

3461

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I N S E N A T E

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Introduced by Sens. KRUEGER, SQUADRON -- read twice and ordered printed,
and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in
relation to the use of bicycles for commercial purposes

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

1 Section 1. Section 10-157 of the administrative code of the city of
2 New York, as amended by local law number 56 of the city of New York for
3 the year 2012, paragraph 3 of subdivision e as added by local law number
4 54 of the city of New York for the year 2012, subdivision i as added by
5 local law number 52 of the city of New York for the year 2012 and subdi-
6 vision j as added by local law number 55 of the city of New York for the
7 year 2012, is amended to read as follows:
8 S 10-157 Bicycles used for commercial purposes. a. For purposes of
9 this section, the following terms shall have the following meanings:
10 (1) "bicycle" shall have the same meaning as in section 19-176 of this
11 code, and shall also mean any wheeled device propelled exclusively by
12 human power as well as any motor-assisted device that is not capable of
13 being registered by the New York state department of motor vehicles;
14 (2) "business using a bicycle for commercial purposes" shall mean a
15 person, firm, partnership, joint venture, association, corporation, or
16 other BUSINESS entity which engages in the course of its business,
17 either on behalf of itself or others, in delivering packages, parcels,
18 papers, FOOD or articles of any type by bicycle. Nothing contained in
19 this section shall be construed as applying to persons under the age of
20 sixteen who use a bicycle only to deliver daily newspapers or circulars.
21 b. A business using a bicycle for commercial purposes shall provide
22 identification of such business by requiring every bicycle to be identi-
23 fied by affixing to the rear of each bicycle, bicycle seat or both sides
24 of the delivery basket, a metal or plastic sign measuring no less than
25 three inches by five inches, with the name of [the] SUCH business and an

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

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1 identification number unique to that particular bicycle in lettering and
2 numerals no less than one inch in height so as to be plainly readable at
3 a distance of not less than ten feet and maintaining same in good condi-
4 tion thereon. A sign is no longer in good condition if it is missing any
5 of its component parts or is otherwise damaged so as to impair its func-
6 tionality.

7 c. Every business using a bicycle for commercial purposes must assign
8 to every bicycle operator employed by such business a three digit iden-
9 tification number. Such business must issue to every bicycle operator an
10 identification card which contains the name, three digit identification
11 number and photo of the bicycle operator and the name, address and tele-
12 phone number of the business by which the bicycle operator is employed
13 OR OTHERWISE WORKING AS AN INDEPENDENT CONTRACTOR. Such business shall
14 ensure that such identification card is carried by the bicycle operator
15 while such bicycle operator is making deliveries[,] or otherwise riding
16 a bicycle on behalf of the business, and such bicycle operator shall
17 carry such identification card while operating a bicycle on behalf of
18 such business. Such bicycle operator shall be required to produce such
19 identification upon the demand of an authorized employee of the police
20 department or department of transportation or any other person author-
21 ized by law.

22 d. Every business using a bicycle for commercial purposes shall main-
23 tain a roster of bicycle operators employed by such business. Such
24 roster shall include the name and place of residence address of every
25 employee OR INDEPENDENT CONTRACTOR operating a bicycle on behalf of such
26 business, the date of employment and discharge of each such employee OR
27 INDEPENDENT CONTRACTOR, every such employee's three digit identification
28 number, and whether such employee has completed the bicycle safety
29 course required by paragraph 3 of subdivision e of this section. The
30 owner of any business using a bicycle for commercial purposes shall be
31 responsible for maintaining such roster. Such roster shall be made
32 available for inspection during regular and usual business hours or any
33 other such time that such entity is open for business upon request of an
34 authorized employee of the police department or department of transpor-
35 tation or any other person authorized by law.

36 e. (1) The owner of any business using a bicycle for commercial
37 purposes shall provide, at its own expense, protective headgear suitable
38 for each bicycle operator. Such headgear shall:

39 (i) meet the standards set forth by the consumer product safety
40 commission in title 16, part 1203 of the code of federal regulations;

41 (ii) be readily available at each site of the business using a bicycle
42 for commercial purposes for use by each bicycle operator; and

43 (iii) be replaced if such headgear is no longer in good condition.
44 Headgear is no longer in good condition if it is missing any of its
45 component parts or is otherwise damaged so as to impair its functionali-
46 ty.

47 (2) Each bicycle operator shall wear protective headgear that meets
48 the requirements of paragraph 1 of this subdivision while making deliv-
49 eries or otherwise operating a bicycle on behalf of such business. The
50 term "wear such protective headgear" means having the headgear fastened
51 securely upon the head with the headgear straps.

52 (3) Each bicycle operator shall be required to complete a bicycle
53 safety course. For purposes of this section, "bicycle safety course"
54 shall mean information provided by the department of transportation,
55 regarding safe bicycling and adherence to traffic and commercial bicycle

1 laws. Such requirement shall include, but not be limited to, the follow-
2 ing:

3 (i) Each bicycle operator shall complete a bicycle safety course prior
4 to operating a bicycle on behalf of a business using a bicycle for
5 commercial purposes;

6 (ii) Each business using a bicycle for commercial purposes shall indi-
7 cate on the roster required to be maintained by subdivision d of this
8 section that each bicycle operator employed by such business has
9 completed such bicycle safety course;

10 (iii) The owner of any business using a bicycle for commercial
11 purposes shall ensure that all bicycle operators employed by such busi-
12 ness shall complete such bicycle safety course prior to operating a
13 bicycle on behalf of such business, shall maintain records of such oper-
14 ators' completion of such bicycle safety course, and shall make such
15 records available for inspection during regular business hours or any
16 other time such business is open for business upon request of an author-
17 ized employee of the police department or department of transportation
18 or any other person authorized by law; and

19 (iv) The commissioner of transportation shall post on the department
20 of transportation's website the content of the bicycle safety course
21 required by this section on or before the effective date of this
22 section.

23 f. The owner of any business using a bicycle for commercial purposes,
24 notwithstanding that a bicycle may be provided by an employee OR INDE-
25 PENDENT CONTRACTOR, OR BY AN ASSOCIATE thereof, shall provide at its own
26 expense and ensure that each bicycle is equipped with a lamp; a bell or
27 other device capable of giving an audible signal from a distance of at
28 least one hundred feet, provided however that a siren or whistle shall
29 not be used; brakes; reflective tires or, alternately, a reflex reflec-
30 tor mounted on the spokes of each wheel; as well as other devices or
31 material in accordance with section [1236] TWELVE HUNDRED THIRTY-SIX of
32 the vehicle and traffic law.

33 g. Any business using a bicycle for commercial purposes shall be
34 responsible for the compliance with the provisions of this section of
35 any employees it shall retain. Violation of any of the provisions of
36 this section by any such business, or of any of the rules or regulations
37 that may be promulgated pursuant hereto, shall be [a violation triable
38 by a judge of the criminal court of the city of New York and upon
39 conviction thereof shall be punishable by a fine] LIABLE FOR A CIVIL
40 PENALTY of not less than one hundred dollars [nor] AND NOT more than two
41 hundred fifty dollars [or imprisonment for not more than fifteen days or
42 both such fine and imprisonment] WHICH MAY BE RECOVERED AGAINST A BICY-
43 CLE OPERATOR OR AGAINST A BUSINESS USING A BICYCLE FOR COMMERCIAL
44 PURPOSES IN A PROCEEDING BEFORE THE ENVIRONMENTAL CONTROL BOARD. In
45 addition, any business using a bicycle for commercial purposes that
46 violates any of the provisions of this section or any of the rules
47 promulgated pursuant hereto shall be subject to a civil penalty of one
48 hundred dollars. Any such business that violates a provision of this
49 section or rule promulgated pursuant hereto more than thirty days after
50 such business has already violated the same provision or rule shall be
51 subject to an additional civil penalty of two hundred fifty dollars.
52 Such civil penalties may be in addition to any criminal penalty imposed,
53 and shall be recoverable against such business in an action or proceed-
54 ing in any court or tribunal of competent jurisdiction or the environ-
55 mental control board.

1 h. [Any person who makes deliveries or otherwise operates a bicycle on
2 behalf of a business using a bicycle for commercial purposes without
3 carrying the identification sign required by subdivision b of this
4 section or without carrying the identification card required by subdivi-
5 sion c of this section or who fails to produce such identification sign
6 or card upon demand pursuant to such subdivisions, or who fails to wear
7 protective headgear required by subdivision e of this section or the
8 retro-reflective apparel required by subdivision i of this section,
9 shall be guilty of a traffic infraction and upon conviction thereof
10 shall be liable for a fine of not less than twenty-five dollars nor more
11 than fifty dollars. It shall be an affirmative defense to such traffic
12 infraction that such business did not provide the protective headgear,
13 the identification or the retro-reflective apparel required by subdivi-
14 sions b, c, e or i of this section. Such traffic infraction may be adju-
15 dicated by such an administrative tribunal as is authorized under arti-
16 cle two-A of the vehicle and traffic law.] ANY BUSINESS USING A BICYCLE
17 FOR COMMERCIAL PURPOSES SHALL BE VICARIOUSLY LIABLE FOR ANY CIVIL PENAL-
18 TY IMPOSED ON ANY BICYCLE OPERATOR EMPLOYED BY OR OTHERWISE WORKING AS
19 AN INDEPENDENT CONTRACTOR WITH SUCH BUSINESS WHEN SUCH PENALTY IS THE
20 RESULT OF A VIOLATION OF ANY PROVISION OF THIS SECTION, SECTION 19-176
21 OF THIS CODE, OR SECTION ELEVEN HUNDRED ELEVEN, SECTION ELEVEN HUNDRED
22 TWENTY-SEVEN, SECTION TWELVE HUNDRED THIRTY-SIX, SECTION TWELVE HUNDRED
23 FORTY, OR SECTION TWELVE HUNDRED FORTY-ONE OF THE VEHICLE AND TRAFFIC
24 LAW.

25 i. A business using a bicycle for commercial purposes shall provide
26 for and require each bicycle operator employed by such business to wear
27 and each such bicycle operator shall wear a retro-reflective jacket,
28 vest, or other wearing apparel on the upper part of such operator's body
29 as the outermost garment while making deliveries, or otherwise riding a
30 bicycle on behalf of such business, the back of which shall indicate
31 such business' name and such bicycle operator's individual identifica-
32 tion number as assigned pursuant to subdivision c of this section in
33 lettering and numerals not less than one inch in height so as to be
34 plainly readable at a distance of not less than ten feet.

35 j. The provisions of this section shall be enforceable by an author-
36 ized employee of the police department or department of transportation
37 or any other person authorized by law.

38 k. For the purposes of this section, a bicycle operator shall only be
39 considered to be employed or otherwise working as an independent
40 contractor with a business using a bicycle for commercial purposes when
41 such business provides direct compensation to that bicycle operator,
42 either as an employee or contractor. Persons or entities that hire other
43 firms to provide delivery and messenger services shall not be subject to
44 the provisions of this section.

45 S 2. This act shall take effect on the one hundred fiftieth day after
46 it shall have become a law; provided that if local laws numbers 52, 54,
47 55 and 56 of the city of New York for the year 2012 shall not have taken
48 effect on or before such date, this act shall take effect on the same
49 date and in the same manner as such local laws take effect.