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

5792

2009-2010 Regular Sessions

I N A S S E M B L Y

February 20, 2009

Introduced by M. of A. HAYES, KOLB -- read once and referred to the Committee on Tourism, Arts and Sports Development

AN ACT to amend the general business law and the public health law, in relation to ice skating helmets

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

Section 1. Section 398-d of the general business law is renumbered section 398-f and two new sections 398-d and 398-e are added to read as follows:

S 398-D. WEARING OF HELMET REQUIRED WHILE ICE SKATING. 1. NO PERSON LESS THAN FOURTEEN YEARS OF AGE SHALL ICE SKATE UNLESS SUCH PERSON IS WEARING A PROTECTIVE HELMET; PROVIDED, HOWEVER, THAT ANY PERSON LESS THAN FOURTEEN YEARS OF AGE WHO UNDER THE SUPERVISION OF A COACH IS PRACTICING FOR AN ORGANIZED FIGURE SKATING COMPETITION OR IS PARTICIPATING IN SUCH COMPETITION SHALL NOT BE REQUIRED TO WEAR A PROTECTIVE HELMET. FOR THE PURPOSES OF THIS SECTION, WEARING A HELMET MEANS HAVING A HELMET FASTENED SECURELY UPON THE HEAD USING THE MANUFACTURER'S FITTING GUIDELINES FOR THE PARTICULAR MODEL USED.

2. ANY PERSON WHO VIOLATES THE PROVISION OF THIS SECTION SHALL PAY A CIVIL FINE NOT TO EXCEED FIFTY DOLLARS. A POLICE OFFICER SHALL ONLY ISSUE A SUMMONS FOR A VIOLATION OF THIS SECTION BY A PERSON LESS THAN FOURTEEN YEARS OF AGE TO THE PARENT OR GUARDIAN OF SUCH PERSON IF THE VIOLATION BY SUCH PERSON OCCURS IN THE PRESENCE OF SUCH PERSON'S 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 YEARS OF AGE.

3. (A) THE COURT SHALL WAIVE ANY CIVIL FINE FOR WHICH A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION WOULD BE LIABLE IF SUCH PERSON SUPPLIES THE COURT WITH PROOF THAT BETWEEN THE DATE OF VIOLATION AND THE APPEARANCE DATE FOR SUCH VIOLATION SUCH PERSON PURCHASED OR RENTED A HELMET.

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

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(B) THE COURT MAY WAIVE ANY CIVIL FINE FOR WHICH A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION WOULD BE LIABLE IF THE COURT FINDS THAT DUE TO REASONS OF ECONOMIC HARDSHIP SUCH PERSON WAS UNABLE TO PURCHASE A HELMET.

4. 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.

S 398-E. ICE SKATING FACILITY; RENTING OF HELMETS. 1. FOR THE PURPOSES OF THIS SECTION, "ICE SKATING FACILITY" SHALL MEAN ANY PERSON, PROPRIETOR, LESSEE, FIRM, CORPORATION, MUNICIPALITY OR OTHER LEGAL ENTITY OPERATING AN ICE SKATING RINK WHICH PROVIDES FACILITIES TO ICE SKATE FOR CONSIDERATION.

2. EVERY ICE SKATING FACILITY SHALL REQUIRE PERSONS LESS THAN FOURTEEN YEARS OF AGE TO WEAR A PROTECTIVE HELMET WHILE ICE SKATING; PROVIDED, HOWEVER, THAT ANY PERSON LESS THAN FOURTEEN YEARS OF AGE WHO UNDER THE SUPERVISION OF A COACH IS PRACTICING FOR AN ORGANIZED FIGURE SKATING COMPETITION OR IS PARTICIPATING IN SUCH COMPETITION SHALL NOT BE REQUIRED TO WEAR A PROTECTIVE HELMET.

3. EVERY ICE SKATING FACILITY SHALL PROVIDE PROTECTIVE HELMETS TO PERSONS LESS THAN FOURTEEN YEARS OF AGE AT A RENTAL FEE NOT TO EXCEED THREE DOLLARS AND SHALL PROVIDE APPROPRIATE PROTECTIVE HELMET SAFETY INFORMATION.

4. A KNOWING VIOLATION OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIFTY DOLLARS.

S 2. Subdivision 15 of section 206 of the public health law, as amended by chapter 703 of the laws of 2004, is amended to read as follows:

15. Notwithstanding any other provision of law to the contrary, the commissioner is authorized to establish a statewide in-line skate, skate board, ICE SKATE and bicycle helmet public education and awareness program and a statewide in-line skate, skate board, ICE SKATE and bicycle helmet distribution program. The purpose of the statewide in-line skate, skate board, ICE SKATE and bicycle helmet public education and awareness program is to provide a plan for the coordination of county, city, town and village efforts to reduce in-line skate, skate board, ICE SKATE and bicycle related injuries and fatalities. The purpose of the statewide in-line skate, skate board, ICE SKATE and bicycle helmet distribution program is to provide a plan for the coordination of county, city, town and village efforts to distribute helmets to persons who can demonstrate an economic hardship that precludes them from purchasing such helmet. The commissioner shall make all necessary efforts to ensure that an in-line skate, skate board, ICE SKATE and bicycle helmet distribution program is instituted in each county of the state. The commissioner is authorized to promulgate such rules and regulations as may be necessary to implement the provisions of this subdivision.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.