

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.