

1357--A

2011-2012 Regular Sessions

I N S E N A T E

January 6, 2011

Introduced by Sens. DILAN, LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to the definition of electric assisted bicycle

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 102 of the vehicle and traffic law, as amended by
2 chapter 931 of the laws of 1977, is amended to read as follows:
3 S 102. Bicycle. 1. Every two or three wheeled device upon which a
4 person or persons may ride, propelled by human power through a belt, a
5 chain or gears, with such wheels in a tandem or tricycle, except that it
6 shall not include such a device having solid tires and intended for use
7 only on a sidewalk by pre-teenage children.
8 2. AN ELECTRIC ASSISTED DEVICE WITH TWO OR THREE WHEELS WHICH HAS A
9 SADDLE AND FULLY OPERATIVE PEDALS FOR HUMAN PROPULSION AND ALSO HAS AN
10 ELECTRIC MOTOR. THE ELECTRIC ASSISTED BICYCLE'S ELECTRIC MOTOR SHALL:
11 HAVE A POWER OUTPUT OF NOT MORE THAN SEVEN HUNDRED FIFTY WATTS; BE INCA-
12 PABLE OF PROPELLING THE DEVICE AT A SPEED OF MORE THAN TWENTY MILES PER
13 HOUR ON LEVEL GROUND; AND BE INCAPABLE OF FURTHER INCREASING THE SPEED
14 OF THE DEVICE WHEN HUMAN POWER IS USED TO PROPEL THE DEVICE AT OR MORE
15 THAN TWENTY MILES PER HOUR.
16 S 2. The vehicle and traffic law is amended by adding a new section
17 1238-a to read as follows:
18 S 1238-A. ADDITIONAL PROVISIONS APPLICABLE TO ELECTRIC ASSISTED BICY-
19 CLES, OPERATORS AND PASSENGERS. 1. IN ADDITION TO COMPLYING WITH ALL OF
20 THE RULES, REGULATIONS AND PROVISIONS APPLICABLE TO BICYCLES CONTAINED
21 IN THIS ARTICLE, AN ELECTRIC ASSISTED BICYCLE AS DEFINED IN SECTION ONE
22 HUNDRED TWO OF THIS CHAPTER SHALL COMPLY WITH THE FOLLOWING REQUIRE-
23 MENTS:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (A) MEET THE EQUIPMENT AND MANUFACTURING REQUIREMENTS FOR BICYCLES
2 ADOPTED BY THE CONSUMER PRODUCT SAFETY COMMISSION (16 C.F.R. 1512.1, ET
3 SEQ.) OR THE REQUIREMENTS ADOPTED BY THE NATIONAL HIGHWAY TRAFFIC SAFETY
4 ADMINISTRATION (49 C.F.R. 571.1, ET SEQ.) IN ACCORDANCE WITH THE
5 NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966 (15 U.S.C. SEC.
6 1381, ET SEQ.) FOR MOTOR DRIVEN CYCLES; AND

7 (B) OPERATE IN A MANNER SO THAT THE ELECTRIC MOTOR IS DISENGAGED OR
8 CEASES TO FUNCTION WHEN THE BRAKES ARE APPLIED, OR OPERATE IN A MANNER
9 SUCH THAT THE MOTOR IS ENGAGED THROUGH A SWITCH OR MECHANISM THAT, WHEN
10 RELEASED, WILL CAUSE THE ELECTRIC MOTOR TO DISENGAGE OR CEASE TO FUNC-
11 TION.

12 2. NO PERSON LESS THAN SIXTEEN YEARS OF AGE SHALL OPERATE AN ELECTRIC
13 ASSISTED BICYCLE, AND NO LAWFUL OPERATOR SHALL ALLOW ANY PERSON LESS
14 THAN SIXTEEN YEARS OF AGE TO OPERATE SUCH BICYCLE HE OR SHE IS OPERATING
15 OR RIDING.

16 3. A LAWFUL OPERATOR UNDER EIGHTEEN YEARS OF AGE SHALL NOT OPERATE AN
17 ELECTRIC ASSISTED BICYCLE UNLESS HE OR SHE IS WEARING A HELMET MEETING
18 STANDARDS ESTABLISHED BY THE COMMISSIONER. FOR THE PURPOSES OF THIS
19 SUBDIVISION, WEARING A HELMET MEANS HAVING A HELMET OF GOOD FIT FASTENED
20 SECURELY ON THE HEAD OF SUCH WEARER WITH THE HELMET STRAPS SECURELY
21 FASTENED.

22 4. (A) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION TWO OR
23 THREE OF THIS SECTION SHALL PAY A CIVIL FINE NOT TO EXCEED FIFTY
24 DOLLARS.

25 (B) THE COURT SHALL WAIVE ANY FINE FOR WHICH A PERSON WHO VIOLATES THE
26 PROVISIONS OF SUBDIVISION THREE OF THIS SECTION WOULD BE LIABLE IF SUCH
27 PERSON SUPPLIES THE COURT WITH PROOF THAT BETWEEN THE DATE OF VIOLATION
28 AND THE APPEARANCE DATE FOR SUCH VIOLATION SUCH PERSON PURCHASED OR
29 RENTED A HELMET.

30 (C) THE COURT MAY WAIVE ANY FINE FOR WHICH A PERSON WHO VIOLATES THE
31 PROVISIONS OF SUBDIVISION THREE OF THIS SECTION WOULD BE LIABLE IF THE
32 COURT FINDS THAT DUE TO REASONS OF ECONOMIC HARDSHIP SUCH PERSON WAS
33 UNABLE TO PURCHASE A HELMET OR DUE TO SUCH ECONOMIC HARDSHIP SUCH PERSON
34 WAS UNABLE TO OBTAIN A HELMET FROM A STATEWIDE OR LOCAL HELMET DISTRIB-
35 UTION PROGRAM.

36 5. THE FAILURE OF ANY PERSON TO COMPLY WITH THE PROVISIONS OF THIS
37 SECTION SHALL NOT IN ANY WAY BAR, PRECLUDE OR FORECLOSE AN ACTION FOR
38 PERSONAL INJURY OR WRONGFUL DEATH BY OR ON BEHALF OF SUCH PERSON, NOR IN
39 ANY WAY DIMINISH OR REDUCE THE DAMAGES RECOVERABLE IN ANY SUCH ACTION.

40 6. A POLICE OFFICER SHALL ONLY ISSUE A SUMMONS FOR A VIOLATION OF
41 SUBDIVISION TWO OR THREE OF THIS SECTION BY A PERSON LESS THAN SIXTEEN
42 YEARS OF AGE TO THE PARENT OR GUARDIAN OF SUCH PERSON IF THE VIOLATION
43 BY SUCH PERSON OCCURS IN THE PRESENCE OF SUCH PERSON'S PARENT OR GUARDI-
44 AN AND WHERE SUCH PARENT OR GUARDIAN IS SIXTEEN YEARS OF AGE OR MORE.
45 SUCH SUMMONS SHALL ONLY BE ISSUED TO SUCH PARENT OR GUARDIAN, AND SHALL
46 NOT BE ISSUED TO THE PERSON LESS THAN SIXTEEN YEARS OF AGE.

47 S 3. This act shall take effect immediately.