

7119

I N S E N A T E

March 15, 2010

Introduced by Sen. HUNTLEY -- 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 regulation of commercial bicyclists

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

1 Section 1. Section 10-157 of the administrative code of the city of
2 New York, subdivisions e and f as added by and subdivisions g and h as
3 amended by local law number 9 of the city of New York for the year 2007,
4 is amended to read as follows:
5 S 10-157 Bicycles used for commercial purposes. a. Every person, firm,
6 partnership, joint venture, association or corporation which engages in
7 the course of its business, either on behalf of itself or others, in
8 delivering packages, parcels, papers or articles of any type by bicycle
9 SHALL REGISTER EACH BICYCLE WITH THE LOCAL POLICE PRECINCT AND shall
10 provide identification of the business by requiring every bicycle or
11 bicycle operator to be identified by:
12 (1) affixing to the rear of each bicycle[, bicycle seat or both sides
13 of the delivery basket,] a metal, plastic, or other sign of a type
14 approved by the police commissioner, with the name of the business and a
15 three digit identification number which identifies the bicycle operator
16 in lettering and numerals so as to be plainly readable at a distance of
17 not less than ten feet and maintaining same in good condition thereon;
18 and
19 (2) by requiring each bicycle operator to wear a jacket, vest, or
20 other wearing apparel on the upper part of the cyclist's body while
21 making deliveries, or otherwise riding a bicycle on behalf of the busi-
22 ness, the back of which shall indicate the business name and the bicycle
23 operator's individual identification number in lettering and numerals so
24 as to be plainly readable at a distance of not less than ten feet.
25 A-1. EVERY BICYCLE OPERATOR, WHILE ENGAGED IN BICYCLE OPERATION, SHALL
26 WEAR A HELMET MEETING THE STANDARDS OF THE AMERICAN NATIONAL STANDARDS
27 INSTITUTE (ANSI Z 90.4 BICYCLE HELMET STANDARDS) OR THE SNELL MEMORIAL
28 FOUNDATION'S STANDARDS FOR PROTECTIVE HEADGEAR FOR USE IN BICYCLING. FOR

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

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1 THE PURPOSES OF THIS SUBDIVISION, WEARING A HELMET MEANS HAVING A HELMET
2 OF GOOD FIT FASTENED SECURELY UPON THE HEAD WITH THE HELMET STRAPS.

3 b. Every person, firm, partnership, joint venture, association or
4 corporation engaged in providing a service as authorized herein must
5 issue to every bicycle operator a numbered identification card which
6 contains the name, residence address and photo of the bicycle operator
7 and the name, address and telephone number of the company for whom the
8 bicycle operator is employed. Such identification card must be carried
9 by the bicycle operator while the cyclist is making deliveries, or
10 otherwise riding a bicycle on behalf of the business, and must be
11 produced upon the demand of a police officer or any other law enforce-
12 ment officer.

13 c. Every person, firm, partnership, joint venture, association or
14 corporation engaged in providing a service as authorized herein shall
15 maintain in a log book to be kept for such purpose, the name and place
16 of residence address of every employee operating a bicycle, the date of
17 employment and discharge of each person in said service, and every
18 messenger or delivery person's identification number. The owner of any
19 business engaged in providing a service as authorized in this section
20 shall be responsible for maintaining in the log book a daily trip record
21 in which all entries shall be made legibly in ink and each entry shall
22 be dated and include the bicycle identification number, the operator's
23 name and the name and place of origin and destination for each trip. No
24 entry shall be rewritten either in whole or in part except in such
25 manner as may be provided by regulation of the commissioner; any such
26 unauthorized rewriting shall give rise to a rebuttable presumption of an
27 act of fraud, deceit or misrepresentation. Such log book shall be made
28 available for inspection during regular and usual business hours upon
29 request of an agent of the police commissioner or any police officer or
30 any other person authorized by law.

31 d. The owner of any business engaged in providing a service as author-
32 ized in this section shall file an annual report in such form as shall
33 be designated by the police commissioner by rule or regulations. Said
34 report shall include, inter alia, the number of bicycles it owns and the
35 number and identity of any employees it may retain. Any business engaged
36 in providing a service as authorized in this section shall be responsi-
37 ble for the compliance with the provisions of this section of any
38 employees it shall retain. Nothing contained in this section shall be
39 construed as applying to persons under the age of sixteen who use a
40 bicycle to deliver daily newspapers or circulars.

41 e. (1) The owner of any business engaged in providing a service as
42 authorized in this section shall provide, at its own expense, protective
43 headgear suitable for each bicycle operator. Such headgear shall:

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

46 (ii) be readily available at each employment site for use by each
47 bicycle operator; and

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

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

1 f. The owner of any business engaged in providing a service as author-
2 ized in this section, notwithstanding that a bicycle may be provided by
3 an employee thereof, shall provide at its own expense and ensure that
4 each bicycle is equipped with a lamp; a bell or other device capable of
5 giving an audible signal; brakes; reflective tires or, alternately, a
6 reflex reflector mounted on the spokes of each wheel; as well as other
7 reflective devices or material, in accordance with section 1236 of the
8 vehicle and traffic law.

9 g. Except as otherwise provided in subdivision h of this section, the
10 violation of any of the provisions of this section, or of any of the
11 rules or regulations that may be promulgated pursuant hereto, shall be a
12 violation triable by a judge of the criminal court of the city of New
13 York and upon conviction thereof shall be punishable by a fine of not
14 less than one hundred dollars nor more than two hundred and fifty
15 dollars or imprisonment for not more than fifteen days or both such fine
16 and imprisonment.

17 h. Any person who makes deliveries or otherwise operates a bicycle on
18 behalf of a business without carrying the identification required by
19 subdivision b of this section or who fails to produce such identifica-
20 tion upon demand as required by such subdivision, or who fails to wear
21 protective headgear required by subdivision e of this section, shall be
22 guilty of a traffic infraction and upon conviction thereof shall be
23 liable for a fine of not less than twenty-five dollars nor more than
24 fifty dollars. It shall be an affirmative defense to such traffic
25 infraction that the business did not provide the protective headgear
26 required by subdivision e of this section. Such traffic infraction may
27 be adjudicated by such an administrative tribunal as is authorized under
28 article two-A of the vehicle and traffic law.

29 S 2. This act shall take effect on the first of January next succeed-
30 ing the date on which it shall have become a law.