

40-3103: Definitions. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Commissioner" means the state commissioner of insurance.

(b) "Disability benefits" means allowances for loss of monthly earnings due to an injured person's inability to engage in available and appropriate gainful activity, subject to the following conditions and limitations: (1) The injury sustained is the proximate cause of the injured person's inability to engage in available and appropriate gainful activity; (2) subject to the maximum benefits stated herein, allowances shall equal 100% of any such loss per individual, unless such allowances are deemed not includable in gross income for federal income tax purposes, in which event such allowances shall be limited to 85%; and (3) allowances shall be made up to a maximum of not less than \$900 per month for not to exceed one year after the date the injured person becomes unable to engage in available and appropriate gainful activity.

(c) "Director" means the director of vehicles.

(d) "Funeral benefits" means allowances for funeral, burial or cremation expenses in an amount not to exceed \$2,000 per individual.

(e) "Highway" means the entire width between the boundary lines of every way publicly maintained, when any part thereof is open to the use of the public for purposes of vehicular travel.

(f) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations and only incidentally operated or moved upon the highways.

(g) "Insurer" means any insurance company, as defined by K.S.A. 40-201, and amendments thereto, authorized to transact business in this state, which issues policies of motor vehicle liability insurance covering liability arising out of the ownership, operation, maintenance or use of a motor vehicle.

(h) "Injured person" means any person suffering injury.

(i) "Injury" means bodily harm, sickness, disease or death resulting from an accident arising out of the ownership, maintenance or use of a motor vehicle.

(j) "Lienholder" means a person holding a security interest in a vehicle.

(k) "Medical benefits" means and includes allowances for all reasonable expenses, up to a limit of not less than \$4,500, for necessary health care rendered by practitioners licensed by the state board of healing arts to practice any branch of the healing arts or licensed psychologists, surgical, x-ray and dental services, including prosthetic devices and necessary ambulance, hospital and nursing services; and such term also includes allowances for services recognized and permitted under the laws of this state for an injured person who relies upon spiritual means through prayer alone for healing in accordance with such person's religious beliefs.

(l) "Monthly earnings" means: (1) In the case of a regularly employed person or a person regularly self-employed, 1/12 of the annual earnings at the time of injury; or (2) in the case of a person not regularly employed or self-employed, or of an unemployed person, 1/12 of the anticipated annual earnings from the time such person would reasonably have been expected to be regularly employed. In calculating the anticipated annual earnings of an unemployed person who has previously been employed, the insurer shall average the annual compensation of such person for not to exceed five years preceding the year of injury or death, during which such person was employed.

(m) "Motor vehicle" means every self-propelled vehicle of a kind required to be registered in this state, including any trailer, semitrailer or pole trailer designed for use with such vehicle, but such term does not include a motorized bicycle.

(n) "Operator" means any person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

(o) "Owner" means a person, other than a lienholder, having property in or title to a motor vehicle, including a person who is entitled to the use and possession of a motor vehicle subject to a security interest held by another person, but such term does not include a lessee under a lease not intended as security.

(p) "Person" means an individual, partnership, corporation or other association of persons.

(q) "Personal injury protection benefits" means the disability benefits, funeral benefits, medical benefits, rehabilitation benefits, substitution benefits and survivors' benefits required to be provided in motor vehicle liability insurance policies pursuant to this act.

(r) "Rehabilitation benefits" means allowances for all reasonable expenses, up to a limit of not less than \$4,500, for necessary psychiatric or psychological services,

occupational therapy and such occupational training and retraining as may be reasonably necessary to enable the injured person to obtain suitable employment.

(s) "Relative residing in the same household" means a relative of any degree by blood, marriage or adoption, who usually makes such person's home in the same family unit, whether or not temporarily living elsewhere.

(t) "Security interest" means an interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security.

(u) "Self-insurer" means any person effecting self-insurance pursuant to subsection (f) of K.S.A. 40-3104, and amendments thereto, or any nonresident self-insurer that has filed the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto.

(v) "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: Ditch-digging apparatus, well-boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carryalls and scrapers, power shovels and drag lines and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(w) "Substitution benefits" means allowances for appropriate and reasonable expenses incurred in obtaining other ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed for the benefit of such person or such person's family, subject to a maximum of \$25 per day for not longer than 365 days after the date such expenses are incurred.

(x) "Survivor" means a decedent's spouse, or child under the age of 18 years, where death of the decedent resulted from an injury.

(y) "Survivors' benefits" means total allowances to all survivors for: (1) Loss of an injured person's monthly earnings after such person's death, up to a maximum of not less than \$900 per month; and (2) substitution benefits following the injured person's death. Expenses of the survivors which have been avoided by reason of the injured person's death shall be subtracted from the allowances to which survivors would otherwise be entitled, and survivors' benefits shall not be paid for more than

one year after the injured person's death, less the number of months the injured person received disability benefits prior to such person's death. For purposes of this subsection, monthly earnings shall include, in the case of a person who was a social security recipient or a retirement or pension benefit recipient, or both, at the time of such injured person's death, 1/12 of the annual amount of the difference between the annual amount of the social security benefits or the retirement benefits, or both, that such injured person was receiving at the time of such injured person's death and the annual amount of the social security benefits or the retirement benefits, or both, that the survivor is receiving after the time of such injured person's death.

(z) "Uninsured motor vehicle" means any motor vehicle which is not included under an approved self-insurance plan of a self-insurer or for which there is not in effect a motor vehicle liability insurance policy meeting the requirements of this act.

(aa) "Any workmen's compensation law" means the workmen's compensation act of Kansas, the United States longshoremen's and harbor workers' compensation act, the federal employer liability acts, and any similar state or federal law.

History: L. 1974, ch. 193, § 3; L. 1977, ch. 28, § 5; L. 1987, ch. 173, § 1; L. 1994, ch. 62, § 1; L. 1999, ch. 87, § 3; Mar. 1, 2000.