

8029

2011-2012 Regular Sessions

I N A S S E M B L Y

May 27, 2011

Introduced by M. of A. OAKS -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the definition of power-assisted bicycle

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

1 Section 1. The vehicle and traffic law is amended by adding a new  
2 section 102-c to read as follows:

3 S 102-C. POWER-ASSISTED BICYCLE. A BICYCLE WITH TWO OR THREE WHEELS  
4 WHICH HAS A SADDLE AND FULLY OPERATIVE PEDALS FOR HUMAN PROPULSION AND  
5 ALSO HAS AN ELECTRIC OR INTERNAL COMBUSTION MOTOR. THE POWER-ASSISTED  
6 BICYCLE'S MOTOR SHALL: HAVE A POWER OUTPUT OF NOT MORE THAN ONE THOUSAND  
7 WATTS OR HAVE A PISTON DISPLACEMENT OF NOT MORE THAN FORTY-EIGHT CUBIC  
8 CENTIMETERS; BE INCAPABLE OF PROPELLING THE DEVICE AT A SPEED OF MORE  
9 THAN TWENTY MILES PER HOUR ON LEVEL GROUND; AND BE INCAPABLE OF FURTHER  
10 INCREASING THE SPEED OF THE DEVICE WHEN HUMAN POWER IS USED TO PROPEL  
11 THE DEVICE AT OR MORE THAN TWENTY MILES PER HOUR.

12 S 2. Section 125 of the vehicle and traffic law, as amended by chapter  
13 365 of the laws of 2008, is amended to read as follows:

14 S 125. Motor vehicles. Every vehicle operated or driven upon a public  
15 highway which is propelled by any power other than muscular power,  
16 except (a) electrically-driven mobility assistance devices operated or  
17 driven by a person with a disability, (a-1) electric personal assistive  
18 mobility devices operated outside a city with a population of one  
19 million or more, (b) vehicles which run only upon rails or tracks, (c)  
20 snowmobiles as defined in article forty-seven of this chapter, [and] (d)  
21 all terrain vehicles as defined in article forty-eight-B of this  
22 chapter, AND (E) POWER-ASSISTED BICYCLES AS DEFINED IN SECTION ONE  
23 HUNDRED TWO-C OF THIS ARTICLE. For the purposes of title four of this  
24 chapter, the term motor vehicle shall exclude fire and police vehicles  
25 other than ambulances. For the purposes of titles four and five of this

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

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1 chapter the term motor vehicles shall exclude farm type tractors and all  
2 terrain type vehicles used exclusively for agricultural purposes, or for  
3 snow plowing, other than for hire, farm equipment, including self-pro-  
4 pelled machines used exclusively in growing, harvesting or handling farm  
5 produce, and self-propelled caterpillar or crawler-type equipment while  
6 being operated on the contract site.

7 S 3. The vehicle and traffic law is amended by adding a new section  
8 1238-a to read as follows:

9 S 1238-A. ADDITIONAL PROVISIONS APPLICABLE TO POWER-ASSISTED BICYCLES,  
10 OPERATORS AND PASSENGERS. 1. IN ADDITION TO COMPLYING WITH ALL OF THE  
11 RULES, REGULATIONS AND PROVISIONS APPLICABLE TO BICYCLES CONTAINED IN  
12 THIS ARTICLE, A POWER-ASSISTED BICYCLE AS DEFINED IN SECTION ONE HUNDRED  
13 TWO-C OF THIS CHAPTER SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS:

14 (A) MEET THE EQUIPMENT AND MANUFACTURING REQUIREMENTS FOR BICYCLES  
15 ADOPTED BY THE CONSUMER PRODUCT SAFETY COMMISSION (16 C.F.R. 1512.1, ET  
16 SEQ.) OR THE REQUIREMENTS ADOPTED BY THE NATIONAL HIGHWAY TRAFFIC SAFETY  
17 ADMINISTRATION (49 C.F.R. 571.1, ET SEQ.) IN ACCORDANCE WITH THE  
18 NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966 (15 U.S.C. SEC.  
19 1381, ET SEQ.) FOR MOTOR DRIVEN CYCLES; AND

20 (B) OPERATE IN A MANNER SO THAT THE MOTOR IS DISENGAGED OR CEASES TO  
21 FUNCTION WHEN THE BRAKES ARE APPLIED, OR OPERATE IN A MANNER SUCH THAT  
22 THE MOTOR IS ENGAGED THROUGH A SWITCH OR MECHANISM THAT, WHEN RELEASED,  
23 WILL CAUSE THE MOTOR TO DISENGAGE OR CEASE TO FUNCTION.

24 2. NOTWITHSTANDING THE PROVISIONS OF SECTION TWELVE HUNDRED  
25 THIRTY-EIGHT OF THIS ARTICLE, NO PERSON LESS THAN SIXTEEN YEARS OF AGE  
26 SHALL OPERATE OR RIDE AS A PASSENGER UPON A POWER-ASSISTED BICYCLE, AND  
27 NO PERSON SIXTEEN YEARS OF AGE OR OLDER SHALL ALLOW ANY PERSON LESS THAN  
28 SIXTEEN YEARS OF AGE TO OPERATE OR RIDE AS A PASSENGER UPON SUCH BICY-  
29 CLE.

30 3. NO PERSON SIXTEEN YEARS OF AGE OR OLDER SHALL OPERATE OR RIDE AS A  
31 PASSENGER ON A POWER-ASSISTED BICYCLE UNLESS SUCH PERSON IS WEARING A  
32 HELMET MEETING STANDARDS ESTABLISHED BY THE COMMISSIONER. FOR THE  
33 PURPOSES OF THIS SUBDIVISION, WEARING A HELMET MEANS HAVING A HELMET OF  
34 GOOD FIT FASTENED SECURELY ON THE HEAD OF SUCH WEARER WITH THE HELMET  
35 STRAPS SECURELY FASTENED.

36 4. (A) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION TWO OR  
37 THREE OF THIS SECTION SHALL PAY A CIVIL FINE NOT TO EXCEED FIFTY  
38 DOLLARS.

39 (B) THE COURT SHALL WAIVE ANY FINE FOR WHICH A PERSON WHO VIOLATES THE  
40 PROVISIONS OF SUBDIVISION THREE OF THIS SECTION WOULD BE LIABLE IF SUCH  
41 PERSON SUPPLIES THE COURT WITH PROOF THAT BETWEEN THE DATE OF VIOLATION  
42 AND THE APPEARANCE DATE FOR SUCH VIOLATION SUCH PERSON PURCHASED OR  
43 RENTED A HELMET.

44 (C) THE COURT MAY WAIVE ANY FINE FOR WHICH A PERSON WHO VIOLATES THE  
45 PROVISIONS OF SUBDIVISION THREE OF THIS SECTION WOULD BE LIABLE IF THE  
46 COURT FINDS THAT DUE TO REASONS OF ECONOMIC HARDSHIP SUCH PERSON WAS  
47 UNABLE TO PURCHASE A HELMET OR DUE TO SUCH ECONOMIC HARDSHIP SUCH PERSON  
48 WAS UNABLE TO OBTAIN A HELMET FROM THE STATEWIDE IN-LINE SKATE AND BICY-  
49 CLE HELMET DISTRIBUTION PROGRAM, AS ESTABLISHED IN SECTION TWO HUNDRED  
50 SIX OF THE PUBLIC HEALTH LAW, OR A LOCAL DISTRIBUTION PROGRAM.

51 5. THE FAILURE OF ANY PERSON TO COMPLY WITH THE PROVISIONS OF THIS  
52 SECTION SHALL NOT CONSTITUTE CONTRIBUTORY NEGLIGENCE OR ASSUMPTION OF  
53 RISK, AND SHALL NOT IN ANY WAY BAR, PRECLUDE OR FORECLOSE AN ACTION FOR  
54 PERSONAL INJURY OR WRONGFUL DEATH BY OR ON BEHALF OF SUCH PERSON, NOR IN  
55 ANY WAY DIMINISH OR REDUCE THE DAMAGES RECOVERABLE IN ANY SUCH ACTION.

1 6. A POLICE OFFICER SHALL ONLY ISSUE A SUMMONS FOR A VIOLATION OF  
2 SUBDIVISION TWO OR THREE OF THIS SECTION BY A PERSON LESS THAN SIXTEEN  
3 YEARS OF AGE TO THE PARENT OR GUARDIAN OF SUCH PERSON IF THE VIOLATION  
4 BY SUCH PERSON OCCURS IN THE PRESENCE OF SUCH PERSON'S PARENT OR GUARDI-  
5 AN AND WHERE SUCH PARENT OR GUARDIAN IS EIGHTEEN YEARS OF AGE OR MORE.  
6 SUCH SUMMONS SHALL ONLY BE ISSUED TO SUCH PARENT OR GUARDIAN, AND SHALL  
7 NOT BE ISSUED TO THE PERSON LESS THAN SIXTEEN YEARS OF AGE.  
8 S 4. This act shall take effect immediately.