

CHAPTER 91

SENATE BILL No. 275
(Amended by Chapter 143)

AN ACT concerning vehicles; relating to implements of husbandry; concerning all-terrain vehicles; amending K.S.A. 84-2a-104 and K.S.A. 2008 Supp. 8-126, 8-197, 8-1402a and 84-9-311 and repealing the existing sections.

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

Section 1. K.S.A. 2008 Supp. 8-197 is hereby amended to read as follows: 8-197. (a) The provisions of K.S.A. 8-197 to 8-199, inclusive, and amendments thereto, shall be a part of and supplemental to the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and as used in such sections, the words and phrases defined by K.S.A. 8-126, and amendments thereto, shall have the meanings respectively ascribed to them therein.

(b) As used in K.S.A. 8-197 through 8-199, and amendments thereto:

(1) (A) "Nonhighway vehicle" means:

~~(A)~~ (i) Any motor vehicle which cannot be registered because it is not manufactured for the purpose of using the same on the highways of this state and is not provided with the equipment required by state statute for vehicles of such type which are used on the highways of this state;

~~(B)~~ (ii) any motor vehicle, other than a salvage vehicle, for which the owner has not provided motor vehicle liability insurance coverage or an approved self insurance plan under K.S.A. 40-3104, and amendments thereto, and has not applied for or obtained registration of such motor vehicle in accordance with article 1 of chapter 8 of the Kansas Statutes Annotated;

~~(C)~~ (iii) any all-terrain vehicle;

~~(D)~~ (iv) any work-site utility vehicle; or

~~(E)~~ (v) any micro utility truck;

(B) "nonhighway vehicle" shall not include an implement of husbandry, as defined in K.S.A. 8-126, and amendments thereto.

(2) "salvage vehicle" means:

(A) Any motor vehicle, other than a late model vehicle, which is of a type required to be registered in this state, but which cannot be registered because it has been wrecked or damaged to the extent that: The equipment required by state statute on any such vehicle used on the highways of this state is not present or is not in good condition or proper adjustment, as prescribed by state statute or any rules and regulations adopted pursuant thereto, or such vehicle is in an inoperable condition or a condition that would render the operation thereof on the highways of this state a hazard to the public safety; and in either event, such vehicle would require substantial repairs to rebuild or restore such vehicle to a condition which will permit the registration thereof;

(B) a late model vehicle which is of a type required to be registered in this state and which has been wrecked or damaged to the extent that the total cost of repair is 75% or more of the fair market value of the motor vehicle immediately preceding the time it was wrecked or damaged and such condition was not merely exterior cosmetic damage to such vehicle as a result of windstorm or hail; or

(C) a motor vehicle, which is of a type required to be registered in this state that the insurer determines is a total loss and for which the insurer takes title;

(3) "salvage title" means a certificate of title issued by the division designating a motor vehicle a salvage vehicle;

(4) "rebuilt salvage vehicle" means any motor vehicle previously issued a salvage title;

(5) "rebuilt salvage title" means a certificate of title issued by the division for a vehicle previously designated a salvage vehicle which is now designated a rebuilt salvage vehicle;

(6) "late model vehicle" means any motor vehicle which has a manufacturer's model year designation of or later than the year in which the vehicle was wrecked or damaged or any of the six preceding years;

(7) "fair market value" means the retail value of a motor vehicle as:

(A) Set forth in a current edition of any nationally recognized compilation, including an automated database of retail value; or

(B) determined pursuant to a market survey of comparable vehicles with regard to condition and equipment;

(8) “cost of repairs” means the estimated or actual retail cost of parts needed to repair a vehicle plus the cost of labor computed by using the hourly labor rate and time allocations for automobile repairs that are customary and reasonable. Retail costs of parts and labor rates may be based upon collision estimating manuals or electronic computer estimating systems customarily used in the automobile industry. The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing or reinstalling tires, sound systems, or any sales tax on parts or materials to rebuild or reconstruct the vehicle.

Sec. 2. K.S.A. 84-2a-104 is hereby amended to read as follows: 84-2a-104. (1) A lease, although subject to this article, is also subject to any applicable:

(a) Certificate of title statute of this state: (List any certificate of title statutes covering automobiles, trailers, mobile homes, boats, ~~farm tractors~~, and the like);

(b) certificate of title statute of another jurisdiction (K.S.A. 84-2a-105, *and amendments thereto*); or

(c) consumer protection statute of this state, or final consumer protection decision of a court of this state existing on the effective date of this article.

(2) In case of conflict between this article, other than K.S.A. 84-2a-105, 84-2a-304(3) and 84-2a-305(3), *and amendments thereto*, and a statute or decision referred to in subsection (1), the statute or decision controls.

(3) Failure to comply with an applicable law has only the effect specified therein.

Sec. 3. K.S.A. 2008 Supp. 84-9-311 is hereby amended to read as follows: 84-9-311. (a) **Security interest subject to other law.** Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation, or treaty of the United States whose requirements for a security interest’s obtaining priority over the rights of a lien creditor with respect to the property preempt K.S.A. 2008 Supp. 84-9-310(a) and amendments thereto;

(2) any certificate-of-title law of this state covering automobiles, trailers, mobile homes, boats, ~~farm tractors~~, or the like, which provides for a security interest to be indicated on the certificate. Such security interest shall be deemed perfected upon the mailing or delivery of the notice of security interest and tender of the required fee to the appropriate state agency as prescribed by subsection (c)(5) of K.S.A. 8-135 and subsection (g) of 58-4204, and amendments thereto, or the delivery of the documents appropriate under any such law to the appropriate state agency and tender of the required fee to the state agency, as prescribed in subsection (c)(6) of K.S.A. 8-135 and subsection (i) of 58-4204, and amendments thereto; or

(3) a certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the property.

(b) **Compliance with other law.** Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (d) and K.S.A. 2008 Supp. 84-9-313 and 84-9-316(d) and (e) and amendments thereto for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) **Duration and renewal of perfection.** Except as otherwise provided in subsection (d) and K.S.A. 2008 Supp. 84-9-316(d) and (e) and amendments thereto, duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(d) **Inapplicability to certain inventory.** During any period in

which collateral subject to a statute specified in subsection (a)(2) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

Sec. 4. K.S.A. 2008 Supp. 8-126 is hereby amended to read as follows: 8-126. The following words and phrases when used in this act shall have the meanings respectively ascribed to them herein:

(a) "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.

(b) "Motor vehicle" means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

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

(d) "Motorcycle" means every motor vehicle 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 herein defined.

(e) "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.

(f) "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.

(g) "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.

(h) "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.

(i) "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.

(j) "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.

(k) "Specially constructed vehicle" means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, 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.

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

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

(n) "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.

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

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

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

(r) "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, trailers or vehicles.

(s) "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" shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(t) "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.

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

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

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

(x) "Passenger vehicle" means every motor vehicle, as herein defined, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.

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

(z) "Farm trailer" means every trailer as defined in subsection (h) of this section and every semitrailer as defined in subsection (i) of this section, designed and used primarily as a farm vehicle.

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

- (1) A motor which 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.

(bb) "All-terrain vehicle" means any motorized nonhighway vehicle ~~48~~ 50 inches or less in width, having a dry weight of ~~1,000~~ 1,500 pounds or less, traveling on three or more ~~low-pressure nonhighway~~ tires, having a seat designed to be straddled by the operator. As used in this subsection, ~~low-pressure nonhighway~~ tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of ~~12~~ 14 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(cc) "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. Such term shall include, but not be 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;
- (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.

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

(ee) "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 per-

manently 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 an oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(ff) "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.

(gg) "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. 2008 Supp. 8-135d, and amendments thereto.

(hh) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure 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.

(ii) "Micro utility truck" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 144 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.

Sec. 5. K.S.A. 2008 Supp. 8-1402a is hereby amended to read as follows: 8-1402a. "All-terrain vehicle" means any motorized nonhighway vehicle ~~48~~ 50 inches or less in width, having a dry weight of ~~1,000~~ 1,500 pounds or less, traveling on three or more ~~low-pressure nonhighway~~ tires; *and* having a seat designed to be straddled by the operator. As used in this section, "~~low-pressure nonhighway~~ tire" means any pneumatic tire six inches or more in width, designed for use on wheels with a rim diameter of ~~12~~ 14 inches or less ~~and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.~~

Sec. 6. K.S.A. 84-2a-104 and K.S.A. 2008 Supp. 8-126, 8-197, 8-1402a and 84-9-311 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 13, 2009.

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