

STATE OF NEW YORK

1821--A

2019-2020 Regular Sessions

IN ASSEMBLY

January 17, 2019

Introduced by M. of A. MAGNARELLI, DINOWITZ -- Multi-Sponsored by -- M. of A. GOTTFRIED -- read once and referred 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 required protective headgear for operators of bicycles, skateboards, in-line skates and scooters under eighteen years of age

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The section heading, subdivision 4, paragraphs (a) and (b)
2 of subdivision 5, and subdivisions 5-a, 5-b, 6, 8 and 9 of section 1238
3 of the vehicle and traffic law, the section heading and subdivision 4 as
4 amended and subdivision 6 as added by chapter 267 of the laws of 1993,
5 paragraphs (a) and (b) of subdivision 5 as amended by chapter 457 of the
6 laws of 1999, subdivision 5-a, paragraph (c) of subdivision 6 and subdivi-
7 sion 9 as amended by chapter 703 of the laws of 2004, subdivision 5-b
8 and paragraph (a) of subdivision 6 as amended by chapter 402 of the laws
9 of 2001, and subdivision 8 as amended by chapter 694 of the laws of
10 1995, are amended to read as follows:

11 Passengers on bicycles under one year of age prohibited; passengers
12 and operators under [~~fourteen~~] eighteen years of age to wear protective
13 headgear.

14 4. The court shall waive any fine for which a person who violates the
15 provisions of paragraph (a) of subdivision two of this section would be
16 liable if such person supplies the court with proof that between the
17 date of violation and the appearance date for such violation such person
18 purchased or rented a helmet, which meets the requirements of paragraph
19 (a) of subdivision two of this section. Further, the court shall waive
20 any fine for which a person who violates the provisions of paragraph (b)
21 of subdivision two of this section would be liable if such person
22 supplies the court with proof that between the date of violation and the

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

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1 appearance date for such violation such person purchased or rented a
2 seat which meets the requirements of paragraph (b) of subdivision two of
3 this section. The court [~~may~~] shall waive any fine for which a person
4 who violates the provisions of subdivision two of this section would be
5 liable if the court finds that due to reasons of economic hardship such
6 person was unable to purchase a helmet or seat. Such waiver of fine
7 shall not apply to a second or subsequent conviction under paragraph (a)
8 or (b) of subdivision two of this section.

9 (a) No person operating a bicycle shall allow a person five or more
10 years of age and less than [~~fourteen~~] eighteen years of age to ride as a
11 passenger on a bicycle unless such passenger is wearing a helmet meeting
12 standards established by the commissioner.

13 (b) No person, one or more years of age and less than [~~fourteen~~] eigh-
14 teen years of age, shall operate a bicycle unless such person is wearing
15 a helmet meeting standards established by the commissioner.

16 5-a. No person, one or more years of age and less than [~~fourteen~~]
17 eighteen years of age, shall skate or glide on in-line skates or a skate
18 board unless such person is wearing a helmet meeting standards estab-
19 lished by the commissioner. For the purposes of this subdivision, wear-
20 ing a helmet means having a helmet of good fit fastened securely on the
21 head of such wearer with the helmet straps securely fastened.

22 5-b. No person less than [~~fourteen~~] eighteen years of age shall ride
23 upon, propel or otherwise operate a two-wheeled vehicle commonly called
24 a scooter unless such person is wearing a helmet meeting standards
25 established by the commissioner. As used in this subdivision, wearing a
26 helmet means having a properly fitting helmet fixed securely on the head
27 of such wearer with the helmet straps securely fastened.

28 6. (a) Any person who violates the provisions of subdivision five,
29 five-a or five-b of this section shall pay a civil fine not to exceed
30 fifty dollars.

31 (b) The court shall waive any fine for which a person who violates the
32 provisions of subdivision five, five-a, or five-b of this section would
33 be liable if such person supplies the court with proof that between the
34 date of violation and the appearance date for such violation such person
35 purchased or rented a helmet.

36 (c) The court [~~may~~] shall waive any fine for which a person who
37 violates the provisions of subdivision five, five-a, or five-b of this
38 section would be liable if the court finds that due to reasons of
39 economic hardship such person was unable to purchase a helmet or due to
40 such economic hardship such person was unable to obtain a helmet from
41 the statewide in-line skate and bicycle helmet distribution program, as
42 established in section two hundred six of the public health law, or a
43 local distribution program.

44 8. A police officer shall only issue a summons for a violation of
45 subdivision two, five, or five-a of this section by a person less than
46 [~~fourteen~~] eighteen years of age to the parent or guardian of such
47 person if the violation by such person occurs in the presence of such
48 person's parent or guardian and where such parent or guardian is eigh-
49 teen years of age or more. Such summons shall only be issued to such
50 parent or guardian, and shall not be issued to the person less than
51 [~~fourteen~~] eighteen years of age.

52 9. Subdivisions five, five-a, five-b, and six of this section shall
53 not be applicable to any county, city, town or village that has enacted
54 a local law or ordinance prior to the effective date of this subdivision
55 that prohibits a person who is one or more years of age and less than
56 [~~fourteen~~] eighteen years of age from operating a bicycle or skating or

1 gliding on in-line skates or a skate board without wearing a bicycle
2 helmet meeting the standards of the American National Standards Insti-
3 tute (Ansi Z 90.4 bicycle helmet standards), the Snell Memorial Founda-
4 tion's Standards for Protective Headgear for use in Bicycling, or the
5 American Society of Testing and Materials (ASTM) bike helmet standards,
6 or that prohibits a person operating a bicycle from allowing a person
7 five or more years of age and less than [~~fourteen~~ eighteen] years of age
8 to ride as a passenger on a bicycle unless such passenger is wearing a
9 bicycle helmet that meets such standards. The failure of any person to
10 comply with any such local law or ordinance shall not constitute contri-
11 butory negligence or assumption of risk, and shall not in any way bar,
12 preclude or foreclose an action for personal injury or wrongful death by
13 or on behalf of such person, nor in any way diminish or reduce the
14 damages recoverable in any such action. The legislative body of a coun-
15 ty, city, town or village may enact a local law or ordinance that
16 prohibits a person who is [~~fourteen~~ eighteen] or more years of age from
17 skating or gliding on in-line skates, operating a skate board, or oper-
18 ating or riding as a passenger on a bicycle without wearing a bicycle
19 helmet.

20 § 2. This act shall take effect on the one hundred eightieth day after
21 it shall have become a law.