



City Hall
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Date: March 8th, 2019
To: Chairman Petersen and Senate Committee on Transportation
From: City of Overland Park
Re: Written Testimony in Support of HB 2126

Thank you for allowing the City of Overland Park (“City”) to submit this testimony in support of HB 2126, regulating the operation of electric-assisted scooters on roads and highways.

Cities around the state have been contacted by companies wishing to deploy electric-assisted scooters in their communities. Section 1 of HB 2126 adds a specific definition for electric-assisted scooters. Section 2 of HB 2126, as amended by the House, proposes language that such scooters are illegal to be operated on interstate, federal or state highways, and notwithstanding such prohibitions, traffic regulations applicable to bicycles shall apply to electric assisted scooters. Section 2 also allows for the governing body of any city or county further restrict the use of electric assisted scooters within its jurisdiction . Section 3 of HB 2126 serves the purpose of clarifying registration requirements regarding electric-assisted scooters.

Regarding clarifying the law, K.S.A. 8-126¹ and K.S.A. 8-127² seem to require electric-assisted scooters to be registered with the State, and do not expressly exempt these scooters from State registration requirements of motor vehicles. This interpretation is supported by Kansas Attorney General Opinion 2001-39, which gives the opinion that if electric-assisted scooters are ridden on

¹ “Motor vehicle” means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled. See K.S.A. 8-126(u) definition of “Motor vehicle”.

² (a) Every owner of a *motor vehicle*, motorized bicycle, trailer or semitrailer *intended to be operated upon any highway in this state*, whether such owner is a resident of this state or another state, or such motor vehicle, motorized bicycle, trailer or semitrailer is based in this state or another state, before any such vehicle is operated in this state, *shall apply for and obtain registration in this state under the provisions of K.S.A. 8-126 to 8-149, inclusive, and amendments thereto, except as otherwise provided by law or by any interstate contract, agreement, arrangement or declaration made by the director of vehicles.* K.S.A. 8-127(a)(Emphasis added).

the public roadways³ of this state they would need to comply with state motor vehicle registration requirements.

The City's understanding is that the Kansas Department of Revenue ("KDOR") does not register these electric-assisted scooters because they are not "intended to be operated upon any highway of this state." See K.S.A. 8-127(a). However, case law seems to hold that it is the intent of the driver of the motor vehicle that is at issue of whether or not a motor vehicle is "intended to be operated upon any highway of this state."⁴ The companies wishing to deploy electric-assisted scooters intend for them to be operated upon highways.

HB 2126 clearly exempts electric-assisted scooters from State registration requirements (similar to the treatment of golf carts). This change will provide clear authority for municipalities to authorize the operation of electric-assisted scooters within their boundaries if they so choose.

The City supports decision making authority at the municipal level.

Thank you for allowing the City to testify in support of this legislation. We respectfully request that the Committee advance this legislation to the full Senate.

³ A.G. Opinion 2001-39 references "highways" of this state. K.S.A. 8-126 defines "highway" as "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."

⁴ See *Kresyman v. State Farm Mut. Auto. Ins. Co.*, 623 P.2d 524, 525 (Kan. App. 1981), where the Court of Appeals stated, "Reading K.S.A. 8-127(a) and K.S.A. 8-142 together and giving them both effect, as must be done, it is clear to us that the essence of their direction is that a motor vehicle operated upon a highway is to be registered, with the registration to be obtained before such operation. Various other statutory provisions within the motor vehicle laws and the act provide exceptions and exemptions but they play no role in this case. The 'intended to be' wording of K.S.A. 8-127(a) is not an element in the definition of a motor vehicle "of a kind required to be registered in this state." See *Peoples Nat'l Bank v. Larsen*, 1986 Kan. App. LEXIS 1056 (unpublished), where the court stated, "K.S.A. 1985 Supp. 8-127 which says owners must register only vehicles 'intended to be operated upon any highway in this state.' Larsen and Milhon, however, intended to sell this motorcycle, not to operate it on Kansas highways." See *Farm Bureau Mut. Ins. Co. v. Kurtenbach by & through Kurtenbach*, 265 Kan. 465, 473 (1998), where the Kansas Supreme Court stated "... the motorcycle in this case may not be subject to registration if it is not 'intended to be operated upon any highway in this state.' K.S.A. 8-127. The undisputed facts show that the motorcycle was purchased in 1979 and was not registered. It has never been registered in this state. According to the evidence, it was purchased for farming operations on Kurtenbachs' farm."