

As Amended by Senate Committee

Session of 2020

SENATE BILL No. 435

By Committee on Assessment and Taxation

2-13

1 AN ACT concerning personal package delivery devices; definitions;
2 operating requirements and restrictions; exemption from motor vehicle
3 requirements; preemption of local regulation; amending K.S.A. 2019
4 Supp. 8-126 and repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

16 (c) "Person" means a natural person.

17 (d) "Personal delivery device" or "device" means a powered device
18 operated primarily on sidewalks and crosswalks and intended primarily for
19 the transport of property on public rights-of-way that does not exceed 150
20 pounds, excluding cargo, and is capable of navigating with or without the
21 active control or monitoring of a person.

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

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

32 (1) Sidewalk or crosswalk of any municipality; and

33 (2) public highway of any municipality only for the limited purpose
34 of gaining or regaining access to a sidewalk or crosswalk. A personal
35 delivery device shall yield to all vehicles and not unreasonably interfere
36 with motor vehicles or traffic.

1 (b) A personal delivery device shall:

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

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

4 (3) operate at a speed that does not exceed a maximum of six miles
5 per hour;

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

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

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

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

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

30 (e) An entity shall maintain an insurance policy that includes general
31 liability coverage of at least \$100,000 for damages arising from the
32 operation of the personal delivery device by the entity and any agent of the
33 entity.

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

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

1 blind persons of the presence of the personal delivery device.

2 (h) A personal delivery device shall not be operated to transport
3 hazardous material in violation of state or federal law applicable to the
4 transport of hazardous material by a person or motor vehicle, including
5 any material that has been designated as hazardous under 49 U.S.C. §
6 5103, and is required to be placarded under subpart F of 49 C.F.R. Part
7 172.

8 ~~New Sec. 3. A county, city, unified government or other municipality
9 or any subdivision thereof shall not enact or enforce an ordinance or
10 resolution relating to:~~

11 ~~(a) The design, manufacture, maintenance, licensing, registration,
12 taxation, assessment or other charges, certification or insurance of a
13 personal delivery device;~~

14 ~~(b) the types of property that may be transported by a personal
15 delivery device; or~~

16 ~~(c) the operations of personal delivery devices or the restriction of
17 access of personal delivery devices to any sidewalk, crosswalk or public
18 highway.~~

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

25 Sec. 4. K.S.A. 2019 Supp. 8-126 is hereby amended to read as
26 follows: 8-126. The following words and phrases when used in this act
27 shall have the meanings respectively ascribed to them herein *mean the*
28 *following:*

29 (a) "All-terrain vehicle" means any motorized nonhighway vehicle 50
30 inches or less in width, having a dry weight of 1,500 pounds or less,
31 traveling on three or more nonhighway tires.

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

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

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

41 (e) "Department" or "motor vehicle department" or "vehicle
42 department" means the division of vehicles of the department of revenue,
43 acting directly or through its duly authorized officers and agents. When

1 acting on behalf of the department of revenue pursuant to this act, a county
2 treasurer shall be deemed to be an agent of the state of Kansas.

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

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

9 (h) "Electric personal assistive mobility device" means a self-
10 balancing two nontandem wheeled device, designed to transport only one
11 person, with an electric propulsion system that limits the maximum speed
12 of the device to 15 miles per hour or less.

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

17 (1) Residential electric service; *and*

18 (2) an electric vehicle charging station, also called an EV charging
19 station, an electric recharging point, a charging point, EVSE (Electric
20 Vehicle Supply Equipment) or a public charging station.

21 (j) "Electronic certificate of title" means any electronic record of
22 ownership, including any lien or liens that may be recorded, retained by
23 the division in accordance with K.S.A. 2019 Supp. 8-135d, and
24 amendments thereto.

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

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

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

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

40 (o) "Golf cart" means a motor vehicle that has not less than three
41 wheels in contact with the ground, an unladen weight of not more than
42 1,800 pounds, is designed to be and is operated at not more than 25 miles
43 per hour and is designed to carry not more than four persons including the

1 driver.

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

7 (q) "Implement of husbandry" means every vehicle designed or
8 adapted and used exclusively for agricultural operations, including
9 feedlots, and only incidentally moved or operated upon the highways.
10 Such term shall include, but not be limited to:

11 (1) A farm tractor;

12 (2) a self-propelled farm implement;

13 (3) a fertilizer spreader, nurse tank or truck permanently mounted
14 with a spreader used exclusively for dispensing or spreading water, dust or
15 liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202,
16 and amendments thereto, regardless of ownership;

17 (4) a truck mounted with a fertilizer spreader used or manufactured
18 principally to spread animal dung; *and*

19 (5) a mixer-feed truck owned and used by a feedlot, as defined in
20 K.S.A. 47-1501, and amendments thereto, and specially designed and used
21 exclusively for dispensing food to livestock in such feedlot.

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

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

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

29 (u) "Micro utility truck" means any motor vehicle that is not less than
30 48 inches in width, has an overall length, including the bumper, of not
31 more than 160 inches, has an unladen weight, including fuel and fluids, of
32 more than 1,500 pounds, can exceed 40 miles per hour as originally
33 manufactured and is manufactured with a metal cab. "Micro utility truck"
34 does not include a work-site utility vehicle or recreational off-highway
35 vehicle.

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

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

43 (x) "Motorized bicycle" means every device having two tandem

1 wheels or three wheels, that may be propelled by either human power or
2 helper motor, or by both, and has:

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

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

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

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

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

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

33 (dd) "Owner" means a person who holds the legal title of a vehicle, or
34 in the event a vehicle is the subject of an agreement for the conditional
35 sale thereof with the right of purchase upon performance of the conditions
36 stated in the agreement and with an immediate right of possession vested
37 in the conditional vendee or in the event a vehicle is subject to a lease of
38 30 days or more with an immediate right of possession vested in the
39 lessee; or in the event a party having a security interest in a vehicle is
40 entitled to possession, then such conditional vendee or lessee or secured
41 party shall be deemed the owner for the purpose of this act.

42 (ee) "Passenger vehicle" means every motor vehicle, as defined in
43 this section, that is designed primarily to carry 10 or fewer passengers, and

1 is not used as a truck.

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

4 (gg) *"Personal delivery device" has the meaning provided in section*
5 *1, and amendments thereto.*

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

9 ~~(hh)~~(ii) "Recreational off-highway vehicle" means any motor vehicle
10 more than 50 but not greater than 64 inches in width, having a dry weight
11 of 2,000 pounds or less, traveling on four or more nonhighway tires.

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

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

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

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

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

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

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

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

41 ~~(qq)~~(rr) "Used vehicle dealer" means every person actively engaged
42 in the business of buying, selling or exchanging used vehicles, and having
43 an established place of business in this state and who does not hold a

1 dealer's contract for the sale of new motor vehicles, travel trailers or
2 vehicles.

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

8 ~~(ss)~~(tt) "Vehicle functions" means services relating to the application,
9 processing, auditing or distribution of original or renewal vehicle
10 registrations, certificates of title, driver's licenses and division-issued
11 identification cards associated with services and functions set out in
12 articles 1, 2 and 13 of chapter 8 of the Kansas Statutes Annotated, and
13 amendments thereto. "Vehicle functions" may also include personal
14 property taxation duties set out in article 51 of chapter 79 of the Kansas
15 Statutes Annotated, and amendments thereto, and other vehicle-related
16 events described in article 1 of chapter 8 of the Kansas Statutes Annotated,
17 and amendments thereto.

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

25 Sec. 5. K.S.A. 2019 Supp. 8-126 is hereby repealed.

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