# STATE OF NEW YORK

6029--B

2017-2018 Regular Sessions

# IN SENATE

May 10, 2017

Introduced by Sens. O'MARA, DILAN, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, the highway law and the general municipal law, in relation to the regulation of electric assisted bicycles

**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:

**§ 102-c. Electric assisted bicycle. A bicycle equipped with fully operable pedals and an electric motor with an output of less than seven hundred fifty watts (one horsepower) whereby such electric motor engages only when the operator is pedaling and disengages or ceases to function when such bicycle's brakes are applied, the operator stops pedaling, or such bicycle achieves a speed of twenty miles per hour or more.**

§ 2. Section 121-b of the vehicle and traffic law, as amended by chapter 160 of the laws of 1981, is amended to read as follows:

§ 121-b. Limited use motorcycle. A limited use vehicle having only two or three wheels, with a seat or saddle for the operator**, except electric assisted bicycles as defined in section one hundred two-c of this article**. A limited use motorcycle having a maximum performance speed[~~,~~] of more than thirty miles per hour but not more than forty miles per hour shall be a class A limited use motorcycle. A limited use motorcycle having a maximum performance speed of more than twenty miles per hour but not more than thirty miles per hour, shall be a class B limited use motorcycle. A limited use motorcycle having a maximum performance speed

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

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of not more than twenty miles per hour shall be a class C limited use motorcycle.

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

§ 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 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.

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

§ 159. Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks **and electric assisted bicycles as defined in section one hundred two-c of this article**.

§ 5. Section 1230 of the vehicle and traffic law, subdivision (b) as amended by chapter 694 of the laws of 1995, is amended to read as follows:

§ 1230. Effect of regulations. (a) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

(b) These regulations applicable to bicycles**, electric assisted bicycles,** or to in-line skates shall apply whenever a bicycle **or electric assisted bicycle** is, or in-line skates are, operated upon any highway, upon private roads open to public motor vehicle traffic and upon any path set aside for the exclusive use of bicycles, **electric assisted bicycles,** or in-line skates, or [~~both~~] **all**.

§ 6. Section 1231 of the vehicle and traffic law, as amended by chapter 694 of the laws of 1995, is amended to read as follows:

§ 1231. Traffic laws apply to persons riding bicycles **or electric assisted bicycles** or skating or gliding on in-line skates. Every person riding a bicycle **or electric assisted bicycle** or skating or gliding on in-line skates upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application.

§ 7. Section 1232 of the vehicle and traffic law is amended to read as follows:

§ 1232. Riding on bicycles **and electric assisted bicycles**. (a) A person propelling a bicycle **or electric assisted bicycle** shall not ride

other than upon or astride a permanent and regular seat attached thereto, nor shall he ride with his feet removed from the pedals.

(b) No bicycle **or electric assisted bicycle** shall be used to carry more persons at one time than the number for which it is designed and equipped.

§ 8. The vehicle and traffic law is amended by adding a new section 1232-a to read as follows:

**§ 1232-a. Additional requirements for operating an electric assisted bicycle. (a) No person shall operate or park an electric assisted bicycle on any public highway or street in this state unless a label is permanently affixed, in a prominent location, on such person's electric assisted bicycle. Such label shall contain the maximum speed, and motor wattage of the electric assisted bicycle, and shall be printed in arial font in at least nine-point type. On and after January first, two thousand nineteen, manufacturers and distributors of electric assisted bicycles shall apply a label that is permanently affixed, in a prominent location, to each electric assisted bicycle. The label shall contain the top assisted speed, and motor wattage of electric assisted bicycle, and shall be printed in arial font in at least nine-point type.**

**(b) No person shall knowingly and intentionally render any label, required by subdivision (a) of this section to be affixed to an electric assisted bicycle, permanently illegible.**

**(c) Every manufacturer of an electric assisted bicycle shall certify, at a minimum, that it complies with the equipment and manufacturing requirements for bicycles adopted by the United States consumer product safety commission (16 C.F.R. 1512.1, et seq.).**

§ 9. Subdivision 1 of section 1233 of the vehicle and traffic law, as amended by chapter 703 of the laws of 2004, is amended to read as follows:

1. No person riding upon any bicycle, **electric assisted bicycle,** coaster, in-line skates, roller skates, skate board, sled, or toy vehicle shall attach the same or himself or herself to any vehicle being operated upon a roadway.

§ 10. Section 1234 of the vehicle and traffic law, as amended by chapter 16 of the laws of 1996, is amended to read as follows:

§ 1234. Riding on roadways, shoulders, bicycle**, electric assisted bicycle** or in-line skate lanes and bicycle or in-line skate paths. (a) Upon all roadways, any bicycle**, electric assisted bicycle** or in-line skate shall be driven either on a usable bicycle or in-line skate lane or, if a usable bicycle or in-line skate lane has not been provided, near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder in such a manner as to prevent undue interference with the flow of traffic except when preparing for a left turn or when reasonably necessary to avoid conditions that would make it unsafe to continue along near the right-hand curb or edge. Conditions to be taken into consideration include, but are not limited to, fixed or moving objects, vehicles, bicycles, **electric assisted bicycles,** in-line skates, pedestrians, animals, surface hazards or traffic lanes too narrow for a bicycle**, or electric assisted bicycle** or person on in-line skates and a vehicle to travel safely side-by-side within the lane.

(b) Persons riding bicycles **or electric assisted bicycles** or skating or gliding on in-line skates upon a roadway shall not ride more than two abreast. Persons riding bicycles **or electric assisted bicycles** or skating or gliding on in-line skates upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skates path, intended for the use of bicycles or in-line skates may ride two or more abreast if sufficient

space is available, except that when passing a vehicle, bicycle**, electric assisted bicycle** or person on in-line skates, or pedestrian, standing or proceeding along such shoulder, lane or path, persons riding bicycles **or electric assisted bicycles** or skating or gliding on in-line skates shall ride, skate, or glide single file. Persons riding bicycles **or electric assisted bicycles** or skating or gliding on in-line skates upon a roadway shall ride, skate, or glide single file when being overtaken by a vehicle.

(c) Any person operating a bicycle **or electric assisted bicycle** or skating or gliding on in-line skates who is entering the roadway from a private road, driveway, alley or over a curb shall come to a full stop before entering the roadway.

§ 11. Section 1235 of the vehicle and traffic law, as amended by chapter 703 of the laws of 2004, is amended to read as follows:

§ 1235. Carrying articles. No person operating a bicycle **or electric assisted bicycle** shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handle bars. No person skating or gliding on in-line skates shall carry any package, bundle, or article which obstructs his or her vision in any direction. No person operating a skate board shall carry any package, bundle, or article which obstructs his or her vision in any direction.

§ 12. Section 1236 of the vehicle and traffic law, subdivision (a) as amended by chapter 16 of the laws of 2009 and subdivisions (d) and (e) as added by chapter 887 of the laws of 1976, is amended to read as follows:

§ 1236. Lamps and other equipment on bicycles **and electric assisted bicycles**. (a) Every bicycle **or electric assisted bicycle** when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with a lamp on the front which shall emit a white light visible during hours of darkness from a distance of at least five hundred feet to the front and with a red or amber light visible to the rear for three hundred feet. Effective July first, nineteen hundred seventy-six, at least one of these lights shall be visible for two hundred feet from each side.

(b) No person shall operate a bicycle **or electric assisted bicycle** unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that a bicycle **or electric assisted bicycle** shall not be equipped with nor shall any person use upon a bicycle **or electric assisted bicycle** any siren or whistle.

(c) Every bicycle **or electric assisted bicycle** shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement**, provided, however, such brake of an electric assisted bicycle shall also operate in a manner so that the electric motor is disengaged or ceases to function when the brake is applied**.

(d) Every new bicycle **or electric assisted bicycle** shall be equipped with reflective tires or, alternately, a reflex reflector mounted on the spokes of each wheel, said tires and reflectors to be of types approved by the commissioner. The reflex reflector mounted on the front wheel shall be colorless or amber, and the reflex reflector mounted on the rear wheel shall be colorless or red.

(e) Every bicycle **or electric assisted bicycle** when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with reflective devices or material meeting the standards established by rules and regulations promulgated by the commissioner; provided, however, that such standards shall not be inconsistent

with or otherwise conflict with the requirements of subdivisions (a) and (d) of this section.

§ 13. Section 1238 of the vehicle and traffic law, as amended by chapter 267 of the laws of 1993, paragraph (a) of subdivision 2 and paragraphs (a) and (b) of subdivision 5 as amended by chapter 457 of the laws of 1999, subdivisions 2-a, 5-a, 9 and 10 and paragraph (c) of subdivision 6 as amended by chapter 703 of the laws of 2004, subdivision 5 as amended by chapter 132 of the laws of 1994, subdivision 5-b as added and paragraph (a) of subdivision 6 as amended by chapter 402 of the laws of 2001 and subdivision 8 as amended by chapter 694 of the laws of 1995, is amended to read as follows:

§ 1238. Passengers on bicycles **or electric assisted bicycles** under one year of age prohibited; passengers and operators under fourteen years of age to wear protective headgear. 1. No person operating a bicycle **or electric assisted bicycle** shall allow a person who is under one year of age to ride as a passenger on a bicycle **or electric assisted bicycle** nor shall such person be carried in a pack fastened to the operator. A first violation of the provisions of this subdivision shall result in no fine. A second violation shall result in a civil fine not to exceed fifty dollars.

2. No person operating a bicycle **or electric assisted bicycle** shall allow a person one or more years of age and less than five years of age to ride as a passenger on a bicycle **or electric assisted bicycle** unless:

(a) such passenger 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 upon the head with the helmet straps; and

(b) such passenger is placed in a separate seat attached to the bicycle **or electric assisted bicycle** and such seat shall have adequate provision for retaining the passenger in place and for protecting the passenger from the moving parts of the bicycle **or electric assisted bicycle**.

2-a. The commissioner shall promulgate rules and regulations establishing standards for helmets required to be worn while bicycling, in-line skating, or operating a skate board. Such standards, to the extent practicable, shall reflect the standards recommended by the Snell Memorial Foundation, Safety Equipment Institute, or United States Consumer Product Safety Commission.

3. Any person who violates the provisions of subdivision two of this section shall pay a civil fine not to exceed fifty dollars.

4. The court shall waive any fine for which a person who violates the provisions of paragraph (a) of subdivision two 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, which meets the requirements of paragraph (a) of subdivision two of this section. Further, the court shall waive any fine for which a person who violates the provisions of paragraph (b) of subdivision two 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 seat which meets the requirements of paragraph (b) of subdivision two of this section. The court may waive any fine for which a person who violates the provisions of subdivision two 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 seat. Such waiver of fine

shall not apply to a second or subsequent conviction under paragraph (a) or (b) of subdivision two of this section.

5. (a) No person operating a bicycle **or electric assisted bicycle** shall allow a person five or more years of age and less than fourteen years of age to ride as a passenger on a bicycle **or electric assisted bicycle** unless such passenger is wearing a helmet meeting standards established by the commissioner.

(b) No person, one or more years of age and less than fourteen years of age, shall operate a bicycle **or electric assisted bicycle** unless such person is wearing a helmet meeting standards established by the commissioner.

(c) For the purposes of this subdivision wearing a helmet means having a helmet of good fit fastened securely upon the head with the helmet straps.

5-a. No person, one or more years of age and less than fourteen years of age, shall skate or glide on in-line skates or a skate board 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.

5-b. No person less than fourteen years of age shall ride upon, propel or otherwise operate a two-wheeled vehicle commonly called a scooter unless such person is wearing a helmet meeting standards established by the commissioner. As used in this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.

6. (a) Any person who violates the provisions of subdivision five, five-a or five-b 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 five 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 five, five-a, or five-b 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.

7. 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.

8. A police officer shall only issue a summons for a violation of subdivision two, five, or five-a of this section by a person less than fourteen 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 fourteen years of age.

9. Subdivisions five, five-a, five-b, and six of this section shall not be applicable to any county, city, town or village that has enacted

a local law or ordinance prior to the effective date of this subdivision that prohibits a person who is one or more years of age and less than fourteen years of age from operating a bicycle**, electric assisted bicycle** or skating or gliding on in-line skates or a skate board without wearing a bicycle helmet meeting the standards of the American National Standards Institute (Ansi Z 90.4 bicycle helmet standards), the Snell Memorial Foundation's Standards for Protective Headgear for use in Bicycling, or the American Society of Testing and Materials (ASTM) bike helmet standards, or that prohibits a person operating a bicycle **or electric assisted bicycle** from allowing a person five or more years of age and less than fourteen years of age to ride as a passenger on a bicycle **or electric assisted bicycle** unless such passenger is wearing a bicycle helmet that meets such standards. The failure of any person to comply with any such local law or ordinance 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. The legislative body of a county, city, town or village may enact a local law or ordinance that prohibits a person who is fourteen or more years of age from skating or gliding on in-line skates, operating a skate board, or operating or riding as a passenger on a bicycle **or electric assisted bicycle** without wearing a bicycle helmet.

10. No person shall skate or glide on in-line skates or a skate board outside during the period of time between one-half hour after sunset and one-half hour before sunrise unless such person is wearing readily visible reflective clothing or material which is of a light or bright color.

§ 14. Section 1240 of the vehicle and traffic law, as added by chapter 468 of the laws of 2001, is amended to read as follows:

§ 1240. Leaving the scene of an incident involving a [~~wheeled non-motorized means of conveyance~~] **bicycle, electric assisted bicycle, in-line skate, roller skate or skate board** without reporting in the second degree. 1. Any person age eighteen years or older operating a [~~wheeled non-motorized means of conveyance, including, but not limited to bicycles,~~] **bicycle, electric assisted bicycle,** in-line [~~skates~~] **skate**, roller [~~skates and~~] **skate or** skate [~~boards~~] **board**, who, knowing or having cause to know, that physical injury, as defined in subdivision nine of section 10.00 of the penal law, has been caused to another person, due to the operation of such [~~non-motorized means of conveyance~~] **bicycle, electric assisted bicycle, in-line skate, roller skate or skate board** by such person, shall, before leaving the place where the said physical injury occurred, stop, and provide his name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

2. Leaving the scene of an incident involving a [~~wheeled non-motorized means of conveyance~~] **bicycle, electric assisted bicycle, in-line skate, roller skate or skate board** without reporting in the second degree is a violation.

§ 15. Section 1241 of the vehicle and traffic law, as added by chapter 468 of the laws of 2001, is amended to read as follows:

§ 1241. Leaving the scene of an incident involving a [~~wheeled non-motorized means of conveyance~~] **bicycle, electric assisted bicycle, in-line skate, roller skate or skate board** without reporting in the first

degree. 1. Any person age eighteen years or older operating a [~~wheeled non-motorized means of conveyance, including, but not limited to bicycles,~~] bicycle, electric assisted bicycle, in-line [~~skates~~] skate, roller [~~skates and~~] skate or skate [~~boards~~] board, who, knowing or having cause to know, that serious physical injury, as defined in subdivision ten of section 10.00 of the penal law, has been caused to another person, due to the operation of such [~~non-motorized means of conveyance~~] bicycle, electric assisted bicycle, in-line skate, roller skate or skate board by such person, shall, before leaving the place where the said serious physical injury occurred, stop, and provide his name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

2. Leaving the scene of an incident involving a [~~wheeled non-motorized means of conveyance~~] bicycle, electric assisted bicycle, in-line skate, roller skate or skate board without reporting in the first degree is a class B misdemeanor.

§ 16. The vehicle and traffic law is amended by adding a new section 1242 to read as follows:

§ 1242. Tampering with an electric assisted bicycle. 1. No person shall tamper with or modify an electric assisted bicycle to:

(a) increase the output of such bicycle to seven hundred fifty watts or greater;

(b) engage the electric motor when:

(i) the operator of such bicycle is not pedaling;

(ii) the operator of such bicycle has applied the brakes; or

(iii) such bicycle has achieved a speed of twenty miles per hour or greater; or

(c) accelerate the speed of the electric assisted bicycle motor by means other than pedaling.

2. A violation of the provisions of subdivision one of this section shall constitute a traffic infraction punishable by a fine of up to one hundred fifty dollars or a sentence of imprisonment for up to fifteen days or both such fine and imprisonment.

§ 17. Section 316 of the highway law, as amended by chapter 655 of the laws of 1978, is amended to read as follows:

§ 316. Entitled to free use of highways. The authorities having charge or control of any highway, public street, park, parkway, driveway, or place, shall have no power or authority to pass, enforce or maintain any ordinance, rule or regulation by which any person using a bicycle, electric assisted bicycle or tricycle shall be excluded or prohibited from the free use of any highway, public street, avenue, roadway, driveway, parkway, park, or place, at any time when the same is open to the free use of persons having and using other pleasure carriages, except upon such driveway, speedway or road as has been or may be expressly set apart by law for the exclusive use of horses and light carriages. But nothing herein shall prevent the passage, enforcement or maintenance of any regulation, ordinance or rule, regulating the use of bicycles, electric assisted bicycles or tricycles in highways, public streets, driveways, parks, parkways, and places, or the regulation of the speed of carriages, vehicles or engines, in public parks and upon parkways and driveways in the city of New York, under the exclusive jurisdiction and control of the department of parks and recreation of said city, nor prevent any such authorities in any other city from regulating the speed

of any vehicles herein described in such manner as to limit and determine the proper rate of speed with which such vehicle may be propelled nor in such manner as to require, direct or prohibit the use of bells, lamps and other appurtenances nor to prohibit the use of any vehicle upon that part of the highway, street, park, or parkway, commonly known as the footpath or sidewalk.

§ 18. Section 180 of the general municipal law, as amended by chapter 668 of the laws of 2004, is amended to read as follows:

§ 180. Ordinances to regulate use of bicycles **and electric assisted bicycles**. The governing boards of municipal corporations as defined in section two of this chapter, may adopt local laws to regulate the use of bicycles **and electric assisted bicycles** on the public highways, streets, avenues, walks, parks and public places within their limits. Such local laws shall be supplemental and in addition to the provisions of the vehicle and traffic law relating to vehicles and not in conflict therewith. Provided further that such local laws shall not impose any charge, tax or otherwise not provide for the free use of bicycles**, electric assisted bicycles** and tricycles.

§ 19. This act shall take effect on the one hundred eightieth day after it shall have become a law.