S T A T E O F N E W Y O R K

5097

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. BRENNAN, BENEDETTO, PEOPLES, MILLMAN, ROSENTHAL, DINOWITZ -- Multi-Sponsored by -- M. of A. BOYLAND, CLARK, GOTTFRIED, MAGNARELLI, MAYERSOHN, PHEFFER, ROBINSON, SCHIMEL, WEISENBERG -- read once and referred to the Committee on Transportation

AN ACT to amend the administrative code of the city of New York, in relation to requiring persons under the age of eighteen to wear a helmet while operating a scooter or bicycle

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

Section 1. Section 19-171 of the administrative code of the city of New York, as added by local law number 5 of the city of New York for the year 2001, subdivision g as amended by local law number 22 of the city of New York for the year 2002, is amended to read as follows:

S 19-171 Helmet requirement for persons under the age of [fourteen] EIGHTEEN operating scooters OR BICYCLES. a. Definitions. For the purposes of this section:

(1) The term "public highway" means any highway, road, street, roadway, sidewalk, avenue, alley, public place, public driveway or any other public way.

(2) The term "scooter" means a device propelled by muscular power, consisting of a footboard between end wheels and an upright handle attached to a front wheel or to the footboard.

(3) THE TERM "BICYCLE" MEANS A TWO OR THREE WHEELED DEVICE UPON WHICH A PERSON OR PERSONS MAY RIDE, PROPELLED BY HUMAN POWER THROUGH A BELT, A CHAIN OR GEARS, WITH SUCH WHEELS IN TANDEM OR A TRICYCLE, EXCEPT THAT IT SHALL NOT INCLUDE SUCH A DEVICE HAVING SOLID TIRES AND INTENDED FOR USE ONLY ON A SIDEWALK BY PRE-TEENAGE CHILDREN.

(4) The term "wearing a helmet" means having a helmet of good fit fastened securely upon the head with the helmet straps.

b. This section is applicable to the operation of a scooter OR BICYCLE upon any public highway or any private road open to public motor vehicle

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

LBD07383-01-9

traffic, and within a park or other area under the jurisdiction of the commissioner of parks and recreation.

c. No person less than [fourteen] EIGHTEEN years of age shall operate a scooter OR BICYCLE unless such person is wearing a helmet meeting the standards of the American National Standards Institute (ANSI Z 90.4 bicycle helmet standards), the Snell Memorial Foundation's standards for protective headgear for use in bicycling, the American Society of Testing and Materials (ASTM) standards for bicycle helmets, the Safety Equipment Institute standards for bicycle helmets, or the United States Consumer Product Safety Commission standards for bicycle helmets.

d. It is a traffic infraction to violate the provisions of this section punishable, upon conviction, by a civil penalty of not more than fifty dollars. Such traffic infractions shall be heard and determined in accordance with article 2-A of the vehicle and traffic law. A hearing officer shall waive the civil penalty for which the parent or guardian of a person who violates the provisions of this section would be liable if such parent or guardian supplies proof that between the date of violation and the appearance date for such violation such parent or guardian purchased or rented a helmet that meets the requirements of this section. A hearing officer may waive the civil penalty for which the parent or guardian of a person who violates the provisions of this section would be liable if he or she finds that due to reasons of economic hardship such parent or guardian was unable to purchase or rent a helmet. A waiver of the civil penalty shall not apply to a second or subsequent conviction under this section.

e. The parent or guardian of a person less than [fourteen] EIGHTEEN years of age shall be liable for a violation of this section by such person less than [fourteen] EIGHTEEN years of age. A summons for a violation of this section by a person less than [fourteen] EIGHTEEN years of age shall only be issued to the parent or guardian of such person if the violation occurs in the presence of such parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian and shall not be issued to the person less than [fourteen] EIGHTEEN years of age.

f. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

g. The department of health and mental hygiene shall distribute informational materials through the department's school health program, which shall include information explaining the hazards of operating scooters OR BICYCLES without protective headgear. These informational materials shall be printed in multiple languages and shall be made available to any member of the public upon request.

h. The police department and the department of parks and recreation shall enforce the provisions of this section.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.