

6659

2013-2014 Regular Sessions

I N A S S E M B L Y

April 12, 2013

Introduced by M. of A. OAKS, BARCLAY -- Multi-Sponsored by -- M. of A. CERETTO, CORWIN, CROUCH, McLAUGHLIN, MONTESANO -- 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

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

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

8 S 3. The vehicle and traffic law is amended by adding a new section
9 1238-a to read as follows:

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

15 (A) MEET THE EQUIPMENT AND MANUFACTURING REQUIREMENTS FOR BICYCLES
16 ADOPTED BY THE CONSUMER PRODUCT SAFETY COMMISSION (16 C.F.R. 1512.1, ET
17 SEQ.) OR THE REQUIREMENTS ADOPTED BY THE NATIONAL HIGHWAY TRAFFIC SAFETY
18 ADMINISTRATION (49 C.F.R. 571.1, ET SEQ.) IN ACCORDANCE WITH THE
19 NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966 (15 U.S.C. SEC.
20 1381, ET SEQ.) FOR MOTOR DRIVEN CYCLES; AND

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

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

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

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

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

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

52 5. THE FAILURE OF ANY PERSON TO COMPLY WITH THE PROVISIONS OF THIS
53 SECTION SHALL NOT CONSTITUTE CONTRIBUTORY NEGLIGENCE OR ASSUMPTION OF
54 RISK, AND SHALL NOT IN ANY WAY BAR, PRECLUDE OR FORECLOSE AN ACTION FOR
55 PERSONAL INJURY OR WRONGFUL DEATH BY OR ON BEHALF OF SUCH PERSON, NOR IN
56 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.