S T A T E O F N E W Y O R K

390--A

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I N S E N A T E

(PREFILED)

January 9, 2013

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

AN ACT to amend the vehicle and traffic law, in relation to the definition of electric assisted bicycle

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The vehicle and traffic law is amended by adding a new section 102-c to read as follows:

S 102-C. ELECTRIC ASSISTED BICYCLE. A BICYCLE WITH TWO OR THREE WHEELS WHICH HAS A SADDLE AND FULLY OPERATIVE PEDALS FOR HUMAN PROPULSION AND ALSO HAS AN ELECTRIC MOTOR. THE ELECTRIC ASSISTED BICYCLE'S ELECTRIC MOTOR SHALL: HAVE A POWER OUTPUT OF LESS THAN SEVEN HUNDRED FIFTY WATTS; HAVE A MAXIMUM SPEED OF LESS THAN TWENTY MILES PER HOUR ON A PAVED LEVEL SURFACE WHEN POWERED SOLELY BY SUCH A MOTOR WHILE RIDDEN BY AN OPERATOR WHO WEIGHS ONE HUNDRED SEVENTY POUNDS; AND BE INCAPABLE OF FURTHER INCREASING THE SPEED OF THE DEVICE WHEN HUMAN POWER IS USED TO PROPEL THE DEVICE AT OR MORE THAN TWENTY MILES PER HOUR.

S 2. Section 125 of the vehicle and traffic law, as amended by chapter 365 of the laws of 2008, is amended to read as follows:

S 125. Motor vehicles. Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (a-1) electric personal assistive mobility devices operated outside a city with a population of one million or more, (b) vehicles which run only upon rails or tracks, (c) snowmobiles as defined in article forty-seven of this chapter, [and] (d) all terrain vehicles as defined in article forty-eight-B of this

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

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chapter, AND (E) ELECTRIC ASSISTED BICYCLES AS DEFINED IN SECTION ONE HUNDRED TWO-C OF THIS ARTICLE. For the purposes of title four of this chapter, the term motor vehicle shall exclude fire and police vehicles other than ambulances. For the purposes of titles four and five of this chapter the term motor vehicles shall exclude farm type tractors and all terrain type vehicles used exclusively for agricultural purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

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

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

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

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

2. NOTWITHSTANDING THE PROVISIONS OF SECTION TWELVE HUNDRED THIRTY-EIGHT OF THIS ARTICLE, NO PERSON LESS THAN SIXTEEN YEARS OF AGE SHALL OPERATE OR RIDE AS A PASSENGER UPON AN ELECTRIC ASSISTED BICYCLE, AND NO PERSON SIXTEEN YEARS OF AGE OR OLDER SHALL ALLOW ANY PERSON LESS THAN SIXTEEN YEARS OF AGE TO OPERATE OR RIDE AS A PASSENGER UPON SUCH BICYCLE.

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

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

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

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

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

6. A POLICE OFFICER SHALL ONLY ISSUE A SUMMONS FOR A VIOLATION OF SUBDIVISION TWO OR THREE OF THIS SECTION BY A PERSON LESS THAN SIXTEEN YEARS OF AGE TO THE PARENT OR GUARDIAN OF SUCH PERSON IF THE VIOLATION BY SUCH PERSON OCCURS IN THE PRESENCE OF SUCH PERSON'S PARENT OR GUARDIAN AND WHERE SUCH PARENT OR GUARDIAN IS EIGHTEEN YEARS OF AGE OR MORE. SUCH SUMMONS SHALL ONLY BE ISSUED TO SUCH PARENT OR GUARDIAN, AND SHALL NOT BE ISSUED TO THE PERSON LESS THAN SIXTEEN YEARS OF AGE.

S 4. This act shall take effect immediately.