

S T A T E   O F   N E W   Y O R K

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419--B

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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Introduced by Sens. KRUEGER, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York, in relation to the use of bicycles for commercial purposes

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 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] FOR THE  
6 PURPOSES OF THIS SECTION, THE TERM "BUSINESSES USING A BICYCLE FOR  
7 COMMERCIAL PURPOSES" SHALL MEAN A person, firm, partnership, joint  
8 venture, association [or], corporation OR ENTITY which engages in the  
9 course of its business, either on behalf of itself or others, in delivering  
10 packages, parcels, papers or articles of any type by bicycle. A  
11 BUSINESS USING A BICYCLE FOR COMMERCIAL PURPOSES shall provide identification  
12 of [the] SUCH business by requiring every bicycle or bicycle  
13 operator to be identified by:  
14     (1) affixing to the rear of each bicycle, bicycle seat or both sides  
15 of the delivery basket, a metal plastic or other sign of a type approved  
16 by the police commissioner, with the name of [the] SUCH business and a  
17 three digit identification number which identifies the bicycle operator  
18 in lettering and numerals so as to be plainly readable at a distance of  
19 not less than ten feet and maintaining same in good condition thereon;  
20 and

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

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1 (2) by requiring each bicycle operator to wear a jacket, vest, or  
2 other wearing apparel on the upper part of the cyclist's body while  
3 making deliveries, or otherwise riding a bicycle on behalf of [the] SUCH  
4 business, the back of which shall indicate the business name and the  
5 bicycle operator's individual identification number in lettering and  
6 numerals so as to be plainly readable at a distance of not less than ten  
7 feet.

8 b. Every [person, firm, partnership, joint venture, association or  
9 corporation engaged in providing a service as authorized herein] BUSI-  
10 NESS USING A BICYCLE FOR COMMERCIAL PURPOSES must issue to every bicycle  
11 operator a numbered identification card which contains the name, resi-  
12 dence address and photo of the bicycle operator and the name, address  
13 and telephone number of the [company for whom] ENTITY WITH WHICH the  
14 bicycle operator is employed OR AFFILIATED. Such identification card  
15 must be carried by the bicycle operator while the cyclist is making  
16 deliveries, or otherwise riding a bicycle on behalf of the business, and  
17 must be produced upon the demand of a police officer or any other law  
18 enforcement officer.

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

38 d. The owner of any business [engaged in providing a service as  
39 authorized in this section] USING A BICYCLE FOR COMMERCIAL PURPOSES  
40 shall file an annual report in such form as shall be designated by the  
41 police commissioner by rule or regulations. Said report shall include,  
42 inter alia, the number of bicycles it owns and the number and identity  
43 of any [employees it may retain] BICYCLE OPERATORS EMPLOYED BY OR OTHER-  
44 WISE AFFILIATED WITH SUCH BUSINESS. Any SUCH business [engaged in  
45 providing a service as authorized in this section] shall be responsible  
46 for the compliance with the provisions of this section of any [employees  
47 it shall retain] BICYCLE OPERATORS EMPLOYED BY OR OTHERWISE AFFILIATED  
48 WITH SUCH BUSINESS. Nothing contained in this section shall be  
49 construed as applying to persons under the age of sixteen who use a  
50 bicycle to deliver daily newspapers or circulars.

51 e. (1) The owner of any business [engaged in providing a service as  
52 authorized in this section] USING A BICYCLE FOR COMMERCIAL PURPOSES  
53 shall provide, at its own expense, protective headgear suitable for each  
54 bicycle operator. Such headgear shall:

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

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

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

7 (2) Each bicycle operator shall wear protective headgear that meets  
8 the requirements of paragraph [1] ONE of this subdivision while making  
9 deliveries or otherwise operating a bicycle on behalf of such business.  
10 The term "wear such protective headgear" means having the headgear  
11 fastened securely upon the head with the headgear straps.

12 f. The owner of any business [engaged in providing a service as  
13 authorized in this section] USING A BICYCLE FOR COMMERCIAL PURPOSES,  
14 notwithstanding that a bicycle may be provided by an employee OR ASSOCI-  
15 ATE thereof, shall provide at its own expense and ensure that each bicy-  
16 cle is equipped with a lamp; a bell or other device capable of giving an  
17 audible signal; brakes; reflective tires or, alternately, a reflex  
18 reflector mounted on the spokes of each wheel; as well as other reflec-  
19 tive devices or material, in accordance with section [1236] ONE THOUSAND  
20 TWO HUNDRED THIRTY-SIX of the vehicle and traffic law.

21 g. Except as otherwise provided in subdivision h of this section, the  
22 violation of any of the provisions of this section, or of any of the  
23 rules or regulations that may be promulgated pursuant hereto, shall be a  
24 violation triable by a judge of the criminal court of the city of New  
25 York and upon conviction thereof shall be punishable by a fine of not  
26 less than one hundred dollars nor more than two hundred and fifty  
27 dollars or imprisonment for not more than fifteen days or both such fine  
28 and imprisonment. IN ADDITION, ANY PERSON OR ENTITY VIOLATING THIS  
29 SECTION OR ANY OF THE RULES OR REGULATIONS PROMULGATED PURSUANT HERETO  
30 SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN ONE HUNDRED DOLLARS  
31 AND NOT MORE THAN TWO HUNDRED FIFTY DOLLARS FOR EACH VIOLATION. SUCH  
32 CIVIL PENALTY SHALL BE IN ADDITION TO ANY CRIMINAL PENALTY THAT MAY BE  
33 IMPOSED, AND SHALL BE RECOVERABLE AGAINST A BICYCLE OPERATOR AND AGAINST  
34 A BUSINESS USING A BICYCLE FOR COMMERCIAL PURPOSES IN A PROCEEDING  
35 BEFORE THE ENVIRONMENTAL CONTROL BOARD. SERVICE OF A NOTICE OF VIOLATION  
36 OF THIS SECTION OR ANY OF THE RULES OR REGULATIONS PROMULGATED PURSUANT  
37 HERETO MAY BE MADE UPON SUCH BUSINESS BY SERVICE OF SUCH NOTICE OF  
38 VIOLATION UPON A BICYCLE OPERATOR EMPLOYED BY OR AFFILIATED WITH SUCH  
39 BUSINESS.

40 h. Any person who makes deliveries or otherwise operates a bicycle on  
41 behalf of a business USING A BICYCLE FOR COMMERCIAL PURPOSES without  
42 carrying the identification required by subdivision b of this section or  
43 who fails to produce such identification upon demand as required by such  
44 subdivision, or who fails to wear protective headgear required by subdivi-  
45 sion e of this section, shall be guilty of a traffic infraction and  
46 upon conviction thereof shall be liable for a fine of not less than  
47 twenty-five dollars nor more than fifty dollars. It shall be an affirma-  
48 tive defense to such traffic infraction that [the] SUCH business did not  
49 provide the protective headgear required by subdivision e of this  
50 section. Such traffic infraction may be adjudicated by such an adminis-  
51 trative tribunal as is authorized under article two-A of the vehicle and  
52 traffic law.

53 I. IN ANY PROSECUTION OF A BUSINESS USING A BICYCLE FOR COMMERCIAL  
54 PURPOSES FOR A VIOLATION OF THIS SECTION, THERE SHALL BE A REBUTTABLE  
55 PRESUMPTION THAT SUCH BUSINESS UTILIZING THE SERVICES OF THE BICYCLE

1 OPERATOR HAD KNOWLEDGE THAT THE BICYCLE OPERATOR WAS IN VIOLATION OF ANY  
2 SUBDIVISION OF THIS SECTION.

3 J. FOR THE PURPOSES OF THIS SECTION, A BICYCLE OPERATOR SHALL ONLY BE  
4 CONSIDERED TO BE EMPLOYED OR AFFILIATED WITH AN ENTITY BUSINESS USING A  
5 BICYCLE FOR COMMERCIAL PURPOSES WHEN SUCH ENTITY PROVIDES DIRECT COMPEN-  
6 SATION TO THAT BICYCLE OPERATOR, EITHER AS AN EMPLOYEE OR CONTRACTOR.  
7 PERSONS OR ENTITIES THAT HIRE OTHER FIRMS TO PROVIDE DELIVERY AND  
8 MESSENGER SERVICES ARE NOT SUBJECT TO THE PROVISIONS OF THIS SECTION.

9 S 2. This act shall take effect on the first of November next succeed-  
10 ing the date on which it shall have become a law.