

3461--A

Cal. No. 926

2013-2014 Regular Sessions

I N S E N A T E

February 4, 2013

Introduced by Sens. KRUEGER, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

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.

LBD02317-07-3

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, PROVIDED THAT A PERSON,
7 FIRM, PARTNERSHIP, JOINT VENTURE, ASSOCIATION, CORPORATION, OR OTHER
8 ENTITY THAT CONTRACTS WITH ANOTHER BUSINESS ENTITY OTHER THAN THE BICY-
9 CLE OPERATOR TO PROVIDE DELIVERY AND MESSENGER SERVICES SHALL NOT BE
10 SUBJECT TO THE PROVISIONS OF THIS SECTION WITH RESPECT TO SUCH SERVICES.

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

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

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

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

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

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

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

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

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

20 (i) Each bicycle operator shall complete a bicycle safety course prior
21 to operating a bicycle on behalf of a business using a bicycle for
22 commercial purposes;

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

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

36 (iv) The commissioner of transportation shall post on the department
37 of transportation's website the content of the bicycle safety course
38 required by this section on or before the effective date of this
39 section.

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

49 g. Any business using a bicycle for commercial purposes shall be
50 responsible for the compliance with the provisions of this section of
51 any [employees] BICYCLE OPERATORS it shall retain. Violation of any of
52 the provisions of this section by any such business, or of any of the
53 rules or regulations that may be promulgated pursuant hereto, shall be
54 [a violation triable by a judge of the criminal court of the city of New
55 York and upon conviction thereof shall be punishable by a fine] LIABLE
56 FOR A CIVIL PENALTY of not less than one hundred dollars [nor] AND NOT

1 more than two hundred fifty dollars [or imprisonment for not more than
2 fifteen days or both such fine and imprisonment. In addition, any busi-
3 ness using a bicycle for commercial purposes that violates any of the
4 provisions of this section or any of the rules promulgated pursuant
5 hereto shall be subject to a civil penalty of one hundred dollars]. Any
6 such business that violates a provision of this section or rule promul-
7 gated pursuant hereto more than thirty days AND NOT MORE THAN TWO YEARS
8 after such business has already violated the same provision or rule
9 shall be subject to an additional civil penalty of two hundred fifty
10 dollars. Such civil penalties [may be in addition to any criminal
11 penalty imposed, and] shall be recoverable against such business in an
12 action or proceeding in any court or tribunal of competent jurisdiction
13 or the environmental control board.

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

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

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

43 K. ANY BUSINESS USING A BICYCLE FOR COMMERCIAL PURPOSES SHALL BE
44 VICARIOUSLY LIABLE FOR ANY CIVIL PENALTY IMPOSED ON ANY BICYCLE OPERATOR
45 OPERATING A BICYCLE ON BEHALF OF SUCH BUSINESS WHEN SUCH PENALTY IS THE
46 RESULT OF A VIOLATION OF ANY PROVISION OF THIS SECTION, SECTION 19-176
47 OF THIS CODE, OR SECTION ELEVEN HUNDRED ELEVEN, SECTION ELEVEN HUNDRED
48 TWENTY-SEVEN, SECTION TWELVE HUNDRED THIRTY-SIX, SECTION TWELVE HUNDRED
49 FORTY, OR SECTION TWELVE HUNDRED FORTY-ONE OF THE VEHICLE AND TRAFFIC
50 LAW.

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

54 (1) The term "bicycle" shall mean a two or three wheeled device upon
55 which a person or persons may ride, propelled by human power through a
56 belt, a chain or gears, with such wheels in a tandem or tricycle, AND

1 SHALL ALSO MEAN ANY WHEELED MOTOR-ASSISTED DEVICE WHICH A PERSON OR
2 PERSONS MAY RIDE THAT IS NOT CAPABLE OF BEING REGISTERED BY THE NEW YORK
3 STATE DEPARTMENT OF MOTOR VEHICLES, except that it shall not include
4 such a device having solid tires and intended for use only on a sidewalk
5 by a child.

6 S 4. This act shall take effect on the one hundred fiftieth day after
7 it shall have become a law.