

7021

2015-2016 Regular Sessions

I N A S S E M B L Y

April 20, 2015

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Cities

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, subdivision j as added by local law number 55 of the city of New York for the year 2012, and subdivision k as added by local law number 41 of the city of New York for the year 2013, 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
22 of sixteen who use a bicycle only to deliver daily newspapers or
23 circ-
24 lars[.];

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

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

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

c. Every business using a bicycle for commercial purposes must assign to every bicycle operator [employed by such business] a three digit identification number. Such business must issue to every bicycle operator an identification card which contains the name, three digit identification number and photo of the bicycle operator and the name, address and telephone number of [the] SUCH business [by which the bicycle operator is employed]. Such business shall ensure that such identification card is carried by the bicycle operator while such bicycle operator is making deliveries, or otherwise riding a bicycle on behalf of the business, and such bicycle operator shall carry such identification card while [operating] RIDING a bicycle on behalf of such business. Such bicycle operator shall be required to produce such identification upon the demand of an authorized employee of the police department or department of transportation or any other person authorized by law.

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

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

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

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

(iii) be replaced if such headgear is no longer in good condition. Headgear is no longer in good condition if it is missing any of its

1 component parts or is otherwise damaged so as to impair its functional-
2 ty.

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

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

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

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

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

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

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

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

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

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

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

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

47 k. A business using a bicycle for commercial purposes shall not
48 possess any motorized scooter and shall not permit any employee of such
49 business to operate such a motorized scooter on behalf of such business.
50 A business using a bicycle for commercial purposes shall be liable for
51 any violation of SUBDIVISION B OF section 19-176.2[(b)] of this code
52 committed by an employee of such business while such employee is operat-
53 ing a motorized scooter on behalf of such business. For purposes of this
54 section, "motorized scooter" shall be as defined in section 19-176.2 of
55 this code.

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

4 (1) The term "bicycle" shall mean a two or three wheeled device upon
5 which a person or persons may ride, propelled by human power through a
6 belt, a chain or gears, with such wheels in a tandem or tricycle, AND
7 SHALL ALSO MEAN ANY WHEELED MOTOR-ASSISTED DEVICE WHICH A PERSON OR
8 PERSONS MAY RIDE THAT IS NOT CAPABLE OF BEING REGISTERED BY THE NEW YORK
9 STATE DEPARTMENT OF MOTOR VEHICLES, except that it shall not include
10 such a device having solid tires and intended for use only on a sidewalk
11 by a child.

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