



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

August 24, 1978

ATTORNEY GENERAL OPINION NO. 78- 271

Mr. Fletcher Bell
Chairman
Committee on Surety Bonds
and Insurance
State Office Building
Topeka, Kansas 66612

Re: State Boards, Commissions and Authorities--Insurance
By Public Agencies--Authority of Committee on Surety
Bonds and Insurance

Synopsis: K.S.A. 74-4707 requires the Committee on Surety Bonds and Insurance under its previous interpretation of certain provisions thereof, to consider providing medical coverage payments for individuals who might fall within the category of persons riding in or upon, entering or alighting from state vehicles, but who are not otherwise state officers, agents and employees.

* * *

Dear Mr. Bell:

I have your letter requesting my opinion whether the Kansas Committee on Surety Bonds and Insurance is cloaked with authority pursuant to K.S.A. 74-4707 and K.S.A. 75-4109 to purchase motor vehicle liability insurance policies that do not include "medical payments coverage" for individuals riding in or upon, entering or alighting from state vehicles required to be insured per K.S.A. 74-4707.

K.S.A. 74-4707 provides in pertinent part thus:

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"Every state agency shall purchase motor vehicle liability insurance for the protection and benefit of the state agency and the officers, agents and employees of the state agency responsible for the operation of vehicles owned, operated, maintained or controlled by the said agency, and of persons while riding in or upon, entering or alighting from such vehicles."

It is clear from the above quoted language that the legislature mandated the purchase of state motor vehicle liability insurance to provide for the *protection* and *benefit* of three distinct categories of interests: (1) the state (via the particular agency concerned); (2) officers, agents and employees of the state agency responsible for the operation of the vehicles owned, operated, maintained or controlled by such state agency; and (3) persons while riding in or upon, entering or alighting from these state vehicles. It is this third category of individuals which warrants the attention of this opinion.

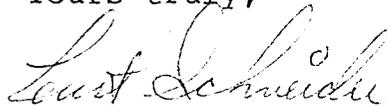
Obviously, the medical payments coverage is inapplicable to the state or its agencies. It is equally apparent, as you note in your letter, that the officers, agents and employees of the state are provided medical compensation under the Kansas Workmen's Compensation Act, K.S.A. 1977 Supp. 44-510, thus eliminating the necessity for additional source protection. But, K.S.A. 1977 Supp. 44-510 would not necessarily protect or benefit all persons who might ride in or upon, enter or alight from state vehicles. It is easily conceivable that such an individual might not qualify as a state officer, agent or employee, notwithstanding the fact that K.S.A. 8-301, K.S.A. 75-4601 and K.A.R. 1-17-2 might mandate otherwise. Thus, a potential gap appears in the full protection of the category of individuals which the legislature expressly intended to provide motor vehicle liability insurance coverage for.

To be sure, the Committee is empowered with broad discretion to determine the terms, conditions and amounts of the state motor vehicle liability insurance to be purchased. K.S.A. 75-4109. However, if the Committee is to comply fully with the express mandate of K.S.A. 74-4707 and its previous interpretation thereof, then it must consider providing medical coverage payments for individuals who might fall within the category of persons riding

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in or upon, entering or alighting from state vehicles, but who
are not otherwise state officers, agents and employees.

Yours truly,

A handwritten signature in cursive script, appearing to read "Curt Schneider".

CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj