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I N S E N A T E

February 22, 2016

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, the highway law and the general municipal 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:

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. ELECTRIC ASSISTED BICYCLE. AN "ELECTRIC ASSISTED BICYCLE"  
4 SHALL MEAN A BICYCLE EQUIPPED WITH FULLY OPERABLE PEDALS AND AN ELECTRIC  
5 MOTOR OF LESS THAN SEVEN HUNDRED FIFTY WATTS. AN ELECTRIC ASSISTED BICY-  
6 CLE WITH A MOTOR THAT PROVIDES ASSISTANCE ONLY WHEN THE RIDER IS PEDAL-  
7 ING, AND THAT CEASES TO PROVIDE ASSISTANCE WHEN THE BICYCLE REACHES THE  
8 SPEED OF TWENTY MILES PER HOUR, IS A CLASS ONE ELECTRIC ASSISTED BICYCLE  
9 OR A LOW-SPEED PEDAL-ASSISTED ELECTRIC BICYCLE.

10 S 2. Section 121-b of the vehicle and traffic law, as amended by chap-  
11 ter 160 of the laws of 1981, is amended to read as follows:

12 S 121-b. Limited use motorcycle. A limited use vehicle having only two  
13 or three wheels, with a seat or saddle for the operator, EXCEPT ELECTRIC  
14 ASSISTED BICYCLES AS DEFINED IN SECTION ONE HUNDRED TWO-C OF THIS ARTI-  
15 CLE. A limited use motorcycle having a maximum performance speed, of  
16 more than thirty miles per hour but not more than forty miles per hour  
17 shall be a class A limited use motorcycle. A limited use motorcycle  
18 having a maximum performance speed of more than twenty miles per hour  
19 but not more than thirty miles per hour, shall be a class B limited use  
20 motorcycle. A limited use motorcycle having a maximum performance speed  
21 of not more than twenty miles per hour shall be a class C limited use  
22 motorcycle.

23 S 3. Section 125 of the vehicle and traffic law, as amended by chapter  
24 365 of the laws of 2008, is amended to read as follows:

25 S 125. Motor vehicles. Every vehicle operated or driven upon a public  
26 highway which is propelled by any power other than muscular power,  
27 except (a) electrically-driven mobility assistance devices operated or

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

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1 driven by a person with a disability, (a-1) electric personal assistive  
2 mobility devices operated outside a city with a population of one  
3 million or more, (b) vehicles which run only upon rails or tracks, (c)  
4 snowmobiles as defined in article forty-seven of this chapter, [and] (d)  
5 all terrain vehicles as defined in article forty-eight-B of this  
6 chapter, AND (E) ELECTRIC ASSISTED BICYCLES AS DEFINED IN SECTION ONE  
7 HUNDRED TWO-C OF THIS ARTICLE. For the purposes of title four of this  
8 chapter, the term motor vehicle shall exclude fire and police vehicles  
9 other than ambulances. For the purposes of titles four and five of this  
10 chapter the term motor vehicles shall exclude farm type tractors and all  
11 terrain type vehicles used exclusively for agricultural purposes, or for  
12 snow plowing, other than for hire, farm equipment, including self-pro-  
13 pelled machines used exclusively in growing, harvesting or handling farm  
14 produce, and self-propelled caterpillar or crawler-type equipment while  
15 being operated on the contract site.

16 S 4. Section 159 of the vehicle and traffic law is amended to read as  
17 follows:

18 S 159. Vehicle. Every device in, upon, or by which any person or  
19 property is or may be transported or drawn upon a highway, except  
20 devices moved by human power or used exclusively upon stationary rails  
21 or tracks, AND ELECTRIC ASSISTED BICYCLES AS DEFINED IN SECTION ONE  
22 HUNDRED TWO-C OF THIS ARTICLE.

23 S 5. The vehicle and traffic law is amended by adding a new section  
24 1238-a to read as follows:

25 S 1238-A. ADDITIONAL PROVISIONS APPLICABLE TO ELECTRIC ASSISTED BICY-  
26 CLES, OPERATORS AND PASSENGERS. 1. AN ELECTRIC ASSISTED BICYCLE, AS  
27 DEFINED IN SECTION ONE HUNDRED TWO-C OF THIS CHAPTER, OR THE OPERATOR OF  
28 AN ELECTRIC ASSISTED BICYCLE, SHALL COMPLY WITH ALL OF THE RULES, REGU-  
29 LATIONS AND PROVISIONS APPLICABLE TO A BICYCLE OR THE OPERATOR OF A  
30 BICYCLE CONTAINED IN THIS CHAPTER. IN ADDITION, AN ELECTRIC ASSISTED  
31 BICYCLE IS SUBJECT TO THE FOLLOWING REQUIREMENTS:

32 (A) EVERY MANUFACTURER OF AN ELECTRIC ASSISTED BICYCLE SHALL CERTIFY  
33 THAT IT COMPLIES WITH THE EQUIPMENT AND MANUFACTURING REQUIREMENTS FOR  
34 BICYCLES ADOPTED BY THE UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION  
35 (16 C.F.R. 1512.1, ET SEQ.).

36 (B) AN ELECTRIC ASSISTED BICYCLE SHALL OPERATE IN A MANNER SO THAT THE  
37 ELECTRIC MOTOR IS DISENGAGED OR CEASES TO FUNCTION WHEN THE BRAKES ARE  
38 APPLIED, OR OPERATE IN A MANNER SUCH THAT THE MOTOR IS ENGAGED THROUGH A  
39 SWITCH OR MECHANISM THAT, WHEN RELEASED, WILL CAUSE THE ELECTRIC MOTOR  
40 TO DISENGAGE OR CEASE TO FUNCTION.

41 (C) ON AND AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN, MANUFACTURERS  
42 AND DISTRIBUTORS OF ELECTRIC ASSISTED BICYCLES SHALL APPLY A LABEL THAT  
43 IS PERMANENTLY AFFIXED, IN A PROMINENT LOCATION, TO EACH ELECTRIC  
44 ASSISTED BICYCLE. THE LABEL SHALL CONTAIN THE CLASSIFICATION NUMBER, TOP  
45 ASSISTED SPEED, AND MOTOR WATTAGE OF THE ELECTRIC ASSISTED BICYCLE, AND  
46 SHALL BE PRINTED IN ARIAL FONT IN AT LEAST NINE-POINT TYPE.

47 (D) A PERSON SHALL NOT TAMPER WITH OR MODIFY AN ELECTRIC ASSISTED  
48 BICYCLE SO AS TO CHANGE THE SPEED CAPABILITY OF THE ELECTRIC ASSISTED  
49 BICYCLE, UNLESS HE OR SHE APPROPRIATELY REPLACES THE LABEL INDICATING  
50 THE CLASSIFICATION REQUIRED IN PARAGRAPH (C) OF SUBDIVISION ONE OF THIS  
51 SECTION.

52 2. 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 S 6. Section 316 of the highway law, as amended by chapter 655 of the  
2 laws of 1978, is amended to read as follows:

3 S 316. Entitled to free use of highways. The authorities having charge  
4 or control of any highway, public street, park, parkway, driveway, or  
5 place, shall have no power or authority to pass, enforce or maintain any  
6 ordinance, rule or regulation by which any person using a bicycle, ELEC-  
7 TRIC ASSISTED BICYCLE or tricycle shall be excluded or prohibited from  
8 the free use of any highway, public street, avenue, roadway, driveway,  
9 parkway, park, or place, at any time when the same is open to the free  
10 use of persons having and using other pleasure carriages, except upon  
11 such driveway, speedway or road as has been or may be expressly set  
12 apart by law for the exclusive use of horses and light carriages. But  
13 nothing herein shall prevent the passage, enforcement or maintenance of  
14 any regulation, ordinance or rule, regulating the use of bicycles, ELEC-  
15 TRIC ASSISTED BICYCLES or tricycles in highways, public streets, drive-  
16 ways, parks, parkways, and places, or the regulation of the speed of  
17 carriages, vehicles or engines, in public parks and upon parkways and  
18 driveways in the city of New York, under the exclusive jurisdiction and  
19 control of the department of parks and recreation of said city, nor  
20 prevent any such authorities in any other city from regulating the speed  
21 of any vehicles herein described in such manner as to limit and deter-  
22 mine the proper rate of speed with which such vehicle may be propelled  
23 nor in such manner as to require, direct or prohibit the use of bells,  
24 lamps and other appurtenances nor to prohibit the use of any vehicle  
25 upon that part of the highway, street, park, or parkway, commonly known  
26 as the footpath or sidewalk.

27 S 7. Section 180 of the general municipal law, as amended by chapter  
28 668 of the laws of 2004, is amended to read as follows:

29 S 180. Ordinances to regulate use of bicycles. The governing boards of  
30 municipal corporations as defined in section two of this chapter, may  
31 adopt local laws to regulate the use of bicycles on the public highways,  
32 streets, avenues, walks, parks and public places within their limits.  
33 Such local laws shall be supplemental and in addition to the provisions  
34 of the vehicle and traffic law relating to vehicles and not in conflict  
35 therewith. Provided further that such local laws shall not impose any  
36 charge, tax or otherwise not provide for the free use of bicycles, ELEC-  
37 TRIC ASSISTED BICYCLES and tricycles.

38 S 8. This act shall take effect immediately.