

SESSION OF 2018

**CONFERENCE COMMITTEE REPORT BRIEF
SUBSTITUTE FOR SENATE BILL NO. 272**

As Agreed to March 29, 2018

Brief*

Sub. for SB 272 would amend the Uniform Act Regulating Traffic on Highways (Uniform Act) regarding passing of waste collection vehicles, length and weight limits for certain vehicles, the fine for improper passing of a school bus, and operation of golf carts on city streets.

Move Over for Waste Collection Vehicles

The bill would require drivers of motor vehicles to take certain actions when approaching a stationary waste collection vehicle obviously and actually engaged in waste collection and displaying hazard warning signal lamps as required by KSA 8-1722. [Note: KSA 8-1722 requires every vehicle designed and used for collection of waste to be equipped with simultaneously flashing amber lights and to use those lights when collecting or transporting waste and traveling at 15 miles per hour or less.]

The bill would require a driver of a motor vehicle approaching a stationary waste collection vehicle to proceed with due caution and take one of two actions:

- Move into a lane not adjacent to that of the stationary waste collection vehicle, if the highway consists of at least two lanes in the same direction

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of travel as the driver's motor vehicle and road, weather, and traffic conditions permit; or

- Reduce the speed of the vehicle and maintain a safe speed for the road, weather, and traffic conditions.

[*Note:* These actions are the same as those required in KSA 2017 Supp. 8-1531 when the driver of a motor vehicle approaches an authorized road construction vehicle.]

The bill would define "waste collection vehicle" as a vehicle specifically designed, equipped, and used exclusively for garbage, refuse, recycling, or solid waste collection or disposal operations.

The bill would require a law enforcement officer to issue a warning citation prior to July 1, 2019, for the unlawful passing of a waste collection vehicle and would establish a fine of \$45 for such violation.

The bill would specify the section that would be added shall not operate to relieve the driver of a waste collection vehicle from the duty to drive with due regard for the safety of all persons using the highway.

The bill would add the new section to the Uniform Act.

Fine for Improper Passing of a School Bus

The bill would increase the fine for improper passing of a school bus for any subsequent violation within five years to \$750 for a second violation and to \$1,000 for a third or subsequent violation. The fine in continuing law for improper passing of a school bus is \$315.

Length and Weight Limits

The bill would add specified exemptions to limits on vehicle weights and lengths for certain vehicles.

Vehicle weight. The bill would authorize the operation of an emergency vehicle at a gross weight not exceeding 86,000 pounds and subject to maximum weights on axles of 24,000 pounds on a single steering axle, 33,500 pounds on a single drive axle, 62,000 pounds on a tandem axle, and 52,000 pounds on a tandem rear drive steering axle. The bill would define “emergency vehicle” for this purpose as a vehicle designed to be used under emergency conditions to transport personnel and equipment and to support the suppression of fires and mitigation of other hazardous situations.

Vehicle length. The bill would add an exemption from limits on the lengths of vehicles and vehicle combinations operated on Kansas public roads to allow a towaway trailer transporter combination not exceeding 82 feet in length. The bill would define a “towaway trailer transporter combination” as a trailer transporter towing unit and 2 trailers or semitrailers with a total weight not exceeding 26,000 pounds; the bill would require the trailers carry no property and constitute inventory property of a trailer manufacturer, distributor, or dealer. The bill would define a “trailer transporting towing unit” as a power unit not used to carry property when operating in this combination.

Golf Carts Operated at Night

The bill would authorize operation of a golf cart on any public street or highway between sunset and sunrise if the golf cart is equipped with lights as required by law for motorcycles and with a properly mounted slow-moving vehicle emblem as required by KSA 8-1717.

Continuing law prohibits operation of golf carts on any interstate, federal, or state highway; on any public highway or street within a city unless authorized by that city; and on any street or highway with a posted speed limit exceeding 30 miles per hour.

Conference Committee Action

The Conference Committee agreed to the contents of Sub. for SB 272, as amended by the House Committee on Transportation, and agreed to add the contents of three additional bills:

- SB 375, as amended by the House Committee on Transportation (which includes the contents of SB 391, as recommended by the Senate Committee on Transportation);
- Sub. for HB 2040, as recommended by the House Committee on Transportation; and
- HB 2486, as amended by the Senate Committee on Transportation.

Background

The Conference Committee report would include the contents of Sub. for SB 272, SB 375 (which also would include SB 391), Sub. for HB 2040, and HB 2486.

Sub. for SB 272 (Move Over for Waste Collection Vehicles)

SB 272 was introduced by the Senate Committee on Federal and State Affairs at the request of the National Waste and Recycling Association. The bill was referred to the Senate Committee on Transportation. In the Senate

Committee hearing, proponent testimony was provided by representatives of Hamm, Inc; Honey Creek Disposal; Inland Waste Solutions; the League of Kansas Municipalities (LKM); Republic Services; and Waste Management of Kansas. Written-only proponent testimony was provided by representatives of Blackstone Environmental, Inc.; the McPherson Area Solid Waste Utility; SM Ball Waste Disposal, Inc.; and the Kansas Sunflower Chapter of the Solid Waste Association of North America (SWANA). Proponents stated waste and recycling collection as an occupation ranks fifth highest in the nation in fatality rates, noted increasing incidence of distracted and inattentive driving that places waste collection staff at risk, and described safety measures taken by waste collectors.

A representative of the Kansas Department of Transportation (KDOT) testified in opposition to the bill, as introduced, and requested clarifications.

The Senate Committee amended the bill to add a warning period and clarifications, and recommended those amendments be incorporated into a substitute bill. It was noted that KDOT worked with the parties on the drafting of the substitute bill. [Note: The Conference Committee retained this amendment.]

In the House Committee on Transportation hearing, proponent testimony was provided by representatives of Hamm, Inc; KDOT; LKM; Republic Services; and Waste Management of Kansas. Written-only proponent testimony was provided by representatives of SM Ball Waste Disposal, Inc., and the Kansas Sunflower Chapter of SWANA.

The House Committee amended the bill to include the new section proposed by the bill in the Uniform Act. [Note: The Conference Committee retained this amendment.]

According to the fiscal note prepared by the Division of the Budget on SB 272, as introduced, enactment of the bill has the potential to increase litigation in the courts because of

the new violation that would be created by the bill. If it does, the Office of Judicial Administration (OJA) indicates there would be a fiscal effect on the operations of the court system, but a precise fiscal effect cannot be determined. Any effect likely would be accommodated within existing resources. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2019 Governor's Budget Report*.

SB 375 (Length and Weight Limits)

SB 375 was requested by a representative of the KDOT, who testified as a proponent of the bill in the Senate Committee on Transportation hearing. No other testimony was provided.

As introduced, SB 375 addressed only length limits. As noted in KSA 2017 Supp. 8-1904 (which would be amended by the bill), the general length limit for a combination of vehicles is 65 feet. Federal law, in 49 U.S. Code § 31111, prohibits a state from prescribing or enforcing length limits other than those established in federal law. As noted in testimony, the Fixing America's Surface Transportation (FAST) Act (P.L. 114-94), signed into law in December 2015, added an exception to the general length limits that would be mirrored by the bill.

The Senate Committee recommended the bill be placed on the Consent Calendar.

A KDOT representative provided proponent testimony in the House Committee on Transportation hearing. No other testimony was provided.

The House Committee amended the bill to add the provisions of SB 391 (weight limits). [*Note:* The Conference Committee retained this amendment.]

According to the fiscal note prepared by the Division of the Budget on SB 375, as introduced, enactment of the bill

would have no fiscal effect on the operations of KDOT or the Kansas Highway Patrol (KHP).

SB 391 (Weight Limits)

SB 391 was requested by a KDOT representative, who testified as a proponent of the bill in the Senate Committee on Transportation hearing. No other testimony was provided.

A KDOT representative provided proponent testimony in the House Committee on Transportation hearing. No other testimony was provided.

As noted in KSA 2017 Supp. 8-1909 (which would not be amended by the bill), the general weight limit for a vehicle or combination of vehicles is 85,500 pounds, or 80,000 pounds if operated on the interstate system. Federal law, in 23 U.S. Code § 127, requires withholding of certain federal transportation funding if a state permits weight limits on interstate and “defense” highways other than the gross weight and axle load limits established in federal law. As noted in testimony, the FAST Act added an exception to the general weight and axle load limits that would be mirrored by the bill.

According to the fiscal note prepared by the Division of the Budget on SB 391, as introduced, the LKM indicates it does not possess data on the weights of city emergency vehicles but estimates any fiscal effect on cities as a result of enactment of the bill would be negligible.

Sub. for HB 2040 (Fine for Improper Passing of a School Bus)

As introduced, HB 2040 would have authorized a school board to equip school buses with a video recording device to enforce current law: KSA 2017 Supp. 8-1556 requires a driver to stop and prohibits a driver of a vehicle meeting or overtaking from either direction any school bus from

proceeding when the bus is flashing red lights (school bus stop sign law). The bill, as introduced, also would have included the fine increases in the substitute bill.

The House Committee on Transportation introduced the bill at the request of Representative Highland. On January 26, 2017, the House Committee held a hearing on the bill. Representative Highland and the Transportation Director for USD 378 Riley County Schools testified in support of the bill. The proponents reported they had witnessed violations putting children at risk, a driver violating current law is cited now only if a law enforcement officer witnesses the violation, and 16 other states have bus camera laws and 3 other states were considering them. The KHP provided written-only proponent testimony. A representative of the LKM appeared as an opponent to certain portions of the bill, relating to costs for the maintaining and storing of evidence and for delivering the citation to the vehicle owner. No other testimony was provided.

The House Committee on Transportation amended the bill regarding delivery of the citation.

On February 22, 2017, the House Committee of the Whole referred the bill to the House Committee on Judiciary. On March 14, 2017, the House Committee on Judiciary held a hearing on due process issues in the bill. Representative Highland testified in support of the bill. A representative of LKM testified as an opponent to the provisions of the bill it had opposed before the House Committee on Transportation.

The House Committee on Judiciary further amended the bill without recommendation by:

- Removing a definition of “owner” that would have been added by the bill, as introduced;
- Adding the provisions regarding *prima facie* evidence and a rebuttable presumption;

- Removing a provision that would have been added by the bill, as introduced, allowing a school district to enter into an intergovernmental agreement to offset expenses involved with the video recording devices contemplated by the bill; and
- Moving and expanding the required contents of a citation.

In 2018, the bill was rereferred to the House Committee on Transportation, which amended the bill to remove sections regarding camera enforcement and retain only provisions regarding fines. It also adopted technical amendments and recommended the amended contents be placed into a substitute bill. [*Note:* The Conference Committee report reflects the substitute bill.]

On March 13, 2018, the Senate Committee on Transportation held a hearing on the bill. Proponent testimony was provided by Representative Highland; the Transportation Director of USD 378, Riley County; and a representative of the Kansas Association of Chiefs of Police, the Kansas Sheriffs' Association, and the Kansas Peace Officers Association. Written-only proponent testimony was provided by representatives of the LKM and the KHP. No other testimony was provided.

The Senate Committee amended the bill to add the contents of SB 441 regarding negligent driving. [*Note:* The Conference Committee did not retain this amendment.]

According to the fiscal note prepared in 2017 by the Division of the Budget on HB 2040, as introduced, enactment of the bill could have these effects:

- According to the OJA, the bill could increase the number of cases filed, which could increase time spent by staff but also result in collection of docket fees. However, it is not possible to predict the

number or complexity of the cases and therefore a precise fiscal effect cannot be determined;

- KDOT reported the bill could result in additional federal reporting on automated enforcement, but any fiscal effect to agency operations would be negligible [*Note:* This concern would not be applicable to the substitute bill.]; and
- The Kansas Department of Revenue indicated the bill would require a change to motor vehicle reports and to the driver's license system, at a total cost of \$1,401 in FY 2018.

Any fiscal effect of Sub. for HB 2040 is not reflected in *The FY 2019 Governor's Budget Report*.

HB 2486 (Golf Carts Operated at Night)

HB 2486 was requested by Representative Adam Smith, who provided oral testimony in support of the bill in the House Committee on Transportation hearing and introduced two of his constituents, from Atwood, who also provided proponent testimony. The proponents described how golf carts are used in their community, by residents and by visitors, and provided information on other states' laws on golf cart use. No other testimony was presented.

Representative Adam Smith, one of his constituents, and a representative of the LKM provided proponent testimony in the Senate Committee on Transportation hearing. A representative of the Kansas Association of Property and Casualty Insurance Companies, Inc., provided neutral testimony, stating golf carts are not covered under automobile insurance, even when driven on city streets; instead, golf carts are usually insured *via* a rider to a homeowner's general liability coverage. No opponent testimony was presented.

The Senate Committee amended the bill to require a golf cart operated at night in accordance with the bill to be equipped with a properly mounted slow-moving vehicle emblem. [Note: The Conference Committee retained this amendment.]

Requirements for lights on motorcycles are contained in KSA 8-1801 *et seq.* Among them are requirements for head lamps of a certain intensity and tail lamps. KSA 8-1717 defines a slow-moving vehicle emblem as triangular, having equal sides of 14 inches and an altitude of 12 inches, painted a fluorescent yellow-orange color and bordered with reflective red-colored strips having a minimum width of 1.75 inches. The emblem must be mounted on the vehicle in accordance with standards of the American Society of Agricultural Engineers (now the American Society of Agricultural and Biological Engineers); those standards state the emblem is to be mounted on the rear of the vehicle and centered (or as nearly as practical), between 2 and 10 feet above the ground.

According to the fiscal note prepared by the Division of the Budget on HB 2486, as introduced, enactment of the bill would have no fiscal effect.

waste collection; length limit; weight limit; emergency vehicle; school bus; golf cart; traffic laws

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