date of the coverage and any policy termination within 45 days. Its Department of Motor Vehicles (DMV) was required to develop a method by which law enforcement officers and court personnel could electronically verify that an insurance policy or bond for a motor vehicle has been issued. (CA Vehicle Code §§ 16058, 16058.1)

Other states that have established databases in statute include Arkansas, Colorado, Georgia, Nebraska, New York, and Rhode Island. Kentucky statutes provide for a database of vehicle identification numbers of insured vehicles.

• Insurance companies maintain their own data. States directly query the company the motorist says insures the vehicle, much as a credit card system queries banks. The Insurance Industry Committee on Motor Vehicle Administration (IICMVA), which represents the vast majority of insurers, has established standards for a state system to electronically verify evidence of insurance coverage using four data elements: VIN, insurance company code (National Association of Insurance Commissioners [NAIC] code), policy number, and inquiry date. More information about IICMVA standards is available at: http://www.iicmva.com/. 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.

Advantages:

○ Data are as current as the company’s central files.

○ According to vendors, IICMVA standards mean a system can be implemented relatively quickly (within three-six months) and easily.

○ Insurance companies prefer this approach for reasons including these:
There are national standards;
The company retains responsibility for the security of its data; and
Companies covering a large percentage of insured vehicles already have made improvements to their systems to meet the standards. This has substantially reduced insurance company incremental costs for adding inquiries from additional states.

Disadvantages:

- Not all companies meet IICMVA standards. In general, larger companies are participating.
- Any inquiry is of one company at a time.
- Implementation is unclear. Information does not indicate which, if any, states rely entirely on IICMVA data.

Some states use combinations. For example, California statutes require the state to maintain an insurance coverage database. To supplement that database information, vendor Validati designed, implemented, and maintains an insurance web services system for real-time verification inquiries for use by the California DMV and others. The company HDI Solutions reports its business team has worked with Texas and Utah on integrated approaches.

States, including Rhode Island and South Carolina require checks of their systems multiple times over a period of time before contacting the vehicle owner and subjecting that owner to penalties.

What priorities for a verification system already have been determined for Kansas? In its third-year report, to the 2009 Legislature, Kansas’ Electronic Motor Vehicle Financial Security Verification System Task Force 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 representatives of the Department of Revenue, also 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. “Real-time” is not consistently defined, but a 2012 IICMVA implementation guide states an average response time is five seconds.

**In 2010, several vendors of electronic motor vehicle insurance verification systems gave presentations to Kansas legislative committees. What did those vendors present?** The options ranged from web-based verification to using license-plate recognition.

- **MV Solutions and VeriSol (then two companies)** presented information on a system using the IICMVA approach. (The companies subsequently merged into MV VeriSol.) The company’s product would allow checks at any time (at events such as a traffic stop or registration) and would check each vehicle automatically for ongoing compliance. If any lapse in coverage were found, a letter would be sent to the vehicle owner. The vendor proposed to pay for the system through fines and reinstatement fees received from uninsured motorists the system identifies. The vendor said its system had been “successfully tested and implemented” in California, Florida, Nevada, Oklahoma, South Carolina, Texas, Utah, and Wyoming and such a system could be implemented in three months. The company website is [http://www.mvverisol.com/](http://www.mvverisol.com/). It states the company’s products are based on the IICMVA model and also can utilize databases; no list of state clients was posted as of November 2014.

- **InsureNet proposed a system in which real-time information would be made available to law enforcement through the National Law Enforcement Telecommunications System (NLETS), also known as the International Justice and Public Safety Information Sharing Network, and to designated others through an 800 number or over the internet through a virtual private network. Insurers would send information they now provide directly to the states to InsureNet, in any format the insurer has been using. The company’s product would not receive, maintain, or use privacy-sensitive data. It is designed to ensure vehicle insurance data is available for all states and from INTERPOL, and developers expected to have information available on private vehicles from Canada and Mexico. The product would be IICMVA-compliant. The proposal included suggestions to couple the product with automatic license plate recognition at chosen spots to check passing vehicles and to pay for the system from increased revenues (citation revenues and insurance premium tax). The company website is [http://www.theinsurenet.com](http://www.theinsurenet.com).**

- **Overstreet Pass, LLP, proposed installing a small device inside each vehicle’s windshield that contains information about insurance coverage. Each customer’s insurance company would give the customer a swipe-card or USB key to upload information into the device. When insurance has lapsed, the device would show a red light or other easy indication, visible outside the car (such as by a law enforcement officer). The device also would show the driver the days remaining until insurance ceased. At the time of the presentation, the device itself was being developed, and the system was not in use in any state. No current listing was found for this company in 2014.**
IICMVA officials also presented information regarding an earlier version of the IICMVA standards briefly summarized above and answered questions about real-time verification from an insurer’s point of view.

**After it has been determined that a vehicle was not insured, what actions do states take to punish violators and encourage purchase of vehicle insurance?**

The most common ways a state may punish a violator is to fine the owner, suspend the owner’s driver’s license, and suspend registration on the vehicle. Some states deny certain benefits or reimbursements to uninsured motorists (“no pay no play” provisions). Information on penalties is provided with the states’ respective estimated uninsured motorist rates in *Appendix A, Estimated Rates of Uninsured Motorists.*

Researchers have not found strong correlations between such punishments as high fines and long sentences and low rates of uninsured motorists. However, according to a press release from the Insurance Research Council (IRC) regarding a 2012 study, a statistical model developed by the IRC estimated the uninsured motorist rate can fall by as much as 1.6 percent after a state adopts no-pay, no play provisions.

**What bills regarding detection or punishment of motorists driving uninsured vehicles have become Kansas law in recent years?** Additional information about these bills and about bills that did not pass is given in *Appendix B, Recent Legislative Proposals.*

- In 1999, SB 3 (Session Law Ch. 162) increased penalties for having no vehicle insurance. Failure to produce evidence of financial security results in a fine of $300-$1,000 and a class B misdemeanor charge for a first conviction, and $800-$2,500 fine and a class A misdemeanor charge for a second conviction within three years. These provisions have not subsequently been amended.

- In 2006, SCR 1619 formed the Electronic Motor Vehicle Financial Security Verification System Task Force. 2007 SCR 1603 and 2008 SCR 1616 also authorized meetings of the task force, which met in 2006, 2007, and 2008. (Task force reports are available from the Kansas Legislative Research Department.) In 2010, SCR 1631 would have reauthorized the task force; it passed the Senate but was not acted upon in the House.

- 2006 Sub. for HB 2706, among other things, requires suspension of the vehicle registration and driver’s license of a person whose license previously was suspended or revoked for not having vehicle insurance, who entered into an agreement to pay for damages, and who defaults on the payments. These provisions have not been subsequently amended.

Among bills that did not pass are three in the 2009-2010 biennium that would have directed the Department of Revenue to implement electronic verification programs:

- House Sub. for SB 260 would have required the state to implement a motor vehicle financial security verification and compliance system by March 1, 2011. The system envisioned by the bill would have required verification via services established by the insurers (the IICMVA model, although that term is not used in

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4 The authors welcome corrections and additions to this information.
the bill). The substitute bill died on general orders in the House. SB 260 as introduced would have prohibited uninsured motorists without personal injury protection benefits coverage (required under Kansas law) from having a cause of action for the recovery of non-economic loss sustained in a crash.

- The nearly identical SB 392 and HB 2474 would have directed the Secretary of Revenue, in consultation with the Commissioner of Insurance, to develop and implement an on-line motor vehicle financial security verification and compliance system. The bills did not specify the type of system to be used. There was no committee vote on SB 392. HB 2474 was modified by the House Insurance Committee and recommended as House Sub. for SB 260.

In 2012, Kansas joined the states with “no pay, no play” provisions with regard to vehicle insurance. 2012 SB 136 enacted new law to provide that anyone operating an uninsured vehicle who, at the time of an auto accident, has not maintained personal injury protection benefits coverage as mandated by law (the Kansas Automobile Injury Reparations Act) is prohibited from having a cause of action for the recovery of non-economic loss sustained as a result of the accident. In 2011, HB 2291 was introduced to require automobile liability insurance policies to provide uninsured and underinsured motorist coverage for any person occupying the insured motor vehicle; it was not voted upon. No bills specifically addressing uninsured motorists were introduced during the 2013-2014 biennium.

**How will one know whether an action the state takes reduces the rate of uninsured vehicles?** Measured rates would decrease. There are two main ways in which the rate of uninsured vehicles is determined and compared, plus numbers of violations can be compared.

- The rate of registered vehicles that are not insured. This is determined using a cross-check between registration records and insurance records. Electronic verification methods have proven to be effective in reducing this rate. This matching has not been done in Kansas in recent years.

- The rate based on insurance claims and reported by the insurance industry. A study released in August 2014 by the Insurance Research Council (IRC) is the best known, and its results (plus additional information about enforcement efforts) are shown in Appendix A, in order from the highest rate in 2012 (the most recent year for which an estimate was available) (Oklahoma, 25.9 percent) to the lowest (Massachusetts, 3.9 percent). It uses a methodology based on claims for injury suffered in a crash, using claim information from multiple years, a methodology the report says generates a measure of relative frequency and reduces the effects of differences in hazards, laws, and enforcement across the states. Using this methodology, Kansas’ estimated rate in 2012 was 9.4 percent.

  - The rate for each state for each year is determined using a two-step process:
    - Determine, of all crashes, the proportion of crashes for which insured drivers made claims against their uninsured motorist insurance.
    - Determine the rate of bodily injury claims.
    - Divide the first rate (uninsured motorist claims) by the second (bodily injury claims).
This methodology assumes insured and uninsured motorists are involved in crashes at the same rate, and the percentage of crashes that involve an insured and an uninsured motorist, where the uninsured motorist is at fault, is the same as the percentage of uninsured motorists. However, evidence suggests, at least in some states, uninsured motorists are involved in crashes at higher rates than are insured motorists.

The IRC stated in its 2011 report that this rate is positively correlated with the unemployment rate, that each 1.0 percent change in the unemployment rate, up or down, changed the uninsured motorist rate by three-fourths of a percent, in the same direction.

Violations for no insurance decrease. The following table shows trends in violations related to no vehicle insurance from data kept by the Division of Vehicles.

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<tbody>
<tr>
<td>Conviction for No Insurance</td>
<td>15,974</td>
<td>15,903</td>
<td>14,247</td>
<td>24,389</td>
<td>18,350</td>
<td>13,093</td>
<td>13,599</td>
<td>12,185</td>
<td>12,650</td>
<td>11,411</td>
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<td>Warning Notice - Accident, No Insurance</td>
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<td>6,497</td>
<td>6,571</td>
<td>4,867</td>
<td>7,058</td>
<td>6,624</td>
<td>5,888</td>
<td>5,236</td>
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<td>Suspension Notice - Accident, No Insurance</td>
<td>4,000</td>
<td>3,369</td>
<td>4,318</td>
<td>4,243</td>
<td>4,027</td>
<td>3,236</td>
<td>4,619</td>
<td>4,129</td>
<td>3,816</td>
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<td>Warning Notice - Failed to File/Lapse</td>
<td>25,896</td>
<td>32,543</td>
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<td>25,678</td>
<td>27,630</td>
<td>23,183</td>
<td>4,912</td>
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<tr>
<td>Suspension Notice - Failed to File/Lapse</td>
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<td>24,502</td>
<td>22,624</td>
<td>21,273</td>
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<td>Warning Notice - No proof at traffic stop</td>
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<td>4,757</td>
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<td>Suspension Notice - No proof at traffic stop</td>
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<td>19,596</td>
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<tr>
<td>Insurance Verification received from Courts and Law Enforcement</td>
<td>110,401</td>
<td>119,734</td>
<td>128,420</td>
<td>110,652</td>
<td>103,924</td>
<td>114,593</td>
<td>141,406</td>
<td>108,808</td>
<td>146,830</td>
<td>204,201</td>
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<td>Evidence of Insurance Filings (SR 22 forms)</td>
<td>69,746</td>
<td>77,351</td>
<td>87,861</td>
<td>80,642</td>
<td>82,687</td>
<td>71,759</td>
<td>65,847</td>
<td>76,736</td>
<td>63,157</td>
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<td>Evidence of Insurance canceled (SR 26 forms)</td>
<td>33,842</td>
<td>33,142</td>
<td>36,447</td>
<td>36,580</td>
<td>41,504</td>
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<td>35,012</td>
<td>39,596</td>
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Source: Kansas Department of Revenue. 2004 and 2005 statistics from testimony presented on 2005 SB 321; later statistics received directly from the agency.

A spike in "Suspension Notice - Failed 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.

For more information:

For more information, contact Jill Shelley, Principal Research Analyst, or Melissa Renick, Assistant Director for Research, Kansas Legislative Research Department, 785-296-3181.

Attachments:

- **Appendix A, Estimated Rates of Uninsured Motorists.** This appendix includes information on enforcement laws in Kansas and other states in addition to listing the estimated rates.

- **Appendix B, Recent Legislative Proposals**

Selected Sources:


• Kansas Legislator Briefing Book, 2015, Financial Institutions and Insurance, article J-3, Uninsured Motorists.


• Validati, http://www.validati.com/content/state-governments.


• KLRD Briefing Book article “Driver’s License as Identification.” This article contains details on the requirements for obtaining a driving privilege card in each state.


• Kansas Department of Labor, Kansas Labor Market Information Services.


• Testimony to the Kansas House Insurance and the Senate Transportation Committees in 2010 from vendors MV Verisol, Overstreet Pass, and InsureNet.

• Personal interviews with these officials in 2010:
  ○ Marianne M. Allard, Chair, IICMVA; (860) 277-6299;
  ○ Deborah Fields, West Virginia DMV official, 304-926-3844;
  ○ Bart Blackstock, Insure-Rite, 801-556-3192;
○ Bill Wannamaker, Manager, Financial Responsibility, South Carolina Department of Motor Vehicles, 803-896-8079;
○ Melissa Burkhart, TexasSure Coordinator, Texas Department of Insurance 512-305-7201;
○ David Beatty, Oklahoma Department of Public Safety, 405-425-2024;
○ Marianne Zivkovic, Wyoming Department of Transportation, 307-777-4830; and
○ Keith Thomas, IT Section Manager, Georgia Department of Revenue, 404-417-4479.


● New Jersey Basic Policy—
  http://www.state.nj.us/dobi/division_consumers/insurance/basicpolicy.shtml.

All referenced websites were accessed in November 2014.