



February 7, 2022

Chair Petersen and Members of the Senate Transportation Committee:

On behalf of the Association for Unmanned Vehicle Systems International, or AUVSI, I urge you to vote “no” on Senate Bill 379.

AUVSI represents companies and individuals working on unmanned systems, including automated vehicles (AV). Specifically in that context, our member companies are at the forefront of automating goods movement via trucks, low-speed delivery devices, and warehouse yard technologies<sup>1</sup>.

For the following reasons, I urge you to vote no on SB 379:

- As an initial matter, the bill presents serious legal concerns that would likely result in litigation and, ultimately, invalidation of the measure.
  - First, by limiting use of automated vehicles to “middle mile” operations—which are defined as those involving intrastate commerce movement of goods—the bill would unlawfully discriminate against interstate commerce. The Supreme Court has made clear that states may not “discriminate against or burden the interstate flow of articles of commerce,” *Oregon Waste Sys., Inc. v. Dep’t of Env’tl. Quality of State of Or.*, 511 U.S. 93, 98 (1994), or “erect barriers against interstate trade.” *Lewis v. BT Inv. Managers, Inc.*, 447 U.S. 27, 35 (1980). SB 379 would do both. There is simply no legitimate reason to prohibit use of automated vehicles for the interstate movement of goods, and the courts would not permit such stark discrimination.
  - Second, the provision requiring compliance with federal motor vehicle safety standards (FMVSS) should include an exemption for situations where the National Highway Traffic Safety Administration (NHTSA) has authorized a company to operate an automated vehicle on public roads without complying with the FMVSS, pursuant to Section 591 or 555 of NHTSA’s rules or another provision of federal law. Where a federal agency exempts an operator from compliance with federal safety standards, a state may not require such compliance. Rather, doing so would create a conflict that gives rise to preemption under the Supremacy Clause of the

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<sup>1</sup> <https://www.auvsi.org/commercial-ground-advocacy-initiatives>

Constitution. *See, e.g., Fidelity Fed. Sav. & Loan Ass'n v. de la Cuesta*, 458 U.S. 141, 153 (1982).

- Apart from these legal defects, the bill would inappropriately create industry “winners” and “losers” given the narrow scope of permitted autonomous vehicle operations. The use cases for autonomous vehicles are many and whether it is long-haul trucking, low speed delivery services, or middle mile operations, you and your constituents deserve to enjoy the benefits each use case will bring.
- Limiting automated vehicle operations to middle mile applications would negatively affect those in the Kansas business community who may wish to integrate AV technologies into their business models. First- and last-mile automated delivery services represent huge promise in augmenting the current workforce, and there are many efficiencies to be found in automated long-haul trucking. Additionally, local trade schools and community colleges would be disincentivized to adjust their training options to begin creating a pipeline of trained AV safety operators, for instance, if the majority of industry employers are not allowed to do business in the state.

Placing onerous limitations on automated vehicle operations within Kansas will not help achieve roadway safety, and instead it will mark the state unfriendly to investment.

The companies I represent would welcome the chance to sit down with members of this committee and any interested stakeholders to discuss amendments to this bill that will work for Kansans. The state is known for a lot of great things – the discovery of helium, the birthplace of Amelia Earhart, and electing the nation’s first female mayor in 1887 – so I urge you to continue with that tradition of innovation and leadership and vote no on this narrow and restrictive law.

Thank you for your time and I look forward to future discussions.



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