

224--B

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KAVANAGH, STEVENSON -- read once and referred to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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. This act shall be known and may be cited as the "Commercial
2 Bicycle Safety Act".
3 S 2. Section 10-157 of the administrative code of the city of New
4 York, as amended by local law number 56 of the city of New York for the
5 year 2012, paragraph 3 of subdivision e as added by local law number 54
6 of the city of New York for the year 2012, subdivision i as added by
7 local law number 52 of the city of New York for the year 2012, and
8 subdivision j as added by local law number 55 of the city of New York
9 for the year 2012, is amended to read as follows:
10 S 10-157 Bicycles used for commercial purposes. a. For purposes of
11 this section, the following terms shall have the following meanings:
12 (1) "bicycle" shall have the same meaning as in section 19-176 of this
13 code, and shall also mean any wheeled device propelled exclusively by
14 human power as well as any motor-assisted device that is not capable of
15 being registered by the New York state department of motor vehicles;
16 (2) "business using a bicycle for commercial purposes" shall mean a
17 person, firm, partnership, joint venture, association, corporation, or
18 other entity which engages in the course of its business, either on
19 behalf of itself or others, in delivering packages, parcels, papers,
20 FOOD, GROCERIES, or articles of any type by bicycle. Nothing contained
21 in this section shall be construed as applying to persons under the age

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

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1 of sixteen who use a bicycle only to deliver daily newspapers or circu-
2 lars[.];

3 (3) "BICYCLE OPERATOR" SHALL MEAN A PERSON WHO RIDES A BICYCLE ON
4 BEHALF OF A BUSINESS USING A BICYCLE FOR COMMERCIAL PURPOSES, AND IS AN
5 EMPLOYEE OF SUCH BUSINESS OR RECEIVES DIRECT COMPENSATION OR PAYMENT
6 FROM SUCH BUSINESS AS AN INDEPENDENT CONTRACTOR.

7 b. A business using a bicycle for commercial purposes shall provide
8 identification of such business by requiring every bicycle to be identi-
9 fied by affixing to the rear of each bicycle, bicycle seat or both sides
10 of the delivery basket, a metal or plastic sign measuring no less than
11 three inches by five inches, with the name of [the] SUCH business and an
12 identification number unique to that particular bicycle in lettering and
13 numerals no less than one inch in height so as to be plainly readable at
14 a distance of not less than ten feet and maintaining same in good condi-
15 tion thereon. A sign is no longer in good condition if it is missing any
16 of its component parts or is otherwise damaged so as to impair its func-
17 tionality.

18 c. Every business using a bicycle for commercial purposes must assign
19 to every bicycle operator [employed by such business] a three digit
20 identification number. Such business must issue to every bicycle opera-
21 tor an identification card which contains the name, three digit iden-
22 tification number and photo of the bicycle operator and the name,
23 address and telephone number of [the] SUCH business [by which the bicy-
24 cle operator is employed]. Such business shall ensure that such iden-
25 tification card is carried by the bicycle operator while such bicycle
26 operator is making deliveries, or otherwise riding a bicycle on behalf
27 of the business, and such bicycle operator shall carry such identifica-
28 tion card while [operating] RIDING a bicycle on behalf of such business.
29 Such bicycle operator shall be required to produce such identification
30 upon the demand of an authorized employee of the police department or
31 department of transportation or any other person authorized by law.

32 d. Every business using a bicycle for commercial purposes shall main-
33 tain a roster of EVERY bicycle [operators employed by] OPERATOR WHO
34 RIDES A BICYCLE ON BEHALF OF such business. Such roster shall include
35 the name and place of residence address of every [employee operating a
36 bicycle on behalf of such business] SUCH BICYCLE OPERATOR, the date [of
37 employment and discharge of each such] SUCH BICYCLE OPERATOR BEGINS AND
38 ENDS RIDING A BICYCLE ON BEHALF OF SUCH BUSINESS WHETHER AS AN employee
39 OR INDEPENDENT CONTRACTOR, every such [employee's] BICYCLE OPERATOR'S
40 three digit identification number, and whether such [employee] BICYCLE
41 OPERATOR has completed the bicycle safety course required by paragraph 3
42 of subdivision e of this section. The owner of any business using a
43 bicycle for commercial purposes shall be responsible for maintaining
44 such roster. Such roster shall be made available for inspection during
45 regular and usual business hours or any other [such] time that such
46 entity is open for business upon request of an authorized employee of
47 the police department or department of transportation or any other
48 person authorized by law.

49 e. (1) The owner of any business using a bicycle for commercial
50 purposes shall provide, at its own expense, protective headgear suitable
51 for each bicycle operator. Such headgear shall:

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

54 (ii) be readily available at each site of the business using a bicycle
55 for commercial purposes for use by each bicycle operator; and

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

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

10 (3) Each bicycle operator shall be required to complete a bicycle
11 safety course. For purposes of this section, "bicycle safety course"
12 shall mean information provided by the department of transportation,
13 regarding safe bicycling and adherence to traffic and commercial bicycle
14 laws. Such requirement shall include, but not be limited to, the follow-
15 ing:

16 (i) Each bicycle operator shall complete a bicycle safety course prior
17 to operating a bicycle on behalf of a business using a bicycle for
18 commercial purposes;

19 (ii) Each business using a bicycle for commercial purposes shall indi-
20 cate on the roster required to be maintained by subdivision d of this
21 section that each bicycle operator [employed by such business] has
22 completed such bicycle safety course;

23 (iii) The owner of any business using a bicycle for commercial
24 purposes shall ensure that all bicycle operators [employed by such busi-
25 ness] shall complete such bicycle safety course prior to operating a
26 bicycle on behalf of such business, shall maintain records of such oper-
27 ators' completion of such bicycle safety course, and shall make such
28 records available for inspection during regular business hours or any
29 other time such business is open for business upon request of an author-
30 ized employee of the police department or department of transportation
31 or any other person authorized by law; and

32 (iv) The commissioner of transportation shall post on the department
33 of transportation's website the content of the bicycle safety course
34 required by this section on or before the effective date of this
35 section.

36 f. The owner of any business using a bicycle for commercial purposes,
37 notwithstanding that a bicycle may be provided by [an employee thereof]
38 A BICYCLE OPERATOR, shall provide at its own expense and ensure that
39 each bicycle is equipped with a lamp; a bell or other device capable of
40 giving an audible signal from a distance of at least one hundred feet,
41 provided however that a siren or whistle shall not be used; brakes;
42 reflective tires or, alternately, a reflex reflector mounted on the
43 spokes of each wheel; as well as other devices or material in accordance
44 with section 1236 of the vehicle and traffic law.

45 g. Any business using a bicycle for commercial purposes shall be
46 responsible for the compliance with the provisions of this section,
47 SECTION 19-176 OF THIS CODE, AND SECTIONS ELEVEN HUNDRED ELEVEN, ELEVEN
48 HUNDRED TWENTY-SEVEN, TWELVE HUNDRED THIRTY-SIX, TWELVE HUNDRED FORTY,
49 AND TWELVE HUNDRED FORTY-ONE OF THE VEHICLE AND TRAFFIC LAW of any
50 [employees] BICYCLE OPERATORS it shall retain. Violation of any of the
51 provisions of this section by any such business, or of any of the rules
52 or regulations that may be promulgated pursuant hereto, shall be a
53 violation triable by a judge of the criminal court of the city of New
54 York and upon conviction thereof shall be punishable by a fine of not
55 less than one hundred dollars [nor] AND NOT more than two hundred fifty
56 dollars [or imprisonment for not more than fifteen days or both such

1 fine and imprisonment]. In addition, any business using a bicycle for
2 commercial purposes that violates any of the provisions of this section
3 or any of the rules promulgated pursuant hereto shall be subject to a
4 civil penalty of one hundred dollars. Any such business that violates a
5 provision of this section or rule promulgated pursuant hereto more than
6 thirty days AND NOT MORE THAN TWO YEARS after such business has already
7 violated the same provision or rule shall be subject to an additional
8 civil penalty of two hundred fifty dollars. Such civil penalties may be
9 in addition to any criminal penalty imposed, and shall be recoverable
10 against such business in an action or proceeding in any court or tribu-
11 nal of competent jurisdiction or the environmental control board. IT
12 SHALL BE AN AFFIRMATIVE DEFENSE TO A VIOLATION OF THIS SECTION BY A
13 PERSON, FIRM, PARTNERSHIP, JOINT VENTURE, ASSOCIATION, CORPORATION, OR
14 OTHER ENTITY AS TO ANY PROVISION APPLICABLE TO A BUSINESS USING A BICY-
15 CLE FOR COMMERCIAL PURPOSES, THAT SUCH PERSON OR ENTITY DID NOT EMPLOY
16 OR PROVIDE DIRECT COMPENSATION TO A BICYCLE OPERATOR, BUT RATHER
17 CONTRACTED WITH A BUSINESS OTHER THAN SUCH BICYCLE OPERATOR TO PROVIDE
18 DELIVERY SERVICES.

19 h. Any [person who makes deliveries or otherwise] BICYCLE OPERATOR WHO
20 operates a bicycle [on behalf of a business using a bicycle for commer-
21 cial purposes] without carrying the identification sign required by
22 subdivision b of this section or without carrying the identification
23 card required by subdivision c of this section or who fails to produce
24 such identification sign or card upon demand pursuant to such subdivi-
25 sions, or who fails to wear protective headgear required by subdivisi-
26 on e of this section or the retro-reflective apparel required by subdivi-
27 sion i of this section, shall be guilty of a traffic infraction and upon
28 conviction thereof shall be liable for a fine of not less than twenty-
29 five dollars nor more than fifty dollars. It shall be an affirmative
30 defense to such traffic infraction that such business did not provide
31 the protective headgear, the identification or the retro-reflective
32 apparel required by subdivisions b, c, e or i of this section. Such
33 traffic infraction may be adjudicated by such an administrative tribunal
34 as is authorized under article two-A of the vehicle and traffic law.

35 i. A business using a bicycle for commercial purposes shall provide
36 for and require each bicycle operator [employed by such business] to
37 wear and each such bicycle operator shall wear a retro-reflective jack-
38 et, vest, or other wearing apparel on the upper part of such operator's
39 body as the outermost garment while making deliveries, or otherwise
40 riding a bicycle on behalf of such business, the back of which shall
41 indicate such business' name and such bicycle operator's individual
42 identification number as assigned pursuant to subdivision c of this
43 section in lettering and numerals not less than one inch in height so as
44 to be plainly readable at a distance of not less than ten feet.

45 j. The provisions of this section shall be enforceable by an author-
46 ized employee of the police department or department of transportation
47 or any other person authorized by law.

48 S 3. Paragraph 1 of subdivision a of section 19-176 of the administra-
49 tive code of the city of New York, as added by local law number 6 of the
50 city of New York for the year 1996, is amended to read as follows:

51 (1) The term "bicycle" shall mean a two or three wheeled device upon
52 which a person or persons may ride, propelled by human power through a
53 belt, a chain or gears, with such wheels in a tandem or tricycle, AND
54 SHALL ALSO MEAN ANY WHEELED MOTOR-ASSISTED DEVICE WHICH A PERSON OR
55 PERSONS MAY RIDE THAT IS NOT CAPABLE OF BEING REGISTERED BY THE NEW YORK
56 STATE DEPARTMENT OF MOTOR VEHICLES, except that it shall not include

1 such a device having solid tires and intended for use only on a sidewalk
2 by a child.
3 S 4. This act shall take effect on the one hundred fiftieth day after
4 it shall have become a law.