

STATE OF KANSAS



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GOVERNOR LAURA KELLY

MESSAGE FROM THE GOVERNOR

REGARDING VETO OF SENATE BILL 161

I support advancements in technology to enhance our transportation network and delivery services. However, Senate Bill 161 allows delivery service businesses to operate large robotic delivery devices on sidewalks with few safety precautions. These precautions are particularly important in residential areas.

This bill does not clarify who is responsible for enforcing rules and regulations related to personal delivery devices other than requiring an annual fee and a certification form with minimal information. The provisions around minimum liability are also ambiguous and unclear in their application.

The Legislature must address these safety concerns before this bill becomes law. I'm ready to work with lawmakers on legislation that allows us to take advantage of technological advances while ensuring the safety of all Kansans.

Therefore, under Article 2, Section 14(a) of the Constitution, I hereby veto Senate Bill 161.

THE GOVERNOR'S OFFICE

BY THE GOVERNOR

A handwritten signature in blue ink, appearing to read "Laura Kelly", written over a horizontal line.

DATED

A handwritten date in blue ink, "April 11, 2022", written over a horizontal line.

SENATE BILL No. 161

AN ACT concerning personal package delivery devices; definitions; operating requirements and restrictions; exemption from motor vehicle requirements; limitation of local regulation; requiring entities to submit annual fees and certification forms to the division of vehicles; amending K.S.A. 2021 Supp. 8-126 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. As used in sections 1 through 3, and amendments thereto:

(a) "Agent" means a person charged by an entity with the responsibility of navigating, controlling or operating a personal delivery device.

(b) "Entity" means an association, corporation, partnership or other domestic or foreign business organization operating in Kansas in compliance with Kansas law that operates a personal delivery device in Kansas.

(c) "Person" means a natural person.

(d) "Personal delivery device" or "device" means a powered device operated primarily on sidewalks and crosswalks and intended primarily for the transport of property on public rights-of-way that does not exceed 550 pounds, excluding cargo, and is capable of navigating with or without the active control or monitoring of a person.

(e) "Personal delivery device operator" means an employee or agent of an entity that exercises control or monitoring over the navigation system and operation of a personal delivery device and has the capability of active control of the personal delivery device during operation of such device. A "personal delivery device operator" does not include an entity or person who requests or receives the services of a personal delivery device for the purpose of transporting property or who arranges for and dispatches the requested services of a personal delivery device.

New Sec. 2. (a) Notwithstanding any other provision of law, a personal delivery device is authorized to operate on any:

(1) Sidewalk or crosswalk of any municipality; and

(2) shoulder or right side of any public highway of any municipality.

A personal delivery device shall yield to all vehicles and not unreasonably interfere with motor vehicles or traffic.

(b) A personal delivery device shall:

(1) Not block public rights-of-way;

(2) obey all traffic and pedestrian control signals and devices;

(3) operate on sidewalks at a speed that does not exceed a maximum of 10 miles per hour;

(4) prominently display a unique identifying personal delivery device number;

(5) prominently display the identification and contact information of the entity, including a telephone number for the entity that shall also be provided in a manner readily accessible to blind persons, such as braille or an auditory recording; and

(6) be equipped with a system, including hardware and software, that enables the personal delivery device to come to a controlled stop, enables the device to be actively controlled and monitored by the personal delivery device operator and has the ability to avoid pedestrians, pets, vehicles, bicycles and other animate or inanimate objects, with or without active control by the personal delivery device operator.

(c) Subject to the requirements under this section, a personal delivery device operating on a sidewalk or crosswalk shall have all the right-of-way obligations and responsibilities applicable to a pedestrian under the same circumstances under Kansas law, except that a personal delivery device shall yield to or safely navigate pedestrians, bicyclists, vehicles and wheelchairs as a pedestrian would and shall only cross a public highway within a marked crosswalk or within an unmarked crosswalk at

an intersection.

(d) A personal delivery device shall be exempt from motor vehicle registration requirements. Notwithstanding any other provision of law to the contrary, a personal delivery device shall not be considered a vehicle or motor vehicle under Kansas law.

(e) An entity shall maintain an insurance policy that includes general liability coverage of at least \$500,000 for damages arising from the operation of the personal delivery device by the entity and any agent of the entity.

(f) If the personal delivery device is being operated between sunset and sunrise or, as permitted by this section, on any public highway at any time, including when crossing a public highway within a marked crosswalk or within an unmarked crosswalk at an intersection, it shall be equipped with and employ lighting on both the front and rear of the personal delivery device visible on all sides of the personal delivery device in clear weather from a distance of at least 500 feet.

(g) A personal delivery device shall have the ability to determine proximity of other objects and shall have an audible warning system capable of detecting and warning a pedestrian for the purpose of notifying blind persons of the presence of the personal delivery device.

(h) A personal delivery device shall not be operated to transport hazardous material in violation of state or federal law applicable to the transport of hazardous material by a person or motor vehicle, including any material that has been designated as hazardous under 49 U.S.C. § 5103, and is required to be placarded under subpart F of 49 C.F.R. part 172.

(i) (1) Each entity, prior to operating a personal delivery device in Kansas, shall pay an annual fee of \$50 to the division of vehicles for each personal delivery device that the entity plans to operate in the state. In addition to the annual fee, an entity shall be required to submit an annual certification form prescribed by the division of vehicles that provides:

(A) The name and address of the entity and such entity's registered agent in Kansas, including the registered agent's name, address, driver's license number and any other information that the division may require;

(B) the name of each jurisdiction where the personal delivery device will be operated;

(C) an acknowledgment by such entity that:

(i) Each personal delivery device will display a unique identification number and other information specified in this section; and

(ii) the registered agent is responsible for any infraction committed by such entity's personal delivery device;

(D) an affirmation by such entity that such entity possesses the insurance required by this section;

(E) a list of any traffic incidents or infractions in the previous calendar year involving any personal delivery device operated by such entity in Kansas; and

(F) a list of each personal delivery device, identified by the device's unique identification number, that such entity intends to operate in Kansas during the year.

(2) If an entity intends to begin operating a new personal delivery device that is not listed on the form prescribed by this subsection, such entity shall pay the fee required by this subsection and submit an updated certification form to the division of vehicles that provides the necessary information required for the new personal delivery device.

(3) The division of vehicles shall remit all fees collected pursuant to this subsection to the state treasurer in accordance with the

provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

New Sec. 3. (a) Personal delivery devices may be prohibited by local resolutions or ordinances if the local government determines that the prohibition is necessary, in the interest of public safety. This section does not affect the authority of a local authority's law enforcement officers to enforce the laws of this state relating to the operation of a personal delivery device.

(b) A political subdivision shall:

(1) Hold a public hearing before enacting an ordinance or resolution to restrict personal delivery devices; and

(2) notify all entities determined to be affected by the ordinance or resolution restricting personal delivery devices. At least 10 days before the public hearing, the political subdivision shall publish notice in a newspaper of general circulation within such political subdivision's jurisdiction regarding the proposed intent to restrict personal delivery devices. Such notice shall include, but not be limited to, the date, time and location of the public hearing.

(c) Nothing in this section shall prohibit a political subdivision from regulating the operation of personal delivery devices on a highway or pedestrian area to ensure the welfare and safety of the political subdivision's residents. Political subdivisions shall not regulate the design, manufacture and maintenance of a personal delivery device or the types of property that may be transported by a personal delivery device. For the purposes of assessment and taxation or any other charges, no political subdivision shall treat personal delivery devices differently from personal property that is similar in nature.

Sec. 4. K.S.A. 2021 Supp. 8-126 is hereby amended to read as follows: 8-126. As used in this act, ~~the following words and phrases have the meanings respectively ascribed to them herein:~~

(a) "All-terrain vehicle" means any motorized nonhighway vehicle 55 inches or less in width measured from the outside of one tire rim to the outside of the other tire rim, having a dry weight of 1,500 pounds or less, traveling on three or more nonhighway tires.

(b) "Autocycle" means a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.

(c) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.

(d) "Contractor" means a person, partnership, corporation, local government, county government, county treasurer or other state agency that has contracted with the department to provide services associated with vehicle functions.

(e) "Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

(f) "Division" means the division of vehicles of the department of revenue.

(g) "Electric-assisted scooter" means every self-propelled vehicle that has at least two wheels in contact with the ground, an electric motor, handlebars, a brake and a deck that is designed to be stood upon when riding.

(h) "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum

speed of the device to 15 miles per hour or less.

(i) "Electric vehicle" means a vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electrical energy storage devices, provided the recharge energy must be drawn from a source off the vehicle, such as, but not limited to:

- (1) Residential electric service; *and*
- (2) an electric vehicle charging station, also called an EV charging station, an electric recharging point, a charging point, electric vehicle supply equipment (EVSE) or a public charging station.

(j) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2021 Supp. 8-135d, and amendments thereto.

(k) "Electronic notice of security interest" means the division's online internet program that enables a dealer or secured party to submit a notice of security interest as defined in this section, and to cancel the notice or release the security interest using the program. This program is also known as the Kansas elien or KSelien.

(l) "Farm tractor" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

(m) "Farm trailer" means every trailer and semitrailer as those terms are defined in this section, designed and used primarily as a farm vehicle.

(n) "Foreign vehicle" means every motor vehicle, trailer, or semitrailer that shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and has not been registered in this state.

(o) "Golf cart" means a motor vehicle that does not have fewer than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

(p) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" does not include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(q) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. "Implement of husbandry" includes, but is not limited to:

- (1) A farm tractor;
- (2) a self-propelled farm implement;
- (3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;
- (4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung; and
- (5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

(r) "Lien" means a security interest as defined in this section.

(s) "Lightweight roadable vehicle" means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction of, the federal

aviation administration.

(t) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(u) "Micro utility truck" means any motor vehicle that is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle or recreational off-highway vehicle.

(v) "Motor vehicle" means every vehicle, other than a motorized bicycle or a motorized wheelchair, that is self-propelled. "*Motor vehicle*" does not include a personal delivery device.

(w) "Motorcycle" means every motor vehicle, including autocycles, designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as defined in this section.

(x) "Motorized bicycle" means every device having two tandem wheels or three wheels, that may be propelled by either human power or helper motor, or by both, and has:

- (1) A motor that produces not more than 3.5 brake horsepower;
- (2) a cylinder capacity of not more than 130 cubic centimeters;
- (3) an automatic transmission; and
- (4) the capability of a maximum design speed of no more than 30 miles per hour.

(y) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person and such vehicle is incapable of a speed in excess of 15 miles per hour.

(z) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles who holds a dealer's contract therefor from a manufacturer or distributor and has an established place of business in this state.

(aa) "Nonresident" means every person who is not a resident of this state.

(bb) "Notice of security interest" means a notification to the division from a dealer or secured party of a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, upon a vehicle that has been sold and delivered to the purchaser describing the vehicle and showing the name, address and acknowledgment of the secured party as well as the name and address of the debtor or debtors and other information the division requires.

(cc) "Oil well servicing, oil well clean-out or oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(dd) "Owner" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional

vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

(ee) "Passenger vehicle" means every motor vehicle, as defined in this section, that is designed primarily to carry 10 or fewer passengers, and is not used as a truck.

(ff) "Person" means every natural person, firm, partnership, association or corporation.

(gg) "*Personal delivery device*" means the same as defined in section 1, and amendments thereto.

(hh) "Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

~~(hh)~~(ii) "Recreational off-highway vehicle" means any motor vehicle not greater than 75 inches in width measured from the outside of one tire rim to the outside of the other tire rim, having a dry weight of 3,500 pounds or less, traveling on four or more nonhighway tires.

~~(ii)~~(jj) "Road tractor" means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

~~(jj)~~(kk) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

~~(kk)~~(ll) "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

~~(ll)~~(mm) "Specially constructed vehicle" means any vehicle that shall not have been originally constructed under a distinctive name, make, model or type, or that, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

~~(mm)~~(nn) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

~~(nn)~~(oo) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

~~(oo)~~(pp) "Truck" means a motor vehicle that is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

~~(pp)~~(qq) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

~~(qq)~~(rr) "Used vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer's contract for the sale of new motor vehicles, travel trailers or vehicles.

~~(rr)~~(ss) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks. "*Vehicle*" does not include a *personal delivery device*.

~~(ss)~~(tt) "Vehicle functions" means services relating to the application, processing, auditing or distribution of original or renewal vehicle registrations, certificates of title, driver's licenses and division-

issued identification cards associated with services and functions set out in articles 1, 2 and 13 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto. "Vehicle functions" may also include personal property taxation duties set out in article 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and other vehicle-related events described in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

~~(t)~~(u) "Work-site utility vehicle" means any motor vehicle that is not less than 48 inches in width, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more nonhighway tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck or recreational off-highway vehicle.

Sec. 5. K.S.A. 2021 Supp. 8-126 is hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the
SENATE, and passed that body

SENATE concurred in

HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.